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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, FIRST SESSION

SENATE—*Wednesday, December 18, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met, in executive session, at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious God, our Heavenly Father, love is the big word at this season—God's love who gave His Son—and our response. Forgive us for our indifference—for allowing almost everything else to be more important. Forgive us for the way we have cheapened love, demeaned it, degraded it. Help us to recover its meaning, patient Lord. It is difficult to think about love under these circumstances—difficult to give it or receive it. Grant us grace not to allow inordinate delays in legislation to deprive us of the edification of love. Save us from being victimized by a political process which was never meant to be efficient or fast—but was meant to be true and equitable and just. Refresh us with Your love, Righteous Father, that we may reflect Your love to spouse, children, neighbor, and one another. Transfuse the frustration of the hours that drag interminably with Your gracious, accepting, unconditional love. In the name of Him, whose incarnate love was for all people. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, followed by routine morning business not to extend beyond 10:30 a.m. Then we would hope to have conference reports today. I think the first one will be the farm bill conference report, which should be here by about noon, I am advised, or a little after. That may not require a rollcall. I am not certain. If Members want a rollcall, obviously, there will be a rollcall. I think that could be disposed of fairly quickly.

Then the continuing resolution conference report. I have not discussed this with the chairman of the Appropriations Committee, Senator HATFIELD, but I understand there will be a conference this morning. There are only a few issues under consideration, or reconsideration.

As to the reconciliation conference report, again I am not certain the fate of that, though I know they were still working late last evening. I also know that the distinguished chairman of the Budget Committee, Senator DOMENICI, is necessarily absent today because his son is graduating from law school in New Mexico, so he will be gone. But he has indicated to me that we should proceed if the conference report is available.

Mr. Scanlon is still one of the nominees we hope to confirm today. There may be others on the Executive Calendar.

I know there are a number of resolutions that Members would like to dispose of if we can reach some agreement on both sides. Senator DANFORTH has indicated he would like to dispose of the telecommunications bill. He has advised me that it has been cleared on both sides, but I am not certain that is the case. I have told him, until we have been able to clear it on both sides, we could not entertain that because it would take a lot of time, maybe some votes, and it is my view the fewer votes the better.

We are in the last day of the session, hopefully, and I know that a number of my colleagues have indicated that most of these matters can probably wait until January. But if we can clear something on both sides, whether it comes from that side or this side, I would hope we could proceed. We do wish to avoid a number of amendments on bills and rollcalls, and so unless it has been fairly well cleared and can be handled by unanimous consent, it is very doubtful that it will be taken up today.

Also, I wanted to mention, seeing the Presiding Officer reminds me that we also have the low-level nuclear waste compacts. If we do not do something on that today, then we have, as I understand, three States involved that are going to stop accepting low-level waste as of January 1. According to the distinguished President pro tempore, the distinguished chairman of the Judiciary Committee, Senator THURMOND, they are very close to agreement. I hope we can work those out today and handle those by unanimous consent.

CONGRATULATIONS TO LAW SCHOOL GRADUATE—PETER DOMENICI

Mr. DOLE. Mr. President, Senator DOMENICI is necessarily absent from the Senate because his second oldest child, Peter, is graduating from the University of New Mexico Law School. All of us who are parents appreciate the importance of such milestones and recognize these events as a special time when families should be together. I am sure his Senate colleagues, as well as Senator DOMENICI's constituents understand that the decision to return to New Mexico for the scheduled celebration was a difficult one. However, I am sure we all agree that he is where he should be.

I would like to add my personal congratulations to Peter. I am sure he will make a fine lawyer.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The distinguished acting Democratic leader is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

WHY ARMS CONTROL IS IN DEEP TROUBLE

Mr. PROXMIRE. Mr. President, it has been said that the most tangible accomplishment of the summit meeting at Geneva last November was the agreement of President Reagan and Secretary Gorbachev to hold two additional top-level meetings. Certainly that assessment seems correct with respect to arms control. In a recent article, Lou Cannon, the White House correspondent of the Washington Post, writes that U.S. officials do not at this time expect a new arms control agreement at the Washington summit which is expected to take place next June. Cannon has good reason for this conclusion. Any arms control agreement approved by the two superpower leaders will require substantial progress in the United States-Soviet arms control negotiations that have been going on at Geneva.

How much progress has been made to date? Answer: None. For many months, the two sides have been meeting without the slightest public evidence that they have even begun to approach an agreement on any arms control issue. There has been no progress on restraining or limiting intermediate arms. There has been no advance in limiting intercontinental ballistic missiles or their nuclear warheads. In spite of a conspicuous public effort by Secretary Gorbachev to negotiate a comprehensive end to nuclear weapons testing, including an announced unilateral moratorium on such tests by the Soviet Union for the last 5 months of 1985, there has been exactly zero progress in even beginning such negotiations.

Meanwhile, the second Strategic Arms Limitation Treaty—SALT II—expired on December 31. If it is not renewed, arms control will suffer a major setback. SALT II has already required both superpowers to slow the massive buildup of their nuclear arsenals. SALT II has forced the Soviet Union to retire more of its nuclear arsenal than the United States. If SALT II is extended, both superpowers will have to reduce their arsenals further. The Soviet cutback once again will be even greater in relation to the American cutback than it has been to date. The continuation of SALT II is in the clear national security interest of the United States. If SALT II dies, not only does the cause of arms control suffer a setback, the relative nuclear power of the United States vis-a-vis the Soviet Union also suffers.

SALT II is not the only arms control casualty. The ABM Treaty of 1972 has prevented the extension of the arms race into space. It has averted the kind of immense offensive-defensive nuclear arms competition that would impose a colossal cost burden on both superpowers while reducing the security of both sides. But now the Congress is engaged in a rapid-fire buildup of a super missile defense system—the SDI or star wars. Just this past year, we have increased research expenditures by a huge 100 percent to nearly $3 billion, and the program is just beginning. Most independent scientists contend that the SDI cannot work and that it certainly cannot protect American cities from Soviet nuclear attack. But one consequence we know for sure that star wars will bring is the end of the ABM treaty. After all, what is the whole purpose of the ABM treaty? It is precisely to stop the construction of the kind of antiballistic missile system that the SDI would require. So the two most significant arms control accomplishments of the nuclear age have become terminal.

Now we are told that there will be no arms control advance in 1986. Administration arms control specialists contend that there is unlikely to be any progress in the negotiations that will resume in January. They say they expect progress, however, later in 1986. U.S. officials tell us that "it might be possible" for the two leaders to sign an arms control agreement at their third, and probably their final, summit at Moscow in 1987. How about that, Mr. President? We are losing our two prime arms control agreements. And we are told that some kind of arms control agreement between the superpowers may be possible in 1987.

We are living in the most dangerous time in the world's history. The two superpowers literally hold in their hands the power to destroy civilization and perhaps end the existence of mankind on Earth. Now we are faced with a year and a half in which the meager and painstakingly constructed arms control agreements between the United States and Russia are beginning to collapse. We are told that, just possibly, some kind of arms control agreement may develop in 1987. Well, this Senator believes there is very little prospect that will happen. President Reagan is absolutely determined to push ahead with his missle defense or SDI. Secretary Gorbachev has made it crystal clear that he will not agree to a reduction or a limitation on Soviet offensive missiles as long as the United States pushes ahead with its defensive system. And why not? After all, isn't it clear that the simplest way the Soviet Union can hold onto its hard-won superpower status in the face of the challenge represented by star wars is to maintain the credibility of its deterrent? And isn't it obvious that the most direct way to challenge and overcome SDI is to overwhelm it with such a volume of offensive missiles that it cannot prevent substantial penetration?

Mr. President, in all fairness, President Reagan is not the only reason why the SDI represents such a threatening juggernaut. In supporting SDI, both Houses of the Congress have voted for what is probably the biggest single-year percentage increase in a research program that exceeds $1 billion in this country's history. This kind of money, this kind of dollar commitment, takes on a life of its own. With each additional billion dollars appropriated and with each passing year, this vast expenditure in the sky will take on a more vigorous momentum and life of its own. That SDI momentum will provoke a corresponding offensive nuclear buildup. The prospects for a successful arms control summit agreement in 1987 are unfortunately invisible.

INCREASE IN HONORARIUM LIMITS

Mr. PROXMIRE. Mr. President, I wish to announce that if the conference report on the continuing resolution comes back to the Senate with the provision for an increase in the honorarium limits for Senators from 30 to 40 percent of salary, then the Senator from Arizona [Mr. DECONCINI] and I will raise this issue and bring it to a vote.

All Senators should be on notice that they will have to vote on this backdoor pay increase which was placed in the continuing resolution virtually without debate even though it represents a $7,500 increase in earning power for Senators.

Senator DECONCINI and I would welcome the assistance and support of all other Senators interested in this issue. For those listening to these remarks, we encourage them to contact either one of us or our respective staffs.

MYTH OF THE DAY: WOMEN SOLDIERS SHOULD BE BARRED FROM COMBAT

Mr. PROXIMIRE. Mr. President, the myth of the day is that women soldiers should be barred from combat. It is time for us to remove the myths from our national defense policies and replace them with facts.

First, it is a myth that there is an inclusive law which bars women from combat. The fact is that only the Air Force, Navy, and Marines are currently restricted from allowing women to serve on vessels and aircraft with combat missions. Army and Coast Guard women do not face the same legal restrictions, rather, women are barred from combat by Army policy and face no combat restrictions under current Coast Guard policy.

This policy is ridden with anamolies. Navy women may serve on destroyer tenders, but not on destroyers—even though tenders and destroyers sail together as part of the same carrier battle group. Women can fly tankers to refuel bombers on long-range mis-

sions, but cannot fly the bomber. Where is the logic? The tanker would be a primary target in any battle. Shoot down the tanker and you have the bombers.

Current policy effectively allows women to serve in positions where they would be shot at, but prohibits them from positions where they could shoot.

The reason for the many anamolies in the combat exclusion policy is that the policy itself is founded on a myth. The myth is that we can define combat. The fact is that technology has so expanded the range and effectiveness of weapons that the distinctions between combat and noncombat missions are sometimes arbitrary. What really are the differences between an air traffic controller on shore and an air traffic controller on an aircraft carrier that justify restricting women to shore positions? Neither controller is likely to see combat unless the Soviets decide to take our carriers with swords in their teeth. Of course, the Soviets could bomb our carrier, but they could also bomb our airport.

The military caste system of combat by gender hampers flexibility and inhibits readiness and deployability of the Armed Forces. Events, not law, policy or mission will determine which vessels, aircraft, and soldiers see combat. Combat exclusion policies result only in confusion, mismanagement, and crisis.

Grenada should have taught us our lesson. Four women military police officers deploying from Fort Bragg were stopped at the loading ramp and sent back to their barracks three times before they were finally allowed to deploy to Grenada. When they arrived at the island 4 days after the invasion they were ordered back to Fort Bragg. Then, after another 3-day wait at Fort Bragg, they were deployed to Grenada again, and this time they were allowed to do their jobs. Playing yo-yo with women soldiers in a large scale military emergency would result in confusion and the Armed Forces losing a critical 10 percent of its strength with no trained replacements available.

Valid concerns do exist regarding women in combat, and primary among these concerns is strength. Physical requirements are valid combat exclusion criteria. No soldier should be assigned to a position for which he or she is not suited. Gender exclusion, however, is confusing, limits flexibility in assigning soldiers during times of emergency, and inhibits readiness. Combat exclusion policy has led to such fiascos as barring women from masonry and surveying specialties in 1983, only to reopen them soon thereafter. If hand-to-hand combat is the activity of a masonry specialist, who is doing the fighting?

This illustrates the confusion and inconsistency of attempting to guess which soldiers will see combat. It is time to take these inconsistencies out of our defense policy and recognize the critical contribution that women make to the military. We cannot define combat; we cannot protect women soldiers from combat. At least we can recognize this and get rid of confusing policies that hamper readiness and deployability.

THE HELSINKI COMMISSION REPORTS ON HUMAN RIGHTS ACTIVIST

Mr. PROXMIRE. Mr. President, the Helsinki Commission reports of the Soviet's deplorable treatment of a well-known human rights activist in Russia. Balys Gajauskas is now serving his 33d year in a Soviet concentration camp.

Balys began serving a 25-year term for treason in 1948, 1 year before President Truman transmitted the Genocide Convention to the Senate. His dubious charge was based upon his participation in the Lithuanian resistance to the Soviet occupation of his country. He was released in 1973 after serving his full term. Balys was barred from the Soviet Union but returned to care for his ailing mother.

In 1977, after years of continued harassment by the KGB, Balys was again imprisoned, this time for his involvement with a Russian human rights group. He has been imprisoned in a labor camp until 1993 although he is in such poor health that he may not survive this sentence.

Still Balys Gajauskas remains undaunted in his commitment to freedom. Despite the abuses he has suffered at the hands of his Soviet captors and the hardships of family separation and isolation, he continues to defend the qualities of liberty we all take so much for granted.

The Genocide Convention defends these basic human rights as well. The ratification of this treaty will aid the struggle of those noble spirits like Balys Gajauskas in their fight for human rights.

We have considered the fate of the Genocide Convention for nearly as long as the 33 years that Balys Gajauskas has suffered in prison. In honor of the dedication to justice Balys Gajauskas represents, we must recognize the importance of this treaty. I call for the immediate ratification of the Genocide Convention.

RECOGNITION OF THE MINORITY LEADER

Mr. PROXMIRE. Mr. President, I am happy to yield the time of the distinguished Democratic leader to the Democratic leader. How much time remains?

The PRESIDING OFFICER (Mr. GRASSLEY). The Democratic leader has 5 minutes remaining.

The Democratic leader is recognized.

AFGHANISTAN ANNIVERSARY: 6 YEARS OF BRUTALITY

Mr. BYRD. Mr. President, the holidays not only are a time for merrymaking, gift giving, and song, but also a time for reflection. This December marks a grim anniversary. Six years ago, the Soviets invaded Afghanistan. On December 27, 1978, the Afghan people began an arduous struggle to maintain control of their country. While friends and families in the hills of West Virginia prepare to enjoy the warmth and fellowship of this sacred season, the mountain people of Afghanistan recall the sixth anniversary of the Soviet invasion.

In the 6 years since Soviet troops swept into Afghanistan, more than 3 million Afghan men, women, and children have been forced from their homes. The systematic war against civilians has cost tens of thousands of Afghan lives. At this time of year—and all year—the children of Afghanistan know that toys dropped from the sky are not presents. They are booby-trapped weapons the Soviet helicopters drop to maim and kill. During the past 6 years, the Soviets have waged an unprecedented campaign of brutality against civilians. It is a measure of the bankruptcy of Soviet policy in Afghanistan that children are a prime target of Soviet atrocities.

When I led a Senate delegation to Moscow in September to meet with General Secretary Gorbachev, the matter of Afghanistan was high on my list of priorities. When I raised that issue with Mr. Gorbachev, it led to the most heated exchange in our conversation. Nonetheless, I have a sense that the Soviet Union may be reconsidering its options. After 6 years, the Soviets have deployed more Soviet troops in Afghanistan than ever before—and these troops are taking more casualties. Six years of occupation have failed to achieve Soviet policy objectives in Afghanistan. The Soviet troops have less control of the countryside now than they had immediately following the invasion. Supply lines are less certain. And the Afghan freedom fighters are more effective, more coordinated, and more committed than ever to forcing the Soviets out of their homeland.

The Washington Post of Saturday, December 14, carried a report that the State Department has offered to play a role in achieving a peaceful solution and Soviet withdrawal from Afghanistan. I hope the Soviet leadership will take up this offer. I have followed Soviet-American relations for too long to believe that they would do so for

any reason other than self-interest. But perhaps we have reached the point where the direction of that self-interest is clear to them. As Soviet casualties mount, and as control of the country and its people continues to elude them, I hope the Soviet leadership will use the occasion of this grim anniversary to reflect on the need to find another way in Afghanistan.

The Washington Post of December 15 includes a brief, powerful editorial about Soviet policy in Afghanistan. I ask unanimous consent that the editorial, entitled "Afghanistan: This Is Genocide," along with the December 14 article entitled "U.S. Said Ready for Role in Afghanistan Peace," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 15, 1985]

AFGHANISTAN: THIS IS GENOCIDE

"Human rights violations" is a phrase used so often and so casually that even the most compassionate among us can take it as routine. The quick meaning in most people's minds, we suspect, centers on police abuses, roughing and locking people up, perhaps killing some of them. Something like that is what you may expect to find in a new United Nations report entitled "Situation of Human Rights in Afghanistan."

But it's different. The second report on Afghanistan by Austrian parliamentarian and academic Felix Ermacora and a companion report on Iran mark the first time the United Nations has debated human rights in those countries on the basis of official U.N. reports. By a vote of 75 to 23 with 33 abstentions—India, lamentably, was the lone democracy holding Moscow's hand—the General Assembly registered its "profound concern." Afghanistan was singled out not just because a Third World Moslem country is the victim of aggression but also because of the terrible and deepening intensity of its ordeal.

Soviet troops with their Afghan clients have driven 4 million people out of the country and perhaps another 2 million out of their homes. Massively and indiscriminately, they bomb civilians—they bomb funerals. They destroy villages, crops and agricultural facilities. For the children, they drop cute, limb-shattering booby traps disguised as harmonicas and birds. Torture is "commonplace" and the operation of the judicial system "creates an atmosphere of insecurity and anguish." "There is apparently no health care for the majority of the population. As a consequence, the infant mortality rate has reached 300 and 400 per 1,000." Civilian deaths number "approximately 500,000."

When half the population is uprooted and a third driven into exile, when infant mortality reaches plague levels, when half a million civilians die and uncounted millions of others are maimed and malnourished, when, as Prof. Ermacora reports, the situation is getting worse, all this moves Soviet conduct well beyond what is ordinarily called "human rights violations." The word that comes to mind when one reads this report is genocide.

Soviets who talk about Afghanistan with foreigners sometimes solicit a certain sympathy for their policy dilemma and their costs. This is callous and arrogant. The people who deserve the sympathy are the Soviet Union's victims. Says a desperate Prof. Ermacora, "every hour lost is detrimental to the population"—the Afghan population. Moscow is committing one of the great crimes.

[From the Washington Post Dec. 14, 1985]

U.S. SAID READY FOR ROLE IN AFGHANISTAN PEACE

(By Jim Anderson)

The United States is prepared to play a role in guaranteeing provisions of a cease-fire and Soviet troop withdrawal in Afghanistan, Deputy Secretary of State John Whitehead said yesterday.

The offer, given to Soviet leader Mikhail Gorbachev at the Geneva summit last month and made in writing to the Secretary general of the United Nations, was made public by Whitehead in an address to the Washington World Affairs Council.

Whitehead said endless fighting is the only alternative to a negotiated cease-fire and withdrawal in the costly war, which began when Soviet troops invaded Afghanistan in December 1979. He suggested that the United States is prepared to increase aid to rebels fighting the Soviets.

"For our part, the rest of the world must exact from the Soviets a political price. They must pay for the death and destruction they are wreaking daily in Afghanistan," Whitehead said.

He also said President Reagan made it clear to Gorbachev in Geneva that the Afghanistan fighting will hamper the search for better superpower relations.

A U.S. official, who asked not to be identified, said, "This is a way of testing the Soviets. They said all these wonderful things at the summit. Now let's see if they're willing to follow them up."

Whitehead said, "As long as the Soviets pursue a military solution, we will continue to support the Afghan cause."

He also said the Soviets have increased their troop strength in and near Afghanistan to 150,000 as the war continues to spread.

He estimated that rebels control 65 percent of the country and have begun to bring the war to the cities with guerrilla attacks.

Whitehead also said the Soviets are paying a high political price in terms of their relationship with the rest of the world, including the United States.

He said the only lasting solution to the war is a political settlement under which Soviet troops are removed from Afghanistan, the 3.5 million refugees return home and the Afghanistan people can determine their future.

Whitehead said the Soviets will have a chance to follow through on Gorbachev's words at the summit starting Monday when the U.N.-sponsored "proximity talks" involving the Soviet Union and Pakistan resume in Geneva.

The remaining issue, according to Whitehead, is withdrawal of Soviet troops and how it would relate to the other issues already settled in the talks. These include an agreement on noninterference between Afghanistan and Pakistan, the key element that the United States would be expected to guarantee.

U.S. officials said that terms of a U.S. guarantee have not been defined but that Whitehead's remarks were intended to counter charges that the United States is delaying a settlement by not being helpful.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 5 minutes each.

VETO OF TEXTILE BILL

Mr. THURMOND. Mr. President, I am terribly disappointed that President Reagan has seen fit to veto the textile and apparel bill.

Mills are closing every day; thousands of jobs are leaving this country. People in this country are being thrown out of jobs on account of the trade policy that is being followed in the textile and apparel matter.

Mr. President, I think the President has made a great President, one of the finest this country has ever had, but he has been ill-advised on this subject. In my opinion, the administration is going to live to regret the day this bill was vetoed.

Mr. President, I ask unanimous consent to have printed in the RECORD the veto message of the President and a newspaper article containing my statement on the veto of the textile bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 1562. It is my firm conviction that the economic and human costs of such a bill run far too high—costs in foreign retaliation against U.S. exports, loss of American jobs, losses to American businesses, and damage to the world trading system upon which our prosperity depends.

At the same time, I am well aware of the difficulties of the apparel, textile, copper, and shoe industries, and deeply sympathetic about the job layoffs and plant closings that have affected many workers in these industries.

As I stated in my trade speech in September, I will not stand by and watch American businesses fail because of unfair trading practices abroad. I will not stand by and watch American workers lose their jobs because other nations do not play by the rules.

I am directing Secretary of the Treasury Baker, as Chairman Pro Tempore of the Economic Policy Council, to investigate the import levels of textiles and apparel to determine if these imports have exceeded those limits agreed upon in international negotiations. I have directed that he report back to me within 60 days and recommend changes in existing administrative and enforcement procedures, if necessary, so that corrective action is taken.

Also, I am directing the Office of the U.S. Trade Representative to most aggressively renegotiate the Multi-Fiber Arrangement (MFA) on terms no less favorable than present. Our trading partners must be put on notice that we will not allow unfair trading practices to continue. I am further directing Ambassador Yeutter to closely consult with the U.S. textile and apparel industry to ensure that their views will be fully represented during the negotiations.

Finally, I have directed Secretary of Labor Brock to work with the Congress to provide an additional $100 million increase in funds appropriated to help retrain and relocate displaced workers under the Job Training Partnership Act. The Job Training Partnership Act is a more effective way than Trade Adjustment Assistance for the Secretary of Labor to target those American workers and geographic areas most affected. This is the way we can best help dislocated workers—and without pitting one American worker against another.

Free and fair trade policies have helped create nearly 9 million new jobs in the last 3 years and given us the highest rate of employement in our Nation's history. Still, for some workers in troubled industries, these are difficult times. The personal distress of those who lose their jobs is very real. None of us wants to see American workers lose their jobs or American businesses suffer. I pledge to you to do everything possible to combat unfair trade practices. But in so doing we must take wise and positive steps to redress wrongs. To do otherwise would be counterproductive.

Unfortunately, H.R. 1562 would invite immediate retaliation against our exports resulting in a loss of American jobs in other areas. Because this bill is so sweeping in its provisions, we could expect that retaliation to be extensive. The United States exported tens of billions of dollars worth of goods to the countries which would be most affected by this measure, including approximatley a third of our farm exports. Workers in agriculture, aerospace, high-tech electronics, chemicals, and pharmaceuticals would be the first to feel the retaliatory backlash, but the damaging effects would soon be felt by every American in the form of lost jobs, higher prices, and shrinking economic growth.

We are pursuing an aggressive trade policy, based on the knowledge that American know-how is still number one and that American industry thrives on fair competition. Where U.S. industries are hurt by unfair practices, we will continue to take vigorous actions. Where foreign trade barriers lock out U.S. exports, we will do everything in our power to knock those barriers down. Our philosophy will always be to increase trade, increase economic growth, and increase jobs. We want to open markets abroad, not close them at home. In a fair and open world market, we know that America can out-produce and out-compete anybody.

RONALD REAGAN.

THE WHITE HOUSE, *December 17, 1985.*

THURMOND GREATLY DISAPPOINTED IN VETO OF TEXTILE BILL, HOPES CONGRESS WILL OVERRIDE

WASHINGTON, December 17, 1985.—President Reagan's veto today of a bill designed to halt the flood of foreign textile and apparel goods disappointed Sen. Strom Thurmond (R-SC), who says the industry cannot sustain continued damage from imports.

"I believe the President has heeded bad advice in vetoing this bill," said Thurmond, who originally introduced the measure in March. "I sincerely hope the House of Representatives overrides the President's veto and we shall exert every effort in the Senate to do likewise."

"Our domestic textile and apparel industry cannot sustain the damage it is facing. We are going to see more layoffs, more plant shutdowns and more long-term economic damage to an industry that is crucial to this nation," President Pro Tempore Thurmond said, noting that the bill would have assured the continued competitiveness against unfairly subsidized foreign imports. "We must not turn our backs on an industry which contributes $80 billion dollars to the gross national product and means four million jobs in textile and related industries."

The nation's defense structure and its consumers will suffer also, Thurmond said, if a major effort is not initiated to stem the flow of textile and apparel products made overseas. "The American textile and apparel industry has never asked for nor sought an unfair advantage. What this industry wants is competition on an even keel. What it is facing is an avalanche of goods made by cheap labor and deliberately targeted to undercut one of our basic manufacturing sectors."

Thurmond said many foreign manufacturers have gone beyond legal bounds and are now intentionally sidestepping international trade agreements. For that reason, the textile bill included an import licensing provision which was designed to prevent fraud.

Thurmond said he would continue to urge the Customs Service to strictly enforce laws designed to stop illegal imports. "Last year over $31 million in illegal textile and apparel goods were removed from the American market," he said. "That is a 300 percent increase over the year before."

The licensing provision was aimed at preventing fraud by improving import data used by Customs officials, reducing misidentification and stopping the practice of shipping products from one country through another to avoid quota restrictions.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Does the Senator from Utah seek recognition?

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask unanimous consent that all of these matters be considered as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF CERTAIN RESTRICTIONS ON AVAILABILITY OF OFFICE SPACE FOR FORMER SPEAKERS OF THE HOUSE

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2962, a bill to remove certain restrictions on availability of office space for former Speakers of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not believe that the script shows the request for consent to take this bill up immediately, nor does it show that the Chair put that question, does it?

The PRESIDING OFFICER. The Democratic leader is correct.

Mr. GARN. Mr. President, I ask unanimous consent for the immediate consideration of H.R. 2962.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2962) to remove certain restrictions on the availability of office space for former Speakers of the House.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on third reading and passage of the bill.

The bill (H.R. 2962) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ROBERT N.C. NIX, SR., FEDERAL BUILDING AND U.S. POST OFFICE

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2903, a bill to designate the Federal Building and U.S. Post

Office, located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and U.S. Post Office," and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2903) to designate the Federal Building and United States Post Office located in Philadelphia, Pennsylvania, as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office."

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendent. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2903) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR THE ADMINISTRATOR OF GSA TO COLLECT ADDITIONAL CONTRIBUTIONS IN REGARD TO THE NANCY HANKS CENTER

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from consideration of H.R. 2391, a bill to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2391) to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. STAFFORD. Mr. President, the House of Representatives has passed H.R. 2391 and sent it to the Senate. This bill would authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center in the Old Post Office here in Washington. It is comparable to the provision contained in section 2 of S. 709 which was reported by the Committee on Environment and Public Works and passed the Senate on May 14 of this year. Current law contains a deadline on the acceptance of such contributions which had already been extended once. The extended deadline expired on February 15, 1985, but the memorial to Nancy Hanks has yet to be completed.

I regard this legislation as necessary to allow the construction of a suitable memorial to Nancy Hanks and would recommend it to my colleagues. At the same time I would point out that section 1 of S. 709 as it passed this body contained an important amendment to the Public Buildings Act of 1959. It provides for the establishment of the Public Buildings Service within the General Services Administration and requires that the Commissioner of Public Buildings be appointed by the President and confirmed by the Senate. This measure would give legal recognition to the significant functions of the Public Buildings Service and confer the stature of Presidential appointment on its Commissioner.

In passing S. 709, this body deemed both the provision relating to the Nancy Hanks Center and the provision relating to the Public Buildings Service as worthy of enactment. Let our willingness today to consider favorably H.R. 2391 as a separate measure concerning the Nancy Hanks Center not be regarded as a change of mind or a lack of resolve in promoting final enactment of the Public Buildings Service provision.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2391) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 2698

Mr. GARN. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2698, the James A. Walsh Courthouse bill, and I ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROLLED SUBSTANCE ANALOGS' ENFORCEMENT ACT OF 1986

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 431, S. 1437, the Designer Drug Enforcement Act.

The PRESIDING OFFICER. The clerk will report

The assistant legislative clerk read as follows:

A bill (S. 1437) to amend the Controlled Substances Act to create new penalties for the manufacturing with intent to distribute, the possession with intent to distribute, or the distribution of "designer drugs", and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Controlled Substance Analogs' Enforcement Act of 1985".

SEC. 2. Part D of the Controlled Substances Act is amended by adding after section 403 the following new section 403A (21 U.S.C. 843):

"§ 403A. Prohibited acts D

"Any person who knowingly or intentionally manufactures with intent to distribute, possesses with intent to distribute, or distributes a controlled substance analog all or part of which substance is intended for human consumption shall be fined not more than $250,000, or imprisoned not more than fifteen years, or both. Any person who knowingly or intentionally possesses a controlled substance analog all or part of which substance is intended for human consumption shall be fined not more than $25,000, or imprisoned not more than one year, or both. This section does not apply to a person who manufactures, possesses, or distributes a substance in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355). For purposes of this section, section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.".

SEC. 3. Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following new paragraphs:

"(31) The term 'controlled substance analog' as used in section 403A means a substance other than a controled substance that has a chemical structure substantially similar to that of a controlled substance in schedules I or II or that was specifically designed to produce an effect substantially similar to that of a controlled substance in schedules I or II. Examples of chemical classes in which controlled substance analogs are found include, but are not limited to, the following: phenethylamines, N-substituted piperdines, morphinans, ecogonines, quinazolinones, substituted indoles, and arylcycloalkylamines.

"(32) The term 'human consumption' includes application, injection, inhalation, or ingestion.".

SEC. 4. The analysis of part D of the Controlled Substances Act is amended by insert-

ing after the item relating to section 403 the following:

"403A. Prohibited acts D.".

Mr. GARN. Mr. President, I move adoption of the committee substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

Mr. THURMOND. Mr. President, I rise today to support the passage of S. 1437, the Controlled Substance Analogs Enforcement Act. The purpose of this bill is to forestall a potentially grave national epidemic. Those who prosper by exploiting human weakness have discovered a relatively new field of enterprise promising huge sums of money at relatively low risk. Increasingly, such profiteers are synthesizing enormously potent drugs which, while often lethal, are absolutely legal. Whether generated by individual back-alley chemists or by those associated with organized crime, these easily manufactured and unregulated chemical compounds present us with a truly frightening problem: designer drugs dealing designer death.

Simply put, law enforcement's problem is that unlawful activity under the Controlled Substances Act is defined with regard to the precise chemical makeup of the substances described by schedules issued in accordance with the act. Make a minor alteration in the molecular structure of an outlawed drug—replicate the chemical composition of heroin, say, in all but the slightest regard—and you have produced a powerful and dangerous narcotic which is not illegal. These laboratory-manufactured "analogues" of controlled substances are imprecisely and perhaps inappropriately termed "designer drugs." Such drugs are currently being sold both as counterfeits of the drugs they imitate and for consumption as designer drugs in their own right. Such drugs are potent and destructive. The deaths have begun, and we are informed that in California, at least, 20 percent of the State's herion addicts have turned to these even more dangerous designer compounds.

In order to deal with this deadly peril, the Judiciary Committee expedited consideration of S. 1437 with a hearing on September 18, and unanimous approval of a substitute amendment on October 3, 1985. The amendment to S. 1437 substitutes the phrase "controlled substance analog" for the perhaps too enticing term "designer drug" and creates a misdemeanor offense for simple possession of a controlled substance analog.

As befits the serious nature of the problem, there is strong bipartisan resolve to give our law enforcement officers the tools needed to combat designer drugs. To this end, I would like to commend Attorney General Meese and my colleagues from both parties who have joined me in introducing S. 1437, the Controlled Substance Analogs Enforcement Act of 1985. Senators HAWKINS and CHILES have taken a lead role in supporting the bill, as has the ranking minority member of the Judiciary Committee, Senator BIDEN. I am gratified that numerous other leading Senators from across the political spectrum are also sponsors of the legislation.

Mr. BIDEN. Mr. President, as the ranking member of the Judiciary Committee I join with the committee chairman, Senator THURMOND, in asking our colleagues to support final passage of S. 1437 the Controlled Substance Analogs Enforcement Act of 1985.

The urgency for the Senate to respond to the "designer drug" phenomenon was documented in my State yesterday morning when the headline in the Morning News in Wilmington, DE, read, "Chemist Charged in Drug Scheme." the article, which I will ask unanimous consent be placed in the RECORD, goes on to tell of the arrest of a Du Pont Co. chemist who allegedly manufactured and distributed more than 1 million dollars' worth of synthetic heroin substitute. Authorities seized four ounces of 3-methyl-fentanyl which is the largest amount ever confiscated and is the first major seizure on the east coast.

These so-called designer drugs are variations of known controlled substances that are manufactured by underground chemists for sale on the street. Designer drugs are extremely dangerous. They are extraordinarily potent, increasing the likelihood of death by overdose. Over 100 deaths, so far, have been linked to designer drug use. Designer drugs are also responsible for causing long-term neurodegenerative conditions, similar to Parkinson's disease, in some users. Designer drugs are also cheap to produce. For example, less than $500 worth of chemicals and equipment is needed to make 1 cup of heroin substitute that is worth $2 million on the black market. Thus, manufacturers and distributors of these drugs profit from them at the expense of the public health and safety.

This bill addresses a new and expanding law enforcement and drug abuse problem that could become the drug abuse problem of the 1980's and 1990's. The enormous profits that can be made, the high potency of these drugs, and the difficulty in detecting and identifying them could result in a drug abuse phenomenon far beyond what we have experienced to date. The Federal Government must act quickly to stop the spread of these drugs so we are not caught off guard as we were in the 1970's when PCP became a major drug abuse problem. This new legislation will permit an immediate response to those producing these drugs, permitting investigations, arrests, and prosecution before these drugs spread throughout the country.

Because of the complexity and volatility of the designer drug problem, this statute cannot define what is forbidden with the high degree of precision of the Controlled Substances Act. To lessen the chance of any language later being viewed as impermissibly vague, I would direct attention to the committee report on this bill, 99-196, particularly part II, section 3, in which a detailed explanation of the definition of a controlled substance analog appears. Section 3 concludes:

. . . The definition of "Controlled Substance Analog" contained in this section, therefore, closes the present loopholes in the Controlled Substances Act while still specifying a comprehensible standard of conduct. A substance fitting either of the two prongs of the controlled substance analog definition qualifies as such an analog. The legislation's message to illicit drug traffickers is clear: No longer will you remain immune from punishment when purposefully dealing in drugs that imitate the most dangerous compounds defined by law. When such chemical copies are intended for human consumption and do not fall under the exceptions set out in section 2 of the legislation, simulation is no defense.

Additionally, I wish to make clear that this legislation is not aimed at legitimate drug research that unwittingly falls within the designer drug definition. This act specifically exempts substances manufactured, possessed, or distributed in conformance with the new drug approval provision of the Federal Food, Drug, and Cosmetic Act. Early stage, clinical research is also protected by the new drug approval requirement for investigational use. These exemptions were included to prevent interference with legitimate research and development of new pharmaceuticals. Industrial and nonclinical applications are not affected since they are not intended for human consumption.

This emerging drug problem will require a partnership between law enforcement, the medical community, and scientific community if we are to be successful in stopping drugs before they become the next tragic drug abuse problem in this country.

I ask my colleagues to join me in passing this bill.

Mr. President, I ask unanimous consent that the article I referred to in the "Morning News" and related articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Morning News, Dec. 17, 1985]

CHEMIST CHARGED IN DRUG SCHEME

(By Laurie Hays)

When Michael C. Hovey appeared for his bail hearing in the tiny courtroom of Wil-

mington's U.S. Magistrate on Monday handcuffed and escorted by a U.S. marshal, his wife and her close friend and neighbor let out quiet gasps.

The tall, good-looking 33-year-old does not appear anything like a big-time drug dealer. He wore a plaid shirt, blue jeans and hiking boots and a pine-green L.L. Bean-style parka. He has light brown hair, a moustache and blue, friendly eyes.

His face looked strained and scared.

"So stupid," the neighbor, who did not wish to be identified, repeated to herself. "This is like a horror movie. I can't believe it."

Hovey's wife, an attractive woman, stared ahead most of the time. Once, when she looked at her husband, she studied him as though she were trying to understand what he had done.

Given permission after the hearing to speak with him briefly, she wept together with her husband while the uncomfortable U.S. marshal looked the other way and chatted with other officers in the hall.

"I'm sorry," Hovey said tearfully to the neighbor as he walked down the hallway, on his way back to Gander Hill.

News of Hovey's arrest on charges of manufacturing and distributing synthetic heroin and methamphetamine shocked and upset his friends and neighbors in quiet Graylyn Crest, a suburb north of Wilmington.

People wondered what could have made the young scientist with a doctorate from the University of Wisconsin and such an apparently bright future do "such a stupid thing."

His wife said she knew nothing about his alleged activities until she returned from church Sunday morning and found federal drug agents searching their house.

Betty Malone, who lives down the street from the Hoveys, said, "I really am in shock. I can't believe it. He's a doll. He's a family man. He rides a bike. They come to block parties. . . . He wouldn't even get a speeding ticket. He wouldn't even park a car where it shouldn't be. That's the kind of guy he is."

Like other neighbors, Malone spoke of the Hoveys' daughter, about 3 years old, and the devotion he showed for her. He recently built a small playhouse for her in their back yard. The gray-shingled house, which he built from scratch, has a tiny chimney and shutters painted with little red hearts.

Hovey had worked as an agricultural products research chemist at Du Pont for five years. Both he and his wife attended the University of Illinois and moved to the Wilmington area from Wisconsin when he came to work for the company.

His laboratory was in Building 402 at the Experimental Station, the company's research facility on a hill overlooking the Brandywine River.

Though the family did not appear to need money, the letters Hovey allegedly sent to another employee of the Du Pont Co. and federal undercover drug agents present the image of a man in need of cash and suspicious of the world.

He asked to be paid in gold coins because, he allegedly wrote, "Gold is untraceable and will remain legal tender long after our government collapses."

The letters also tell the story of a man so inexperienced in the drug business that the only "dealers" he could find were Federal Drug Enforcement Administration agents.

In the anonymous letter to a Du Pont Co. employee asking for contact with a dealer, Hovey allegedly wrote: "Why have I chosen you as my contact. . .? Because I picked someone who works at Du Pont. If something goes wrong and the police try to trace me through you, they will naturally look at Du Pont's chemists. I don't work at Du Pont, so they will not pick up my trail. My contacts tell me you can make the necessary million-dollar contract."

The recipient of the anonymous letter turned it over to company officials.

[From the Morning News, Dec. 17, 1985]

SYNTHETIC HEROIN SEIZED

(By Laurie Hays)

A Du Pont Co. chemist has been charged with manufacturing and distributing more than $1 million worth of a synthetic heroin substitute he allegedly made at his Experimental Station lab.

The four ounces of 3-methyl-fentanyl that was seized is the largest amount ever confiscated and is the first major seizure on the East Coast, Assistant U.S. Attorney Richard J. McMahon said Monday.

Michael C. Hovey, 33, was arrested Sunday morning as he was attempting to collect a $260,000 cash payment in the woods west of U.S. 202 near the Delaware-Pennsylvania line, McMahon said. The payment was for one ounce of the potent substance.

Drug agents later seized three additional ounces of 3-methyl-fentanyl and six ounces of methamphetamine at Hovey's house in the 1000 block of Sedgwik Drive, Graylyn Crest.

One ounce of the 3-methyl-fentanyl is equivalent to 62 pounds of pure heroin or 3,000 pounds of street heroin.

The drug is one of the "designer drugs," which are formed by chemically altering the structure of another drug to enhance its effect. More than 100 deaths, all on the West Coast have been attributed to use of the synthetic heroin, which is 1,000 times stronger than street heroin.

One ounce of 3-methyl-fentanyl, worth about $500,000, is commonly mixed with 3,000 pounds of lactose to make street heroin.

Federal Drug Enforcement Administration officials said Hovey was an amateur in the drug business, with no apparent street contacts that could enable him to sell the synthetic heroin. He has no prior criminal record and his wife, who appeared at his hearing in U.S. Magistrate Court on Monday, said she had been "absolutely shocked" by the news of his arrest.

Hovey has been a chemist in agricultural research for five years at the Experimental Station, Du Pont's primary research center on the Brandywine, north of Wilmington. He is described by friends and neighbors as "friendly," "normal" and a "family man."

Residents of his quiet, suburban neighborhood north of Wilmington were stunned.

Federal officials said Hovey manufactured the drug at the Experimental Station, but they could provide no further details.

According to the officials, in mid-October the Du Pont Co, Security Department initiated the investigation that resulted in Hovey's arrest after another Du Pont employee received an anonymous letter through the company mail asking for help contacting a drug dealer.

The letter, allegedly sent by Hovey, began, "Would you like to earn $10,000 or more? If so, I have a business proposition for you. This is no joke."

The letter also contained a small sample of the synthetic heroin.

The employee, who reportedly did not know why the letter had been sent to him, turned it over to the company, which notified federal drug agents.

Not knowing who sent the letter, undercover federal drug agents decided to do as it instructed and place a "Happy Ad" in the News-Journal papers on Oct. 31. The ad read, "Happy 31st Birthday Vermillion, Love, Joy, Kisses."

The ad was intended to signify that the agents were interested in making a deal. The agents two weeks later placed a second classified ad, as instructed, in the Help Wanted section. It contained their address and a phone number where the drug manufacturer could contact them.

The agents then waited. Pretending to talk about the advertisement, the letter sender on Nov. 15 called the undercover agent, who was using the name Robert Jones, and agreed to make a deal.

Five days later, the caller, allegedly Hovey, stashed one ounce of the synthetic heroin in two Army surplus ammunition boxes placed in a hole behind the Wilmington Hilton Hotel, at the Naamans Road exit of Interstate 95.

The agents in turn left him $40,000 in marked bills in the boxes placed in a hole in the woods north of Naamans Road, near Talley Junior High School. After leaving the money at 6 a.m. on Dec. 1, agents spent the day nearby, in the rain, watching everyone who came and went.

An agent standing behind a tree saw Hovey come for the money at 7 p.m., according to a spokesman for the federal drug enforcement agency.

Hovey was apprehended Sunday at the second pickup, where agents had left fake cash in a bright orange U.S. Mail bag in the woods north of Wilmington. Waiting for him in the woods were 10 officers from the federal drug agency and from state, county and Newark police, who provided additional assistance.

Hovey was carrying a loaded gun at the time of his arrest, the agents said.

Following a third payment of $700,000, Hovey was supposed to have sold the additional three ounces of the 3-methyl-fentanyl and six ounces of methamphetamine.

Hovey's bail hearing before U.S. Magistrate N. Richard Powers was postponed until Wednesday because he did not yet have an attorney to represent him on Monday. His case will be presented to a federal grand jury in the next few weeks.

He faces a maximum 15 years on six charges of manufacturing and distributing 3-methyl-fentanyl and methamphetamine. He was being held Monday at Gander Hill Prison. McMahon called Hovey "dangerous" and asked Powers to order Hovey incarcerated until his trial.

John R. Malloy, senior vice president of external affairs for Du Pont, said he was unsure whether Hovey would be fired.

"We've got to look at all the facts and circumstances. We're not exactly sure of all the details," he said.

[From the Morning News, Dec. 17, 1985]

MAKING POTENT DRUG SEEMS A SIMPLE TASK

(By Merritt Wallick)

A master's degree-level chemist with a few hundred dollars in raw materials and laboratory equipment can make a kilogram of 3-methyl-fentanyl that would sell on the street for about $1 billion.

Aside from breaking the law, the biggest risk is that the chemist could kill himself making the heroin-like substance, today the most common "designer drug" being illicitly

sold. The drug is so powerful—about 3,000 times as strong as morphine and 1,000 times as strong as heroin—that breathing even few stray particles could induce coma and death.

Michael C. Hovey, a research scientist at the Du Pont Co.'s Experimental Station, was arrested Sunday for allegedly making four ounces of 3-methyl-fentanyl in the Du Pont lab and trying to sell it for $1 million. Hovey is the first person known to have produced the granular substance on the East Coast.

Robert J. Roberton, administrator of American Hospital in Los Angeles, said that the "designer drugs" have introduced "a whole new technological terror" to our society and that it's spreading. Roberton became acquainted with the drug as the former top drug officer in California.

Roberton attributes 106 deaths to the drug from overdoses. "You can put enough 3-methyl-fentanyl on a postage stamp to support 1,000 heroin addicts for a month," he said. Enough could be placed on the head of a pin to kill 50 people.

Making the drug is easy, Roberton said. The difficult part is mixing it so that the drug could be taken in doses that would not be fatal. "They have to have very good equipment to weigh it," he said.

The term "designer drug" was coined by Gary L. Henderson, a pharmacologist at the University of California at Davis, specifically to refer to a family of man-made drugs derived from fentanyl, a prescription narcotic sold under the trade name Sublimaze by Janssen Pharmaceutics of Belgium.

Chemists produce designer drugs by subtly altering the molecular structure of a drug, creating an analog that is often much more potent than the original drug. Normal fentanyl, for instance, is only about 100 times as powerful as morphine, and its effects last only about 30 minutes.

Roberton said at least 10 analogs of fentanyl have been found in California. He estimates that 20 percent of what is being sold as heroin on the streets is really a fentanyl derivative, most often 3-methyl-fentanyl.

Gregory Hayner, a pharmacologist at the Free Drug Clinic in Haight Ashbury in San Francisco, said addicts are avoiding 3-methyl-fentanyl because it is so easy to get a fatal overdose.

"People are getting the idea that they are really playing Russian roulette with this stuff," Hayner said.

Another problem is that a similar family of designer drugs derived from meperidine, a narcotic, is suspected of causing Parkinson's disease. "You can't tell it apart until it's too late," Hayner said.

The presence of 3-methyl-fentanyl in the blood cannot be detected by normal methods, Roberton said. Only two laboratories in the United States perform tests sensitive enough to detect the one-part-per-trillion levels in the blood of someone under the influence of the drug, he said. People in drug treatment programs can use the drug without fear of detection by normal urine tests.

Du Pont officials declined to discuss security procedures at the Experimental Station in the wake of Hovey's arrest. In March, company officials said Du Pont's security staff conducts about 100,000 random searches annually of cars leaving and entering the site. About 400 employees in the lab have access to prescription drugs, they said, but only 50 employees have access to the pharmacy development area where narcotics and other substances regulated by the Federal Drug Enforcement Administration are stored.

Hovey's research was in agricultural products, which means he would not normally have had access to controlled substances. A chemist at the University of Delaware said the chemicals needed to make 3-methyl-fentanyl are available at any chemical supply house or in any adequately stocked organic chemistry laboratory.

Mr. DENTON. Mr. President, I want to join my distinguished colleague from South Carolina [Mr. THURMOND] in emphasizing the urgency of the problem that we face with designer drugs. I also would like to commend him for his leadership in making all of us aware of the magnitude of the problem.

Our efforts to put a halt to the designer drug phenomenon must be totally bipartisan. They kill and cripple our Nation's youth in increasingly greater numbers. We need to take immediate action to give our law enforcement agencies, both Federal and State, the knowledge, authority, and resources necessary to fight the growth of designer drugs.

Currently, the production of designer drugs appears to be confined to small individual labs. Because of the tremendous profits that can be realized from the resale of small amounts of the powerful drugs, however, it is only a matter of time before organized crime moves in and controls the market in the larger metropolitan areas, just as it controls the current market in conventional illegal drugs. When that happens, we could face a medical disaster of epidemic proportions. The effects of the new drugs are absolutely devastating, and we must not wait for a disaster to occur before we take action.

We owe it to the youth of our country to educate them about the debilitating and dangerous effects that these drugs will have. We also owe it to them to give Attorney General Edwin Meese and the Department of Justice the resources and authority they need to fight the growing problem.

Although the emergency scheduling provision of the Comprehensive Crime Control Act is important, it is inadequate to discourage the production of designer drugs. We must take a proactive approach, such as that in S. 1437, with heavy penalties.

Mr. President, I offer my utmost support of the legislation, and I urge my colleagues to pass it.

Thank you, Mr. President.

Mr. CRANSTON. Mr. President, I rise in support of S. 1437. It is sorely needed legislation. My own bill S. 1413, which was introduced the week before S. 1437 would have achieved the same goals—the creation of new penalties for those criminals who manufacture and distribute controlled substances analogs known as designer drugs.

These analogs can cripple and permanently ruin the lives of unsuspecting users. They are taken by people in the drug world who do not know what it is they are taking. Unfortunately, these drugs are being manufactured mostly in clandestine laboratories in my home State of California. These "chemists" have taken a lifesaving drug, fentanyl—anyone who has had major surgery has taken it—and made it into a deadly street drug. The derivatives of fentanyl induce all the effects of heroin and more. When improperly manufactured they kill.

Because these analogs can be manufactured so quickly and so cheaply it is imperative that we move full force on this. Cases have already been cited outside of California. Cases of young people who are permanently disfigured and undergo sporadic bouts with paralysis as a result of these analogs. Still there is a more severe effect, it comes after respiration halts and comatose sets in—death. In the meantime this new criminal industry is getting rich.

Cocaine and heroin have been by far the most widely distributed drugs by organized crime. But, the California Department of Justice has found fentanyl in organized crime laboratories, an indication that organized crime is entering the designer drug market.

This legislation will give us the weapons to fight the spread of this dangerous drug menace. I thank Senator THURMOND and the committee for acting swiftly on their own version of this legislation.

Mrs. HAWKINS. Mr. President, I rise to support S. 1437, an amendment to the Controlled Substances Act. This amendment will create penalties for the manufacturing of analog drugs with the intent to distribute these drugs.

Too often we, as a legislative body can only be reactive and respond to a problem that has already gotten out of hand. Today we have a chance to be proactive, to institute changes in the Controlled Substances Act which may make it possible to stem the tide of the most dangerous drug movement of the country.

Controlled substance analogs are sometimes flippantly called "designer drugs", suggesting something fashionable and trendy, like Sassoon jeans or Varnay sunglasses, Gucci shoes, Bill Blass Chocolates, or Bailey's Irish Creme. Nothing could be further from the truth. These drugs have earned their name from the Machiavellian abilities of the underground chemists to design a drug directed at a particular market by moving a radical here or changing a benzene ring there.

These analog drugs may be 1,000 or more times stronger than the drug it is meant to replace, such as heroin. Let me give you just one example of their potency: Fentanyl, which is legally used as a narcotic analgesic, has over a

hundred possible analogues which have not been adequately tested for safety and can be made by a chemist for very little investment and extremely high street sale value. This can be done legally because each new analog must go through the procedure required for substances to be put on the controlled substance list and the underground chemists come up with new analogs faster than the DEA can get the drugs listed. For one dose of one fentanyl analog, the drug must be cut in microgram amounts.

Mr. President, a single postage stamp weighs 60,000 micrograms! According to the Los Angeles Times, as many as 40 street doses can be made from a chunk of the drug the size of a grain of table salt.

Mr. President, these drugs are extremely dangerous and the only test trials they receive are on the street. Human beings are serving as the test animals. The potency of the drugs make overdoses common. They do not need to be imported and they are very cheap to make.

In testimony before my subcommittee, Dr. Robert Robertson, the chief of the division of drug problems of the California Department of Alcohol and Drug Programs stated that at least one of these drugs may be like time bombs in the brain, slowly destroying neurons, creating a whole generation of people likely to develop Parkinsonian like diseases down the road, 2, maybe 10 years, or even more after the drugs have been ingested. There have been over a hundred deaths caused by analog drugs.

We must pass this amendment to facilitate the efforts of our law enforcement agencies in dealing with analog drugs. So far, the major problems have been in California. However, they are spreading. We cannot delay.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CHILES. Mr. President, I rise in support of S. 1437, the Controlled Substance Analogs (Designer Drug) Enforcement Act of 1985, and urge my colleagues to support this bill. I compliment both Senator THURMOND and Senator BIDEN for their timely consideration of this measure in the Judiciary Committee. Likewise, I compliment the administration, through the efforts of the National Drug Enforcement Policy Board, in addressing this issue.

Earlier this year, I introduced S. 746, a bill to require the National Drug Enforcement Policy Board to provide a comprehensive assessment of the designer drug problem and make recommendations to Congress for necessary legislation. Subsequently, at a hearing of the Senate Appropriations Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, I secured a commitment from Attorney General Meese, as Chairman of the National Drug Enforcement Policy Board, to address the designer drug problem and develop a strategy to get the necessary laws on the books before the problem gets out of hand. This bill meets that commitment. We cannot overstate the dangers posed by these new drugs. We need concern and results, and I certainly commend the Attorney General for his quick handling of this.

Last March, I brought the designer drug problem to the attention of my colleagues. This bill addresses the problem by making it unlawful to manufacture with intent to distribute, to possess with the intent to distribute, or to distribute designer drugs. Persons convicted of manufacturing, possessing, or distributing would be subject to 15 years imprisonment and a $250,000 fine.

We have before us a rare opportunity—the opportunity to address the problem before it become a disaster. I'm talking about designer drugs and the glitch in our law which allows those with only a smattering of ability to produce a deadly chemical in their basement and sell it, entirely legally, on the streets of America.

We have spent millions of dollars in the last decade in combating, with some success, the importation of deadly drugs. Certainly, that funding needs to continue. Now, however, we're finding unscrupulous drug dealers are buying equipment and chemicals over the counter and producing quite legally the same kind of substances we have been spending millions of dollars to keep out of America.

On July 18, I held a hearing about the designer drug problem and heard how someone can spend $2,000 on readily available equipment and chemicals, and turn 2 weeks of time into 200 million doses of drugs which has the potential street value of $70 billion. That just blows my mind. We have an opportunity to get ahead of the curve before it becomes a disaster and that's why this legislation needs our support right now today.

Designer drugs are made by chemically modifying controlled substances to produce analogs or chemical cousins of these substances which are not covered by the Controlled Substances Act. By adding a flouride or an extra carbon molecule, a new drug is created which will produce the high or euphoria the user seeks but is not illegal. But they are extremely dangerous, thousands of times more potent than the illegal narcotics presently flooding the country, and more than 100 deaths have been identified with designer drug use so far.

The more commonly used drugs—cocaine, heroin, and marijuana—take a terrible toll on their users in health problems and even deaths. Designer drugs multiply these risks and open the door to long-term neurodegenerative diseases, adding an entirely new dimension to the drug abuse problems. No one knows what is in each batch of designer drugs. They are not tested; there is no process to remove contaminants or unwanted compounds; and the potential is very real that is a highly toxic compound will hit the streets. In California, a substance known as MPTP was circulated as "new heroin." It has caused severe brain damage similar to end-stage Parkinson's disease in a number of users. The doctors are not optimistic about the future of a number of these patients because of the problems they are having. The human body can't last very long in this condition. At the hearing I held in July on the designer drug problem, Dr. William Langston showed a videotape about the Parkinson-like syndrome these patients developed. They literally changed before our eyes as the medication they were taking wore off; they became like zombies. The doctors are aware of over 400 young people who used these drugs in northern California. Although most are currently asymptommatic, a senior investigator at NIH has referred to them as walking time bombs. The human and medical economic costs of such an epidemic are almost incalculable. More recently, a designer drug user has been identified with the neurological symptoms of Huntington's chorea, a debilitating and eventually fatal disease.

All the signs indicate that designer drugs will be a major part of the drug abuse problem of the future. If that proves to be the case, the public health consequences of drug use may be entering an entirely new and frightening dimension.

The current procedure for controlling illicit drugs, even with the emergency scheduling provisions authorized by Congress in 1984, represents an essentially unworkable response in the face of any significant increase in the manufacture of designer drugs. The Federal Register will simply be required reading for the criminal chemist to keep up to date on what analog formulas are now illegal and need to be modified.

Mr. President, our experience with illegal drug law enforcement is usually a matter of too little, too late. The potential disaster posed by the designer drug phenomenon is too grave for us to delay in acting to prevent the manufacture and distribution of these drugs. We must outlaw these drugs before the country finds itself in the middle of a public health disaster of overdose deaths, poisonings, and addiction. I urge my colleagues to support this bill.●

Mr. GARN. Mr. President, I move the passage of the bill, as amended.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1437), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Controlled Substances Act to create new penalties for the manufacture with intent to distribute, the possession with intent to distribute, the possession or the distribution of 'controlled substance analogs', and for other purposes.".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SHAREHOLDER COMMUNICATIONS ACT OF 1985

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to Calendar Order No. 486, S. 918, the Shareholder Communications Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 918) to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as brokers-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Shareholder Communications Act of 1985".

AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934

SEC. 2. (a) Section 14(b) of the Securities Exchange Act of 1934 (15 U.S.C. 798n(b)) is amended by inserting "or any bank, association, or other entity that exercises fiduciary powers," after "under this title,".

(b) Such section is further amended by inserting "(1)" after "(b) and by adding at the end thereof the following new paragraph:

"(2) With respect to banks, the rules and regulations prescribed by the Commission under paragraph (1) shall not require the disclosure of the names of beneficial owners of securities in an account held by the bank on the date of enactment of this paragraph unless the beneficial owner consents to the disclosure. The provisions of this paragraph shall not apply in the case of a bank which the Commission finds has not made a good faith effort to obtain such consent from such beneficial owners.".

EFFECTIVE DATE

SEC. 3. The amendments made by this Act shall become effective one year after the date of enactment of this Act.

Mr. GARN. Mr. President, I move the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. D'AMATO. Mr. President, I strongly urge my colleagues to vote for final passage of S. 918, the Shareholder Communications Act of 1985. Although the legislation is technical in nature, its enactment will have important ramifications for millions of American investors who will receive more information about their investments. S. 918 is intended to improve the access of certain shareholders to proxy materials. Legislation such as the Shareholder Communications Act is needed to ensure that the congressional intent of the Federal securities laws, that investors be able to make well-informed investment decisions, is realized. A failure to vote for final passage of this legislation will deprive certain members of the investing public of the benefits of increased disclosure.

S. 918, in its present form, varies from the legislation that I introduced earlier this year. The legislation was amended in the Senate Banking Committee in response to the concerns of the banking industry during our consideration of this legislation. These institutions were concerned that S. 918, as originally introduced, could have breached the confidential relationship between a bank and certain of its clients. As explained in greater detail below, S. 918 as amended by the Senate Banking Committee, avoids the breach of any existing confidential relationship between a bank and its present clients by recognizing the important distinctions between stock held by broker-dealers for their customers and stock held by a bank trust department as a fiduciary.

The Shareholder Communications Act is designed to extend the authority of the Securities and Exchange Commission [SEC] to improve the proxy dissemination process by enabling the SEC to promulgate rules and regulations relating to the dissemination of these materials to banks, associations, and other entities that exercise fiduciary powers and hold stock on behalf of beneficial owners.

Section 14(b) of the Exchange Act currently grants the SEC the authority to regulate the activities of broker-dealers regarding proxy dissemination and voting with respect to shares held by them on behalf of beneficial owners. Under this authority, the Commission has adopted rule 14b-1, which requires broker-dealers to disseminate proxy and other material to beneficial owners. See, Release No. 34-13719 (July 5, 1977) (42 FR 35953). The Commission amended that rule to improve the proxy dissemination process with respect to the activities of broker-dealers and to add a provision which will make it easier for issuers to communicate directly with certain beneficial owners. See, Release No. 34-20021 (July 28, 1983) (48 FR 35082).

However, neither the SEC, nor bank regulators have authority to regulate the proxy processing activities of banks, associations and other entities that execise fiduciary powers and hold stock on behalf of beneficial owners. The SEC is therefore unable to extend rule 14b-1 or similar provisions to them. The inability to regulate banks and other entities in this regard creates a gap which denies beneficial owners of securities held by banks and other entities the benefits of the rules of the SEC that require timely delivery of information. The absence of such authority is especially significant with respect to banks, because banks hold a majority of the securities registered in nominee name. To remedy this deficiency, the Commission's Advisory Committee on Shareholder Communications, composed of private sector participants, including representatives of issuers, banks, broker-dealers and others, recommended that legislation be enacted to cover banks. See, "Improving Communications Between Issuers and Beneficial Owners of Nominee Held Securities," report of the Advisory Committee on Shareholder Communications, June 1982.

Section 2 of the Shareholder Communications Act amends section 14(b) of the Exchange Act to make that section applicable to banks, associations, and any other entities that exercise fiduciary powers. This would give the SEC the authority to adopt rules and regulations that would require bank nominees, association nominees, and other nominees that exercise fiduciary powers, to perform certain tasks with respect to proxy voting and distribution of proxies in respect of shares held in nominee name but where voting rights have been reserved. This authority would be delayed for 1 year, under section 3 of the bill to accord the SEC an adequate opportunity to promulgate thoughtful and effective rules and regulations.

Section 2 extends the SEC's authority to the trust and custodial activities of "banks," as that term is defined in section 3(a)(6) of the Exchange Act, and to other entities, such as savings and loan associations and savings banks. Among the entities covered by this provision are associations, as defined in 12 U.S.C. 14672(d) (1982). Such associations are Federal savings

and loan associations or savings banks chartered by the Federal Home Loan Bank Board [FHLBB] under 12 U.S.C. 1464(n) (1982). In addition, State savings and loan associations and savings banks and other entities who are or become authorized to exercise fiduciary powers would come within the ambit of the legislation. Historically, these other entities did not have fiduciary powers and, thus, did not hold securities in trust or custodian accounts on behalf of their customers. In recent years, however, a growing number of these entities, both at the State and Federal level, have been granted fiduciary powers and now are maintaining trust and custodian accounts. These activities are indistinguishable from the trust activities of banks and other entities that engage in similar fiduciary activities, and, thus, should be subject to the same regulations as banks with respect to those activities.

Section 2 recognizes that banks, and other associations and entities, as well as broker-dealers, hold securities that are beneficially owned by others. The legislation is intended to assure that shareholders who have retained the right to vote stock held in another name have the opportunity to vote that stock in a timely manner irrespective of the nature of the institution in whose name the stock is registered.

Consistent with this section, the SEC has indicated that it expects to extend rule 14b-1 to banks and, as it becomes appropriate, to other entities. Extension of similar requirements to banks and other entities will ensure that beneficial owners of securities held by them will receive the same protection as beneficial owners of securities held by broker-dealers.

Section 2 enables the SEC more effectively to carry out its mandate to protect shareholders. It is not intended to alter the overall regulatory scheme for banks and other institutions affected by this provision. The SEC is not intended to serve as a bank inspector or investigator, nor does this legislation provide that authority. However, when a securities violation occurs under this section, the SEC shall use its existing enforcement authority to obtain compliance.

THE COMMITTEE AMENDMENT

The Banking Committee amended S. 918 by adding section 2(b). Section 2(b) was added to ensure that the SEC, in carrying out its responsibilities under this provision, recognizes the important distinctions between stock held by broker-dealers for their customers and stock held by a bank trust department as fiduciary. The relationship between a trustee and a beneficiary is unique, and the courts have consistently held trustees to high standards.

During the Banking Committee's consideration of this legislation, issues were raised by banking institutions with regard to the disclosure of the identity of beneficial owners of securities held in nominee name. The banking institutions contended that such disclosures would violate an institution's fiduciary duty to protect the privacy of a customer. In recognition of the unique relationships between trustees and beneficiaries and the duties owed by trustees to beneficiaries, the regulations to be issued by the SEC under section 2(b) shall be applicable only where someone other than the bank trustee has voting authority, and any disclosure required by the regulations shall be applicable only to those who have voting authority. The legislation does not require trustees to disclose trust beneficiaries or other bank customers who do not have the power to vote.

Concerns about violations of a shareholder's privacy were particularly relevant to the standard of disclosure that the SEC could adopt. The SEC's rules with respect to broker-dealers require disclosure of the name, address and number of shares registered in the name of the brokerage firm unless the shareholder objects. Representatives of the banking industry felt that disclosing the same information—required from broker-dealers by the SEC's rules—with regard to their existing accounts without the customer's affirmative consent would violate the customer's privacy and potentially expose the banks to liability. They argued that they should be required to supply the names and other customer information only if the customer affirmatively consented. At the same time, banking industry representatives contended that these same considerations would not apply with new customers, who could be advised upon the opening of an account that their names would be supplied to issuers unless they objected.

Therefore, section 2(b) was adopted to accommodate these concerns. The SEC, in exercising its rulemaking authority under section 2(b) shall not require the disclosure of names of beneficial owners of securities in an account held by the bank on the date of enactment unless the beneficial owner consents to the disclosure. By contrast, the SEC could require that the names of beneficial owners of securities held in accounts with the bank after the date of enactment must be supplied to issuers unless the customer objected to the disclosure.

Because of the differences between brokerage accounts and fiduciary accounts and the numerous State statutes specifically relating to the confidentiality of bank records, an "affirmative consent" requirement, may be the more appropriate standard for rules promulgated pursuant to this section that are applicable to banks, associations and any other entities that exercise fiduciary powers, rather than the "nonobjection" standard adopted in the Commission's rule applicable to brokerage accounts. While the affirmative consent standard is appropriate to avoid breaches of a bank's duty to or the violation of a privacy right of a customer, a bank is in a different posture with regard to a new customer upon enactment of this legislation. Upon enactment of this legislation, a bank opening a new customer account would be on notice of the applicability of the nonobjection standard for beneficial owner disclosure and any such concerns would be adequately addressed by the bank at the time the new account is opened.

Section 2(b) is designed to grant the SEC authority to address the concerns of the banks and simultaneously ensure that banks are complying with the legislation's purpose of facilitating shareholder communication. The rules promulgated by the SEC should be designed to ensure that the intent of the legislation is realized and that the institutions covered by this act make a good faith effort to obtain responses from their customers. Therefore the legislation provides that the restrictions on SEC rulemaking shall not apply if the SEC determines that the institutions covered by this act have not made good faith effort to obtain the affirmative consent of their existing customers. The SEC will provide guidance in its rulemaking to assist the affected institutions in the determination of the conduct constituting a good faith effort to obtain affirmative consent.

In recognition of the concerns expressed to the committee that led to the adoption of section 2(b), the SEC must consider the privacy rights of bank customers in promulgating any rule governing bank proxy processing. The legislation contemplates that the SEC, in its rulemaking, must address the concerns of those who comment on the rules and regulations promulgated pursuant to this section. The SEC is expected to work in conjunction with the bank regulatory agencies to develop a regulatory scheme that is appropriate for banks.

Legislation, containing identical provisions, was passed by the other body this summer. I urge my colleagues to give favorable consideration to this bill which will enable shareholders to be provided with more information and will facilitate the ability of issuers to communicate with their shareholders.

Mr. GARN. Mr. President, I move the bill to third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GARN. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 1603, the House companion bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1603) to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

There being no objection, the Senate proceeded to consider the bill.

Mr. GARN. Mr. President, I move passage of H.R. 1603.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 1603) was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I ask unanimous consent that S. 918 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. GARN. Mr. President, I inquire of the minority leader if he is in a position to pass or indefinitely postpone any of the following calendar items. First to indefinitely postpone Calendar Order No. 465, S. 978.

Mr. BYRD. Mr. President, there is no objection.

Mr. GARN. Mr. President, next would be to pass Calendar Order No. 466, S. 1896.

Mr. BYRD. No objection, on this side.

Mr. GARN. Mr. President, next would be to pass Calendar Order No. 472, H.R. 2542.

Mr. BYRD. No objection, on this side.

ORDER TO INDEFINITELY POSTPONE S. 978

Mr. GARN. Mr. President, I ask unanimous consent to indefinitely postpone Calendar Order No. 465, S. 978.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPTAIN JOHN FOSTER WILLIAMS COAST GUARD BUILDING

The bill (S. 1896) to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the General Services Administration building known as the "United States Appraiser's Stores Building", located at 450 Atlantic Avenue, Boston, Massachusetts, shall hereafter be known and designated as the "Captain John Foster Williams Coast Guard Building", in recognition of Captain John Foster Williams' contributions to the Commonwealth of Massachusetts during the Revolutionary War. Any reference is a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Captain John Foster Williams Coast Guard Building".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WALLACE F. BENNETT FEDERAL BUILDING

The bill (H.R. 2542) designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JENNINGS RANDOLPH LAKE

The bill (S. 1740) to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake," was considered.

JENNINGS RANDOLPH LAKE

Mr. ROCKEFELLER. Mr. President, it is a privilege to support S. 1740, a bill to designate the Bloomington Lake on the North Branch of the Potomac River near Keyser, WV, and Bloomington, MD, as the "Jennings Randolph Lake." I am also grateful to the senior Senator from Maryland [Mr. MATHIAS] for giving me the opportunity to be an original cosponsor of this measure.

This bill is a highly appropriate way for the Congress to express a well-deserved tribute to former Senator Jennings Randolph who served the citizens of West Virginia and our Nation for over 40 years in the House of Representatives and in the Senate.

As a member of the Senate Committee on Environment and Public Works for his entire service in the Senate and chairman of this committee for 14½ years, Senator Randolph was an effective and constant advocate for needed flood control and navigation projects not only in our State but throughout this country. For several years, he served as chairman of the then Subcommittee on Flood Control—Rivers and Harbors.

As Senators know, West Virginia recently suffered from devastating floods which has resulted in 29 counties being declared disaster areas. We are still in the process of calculating the damage from this flooding. However, it should be noted that the existing flood control projects in our State prevented hundreds of millions of dollars in additional damage. Many of those projects were brought into being by Jennings Randolph during his service in the Congress.

Thus, Mr. President, I am pleased that the Senate Committee on Environment and Public Works has unanimously recommended the renaming of the Bloomington Lake—a flood control project for which Senator Randolph worked and supported over a period of many years.

However, Mr. President, I prefer to view this bill as recognition of the accomplishments of Jennings Randolph beyond the vital work of flood control and navigation projects. As the successor to Senator Randolph, I continue to learn of the remarkable scope of his activities and accomplishments. Public works, highways, aviation, economic and regional development, the environment, education, the handicapped, worker health and safety, social services, veterans, programs for the elderly and the young are just some of the areas in which Jennings Randolph was a leader. His record of achievements has benefited millions of people throughout our Nation.

Mr. President, the Environment and Public Works Committee's report quotes one of Senator Randolph's colleagues: "Jennings Randolph was an institution himself within the institution of the Senate, which he took very seriously." That is an exceptional tribute to a very exceptional public servant and I am privileged to join the members of the committee and the Senate in urging the approval of this bill.

The bill (S. 1740) was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Bloomington Lake located on the North Branch of the Potomac River near Bloomington, Maryland and Keyser, West Virginia is named and designated as the "Jennings Randolph Lake". Any reference in a law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the "Jennings Randolph Lake".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I be added as a cosponsor to S. 1740.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 204) authorizing supplemental expenditures by the Select Committee on Indian Affairs, which had been reported from the Committee on Rules and Administration with amendments.

The amendments were agreed to.

The resolution (S. Res. 204), as amended, was agreed to, as follows:

Resolved, That section 21 of S. Res. 85, Ninety-ninth Congress, agreed to February 28, 1985, as amended, is amended by striking out "$764,032" and inserting in lieu thereof *"$814,032".*

SEC. 2. Section 2(a) of S. Res. 85, agreed to February 28, 1985, as amended, is amended by striking out "$44,828,358" and inserting in lieu thereof "$44,878,358".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE FORMER PRESIDENTIAL YACHT "SEQUOIA"

Mr. GARN. Mr. President, I send the enclosed concurrent resolution to the desk, for myself and Mr. CRANSTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 98

To recognize the historical significance of the former Presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust

Whereas the former Presidential yacht Sequoia served eight Presidents of the United States, from Herbert Hoover to Gerald R. Ford, over a period of forty-four years;

Whereas the Sequoia was the setting for Presidential meetings, negotiations and decisions of extraordinary significance for and effect on the history of the United States and the course of world events;

Whereas the Sequoia was disposed of in 1977 to reduce Federal expenditures;

Whereas in recognition of Sequoia's unique historical significance, the private, bipartisan, and nonprofit Presidential Yacht Trust was established in 1981 for the purpose of restoring and preserving Sequoia;

Whereas since 1981 many Americans have visited the Sequoia and demonstrated support for her preservation and return to service;

Whereas in response to this support, the Presidential Yacht Trust, in consultation with the United States Navy, has determined that the proper future of the Sequoia is her return to Government service in the United States Navy as the Presidential yacht; and

Whereas the Presidential Yacht Trust has taken steps to fully restore the Sequoia by November 15, 1988, to donate her to the Navy as a gift of the Presidential Yacht Trust and the American people, and to establish an endowment sufficient for her future operation and maintenance: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the unique significance of the former Presidential yacht Sequoia which has made her a symbol of American political heritage and the Office of the President;

(2) supports the plans of the Presidential Yacht Trust to donate the Sequoia, with an endowment sufficient for her operations and maintenance, to the United States Navy for service once again as the Presidential yacht.

There being no objection, the Senate proceeded to the immediate consideration of the concurrent resolution.

Mr. SIMPSON. Mr. President, the former Presidential Yacht *Sequoia* is not only of great historical significance, but takes on this extraordinary uniqueness in that she is to be returned to service without expense to the American taxpayer.

Sequoia served eight Presidents of the United States over a period of 44 years, from Herbert Hoover to Gerald R. Ford, and a review of her role during that period is much like a synopsis of major world events—from President Roosevelt's shipboard planning of both war and domestic strategy, to President Truman's hosting of the first conference on nuclear controls, to President Nixon's meetings with Soviet President Brezhnev during the 1973 summit.

Following her disposal in 1977 by President Carter, *Sequoia* passed through several private owners before being acquired by the bipartisan, nonprofit Presidential Yacht Trust for historical preservation in 1981. Over the ensuing years, the Presidential Yacht Trust has undertaken informational and public service programs with *Sequoia*, including significant support for other charities and its much acclaimed 1984 national tour which took the *Sequoia* to over 100 cities in 16 States. Through these and other programs tens of thousands of Americans have had the unique, personal opportunity to visit and demonstrate support for *Sequoia*'s preservation and return to service.

In recent months, the Presidential Yacht Trust, in consultation with the Naval Historical Society, has determined that the proper future role for the *Sequoia* is her return to service as the Presidential Yacht. The trust has undertaken steps that would accomplish such a remarkable comeback of this truly historic vessel under the very best of circumstances.

First, the trust will donate *Sequoia* to the U.S. Navy no later than November 15, 1988, as a gift from the trust and the American people.

Second, prior to her donation, *Sequoia* will be totally restored by the trust in preparation for her future service.

Third, at the time of donation, the trust will provide an endowment sufficient for *Sequoia*'s future operations and maintenance.

The *Sequoia* project is first and foremost an effort of significant historical preservation—with the added benefit of her future service at no cost to American taxpayers.

I believe this resolution, endorsing the return of *Sequoia* to Government service, is an important step in assuring continued private financial support of the endowment fund and public awareness of this important project.

SUMMARY

Under plans developed by the Presidential Yacht Trust and the Naval Historical Society, the former Presidential Yacht *Sequoia* would be returned to service in the U.S. Navy as the Presidential Yacht by November 15, 1988, under the following conditions:

First. *Sequoia*'s return to service would be by donation from the Presidential Yacht Trust to the U.S. Navy.

Second. Prior to her donation, *Sequoia* would be fully restored—at no cost to the Government—and in first-class operating condition suitable for her new use.

Third. Prior to her donation, legislation would be sought to recognize *Sequoia*'s historical importance and to protect her from future disposal.

Fourth. At the time of donation, the Presidential Yacht Trust would provide an endowment sufficient to cover costs of *Sequoia*'s operations and maintenance in perpetuity.

These plans provide for *Sequoia*'s return to active service under the very best of circumstances. This historical vessel, which served eight Presidents of the United States would be first, restored; second, donated by the bipartisan, nonprofit Presidential Yacht Trust as a gift of the American people; and third, available for future service at no cost to the taxpayer.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 98) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. GARN. Mr. President, I ask unanimous consent that the Senate proceed to consider all nominations on the Executive Calendar under the Foreign Service list appearing on page 5 with the exception of the nomination of Edward G. Corr.

Mr. BYRD. Mr. President, there is no objection on this side.

Mr. GARN. Mr. President, I ask unanimous consent that the nominations be considered en bloc, and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations confirmed en bloc are as follows:

Foreign Service nominations beginning L. Paul Bremer, III, and ending Jerome F. Tolson, Jr., which nominations were received by the Senate and appeared in the Congressional Record of October 28, 1985, except Edwin G. Corr.

Mr. GARN. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAILROAD RETIREMENT BOARD

Mr. GARN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of William J. Doyle III, of Maryland, to be inspector general, Railroad Retirement Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of William J. Doyle III, of Maryland, to be inspector general, Railroad Retirement Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. GARN. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. GARN. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT RESOLUTION WAIVING PRINTING ON PARCHMENT

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 485, waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 485) waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice by title.

The Senate proceeded to consider the joint resolution.

The joint resolution (H.J. Res. 485) was ordered to a third reading, read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AN ACT TO AMEND THE SMALL BUSINESS INVESTMENT ACT OF 1985

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3608, the Small Business Investment Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

H.R. 3608, an act to amend the Small Business Investment Act of 1985.

The Senate proceeded to the immediate consideration of the bill.

Mr. WEICKER. Mr. President, I rise in support of H.R. 3608 which would amend the Small Business Investment Act of 1985, to clarify certain provisions in current law that establish the permissable interest rates that a small business investment company [SBIC] may charge to a small business borrower. In effect, H.R. 3608 simply makes clear what Congress intended to do in 1980 when this provision was enacted into law, that is, permit the Small Business Administration by regulation to establish the maximum interest rate that an SBIC may charge to a small business borrower. The change is really a technical one that will take some confusion out of current law regarding which interest rate—SBA, State, or a formula based upon the Federal Reserve rate—applies to any particular SBIC financing.

I want to emphasize, however, that nothing in this legislation in any way affects or impedes the right of any State to override SBA's interest provision, if it so desires. It simply ensures that SBA can establish the maximum, uniform, programmatic interest rate standard that applies to all SBIC's. But, if a State wants to override this interest rate standard as inconsistent with its own standard, it can easily do so, just as it can now.

I might also note, Mr. President, that hearings were held recently by the House Small Business Committee on this bill. The SBIC industry and SBA, after clearing its testimony with the Office of Management and Budget, testified in support of enactment of this bill. And, I can assure you, when OMB signs off on any legislation to permit SBA to operate any of its programs more efficiently, you can be sure that it is nothing more than a technical matter.

Mr. President, Senator BUMPERS, the Small Business Committee's ranking member, has also reviewed this bill carefully and concurs in my view that this bill will serve to clarify the original congressional intent with regard to SBIC interest rates. We jointly recommend that this bill pass and be enacted into law.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3608) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I have no further business at this time. I ask, does the distinguished Democratic leader have any further business?

Mr. BYRD. Mr. President, I thank the distinguished acting majority leader.

OBSERVATIONS OF SENATOR BAUCUS ON TRADE

Mr. BYRD. Mr. President, I call attention to a statement by our distinguished colleague, Mr. BAUCUS.

Senator MAX BAUCUS is one of the Senate's most thoughtful experts on trade policy. He has distinguished himself in his work in this area on the Finance Committee, and as a member of the Democratic Working Group on Trade Policy. On December 9, 1985, he shared his thoughts on a new round of global trade negotiations with the "consumers for world trade" here in Washington. I know his colleagues and others will find these observations useful, and I ask unanimous consent that Senator BAUCUS' statement be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR MAX BAUCUS, NEW ROUND OF GATT NEGOTIATIONS

Centuries ago, the Roman poet, Ovid, made the following observation: "What is worthwhile is necessarily difficult."

Today I want to make two simple points that reaffirm that ancient maxim. First, the new round of GATT negotiations is potentially the most worthwhile round we have ever had. Second, it will also be the most difficult round we have ever faced.

NEED FOR A NEW ROUND

Let me take these two points in order: Why can a new round be worthwhile?

The answer lies in a relatively unpublicized statement by the GATT economists several weeks ago. At that time, the GATT economists announced that the level of world trade will grow by only 2 to 3% this year. That compares to an average increase of 6% in the decades following World War II. In those years, a healthy GATT was the locomotive for the growth in world trade.

Today, the breakdown in the GATT has led to a serious decline in world trade. By the Administration's own estimates, only between 10 to 50% of world trade is subject to the GATT. Some products are not covered by GATT. Other products have been intentionally excluded. But other products are not subject to GATT because many countries are not adhering to GATT.

In many cases, the GATT rules simply are not working anymore. And when the rules don't work, countries don't play by the rules. And when countries don't play by the rules, they erect barriers that stifle trade. And when trade is stifled, all countries are worse off.

The point is that: if a GATT is properly negotiated and enforced, America has the potential to benefit greatly from a new round. We can improve the living standards of the citizens of all nations.

Simply put, we can make a better world.

STRICTER ENFORCEMENT

Now that's the good news. The bad news—or at least the challenging news—is that this will be the toughest round of GATT negotiations we have ever faced.

Let me suggest several reasons why this round will be so tough.

First, it will be tough because we want tighter enforcement of the GATT rules, but we as a country typically resist control by international institutions. We all want to strengthen GATT by tightening its enforcement provisions. But as the debate over a new GATT round proceeds, I suspect that we will have to ask ourselves how much of our independence we are willing to forfeit for stronger enforcement of the GATT rules. Because if GATT can be strictly enforced against other countries, it can be strictly enforced against us. And that will not be easy medicine for a country that is used to being the biggest kid on the block.

If you don't believe this will be tough, let me review a little history. Over 35 years ago, in 1950, when GATT was first contemplated, a stronger organization was also proposed. That organization—called the International Trade Organization—would have had stronger enforcement authority over world trade. And do you know how the United States reacted? It refused to join the ITO precisely because of business pressure and Congressional opposition to some of the ITO's authority.

We will face the same problem today. We want greater control, but we do not want to be controlled.

Let me make my position clear. I believe we need stricter enforcement of the GATT. But I simply observe that it will be difficult to find ways that we and other countries can live with stricter international enforcement.

NONTARIFF BARRIERS

A second reason this GATT round will be more difficult is that the unfair trade practices we face today are more subtle.

In the first seven rounds of trade negotiations, we liberalized barriers that are easily identifiable—barriers such as tariffs. Although high tariffs on some products remain, those negotiations were generally successful: the average tariff has decreased from 40% in 1947 to 5% today.

However, as tariffs fell, countries found new ways to protect national interest groups. Today we face a host of more subtle, non-tariff barriers that are less transparent, but just as devastating to U.S. trade. And most important, these non-tariff barriers are much more difficult to root out.

In short, when it comes to eliminating barriers, many of the easy things have been done. Achieving progress on the remaining barriers will be tough.

THE CURRENT TRADE CRISIS

A third reason these talks will be tough is that America is facing its worst trade crisis since the Depression.

Traditionally, Congress grants the President trade negotiating authority only if he accepts trade law reform legislation in return. For example, Congressional approval of the first textile agreements in 1962 was accompanied by the Trade Expansion Act of 1962.

Today, the likelihood this will happen is even greater. Today we have a Congress that feels that strong action must be taken on trade. We are suffering through a severe trade crisis that fuels those demands. But we have a President who is opposed to trade law reform generally.

I suggest to you today that those competing demands and pressures will make it difficult even to grant the President the initial authority to negotiate a new round—let alone provide the Congressional backing to keep those negotiations going.

BUILDING A NATIONAL CONSENSUS

Finally, let me say that this new round will be difficult because we have not yet even begun to decide what we want out of a new round. As a nation, we need to build a consensus as to what kind of world trading system we want to shape.

But building this consensus will not be easy. We lament the fact that only 10 to 50% of world trade is covered by the GATT. But many of the products not covered by the GATT are produced by industries that are vital to America: agriculture and textiles, to name a few. Other countries benefit by the special treatment given these industries, but America benefits as well.

Do we have the political resolve to relinquish these benefits? Would this be in the best interests of America? Are willing to trust our trading partners to remove their barriers if we remove ours?

I do not know the answers to these questions. But I do know that we have not begun to find answers to these questions—or to define our interests.

Let me suggest as well that it is not just a question of defining our interests, but also of reconciling competing interests.

Let me give you an example. The U.S. is very interested in expanding its service trade. However, in return for a liberalized service trade, the LDCs are likely to demand access to our traditional manufacturing markets. It is very likely that we will have to strike a balance between the interests of our service and traditional manufacturing sectors. Traditional manufacturing will argue it is the backbone of our country. Service interests will argue they are the future of our country.

And that debate will raise the fundamental question as to what kind of economy we believe America should have.

But we must reach a consensus on what we want, or no GATT agreement will sell domestically.

The Administration will not be able to sell Congress on a new round unless it makes progress on issues with strong constituencies, such as agriculture, services, manufacturing and high tech.

Congress must also begin to understand how a consensus can be built. So I would like to extend an invitation to each of you in this audience today. I personally invite each of you to meet with me or my staff at your earliest convenience to discuss what we must accomplish in the new round.

In the end, we can only succeed in this new round if we reach a consensus in this country as to what we want to achieve. So let me repeat: I invite all of you to meet with me or my staff to discuss your concerns, so that we can begin building a new national consensus.

CONCLUSION

Let me make one point in conclusion. The new round of GATT negotiations will require that we not only develop a national consensus, but also that we develop a national purpose. It will require that we ask not only where we are, but where we hope to be.

That search will involve difficult choices. It will require all of our discipline, integrity and statesmanship to carry it out. But we must begin defining America's new role in the world trading system.

Walter Lippman one put it well: "Surely the task of statesmanship is more difficult today than ever before in history. . . . The distance between what we know and what we need to know appears to be greater than ever. But we cannot keep to the problems within our borders. Whether we wish it or not, we are involved in the world's problems and all the winds of heaven blow through our land."

The new GATT round presents new challenges, but offers great opportunities. I am confident that when we confront those challenges, the winds blowing thorugh our land will be the uplifting breezes of enhanced international trade.

Mr. BYRD. Mr. President, I yield the floor.

THE LEAST A GRATEFUL NATION CAN DO

Mr. WILSON. Mr. President, I rise to make clear my intention, later in this day, to ask unanimous consent for the introduction of a bill and for its immediate consideration. The bill will be a complement to that which the distinguished senior Senator from South Carolina [Mr. THURMOND] is offering to try to provide relief to the bereaved families of the victims of the tragic crash in Gander. Senator THURMOND's legislation will keep a roof over the heads of those who are suffering grief and loss. It will allow them the time to determine what their plans are and to relocate.

It is necessary because of a deficiency in existing law which unintentionally, I must assume, has the heartless effect of displacing and dislocating those families from military housing on base or, alternatively, of requiring that they now, in their time of need, begin to pay market value rent for the housing that they have received.

This is an obvious injustice. It is an obvious hardship. Most of these families are young families; they are the families of young enlisted personnel. In most instances, they are families of modest income. For them suddenly to find themselves so dislocated clearly is not a result that we can countenance. Therefore, Senator THURMOND's legislation is necessary, and I commend him and have joined him as cosponsor of that legislation.

Mr. President, in addition to giving that amount of help, which is the very least a grateful Nation must afford in order to show its gratitude for the sacrifice of these young men and women serving us in the armed services, what is also necessary in order to provide needed relief to their families, their survivors, is to provide those families with the flexibility which can come from having only an adequate amount of cash so that they can take such decisions, make such plans involving relocation as is required in their best judgment.

Mr. President, Public Law 99-166, enacted on December 8, 1985, will assist in the future to provide that kind of flexibility by increasing the serviceman's group life insurance maximum amount—that is, the base amount—from the existing base amount of $35,000 to $50,000. Prospectively, that will assist, but the problem, obviously, is that the change was to be effective on January 1, 1986. The bill that I intend to introduce, upon which I am soliciting cosponsors, would simply make that change effective on October 23, 1983; that is to say that the amendment that was enacted on December 8 will be deemed to have been in effect during the period from October 23, 1983, and ending January 1, 1986, so as to provide special assistance not only to the families of the Gander crash victims but also to the families of the Marines killed in the tragic bombing of Beirut on October 23, 1983.

This assistance would be provided to the families of service members who died within that period of active duty. It is, it seems to me, the least a grateful Nation can do. It is some modest increase in the assistance required.

So, Mr. President, later today, I shall send that bill to the desk. It is my purpose now to advise all colleagues who wish to cosponsor that measure to contact me or to contact the Armed Services Committee, specifically the Subcommittee on Manpower, so that we may render this assistance for the dependents of those service personnel to whom we owe so much.

The increase in the amount of insurance would be made payable to the families of the members of the armed services from that date, October 23, 1983, forward. That would be the effect of this bill in conjunction with the change in the law that was enacted on December 8.

I thank the Chair and repeat that it is the intention before the end of this day, which the leader has announced is intended to be the last day before we recess for Christmas, to see that this bill is introduced so that we can offer to the victims' families the assurance that they will receive this increase in assistance.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

DEPRESSION IN AGRICULTURE

Mr. GRASSLEY. Mr. President, hopefully later today we will be passing a farm bill and I suppose these remarks would be as appropriate for the farm bill now in morning business. But I want to stand aside of the farm bill just a little while to address the issue of depression in agriculture and to do it in a way that will highlight the seriousness of the situation. That seriousness is demonstrated by a survey that was taken at the annual Iowa Farm Bureau convention held 2 weeks ago in Des Moines, IA. I think the significance of this survey is that it is of the leaders of the farm bureau, the voting delegate from each of the 99 counties and other leaders within the farm bureau.

I have known, in 30 years' membership in the farm bureau and my relationship with that organization, these people to be the cream of the crop.

Mr. President, over the last few months many policymakers and observers have advanced the idea that only the bad farmers are in trouble. The implication is that if a farmer is experiencing financial difficulties he probably should not be in the business of farming anyway. Somehow these experts believe that our country's economy would be better off by eliminating these inefficiencies.

I believe this view is completely off base and an insult to many good farmers who are now experiencing financial trouble. The farmers who are in business today are in fact efficient producers. Our farmers are capable of outproducing any other country in the world.

The Iowa Farm Bureau during its State convention last week conducted a poll of the organization's leaders, that I have already referred to, to find out what their financial conditions were. These farmers represent some of the best farmers in Iowa and the most efficient producers in the United States and the world. The results of this survey showed without question that the difficulties facing rural America are not limited to the inefficient producers, if there are any inefficient producers left farming. I believe that the bad managers went out of business long ago. This poll showed that 38 percent of these farmers had debt-to-asset ratios in excess of 40 percent and 9 percent had debt-to-asset ratios in excess of 70 percent. This means that well over one-third of these farmers are experiencing serious financial difficulties and almost 1 out of 10 are in critical financial condition. The experts would have you believe that these farmers are lazy, unsuccessful, and unproductive farmers. On the contrary, these are farmers who are successful in their community, in their profession, and recognized by their peers as leaders in agriculture.

The survey also showed that 41 percent of these leaders felt that Iowa farmers as a whole were experiencing very serious financial conditions and 45 percent felt that their areas' agribusinesses were suffering severe problems as well. In addition, 47 percent believe that financial institutions were also experiencing very serious financial problems.

Now, for those of us from the upper Midwest, there is nothing in this survey that is surprising, but I feel Congress ought to take into consideration the plight of the best of farmers in our State.

These farm bureau leaders are generally very conservative businessmen and they have very many years of experience in the business of agriculture. The leaders polled in this survey had an average of—and let me emphasize this figure—27.3 years of experience in farming and they farmed an average of 581 acres. 581 acres in my State is twice the average farming operation.

Both farmers and financial institutions are likely to experience even more troubles in the near future as only 80 percent of the farmers surveyed were current in their real estate loans and only 71 percent were current in their operating loans. Of those surveyed, only 64 percent were current on obligations to suppliers and 13 percent expected to have problems arranging for operating money in 1986.

Let me repeat that figure: 13 percent of these farm bureau leaders expected to have problems arranging for operating money in 1986. If 13 percent of the farm bureau leaders are having this trouble, I think it is fair to assume that a higher percentage of farmers generally are going to have this problem. As this is the last day of the 1985 session of the 99th Congress, I would think that even as we debate what is going to be paraded on the floor of this body today as an ideal piece of farm legislation, they should not be surprised that when we reconvene on January 21 the farm issue is not in fact behind us, as a lot of people want to believe it ought to be after we pass the farm bill, but there is still going to be a lot of problems out there in agricultural America that we have to deal with, and the most immediate is that at least 13 percent of the farm bureau leaders, and probably a higher percentage of farmers generally, are going to have trouble arranging for operating money in 1986.

Mr. President, I hope policymakers who have blamed farmers for their own troubles listen to these statistics and start looking for constructive ways to further solve the problems in agriculture. I am one who believes that a farm bill, or even credit in agriculture is not the solution, but there are problems not associated directly with farm legislation which are probably more important to profitability in agriculture, the most important of which is the reduction of interest rates and the reduction of the value of the dollar, and those two are somewhat related. Those two things being accomplished, hopefully as a result of Gramm-Rudman, will do more for agriculture than anything we can do in the farm bill. It is too easy for people unconcerned about agriculture to point their finger at someone else and then just walk away without doing anything. If we in the Congress do not move to stop counterproductive trade policies, bad monetary and fiscal policies, and offer stability and consistency to our agricultural policies, we will certainly see more and more good farmers fall to the level of insolvency. The statistics that I just quoted could be even worse next year and the year after that unless we act responsibly.

RELIEF FOR SERVICE FAMILIES

Mr. McCONNELL. Mr. President, early this morning the distinguished Senator from California [Mr. WILSON] introduced on behalf of himself, Senator THURMOND and others, S. 1956.

Mr. President, I rise in strong support of this legislation. We are all aware of the unfortunate tragedy which robbed 248 families of their loved ones. the men and women who died in Gander, Newfoundland, last week were members of the 101st Division, an exceptional unit with a record of accomplishments that all Americans can be proud of. They died serving their Nation in a mission of peace. when those men and women joined the U.S. Army they did so knowing they were putting their lives at risk to defend their country. They turned a risk into a challenge, then dedicated their courage and skill to meeting that challenge. They fulfilled their commitment to their nation. Now it is our turn to fulfill ours to their bereaved families.

Under current law, the families of servicemen who die on active duty are no longer entitled to the living quarters or housing allowances they have received. If this law is enforced, dozens of women and children will be forced onto the street immediately. I know my colleagues share my sympathy for the suffering these families have already endured in the loss of their soldiers. Those members of the 101st who died were brothers, sons, fathers, neighbors and friends of hundreds of people. They were, most recently, Kentuckians. I cannot imagine evicting them at a time like this. They are most deserving of our support, not the cold shoulder of bureaucracy that tells them they must move on. Let us not compound this tragedy with insensitivity.

I urge my colleagues to support this resolution and afford the victims of this disaster a brief grace period, some time to gather their strength before being forced to address the pressing practical business of day-to-day life. I urge my colleagues to support this legislation which will allow these families 60 days to stay right where they are. We are not providing them much, particularly given their loss. I spent Monday with the President visiting many of these families. Their grief is overwhelming. I ask my colleagues to help relieve some of their anxiety and burden by passing this bill. During this holiday season of good will, let us not forget those who have so valiantly defended our peace and freedom. More important, let us remember the families who have comforted and supported those soldiers and who now need our help. Sixty days will never compensate for or recover the lifetimes lost, but it will give a few families some peace of mind.

In addition, Mr. President, Senator WILSON introduced a complementary bill, which I am also cosponsoring, which will increase the maximum death benefits of service members' families from $35,000 to $50,000. This will cover any service people who died on or after October 23, 1983. This bill will entitle family members of the marines killed in the Beirut bombing, for example, on October 23, 1983, to receive a supplement to their earlier death benefits.

I also urge favorable consideration of that measure. I think it is terribly important that one or both of these bills be approved by the Senate and the House today, before we leave. It is the least we can do in fitting memory of those of the 101st who died last week.

FARM CREDIT

Mr. GRASSLEY. Mr. President, yesterday the Senate passed a bill designed to restructure the Farm Credit System and offer more regulatory power to the Farm Credit Administration. This legislation did not however offer financial assistance to the system or the stockholders of the system. We must recognize that if we do not do something to shore up the seriously deteriorating situation in the Farm Credit System, agriculture will certainly take a turn for the worse. It should be clear that financial help is necessary for the farmers within the system but we in Congress should make sure that this money goes to help the farmer and not the system.

If there is one thing I have discovered from my many conversations and meetings with Farm Credit System officials, farmers, and responsible outside observers, it is that the Farm Credit System's policies are not working. Not only are their policies not working but they are actually making the situation worse.

The policies the Farm Credit System is implementing today are hurting the farmer, destroying the system, and in the near future will cause tremendous expense to the rest of the economy. The Farm Credit System was created during the last depression in agriculture to serve the family farmer. On September 6 of this year I held a hearing regarding the Farm Credit System. During that hearing testimony proved overwhelmingly, that the Farm Credit System has taken on an identity of its own, separate from its own stockholders. Even the president of the farm credit banks of Omaha admitted, in the hearing I held, that their policies do not work in times like these but they are continuing them anyway. The system. believes that it has the power to do whatever it wants and not answer to its boards of directors, its membership, and least of all, to the Congress.

The system's lack of responsiveness has been proven everyday by their actions. We know, for example, that the farm credit banks of Omaha intends to call more than 2,000 of its 16,000 Production Credit Association loans. This is 12.5 percent of all their PCA loans and is 4 to 5 times as many loans as are already in bankruptcy or acquired property. Presently the system has put these actions on hold until at least January 1 but that is not nearly enough and we have no guarantees after that point. As a matter of fact, I have heard reports from concerned officials within the system that some PCA's will be liquidating more than 30 percent of their borrowers. These statistics do not even include the loans that will be called by the Federal Land Banks, and other Farm Credit System institutions.

I have received many calls from bankers stating that they are very concerned about the direction the system is taking. They say that they can't stand idly by and watch their assets be eaten up by the Farm Credit System. So these commercial bankers now feel they need to foreclose or hold credit away from farmers who deal with the system. We can add to this chaos the Farmers Home Administration, insurance companies, and others who are being forced to call loans and continue the panic. This is a dangerous deteriorating situation that requires drastic action before events get anymore out of control. If we do not do something quickly, we may have only seen the tip of the iceberg.

Mr. President, I know what the Farm Credit System officials will say. They will say, "we are only reacting to the situation we are in". They will say that "we are the victims not the culprits". To some extent they are right, they are victims of bad government policy just as the farmers and all of rural America have been. But they are also the cause of many of our problems and they are definitely accelerating the decline. In the last 15 months the members of the Federal Land Bank in my district have watched interest rates go up 1¾ percent. Higher interest rates cause the farmers expenses to increase and even more significantly cause their assets to decline. These higher interest rates turn cashflowing farmers into bankrupt farmers and only serves to dump more assets on the market. This not only destroys the farmer but it also hurts the system. The system takes the loss on the loan, the loss on the land values, and the loss of an otherwise good customer.

In any other industry the Government would classify the Farm Credit System as a monopoly. The control one-third of all agricultural debt. They could use this control to either stabilize the crisis, as they did in the last depression, or to destabilize it further. Unfortunately, today they are heading down the road to destroying stability in agriculture. The system through it's policies is causing an erosion of their customer base, a deterioration in capital, an increase in expenses, and the most significant issue of all, they are causing a complete loss of hope in the future for their stockholders.

Many might say that I am making an emotional plea and they would be right, but I am also making an economic argument. Farmers who lose any hope of surviving don't make payments and give back their farms to their lenders. This causes the Farm Credit System's situation to deteriorate even faster. In addition to these losses, many farmers are leaving the system for greener financial pastures. It is clear that the system's policies are leaving the farmers in the middle, the ones that are not rich enough to get out and not poor enough to quit, to pay the price. By doing this the system is forcing these farmers in the middle to take one more step closer to quitting themselves.

Not a day goes by that I do not receive phone calls from farmers who are being harassed by the system. Many of these farmers are only 30 or 60 days late on their payments. Some of these farmers are being foreclosed on despite the fact that they offered to make their payments. It is quite obvious, from all the research that has been done, that the farmers confidence in the system has virtually disappeared.

It does not make any sense to go through all the expense of liquidating these farmers, when they may become income producing customers after financial assistance. The system admits that foreclosures and liquidations are expensive. During my hearing it was revealed that liquidation costs on real estate is minus 25 percent to 35 percent from the present market value, which is 50 percent below land values of just 4 years ago. Liquidation costs on machinery is minus 25 percent, on grain and livestock is minus 25 percent, and on hay and silage is minus 65 percent. It is simply bad business to foreclose on farmers today, and incur all the legal and liquidation costs, when this farmer may be able to cashflow in just a few months. The system assumes in its evaluation of loans that it will take 2 years to liquidate a farmer. What is a couple of months in relation to 2 years, when a farmer's livelihood and the stability of agriculture is at stake.

I have received many reports that the Farm Credit System is foreclosing on farms and then turning around and giving "sweetheart" deals to nonstockholders of the system. Such deals include: Selling the land at a lower price; not requiring the new owner to buy stock in the Farm Credit System; allowing the new buyer to make low down payments; and most importantly, offering lower interest rates to these new owners than they do to their own members. In many cases, if the same opportunity had been offered to the original owner, a stockholder in the system, he could have survived.

When I first heard these reports about "sweetheart" deals, I could not believe them. During my hearing in September, I asked Mr. Harling, president of the Farm Credit Banks of Omaha, about this practice and my worst fears were confirmed. When I asked him to justify this policy the reply I received was:

> We don't want to leave the impression . . . that we are giving preferential treatment to the borrowers who are having financial difficulties.

Yet they are willing to give preferential treatment to nonstockholders of the System. This twisted philosophy is ruling their actions. These type of policies will bankrupt the System and will cost the U.S. Government billions of dollars unless we put them on hold until more intelligent decisions can be made.

The Farm Credit System will say that these actions are necessary to shore up their assets. The professional managers of the Farm Credit System don't even know where they are at financially. Every projection that has come from the System has been grossly "off the mark." Just 3 days before my hearing in September the Farm Credit Administration admitted that they needed help. This was only 30 days after Governor Wilkinson had denied that there was any need for Government assistance.

It is obvious to anyone who has studied the Farm Credit System, that the professional managers of the System want it to be one big nationwide diversified bank. I encourage my colleagues

to read the "project 1995" study and speeches given by officials of the System. They would like to first consolidate all the banks and associations in a district into one district-wide bank or association. Then they would like to consolidate all the districts into one nationwide bank.

Finally, they would like Congress to write them a "blank check" and allow them to do whatever they want. Many Senators may think that this is just a dream. Let me tell you that this is happening today, right under our noses. The System is using "Gestapo tactics" to blackmail its own membership into voting for mergers and consolidations. These mergers and consolidations take all meaningful control away from the stockholders on the local level.

We have heard that plans are being made to eliminate all members of the boards of directors, whose loans are not of the highest quality. We hear that once these consolidations take place presidents of local banks and associations become answerable to the district presidents and not local board members or stockholders. We also know that the Farm Credit System is threatening to liquidate all associations and banks which do not vote for the consolidations and mergers the system wants.

In my district Federal Land Bank Board members were told that they needed to vote for consolidations or the internal Farm Credit System assistance package would be void. We later found out that this was not only misleading but just plain wrong because the production credit association mergers were the only consolidations required under the assistance contract. Of course this discovery was too late than to allow for these board members to revote. In addition, during my hearing, it became clear that the System could not afford to liquidate even one assocation because it would cause a "chain reaction" that would first destroy the district and then destroy the whole Farm Credit System.

Many people might say, "Why don't these farmers just get out of the System if they don't like it?" Many farmers cannot leave because their production credit association's stock has been frozen. When stock is frozen it turns from an asset to a liability. Other commercial lenders look at this as a potential loss instead of a liquid asset. Let me make this perfectly clear, these farmers cannot redeem their stock, which is 10 percent to 15 percent of their loan, even if they walked in today and paid off their loan completely. These farmers are forced to wait until the System decides their fate. The System has told these farmers that if they do not vote for the mergers the System wants they will lose their stock, which means instant bankruptcy for many of these farmers. This isn't a choice, this is a threat.

I have been contacted by commercial bank presidents and past and present officials in the system who believe the system is destroying the whole economic fabric of rural America. These same officials and bank presidents are afraid to speak out in public because the system will retaliate against them. Senators, this is happening today, in America, and we must put a stop to it.

Mr. President, I want to make it very clear that this is a problem not just in my district but across the Nation. I admit that things are worse in my district and Senators should take notice. What is happening in my district today will be happening in your district tomorrow. The pattern is clear, the System takes on a district at a time, one board of directors at a time, one bank at a time and one group of stockholders at a time.

The System is patient in deciding who will be the next victim, but once they decide, they attack. Since the beginning of this year the Farm Credit System has managed to wrestle away all real power from the stockholders in my district. The only action that is left for them to do was to officially vote away their authority last month. Many banks and associations stood their ground and voted against these mergers. Now it is clear that they will be pressured to vote again. Not all banks and associations will be asked to vote again, only those who did not approve the System's plan the first time, around. Board members and farmers tell me that they do not want to give away all their local control and that they do not believe these consolidations will be significantly more efficient. Why did farmers vote for these consolidations? Because the Farm Credit System told these farmers that if they did not vote for consolidations, they would be liquidated. To scare these farmers even more, they have started foreclosing on many of their neighbors and friends.

If a Senator is interested in finding out if his district may be next I suggest he look at the financial condition of his district's banks and associations. If your district is in any kind of trouble, you better look out. The St. Paul, Wichita, Louisville, and Columbia districts are prime targets for the System's plans. As a matter of fact, I believe the process has already started in many of these districts.

I am not here to say "The sky is falling." I am here to say that it has already fallen. We, in Congress, have a responsibility to stop it from falling any further and then putting it back up where it belongs. The Farm Credit System's professional managers need to know that Congress is not going to lay down and let them walk over us. They need to know that we believe in a locally controlled system. They need to know that if we are going to get rid of any layer of the System's bureaucracy, it is going to be the top layer not the bottom layer.

I believe that any bail out plan for the system needs to include more local control, more arms length regulatory authority, and a re-establishment of stockholders rights. Any financial assistance has to be geared to help the farmer and not just the system. All these policies will take time to legislate and implement. While we discuss solutions in congress, we need to know that the system is no longer foreclosing on its farmers and tightening its grip around the throat of the system.

These are times of extreme difficulty. We have great plans to deal with most other disasters that occur both nationally or internationally. Yet no one in this body has a real reference point to draw from in order to deal with the type of crisis we are experiencing today. Few, if any, of us were around during the last depression. Our memories are at best clouded. We need to look beyond standard practices. We need to be creative and challenge ourselves to meet this completely new situation. But we can't be creative and make clear headed decisions when our farmers are being bled to death by a system that was created by Congress.

Mr. President, the bill passed yesterday is a beginning but it certainly does not go far enough. It may satisfy the concerns of some bond holders for the short-term. Unfortunately, this bill has many holes, it is only a matter of time before we must revisit this issue and come to grips with the real solutions to the economic and human tragedy now occurring in rural America. This legislation leaves too much control in the hands of farm credit system's and farm credit administration's officials. In the coming months we need to watch FBA and FCS actions closely, particularly the regulations issued by the FCA. Congress must address the issues of stockholder's rights, local control, congressional oversight, and direct assistance to farmers before we lay this whole Farm Credit System assistance package to rest for good.

In the near future we will be considering many important issues dealing with trade, monetary and fiscal policy, and ways of assisting agriculture. You can be certain that I will be making every effort to push for policies that will lead the way to a recovery in agriculture and not perpetuate the failed policies of the past and I encourage my colleagues to join me in this effort.

CONTINUING TRADE CRISIS WITH JAPAN

Mr. DOLE. Mr. President, last August, this Senator led a delegation of seven Members to the Far East to discuss our growing trade imbalance

with countries in that region. This delegation was particularly concerned about the enormous United States trade deficit with Japan, which by itself makes up about one third of our total global trade imbalance.

The trade imbalance with Japan has been escalating at an alarming rate, increasing last year by more than 70 percent. At its current pace it will likely increase by another 35 percent this year. In fact, in this year alone, our trade deficit with Japan will likely reach close to $50 billion, an amount larger than our total international trade deficit just 3 years ago.

THE JAPANESE RESPONSE

In response to our concerns, Japanese officials pointed to Prime Minister Nakasone's then recently announced Action Program. This action Program was a small step forward, but the 3-year implementation period ignored the urgency of the problem.

I am disappointed to say that little progress has been made since that August announcement.

While in Japan, this Senator had the opportunity to address the Japan National Press Club and comment on our trade concerns. In that speech, I indicated that any new initiative to address the escalating trade deficit would need to be judged based on its results rather than on the rhetoric that heralded its announcement.

Unfortunately the actions that have been taken are largely symbolic in the short term rather than actions that have had a measurable effect on the trade imbalance. As noted, the Japanese Government's Action Program, with its delayed implementation date, was not calculated to achieve quick results. Our own administration has set up a strike force and instituted some section 301 and antidumping cases, but these steps are merely striking at the fringes of the problem.

The fact is the trade deficit has continued to widen and most of the unfair barriers to fair trade with Japan remain in place. In September we set a new record single month trade deficit with Japan of $5.1 billion. Moreover, most experts predict that the trade deficits with Japan will continue to widen despite all steps taken to date. To put this deficit in perspective one needs to bear in mind that 1977 was the first time the United States had an annual trade deficit with the entire world that exceeded $10 billion.

This problem would be greatly compounded if the Japanese Government decides to end voluntary restraints on automobile imports as was recently suggested in the press. No amount of rhetoric can change the fact that such a decision would widen the United States-Japan trade deficit.

Therefore, this Senator believes it is time to take stronger action to address the problem. We indicated to the officials we met with in Japan that there was a brief window of opportunity to take meaningful action to open Japanese markets and to address the concerns we raised. That window is about to slam shut and no real measurable improvement has been achieved.

Therefore, I believe it is time that the Senate take up and pass several pieces of legislation that the Senate Finance Committee has reported out and which have long awaited action.

PENDING TRADE LEGISLATION

One such bill that I believe we should act on is S. 1404, the Japanese unfair trade practice bill. Under this bill, the President is required to take all action necessary to eliminate Japanese trade barriers to United States goods or to offset the effects of trade barriers between the United States and Japan.

A second bill that we should act on immediately is S. 942, the telecommunications bill. This bill is designed to require the negotiation of agreements to obtain opportunities in foreign markets that are substantially equivalent to opportunities available in the U.S. markets for telecommunications products and services.

Finally, we need to move forward on S. 1860, the bipartisan trade initiative that was introduced on November 20, 1985. This bill addresses a broad range of trade issues and seeks to strengthen our ability to eliminate barriers to U.S. exports by enhancing retaliatory authority and setting time limits for action on the part of the U.S. Government.

CONCLUSION

In sum, the situation grows worse leaving us little option but to take strong action. As a Senator from an agricultural State, I appreciate the risks that strong action involves. I would sooner see a system of trade based on equal access to all markets. We welcome fair trade. But that is dependent on open, accessible markets. We look to Japan to help us in achieving truly open markets in the immediate future.

TEMPORARY FAMILY HOUSING FOR DEPENDENTS OF DECEASED MEMBERS OF THE ARMED FORCES

Mr. THURMOND. Mr. President, I ask unanimous consent to bring up S. 1956, a bill which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1956) to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services.

The Senate proceeded to the immediate consideration of the bill.

Mr. THURMOND. Mr. President, I want to say that joining in this bill are the distinguished majority leader, Mr. DOLE; Mr. WILSON, who is in charge of the Subcommittee on Manpower and Personnel of the Armed Services Committee; the distinguished Senator from Virginia, Mr. WARNER; and Senator STENNIS, Senator RUDMAN, Senator KENNEDY, Senator MCCONNELL, Senator HECHT, Senator HELMS, Senator TRIBLE, Senator BENTSEN, Senator LEAHY, Senator HUMPHREY, Senator EXON, Senator SASSER, Senator HART, Senator LEVIN, Senator BINGAMAN, Senator GLENN, Senator NUNN, Senator DIXON, Senator GOLDWATER, Senator METZENBAUM, and Senator BYRD.

Mr. President, this is an urgent bill in behalf of the wives of the Army personnel who lost their lives recently in the crash of the chartered aircraft in Gander, NF.

Dependents of military personnel living in the community at the time of the death of the sponsor are also faced with a financial hardship. In most instances, they must continue to pay rental or mortgage payments even though they no longer receive the deceased military member's income.

Mr. President, section 5911 of title 5, United States Code, requires that a reasonable value be charged for housing provided civilian employees in the United States. The Office of Management and Budget Circular A-45, which implements the law, permits the military services the option of allowing dependents of deceased service members to remain in Government quarters for a period normally not to exceed 60 days. They are required to pay either the fair market rental or an amount equivalent to the service member's housing allowances. This policy imposes a financial hardship on the dependents who are required to vacate quarters and find new housing during this time.

Dependents of deceased members no longer receive housing allowances after the death of the military member. However, current law requires the dependents of deceased members to pay a rental charge to occupy Government quarters. In addition, unneeded stress is placed on dependents residing in the community who have the burden of paying for housing without the member's income. The law must be amended to allow dependents of deceased members to remain in quarters without charge.

Mr. President, the dependents remaining in Government quarters would not be entitled to a housing allowance. The law must also be amended to provide a housing allowance to dependents of deceased military members who are not residing in Govern-

ment housing for a period not to exceed 60 days.

This proposal will provide dependents an opportunity to locate other housing and tend to matters of an immediate nature without imposing the additional financial burden and stress of a housing rental or mortgage payment.

Any additional cost resulting from the enactment of this proposal will be negligible and will be absorbed in applicable appropriations.

Mr. President, I believe our country should take this additional burden off the families of our Army personnel who lost their lives in the service of our country. I strongly recommend that my distinguished colleagues promptly approve this measure before the holiday recess.

Mr. President, some questions have arisen about the number of days. The distinguished Senator from Ohio preferred a longer time and I would prefer a longer time. I am sure that most of those who joined on the bill would so prefer.

However, if we went much longer we would have to go to the Armed Services Committee, hold hearings, and delay it. This is more or less of a rush matter, an emergency matter, to help those people right now. They need this help right now.

I have conferred with Members and I have conferred with the distinguished Senator from Ohio. We have reached an agreement to make it 90 days. We have increased it to that amount.

AMENDMENT NO. 1421

(Purpose: To increase the period for housing and housing allowance extension from 60 to 90 days)

Mr. THURMOND. Mr. President, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. METZENBAUM, proposes an amendment numbered 1421.

Strike out the phrase "60 days" both places it appears in the bill and insert in lieu thereof "90 days".

Mr. THURMOND. Mr. President, we hope this amendment will be agreed to. I realize the Army has recommended 60 days and the Defense Department favors that time. However, we think that 90 days should be granted. I am very pleased to offer this amendment, along with the distinguished Senator from Ohio who joins in this amendment with me, to favor the 90 days instead of the 60 days.

Mr. METZENBAUM. Mr. President, I not only support the amendment but support the original thrust of this legislation. I would like to address myself very briefly to the issue.

The issue has to do with the period of time that the Government provides housing rental free to the widow of a soldier killed in the line of duty.

Under the present law, it is my understanding that they can remain in the housing for 60 days but must pay rent. Under this proposal, originally it was to be 60 days rent free.

At that point when I heard about the proposal, I put myself in the shoes, hopefully never to be in those shoes, of one who had lost a loved one, perhaps a wife or mother—probably a wife—maybe with one or two little children and suddenly has the shock of knowing that her husband has given his life to his country, whether in an accident of the kind that just occurred recently, which was so tragic—and it is hard to think of any instance in which giving a life by a soldier is not tragic—and then having somebody come to the door and say, "The military is being very cooperative on this and we want you to know what we are doing for you. We are going to let you stay in these premises for 60 days."

Put yourself in the shoes of that woman. The whole world has crashed down upon her. She has lost her husband. The children have lost their father, and then they are told that their Government, for which the life was given, is going to permit them to stay on the premises for 60 days rent free.

When I thought about that, I said, to me that is just almost insulting, demeaning. It is too little. I do believe that the very minimum that ought to be made available is a period of 1 year rent free, at least, so the wife might be given an opportunity to adjust, to be able to accept the shock of having lost her husband.

I got to thinking about that. I was going to come to the floor and talk about the issue, about making it for 1 year. After talking with my distinguished colleague from South Carolina, I was urged to make it a lesser period. I wanted to go to 6 months but we finally agreed to make it 90 days.

I agreed to the 90-day figure not because I believe it is the right figure, but because it is my understanding that the subcommittee that has jurisdiction with respect to this issue, headed up by my distinguished colleague from California, Senator WILSON, will be addressing itself to this entire issue.

I am not unaware of the fact that Senator WILSON offered a proposal this morning, in which I join, to increase the insurance from $35,000 to $50,000. I commend him for that and I was happy to be a cosponsor.

But housing, the home over the head, is something different, something more emotional in many ways than the dollars, because the dollars are hard for the woman to appreciate, whereas knowing that she must move is a very, very traumatic experience.

I am happy to hear that the Armed Services Committee will be looking at this entire issue. I would hope that they would see fit to go substantially further than the 90 days. But I think that going from no days, which is the present law, no days free rent, but merely being permitted to remain on the premises for 60 days, to the point where the Senator from South Carolina and so many other cosponsors are now advocating, 90 days—and I am a cosponsor of that—90 days rent free at least is a major step in the right direction.

It is not the perfect solution but I think it is better than no solution at all. I do not want to impede the passage of this legislation and, therefore, I am happy to join with my colleague from South Carolina both in the amendment as well as the original legislation. I hope we will see further action on this subject.

Certainly, there is no American, probably no person in this world, that does not empathize with the loss of those whose beloved ones went down with that plane in Gander. I cannot think of anything more horrible for a family to learn about, particularly in this holiday season. There is nothing we can do to undo that which has occurred, except maybe to see that it does not happen again. I think that is a subject that bears the Government's scrutiny promptly, as to why we are continuing to use planes of this kind in private charter, particularly of this company. But that is a subject for another day. At least at this point I think the Senate is indicating that it does have some feeling, some concern, and is trying to evidence that concern before we adjourn.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Ohio. If there is no further comment on the amendment, we can adopt that and then there will be comments on the bill, I am sure.

Mr. WARNER. Does the distinguished manager wish to move the amendment now?

Mr. THURMOND. To move the amendment to the bill.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1421) was agreed to.

Mr. THURMOND. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have joined as a cosponsor and I wish to commend the others, particularly the Senator from South Carolina and the majority leader, for taking this step forward, for taking the leadership. I do want to ask a question or two.

We are driven into this expeditious legislative course by this frightful tragedy that has come at this happiest of all times of the year. I certainly feel that the Congress should step in to help.

The bill is drawn, however, to affect the entire military, as I understand it, and stands as a precedent for future tragedies.

Mr. THURMOND. That is correct. That is the legislation.

Mr. WARNER. Did the drafters of the bill consider perhaps just limiting this bill to this specific tragedy and the families involved and then at a later date, after adequate opportunity for hearings, go into a broader policy that would affect the entire military?

Mr. THURMOND. The Army recommended that we make it permanent law for the dependents to stay in the housing rent-free for 60 days. We felt that was a short time and made it 90 days so that the matter could be considered further by the Armed Services Committee.

Mr. WARNER. And it applies to everyone in uniform?

Mr. THURMOND. That is correct.

Mr. WARNER. A further question, Mr. President.

The phrase is used in here that the allowance is for the dependents of a member of the Armed Forces "who dies in the line of duty."

Mr. THURMOND. Yes.

Mr. WARNER. Would that apply to an individual who is in the hospital and regrettably has a heart attack tomorrow?

Mr. THURMOND. Yes, it would, Mr. President.

Mr. WARNER. So all the persons who are in the Armed Forces at this moment who might be suffering from illness and would pass on would be subject to the benefits of this measure?

Mr. THURMOND. That is correct. And if they do not occupy Government housing, they would get the allowances.

Mr. WARNER. Mr. President, I ask these questions only in the sense of trying to clarify and make some legislative history. As the distinguished Senator knows, at one time, I had some responsibility for managing this type of thing in the Defense Department.

Mr. THURMOND. And the Senator did a good job, Mr. President.

Mr. WARNER. Was consideration given to the fact that each case is different and, say, under section H, where there was a widow who was in housing—she gets to remain 60 days, but she might wish to exercise the option of going immediately to stay with her friends or relatives for the normal compassion the family gives. She would not require the housing but would, in fact, require the remuneration of the family allowance. In other words, if we are trying to help the person, should we not give them the option either to take the housing or the allowance depending upon their individual difficulties?

Mr. THURMOND. I think the Armed Services Committee would want to look into that facet of it, but the idea was to allow them to remain in the housing during this transition period or, if they are not in Government housing, to draw the allowance.

Mr. WARNER. As I look at the bill, if they are in the housing, that is the sole option, to remain in that set of quarters. This would not give the widow the option to draw the allowance if in fact she wished to live elsewhere?

Mr. THURMOND. That is correct. If she did not need the housing and wished to move to another place, she would not draw the allowance. But she is entitled to remain in that housing.

Mr. WARNER. That is clear from the way the bill is drawn, but should we not give that person the option either to stay in the housing or draw the allowance?

Mr. THURMOND. I think the distinguished Senator has made a good point, but this is more of an emergency matter. The Armed Services Committee will be taking it up and that specific point could be considered at that time when they have a hearing on the bill.

Mr. WARNER. That would seem to me to be a reason to limit this legislation to this particular group of families who are facing this tragedy at this time and not try to make broad policy for the entire Armed Forces.

Mr. WILSON. Will the Senator yield for a question?

Mr. WARNER. Yes, Mr. President.

Mr. WILSON. Actually, it is to offer a suggestion. The Manpower and Personnel Subcommittee will be holding a hearing or hearings to determine whether or not this or another period is the appropriate time, in addition to which, we will consider the very subject that the Senator from Virginia has raised, quite properly, this morning.

I suggest that it may not be necessary to limit the particular relief that the Senator from South Carolina is proposing. It can be a permanent change, because as I understand the Senator from Virginia, he is suggesting that there be an alternative or option. I think we can make this change now and he likely will wish to offer that option as well, but that can be added.

Mr. WARNER. I am wondering—Mr. President, I would be happy to provide an amendment which would enable a widow to exercise either the option under section H—or however this is drawn—the two particular provisions.

Mr. THURMOND. The Armed Services Committee plans to hold hearings and we are going further now than the Army recommended, Mr. President, to take care of these people in this emergency now, although it is permanent law. If we had another accident tomorrow, you see, we would only get this taken care of. I would suggest that we just pass this bill now as the Army recommended, except to extend it for 90 days. Then the distinguished Senator from California [Mr. WILSON] plans to hold hearings on this and related matters. That can be handled at that time. That could be handled by the 90-day period.

Mr. WARNER. I hope the distinguished Senator does not misconstrue my motivation in any way as trying to be dilatory but having had the experience, I know that once we establish a policy throughout the Department of Defense, regulations have to be implemented, a lot of steps have to be taken prior to the Armed Services Committee having hearings and then beginning to modify the legislation. People in the armed services tend to learn about a situation, get adjusted to it; then we turn around and change it, perhaps.

Mr. THURMOND. We did not want to have a disruption there of anybody who is in the housing. If they feel they no longer need the housing or want to move from there, they have a right to do so; but they can stay there 90 days free. We felt that was a reasonable way to handle it. To say we will go beyond that, beyond what the Army recommended—the Armed Services Committee is going to have hearings and go into the entire field. At that time, there may be other angles that will want to be considered.

The distinguished Senator from California is on the floor. As I understand, he plans to hold hearings on this and any other related matter he feels necessary.

Mr. WILSON. That is correct, Mr. President.

Mr. WARNER. That is correct and I do feel we should hold hearings, but once again, it is a matter of a few minutes to draw up a quick amendment to enable a widow to have the option of staying in a relative's or friend's home and drawing the allowance and then going back to this place and still have the benefit of the housing.

Mr. THURMOND. Mr. President, I think we have gone as far as we need to go right now. The able Senator from California is going to hold these

hearings right away and we think that will take care of it. In my view, that is the wise thing now. If we try to amend this, other amendments may come in and we will get bogged down and we may get nothing. I feel we should stay as we are and do it as quickly as we can.

I do appreciate the suggestion the Senator made. There is merit in it and the distinguished Senator from California will consider that when he holds these hearings.

Mr. WARNER. Mr. President, I have made my case. I am fully supportive of what we are trying to do in the Senate. I simply am trying to perfect it to take care of individual situation. If the managers of the bill feel this cannot be achieved, I shall withdraw any further suggestion at this time. I support the bill.

Mr. WILSON. Mr. President, I rise to commend and join my distinguished colleague, the distinguished Senator from South Carolina. I commend his initiative in trying to relieve the bereavement of these families of the victims of the tragic crash in Gander. The situation in which these widows and the surviving children of the crash victims now find themselves is as has been described. I cannot believe that the effect was intended, but the law presently on the books would displace them from their housing on a military base or, if they are receiving the basic allowance for quarters and living off base, that allowance would cease upon the death of the uniformed member.

Mr. President, I can conceive of no more heartless result. It is not acceptable. The law must be changed. I think most of us were unaware that such a provision existed to actually penalize rather than assist the dependents of those servicemen whom we so often take the floor to praise.

This change in the law is essential if we are to do the very least which a grateful Nation owes to the memory of those departed service members and which we owe to their surviving families.

I not only commend and join as cosponsor Senator THURMOND in this legislation but, as I earlier announced in an effort to advertise the fact of my intention to introduce a companion bill and I now repeat, a supplement to this measure by Senator THURMOND which will literally keep a roof over the heads of the widows and surviving children of these crash victims. What is really necessary is to provide them with the kind of cash in a lump-sum payment that will afford them adequate flexibility so that they can make plans, released from the pressures that they are faced with upon the death of their loved service member.

On December 8, the law was changed in a beneficial way. Those who are covered, as are most service members unless they have consciously elected not to be covered by the Servicemen's Group Life Insurance Program, are insured on their lives to the amount of $35,000 under exiting law. On December 8 a change was made to increase that face value from $35,000 to $50,000. The law unfortunately was not to become effective until January 1, 1986. As such, the beneficial increase in the face value of the policy would not apply to those victims of the Gander crash.

Mr. President, the bill which I intend to offer and for which I seek cosponsors will simply treat that change in the law as having been in effect since October 23, 1983. The purpose simply and obviously is to do equity not only to the families of the Gander crash victims but to the families of all those killed in the line of duty from that date, October 23, 1983, to the effective date of the change in the law on January 1. October 23, 1983, is chosen, Mr. President, because it is the date of the bombing of the marine barracks in Beirut. So in order to both keep literally a roof over the heads of the families, these dependent families of those whom we have lost in this tragic crash, as well as the victims of that tragic bombing in Beirut and for all who have died in the line of duty from that day to the present time, it is necessary that we act on both these measures as early as possible.

It is going to be a very sad Christmas for those families. It has been a sad Christmas for the families of those young marines who were lost in the Beirut bombing. The least that a grateful Nation can do, Mr. President, it seems to me, is to act promptly upon both these measures to give a modicum of financial relief to those families who find themselves faced now not only with the enormous burden of their grief but with the immediate financial loss that they have in no way been prepared to expect or to deal with.

So, Mr. President, I urge the prompt action of the Senate upon Senator THURMOND's legislation and later in the day, when we have cleared the other measure, I will seek similar action upon it. I thank the Chair.

Mr. SIMPSON. Mr. President, I seem to always become involved with things which would portray a man as pinched, driven, and less than compassionate as I deal with immigration, veterans affairs, and nuclear regulation. As I have said so many times, they are issues that have a remarkable blend in them of emotion, fear, guilt, and racism. I say that because that is how this place works. You either pass or kill a bill with a deft blend of those particular emotions or feelings. Now, there is no possible question about the senseless tragedy of those veterans, those active-duty service persons in the crash of the plane in Gander, Newfoundland.

It becomes late in the session, as we are batting the ball back and forth across the Chambers, trying to bring a tiny bit of order to the final hours, which is impossible, totally impossible. I share with my colleagues that Senator MURKOWSKI is the chairman of the Veterans' Affairs Committee, and he is not in the city. He is not in Washington, DC. And so as the ranking majority member of the Senate Veterans' Affairs Committee, let me just very briefly share with you just where we are.

On December 3 of this year legislation was enacted increasing the GI life insurance from $35,000 to $50,000. This legislation has an effective date of January 1, 1986. This life insurance program, which is SGLI, the veterans' life insurance issue, is a self-sustaining program with premiums that are paid by active-duty service persons. In view of this terrible event in Gander on December 12, in which 260 active-duty service members were killed in a deep tragedy, we now have an effective date on this legislation which would encompass them and then here we see a retroactive date now presented for approximately 2 years, to October 23, 1983. That change would cover service in Grenada, Central America, Beirut as well, all inservice deaths. I respectfully suggest—and there is no one I admire more than this fine friend and Senator from California, but I respectfully suggest that I think it is something within the province of the Veterans' Affairs Committee. I do not know where else it could possibly be. It should not be in the Foreign Relations Committee or the Armed Services Committee. The Veterans' Affairs Committee has jurisdiction over this issue. This proposal is not within the province of any other committee. This is where GI life insurance is discussed, veterans' health benefits, veterans' comp, and pension plans. I earnestly suggest that making the bill retroactive to this date of enactment would be a dangerous precedent. Certainly it is a tragic situation. Who does not agree with that? I think this a marvelous attempt to see that there is an accommodation and a feeling expressed with regard to those survivors of that tragedy. But these are the kinds of things, as we legislate in the arena of emotion, fear, guilt, or racism, where we usually end up wishing we had not done it—because we often go for more than we intended.

I say to you that we could also go on to amendments which would take the GI life insurance policy back to other wars where it was $10,000. I am a member of the VFW and American Legion and American Veterans. It would be easy to also go back to those years when the benefit was $10,000.

Cost implications I know I should not even bring up. Someone will say, "Well, why should that even enter the discussion?" But approximately $60 million in benefits could be required to be paid out of the SGLI insurance fund, and it would be paid by current active-duty beneficiaries. That is who will pay it. It is an insurance policy. It is not a gratuity. Insurance policies are based on actuarial tables—not very functional in the veterans or active duty community—but they are paid on what you pay in and the amount of coverage. I hope the Senator can be urged to let this proceed in its original form, and I can assure the Senator on behalf of the chairman of the Veterans' Affairs Committee, Senator MURKOWSKI, that the Senator can introduce the legislation and we will see that it is referred properly to the Veterans' Affairs Committee for consideration, or at least, if that is not possible, request him to offer some type of language or compromise that would make the change effective upon the date of enactment, which would take care of those who were tragically killed in Gander. I hope that might be a prospect for consideration.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. THURMOND. Mr. President, will the Senator yield for a moment?

Mr. WILSON. I yield.

Mr. THURMOND. I wonder if we could pass this bill and then carry on the discussion of the other matter.

Mr. WILSON. Mr. President, I am happy to allow the vote to occur on the measure introduced by the Senator from South Carolina, and then I will respond to the points raised by my distinguished friend and colleague from Wyoming.

TIMELY ASSISTANCE FOR DEPENDENTS OF SERVICEMEN WHO DIE IN THE LINE OF DUTY

Mr. DOLE. Mr. President, I am pleased to join the distinguished Senator from South Carolina, Senator THURMOND and many of my colleagues in sponsoring S. 1956, which authorizes temporary family housing for dependents of members of the Armed Forces who died in the line of duty.

While the genesis of this legislation may have been the recent and tragic crash of a plane killing 248 brave soldiers of the 101st who were returning home for the holidays, it is legislation long overdue.

When a member of the military dies in the line of duty, difficult times always lay ahead for his or her family. Friends and loved ones may comfort them—but the cruel reality is that most of these soldiers are young and do not always have the financial means to support a wife or family in the event of a tragic accident. This bill, in a small way, helps alleviate the burden of worrying about housing for the dependents of a serviceman.

We often forget that simply being an American serviceman is a dangerous undertaking—whether it be in Korea, Lebanon, Central America, or anywhere else our global commitments take us. We often forget the routine stresses and strains to which these courageous men are subjected on a daily basis.

This bill is straightforward. The Secretary of Defense or Transportation, in the case of the Coast Guard, may provide an allowance for quarters to the dependents of servicemen who die in the line of duty for 60 days.

There is no way, Mr. President, that we can adequately express our profound sorrow over the death of the men who died in Newfoundland or servicemen that may die in the future while wearing the uniform. But one thing we can do, is assure that their dependents will have a roof over their heads.

I know I speak for my colleagues, in expressing our heartfelt grief at the death of the brave men of the 101st, and extend our condolences to their families. One of the best things we can do this holiday season, on behalf of their families, is pass this bill. Thank you Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1956), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5911 of title 5, United States Code, is amended by adding at end thereof the following new subsection:

"(h) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the Armed Forces who dies in line of duty and whose dependents are occuping family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of not to exceed 90 days.".

SEC. 2. Section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date. The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate not later than 90 days after the date of the member's death.".

SEC. 3. The amendments made by this Act shall take effect December 12, 1985, and shall apply only with respect to dependents of members of the uniformed services who died on or after that date.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENTS BY THE CHAIR

The PRESIDING OFFICER. In accordance with Public Law 83-420, the Chair appoints the following Senator to the Board of Directors of Gallaudet College: NANCY LANDON KASSEBAUM of Kansas.

In accordance with 22 U.S.C. 1928a-1928d, as amended, the Chair appoints the following Senator as member and chairman of the Senate delegation to the North Atlantic Assembly during the 99th Congress: WILLIAM V. ROTH, JR., of Delaware.

In accordance with Public Law 94-118, the Chair appoints the following Senator to the Japan-United States Friendship Commission: WILLIAM V. ROTH, JR., of Delaware.

In accordance with Public Law 99-83, the Chair appoints the following Senator to the International Advisory Commission for the Caribbean Region: THAD COCHRAN, of Mississippi.

Under provisions of Public Law 99-93, as amended by Public Law 99-151, the Chair appoints the following Senators as members of the U.S. Senate Caucus on International Narcotics Control: FRANK H. MURKOWSKI, of Alaska; ARLEN SPECTER, of Pennsylvania; JAMES ABDNOR, of South Dakota.

In accordance with Executive Order 12131 signed by the President on May 4, 1979, as extended, the Chair appoints the following Senator to the Presidents Export Council: ROBERT KASTEN, of Wisconsin, vice Senator WILLIAM ROTH.

MEMORIAL SERVICES FOR CASUALTIES OF THE 101ST AIRBORNE DIVISION

Mr. THURMOND. Mr. President, on December 16, 1985, I attended a ceremony at Dover Air Force Base, DE, honoring those members of the 101st Airborne Division who were killed in Gander, NF, last week. The ceremony was a poignant reminder of the high costs that must often be paid in order to maintain peace in a troubled world.

These young men and women were a part of Task Force 3/502d, and they were returning from 6 months duty in the Sinai as a part of the Multinational Force and observers. Theirs was a

mission of peace and hope for long-term stability in the Middle East—a mission which sadly ended in tragedy.

As we all know, these soldiers—eight of whom were from South Carolina—were returning home to families and loved ones for the Christmas holidays. Their deaths are made all the more tragic and senseless for that reason, especially when we have all seen the pain and sorrow their families have suffered at a time when they had looked forward to joy and celebration. Their grief and tremendous loss shook all of us, and our Nation collectively mourns for those families.

Words cannot adequately console those families, but I know my colleagues join in extending our prayers that God will aid and comfort each of them in this most trying and difficult of times.

The simple, dignified tribute paid by the U.S. Army to its fallen comrades touched all who were present. The Secretary of the Army, Hon. John O. Marsh; and the Chief of Staff of the Army, Gen. John A. Wickham; paid homage to the 248 soldiers who were killed in the line of duty.

These fine young Americans answered the call of duty to help preserve peace in a region scarred by war and suffering. For this noble cause, they gave their lives. We will never know what accomplishments they might have achieved had they lived, but we will never forget the cause for which they served so proudly.

It is always difficult for a nation to accept so tragic a loss of life, and it is up to us to ensure that their sacrifice will not have been in vain.

When the 101st was formed more than four decades ago at the height of World War II, the division commander stated that the Division had no history, but it had a rendezvous with destiny. The Division has established quite a history in the fight for peace and freedom, and these young Americans now belong to that proud history.

I was deeply moved by the ceremony at Dover Air Force Base and by the remarks made by Secretary Marsh and General Wickham. In order to share those remarks with my colleagues, I ask unanimous consent at this time that their speeches be included in the RECORD at the conclusion of my statement.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

REMARKS BY HON. JOHN O. MARSH, JR., SECRETARY OF THE ARMY, 101ST AIRBORNE DIVISION MEMORIAL SERVICE, DOVER DE

In the Book of Isaiah are the words:

"Whom shall I send and who will go for us? Then said I, Here am I: send me."

This was the spirit of these men and women of the American Army we mourn today.

We are here to pay tribute to them—soldiers of the 101st Airborne Division who gave their lives in the service of their country. In a troubled world, they were the Peacekeepers.

They were returning from a mission in support of our Nation's commitment to world peace.

Their duty as soldiers took them far from home and family. It took them to a place of isolation and loneliness. Their tasks were difficult and demanding—and they did them superbly. We knew they would because they were great soldiers.

Our hearts, our love, our prayers go out to those who suffer the most by such a loss. We shall seek to comfort them, aware we can never fully thank them, or assuage their grief. The U.S. Army—this great Divison shall forever honor and remember them.

They were engaged in a noble endeavor—to bring peace to a troubled land.

Today in the Sinai, the checkpoints and observation posts, where they kept their lonely vigil, are manned by another battalion of the American Army, a continuation of the mission they had fulfilled.

The Christmas Season is one of deep spiritual meaning.

It is a time we reflect on values.

It is a time of hope when we pause to think of peace and goodwill.

It is a time of giving, and thanksgiving, as we count the blessings of our abundance.

It is a time of compassion when we remind ourselves we are our brothers' keeper.

This year as we observe the festival of lights, and tell again the Christmas Story, let us light a candle in our hearts for those soldiers who were coming home from the land of our Spiritual heritage. A place where they in their own way, and in their own time, sought to give meaning to the message of "Peace on Earth, Goodwill Toward Men."

Let us remember them for what they were—American soldiers, who were the peacekeepers.

REMARKS BY GEN. JOHN A. WICKHAM, JR., CHIEF OF STAFF, ARMY, 101ST AIRBORNE DIVISION MEMORIAL SERVICE, DOVER, DE

Today the Nation and the total Army mourn our fallen soldiers from the 101st Airborne Division and Fort Campbell, Kentucky. All of us in the Army are deeply saddened that their homeward journey which began with great anticipation of a holiday reunion with friends and loved ones, ended with tragedy. Our prayers reach out to all those who have been touched by this sorrow.

The father of the 101st Airborne Division, Major General William Lee, started the proud tradition of the Division with these words:

"The 101st * * * has no history, but it has a rendezvous with destiny * * *. We shall be called upon to carry out operations of far-reaching military importance * * *."

These superb young soldiers kept their "rendezvous with destiny" as they fulfilled an important peacekeeping mission in lonely outposts of the Sinai. They served with honor and distinction on duty with the Multinational Force and Observers. As soldiers of the U.S. Army and Fort Campbell they were proud of their heritage and proud of their service. Just as other soldiers before have been and are proud today in protecting freedom for us and our friends.

Theirs was the ultimate sacrifice made in line of duty. Their service adds luster to the proud history of the U.S. Army and the 101st. Soldiers who follow behind them will know of their dedication, patriotism, and sacrifice, the same as the "Screaming Eagles" in World War II and in Vietnam.

The American flag which covers each coffin is the emblem of our unity, our power, our purpose as a nation. Our flag has no other character than that which Americans endow it from generation to generation, just as these superb soldiers have given in our time. Though silent and motionless on each coffin the flag speaks to us of the men and women who have served and of the values, deeds, and memories we shall forever cherish.

In Arlington Cemetery there is a monument to fallen soldiers which says:

"Not for fame or reward * * * but in simple obedience to duty as they understand it, these soldiers suffered all, sacrificed all, dared all, and perished."

The magnificent soldiers we mourn today were obedient to their duty and selfless in their service to our nation. The United States Army salutes them.

ROMANIA: "THE DEFECTOR'S STORY"

Mr. HELMS. Mr. President, this week Secretary of State Shultz has been in Romania warning "President" Ceausescu that most-favored-nation trade status might be cut off if Romania persists in its human rights violations. A great many Americans are wondering where Secretary Shultz has been for the last 3 years, because the facts of Romania's repressive behavior have been well known to everyone except the State Department, which has long served as an apologist for the most authoritarian regime in Eastern Europe.

The question is whether the Secretary of State is really serious with his warning, or is it merely a rhetorical exercise to placate the Congress?

Mr. President, for some reason the State Department is under the naive impression that Romania has a supposed independent foreign policy, but United States Ambassador David Funderburk—who was the closest United States official to the Romanian atrocities—has pointed out there is definite proof that this alleged independence is dictated by Romania's masters in the Kremlin.

The real story on Romania is so well known to everyone, except those in Foggy Bottom, that even the fashionable Washingtonian magazine has reported extensively on the brutal regime. Mr. Ion Pacepa, former Deputy Director of Romania's Department of Foreign Intelligence and personal adviser to Ceausescu—also the highest ranking intelligence officer from a Soviet bloc country to defect to the West—describes the horror of the Ceausescu regime in detail in the current issue of the Washingtonian.

Mr. President, I ask unanimous consent that Mr. Pacepa's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DEFECTOR'S STORY

(By Ion Mihai Pacepa)

When Ion Mihai Pacepa arrived at Andrews Air Force Base on July 28, 1978, aboard a US military aircraft that had taken off in West Germany, he was described by State Department spokesmen and newspaper reports as a "high-ranking aide" to Rumanian president Nicolae Ceausescu.

In fact, Pacepa, who quickly was granted political asylum by the United States, had been personal adviser to Ceausescu and deputy director of the Department of Foreign Intelligence—called DIE from its Rumanian name, Departamentul de Informatii Externe. He is the highest-ranking Soviet-bloc intelligence officer ever to defect to the West.

Within months of Pacepa's defection, the Rumanian ambassadors to the United States and the United Nations were replaced. In a November 19, 1978, report on Rumania, Michael Dobbs of the Washington Post wrote that the Pacepa affair "has contributed to the most thorough purge of ranking Communist-party and government officials since Ceausescu came to power thirteen years ago."

Educated as an engineer at the Polytechnical Institute in Bucharest, Pacepa entered the Rumanian intelligence service in 1951, when he was 23 years old. By the time of his defection he had been a frequent visitor to the United States.

Pacepa made advance arrangements for President Ceausescu's official trips to visit President Richard Nixon in 1973, President Gerald Ford in 1975, and President Jimmy Carter in 1978. He then accompanied the Rumanian president and his wife, Elena, on all three of the White House visits. During these state visits, Pacepa not only arranged discussions with American Presidents but even provided a food taster for the security-obsessed Ceausescu. Pacepa also arranged for special Rumanian intelligence teams to electronically sweep Ceausescu's quarters in the US for listening devices, including rooms at Blair House.

Pacepa, whose father worked in Rumania for General Motors before World War II, is now 57 years old and living under a new identity in the US. His daughter, Dana, an artist, remains in Rumania with her husband and family. Despite making repeated attempts, Pacepa has had no contact with her since he called her from West Germany in 1978, just before his defection. An "open letter" sent to her last year through a Paris newspaper—and repeated time and again over Radio Free Europe—ended:

"There is a picture on my desk. I took it on a sunny day, of you eating an apple. Bite the apple again, my daughter, for infinitely more sunny days. I love you incredibly much, my Dana."

Pacepa is at work on a book about life at the top in the Communist world and about what he calls "the first Communist dynasty"—Nicolae Ceausescu and his family. These excepts from the book manuscript represent the first time Pacepa has told his story for publication.

HEADS OF STATE

Blair House—the lady wasn't impressed

Rumanian president Nicolae Ceausescu and his wife, Elena, arrived in Washington on April 11, 1978, for a state visit with Jimmy Carter. Ceausescu has not returned to the United States since.

The presidential Boeing 707 landed at Andrews Air Force Base at 6 pm. A few minutes later Evan Dobelle, the US chief of protocol, came on board the plane and invited the Rumanian guests onto American soil. At the plane's steps, Nicolae Ceausescu and his wife, Elena, were greeted by Secretary of State Cyrus Vance and his wife, Grace, as well as by other American and Rumanian representatives. From the airport the Ceausescus rode in the same car with the Vances. Half an hour later, the motorcade arrived at the official residence for visitors, Blair House.

Blair House was already familiar to me from Ceausescu's last two visits to Washington, in 1973 and 1975. To alleviate Elena's traditional scene over not yet having her luggage when she arrived, I asked one of the people in charge of the house to show her around.

"Blair House was built by Dr. Joseph Lovell, America's first surgeon general, 154 years ago," the distinguished lady said with professional competence. "After his death in 1836, the family sold the house for $6,500 to Mr. Blair, who had just come to Washington as the new editor of the Globe. . . ."

The tour began with the first floor's Blair drawing room and its beautiful Queen Anne desk and magnificent Sully portrait of Montgomery Blair, then it continued to the Abraham Lincoln Room.

"It was in this room full of memorabilia that Mr. Lincoln signed the Emancipation Proclamation," the guide went on, pointing to a pen-and-ink drawing of President Lincoln.

"The portrait of General Robert E. Lee is a reminder of the fact that, in this same room, Lee refused the command of the Union Army, which was offered to him by Lincoln through Blair, who was related to Lee by marriage." The table in the first-floor dining room was set with heavy linen damask cloths for the private dinner on this evening.

On the second floor Elena was shown Ceausescu's large bedroom, adjoining a spacious library, both decorated with fresh flowers. That morning's Washington Post and New York Times, as well as the just arrived evening newspaper, the Washington Star, lay on a table in the library.

"This is your bedroom suite, madam," said the guide, pointing to a room with a lovely, canopied four-poster bed. "Although it could not be refurbished in time for the 1957 visit of Queen Elizabeth, it is still called the Queen's Suite to this day," finished the guide, wishing Elena an enjoyable stay.

"Close the door, Pacepa," Elena's acid voice suddenly rasped out. After I had executed the order, she exploded. "Just look at the harpy. She has never seen me before in her life, and she decides I should sleep here, not with the Comrade. Just so she can make up stories about the Comrade to tell other people who stay here."

Imitating the guide's voice, she went on, "'We have an Emancipation Proclamation.' It's a long way from that piece of paper until these idiots will really be emancipated." Then, suddenly changing the subject, she ordered me, "Tell our press correspondents to include in their articles that 'the Vances came to the airport on behalf of the President of the United States and Mrs. Rosalynn Carter. Idiots that they are, they may forget that."

Friendly persuasion

Jean-Bédel Bokassa became leader of the Central African Republic in a coup staged December 31, 1965. On December 4, 1977, he crowned himself emperor of the impoverished nation in a lavish ceremony. Ousted in a coup nearly two years later and sentenced to death in absentia for atrocities committed during his reign, Bokassa lives now in France.

Before the infamous president of the Central African Republic Jean-Bédel Bokassa made a visit to Rumania, the DIE spent months on intensive intelligence operations to study him. The most important vulnerabilities found were his insatiable desire for women and a primitive impulse to collect jewels, money, and personal bank accounts and safe-deposit boxes in Switzerland. Several days after Ceausescu received a complete study on Bokassa, he took me for a walk in the enormous garden surrounding his personal residence.

"Central Africa has huge diamond reserves, which could spell a fortune for us. The problem is we cannot compete with the experienced capitalist sharks in obtaining concessions for diamond mining there. We'll have to steal them. Bokassa has five wives in Bangui. Let's give him another one, prettier and more high-class than he could ever dream of having. Get a good-looker ready for his visit, and then let Bokassa find her himself. And then I'll be magnanimous with him."

During his visit to Bucharest, Bokassa fell head over heels in love with a comely Rumanian doctor who was a security agent sent to him when he gave the first sneeze of an apparent cold. Following Bokassa's repeated requests to Ceausescu, the doctor was sent to Africa on a special presidential airplane to further treat the cold he had allegedly contracted in Rumania. The doctor was overwhelmed with jewels, was given a personal villa full of servants, and became Bokassa's unofficial but favorite wife.

When she asked for fresh tomatoes and other vegetables, Bokassa implored the Rumanian ambassador to help him. Military airplanes brought an agricultural team and equipment into the country, and soon a modern vegetable farm started producing for Bokassa and the doctor. The manager of the farm, an agricultural engineer, was actually a DIE officer who became the doctor's case officer.

Soon after that, Vasile Pungan and Nicolae Doicaru, two of Ceausescu's personal advisers, made a secret trip to Bangui. When they returned home, they reported that Bokassa had accepted 10 percent of the Rumanian profits from diamond mines developed on preferential terrains in his country, taking the business away from Western companies with experience in diamond mining.

Several years later, the doctor decided to take her life in her own hands. She escaped from Bangui with some of the jewels Bokassa had given her and began a new life in France. Discovered by the French press, she made history telling of her romance with Bokassa, but she carefully omitted all mention of her connections with the DIE.

"Make Use of Carter's Inexperience"

We were walking along the garden path at his Bucharest residence when Ceausescu suddenly started talking.

"I read through the whole file you gave me on Carter and his family twice." I had given him a briefing file on American President Jimmy Carter, based on material in DIE records.

"I can see that, despite his innocent smile, his soft voice, and shy manner, Carter is not an easy or predictable fellow. But he is not contradictory, as you describe him. The file

says that, although he graduated from the Naval Academy only in 60th place out of 820, he has the intelligence of a near genius, a fantastic memory, an unusual capacity to absorb masses of information, and is a very good listener and a very hard worker. That's not a contradiction. I never graduated from any university before becoming a political leader. His rivals accuse him of having concealed a high degree of stubbornness and a vindictiveness behind his smile when he was the governor of Georgia. That's not a contradiction, either. It's probably normal for a politician.

"In my opinion, his weak points are other ones. One is his ridiculous religiousness. . . . Another weakness is his intense inner life, which is detrimental to the dynamism he needs to have.

"Nevertheless, as I read in your file and between its lines, Carter has enough qualities to succeed. You probably haven't realized that there are even some similarities between him and me. Both of us consider that the people elected us not just as an individual but as a paterfamilias, that our wives and children were also elected together with us. Apropos, you might pull together everything you have on Carter's deep respect for his wife and children and on his commitment to giving them a high profile during his presidency, and then give it to Comrade Elena. That may help to change her broken record that Carter is nothing but a peasant.

"Carter's biggest disadvantage is that he is totally inexperienced—what can you expect from somebody who raised and sold peanuts all his life, That's one of the worst sides of the American system: Anybody can become President, if he has money and a nice smile, and then, just when he starts to learn something, he has to leave. They just can't understand that being chief of state is a profession. . . .

"Anyway, that's their problem, isn't that true? And we should make use of Carter's inexperience and friendship as long as he is President. That's why I insisted on having my visit there in the very first days of his presidency, to find him virgin, uncontaminated by the influence of others."

Suddenly Ceausescu stopped, hung onto a button of my jacket, and, looking me in the eye, continued in a low, conspiratorial tone. "In your file on Carter's family, I see that his brother, Billy, is some kind of drunk, a corruptible fellow who doesn't know how to do anything but is trying to turn a fast buck any way he can. I see also that the DIE has turned up a foreign agent who might manage to build up some business relations with Carter's farm and with Billy. Isn't that a Liberian who has an export-import company in London?"

"Yes, Comrade," came my answer.

"We should do everything we can to encourage this operation. We import enough peanuts into Rumania, so let's buy them from him, from his farm. We can use so many peanuts that we could buy up his whole production for at least the next ten years. Let's make Billy our representative for importing peanuts and other things. But for the beginning, let's work under a foreign flag. Let's import peanuts through the London company of your Liberian agent's. When Billy has gotten enough of a taste for this money, then we can tell him that it's not English or Liberian money, but ours. But only when we are sure that Billy won't be able to do without his new source of income."

Advice for Kojak

Although Ceausescu has never been in a public movie theater, he is a movie fanatic. Each of his four residences has a fully equipped projection room and a permanent film library. His favorites are movies about the Roman empire and Napoleon and American police films and television shows.

During a movie at his private residence, where he does not have to worry about protocol or what people looking at him will think, Ceausescu is a normal human being, relaxed and entirely different from his public image. He loves to watch Kojak shows, not only because they are full of action, but especially because with his quick mind he has no trouble figuring out the dénouement of a Kojak episode. Savoring the thought that he would once again be one step ahead of Kojak, he settled down into his chair, disappearing completely from my sight from where I was sitting behind him.

"Come on. Don't waste your time on him, Commissar. He's a friend. You'd do better to keep your eye on the dead man's girlfriend. Hey, Ropoteanu, tell him that in English."

Ropoteanu was an English teacher who had become an intelligence officer and was Ceausescu's favorite interpreter for movies.

"Don't listen to the captain, Kojak," Ceausescu continued his advice. "He didn't know anything in the last movie, either. In Rumania I wouldn't keep him on the payroll a single day longer."

"An idiot, Nick. An idiot," piped up Elena, who was sitting in the chair beside him. "All security officers are idiots. I've told you that many times. Wouldn't it be better to show a war movie, with the army in it? They're idiots, too, but at least they carry out orders without asking any questions."

At the end of the movie the lights revealed Elena fast asleep, with her head resting on the soft back of her easy chair. Her mouth and her robe had both fallen indecorously open.

HUMAN RIGHTS AND WRONGS

Ceausescu's grand plan

"Horizon" was by far the most secret DIE operation, and its files were locked in the DIE's super-secure vault, continuously covered by closed-circuit television cameras and accessible only to the minister of interior, the political chief of the DIE, and me. Everything in its files is written ony by hand.

"Horizon" was Ceausescu's grand plan, an extension of Euro-Communism, for strengthening his Communist rule in Rumania with help from capitalist governments. It was created by him as a masterpiece of a political-influence operation, aimed at gaining Western good will, political support, credits, and prohibited technologies, without in the least compromising Bucharest's orthodox Marxist rule.

"Horizon" contained in several bulky files organized by geographic area, was the only place where one could find a distillation of Ceausescu's overall goals and concrete objectives for each non-Communist country of interest, starting with the United States and ending with Bokassa's Central African Republic, as well as data on the most important influence agents created by the DIE over the years.

Concealed in the "Horizon" files was information on every major successful influence operations created by Ceausescu. Among the oldest was the operation to provide clandestine support for Willy Brandt, the chairman of West Germany's Social Democratic party, in two parliamentarian votes of confidence, in 1973 and 1974, which he won only by also having two supporting votes from the opposition. According to the DIE station chief in West Germany, the two deputies in question had been approached by Rumanian intelligence officers, who plied them with valuable gifts and persuaded them to vote against their own party.

One of the newest operations documented there, and by far the most important, was the annual effort to have the United States Congress renew most-favored-nation trade status from Rumania.

For this operation, almost every Rumanian representative in the United States, including the ambassador, was replaced by an intelligence officer. More than 10,000 Rumanians were recruited as agents and sent to the West as émigrés in a mass operation designed to influence the governments of the United States and its allies, especially West Germany and Israel. Intelligence officers and agents were secretly sent to the United States to take over control of émigré organizations and direct their publications and social activities.

The file showed that the DIE had helped finance and direct the activities of such émigré organizations as the American-Rumanian Central Foundation, the American-Rumanian National Institute, and the American-Rumanian National Committee for Human Rights. Through such organizations, the DIE conducted an intensive lobby on Capitol Hill and led street demonstrations in Washington. In 1975, when Rumania first received most-favored-nation status, the DIE's chief was rewarded by being made a Hero of the Rumanian Socialist Republic, and the chief of the U.S. Brigade was promoted to the rank of general.

Ceausescu considered that this operation gave Communist Rumania the most valuable political, financial, and technological benefits in its history.

Targets of Assassination

At the conclusion of his 1978 visit to the U.S., Ceausescu and Jimmy Carter issued a joint declaration in which both affirmed the "observance of and promotion of respect for human rights and fundamental freedoms, including all the conditions required for a free, dignified, and prosperous life."

Three months later, during a walk in his garden, Ceausescu orderd Pacepa to arrange the assassination of Emil Georgescu, a supervising editor in Radio Free Europe's Rumaninan Department.

"Emil Georgescu must be killed, without involving the Rumanian government," Pacepa recalls Ceausescu saying. "Foreign professional criminals must be used, and that wasps' nest, Radio Free Europe headquarters, must be wiped out with powerful explosives."

Pacepa defected one week later.

In the totalitarian logic of the Rumanian government, émigrés are Rumanian citizens subject to Rumanian laws, regardless of their current citizenship. In dealing with them, the DIE has the same role as the security forces have inside Rumania: It acts as the "extended arm of the proletarian dictatorship."

In 1975 the DIE began an ambitious project to set up a complete, computerized data bank on the more than 600,000 native or second-generation Rumanians living in the West, using consular, mail-censorship, and intelligence information. Undercover officers and agents sent abroad to take over control of émigré organizations, publications, and social activities used various covers, from folk-art instructor to priest.

Because the Rumanian government has no poisons abroad, it uses beatings, kidnappings, and unattributable assassinations to "discipline" émigrés in the West. It has become a matter of political prestige for Bucharest to try to execute defectors who have been granted political asylum in such countries as the United States, France, and West Germany. Explosive letters and packages are sent to Rumanian anti-Communist leaders in exile, such as those mailed during the 1981 Madrid Conference on Security in Europe.

Dissidents who have been given exit visas from Rumania have also become DIE targets for assassination in the West. In April 1982, Matei Haiducu, a Rumanian who moved to France in 1975, confessed to French authorities that he was a Rumanian illegal officer and that his current assignment was to assassinate dissident writers Paul Goma and Virgil Tanase in France "by any means," the only condition being that Rumanian government involvement not become known. Haiducu turned over to the French a fountain pen loaded with a toxic chemical that he had been given to accomplish the deed, in true spy-thriller fashion.

Orders have repeatedly been given for the silencing of émigré journalists and others who publicly criticize the Rumanian dictatorship, including US government employees working for Radio Free Europe. Monica Lovinescu, a respected but outspoken French citizen who for years has been an employee of Radio Free Europe in France, has particularly incensed Ceausescu.

"Lovinescu must be silenced," Ceausescu ordered at one point. "Not killed. We don't need any uncomfortable French and American investigations just now. She should be beaten to a pulp and have her jaw, teeth, and arms broken, so that she will never again be able to speak or write—beaten in her own home so she and others will learn that no place is safe for people who calumniate the proletarian dictatorship, not even their own homes. She should become a living corpse, an unforgettable example for others."

In November 1976 Lovinescu was severely beaten in her home by a Palestine Liberation Organization group acting on Rumania's behalf.

Emil Georgescu, the program editor at Radio Free Europe in Munich whom Ceausescu had ordered me to have killed in 1978, was brutally stabbed 22 times at his own home on July 28, 1981, and barely escaped with his life. That order played a decisive role in my final break with Bucharest.

The flesh trade

Trade in human beings became another important business for the DIE. Ceausescu was obliged to open the door for emigration, despite his personal repugnance to it, by the international movement for human rights and the freedom of movement, in particular the Helsinki Agreement on Security and Cooperation in Europe and the decision by the US Congress to tie most-favored-nation trade status to emigration rights. Emigration provided Ceausescu with political gain, and he soon decided to use it for financial profit as well, in a highly confidential operation kept so secret that at his direction it was handled only through the DIE.

The DIE initiated discreet contacts in Israel and West Germany and cautiously suggested that, if Rumania could be reimbursed in hard currency for the social and education expenses incurred for the ethnic German and Jewish émigrés seeking to leave Rumania, the emigration process might be accelerated.

Secret, unwritten agreements were made with the Israeli foreign intelligence service and with the West German Ministry of Interior. The Israelis and the West Germans paid thousands of dollars for each Rumanian Jew and ethnic German granted an exit visa, in some cases as much as $50,000 per person, depending on his or her level of education and profession.

Over the years, many hundreds of millions of dollars were secretly paid to Rumania, along with low-interest credits issued through the DIE as bonuses for increasing the emigration quotas. For reasons of secrecy, most of the payments were made in cash and only in US dollars. No other member of the Rumanian government knew anything about them except the prime minister, who was given only a general briefing and instructed that, if the matter even came up, he should vehemently deny any suggestion that Jews and Germans were being sold.

In February 1972 Ceausescu decided that additional side benefits might be had from the emigration of Jews and Germans. "No Rumanian citizen," Ceausescu stated, "whether of Rumanian, Jewish, or German ancestry, should be given an emigation visa unless he is a security agent, has signed a secret, written agreement with the security forces, and has agreed to act as an intelligence agent abroad." More than 10,000 emigrating Rumanians were recruited in a mass operation between 1972 and 1978 and instructed to penetrate the governments, political life, and scientific and technological circles of the United States, Israel, West Germany, and other Western countries.

Most of the Jewish and many of the German émigrés never used their secret communications systems and simply disappeared as agents.

AS OTHERS SEE US

The American way

During a previous visit to the United States, I was in the Cabinet Room with Ceausescu, when, counting the labeled chairs, he suddenly said, "Can you believe it? Only thirteen secretaries! Why do we have to have a president and a prime minister? Why do we keep a prime minister, twelve deputy prime ministers, and 40 ministers? Why does the prime minister need 53 labeled chairs for a government meeting? We should learn from the American system of democracy. We should apply the same principles. And if some journalist says we have a dictatorship, we should answer that our government is a faithful copy of the American government. As here, we should have only one boss and several secretaries carrying out his orders."

That was when Ceausescu gave me the order to give him a complete study on the American system of government. Based on this order, a DIE officer under deep cover, Colonel Dumitru Mazilu, was sent to the United States for six months to prepare the study.

When I gave the final report to Ceausescu, he promptly said: "You don't understand anything! I don't need to know anything about the Congress and the judicial system. Stop talking about the three branches of their government. Rewrite the report covering only the administration, and strongly emphasize that the American government has only a President, a Vice President, and a few secretaries, that they don't have and never have had any prime ministers! Write that they have a presidential system without any prime minister or deputy prime ministers and that that's all they need. Someday we have to finish with the wastefulness we have. We don't need two governments, one run by the president and the other by the prime minister."

The air-conditioned nightmare

Air conditioning was probably my biggest headache for all the presidential visits I prepared.

Shortly after he had taken over, after the death of his predecessor, Gheorghe Gheorghiu-Dej, Ceausescu returned from a secret visit to Moscow and began worrying about the protracted pain in his throat. Gheorghiu-Dej had died from a fast-developing form of cancer, its first symptoms having appeared as throat pains not long after his return from a vacation in the USSR together with the Italian Communist leader Palmiro Togliatti, who had died very suddenly after his return under circumstances considered strange. Ceausescu was convinced beyond the shadow of a doubt that both had been assassinated by the Kremlin through secret radiation with a strong source of isotopes, and his throat pains therefore caused him indescribable panic.

Doctors from all around the world were secretly brought to Bucharest over an anguishing period of long weeks. Finally an old, very conservative West German doctor put it to him very bluntly: "You, sir, talk too much and too loudly, and your vocal chords are terribly irritated. If you want to keep them, you must protect then."

The doctor's prescriptions were old-fashioned: chamomile tea as often as possible, but always when he had to speak longer and louder than usual, and protection from any kind of drafts, including fans and air conditioners. Since then, during every speech Ceausescu makes, a waiter changes his chamomile tea glass every half hour, no matter whether it is a routine meeting, a Politbureau session, or a Party Congress. Every single fan had to be removed from all his residences, and the central air conditioning system installed at the Central Committee of the Communist Party was dismantled.

During his foreign visits, especially to North and South America, I encountered indescribable difficulties in having the air conditioning and heating turned off in every building he was to visit and closing or at least covering every vent. In Venezuela, for instance, he ordered me to disconnect the air conditioner in his official vehicle, so that the Venezuelan driver would not under any circumstances be able to turn it on. As it was an armored car, the windows of which could not be opened, the trips around Caracas quickly became a nightmare.

I also had never-ending discussions with the management of the Waldorf Astoria in New York and other hotels used by Ceausescu, when I would ask them to turn off the central air-conditioning or heating systems and to seal off every vent. It repeatedly happened that Rumanian dignitaries accompanying Ceausescu abroad spent their nights trying to find and seal off hidden vents or leaky windows.

Distinguished Americans

"Pacepa's just been telling me some interesting information about the American President," Ceausescu told Elena as she entered the room. "Carter looks unexpectedly nice, even distinguished, showing esteem for his wife and devotion to his family. I've asked him [Pacepa] to prepare a file for you that I hope you'll like."

"Go soak your head, Nick! Have you ever seen a 'distinguished American'?" Elena squawked, trying to put all her knowledge of English into the last two words. "Name me just one movie where you've seen such an American, and on top of it all a loving husband and devoted father, and I'll eat it, Nick. And you," she went on, turning toward me. "Don't you fill the Comrade's head with your intrigues and fantasies. Do you understand?" Then turning back to Ceausescu, "You'd better come to bed Nick, rather than wasting your night away listening to fairy tales. You want to learn about Americans? You have your *Kojak* movies. They are at least authentic, made by Americans!"

Books, blacks, and Barbara Walters

The following conversation took place at Blair House on April 11, 1978, the first day of Ceausescu's visit to Jimmy Carter.

"What about the book exhibition I ordered? Ceausescu asked me.

"It opened today at the Martin Luther King Library, with books printed in all the languages of the various ethnic groups living in Rumania and with a special exhibit case containing books written by and about you. The report says that the director of the library opened the exhibition with an address presenting you as a brilliant thinker and political personality, whose love of books has favorably influenced the whole course of publishing activity in Rumania."

"Listen to him, Nick," Elena broke in. "In all of America, they couldn't find any better place than a library for black people!"

"Anything new on the television interview?" Ceausescu intervened.

"Yes. ABC insists on taping the interview tomorrow afternoon so they can put parts of it on the air during the prime-time news tomorrow evening, the first day of the visit, and broadcast the entire interview on Sunday, April 16, on the *Issues and Answers* show."

"Is the interviewer somebody?" he asked.

"Yes, Comrade. Barbara Walters, one of the ABC's best television interviewers."

"A woman? A woman to interview you, Nick? That's ridiculous! Isn't she the harpy who interviewed Castro and made a whole circus out of his personal life, his estranged wife, and his love affairs? Isn't she that one?"

"I think, Comrade Elena, that she interviewed Fidel Castro several years ago."

"Fiddlers! That's all they all are, nothing but fiddlers. I told you so. It's all a plot against you, no question about it. Why else, out of 200 million Americans, could they find only that harpy to interview you? It's a plot to compromise you, Comrade. Can't you see that?"

After reaching this decision, Elena furiously left the dining area. During Ceausescu's visits abroad, Elena was always dissatisfied with everything and everybody.

TRADECRAFT

The nuclear go-between

In 1975 I showed Ceausescu credible DIE information indicating that Pakistan was conducting secret operations to develop its own nuclear capability. Two days later he ordered me to arrange a secret meeting for him with Zulfikar Ali Bhutto, Pakistan's Prime Minister. With the help of Andrei Stefan, secretary of the Central Committee of the Communist Party and chief of its international department, a short stopover was arranged to take place in Karachi, with Bhutto welcoming Ceausescu at the airport.

When Ceausescu's airplane landed in Karachi, Bhutto was there, accompanied by numerous local dignitaries. He invited Ceausescu for lunch to a nearby palace, where we arrived after almost an hour's ride on a hot, dusty day. In the palace garden tents were already waiting, filled with food in large silver pots. For each guest there were several servants ready to carry out his least wish at the slightest signal. In the main tent, the highest Rumanian and Pakistani dignitaries joined their two leaders for lunch.

Ceausescu has a great talent for personal diplomacy, most of his successes having been brought about by personal discussions. A good psychologist, he pays a great deal of attention to knowing his discussion partners, and he tries to impress and subdue them with a deliberately open and direct manner and with discreet anti-Soviet allusions.

Bhutto was a relatively easy prize for the experienced and well-prepared Ceausescu. By the end of the luncheon, Bhutto was addressing Ceausescu only in superlatives.

After lunch, Ceausescu asked for a private discussion, accompanied only by a DIE interpreter and me. He opened his frontal attack on Bhutto. "You and I share the same dream, to make a place in history for our countries, and the best way to do that is to build their power. In our time the only real power is nuclear power. We should build it secretly. Working separately, our intelligence services"—pointing toward me—"have obtained remarkable results. Together we might be able to realize our dreams. In this envelope is a sample of what we can do. Read it later on. If you agree, give me a sign. If not, you may forget the whole thing."

Bhutto put the envelope carefully into his pocket, without opening it. It contained a detailed inventory of the nuclear-intelligence information Rumania could secretly provide to Pakistan.

Then there was a short break in the meeting.

When Bhutto came back into the room, he proposed that he and Ceausescu make a public declaration. Ceausescu spontaneously gave a public speech, followed by Bhutto.

Intelligent, sensitive, and ambitious, Bhutto reacted almost exactly as Ceausescu had expected. Just before our departure, he gave Ceausescu an envelope. "Inside is a name, one of our most secret names. Don't try to find him," Bhutto said in my direction, "because he doesn't have any official positions. I will personally instruct him and send him to Bucharest. I will send you the date and flight number through your ambassador, without further explanation. In Bucharest one of your people should meet him and organize future cooperation. It should be a personal contact between two individuals, not two governments. I hope we never need discuss this matter again in our future cooperation, my dear friend."

Two weeks later I had a meeting in a safe house with the man who would become "235," and the next day Ceausescu had both of us for a private dinner at his residence in Snagov, not far from Bucharest. Radu Andreescu was the operational name of a brilliant DIE engineer who became his case officer. Ten days later Andreescu left for Pakistan with a voluminous diplomatic pouch containing the whole documentation secretly obtained from Canada and used to construct a Rumanian heavy-water plant.

He came back with the complete project for a small Canadian Candu reactor that the Pakistani government had bought as well as significant intelligence data on the industrial-size Candu nuclear reactor.

On further visits to Pakistan, Andreescu took with him technical intelligence on West German and French nuclear reactors and security systems, and he brought back to Rumania the Degussa centrifugal system for enriching uranium, data on the industrial production of uranium 235, and other military technical nuclear intelligence that Pakistan had obtained.

A recently arrived postcard was the first sign of life we had gotten from "235" after the July 5, 1977, coup, when General Muhammed Zia ul-Haq arrested Bhutto and declared himself chief administrator of martial law.

"You must be terribly careful! We badly need to keep our Rosenberg," said Ceausescu.

The corn caper

Technological espionage was also extended to unclassified projects, in order to save costs on legal imports. The complete blueprints for newly designed American aluminum rolling mills were used as the basis for constructing high-capacity aluminum-foil and sheet-metal factories, which were scheduled to go into production between 1982 and 1984. Three glass factories were built from 1976 to 1980 based on illegally obtained intelligence provided by an American engineer in exchange for the initial sum of $200,000. The intention was to flood the American market with glass products at dumping prices. Today Rumanian glass products are for sale at attractive prices all over the United States and Western Europe.

Through an agent recruited at the United States Department of Agriculture's Research Center in Beltsville, Rumania secretly obtained the entire US national hybrid-corn collection, containing more than 14,000 assortments and species, which became the basis for further research in Rumania. Together with other genetic materials also illegally obtained from the United States, American brands of corn, such as Pioneer or Wyoming, soon began to be replaced by Rumanian hybrid strains. As of 1978 they numbered from RH-101 up to RH-291, RH standing for "Rumanian hybrid."

In July 1978 the Rumanian ministry of agriculture estimated the total savings for Rumania generated by this operation over the years at a staggering 300 billion dollars.

Shallow penetration

Accompanied by Pacepa and others, Ceausescu visited the Dallas headquarters of Texas Instruments during his April 1978 trip to the United States. Afterwards, at a dinner arranged by the Texas Chamber of Commerce, Ceausescu said, in part:

"Some of the products turned out by Texas Instruments also have a strategic character. We are not concerned with turning out such products, because we stand for disarmament, for the destruction of atomic armaments and of weapons in general. We stand for a world without weapons, a world of peaceful cooperation."

In all of Eastern Europe, and in their foreign intelligence services, Texas Instruments was considered to be the most advanced producer of microelectronics and chips in the whole world, and also one of the best-protected private companies working on classified government contracts.

During the Brezhnev-Ustinov-Andropov militarization era, I was repeatedly asked by Soviet KGB representatives to direct the DIE toward penetrating Texas Instruments

and obtaining its highly secret microelectronic technologies, but the intensive efforts made in this direction over many years were without success.

Some technological information was later obtained indirectly, however, through cooperation with a prestigious British firm producing microelectronics under a Texas Instruments license. Several hundred volumes, containing tens of thousands of pages of classified American documents, were photographed and turned over by a newly recruited and well-paid British agent.

These documents almost entirely filled Ceausescu's executive-committee room when they were presented to him. He considered this operation one of the most valuable producers of technological intelligence for Rumania, and he directed that it be used as the basis for the secret production of chips and other microelectronics in a top-secret military plant close to Bucharest especially created for this purpose. But this beginning only whetted his appetite for a real penetration of Texas Instruments.

After Leonid Brezhnev had personally asked him for information on American microelectronics, Ceausescu asked me to include a visit to Texas Instruments in the itinerary of his April 1978 visit to the U.S., as a way of opening the door to a direct intelligence operation. At the end of March, when I was sent to the U.S. by Ceausescu to prepare for his visit, he ordered me to go personally to Texas Instruments in my official capacity as presidential adviser and to open its doors for officers from both the Washington and the New York DIE stations. But up until the time of Ceausescu's visit there, the Rumanians had been totally unable to talk with any engineers or technicians from Texas Instruments, being restricted to meeting with only public-relations or security officers.

Several weeks later as Ceausescu stepped inside the company's building, he shot me a triumphant look, then turned to the other people present, his face and eyes lighted up with enormous self-satisfaction. He had accomplished his wish to be the first Communist president to set foot inside Texas Instruments, to do something Brezhnev had been unable to do. Indeed, Ceausescu was at last able to walk into that prohibited microelectronics empire, but the equipment and the people working there could be seen by him only through a protective window wall.

Stealing NASA's secrets

On Saturday, April 15, 1978, we were flying from Dallas to Houston on an Air Force One airplane provided by the White House for Ceausescu's visit to the United States. Without enthusiasm we began a new game of chess.

"Was the contact with 'ARMAND' put on ice for the duration of the visit, as we discussed, Pacepa?"

"Yes, Comrade. We paid him to take a two-week vacation in Italy. It's best for him to be as far away from NASA as possible."

"That's good. Sometime you may bring him to the Black Sea, under another name, and treat him to a vacation there that he'll never forget."

"ARMAND" was a British engineer who was recruited in the early 1970s on the basis of "tax-exempt" money to provide technological information. He proved to be a workaholic who was greedy to make a fortune, and he turned his contact with the DIE into a big business.

Ceausescu became aware of "ARMAND" when the NASA technical documents he furnished caused stupefaction in Bucharest and a report about them, handwritten and signed by Gheorghe Opera, the first deputy prime minister, was presented to Ceausescu. The report stated that the NASA documents contained incredibly valuable technological and technical information never before seen in any published material. Because of imperfections in the American bureaucratic system, the material had not yet been legally classified. The report further stated that the information could be immensely useful for the creation of a Rumanian space industry, with meteorological rockets as its public facade and military rockets as its most important and much larger component.

It was proposed that the DIE mount an intensive operation to steal as many technical and technological materials from the United States as possible, before the deficiency in the security precautions would be discovered and measures taken to classify such material.

Ceausescu has a particular fascination for everything that is on a grand scale. Now, because of the NASA documents, he could visualize his dream of a space program as not only fantasy but as a real possibility. He ordered me to arrange an exposition of the most significant NASA documents in a room next door to his office, taking maximum security precautions to ensure that the secret of our possession of the NASA documents be tightly kept.

These NASA documents became a cult object of admiration for Ceausescu. The exhibit remained next door to him for many weeks, and he repeatedly visited the secure room where they were kept, asking for explanations and details. Then he started showing the exhibit off—first to his wife, Elena, then to his son, Nicu, and to his brothers, Ilie and Nicolae, both generals, and eventually to his closest collaborators, such as Prime Minister Manea Manescu and Secretaries of the Central Committee of the Communist Party Ilie Verdet, Andrei Stefan, and Corneliu Burtica.

Whenever Ceausescu took me for an evening stroll in his garden, I understood very well that he wanted to talk about something very confidential.

"Remember how, on our last visit to the United States in 1975, Kissinger said that his time and his life were limited, and that he could and would not spend them dealing with small countries, because they couldn't play any significant role in contemporary history? Or how he said that he should spend his time only on the big countries, because only they held the key for the peace and the future of mankind? I said then that he was wrong and that history would prove it. With his German head he can't understand that in today's scientific explosion, undeveloped countries like India or small countries like Pakistan can one day possess nuclear arms and then have a powerful voice in world affairs."

Ceausescu stopped, grabbed one of my buttons, and said, looking deep into my eyes, "Maybe one day Rumania, too, if we could attract Qaddafi's money."

Agents of terror

Through cooperation among the Soviet-bloc services, Communist state-owned land, air, and sea transportation organizations were secretly used as cover for the movements of specially trained officers and for the clandestine shipping of captured persons.

Based on the Bulgarian model, in 1972 the CIE (Centrala de Informatii Externe) assumed direct control of the whole TIR (Transport International Routier) land transportation system. Bulgaria has one of the largest TIR fleets in Europe, basically intended for the rapid shipment of its fruits and vegetables to the West. As was the case in Bulgaria, in less than two years' time most of the drivers of the Rumanian TIR trucks were CIE officers under cover, who were trained to transport people and equipment and to pick up espionage materials from dead drops placed along Western highways.

Patterned after Bulgaria's Balkanair, the Rumanian airline company TAROM was taken over by the military intelligence service, Directia de Informatii a Armatei. Positions in TAROM offices in Western countries were filled with officers of the DIA (Rumanian military intelligence).

Drawing on the Hungarian experience with using water transportation on the Danube for clandestine intelligence operations, the CIE took over control of the Rumanian chartering agency NAVLO-MAR, introducing undercover officers into most of its offices abroad. The Bulgarian foreign intelligence service adopted identical measures.

These measures opened a new era in terrorist operations. The intelligence officers assigned under transportation cover were intensively trained. The logistical support systems at their control soon began to be used for illegal import and export. The TIR system was used for the secret transportation of intelligence materials and prohibited goods, from embargoed alloys to Western military equipment captured in Lebanon. TIR tracks were used to ship drugs and contraband arms sold to obtain foreign currency, particularly to Turkey, with the cooperation of the Bulgarian authorities.

Some of these shipments were protected by diplomatic courier seals and papers, as well as by foreign customs seals. In Rumania, every kind of seal used by foreign customs authorities was duplicated over the years and used when needed to replace an original customs seal destroyed in an intelligence operation.

TAROM airplanes were used for the "unaccompanied diplomatic pouch," which consisted of documents, illegally obtained cash, illegal arms for use of the CIE abroad, and technology and other military equipment, including relatively large napalm bombs and COBRA and MILAN antitank missile systems.

NAVLOMAR's ships were occasionally used for bulky pieces of equipment, such as a Centurion tank the DIE obtained, Air Force radar equipment and rockets, and for technology equipment illegally imported from Japan or Hamburg.

Drawing on the experience of the Bulgarians and the Yugoslavs, in the 1970s the CIE started to look for foreign professional criminals capable of carrying our terrorist acts on its behalf. Rumania's close relations with Yasir Arafat, the leader of the Palestine Liberation Organization, opened the way for personal cooperation between DIE leaders and Hanny Hassan, the chief of the PLO security department. Specially trained PLO teams were used to carry out terrorist acts, which only Hassan knew were undertaken for Rumania. Paramilitary training schools were organized in Rumania for training Greek and Spanish Communist-party members for terrorist and guerrilla-type operations. Although the foreigners were trained under the direction of the Rumanian military forces and the DIA, the DIE utilized them for spotting foreign pro-

fessional criminals. The Greek Communists were useful in recommending Greek and Turkish terrorists. The Spanish Communists, for many years exiled to France, facilitated contact with French smugglers and drug dealers.

The Mafia is another pool in which the Communists fish. In the 1970s an American citizen who lived in New York City was arrested by the Bulgarians at their border for carrying undeclared, illegal merchandise. He was turned over to Rumanian security authorities becuse his wife was a native Rumanian. He admitted to being a member of the Mafia in the United States. Asked to locate Rumanian defectors, he came up with reliable information through Mafia sources. He was given the assignment of assassinating several defectors in the United States, but the killings were prevented by my defection.

ENEMY OF THE STATE

Within the Soviet bloc, religion is considered to be even more dangerous than capitalism, because faith cannot be destroyed through political-administrative measures such as the nationalization of capital. When Communist governments, directed from the Kremlin, came to power in Eastern Europe, thousands of churches were seized and turned into cultural clubs, public libraries, Communist office buildings, or simply sealed up. Baptism, marriage and other religious sacraments were outlawed and replaced by civil ceremonies. Many churchmen were sent to labor camps and interrogation centers or secretly assassinated. In Rumania more than 400 Greek Orthodox, Roman Catholic, and other priests and religious servants were secretly arrested on one night, January 7, 1951. These operations were orchestrated by Moscow, as a step toward clearing the way for a society in which Marxism would be the sole religion.

The Roman Catholic Church, because of its close ties to the faithful, its historic ability to mobilize large population groups, its huge international membership, and its financial power, is considered by Communist governments to be a dangerous threat. The neutralization of the Catholic Church is a cardinal task for every Communist government, even in countries where there are relatively few Catholics, such as Rumania. There the Catholic bishops began to be confined to monasteries in 1948. The campaign against Catholicism culminated in a show trial organized in Bucharest by the Soviet forerunner of the KGB and the Rumanian political police in April 1951. The Vatican was accused of anti-state plotting and espionage on behalf of the CIA and other Western intelligence organizations. A number of Catholic clergy were sentenced to jail, official relations with the Vatican were broken, and the seat of the Papal Nuncio was closed.

In the 1950s operations against the Catholic Church inside the Soviet bloc began to be closely coordinated by the Kremlin. A fanatical and experienced member of the Politburo in each country was put in charge of measures against the Catholic Church. In Rumania it was Emil Bodnaras, a former colonel in the Soviet Army during World War II whose real name was Bodnarenko. In 1945, backed by the Red Army, he had been the main person behind the overthrow of the recently elected Rumanian democratic government. Bodnaras remained in charge of measures against the Catholic Church until his death shortly before my defection in 1978.

By 1949, special departments charged with supervising the activities of the Catholic Church had been created in all Soviet-bloc security forces. Every Catholic Church building and religious servant became a target. An operation coordinated by Moscow placed microphones in every Catholic church, especially in the confessionals and priests' residences. In Rumania, they were still there at the time of my defection.

THE FIRST COMMUNIST DYNASTY

Is Rumania really a maverick?

Should the West support "maverick" Rumania? Within the limits of Marxist-Leninist principles and Warsaw Pact obligations, Bucharest does display a certain degree of independence from Moscow, deciding its own day-to-day foreign and domestic policies. The nature of this administrative independence is strongly influenced by the kind of personal relationship existing at any given moment between Rumania's leader and the top man in the Kremlin.

Under Nikita Khrushchev, who was considerate of Rumania's leader, Bucharest took pains to inform the Kremlin about all its overt and covert decisions. Leonid Brezhnev, however, ignored the Rumanian leader, an extension of Brezhnev's earlier career as First Secretary of the Moldavian Soviet Socialist Republic, where he forcibly ejected the Rumanians living there after the province came to the Soviet Union following World War II. As a result, Ceausescu kept Brezhnev at a distance. Under Yuri Andropov and now under Mikhail Gorbachev, who seems to show less rigidity toward him, Ceausescu has evidently resumed closer ties with Moscow.

It is true that Rumania's political position within the Warsaw Pact embodies a degree of genuine independence and is an irritant to the Soviet Union. Until now, however, the pragmatic purpose of that posture has been solely to increase Ceausescu's personal stature and to attract Western money and technology to help build Communism in Rumania.

Rumania has today the second-most orthodox Marxist domestic policy in the whole Warsaw Pact, topped only by Albania, in the entire world. The West's support to Rumania over the past seventeen years, since its spectacular reaction to the Soviet invasion of Czechoslovakia, has not brought about any change in Ceausescu's policies toward his own people, in terms of the economy, the standard of living, or human rights. Rumania's political police are now the most oppressive in the entire Soviet bloc. The ratio of security forces to the total population is one to fifteen, higher than that in any Western jail.

In order to export more fuel, presidential decrees signed in November 1984 to forbid the illumination of the streets at night and drastically restrict the use of private automobiles throughout the whole country. According to the Western press, during this past winter the highest temperature permitted indoors in all public buildings in Rumania, including hospitals, was only 40 degrees Fahrenheit, which reportedly caused the deaths of numerous newborn babies in maternity hospitals.

Despite these dramatic signs of economic distress, Rumania has not stopped its politically motivated practice of providing long-term, low-interest—4 percent—credits to Third World countries.

In another recent announcement, the Greek newspaper *Acropolis* called attention to confidential negotiations taking place for the sale of Aristotle Onassis's famous personal yacht *Christina* (now *Aristoteles*), which was given to the Greek government after his death. It is to be purchased as a presidential yacht for Ceausescu. One of the most publicized yachts in the world, the 325-foot *Christina* is fitted with such niceties as a canary-yellow amphibian airplane on the upper deck, a lapis-lazuli fireplace, and bar stools covered with whale foreskin, which may strike only a Ceausescu as not being too much.

At the same time, Ceausescu's messengers have been visiting the United States and other Western countries asking for new financial assistance and the renewal of most-favored-nation status, all of which they claim is vitally needed to support Rumania's independence.

Portrait of Nicu

Now 67 years old, Ceausescu is thought to be seriously, perhaps terminally ill. His death, though, would not necessarily mean that control of Rumania would pass from the Ceausescu family.

Among Ceausescu's most likely successors are his wife, Elena, and his son, Nicu. First deputy prime minister and head of the National Council for Science and Technology, Elena has been called by the Rumanian press "a scientist of world reknown." Nicu was once hailed by the newspaper Rumania Libera as being a part of "the line of great continuity of the revolutionary, patriotic spirit."

In the small portrait that follows, Nicu is at the Ceausescu's Bucharest residence. Located on Primaverii Street, it is enclosed by a nine-foot, gray-brick-and-concrete wall. Ceausescu has a weekend home in nearby Snagov, a summer home in Neptun on the Black Sea, and a winter home near Predeal in the Carpathian mountains.

Ceausescu continued silently on the fast walk with me through his Bucharest garden, without looking at me or at anything around him. We passed around the indoor swimming pool, a massive, modern building constructed of concrete and glass, illuminated now in the evening. Through the open sliding door I could hear noisy rock-and-roll music and then splashes, not loud enough to have been made by someone diving but too loud to have been made by someone swimming.

As we passed the open door, I glanced inside to my right and saw Ceausescu's son Nicu throwing Scotch bottles into the pool. He was probably drunk again. Nicu has been a hard drinker ever since his middle teens, when he would often disappear from home and be found days later, drunk as a lord, at some friend's house or in some seedy restaurant. At that time he would drink anything, from tsuic—a strong plum brandy similar to slivovitz, and the Rumanian national drink—to Cointreau or champagne. Now he drinks only Johnny Walker Black Label Scotch.

A passionate automobile driver, Nicu has demolished at least a dozen cars on his drunken sprees, killed one young Rumanian girl, and injured many people.

Lady Macbeth of Transylvania

When we returned from a reception and dinner given by the mayor of New Orleans during the 1978 visit to the United States, Elena was in good spirits. Ordering her favorite champagne, she said, "I had an interesting conversation with the 'mayoress.' You know, Nick? They are serious people. They don't want abortion. The 'mayoress' said that there's an anti-abortion movement in all of Louisiana and that the Catholic Church played an important role in it."

Draining her glass at one swallow, she continued: "Church or no, I've told you

many times, Nick, that we should sign a presidential decree prohibiting abortions in Rumania and obliging every family to have at least four children."

Elena asked for another glass of champagne and emptied it before going on. "Everybody agrees that you are the greatest contemporary statesman and economist. Even the mayor, who met you for the first time tonight, said that you were a visionary, a personality that would live for centuries. A man like you is born once every 500 years."

Elena got yet another glass of champagne. "How do you feel, being so big, so important, and yet the head of such a little country? Only Albania is smaller than our country. If we sign such a decree, in less than ten years Rumania will grow to at least 40 million people. It will be entirely different then," she concluded.

"Hey, woman, be serious—shut up," said Ceausescu, laughing but flattered.

That was not the first time I had heard Elena trying to push through an anti-abortion law. During the countless hours I spent with her, I often saw her dreaming. Her most cherished dream is to become president herself in Rumania as her idol, Isabel Perón, did in Argentina. She dreams of having her name go down in history as the only woman president who during her presidency doubled the population of her country.

In the summer of 1977 Elena sent me to Paris for two weeks with her daughter, Zoia, in order to arrange there for an "accidental" meeting with the man she had selected to become Zoia's husband. A passionate methematician, Zoia is a genuine dissident, fighting against her father's cult of personality and her mother's reign of terror.

One evening, when we were together in a striptease nightclub in Montmartre, Zoia exploded, having understood very well what was going on: "I don't want my husband to be picked by anybody but myself. I don't want to spend my whole life just having babies. I want a life decided by myself, not by ridiculous rules and laws. If I hear the harpy trying just once more to persuade Papa to sign an anti-abortion law, I'll crack her skull open. She doesn't know how to do anything else but dream about becoming a queen over 40 million idiots!"

GOODWILL GAMES—MOSCOW 1986

Mr. DOLE. Mr. President, this morning, I had the privilege of welcoming five of the world's greatest athletes, who will be participating in the goodwill games, a summer international multisport event which will take place every 4 years. The Soviet Union will host the inaugural games in Moscow July 5-20, 1986, and the United States in 1990. More than 5,000 athletes representing over 40 countries will be participating in this new quadrennial competition.

I was also honored with a goodwill games flag from visiting athletes: 1984 Olympic U.S. gold medal swimmers Rowdy Gaines and Nancy Hogshead; triple jump world record holder Willie Banks; the captain of the 1984 gold medal water polo team, Terry Schroeder; and Russian track star Viktor Saneyev, who won the Olympic gold medal in the triple jump in 1968, 1972, and 1976.

The goodwill games will mark the first time since 1976 that Soviet and American athletes will participate in summer world class events. This is an important step toward establishing even more of an athletic bond with nations around the world.

On the heels of the successful Geneva summit between President Reagan and Soviet General Secretary Gorbachev, I could not think of a better way in which to foster mutual cooperation among nations around the globe.

As ambassadors of the goodwill games, these young athletes are participating in a 20-city national and international tour. I know their enthusiasm, which was so evident in our meeting today, will generate broad support for the games.

As a former athlete myself, I know that athletics has a way of breaking down barriers. Therefore, I hope those participating in next year's games will compete together in the spirit of good will and sportsmanship.

THE WHITE HOUSE REPORT ON NICARAGUA

Mr. DURENBERGER. Mr. President, congressional approval of $27 million in funding for humanitarian assistance for the Nicaraguan democratic resistance reflected growing disenchantment with the dictatorial actions of the Sandinista regime and was a clear signal of our commitment to help those fighting to bring democratic change to that country.

During the most recent congressional debate on Nicaragua in June, there was considerable concern in the Congress that the United States continue to pursue a peaceful solution to the regional conflict in Central America through negotiations. At the same time, many of us in the Congress strongly urged that effective and comprehensive measures be taken to ensure that those we assist in the democratic resistance are maintaining acceptable standards of human rights performance.

Reflecting these concerns, the legislation approving humanitarian assistance to the United Nicaraguan Opposition [UNO] requires a report every 90 days from the President of United States efforts to promote a negotiated solution in Central America and on alleged human rights violations by the Sandinista government and the Nicaraguan resistance.

While progress in both areas is important, I am especially concerned about the human rights performance of all of the parties that are engaged in Nicaragua's civil war. The reimposition of a state of emergency by the Sandinista government on October 15 served as a final confirmation of the autocratic basis of Sandinista rule. Since that action, hundreds of religious activists, labor leaders, journalists, businessmen, and opposition politicians have been detained, interrogated, and threatened by Sandinista authorities. These antidemocratic actions only confirm the growing international understanding of the true nature of the Sandinista regime. It is clear that Sandinista security officials, such as Interior Minister Tomas Borge and Deputy Interior Minister Luis Carrion, fear democracy and abhor freedom, except for themselves. We should not expect much progress in human rights from people like Borge and Carrion.

This is why it is doubly important to me that the Nicaraguan democratic resistance must be held to a higher standard than its opponents. The abuses of the Sandinistas cannot justify other abuses by individual members of the resistance forces. The tactics of terror—torture and atrocities—must not be countered by more terror. With our commitment to the cause of the democratic resistance, in the form of open U.S. funding, comes the obligation to demonstrate that that cause is one of freedom and civilized conduct. The Nicaraguan people deserve an alternative to terror, and if the democratic resistance is to succeed in its objectives, it must offer that alternative.

In the past several months, there have been a number of improvements in the area of human rights by anti-Sandinista forces. I want to take this opportunity to support their efforts to establish human rights commissions at various levels. I'm especially pleased that a man of Arturo Cruz's stature has undertaken special responsibility in promoting better human rights practices among the resistance forces. The establishment of UNO's Human Rights Commission under Ismael Reyes, the former head of the Nicaraguan Red Cross, and the adoption of a code of conduct are both positive developments.

It is vitally important that the Reagan administration continues to strongly encourage these developments and to strengthen the democratic resistance's human rights organizations. In my view, some of the $27 million in humanitarian assistance provided by the Congress could be well spent in furthering these objectives, and I would urge the administration to fund carefully considered projects in this field. It would be especially helpful to have onsite reports from designated human rights officials on human rights offenses committed by resistance forces or by the Sandinista regime itself. These reports should be circulated as widely as possible so that Americans can become better informed about the human rights situation in Nicaragua.

I am looking forward to the next 90-day report for further evidence that the democratic resistance is serious about its commitment to human rights through punishment of human rights offenders and promulgation of a healthy respect for accepted international human rights practices among its troops.

It appears that UNO has made a good start in improving its human rights performance over the past several months. Just as important, the November 6 report implies that both the administration and UNO are fully aware of the importance of this issue to all Americans. UNO must now demonstrate that it is committed to living up to the promise contained in the President's report—it must move beyond good intentions and preliminary steps into the practical application and institutionalization of good human rights practices and monitoring in the field.

The State Department's Nicaraguan Humanitarian Assistance Office [NHAO] has achieved impressive results in a very short time. NHAO was created by an Executive order on August 29. During the month of September, NHAO's staff was assembled and Ambassador Robert Duemling was selected as NHAO's director. In less than 3 weeks of operation, NHAO has issued $13.25 million in program grants. Of this total, $10.8 million has been committed to specific purchases, and $4.4 million has actually been paid out.

At the same time, UNO has determined the allocation of resources through its requests to NHAO. The financial assistance to UNO has been spent as follows: 40 percent for clothing, 25 percent for food, 15 percent for gear—cots, canteens, tents, et cetera—10 percent for medicine and medical equipment, and 10 percent for transportation.

NHAO is getting aid through to the democratic resistance, but it is also scrupulously observing the guidelines imposed by Congress. U.S. funds go only for authorized goods and services. All commercial transactions are carefully scrutinized for such elements as competitive price and value received. Deliveries are closely monitored to prevent diversions. Detailed records of all transactions are kept, along with signed receipts of purchase.

Despite these successes of UNO and NHAO, several problems remain to be resolved. Transportation of supplies from the United States to Central America has been subject to complications and delays. The administration and NHAO are now trying to resolve these transportation snags. Second, UNO's lack of vehicles creates problems in moving supplies to forward areas and in extracting the wounded from battle zones in time to save their lives or to avoid the necessity of amputations. To make the aid more effective, NHAO must be permitted to supply vehicles to UNO for general use.

Our humanitarian assistance must be seen in the proper context. At the present level of funding, aid is keeping the democratic resistance alive, but it is not enough to tip the balance given the vastly superior resources available to the Sandinistas. Just as important, UNO has demonstrated an ability to attract ever-increasing support from the Nicaraguan people. UNO is a popular movement that has demonstrated its commitment and its vitality.

We must therefore begin to consider what further assistance is appropriate and in our interest. On the one hand, we must avoid inducing a debilitating dependency by UNO on the United States; on the other, we must demonstrate our own commitment and staying power, and not allow this program to simply disappear on March 31.

Officials in both Washington and Managua realize that 1986 will be the critical year in the battle for Nicaragua. If the Sandinistas are able to consolidate their rule by the end of next year, we may have another Cuba in the heart of Central America. If UNO is able to become truly unified and to bring the conflict to all parts of Nicaragua, then there may be hope for the democratic forces.

Mr. President, I ask unanimous consent that the President's November report as well as an article on human rights in Nicaragua from the Washington Post be entered in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFORTS TO PROMOTE A SETTLEMENT IN CENTRAL AMERICA AND IN NICARAGUA[1]

It has been the consistent view of the United States that the domestic and foreign policies of the Sandinista National Liberation Front (FSLN) are the root source of inter-state tensions in Central America. Sandinista policies are also the cause of the internal conflict in Nicaragua. Those policies have created a democratic resistance in Nicaragua. Those policies led the resistance to conclude that change in Nicaragua would be possible only through a resort to arms. Sandinista backing of insurgent groups, in the form of organization, command and control, training, communication and logistical support, has been the major factor in the level and duration of conflict elsewhere in the region, especially El Salvador. Both the domestic and foreign policies of the Sandinistas are at issue in the Contadora process, which is seeking a regional peace settlement among the five Central American states.

The United States seeks to change those policies in four ways that would benefit peace in Central America. We seek:

Termination of all forms of nicaraguan support for insurgencies or subversion in neighboring countries;

Reduction of Nicaragua's expanded military/security apparatus to restore military equilibrium in the region;

Severance of Nicaragua's military and security ties to the Soviet Bloc and Cuba and the return to those countries of their military and security advisers now in Nicaragua; and

Implementation of Sandinista commitments to the Organization of American States to political pluralism, human rights, free elections, non-alignment, and a mixed economy.

The United States has sought to achieve these objectives in two principal ways:

We have supported a verifiable and comprehensive implementation of the September 1983 Document of Objectives of the Contadora process as the best hope for achieving an enduring regional peace; and,

Consistent with Contadora principles,[2] we have urged the Sandinistas to enter into direct talks with the Nicaraguan democratic resistance and civil opposition.

U.S. SUPPORT FOR CONTADORA

As Secretary of State Shultz informed the International Court of Justice in August, 1984:

"The United States fully supports the objectives already agreed upon in the Contadora process as a basis for a solution of the conflict in Central America. The objectives of United States policy toward Nicaragua are entirely consistent with those broader agreed objectives and full and verifiable implementation of the Contadora Document of Objectives would fully meet the goals of the United States in Central America. . . ."

By design of Contadora's participants, the United States does not take part in the Contadora process. In October 1982, three months before Contadora's inception, the United States and seven other democratic states of the region sought to engage Nicaragua in a multilateral diplomatic dialogue. But the Sandinistas declined to receive the Costa Rican Foreign Minister, acting as emissary for the group, on the grounds that a dialogue with a group including the United States would be structured to its disadvantage. When Colombia, Mexico, Panama, and Venezuela subsequently initiated the Contadora process, they chose not to include the United States in order to meet this Sandinista concern. Informed of this decision through diplomatic channels, we indicated our understanding and support for this initiative.[3]

The means available to us to support these regional negotiations as a result are necessarily indirect. Our support has taken various forms. Since Contadora began, we have made it clear repeatedly, both publicly and privately, that we support Contadora objectives. The President expressed that support authoritatively on April 27, 1983, before a Joint Session of the Congress.[4]

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[1] Aspects of these efforts are also treated in Part III of United States Department of State Special Report No. 132: " 'Revolution beyond Our Borders': Sandinista Intervention in Central America." September, 1985.

[2] The Document of Objectives and all three drafts of a Contadora agreement provide for dialogue to promote national reconciliation.

[3] Ironically, Nicaragua in time objected to Contadora on the grounds that the United States was not a participant. This was a major reason why the Manzanillo talks were undertaken. President Ortega is reported to have suggested U.S. participation in the Contadora process during meetings with other Latin American leaders in New York, in October, 1985.

[4] The President stated U.S. support again in a July 23, 1983 letter to the Presidents of Mexico,

Shortly thereafter the President created the position of United States Special Envoy for Central America to give focus to that support and make it more effective.

Former Senator Richard Stone served as Special Envoy from May 1983 to February 1984. Ambassador Harry W. Shlaudeman was appointed U.S. Special Envoy in March 1984 and has served continuously since that time. In twenty months Ambassador Shlaudeman has made 34 trips abroad and held 179 separate exchanges with ranking officials.

The United States sought to support Contadora directly during nine rounds of bilateral talks with the Government of Nicaragua June-December 1984. Those talks were undertaken at the request of the Contadora Group for the express purpose of facilitating a successful outcome of the Contadora process. Nicaragua sought to use the talks to negotiate a bilateral settlement with the United States in lieu of a Contadora agreement. In January 1985 the United States declined to schedule further discussions pending demonstration that Nicaragua was prepared to negotiate seriously within the Contadora framework.[5]

U.S. SUPPORT FOR NATIONAL RECONCILIATION IN NICARAGUA

National reconciliation through dialogue in countries with armed insurgencies is a fundamental principle of the Contadora process. It was explicitly accepted by all five Central American states, Nicaragua included, in the September 1983 Document of Objectives. Although they signed the document of Objectives, the Sandinistas have consistently rejected dialogue with the Nicaraguan democratic resistance.[6] The Sandinistas seek instead to portray the crisis in Central America as deriving from United States hostility toward the Nicaraguan revolution. We believe that the Sandinistas' refusal to deal directly with their own people and with the legitimate concerns of their neighbors constitutes a major roadblock to peace in Central America.

Both the internal and external opposition have proposed dialogue. On February 22 the internal opposition set forth the conditions under which a national dialogue could be successfully conducted. These included the lifting of the state of emergency;[7] freedom of expression; a general amnesty and pardon for political crimes; restoration of constitutional guarantees and the right of habeas corpus; guarantees of the safety of members of the resistance movement who participate in the dialogue; and the implementation of these measures under the supervision of guarantor governments.

On March 1 the externally-based opposition (including representatives of the FDN, the Miskito group MISURA, ARDE, and prominent democratic civilian leaders such as Arturo Cruz) proposed a national dialogue to be mediated by the Nicaraguan Catholic Church. It included a mutual in situ cease-fire and acceptance of Daniel Ortega as President until such time as the Nicaraguan people decided on the matter through a plebiscite. On March 22, the Nicaraguan Catholic Church hierarchy (Episcopal Conference) issued a communique reiterating its support for a national dialogue and declaring its willingness to act as a mediator.

President Reagan on April 4 undertook an initiative to support these possibilities. A key feature was the offer to refrain from providing military assistance to the democratic resistance if the Sandinistas accepted the March 1 offer. Although the Sandinistas rejected (and continue to reject) dialogue with the democratic resistance, the President's initiative did serve to focus attention on this fundamental issue.[8]

In the context of Congressional consideration of the Administration's request for humanitarian assistance for the Nicaraguan democratic resistance, the President in a June 11 letter to Representatives Robert Michel (R-Ill.), Dave McCurdy (D-Ok.), and Joseph McDade (R-Pa.) stated that:

"I recognize the importance that you and others attach to bilateral talks between the United States and Nicaragua. It is possible that in the proper circumstances, such discussions could help promote the internal reconciliation called for by Contadora and endorsed by many Latin American leaders. Therefore, I intend to instruct our special Ambassador to consult with the governments of Central America, the Contadora countries, other democratic governments, and the United Nicaraguan Opposition as to how and when the U.S. would resume direct bilateral talks with Nicaragua. However, such talks cannot be a substitute for a church-mediated dialogue between the contending factions and the achievement of a workable Contadora agreement. Therefore, I will have our representatives meet again with representatives of Nicaragua only when I determine that such a meeting would be helpful in promoting these ends."

Ambassador Shlaudeman conducted such consultations with the governments of Central America and the Contadora Group in visits to the region in late June and early July, and in early September with the governments of the Contadora Support Group (Argentina, Brazil, Peru, and Uruguay). The Contadora Group and Support Group governments generally favored resumption and the Contadora Group publicly called on the United States to do so on July 22. Costa Rico, Honduras and El Salvador did not favor such a course (Guatemala did not express a strong view one way or the other). These Central American countries argued that the Manzanillo talks had distracted from and undermined the primacy of Contadora talks where they are the negotiators; that U.S.-Nicaraguan bilateral talks legitimized Sandinista efforts to portray the Central American crisis as a U.S.-Nicaraguan conflict amenable to full resolution through arrangements between those two countries; and that it would be particularly inappropriate for the United States to resume such talks in the aftermath of Nicaragua's disruption of Contadora negotiations in June.[9] Ambassador Shlaudeman also discussed the question with the leadership of the United Nicaraguan Opposition, which opposed resumption in the absence of the Sandinistas undertaking a serious dialogue with UNO. The subject was also regularly discussed in meetings with other interested governments during this same period.

On July 26, 1985, in Mexico City, Secretary Shultz explained the U.S. attitude toward national reconciliation and a resumption of bilateral talks with the Sandinistas as follows:

"Nicaragua's purpose [in the Manzanillo talks], as now, was to negotiate bilateral accords dealing on a priority basis only with its security concerns. The Nicaraguan communists refused then, as they refuse now, even to consider dialogue with the Nicaraguan democratic resistance. These conflicting purposes were never reconciled and hindered progress from the start.

"The United States ultimately concluded that the talks were detracting from instead of contributing to a comprehensive Contadora settlement. In deciding in January of this year not to schedule further meetings we made it clear that we were not closing the door to their possible resumption under appropriate conditions. On June 11 the President made public his readiness to have United States representatives meet representatives of Nicaragua when such a meeting would promote a church-mediated dialogue between the contending factions in Nicaragua and a workable Contadora agreement. . . .

"We will continue to consult closely with all parties with a view to judging the appropriateness of a resumption of bilateral talks. We strongly urge Nicaragua to begin a church-mediated dialogue as proposed by the United Nicaraguan Opposition and to return to multilateral negotiations within the Contadora Process to continue work on a comprehensive and verifiable regional accord."

THE CONTADORA PROCESS IN 1985

As 1984 came to a close, two draft agreements were under consideration within the Contadora process: a September 1984 revision of a June 1984 draft; and an October 1984 draft (the "Tegucigalpa" draft) that defined the position of Costa Rica, Honduras, and El Salvador. Following a period of private consultations among the participating governments, the Contadora Group scheduled a resumption of negotiations for mid-February. Nicaragua's refusal to respect the right of asylum, however, created a dispute with Costa Rica that prevented the February meeting from taking place. The dispute was resolved in March 1985 through Contadora Group mediation, and negotiations among Central American plenipotentiaries resumed in April.

The April 11-12 meeting resulted in agreement in principle on revised verification procedures. All five Central American governments reserved the right, however, to propose modifications. A second meeting, May 16-18, was devoted primarily to discussion of approaches suggested by the Contadora Group for resolving outstanding security issues. The May meeting focused in particular on those elements of the October

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Panama, Colombia, and Venezuela—the four Contadora Group countries.

[5] See "Revolution Beyond Our Borders," pages 29-30.

[6] The following statement by Tomas Borge, quoted in Daily Barricada, June 27, 1985, is characteristic: "We will negotiate with the Contras on the day the right wing parties and COSEP count all the grains of sand in the sea and all the stars in the sky. When they finish we will ask them to count them all again."

[7] First imposed in March 1982; additional civil liberties were suspended October 15, 1985.

[8] The President's April 4 initiative is described in: (1) "President Reagan Supports Nicaraguan Peace Process," United States Department of State Current Policy No. 682, April 4, 1985; (2) "U.S. Support for the Democratic Resistance Movement in Nicaragua," April 10, 1985: Unclassified Excerpts from the President's Report to the Congress Pursuant to Section 8066 of the Continuing Resolution for FY-1985, PL 98-473; (3) "The New Opportunity for Peace in Nicaragua; "April 17, 1985: Prepared Statement by Assistant Secretary of State Langhorne A. Motley, before the Subcommitte on Western Hemisphere Affairs of the House Committee on Foreign Affairs; and (4) "The Nicaraguan Peace Process: A Documentary Record;" Department of State Special Report 126,April 1985.

[9] See discussion of June Contadora meeting below.

1984 "Tegucigalpa" proposals of Honduras, Costa Rica, and El Salvador that the Contadora Group judged could be incorporated into the September 7 draft without difficulty. There reportedly was consensual acceptance of some of these non-controversial suggestions, particularly in the preambular section of the working draft.

At the conclusion of the May meeting, the Contadora Group governments circulated a proposal to resolve the more difficult security issues for consideration at the next meeting, in June. When the June meeting convened, the Nicaraguan delegate insisted that Contadora discuss renewed U.S. support for the Nicaraguan democratic resistance and refused to discuss the Contadora compromise proposal. Contadora Group efforts to have the Nicaraguan delegation reconsider were unsuccessful. In this situation, the June meeting was adjourned.

Nicaragua's disruption of the June meeting caused a suspension in the plenipotentiaries' negotiations that was to last four months. In July, the Contadora Group foreign ministers met in Panama to consider how the damage could be repaired. In a July 22 communique the Contadora Group Foreign Ministers announced their intention to consult bilaterally with each of the Central American governments in lieu of resuming talks.

The foreign ministers also called on Nicaragua and the United States to resume bilateral talks and on Costa Rica and Nicaragua to initiate a bilateral dialogue on a continuing series of Sandinista Army incursions into Costa Rican territory. After protesting innumerable such incidents in bilateral channels in vain, Costa Rica was prompted by a May 31 incident in which two Costa Rican Civil Guardsmen were killed on Costa Rican soil to seek an OAS investigation and condemnation of Nicaragua. The investigation established the facts, which pointed to Sandinista Army responsibility for the deaths. The OAS report refrained from stating that conclusion explicitly, however, and the OAS resolution deplored the incident instead of condemning Nicaragua and endorsed Nicaraguan and Costa Rican bilateral border talks within the Contadora framework. Costa Rica, which has relied on the Inter-American System for its national security, felt let down by the lack of forceful action and has been unwilling to hold the talks unless the Sandinistas satisfactorily explain the incident. Further incidents—in which Sandinista planes dropped bombs and fired a rocket into Costa Rican territory—took place on July 26 and August 21.

Three of the Central American governments—Costa Rica, Honduras, and El Salvador—on August 1 welcomed the visit of Contadora Group vice ministers and jointly proposed that the negotiations among plenipotentiaries should be reconvened as a prior step to developing a third draft. They proposed that the talks be strengthened by meeting in more prolonged sessions that would give the meetings a "permanent character." Following consultations August 3-8 between the Contadora Group vice ministers, Costa Rica, Honduras, and El Salvador formally reiterated this proposal September 4. The three governments also stated their view that the key remaining issues to be resolved were national reconciliation, arms and troop level reductions, and verification.

Nicaragua's disruption of the June meeting and the suspension of plenipotentiaries' talks produced generalized concern that the Contadora process was in difficulty. Special Envoy Shlaudeman consulted with the Contadora Group and democratic Central American governments following the aborted meeting in June to urge that the meetings of plenipotentiaries be reconvened. Ambassador Shlaudeman also expressed the U.S. view that any procedural or substantive inducement to Nicaragua to return to the process would invite further disruption and counseled patience. Ambassador Shlaudeman was asked by one Contadora Group government if the United States would, at an appropriate opportunity, publicly reaffirm its support for the Contadora process. The Secretary of State Shultz did so on July 26, in Mexico City:

"The United States fully supports efforts to achieve a political solution to the Central American crisis. We have given strong support to the efforts of the Central Americans themselves, assisted by the Contadora Group, to achieve a negotiated settlement. In our view, there exists in the Contadora Document of Objectives a fair, comprehensive and balanced framework for such an outcome. We expressed our support for a comprehensive and verifiable implementation of the Document of Objectives when it was agreed in September 1983. We reaffirm that support today."

The suspension of talks prompted expressions of support for Contadora from other governments as well. Following consultations with the Contadora Group governments, the governments of Argentina, Brazil, Peru, and Uruguay on July 28 formed a "Contadora Support Group." The foreign ministers of these governments met with the Contadora Group foreign ministers in Cartagena, Colombia August 23-25 to consult on how that support could be provided most effectively. A joint communique issued by the eight governments stated that there would be regular consultations among the governments in support of the negotiating process but did not, by mutual agreement, contemplate the direct participation of the Support Group governments in Contadora deliberations.

Ambassador Shlaudeman visited Buenos Aires, Montevideo, Brasilia, and Lima, the four Support Group capitals, September 10-13 to convey U.S. support for Support Group activities. The Department of State had made an official statement on August 26 welcoming formation of the Support Group, following the meeting in Cartagena. In his discussions, Ambassador Shlaudeman suggested it would be useful for the Support Group to consult directly with all the Central American governments; to urge the Sandinistas to accept the proposal of the United Nicaraguan Opposition for a church-mediated dialogue; and to meet directly with UNO leaders to form first-hand judgments as to their purposes and programs. He also briefed the Support Group governments on the Manzanillo talks and outlined United States views on the requirements for an effective and lasting peace in the region.

Costa Rica, Honduras, and El Salvador jointly requested a meeting with the Support Group governments during a September 12-13 meeting of Contadora process foreign ministers in Panama. The Support Group foreign ministers declined the request, however, out of concern that such a meeting not interfere with the Contadora process itself.

The four Contadora Group foreign ministers presented the five Central American foreign ministers a third draft of a Contadora agreement at a meeting in Panama September 12-13. The nine ministers agreed to convene negotiations on October 7, 1985 with the aim of reaching final agreement in a period not to exceed 45 days.[10] It was also agreed that discussion would be devoted exclusively to the timing of entry into effect and duration of commitments; control and reduction of armaments; verification in security and political matters; military exercises; and operational matters that must be addressed in order to implement an agreement. It was further agreed that incidents or developments in the region would not be discussed in the meetings or condition the participation of any delegations. The Contadora Group ministers stressed that the Central American states have exclusive responsibility for reaching agreement.

The first round of talks were held October 7-11, 1985 on Contadora Island, off the coast of Panama. A second round of talks was held October 17-19.[11] A third round is currently scheduled for November 6-9. While various delegates have characterized the talks in comments to reporters, the participating governments have refrained from issuing any joint statements or communiques.

U.S. DIPLOMATIC CONTACTS WITH NICARAGUA

The United States has continued, since declining to schedule further meetings in the Manzanillo talks, to have diplomatic contacts with Nicaraguan government officials, in Managua, Washington and other capitals. Secretary Shultz, for example, met with Nicaragua President Ortega March 2 in Montevideo, during the inauguration of President Sanguinetti. Vice President Bush spoke with President Ortega during the inauguration of President Sarney of Brazil March 16. There have been a number of contacts between Ambassador Bergold and Sandinista Government officials, as well as contacts at a lower level. In Washington, there have been meetings between Nicaraguan Ambassador Tunnermann and National Security Council officials and with Assistant Secretary of State for Inter-American Affairs Elliott Abrams.

The United States sought a meeting for Ambassador Shlaudeman with a high-level Nicaraguan official on the margins of the United Nations General Assembly this fall. The Nicaraguan Government initially accepted a meeting between Ambassador Shlaudeman and Assistant Secretary Abrams and Foreign Minister D'Escoto. The Nicaraguan Government then proposed, however, to send a lower ranking official to the proposed meeting. Ultimately, Nicaragua accepted the U.S. suggestion that Ambassadors Shlaudeman and Tunnermann meet in Washington. The two ambassadors met on October 29 and October 31, 1985.

In the October 29 meeting Ambassador Shlaudeman informed Ambassador Tunnermann that the United States would be prepared to resume bilateral talks if the Sandinistas were to accept the March proposal of the United Nicaraguan Opposition for a church-mediated dialogue and cease-fire. Ambassador Shlaudeman said that progress in this dialogue would make it possible to resolve U.S.-Sandinista bilateral problems. Ambassador Tunnermann responded on October 31 that the Government of Nicaragua

[10] It has been suggested by some Contadora Group government officials that this refers to negotiating, not calendar, days.

[11] Several delegations noted the presence on Contadora Island during the talks of German Sanchez, an official of the Americas Department of the Cuban Communist Party.

rejects dialogue with the democratic resistance.

THE PRESIDENT'S INITIATIVE ON REGIONAL CONFLICTS AND THE U.S.-SOVIET EXPERTS' TALKS

On October 24, in his address to the United Nations General Assembly, President Reagan presented an initiative on regional conflicts that is intended, in part, to support the Contadora process and an end to the conflict in Nicaragua.

President Reagan's initiative aims at achieving peace and internal reconciliation, ending foreign military involvement, and fostering economic reconstruction in five of the most pressing international conflicts: Afghanistan, Cambodia, Angola, Ethiopia and Nicaragua.

The President's plan sets forth a comprehensive and flexible framework for cooperation toward these goals among the warring parties themselves, between the U.S. and the Soviet Union, and among other interested parties. The plan, which would complement and bolster existing peace-making efforts, involves action at three levels:

The starting point is a process of negotiation among the warring parties themselves. "The form of these talks may and should vary," the President explained, "but negotiations—and an improvement of internal political conditions—are essential to achieving an end to violence, the withdrawal of foreign troops and national reconciliation."

The second level involves joint United States-Soviet talks about how best to support the ongoing talks among the warring parties, when those negotiations make genuine progress. "In every case," the President said, "the primary task is to promote this goal: verified elimination of the foreign military presence and restraint on the flow of outside arms."

The third level entails an international effort to welcome these countries back into the world economy. The President pledged the United States would respond generously to their democratic reconciliation with their own people, their respect for human rights, and their return to the family of free nations.

This plan puts the primary responsibility on the parties in conflict themselves to reach accommodation; as the President points out, it is not for the United States or the Soviet Union to impose solutions. Yet it also provides a framework for the Soviet Union to cooperate with the United States in helping to bring peace to Nicaragua.

Pursuant to a 1984 presidential proposal, the United States and the Soviet Union held experts' talks on Central America and the Caribbean October 31-November 1 in Washington. The talks were the fifth in a series of such exchanges on regional issues. Previously experts' meetings (at the level of Assistant Secretary) treated East Asia, Afghanistan, the Middle East and Southern Africa.

The purpose was to clarify U.S. policy, making it clear that the United States intends to defend its interests, and thereby reduce the possibilities of unnecessary conflict. The talks held so far have been useful in understanding the Soviet position and making the Soviets understand the U.S. position. As the foregoing indicates, the experts' meetings were held under the rubric of the President's 1984 proposal, not the 1985 initiative on regional conflicts, and were in no sense negotiations.

ECONOMIC AND TRADE MEASURES

Both the National Bipartisan Commission on Central America and the Congress have recommended use of trade and economic measures to promote a resolution of the conflict in Central America and Nicaragua, and we have regularly consulted with our trading partners and allies on this question. Positive economic incentives for Nicaragua to resolve its internal conflict have formed an integral part of every proposal the United States has made to the Sandinistas since they came to power in 1979. The President's October 24 initiative on regional conflict (see above) proposes generous economic aid where democratic national reconciliation takes place.

Even prior to the United States embargo imposed in May, 1985, Nicaraguan trade with the United States, Latin America, and other traditional trading partners had been declining because of Nicaragua's lack of credit worthiness. The composition of foreign aid to Nicaragua had also changed dramatically, with the Soviet Bloc replacing the West as primary credit suppliers and as aid donors. Any increased aid from Western donors is likely to go to regional institutions such as the Central American Bank for Economic Integration (CABEI). Neither CABEI nor most of the multilateral financial institutions are presently approving new loans to Nicaragua owing to its serious payment arrearages to many of these institutions. Nicaragua's dependence on the Soviet Union and its allies is expected to continue to increase, although not at levels sufficent to offset its economic decline.

HUMAN RIGHTS ISSUES

THE NICARAGUAN DEMOCRATIC RESISTANCE

The Sandinista regime's intolerance of dissent has resulted in a growing democratic resistance movement in Nicaragua. The most prominent leaders of this movement had been leaders of democratic sectors in the broad coalition which eventually overthrew former Nicaraguan President Anastasio Somoza. They were forced into opposition by the Sandinistas' betrayal of the promise of a pluralistic system, one of the principal goals for which the 1979 revolution was fought. Refusing to pursue internal reconciliation, the Sandinistas instead have taken increasingly repressive measures to silence the democratic opposition and consolidate a totalitarian system. As a result, increasing numbers of Nicaraguans from all walks of life have felt compelled as a last resort to take up arms against the regime. Today, the democratic resistance has approximately 18,000 men and women under arms and shows every indication of continuing to grow in strength.

Resistance forces have been charged by the Sandinista regime with a wide range of human rights abuses, from forced recruitment to rape and summary execution. These allegations have received broad coverage in the government-owned media and have been disseminated abroad through international human rights organizations and foreign groups active in Nicaragua and sympathetic to the Sandinista regime. Many of these allegations are either false or greatly distorted. Some excesses, however, including instances of forced recuritment and summary execution of military prisoners or, in certain cases, Sandinista officials and regime informers, may well have occurred. It is also clear that individual soldiers in the course of combat have committed random abuses or atrocities. Such violations are unacceptable, and resistance leaders are keenly aware of the necessity of improving the performance of their troops in this area. The principal resistance group, the United Nicaraguan Opposition (UNO), has taken measures to eliminate human rights violations committed by soldiers subordinate to its direction.

As in any conflict, there has been a serious lack of reliable information on human rights abuses that occur in isolated combat zones. While UNO has begun to record instances of abuse by its personnel, as well as remedial or punitive measures taken in response, such information was not in the past collected on a systematic basis.

Heretofore, the only regularly received allegations of resistance violations have come from Sandinista sources. These allegations have been biased, grossly exaggerated and often false. This conclusion is supported by residents in communities where atrocities allegedly have been committed and by the testimony of Sandinista defectors who were directly involved in implementing official policy. A key element in the Sandinista campaign has been the fabrication of charges of human rights abuses and, in some cases, attribution to the resistance of atrocities actually committed by Sandinista forces. The following cases illustrate these tactics:

In April 1985 U.S. Embassy personnel in Honduras, seeking information concerning resistance abuses, interviewed a number of Nicaraguan refugees. One woman related that a Cuban operating with Sandinista troops had executed seven farmers in her home village in December 1983 after an attack by the resistance. The farmers were considered resistance sympathizers by the authorities. The murders were publicly attributed by the authorities to the resistance. The true facts were later circulated by residents who had witnessed the killings.

In a complaint filed through his mother in the summer of 1985 with the independent Permanent Commission on Human Rights, a Sandinista soldier stated that he had been severely pressured by military authorities to issue statements claiming he had been abused while held captive by the resistance. He said that although he had been exposed to resistance political views, he had been well treated and given medical assistance. He was asked if he wanted to join the resistance, but when he refused he was escorted some distance from the camp and released. The soldier refused to make the statements sought by the authorities. He was then beaten badly and turned over to State Security. The soldier stated that he had been warned that he would be held in jail until he cooperated with the authorities in their disinformation campaign.

A Sandinista Army deserter, now fighting with the resistance, said he decided to go over to the other side when his unit carried out orders to execute two campesinos specifically for the purpose of blaming yet another atrocity on the "Contras."

According to those on the scene, a government press story that FSLN and neighborhood defense committee members had been brutally murdered in an August 1, 1985 "Contra" attack on Cuapa was false. Witnesses said the encounter was a military-to-military engagement which left a number of Sandinista soldiers dead; there were no civilian casualties. Following the fight, the resistance troops held a town meeting with residents, after which they left. Nevertheless, there were press reports that the "Contras" had not only murdered innocent civilians, but skinned their faces. It appears that the Sandinistas mutilated the bodies of some of their own casualties to substantiate such a charge.

The incidents cited above represent cases where available information suggests that the facts have been purposely distorted by the Sandinista regime. In most instances, however, it is not possible to confirm or deny allegations presented by the regime, a situation that should be partially remedied by more complete information being collected by UNO.

There is reason to believe that the resistance has in the past abducted civilians. Statements from a number of sources who have themselves been taken by the resistance indicate a pattern in which civilian prisoners, under reasonable humane circumstances, are exposed to "political indoctrination" (i.e. lectures on resistance goals, abuses of authority by the Sandinistas, etc.), given food and medical treatment, and offered one of three choices: joining with the resistance; accepting refugees status in another country; or returning to their homes.

An example is provided in the case of seven members of Sandinista "education brigades"—squads of young adults who provide basic education in rural areas—who were taken prisoner by the resistance at various times and places. Rather than return home, they have chosen to remain with the armed opposition. In letters sent to their families through the Red Cross in April 1985, the former brigadistas speak openly of their opposition to the policies of the Sandinista regime and their desire to see a free and democratic Nicaragua. Several of them vociferously reject allegations of opposition abuses. The Sandinistas continue to use the "kidnapping" of these and other brigadistas in propaganda charges against the resistance.

There have been civilian casualties from resistance attacks, in some cases as a direct result of the Sandinista policy of placing civilians in situations in which they are likely to be endangered during attacks on legitimate military targets. This was true, for example, in the July 1985 deaths of eight women who were being transported in a military vehicle, along with soldiers, to visit their sons at the front.

There is no reliable information to confirm that military prisoners have been executed by resistance forces, although such executions may have occurred. Summary executions are contrary to accepted rules of conflict, regardless of the circumstances contributing to the practice.

Since its establishment in June 1985, UNO has taken steps to prevent human rights violations by establishing an office of human rights to educate troops on proper conduct towards both civilians and prisoners of war. During their basic military training, UNO troops receive one hour of instruction daily on human rights based on the Geneva Conventions, the American Convention on Human Rights, UNO's "Code of Conduct," and the "Manual of the Combatant." The "Manual of the Combatant" emphasizes humane treatment of enemy prisoners and wounded and respect for the property and well-being of innocent civilians. UNO's "Code of Conduct" sets forth specific punishments for criminal acts, including those against civilians.

Arturo Cruz, a member of the UNO Directorate, has been assigned special responsibilities for overseeing measures to promote respect for human rights by UNO forces. Ismael Reyes, the former President of the Nicaraguan Red Cross, has been named head of the UNO Human Rights Commission. UNO has also created a "red cross" society to promote the humane treatment of military prisoners. In establishing this informal "red cross" society, UNO leaders have emphasized in communications with the International Committee of the Red Cross the organization's intent to abide by the provisions of the Geneva Convention of 1949, in particular those regarding the humanitarian treatment of prisoners, enemy wounded and civilians.

UNO/FDN also has corresponded with the International Committee of the Red Cross to institute a regular mechanism under which prisoners can be released and/or exchanged. Although a decision is pending on the UNO/Nicaraguan Democratic Force (UNO/FDN) request for assistance in this endeavor, a number of prisoners have already been released. On May 13, 1985, 17 prisoners were released in the presence of witnesses in the towns of La Batea, El Espabel and El Cacao. Another nine were set free on September 19, again in the presence of witnesses, in the Somotillo/Rio Negro area of Chinandega Department. While comprehensive information is lacking concerning conditions of imprisonment, it is possible to confirm that some, such as the Sandinista soldier mentioned earlier, are detained under humane conditions.

UNO has provided Red Cross offices lists of Sandinista prisoners and dead and information regarding persons reported missing. It has forwarded letters from Sandinista prisoners. UNO has also invited the Inter-American Commission on Human Rights to send a representative to observe the conduct of its forces in the field.

A recent report prepared by the Director of the UNO Commission of Human Rights reviews twenty-one cases in which members were accused under the "Code of Conduct" of crimes ranging from theft to homicide and lists punishments accorded those found guilty. Of the 21 persons whose court-martials are addressed in the report, 19 were convicted and two found innocent. The two murder cases were a case of accidental shooting and a "crime of passion" involving only members of the FDN. In one of the cases, the defendant had stolen a horse and a pistol from a Nicaraguan civilian. Because of his mistreatment of a civilian, the normal two-year sentence was doubled.

Nineteen UNO/FDN combatants are reported currently held in detention facilities at resistance camps, serving sentences imposed in accordance with the "Code of Conduct." resistance members have also been expelled from the movement for criminal actions which may have involved human rights abuses. The punitive measures taken against human rights offenders and the efforts underway to improve the resistance record clearly indicate that the resistance leadership does not condone human rights violations and has taken positive action to prevent their occurrence.

THE SANDINISTA REGIME

On October 15, Daniel Ortega announced a new State of Emergency suspending virtually all civil liberties in Nicaragua. The decree signaled an escalation in the assault on basic freedoms, providing further legal underpinning to the consolidation of a totalitarian regime. The 1982 State of Emergency was partially lifted in 1984 as part of pre-election atmospherics; in reality, the policy of intolerance towards dissent continued in force through arbitrary arrests, detentions, and interrogations and the forcible disruption of religious, political, private sector, and labor activities. The new decree suspends the following rights and freedoms:

"Freedom of expression; freedom of the press; the right of assembly; the right to trial by jury; the right to be considered innocent until proven guilty; the right of habeas corpus; freedom from arbitrary imprisonment; freedom of movement; the right to form labor organizations and to strike; the right to found and advance community, rural and professional organizations; and the right to found and advance cooperatives.

It was subsequently clarified in the National Assembly on October 30 that certain rights are to remain in effect—the right to a jury, the right to an attorney, and the right to habeas corpus—but only for those not accused of crimes against "the security of the nation and public order." The decision as to what constitutes a crime against national security or public order rests with the Sandinista authorities, and it is apparent that ordinary political and civic activities are being placed in that category.

The Sandinistas have offered several rationales for the further oppression of the Nicaraguan people, among which they include the need to protect the public against the armed resistance. There would seem to be a striking inconsistency in attempting to close ranks against an opponent—particularly one allegedly enjoying little or no public support and whose defeat, according to the regime, is imminent—by launching an assault on the public at large. Analysis of the rising level of domestic unrest in the months preceding the announcement suggests that the actual motive was a sense that diminishing public support for regime policies had reached a dangerous level.

The crackdown was particularly directed at the Catholic Church, traditionally one of the strongest institutions in Nicaragua. The October 15 decree followed a series of Sandinista actions against the Catholic Church, including the forced induction of eleven youths preparing for the priesthood; armed raids on the broadcasting facilities of Radio Catolica and disruption of transmissions of Cardinal Obando y Bravo's homilies; confiscation of the newly-published Church newspaper La Iglesia and seizure of the printing equipment used in its publication; and occupation of the Church Curia Social Services offices. The authorities have now intensified the attack not only on the Church—some of the most prominent leaders of which have been vilified as counterrevolutionaries in the government press—but on virtually all other sectors of the opposition.

Agents of State Security have rounded up leaders of political, private sector, labor, and Church organizations, subjecting them to interrogations and threatening further action should they fail to observe the new prohibitions. One labor group, the Nicaraguan Workers Central (CTN)—associated with the Social Christian Party—has been closed down and three of its officials arrested and interrogated; political leaders have been warned against the issuance of public statements or holding of political meetings; and thousands of worshippers have been prevented by force from attending masses given by Cardinal Obando. Over a hundred persons have been rounded up and paraded as the centerpiece in the Sandinista campaign against the "internal front," another justification offered by the Sandinistas for their actions against the public. The policies now in force are clear evidence of the regime's totalitarian goals, and underscore the growing level of popular alienation from the regime.

A sinister backdrop to these actions has been provided by the revelations of a recent Nicaraguan director, Jose Alvaro Baldizon. The former chief investigator of the Special Investigations Commission, an immediate subordinate to Interior Minister Tomas Borge, Baldizon has offered detailed information, as well as supporting documents, indicating that the Sandinista regime engages in massive violations of human rights as a matter of policy. According to investigations carried out by Baldizon himself, the regime has sanctioned the summary execution of hundreds of Nicaraguans perceived to be "potential enemies of the revolution."

Specific cases investigated by Baldizon concern the application of "special measures" (execution) to 150 Miskito Indians and 300 campesinos, religious activists and political opponents. The most well-known of the Sandinistas' victims was Jorge Salazar, former Vice President of the Superior Council of Private Enterprise (COSEP), who was gunned down by State Security in 1980. Baldizon stated that weapons were placed in Salazar's vehicle after he was killed to lend credence to the charge that Salazar was planning armed insurrection in Managua. Baldizon further states that the policy of assassination has not been codified in a strict and highly-secret system of regulations governing the selection and execution of "potential enemies," authorization for which must be obtained in writing from Interior Minister Borge or his first deputy, Luis Carrion.

Baldizon's charges do not stand alone. They are complemented by a considerable body of information concerning Sandinista atrocities, some of which confirms the specific cases cited by Baldizon. The following examples represent only a small part of the information available on such abuses:

On April 16, 1985, forces of the armed resistance attacked the Atlantic Coast town of Bluefields, during the course of which they freed prisoners held at the local garrison. While some of those freed fled with the resistance when the Sandinistas counterattacked, about 20 unarmed youths took shelter under a building. The Sandinista Army took the prisoners into custody. Town resisents testify that the bodies of all of the youths were subsequently seen in a pile of "contra" corpses put on display as an example to local residents.

The Sandinistas have carried out extensive mining of border areas and around villages vacated at their orders. Although the ostensible purpose of the mining is to deny use to resistance forces, in fact many of the victims have been persons fleeing to the safety of Honduras. Indian villages in Mosquitia were similarly mined, and Indian guerrillas have stated that at least six persons have been killed by the mines when returning to their homes under Sandinista auspices.

According to a complaint filed with the Sandinista-sponsored human rights commission, several persons at the Carcel Modelo at Tipitapa went on a hunger strike in January 1985 to protest their continued detention on charges of which they were innocent and the conditions under which they were being held. As a result, they were brutally beaten, tortured, and held in isolation. There are other reports of mass executions of prisoners, including eight who headed an uprising at the Zona Franca prison in 1981.

Another complaint, filed with the independent Permanent Commission on Human Rights, relates the torture of Sofonios Cisneros Leiva, a 60-year old engineer and community leader, at State Security facilities. Cisneros was arrested the night of May 14, 1985, following a meeting he organized to discuss parental concerns over the forced Marxist indoctrination of their Church-schooled children. Cisneros was tortured by Lenin Cerna, head of State Security, who threatened to kill Cisneros, warned him to remain silent concerning his arrest, and had him dropped off naked on the Masaya highway.

According to residents in several villages, Sandinista troops have conducted deliberate attacks on civilians in order to attribute the atrocities to the resistance. For example, in March 1985 a hand grenade was thrown by Sandinista troops into a house at Los Cerritos, killing a husband and wife and their two children. In other cases, the forcible relocation of families from areas of popular support for the resistance has been accompanied by the burning of family homes and possessions, slaughter of livestock, and physical brutality against those reluctant to depart. There have been reports that persons who have refused to leave have been shot as an example to others. Resistance forces frequently report the use of indiscriminate fire by the Sandinistas in counterattacks, leading to the deaths of numerous civilians.

A Nicaraguan employee of the United Nations, Javier Ivan Blandon, disappeared while on a visit to Managua in January 1985. We understand he had come into conflict with the Sandinistas over his travel documents. Blandon's body was later returned to his family in a sealed coffin, with the official explanation that he had been killed in an Air Cubana crash. His name was on a passenger list shown to the family. Baldizon states that Blandon was murdered by State Security, and that the cooperation of the Cubans was enlisted in having his name added to the passenger list of a recent airline crash.

Martha Lidia Murillo Vallejo, a nine-year old from Jinotega, related to Honduran authorities that her father was shot by the Sandinista military in November 1984 while he and the family were picking coffee. The reason: he had refused to join the military. The rest of the family, including children, fled from the scene and were also killed. Martha escaped and hid with her uncle, who later took her to the Honduran border. There he was shot by Sandinista soldiers, and Martha was bayoneted in the neck. When she regained consciousness, she was hit in the head with a rifle butt and left for dead. She was found by resistance forces, who carried her to a nearby home. The facts of the massacre were confirmed by an official from Jinotega.

In July 1985, Sandinista soldiers near San Isidro reportedly tortured to death Ismael Cantarero because he refused to join the Patriotic Military Service. Cantarero's hands and feet were cut off.

Although the incidents related above represent only a fraction of the evidence available concerning the deliberate violation of basic human rights by the Sandinistas, there has been remarkably little publicity given to these abuses. Indeed, several reports from private human rights organizations and activists either ignore entirely Sandinista abuses or dramatically understate the significance of those abuses. Statements by Baldizon and other Sandinista defectors indicate that this imbalance is at least partially a result of a skillful, highly-organized official disinformation program.

Mateo Guerrero, a former Executive Director of the Sandinista-sponsored human rights commission (CNPPDH) who has received asylum in the United States, has publicly discussed the way in which the organization has evolved into a a propaganda tool for the regime. While the CNPPDH has always faced serious restrictions on its ability to investigate allegations of official abuses, in January 1985 CNPPDH was specifically ordered by the Foreign Ministry to cease any further efforts to do so. Guerrero further states that on several occasions reports actually written by the Foreign Ministry were published as CNPPDH documents. CNPPDH was instructed to lend full assistance to persons or groups favorably disposed to the regime who were preparing human rights reports.

In the case of Reed Brody, a New York attorney, this assistance included the payment of all expenses, including food and lodging, provision of a chauffeured car, arrangement of all interviews and provision of a list of "appropriate" cases for investigation. Mr. Brody nevertheless explicitly stated in his introduction to the study "Attacks by the Nicaraguan 'Contras' on the Civilian Population" that, although the idea for the report was conceived by the law firm of Reichler and Appelbaum (a registered agent of the Sandinista regime), neither he nor any other member of the investigations team received any form of compensation or reimbursement for their expenses, travel and living expenditures having been paid by the team members themselves. Brody's disclaimer conceded only that the team stayed in a house belonging to the regime for "part" of the visit and had used office space provded by CNPPDH. Another defector has stated that Brody selectively edited his evidence to eliminate any statements supportive of or favorable to the resistance. As a rule, inquiries to the CNPPDH and other official agencies from human rights organizations concerning allegations against the regime are satisfied by providing deliberately false information deflecting or significantly mitigating the charges.

In an effort to ensure the "correct" ideological perspective within CNPPDH, two purges of membership have been engineered by the regime. By 1982, many of the original members were replaced, in some cases because their defense of human rights per se was too vocal and too independent. Edgar Macias, a leader of the Popular Social Christian Party, went into exile after being labeled a "U.S. intelligence agent." He was followed by Ismael Reyes Rojas, president of the Nicaraguan Red Cross, whom the Sandinistas accused of embezzlement and counterrevoilutionary activity. In July 1985, following Guerrero's defection, the entire membership was changed. The new members were all staunch supporters of the FSLN.

In further illustration of the CNPPDH's role as a propaganda arm, we note that in 1984 only two reports were issued, both of which addressed only allegations of resistance abuses. Concerning the regime, the documents stated only that it "was operating under a declared state of emergency." In 1985, no reports had been issued as of August. On the other hand, if the CNPPDH does not carry out investigations into abuses, it does play a vital role in meeting with foreign delegations for the purpose of denouncing the resistance. In January 1985, Alejandro Bendana of the Foreign Ministry announced to CNPPDH members that he would personally direct the group's activities in order to promote an international of-

fensive by the Sandinistas to denounce alleged abuses of the resistance.

Baldizon adds counterpoint to Guerrero's report, stating that the CNPPDH was routinely denied access to any information concerning official abuses. He explained that his own extensive investigations were used to create elaborate cover stories, precise to the detail, which explained away Sandinista atrocities by showing the victims had fled to other countries, been killed by the resistance, or been killed while escaping. In a few instances, for the sake of credibility, individual soldiers were "found guilty" of abuses and brought to justice in show trials at which they received lengthy prison terms. (Baldizon states that these men were later quietly released, after attention had subsided, and sometimes were given government jobs in other areas of the country.) Such disinformation has been regularly disseminated to international human rights organizations.

HUMANITARIAN ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

On August 29, 1985, the President signed Executive Order 12530 creating the Nicaraguan Humanitarian Assistance Office (NHAO) for the purpose of disbursing $27 million in humanitarian aid to the Nicaraguan democratic resistance. On September 9, the President designated Ambassador Robert W. Duemling as Director of NHAO.

The NHAO staff consists of the Director, five supervisory and two clerical personnel, all detailed on a non-reimbursable basis from federal agencies (State, AID and USIA), with the exception of the Director, whose salary is reimbursed to State from the humanitarian assistance program funds. Office space in a government-leased building is charged to program funds, but furnishings and equipment have been borrowed at no charge. Administrative support, including legal advice from the Office of the Legal Adviser, is provided by the Department of State.

The Executive Order assigned responsibility for policy guidance to the Secretary of State and his designees. The Secretary has established a Senior Inter-Agency Group, chaired by the Under Secretary for Political Affairs, to establish basic policy and exercise oversight of NHAO activities; policy guidance for day-to-day NHAO operations is provided by the Assistant Secretary of State for Inter-American Affairs, who chairs an inter-agency group that assures effective coordination.

As a matter of policy, the United Nicaraguan Opposition (UNO) was designated to be the initial recipient for humanitarian assistance distributed by NHAO. UNO is an umbrella organization which brings together the largest number of anti-Sandinista political and paramilitary elements. It is led by Adolfo Calero, Arturo Cruz and Alfonso Robelo; its principal components include the Nicaraguan Democratic Force (UNO/FDN), the Armed Forces for Revolution in Nicaragua (UNO/FARN), and a coalition of Atlantic Coast Indians and Creoles (UNO/KISAN). Using UNO as a conduit for assistance serves the policy objective of encouraging cohesion within the democratic resistance; it also simplifies administrative procedures and restrains administrative costs.

METHOD FOR FUNDING

NHAO is disbursing funds for four basic categories of goods and services: food, clothing, medicine and medical care, and equipment. NHAO also provides funds for transporting supplies to the field.

Funds for these goods and services are being provided to UNO through a series of grants, each of which obligates a fixed amount of humanitarian assistance funds for the use of UNO, subject to certain terms and conditions. While the grant gives UNO a conditional legal entitlement to the funds, NHAO retains actual possession of the funds and administers their disbursement. To date, three major grants totaling $5.5 million and a smaller grant of $25,000 have been issued. Once a grant has been issued, UNO identifies the goods or services it needs and a suitable vendor, and negotiates the terms of a proposed sale to UNO. These terms are set forth on a pro forma invoice which UNO submits to NHAO. The pro forma invoice is reviewed by NHAO to ensure that the goods or services are humanitarian assistance within the meaning of the law, and that the payment requested is appropriate for value received. NHAO also monitors the quantity of items, to assure against an oversupply so substantial as to suggest a possible risk of diversion. If the proposed purchase is approved, NHAO authorizes UNO to make the purchase. NHAO signals its approval to the vendor through issuance of a letter of commitment. After shipment or delivery has been verified, NHAO pays the vendor directly from UNO grant funds.

Monitoring and verification of procurement and delivery take several forms, depending on location. Within the United States, NHAO representatives are able to make on-site inspections of supplies as they are aggregated for shipment to the field. To monitor supplies and services contracted and delivered abroad, NHAO relies on reports from all available sources to confirm that actual transactions conform to the relevant documentation.

DELIVERY INCIDENT

On October 10, an UNO charter flight paid for by NHAO carrying supplies purchased under NHAO auspices landed apparently without permission in Tegucigalpa, causing the Honduran Government to take custody of the cargo. Discussions between the American Embassy and the Honduran Government resulted in the cargo being released and returned to the United States.

SUMMARY OF PAYMENTS

Following is a summary of NHAO disbursements and commitments to pay, through October 31, 1985.

NAHO Grants to UNO (to be disbursed through letters of commitment): Grant 601, $1,000,000 (Issued October 3, 1985); Grant 602, $1,500,000 (Issued October 15, 1985); Grant 603, $3,000,000 (Issued October 29, 1985); Total $5,500,000.

In addition to the above three grants for food, clothing and medical supplies, NHAO issued a small fourth grant signed October 17, 1986 for $25,000 (Grant 641-001) to fund an UNO office in Washington, DC. The grant stipulates that the activities of that office must be strictly limited to the provision of liaison services between UNO and NHAO to facilitate the operation of the program. This liaison office grant differs from the other three in that it permits UNO to receive a small advance payment of cash to cover administrative expenditures, which expenditures must be documented and justified before further cash advances are made.

UNO expenditures from grants through October 31, 1985:	
Total humanitarian assistance..	$4,660,928
Food	1,257,189
Clothing	2,070,807
Medical	553,421
Equipment	639,561
Transport	139,950
Total UNO Liaison Office expenses	7,500
NHAO expenditures through October 31, 1985:	
Total administrative expenses..	23,640
Direct personnel costs	13,374
Travel	4,800
Office rent	3,666
Telephone toll calls	1,200
Miscellaneous	600
Grand total	4,692,068

[From the Washington Post, Dec. 15, 1985]

SANDINISTAS INTERROGATE OPPONENTS—300 REPORTEDLY HELD FOR QUESTIONING

(By Edward Cody)

MANAGUA, NICARAGUA.—Sandinista security officials have tightened censorship during the past two months and, through arrests and interrogations, have issued a series of tough warnings to leading dissidents in political parties, labor unions and the church.

The increased pressure against government opponents has taken place in the framework of stiffened emergency restrictions decreed Oct. 15 by President Daniel Ortega. Measures flowing from that decree have created an atmosphere of heightened determination by the Sandinista leadership to block political opponents from any actions that could assist, even indirectly, U.S.-sponsored rebel forces fighting to overthrow the government.

Lino Hernandez, a lawyer who heads the antigovernment Permanent Human Rights Commission, estimated that more than 300 persons have been summoned for interrogation by the Interior Ministry's General Directorate for State Security since the Oct. 15 order and that about 20 remain in jail. The Rev. Bosco Vivas, auxiliary bishop of Managua, said that total includes "not fewer than 100" Roman Catholic lay activists and 50 priests.

The others have been mainly political party leaders, evangelical ministers and union activists, according to diplomatic sources, Hernandez and interviews with those called in. In addition, U.S. officials have reported that 17 Nicaraguan employes of the U.S. Embassy have been summoned for interrogation, and diplomatic sources said a few Nicaraguan employes of the Honduran and Venezuelan embassies here also have been called in.

Jimmy Hassan, a lawyer and evangelical preacher who heads the Campus Crusade for Christ in Nicaragua, said he was taken away at gunpoint by security police who showed up at his house at 6 a.m. on Oct. 31. After searching his office in his presence, police released him at 2 p.m., Hassan said, but then returned to his home at 11 p.m. with an order for him to report to House 50 in the General Directorate for State Security complex at 8 a.m. the next day.

As Hassan recalled it in an interview, he was accused of being "proimperialist" and "a friend of the [U.S.] embassy" during interrogation by several officers that lasted intermittently until 6:30 p.m., when he was released. Neither Hassan nor a number of other detainees interviewed this week reported physical abuse, although several complained of rough treatment and threats of long prison terms for opposition to the government.

Ortega, in announcing the broadened suspension of civil liberties, said it was necessary to combat an "internal front" working to support the anti-Sandinista guerrillas. With-in days, more than 120 persons were arrested in the countryside on charges of carrying messages among rebel units, the government announced. Since then, 50 more have been arrested on similar charges, according to reports reaching Hernandez's office.

Hernandez said the approximately 300 additional detentions were designed to intimidate political dissidents and encourage them to fall in line with government policies or leave the country.

"I would say the state of emergency was not directed against the armed counterrevolutionaries, but against civic opposition to the government," he said in an interview, "What they are doing is closing the little space that remains."

Luis Rivas Leiva, a leader of the opposition Social Democratic Party who was summoned for interrogation Oct. 20, said the government is tightening up political controls because "they want all the energy on the military front."

"What they have been unable to achieve with mercenary, forces, the imperialists try to achieve through their agents," said Deputy Interior Minister Luis Carrion in explaining the expanded restrictions Oct. 20. "They are trying to achieve it through open, cynical and insolent political activity."

Deputy Commander Omar Cabezas, a high-ranking Sandinista security official and author of a popular memior about his life as a guerrilla, said in explaining the interrogations of a dozen evangelical pastors that their sermons were being used to encourage draft resistance in defiance of the law.

Responding to expressions concern by related U.S. religious groups, Cabezas asked why such "uproar" should focus on Nicaragua when security forces in countries such as Chile and El Salvador murder dissidents instead of interrogating them and releasing them after a few hours or days as Nicaragua has done.

"This was the great punishment, the great sanction, that we applied to them," he said in a news conference.

"Yes, we have called in Catholic priests and told them they were violating the laws," he added later "It's the least we can do. They were violating the law. These people not only speak ill of the Patriotic Military Service [the draft], but they also invite others to refuse to serve. This is called incitement to crime in Nicaragua, and in any other country."

Bishop Visas said some lay Catholics summoned for interrogation belonged to committees preparing visits to provincial towns by Cardinal Miguel Obando y Bravo, the country's leading symbol of opposition to Sandinista rule. Since his ascension to cardinal last May, the popular prelate has been making such visits almost weekly.

Although they often took on the air of rallies during the summer, since Oct. 15 the government has forbidden outdoor ceremonies connected with the cardinal's appearances, Vivas said.

Jaime Chamorro, editor of the opposition newspaper La Prensa, said during the same time the amount of censored news has risen from about 40 percent to 60 percent of what his staff tries to report. In addition, he said, the Interior Ministry's Communications and Media Department has launched a new effort to present distribution of censored articles, which La Prensa regularly makes available to embassies and foreign correspondents.

The department head, Capt. Nelba Blandon, warned Chamorro in a letter Nov. 27 that such distribution is against the law and that if he continues he risks being held responsible under the Maintenance of Order and Public Security Law. To back up the warning further, Blandon suspended publication of the newspaper for two days this month.

FOOD AND DRUG LEGISLATION

Mr. GORE. Mr. President, for over 100 years, the Food and Drug Administration and its predecessor, the Bureau of Chemistry, have stood for public protection. From the Pure Food and Drugs Act of 1906 to the Infant Formula Act of 1980, the Congress has sought to ensure and enhance the health of the American people. Because of the importance of its mission, FDA has often endured intense scrutiny, both from the Congress and from the general public. It decisions have been heavily debated, but most often upheld. Through it all, the FDA has developed a worldwide reputation for professionalism, and a striking reputation within the Congress of the United States for being accountable for its actions.

But now increasingly that reputation is being called into question and doubt. Over the past 5 years, while other agencies have come under considerable public scrutiny and criticism for their failure to adequately protect the public health, often substituting politics for science, similar workings at the FDA have been ignored. Through the dry words of the Federal Register, the administration has launched a quiet revolution that, in my view, threatens to undermine one of the best health protection agencies in the world. This silent regulatory coup is wrong—for industry and for the public—and it should be reversed.

I. THE INTEGRITY OF THE POLICY DEVELOPMENT PROCESS

Over the last 5 years, there has been substantial erosion in the integrity of the policy development process at FDA. Because the Agency does not exist in any statutory sense, in 1982, then Secretary of Health and Human Services Richard Schweiker, in what must really be considered a landmark decision, withdrew the long-standing authority delegated to the commissioner for administering the Food, Drug, and Cosmetic Act through a simple notice in the Federal Register. This was his right under the law, but it has had several detrimental effects. First, by placing DHHS in the position of continually second guessing agency decisions, people tend to involve themselves in problems they know nothing about. A clear example of this, is my opinion, is the recent "Herbalife" episode, involving unsubstantiated health claims. Yet there is substantial evidence that the responsible and predictable scientific judgments of the experts at EDA were set aside. In their place the issue was handled in the Secretary's office, primarily by people who have no experience in the field. The result has been a flip-flop in FDA's position that has left the public confused and has cost the FDA in terms of credibility.

Allowing the Department of HHS into FDA decisionmaking has led to other irresponsible decisions with respect to the public health. Consider the problem of salmonella and camphylobacter in raw milk. There is simply overwhelming scientific evidence that unpasteurized milk is a threat to the small population that drinks it on a daily basis. Yet Secretary Heckler reversed unanimous recommendations from her scientific advisers and kept the Agency from enforcing its regulations in this area. According to Judge Gesell, the Department's reasons were "lame at best and irresponsible at worst."

One can only imagine what such incidents do to the morale of dedicated professionals. More important, they illustrate a disregard for accountability and a simplistic notion that science can simply be wished away when the politics of the situation are uncomfortable.

The FDA policy process is in disarray. Career officials at the Agency no longer believe that their views matter in the ultimate decisions. This belief will eventually corrode, if it has not already, the quality of their analysis. The competent people will leave the Agency, and that will be a sad thing for the American people.

The loss of integrity in policy development will also hurt industry. Moving the locus of decisionmaking up the ladder from the Agency to the Department will result in less timely decisions as fewer, busier people feel they must review all policies. It will hurt because it will produce a regulatory process that is unpredictable. I believe in the long run it would be far simpler to deal with a process that is predictable and works from a reliable set of rules, than one that can turn 180 degrees with a change of party in the White House—or a change in Secretary at the Department.

II. THE REGULATORS AND EXTERNAL OVERSIGHT

The specter behind the problems is in the Office of Management and Budget, the Darth Vader of the Federal Government. I consider it intolerable that critical decisions affecting the public health are made at the OMB. I was glad to learn recently that the Department will shortly announce regulations regarding aspirin and Reyes syndrome. But the delays that have occurred are an abuse of power and process. It is intolerable that an

OMB official was singlehandedly able to stop a major decision, and then gloat about it.

When officials with no training in any of the relevant technical disciplines are making the decisions, why should anyone even bother with the FDA? Such preemptory decisionmaking will only reduce accountability, and rob the FDA of the good people it needs to make the right decisions. This hurts consumers and industry. The fact is that the OMB will not and cannot make every decision. But if one constructs a policy environment in which people know their views will be overridden from outside, the incentive to make responsible decisions will disappear. The OMB cannot make drug and food additive decisions intelligently. It cannot decide whether new recombinant DNA products present substantial risks. Without a competent and responsible FDA, progress will be strangled—because the Congress will never repeal the laws that require premarket approval. The public would not stand for it.

III. THE ROLE OF ENFORCEMENT

This administration has undercut the enforcement apparatus of the FDA. Not only have overall enforcement actions declined during the past 5 years, but some laws are deliberately not being enforced.

Consider, for example, the regulations that speak to FDA's statutory role to ensure "honesty and fair dealing with the consumer." Whether or not one supports detailed food labeling standards, the fact is, these responsibilities are not being enforced. As a result, many firms are gaining an unfair advantage in the marketplace over those that continue to obey the rules. Nothing could diminish respect for the FDA faster than the presence of major market discrepancies in this area. If this administration believes these standards and regulations are no longer important, they should send Congress a legislative proposal to repeal them. The Agency should not decide for itself to pursue a policy of calculated nonenforcement. That can only invite the kind of situation that ultimately developed at the EPA.

IV. THE LEVEL OF REGULATORY RESOURCES

One of the sorriest things about the FDA today is its helpless shortage of money and people. It is easy to talk about managing more efficiently. But the same people who talk about speeding up the drug regulatory process deprive the Agency of the resources to do it. The Secretary makes glowing statements about a planning process that will prepare the Food and Drug Administration for the challenges of the 21st century. Yet at the same time, the Agency is being decimated in the budget process. This is not management; it is public relations masquerading as management.

Certainly, we must make sacrifices to balance the budget. But let's find savings that represent real efficiency—not penny-wise actions that will cost society much more down the road.

V. POLITICS AND PROFESSIONALISM

In the past, from my seat on the Energy and Commerce Committee in the House of Representatives, I have been a strong supporter of vigorous oversight. I believe that Members of Congress have a duty to hold the executive branch to its responsibilities, and even to light a fire under people at times.

But I don't think this power gives me or any other Member of Congress the right to dictate priorities to a separate but equal branch of the Government, or to twist scientific data in a way that justifies my particular social policy position. I am always willing to learn from people who devote themselves with single-minded attention to a given set of subjects on a daily basis.

I fear that some people in the administration don't understand this distinction. If we want to assure that some semblance of public confidence in the Government will remain after the Reagan revolution, we must begin to restore faith in the value of public service, and distinguish between politics fought in the open, and deals made behind closed doors.

VI. THE STATUTORY BASE

As we look toward the second century of public protection under this regulatory system, we must come back to the basic objectives and procedures of the statutes. Clearly, some tinkering can be done to improve a fundamentally good statutory base. In light of what I have laid out earlier, there is also the need for a major conceptual overhaul in the way the FDA does its work.

In the category of tinkering, I put such items as simplifying the medical device laws to bring them in tune with the realities of resources, even if those resources can be expanded. The public might also be better served by a food safety law that permitted a phase-out, rather than immediate removal, of substances that flunked the Delaney test.

At the same time, we need tougher labeling requirements to inform consumers of potential health problems. The Agency needs the same authority the Department of Agriculture already has, to subpoena records in cases of recall. In the case of human drugs, the post-marketing surveillance problem needs to be reconsidered. In all of these issues, I know that the Congress will entertain reasonable suggestions, if only the administration comes forward to debate modifications in public.

On a more fundamental level, I am reminded of my friend JOHN DINGELL's comment about the importance of process in law. "You go ahead and write the substance," he says, "and I'll write the procedure. I'll beat you every time." Now is the time to pay more attention to process when it comes to public protection and the role of the FDA. In this context, I intend to propose legislation after the holiday break that will:

First, establish the Food and Drug Administration as an intrinsic part of the Food, Drug and Cosmetic Act. The Commissioner of Food and Drugs should be a Presidential appointment, serving at the pleasure of the President. I believe as a practical matter, that the FDA will probably need to remain a part of a Cabinet Department, but the Commissioner should be free of the political control now being exerted by HHS and OMB.

Second, clarify the roles of the Cabinet Department and the Executive Office of President in regulatory decisionmaking. In my view, the FDA should have the ability to propose regulations without interference from the Office of Management and Budget. OMB, and other parts of the executive branch, should have the opportunity to work with FDA and all interested groups, during the comment period, as long as these workings are disclosed.

Third, the FDA should be reauthorized every 5 years by the relevant committees of the Congress, and it should be given an authorized level of funding that serves as a realistic target for both the budget committees and the appropriations process.

Fourth, the FDA Commissioner should report directly to the Congress, on a yearly basis. The Commissioner should be required to turn his action plan into a real management agenda for which he is accountable to the Congress. The Senate Government Affairs, and other relevant committees, should hold annual oversight hearings concerning all Agency operations.

Mr. President, the Food and Drug Administration is too important to the health of the American people to let it die a lingering death, sapped of its best people and responsibility. The Congress need not launch a witch hunt to place the blame for the current discouraging state of affairs. The responsibility rests squarely with the administration. It is unlikely that the people in charge will change, when it is clear that their objectives are being carried out. The only answer then, is for the Congress to make its wishes known through both legislation and oversight. I urge my colleagues to support a return to the ideals of professionalism and accountability that made the "Poison Squad" and its successors the epitome of progressive government and effective public protection.

APPOINTMENT BY THE CHAIR

The PRESIDING OFFICER. In accordance with Public Law 93-29, as amended by Public Law 98-459, the Chair appoints Russell Mills, Ph.D., of Kansas, to the Federal Council on the Aging.

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWS AND CHRISTIANS

Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to the case of Dr. Anatoly Koryagin. This Soviet psychiatrist has been sentenced to 7 years hard labor plus 5 years of internal exile and is now near death in the Christopol prison.

Dr. Koryagin has opposed the psychiatric abuse of political prisoners such as the system of labeling dissidents as insane and treating them with drugs in mental hospitals. He refuses to sign a false document which denounces his evidence of such abuses. This courageous man is close to death because of his mistreatment and his series of hunger strikes.

Organizations such as the American Psychiatrics Association, Amnesty International Action for Soviet Jewry, and Physicians for Social Responsibility are deeply concerned about Dr. Koryagin. An article by Peter Reddaway, "The Case of Dr. Koryagin," in the October 10, 1985, edition of the New York Review of Books explains Dr. Koryagin's plight fully. I ask unanimous consent that the full text of this article be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Review of Books, Oct. 10, 1985]

THE CASE OF DR. KORYAGIN

Fears are mounting that the psychiatrist Anatoly Koryagin is near to death in the notorious jail of Chistopol in central Russia. Letters that have reached the West from his wife and a friend indicate that he is so weak that unless he is given expert medical care he could die at any time.

Dr. Koryagin has been in prison for the last four years for actively opposing the political abuse of psychiatry. The abuse takes the form of labeling dissidents as mad and forcibly treating them with drugs in mental hospitals.

Koryagin is an unfanatical man of forty-seven, married to another doctor and the father of three boys. His motives are human compassion and a strong concern for medical ethics. His sentence of seven years' hard labor plus five years internal exile was longer than those imposed on other members of his human rights group, evidently because he was the only psychiatrist in it and the authorities were anxious to intimidate his fellow psychiatrists into silence.

Koryagin had examined sixteen dissidents who had been labeled mentally ill for their dissent, and found that the diagnoses were false. His main report on his work was published in the British medical journal, "The Lance", and has just been printed in the book "The Breaking of Bodies and Minds", edited by Eric Stover and Elena O. Nightingale (W.H. Freeman). In recognition of his work and his courage Koryagin has been elected an honorary member of the World Psychiatric Association and of leading psychiatric and scientific bodies in Britain, America, France, Canada, and elsewhere.

Ever since his arrest Koryagin has been subjected to a gradually escalating series of psychological and physical pressures, then to outright beatings. The unconcealed aim has been to force him to sign a false statement denouncing his own evidence of psychiatric abuse. Since this aim has been thwarted by his consistent refusal to go against his conscience, the authorities have evidently begun to consider bringing about his death.

Their technique has been to isolate him from other prisoners; then, by putting mental and physical pressure on him, provoke him into his only means of self-defense, the hunger strike. Then, although Soviet regulations require them to keep him alive through force-feeding, they keep him hovering on the brink of death, too weak to start eating again without expert help, even when he wants to. The apparent hope is that his heart will eventually give out and he will die. In that event the authorities will have documentation to "prove" that they did everything they could to preserve his life. This interpretation of their behavior is confirmed by the new letters from Russia I have mentioned as well as by the fact that several other political prisoners have died in similar circumstances in the USSR in recent months.

No friend or relative has seen Koryagin since September 1983. For a year up to last June no communication of any sort was received from him. Then his wife got a letter containing advice on how to bring up the children, but with no information on his own condition. He may, it is feared, have written it in anticipation of his death

The letter from his wife, Galina, who lives in the Ukrainian city of Kharkov, was written last November but only recently received in the West. She refers to a six-month hunger strike begun in December 1982, and comments that "it was only by some miracle that he survived: his life hung by a thread." Then a family visit was allowed in September 1983:

When I saw Anatoly, there was nothing in my heart but horror—fear for his life, compassion, and anguish at my powerlessness to help him.

The visit lasted two hours; for about an hour I couldn't speak, because of the convulsions in my throat. The talking was done by him, his mother and the children. I immediately understood, without words or explanation, what had happened. He was like a medusa, so bloated that his neck was wider than his face. It was covered with oedemas caused by protein starvation.

Throughout his imprisonment he's been constantly reduced to a state of extreme weakness . . . by the torture of cold, hunger and sleep deprivation, of harassment, humiliation, mental agony, and even beatings. So it's hard, even terrifying for me to imagine how he is now (after a new hunger-strike).

The letter from Koryagin's friend, which was written in June and reached the West last week, is an appeal to doctors throughout the world. The author is well known to Koryagin's friends in the West, but, in the current repressive climate in the USSR, prefers to remain anonymous. Extracts from the appeal follow:

"I remember Tolya Koryagin as a tall, handsome, broad-shouldered man, with a good-natured smile. That's how he was when first he entered our house, and that's how he looked when I saw him last, not long before his arrest. It's terrifying what they've turned him into during his years in prison—a virtual corpse, bloated from almost continuous hunger-strikes, sprawled on a crude prison cot. . . . They beat him brutally."

There are no words to describe the pain and humiliation of artificial feeding. Andrei Sakharov (the famous physicist), according to his family's reports, gave up his hunger-strike last year after a month: "It was too torturous," he explained.

Anatoly Koryagin has been on hunger-strike for nearly a year. He is slowly dying in the Chistopol prison. His family is suffering dreadfully in Kharkov.

I appeal to all the doctors of the world, and also to each of you individually. Today your colleague, the doctor Koryagin, is near to death because of his loyalty to the Hippocratic Oath. Today he and his family need your immediate help. Tomorrow it may be too late. I ask you to do everything to secure the immediate emigration of Anatoly Koryagin and his family from the USSR.

I suggest that as this can't be done by normal means, you make the Koryagin family's immediate emigration an absolute condition of any cooperation with the health organizations of the USSR.

You have the real chance to save a human being's life. Peter Reddaway

A FIFTH PROTOCOL

Mr. PELL. Mr. President, the one concrete result of the recent Geneva summit between President Reagan and General Secretary Gorbachev was an agreement to expand people-to-people contacts between our two countries. This proposition is of considerable significance.

Expanding exchanges between the United States and the Soviet Union has both a lofty and pragmatic dimension. Ideally, exchanges should contribute to peace. As Senator William Fulbright put it when introducing legislation creating the Exchange Program that now bears his name, if a larger number of the world's people knew and understood each other, "they might develop a capacity for empathy, a distaste for killing, and an inclination for peace." Hopefully, as Americans and Russians get to know each other as people, each side will be that much more hesitant about blowing up the other.

As a pragmatic matter, each side will adopt more realistic and more workable policies toward the other if the policymakers have a better understanding of the other's society. For this reason, I myself have made several trips to Moscow in recent years to talk to the Soviet leadership, and I have encouraged my colleagues to do likewise.

For similar reasons, I have strongly supported efforts to increase exchanges between the younger genera-

tion of political and economic leaders in the two countries. One very fine program, now underway, is being conducted by the American Council of Young Political Leaders and the Committee of Youth Organizations of the U.S.S.R. This exchange brings Democratic and Republican elected officials together with the Young Komsomols, the younger Communist Party leadership.

A key problem of many United States-Soviet exchanges is, however, a lack of full reciprocity. As Prof. Richard Gardner points out in a recent New York Times op-ed piece, the domination of the Soviet Academy of Sciences over the Soviet-American dialog has led to a frustrating lack of symmetry. While American groups contain those with access to the highest levels of government, Soviet participants rarely include officials responsible for policy or the rising stars of the Communist Party.

While an exchange like that by the American Council of Young Political Leaders partially addresses this problem, I concur with Professor Gardner that a more comprehensive approach should be considered. Professor Gardner proposes the creation of a new Soviet-American Institute based in Washington and Moscow, and headed by cochairmen of the highest standing and access.

Soviet participants in any exchange will of course be the most dedicated Communists. I believe, however, that even in this case exposure to Americans and to our free society is bound to have some beneficial impact. If a new United States-Soviet Institute can contribute to raising United States-Soviet exchanges to a higher level, it could make a valuable contribution indeed.

Mr. President, I ask unanimous consent that Professor Gardner's article, "A Fifth Protocol," be inserted in the RECORD. I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 22, 1985]

A "FIFTH PROTOCOL"

(By Richard N. Gardner)

Despite Moscow's dramatic arms control proposal last month, we are unlikely to see breakthroughs on the four Summit agenda items to which the United States is giving priority—arms control, regional political issues, trade and human rights. But the interests of both sides could be served by a "fifth protocol" that would provide for a new and more satisfactory channel of communication between American and Soviet leadership groups.

For generations, the Soviet Academy of Sciences has virtually monopolized the dialogue with the American academic, scientific and business communities. This has led to a frustrating lack of symmetry in communication, for despite the high quality of some of its scholars, the Academy is neither independent of the Soviet Government nor representative of its senior decision makers.

While American groups serve up an array of past and future policy makers or people with direct access to the highest levels of government—people such as Harold Brown, former Secretary of Defense—the Soviet side is usually represented by figures such as American expert Georgi Arbatov. They are generally well informed, cooperative and friendly. But we who participate in these meetings rarely see a senior official responsible for Soviet defense or arms control policy, a rising leader of the Communist Party, much less a present or likely future member of the Politburo. Surely a more authoritative Soviet channel can be found than the Academy of Sciences.

So here is an idea for Mr. Reagan to float in Geneva. Let the two governments create a new Soviet-American Institute, headed by Soviet and American co-chairmen who have access to the highest levels of their governments, with headquarters in Moscow and Washington. The Institute would organize small seminars for periods of a week or more. These would discuss not just hot political items—the Middle East, for instance—but also global questions such as the environment and economic development, where present policies are less rigid and the scope for cooperative action large.

Institute members from both sides would be expected to produce serious reserch papers, not the familiar propaganda statements. Most important, the Soviet co-chairman would be expected to mobilize the rising stars in the Soviet political, military, and economic establishments, just as the American co-chairman would be expected to deliver key members of the Congress, businessemen, labor leaders and academics.

Such a "fifth protocol" would not substitute for existing unofficial channels in the Soviet-American dialogue. But it would help assure that future Soviet leaders spend time in the United States and acquire a network of influential American contracts before reaching the pinnacles of power. It would also help our emerging leadership learn more about the men who will rise to power in Russia. And it would represent a quantum leap forward in the avenues of mutual information and understanding.

STRATEGIC DEFENSE INITIATIVE

Mr. HEFLIN. Mr. President, on December 3, 1985, I gave a speech to the American Security Council regarding the strategic defense initiative. I believe there might be information in the speech which could be useful to Members of this body. Therefore, I ask unanimous consent that this speech be printed in today's RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR HOWELL HEFLIN BEFORE THE AMERICAN SECURITY COUNCIL, DECEMBER 3, 1985

Now that much of the fanfare which accompanied the Reagan-Gorbachev summit has subsided, we can assess in realistic terms the results and long range impact of that historic meeting. In my mind, there is no doubt but that the summit was a success for many reasons and I heartily congratulate President Reagan.

Why do I believe the summit was successful from the U.S. point of view? First, the leaders of the world's two great superpowers met face-to-face, eyeball-to-eyeball, and came away with a better understanding of each other's views on important issues. Second, President Reagan and Secretary Gorbachev pledged to accelerate arms control negotiations and called for a 50% reduction in nuclear arms by each side. Thus, at the very least, the two leaders established a framework for limiting nuclear weapons when negotiators meet again in January. Third, Reagan and Gorbachev agreed to future meetings which will further ease tensions and provide a continuing dialogue between the two nations. Fourth, the Soviet Union is now fully aware of President Reagan's resolve to go forward with the research and development of strategic defense technologies.

While this meeting promises a thaw in U.S.-Soviet icey relations, a new realism nonetheless pervaded at this summit in which both sides acknowledged the ideological and sociological differences between these two countries. Such issues as human rights, arms control, Poland, Afghanistan and the Strategic Defense Initiative will not be easy to resolve. However, both men discovered that the Soviet Union and the United States can, to some degree, do business together.

I was particularly pleased with the President's refusal to bow to the pressure on the Strategic Defense Initiative. Our country has embarked upon a program to counter the Soviet nuclear ballistic missile threat with defensive measures. It is intended to be defensive only and should not be compromised for mere promises or modest changes in the status quo. And while we can applaud the President's commitment to SDI, there are nonetheless many battles ahead on this program, many of which will be fought in the Halls of Congress. For the next few minutes, I would like to discuss some of the important SDI issues which will no doubt be heatedly debated over the next several years.

One of the most immediate and important concerns for those of us who support the SDI program is it's cost. Future costs of the program are actually unknown at this stage because no one knows what research will develop. For the years 1985-1989 the predictions are that the Pentagon will require more than $26 billion for the SDI program. However, some critics of the program argue that this figure is far too low and that by the beginning of the next decade SDI could command up to one-third of the total research funds. It is feared by these critics that this would severely hamper new defense projects. Obviously, frequent and periodical examinations and evaluations of costs and programs will be required, however, research should go forward at this stage.

I think what must be kept in perspective, despite attacks on SDI to the contrary, is that the goal of the program is to protect America. U.S. Strategic Defense has been drastically underfunded for many years. Thus while, the U.S. has cut back on funding for defense since the 1972 Anti-Ballistic Missile Treaty, the Soviet Union has not. It is also important to remember that SDI is not a totally new program but is the result of integrating a number of projects ongoing within the DOD and other agencies under one umbrella organization.

Thus far, proponents of SDI in the Congress have rallied each year to defeat attempts to cut the program below what is

feasible to maintain its goals and objectives. However, I expect attacks on SDI to continue each year when Congress considers the defense funding bills.

A second important issue is the argument propounded by SDI critics that the program may violate the spirit of the Anti-Ballistic Missile Treaty. This treaty was signed by the Soviet Union and the United States in 1972 as an acknowledgement by both sides of the futility of building terminal stage intercept systems to guard against warheads delivered by ballistic missiles. It was seen as a major step toward ending the arms race in that offense would no longer be required to build more weapons to saturate the defense. The treaty permitted each side to build an anti-ballistic missile defense around a single site and to continue research into ABM systems. However, the building of new components was prohibited under the treaty.

In my opinion, and that of many experts, the charge that the SDI program constitutes a breach by the United States of the ABM treaty is totally unfounded. SDI is a comprehensive research program only and does not include development or testing inconsistent with the treaty. No decision on development or deployment of the system has been made and will not be made until we know the results of the research. Nothing in the ABM treaty prohibits this type of research. With the SDI program the United States is merely investing in research of a wide range of technologies such as computers, sensors, radars, high energy particle beams and lasers. If a comprehensive, strategic defense system proves not to be feasible, the program should nonetheless result in many important technological spinoffs. It is also important to remember that the Soviet Union is pursuing research very similar to our SDI.

According to Soviet Military Power, DoD's analysis of the Soviet Union's military programs indicates that Russia could field a space based prototype laser for use against satellites by the end of the 1980s. Furthermore, space-based laser systems for ballistic missile defense could be ready for deployment by the Soviets "after the year 2000."

A third issue which has yet to be fully debated is one raised by the Administration itself, and that is whether the SDI technology will be deployed in some kind of cooperative effort with the Soviet Union. The Reagan Administration has maintained that SDI is purely a defensive system and should not threaten the balance of power. To reinforce this point, Administration officials, including President Reagan, have stated that the system, if deployed, would be shared with the Soviet Union. The President has even proposed that the U.S. might share it's strategic defense technology while it is still in the research and development stage.

Although there would, no doubt, be many stringent requirements placed on sharing our SDI technology with the Soviet Union, I nonetheless believe we must be extremely cautious about sharing our military secrets with hostile countries. SDI represents the most sophisticated technology being developed in our country and sharing it with the Soviet Union could prove to be extremely dangerous. I'm afraid that the United States may, down the road, regret sharing nuclear technology with other nations given the current threat of nuclear proliferation among third world countries. We must raise the flag of caution in this area and do nothing that could ultimately threaten the security of our country.

The fourth issue I want to discuss with you is one I have talked about since the inception of the Strategic Defense Initiative, and that is the need to maintain an evolutionary approach to strategic defense. An evolutionary approach to strategic defense means stepping up the pace of research on advanced, long range defense concepts such as directed energy devices while continuing work on more mature, near term ballistic missile concepts. The United States must maintain the option of deploying a BMD system of relatively mature technology within a decade.

Under the terms of the ABM Treaty, both the United States and the Soviet Union have the right to build a limited missile defense system with up to 100 interceptor missiles. Soon after the treaty was signed the Soviet Union began to deploy a ballistic missile defense system around Moscow and today it is fully operational. The Soviets now have the capability to protect Moscow from a limited missile attack. The United States on the other hand, would be helpless if it were attacked by nuclear missiles. The ability to respond to unforeseen national and international developments quickly and effectively constitutes one of the greatest reasons for pursuing conventional, near term BMD research. A ballistic defense system would allow the United States to counter an accidental or erroneous launch of a nuclear missile and provide the time necessary to make vital decisions.

Maintaining the option to deploy a BMD system is also an appropriate response to the ongoing and extensive Soviet anti-ballistic missile effort. The Soviet Union has had a very active BMD program for many years. As I noted earlier, they are also engaged in extensive research on lasers and neutral particle beams for their strategic defense. It is vital to our nation's security that we provide a deterrent to any Soviet decision to expand its ballistic missile defense capability beyond that permitted by the ABM treaty.

Last year the Army successfully demonstrated the capability of a non-nuclear missile to intercept and destroy an incoming warhead outside the earth's atmosphere. If we are to maintain this momentum, it is essential that the Strategic Defense Initiative Organization vigorously pursue research on near term deployment options. The option of deploying a BMD system around Washington, D.C., as the Soviets have done around Moscow, is one which should be seriously investigated. Washington is the seat of power for the free world and yet would be extremely vulnerable to missiles launched by Soviet submarines off the U.S. coast.

A BMD system may also be needed to enhance the survivability of America's land-based ballistic missile forces, particularly the MX missile. For a number of years we progressively developed the technology necessary to defend any ground-based ICBM. Our technology has progressed to the point that an effective system could be engineered. Also, BMD is not exlcusively related to a specific MX basing mode, or even exclusively to the MX. Its components could be packaged to defend either fixed or deceptively based ICBMs. A mobile ICBM launcher must have a base or bases.

The decision of whether to deploy a BMD system for point defense does not have to be made at this time. Such a determination would necessarily be based on a number of factors. However, in order to maintain the option of deploying such a system in Strategic Defense Initiative Organization must reemphasize near term, conventional BMD research and development.

The problems of mounting deficits which will no doubt result in budgetary cuts and possibly cuts in military spending, dictates an evolutionary approach to SDI development. Otherwise, near term successes, which are crucial for a sustained SDI effort, will be lost as well as a thus far successful investment of billions of dollars over a ten year period in BMD research.

CONCLUSION

Today the world is confronted by an awesome military balance between two great superpowers. That balance is constantly changing as technologies are developed by both sides which place at risk present systems. In my judgement, development of a strategic defense system would do much toward accelerating a nuclear ballistic missile disarmament. If our SDI technologies do prove feasible and a defense system can be both cost effective and survivable it would ultimately increase a potential attacker's uncertainty about the likelihood of a successful attack, which would enhance deterrence. If each side neutralizes the other's offensive ICBM capability, the threat of ICBMs must be reduced. We all agree that the United States must pursue equal and verifiable agreements with the Soviet Union to produce real reductions in the nuclear arsenal of both sides. The SDI can be a crucial means by which such agreements can be reached.

RECESS UNTIL 2 P.M.

Mr. WILSON. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 12:53 p.m., recessed until 2 p.m.; whereupon the Senate was called to order by the Presiding Officer [Mr. MATTINGLY].

VETO OF TEXTILE AND TRADE BILL

Mr. HEFLIN. Mr. President, I am terribly disappointed that the President has vetoed the textile and trade bill.

Our Nation is in the worst trade crisis in more than half a century. This year we may have a trade deficit of more than $150 billion.

This legislation is important for the American people; it is important for the American economy. It aggressively attacks the unfair trading practices by other nations and the weak enforcement of American trading rights.

The list of Alabama communities with textile and apparel plants idle, dark, and closed grows every month. Other mills have been forced to reduce their work force and shorten their workweek.

In the last year alone, 12,000 Alabamians have lost their jobs in this industry.

It is the duty of Congress and the President to provide for a level playing field for our international trade activity. With this veto, again the U.S. State Department and the international bankers have flexed their muscles and

have shown they control the White House.

THE PRESIDENT'S VETO OF THE SHOE AND TEXTILE BILL

Mr. SASSER. Mr. President, I am saddened and frustrated by the President's action in vetoing H.R. 1562, the shoe and textile bill.

Once again, the President has shown his utter disregard for our citizens who are losing their jobs due to imports. Once again, the administration has shown that it has no trade policy. Once again, we see American industries sacrificed on the alter of free trade.

Well, Mr. President, they are worshipping a golden idol. There is no such thing as free trade in the international marketplace. Every nation has in place trade restrictions. Every nation helps its industries with subsidies, with restrictive licensing laws, with currency manipulation, or with quotas.

What this administration doesn't seem to realize is that it is presiding over the deindustrialization of America in the name of free trade. They assume that there is some magic point at which the United States will be free from further import penetration. Well, when do they think we will reach that point? We have seen industry after industry squeezed out by imports—shoes, textiles, electronics, televisions, steel, and automobiles.

The administration seems to think that it is all right to crumple up certain industries and throw them away. They seem to think that these unemployed workers can just get another job in another industry that somehow will never be touched by imports.

Well, that just isn't true. It is not only old industries that are falling to imports, new industries—computers, computer chips, semiconductors, are facing the same pressures. In 1980, U.S. high technology exports stood at $26.6 billion, and were on the increase, helping to offset the declining surpluses in other segments of the American economy. By 1984, American high technology exports had fallen to a mere $6.2 billion—and during the third quarter of 1984, the United States for the first time, ran a deficit in high technology trade. The sharp drop in the 1984 high technology trade surplus stemmed from a 44-percent jump in imports against a 9-percent rise in exports.

Mr. President, there is no magic cutoff point for import pressure. There is no industry that is too sophisticated for our trading partners to target.

The administration is fond of talking about the new jobs that have been created in the last few years of high imports. But let's take a look at those jobs. Over a third of them have been created in three areas: temporary services, sales clerks, and fast food. Is that what this administration envisions as our future industrial base, safe from imports? Do they think that our trading competitors can make a semiconductor but not a hamburger?

We simply must develop a coherent trade policy. We must offer short term assistance to some industries to help them regain their competitiveness as well as develop programs to cure the long term structural components of the trade deficit.

H.R. 1562 offers the chance to address the short term problem of industries that need assistance to regain competitiveness.

For the shoe industry, it would provide a period of stability so that they can further modernize their industry to compete with imports. The industry isn't asking for this relief so it can sit back and do nothing. They have offered an aggressive 5-year plan to improve their plant and marketing techniques and thus improve competitiveness.

For the textile and apparel industry, H.R. 1562 says we are going to enforce our trade agreements. We are going to make our trading partners adhere to the treaty they signed. A good deal of the problem in the textile and apparel industry is due to the fact that the administration keeps telling country after country that they don't have to live up to the multifiber agreement. It's bad enough to stand around and do nothing and lose an industry to imports. In the case of textiles and apparel, we're giving it away.

As I travel around my State of Tennessee, I continually see the effects of shoe imports on our citizens. Seven shoe facilities were closed in Tennessee last year, and another five have closed so far this year. In these towns, shoeworkers are already out of work or will be put out of work in the near future. I talk to individuals who have lost their jobs in the communities where they have lived and worked for years. And they face the future with no prospects of new jobs.

Tennessee is the fifth most important footwear producing State in the country. The industry employs about 10,000 workers in 25 factories and generated in excess of $96 million in payroll dollars last year. We simply must preserve these businesses and these jobs for our citizens.

The footwear industry is the leading employer in 6 counties in Tennessee and is among the top 3 employers in another 14 counties. It is a significant industry in 28 counties; 24 of these 28 counties have populations under 50,000; 16 of them have populations under 25,000.

My State of Tennessee ranks eighth in the textile and apparel industry. It employs over 87,000 people, with a payroll of $658 million. The facilities there are facing the same pressures from imports as those in other States. In the first 8 months of this year, textile and apparel imports have cost over 7,500 Tennesseans their jobs.

But these figures are more than mere statistics. They represent real people and real jobs. The closing of a shoe, textile, or apparel factory can be devastating to a local community. Many such facilities are located in rural areas. They are often the major employer in the area—areas which have few comparable jobs to which workers may transfer their skills. Many people are prevented by family obligations and ties from moving to a new area—especially when there is no guarantee that they will not face the same situation sometime down the road.

These hardworking citizens deserve the help that this bill can provide.

While the hour is late in this session, we are going to be back here next year, and I hope the first order of business will be a comprehensive trade debate. It's time to take a hard, cold look at our trade laws, because they're certainly not working now.

In my view, a coherent trade policy must be developed to curtail the serious injury from imports being suffered by industry after industry. I intend to be an active participant in that debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. GORTON]. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FARM BILL

Mr. DOLE. Mr. President, we want to get on the conference report on the farm bill momentarily. The distinguished chairman of the committee is on his way and Senator ZORINSKY and others who wish to speak on the conference report are ready.

I think it is well to point out that I happened to witness the vote on the House floor. And, having witnessed a number of votes on farm bills on the House floor, I do not recall any with the margin that this bill had of 325 to 96; and not voting were 14.

But I think the encouraging thing was most farm State Members sup-

ported the bill. I think all but one Republican on the House Agriculture Committee supported the bill. I do not know how many Democrats, but all but seven or eight supported the bill. The one conferee who voted against the bill did sign the conference report and voted for the conference report. It had not changed any since that time.

So I believe, overall, the message was fairly loud and clear that this bill does represent a bipartisan effort. It may not be perfect legislation. Farm bills never are. There will be another one, I assume, and it may not be perfect, either.

But it would be my hope that we could move quickly on the farm bill. I believe the President will sign it. I hope he would have a signing ceremony where he would sign both the farm credit legislation and the farm bill together. It would seem to me that would be sort of a double-barreled message to farmers of America that the President is concerned about their welfare, as he is.

If we can move quickly on this conference report this afternoon, then I hope that before we all take off we could join the President in the ceremony which is not only symbolic but I believe would send a genuine signal to America's farmers.

Mr. President, let me extend my thanks to all members of the conference—Republicans and Democrats, Senators and House Members—because it was a long, long period, and a long, long session. Particularly, I commend the chairman of the conference, the Senator from North Carolina, Senator HELMS, for his patience and understanding.

It seems to me that we were able to put together, in most cases, a satisfactory solution to everyone's problem. In some areas, of course, there are still strong differences of opinion but, overall, I found the attitude among conferees of both parties and both bodies to be very positive. And that, in itself, reflects well upon agriculture and the challenge ahead as we help farmers who are in deep distress.

FOOD SECURITY ACT OF 1985—CONFERENCE REPORT

Mr. HELMS. Mr. President, there is a conference report at the desk to accompany H.R. 2100, the farm bill, and I ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing vote of the two Houses on the amendments of the Senate to the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes; having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina?

There being no objection, the Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 17, 1985.)

Mr. HELMS. Mr. President, after an entire year of work, 26 days of hearings, 38 days of markup, 12 days of floor debate, and 8 marathon conference sessions, the conference report on the 1985 farm bill is before us.

Mr. President, I have reflected upon this past year. I recall, right after the November elections, it became clear that I would again have the duty as chairman of the Senate Agriculture Committee to oversee the drafting of a farm bill, and it was at that time that I stated my conviction that it was time for a change in farm policy. I recall saying over and over again that what American agriculture needs most is a course toward market orientation that would restore competitiveness to U.S. agriculture.

Mr. President, I think that this farm bill, entitled the Food Security Act of 1985, is the beginning of a transition to market-oriented farm policy.

Now, in all honesty, the bill is not exactly what I would want if I had the right and authority to prepare a bill precisely to my specifications, but it is a good bill.

There are many important reforms in this bill, but the most important aspect is that this bill will restore the United States as a strong competitor in world markets and thereby increase exports of U.S. farm commodities. No longer will our Nation encourage farmers to produce commodities just to be sold to the Government for storage. U.S. agriculture will now head back to the free market concept which should never have been abandoned in the first place.

This 5-year bill reduces loan rates for wheat, feed grains, cotton, and rice, sets target prices for those program commodities, reauthorizes other commodity programs, extends and expands export programs of the U.S. Department of Agriculture, contains strong, new soil conservation provisions and improves the effectiveness of the credit programs of the Farmers Home Administration.

This bill, as approved by the conference, is the beginning of a slow, but decisive, transition to market oriented farm policy. The significance of the 1985 farm bill is that Congress has begun the process of correcting the failures of past farm policies. A new era of hope is in store for American farmers.

Passage of this legislation marks the starting point for the return of the American farmer as a strong competitor in world markets. By allowing for reductions in the basic price support mechanisms and giving the Secretary of Agriculture authority to make additional reductions when competitive conditions warrant, Congress has made a commitment to a vigorous export policy for U.S. agriculture.

The legislation sends a clear and unmistakable message to countries which have been using export subsidies to unfairly increase their share of world markets: the American farmer is back as the major competitor in world markets.

The loan rate reductions in the bill are supplemented by a strong export title which expands current export programs and creates new tools for the Secretary of Agriculture to use to promote U.S. exports.

At the same time, farm income protection will be maintained at record levels in order to assist farmers financially during the transition to market-oriented pricing of their products.

In all candor, the bill is not without its flaws. Anybody who has examined it or who has watched the process this year as this bill took shape realizes that the target prices are still set at high levels, and in a way that directs billions of dollars in taxpayer subsidies to support the income of the largest and wealthiest farmers. In a time of massive budget deficits and the need to reduce those deficits, this kind of policy just does not make sense. These high support levels will also induce large surplus production, which can only delay for several years longer a solid recovery in the farm economy.

Equally in candor, Mr. President, the cost of the bill is also very high—well over the congressional budget resolution and slightly higher than the $50 billion the President has indicated would be acceptable for the farm program portions. The cost of the Commodity Credit Corporation programs under the provisions of the bill are estimated to be about $52 billion in fiscal years 1986–88.

But, on the other hand, the bill makes historic reforms in conservation policy. It makes U.S. agriculture more efficient by protecting our soil and water resources and ensuring that the most productive land will be used, and not abused.

Important reforms are even made in the dairy program. The price supports will be reduced over the life of the bill, reducing Government costs, helping to balance supply and demand. I am extremely disappointed, though, at the imposition of a milk tax in the bill.

Despite the shortcomings I have described, the bottom line is that this

bill makes many significant and effective reforms in farm policy. It signals the intention of Congress to make a decisive transition to market-oriented farm policy. At the same time, there are important reforms yet to be made. Congress must continue to try to reduce the cost of farm programs by devising a way to more effectively limit large subsidies to those producers least in need of assistance.

The bill is not perfect, but it does make many important farm policy reforms that must be enacted into law. To the best of my knowledge, Congress will be in session next year, and the following year, and it would be my hope that some of the policy problems not fixed in this piece of legislation could be addressed at that time.

But the fundamental reforms made in this bill are historic. It will put U.S. agriculture back on the road to competitiveness, and that achievement alone makes this a worthwhile bill. I urge my colleagues to support this conference report.

Mr. President, as much as I am pleased by many of the advancements that were made in farm policy, I am disappointed by the budget-busting increases that were adopted for the Food Stamp Program.

Let me say at the outset, neither the Senate position nor that taken by the Senate conferees was for reducing overall food stamp benefits. The Senate bill proposed to continue indexing of food stamp benefits, which automatically increases costs by over half a billion dollars annually. The sole benefit reduction proposed in the Senate bill was similar to one in the House bill; both Houses were in agreement about the need to provide greater consistency with the Aid to Families with Dependent Children Program [AFDC] in treatment of income under the Job Training Partnership Act, which would result in modest benefit reductions for certain households receiving such income. The only other significant spending reduction in the Senate bill is the proposal to tighten the administration of the program by requiring States to lower the rate of overpayments which presently takes place—costing taxpayers over $900 million annually. The Senate bill proposed that States accept more responsibility for their mismanagement of food stamp spending.

However, it become obvious that the House conferees were insistent that food stamp spending be increased—indeed, increased above and beyond cost-of-living increases. They wanted increased eligibility so that food stamp rolls could be increased beyond the 20 million people who receive monthly benefits currently. They wanted increased deductions and new deductions (used to calculate food stamp benefits) which will drive up overall food stamp spending.

Frankly, Mr. President, I could scarcely believe that such increases were being proposed less than a week after Congress took the seemingly important step of setting long-range objectives for deficit reduction by adoption of the Gramm-Rudman-Hollings balanced budget legislation. Instead, the net result of food stamp spending will be to add over $1 billion to the deficit over the next 5 years because of new food stamp spending. Thus, the deficit targets established by Gramm-Rudman-Hollings are $1 billion more difficult to achieve as a result of the irresponsible actions urged upon the conference by certain members.

The conferees not only ignored Gramm-Rudman-Hollings, they ignored this year's budget resolution—so resolute was their desire to expand food stamp spending. If certain members are not going to enforce our present budgetary restraint, I cannot be too optimistic that they will abide by the future restraint that Gramm-Rudman-Hollings is supposed to bring.

Mr. PANETTA, the distinguish chairman of the House Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, insisted that this year's budget resolution made room for the increases desired by the House. However, with all due respect such assertions are only partially accurate. While it is true that increased spending could be made for the Food Stamp Program, such increases could take place only to the extent that offsetting reductions are made—according to the budget resolution.

I quoted to the conferees, unpersuasively I must report, from a letter from the Senate Budget Committee Chairman, Mr. DOMENICI, that makes this abundantly clear. I ask unanimous consent that the letter from Senator DOMENICI be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, September 10, 1985.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: As the Agriculture Committee proceeds over the next several weeks to mark up legislation to reauthorize the food stamp and other nutrition programs, I thought that it would be useful to summarize for you what is assumed for food and nutrition programs in Senate Concurrent Resolution 32, the first concurrent resolution on the budget for fiscal year 1986.

The Senate-passed budget resolution assumed savings of $1.7 billion in budget authority and outlays, fiscal years 1986-88, for food and nutrition programs. The House-passed resolution assumed additional spending of $1.2 billion in budget authority and outlays, fiscal years 1986-88, for food and nutrition programs.

The conferees on the budget felt that additional spending for these programs was warranted only if the funding could be provided without damaging the overall deficit reduction effort. The conferees provided room in the budget to allow up to $1.2 billion in additional budget authority and outlays, fiscal years 1986-88, for programs under the authorizing jurisdiction of the Senate Agriculture Committee—i.e., food stamps, child nutrition, special milk, and supplemental feeding for women, infants and children [WIC]. To prevent total Federal spending from rising due to this action, the budget conferees assumed additional savings of $1.2 billion in budget authority and outlays, fiscal years 1986-88, in programs under the spending jurisdiction of the Agriculture Subcommittee of the Senate Appropriations Committee.

SENATE CONCURRENT RESOLUTION 32 ASSUMPTIONS

[Dollars in millions; change to the baseline]

	Fiscal year—			Total 1986-88
	1986	1987	1988	
Authorization:				
Agriculture Committee:				
Budget authority	+400	+400	+400	+1,200
Outlays	+400	+400	+400	+1,200
Appropriation:				
Agriculture Subcommittee:				
Budget authority	−400	−400	−400	−1,200
Outlays	−400	−400	−400	−1,200
Net budgetary effect:				
Budget authority	0	0	0	0
Outlays	0	0	0	0

As your Committee determines how best to provide food and nutrition assistance, I hope that you will consider the strong feeling of the Senate conferees that any increase in funding for these programs be offset with equal savings in these or other income security programs. An economy that falters under the weight of massive federal deficits would be hard-pressed to provide assistance to the needy and hungry in America.

Sincerely,

PETE V. DOMENICI,
Chairman.

Mr. HELMS. Mr. President, unfortunately, the conferees did not heed the conditions which Senator DOMENICI and other budget conferees specified earlier this year. It should be noted that both the continuing resolution and the tentative conference report on the Agriculture appropriations Act do not contain reductions in spending to accommodate the increases pressed by the House. Our obligation, failing any offsetting reductions, was to abstain from increased food stamp spending, but I regret to say that is not what the farm bill conferees did in this area.

Instead of resisting increased spending, the conference report embraces it. Over $1.1 billion in increased food stamp spending will take place over the next 5 years—over and above the $67.7 billion that is scheduled to be spent on the Food Stamp Program.

The following table outlines the spending contained in the conference report for the Food Stamp Program and the nutrition assistance block grant for Puerto Rico.

ESTIMATED COSTS OF FOOD STAMP AND NUTRITION ASSISTANCE FOR PUERTO RICO PROVISIONS, AS ADOPTED BY THE HOUSE-SENATE CONFERENCE

[By fiscal year, in millions of dollars] [1]

	1986	1987	1988	1989	1990	5-yr total
BUDGET RESOLUTION BASELINE						
Food stamps: Estimated budget authority	11,804	12,339	12,869	13,358	13,826	64,196
SPENDING CHANGES UNDER CONFERENCE REPORT						
Expand definition of disability	1	1	1	1	1	5
Count JTPA earnings as income	−17	−27	−27	−28	−28	−127
Deduct self-employment losses of farmers	1	2	2	2	2	9
Increase earned income deduction to 20 percent [2]	20	51	53	55	58	237
Separate and raise caps on shelter and dependent care deductions [2]	21	53	56	59	62	201
Increase resource limitations [2]	22	77	115	121	126	461
Provide information at Social Security offices	0	1	1	1	1	4
Speed up sanction collections	0	−42	0	0	0	−42
Expand State ADP systems	0	1	2	2	2	7
Strengthen work requirements	4	4	5	5	0	18
Subtotal (food stamps only)	52	121	208	218	224	823
Nutrition assistance for Puerto Rico:						
Estimated budget authority (CBO Baseline) [3]	863	902	940	979	1,019	4,703
Spending under conference report	825	853	880	908	937	4,403
CBO projection of spending change under conference report (Puerto Rico) [3]	−38	−49	−60	−71	−82	−300
Total change from CBO baseline (food stamps and Puerto Rico) [3]	14	72	148	147	142	523
Total change from administration baseline (Puerto Rico) [3]	0	28	55	83	112	278
Total change (food stamps and Puerto Rico) using administration estimate for Puerto Rico [3]	52	149	263	301	336	1,101
Total spending estimated budget authority (food stamps and Puerto Rico) (CBO)	12,681	13,313	13,957	14,484	14,987	69,422

[1] Prepared by staff of the Committee on Agriculture, Nutrition, and Forestry, using budget figures from the CBO and administration.
[2] May 1, 1986, effective date.
[3] The CBO baseline (above) assumed indexation of the current grant in each year. The administration's baseline assumed continuation of the Puerto Rican grant at $825,000,000 annually.

The table demonstrates that food stamp spending will be increased $823 million over the next 5 years—using estimates prepared by the Congressional Budget Office.

With regard to Puerto Rico, new spending of $278 million will take place during the next 5 years. However, this increase is actually attributed as being a "savings" by the Congressional Budget Office. Only in Washington can such budgetary gimmicks be accepted with a straight face. The Puerto Rico block grant is $825 million annually. The block grant was established by the 1981 reconciliation legislation (to be effective the following year) in order to reduce spending in Puerto Rico which at that time had the largest portion of the food stamp program (over 10 percent of the entire program) and the highest portion of the population on food stamps (over 50 percent of the population).

The Congressional Budget Office "assumed" (on its own) for purposes of preparing its "baseline" this year for future spending that the block grant would be indexed over the next several years—resulting in increased spending of almost $600 million over 5 years. In effect, the CBO built into the baseline an assumed increase in spending.

Inasmuch as neither the administration nor the Senate bill provided for an increase in the Puerto Rico block grant, CBO "scored" the Senate bill with a "savings"—for the fact that we did not increase Puerto Rico's spending.

The conference report proposes to "save" some money by increasing the Puerto Rico block grant less than CBO "assumed." In effect, an increase in spending (in fact) can be termed by the Congressional Budget Office as a reduction (according to their "scorekeeping"). The double irony is that the conferees decided that since they had "saved" some money by not increasing Puerto Rico as much as CBO had predicted, they might as well spend the "savings" by yet additional spending in other parts of the Food Stamp Program.

The net result is that actual increased spending is $1.1 billion, but CBO "scores" the result as an increase of only $523 million.

Unfortunately, the $1.1 billion is the real effect—on taxpayers on the deficit, and on the long-term ability to control Federal spending.

I regret to say that we are already seeing the first of what is likely to become countless ploys to evade the impact of the Gramm-Rudman-Hollings legislation. Two of the proposals for increased spending proposed in the House bill were advanced in the conference report from October 1, 1986, to May 1, 1986. The reason? To get the increases in quickly—before the pressure from Gramm-Rudman-Hollings can come to bear—and to build up next year's baseline so that attempts to restrain spending next year will be termed "cuts" in the food stamp program. Inevitably, these new increases will be targeted to be eliminated early next year. Proponents of high food stamp spending will charge that the program is being "cut," when, in actuality, such "reductions" would only restore the program spending to where it was before the conference report's binge.

MEANINGFUL NEW WORK PROGRAMS

Well, Mr. President, enough of the bad news. Let me at least report on the glimmer of a silver lining contained in the food stamp title. For the first time in the history of the Food Stamp Program, the conference report institutes a substantive work policy for able-bodied food stamp recipients. In addition to the optional workfare authority that already exists in the Food Stamp Act, the conference agreement requires States to institute meaningful work programs for able-bodied recipients. It is a program that is not a mere paper-shuffling exercise. Rather, the new work policy to be implemented nationally will allow States a great deal of flexibility in designing and operating programs to assist able-bodied members of food stamp households to gain skills, training, or work experience that will increase their ability to obtain regular employment.

One of the concerns we had on the Senate side was that this would be a paper tiger—one that looked good on paper but had no real teeth to it. But from our negotiations with Mr. EMERSON concerning the expected operation of the program, I believe we have come to an understanding as to what this program will do and how it will work. While the Emerson work program affords the States a great deal of latitude in designing their programs, the Secretary of Agriculture will have the final authority for approving or disapproving a State's plan based on its substance.

The Secretary will review a State's submitted plan of operation and judge whether the components of the proposal meet the program's goals. For example, in the area of exempting those required to register for work and being covered under the work requirements of this program, the Secretary shall review the categories and persons proposed to be exempted from these requirements. In deciding whether the State used prudent judgment, the Secretary will evaluate the rational basis on which a State proposes to exclude from the plan's coverage certain categories of persons. In other words, States should show a rationa. basis for exemption of persons from coverage under this program. Similarly, the Secretary's review shall include the components of the State's Employment and Training Program. Thus, the Secretary's review is of a substantive nature to ensure that the program components are meaningful and of value. It is important that the persons involved in the Emerson work program be engaged in job activity of substance.

In this way, Mr. President, we can be assured that we will have the appropriate kind of review and oversight that was envisioned and agreed to when the Emerson program was devel-

oped while preserving a State's flexibility in designing its plan of operation. I believe this aspect in and of itself is one of the better provisions in the Food Stamp Program's reauthorization. At this point, Mr. President, I would ask unanimous consent to insert into the RECORD a transcript of the conference concerning the Emerson work provision. I believe it is an enlightening discussion related to this most important aspect of the bill, and I believe it will further delineate what the conferees' understanding was when this provision was adopted. The discussion includes references to Mr. John Bode, the Assistant Secretary of Agriculture for Food and Consumer Services. I ask unanimous consent that the conference discussion be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. EMERSON. At the point we recessed we were on employment and training and Chairman De la Garza had suggested that the amendment that I was going to offer was indeed included in the proposal that was made and accepted, and I had said if we are referring to Document Number 1, Item 17 with a separate piece of paper marked Number 17 that then we were in agreement and no further action was necessary, and I would just like to get a clarification if that is, indeed, what we were talking about.

Mr. FOLEY. That was my understanding.

* * * * *

Mr. PANETTA. We agreed that the Emerson approach on the employment program is the one that we are accepting here.

Mr. EMERSON. If I may say, the proposal that Senator Dole and Chairman Panetta and I, and I think Senator Helms' people, have all been in the loop on, and I thought we had it completely worked out.

We have made, in the course of the discussion, some concessions to the Senate position that we felt were acceptable.

Senator DOLE. You liked this better do you not, John, than the Senate version?

Mr. BODE. Certainly not better than the Senate version, but in terms of getting something taken care of, it is preferrable to get it out.

The CHAIRMAN. Well, John, I guess what we are talking about is closing the loopholes that states may use to exempt practically everybody from the work requirement, is that right?

Mr. BODE. Yes, sir, as we understand this provision, the Secretary has authority ultimately on approval of the plan and that involves a substantive review to assure that the goals that states have a rational basis for excluding groups or categories of able-bodied people from the program and also a rational basis for the design of the types of activities that would be done in the program.

Mr. PANETTA. I would move, just to get to the situation, I would move that the House recede on this element with the Emerson amendment on the work requirement which, as I understand, moves towards the Senate position.

Mr. EMERSON. That is correct.

The CHAIRMAN. Before we accept, I still have to get somebody—I do not know what—

Mr. FOLEY. Mr. Chairman, maybe just to put it over to your side for your consideration, maybe we ought to just, without objection, the House will recede with an amendment.

The CHAIRMAN. Very well.

John, you are going to have to walk me through this, you and Mr. Boney, perhaps. What is the difference between his proposal and the Senate's.

Mr. BODE. Well, under his proposal, it is very clear, first of all, that states have much broader discretion in the design of what employment activities, employment and training activities are done.

The states have broader discretion in deciding which portions of the able-bodied food stamp recipients, how many of them, are subject to entering into the program, but still ultimately the Secretary has authority on all of those factors in determining that whether in their accumulated program are substantial and in meeting the goals of the Act.

Finally, the Senate has specific percentages of the work registration population that has to be served, has to be served in this program. The House provision allows greater flexibility for phasing that in.

Mr. PANETTA. I think this proposal adds a requirement if I am not mistaken on that.

Mr. BODE. Yes.

Mr. PANETTA. Bill, do you want to indicate what that is?

Mr. EMERSON. Our understanding is that the Secretary shall set minimum performance standards which shall vary according to such factors described by the Secretary including program characteristics and the types of programs chosen.

Such standards can vary from state to state and shall take into consideration the cost to states and the degree of participation by exempt persons. In addition, such standards will relate to those required to participate in an employment and training program and not either permanently or temporarily exempt.

Now, that is a compromise between the House and the Senate position. I mean, we have moved towards the Senate.

Mr. PANETTA. We are mandating now that all states have to set up work programs, that the Secretary will have the discretion to determine how those programs are implemented and whether they are sufficient in terms of responding to that mandate.

And thirdly, we are recommending that the Secretary can establish flexibility on that mandate up to 50 percent.

Mr. EMERSON. Yes, and the reason we want flexibility, frankly, is to bring more people into it. If we are more flexible, we think we are going to have more people participating; at least, based on evidence that we deduced from hearings that we had that is the case.

The CHAIRMAN. Does this exempt for 30 days any requirement for participation?

Mr. BODE. As I recall, Senator, it does not build in the 30 days specifically because there is greater discretion for the states to design it.

The CHAIRMAN. It lets the states drag their feet if they want to?

Mr. BODE. Well, to us, that has been the key point, Senator. If states, and that is why the Secretary ultimately having the authority to disapprove the plan if it does not meet the objectives was important, and we felt that was key in getting the issue resolved.

And that accommodation has been made so the Secretary can disapprove a plan if it is not substantial.

The CHAIRMAN. States may temporarily exempt additional persons an categories of persons based on participation of 30 days or less? That does not make sense.

Mr. BODE. From exemption.

The Chairman. But it is hash anyway you eat it. I do not know what the thing means.

Mr. FOLEY. Mr. Chairman, I gather what they are trying to do, and correct me if I am wrong, is not put somebody in a work program where there is the requirement of supervision and everything else if they are just going to be in the program for a couple of weeks or three weeks. I think it is a de minimis rule in terms of the administrative complications of the workforce program.

When you get long term or medium term food stamp recepients that have to be brought into it, but if there is a snow storm or something like that, and I do not know what the conditions were and people would be on a very temporary food stamp program of very short time, it would not be worth putting them in and out of the program, workfare program, just for mechanical reasons.

One other point, I guess. As I hear the Department saying, they feel a little better about these flexibility questions because the Secretary has authority to review all of them to decide if there is too much flexibility and too many loopholes, and it is his responsibility to decide whether this program works or does not, and if he decides it does not, he disapproves it.

Mr. BODE. Yes, sir, and we are supportive of states having a lot of flexibility in designing the concepts that states can—

Mr. FOLEY. So that you can look over what they do and decide whether it meets the objectives if the Secretary thinks they are reasonable in terms of the program objectives and in terms of the conditions as designed by the states, but the Secretary retains the final authority to say yes or no on the program.

Mr. BODE. Yes, sir.

The CHAIRMAN. Now, where did this come from?

Mr. DE LA GARZA. Mr. Emerson's.

The CHAIRMAN. Now, this is not here so—

Well, that ought to meet your concerns fairly well.

Now, you are not going to sit on your hands and let the states get by with murder or continue to get by with murder, are you?

Mr. BODE. No, sir. I am sure I would be up here right away if I hear about it.

The CHAIRMAN. Well, do not come here. Go to the states with a baseball bat.

Mr. BODE. We will work very diligently with the states to assure that each state has a good substantial program.

The CHAIRMAN. We will want a report from you after this is implemented a little while. Okay. Without objection.

Mr. HELMS. Mr. President, the conference report adopted an amendment to provide explicit authority for the Secretary to approve or disapprove State requests to exempt food stamp recipients who have participated 30 days or less. However, as the foregoing conference discussion indicates, it is understood that the Secretary has ultimate authority to approve the overall structure of a State's employment and training program.

We wanted to make absolutely certain that States will not be able to evade the provision by trying to

exempt virtually all of their recipients from it, or setting up meaningless paper exercises that pretend to be work efforts. We have seen meaningless work efforts before. It would be my hope that the Secretary will exercise keen oversight in encouraging States to begin innovative approaches. These approaches will be appreciated not only by the taxpayers but by many of the recipients who stand to benefit greatly from the new employment and training program. While we grant the Secretary the flexibility to delay the establishment of performance standards—for up to 18 months—I would hope that he would not delay, and that he would implement the program as soon as possible.

On another matter where the conferees grant the Secretary discretion to delay implementation, I would hope he would be equally reluctant. Both Houses passed provisions that require State and local governments to stop the practice of imposing food sales taxes on food stamp purchases. Currently over $100 million of the Food Stamp Program is funneled indirectly to State and local governments in about 17 States through these sales taxes now paid for with food stamp coupons.

The Senate bill provided that this practice should stop on October 1 of the year in which the next session of the legislature meets, following enactment of the farm bill. The conference report specifies the next regular session of the State legislature, and provides that the Secretary may grant waivers up until October 1, 1987, by which time all States must be in compliance. The waivers could be granted if the State can show, to the satisfaction of the Secretary, that implementation of the "no tax" policy would have an adverse and disruptive effect on the administration of the Food Stamp Program or would provide inadequate time for retail stores to implement changes in sales tax policy. In my judgment, the Secretary should not be left the discretion to waive such important changes in the law, and I would hope that he would be more wary of using the waiver authority. He should certainly notify States about the change in law, but the decision about how those affected States will comply with the law is one that ultimately rests with the Governors and legislators in those States, not with the Secretary.

Mr. President, there is an area of the bill that I would like to clarify for the record because it is a complex issue and I believe we need to be clear as to what we mean. The conference agreed to a 6-month moratorium on the collection of quality control sanctions while mandating a concurrent 1 year study of the quality control system. The moratorium is to be in effect for 6 months only and then the Federal Government shall resume its collection procedures. This is an important point because while the moratorium is to be in effect for only 6 months, the study is to run for a longer period.

The moratorium does not preclude the Secretary from establishing claims against States under the error rate sanction system during that period. Nor should the moratorium or the rulemaking cause the courts to suspend judicial reveiw of established claims at any time.

Section 1541 also requires that two studies of the quality control system be undertaken and that a rulemaking be performed based on those studies. Finally, any revisions in the qualtiy control sanction system that are made in that rulemaking will be implemented 2 years after enactment. Following implementation of any system changes, the Secretary shall make any adjustments in claims that have been asserted or collected for excessive error rates before implementation of the revised quality control procedure so those claims conform to what would have been claimed under the revised system, as best the Secretary, in his discretion can make such a determination.

The conferees do not intend for actual collections of sanction claims or administrative or judicial review of those claims to be effected in any manner by the required studies and rulemaking.

The Department must have an effective operational mechanism to enforce compliance and prudent management in the Food Stamp Program, and the quality control system is the best means by which this can be accomplished. Therefore, USDA shall promptly resume collection of the quality control sanctions after the 6-month moratorium and not be encumbered in its appropriate oversight responsibilities by waiting for the study to be completed and acted on.

I want to make it clear for the record that with regard to the section on retail food stores and wholesale food concerns that the sale of such an entity to a bona fide purchaser is to intend an arms length transaction and not simply a "fair market price" which the legal term "bona fide purchaser" usually connotes. What the conferees were intending to address was to prohibit the sham sale of stores by a program violator to someone other than a legitimate business interest. We are concerned with program violators trying to evade sanctions by setting up a sham sale. As such a bona fide purchaser is intended to reflect this fact, not just that the buyer paid the fair market price.

In the section related categorical eligibility of AFDC recipients for the Food Stamp Program, there was no intent to change the factors by which persons could not comply with the provisions of this act and still become eligible for Food Stamp Program benefits. Specifically, households that become ineligible due to failure to cooperate in providing information needed by State agencies to determine or review eligibility would not be considered categorically eligible, nor would households whose ineligibility is due to transferring assets in order to qualify. Such households would be covered by current regulations.

This is an important point, Mr. President, that I want to make sure is understood. We certainly do not want to have a situation where someone could refuse to cooperate and then receive food stamps, and I am sure that we conferees had no such intention.

The bill also specifically addresses in how State, local, or private educational benefits are counted as income. However, since almost all of such educational aid provides students with funds which may be used for living expenses connected with attending college, as the student determines appropriate, such educational aid even where spent on necessary books or supplies would not be excludable as a reimbursement from income. Where the student receives a fund of money to be used for all future educational expenses—including living expenses such as food or rent—each dollar is "provided for living expenses," although it may be used for necessary books, and is not excludable as a reimbursement. This same principle has been properly applied by the courts to Federal educational assistance. *Shaffer* v. *Block*, (Sixth Circuit 1983); *Burkett* v. *Block* (Sixth Circuit 1985); *Reichley* v. *Block* (District Court, Colorado, 1985); and *Malone* v. *Block*, (District Court, Iowa 1985).

Neither the computational budgets used by colleges to compute the amounts of aid, nor the award letters colleges issue to announce the awards, preclude students from using general grants or scholarships which they receive for living expenses connected with attending college. Thus, such aid was, and still will be, properly counted as income unless spent on tuition or mandatory school fees and will not represent an excludable reimbursment even where spent on necessary school supplies or books.

With regard to the resource limitations provision and inaccessible resources, only the portion of an asset that is encumbered by a lien is inaccessible to the household. Only the equity value of an asset—fair market value less any liens or other encumbrances—is to be counted toward the household's resource limit.

Section 1454 of the Senate bill amended section 1114 of the Agriculture and Food Act of 1981 by specifying the inclusion of dairy products, wheat or wheat products, rice, honey,

and cornmeal as being among the CCC commodities made available at no charge or credit to food assistance programs. This change in no way relieves the Secretary of his duty to prevent displacement of like or similar commodities with those donations as required by section 203(a) of Public Law 98-92. Only after taking whatever precautions the Secretary, in his discretion, deems necessary will the Secretary act to distribute these commodities without credit or charge.

The Temporary Emergency Food Assistance Act of 1983 was amended by extending through June 1987 the requirement for the Secretary to enter into agreements with private companies for processing of commodities into end-use products. This extension does not preclude the Secretary from exercising his authority under section 10 of the Child Nutrition Act of 1966 to prescribe such regulations as he may deem necessary to carry out programs authorized under the act and the National School Lunch Act including the requirement for States to process commodities into end-use products. Processing encourages the consumption of surplus commodities by converting them into products that are more desirable to recipient agencies than bulk commodities in unprocessed forms.

The processing of bonus commodities is to continue through the NCP program until expiration of that program approaches. Processing of entitlement commodities is to be expanded. The Secretary is expected to undertake a rulemaking to require States to provide entitlement commodity processing. We certainly do not want States to regress in their own level of commitment to commodity processing, especially in the case of entitlement commodities.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, before the Senate takes final action on the farm bill conference report, I think it is important that the Senate take cognizance of the severe financial situation facing our Nation's farmers. Many of my colleagues have heard all this before. Certainly, the tragic deaths in Iowa just a few days ago focused new attention on the seriousness of conditions in the rural America.

But these facts and figures bear repeating as we consider farm legislation in this body for the last time this year. We will shortly adjourn the 1st session of the 99th Congress, perhaps as early as tomorrow. As we prepare to depart for home and holidays, the Midwestern Farm Belt is awash in foreclosures and bankruptcies.

Farm sales have become epidemic in my State and many other States, and bank closings are so common that they no longer make the front pages. Violent incidents involving distressed farmers occur with alarming frequency.

Agriculture Department figures show that nearly a third of all U.S. farms have high debt loads, are unable to pay their bills, or both. Twenty percent have both a negative cash flow and problems making loan payments. Since 1981, land values have declined almost 50 percent in Iowa and Nebraska and 40 percent in Ohio, Illinois, Indiana, Minnesota, and Missouri.

As a result of such conditions, it is no exaggeration to say the very existence of our family farm system is in doubt. And this crisis affects far more than just the farmer. In rural America today, this crisis affects the banker, the feed and fertilizer dealer, and the supermarket operator. In Nebraska, it even affects the local school system. Today, in my State, we hear of an increasing number of school districts in financial trouble; farm bankruptcies and plummeting land values have caused property tax payments to drop off sharply.

A recent study by Wharton Econometrics concluded that today's farm debt crisis, if not resolved will trigger "higher interest rates, lower employment, reduced gross national product, lower personal income and a larger Federal deficit." Specifically, this study states that farm loan losses of $25 billion over the next 4 years would increase the Federal debt $21.5 billion, increase short-term interest rates 1.25 percent, reduce employment by 275,000 jobs, and reduce the GNP by $50 billion over 8 years. So, ultimately, the entire economy will suffer if nothing is done to aid the farmer. To quote President Dwight Eisenhower, "Without a prosperous agriculture, there will not be prosperous America."

BACKGROUND

Mr. President, 4 years ago, speaking in this Chamber, I called our last general rewrite of Federal farm programs a "blueprint for farm failures." Regrettably, I was all too prophetic with that remark. And today, with conditions much more deteriorated in the Farm Belt, we give final consideration to another multiyear farm bill.

The conference report on H.R. 2100 is the culmination of nearly 2 years of effort toward comprehensive legislation spelling out Federal farm policies and programs through 1990. It is the product of hundreds of hours of hearings before the House and Senate Agriculture Committees and months of committee markups. Dozens of alternatives were considered during floor debate.

These discussions were held at a time when there exists a severe depression in the farm economy in many parts of the Nation and a time when there are unprecedented budgetary constraints in Washington. Despite marked differences of opinions over which direction farm programs should take, the committee of conference agreed to a report on the 1985 farm bill after 8 days of negotiations.

Mr. President, this legislation is not all I would have liked to see in a new farm bill. At a time of severe financial problems in the Farm Belt, the bill does not do everything that is necessary to assure farmers of an adequate safety net of income protection. At best, this is a hold-the-line measure that will help buy time for agriculture to work its way out of its current crisis. Still, that is far better than the complete turnaround in farm programs sought by the administration.

Many of the things that would do the most to aid financially strapped farmers are, of course, beyond the scope of any farm bill. These include tax changes affecting the strength of the dollar, a reduction in the Federal deficit that will lead to a decrease in interest rates, and a more aggressive attitude on exports.

SALIENT PROVISIONS

The wheat and feed grains titles of the bill are of key importance to farmers in my area. They reflect a blend of the "market-oriented" approach to farm programs and the "safety net" concept of income protection. The commodities programs are established for 5 years.

Loan rates for 1986 are established initially at $3 a bushel for wheat and $2.40 for corn, with mechanisms in all years that would lower them further in order to provide competitive pricing. For 1987 through 1990, initial loan rates would decline by no more than 5 percent in each year, with the increased deficiency payments resulting from reductions in the initial loan rates for each year exempted from the $50,000 payment limitation.

Income protection is provided by what is in effect a 3-year freeze in target prices over the life of the bill. Target prices are established at $4.38 per bushel for wheat and $3.03 per bushel for corn through 1987, with a total reduction of 5 percent spread over 1988 and 1989. For 1990, target price levels would decline by 5 percent from the previous year's level. However, under the bill the target prices for wheat and feed grains would never be less than $4 and $2.75, respectively.

Without doubt, one of the most difficult conflicts to resolve in conference was the acreage reduction portion of the bill. The House and Senate bills contained different provisions. Specifically, the House provisions established a minimum level of acreage reduction, while the Senate bill provided a maximum level. The compromise was to establish statutory maximums and minimums between which the Secretary of Agriculture can adjust acreage reduction levels as he determines necessary. The lower limits will prevent the Sec-

retary from moving toward a "full production" commodity program, while the upper limits will restrict authority to increase unpaid acreage reductions above established levels.

Specifically, to qualify for benefits in a year in which carryover wheat stocks exceed 1 billion bushels, wheat producers would be required to reduce acreage as follows: In 1986, a maximum diversion of 25 percent—including a mandatory minimum reduction of 15 percent, a mandatory in-kind paid diversion of 2.5 percent, and a further reduction at secretarial discretion of 7.5 percent; in 1987, a maximum reduction of 27.5 percent—including a mandatory minimum of 20 percent and a further 7.5 percent at the Secretary's discretion; and for 1988-90, a maximum of 30 percent—including a mandatory minimum of 20 percent and 10 percent at the Secretary's discretion. For the 1986 wheat crop only, the Secretary would be required to offer growers who planted before announcement of the program a chance to idle an additional 10 percent of their base in return for payments.

For feed grains, if stocks exceed 2 billion bushels of corn, the 1986 reduction would be a maximum of 20 percent of which 12.5 percent would be a mandatory minimum, a mandatory paid-in-kind diversion of 2.5 percent, and a further reduction at secretarial discretion of 5 percent. For 1987-90, the maximum would be 20 percent—including a mandatory minimum of 12.5 percent plus up to 7.5 percent at the Secretary's discretion. For all grains, the Secretary would have discretionary authority to offer producers a further voluntary paid diversion beyond the basic requirements of the bill. The bill also requires the Secretary to allow haying and grazing on diverted acres in 1986 and grazing in 1987-90 if State agricultural stabilization committees require it. The Secretary has discretionary authority for haying in 1987-90.

Mr. President, as I stated earlier, the 3-year freeze and the floors for target prices will provide critically important income protection for farmers as lower, market-oriented, loan rates make U.S. farm commodities more competitive in world markets.

Of particular interest to Midwestern farmers, this bill gives the Secretary of Agriculture discretionary authority to establish mandatory production controls on wheat, in favored in a farmer referendum. I fought hard for—and would have much preferred—language requiring the Secretary to hold a referendum among wheat growers on mandatory controls.

Personally, I am convinced that mandatory production controls offer the only real hope for bringing the supply of farm commodities in line with demand and keeping prices above the cost of production. However, the discretionary authority in this bill does give the Agriculture Department one more tool to use in shaping farm programs over the next few years.

The bill does require the Secretary to conduct—by August 1, 1986—a survey of wheat farmers to see if they favor mandatory production controls on wheat as a means of adjusting production and increasing the price wheat farmers receive for their production. The parliamentary rules of the conference prevented us from requiring a similar survey of feed grain producers. However, the statement of the managers accompanying the conference report notes that the Secretary could, in his discretion, conduct a similar survey of feed grain producers, and I urge the Secretary to conduct that survey as well.

It is time we listened to farmers in fashioning farm programs and the surveys will be extremely important in the establishment of future production adjustment programs for wheat and feed grains.

Mr. President, at the outset of the conference, I indicated that possibly the one prerequisite for securing my vote for the bill would be the inclusion of authority in the legislation for the Secretary of Agriculture to proclaim marketing quotas and establish a mandatory production control program for wheat, subject to approval by wheat producers voting in a referendum.

There is a surplus of grain commodities in this Nation, together with many other agricultural commodities. That surplus places pressure on prices. Before the bottom of prices is reached, we must have supply management.

General Motors, Ford Motors—any manufacturer—will stop manufacturing when they create surpluses of a product above and beyond which they have no capability to sell. That is good business, because to oversupply a nation with new product depresses, the price of that product to the extent that the producer eventually goes broke or becomes bankrupt.

Condominium builders in this city, apartment builders, and home builders all know that when there is a glut on the market of whatever commodity, it depresses the price of that commodity. It is pure, basic economics. That is why I feel so strongly that production controls are necessary. We have attempted to do it voluntarily for many years and we have a supply of more agricultural products than we know what to do with. If I wanted to be in a business this coming year, it would be in the business of building places to store surplus commodities, because we are going to have plenty of them.

The conference report includes many other items I worked hard for through the Senate's many months of deliberations on a new farm bill. Some of them, I'm pleased to say, are taken from my omnibus farm bill, S. 1051, or from amendments I offered in committee or on the Senate floor.

Chief among these are, first, a 3-year, $490 million program to reduce interest rates on farm loans and, second, landmark conservation programs, including tough sodbuster and swampbuster provisions and a conservation reserve that would retire from production up to 45 million acres of highly erodible land.

The interest rate reduction program would aid hard-pressed farmers with loans guaranteed by the Farmers Home Administration. The Agriculture Department and private lenders would share equally in the cost of the reduction. The Government could pay for 2 percent of the overall "buydown" or one-half of the total, whichever was less.

The sodbuster program denies price supports and other farm program benefits to farmers who plant on fragile land in violation of the terms of the program. A "grandfather clause" exempting land used for crops between 1981 and 1985 would terminate for most farmers by 1990. The companion swampbuster program would deny farm benefits to those who, in the future, convert wetlands to crop use.

The sodbuster and swampbuster provisions are extremely important to those of us interested in conserving our precious natural resources. Conversion of marginal grassland to cropland is more serious in the Great Plains but it is a problem all over the country. Nationwide, 45 million acres of highly erodible land have already been brought into production and another 247 million acres could be cultivated.

Loss of wetlands takes its toll on wildlife and recreation and is a serious problem in Nebraska. My State is one of the five in the Nation that have lost more than 90 percent of their natural wetlands, most of it through conversion to cropland. Nationwide, 14.7 million acres of wetlands were destroyed from 1955 to 1975, 80 percent of them drained or filled for farm use.

The sodbuster and swampbuster programs are needed for economic reasons as well as for conservation. It's time Government stopped subsidizing the cultivation of land not suitable for farming. It just adds to our surpluses and further depresses commodity prices.

The long-term conservation reserve has been called by Agriculture Secretary John Block the "largest single soil conservation initiative in the history of American agriculture." It would allow farmers to contract with USDA to return highly erodible soils already in crop use to less intensive uses such as grass or trees. Growers would receive cash or in kind land rental payments plus payments cover-

ing a part of the cost of land treatment measures. There would be a $50,000 limit on annual payments to farmers under reserve contracts.

OTHER PROVISIONS

Other provisions of the conference report I worked hard to see enacted include:

A nationwide "check-off" program to finance research, promotion and advertising of pork products. This provision, which results from an amendment I offered, should be a great benefit to pork producers. It is an excellent example of self-initiative and self-reliance on the part of hog producers, who desire to improve the viability of their industry.

Protections against further cuts for the grassroots Agricultural Stabilization and Conservation committees that for 50 years have provided farmers with timely information on Federal farm programs. The ASC county and community committees operate within the local communities to inform their neighbors about farm programs and help see that these programs are administered by fairness and equity. This provision maintains a viable committee system while making the program cost effective.

Authority to make certain surplus government grain available free or at reduced cost for processing into ethanol.

Discretionary authority for a strategic ethanol fuel reserve.

Extension of the Soil and Water Resources Conservation Act requiring the Agriculture Department to produce assessments of soil and water resources in 1995 and again in 2005.

Provisions assuring that sugar growers continue to receive Government support payments when sugar processors—through whom the payments pass—go bankrupt.

FOOD STAMP PROGRAM

The bill reauthorizes for 5 years the important Food Stamp Program. The bill includes changes in the program that will make the program more accessible to farmers in States like Nebraska that are experiencing extremely adverse economic conditions.

Under the current Food Stamp Program, eligibility of self-employed households is largely determined on the basis of the previous year's income and not on the basis of the circumstances of household at the time that an application for assistance is made. Therefore, a large number of farm households do not qualify for assistance even though they may have no money available to feed their families. This problem will be corrected by allowing a household's current circumstances to be considered in determining eligibility.

Another hinderance to the availability of the program to economically troubled farm families involves the deductibility of farm losses in determining eligibility. Under the current program, many farm families—who are otherwise eligible and need immediate assistance—do not qualify because income earned off the farm cannot be offset by losses in the farming operation. This is true even though the off-farm income must be used to pay for the losses from the farming operation and is not available to the family to meet their household needs. The bill will correct this situation by allowing farm losses to be offset against other income of the household.

CLEAR TITLE

The bill attempts to address the so-called double jeopardy problem whereby a purchaser of farm products may have to pay twice for commodities because of a financial dispute between the producer/borrower and lender.

Under the bill, a purchaser of farm products includes a buyer, commission merchant, or selling agent. The bill provides that a purchaser of farm products can take free of a security interest created by a seller, even though the security interest is perfected and even though the purchaser knows of the existence of such interest unless, First, within 1 year before the sale of the farm products, the purchaser has received from the secured party or the seller, written notice of the security interest; and second, the purchaser has failed to perform the payment obligations.

Similarly, in those States that choose to set up a central filing system rather than providing for prenotification, a purchaser buying farm products takes them subject to a lender's security interest if first, the purchaser agent did not register with the Secretary of State—or a designee of the State whose duties include the making or keeping of records—as a potential purchaser and the lender has filed an effective financing statement; or second, the purchaser (i) received written notice from the State that specifies the seller and farm products that are subject to an effective security interest, and (ii) did not obtain waiver or release of the security interest from the secured party.

Additional seller obligations are provided for under the bill as well as a provision that requires the Secretary of Agriculture to promulgate regulations within 90 days after the bill is signed in order to facilitate those States that have, or intend to, set up a central filing system. In providing the Secretary with the authority to certify State central filing systems, Congress also provided guidelines for the Secretary to follow in determining whether or not a system is in general compliance with the requirements. The Secretary should be fair and reasonable in making such determination for those States that have already or are in the process of implementing a central filing system.

I am most concerned with the clear title language that provides that what constitutes receipt of notification shall be determined on the basis of the buyer's resident State. I believe that such a determination is better left to the States.

I would like to see the clear title provision work and I urge purchasers, lenders, and States to make an effort toward making the concept successful.

CSFP AND TEFAP

Nebraska is one of several States that has a Commodity Supplemental Food Program [CSFP] under which low-income women, infants, and children are provided with certain commodities. Under the bill, Nebraska's CSFP agencies, with the approval of the Secretary and under certain conditions, will be permitted to provide commodities to low-income elderly.

The Temporary Emergency Food Assistance Program [TEFAP] is reauthorized for 2 years. Under this program, the Secretary releases CCC commodities to States allowing for disposal of government-held surplus commodities to prevent waste as well as providing food assistance to low-income households. In addition to authorizing appropriations of $50 million for each of the fiscal years, effective January 1, 1987, the bill will, among other things, first, require State matching on a dollar for dollar basis, except for States that have no regular session of their State legislature by that time, the deadline would be October 1, 1987; second, limit the matching requirement to those funds that a State retains at the State level and devotes to State-level activities (to the extent the State pays for the direct expenses of local distribution, the matching requirement would not apply); and third, in determining whether the State match has been met, allow in-kind contributions by a State to be counted according to procedures approved by the Secretary for certifying these contributions.

CONCLUSION

Mr. President, this bill is hardly a cure-all for farmers. In no way will this bill resolve the very serious problems facing agriculture today. Rather, as I said earlier, it is at best a hold-the-line measure. It should help buy time for agriculture to work its way out of its current economic dilemma. And, as I also indicated earlier, it is far better than the wholesale dismantling of government farm programs favored by the administration.

It should be pointed out that any additional delay in acting on this bill will serve no useful purpose. Not enacting a bill will only further the decline in Farm Belt land values and worsen the problems of the Farm Credit System.

Also, while this measure is a 5-year farm bill, conditions in the farm economy will undoubtedly require us to

revise these programs in another year or two. In the meantime, the freeze on target prices represents the maximum income protection we could negotiate for farmers this year.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I again want to compliment the chairman, Senator HELMS, and the ranking Democrat on the committee, Senator ZORINSKY. I also want to repeat in case Members do not know what the vote was in the House. It was 325 for the bill, 96 against, and 14 not voting. From a party standpoint, voting yea, 131 Republicans and 194 Democrats. Voting nay, 47 Republicans and 49 Democrats. Not voting, 4 and 10. The message of that vote, I believe, is fairly clear. Having been in the House 8 years and having been here for some time and having been involved in a lot of farm bills, I cannot recall a vote as lopsided as this one on a farm bill.

I cannot speculate why each Member voted for or against the bill, but I can indicate that it has broad bipartisan support.

We have come to the moment of making a judgment. We know for certain that not every farmer in our States will like the bill, so we have to decide whether we want to vote for something that I believe offers income protection, market orientation, flexibility, and contains a lot of good provisions that are never mentioned in the media, whether it is Food for Peace, whether it is export programs, research and development, or other programs that play a very important role in agriculture.

We find ourselves getting hung up around here on how high is the target price. Is it going to be 1 cent higher, 2 cents higher, or 3 cents higher? Many times we lose sight of good policy in farm legislation that may mean more to the farmer than whether it is 1, 2, 3, 4, or 5 cents more in target price or loan rates, whatever it may be.

I am very pleased to support this bill. I believe it will provide protection for the American farmer. I believe that farmers in the past in many areas have been in distress. If you go back and look at the speeches made in 1981 and 1977, with some changes you could just about use the same speech. Every time we pass a farm bill we know that there are farmers out there who are in difficulty, and who have real problems. It is more significant now than ever. Our responsibility is greater now than ever.

By voting on the farm credit bill last night and the farm bill today, it seems to me that we have again demonstrated our concern for American agriculture in a bipartisan way.

I assume there will be a rollcall vote on the conference report. If not, that is something else. But if there is, I hope it is unanimous. It may not be unanimous. There may be some who represent large urban areas who feel that it will cost too much.

I am advised that the final tally, and it is sort of a moving tally, the latest final tally is $51.95 billion.

I am also advised that the bill weighs 13 pounds. That figures out to about $4 billion a pound.

If you want to read it, you may want to know how many hundreds and hundreds of pages it is. It is a very lengthy document.

The Chairman now has it in his hand. In any event, it is heavy.

Mr. President, it is with great satisfaction that I now join my colleagues in considering and hopefully passing the conference report on the 1985 farm bill. This legislation was just passed by the other body at about 1:45 p.m., this afternoon by a bipartisan majority of 325 to 96. I hope we can now follow suit and send it to the President who, I understand, is favorably disposed to sign it into law.

There have been many difficulties and obstacles overcome in developing and reaching a working consensus on this bill. The critical problems in our agricultural economy, which have been increasing in severity over the past 5 years, cannot be reversed so quickly, nor can legislation alone provide answers to our concerns with the international trading system, the strength of the dollar, and the impact of Federal deficits on the dollar and on commercial interest rates.

The problems of American farmers and ranchers are real, and they are present even as we are considering this legislation. I would only say that there are a number of very positive features in this farm bill that should not be ignored, either by farmers, by the general public, or by the national press which is covering this deliberation.

LONG-TERM CONSERVATION RESERVE

I would cite the landmark establishment of a 40-million acre conservation reserve as a major contribution toward long-term land management and toward conserving our rich inheritance of natural resources for posterity. The conservation reserve could well become the foundation of future efforts to balance our agricultural productivity with world demand for farm products.

FLEXIBLE LOAN RATES TO RESTORE EXPORTS

Another single achievement in this bill is the establishment of flexible loan rates that can respond fully to variations in the international prices of our principal agricultural commodities. Under the 1981 farm bill, we have watched almost helplessly as the strong dollar and price cutting by our major competitors have virtually cut U.S. farm exports in half. We have, in effect, had the worst of both worlds—holding prices at below our production costs while failing to attain price levels that can reduce heavy, price-depressing stocks.

Using the tools available in this bill, the administration can now respond to these conditions and make clear the intention of the United States to be fully competitive for world markets over the long-term. This message is of key importance, both to our competitors and to our customers abroad. We simply cannot afford past policies in which sometimes we sought out export markets and other times slammed the door on them.

A STABLE INCOME SUPPORT PROGRAM

And the key to sustaining this long-term commitment to exports, Mr. President, is to assure our producers a stable base of income support. There has been great concern expressed over the course of this debate over whether we can afford to maintain the current level of target prices to grain and cotton farmers, and for how long. The focus of discussion and, occasionally, disagreement in the Agriculture Committee, on the Senate floor, and in conference was whether we would have a 1, a 2, or a 4 year freeze on target prices.

Like most issues that become tied to numbers, we were able to resolve the so-called target price "freeze" question by splitting the difference. So we have what amounts to a 2½-year freeze in the bill. The level will remain at the 1985 level for 1986 and 1987, decline 2 percent in 1988, 3 percent in 1989, and 5 percent in 1990. What is really important, however, is that Government support for farm income will be held relatively constant while we make a determined effort to get demand back into our supply-demand relationship.

OTHER POSITIVE BENEFITS

I could cite numerous other positive features in this legislation, Mr. President. They include an additional $8 billion in funding for export credits and credit guarantee programs, renewal of the Food for Peace Program, continued support for the Food Stamp Program, a compromise on the clear title issue, and a major resolution of the animal welfare differences.

I would take exception with those critics who argue that this legislation is just "more of the same" with regard to noncompetitive prices and inadequate income support for farmers. The administration costed this bill out on the assumption that the competitive prices under the so-called Findley amendment and the marketing loan would be fully achieved. I anticipate that the program details for 1986 crops, which should be forthcoming by the end of the week for wheat, will reflect these provisions.

So I believe, Mr. President, that those of us who are aware of the serious difficulties in the farm economy, and who share responsibility for developing farm policy that responds to

them, can take some degree of pride in having wrested a fair and balanced package through the legislative process this year. In so doing, I want to give particular praise to the distinguished chairman of the Agriculture Committee, Senator HELMS, and the distinguished ranking member, Senator ZORINSKY. Without their daily dedication to moving the process forward through months of hearings, mark-ups, and floor debates, I know that none of us would be ready to vote on this bill today.

Let me also thank the other members of the committee, its professional staff on both sides, and the personal staff for members both on and off the committee for their almost tireless efforts.

I also want to comment on the Food Stamp Program reauthorization.

Mr. President, most of the focus in the debate thus far this year has been on the agriculture section of the 1985 farm bill. However, S. 1714, the Agriculture, Food, Trade and Conservation Act of 1985 also contains a 5-year reauthorization of the Food Stamp Program, as well as extensions of the Commodity Supplemental Food Program and the Temporary Emergency Food Assistance Program. As chairman of the Subcommittee on Nutrition, the Senator from Kansas has a great interest in all of the Federal nutrition programs.

FOOD STAMP PROGRAM BACKGROUND

Mr. President, unlike previous years, when we were dealing with significant program changes and budget reductions of about $2 billion in 1981, and nearly $900 million in 1982, budget issues no longer dominate the policy debate for the Food Stamp Program. By improving the targeting of benefits, implementing administrative reforms and going after fraud, waste, and abuse, we were able to achieve about 7 billion dollars' worth of savings for the fiscal period 1982–85.

This year's reauthorization process mainly focused on fine-tuning the program and making certain that it is working effectively—that low-income Americans who depend upon this program for food assistance are being reached, and that benefits are adequate. By adequate, it is important to clarify that food stamps were intended to provide a minimum diet, based upon the so-called thrifty food plan.

According to the Director of the Center on Budget and Policy Priorities:

> For some time, there was a fair amount of debate between those who argued that cuts in the food programs had caused a large upsurge in hunger and those who denied that a hunger problem existed. I think the evidence increasingly indicates that both of these positions were mistaken. The problem of hunger is real, but it is caused by many factors. Federal budget cuts in food programs were not the principal cause here.

FOOD STAMP PROVISIONS OF FARM BILL

Mr. President, as I have stated, the 1985 farm bill contains a 5-year reauthorization of the Food Stamp Program. The major provisions include an employment and training program, and modest benefit increases targeted to the working poor. There are also some program reforms in the administrative area, as well as a further strengthening of existing tools to eliminate fraud, waste, and abuse. An enhanced computerization provision, added as a floor amendment sponsored by the distinguished Senator from Minnesota [Mr. BOSCHWITZ], and myself, will encourage States to develop and implement a plan to automate their administration of the Food Stamp Program. This should help States reduce their error rates through the use of computerized issuance and eligibility determination systems.

EMPLOYMENT AND TRAINING PROGRAM

One area of the Food Stamp Program which has always been weak is that of work requirements for able-bodied recipients. Under current law, able-bodied food stamp recipients between the ages of 18 and 60 who do not have dependent children under age 6 are merely required to register for work and participate in job search. During the conference, the gentleman from Missouri [Mr. EMERSON], the ranking minority member of the House Nutrition Subcommittee, and I offered a compromise on the Employment and Training Program contained in the Senate bill, which was accepted by the conferees.

The provision contained in the 1985 farm bill would provide a "mini-block grant" to the States to implement a work program for able-bodied food stamp recipients. States must now initiate some kind of work program tailored to the needs of their food stamp population. This program may be structured from a variety of options, including job search, job clubs, and workfare. The Secretary of Agriculture has the authority to approve or disapprove State work plans. Also, the Federal Government will now provide $40, $50, $60, $75, and $75 million for fiscal year 1986 through fiscal year 1990, to help pay for the administrative cost of such State-designed programs. If a State chooses to spend more on this effort, there will be a Federal match.

BENEFIT INCREASES FOR WORKING POOR

Mr. President, during previous budget cycles in 1981 and 1982, the working poor were the group most affected by many of the changes in the Food Stamp Program. Therefore, the 1985 farm bill contains some modest benefit increases targeted to the working poor. The conferees adopted a proposal to increase the earned-income deduction from 18 to 20 percent—a provision contained in both the 1984 and 1985 Domestic Food Assistance Acts which I introduced along with many of my colleagues on both sides of the aisle. The Domestic Food Assistance Act of 1984 also contained proposals similar to those adopted by the farm bill conferees. Just about all of these provisions were recommendations of the President's Task Force on Food Assistance.

For quite some time, the assets provisions have needed to be adjusted to accommodate the modern realities of inflation. Therefore, the 1985 food stamp reauthorization would increase the liquid assets limit from $1,500 to $2,000 for nonelderly participants, and the assets limit for a single elderly household would be increased to $3,000, the current limit for a household containing two elderly individuals.

Recent poverty studies have shown that single women with children are the group that is the most vulnerable and has the most serious economic problems. Under current law, the shelter and dependent care deduction are combined. This legislation would create separate shelter and dependent care deductions, imposing a limit of $160 and $147 per month, respectively.

Further, self-employed farmers would be able to deduct their losses in order to be eligible to receive food stamps. In the past, this had been a barrier to their program participation in these tough economic times.

Since 1981, the Food Stamp Program in Puerto Rico has consisted of an $825 million block grant. This bill would provide for a 1-year freeze, and three-fourths of an inflation increase for the next 4 years.

FRAUD PROVISIONS AND ADMINISTRATIVE IMPROVEMENTS

Mr. President, there are many provisions in this conference report designed to help eliminate fraud. One of these provisions would allow the Secretary of Agriculture to require photo identification cards where necessary to protect program integrity, provided the measure is cost effective. Further, fraud detection units would be established in large metropolitan areas to prevent, detect, investigate, and assist in the prosecution of fraud.

In areas prone to high error rates, the Secretary of Agriculture would be permitted to require a State to carry out new or modified certification procedures, including the use of automatic data-processing systems. Further, every adult household member must sign a food stamp application under penalty of perjury, stating that all the information in the application is true; each adult member of a food stamp household would be jointly and severally liable for the value of any overissuance of food stamps, based on intentional misrepresentation.

OTHER PROVISIONS

Other provisions of interest would prohibit banks from charging retail grocery stores a fee for handling food stamps. This was a proposal originally introduced as a separate bill by both

of the distinguished Senators from Minnesota.

A floor amendment introduced by the Senator from Washington, [Mr. EVANS], and accepted by the Senate, providing for a 2-year moratorium on the collection of error rate sanctions owed by the States to the Federal Government was reduced to a 6-month moratorium, but the provision for a study of the underlying food stamp quality control system was retained.

There is another provision that would increase the purchasing power of food stamp recipients in States that charge a sales tax on food. States that engage in this practice will not be allowed to participate in the Food Stamp Program if they continue to charge a sales tax to food purchased by recipients after October 1, 1987. This concept was contained in both of the Domestic Food Assistance Acts, which the Senator from Kansas introduced in the last 2 years.

CONCLUDING REMARKS

Mr. President, deliberations on the Agriculture, Food, Trade, and Conservation Act of 1985, have continued over a period of many months, beginning late in the spring of this year. We are now on the last day of the first session of the 99th Congress, and the Senator from Kansas is pleased to see that this conference report will be brought to a vote on final passage today. This legislation will benefit farmers and food stamp recipients alike. It is the result of many compromises along the way, and the final product is one that no member of this body is probably completely satisfied with. Yet it contains something of interest to all those actively involved and concerned with these issues.

I would like to commend the distinguished chairman of the Agriculture Committee and the ranking minority member for their untiring patience throughout this lengthy process. It is also appropriate to thank the distinguished Senator from Minnesota [Mr. BOSCHWITZ], for his leadership in the nutrition program area. We have spent many months working on the 1985 farm bill and food stamp reauthorization, and a special thanks should go to the staff of members of the Agriculture Committee.

I urge my colleagues to vote in favor of this conference report on the Agriculture, Food, Trade and Conservation Act of 1985. This 5-year reauthorization will be one of the most significant accomplishments of the 99th Congress.

The Food Stamp Program is another important part of the farm bill, a very important part of the farm bill. It is very important to many people in urban areas. I hope some of my urban colleagues will take a look at some of these provisions that will affect their States even though they may not be particularly concerned about cotton, rice, soybeans, honey, wool, or some other price-supported commodity.

We believe that we should have done more on the spending reduction side in food stamps, but again, there were some good policy changes made. The work requirements were tightened up in accordance with the suggestions of the Representative from Missouri, BILL EMERSON. There were a number of other changes made in the food stamp section which, I believe on balance are sound. Many were recommended by the Presidential task force a couple of years ago. Again, it was a give-and-take proposition.

I happen to share the view of the chairman. I think we need some block grant pilot projects going into some of these States to see if we can save on the cost of the program and give the States more flexibility. About 17 States have claimed they would like to do that. There is not even any discretionary authority in this bill for that kind of approach, but sooner or later, it will come.

Mr. President, there has been some discussion that somebody might raise a point of order on this bill. I hope that is not the case, but if it is, I hope we have the votes to do whatever we need to do—either to waive the point of order or reverse the ruling of the Chair. If that comes, it will come under some new technical problem caused by Gramm-Rudman. We are ready to address that.

If somebody wants to try to kill the farm bill, we are here to protect it. If somebody wants to reduce the cost, make that point of order, we are here to debate it. But I would say on balance that we believe this represents, as it has many times in the past, the best efforts of Democrats and Republicans working together under the leadership of Senator HELMS of North Carolina and Senator ZORINSKY of Nebraska for the last several months.

We have had a lot of heated debates on this floor. A lot of fingers were pointed on both sides about who was holding it up, who was not letting us meet, why we did not do it before the recess. We have a chance to do it now before adjournment. It is not very early. It is a little late for wheat farmers, but they would rather have it now than not at all.

I join my colleagues in urging support for the conference report and hopefully, very soon.

Mr. MELCHER. Mr. President, the bill before us is a minimal bill. I want to include such happy remarks about, well, we have passed a great farm bill, for instance, in my Christmas card to farmers. I want to say in that Christmas card with Happy New Year salutations to farmer friends, but I would not say, that 1986 promises to be a grand and glorious year.

No, I would not do that. I would not do that based on this bill, because what we have done is sort of said, well, we have kind of reversed the concept that was put forward, passage of this bill will reverse the concept that was put forward by the administration early this year when they unfolded their proposal and presented to Congress a bill that was designed to eliminate farmers.

In fact, the Secretary of Agriculture was very candid. He said, in response to questioning by media reports, "Yes, there are too many farmers and market conditions and such may result in 18 to 20 percent of them being eliminated over the next 2 or 3 years."

Mr. President, that is pretty sad, that sort of statistic, if you want to look at it that way, a rather dry, narrow way of looking at it, that sort of statistical reporting by the Secretary of Agriculture. But if you are one of those 15 to 20 percent of the farmers that might be eliminated over the next 2 or 3 years, it is your way of life, it is your livelihood, it is the place where your family lives, it may have been in the family for generations before you. It is a sort of signature on a huge report card of your entire life. It says "F" for failure.

Yet the administration did present a bill that would not only recognize the elimination of farmers, it would help eliminate them—I said "help," help eliminate them. So, in some respects, over the past year, this bill could be viewed as a sort of turning point—a turning point away from where we have the Department of Agriculture statistically sort of figuring out what happens when you eliminate 15 to 20 or 25 percent of the existing farmers and ranchers of this country over the next 2 or 3 years.

So we have in this bill simply a framework for the rescue of the remaining American agricultural industry. I said, "industry." That is a little bit more than just farmers and ranchers. Within that framework, it is obvious that much remains to be done. I am speaking about a 5-year farm program, the whole kit-and-caboodle of all those farm programs, as a framework. If we are going to help this most basic industry survive, we must, first of all, recognize that this bill, this framework bill, is just the opening round, granted that this round lasted all this year. I think it is fair to say that we have drawn the line now; we retreat no farther, and we must fight. We must fight it out on this line no matter how long it takes us in 1986 and 1987 and 1988— whatever it takes.

The reason we must do that is not just to keep those farmers and ranchers on the land, it is also because we have been seeing the landscape of America changing. All across the rural countryside of the United States, we see community after community invariably shrinking and it shrinks as

farmer after farmer or rancher after rancher leaves the land.

It is a social change that is not desirable and it is a type of social change that, if it goes on unchecked, will change America forever. That I cannot countenance. I cannot believe it would be good for the United States. And I do not believe that we can allow it to happen. Despite whatever Gramm-Rudman means for American agriculture in 1986, or 1987, and however long Gramm-Rudman lasts in its present form, there may be special steps—I believe there will be required special steps to take on behalf of American agriculture. I say that again in its broader form on behalf of rural America.

Despite how bad the credit situation is for the survival of both the producers on the land and the businesses that serve them in rural America, I believe it will be absolutely essential that we take whatever steps are necessary for their reasonable survival.

And so I repeat, our work is just starting for American agriculture and we will see a lot of it necessary in 1986. While we have drawn the line now, we will have to continue to fight it out in this Chamber and in the House Chamber through 1986 and 1987 and as long as it takes to resuscitate the agricultural endeavors of this country.

Now, Mr. President, I am not going to take long to make my comments. I want to conclude by drawing to the attention of the Senate some of the things you might not have noticed in this bill. Some made remarks about how long it is and how much it weighs, and that is true but nobody is ever going to know everything in detail. But some of the things you might miss I would now like to draw to your attention.

First of all, there is in the bill about six different ways to export surplus commodities from the United States that are additions, enlargements, or new export programs either through donations or commercial sales or a blending of the two. I must note in particular that Public Law 480 is endorsed and broadened with more minimum tonnages than we have had in the past. Section 416, the other donation program, is very greatly broadened with more commodities that can be used for these donations.

A very significant point that should be noted about 416 is that we allow the Secretary of Agriculture to utilize it as a donation program along with a commercial sale—in other words, tying the two together. That is something which could be very beneficial in the years to come for American agriculture and the development of markets as well as helping friendly countries with their nutritional needs.

Another point that might be missed in perusal of the bill is that we have provided for a special assistant to the President to both expedite and coordinate the agricultural food aid programs as well as agricultural trade in general. A point you might miss is that that special assistant will be given full cabinet rank. He will not be advised and consented to by the Senate, which is unusual for a person of that rank but, believe me, that is the way the bill calls for it. He will have a pay equal to any of the other secretaries.

Another point that is perhaps overlooked because it is not expected to be found in a farm bill is the sodbuster provisions. It is something we have sought to enact in this Chamber for 2 years. I trust this bill, when it clears the Senate, will be signed by the President. The sodbuster provisions will prevent those who break up highly erodable land from participating in the farm program.

But added to that is also what we call the swamp-buster provisions which provide the same limitations on anybody who is breaking up swamp land to be put into agricultural production. They, too, will not be able to participate in the farm programs under the terms of the bill.

Fourth, and not the most insignificant point but unless you look carefully for it you will not be aware of it, is that in the animal welfare amendments included in the farm bill we require research institutions which use primates in their experimentation to provide for their psychological well-being. You might wonder, Mr. President, what does "psychological well-being" mean. Let me tell you what is in the report. The report says that the psychological well-being of primates means they will have adequate space. That is vitally needed. If you look at where some of these institutions keep the chimps or monkeys or the apes which they use in research, you will see that they are often confined to very small quarters. But also the report states that the psychological well-being of primates means they not only have the space but they have interesting things to do, so they are not bored to death just waiting to be part of man's quest through true research for better lives for all of us.

Lastly, a point you might miss is on the whole-herd buyout plan. If you do not know what the whole-herd buyout plan is, I will explain to you that that authorizes the Secretary of Agriculture to buy entire herds of dairy cows in order to get them out of production and reduce the dairy surplus. It is a new concept.

I am not sure how well it will work, but an interesting point made twice, if not thrice, during the conference committee negotiation by one of the Assistant Secretaries of Agriculture was that when the Secretary of Agriculture buys out the whole herd from a dairy farmer, it also means he cannot remove the dairy barn and the milking parlor from the premises but neither can the dairy farmer continue to utilize that dairy barn or milking parlor. I do not know exactly what they are going to do in the dairy barn or the milking parlor after the herd is gone. I suppose they could use it for barn dances, if it is the right kind, or they could use the milking parlor for sort of a family room away from the house. Kids could use it for their parties. I do not know. I hope that would be acceptable to the Secretary of Agriculture as he buys out these whole herds from dairy farmers. I hate to think that the Secretary of Agriculture would have to review and examine and inspect periodically the use of those dairy barns or milking parlors to make sure they fit whatever regulations the Secretary of Agriculture is going to draw up for their future use.

Mr. President, with that I conclude my remarks. I will support the conference report. I hope it is adopted, and I assume with quite a degree of confidence that the President will sign it.

Mr. COCHRAN. Mr. President, I hope Senators will vote for this conference report. It offers the best hope we can provide to farmers throughout America that they will be able to operate at a profit. It is a very strong effort to put profit back into farming.

The centerpiece of the effort is market enhancement, to make America more competitive in the international marketplace but not at the expense of farm profits. That is hard to do. But there has been developed a strategy of a marketing loan that is found throughout this legislation which authorizes the Secretary of Agriculture to permit the repayment of nonrecourse loans by farmers at rates that are equal to the market, the market value of the commodities, rather than the loan rate which was originally set in the legislation for the harvest loan. This is new. The only crop for which it is mandated for the 1985 crop year is rice. In the other commodities, it is authorized for the 1986 crop year and later.

In my judgment, this is going to permit America to become competitive again in the international marketplace, but there will be a sharing of the financial burden to become competitive. Farmers will not have to bear the entire financial burden themselves. Our Government will continue to assist by making up the difference between the loan rate and the market price at the time the loan is redeemed.

This does two things. It lowers the effective price of U.S. commodities at the market. It forces the sale of those commodities in the international marketplace and does not require their forfeiture to the Government. The Government saves money because it does not have to pay storage costs; it does not have to pay interest. It moves

these commodities into the international marketplace.

I think it also sends a very strong signal around the world that America is going to stay in the farming business. There were some who were arguing at the beginning of this debate last year that America ought to limit production so severely that prices are forced upward because of reduced supplies. Most felt, however, that this would take us out of the international market. It would require the idling of huge amounts of acreage. Some said that if we are not going to sell at all in the international marketplace, we would have to idle as much as 40 percent of all cropland throughout the country.

There is another key feature of this bill, and it is that we continue to make a commitment to agriculture that there will be income support and a structure for maintaining a reasonable supply of food for our domestic consumption, at reasonable prices. I think everybody realizes that the consumer has an important stake in the outcome of this farm bill, too, and this bill recognizes that, and is sensitive to those interests as well. But it also sends a very strong signal to farmers in this country that we in Congress recognize that if the American farmer goes down the drain, America goes down the drain, too, and we are not going to permit that to happen.

There are some miscellaneous provisions in the conference report that I think are significant. There is a solution at last to the dispute between the maritime industry and the agriculture industry over cargo preference.

There is a compromise reflected in this conference report that ought to put an end to the litigation that has been going on for the last few years over the applicability of cargo preference to certain commercial type shipments. We basically have provided in this bill that cargo preference will not apply to commercial type transactions and the shipment of commodities under those transactions, but it will apply to the extent of 75 percent of the shipments in concessional type transactions, such as Public Law 480 and the like.

We hope that this provision will be funded by additional appropriations to the Department of Transportation to pay for that extra 25 percent of the concessional-type shipments. If that funding is not forthcoming, then these provisions and these changes will be a nullity.

There is another provision of the conference report that I think Senators should notice, and that is the clear title provision, which puts to an end the continuing disagreements and concerns that have been expressed over the preference that is given in domestic transactions involving agricultural commodities as among lenders and purchasers and farmers.

We have established in this conference report that a purchaser of agricultural commodities takes title clear of any lien interest, unless that lien interest has been disclosed to the purchaser in writing by the lender, or unless the lender has sent in his notice and filed it with a central filing system that can be created under the authority of this legislation by the States. Many States already have moved in this direction and find that it is a more satisfactory way to protect the interests of lenders, farmers, and purchasers than the old uniform commercial code.

The fact is that section 9 of the Uniform Code had become ununiform. Some 21 States opted to change the provisions, and no one can know what they are from one State to another without doing exhaustive research, trying to find who has liens on which growing crops or on whose livestock. It was a mess.

I think that by the adoption of this conference report, we will have improved that area of the law for all concerned. It had the support in conference of the representatives of the Banking Committee, those who were involved in developing the legislation here in the Senate. We were trying to protect the interests of buyers, lenders, and farmers, and I think we succeeded.

Mr. President, before I yield the floor, I want to thank, in a most sincere way, the staff members who have worked harder than any group of staff members I have ever observed in the development of this legislation, in the passage of it, in the drafting of language, in the conference, and in getting this all together in the proper form to present it to the House and the Senate today. It has been a massive undertaking by the staff of our committee, led by George Dunlop and Bob Franks, the legal counsel; also, our personal staff members, such as David Graves, who is on my staff; and Carl Rose, who is the staff director on the minority side.

They have all done a magnificent piece of work. I commend them and thank them and congratulate them for the work they have done and the professional way in which the work was done.

I also have to say that none of this would have been possible without the very skillful and brilliant leadership of the leaders of our committee—the chairman, Senator HELMS; Senator DOLE; and Senator ZORINSKY. They had to put together from a disparate group of suggestions and ideas provisions that have been sifted through, analyzed, and have now come together in the form of this conference report to the Senate. I think it is a brilliant piece of legislative work, and I congratulate and compliment them.

Mr. PRYOR. Mr. President, after almost a year's work, we are finally about to take final action on the 1985 farm bill. For over 11 months, the Senate Agriculture Committee has listened to economists, administration officials, representatives of farm groups, and, most important of all, farmers themselves. We have tried to ascertain their thoughts on what a new farm program should contain. These thoughts were at best conflicting, and it was rare for more than one or two groups to agree on any one specific approach to a new farm program.

Maybe what made this process even more difficult is that we were operating in a crisis atmosphere. Farmers are going bankrupt, rural banks—and the Farm Credit System—all find themselves struggling for survival. And the country itself is facing a debt of trillions of dollars.

It has been an emotional experience for me to travel through Arkansas meeting with thousands of farmers, many of whom are losing their farms. However, the reality of our great budget deficit and what it is doing to our economy dictates that all decisions have to be made within the realm of a limited budget.

As a member of the Senate Agriculture Committee, and this year a conferee on the farm bill, I have had an opportunity to be involved in the development of this year's legislation. I have never taken part in a more difficult or complicated exercise in my political career. Although I may change my mind by this time next year, at this point I would say that rewriting the complex Tax Code looks easier now than the "push and pull" gymnastics involved in the farm bill rewrite.

Mr. President, I represent an agricultural State that is almost completely dependent on the farm economy for its own financial health. I have tried to be as effective an advocate and spokesman for the agriculture community as I could be during the months of discussion and debate.

Because of our overall budget restraints, from the very beginning of our consideration of the 1985 farm bill, we were forced in our discussions to deal not with raising the farm safety net for our farmers, but on just how low we could take this net without having wholesale bankruptcies and foreclosures. We had to try to determine why the American farmer, the most efficient in the world, cannot compete with foreign agriculture and why our farmers, as well as their lenders and suppliers, are facing such disastrous problems.

During the last 11 months we have all looked for some avenues to make our farmers more competitive. We have examined several new concepts

to allow our farmers to get a price for their goods.

Both the Senate and House Agriculture Committees and the resulting conference looked at scores of alternatives to solve this puzzle, trying always to fit the pieces together within the budget framework.

I am quick to say that this is not the bill I wanted. But under the circumstances, it is much better than it might have been. I believe it falls short in providing the kind of safety net income protection for farmers that I think is needed. But it does offer some new approaches for making American agriculture more competitive and to return a fair price to our farmers.

I am proud that the marketing loan concept that Senator COCHRAN and I proposed has become a part of the price program. I believe this experiment will prove successful and that it will eventually become an integral part of other commodity programs. It will increase exports and provide a fairer price to the farmer, while reducing the drain on the Federal Treasury.

The inclusion of this program is one of the reasons I will vote for this bill today. It doesn't contain all the solutions, and for sure we will be working on farm legislation again next year. But to merely extend the current farm programs would have been even worse. That bill, which I voted against in 1981, helped mire agriculture in its present crisis and provided no new tools for farmers to start regaining lost markets.

Writing farm legislation is a lot like climbing a ladder. We must take it one rung at a time. I look at this bill as the first step. To vote it down runs the risk that farmers would end up with a much worse program. And with Gramm-Rudman looming over our shoulders and a Congress that is becoming less and less rural oriented, we can't put off approaching that first rung of the ladder any longer.

The survival and the economic vitality of the farm community—and, Mr. President, of the country as a whole—depend now on how we continue the process of taking it one rung at a time.

Mr. President, we have a little town up in the mountains of north Arkansas, in Marion County, named Yellville.

One Saturday each year, usually during the fall, Yellville, AR, does a unique thing, and I must say that it is very controversial. Yellville, AR, has become the scene of the annual turkey drop. They have a big parade, and they fly an airplane over the town—it is a small town—and they start dropping turkeys out of the airplane, about 500 feet over the town.

All the townspeople go out there and wait for the turkeys to drop. On the wing or the leg of each turkey is a little certificate. It might be for a free lawnmower from Joe's Lawnmower Shop, or a free homemade pie from Mary's Pie Shop, or it might be a sofa from Joe and Bill's Furniture Store.

But whatever the case may be, as to these turkeys that drop from the sky and these people who stand under them and try to catch a 25-pound turkey, dropped from 500 feet up in the airplane, sometimes the recipients of these turkeys made out a lot worse, I might say, than the turkeys themselves do.

Mr. President, a lot of people today are going to refer to this bill as a turkey and they are going to say that we have flown low and we have thrown this turkey out, and now the farmers are supposed to stand there and catch the turkey.

Mr. President, I wish to say that I also, as my colleague from Mississippi, as the distinguished chairman from North Carolina, and the ranking member of the Agriculture Committee from Nebraska, and those other Members of the Senate who have spoken this afternoon for and against this farm bill and those who will definitely follow my brief remarks, must say that I understand the threat of a Presidential veto after 11½ months of a gestation period which has now presented us with that 13-pound baby which sits over there in its crib, that with the parameters of a budget resolution which have constrained and restrained us working very closely and tightly within a budget that is extremely severe, I must say to my colleagues that I believe that our system has produced the best farm bill under the circumstances that we could produce at this time.

I also wish to say that if I wanted to make myself very popular back home and maybe across America with a lot of farmers, I would vote against this bill. I would vote against this bill because all of us know that this farm crisis that we are in today is a crisis that is not going to improve dramatically because of this bill; nor are we going to see dramatic changes take place in the agricultural community across America for possibly the next 12 months. We are in serious times and we have produced a farm bill to the best of the ability of the members of the Agriculture Committee of the Senate, and the conferees who worked 8 days and 8 nights, and the members of the staff, without whom we could not have completed and laid this bill on the desk today. This bill would not even be here today except for an exceptional and dedicated staff. I truly believe, Mr. President, that we have produced the best program and the best document humanly possible under our restraints.

When we started this bill back in January, a lot of people said, "Well, wait a minute. Maybe we do not need to make any changes. Let us reenact the farm bill that we now have on the books and extend it for another 2 years or possibly another 4 years."

There was one train of thought that was going through the Senate and the House of Representatives at that time. It said let us just have mandatory controls. Well, that provision was discussed and it did not prevail in our democratic system.

Another train of thought said something like this: let us just not do anything. Let us just get the U.S. Government totally out of agriculture and let the farmers sink or swim on their own.

Mr. President, we have chosen to do none of those particular two examples. We have chosen a bill which I truly believe is an attempt to move back into the export markets and to retrieve many of the export customers that we have lost over the last several years.

I, and I speak as a Senator from Arkansas, have been one of those severe critics of this administration when it comes to agriculture policy. I have from time to time been a severe critic, not personally but professionally, of the policy that our present Secretary of Agriculture espouses, but that is behind us, and on Saturday night at 7 p.m., when the conference finally adjourned after days and nights, and months of discussion, and almost a year of debate, and I think it might be noted, Mr. President, that every member of that conference, Democrat and conservative, Republican and liberal, whoever, chose to vote affirmatively to send this conference report to the floor of the Senate.

Finally, Mr. President, if we were all magicians or if we were inspired or maybe crowned with a divine right theory, or whatever, if we had some extra perception or even some extra money, maybe we could have done a better job. But our system is one that has to work within the parameters that are given us. We can do no more; we can do no less.

I say, also, to the distinguished Senator from Mississippi, Senator COCHRAN, with whom I had the honor of coauthoring something known in the committee as the "Cochran-Pryor marketing loan provision," when Senator COCHRAN and I introduced this concept last spring, I studied what it did and we both thought it would work. We introduced it and it got a lot of flak and people would call me on the phone and say, "What about that marketing loan bill?" I said, "Oh, that is Senator COCHRAN's bill. I just kind of tagged along, and, you know, by typographical error or something I had my name on there."

But the longer I loooked at that bill, and the longer I looked at Senator COCHRAN's proposal on the marketing loan, I truly believed that our rice industry, our cotton industry, and ulti-

mately those other commodities such as wheat, corn, and maybe soybeans, down the line, were going to see what this concept will be able to do in expanding our exports and retrieving those customers we have lost and, by using supply and demand, ultimately increasing commodity prices to the extent that maybe someday we can get out of the area of setting loan rates and target prices.

So, Mr. President, it has been a great honor and privilege for me to have worked with my colleagues on the committee, with the chairman, with the ranking minority member, members on both sides of the aisle, and with the members of the conference, who once again supported this proposal unanimously to send it, all 13 pounds of it, to the floor at this time.

Mr. President, in conclusion, I might note that after we had adjourned the conference on Saturday night, that on Sunday morning the members of our staff came back and for over a 40-hour period, nonstop, began putting this bill together and trying to assemble this huge proposal that will affect our agriculture policy for the next 5 years.

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, will the Senator yield for just 1 minute?

Mr. PRYOR. I yield.

Mr. STENNIS. Mr. President, I compliment the Senator. I am very glad I got to come here just at this time for a chance to hear the Senator's speech.

I believe he has been speaking so truthfully and correctly about the difficult situation in passing this bill this year on the subject of agricultural products.

I believe that of the years that I have been here, this was the most difficult year that I have known to pass a comprehensive farm bill that had real meaning and possibilities of success.

I wish to commend and thank all of the members who worked so hard, so diligently, from the East, the South, the West, the Far West, everywhere. A lot of hard work went into this bill trying to meet problems and situations. I feel mighty thankful we have the bill. I have supported virtually all phases of the measure.

I commend the Senators highly who have worked on the bill, including my own colleague from Mississippi, Senator COCHRAN, who has been diligent and effective in covering parts of the bill. I commend him for his work.

Mr. PRYOR. I thank my colleagues from Mississippi.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, this is an extremely important bill that is going to have extreme effects on rural America. So I hope that we understand what we are doing on this bill when the vote comes.

Yesterday I was in this Chamber and indicated the rapidly deteriorating situation in Nebraska, and that is for the record.

As we approach the vote on this bill I have two or three questions that I wish to ask the managers of the bill and anyone else who would care to respond. But before doing so I today cite another reason for the crisis situation that we are in in agriculture today and not only agriculture but the businesses and the people who live in rural America.

It is summed up basically by an excellent article that appeared recently in the Sioux City Journal. It is about a very knowledgeable farmer and farmbanker in Nebraska whose name is Vince Rossiter.

Mr. President, I ask unanimous consent that, at the conclusion of my remarks and when I yield that floor, the full article be printed in the RECORD, including the article entitled "Banker Blames Government Inaction, Debt," along with an article subtitled, "Nebraskans Seek Parity."

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I first want to compliment the managers of the bill. I am not a member of the Agriculture Committee, but I have been working very closely with them. I was in and out of the conference with the House of Representatives. I know that our Members and especially our staff worked extremely hard on this, and particularly staff continued into the wee hours of the 3 days following the conclusion of the conference to get the bill in a form that it could be considered first by the House of Representatives and now by the U.S. Senate.

In reviewing the vote in the House of Representatives, I noticed that a rather high number of those who opposed that bill in the House of Representatives were from farm States. So, while it is true that there was bipartisan support for this in the House of Representatives, a major portion of the opposition over there came from Members of the House of Representatives that represented farm States.

Let me first say that my colleague from Nebraska, ED ZORINSKY, fought very hard in that conference and tried to get some things done that were not accomplished. I compliment ED ZORINSKY and the other Members for holding fast for what they thought was proper.

Unfortunately, they did not get as much done as I think would have made this bill acceptable. But, nevertheless, they worked extremely hard. If we could just have gotten some give on some points. If we could have recognized, for example, that if we could get to some kind of a mechanism to mandatory control of production or at least steps significantly in that direction, rather than the watered-down approach to even the referendum by wheat growers as to whether or not they want to go to mandatory controls, I could have been more enthusiastic about this bill.

But I reference again the item by Vince Rossiter in the Sioux City paper. Again, it comes home to roost that there is no way out of this situation. There is no way out of it with extended credit. There is no way out of the thing by simply bailing out the Farm Credit System. The only way out of the difficulties of rural America today is to get some profitability into the hands of the food producers.

I believe the key question about this bill, therefore, is not to what extent it busts the budget or does not bust the budget. I think the key question is whether or not this bill before us, which we will be voting on sometime today, as I understand it, raises farm income for any one of the following years: 1986, 1987, 1988, 1989, and 1990.

My first question of anyone who is in a position to answer: Will this bill improve farm income in any of those years?

Mr. President, I pose the question once again because obviously no one heard me: Will this bill improve farm income in 1986, 1987, 1988, 1989, and 1990?

Mr. ZORINSKY. I would like to answer my distinguished colleague from Nebraska. If properly administered by the administration, this bill has the potential for increasing profit. Based on past history, the odds might be against that. however, the discretionary authority that is vested in the Secretary of Agriculture and the Department of Agriculture gives numerous options to make that happen. As a matter of fact, this bill, for instance, would give him the discretionary authority to implement mandatory production controls on wheat, which my colleague from Nebraska has just indicated he would like to have included in the bill. The Secretary does have that option under the bill. Were he to use that, I would say that I would be able to answer the Senator's question affirmatively. Obviously, the choice of those discretionary options has a great deal to do with the profitability of agriculture in the future.

Mr. EXON. Let me ask another question of my colleague, then. I appreciate his frank and forthright answer. During his discussions, or any discussions that he knew of between the present Secretary of Agriculture, who is the only one that we have had under this administration, during the discussions around the measure before us, which the Secretary of Agriculture was intimately involved in, or previously, has there been any indication whatsoever, has there been one iota of hope expressed directly or indirectly

by the Secretary of Agriculture that he might use some of the tools at his disposal that my friend from Nebraska has just cited?

Mr. ZORINSKY. Well, the Secretary has indicated to me, I might relate to my good colleague from Nebraska, that he is hopeful agriculture will turn the corner and farmers will be able to earn a profit in the marketplace. However, he did not indicate in which manner. He did not indicate how; he did not delineate any plans in the near future.

However, the results of the wheat poll—the mandatory requirement that the Secretary conduct a survey of wheat farmers to see if they favor mandatory production controls—may change the Secretary's mental attitude toward implementing production controls and help the profitability of agriculture.

But, in answer to the Senator's question, I have found throughout the entire evolution of this farm bill that everybody wants to increase the prices for commodities for farmers. Many people are on different tracks on how to get there. Unfortunately, my differences with the administration and Secretary Block were on how to get there. I felt we have to have new innovative ways to do that, whereas it appears he is satisfied to let the failed practices of the past control the future.

Mr. EXON. I thank my friend from Nebraska. I would simply comment that, from his answer, I only took it that the answer to my question as to whether or not the Secretary of Agriculture had ever indicated in any fashion that he was prepared, ready, anxious, or would move to production controls to raise prices, I think the answer to that is no. Because I do not believe that he has ever indicated that he thinks that is the proper course of action. To the contrary, this administration has always taken the position that they did not want any kind of controls; that they were for fence-row to fence-row production as much as they could because that would eventually lead the price of grains down to a point where we could—and I use their words—"be competitive in the international marketplace."

What they are really saying is that the farmers of the United States should be able to produce grain as cheaply as they do by hand in mainland China, where the average wage is something around 18 or 19 cents, and they do it all by hand and they have no equipment and no costs therewith.

I also say this is the same Secretary of Agriculture—and that is why I object to this measure that allows too much flexibility, and too much control for the Secretary of Agriculture—who not more than 2 years ago was in the room over there suggesting that we cut target prices on wheat so that he would not have to pay out as much money, and that he could reduce the loan price of wheat if we would simply put the target price which unfortunately and over my objections we did.

There is one other question that I think we have to keep in mind as we look to the future. This is my last question, Mr. President. When I get the answer to this one, I will yield the floor.

It is not just what is in this farm bill and how much money we are going to spend. But it is tremendously important, for the planning for not only 1986 but in future years, to the farmers who have to work with their lenders to see what they can do, and what their budgets are. It seems to me that whatever this bill does or does not do we will be facing a near-term reduction in whatever amount of money we appropriate for this bill because of Gramm-Rudman. I suspect that at least will happen in the February to March 15 period of next year when Gramm-Rudman triggers about a $11 billion-plus decrease in the budget for 1986, a reconciliation, if you will.

When you knock out—and eliminate, if you can, and as Gramm-Rudman does—over 50 percent of the budget and say that is sacrosanct, it cannot be touched, then you come with under 50 percent of the budget, and you start whacking out $11 billion there, it appears to me from rough calculations that would require maybe a 5-percent reduction in all budgets including agriculture in the spring of next year.

At the very same time we will be tied up with the message from the President of the United States that Gramm-Rudman requires, to cut another $35 billion out of the next fiscal year. What I am saying is I think it is fair that we level with the American farmer, and have an understanding as to what this bill does or does not do.

I do not think we can argue with the fact that Gramm-Rudman, good, bad, or indifferent, hangs like a meat ax or a meat cleaver over all appropriations including agriculture.

So whatever we outline here, whatever we do, whenever we come to figuring cash flow as to if I raise so many bushels on so many acres how much money will I have to meet my debts and retire my loan payments, and if I am going to have anything left, it seems to me there is no way that figuring cannot be done on a realistic basis given the uncertainty of Gramm-Rudman.

My question is, Is it not possible or is it not probable that Gramm-Rudman and its budget approach in the spring and in outyears is going to do great harm to whatever amount of moneys we are attempting to appropriate here with regard to a 5-year Farm Program?

That is my question. Can anyone answer it for me?

Mr. ZORINSKY. I would like to say to my colleagues from Nebraska that quite obviously any cut in any budget severely constrains its effectiveness, and its ability to operate. If we had the guts a long time ago to start reducing the deficits and the budget, maybe today's farmers would be paying 5 percent interest which would certainly more than offset any 5-percent cut in the budget next year. It is a hypothetical question. Obviously any cut in anyone's budget can terminate programs, can hurt budgets and can hurt the effect of any program—quite obviously.

The ultimate responsibility for making budget cuts rests with Congress. Gramm-Rudman did not repeal the Constitution.

I would hope that come next year we do not have to trigger Gramm-Rudman, and have the ability ourselves to face what I have heard the American people tell me time and time again; that is, Mr. ZORINSKY, we are not overtaxed. We are overspent in Washington.

So I just feel at this point it is difficult to describe what problems would be created by Gramm-Rudman.

Mr. EXON. Can anyone else answer the question for me as to whether or not Gramm-Rudman with its automatic triggering action is going to have an effect on the agricultural community? I did not come here to argue that we should not cut spending. What I am arguing, and what I argued for yesterday, was the fact that Gramm-Rudman and the whole process that we are going about did not make an even cut. As I said yesterday, there is great joy in most of America today—merry, merry Christmas and all that good cheer. There is no good cheer in the Farm Belt today. How many people in America today would be having a merry Christmas if they felt that their total assets had deteriorated by 50 percent in the last 4 years?

I am trying to get across to the U.S. Senate that we are going about this in an uneven manner. I do not buy the fact that we have to make some reductions as we go through this overall process.

What I am trying to get at is this bill we are passing today is generally understood, I think, in rural America as doing this when in fact we are misleading them by not coming up front and saying whatever we do in this bill it is going to be something less.

I agree with my colleague from Nebraska. I hope we do not have to make $11 billion in cuts in February. But we have already been told that we are going to have to do that. We have already had outlined in Gramm-Rudman that we are going to have to cut spending by $35 billion a year for 5 years. It seems to me, Mr. President, that Gramm-Rudman hangs like a

meat cleaver over the agricultural budget, in what it is going to do to a sector of our economy that has already been devastated.

Since I cannot get the answer to the question, at least I tried.

I yield the floor.

EXHIBIT 1

BANKER BLAMES GOVERNMENT INACTION, DEBT

(By Joan Burney)

HARTINGTON, NEB.—V.E. Rossiter Sr., chief executive officer of the Bank of Hartington, has been an activist for the cause of the family farm all his banking life.

He has served as president of the National Organization for Raw Materials, has also given numerous speeches and participated in a number of meetings in Washington, including a recent one with Paul A. Volcker, chairman of the Federal Reserve Board.

Rossiter said "What Governor Branstad has done to correct this problem will be lost in history and soon forgotten in the economic chaos that is just ahead of us—unless we restore the primary income created in monetizing farm and other raw materials to 100 percent of parity immediately."

He said he didn't care to speak directly on Branstad's action. "I'm sure he has done as much as he can do . . . to persuade President Reagan to release his stranglehold on the throat of American agriculture.

"On the other hand I am painfully conscious of the fact that the midwestern governors have had three or four years to consider 'mininmum pricing' legislation where the several midwestern states would be permitted to supplant the federal government in a farm-price-support program. When it passed the legislature of South Dakota three or four years ago, Governor Janklow vetoed it. Of all the midwestern governors, Governor Perpich of Minnesota was the only governor to actively support state level 'minimum farm pricing' legislation.

"The Nebraska state legislature has prepared a bill and the agricultural committee has approved it, but it has found no support from the Nebraska governor nor members of the legislature in the last two sessions.

"You would think that if the midwestern governors really wanted to deal with underpriced farm raw material, the primary source of state tax revenues, then they would do something in the way of minimum pricing and legislation at the state level."

Rossiter said midwestern governors appear to be insincere in their political efforts to help the ailing agricultural economy within their states, and they are dishonest if they criticize President Reagan for doing nothing for the farm economy, if they are not willing to supplant mismanaged and ineffective farm programs at the federal level with carefully managed and effective, state-administered farm programs which will support our farm economy, and the national economy.

He says, "I personally anticipate tragic economic consequences for rural America, and metropolitan America as well, by the unconscionable delays in dealing with the pricing problem of the farm economy. Agriculture's share of national income has declined 85 percent from the 1943-52 average. The share of national income earned by small unincorporated businesses and professional people has declined 59.1 percent. The share earned by individual owners of rental property has declined 25.7 percent. And the share earned by corporations before taxes has declined 23.2 percent from the average share of each national income dollar earned from 1943-52" Rossiter says he feels these figures are significant and show that everybody should be concerned. He said, "The point here is that agriculture earned 100 percent of parity farm prices on the average during the 1943-52 period and all sectors for the economy prospered.

"Today we have the greatest distortion of individual sector share of national income that has prevailed since records have been kept. This distortion was created by the dislocation of income due the private enterprise sectors, which was siphoned off by the increasing interest costs on an unprecedented public and private debt injection into the economy. The purpose was to 'stabilize' the economy over the past 32 years, but the effect has been rampant destabilization."

Rossiter said, "The result is an increase in public and private debt in the United States from $550 billion in 1952, to $7.1 trillion at the close of 1984. An increase of 46.5 trillion of debt in 32 years. The net result because of this dislocation is that with all private enterprise sectors losing income to service debt, interest income to individuals share of national income has risen 661.9 percent from the average from 1943.52.

"This in an unprecedented example of gross mismanagement of our national economy by the Republicans and Democrats alike. The debt incurred must be paid out of future income or it will cause economic collapse and it will be abrogated, cancelled and charged off against the capital assets of the nation."

NEBRASKAN SEEKS PARITY

HARTINGTON, NEB.—V.E. Rossiter Sr., chief executive officer of the Bank of Hartington, said "What Governor Bradstad has done to correct this problem will be lost in history and soon forgotten in the economic chaos that is just ahead of us, unless we restore the primary income created in monetizing farm and other raw materials to 100 percent of parity immediately."

He said he didn't care to speak directly on Branstad's action. "I'm sure he has done as much as he can do . . . to persuade President Reagan to release his stranglehold on the throat of American agriculture."

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, the peanut title, as reported out by the Senate-House Committee conferees, reauthorizes and improves upon the Peanut Program provided in the 1981 farm bill. These improvements are considered necessary by experts in the peanut industry. Since the provisions of the peanut title of the conference report, the Senate bill and the House bill are almost identical to the peanut title of the bill I introduced, I feel I am the proper Member of Congress to explain the provisions of the final bill which includes the improvements of the existing law.

Mr. President, I would like to briefly outline these improvements or modifications for clarification.

First, the bill seeks to be more flexible in regard to meeting increased market demand, by giving the Secretary of Agriculture discretionary authority to adjust the national poundage quota by the amount he estimates that domestic edible, seed, and related uses of peanuts would exceed the statutory level of 1.1 million tons. Increases in the national quota are required to be apportioned among the States so that each State's poundage quota is equal to the percentage of the national poundage quota allocated to farms in the State for 1985.

It is the intent of the conferees that the State Agriculture Stabilization and Conservation Committees shall determine the basis for allocation of such poundage quota released. The State Agriculture Stabilization and Conservation Committee is more aware of the situations and conditions that exist in their respective States and are, therefore, in the best position to determine how the quota reallocation should be made on a basis of fairness, equity, and need. There may be some conditions prevailing in some States and not in others that should be taken in account in making allocations of poundage quotas.

Second, the bill further expands provisions that establish poundage quota for farms that currently do not have a farm poundage quota. Under the bill, a farm poundage quota for the 1985 crop and for each farm on which peanuts were produced in at least 2 out of the last 3 crop years. In addition, if the national poundage quota is increased by the Secretary, poundage quota would be allocated equally to both quota and nonquota growers.

The bill also provides for reduction of a farm poundage quota if the quota was not produced in 2 of the last 3 years. Voluntary release of quota is also permitted. Quota that is reduced for failure to produce or voluntarily released would be allocated to all farms that produced peanuts in 2 out of the 3 last years.

Third, the bill increases the marketing penalties to 140 percent of the support price for producers and handlers. Previously, handler penalties were 120 percent of the support price. Also, penalties of 140 percent of the support price are imposed on importers of additional peanuts which have been exported from the United States.

Fourth, some physical requirements for exported additional peanuts have been relaxed to improve overseas sales potential.

Fifth, the deadline for contracting for the export or crushing of peanuts has been changed from April 15 to August 1 to allow growers more time to assess their planting and marketing objectives before making commitments on contracts.

Sixth, the bill gives the Secretary authority to adjust the support rate for 1986, based on changes in the index of prices paid by farmers over the past 5 years.

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The national average quota support rate for the 1986 crop of quota peanuts shall be the same as the national average quota support rate established for the 1985 crop of quota peanuts, adjusted by the Secretary by a percentage equal to the percentage increase in the index of prices paid by farmers for commodities and services, interest, taxes, and farm wage rates, 1977 equals 100, for the calendar year beginning January 1, 1981, through calendar year ending December 31, 1985. This adjustment shall be made by adding any increase determined by the percentage of any increase for the 1981-85 calendar years to the quota support rate, $559 per ton for 1985. The index, 1977 equals 100, of prices paid by farmers is compiled and published on a monthly and annual basis by the Crop Reporting Board, Statistical Reporting Service of the U.S. Department of Agriculture.

The Secretary of Agriculture has already gone through the formula outlined in the farm bill and has determined that the quota support for the 1986 crop will be $615 per ton. In a letter to the House of Representatives, dated September 18, 1985, the Department of Agriculture outlined its position on six aspects of the farm bill. In writing about peanuts, this letter specifically stated among other things:

The Committee Bill would set the 1986 quota price support level for domestic use equal to the 1985 level (559 per ton) adjusted by the change on the cost of production. This price is currently estimated at $615 per ton—well above the estimated 1984 farm price of $506 per ton.

After the Senate Agriculture Committee reported its bill, Senator JESSE HELMS, chairman of the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate, requested the Department of Agriculture's position on the committee-approved bill. John R. Block, Secretary of Agriculture, responded to this request by a letter addressed to Senator HELMS dated September 26, 1985. On page 4 of that letter, under the heading "Peanuts," the Secretary wrote, among other things, the following:

Peanuts—The Committee-approved bill would extend the present peanut program with some modifications. The legislation would set the national poundage quota at estimated domestic edible, seed, and related uses, but in no case could the quota be less than 1.1 million tons. The legislation would set the 1986 quota price support level for domestic use equal to the 1985 level ($559 per ton) adjusted by the change in the costs of production. This price is currently estimated at $615 per ton—well above the estimated 1984 farm price of $506 per ton. The 1987-89 quota price support level is tied to changes in cost of production. As a result, the legislation would substantially increase both the national poundage quota and the quota support level. . . .

In writing that the 1986 quota support level is currently estimated at $615 per ton, the Secretary was expressing displeasure with the committee-approved bill on peanuts and, obviously, the purpose was to try to influence the Senate to change the Senate committee-approved bill. In making this evaluation, the Secretary had to adjust the support price from the 1985 level of $559 a ton upward to reflect the percentage increase in the index of prices paid by farmers for commodities and services, interest, taxes, and farm wage rates for the period beginning January 1, 1981, through December 31, 1985. It is assumed that the estimation was made around August 1, 1985, or September 1, 1985. The reason for the use of the words "currently estimated" was that the year 1985 was not completed at the time the Secretary made his review. Thus, it would appear that if a different review of the period from January 1, 1981 through to-wit: September 1, 1985, were to produce a different figure for the final program figure, then the Department would be guilty of making one estimate for political expediency to support its political position and a different one for program purposes. I trust the Department would not desire its integrity to be so questioned.

For each of the crops years 1987 through 1990, the national average quota support rate shall be the same as the preceding year, adjusted to reflect any change in the national average cost of production of peanuts, excluding any change in the cost of land, for the calendar year immediately preceding the crop year for which the quota support rate is being determined. However, in no event may the national average quota support rate for any of the 1987 through 1989 crops (a) exceed by more than 6 percent of the national average quota support rate for the preceding crop.

Annual adjustments in the national average quota support rate shall be based on the national average cost of production of peanuts calculated by the Economic Research Service and reported annually in the publication, "Economic Indicators of the Farm Sector." The committee is aware that the Economic Research Service considerably changed its cost of production formula as it pertained to peanuts in 1983. This action by the Department affected the determination of the quota support rate contrary to the intent of Congress in the Agriculture and Food Act of 1981. It is the intent of the committee that the Department of Agriculture use the same formula and the same reporting format, as used to calculate the quota support rate for 1985, in determining the cost of production of peanuts, as it pertains to adjustments in the quota support rate, throughout the life of this act.

Seventh, the bill modifies the provision of law relating to area pools and the buy-back from the pools. Currently, farmers may place additional or quota peanuts in the areas pool and allow them to be redeemed by shellers into domestic markets within 72 hours. The provision sometimes allows additional peanuts in one pool to displace quota peanuts in another pool. Higher priced quota peanuts remaining in the pool may be crushed, at Government expense. In the past, three separate pools—Southwest, VC, and GFA—operated independently regarding the buy-back provision even though redemptions in one area could affect other pool profits. The bill provides that the buy-back will remain intact, but a loss sharing requirement will exist among the three pools. Losses sustained from quota peanuts in a pool must be offset by profits from additional peanuts in that pool first. If there is inadequate profit from additionals, profits from segregation 2 and 3 pools must be used to offset losses in the quota pool. If a deficit still remains, then income from the other two pools will be used to offset the losses. This pool arrangement is designed to reduce Government cost exposure.

The conferees have improved upon this position by including a technical amendment that would further insure that the Peanut Program does not result in substantial cost to the Commodity Credit Corporation.

Under current law and regulations, and the provisions of the conference approved bill, "additional" peanuts that Commodity Credit Corporation has acquired at additional peanut loan rates can be sold for domestic edible use instead of export or crushing uses. This eligibility of additional peanuts for the domestic edible market occurs under a practice known as buy back. Under current law and regulations, additional peanuts can be bought back from CCC by the producer or his assignee. After the buy back occurs, these additional peanuts become eligible to be sold into the domestic edible market. Since the domestic edible market is limited, then quota peanuts which CCC has acquired can be displaced from the domestic edible market, because of the sale of additional peanuts for domestic edible use under buy-back procedures. When such displacement occurs, CCC has to sell quota peanuts for export or crushing at a much lower price—additional peanut price. In other words, CCC may be forced to sell quota peanuts for export or crushing at approximately the additional peanut support price, that is, $148 a ton, where normally quota peanuts would have sold for approximately $559, thus causing a loss to CCC.

The purpose of this amendment is to prevent loss to the CCC and, thus direct that the regulations promulgated by the Secretary of Agriculture be written or changed in a manner to pre-

vent any substantial increased cost to the CCC which could result under buy-back practices. This amendment also goes further than just directing regulation promulgation for it requires the Secretary of Agriculture to operate the buy-back provisions in a manner so that they do not result in substantially increased cost to the Commodity Credit Corporation.

This buy-back practice is practically the only form of Government cost associated with the Peanut Program. The House and Senate both have taken steps to reduce any possible losses to the Commodity Credit Corporation by establishing area pools for distribution of marketing gains and losses. This provision commonly called national compliance will provide that losses in area quota pools will first be offset by gains in the same area additional pool. If there remains a loss in any area quota pool. Any gains in other area pools must be applied to this loss. However, if the Secretary promulgates proper regulations and/or operates the buy-back procedure in a manner where there is no increased cost to the CCC, then there may not be a need for pool offsetting.

The amendment in no way interferes with the Secretary's authority to implement and administer the Peanut Loan Program. It does, however, provide the Secretary authority to prohibit or curb all practices dealing with the storage or disposition of any peanuts owned or controlled by the Commodity Credit Corporation that result in substantially increased cost to the Government.

Thank you, Mr. President.

Mr. President, I also ask unanimous consent that a letter dated September 26, 1985, addressed to the Honorable JESSE HELMS, chairman of the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate, Washington, DC, signed by John Block, the Secretary of Agriculture, which is referred to in the statement that I made on the change of the peanut title be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, September 26, 1985.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your request regarding the Department's position on the Committee-approved bill entitled, "The Agriculture, Food, and Conservation Act of 1985", which was reported out of Committee last week.

As we both know, the development of a 1985 Farm Bill has been a long and arduous process. I have been encouraging the debate beginning with the Agricultural Summit in July 1983. At that time, I stated that agricultural policy had reached a critical point—a watershed period. I also stated that if appropriate agricultural policy is not developed in the 1985 Farm Bill, there could be irreparable damage to our farm and agribusiness economies, and thus the total economic standing of the U.S. Given the recent situation of bumper crops, low commodity prices and the overall depressed rural economy, I am convinced of that premise now more than ever.

Earlier this year, I forwarded to the Congress the Administration's farm legislation. That legislation contained the following objectives:

A long-term consistent agricultural policy which will allow farmers to make realistic investment and production decisions.

Increase U.S. competitiveness which allows farmers to effectively compete in international markets.

Movement toward market orientation that allows farmers to respond to market signals, rather then responding to artificial support rates set by Government programs.

Provides for a compassionate transition from our current programs to a policy of less government in the agricultural sector.

Exercise fiscal restraint by providing income benefits to those most in need to reduce the budget deficit.

While the bill does contain some provisions that are market-oriented and contain sound policy principles, the current version of the bill violates many of the Administration's objectives.

Specifically, I would like to address the major provisions of the Committee-approved bill and provide you with the Administration's position and their potential economic impacts.

MAJOR PROVISIONS

Loan Rates—The legislation does provide for authority to reduce loan rates by establishing them at 75-85 percent of the most recent 5-year average, but not more than 5 percent from the previous year's level. In addition, it provides discretionary authority for the Secretary to lower loan rates an additional 20 percent (the so-called Findley amendment) if the average market price is less than 110 percent of the loan rate. The Administration supports these provisions and commends the Committee in recognizing the need for U.S. agriculture to become more competitive in international markets.

Marketing Loans—The Secretary is required to permit repayment of loans at the lower of the loan rate determined for the crop (prior to Findley amendment) and the higher of 70 percent of the loan rate or prevailing world market price. The Administration opposes mandating this authority but would not object to its provisions on a discretionary basis. Large budget outlays would be incurred if the loan contracts are paid back at less than the loan rate, despite the fact that a floor is placed on the marketing loan. In addition, payments resulting from the lower loan repayment level are exempt from the current $50,000 payment limitation. Together, with the portion of payments resulting from the Findley Amendment, almost 30 percent of all producer payments will be exempt from the payment limit for the 1986 crop.

Target Prices—The Committee-approved bill freezes target prices for wheat, feedgrains, cotton and rice for four years. In addition, due to the tiering of the wheat target price, the effective target price is actually 12 cents above the current level of $4.38 per bushel. The Administration is adamantly opposed to these provisions. Freezing target prices at current levels for the 1986-90 crops is a perpetuation of past failed policies that will have serious consequences on the size of acreage reduction programs, farmers' production decisions both in the U.S. and abroad, foreign governments' interpretations of U.S. policies, and Government costs.

The prevailing argument used by some members of the Committee and others is that it is necessary to have high target prices in order to maintain farm income. In other words, there are some who believe that high target prices will address both the farm income and farm credit situation. There is a serious misconception that much of agriculture benefits from income supports. About 90 percent of all direct Government payments for the 1984 programs went to wheat, feedgrains, cotton, rice, and dairy farms. Yet, these farms account for less than a third of total farm marketings. And, considering that overall only about 50 to 60 percent of these producers participated in the program, 90 percent of farm program payments went to producers that account for less than 20 percent of farm marketings.

More importantly, of all producers who are experiencing both debt to asset ratios of 0.4 or more and have negative cash flow, only 47 percent actually participated in farm programs. As a result, only 17 percent out of each dollar spent for 1984 commodity programs went to producers who were under financial stress and therefore directly benefited from farm income support assistance payments. Other more targeted approaches are far more appropriate to aid this group.

Acreage Reduction Programs—Because target prices are frozen at high levels, incentives to expand production capacity will continue unabated. To contain this growth in production and stocks, extensive annual acreage reduction programs would be required. The magnitude of these reductions would be similar to those under a continuation of current programs, meaning that at least 45 million acres of grain, cotton and rice would likely be idled annually. This approach has had the effect in the past of openly inviting our competitors to expand production and take away our markets.

Marketing Quotas and Referendums—The proposed legislation contains provisions to poll producers to determine support for a referendum and national marketing quota for wheat. The Administration is opposed to any form of mandatory supply controls. Mandatory controls will result in higher prices of wheat and render U.S. exports noncompetitive without large subsidies. Wheat acreage would have to be reduced about 50 percent to achieve desired trigger carryover levels. Import restrictions would have to be applied to processed products such as flour and bakery products in order to prevent cheaper foreign products from undercutting those made from expensive U.S. wheat. Expenditures for inputs—seed, energy, fertilizer, pesticides and machinery—would drop about $10 billion during the 1987-89 period.

Diary—The bill contains provisions which would allow the current support price ($11.60 per cwt.) to remain in effect until January 1, 1987. On that date, the support price must be reduced 50 cents per cwt. If the Secretary estimates that surplus removals of dairy products are projected to be 5 billion pounds or more in the next 12 months. On January 1, 1988, and thereafter, the support price must again be reduced if removals are at or in excess of 5 billion pounds. In addition, if the Secretary estimates surplus removals on January 1, 1988 and thereafter to be 10 billion pounds or more, the support price must be reduced $1.00 per cwt.

The Administration is supportive of this approach, but believes it is necessary that the legislation provide authority to reduce the support price in 1986 if surpluses continue to exist.

Presently, the combination of increased cow numbers, increased feeding, higher productivity, and lower feed costs are driving a strong expansion in milk production. U.S. milk production for the 1984/85 marketing year ending September 30 is projected at 139.0 billion pounds, exceeding the record level of 138.8 billion pounds in the 1982/83 marketing year. CCC purchases are projected to exceed $2 billion. More importantly, preliminary estimates for the 1985/86 marketing year indicate milk production will increase to 143.0 billion pounds and CCC purchases exceeding 13 billion pounds. This projection is based on maintaining the current support price of $11.60 per hundredweight throughout the 1985/86 marketing year. It is clear that with no adjustment in the support price during 1986, there will continue to be increased production, continued high levels of CCC purchases and excessive government costs.

Sugar—The legislation extends the current program and would set the minimum loan rate for raw cane sugar at 18 cents per pound, the current level with upward adjustments for inflation and rising production costs. The Administration is opposed to an extension of current law for sugar.

This legislation would perpetuate a heavy burden on U.S. sugar consumers, industrial uses, and refiners of raw sugar and would further penalize foreign exporters to the United States. High sugar prices also encourage the shift to lower-cost rival sweeteners and provide manufacturers of sugar-containing products with a major incentive to relocate outside the United States taking the jobs with them.

Domestic market prices for raw sugar are currently about 21 cents a pound, far in excess of the world price of approximately 5 cents a pound. Even if the world price reflected the 1984 estimated average global production cost of 14 to 16 cents a pound for raw sugar, the current U.S. market price would still be 5 to 8 cents (24 to 38 percent) higher.

The Administration would support lowering the sugar support price each year over the next three years. This would provide sugar cane and beet producers with income support, while at the same time, addressing the concerns of sugar users.

Peanuts—The Committee approved bill would extend the present peanut program with some modifications. The legislation would set the national poundage quota at estimated domestic edible, seed, and related uses, but in no case could the quota be less than 1.1 million ton. The legislation would set the 1986 quota price support level for domestic use equal to the 1985 level ($559 per ton) adjusted by the change in the costs of production. This price is currently estimated at $615 per ton—well above the estimated 1984 farm price of $506 per ton. The 1987-89 quota price support level is tied to changes in cost of production.

As a result, the legislation would substantially increase both the national poundage quota and the quota support level. Because total edible supplies are not considered in setting the national poundage quota, quota supplies would likely exceed demand in years with larger than normal year-end stocks. The bill would require forecasts of domestic edible use each year; if over-estimated, this would result in program costs to the Commodity Credit Corporation (CCC). The proposal would halt the marginal progress made toward market orientation through annual quota reductions under the 1981 Act by imposing a floor on the national poundage quota.

Finally, the proposal continues to penalize U.S. consumers of roasted and salted peanuts, and peanuts used in domestic products such as peanut butter and peanut candy. It has been estimated that the price premium on quota peanuts, compared with additional peanuts for export use, caused consumers to pay an additional $170-$200 million for peanuts used in domestic products during 1982-84. Moreover, this premium caused an estimated 14 percent increase in the price of peanut butter. As the spread between quota and additional peanut prices continues to grow larger than 1981-83, U.S. consumers will be penalized even further.

Wool—The bill extends the current provisions for the wool and mohair program. In addition, it establishes a payment limit of $50,000 per person on the total amount of wool and mohair payments. The Administration supports the latter provision. In 1984, 0.6 percent of the total payees received more than $25,000 each, which accounted for one-third of all payments. A large number of these payees received more than $50,000.

Wool production continues to decline as support prices have increased faster than market prices, making the wool industry noncompetitive. The result is continued growth in budget outlays as price supports continue to exceed market-clearing levels. Thus, the Administration supports efforts to set the wool support price level based on past market prices.

Honey—The legislation freezes the honey price support at the 1985 level of 65.3 cents per pound. For the 1987-91 crop years, the loan rate is established at 85 percent of the most recent 5-year average of farm prices or 50 cents per pound whichever is higher. In addition, the Secretary would be required to permit loans to be repaid at levels below the loan rate. Finally, the Secretary may provide deficiency payments to producers who forgo obtaining a loan in return for payment.

While the Administration is supportive of establishing price supports based on past market prices, we are opposed to mandating the use of marketing loans or providing deficiency payments to honey producers.

High price supports for honey have resulted in large takeovers of domestic honey by the CCC at a current cost of around $100 million annually. U.S. honey is no longer price competitive in world markets and can only become competitive in domestic and world markets if price supports are phased down to market-clearing levels.

Conservation Reserve—The Committee-approved bill requires the implementation of a 25-30 million acre reserve which would retire erodible cropland. Contracts would range from 7-15 years and payments would be made with either cash or in-kind commodities. In addition, the legislation contains sodbuster and swampbuster provisions to prevent cultivation of highly erodible land and converted wetlands.

The Administration is very supportive of this provision but would prefer a program level of 20 million acres as originally proposed by the Administration.

Food Assistance Reserve—A food assistance reserve is created which may have up to 500 million bushels of wheat and feedgrains, but not less than 200 million bushels of wheat for humanitarian needs. The current Farmer-Owned and Food Security Reserves would be repealed. The Administration supports these provisions.

$50,000 Payment Limitation—The bill contains provisions that exempt the portion of payments made to producers due to a reduction in the loan level under the so-called Findley Amendment. It would also not include any gain realized by the lower loan repayment level at 70 percent of such loan rate. The Administration is opposed to these provisions. In 1984, 95 percent of all program payees received less than $25,000. However, 5 percent of all program payees received more than $25,000 and accounted for almost 40 percent of the total payments. As a result of these provisions, almost 30 percent of all producer payments would be exempt from the payment limit for the 1986 crop. The Government would incur potentially large budget exposure and provide additional income support to a very small group who already receive a disproportionate share of the total payments. We favor instead applying the $50,000 payment limitation to all payments.

Export Provisions—In the area of commercial export activities, the mandatory authorization of various levels, including $1 billion for intermediate credits in FY 86-89, are inappropriate because they preclude the Department's ability to respond to changing market conditions. Furthermore, we believe that the present export credit authorities are adequate to meet our export objectives when coupled with price competitive commodities.

No new authority is needed for export bonus programs. The Department is currently implementing such a program over a three-year period using existing authority under the CCC Charter Act. At the minimum, Section 106(a)(1) should be amended to make the authority for export bonus programs discretionary.

In the area of overseas food aid, we continue to strongly believe that we can best achieve our goals for the P.L. 480 Title I private sector local currency initiative by using the existing Title I staff and procedures rather than by reinstating local currency sales under this authority. This will save delays and costly duplication. The targets, such as those in this provision, often slow the process of signing Title I agreements and exporting commodities.

The Administration continues to strongly support the Food for Progress concept. However, we strongly believe it should be carried out through the existing P.L. 480 program structure.

Our final major concern is the establishment of a Special Assistant to the President for Agricultural Trade and Food Aid. Such a position is duplicative and will, inevitably, lead to confusion and unnecessary expense.

Food Stamps—The Food Stamp and Commodity Distribution provisions will enhance the operation of the food stamp and commodity distribution programs. In particular, the employment and training provisions adopted by the Committee will aid food stamp recipients in more quickly finding gainful employment. While the Department would have preferred a more extensive program, we regard the Committee's employment and training proposal as solid progress. Similarly, the strengthened error rate provisions will be a valuable mechanism to help reduce high food stamp error rates. Although we support the improvements in the error rate system in the final Committee bill, we prefer the error rate provisions

passed by the House in H.R. 5151 and initially agreed to by the Committee, as a more positive approach to reducing food stamp errors. We also support the provision to simplify current procedures regarding State's standard utility allowances. The Committee bill is more equitable than current law since it will recognize the receipt of Low Income Energy Assistance payments in determining shelter expenses deductions.

The Administration does not favor continuation of $50 million in administrative funding for the Temporary Emergency Food Assistance Program (TEFAP). However, we recognize the Committee's requirement that States share TEFAP administrative costs as a reasonable compromise that will promote prudent management of the program.

Farm Credit—The Administration proposes that all farm loans, except disaster emergency, be consolidated into a single program that would be phased into an all-guarantee program by fiscal year 1989. The transition would be made as follows: Fiscal year 1986: $2 billion insured, $2 billion guaranteed, fiscal year 1987: $1.5 billion insured, $2.5 billion guaranteed, fiscal year 1988: $1 billion insured, $3 billion guaranteed, and fiscal year 1989: $4 billion guaranteed.

We believe that insured loans should not be made to refinance long-term real estate debt and that new borrowers to the Farmers Home Administration (FmHA) will be better served by utilizing the guarantee program. The changes being made in the guaranteed loan regulations have the enthusiastic support of the private sector lending community, and the program will be used much more widely than in previous years.

In keeping with FmHA's mission as lender of last resort, the exception to this policy should be farmers whose current loans are with banks or Production Credit Associations (PCA's) that fail and who are "credit homeless".

Emergency loans should be made only in counties where crop insurance is not available and should be capped at $200 million a year for each of the four years.

COMMODITY PROGRAM COSTS

The commodity program provisions in the bill reported by the Committee has been estimated by USDA analysts to cost about $55 billion over the FY 86-88 period covered by the Congressional Budget Resolution and $85-$90 billion over the life of the bill FY 86-90. Mr. Chairman, I am grateful to you for your leadership in attempts to reduce government costs, though it is clear that virtually no attempt was made on the part of some Members to meet the budget mark of $35 billion. Rather, in the final actions prior to reporting the bill, additions to outlays were mandated through a four year target price freeze. Thus, the bill would be more costly than current law if it were enacted and allowed to operate unchanged through the 1989 crop year. The current law has averaged about $12 billion per year in price support spending and it was projected to average about $16 billion per year over the next four crop years. The bill reported by the Senate Agriculture Committee is projected to average $17-$18 billion over the same period.

PROPOSED ADMINISTRATION AMENDMENTS

In an effort to establish long-term sound agricultural policy that meets the objectives of the Administration, I will forward to the Senate the following amendments for consideration on the Senate floor:

Target Prices—This amendment would freeze target prices for the 1986 crop year and provide for a 5 percent decline each year thereafter. This amendment will provide for a gradual transition to farmers to a more market-oriented farm program. The gradual reduction in target prices will reduce incentives for increased production and reduce the need for acreage reduction programs. As target prices are reduced, acreage reduction programs could be phased out over a short period of time. Lower target prices would also reduce incentives for foreign producers to maintain or expand production in competition with U.S. producers. Finally, this amendment would result in significantly lower budget outlays. Some $2.3 billion could be saved over the life of the bill if this amendment were adopted.

Wheat Referendum and Quotas—This amendment would strike the language requiring the Secretary to conduct a producer poll to determine support for a referendum and national marketing quotas for wheat.

Dairy—This amendment would require that on January 1, 1986, the support price must be reduced 50 cents per cwt. if the Secretary estimates that surplus removals of dairy products are projected to be 5 billion pounds or more in the next 12 months. The existing provisions of the dairy legislation would remain intact. With adoption of this proposal, CCC outlays would be more than $950 million less over the FY 86-90 period. Consequently, CCC purchases of dairy products would be 6 billion pounds less over the same period. Commercial use would expand by 3 billion pounds. Most importantly, it will send dairy producers and processors the necessary signal in 1986 that the surplus capacity needs to be reduced and milk production moved toward supply-demand balance.

Peanuts—This amendment would phase out the current two-price peanut program—quota and additional price supports. During this phase-out, the quota for domestic edible peanuts would be set at 800,000 tons in 1986, 600,000 tons in 1987, 400,000 tons in 1988, and eliminated for the 1989 crop. Correspondingly, price supports for quota peanuts would be reduced to $500 per ton in 1986, $480 per ton in 1987, and $460 per ton in 1988. The price for additional peanuts would be set at the discretion of the Secretary of Agriculture at a level not to result in any cost to the Government. After 1989, the Secretary of Agriculture would set one support price for all peanuts that would result in no Government losses.

This program would virtually eliminate CCC outlays compared with the average of $40 million per year over the past 10 years, reduce production cost since quota rent accounts for about 30 percent of the cost of production, and save peanut consumers over $200 million per year.

Sugar—This amendment is aimed at a rational lowering of sugar support levels to bring them more in line with competitive world market conditions. The amendment would accomplish this by keeping the loan level for the 1985 crop at 18 cents a pound for raw sugar, then reduce the loan gradually by 1 cent per year through the 1988 crop, and holding the loan level constant for the duration of the bill. Thus, the loan level would be 18 cents a pound for the 1985 crop, 17 cents for the 1986 crop, 16 cents for the 1987 crop, and 15 cents for the 1988 and subsequent crops. In addition, it would put the sugar program on the same basis as other crops by eliminating transportation charges from the calculation of the market stabilization price. This amendment would require processors (borrowers) to pay the Government the transportation cost on raw sugar forfeited to the CCC, thereby reducing the effective market price by around 2.5 cents a pound.

With sugar consumption at 7 to 8 million tons a year, savings to sugar users and consumers would total $4.2 to $4.8 billion for the period 1985/86 through 1990/91. The 30 percent of U.S. households with the lowest incomes would benefit the most under this amendment as they spend about 35 percent of their gross income on food. Also, manufacturers of sugar-containing products would have less incentive to relocate abroad, particularly to Canada where tariffs are minimal and there is not quota on sugar imports, and U.S. employment would benefit.

Lower support levels would also correct imbalance in U.S. sugar imports which have dropped to only 26 percent of total U.S. sugar use as a result of the growing isolation of the U.S. sugar market from international competition. Historically, U.S. imports have averaged 40 to 50 percent of our sugar needs. In addition, foreign exhange earnings from sugar exports are critical to the economic stability of many less developed countries, especially those in Latin America and the Caribbean that are highly dependent on revenues from sugar exports to the United States.

$50,000 Payment Limitation—This amendment would place a $50,000 payment limitation on *all* direct payments made by the Commodity Credit Corporation to producers including payments due to lower loan rates or lower loan repayment levels. The number of producers affected by imposing this payment limitation on all direct payments is relatively small. Only 1 percent of the corn producers would be affected; 2 percent of the wheat producers; 20 percent of the cotton farmers; and 42 percent of the rice producers. However, over the period FY 86-88, nearly $1 billion could be saved through this proposal.

Reduced Farm Payment Acreage—This amendment will reduce the acreage on which deficiency payments are made so that it does not exceed that acreage needed to meet demand and maintain reasonable carryover stocks. Deficiency payments will not be made on acreage used to produce surpluses. If farm payment acreage is reduced in this manner, about $6 billion could be saved from the deficiency payments in the Senate Committee bill as currently written. With the combination of a 1-year target price freeze, a total of $7.3 billion could be saved from the two amendments.

Wool—This amendment would provide for authority to phase down price supports to market clearing levels over the life of the Bill.

Honey—This amendment would also provide for authority to reduce the price support level to market clearing prices over time.

Mr. Chairman, with the adoption of these amendments, we will be able to formulate sound agricultural policy that will also exercise the necessary fiscal restraint.

In summary, if agriculture is to share in the economic recovery, we have an obligation to provide sound, long term agricultural policy. That means agriculture must regain its competitiveness in international markets and have policy tools that do not encourage excess production when the market place indicates otherwise. It also means providing income benefits but targeting them to most in need. Finally, the Federal government must, once and for all, reduce our budget deficits to provide relief to agriculture through lower interest rates,

continued low inflation, and a moderation of the value of the dollar. Farmers deserve no less. Indeed, We have an obligation to them to accomplish that.

It is my sencere hope that we can work together toward an acceptable solution. I urge you and other members of the Committee and the Senate to complete action on the bill as soon as possible so that our Nation's farmers will be able to adequately plan for the 1986 crop.

Sincerely,

JOHN R. BLOCK,
Secretary.

Mr. HEFLIN. Mr. President, I would like to take a moment to express my disappointment with the soybean title of this farm bill. The American soybean farmer has been devastated by the House-Senate conference committee on the 1985 farm bill.

I noted in the morning press the attitude expressed by the soybean farmers in Alabama. Ted Johnson, the president of the Alabama Soybean Growers Association said, "Soybean growers in Alabama will be a thing of the past." One of my State's leading soybean farmers, Bill Dixon, said the program approved by the conferees will be a double blow to soybean farmers and those who rely on them. "This will have an adverse effect not only on soybean producers, but on all agriculture-related businesses. He also said, "It's the first time in my life that I'm wondering just where do I go from here."

The acreage payment included in the Senate-passed bill generated some hope for the financially-stressed soybean farmers. I was informed at one time that the Secretary of Agriculture stated that the FAIR Program, which included the payment of $35 per acre, was cost-neutral. If a farmer accepted the acreage payment, he bypassed the opportunity to place his soybeans in the CCC loan. With fewer soybeans stockpiling in the Commodity Credit Corporation, the USDA would not be subject to storage cost or the risk of soybeans being forfeited to repay the loan.

There is a great deal of evidence that the State Department, Treasury Department, and the international bankers undermined the Soybean Program because they were worried the plan threatened loans made to Brazil and Argentina.

Mr. President, I cannot speak for every Member of Congress, but I was elected to protect the farmers of Alabama, not the farmers of Brazil and Argentina.

I was also very disappointed to learn that the conference committee dropped an amendment I offered on the floor and was approved by the Senate, which would have prevented the U.S. Government from funding grants or loans to foreign countries to enhance production of foreign soybeans in competition with American soybean producers.

The conference committee also modified another Heflin amendment which established a marketing loan program without lowering soybean loan rates. This provision would have given the Secretary of Agriculture authority to implement a plan to make U.S. soybeans competitive in world markets without lowering loan rates to the farmer. The conference version, however, effectively legislates lower soybean prices for the farmer.

The Soybean Program, as adopted by the conference committee at the urging of the U.S. State Department and the international bankers, lowers the loan rate and produces an atmosphere that will result in the soybean farmer receiving less and less for a bushel of soybeans in the world market.

Mr. President, I think the statement of George Fluegel, president of the American Soybean Association, best sums up my feelings on the soybean program contained in this bill. It represents an "outright disaster in many parts of the United States. Congress totally ignored America's soybean farmers."

Mr. BOSCHWITZ. Mr. President, I rise in support of the farm bill conference report.

The farm bill sure is not everything I had wanted it to be but it is certainly much better than reverting to preexisting law and also it can be truly said that in farming—where decisions of farmers and their lenders are quite long range—having a policy in place is very important.

The bill is expensive, but there was no reasonable way to avoid that. The bill will allow us to be competitive in world markets and that is a great plus.

Perhaps most of all the farm bill is behind us and not looming ahead in an election year. Maybe Gramm-Rudman will cause us to revisit it, but at least that will occur with a policy in place and that policy as incorporated in the 1985 farm bill is better than what we have even if it is not everything that we want. Changing farm policy is not easy but the 1985 bill is certainly a step in a longer policy.

I will vote for the bill and recommend that you do so, too.

POLICY GOALS: WHAT HAPPENED TO THEM

The following policy goals were in the Boschwitz-Boren bill and not shared by everyone, but they will give you a better sense of the overall bill.

Protect farm income. The bill does this very well. In virtually every commodity there is not 100 percent protection at present levels, but very close—closer than I thought we could get and stay within budgetary constraints.

Be competitive on world markets. The bill certainly authorizes—but does not mandate—the tools to make us market competitive, and the Secretary says he is going to use them. Since the alternatives of not using those tools is for the Federal Government to buy just tons of grain, I am satisfied that they will be used.

Full production. Senator DAVE BOREN and I were almost alone in our concern for the infrastructure of agriculture—the truckers, rails, barges, exporters, fertilizer and seed people, the grain elevators, processors, et cetera—which employs an enormous number of people who rely more on the volume of agricultural production than on the price. The theory is that if you "set aside"—take out of production—enough land, you will reduce the supply, increase prices to farmers, and reduce the cost of the farm program to the Government. That is what they have been doing for the last 4 years and you can judge the success for yourself—huge costs. Nevertheless, that theory was continued in the new farm bill. I just plain lost—though the Secretary has a lot of discretion on this issue and he says he opposes large acreage reduction programs—his four predecessors who served from 1960–80 said set asides were "futile" and all we do is give away world markets. Well, if the Secretary carries through, we may have a chance here. But you have to score this as unlikely.

Free up planting. Now so much is planted for Government programs, rather than for the market. We actually did as well as could be expected here and a full-scale abandonment of planting requirements without a parallel abandonment of the program itself was perhaps an unreasonable, and may have been an undesirable, goal.

Freezing bases and yields. Increasing acreage bases and crop yields to take advantage of program payments have been a large element in spiraling costs of farm programs. We froze yields and gave the Secretary the authority to freeze bases. This is a very significant accomplishment.

Returning agriculture to the free market. Not as much was achieved in this area as I hoped for—but a slow transition was indeed begun, and it sure is necessary. Four to five years ago about 20 percent of production was enrolled in farm programs. We expect it to be up around 90 percent in 1986. A transition—that is too slow in my judgment—to reverse this was begun. My efforts to let the farmer benefit from the market as prices rise didn't meet with success.

Meeting budget goals. We did a fairly reasonable job here—but who is to know. Budget outlays in agriculture are based on predictions about the weather, economic conditions, currency values, commodity prices, plus crops and yields throughout the world all for the next 5 years. That is a lot of variables over a long period. We did as well as could be expected and if the rains favor us—well, who knows.

SPECIFIC COMMODITY GROUPS

Target prices and loan rates. Target prices on all major commodities were kept at the same level for 1986 and 1987—except rice which was frozen for only one year—reduced by 2 percent in 1988, an additional 3 percent in 1989 and an additional 5 percent in 1990. Loans—which establish the market floor—were reduced 5-10 percent in 1986 (see specifics below) plus an additional 10 percent in wheat and feed grains in 1986 only. For the purpose of figuring the loan, that 10 percent would "snap back" in 1987. Then there would be a 5-percent reduction in 1987 and 5 percent each year thereafter—on a formula reflecting market prices. There is considerable authority to lower loans much further, though the farmer's income—the space between the target and the loan—would be fully protected. It is not quite as complicated as it sounds.

Corn, the target remains at $3.03 in 1986 and 1987, $2.97 in 1988, $2.88 in 1989 and $2.73 in 1990—per bushel. In 1986, the loan goes to $2.16—from $2.55 presently—and then down 5 percent each year thereafter—the 5-percent reduction figured on a $2.40 level—with considerable authority to lower it still further to market clearing levels if necessary. On the basis of targets and loans, farm income is well protected in corn, but the set asides are raised as follows:

	Percent
Minimum:	
1986	12.5
1987-90	12.5
Triggered:	
1986	5.0
1987-90	7.5
Paid:	
1986	2.5
1987	.....

There is no payment for set aside acres except the initial 2.5 percent. The triggered set aside comes into effect if the carryover stocks exceed 2 billion bushels. Since there is presently a $3.03 target and a 10-percent set-aside, leaving the target the same and increasing the set-aside reduces farm income—albeit slightly if the trigger is not reached. In 1986 the trigger will be reached and per bushel income effectively reduced 17 cents a bushel.

Wheat, the target is $4.38-$4.38-$4.29-$4.16-$3.95 per bushel over the next 5 years. In 1986, the loan goes to $2.70—from $3.30 presently—and then down 5 percent each year thereafter, the 5-percent reduction figured on a $3.00 level with considerable authority to lower it still further to market clearing levels if necessary. Farm income is well protected above the loan to the target prices. The set aside program is:

Minimum:	
1986	15.0
1987	20.0
1988-90	20.0
Triggered:	
1986	7.5
1987	7.5
1988-90	10.0
Paid:	
1986	2.5
1987	.....
1988-90	.....

Nothing is paid except the 2.5 percent. The triggered set aside comes in if the carryover stocks equal 1.0 billion bushels. Since this year there is 20 percent unpaid set aside and next year there will be 22.5 percent—more thereafter—wheat growers also take a small income cut.

Soybeans have no target or set aside, only a loan. The official loan will be $5.02-$4.77-$4.52-$4.50—per bushel—but the Secretary has a 5-percent discretion below those figures (but not below $4.50) if necessary to maintain market competitiveness. Next year the loan will surely be $4.77. Below that a marketing loan is authorized which allows a farmer to repay a loan at the market price—so if he borrows $5.02 and the market is $4.60 he can repay and satisfy the $5.02 loan for $4.60 with the interest forgiven. It will make our soybeans competitive on world markets.

Cotton, the target price—per pound—is $.81-$.81-$.79-$.77-$.73 from 1986-90. The loan starts at $.55 and can't go below $.50. Then there are mandatory provisions that make cotton competitive on the market again, and farm income is protected. Set asides for cotton—triggered by carryover stocks—are 20 percent and 7.5 percent is discretionary. We did the right thing for cotton, too, though cotton took its full share of adjustments.

Rice, the target price—per hundred pounds—is (approximately—$11.90-$11.66-$11.30-$11.06-$10.70 from 1986-90. The loan rate goes down to $7.20 and then 5 percent a year with a $6.50 minimum. We made rice competitive in 1985 by changing its program immediately which was smart in my judgment, as there is no use just putting the darn stuff in storage. We should have done it for all crops but USDA hit the ceiling. Rice took its full share of adjustments with other crops. The rice set aside is 30 percent and a discretionary 5 percent is available.

Dairy, the 1986 support price—per hundred pounds—is $11.60. In 1987 the support level is $11.35 until October 1 when it drops to $11.10. There is a $.40 assessment—paid by the farmer—in 1986 and $.25 until October 1, 1987. The assessment pays for a whole-herd buyout—a dairyman may bid his whole herd out of production—which will reduce production—and hopefully raise the price at least as much as the assessment. In 1988 and beyond the Secretary has the discretion to lower prices $.50 a year if there is still overproduction—and if the CCC is buying more than 5 billion pounds of milk a year. Unfortunately, the price of fluid milk may rise—even in 1986 due to ill-advised changes in the marketing orders!

Honey, loan rates were reduced by $.64-$.63-$.60-$.57-$.54 (per pound) from 1986-90. A marketing loan was authorized which will cut the cost of the program in half, make our honey price competitive, and end the need for imports.

Sugar, we froze the loan rate for the life of the bill. The 1986 import quotas were extended for 3 months, and in years after that the Secretary is directed to continue operating the program at no cost to the Government. Frankly, if you have voted against the sugar program in the past, we have not given you any reason to vote for it in the future.

Tobacco, is not covered by the farm bill, though most people think it is. However, in the reconciliation bill tobacco loan rates were dropped 16 percent and the program continues at no cost to the Government.

Peanuts, the program is unchanged and operates at probably no cost to the Government—except for the administration of the program at USDA.

EXPORT PROGRAMS AND PUBLIC LAW 480

Export credits

First, $5 billion of short-term (6 months to 3 years) export credit guarantees (GSM-102) are mandated in each year, fiscal year 1986-fiscal year 1990.

Second, $500 million of intermediate term (3-10 years) export credit guarantees (GSM-201 and GSM-301) are mandated in each of fiscal year 1986-fiscal year 1988, with up to $1 billion in fiscal year 1989 and fiscal year 1990.

Third, mandates $325 million in direct credit funds (GSM-5) or commodities in fiscal year 1986-fiscal year 1988 to combat competitor subsidies. (These funds could be used in the blended credit program.)

Export Subsidy (PIK), $2 billion in commodities owned by the CCC are mandated to be used over 3 years to combat foreign subsidies. The Secretary must seek to use 15 percent of the commodities on meat and poultry exports.

Public Law 480 (food for peace), there are presently three titles. Title I covers concessional sales made at market prices but at very low—or no—interest and long—up to 40 years—terms. Title II covers donations. Title III is a concessional sale where repayment is forgiven if the money received by the recipient county in selling the grain—within its own borders—is used to fund development projects. The total outlay is about $2 billion with nearly one-half in title I and nearly one-half in title II—perhaps 5 to 7 percent in title III. Adjustments to the program were modest and aimed at raising minimum levels and allowing title I repayments to be used for private sector developments in the coun-

try that we are helping. It is an excellent program, it does a lot of good and should make us all proud.

Section 416 (surplus commodity donations), has been greatly increased both in the required tonnage—650,000 annually—and by including all surplus commodities owned by the CCC. At least 150,000 must be dairy, 500,000 must be grains, and 75,000 tons of those amounts must be used in the new Food for Progress Program which will encourage agricultural policy reform in the recipient countries. It is another program that brings great credit to our country.

Cargo preference rules did require 50 percent of all shipments "generated" by the Federal Government to go on U.S.-flag ships. U.S.-flag ship rates are often three times as high as international rates. This was always thought to apply to Public Law 480 and other donations only. In February of this year a Federal judge decided that cargo preference applied to export credit and subsidy programs. In conference we increased the 50 percent to 75 percent on Public Law 480 and donation programs, but exempted from cargo preference export credit and subsidy programs. Our effort on the Senate floor to protect the Great Lakes was weakened by the farm bill is still worth voting for.

Conservation

The conservation provisions will be very popular with environmentalists and hunters because for the first time we have included both the necessary incentives to get erodible land into a conservation reserve, and the teeth to deny any Federal farm aid to those who persist in plowing up erodible land. The reserve will be 40-45 million acres within 5 years. In 1990 the so-called sodbuster provision becomes effective. This means that after January 1, 1990, a farmer must use an approved conservation plan on his erodible acres, or he will be ineligible for any Federal program benefits on all his acres—a good provision.

Agricultural credit

We made two well-intentioned efforts in this bill to improve the situation facing farmers and their lenders. One was to sweeten the current FmHA debt adjustment program by providing a Federal interest rate buydown of up to 2 percent if the lender agrees to match it. Commercial banks and Production Credit Associations could qualify if they also agreed to write down some principal or further lower interest rates in order to make the farmer cash flow. Loans under this program would then be eligible for up to 90 percent guarantees by the FmHA. Unfortunately, the program is not large enough.

Our second effort was to make some changes in the FmHA's internal procedures, in an effort to make them a more accountable agency, as well as more efficient. Time will tell if we were successful here.

Food stamps

The House had been $1.4 billion over current services. The Senate bill was $600 million under current services. We settled at $350 million over current services. We went up $950 million. The House came down $1,050 million. These figures are not per year—the Washington Post story was wrong—but a total over 4 years.

The major reforms made in the Food Stamp Program by the conference committee include: An employment and training program; enhanced computerization; modest benefit increases targeted to the working poor; and, additional provisions to eliminate fraud.

The employment and training program would be a "mini-block grant" to the States to institute a work program for food stamp recipients. Under current law, able-bodied recipients between 18 and 60 who do not have dependent children under six are required to register for work and participate in job search. States will now be allowed to structure their own employment and training program. The Federal Government will provide $40-$50-$60-$75-$75 million in the next 5 years to aid the States, plus a match if the State spends more on its work program.

The enhanced computerization provision will encourage states to develop and implement a plan to automate their administration of the Food Stamp Program.

Benefit increases targeted at working poor. Food stamp eligibility and benefit levels are based on gross income substracting a number of set deductions. To be eligible for food stamps your gross income cannot exceed 130 percent of the poverty level and you net income—less the deductions—cannot exceed 100 percent of poverty. The deductions include a standard deduction—$95 per month—excess shelter and dependent care deduction—$139 per month—18 percent of earned income, and a medical deduction for the elderly and disabled.

The benefit increases targeted to the working poor included: Making the dependent care deduction a separate deduction up to a limit of $160 per month, increasing the shelter deduction to $147, and increasing the earned income deduction to 20 percent. In addition, the asset limit of $1,500 was increased to $2,000. The asset limit for the elderly of $3,000 was extended to single elderly. A list of the benefit increases and their budget impact follows.

Elimination of fraud. The provisions designed to help eliminate fraud include: allowing the Secretary of Agriculture to require photo identification cards where needed to protect program integrity and where cost effective; fraud detection units would be established in large metropolitan areas for detection, investigation, and assistance in prosecution of fraud; in areas where payment error rates impair the integrity of the program the Secretary of Agriculture would be permitted to require a State to carry out new or modified certification procedures; an adult household member must sign under penalty of perjury that everything in a food stamp application or report is true; each adult member of a food stamp household would be jointly and severeally liable for the value of any overissuance of food stamps.

Senator DURENBERGER's provision to prohibit banks from charging grocery stores for handling food stamps was included in the bill.

Senator EVANS' 2-year moratorium on the collection of error rate sanctions owed by the States to the Federal Government was shortened to 6 months. The study of the error rate and quality control system suggested by Senator EVANS will be done.

Sales tax on food stamp purchases. States that charge a sales tax on food stamp purchases will not be eligible to participate in the Food Stamp Program if they continue the practice after October 1, 1987.

Puerto Rico has a block grant of $825 million for food stamps. That figure has been frozen since 1982. It would remain frozen in 1986, and then go up at three-fourths of the rate of inflation. We show a savings on the following chart because CBO scored it assuming a full inflation increase.

Job Training Partnership Act income is presently exempt in figuring whether a person's income qualifies for food stamps. A good deal of JTPA income will be included. This saves $112 million over 4 years.

On balance this is a fair compromise that improves the integrity of the food stamp program while protecting the benefits of those most in need.

I again urge my colleagues to support this conference report. It is not everything I wanted, but it is better than reverting to existing law and it will allow our farmers to make their plans, which is very important.

Mr. President, I ask unanimous consent that the following chart be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FOOD STAMP COMPROMISE

[Budget impact—millions over current services]

	Fiscal year—				
	1986	1987	1988	1989	Total
Disability definition	$1	$1	$1	$1	$1
Deduction losses of self-employed farmers[1]	0	1	2	2	5
Job Training Partnership Act income	−27	−28	−28	−29	−112

FOOD STAMP COMPROMISE—Continued

[Budget impact—millions over current services]

	Fiscal year—				
	1986	1987	1988	1989	Total
Increase earned income deduction [2]	21	51	53	55	180
Increase shelter deduction to 147 [2]	14	36	37	39	126
Separate child care deduction [2]	7	16	16	16	55
Increase asset limit to $2,000; $3,000 for single elderly [2]	22	77	115	121	335
Employment and training	4	4	4	4	16
Speed up collection	0	−45	3	0	−42
Puerto Rico (1 year freeze, then three-fourths of inflation)	−38	−49	−60	−70	−217
Provide information at SSI offices [1]	0	1	1	1	3
Total	4	65	144	140	353

[1] Effective October 1, 1986.
[2] Effective May 1, 1986.

Mr. MATSUNAGA. Mr. President, I rise to speak in support of the conference report on the farm bill, H.R. 2100, and to congratulate and commend the conferees for accomplishing an almost impossible task. As a consequence, we are enacting today a historic farm bill which will set the course for American agriculture for the next 5 years. This legislation is being enacted at a time of almost unprecedented depression in our Nation's agricultural community. While the measure demonstrates congressional concern, I am aware that many of the problems in agriculture are beyond the powers of this Congress to resolve during a period of falling farm prices and burgeoning Federal deficits.

Mr. President, I am especially pleased to note that the bill, as finally agreed upon by the conferees, provides assurance to the most economically important agricultural producers of my State, our Hawaiian sugarcane farmers, on two critical points: First, that they will have a basic support program continued at the current level and, second, that this program will be operated without cost to the Government—an assurance as important to them as it is to the American taxpayer.

In this connection, I wish to compliment the Senate conferees for standing firm on the Senate provision that the sugar program continue to be operated at no cost to the taxpayer. This is vital, not only to avoid an increased burden on the taxpayers of our country, but to assure our domestic sugar producers as well that they will receive the price support level intended by Congress.

During the first years of the current program, the Department of Agriculture operated the sugar program with a net gain to the Government and with a price to our sugar producers equal to or higher than the loan rate. Unfortunately, however, the administration failed to administer the program in a like manner in 1985, with a result that the Department ran up a loss of more than $100 million while our domestic industry sustained a loss of many more millions of dollars.

In setting the 1986 quota the administration actually increased the quota from the 2.2 million tons which were imported in fiscal year 1985, to 2.33 million tons for 1986, despite the fact that domestic consumption declined with the shift by soft drink makers from sugar to 100 percent high fructose corn sweetener, except in Hawaii where consumers are sophisticated enough to demand "the real thing." In taking such action, the administration also disregarded the anticipated increase in domestic production due to improved yields. That increased import quota brought about a sharp reduction in price which has seriously injured the earning prospects for our domestic sugar industry.

The language adopted in the Senate version of the farm bill, which is retained in the conference report, and which mandates an extension of the current quota for an additional 3 months, plus a no-cost operation of the program beginning at the end of this current quota year, is, therefore, of the most crucial importance. The sugar industry in my State of Hawaii will lose many millions of dollars this year, despite record yields of more than 12 tons of sugar per acre and despite strenuous cost cutting efforts that have reduced costs by some 12½ percent since passage of the 1981 Farm Act. The Hawaii sugar industry, despite its world-renowned efficiency, is expected to lose money again in 1986, although its losses will be sharply reduced by the extension of the current quota. However, the farm bill, as agreed upon in conference, offers hope for the future, thanks to the retention of the Senate no-cost language. That language should assure that our Nation's sugar farmers will receive the 18 cents per pound which Congress intends, and, what is more important, they will get that price from the market, not from being forced to forfeit sugar to the U.S. Government.

Mr. President, I want to thank those responsible for achieving this important legislative victory for our sugar producers and, indeed, for taxpayers and over the long haul for consumers as well. I particularly wish to thank our distinguished majority leader, the senior Senator from Kansas, Mr. DOLE, for his active role in securing this happy result. It offers very real hope for the future of our domestic sugar industry.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

ILLINOIS FARMERS DESERVE BETTER

Mr. DIXON. Mr. President, when I first came to the Senate, one of my initial speeches in this Chamber was a plea for an increase of a dime a bushel for my Illinois corn farmers. That speech was made 4 years ago, Mr. President, when we were in the process of passing the 1981 farm bill.

Much has happened in the agricultural economy since we developed legislation to bolster farm income. Because of events and economic factors largely beyond their control, farmers in Illinois and elsewhere in our Nation have seen farm income evaporate and the rural economy deteriorate to the worst point we've seen since the Great Depression.

Now, after 11 months of effort, we have fashioned a new farm bill to guide us during the next 5 years. My first question, of course, has to be whether this bill is good for the farmers of Illinois. After a careful review of the bill's provisions which directly impact on Illinois corn and soybean farmers, I have reluctantly concluded, Mr. President, that this is not the bill that the Illinois farmer needs in order to continue farming.

Much of the media attention and our attention has been directed during the last couple of years at the farm credit crisis. There truly is such a crisis, Mr. President, but the problem results from a lack of adequate income. If the farmer can get a decent price for his products, then the credit crunch will begin to disappear. What does this 1985 farm bill do for farm income? Unfortunately, this bill moves it in the wrong direction at the wrong time. The net effect of the bill is to lower Government loan support prices for corn, soybeans, and wheat, among other commodities.

It is true that the loan rate for corn for 1986 is set at $2.40 per bushel. That level, however, is 15 cents less than our current loan rate. In addition, there is a mandatory requirement that the Findley amendment be utilized to reduce the loan rate an additional 10 percent. That maneuver knocks another 24 cents off of a bushel of corn. In relation to the current loan rate for corn, we suddenly discover that we have lopped 39 cents off the price of corn. My Illinois farmers do not need that, and they cannot stand that, because we are talking about $2.16 corn in 1986.

What about soybeans? Well, here things are a little better for 1986 and 1987, because the loan rate is maintained at $5.02 per bushel. The Secretary, however, has discretionary authority to reduce the loan level up to an additional 5 percent if he decides such a cut is necessary to maintain markets. Downward adjustments in the loan rates can begin in 1988, with

the result that the loan rate can drop to a level of $4.50 per bushel.

The soybean market has already shown us in recent weeks what havoc we can create by the approach we take to commodity prices. I have to say that a drop of 52 cents—from $5.02 to $4.50—even if it occurs over time, cannot be viewed as a good deal for Illinois farmers.

The loan rate for wheat in 1986 will be at $3 per bushel. A mandatory requirement that the 10-percent Findley provision be invoked in 1986 effectively reduces the loan rate to $2.70 for wheat.

Another element in this bill which threatens to lower prices for Illinois farmers is the provision relating to acreage reduction programs [ARP's]. Even when the loan rate for corn stands at $2.16 per bushel, which is already low, there are three other monumental problems. The first is the imposition of a 12½-percent minimum ARP. The second is a 2½-percent mandatory PIK set-aside. The third is the additional discretionary authority for the Secretary to require the farmer to set aside 5 percent more acreage. If we add these three items together, Mr. President, the corn farmer could be forced to idle 20 percent of his acreage—twice the percentage required under current law. The result cannot be anything but even lower prices. As we set aside twice as much acreage in the outyears, Illinois farmers will start receiving less and less income for their crops.

Let me cite a quick example. If a farmer's acreage base for corn is 100 acres, and the farmer planted 90 acres in 1985, then he could plant only 80 acres in 1986. We say we are freezing the target price. We cannot say, however, that we are freezing income supports, because we are increasing acreage reduction programs by 10 percent. With fixed production costs, this means the farmer with the 100-acre corn base is getting the same payment on 10 percent less acreage, which, in turn, means he is receiving 10 percent less income.

This movement toward lower prices is unacceptable to me, and as farmers begin to operate under the terms of this bill, I am sure that my Illinois farmers will likewise find it unacceptable. Lower farm income is the wrong way for us to be heading at this time in American history.

In today's Chicago Tribune, Christopher Drew offers a vivid example: "On a 500-acre Illinois corn farm with a typical yield of 128 bushels per acre," the increased set-asides, he says, "will mean a $3,200 to $9,600 drop from this year's total revenue of $193,920." He also mentions that the "increased set-asides * * * will cut the farmers' output and could lower their earnings by 5 to 15 cents a bushel from the $3.03-a-bushel target price. * * *"

There are other examples I could cite, Mr. President, but I think my point has been made. This bill moves in the direction of lowering prices at the most inopportune time. It is my understanding that Congress has never before reduced support prices for the commodities I have discussed. Illinois farmers—indeed, farmers across the Nation—need income, not lower prices. I favored a 4-year freeze on price supports, and I was satisfied with the 4-year freeze which was the key element in the original Senate farm bill which came out of the Agriculture Committee for our consideration.

My dilemma in looking at the farm bill before us is that I must cast a vote on an entire package. We cannot vote on separate sections. That posture poses a problem for me, as it does for others, because there are many good provisions in this bill. I like many of the mechanisms for improving our export sales of farm products. I like the sodbuster and swampbuster provisions. Some of the proposals I have made are embodied in both the export and conservation sections of this bill.

I am especially interested in the cargo preference section, because those of us who are Great Lakes Senators waged a very long, tough battle here on the floor of the Senate to establish a floor under the amount of Government-shipped commodities through our Great Lakes ports. These shipments are important to Midwestern farmers and the Great Lakes maritime industry.

As far as Great Lakes ports are concerned, the cargo preference provisions in the farm bill are bad. In Great Lakes country, we would have been far better off to have returned to the old cargo preference posture. As I mentioned, we won the fight on the floor of the Senate to require a minimum amount of Government-shipped commodites to go through the Great Lakes. The conference committee weakened what was a less than adequate—but a fair—proposal, by saying that such protection for shipping levels on the Great Lakes will occur only if it does not impact on other ports. As a practical matter, we probably cannot help the Great Lakes without some small harm to other ports. We desperately need to halt the decline in shipping on the Great Lakes. With the bill in its present form, we have not achieved the objective we had, at one point, accomplished. Our task thus remains unfinished, but we have not given up the fight.

The legislation also contains a separate section designed to bolster our Farm Credit System. We have already dealt with that problem by adopting a separate bill. Restoring confidence and liquidity to the Farm Credit System is absolutely essential to the recovery of our agricultural economy. Farmers, lenders, and rural businesses must be made aware of Congress' determination to maintain a viable farm credit program in this country.

While we have successfully completed action on the Farm Credit System bill, I am terribly disappointed with the administration's opposition to my amendment to the farm bill which would have allowed a private sector initiative whereby rural banks could mark down farm loans to present collateral levels, with the proviso that losses could be written off over a 30-year period rather than taking a massive loss in 1 year. This legislation makes eminently good sense. The farmer can stay on his land by avoiding foreclosure, while continuing as a customer of a rural bank that remains financially strong. I emphasize again my disappointment that this proposal lost on a vote of 44 to 47, failing by only 3 votes to provide financial stability to the private sector of farm lending, as we have for the Farm Credit System lenders.

There are some favorable elements in this bill, but they are outweighed by far too many negative factors. There is no reason for me to belabor the point with a lengthy discussion. The principal difficulty for me is that the net effect of this bill is to lower farm income. Illinois farmers and related businesses and industries cannot afford continuing low prices. We must restore farm income. This bill does not do that in the immediate future, and it is the immediate future that will determine whether many of our farmers will survive or whether the number of farm sales and foreclosures will continue unabated.

I have felt compelled to outline in some detail what my problems are with this bill. I want it fully understood that my vote against the bill is made with great reluctance, but it is cast with the knowledge that what Illinois farmers need is income, and I cannot in good conscience support legislation which does not provide income for our Illinois farmers at the most critical juncture in our agricultural history.

We could have done better, but we did not. Since we did not, I cannot lend my support to farm legislation which makes a bad situation worse. My hope is that we rectify our mistakes when we return for our 1986 session. By then, we will have come to the realization that what we are doing here today simply doesn't do the job. Our Illinois farmers deserve better.

Having set forth these concerns about this important legislation, I will reluctantly vote no on the bill.

I ask unanimous consent that Christopher Drew's article from the Chicago Tribune be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Dec. 18, 1985]

FARM EXPERTS MIXED ON NEW BILL BENEFITS

(By Christopher Drew)

A huge new farm bill lays the groundwork for gradually reviving foreign interest in American grain exports, but it will mean modest cuts in income for most farmers and won't save nearly as many troubled farms as its legislative sponsors had hoped.

That is the reaction of leading farm economists and trade officials to the five-year bill that emerged from nearly a year of intense debate.

Passed by a House-Senate conference last weekend, the bill is expected to win final approval from both chambers Wednesday. It then will be sent to President Reagan, who once threatened a veto but now is considered likely to sign it.

"I see this farm bill as one that moves us toward market realities, but at a fairly slow pace," said Mark Drabenstott, chief farm economist at the Federal Reserve Bank of Kansas City, Mo.

While such a shift is positive, he said, "the bill probably will continue to put most of the benefits in the hands of farmers who are not highly stressed, and that's a disappointment."

Noting that most polls show strong public support for helping troubled farmers, he said, "I think if people really understood when they send in their tax checks on April 15 that their money is going to large cotton farmers in California who have a larger net worth than they do, they'd feel differently about it."

The experts also predicted mixed results from a new plan to pay some dairy farmers to get out of their surplus-ridden business.

The highlight of the bill, according to the economists and trade leaders, is its requirement for immediate cuts of 15 to 20 percent in corn and wheat price supports. The bill also gives the market-oriented Reagan administration power to cut an additional 10 percent if needed to bring U.S. grain prices back into line with world trading levels.

The cuts, the first since the complex web of support programs was put into place in the 1930s, could offset dramatic price hikes caused partly by the surprising strength of the U.S. dollar in recent years. They also could discourage further expansion by low-cost South American producers.

Still, demand for grain in key importing nations remains relatively weak, and there seems little prospect for much growth soon.

Consequently, said Michael Hall, the Washington representative for the National Corn Growers Association, the support cuts may break a five-year skid in U.S. export sales, but they probably won't help lead to a broad recovery for several years.

To protect farmers from the price cuts, legislators voted to freeze separate income-subsidy rates, called target prices, for two years. The government pays farmers the difference between market prices and the higher target rates, so freezing the rates will force it to give them larger checks to offset losses from the lower market prices.

Still, most grain farmers probably will suffer modest cuts in income under the bill. That's because legislators increased the amount of acreage that farmers must set aside to qualify for the subsidy programs. Corn farmers, for instance, will have to set aside 12.5 to 17.5 percent of their acreage next year, compared to 10 percent in 1985.

The increased set-asides, designed to ease burdensome surpluses and limit government costs, will cut the farmers' output and could lower their earnings by 5 cents to 15 cents a bushel from the $3.03-a-bushel target price, Hall said.

On a 500-acre Illinois corn farm with a typical yield of 128 bushels per acre, that will mean a $3,200 to $9,600 drop from this year's total revenue of $193,920.

Rep. Thomas Foley [D., Wash.], a prime architect of the bill, defended the cuts as a small price to pay for continued government support in an era of budget-cutting in Washington. He also pointed out that the cuts would have been much greater if Congress hadn't blocked the administration's original plans to phase out the income subsidies.

Drabenstott, the Federal Reserve economist, agreed. But he also argued that the legislators' failure to target more of the benefits to the most troubled farmers may have hastened, rather than prevented, the demise of many of them.

Critics ranging from conservative Sen. Jesse Helms [R., N.C.] to liberal farm groups have complained that only 20 percent of the subsidies now go to farmers in serious trouble.

The reason is that the payments typically have been used to encourage production cutbacks in times of surplus rather than as vehicles for income transfers. So the biggest checks generally have gone to the largest farmers with the most acreage to set aside.

Mr. McCONNELL and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I rise in support of this conference report. In my experience during a period of private law practice and as judge-executive of a local government of some size, and I have never been around a subject more complicated than American agriculture and in particular in a year like this, in which times were difficult and many farmers were in trouble. I think it shows the true mettle of our leadership that at a time like this, when American agriculture is truly in a different situation, we are able to produce a farm bill that I am optimistic will improve conditions on the American farm.

I thank the ranking minority member of our committee (Mr. ZORINSKY) and in particular, the distinguished chairman of the committee, the Senator from North Carolina (Mr. HELMS), with whom I have worked on many issues, for their truly outstanding leadership in the development of this farm bill in what quite possibly is the worst year for the farmer since the Depression.

I personally support the conference report in spite of some reservations I have, but I do not think anybody could have done any better than our leadership in this year on this issue. I particularly thank the chairman for his outstanding work and gladly support the conference report.

Mr. HELMS. Will the Senator yield?

Mr. McCONNELL. I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, of course, I thank the distinguished Senator from Kentucky for his remarks, but let me say for the record that I have never seen a Senator come here who has participated so quickly in the delicate and difficult matters as the Senator has described in the agriculture bill. I want to say to Senator McCONNELL that he is already a fine Senator and it has been my privilege to work with him. I thank the Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, as we meet here this evening to discuss the farm bill, everybody is talking about the merits, what a great solution it is, and nobody remembers that subject we were on about a week ago. That was the Gramm-Rudman bill. Gramm-Rudman was going to help us balance the budget.

Well, it is my understanding that this bill violates section 311 of the Budget Act as amended by Gramm-Rudman. Sixty-one people voted for Gramm-Rudman and I have not heard any of them out here making the point that the farm bill is $2.5 billion over Gramm-Rudman, over the budget; therefore, this body should not be passing it. If you who voted for Gramm-Rudman—I fortunately did not. But if you who voted for Gramm-Rudman were as sincere in your convictions and your concerns as you indicated just a couple of weeks ago, where are you today?

I pose a parliamentary inquiry without raising the point, but as a parliamentary inquiry, I ask of the Chair whether or not this bill violates section 311 of the Budget Act as amended by Gramm-Rudman and therefore, if raised, would be subject to a point of order.

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Mr. President, can I say any more? I am right that it violates Gramm-Rudman.

You came out here and you went to the wall and you battled and you insisted that this was the solution, and the editorial writers all over the country wrote about Gramm-Rudman solving the problems of balancing the budget and we were going to move forward and by 1990, we were going to have a balanced budget. OK, stand up and be counted. Let me hear from you.

I am not going to raise the issue because I did not vote for that Gramm-Rudman provision and I do not think that it is good law. But 61 of you thought it was good law. If you thought it was good law 10 days or 2 weeks ago, why do you not think it is

good law today? Why are you not raising the point out here on the floor of the Senate?

Many of us have said that those who were so anxious to vote for Gramm-Rudman would run for cover just as soon as the issue comes before the Senate and they have to bite the bullet. Well, tonight is the night to bite the bullet. Tonight is the night to determine whether or not you meant what you said when you passed Gramm-Rudman.

The Parliamentarian has already indicated that it is indeed subject to a point of order. If you believe as strongly as you indicated just a couple of weeks ago that Gramm-Rudman was the solution to our Nation's economic problems and balancing our budget, now is the time to stand up and be counted and be heard and to raise the point. I stand not because I am opposed to the farm bill; I am not opposed to the farm bill. I stand because I am so concerned that some people come out here and make great speeches and go all over the country and say how they are going to balance the budget and they need to do something for the country and it needed to be done and we have to face the music and therefore, we are passing Gramm-Rudman; therefore, our deficit is only going to be $141 billion in 1987 and it is going to go down in 1988 and by 1990, we are going to have the budget in full balance.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I do indeed yield, Mr. President.

Mr. DOLE. The Senator has left off the name HOLLINGS all through there. [Laughter.]

Mr. METZENBAUM. As usual, my colleague from Kansas is right on target—the Gramm-Rudman-Hollings bill. Whether it is Gramm-Rudman or Gramm-Rudman-Hollings, it seems to me when things are going well and the editorial writers are saying great things, it is Gramm-Rudman. But when it comes to a point where nobody is willing to live up to the terms of that bill, my distinguished colleague, the majority leader [Mr. DOLE], wants to point out that there is indeed a Democrat who was a party to the measure.

I guess it is a fact that there were a number of Democrats who voted for Gramm-Rudman-Hollings. This one, I am proud to say, did not.

But if you meant what you said before, let me hear from you tonight.

Mr. HARKIN. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I do indeed.

Mr. HARKIN. The Senator makes a good point. To those who came out here and said Gramm-Rudman was a solution to our problem, here we are with a farm bill that is over budget.

The question I pose to the distinguished Senator from Ohio is this: This farm bill, so-called farm bill, received pretty wide support, as indicated by the majority leader. It got a big vote in the House, although I note a number of Midwestern Congressmen voted against it. That will tell us how this farm bill is going to affect the Midwest.

But it did receive a lot of support. There are a lot of lobbyists out there. A lot of powerful people support this bill—processors, shippers, a lot of big actors out there support this farm bill. I guess the question I have for the distinguished Senator from Ohio is this: What is going to happen, looking down the road to early next year, when maybe a bill comes on the floor that does not have all those powerful lobbyists behind it—that maybe is for the handicapped; maybe it is to help the poor; maybe it is to help the elderly; maybe it is a bill for education for the disadvantaged. Maybe it is a bill to provide some feeding programs for the poor and maybe it is going to be slightly above budget. Does the Senator think this place will be as quiet or as silent on a point of order as it is right now? I ask the distinguished Senator from Ohio, what does he think will happen at that point? Will there be then a rush to embrace Gramm-Rudman or will we have the same kind of silence from those 61 who supported Gramm-Rudman?

Mr. METZENBAUM. Oh, no, I am happy to respond and say that you may count on it. When the issues have to do with funding for the handicapped or for the poor or for educational programs or for any one of a number of other programs that the Senator alluded to, there will be a lot of people over there who will be happy to raise the point of order that it violates Gramm-Rudman-Hollings, but this farm bill is a different story. The Senator, indeed, makes the point, and makes it very well, that come tomorrow when it is not the farm bill and when there are programs having to do with the nonfarm members of our community, those who live in urban centers, there will be an indifference to their problems and everybody will be rushing to make the point of order. When the cities are cut back by billions of dollars from revenue sharing programs and if the program exceeds by a dollar the provisions of Gramm-Rudman in the budget, they will be out here on the floor making the point of order, and everybody will come here with tears streaming from their eyes saying they are sorry they have to do this but under the banner and the flag of Gramm-Rudman-Hollings they have no alternative but to stand up and say that this is too much. "We must balance the budget."

But it depends on whose back the budget is to be balanced. In this instance nobody, nobody who has supported Gramm-Rudman is on this floor raising the issue. I say their words do not speak as loudly as their actions with respect to the matter of supporting budget balancing, supporting Gramm-Rudman-Hollings.

Mr. BUMPERS. Will the Senator yield just for a comment?

Mr. METZENBAUM. I do indeed.

Mr. BUMPERS. Does the Senator from Ohio have the floor?

Mr. METZENBAUM. I do have the floor.

Mr. BUMPERS. I have the utmost appreciation for what the Senator is saying, but I think the Senator paints with much too broad a brush. No. 1, I do not know of any segment of the economy in this country that is suffering more right now than the farm economy. No. 2, I have been one of those people who has tried to be congnizant of and sensitive to the needs of all people. I voted for revenue sharing and I have tried my very best to keep faith with what I think the national character of this country ought to be, with a view toward what kind of a future we want for the country. And so while I think the Senator makes a very good point, I hope he is not suggesting that every farm State Senator, and particularly farm State Senators who support this bill, are somehow or other suspect about every other segment of this Nation. I would deeply resent such a comment as that. You cannot go into eastern and southern Arkansas as I have done for the past 5 years and look into the eyes of people who have spent their entire lives trying to build an estate, trying to make a decent living and trying to leave something for their children, you cannot experience the trauma they have been experiencing and believe this bill is any panacea to the farm community of this country. It is nothing more nor less than a holding action. And while I would be reluctant to demoralize the farm community further, I will say that 15 to 20 percent of the people who are now farming and who may get another chance to farm in 1986 as a result of this bill will not be around after 1987. I thank the Senator.

Mr. METZENBAUM. I am happy to have the comments of the distinguished Senator from Arkansas. I think he is aware of the fact—I do not know at which point he arrived on the floor, but I am not attacking the farm bill, and I share his concern about the farmers of this country. I think all of us do. I am concerned about every American, whether they be on the farm or live in an urban area, and how they are able to attain a quality of life to which they are entitled. What I am talking about has nothing to do with the farm bill. What I am talking about is Gramm-Rudman-Hollings, that

great majestic piece of legislation that after a lot of turmoil and a lot of battling back and forth suddenly finally became the law of the land when the President signed it. All I am saying is where are all those who paraded under the banner of Gramm-Rudman-Hollings tonight? How come they are not out here defending the implementation of that piece of legislation as well as the enactment of the law in the first instance?

● Mr. MATHIAS. Mr. President, I would like to express my appreciation to the chairman of the Agriculture Committee and the other members of the farm bill conference committee for their cooperation in ensuring our Nation's defense against the potential agricultural disaster represented by the Africanized honeybee.

I understand that the conference committee has stated the concern of the Congress that more research is needed into ways to deter the Africanized bee, also known as the killer bee, and has directed the Agricultural Research Service to make the necessary funds available to conduct this research. Could I ask the manager of the farm bill if my understanding is correct?

● Mr. HELMS. The Senator's understanding is correct. The so-called killer bee, besides being a threat to the lives of animals and people, could wreak havoc with American agriculture because farms and orchards rely upon the peaceful varieties of bees for pollination. The manager's report accompanying the conference report makes clear our concerns on this point and instructs ARS to undertake new research into means of heading off severe disruption to agriculture, and I will be interested to review the progress of this research during the committee's oversight hearings next year.

Mr. MATHIAS. I thank the chairman for his assistance.●

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I associate myself with the remarks that were made just a few minutes ago by the distinguished Senator from Arkansas. As he has been going around his State, I have been visiting with the farm families of our State. I hope that our colleagues, as they vote on this particular measure, will bear in mind the massive social upheaval that is occurring across this country in the rural areas. I was called this morning by a reporter in my home State and asked to comment on the demographic shift that is occurring in my State as people are moving out of the rural areas and into the cities. They are moving because they are losing their farms. Now, on the eve of the Christmas season at Enid, OK, for example, in the heart of the Wheat Belt in my State, in that one small geographical area, there are 150 foreclosures on family farms pending. I talked with one farm wife the night before last, now in her late 1960's, who told me that she and her family had and operated a particular farm, one of our more productive farms, in the eastern part of our State for over 50 years. She tearfully told me on the phone that they were on the verge of losing that farm; that not only did she not know what her family would do but she did not know what six other families that had worked with them on that farm, for over 30 years in some cases, would do either. We read about the tragic story of what happened in Iowa for one farmer in his sixties, a solid member of the community who took the life of his beloved wife, the life of a neighbor, the life of the banker in the local community, and his own life because of the desperation that he felt in not knowing how to begin his life over when he was losing everything he had worked his entire life to achieve. He did not have other skills. He did not know another way of life. It was not easy for him to be uprooted, moved into some urban area and a totally different way of life for which he had never been prepared.

We are facing across this country a series of heartbreaks and a social upheaval of monumental proportions that deserve the sympathy and understanding of all of us. It is not only a matter that demands our emotional empathy, our understanding, and the expression of the concerns of our hearts. It is also a matter that deserves our attention as economic policymakers.

I am reminded of what began in this country in 1926 in the agricultural sector, and I am also reminded of the great flurry of activity at the peak of the stock market in 1929. I am reminded of what is happening in the Farm Belt now and what is happening on Wall Street now.

I am reminded of the fact that agricultural land is deflating in my home State at the rate of 36 percent a year and that there are literally hundreds of financial institutions across this country whose economic health is dependent upon stabilization of the value of the land that stands behind those loans.

More than 4,000 banks in this country have 25 percent of the total loans or folios, depending upon the stability of the value of the agricultural land.

Mr. President, we face a very serious situation. I do not think any of us should fool ourselves by believing that this farm bill is going to solve the problems. It is not going to abate the crisis we have in rural America.

If you figure the income levels for the average family sized wheat farm, for example, this bill will just about hold those income levels where they have been this year for the next 2 years. The best thing you can say about the bill is that it is much better than the first conference committee proposals, which would have dropped family farm income by approximately 12 percent next year. But when we are facing such a serious crisis on the farm, how in the world can we say that maintaining the status quo is adequate? It is not. We are going to be feeling the financial and economic effects and the social effects rippling all across this country over the next 12 months, and we will be back here next year, I believe, facing again an economic emergency in the agricultural sector.

There is some hope for this bill, and it is in the area of the discretionary authority given to the Secretary. I read an editorial within the last couple of days about this farm bill that described it as a new beginning, in terms of an innovative policy. It could begin to be a change in policy if the Secretary of Agriculture would use the discretion that is given to him—if, for example, he will use the discretion to target the benefits to the family-sized farm.

We adopted an amendment on the floor of the Senate, a bipartisan amendment, which this Senator joined with others in offering, that would have saved our precious budgetary dollars, as discussed by the Senator from Ohio, by not paying high price supports to hobby farmers who derive 98 percent of their income from sources other than agriculture. When we have family farmers going out of business in a desperate situation, how can we justify wasting our dollars to give higher and higher benefits to those who simply drive out of the towns and the cities on the weekend and dabble as hobby farmers?

How can we justify spending our precious dollars to prop up huge corporate farming operations? The Secretary in this bill is given authority to target family-sized farms and make more effective use of the dollars. If he would use that discretion, this bill could begin to move us in the right direction.

The Secretary is also given direction to move the vast amounts of grain we have in this country onto the world markets to help us in an aggressive way to get back our share of the world market. The United States has been the patsy of the world too long. We have guaranteed the price to producers in other nations who have been producing full out. We have been storing surpluses for the rest of the world, while they laugh up their sleeves at us and drop their prices enough to seize the market from us, while we, in effect, are storing their surplus grain. If the Secretary would use the discre-

tionary authority, we could move in the right direction.

My concern is, will the OMB allow the Secretary of Agriculture to use that discretion? In order to save a lot of money over a 4- or 5-year period, under the ill-conceived accounting devices we often use around here, there will be a tendency to score some costs in the first year of operation of such a program.

So I am fearful that the new beginning which was described in an editorial in one of our leading newspapers may well not occur. It will not occur if the Secretary does not boldly use the discretion given under this farm bill.

Will this bill be a warmed-over retread of a failed policy or will it be at least the beginning, a start, in the right direction? Much depends upon the actions of the Secretary and the extent to which he uses the discretionary authority that is there.

So far as this Senator is concerned, I can only repeat that this is not an adequate farm bill. I do not denigrate the work that has been done by the conferees, who have spent hours and hours laboring over this matter. They have worked hard. We have some fine Senators on that committee who care about agriculture and understand its importance to the rest of the economy. This Senator cannot say, in conscience, that it is going to solve the problems.

I think we should alert the American people that the problem is not going to go away, that merely assuring the status quo so far as income levels are concerned for a sector that is already in serious crisis is not enough.

As I listened to the Senator from Ohio talk about the budget, I could not help think to myself that if you could single out one group of people in this country who have been the victims of the budget deficits more than any other group, who would it be? It would be the farmers. The budget deficits have so overvalued our dollar that that development has absolutely destroyed the export market for agricultural products.

We have people here who get up early in the morning and work hard all day long. As a man said to me as I walked back to my office the night before last;

> I don't understand how our farmers, who work so hard, who are not looking for a Government handout but who work as hard as any people in this country, who are productive, who have kept pace in terms of scientific and technical developments, would be handed such problems. It isn't fair.

No, it is not fair, and our farmers have suffered more than anyone else because of the Government deficits and Government policies we have followed—programs that have overvalued our dollar, embargoes that have been imposed upon them.

When we talk about budgetary equity, I think we should realize that even under the Gramm-Rudman proposal, about 55 percent of all spending is exempt—not agriculture, but about 55 percent of all the rest of the spending is exempt—from automatic cuts. The farmers are willing to do their part.

This bill represents a sharp reduction in cost from a continuation of current law.

Has defense been trimmed from current law? Have the social programs been trimmed from current levels of spending? No.

In terms of what has actually happened around here, the farmers have again and again been asked to do their part. Others have been exempted and, because they have been exempted, we have not done anything to really get the deficit down. The farmers are then destroyed.

Then we have the question raised as to whether or not they are doing their part from a budgetary point of view.

They are the innocent victims of our own failure to be responsible in dealing with the budget overall.

The defense budget has fences built around it. We cannot touch sacred cows like Social Security even for those people who are in the upper income levels, and, as we all know, just because people are over 65 it does not automatically mean that they are in lower income levels. Yes, I want to protect those who are at the poverty level. We have been afraid to even touch those who are millionaires if they happen to be over a certain age because we have allowed certain areas of the budget to become sacred cows politically and untouchable.

So when it comes to fairness, Mr. President, I do not think it is fair to single out that part of society which is suffering the most right now through no fault of its own and to say that it should bear the burden by itself while we exempt so much of the remainder of the budget from any sacrifices at all in terms of trying to get our budgetary house in order.

We will be revisiting this issue next year. I hope we can do better. I hope one of these days we will take action that will give the farmers a chance to earn a fair enough income that we can turn the depression in the agriculture sector around; but regrettably this bill will not do that, and as we vote on it no Member of the Senate should be deluded into thinking that it will.

Mr. LAUTENBERG. Mr. President, today the Senate is considering the conference report on the farm bill. It is one of the first measures to come before the Senate with significant budgetary consequences, since we passed Gramm-Rudman.

What do we see? It is over budget. It is way over budget.

CBO has done a preliminary estimate. The farm bill is $2.5 billion over current services in fiscal year 1986. It spends $2.5 billion more than if we just left current programs in place, $2.5 billion.

But that is not all. It is $4.5 billion over where we should be. It is $4.5 billion over the level for farm programs assumed in the budget resolution that we passed last summer. It is roughly $4.5 billion over what the Agriculture Committee was allotted in the budget resolution.

Now, that budget resolution assumed a deficit of $172 billion. Well, we know we are not going to come near that number. In fact, according to the latest CBO scorekeeping, we have already overshot the target by close to $19 billion, $16 billion from spending, close to $3 billion from a shortfall in revenues. So, we are close to $19 billion over, based on laws that Congress has already passed, and the President signed.

The farm bill adds another $2.5 billion to that.

Supporters of the farm bill say it does not add to the deficit. They say it cuts the deficit; that it saves money. That it saves $11.2 billion over 3 years even if it costs $2.5 billion this year. They say it makes it back and more in 1987 and 1988.

Mr. President, this is a time-worn statement and one we hear over and over again in Congress. It is the kind of mentality that has gotten us into the deficit hole we are in.

But, the implications of approving this bill are broader. And Senators and the public should know this. By approving this farm bill, we not only add to our deficit. Under Gramm-Rudman, once we approve this conference report, we will be picking the pockets of other programs to pay for the bill.

Mr. President, that is because today we are over budget. And under Gramm-Rudman, that means cuts this year, not in 1987, not in 1988. Come January, the CBO and OMB will sit down and figure it all out. They will figure out how far over we are, and how much to cut.

The more we spend on price supports, the less we spend on education, the less we spend on environmental protection, the less we spend on the defense of our Nation.

We have all read about that tragic story of the farmer who shot his family and then shot himself. It is a story of despair, of hopelessness. Some say this farm bill will help tragedies like that.

But what of the families in New Jersey exposed to the dangers of toxic waste? What of the displaced industrial worker who will be denied job training? What of the poor but aspiring student who wants to pursue his or her education? What of the young

child or senior citizen who needs federally assisted medical care? These too are stories of despair. The more we spend on price supports, the less we spend on these programs, on job training, on health care, on education. And, Mr. President, unlike the farm programs, all of these programs have already been subject to the budget cutting knife this year. All have been cut already in fiscal year 1986. That means that Gramm-Rudman cuts imposed on these programs will come on top of cuts already made, while future Gramm-Rudman cuts on farm programs will be protected by the cushion provided by this bill.

Ironically, it is a cushion on top of a cushion. The cuts that Gramm-Rudman would impose on farm programs will not even hit price support programs, not in 1986 anyway, not if the farmers sign up fast. Any contracts signed before February 1, when the sequester order is issued, will be safe this year. In fact, even if a farmer does not sign up, but another farmer growing the same crop does, then they are both exempt. So, if some wheat farmers sign up, then all the wheat farmers are exempt from Gramm-Rudman.

Mr. President, we are playing a zero sum game. A vote to break the budget here, is a vote to cut education, air traffic safety, the FBI, the CIA.

There is another point. Gramm-Rudman puts a limit on how much we will cut next year automatically. The Gramm-Rudman Act says if we are as much as $20 billion over the deficit set in the budget resolution, then cut, cut back roughly $12 billion of that.

What if Congress and the President spend $25 billion over the deficit set in the budget resolution? The answer is still, cut just $12 billion. Now, what does that do? It puts us further into debt. We could top our target by $30 billion, and the result would be the same, $12 billion in automatic cuts in 1986, next year, reaching our target for fiscal year 1987, a target of $144 billion, will be that much harder.

We are not talking about insignificant savings. We are talking about savings that could prevent major cuts in other programs.

The Senate should start exercising its responsibilities now. Gramm-Rudman did not just authorize automatic spending cuts. It did not just authorize Congress to give away its control. It made changes in how we exercise our own power, it made changes in our own controls. Under section 201(B) of the Gramm-Rudman Act, this farm bill conference report should be out of order. Out of order because it breaks the budget that Congress passed. Out of order under section 311 of the Budget Act, as amended by 201(B) of the Gramm-Rudman Act.

Now, the Budget Act says if a point of order is made, the Budget Act can be waived, but only if three-fifths of the Senators agree. That means 60 Senators, not three-fifths of those voting—three-fifths of the entire body. The farm bill got just 61 votes when it passed the Senate. It might be a pretty close vote.

But, I am told, a Senator intent on passing the bill has another route. He can appeal the ruling of the chair. Submit it to a vote. For that, the Senate needs just a bare majority. But if the chair's ruling is appealed, and if a majority overturns the chair, then we have no more section 311 point of order. We set a precedent that renders a control, no control.

Do I think there are 51 Senators who want the farm bill that bad? So bad that they would undermine Gramm-Rudman so soon after enactment? Are there 51 Senators who want the farm bill so bad, that they would set a precedent that says $2.5 billion over in outlays is not over in outlays?

Unfortunately, I do.

For that reason, I will not make a point of order.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I just want to take a second. I know there are other speakers. But I would like to get some indication that we could have a vote on this matter. I thought most people wanted to go home for the holidays. Apparently, I was mistaken. So we are prepared to stay here well into the evening, if necessary.

We still have the continuing resolution, reconciliation, plus some other minor resolutions that people might want to discuss. They were able to dispose of this conference report in the House today, with 435 Members, in about an hour. We have been on it for nearly 3 hours.

I certainly do not want to shut anyone off, but I wonder if the managers might be able to get an agreement that we vote by 6 p.m. on final passage.

Mr. HARKIN. Mr. President, I have been waiting for 2 hours to get recognition. I am constrained to object to that. I do not think I will take more than 10 or 15 minutes.

Mr. DOLE. Maybe I can find out how many speakers there are.

Mr. ZORINSKY. If the majority leader would allow us to check with the minority leader.

Mr. DOLE. Why do we not let people speak, but I hope we might be able to have a vote by 6 o'clock.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I first of all want to join with others who have complimented the distinguished chairman of the committee, the Senator from North Carolina, for his stewardship of the bill throughout the year. It has not been an easy task. We have had some long days. I know that the chairman was frustrated at many times because a quorum would not show up in the committee meetings. I shared that frustration with him many times.

But I also want to add again for the record, as I have done before, that at no time during this long markup of this bill did the chairman exhibit anything other than the greatest courtesy and indulgence toward all members of the committee. I know that the chairman and I have had some very strong disagreements on certain aspects of this bill. Again, I say for the record that at no time was this Senator ever cut off at any time from either offering an amendment or from debating at length those amendments that I supported or opposed. And for that I am most grateful.

Again, I compliment the chairman for exhibiting a great deal of patience and forbearance during a long markup session. It does not, however, say that we still do not have some strong disagreements on the contents of the bill.

I also want to compliment the distinguished ranking minority Member on our side, Senator ZORINSKY, from my neighboring State of Nebraska, for exhibiting the same kind of patience and forbearance as the distinguished chairman of the committee in keeping us there during the long markup sessions. He was successful in insuring that, on our side, we did, I think, on the vast majority of occasions, have a majority there during the markup sessions. So I want to again compliment the Senator from my neighboring State for his stewardship on our side of the aisle on this farm bill for a long year. I know there were times when his health was not the best and yet he stayed here and worked on the bill to see it through.

But, Mr. President, I have said and maintained since the first day of the first hearing of this bill back in the spring of this year that I would stake out a position and the position would be this: that I could not, in conscience, vote for any farm bill, nor could I vote for any amendment to a farm bill, that would cut farm income any less than what it was right now. Mr. President, that is exactly what the conference report does. It cuts farm income.

I would like to point out what it does to a typical Iowa farmer. Even though the target price has been frozen for 2 years, an Iowa corn farmer next year has to retire 75 percent of his land to qualify for the program than he did this year. After next year, he will have to retire 100 percent more of his farmland to qualify than he did this year. So the farmer's overall income in Iowa is going to decline, even though the target price has not been reduced.

I had my staff run a study of a typical Iowa corn farmer with a 300-acre

corn base. Next year, that farmer will have about an 8-percent cut in his gross income—some $8,000. And that does not count inflation. If inflation goes up by 3 percent, then that could be as much as an 11-percent cut; or, if there is a 4-percent inflation, that could be as much as a 12-percent cut in the gross income of that Iowa corn farmer. But, nonetheless, even if there is no inflation, there will be an 8-percent cut in the income of that Iowa farmer.

Mr. President, Iowa farmers cannot stand to have their income cut any further. And it is not just the farmers, but it is the bankers, it is the small business people, it is our educational system, it is the whole structure of our society in the State of Iowa that cannot stand another 8-percent cut in the income of these farmers.

Mr. President, I would point out, in all honesty, that this conference report is better than what the Senate passed. This conference report is slightly better than what was originally passed by the Senate. For example, under the Senate bill, that same Iowa corn farmer with the 300 acre corn base would have had his income cut next year by 10-percent, not 8-percent. So this bill is just a little bit better.

The Senate bill, for example, had a 5-percent cut in the target price in 1988 and a 10-percent cut in 1989. The conference report has a 2-percent cut in 1988 and a 3-percent cut in 1989 and a 5-percent cut in 1990. So this bill, for the corn farmers, is slightly better than what came out of the Senate, but it still cuts farm income.

I might point out also that the wheat farmers in the Midwest also have a cut in their income; not as bad as the corn farmers, but wheat farmers will also have a cut in their income next year.

Now, it has been pointed out that the vote in the House was tremendous in favor of this bill. But, as I said earlier, if you look at the Midwest, there were a considerable number of Midwest Members of the other body that voted against this bill. And that ought to tell you something when those in the Midwest begin voting against it.

As far as I can see, the bill that passed the Senate and this conference report is an anti-Midwest farm bill, because that is where the biggest cuts come. So, as I said, Mr. President, I should not say this is better than what came out of the Senate, I should say it is not as bad. This is not as bad as what was originally passed by the Senate.

What came out the Senate is not as bad as what the President sent down earlier this year. But that is not saying much. It is like the difference between, as I said earlier, a puff adder snake and a rattlesnake. I guess the bite of the puff adder kills you in just a few seconds, and a rattlesnake takes slightly longer. But the effect is still the same.

This farm bill for the farmers that I represent is like the bite of a rattlesnake. We have had a warning. The warning is there. It is going to be an 8-percent cut in the farm income next year.

What it is going to mean is more and more farmers are going to go under, and more and more farm families are going to be driven off their farms. This farm bill continues the misguided policies of the past. There are those who say this is a great break with the past; somehow this charts a new course in agriculture—far from the truth. This continues the same old policy of reducing farm income from what the farmers get for their products, and trying to make it up with appropriations from U.S. Treasury. The only difference is that those appropriations next year and the next year are going to be less and less. But it is not a change in the fundamental policy of what we have had.

Mr. President, the debate over this farm bill has not been a budget debate. I am going to have more to say about that later on the point of order. But this has not been a budget debate. Maybe it should have been. If it had been a budget debate, we might have gotten a different kind of farm bill. But this has been a debate over philosophy.

For example, this bill calls for an estimated $52 billion over the next 3 years, and that is not all. We are going to be back next year for probably a minimum of $10 billion just to help bail our the Farm Credit System. We will be back again for more assistance to banks, to small businesses that are going to go under because of the further drop in the farm income. So it has been a debate on philosophy.

I asked the Secretary of Agriculture once in a meeting that took place in the Capitol about this, whether budget was controlling or whether philosophy was controlling. He tried to say well maybe they want to get it under the budget. I said if you do, what we should have is a farmer referendum, and have a supply management program. Well, no, that was against their philosophy. So it has been a philosophical debate, not that they want to bring it under budget, but that they want to continue the same misguided policies of the past.

The philosophy basically is two pronged. The first prong in the philosophy says there are too many farmers. We have to get rid of some of them. The second prong of that philosophy says commodities are too high priced, and we have to reduce the price of those commodities.

I believe neither is true. I believe our family sized farmers are an economic asset to this country, and not an economic drain. I believe our family farms are a viable economic unit of production, and not something that has to go by the wayside.

Mr. President, there has been a lot of talk about the death of the family farmer, that it is a thing of the past. There is a fine article in the Des Moines Register this morning entitled "Obituary for Family Farm Is Viewed as Premature."

Mr. President, I ask unanimous consent that this article from the Des Moines Register of this morning be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, Dec. 17, 1985]

OBITUARY FOR FAMILY FARM IS VIEWED AS PREMATURE

(By Dixon Terry)

The fight is over. Family farming is dead. This is the implicit message in the remarks of Dean Kleckner, Iowa Farm Bureau Federation head, in a Des Moines Register interview. This would seem a dramatic turnabout for an individual who, until a little over a year ago, refused to acknowledge the existence of an agricultural crisis.

Stranger still, Kleckner's gloomy predictions come right at the time of the Farm Bureau's seemingly successful lobbying effort in Congress to pass a 1985 farm bill that would assure lower prices, increased bankruptcy and the grim future he foresees.

Kleckner's "free market" future would leave farming in the hands of those farmers who can grow corn for less than $2 per bushel. In effect, the occupation of farming would be restricted to those who are wealthy in terms of land and other capital, or those who would farm as a hobby while earning a living in town.

Even if the jobs were there for the great majority of us who would fall into the second category, farming for nothing on nights and weekends is not a heritage to pass on to the next generation.

Posing farm-price levels well below the average farmer's production costs as the standard of efficiency effectively slams the door on farming as a full-time occupation and continuing way of life for the majority of Iowa farm families.

This is a phony standard that fails to recognize that farmers in general have successfully incorporated most of the advantages of technological innovation into family-sized operations. As a policy goal, $2 corn favors those advantaged by inheritance, tax breaks or outside capital and puts control of the land in fewer hands.

Judging the future of agriculture by such narrow standards ignores the tremedous psychological, social and environmental costs involved with moving in the "free market" (that is, corporate dominated) direction.

Loss of farmers means declining rural communities and increased unemployment. Industrialized agriculture, with its drive for all-out production and increasing chemical dependence, holds an unacknowledged but costly inefficiency in the deterioration it causes in soil and water resource base. Farm families as steward of society's most vital resources can never be replaced.

Kleckner's "tough talk" is the last thing Iowa's farmers need right now. Counseling

farmers to adjust to such a grim future can only increase the growing sense of desperation in the countrywide and contribute to the occurrence of more personal tragedies.

Since the national Farm Bureau leadership is spouting the same line, this appears to be a position from the organization hierarchy with a purpose behind it. The purpose seems clearly to be to convince us that the farm-policy fight is over.

The bureau leadership has used its full lobbying force this past year working with the grain trade, the ag-supply conglomerates and the rest of the agribusiness establishment to defeat in Congress the producer referendum on higher prices and supply management advanced by a national grassroots farm movement. Now it wants to consolidate its gains. It wants us to believe the fight for farmers to choose their own destiny is dead.

But even as Kleckner spoke, the House of Representatives was passing by a vote of 220-to-200 an amendment to the budget resolution attached by Appropriations Chairman Jamie Whitten that in two paragraphs summarizes the guts of the Harkin farm bill and directs the secretary of agriculture to implement it along with a moratorium on foreclosures. Tiring of Congress' failure to help farmers, Whitten took the initiative and the House supported him over the opposition of the administration.

Regardless of the outcome of this particular attempt, one point must be understood. The battle is not over. The national coalition of organizations working for fair prices is growing monthly in strength and intends to come back again and again with the same demand.

The 36 senators who supported Senator Tom Harkin's proposal provide a very powerful base on which to build. Without a doubt, emergency farm legislation will be proposed after the end of the year to replace the disastrous farm bill now emerging in Congress.

This is the message that Iowa needs. There is hope for a future that includes more farmers, not fewer, and healthy rural communities. The hope lies in the power farmers already have demonstrated in Congress. The power lies in unity and organization.

The Iowa Farm Unity Coalition has successfully brought together statewide groups including farm organizations, organized labor and all the major church denominations to form a common force as part of this national farm movement.

This winter the coalition will continue to build this kind of unified effort on the local level through county Farm Unity committees. We must first unite in our communities to support each other emotionally and materially through this difficult time. At the same time, we must strengthen our battle in Washington and in the Statehouse. There is a role for everyone to play, whether they belong to Farm Bureau, the American Agriculture Movement or none of the above.

Iowa farmers need real hope, not tough medicine. By countering despair with constructive action, the Farm Unity Coalition offers hope through empowerment. The future direction of farming is a political decision in which we all can participate.

Mr. HARKIN. I believe any obituaries on the family farm really are premature. We will be back. There is a prairie fire growing out there in the countryside amongst those who see what is happening to our family farm structure. It used to be just a few farmers. Now it is growing larger and larger. Now it is not just the farmers. Now it is the smalltown bankers. It is the implement dealers. It is the farm supply businesses now. It started in Iowa. Now it is growing to other States.

But more and more we are finding a growing support for some kind of a supply management program that will preserve the family farm structure.

I believe the support for this will grow rather than dwindle.

The point on the price of commodity prices being too high, I have one message to those who represent a more urban constituency. This cheap food farm bill—that is what it is—may look pleasing in that it will keep the price of food cheap but I believe that is really a short-term relief masking a longer term, more serious problem; that is, the concentration of land in fewer and fewer hands, the destruction of our soil base, and the outmigration from our rural areas to the cities, all are going to weigh more heavily upon those in urban areas than trying to get more income for the farmer through a higher price for his commodities.

Again, I point out that giving the farmer a little bit higher price for his commodities I think would be the best and fairest way to do this and, quite frankly, I think it would be cheaper when you compare it to the number of tax dollars or deficit spending that this country is going to engage in trying to support to some minimum level of income for those farmers that are not now getting enough money for their commodities.

Let me say just a word here about the farm credit bill that recently passed and is now on its way to the President for his signature. But again that farm credit bill is just an extension of the same philosophy that is in this farm bill. The farm credit bill that came through is fine for the Farm Credit System. It is fine for the bondholders. And I suppose there is going to be a little bit of trickle down to help the farmers. But it does not really help the farmers restructure their debt. That is what we need. The Senator from Minnesota, I, and others joined in an amendment that would have done that—would have helped the farmer restructure his debt, and stretch it out over a long period of time.

We were not successful in that. So again the farm credit bill is going through. Money will flow out of the Treasury but it will not help the farmers a bit.

Next to last, let me make a point on the international impact on this farm bill. Reducing our farm income in this country, and depressing the price of our farm commodities is going to do the same thing throughout the world: it is going to decrease the income to farmers in other countries; it may cause unrest, chaos and violence in many countries around the world.

Last, Mr. President, we fought all year for peanuts. I do not mean peanuts specifically. I mean peanuts figuratively in trying to get more for farmers. We have tried to mitigate the damage to farm income. We have tried to mitigate what the President sent down earlier this year—his farm bill that was dead on arrival. But his farm bill was introduced. It sort of set the standard by which we then operated which was how much could we mitigate the damage rather than what could we do to get farm income up.

Next year, Mr. President, Gramm-Rudman, as others before me have said, is going to come down the pike, and more cuts will come in the farm program. There have been those who have said time and time again that we need a long-term consistent farm program. Here we are passing a 5-year farm bill, but Gramm-Rudman will be here next year and there will be further cuts in the farm programs again next year, making our farm policy even more unstable and unpredictable.

So for those who think that this conference report is going to get them something, all I can say is do not go to the bank yet. Do not count on it because Gramm-Rudman is coming down the pike. We are going to have more cuts next year.

Finally, Mr. President, I want to talk about the point of order. It has been raised by at least two Senators prior to now. And, Mr. President, this possible point of order I think is intriguing.

If I thought that by raising a point of order it would change the direction of this farm bill, I would raise the point of order. If I thought that a point of order would redirect this miserable policy that we have, I would raise the point of order. If I thought that by raising a point of order that we would get a change in philosophy that would help raise farm income by getting a better price in the marketplace for what the farmer sells rather than pushing it down, if I thought that would happen, I would raise a point of order. But that will not happen.

However, there is another reason for raising a point of order. It has to do with responsibility and accountability.

I have long believed that those who hold public office ought to be held accountable for the votes that they cast and be responsible for those votes. People who voted for Gramm-Rudman, though I did not, people who supported Gramm-Rudman and think that is the way we ought to go, perhaps there ought to be an accounting for that and they ought to be held responsible for that vote.

So here we have a bill that exceeds the budget authority, subject to a point of order.

But, again I have to ask the question, if I raise the point of order, would it really hold people accountable for the actions that they took on passing Gramm-Rudman?

Again I would have to say no. What would happen is two things: The ruling of the Chair would be appealed and there would be 51 votes to do so. I have no doubt there would be 51 votes. I would probably vote to overturn the ruling of the Chair myself because I never supported Gramm-Rudman. Or there would be a motion made to waive the Budget Act. There would probably be 60 votes and, again I would be one who would support it myself because I was not one who supported Gramm-Rudman.

So, for those reasons, I, too, will not raise a point of order. But there will come a time next year when this body will have to be held accountable and responsible for the action they took on Gramm-Rudman.

Mr. President, in conclusion, I will vote against this farm bill because it decreases farm income. It raids the Treasury. It increases the deficit. In no way will it help us get out of the mess that we are in in rural America today.

Mr. ABDNOR. Mr. President, I am going to vote in favor of this conference report today, but I do not do so in the belief that this Congress or the administration have done America's financially pressed farmers any great favors through this legislation.

This farm bill falls short of recognizing and acting toward the economic crunch faced by the agriculture sector. It does not take into consideration the fact that we are faced with a crisis in agriculture equivalent in economic pain and suffering to the 1982 recession that prompted Congress to spend over $1 billion in assistance.

Congress has not acted as compassionately now as it did then. It has not answered the needs of our farmers and ranchers, of rural America. But in considering this bill, I have to ask myself one question: What is our alternative?

I want to make it clear that I am not faulting the conferees for the work they have done on this legislation. Some of this body's strongest agriculture advocates served on that conference committee. They worked for 8 solid days on this legislation, and they decided that this was the best legislation achievable given the circumstances they were working under. I am not going to quarrel with their judgment.

It would be very easy for me to vote no on this bill, and say I am going to get something better for the farmers and ranchers in my State. That would make me quite a hero back home. It would also be a cruel hoax on those farmers and ranchers, because there are no better alternatives out there that are either viable or achievable.

Given the urban orientation of this Congress and the inclination of many in this town to make deep slashes in the agriculture budget if given half an opportunity, I shudder to think of what might happen if we defeat this bill and give them that opportunity.

Now, Mr. President, I am not going to stand here and demagog this legislation and say that it is 100-percent negative. If it did not have some very substantive redeeming factors, I could not vote for it.

This bill contains "sodbuster" provisions, something a lot of us have waited for a long time. It will help prevent outside tax shelter-seeking investors from coming into States like South Dakota and breaking up our fragile lands and exacerbating soil erosion problems. This provision, combined with what I hope will be the eventual passage of my legislation restricting those who seek massive tax writeoffs through farm operations, will change the face of American agriculture for the better.

This bill contains strong soil conservation provisions, a long-term conservation reserve program under which farmers would contract for periods of 10 to 15 years to return 40 to 45 million highly erodible acres to less intensive uses, like grass or trees.

It includes increased credit and promotion moneys for farm exports, something that is absolutely vital if we are going to begin regaining our share of the world agricultural market.

And I like to think that I made this bill significantly better through the adoption of four of my amendments, amendments that protect farmers from the costly impact of the Environmental Protection Agency's leaded gas ban; that help transport Emergency Feed Program grain stocks to sparsely populated areas of the country; that address inequities with winter wheat insured by the Federal Crop Insurance [FCI]; and that investigate how possibly declining grain quality standards affect our farm exports.

Mr. President, let me note that it disturbs me that the conferees dropped the student aid amendment I offered to this bill. I am advised that my amendment was dropped because similar language is contained in another bill. In actuality, Mr. President, my provision is included in two other bills: H.R. 3128, the reconciliation measure, and the Senate Labor and Human Resources Committee bill to reauthorize the Higher Education Act. I appreciate greatly the assistance I have received from Senators PELL, STAFFORD, HATCH, and KENNEDY on this issue.

Mr. President, if we could state with certainty that the reconciliation measure will be enacted before the New Year, I would not be raising this issue today. I am hopeful that measure will be approved. However, I understand that conferees on the reconciliation bill have reached an impasse that they have been unable to resolve. In the event the conferees do not resolve their differences in time to pass H.R. 3128 before we adjourn, we have lost our only other opportunity to rectify this situation in time to assist those students who are seeking aid for the remainder of this school year.

This farm bill is not, by any means, a bill completely lacking in positive assets. It falls short in that it does not provide what America's farmers need in the dire situation they face. Even then, the bill does enough to buy us time to fight again at a time when the Congress and the administration may be more receptive to the needs of rural America.

To try to get a better bill now by rejecting this one would be utter folly and would give carte blanche to those at the Office of Management and Budget who would shape a bill that would be absolute disaster for American agriculture. I am not willing to do that, and I am going to vote for a bill that represents the best we can achieve under the current circumstances.

Let me close by complimenting the work done by the conferees, and the diligent effort of the chairman [Mr. HELMS] and the ranking minority member, [Mr. ZORINSKY] of the Agriculture Committee throughout this process. They deserve our acknowledgement for a conscientious undertaking of a very difficult task.

Mr. GRASSLEY. Mr. President, I oppose this bill because it will likely reduce farm income in the Midwest.

I had hoped that the conferees could craft a compromise that would at least maintain the safety net for feed-grain farmers. As long as our Government takes actions that disrupt farm markets and refuses to take tough stands against unfair trade practices of our foreign competitors, our farm programs will be costly.

The answer to the problem, however, does not lie with attacking the symptoms of high costs.

I don't have any farmers in Iowa that like to farm for the Government. Iowa farmers pride themselves in their self-reliance. It's only when "Big Brother" Government interferes with farming that Iowa farmers are forced to rely upon farm programs.

Clearly, this conference report is better than what we voted for initially in the Senate. But if my Senate colleagues truly understood the magnitude of the farm economy problems, and understood the real source of those problems, they would vote against this farm bill, too.

Mr. President, the farm bill we are considering today is better than the one which passed the Senate a few week ago. However, it is not a real 3- or 4-year freeze, especially when compared to the 1985 support levels.

The target price, which is the only real income support in this bill, will be reduced after 2 years in this bill. Instead of 3 or 4 years with a $3.03 target price, farmers will witness a reduction to $2.97 in 1988, $2.88 in 1989, and $2.75 in 1990. Target price stability was essential under this bill because the loan rate is being dropped so dramatically. Both farmers and their lenders will certainly need to depend on Government programs for their income stability. Without a freeze in target prices they will be making decisions based on projections instead of known factors.

In addition to the target price reduction there is an increase in the set-asides required to be in these commodity programs. In 1985, our corn farmers were required to set aside 10 percent of their crop acres to be in the farm program. In 1986 under this bill farmers will be required to set aside at least 15 percent and up to 20 percent, with 2.5 percent of that being a paid diversion. In the out years, set-asides could be as high as 20 percent without any paid diversion. This increase in the set-asides will seriously undermine many farmers' ability to make a profit.

Primarily it is for these reasons that I cannot support this bill even though it is an improvement over the Senate bill. When I voted to send the farm bill to the conference committee in November with a 2-year freeze, I fully expected at least a 3- or 4-year freeze in target prices because the House bill contained a 5-year freeze. Agriculture in my State is in worse economic shape of any in the country. To help my farmers recover from the crisis they are now experiencing, we needed stability in this farm bill. This bill does not guarantee us stability, in fact it guarantees us reductions which I cannot accept.

Mr. QUAYLE. Mr. President, today, the Senate is completing its work on the conference report on the 1985 farm bill, an omnibus package of legislation that will set in place for the next 5 years our Federal policies for farm income protection, export promotion, farm and rural development credit, international food assistance and domestic nutrition programs.

Frankly, Mr. President, I have very mixed emotions about this bill. On the one hand, the bill continues financial assistance to farmers who are now experiencing one of the most difficult economic periods in decades. Commodity prices and farm asset values are now at record lows, reflecting drastically decreased agricultural exports, high real interest rates and world crop surpluses. As a result, our price support programs have taken on a renewed importance in stabilizing farm income.

On the other hand, I have witnessed what poorly designed farm programs can do and have done to the long-run health of American agriculture, and I am concerned that this farm bill does not go far enough toward changing the basic method by which we support commodity prices and protect farm income. By encouraging production through volume-based programs, we have brought about changes in production patterns, affecting what commodities are produced and where. In addition, through our loan programs, we encourage increased world production. All of this works to the detriment of our full-time farmers and those parts of our country that enjoy a natural advantage in the production of certain crops.

I am also disappointed with the inability of Congress to say "no" to certain specific interests that survive solely on Federal subsidies. For example, I was successful on the floor of the Senate in offering an amendment to the Senate Agriculture Committee bill to phase out the Honey Price Support Program. This program cost American taxpayers $100 million last year to support the incomes of but a few thousand beekeepers. As a result of the program, with its price support level at over 65 cents per pound compared to a world market price of between 30 and 40 cents, the Federal Government last year was forced to purchase over 70 percent of all domestically produced honey.

With 60 votes in the Senate for such a honey program phaseout, and with all the demands on the farm program that exist, one would think that, at a minimum, the farm bill conference could have produced a compromise that included fundamental changes in this flawed program. But as is too often the case, the House-Senate conference committee took the path of least resistance and preserved much of the subsidy for some 2,000 to 3,000 beekeeper beneficiaries.

Congress as a whole simply must summon the will, as the Senate did in approving my amendment to phase out the Honey Price Support Program, to eliminate wasteful and unnecessary Federal programs. I deeply regret that, in the end, Congress failed this litmus test of its resolve to make a true dent in the cost of the Federal Farm Program.

There are many other problems with this bill. It continues the failed programs of the past in sugar, peanuts, wool, mohair, and others. It also contains one of the most complicated and costly dairy programs in history, which includes a milk tax that I strongly oppose.

Having stated my reservations, let me say that this farm bill does contain several very positive provisions, including an impressive effort to improve competitiveness and promote exports, as well as a strong conservation title. I am very pleased to see that the farm bill conference report includes the Intermediate Export Credit Program that I first proposed in the Agricultural Trade Enhancement Act, S. 171, which I introduced in January.

Given the very gradual move toward market orientation that it provides, this bill could set the groundwork for later, more fundamental reform of our farm programs at a time when the state of the farm economy is more stable. Certainly, there is a need for such a comprehensive reform. The key to such reform is divorcing production decisions from income protection and allowing economic stimuli to direct farm production, rather than commodity price supports.

This farm bill freezes target prices for wheat and feed grains for 2 years and authorizes a very gradual reduction thereafter. In addition, loan rates for these crops are lowered toward a level between 75- and 85-percent of a 5-year average market price.

In so doing, this bill walks a tightrope between three objectives. First, it maintains farm income during a transition period toward market orientation and attempts to protect farmers from the extremes of our current economic climate. Second, it makes our commodities more competitive by lowering loan rates to levels that should put our products back into the market place here and abroad, rather than Government storage. And finally, this bill attempts to accomplish these two almost mutually exclusive objectives within budget guidelines worked out over the last several months in consultation with the administration.

But, one could certainly question whether we have succeeded in producing a fiscally responsible farm bill. The cost of the Commodity Credit Corporation portion of the bill—its price support provisions—is estimated at around $52 billion during the first 3 years of the bill's 5-year life. I would suggest that when one compares the number of farmers in this Nation, regardless of how a farmer is defined, with the unbelievable cost of these programs, it becomes clear that these programs simply cannot be sustained in the long run.

All three of the bill's objectives are important. Market orientation must be achieved if our farmers are to again derive their income from the market and not the U.S. Treasury. I know that the farmers of Indiana want to see conditions again that will allow them to earn their living without the restrictions of Federal Government involvement. They can only do so if we in Congress will finally turn our attention to the real factors prohibiting

competitiveness and profitability, including the strength of our dollar, high real interest rates and conflicting Federal policies.

Mr. President, recognizing that these three objectives are so difficult to achieve together, I will support this farm bill because, given the seriousness of the problems confronting our farm economy, the farmers of Indiana and this Nation cannot afford the luxury of further delay or guesswork. They need a solid foundation upon which to plan for the future, and the farm bill will provide that. Therefore, I would encourage my colleagues to support this bill.

Mr. EAGLETON. Mr. President, the compromise farm bill is not the best legislation in the world, but it is better than two other things I can think of one, the administration's proposed farm program or two, doing nothing at all.

I don't think there was any advantage to holding off until next year to settle on a program. If anything, the budget pressures under Gramm-Rudman will be even more intense then and the chances of getting a good farm program even less.

I think we did the best we could under the circumstances and I am hopeful we can make this program work.

Mr. FORD. Mr. President, in Kentucky, 110,000 people work on the farm, and another 750,000 nonfarm workers owe their jobs to farming. Agriculture in Kentucky has a $3 billion farm gate value, but its associated feed seed equipment, packaging, transportation, processing, wholesaling, and retailing activities make for an $11 billion industry. No other combination of business activities provides nearly as many jobs or as great an economic stimulus.

The 1985 farm bill was meant to be a revolution for agriculture. Those of us in agricultural producing States recognized that agriculture was a crossroad, with a need for a change. However, no change could occur without improving the income for our Nation's farmers.

In anticipation of the 1985 farm bill deliberations, I submitted to the chairman of the Senate Committee on Agriculture, Nutrition and Forestry, a lengthy document expressing my views on what Kentucky needed from a farm bill.

Of overall importance to me was the necessity that the farm bill provide an incentive for young people to farm. They are currently abandoning the family farm in alarming numbers. The last census of agriculture showed that, nationwide, there are 4,200 fewer farmers who were age 25 and under than a few years earlier. For our Nation to have a strong agriculture sector in the future, we must attract and maintain the farmers of tomorrow.

The farm bill had to contain, in my opinion, a balanced approach to long-term programs which are consistent and practical; first, price stability and farm credit reform; second, export promotion and fair terms for imported goods; third, strong soil and water conservation for the farms of future generations; fourth, continued Federal cooperation with State programs; and fifth, emphasis on research and extension programs.

Farming has been good to our Nation since the days when our Founding Fathers bartered with cash crops. The U.S. farmer leads the world in efficiency, now producing 15 times as much as our land yielded in 1930. As a result, American consumers spend less of their disposable income on food than people in any other nation. This is despite the fact that the average farm receipt is only 2 cents for every dollar spent on food.

Mr. President, while agriculture has been exceptionally good to our Nation, we have let our farmers down. Farm debt in the U.S. today stands at an all-time high of $215 billion. It more than doubled between 1977 and 1983. Our farmers deserve more.

The 1985 farm bill, unfortunately does not go far enough to improve the income of our Nation's farmers. However, considering budget constraints and the radical changes proposed by those who favored lower prices and hence reduced farm income as necessary, the final bill is at least acceptable. It could have been a monstrosity.

The freezes in target prices for 3 years does provide certainty for our farmers and their lenders. The 1985 farm bill makes a profound statement that Congress recognizes the income problem of our Nation's farmers.

I am pleased that the bill puts back a floor that is reasonable for our Nation's soybean farmers. Changes could have been made to encourage exports while improving farm income over the long term. Budgetary and time constraints kept this from occurring, but it was imperative that the certainty associated with a minimum floor price be reestablished.

The 1985 farm bill makes a strong statement to foreign nations that practice unfair trade. The U.S. Congress believes in free trade, but will be providing the necessary tools to establish trade that is fair. U.S. commodities, as a result of this bill, will move into the export arena at market clearing prices. However, farm income will be preserved through fair target prices. I support this move to a free market, and while this is a 5-year authorizing piece of legislation, let me say that if in 5 years this move to a free market is not successful, I stand ready to fight for changes in farm programs to assure farmers a fair return on their commodities. The next 5 years is a test to see if these theories hold true and I am pleased that for the duration, income protection is preserved.

I am extremely pleased with the farm credit titles of this bill. The single most important provision contained in this section is a $490 million program whereby the Agriculture Department and private lenders share equally in the cost of reducing interest rates for hard-pressed farmers. Twenty percent of today's farming costs are tied up in interest on loans for 1 year of operation. This interest writedown will go far in benefiting the individual farmers through reduced interest costs.

By far the best provision in the 1985 farm bill is the soil conservation program that—for the first time ever—ties farm program benefits to the way a farmer treats his cropland.

Since Kentucky has one of the top 10 highest erosion rates in the Nation, we can be especially pleased about this historic legislation which will help preserve our land for tomorrow's crops.

The new bill would deny crop price-support loans, subsidy payments, crop insurance and other Federal benefits to any producer who continues to till land classified as a high erosion risk.

Soil conservation programs had actually been targeted for drastic cuts in the administration's 1986 budget proposal. However, it has finally been realized in Washington that soil conservation is actually a very smart program from a budget perspective.

Technological advances are needed in order to restore profitability to the farm sector. The nature of a competitive agricultural environment mandates that continued advancement in the sciences continue. The 1985 farm bill will see to it that adequate levels of research and extension work continues.

I am disappointed that the 1985 farm bill does not contain more specific references on improvements in Federal and State program cooperation. Every State is different. These differences are strengths of American agriculture. We must direct our attention in the future to see to it that Federal and State agriculture programs do more to complement one another.

The 1985 farm bill is not perfect by any stretch of the imagination. The problems in American agriculture are real but they are also diverse. It would be wrong to assume that one piece of legislation could be viewed as a cure-all.

This farm bill, when viewed as a whole, does provide a workable framework for American agriculture. I intend to vote for this bill, given the realities from which it was developed. I do so knowing that improvements for American agriculture must continue to be sought.

I do not vote for this bill assuming that we in Congress will place agriculture in a closet for the next 5 years. I vote for this bill because it was the best that could be achieved and because I believe Congress will continue to be striving for those improvements. Farming is an ongoing process in the fields, and agricultural legislation is also an ongoing process in Congress.

Mr. LEAHY. Mr. President, the new farm bill that will be established under the conference report on H.R. 2100 can do much to improve the financial conditions facing farmers and others who live in rural communities. If properly administered, the new farm bill can boost farm income, while reducing the Federal budget for agricultural programs. Under the provisions of this conference report, farm program costs will represent less of the Federal budget, while still providing farmers program provisions they have sought during the long debate that has led to this conference report. In particular, I am pleased that the dairy program established under the conference report will provide dairy farmers with a supply management program that the industry needs.

The programs and authorities provided under the bill will not provide all of what I believe could be done to insure the improvement and financial soundness of our agricultural economy. But the bill is the best available approach to solving some of the difficult economic problems confronting farmers and the Nation. Financially hard-pressed farmers would benefit from stronger support prices, but, at this late date, it is more important to farmers that the provisions of the farm bill are enacted, thereby providing some stability for farm income and allowing farmers to plan for next year. Farmers need to obtain production financing for next year and dairy farmers need to be able to begin the industry self-help program established in the conference report.

I believe we must make every effort to insure that farming remains a vigorous industry in our Nation. Farming and food production are national security matters. The United States is the most powerful Nation on Earth—indeed, the most powerful Nation in the history of the world. But many nations possess weapons that can inflict terrible damage on the United States. The power to destroy is commonplace in the world today.

Other nations do not possess our agricultural abundance. The United States is the only major military power in the world that can feed itself. We are the only major military power in the world that does not have to import food, that can never be starved by a rival country, and that cannot have its foreign policy, or its domestic policy, or its economic policy shaped by outside forces. That is our unique strength. It is a strength we must maintain.

DAIRY PROGRAM PROVISIONS OF THE BILL

The bill provides both short-term emergency measures to adjust supply and long-term provisions that maintain the vitality of the industry.

Briefly, the price support provisions of the new dairy program:

(1) Require, through January 1, 1987, that the price of milk be supported through the purchase of milk and milk products at a level equivalent to $11.60 per hundredweight for milk containing 3.67 milkfat.

(a) Require, on January 1, 1987, a reduction in the support price of 25 cents per hundredweight, to $11.35.

(b) Authorize the Secretary, on January 1, 1988, January 1, 1989, and January 1, 1990, to adjust the price support of milk. If the Secretary estimates that for the succeeding 12-month period net price support purchases of milk or milk products would—

(i) exceed 5 billion pounds or more milk equivalent, the Secretary would be authorized to reduce the price support level by $.50 per hundredweight.

(ii) be less than 2.5 billion pounds, the Secretary would be required to increase the price support level by 50 cents per hundredweight.

(2) Require collection of assessments to fund the "whole herd buy out" program. Farmers would be assessed 40 cents per hundredweight on all milk marketed between April 1, 1986, and December 31, 1986, and 25 cents per hundredweight on all milk marketed between January 1, 1987, and September 30, 1987.

(3) Establish a whole-herd buyout program—

(A) Beginning April 1, 1986, the Secretary can offer to enter into contracts with farmers submitting bids to make payments to those farmers who agree to sell their entire herd for slaughter or export and idle their productive plant for 3 to 5 years.

(B) Producers wishing to terminate production under the program must supply the Secretary with evidence of their marketing history, and the size and composition of their dairy herd.

(C) Only producers who entered the industry before January 1, 1985, are eligible for this program, except in cases where the producer's entire herd and production plant were transferred by the death of, or as a gift from, a family member.

(D) Civil penalties are provided for in cases where producers make false statements in submitting bids or verifying compliance with contracts, or where purchasers of cattle sold under the program do not slaughter or export them within a reasonable period. Marketing penalties apply to producers who violate the contract.

(E) Orderly marketing of dairy cattle—The Secretary must estimate as soon as possible the number of cattle that will be marketed for slaughter under the program and implement marketing procedures to ensure that greater numbers of cattle are slaughtered in the periods April to August 1986, and March to August 1987 than for other months of the program. The objective is to maintain historical seasonal marketing patterns for red meat producers.

(F) The Secretary must limit the number of dairy cattle marketed for slaughter under the program in excess of the historical dairy herd culling rate to 7 percent of the national dairy herd per calendar year.

(G) The Secretary is given standby diversion/whole herd buyout authority for calendar years 1988-90.

(4) Provide for Red Meat Purchases—

(A) The Secretary is required to purchase 400 million pounds of red meat during the 18 month period the whole herd buy out is in effect. 200 million pounds must be purchased with CCC funds; 200 million pounds must be purchased with funds available through CCC and commodity distribution and other nutrition programs of USDA.

(B) Red meat purchased under this program must be made available to the Department of Defense use, or for export.

5. Revise Marketing Order (Class I Differential)—

(A) Class I differentials are increased in most regions covered by federal milk marketing orders. These differentials, when added to the M-W price, form the guaranteed minimum price for milk sold for fluid consumption. NOTE: A list of the increases, and a map of the Federal order regions, are attached to this summary. The map shows the current differentials.

(B) Service payments to dairy cooperatives and to other handlers who perform "services of marketwide benefits" are authorized. These payments would be made out of the pooled receipts from the sale of milk in each federal order region.

(6) Extend Other Provisions of Law—

(A) Not less that 1 million pounds of surplus nonfat dry milk must be made available by CCC, on a bid basis, to be used in the domestic production of casein.

(B) The Secretary must conduct a study to determine whether casein imports tend to interfere with the dairy price support program. The study must be completed within 60 days of enactment.

(C) Provisions of the Federal milk marketing law relating to authority for seasonal base-excess plans, seasonal takeout-payback plans—commonly known as Louisville plans—mandatory hearings on amendments to milk marketing orders, and the use of milk production capacity as part of the pricing standard used by the Secretary in setting milk prices under a marketing order (through December 31, 1989).

(D) The requirement that the CCC make dairy products available, without charge, to veterans' hospitals and the military (through September 30, 1989).

(E) Authority for indemnity payments to dairy farmers who sustain losses as a result of pesticides, nuclear radiation or fallout, or from other chemicals or toxic substances (through September 30, 1989).

(F) The bill makes clear that the legal status of producer-handlers would not be changed under the provisions of the bill.

CONSERVATION

The new farm bill will do much to conserve our scarce land and water resources. We cannot afford to deplete natural resources that future generations will rely on for agricultural production. To protect this heritage, soil and water conservation programs must be appropriately strengthened and adequately funded. The new farm bill accomplishes many of conservation objectives.

Mr. President, the conference report on H.R. 2100 contains very important provisions that strengthen our soil and water conservation efforts. First, the bill would protect highly erodible land.

The conference report on H.R. 2100 contains the so-called sodbuster bill that makes ineligible for Federal Farm Program benefits any person who produces an agricultural commodity on highly erodible land.

Second, the new bill will protect fragile wetlands. Under the conference report on H.R. 2100, a swampbuster bill would be enacted that applies many of the same sanctions as are levied against persons who farm highly erodible land against persons who farm unsuitable wetlands.

Third, the new farm bill establishes a conservation acreage reserve. The conservation reserve will be used to reduce soil erosion by designating land currently in production that is prone to erosion for a reserve wherein the land is less intensively used. Less intensive uses include pasture, tree growth, or permanent grass. The reserve can be as large as 30 million acres, with 10 million acres required to be placed in this reserve—through contracting with owners and operators of eligible erosion prone land—during crop year 1986. An additional 10 million acres will be added to this reserve during crop year 1987 and another 5 million acres must be added before the end of the 1989 crop year.

FOOD AND NUTRITION PROGRAMS

The Food Stamp Program helps low-income households to stretch limited dollars to ensure a nutritious and adequate diet, as it did in 1961 when President John F. Kennedy established pilot projects that led to the current program.

Unfortunately, the incidence of these human tragedies is on the rise. The number of families and individuals living at the poverty level is rapidly increasing. One of every six children under the age of 6 now lives in a household whose income is at or below the poverty level. Also, there is evidence that malnutrition among the elderly is a serious problem in this country.

This country is blessed with an abundance of food. The Food Stamp Program is a fair and reasonable way to provide needy Americans and their families a part of this abundance.

Throughout the debate on the food stamp reauthorization, I worked to encourage support for provisions that help States to administer the program in a humane and efficient manner, while requiring them to be mindful of accountability and good stewardship of Federal resources.

My goal for the Food Stamp Program has always been to ensure that food stamp dollars are spent properly on food aid for the needy and are not wasted. We must always be vigilant in combinating any sign of waste, fraud or abuse in this program—both to protect taxpayers' dollars and to safeguard the basic integrity and reputation of the program. If we are to be credible in our efforts to maintain the Food Stamp Program, which is the most important nutrition program available to low-income Americans, we must be sure that the program is operated in an efficient manner.

I am concerned that the administration has proposed converting the Food Stamp Program into a block grant at State option—a provision that would end the Food Stamp Program as we know it today. I oppose the block grant proposal, as well as short-sighted work requirements which take away the States' flexibility in developing and administering work and training programs. I oppose increased bureaucratic complexity which would hinder efficient management, and would raise the potential for increased error rates and sanctions.

RESEARCH, EXTENSION, AND TEACHING

A major part of the bill focuses on supporting and improving food and agricultural research, extension, and teaching.

Federal support of the development of agricultural science and technology is a public investment that has paid huge dividends for this Nation and the world—the development and dissemination of new agricultural technology—through cooperative extension and teaching programs—are fundamental missions of the Department of Agriculture.

Congress has the responsibility of providing the necessary tools by which the Department and the scientific community can meet the agricultural research, extension, and teaching needs of our Nation.

Congress first addressed the needs of the food and agricultural sciences in a unified manner in title 14 of the 1977 farm bill.

The 1985 bill will not make radical changes in the Federal policies and programs established under the 1977 bill. The conference report on H.R. 2100 will continue—through fiscal year 1989—funding authorizations for agricultural research, extension, and teaching programs provided under title 14, and will update and fine tune the operation of a number of these programs.

The testimony of witnesses from the agricultural research, extension, and teaching community at the farm bill hearings was clear that coordination of agricultural research and education activities could be improved.

The great strength of our decentralized system of agricultural research and education has been that diverse needs can be addressed. Yet, that decentralization can be a weakness if coordination of efforts is lacking. I look forward to more vigorous efforts to coordinate research and extension programs.

Also, a better system for communication between the Federal and State research systems, and between the research community and the users of that research, is needed. I believe the Users Advisory Board can play a stronger role in this area.

To better focus the expenditure of funds and insure greater communication and coordination within the food and agricultural sciences, the bill extends the terms of the Joint Council on Food and Agricultural Sciences and the Users Advisory Board. In addition, the responsibilities of these key panels are more carefully defined, to ensure the concentration of research and extension efforts in those areas of greatest national needs, and to ensure greater coordination between these two bodies.

The bill will strengthen the role of the States in the research, extension, and teaching programs. It also will give the Secretary of Agriculture additional authorities to improve higher education in the food and agricultural sciences.

I am pleased that the bill includes the provisions of my bill to strengthen the Rural Development and Small Farm Research and Extension Programs. I am particularly pleased that the conference report on H.R. 2100 includes what has come to be known as the "Agricultural Productivity Act" as a subtitle.

The purpose of the Agricultural Productivity Act is to facilitate and promote research on farming systems that are environmentally sound. Under the bill, the Secretary of Agriculture will conduct research, and disseminate the results of that research, on farming systems that hold potential for reducing farm production costs and minimizing the potential for environmental damage. Today, as farm production costs continue to increase, this type of research is needed more than ever. To accomplish cost reduction while protecting the environment by promoting conservation and sensible use of traditional farming practices is sound policy.

The Agricultural Productivity Act establishes a new program of agricultural productivity research. This program would:

Provide for the definition of terms used in the program;

Declare the findings of Congress that the long-term agricultural viability and profitability of the farms and ranches in the United States are dependent on highly productive and efficient agricultural systems; agricultural research and technology transfer activities of the Secretary of Agriculture, State cooperative extension services, land-grant and other colleges and universities, and State agricultural experiment stations have contributed to innovation in agriculture and have a continuing role to play in improving agricultural productivity; agricultural productivity is reduced by annual irre-

trievable loss of billions of tons of top soil through wind and water erosion; many farmers and ranchers are highly dependent on machines and energy resources for agricultural production; public funding of a properly planned and balanced agricultural research program is essential to improving efficiency in agricultural production and conservation practices; and expanded agricultural research and extension efforts are needed to improve agricultural productivity and implement soil, water, and energy conservation practices;

Establish the purposes of the subtitle as being those of facilitating and promoting scientific investigation in order to enhance agricultural productivity, maintain the productivity of land, reduce soil erosion and loss of water and plant nutrients, and conserve energy and natural resources; and facilitating the conduct of research projects in order to study agricultural production systems located in areas possessing various soil, climatic and physical characteristics, and managed using farm production practices that rely on items purchased for the production of an agricultural commodity and a variety of conservation practices, and are subjected to change as the result of such practices;

Require the Secretary to inventory and classify by subject all studies, reports and other materials developed by any person or governmental agency with the participation or financial assistance of the Secretary, that could be used to promote the purposes of the subtitle. In addition, the Secretary is required to identify, assess, and classify existing information and research reports that will further the purposes of the program; provide useful information and to make the reports available to farmers and ranchers, and identify gaps in such information and carry out a research program to fill such gaps;

Require the Secretary, in cooperation with Federal and State research agencies and agricultural producers, to conduct such research projects as are necessary to promote the purposes of the subtitle. In carrying out these research projects the Secretary is required to conduct projects and studies in areas that are broadly representative of United States agricultural production. In addition, the Secretary is authorized to conduct such research projects involving crops, soils, production methods, and weed, insect and disease pests on individual fields or other areas of land. In the case of research projects involving the planting of a sequence of crops, the Secretary is required to conduct the projects for a term of at least 5 years and, to the extent practicable, 12 to 15 years. The Secretary is also required to ensure that producers are aware of the research projects and to ensure that such projects are open for public observation. The Secretary is authorized to indemnify an operator of a project for damages incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under the project that is not experienced in normal farming operations. Any indemnity payment would be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project;

Require the Secretary to establish a panel of experts consisting of representatives of the Agricultural Research Service, Cooperative State Research Service, Soil Conservation Service, Extension Service, State cooperative extension services, State agricultural experiment stations, and other specialists in agricultural research and technology transfer; and to take into consideration the views of the panel before a project under this subtitle is designed;

Require the Secretary to report to the House and Senate agriculture committees within 180 days after the effective date of this subtitle on the design of the research projects established under this subtitle, within 15 months after the effective date of the subtitle on the results of the information study, and not later than April 1, 1987, and annually thereafter on the progress of projects conducted under this subtitle;

Authorize the Secretary to carry out the required information study through agreements with land-grant colleges or universities, other universities, nonprofit organizations, or Federal or State governmental entities, that have demonstrated appropriate expertise in agriculture research and technology transfer;

Require the Secretary to make the information and research reports identified under the information study and the information and conclusions resulting from any research project conducted under the subtitle available to the public through the Extension Service, State cooperative extension services and otherwise as necessary;

Authorize the appropriation of such sums as may be necessary to carry out the subtitle and provide that such sums are to remain available until expended.

CONCLUSION

While the deficit and its secondary effects are problems which must be addressed, we must not let such concerns become our central and only focus. The agricultural problems now confronting this Congress require more than a myopic response from Congress—it requires a certain pragmatism and delicateness of response. We must meet the nutritional needs of our growing population if we are to provide for a strong defense. We must maintain a strong farming industry if our economy is to maintain its past health. The new farm bill will help in this effort.

I urge my colleagues to vote to approve the conference report.

Mr. SYMMS. Mr. President, I wish to speak in support of the farm bill reported out of the recent House-Senate agriculture conference. I commend the conferees. Although I am in substantial disagreement with a number of the actions taken, I feel the conferees produced better legislation than what we started with. Certainly this bill is far from perfect, but I'm convinced that this is good as we can do under the circumstances. Mr. President, I'm normally not inclined to quote the editorials in the Washington Post. However, I'd like to call your attention to the last sentence of a recent editorial. Speaking of the farm bill the Post said, "In a difficult area and in the worst of years Congress has finally acquitted itself rather well." While in my opinion that is an overstatement it is not completely incorrect.

This bill is headed in the right direction. It provides for lowering loan rates on basic commodities and basing these rates on market prices. That is bad news for some of our foreign competitors. For too long they have used our loan rates—set at above market prices—as shelter under which they have steadily increased their share of the world market.

I am very pleased that this bill has an aggressive export title. Mr. President, our agricultural economy can't operate at present levels without substantial export markets. As an example, about 75 percent of Idaho's wheat crop must be exported. Our farmers can compete, head to head, with anyone in the world—if they are playing on a level playing field. However, we're not playing on a level field, On every hand our foreign competitors are heavily subsidized. We're in a vital battle for markets and we've got to support our producers.

The conservation provisions are sound and, in the long run, will be very beneficial. I certainly support them.

The bill has weaknesses and, of course, some very controversial provisions.

I'm very disappointed that the foreign agricultural investment reform amendment that I introduced—and which passed the Senate overwhelmingly—was deleted in conference. It makes no sense for us to loan money, at very low interest rates, to foreign governments to finance agricultural production in direct competition with our own producers. It's especially senseless when we have surpluses and are buying and storing our own surplus crops. Mr. President, FAIR is a good idea whose time is coming. This issue will be back for consideration.

It's also very disappointing to me and my staff that the animal damage control amendment was deleted from the conference report. We felt sure that this amendment would pass without serious opposition. However, we have made substantial progress. Amendment 31 in the continuing resolution, which must be approved before midnight Thursday to keep the Government functioning, contains an amendment that funds the ADC Program in the Department of Agriculture for 1986. I have no reason to believe that this won't happen.

I recognize that the support price levels are open to debate. I know our wheat growers are not totally pleased. However, I'm sure the conferees acted on their best judgment.

The dairy provisions are centainly controversial in Idaho and I suspect in other States. I know the cattlemen in my State are very concerned about the whole herd buyout. I hope adequate provisions will be made to avoid flooding the cattle markets to everyone's detriment. A way has to be found to bring the Dairy Program into balance without injuring the cattlemen. However, my contracts with the Department of Agriculture aren't too reassuring.

This bill contains a provision to make Federal agencies better neighbors by making more efficient control of grasshopper infestations on public land possible.

The sugar and wool programs are extended in about their present forms. As these programs are designed to operate with minimal Government expense, I'm pleased to support them.

I'm in general agreement with the pork and beef promotion provisions. I applaud our livestock producers for taking the initiative in trying to increase their markets.

I believe the clear title provisions represent a reasonable compromise. I'm not as pleased with the cargo preference resolution but recognize it as a difficult issue.

Mr. President, I'm not going to try to discuss all the details of the bill. Overall, I feel it merits support and urge that it be enacted. Our farmers deserve to know the rules of the game.

Mr. President, this is a subject that is near and dear to my heart, farm programs and farming, in general. Coming from an agricultural State and having a farming background myself, I really wish to say that I think that the leadership of the Agriculture Committee and Senator DOLE, the majority leader, all deserve a strong pat on the back and commendation from not only the people who come from farm States but from the taxpayers of this country.

It appears to me that the farm bill is changing the course and the direction of our current farm policy. Under our current farm policy our farmers are growing grain to sell to the Government and then the Government is paying to store it, and we are losing the markets to Argentina, Brazil, Australia, Canada, and Western Europe. So, the farmers in those countries have been cheering for our farm programs while our farmers are facing financial disruptions, bankruptcies, and other problems.

I really think that all of my colleagues, if they have not had the opportunity to carefully peruse through what the conferees came back with, should peruse it, and I wish to give my support for this bill.

I only say, in summary, I do not like Government programs, but I would say that you have three choices. The first choice is vote for this bill, this conference report, which is a step in the right direction for farm policy. As slow as it may be, it at least starts on the course of getting us back into international competition. The other alternative would be to extend the current Farm Program for another year, and that is an unmitigated disaster. We know that. So we do not need to do that.

The last course would be to go back to the 1949 Farm Act, which would be an even worse disaster with 90 percent of parity locked into the law and very rigid acreage controls. It would be very unflexible, unworkable and most costly to the taxpayers of the country.

So I think the wisest course of action to take here today is to pass this conference report and encourage the President to go ahead and sign the farm bill.

I might just say that there is one part of the farm bill that I have a great deal of reservation and concern about. Actually, there are many parts of the farm bill that one might have concerns and reservations about. Specifically, I am concerned about the American cattlemen. The cowboys are one group of farmers who do not come into Washington and have their hand in the Federal trough. Yet, in order to solve the dairy problem, and it is a problem, I am first to admit that, there has been a very negative impact on the price of beef in this country and I regret that a great deal.

I do not have a solution. I know the conferees worked very hard to come up with this whole-herd buyout proposal. As a matter of fact, the dairy people in my State favored this. So it is a mixed bag. But as far as the cowboys, the cattle producers, we prop up the grain prices, and they have to pay higher grain prices. We have whole-herd buyouts and then those dairy cows go to the slaughterhouse and depress the price.

I do not know the answer, but I do have a great deal of concern for the American cattlemen and I think they deserve our heartiest congratulations. I guess one thing we could all do is encourage everyone to go buy some beefsteak, that might help them as much as anything. We could also drink a couple extra glasses of milk and do our part to help get rid of the dairy surplus.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. SYMMS. I am happy to yield.

Mr. MELCHER. Mr. President, I say to my friend from Idaho I have shared the same concern about the whole-herd buyout plan that is in the farm bill. It was in the House-passed bill, and the conferees have accepted it where the Secretary of Agriculture is authorized to buy an entire dairy herd, to take it out of production. The dairy cattle would either be sold abroad or would be slaughtered.

My concern is like that of my friend from Idaho, that that added slaughter of dairy cows would further depress the cow market for the beef industry.

Nevertheless, as it was finally accepted, the conferees agreed to buy up to 200 million pounds of red meat per year and at least 100 million pounds of that red meat that is purchased by the Government will have to be for export.

So to that extent the conference did address the concerns that the Senator from Idaho and I share.

Mr. SYMMS. I thank the distinguished Senator for that observation. I think that is a point that needs to be made and widely acknowledged, that 100 million pounds of this will be exported and 100 million pounds will go in the school lunch programs and other programs. Is that correct?

Mr. MELCHER. That is right.

I must point out it is 200 million pounds per year for 2 years, and those 2 years will actually be only about 18 to 20 months duration, so it will be during 2 years.

But the point about red meat should not go ignored. It is not just beef; it could be pork also.

The Senator is correct. Of those 200 million pounds, 100 million pounds would be for the domestic nutrition programs such as school lunch, and 100 million pounds will have to be exported.

Mr. SYMMS. I thank the Senator very much.

I say to the Senator and all Senators who were on the conference that I just want to say again, as one Member of the Senate, I appreciate the job the conferees did. I had the privilege of being on the House Agriculture Committee for 8 years in the other body, and I was watching very carefully what they were doing here to keep tract of it.

I think that our Senate conferees on both sides of the aisle did an excellent job of trying to put the best foot forward for a sound farm policy for the future.

As I say, the Senator mentioned about the dairy-herd buyout, the dairy producers are going to pay for this cost. It is not going to be an additional cost to the taxpayer, as I understand the program. So at least it is a self-support program that addresses another problem that we all have, and that is a surplus of dairy products being produced in the country.

So, by and large, I just think Senator HELMS and Senator ZORINSKY and their conferees deserve a pat on the back, and I wish them a Merry Christmas in the process.

Mr. STAFFORD. Mr. President, this conference report on the farm bill contains language purporting to enact the policy voted by both this body and the House regarding the deductibility of the shelter costs covered by low income home energy assistance payments. During consideration of both the Reconciliation Act and the farm bill, the Senate adopted, by 60 and 63 votes, my amendment striking committee language which would have had the effect of counting LIHEAP benefits as income when food stamp benefits, and in some cases, eligibility are determined.

As a result, the policy enunciated in the 1980, 1981, and 1984 LIHEAP acts, which all prohibited counting energy assistance as income for any purpose was clearly reaffirmed; the original committee provisions might have negated the decision of the U.S. Eighth Circuit Court in this matter, but as a result of the amendment, no action has been taken with respect to that decision and, in essence, current law remains unchanged. Similar language was adopted by the House.

While the conference report appears in many respects to implement our intent, I have a continuing concern as to whether the complex formulations adopted with respect to multiple standards for utility allowance and with respect to out of pocket costs adequately and clearly protect the recipient of food stamps and energy assistance as Congress intends. The requirement of having out of pocket costs to qualify for a standard allowance seems inconsistent with the other provisions of the act and is certainly inconsistent with the votes on the floor of the Senate. Further, the flexibility allowed the States with respect to interpretation of the standard allowance provisions may be so broad as to permit discrimination against LIHEAP recipients which is contrary to the intent of Congress.

On a positive note, the conference committee chose to remain silent on the deductibility of costs paid by the Energy Assistance Program and thus left stand the recent court decisions on this issue.

When the reauthorization for the LIHEAP block grant is considered by the Labor and Human Resources Committee next year, I will examine this matter as part of the committee's legislative review of the program to make sure that both acts consistently ensure that energy assistance is disregarded as income.

Mr. BENTSEN. Mr. President, I support the farm bill now before the Senate, not because it is going to solve our farm problems, but because it is the best that we can do within the limits that have been imposed on us. All in all, it is a major step forward in our agricultural policy. It provides a number of important new tools, such as marketing loans, that will allow us to move aggressively back into agricultural export markets.

I appreciate the work and the cooperation of the members and staff of the Senate Agriculture Committee in addressing many of my concerns on this bill. The chairman of the committee, Senator HELMS, and the ranking member, Senator ZORINSKY, and their staffs were most helpful and considerate, as were the other members of the committee.

I especially appreciate the work of the distinguished Senator from Mississippi [Mr. COCHRAN]. I was pleased to collaberate with him on a number of amendments to this bill, and he has done outstanding work for the farmers of Mississippi and of the Nation.

It is finally time to pass the 1985 farm bill. We must have a farm bill now. Wheat farmers throughout Texas and in many other States have had to plant without a Farm Program. They do not know how much to plant, They had to guess. Cotton farmers in south Texas have had to put down herbicides already. That action locks them in on their planting decisions. They will start planting milo in late January or early February. They will start planting cotton about mid-February. Wheat farmers can graze out their excess acres, and this bill will allow them to do that as well as providing diversion payments for wheat farmers who have already planted. Those are provisions I have strongly supported. But cotton and milo farmers cannot graze out their excess. They must plant exactly what they want to harvest.

I have talked to Secretary of Agriculture Block. He has given me his personal assurances that the 1986 farm programs will be announced immediately after this bill is enacted into law. I appreciate those assurances, and many farmers are depending on those assurances. I have done everything I could to see that all farmers get a Farm Program as soon as possible, and that the Secretary of Agriculture would have the authority necessary to announce those programs before Congress recesses for Christmas. That has now been done.

In addition, provisions have been made in the bill to see that this year's problems never need arise again. These provisions are made through the inclusion of language from one of my Senate floor amendments. My advance announcement amendment gives the Secretary of Agriculture the authority, whenever a farm program is not announced by the deadline set by law, to allow farmers hurt by that delay to choose between last year's program and this year's program for that commodity. That authority extends for 1 year more than the farm bill commodity titles, so that it will provide protection during the next farm bill.

The Secretary can offer affected farmers the choice of last year's acreage bases and acreage reductions, wheat grazing authority, and other program details necessary to make planting decisions. Or he can offer them the full program, including price supports. This should never be necessary during the farm bill, because program announcement deadlines are set by law. If it is used then, the announcement of bases and acreage reductions may well be sufficient under some circumstances, such as when the price supports are already set by law.

This section will become extremely important, however, in a farm bill year, in a year in which the Secretary does not have the authority to announce the new program. I feel, and it is also so stated in the statement of managers, that this section is especially intended for the next farm bill year. In that year the Secretary of Agriculture should provide the full program option to farmers. Without having price support levels, farmers cannot get financing for their crops.

This section has been made discretionary, rather than mandatory, by the conferees. But that should not, in my estimation, reduce its effectiveness. Any reasonable Secretary of Agriculture would not deny farmers the information they need to make planting decision in a timely fashion. The end result will be that 1990 will be the first farm bill in memory in which wheat farmers will have a farm program before they plant. It will be the first time that early-planting Southern States cannot be held hostage because of their unique need for early passage of a farm bill. We will all be on equal footing.

A number of other amendments in which I was actively involved are also included in this bill. With the assistance and cooperation of the members of the Senate Agriculture Committee and their staffs, a number of those changes which I had thought were needed have been incorporated into the bill now before us. I would like to mention just a few of those changes.

This bill will get the 1986 farm program announced. It will prevent this

year's problems with announcement dates from happening again.

It freezes yields for 5 years, but the freeze calculation is done using program yields instead of actual yields. This prevented cuts of up to 43 percent in deficiency payments to many Texas farmers, particularly West Texas cotton producers.

It includes the clear title legislation which I cosponsored with the distinguished Senator from Mississippi [Mr. COCHRAN]. It will implement in early 1985 a marketing loan program for rice to in order to re-activate what is now a dead market. It will extend the peanut and wool programs without crippling changes.

It will continue the Secretary's authority to provide disaster payment protection to farmers. It will require, for the first time, prevented-planting disaster payments if Federal Crop Insurance coverage is not available. It will retain the current ceilings on Farmers Home Administration loans, rather than lowering them sharply.

The cottonseed industry is protected against prices shocks rippling in from soybeans this year, first because of my amendment which the Senate adopted and second because the conferees deleted those changes in the soybean program.

The bill will break the current logjam over cargo preference and allow USDA export credit programs to work effectively once again. It will help Texas dairy farmers both through a long-overdue adjustment in the price differentials and through a whole-herd buyout provision. It will provide for a more effective agricultural export policy by getting the Special Trade Representative, our top trade official, involved directly in recommending actions to counter agriculture trade problems.

There are many other provisions in this bill in which I had an active interest on behalf of Texas farmers, but I will not take the time of the Senate on them. Others have already spoken more extensively than I. I would simply say that the tools are now there to do the job. The challenge now is to use them well.

We have given good tools to the administration. To get good results, especially in agricultural exports, they will have to be used well. As the ranking member of the International Trade Subcommittee I have been actively involved in trade issues, including agricultural trade. In that capacity and in my capacity as the senior Senator from Texas, one of our largest agricultural States, I will be working hard on this. I intend to help in every way possible to see that the trade tools in this bill, and the other trade tools available to the administration, are used wisely and well and as often as needed.

Their track record so far is very poor, but there have been a few steps forward recently. If our farmers are to get the help they need, those hesitant steps will have to turn into a dead run very soon.

Mr. President, I urge passage of this bill so that we can get on with the critical job of reviving our agricultural economy.

Mr. DECONCINI. Mr. President I rise in opposition to the conference report on farm credit which passed the Senate last night. I opposed the bill when it was first considered in the Senate and I have seen nothing in the conference report to change my views on this legislation. First, let me state that I have always opposed bailouts. I opposed the bailout of New York City, the bailout of Chrysler and the bailout of Continental Illinois. However, if I had believed that this farm credit bill would have really helped farmers in America I might have broken my strong record and supported it. But this bill is not a bailout of farmers—it is a bailout of investors.

Since this session began, we have spent many days—and many nights—debating the fate of America's farmers. There has been much gnashing of teeth and pulling of hair in the Senate on how best to help the family farmer. But if this farm credit bill is any indication of our true concern for the farmers, I don't believe we are at all, because this bill is a farm credit system investor bailout. These investors, be they big city banks or foreign corporations or whomever, went into this with their eyes wide open. It is an accepted economic principle that with higher yield come higher risks. Farm credit system bonds are no exception to this principle. I have no sympathy for investors who take lousy investment advice and make lousy business decisions—that is part of our free enterprise system, the right to make a mistake. Do not be misled into thinking that any of these investors were in this to help out the poor farmer, because they weren't. They took a risk and perhaps now they will have taken a bad risk. But bailing out the investors is not going to help the farmers.

I am convinced that if we really want to we could formulate farm credit legislation which will help assuage the problems facing many farmers. The credit crunch is real, but that is not at question here. The question is how do we help the farmers. This bill is not the answer.

Mr. NICKLES. Mr. President. It is no news to anyone that American agriculture is at a crossroads in history. The path on which it is struggling today is, I fear, headed down a dead end road. The farm bill Congress is approving today will not change the course of this path.

There is great misery out on the farm. During the past few years, I have talked with thousands of farmers and ranchers across Oklahoma and the mood is depressed. For most family farmers, life in rural America has become bleak.

Farmers are up against the wall because of sustained low commodity prices, falling land values, and high interest rates. Recent farm programs have failed to provide adequate income protection despite record amounts of money poured into these programs. They have also failed to hold down production and, in fact, have had many built-in incentives to produce beyond our ability to consume and export.

The 1985 farm bill will do very little to change these problems.

Yes, there are a few positive aspects of this bill. It does contain my proposal to allow farmers to maximize program benefits on half of their production acreage. Under this program, farmers would be able to receive a fair price on at least part of their acreage, and would be able to diversify without risking reductions in their acreage base.

However, this farm bill, overall, falls far short of what is really needed on the farm. It shows too little understanding of what our farmers and ranchers need.

It has been predicted that if conditions in the agriculture sector don't improve over what they have been for the last 3 years, a quarter of the Nation's producers could be forced out of business. The family farm is at the very heart of our Nation's economy and we can't afford for it to fail.

Facing the possibility of foreclosure is a frightening prospect for anyone in business, but consider the added plight of the farmer. The farm is more than his business, it is his life. And the worst part of this is that the financial crisis many farmers are facing is not a result of mistakes or poor business decisions on their part. Rather, a large part of the blame rests on the Federal Government.

The Government has allowed interest rates and inflation to go sky high; imposed embargos on Soviet grain purchases; and ignored the ever-growing deficit. And farmers are paying the price.

What does the Federal Government owe the farmers? At the very least, it owes them compassion, understanding, and willingness to offer some consistent guidelines before planting season to help farmers make decisions. The Federal Government has been interfering with the farmer's business for about 50 years now and, quite frankly, has not done a very good job.

It has always been my contention that the best assistance farmers can get will be the reduction of the Federal deficit. This would assure lower interest rates, and reduce the value of the dollar to help selling to foreign markets. Additionally, we need to be

more aggressive with out trade policy, and do all that we can to be more competitive in the world market. The 1985 farm bill does little of this. In fact, it doesn't adequately maintain farm income through these very worst of times.

Thirty years ago farmers received $1.99 for a bushel of wheat. Ten years ago the same bushel would bring $3.40. Today, Oklahoma farmers find the downward market offering a dismal $2.85 per bushel. A single bushel of wheat produces seventy-three #1 pound loaves of bread, and yet a farmer's share of a dollar loaf of bread is less than 4 cents. This farm bill doesn't change that either.

I'm not saying that this on any farm bill can cure all the ills facing our farmers; it cannot. But the least it could do is fully recognize the deep and serious problems on the farm by maintaining and not decreasing farm income. Under this bill, cargo preference subsidies, which cost farmers and taxpayers, increase 50 percent, food stamp costs increase millions of dollars, but farmers are faced with target price reductions of 10 percent over the life of the bill.

The social fabric of rural America is tearing under the strain caused by farm failures, bank closings and the migration of rural families to urban areas. This farm bill doesn't mend that fabric. For these reasons, I will vote against the 1985 farm bill.

FARM BILL STILL TOO COSTLY TOO INEFFECTIVE TO SUPPORT

Mr. PELL. Mr. President, we have labored for many days and have made many improvements in the farm bill but, even after a round of last-minute budget cuts in conference, it remains too expensive and too ineffective for me to support.

This measure, according to the Department of Agriculture, would cost about $52 billion for farm support programs during the first 3 years of this 5-year bill. That is far too much to repeat the mistakes of the past.

During Senate consideration of the farm bill, I opposed efforts to boost Federal payments to corporate agricultural interests. At the same time, I supported efforts to reduce the bloated subsidies that push our farm economy even more off-balance by encouraging our farmers to over-produce.

It is becoming increasingly apparent that our agricultural policy is bankrupt, like many of the farmers who trusted the easy credit made available by the Federal Government and over extended their operations.

We need to aid the farmers and, as some observers have said, we need to set an income floor to assure that farmers are not wiped out by the vagaries of weather and market conditions beyond their control.

I understand and support the need to establish an income floor, but we are not doing that in this bill. We are targeting most of our aid to the wealthiest farmers who need it least and we are encouraging farmers to produce for Government warehouses and not consumers.

The conference report, moreover, does away with some of the progress we made in reducing subsidies, such as those for peanuts and sugar. It also does away with the Senate elimination of the lavish Honey Program. Neither consumers nor taxpayers benefits from these changes.

Clearly we must act to protect the farm economy. This farm bill, however, only repeats the mistakes of the past by continuing enormous farm subsidies that reward the wealthy, at great cost to the taxpayers and consumers, and do little for those who need help the most.

I have worked for measures that would have reduced some of the enormous subsidies and eliminated some of the needless Federal largesse in the farm bill. We did not make enough changes, unfortunately, to cut this expensive bill down to size or to make it an effective vehicle to aid the Nation's farmers.

For that reason, after considerable reflection, I decided I could not support final passage of the farm bill in its current form.

Mr. THURMOND. Mr. President, I rise in support of the conference report on the 1985 farm bill. This comprehensive legislation represents a concerted effort by all individuals involved to improve the marketability of American farm products abroad. The Congress has labored many months to reduce the cost of farm programs to the Federal Government without jeopardizing the economic stability of our farmers.

This bill contains a conservation title that will improve our efforts to preserve our land for future generations. The strong export title, combined with lower loan rates on several commodities, will encourage foreign nations to purchase American goods and stimulate our depressed agricultural economy. Furthermore, the bill provides a mechanism for the Secretary of Agriculture to make additional reductions in price supports in response to competitive changes in the world market.

The dairy provision will allow some farmers to get out of production without suffering a terrible economic loss, thereby reducing our overproduction of dairy products. Although I am disappointed by the assessment leveled on dairy farmers, I am encouraged by the provision to terminate this "milk tax" on October 1, 1987.

The 1985 farm bill is a very large step in the right direction for American agriculture. I urge my colleagues to vote for adoption of this conference report.

Mr. KASTEN. Mr. President, I rise in opposition to H.R. 2100, the 1985 farm bill.

I oppose this legislation with a great deal of reluctance, because I know how much our farmers need a farm bill, and how important it is for them to have some indication about what Government policy toward agriculture is going to be.

But while no piece of legislation this large and complicated can possibly please everyone, this farm bill contains more than its share of flawed and misguided provisions which we will regret having passed.

Mr. President, I was especially disappointed to see the conference committee adopt the very worst feature of the dairy title approved by the House, the legislated increases in class I differentials in most of the Nation's marketing order regions.

Class I differentials, when added to the M-W price for manufacturing-grade milk, determine the guaranteed minimum price for milk sold for fluid use. By arbitrarily raising them in Southern and Southeastern marketing orders, the conference report will stimulate greater milk production in those orders at a time when we are trying to reduce a massive dairy surplus. The increased prices for milk will also depress consumption at a time when we need to encourage it.

Moreover, the higher guaranteed minimum prices for Southern dairy farmers will increase the incentive for those farmers to remain in the industry and refuse to participate in the whole-herd buyout program. This will place an unfair burden for reducing milk production on the traditional heart of the dairy industry, Wisconsin and the upper Midwest. Ironically, it will be the most efficient, lowest cost of production dairying region that will lose the most dairy production under this program.

Of course, things may not work out this way. What may happen is that increased class I prices will deter participation in the whole-herd buyout program in the Southeast, and that producers in the upper Midwest will decide that they have no alternatives to dairying even with the buyout payments. In many parts of Wisconsin, there are no alternatives in agriculture to dairying. So under this scenario, the buyout program will simply not work at all.

Another flaw with this conference report is its partial reliance on support price cuts to bring supply and demand in balance. I believe it is fundamentally unfair to freeze wheat and feed grains for 2 years, and sugar prices indefinitely, while starting to chip away at the dairy support price after only 1 year.

Mr. President, there is a farm income crisis in Wisconsin. I cannot

ignore it, and this Senate should not ignore it either. Wisconsin dairy farmers have already endured three price-support cuts in the last 2 years. The additional price-support cuts required in the conference report will not significantly reduce the surplus—the only thing they will accomplish is to send a few more Wisconsin dairy farmers over the edge.

The objectionable provisions of this bill are not limited to the dairy title. Because of the sugar title of this farm bill, sugar users in Wisconsin will have to pay higher sugar prices, without guaranteeing that sugar producers in the rest of the country will be any better off.

Because of the cargo preference section of this bill, the Great Lakes ports of Milwaukee, Green Bay, and Superior will have to fight just to stay open. By raising the cargo preference requirement on Public Law 480 shipments to 75 percent, the farm bill slashes the amount of cargo that can go out through the lakes. Since there is little U.S.-flag service through the lakes, Wisconsin ports will now have to bid for one-fourth, rather than one-half, of Public Law 480 cargos.

With the Port of Milwaukee dependent on Public Law 480 shipments for over 90 percent of its business, this change in legislation is unacceptable. it is ironic, at a time when farmers are being called on to sacrifice, that the maritime industry on coasts other than the Great Lakes are being given an effective increase in Government subsidies—and one that will be exempt from cuts under Gramm-Rudman.

In sum, Mr. President, Congress has not done a good job in this year's farm bill. It does not do enough for farmers, and it will all have to be redone well before the 1989 expiration date. For that reason, I oppose passage of this bill.

Mrs. HAWKINS. Mr. President, I rise today to support this conference report on the 1985 farm bill. Today marks the beginning of what I hope will be a new era in Federal agricultural policy. This legislation provides, for the first time, a market-oriented approach to supporting American farmers, expanded programs to promote the exports of U.S. commodities, a tough new conservation program intended to protect erodible lands and wetlands, an extension of the Federal Food Stamp Program, and provisions for dealing with the credit problems of many of America's farmers.

It is an understatement to say this is comprehensive legislation. The 1985 farm bill is a massive article intended to promote an abundant supply of food and fiber to U.S. citizens and many of the other people of the world. This bill is also intended to help protect, and eventually improve, the income of many of our hard-pressed farmers. This is, without doubt, an expensive proposition. Estimates of the cost of this legislation range upward of $55 billion over the first 3 years of the bill's life. This bill maintains many of the wrong-headed concepts of past Federal farm policy. Artificial price subsidies are maintained at relatively high levels. The dairy program is designed to pay farmers to go out of business. But on the whole this legislation corrects many more of the bad policies of the 1981 farm bill than it retains.

Commodity loan rates have been tied to moving market averages and the bill includes the use of marketing loans in an attempt to improve American farmers' competitive position in the world market. These are costly provisions. But they are necessary provisions if American farmers are to compete with the subsidized farm exports of many of our trading partners. Most importantly, as policy tools, they demonstrate our Nation's commitment to the fundamental concepts of the free and competitive marketplace. Further, they send a strong message abroad that the United States will not abandon agriculture.

In fact, agriculture is and will continue to be the foundation on which our Nation's wealth and prosperity is based. Our Nation was born as an agrarian society. Agriculture is still vital to our life and livelihood. Today, agricultural exports are vital to the U.S. balance of trade. Without agriculture, our negative trade balance would immeasurably worsen. Agriculture provides approximately one-fifth of U.S. gross national product. This farm bill underlines our commitment to American agriculture.

Mr. President, several weeks ago I voted against the Senate-passed version of the farm bill. I felt at that time that we had created an expensive monster that held out little hope for our Nation's farmers. I hoped the conference committee would improve the bill. I am convinced this is the best that can realistically be achieved. Today I plan to vote for the 1985 farm bill because of the policy changes that it includes. Taken together, flexible loan rates, marketing loan provisions, reductions in the target prices after 1987, tough new conservation provisions to eventually prohibit farmers who place erodible lands and wetlands into cultivation from participating in Federal farm programs, the adoption of a long-term dairy policy that reduces prices to reduce production, and the provision of credit assistance to hard-pressed farm borrowers, make this farm bill a supportable measure. I want to remind Senators that this 1985 farm bill is only one-half of the package we are offering to American farmers.

Yesterday, the Senate passed a tough self-help program for the Farm Credit System. That legislation provides an emergency backup line of credit from the Federal Treasury to assist the borrowers of the Federal Farm Credit System. As chairman of the Subcommittee on Agricultural Credit and Rural Electrification I cosponsored that legislation for a number of reasons.

First, among those was my desire to see affordable interest rates for American farmers. Equally important, is my desire to see the Farm Credit Administration replaced with a new strong "arms length" regulator, improve the operating procedures and reporting practices of Farm Credit System institutions, and provide for adequate examination of Farm Credit System institutions. I would add for the record, as an original cosponsor of S. 1884 and author of an amendment to the House passed text, a statement on the intent of this legislation. This legislation is intended to provide the Farm Credit Administration with the necessary authority to regulate the Farm Credit System Capital Corporation's power to require contributions of capital to the Corporation. This legislation is intended to provide a mechanism for drawing on the existing surplus of the Farm Credit System to address the financial problems of Farm Credit System institutions. Further, the legislation is intended to provide the Farm Credit Administration with the regulatory authority to insure that the surplus is drawn upon to the maximum extent practicable before Federal funds are made available to the Capital Corporation. Specifically, the Senate amendments offered to the House-passed text section 4.28G(a)(15)(B) (i)(II) and (ii)(I) were intended to insure that the Farm Credit Administration will have adequate regulatory authority in this regard. The Farm Credit legislation, S. 1884, as passed by both the House and Senate goes a long way toward meeting the goals I believe the Congress sought to achieve. Without that legislation I believe the New York markets would have abandoned the Farm Credit System with disastrous consequences for American farmers. Because Congress has taken action to address the problems of the Farm Credit System and if we enact this farm bill, I believe we hold out considerable hope for the farmers of this Nation.

To close, Mr. President, I would simply say that the 1985 farm bill marks an end and a beginning. It is the end of long hours of effort by the chairman of the Senate Agriculture Committee and the ranking member of our committee, the Senator from Nebraska, and the majority leader, and many other memers of the committee and the Senate. We would not be here today, however, without the yoeman efforts of the staff of the Senate Agriculture Committee under the direction of George Dunlop. I

thank the Senators for their leadership and the staff for their assistance in crafting this farm bill. I urge my colleagues to support this measure.

Mr. DODD. Mr. President, after careful consideration I have decided to vote against the farm bill once again, although I realize that we have a much improved product in front of us. Obviously, with a bill of this length and enormous complexity no one can possibly like or dislike every provisions. There are several parts of this bill that I can fully support. In my State of Connecticut the dairy provisions are important for many of my constituents. I am satisfied with the dairy part of the bill. It lowers price supports, in itself not a joyous piece of news for dairy farmers, but it does so in a gradual, balanced way by tying price supports to the level of production. This is a sensible solution. The dairy farmers of my State do not seek handouts from a dairy price system but reasonable security and predictability.

The bill, however, is still over budget to a degree that I find unacceptable. At this time when we force every recipient of our Federal expenditures to take painful reductions we cannot create such exceptions to the general rule. Exceptions lead to clamor for other exceptions and we continue to add to the deficit instead of reducing it. It is no secret that among the prime victims of the deficit are the small farmers who are devastated by high interest rates resulting from the deficit. This bill does not do much for the small farmer anyway, its major beneficiaries are the large agribusiness type of operations.

For these reasons, Mr. President, I cannot support this bill even in this improved form.

Mr. GLENN. Mr. President, before the present version of the 1985 farm bill emerged from the conference committee, I was deeply troubled with the course of U.S. agricultural policy. The Senate-passed farm bill did little to boost farm income and thereby relieve the financial distress in agricultural communities. Paradoxically, by continuing costly and inefficient programs, the bill did little to reduce the Federal deficit.

The Senate bill did, nonetheless, contain provisions which I wholeheartedly endorsed, including strong conservation and export enhancement programs. I reluctantly voted for this bill, not only because it contained those programs, but also because a vote for final passage was also a vote to consider the crucial issue of Farm Credit System assistance, and because a farm bill was better than permanent legislation or, worse yet, no legislation at all.

Many of my concerns have been allayed by the conference committee's farm bill. The present version of the farm bill retains many of the programs I have already mentioned I support—conservation and export enhancement programs. Of particular pride to me, it also includes a healthy commitment to new-uses research. Finding new uses for agricultural products will help correct the imbalance between supply and demand for farm products. I, along with my colleague, Senator LUGAR proposed and won inclusion of a new program for nonfood use agricultural research in this country. I will have other proposals along a similar line early in 1986.

More importantly, perhaps, the conference committee legislation is a step in the direction of a more sensible agricultural policy. For example, although I have been a strong supporter of a 4-year freeze in target prices I can accept a 2-year freeze. This means that the incomes of farmers will be stable for at least the next 2 years. The level will be gradually phased down, allowing farmers to comfortably adjust to the agricultural economy.

Mr. President, my vote in favor of the conference committees' farm bill remains, nonetheless, a reluctant one. We have yet to deal resolutely with the crisis in the agricultural community. Small farmers continue to veer toward bankruptcy, suppliers are still shutting their doors, and rural communities in the Midwest are still experiencing an economic depression.

I believe that we need to return prosperity to America's family farmers. I have called for a new partnership between the Federal Government and farmers to ensure that this goal is met. The 1985 farm bill takes some first steps in this direction.

Mr. LEVIN. Mr. President, I intend to vote for the conference report on the farm bill because I am convinced that given the budget constraints, it is the best we can do.

Although I had hoped we could devise innovative approaches to our farm programs, I am also aware that drastic changes may not be appropriate because of the delicate state of the farm economy.

I am heartened that the administration's wishes to cut farmer income and let the alleged free market dictate commodity prices which are already depressed, did not prevail. Although a 2-year freeze in commodity prices is, by no means, relief for our farmers, we have at least not pulled the rug out from under the farmers as some had wished.

This farm bill contains an important provision for the dairy farmers in my State. The fact of the matter remains that we have to reduce the amount of milk-producing cows in this Nation and this provision should be a significant step toward reducing milk production.

I also support keeping the loan rate for sugar at its current level for 5 years which is important to Michigan's sugar beet farmers.

Finally, we have taken strong steps to discourage farming fragile land by establishing the conservation reserve and denying Federal payments to those who plow up erodible land without an approved conservation plan.

It would be easy to point out the many negative aspects of the farm bill and simply vote against it. But I am convinced that an overriding concern in Michigan is that we get a reasonable farm bill. Our farmers need the stability of a 5-year program and they expect us to act now. If I thought delay on the farm bill would result in a significantly better farm bill, I would vote against it. However, I do not believe that is the case and therefore, I will vote for the bill.

Mr. CHAFEE. Mr. President, I must oppose the conference agreement on H.R. 2100, the farm bill. I do so with some regret, for this bill contains several provisions that I would like to see enacted into law—particularly those pertaining to agricultural conservation and the Food Stamp Program.

There is no question that we need a farm bill. Not just any farm bill, however, but one that is fair to taxpayers, consumers, and farmers alike. Many say this is the best that can be achieved. Do we have to go with something so far short of excellence. I don't think so.

I don't believe anyone would dispute that this bill is a woeful failure as far as taxpayers are concerned. In budgetary terms, it misses its target by a long shot. The commodity portion alone is more than $13 billion over the generous limits this Congress set just 4 months ago in the budget resolution.

Now let us consider consumers. Under this bill consumers will continue to pay inflated prices for milk, sugar, peanut butter, and honey. This hits poor families—who spend two and a half times as much of their income on food as do average families—especially hard. It is, in effect, a tax more regressive than any that Congress would ever write.

This is entirely inconsistent with the portion of the bill that increases authorized funding levels for the Food Stamp Program. Once again, we find ourselves in the position of giving with one hand and taking away with the other.

Some of these deficiencies might be pardoned if there was any likelihood that this bill would actually alleviate the stress in the farm sector. Unfortunately that is not the case here: This bill would do little to break the downward spiral of the farm economy. While it does move toward a more market-oriented policy, that transition will be very slow. And it largely fails to address the problem of poorly targeted direct subsidies, thus assuring that the

largest benefits will continue to go to the largest producers.

One portion of the bill, however, that does represent a radical departure from the past is the conservation title. I strongly support these historic provisions. Under this title, highly erodible land would be permanently retired into a 40-million acre conservation reserve. Also, those who farm such land would—for the first time—be ineligible for Federal farm benefits. Thus, it would ensure that our most fragile lands will finally be taken out of production.

At the same time, it would ensure that our best farmland stays in production and protected from development. A provision which I authored, for example, allows FmHA to sell the development rights to farmland, thus ensuring that the land will not be developed. The bill also provides that FmHA will make every effort to keep prime farmland in the hands of family farmers, rather than simply selling it off to the highest bidder.

Despite these excellent provisions, I believe that the bill as a whole falls far short of what these times demand. Rather than confronting tough choices, it simply spends more on the counterproductive policies of the past.

This is fair to neither taxpayers or consumers—nor, ultimately, to farmers themselves. I must, therefore, respectfully oppose the conference report.

ANIMAL WELFARE LEGISLATION

Mr. DOLE. Mr. President, the farm bill contains legislation dealing with the humane treatment of animals. The main thrust of the bill is to minimize pain and distress suffered by animals used for experiments and tests.

In so doing, biomedical research will gain in accuracy and humanity. We owe much to laboratory animals and that debt can best be repaid by good treatment and keeping painful experiments to a minimum.

INFORMATION SERVICE

The bill establishes an information service at the National Agricultural Library to work in cooperation with the National Library of Medicine and it is intended that all investigators be provided ready access to methods of research and testing involving fewer or no animals or reduced pain or distress. Institutions would have access to instructional materials for use in personnel training and it is intended that a data base be maintained to avoid unintended duplication in testing and experimentation. It is hoped that substantial savings in Government expenditures can be made in this way.

TRAINING

Mr. President, the bill calls for training of scientists, technicians, and animal care personnel by research facilities. It is intended that instruction cover the basic needs of each species in the institution and practical ways of fulfilling these needs, handling appropriate to the species, nursing care following operations, or other traumatic interventions and feeding appropriate to the condition of the animal.

Training for scientists should include instruction on anesthesia, analgesia, and tranquilizing drugs appropriate to each species used in experiments that could cause pain, and instruction in the least distressing methods of restraint for each species and in other methods of minimizing pain or distress. It is intended that details be provided on the availability of information from the National Agricultural Library in cooperation with the National Library of Medicine to prevent unintended duplication of experiments and tests and encourage use of state-of-the-art means of reducing pain, and avoiding unnecessary use of animals.

EMPLOYEE EDUCATION

It is intended that all personnel be acquainted with the provisions of this act and instructed to report deficiencies promptly to ensure that the institution is in compliance at all times. No one should be discriminated against for reporting violations of the act. Veterinary inspectors from the U.S. Department of Agriculture cannot be present on a daily basis. However, their enforcement capability can and should be enhanced by the Institutional Animal Committee and personnel in laboratories must be protected against any reprisal for reporting mistreatment of animals.

PERFORMANCE

With regard to experimental procedures, it is intended that the Secretary promulgate standards relating to the performance of experiments and tests only with respect to the act's provisions as specified for the purpose of minimizing pain and distress, including anesthesia, analgesia, tranquilizing drugs, restraint and handling methods, nursing care, and euthanasia.

EXERCISE

The new provision calling for exercise of dogs is intended to prevent permanent caging without daily release from a cage. It is intended to include a variety of practical means to allow dogs movement. This could include housing in pens or kennel-runways or, where dogs are housed in cages, removal from the cage during cleaning. The attending veterinarian should work within the basic standards set by the Secretary providing special attention to the needs of individual dogs.

CONCLUSION

Mr. President, it is my desire that these points reflected in the legislative history of this bill will clarify the intent of some of the bill's provisions. Finally, I would note that this bill is the result of efforts made by members of both the research and animal welfare communities and reflects a balanced approach to this important issue.

Mr. LAUTENBERG. Mr. President, I have some very strong objections to the conference report on the farm bill.

One of the principal reasons I will vote against this conference report is that it exceeds the budget resolution and will result in all other Federal programs paying for that excess. I have spoken to that point separately.

I also oppose this bill because it fails to make essential reforms in the sugar, peanut, and dairy programs important to consumers, and to food processing manufacturers and workers trying to compete in an increasingly competitive world economy with their hands tied behind their backs.

This conference report permits the current sugar price support level to continue unchanged instead of gradually reducing the support price, the approach I supported during Senate consideration of the farm bill.

Under the current sugar program, raw sugar sells for about 21 cents per pound in the United States, although it costs only 4 to 5 cents in the world market. It is kept at this artificially high price through an 18-cents loan rate, the price the Government will pay for sugar as a buyer of last resort, and through quotas on how much sugar can enter the United States. The difference between what American consumers pay for sugar and sugar-containing products and what these items cost on the open market is estimated to add about $3 billion a year to the bill Americans pay for sweeteners. The artificially high price of sugar also hurts those involved in the processing of products containing sugar by impairing their ability to compete with foreign businesses who can buy cheaper sugar. Chocolate, candy, cookie, and ice-cream manufacturers all suffer a competitive disadvantage from the sugar program.

This conference report perpetuates a bad program by failing to make even modest reforms in the sugar program. And by adding a "no net cost" provision to the law, it makes a bad program worse. "No net cost" means that the Government must assure that the price of sugar is high enough that it is more profitable for sugar farmers to sell their sugar on the market rather than selling it to the Government for the support price. To do this, the Government must decrease the amount of sugar entering the country under quota, lessening the sugar supply and raising the price of domestic sugar.

The conference report also fails to make reforms in the peanuts program. The price of peanuts is supported by limiting those who can produce peanuts for domestic consumption, and supporting those peanuts at a price four times that of world prices. Lower-priced peanuts are kept out of the U.S.

market through import quotas. Although anyone can produce peanuts for the overseas market, those peanuts are supported at a much lower price. Because domestic peanut production is artificially limited, and low-priced peanuts are kept out of the United States, consumers pay about 13 percent more per jar for peanut butter. And it also costs candy, cookie, and bakery businesses more to buy peanuts for their products.

Not only does the conference report fail to make significant reforms in this program, it actually provides that the support price for domestic peanuts could be increased in 1986 by an amount equal to any increase in the cost of production. The conference report permits further increases in the support levels for 1987 and for the life of the bill up to 6 percent annually to reflect increases in the cost of production.

Finally, this conference report takes a step toward reform of our dairy support program, but takes that step 1 year too late. Our Government supports the price of milk by agreeing to buy all farmers' surplus milk in the form of butter, dry milk, and cheese at an agreed price, and by dictating the price at which most fluid milk must be sold. By keeping the price of milk high, and by guaranteeing dairy farmers a Government market for their milk, this program has encouraged excess production. The result is large surpluses of dairy products sitting in Government warehouses, and a projected Government price tag to $2 billion in 1985. The only way to decrease production is by lowering the price support—which the bill does in 1987, not this year, which would be the better choice by far. The conference report also pays dairy farmers who agree to slaughter their herds instead of using them to produce milk. But the money for these payments would be raised by imposing a milk tax or roughly 3 cents a gallon on each and every milk producer in the country in 1986. While we must reduce the milk supply, I do not believe that taxing each dairy producer in the country is the way to do it.

For all these reasons, Mr. President, I cannot support this bill. While it takes some steps to reform our farm policy, it simply does not go far enough and it would impose penalties on our consumers, workers, and domestic food processors.

OPPOSITION TO THE FARM BILL

Mr. HART. Mr. President, it was with some reluctance that I voted for the farm bill when it passed the Senate a few weeks ago. It will be with some reluctance today that I will vote against the conference report on this legislation.

When the Senate began consideration of legislation to write a new 4-year program for rural America, I established a set of principles against which I would judge the bill. It was my belief that we must do no less than maintain farm income at current levels, even though that income is deeply depressed; even though many farmers are being forced from their land.

It was my belief that the commodity supports should be targeted or tiered, so that small- and medium-sized operations would enjoy the lion's share of the benefits provided by the programs.

Since the farm credit situation is inextricably linked to the status of farm families, I wanted a farm credit bill which provided direct assistance to farmers—to keep them on the land. The best backup for our farm banks is a farmer on his land paying his mortgage.

I voted to send the bill to conference because I hoped there was some prospect of achieving those objectives. The Senate bill did not apply targeting across the board to all commodity programs—as I believe they should—but it did apply targeting to the wheat program. And that's a good start. Farm income, due to the efforts of Senators HARKIN, MELCHER, and EXON, was helped in the Senate bill when they pressed for and won a real, 2-year freeze approach. Rather than prolonging the process further, I voted in favor of the Senate bill to see what the conference might accomplish.

Now that the conference report has come back to the Senate, much has changed, but not for the better. Targeting is gone; there is no 2-year freeze to protect farm income, even minimally, and no diversion payments are required after 1986 for those who agree to cut back production. The Congress has since voted for farm credit legislation which will not materially contribute to the elimination of farm debt, or the solvency of farmers and small businesses.

If that were not enough, the Congress has passed, and the President has signed, the Gramm-Rudman bill. As sure as the Sun rises in the East, this farm bill will be cut back radically, when the computerized spending reductions mandated by Gramm-Rudman are issued by the President. This will make a bad situation all the worse.

Rather than allow effective supply management programs, rather than effectively negotiate fair market shares for U.S farm goods in international trade forums, the Senate is voting to abandon family farmers. We are not talking about a few farm families. We are talking about cutting thousands of farmers adrift in a flood of excess commodities, buffeted by the winds of a hostile farm policy.

We should, instead, be swimming in new waters.

This bill will become law. It does offer something to some farmers in distress in Colorado and in other sugar producing regions of the country. For that, I am grateful. The majority leader joined me in offering legislation dealing with the problem of lost CCC payments. Payments lost to honest farmers when processors entered bankruptcy before payments had been conveyed. The conference approved this provision and I offer my thanks.

It has become axiomatic that voting here inevitably involves making tough choices. There have been times I have voted for legislation which should have been better, but there weren't adequate alternatives.

In this instance, and in good conscience, I cannot sentence the families and small businesses affected by this bill to 5 years of existence under its provisions. The farm legislation is not an answer to their problems but a repudiation of their concerns. I intend to vote against it.

Mr. BURDICK. Mr. President, I supported the farm bill that was passed by both the House and the Senate, because it was the best we could do under the threat of the Presidential veto. However, I have serious reservations that it will not be enough to provide for our farmers not only over the life of the bill, but even in 1986.

There is no question that this bill is better than what the Senate originally passed. The system of target prices and deficiency payments is the most important facet of the farm bill that serves to bolster our farmers' incomes. Because this bill contains essentially a 3-year freeze, it is better than the 2-year freeze passed by the Senate. However, it is not nearly as helpful as the 4-year freeze which was adopted by the Senate Agriculture Committee.

This administration, Mr. President, has little compassion for the family farmer. We witnessed this lack of compassion on both the farm bill and the farm credit bill. Neither piece of legislation is enough for our farmers, who are the most deserving of anyone in our society of Federal assistance.

Let me tell you this, Mr. President. Without our farmers, this country would not run. We would not need the massive defense budget because we would have little to protect. I want this administration to know that just because we have passed a farm bill and a farm credit bill, this is not the end of it. We need to do more and we must do more. Those of us who care about farmers and farming will be back next year to push for what is right and just for our farmers.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield to my friend from Oregon.

Mr. PACKWOOD. Mr. President, on the reconciliation conference, I want to say that Medicaid is finished, trade is finished, Social Security Trust Fund, pension, the pension benefit guarantee board, finished, extension of aid to widows, CHAMPUS finished, and so forth. The only issue holding us up is revenues. The Senate made an offer to the House yesterday afternoon about 2 or 3 o'clock in the afternoon. Since that time we have had no response from the House. The chairman of the House conferees refuses to meet. So we have had neither a counteroffer nor a meeting. At the moment, I am stuck because there is no place else to go. The two issues holding us up are Superfund and Medicare coverage for State and local employees. When we get a counteroffer, we may make progress. We have none at the moment.

Mr. DOLE. Mr. President, I take this time because earlier the distinguished Senator from North Dakota——

Mr. STENNIS. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, earlier the distinguished Senator from North Dakota, Senator ANDREWS, and I hoped to have an exchange on another matter, wheat deficiency payments. I did not want to keep the floor at that time because other Members had not had the opportunity to speak. I now yield for a question.

Mr. ANDREWS. Mr. President, I appreciate the majority leader yielding. I was interested in listening to the comments of the Senator from New Jersey followed by the comments of the Senator from Iowa. The Senator from New Jersey said the spending is too high and, therefore, we ought to oppose this farm bill because it is taking too much from the budget.

The Senator from Iowa said that the spending is too low and, therefore, we ought to oppose this farm bill.

But, Mr. President, when we continue talking about this, the problem that we have in the farm sector is that we are operating under a program right now that pays deficiency payments to the wheat producers. As we speak, the wheat producers in my State, the majority leader's State, and other States are not getting those deficiency payments. Those checks are being held up in the local ASC office, checks that are desperately needed by those farm families, checks that amount to in excess of $3 billion, held up because we cannot get a continuing resolution through.

Mr. President, I would like to ask my colleague, the majority leader of the Senate, what his observations are on how fast the Department of Agriculture will be able to disburse these checks if and when we can resolve this continuing resolution.

Mr. DOLE. Well, first, as the Senator pointed out, the USDA ASC offices are withholding sending out deficiency payments on the 1985 wheat crop because they are nearing the end of their CCC spending authority and are continuing to make commodity loans and payrolls. They had $4 billion, as the Senator knows, in the continuing resolution for additional CCC spending authority.

Had the House passed the continuing resolution a couple of nights ago we probably would have been out of here by now, plus the farmers in my State and the Senator's State and other States, in the Dakotas and other States, would have been getting their deficiency payments on time. I regret that the continuing resolution did not pass the House the other evening. I regret that some Members of Congress from farm States voted against the continuing resolution.

Mr. ANDREWS. That is precisely the problem.

Mr. President, let me point out to the majority leader that I have never yet voted for a farm bill that was good enough, in my estimation. Yet I have voted for every farm bill that has come along because it represents the very best product that we could put together.

This, again, Mr. President, is the best product that we could put together. Our farm families need not just these checks for deficiency payments for this past crop year, but they need to be able, as they go into their banker, their local PCA or Farmers Home office, right after the first of the year, to sit down with that lender and know what is happening in those outyears.

Under this bill, they have a freeze on target prices for 2 years, a 2-percent cut the next year, a 3-percent cut in the next. That gives a fairly level playing field and to the best of my knowledge in talking with the conferees and in talking with my colleagues it is the best we could get through.

I applaud the individuals who worked so long and hard. They did a good job. I only wish we could have done better. The satisfaction I have is that they share my feelings that we always could have done better. But this is what we have now and that is why we have to support it now, because those farm families cannot wait around to find out what is going to happen any more than they can wait around many more weeks for their deficiency payments.

Mr. HARKIN. Will my colleague yield?

Mr. ANDREWS. First, let me say that my friend from Iowa has a special program for agriculture that would result in less spending. I should not have referred to him in the way that he wanted to spend more. Other colleagues on his side of the aisle say we are spending too much. Other colleagues have said we are not spending enough. But the Senator from Iowa has a very unique program that cuts back much more acreage and, therefore, runs the price up on less production. It would have less budget impact.

Yes, I yield.

Mr. HARKIN. I did want to point out that at no point in my remarks did I indicate that we were not spending enough. I think we are chasing bad money after good.

Mr. ANDREWS. But my colleague will agree that the time has come to act. We cannot continue to postpone for those farm families which are suffering.

Mr. DOLE. Mr. President, I would ask unanimous consent that we might include in the RECORD at this point the recorded vote by Members in the House who voted against the continuing resolution.

Mr. ANDREWS. Maybe some of their wheat farmers will be glad to send them a special Christmas card saying, "Thanks for holding up my payment for another 2 weeks."

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

The vote was taken by electronic device, and there were—yeas 170, nays 239, not voting 25, as follows:

[Roll No. 461]

YEAS—170

Ackerman, Akaka, Alexander, Anderson, Andrews, Annunzio, Atkins, AuCoin, Badham, Barnes, Bateman, Beilenson, Bennett, Berman, Bevill, Biaggi, Boehlert.

Boggs, Boland, Bonior (MI), Bonker, Borski, Bosco, Boucher, Brown (CA), Burton (CA), Burton (IN), Bustamante, Byron, Carney, Carr, Chandler, Chappell, Cheney.

Clinger, Coelho, Coleman (MO), Coleman (TX), Conte, Coughlin, Coyne, Daniel, Darden, Daub, de la Garza, Derrick, DeWine, Dickinson, Dicks, Dingell, DioGuardi.

Dixon, Dowdy, Downey, Duncan, Dwyer, Early, Fascell, Fazio, Fish, Flippo, Foglietta, Foley, Ford (TN), Frost, Gaydos, Gephardt, Gibbons.

Gilman, Gonzalez, Goodling, Gray (PA), Hall (OH), Hatcher, Heftel, Hiler, Holt, Horton, Howard, Hoyer, Hutto, Hyde, Jones (NC), Jones (TN).

Kanjorski, Kennelly, Kolter, Kostmayer, Lantos, Latta, Lehman (CA), Lehman (FL), Leland, Levine (CA), Lewis (CA), Livingston, Lowery (CA), Lujan, Manton, Martin (NY), Matsui, Mazzoli.

McDade, McGrath, McHugh, Mica, Michel, Mikulski, Miller (CA), Miller (OH), Mineta, Molinari, Montgomery, Morrison (WA), Mrazek, Murtha, Myers, Natcher, Nichols.

O'Brien, Oakar, Oberstar, Obey, Ortiz, Parris, Pepper, Quillen, Regula, Reid, Rogers, Rose, Rostenkowski, Rowland (GA), Roybal, Rudd.

Sabo, Scheuer, Schulze, Schumer, Sisisky, Skeen, Skelton, Smith (FL), Smith (IA), Smith (NE), Smith (OR), Solarz, Spence, Stangeland, Strang, Stratton, Sundquist.

Thomas (GA), Torricelli, Udall, Watkins, Waxman, Weiss, Whitehurst, Whitley, Whitten, Wilson, Wolf, Wolpe, Wright, Wyden, Wylie, Yates, Young (AK), Young (FL).

NAYS—239

Anthony, Applegate, Archer, Armey, Barnard, Bartlett, Barton, Bates, Bedell, Bentley, Bereuter, Bilirakis, Bliley, Boner (TN), Boulter, Boxer, Breaux.

Broomfield, Brown (CO), Broyhill, Bruce, Bryant, Callahan, Campbell, Carper, Chapman, Chappie, Clay, Coats, Cobey, Coble, Collins, Combest, Conyers.

Cooper, Courter, Craig, Crane, Dannemeyer, Daschle, DeLay, Dellums, Donnelly, Dorgan (ND), Dornan (CA), Dreier, Durbin, Dyson, Eckart (OH), Eckert (NY), Edgar.

Edwards (CA), Edwards (OK), Emerson, English, Erdreich, Evans (IA), Evans (IL), Fawell, Feighan, Fiedler, Fields, Florio, Ford (MI), Fowler, Frank, Franklin, Frenzel.

Gallo, Gejdenson, Gekas, Gingrich, Glickman, Gordon, Gradison, Green, Gregg, Grotberg, Guarini, Gunderson, Hall, Ralph, Hamilton, Hammerschmidt, Hansen, Hartnett, Hawkins.

Hayes, Hendon, Henry, Hertel, Hopkins, Hubbard, Huckaby, Hughes, Hunter, Ireland, Jacobs, Jeffords, Jenkins, Johnson, Jones (OK).

Kaptur, Kasich, Kastenmeier, Kemp, Kildee, Kleczka, Kolbe, Kramer, LaFalce, Lagomarsino, Leach (IA), Leath (TX), Levin (MI), Lewis (FL), Lightfoot, Lipinski, Lloyd, Loeffler, Long.

Lowry (WA), Luken, Lundine, Lungren, Mack, MacKay, Madigan, Marlenee, Martin (IL), Martinez, Mavroules, McCain, McCandless, McCloskey, McCollum, McCurdy, McEwen, McKernan, McMillan.

Meyers, Miller (WA), Mitchell, Mollohan, Monson, Moody, Moore, Moorhead, Morrison (CT), Murphy, Neal, Nielson, Nowak, Olin, Owens, Oxley.

Packard, Panetta, Pashayan, Pease, Penny, Perkins, Petri, Pickle, Porter, Pursell, Rahall, Ray, Richardson, Ridge, Rinaldo, Ritter, Roberts, Robinson, Rodino.

Roe, Roemer, Roukema, Rowland (CT), Russo, Savage, Saxton, Schaefer, Schneider, Schroeder, Schuette, Seiberling, Sensenbrenner, Sharp, Shaw, Shelby, Shumway.

Shuster, Sikorski, Siljander, Slattery, Slaughter, Smith (NJ), Smith, Denny (OR), Smith, Robert (NH), Snowe, Snyder, Solomon, Spratt, St Germain, Staggers, Stallings, Stark, Stenholm.

Stokes, Studds, Stump, Sweeney, Swift, Swindall, Synar, Tallon, Tauke, Tauzin, Taylor, Thomas (CA), Torres, Towns, Traficant, Traxler.

Vento, Visclosky, Volkmer, Vucanovich, Walgren, Walker, Weber, Wheat, Whittaker, Williams, Wirth, Wise, Wortley, Yatron, Zschau.

NOT VOTING—25

Addabbo, Aspin, Brooks, Crockett, Davis, Dymally, Fuqua, Garcia, Gray (IL), Hefner, Hillis, Kindness.

Lent, Lott, Markey, McKinney, Moakley, Nelson, Price, Rangel, Roth, Valentine, Vander Jagt, Weaver, Young (MO).

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida, for, with Mr. Crockett against.

Messrs. WEBER, DORNAN of California, STOKES, GLICKMAN, ERDREICH, SCHAEFER, ZSCHAU, BEDELL, VOLKMER and CAMPBELL changed their votes from "yea" to "nay."

Messrs. MORRISON of Washington, CHANDLER, BURTON of Indiana, and STANGELAND changed their votes from "nay" to "yea."

So the conference report was rejected.

Mr. DOLE. Mr. President, I would like to renew my request that the Senator from Arkansas be permitted to speak for 10 minutes—there may be others who request time—and that we may have a vote on passage on the conference report at 6:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object. Does the Senator from Iowa wish to speak further? I had understood that he did.

Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GORTON. Mr. President, at long last the time has come for the Senate to take its final look at the 1985 farm bill. The bill that comes to the Senate out of the conference committee is an improvement on the two bills that went in to the conference. That in itself is an accomplishment that should not be ignored and I applaud the efforts of the conferees on both sides of the aisle and from both Houses of Congress for their diligent work on this bill.

For all the improvements that have been made in the bill, I do not think there is a Member in this body who does not disagree with some of its provisions. I am one of that number. I would have done many things differently. However, the opportunity for changing the legislation, at least for this session of Congress, is past. Now is the time to decide if we will pass a 5-year farm bill that will begin to help correct some of the failed policies of the past or if we will fail to do so. I believe that we should pass this farm bill and I urge my colleagues to join me in this effort.

For the farmers in Washington State, the wheat and dairy programs are of particular importance. A number of improvements have been made in both programs—some of which are revolutionary. The loan rates for wheat will start at $3 per bushel for 1986. However, from 1987 on, loans for wheat will be set to the marketplace rather than to a governmentally determined rate. In the second through fifth years of the bill the loan rates for wheat will be set between 75 and 85 percent of the average price received by producers during the immediate preceding 5 marketing years, excluding the high and low years. The Secretary will also have the authority to further lower the loan rate if the market price continues to fall. Ultimately this will lead to decisions on the farm to plant for the market rather than for the program.

The target prices under the Wheat Program will be frozen at current levels through 1987. Beginning in 1988, the Secretary will have the authority to set the target price at slightly lower levels. This provision is also a movement in the correct direction.

The Dairy Program has also been improved in this bill. The 1 year freeze in support prices followed by two reductions in the next year will begin the process of reducing the tremendous surplus that the Federal Government piles up every year. I am also pleased that the whole herd buy-out plan—truly a revolutionary idea—was included in the conference report. Although this provision was never debated on the floor of the Senate, it has often been the center of informal discussion among Senators. It is an untested program, but I am convinced it is a necessary one. The whole herd buy-out program will get thousands of dairy cows out of production and keep them out. With protections in place for our cattlemen and beef producers, this idea needs to be tried and I am pleased that it is part the bill.

The commodity provisions of the bill are complimented by a strengthened export title and a very good conservation program. The export provisions of the bill are imaginative and innovative in many respects. These provisions require the Secretary of Agriculture to offer federally owned surplus commodities to exporters, processors, or foreign buyers to encourage the development and expansion of overseas markets for U.S. commodities. This will help the administration in its efforts to combat unfair foreign trade practices. In addition, the Cargo Preference Program has been revised to free the Blended Credit Program which has been suspended for more than 9 months. The conference report offers a workable compromise on this program—the Food for Peace Program will be subject to cargo preference percentages of 60 percent in 1986, rising to 75 percent in 1988 and thereafter.

Moreover, the Food for Peace Program, America's great charitable food donation program, will be accomplished by the establishment of a companion Food and Progress Program. The new program will promote free enterprise policy and development through the donation of surplus Federal commodities.

The conservation section offers a necessarily tough sodbuster provision which will ensure that highly erodible land will not be put into production. the penalties that producers will suffer for violating this provision are stiff. The conservation title is also noteworthy for the inclusion of a long-term conservation reserve which will return crop land to less productive uses. This will take 40 million acres of land that is now producing surplus commodities out of production. with-

out causing undue suffering for the farmer who owns the land.

There are a number of other provisions in the conference report which are noteworthy. Some are important steps toward returning agriculture to a freer market, others are downright onerous. Most importantly, however, this bill is a beginning. A beginning toward a market oriented farm policy and a beginning toward the day when the American farmer will again be able to produce for the world.

Finally, we should make no mistake in assuming that the ills of American agriculture will be solved by this bill or any other Federal agricultural policy. The big problems facing agriculture are interest rates, the strong dollar and a shrinking world market. The solutions to these larger problems lie beyond the farm bill. I urge my colleagues to consider this as well as we move toward the final vote on this bill.

Mr. President, no consideration of the farm bill is complete without an accounting of the food assistance titles. I would like to take a moment to comment on the Food Stamp Program and other programs that have emerged from the conference committee.

Feeding the hungry is one of the hallmarks of a civilized society. It is through programs such as the Food Stamp Program that we are able to provide assistance to those who are hungry.

Before the bill went to conference, the House and the Senate versions were significantly different in their treatment of food stamps. The House version provided for $1.4 billion in excess of current service levels, while the Senate bill was $600 million under current service levels. The result of the conference is a bill providing for $305 million over current services. This is certainly a fair compromise.

I would like to touch on several of the major reforms made in the Food Stamp Program by the conference committee. First, several benefit areas impacting the working poor were increased. Among the changes are: increasing the shelter deduction to $147; making the dependent care deduction a separate deduction, with a limit of $160 per month; and increasing the earned income deduction to 20 percent. In addition, the asset limit was increased from $1,500 to $2,000. Undoubtedly, these reforms will provide additional benefits to those who are among the working poor.

A second provision that the conference committee dealt with was the Employment and Training Program. Under the conference report, States will not be provided with a miniblock grant, enabling them to establish their own employment and training program.

Third, the conference committee revised the Job Training Partnership Act income provision to count earnings in the equation for determining food stamp benefit levels. They did, however, exclude stipends, training costs, uniforms, and other nonearnings moneys from the equation. This change is worthy of support—income should be counted in the equation; however, there is significant debate as to whether items such as training costs and uniform costs should be included.

Mr. President, I believe the reforms I have mentioned, in addition to enhanced computerization and provisions to eliminate fraud, represent a fair compromise, while ensuring that those who are most in need will have their benefits protected.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have not had an opportunity to go through all of this bill, and I do not believe that there is a single Senator here who has. I have asked my staff to give me a detailed summary of the bill, and they have done so.

I find the bill marginal, but I intend to vote for it because it is marginally better than no bill. This is what we must do: If we do not vote for it, we have no agriculture bill and we leave desperate farmers in limbo about their future. My guess is that farmers would rather take a little less than they would like to have, than to have the kind of chaos and confusion that would result from not passing this bill.

Compared to the bill that the President submitted to this body, it is one of the finest bills ever presented here. That bill had disaster written all over it. To suggest that the farmers were prepared to go to a free market and compete in the world against countries who subsidize their farmers and their commodities on a much higher percentage basis than we do would have been unthinkable.

Agriculture in this country, in my opinion, has the potential for being the catalyst that could take this country's economy down in the next 24 months. A lot of people have talked about the fact that agribusinesses are affected and that banks are affected. You can bet your bottom dollar that, when the farmers of this country owe $212 to $220 billion and that a big part of it is delinquent and more of it about to become delinquent, there is a significant possibility that it could be the very catalyst that triggers the closing of hundreds of banks, which would have the undesired ripple effect of closing more and more nonagricultural banks.

The farmers have to pay a price in this bill to keep the support and target prices at the level we want, and one of the prices they have to pay is the possibility of the Secretary setting aside huge percentages of their base. In the case of rice—and we in Arkansas grow about 35 to 40 percent of all the rice in this country—rice farmers could be required to set aside as much as 35 percent of their land—a very unhappy thought. We used to require set-asides in this country, Mr. President, in an effort to raise prices, and we have found in the last few years that the more we set aside, the more Argentina, Brazil, Canada, and Australia grow. And it has virtually no effect on raising prices, particularly of our exported commodities.

What set-asides do and what they are designed to do in this bill is to limit the cost of this bill to the Federal Government.

There is one other thing about rice in this bill. There is a marketing loan provision which we hope will help us wipe out our big surpluses of rice over the next 2 years. It has that very salutary effect. Certainly, the rice provision of this bill will be hailed by all the farmers in this country. However, I have serious reservations about its soybean provisions.

I said earlier, and I repeat, this bill is marginal. I promise you that somewhere between 10 and 20 percent of all the farmers in this country who are now farming will not be farming in 2 years because they cannot finance the staggering debt they are under.

Much has been said here about Gramm-Rudman, and much should be said about Gramm-Rudman. Nobody has raised a point of order on this bill, which, in my opinion, would be technically well taken under the Gramm-Rudman amendment. I am pleased that no point of order has been made, but it points up the trauma that this body and the House both are going to be faced with in 1986 and as early as February 1986.

I voted for Gramm-Rudman in the hope that this body would do its duty and that we would not abdicate our responsibilities to a computer printout. If we cannot in this body decide, for example, where we are going to cut and how much, and whether or not we need a tax increase—if we cannot decide, for example, that school lunches are more important to our vision of the future, our commitment to excellence, our national character—if we cannot conclude in this body that school lunches are more important than Amtrak, we ought to fold it up and go home.

If we in the U.S. Congress cannot decide, for example, that childhood immunizations and WIC and maternity and child health care are more important than Urban Development Action Grants, we ought to fold up our tents and silently steal away.

So, Mr. President, I voted for Gramm-Rudman on the assumption that the Congress, and especially the U.S. Senate, could make those distinctions and that there was still enough

sensitivity is this body to understand what is really important and what is political.

If we come up on the deadline and say we just cannot work it out, fire up the computer and bring us the printout, Gramm-Rudman will be the most dismal disaster that ever passed this body.

Finally, Mr. President, I know that there are people in this body, in the House, and all across the country who are really tired of hearing some of us talking about the plight of the farmer. I get tired of talking about it. But I can tell you there are people in this country who do not get tired of hearing about it. They are the people who are losing their farms and their homes and who have lost everything they fought and scratched for all their lives.

I do not care whether you are an urban Senator or a farm State Senator or somewhere in between. We do not have the discretion or the right to turn our back on any segment of our economy, no matter how large or small. This bill is much better than nothing and I urge my colleagues to support it. It is not a panacea, but it is certainly better than nothing.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, we have unanimous consent to vote at 6:30; is that correct?

The PRESIDING OFFICER (Mr. CHAFEE). The Senator is correct.

Mr. HELMS. It is not no later than 6:30; it is at 6:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, I had better defend my baby a little bit from the criticism it has received. It is true enough that it would have been necessary to waive section 311(a) of the Budget Act in order for this farm bill to qualify for further consideration by the Senate, but let me make the point it is because we are the last car in the train. We are the caboose. If this farm bill, this very farm bill conference report had appeared in July or September, or even October, there would be no question about it.

Now, let me say for the RECORD, Mr. President, that I happen to be the only chairman of the Agriculture Committee in the history of the Senate to vote against reporting a farm bill and to vote against the farm bill itself on the floor, and I did so because in my judgment it was too expensive. In conference we reduced the Senate bill's cost by about $5 billion, and that put it in the ballpark.

Furthermore, this farm bill saves $11 billion over current law, so if we continued current law as many Senators were urging us to do early this year, it would cost $11 billion more than this conference bill. So as I said at the outset this afternoon when the conference report was made the pending business, it is not perfect. It is not what I would have written if I were a dictator and I could have sat down and prescribed and proscribed as I pleased. But it is a pretty good farm bill considering the situation that exists out there across America, and I hope Senators will support it.

Furthermore, this bill comes very close to the $50 billion mark set by the President himself. So I reiterate a point of order under the Budget Act can be raised only because of the quirk that this farm bill is the caboose of the train in the legislative process. I reiterate that I spent 40 hours by actual count waiting for a quorum to appear during the markup of this bill. I sat there often by myself, frequently with the distinguished Senator from Iowa. I pay him the compliment of saying that he was there. Senator ZORINSKY was also there, but we have difficulty, as the Senator from Iowa himself pointed out, getting a quorum day after day. In addition, often we were not allowed to meet in the afternoons or beyond 2 hours after the Senate had convened in the morning. But that is history. We have that behind us, and we have worked together in a remarkable fashion to produce a farm bill that I believe is worthy of the Senate's approval and I hope it will be overwhelmingly approved.

Mr. President, while I have the floor I want to thank so many people who have contributed to the production of this bill. I have said over and over again what a joy it is to work with the distinguished Senator from Nebraska [Mr. ZORINSKY] and the majority and minority leaders. All members of the committee have cooperated constantly, but most particularly the young, dedicated staff of the Senate Agriculture Committee, both minority staff members, and majority staff members. We worked together as a team. Some day I hope to just lay out for the record the sacrifices of their time that were made throughout this year, on occasion after occasion. Since Saturday night, they went round the clock, day after day, to produce that 13-pound document that is now pending before the Senate.

So, with that, Mr. President, I yield the floor.

I would say to Senators, if I may regain the floor, we cannot vote until 6:30 because of the unanimous-consent agreement. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I rise to express serious reservations about the 1985 farm bill and to convey my heartfelt concerns about the future, competitive vitality of the American farmer.

I do not mean to suggest that the conference report before us is devoid of positive developments in agricultural policy. Indeed, the distinguished conference chairman, Senator HELMS, and his fellow conferees should be commended for far more than their tireless efforts and remarkable endurance. Yet, for many of the provisions, which I would characterize as pluses, there are unfortunately offsetting minuses of significant dimensions and serious consequences.

For example, the bill makes a major—and a positive—structural change in Federal policy by allowing commodity loan levels to reflect marketplace prices, instead of codified estimates. This means that our grain and cotton loan rates will come down over the length of the bill; but only gradually—not more than 5 percent in most years. Another favorable provision is the use of a "marketing loan" which will allow growers to redeem their crops from the Commodity Credit Corporation at world price levels, instead of higher CCC loan levels; thereby enabling American farm products to be sold to foreign buyers; not forfeited to the Federal Government.

Unfortunately, the downward trend of loan levels, which may be the single-most important change in the bill, is offset by freezing target prices at their presently high levels. Technically, this is a 2-year freeze, but a token 2-percent reduction in 1988 and a 3-percent reduction in 1989 do little to thaw the freeze.

While I understand the rationale behind the target price freeze and sympathize with the desire of my colleagues to maintain farm income—especially during these difficult economic times—the combination of high target prices and lower loan rates will translate into larger Federal deficiency payments to farmers. Moreover, I strongly suspect that the attractive combination of higher direct payments and marketing loan flexibility will prompt more farmers to participate in these programs.

Consequently, we are about to adopt a farm bill which will not only increase the size of each individual deficiency payment, but will also increase the number of farmers to whom these Government payments will be made. For example, in recent years, only about 20 percent of eligible farmers participated in these Federal support programs; however, as Government subsidy levels increased and commodity prices fell, program participation has skyrocketed. This trend will surely

continue under the 1985 farm bill, prompting speculation that next year as many as 90 percent of eligible wheat growers and feed grains farmers will seek shelter in USDA's programs.

Long-term changes in the dairy program represent steps in the right direction; however, dairymen will crawl through an 18-month Federal tax on their production before they will reach a support program responsive to the realities of supply and demand. Despite the fact that USDA will purchase more than 16 billion pounds of surplus dairy products in 1985, the bill retains throughout all of the next year the existing support level of $11.60 per hundredweight.

During that period of time—and until October of 1987—the Secretary of Agriculture will administer a "whole herd buy-out" program pursuant to which dairymen who wish to remain in business will be assessed a tax on every 100 pounds of their production, in order for the Government to "buy-out" any one of their competitors interested in leaving the dairy business.

I do not doubt that this is a well-intentioned attempt to "fine tune" a farm program whose primary problem is unrealistically high support levels. Unfortunately, by addressing fundamental problems with slick-packaged gimmicks instead of straight-forward changes, we in Congress are indirectly penalizing segments of American agriculture—specifically, producers of cattle and growers of fruits, nuts, and vegetables—who do not receive Government subsidies and have not requested them.

For example, proponents of the dairy provisions accurately recognized that returns to cattlemen, who do not receive farm subsidies, will be adversely affected by the increased amount of red meat which will come on the market in the wake of a whole-herd buy out. Unfortunately, their solution—to require the Secretary of Agriculture to buy 400 million dollar's worth of red meat—does not recognize that this money depletes a discretionary fund which the Secretary has historically used to purchase surplus fruit, nut and vegetable crops—none of which receive Federal subsidies—for distribution in Federal food programs.

On other matters, this final farm bill version properly eliminates the short-lived and ill-advised subsidy payments for soybeans and sunflowers, which had been added on the floor of the Senate. Unfortunately, the conference revived the honey program, which the Senate had voted overwhelmingly to phase out, and restored unlimited "incentive" payments—worth hundreds of thousands of dollars annually—to a select number of wool and mohair producers.

It is proper that the bill does contain a strong, commendable conservation title which will return nearly 45 million acres of highly erodible land to less-intensive uses and will discourage farmers from converting fragile soil or wetlands into planted acreage; however, in addition to a conservation reserve, the bill's commodity titles will still continue to require farmers to idle significant amounts of fertile, potentially productive lands through acreage reduction programs. Compliance with these so-called ARP's, which will range from a low of 20 percent of our Nation's corn acreage to a high of 35 percent of rice acres, are a regrettable outgrowth of the high costs of the type of support programs which this legislation reauthorizes.

Unfortunately, not only do these ARP's increase the per unit cost of American farm products and reduce our economies of scale, but they serve as an incentive for farmers abroad to increase their own plantings and provide additional competition for U.S. agricultural exports. The displacement effect of this approach is evidenced by the plight of our farm exports under policies in the last 4 year farm bill. These exports have plummetted from a high of $44 billion in 1981 to barely $30 billion in the current year.

Fortunately, the 1985 farm bill will provide a variety of tools to enable the Secretary of Agriculture to reverse this downward export trend and to respond to a variety of unfair trade practices. Yet, I am concerned that the benefits of a strong trade title will be, at least, partially diluted, if not fully negated, by some of the other provisions, which I have already discussed.

I recite this list of the pluses and minuses contained in the 1985 farm bill in order to demonstrate the inconsistent policies and incongruous provisions which we are about to enact—or should I say reenact—into law. These same inexplicable contradictions are contained in current farm policies, which have so miserably and tragically failed the American farmer.

And the failure of our Federal farm policies is not limited to those growers who participate in these support programs, many of whom are confronting severe financial problems—despite $50,000 a year deficiency payments. These Federal farm subsidies take a toll on agricultural operations, which for a variety of reasons, such as their size, diversity, or free-market ideology, do not qualify for participation in USDA's commodity programs.

An agricultural constituent of mine provides a timely and troubling example. The J.G. Boswell Co., one of the world's largest cotton-growing concerns, announced last month that it needs to reduce its work force by 600 employees, from a work force of 1,300 to 700. In a letter from the chairman of this family-run operation to his employees announcing these severe cutbacks, Mr. J.G. Boswell cited the inability of this Congress to reduce farm subsidies as major factor behind the need to restructure his operation.

Mr. President, this year the American taxpayer will have distributed approximately $20 billion to farmers who produce basic commodities and are eligible for program participation. Their dire economic plight convincingly demonstrates to me that this year's Federal largess was inadequate to restore prosperity to the farm belt. At the same time that these agricultural subsidies have failed to revitalize farmers who participate in the program, they have, also, penalized those agricultural enterprises beyond the scope of Federal assistance.

In my mind, this is a lose-lose scenario—harming the most efficient of American agriculture while failing to revive the financially troubled growers—which will be played-out for 5 more years under the policies contained in the 1985 farm bill. For this reason, Mr. President, I am regrettably compelled to vote against the conference report.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the vote on this measure has been set for 6:30 p.m.

The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON, I announce that the Senator from New Mexico, [Mr. DOMENICI], Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. TRIBLE], the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS], is absent on official business.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KENNEDY], is necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES], is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 38, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—55

Abdnor	Bentsen	Cochran
Andrews	Boschwitz	Cranston
Armstrong	Bumpers	D'Amato
Baucus	Burdick	Danforth

Denton	Johnston	Pryor
Dole	Kassebaum	Quayle
Durenberger	Laxalt	Riegle
Eagleton	Leahy	Rockefeller
East	Levin	Sarbanes
Evans	Long	Simpson
Ford	Lugar	Specter
Glenn	Matsunaga	Stafford
Gorton	Mattingly	Stennis
Hatch	McClure	Stevens
Hatfield	McConnell	Symms
Hawkins	Melcher	Thurmond
Heinz	Metzenbaum	Wallop
Helms	Nunn	
Inouye	Packwood	

NAYS—38

Biden	Gore	Moynihan
Bingaman	Gramm	Nickles
Boren	Grassley	Pell
Bradley	Harkin	Pressler
Byrd	Hart	Proxmire
Chafee	Hecht	Roth
Cohen	Heflin	Rudman
DeConcini	Hollings	Sasser
Dixon	Humphrey	Simon
Dodd	Kasten	Warner
Exon	Kerry	Wilson
Garn	Lautenberg	Zorinsky
Goldwater	Mitchell	

NOT VOTING—7

Chiles	Mathias	Weicker
Domenici	Murkowski	
Kennedy	Trible	

So the conference report was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Earlier the following occurred:)

Mr. PRYOR. Mr. President, in order that our colleagues who were not on the Agriculture Committee may have the benefit of an excellent summary that was issued by the committee on the conference agreement on the new farm bill as proposed, I ask at this time unanimous consent that it be printed in the RECORD immediately following the disposition of the conference report, providing that it passes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Major provisions of the bill include:

WHEAT AND FEED GRAINS

Basic initial loan rates for grains would start at $3.00 a bushel for 1986 wheat and $2.40 for 1986 corn. From 1987 on, loans for grains would be set each year at between 75 and 85 percent of the average price received by producers during the immediate preceding 5 marketing years, excluding the high and low years, with annual reductions limited to 5 percent.

After calculating the basic initial rates, the Secretary could then further reduce the rate for any year by up to 20 percent if (1) market prices in the previous season failed to top 110 percent of the previous year's basic loan rate, or (2) he determines that a further cut is needed to compete on world markets.

For the 1986 crop only, the Secretary would be required to use this authority to drop the loan at least 10 percent.

The Secretary would have discretionary authority to allow repayment of price support loans at levels which could be set as low as 70 percent of the original loan rate. The Secretary would have additional discretionary authority to give producers one of two alternate types of marketing certificates to help promote exports.

Target price income protection would operate alongside whichever loan system was used, and any reduction below the basic initial loan rates would be offset by increased target price deficiency payments which would not be subject to payment limits.

Target prices, which provide direct payments to farmers when market prices are below the target rate, would be frozen at current levels ($4.38 a bushel for wheat and $3.03 a bushel for corn) through 1987. For the 1988 crop, the Secretary would have authority to set the target price level at not less than 98 percent of the 1986 level ($4.38 and $3.03); at not less than 95 percent for the 1989 crop; and at not less than 90 percent for the 1990 crop, but not to lower than $4 for wheat and $2.75 for corn.

To qualify for benefits in any years in which carryover wheat stocks exceed 1 billion bushels, wheat producers would be required to reduce acreage as follows: in 1986, a maximum diversion of 25 percent, (including a mandatory minimum reduction of 15 percent, a mandatory in-kind paid diversion of 2.5 percent, and further discretion for reductions of 7.5 percent); in 1987, a maximum reduction of 27.5 percent (including a mandatory minimum reduction of 20 percent and a further 7.5 percent at the Secretary's discretion); and in 1988-90, a maximum of 30 percent (including a mandatory minimum of 20 percent and a further 10 percent at the Secretary's discretion). For the 1986 crop only, the Secretary would be required to offer growers who planted before announcement of the program a chance to idle 10 percent of their base in return for payments.)

For feed grains, if stocks exceed 2 billion bushels of corn, the 1986 reduction would be a maximum of 20 percent (including a mandatory minimum of 12.5 percent, a mandatory in-kind paid diversion of 2.5 percent, and further discretion for reductions of 5 percent. For 1987-90, the maximum would be 20 percent (including a mandatory minimum of 12.5 percent plus up to 7.5 percent at the Secretary's discretion).

For all grains, the Secretary would have the authority to offer producers a further, voluntary, paid diversion beyond the basic minimums in the bill.

The Secretary is required to allow haying and grazing on diverted acres in 1986, permit grazing in 1987-90 if state Agricultural Stabilization Committees request it. Current law gives the Secretary discretionary authority to permit haying in 1987-90.

The Secretary would have discretionary authority to offer producers a "Target Option Program" under which the individual grower's wheat target price would rise if he elected higher levels of acreage reduction or decline at lower acreage-cut levels. Also optional for the Secretary would be a plan varying target price levels for farms of different sizes an effort to concentrate benefits on medium-sized farms. For the 1986 crop, the Secretary would be required to pay part of the expected target price deficiency payments on an advance basis and to make part of the payment "in-kind."

Under the bill, the Secretary would have the discretionary authority to proclaim marketing quotas for wheat, and establish a mandatory acreage control program for wheat, subject to the approval of producers in a referendum.

The bill requires the Office of Technology Assessment to study federal grain export quality standards. It also provides that 6 months after the study, the Agriculture Department would have to revise its export grading rules, in line with the study findings, to protect grain quality.

COTTON

The basic support loan rate is set at 55 cents per pound for 1986. In 1987 and thereafter for the life of the bill, the loan rates would be based on 85 percent of the world market price, with reductions limited to 5 percent annually, with a floor of 50 cents.

If the basic rate is not competitive on world markets, the Secretary would choose one of two alternate "market enhancement" plans for repayment of loans. Under one plan, he could lower the repayment rate by up to 20 percent, thus allowing farmers to redeem their crops and sell them at a competitive price. Under the second plan, repayment would be at rates varied periodically through the year to keep pace with world markets. In instances where world market levels fall below the new loan repayment levels, the Secretary would issue "in-kind" certificates to domestic and foreign buyers to bridge the gap between the effective support and the market.

Target prices would be frozen for the 1986 crop at the 1985 level of 81 cents per pound. For the 1987 crop, the Secretary would have the authority to set the target price at not less than 98 percent of the 1986 level (81 cents); at not less than 95 percent for the 1988 crop; at not less than 92 percent for the 1989 crop; and at not less than 90 percent for the 1990 crop.

To qualify for program benefits, producers would be required to divert up to 25 percent and the Secretary could offer a voluntary payment in kind supplemental diversion plan, including payments in kind, if greater acreage cuts were needed.

The base loan rate would be set at $7.20 per hundredweight for 1986 and then based on 85 percent of the average market price in the past 5 years, excluding the high and low years, with annual reductions limited to 5 percent and a floor of $6.50.

The Secretary is required to permit repayment of the price support loan at the world market price, but for 1986 and 1987 not below 50 percent of the original loan rate, for 1988 not below 60 percent of the original loan, and for 1989 and thereafter not below 70 percent of the original loan. Up to one-half of the difference between the original level and repayment level may be paid in negotiable in-kind certificates.

If the market price falls below the repayment level, the Secretary must issue in-kind marketing certificates to exporters bridging the gap between domestic and world prices. (The "marketing loan" plan under which growers can repay support loans at a reduced rate would be applied in the case of rice to the 1985 crop as well as the 1986-90 crops.)

Target prices would be frozen at $11.90 per hundredweight for the 1986 crop and then scaled down using the same formula as for cotton. (Percentages of 98, 95, 92, and 90 of the original level for the years 1987-90.)

Producers who want to enter the program would be subject to acreage reductions of up to 35 percent. The Secretary could also offer a voluntary paid diversion program and make in-kind payments.

DAIRY

The bill retains the current $11.60 support price for 1986.

The Secretary is required to implement a whole herd buyout program for 18 months, under which producers—on a bid basis—may take their entire herds out of production. The program will be funded by a producer assessment of 40 cents per hundredweight.

The Secretary is required to purchase 400 million pounds of red meat for export and domestic feeding programs during the 18-month program.

The Secretary is required to implement orderly marketing provisions during the whole herd program.

On January 1, 1987, the Secretary is required to reduce the price support level by 25 cents per hundredweight, and is required to reduce the assessment to 25 cents per hundredweight.

The Secretary is required to reduce the price support level by 25 cents per hundredweight on October 1, 1987, at which time the assessment is terminated.

For the rest of the life of the bill—1988-1990—the Secretary is required to reduce the support price level by 50 cents per hundredweight if CCC purchases are projected to exceed 5 billion pounds. If CCC purchases are projected to be less than 2.5 billion pounds, the Secretary must raise the price support 50 cents per hundredweight.

Differentials used in setting minimum fluid milk prices in some marketing orders would be increased.

SOYBEANS

The bill continues the basic price support loan rate through 1986 and 1987 at the current minimum rate of $5.02 a bushel. For the next three years, rates would be based on an average market price formula with reductions limited to no more than 5 percent a year and with a floor of $4.50 per bushel. In all of the 5 years, the Secretary would have authority to reduce loan levels by an additional 5 percent if necessary to keep the crop competitive in world markets. The Secretary would also have discretionary power to allow repayment of loans under a "marketing loan" system.

SUGAR AND WOOL

The bill also generally extends current programs. The wool price support formula would be frozen for the life of the bill.

The sugar price support is maintained for the life of the bill at 18 cents per pound.

1986 import quotas, scheduled to expire September 30, would be extended for at least 3 months.

Beginning with the next quota year, the Secretary would be directed to operate the sugar program with quota levels which avoid any cost to the government. Also, beginning in the 1987 quota year, no import quotas can be given to a country that is a net importer of sugar unless the country can verify that it does not import any sugar produced in Cuba.

PEANUTS

The peanut program would be continued without major changes. Supports for peanuts grown within a domestic (food and seed) quota in 1986 would be set at the 1985 level plus any increase in the cost of production; for 1987 and thereafter for the life of the bill, such support levels would be adjusted to reflect increases in the cost of production, but not by more than 6 percent annually, and access to quota sales at the domestic support level would be broadened by sharing any growth in the quota between old and new growers. The bill sets a floor of 1.1 million tons (the statutory 1985 level) under the annual domestic peanut quota for the next 5 years, but provides the quota can increase if actual domestic needs grow.

HONEY

The price support would be reduced from the present level of 65 cents a pound to 64 cents for 1986 and 63 cents for 1987. In the following 3 years the Secretary would be authorized to provide reductions of up to 5 percent annually and to implement a marketing loan.

PAYMENT LIMITATIONS AND GENERAL COMMODITY PROVISIONS

The bill continues the present $50,000 annual per producer ceiling for program payments. Exempt from the ceiling would be: (1) target price payments required to offset support loan cuts below basic loan levels, (2) payments made under several program cost-reduction items which the bill provides for discretionary use by the Secretary, and (3) any gains farmers realize when paying off support loans at less than the initial loan level.

A $100,000 ceiling would be placed on disaster payments to producers of grains, cotton, and rice and similar disaster payments are authorized for the 1985-90 crops of soybeans, sugar beets, sugarcane and peanuts.

Advance deficiency payments would be required for the 1986 crops of wheat, feed grains, cotton, and rice, and would be discretionary in future years for the life of the bill. The Secretary also would be given authority to make up to 5 percent of the total deficiency payment with surplus commodities.

New provisions for determining crop and total farm acreage bases are included, along with revisions in the farmer-owned grain reserve program, putting new limits on the program.

Also for the program using target price, the Secretary would have the discretion to make payments to producers who are eligible for loan and target price payments but agree to forgo those benefits.

A beef promotion board is established to administer a beef promotion program. The program will be funded by a $1 per head checkoff at the point of sale, including imported beef. A credit of up to 50 cents per head is provided for assessments paid to State beef councils. Provision is also made for refunds to producers and importers. The program will begin as soon as practicable, and a referendum of beef producers must be held within 22 months of the beginning of the program.

A similar pork promotion board is established to operate a pork promotion program, funded by a ¼ of 1 percent checkoff of the sales price of swine and imported pork products. The checkoff is refundable at the request of the producer until a referendum is approved by pork producers. A referendum must be held within 24 to 30 months of date of enactment of the bill.

EXPORT TITLE

Requires the Secretary to offer surplus commodities owned by the Agriculture Department to exporters, processors or foreign buyers to encourage the development and expansion of overseas markets for American crops including processed farm products. The Secretary would be directed to use $2 billion worth of commodities for the program over the next 3 years to counter unfair foreign trade practices and generally to make American products more competitive, and at least 15 percent of the program could to be devoted to exports of poultry, meat and meat products. To the extent practical, the Secretary must use the commodities in equal amounts in each of the 3 years.

Requires the Secretary of Agriculture to make available not less than $5 billion annually in short-term export credit guarantees for the life of the bill where such guarantees would improve the competitive position of American exports.

The Secretary is required to make not less than $325 million available annually in FY 86-88 in cash or in surplus commodities for direct export credits to counter the subsidies, import quotas or unfair trade practices of foreign countries. (The direct credits, whether in cash or in kind, could be used in so-called "blended credit" export programs.)

Broadens the purposes for which an existing intermediate (3-to-10-year) export credit program can be used and directs the Secretary to make available intermediate loan guarantees of at least $500 million a year through 1988, with a ceiling in fiscal 1989 of $1 billion. A previously-authorized export credit revolving fund is reauthorized under the bill. Also, the Agriculture Department would be directed to operate a pilot test of barter programs with at least 2 countries to acquire strategic or other materials for which there are unmet national stockpile goals.

Requires the President to designate a Special Assistant for Agriculture Trade and Aid to improve coordination of federal agency programs in overseas food assistance.

Extends the Food for Peace program and provides that at least 75 percent of the foods shipped under the donation phase of the program must be in the form of processed, fortifies or bagged products. For fiscal 1986, shipments under the donation phase would be maintained at the 1985 level of 1.8 million tons. The bill also authorizes expanded operations under a related program which provides surplus commodities for needy people abroad and it provides that not less than one-tenth of 1 percent of Food for Peace (P.L. 480) funds for fiscal 1986 and 1987 must be used for a farmer-to-farmer technical assistance program.

Authorizes the President to donate up to at least 75,000 and up to 500,000 metric tons of eligible section 416 of P.L. 480 commodities, or any combination thereof, in each of the fiscal years 1989-90 under a new Food for Progress program to promote private free enterprise policy and development. At least 75,000 tons of such commodities must be from section 416. In return for the commodities, the recipient country must promote economic freedom in the production of food for domestic consumption and must be able to use the donated commodities without disrupting its own agricultural markets.

A section on cargo preference regulations states that commodities exported under Public Law 480 (Food for Peace) and two other donation programs will be subject to a cargo preference floor starting at 60 percent in calendar 1986 and rising to 75 percent in 1988 and thereafter (in place of the current 50 percent). The bill provides that additional funds needed for these increases would come from the Department of Transportation and it exempts from cargo preference a number of commercial-style export and export credit programs operated by the Agriculture Department including blended credit programs. If the Transportation Department is not able to provide the needed funds, the new provisions would be shelved and existing law would come back into effect.

The bill requires the Secretary of Agriculture and the U.S. Trade Representatives to pursue agricultural trade consultations with major producing countries. Trade-related studies required by the bill include one to determine the impact on U.S. agriculture of Brazilian ethanol and another on specific unfair trade practices by foreign countries which affect American exports.

CONSERVATION

For highly erodible land which has not been cultivated since 1980, the bill provides a "sodbuster" program to discourage plowing up fragile soils. If a farmer planted a crop on fragile land in violation of the terms of the bill, he would lose price supports and other farm benefits for all of his crops in the year of the violation. Highly erodible land which was used for crops (or idled under a government acreage control program) between 1981 and 1985 would initially be exempt from the sodbuster penalties, but this "grandfather clause" exemption would disappear for any affected producer who fails to begin applying a conservation plan by 1990 or 2 years after completion of a soil survey of his land, whichever is later. Producers would have until 1995 to complete application of the conservation plan. A companion "swampbuster" provision would deny farm benefits to producers who convert wetlands to crop use in the future except in cases where the impact of the action is found to be minimal.

For highly erodible soils which are already in crop use, the bill provides a long-term Conservation Reserve program under which farmers would contract for periods of 10 to 15 years to return 40 to 45 million of such acres to less-intensive uses such as grass or trees, which in some cases may be used to establish shelterbelts. In return for compliance with the contracts, growers would get cash or "in kind" land rental payments (established on a bid basis) plus payments covering a part of the cost of needed land treatment measures. No more than 25 percent of the land in any county could be enrolled in the Reserve except in counties where the Secretary of Agriculture decides that higher levels would not hurt the county economy. There would be a $50,000 limit on annual payments to farmers under Reserve contracts.

The bill extends the Resources Conservation Act, requiring the Agriculture Department to produce assessments of soil and water resources in 1995 and again in 2005. A further section permits governors of states which have state laws to protect farmland from urban development to file suits in cases where the federal government has not followed procedures of a federal farmland protection law. (The federal law requires, among other points, that government agencies must consider alternatives before taking actions which result in shifting farmland to nonfarm use.)

The bill requires the Secretary of Agriculture to formulate plans and give technical assistance to property owners, state and local agencies, and interstate river basin commissions to protect the quality and quantity of subsurface water, reduce flooding hazards, and control salinity. The Secretary must report to Congress on this matter by February 15, 1987.

CREDIT AND RURAL DEVELOPMENT

The bill reauthorizes and in some cases revises federal farm credit and rural development programs. It requires the Secretary, through September of 1988, to operate a $490 million program under which the Agriculture Department and private lenders would share equally in the cost of reduction in interest rates for hard-pressed farmers who hold loans guaranteed by the Farmers Home Administration. The government could pay for 2 percent of the "buy-down," or one-half of the total, whichever was less.

The bill includes discretionary authority for a program of planting-season advance commodity loans to farmers beginning in 1986.

Authorization ceiling include annual caps for the 1986 through 1988 fiscal years of $3.48 billion for Farmers Home Administration farm operating loans with a phased shift from an equal division between direct and guaranteed loans to a third-year division of $870 million for direct and $2.610 billion for guaranteed loans.

For farm ownership loans, the bill authorizes $520 annually, beginning with an equal diversion between direct and guaranteed loans and ending with a third-year diversion of $130 million direct and $390 million in guarantees. (The Secretary is authorized to transfer up to 25 percent of each year's guarantee allocation into direct loans.)

For emergency disaster loans there would be ceilings of $1.3 billion in fiscal year 1986, $700 million in 1987 and $600 million in 1988. Under new changes contained in the bill, such disaster loans would no longer be available to those who can get credit elsewhere or beginning in 1987, to those who chose not to purchase crop insurance if it were available. In addition, FmHA disaster loans would now be restricted to not larger than family size farm operators.

For rural development programs, the bill authorizes $340 million annually for 3 years in direct water and waste disposal loans and $250 million annually in guaranteed industrial development loans plus $115 million in direct community facility loans. The bill also provides a new method of determining eligibility for water and sewer loans and grants based on community income and health and sanitary conditions.

A "clear title" provision in the bill is designed to protect buyers of farm products from challenges to the title to their purchases while still allowing lenders to protect their liens on farm products. States would be given 12 months to set up central registry systems for recording farm product liens, if they wish to do so.

Also, the Agriculture Department would be ordered to observe a number of new restrictions on the way it handles farmland acquired by the government in future foreclosures of FmHA loans. Among other provisions, USDA would be forbidden to sell such land if the sales would depress local farmland values, and first priority in any sales or leases would have to be given to operators of farms which are not larger than family size. In leases, the bill calls for giving priority to former owners of the land and sales prices must reflect the probable income the land can produce. Where FmHA-owned land is administered under management contracts, contracts must be let under competitive bids with preference to local small businessmen, and the use of conservation practices may be required on land which has been classed as highly erodible as a condition of sale or lease.

The bill allows the Secretary to acquire from FmHA borrowers who cannot repay their loans on conservation, recreational or wildlife easements on land which has been in crops but is classed as wetland, upland, or highly erodible. In return, the Secretary could cancel part of the borrower's debt.

The Secretary would be given discretion to make loans to distressed FmHA borrowers who plant timber crops on marginal farmland which is security for their existing loans. The new credit, which would reamortize the old loans and would be limited to an overall total of 50,000 acres, would be repayable when the timber produces revenue or within 45 years.

The category of those eligible to borrow from cooperative banks of the Farm Credit System is expanded to include all rural utilities eligible to borrow from the Rural Electrification Administration.

The bill requires a study of procedures used by FmHA for farmer appeals when loan applications are rejected, and a further provision creates a new, speedier appeals system using informal meetings. Other amendments require FmHA to process loan applications within 60 days, to provide funds on approved loans within 15 days, and to continue the agency's small farmer training and technical assistance program.

RESEARCH

The bill authorizes a 3-year program of special grants for educational and counseling programs to develop income alternatives for producers who have been forced out of farming by economic stress. It also directs the Secretary of Agriculture to develop "appropriate controls" on the development and use of biotechology in agriculture.

The bill also includes a provision urging USDA to emphasize, in its research and teaching programs, new technology suitable for small- and moderate-sized farms. The Secretary of Agriculture would be directed to report on the feasibility of more complete studies of the relationship between diet and blood cholesterol in humans, and dietary calcium and its importance in human health and nutrition. The bill allows the Secretary to make cooperative, cost-sharing agreements with private agencies, organizations or individuals to develop new agricultural technology, authorizes research on new uses for farm and forest products, and directs the Secretary to conduct demonstration projects on the development or commercialization of crops that would supply strategic industrial products.

Federal agricultural research funding authorizations would be extended through 1990 with fiscal 1986 ceilings including $600 million for federal activities, $270 million for contributions to cooperative research in state experiment stations and $370 million for contributions to cooperative extension programs in states (with $10-$20 million annual increases in following years for the three programs), and $7.5 million annually for aquaculture research.

The bill authorizes competitive research grants at a level of $70 million for the period covered by the bill and for grants and fellowships for food and agricultural sciences education at an annual level of $50 million. It authorizes the Research Facilities Act for the period covered by the bill at a level of $20 million with a federal-state matching provision for facilities at state cooperative institutions. It reauthorizes the animal health and disease research advisory board and an authorization level of $25 million. It also authorizes permanent extension funding for the 1890 institutions and $10 million annually for 5 years for extension facilities. The bill establishes a new program of agricultural productivity research with demonstration projects to be conducted for a term of at least 5 years and to the extent practicable 12 to 15 years.

FOOD ASSISTANCE

The food program section of the bill extends the Food Stamp program for 5 years, improves some program benefits, and requires all states to set up special employment and training programs to help move jobless stamp recipients onto payrolls. The bill also extends for 2 years, through fiscal 1987, the Temporary Emergency Food Assistance Program authorizing distribution of government surplus foods to the needy.

Among the food stamp changes adopted were an increase in work incentives by revising the "earned income" deduction used in calculating stamp benefits; changes in assets limitations to make the program more accessible to working poor households; an increase in the excess shelter cost deduction to the Food Stamp Program operations; and action to strengthen program accountability and management.

Other food assistance provisions in the bill would extend the Commodity Supplemental Food Program for women and young children for 5 years and broaden the program to serve elderly persons in cases where this would not deny benefits to women and children. The bill also would authorize increased nutrition education for low-income people and strengthen current efforts to monitor nutrition of low-income people.

OTHER PROVISIONS

The bill provides that in order to prevent damage to older gasoline engines used on many farms, the Environmental Protection Agency must not reduce the lead limit in gasoline to below 0.1 gram per gallon until Jan. 1, 1988. In the interim, the Agriculture Department and EPA would make a study of the need for lead in engines, completing the study by Jan. 1, 1987 and reporting within 6 months on whether it would be appropriate to modify the general lead-limit rules in the case of gasoline used for farming purposes.

Another provision bans imports of Fluecured or Burley tobacco which does not pass U.S. pesticide residue tests applying to American-grown tobacco. Also, the bill directs the Agriculture Department to continue a program of random checks to determine if imported Canadian potatoes meet U.S. standards.

A ban for a total for 5 years is placed on price supports and certain other farm benefits for persons convicted of growing or storing "controlled substance" drugs; requires tobacco importers, in addition to reporting the country of origin of the project, to also identify the intended U.S. purchaser; authorizes watermelon producers to adopt a checkoff program to finance research and promotion; and directs the Secretary to conduct a pilot project under which wheat, cotton, feed grain and soybean growers in at least 40 counties would test a program of using futures or options markets to protect their incomes (with participating producers assured by the USDA that their returns could not fall below support loan levels).

An animal welfare title revises standards for the humane handling of animals by research facilities, dealers and exhibitors. It directs the Secretary to develop standards with minimum requirements in areas including housing, feeding, shelter, veterinary care and experimental procedures that minimize pain and distress.

Changes would be made in the federal Virus-Serum-Toxin Act, a law which regulates veterinary biologics, to give the Agriculture Department control over intrastate as well as interstate sales, but would allow states which have effective regulatory systems to retain them. Intrastate producers would be given up to 4 years to comply with Federal regulations.

Other provisions in the bill: require the Secretary to give 60 days notice to the Senate and House agriculture committees before he acts to terminate marketing orders for non-price supported crops; require the Secretary to designate 3 administrative areas for the selection of community Agricultural Stabilization Committees in all counties with some exceptions such as in counties with less than 150 farmers, in which case only a single area is required; and require the Secretary to control grasshoppers and Mormon crickets on federal rangeland.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I would like to ask the majority leader about the program for the rest of the evening, whether there will be rollcall votes, how late we may be in this evening, and what is the prospect for sine die tomorrow?

Mr. DOLE. Mr. President, I thank the distinguished minority leader.

I am advised that the House will not take up the continuing resolution until 11 a.m. on tomorrow, which means that we cannot adjourn sine die tonight. I am also advised that at this very moment the House is sending to us an extension on 13 expiring items that must be acted on tonight: Extension of R&D targeted jobs credit as in the tax reform bill, moratorium on IRS and R&D regs as in the tax reform bill, educational assistance, prepaid legal, architectural barriers, net operating loss moratorium attorney fees, energy credits to the extended tax reform, factory housing, sugar and excise tax, taxi cab fuel extension, spouses of Vietnam MIA's.

These are on the Ways and Means extender bill through March 15 of next year.

I do not see the distinguished chairman of the Finance Committee.

Mr. METZENBAUM. Mr. President, will the distinguished majority leader yield for a question?

Mr. DOLE. I yield.

Mr. METZENBAUM. What is the moratorium that the majority leader is talking about? Is it on some regulations of IRS? I understood this was a tax extender bill. But I did not know we were putting in a moratorium on the IRS.

Mr. DOLE. No. I qualified that. That was a moratorium on IRS and R&D regs as in the tax reform bill passed by the House last evening.

I do not know if anyone here wants a rollcall on this package. If we can have the assurance there will be no rollcall, but we have to pass it by midnight. Some of these provisions expire.

I would not want to indicate there would be no more rollcall votes, and someone jump up and either demand a rollcall or offer some amendment which we had to dispose of.

There are a number of Members on the floor. If no one seeks a rollcall, I think we can assure Members we might not do that.

Mr. BYRD. Mr. President, has the distinguished majority leader completed the list of extension?

Mr. DOLE. Yes. There are 13 of them.

Mr. BYRD. What date or dates would they be?

Mr. DOLE. Through March 15, 1986.

Mr. BYRD. Is this the only possibility or likelihood of a rollcall vote tonight, may I ask?

Mr. DOLE. That is correct.

Mr. BYRD. If no one indicates a desire to have a rollcall vote on the extensions, then I would take it that, if the majority leader agrees, there will be no more rollcall votes tonight.

Mr. DOLE. Mr. President, I am prepared to announce that there will be no other matters that require a rollcall vote.

The distinguished minority leader has the floor. I wonder if he might yield to the distinguished chairman of the Appropriations Committee to get some indication of what will happen in the timeframe on the Senate side on CR.

Mr. BYRD. I am happy to yield.

Mr. HATFIELD. Mr. President, the reconstituted conference committee has completed all of the items on our agenda with the exception of the Defense Subcommittee. That is pretty well narrowed down to the question of chemical weapons.

I would anticipate that we will complete work, and I have been in touch with the administration. Under a certain set of guidelines they will sign off on this CR, and will support it in both the House and the Senate.

We have not yet met those guidelines. We are in the process, and I anticipate that we will meet them before we complete our work, probably within about 1 hour.

Mr. BYRD. I thank the distinguished chairman of the Appropriations Committee, and the CR conference on this.

Mr. President, I have one more question of the majority leader.

Beyond the CR conference report, does the distinguished majority leader anticipate that the Senate will be in session beyond that, or do we expect to complete the conference on the reconciliation bill?

Mr. DOLE. The reconciliation bill is still hopefully a live possibility. They are down to two subconferences: one on Banking, and one involving Finance and the Ways and Means Committee. There is some hope that the Banking matter can be resolved. We hope it can be resolved.

Then as I understand, according to the chairman of the Finance Committee, there is just one outstanding issue

involving Ways and Means and Finance. That is Superfund, and how it should be paid for—whether it should be a new tax. I do not know what it is called. But it is a value-added tax. We hope that is a possibility tomorrow.

Mr. BENTSEN. Mr. President, will the majority leader yield?

Mr. BYRD. Mr. President, I yield the floor.

I thank the majority leader.

Mr. BENTSEN. Mr. President, I think we have two issues still outstanding. I believe we have two issues left between Ways and Means and Finance. One of them is the Superfund and the other is the extension regarding Social Security.

Mr. DOLE. Mr. President, the chairman of the Finance Committee earlier indicated that there had been a reluctance on the part of the House conferees to meet. So it is fairly difficult to work out any agreement that they can meet. I will announce there will be no more votes this evening.

Mr. DANFORTH. Mr. President, before the leader does that, I wonder if I can ask a question. I am sorry. I was in the cloakroom when the majority leader discussed the program for the rest of the evening.

But as I understand it, one of the suggestions was to take up a bill which I think has been passed by the House extending certain provisions of the Internal Revenue Code which would otherwise expire.

My understanding is that the House bill extends 13 provisions of the Internal Revenue Code. But what the House does in some of those programs is amend the underlying program. Therefore, what they are asking us to do is not only extend the programs as is but to change the programs really on faith without any input at all from the Senate.

Some of us have been considering—and, in fact, Senator BENTSEN and I and others with 68 cosponsors have introduced a bill which is a straight extension of these provisions without any action to modify them in the last day or so of the Congress.

It is my hope that the Senate can agree to take up the House bill, and to amend it to provide for a straight extension. If we can do that, that may or may not require a rollcall depending on the sense of the Senate. But I would like to at least hold open the possibility for that kind of amendment on the floor tonight, if that is one of the bills that will be brought up.

Mr. BENTSEN. Mr. President, if I may strongly urge that we follow the suggestion of Senator DANFORTH in that regard because we do not know how this will modify particular underlying legislation, nor what the extension will affect. We would be continuing the status quo under the bill that we talked about with the cosponsors. We would leave it to the appropriate committee over here to study the underlying legislation to make the proper decision.

Mr. DOLE. Mr. President, I think it is fair to say that we better be prepared to hang around here for a while. What they have done on the House side is to send us extensions. In four cases, it is a change in current law because they have extended as they have it in the tax reform bill passed last night by the House, on R&D credits, targeted jobs credits, the moratorium and energy credits. That could lead to a nice debate on those items and maybe some more that we have not thought of.

I suggest the absence of a quorum.

Mr. CRANSTON. Will the Senator withhold for one question on another topic? I know the Senator cannot predict the schedule with accuracy, but what is the earliest time we might get to the continuing resolution tomorrow?

I just asked another question on the schedule. What is the earliest time we might get to the continuing resolution tomorrow.

Mr. HATFIELD. Mr. President, assuming the fact that we expect to complete the continuing resolution tonight, there will be about a 3-hour requirement to put the paperwork together, which would indicate then that, according to my information, the House will come in at 10 and go to the Rules Committee to seek a rule. Normally, they try to put a time limit on that consideration of a resolution of about an hour. They did it the last time. That would mean, then, that the House conceivably could finish up with the continuing resolution by, say, 1 o'clock and send it over here. We could conceivably have it ready for consideration on the floor between 2 and 3 o'clock. I would say that is a fairly liberal exercise of the time scenario. They could conceivably get it over here by 1 o'clock.

Mr. CRANSTON. The House automatically takes it up first?

Mr. HATFIELD. The House will take it up first.

Mr. CRANSTON. I thank the Senator.

Mr. BUMPERS. Will the majority leader yield?

Mr. DOLE. Yes.

Mr. BUMPERS. As I understand, we are taking up the House bill on these extensions. I would like to ask the manager of the bill, if he is around, under current law——

Mr. DOLE. The manager of the bill is not here.

Mr. BUMPERS. Maybe the staff would know the answer to the question. Under current law, judges who are on senior status are not required to pay Social Security, the reason being that they take senior status and they take retirement and then if they carry a caseload, they are required to pay Social Security. So it is to their advantage not to carry a caseload if they have to pay Social Security. So we have exempted them. That is one of the items that is coming to an end. That exemption is in the Senate bill but I wonder if it is in the House bill. If it is not, I might want to offer an amendment on that.

Mr. DOLE. I do not see it listed. That is not one of them. I would hope if there are going to be amendments, that we do not wait until 2 a.m. to draft amendments on this bill.

Mr. EXON. Will the majority leader yield for a question?

Mr. DOLE. I yield.

Mr. EXON. I would like to ask the majority leader so we might plan ahead, is there any possibility that we could get agreement that we would be out of here by 6 o'clock on Christmas Eve and not meet until 2 p.m. on Christmas day, if that becomes necessary?

Mr. DOLE. I hoped we might be out this evening. Obviously, that is not going to happen. Again, I could see us here even through Friday but I cannot think of anything that would keep us here longer.

Mr. EXON. Actually, on planning ahead, is there a possibility that we might possibly conclude our activities by tomorrow night sometime or is that not a safe assumption?

Mr. DOLE. I have just been advised by Senator STEVENS, who is a member on Defense, that they have not reached agreement yet on Defense, though I assume they will stay in conference tonight until there is either agreement or total disagreement. If there is disagreement we will get an extension with some CR, I guess, up through next January. I guess the big question that I cannot answer is what happens to reconciliation. If we do not do the CR until 3 o'clock, and I do not know when we will do reconciliation, we may have a very late night tomorrow night and hopefully that might end it.

Mr. EXON. As I understand it right now, there is still a possibility of rollcall votes tonight.

Mr. DOLE. A possibility of rollcall votes tonight, I am sorry to say, yes.

Mr. EXON. I thank the majority leader.

The PRESIDING OFFICER (Mr. COCHRAN). Does any Senator seek recognition?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, we have some business to perform. I have conferred with the Democratic leader and I now present various matters to the Chamber.

FEDERAL DEBT COLLECTION

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1890.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 4, 5, 6, 8, 9, and 11 to the bill (H.R. 1890) entitled "An Act to provide for an equitable waiver in the compromise and collection of Federal claims.".

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill, with the following amendment:

In lieu of the matter stricken and inserted by said amendment, strike out [made on or after January 1, 1985].

Resolved, That the House agree to the amendment of the Senate numbered 7 to the aforesaid bill, with the following amendment:

In lieu of the matter stricken and inserted by said amendment, strike out [made on or after January 1, 1985].

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill, with the following amendment:

In lieu of the matter stricken and inserted by said amendment, strike out [made on or after January 1, 1985], and on page 4, after line 17 of the House engrossed bill, insert:

SEC. 4. EFFECTIVE DATE.

The amendments made by section 1 of this Act shall apply to any claim arising out of an erroneous payment of travel, transportation, or relocation expenses and allowances made on or after the date of the enactment of this Act. The amendments made by section 2 and 3 of this Act shall apply to any claim arising out of an erroneous payment of travel and transportation allowances made on or after the date of the enactment of this Act.

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments to Senate amendments numbered 3, 7, and 10.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLMENT CORRECTION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to consideration of House Concurrent Resolution 262, to correct the enrollment of the Compact of Free Association.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will state the resolution by title.

The legislative clerk read as follows:

A house concurrent resolution (H. Con. Res. 262) correcting the enrollment H.J. Res. 187.

The resolution (H. Con. Res. 262) was considered and agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF THE PERIOD COMMENCING JANUARY 1, 1986, AND ENDING DECEMBER 31, 1986, AS THE "CENTENNIAL YEAR OF THE GASOLINE POWERED AUTOMOBILE"

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 231, designating the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile," and I ask for its immediate consideration.

I ask for its immediate consideration.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 231) to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile".

Mr. PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

The resolution (S.J. Res. 231) was considered, ordered to a third reading, read the third time, and passed, as follows:

The preamble was agreed to.

The joint resolution with its preamble is as follows:

S.J. RES. 231

Whereas the first motor vehicle powered by an internal combustion engine was invented in 1886;

Whereas such vehicle was the forerunner of the present automobile and there are more than one hundred twenty-four million automobiles registered in the United States;

Whereas one in five jobs in the Nation are dependent directly or indirectly on the automobile industry;

Whereas the automobile has been associated with tremendous changes in society in the one hundred years since its invention; and

Whereas the automobile has enhanced communication, travel and has brought mobility to all people in the Nation; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing January 1, 1986, and ending December 31, 1986, is designated as the "Centennial Year of the Gasoline Powered Automobile" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies and activities.

Mr. SIMPSON. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. RIEGLE. Mr. President, I am pleased that the Senate has been able to approve Senate Joint Resolution 231 prior to adjournment. This resolution will designate 1986 as the centennial year of the gasoline powered automobile. The automobile has had a great impact on our world, and it is fitting that we recognize the role that it has played during the past 100 years.

By taking this action today, and obtaining speedy House action, many organizations ranging from the UAW to automobile dealers and manufacturers will be organizing events and raising public awareness of the automobile. I thank Senator THURMOND for his assistance in allowing me to bring this resolution before the Senate today, and also for cosponsoring this bill along with 37 other Senators.●

AMENDMENT OF TITLE 10, U.S. CODE

Mr. SIMPSON. I ask unanimous consent that the Senate turn to consideration of H.R. 3974, the House companion to S. 1956.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the bill.

The legislative clerk read as follows:

A bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to two months housing allowance.

AMENDMENT NO. 1428

Mr. SIMPSON. Mr. President, I send an amendment in the nature of a substitute to the desk on behalf of Senator THURMOND.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. THURMOND, proposes an amendment numbered 1428.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 90 days.".

"(2) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date, or whose dependents violate such housing sooner than 90 days after the date of the members death. The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate 90 days after the date of the member's death.".

SEC. 2. The amendments made by section 1 of this Act shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.

SEC. 3. SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.—Section 401(c) of Public Law 99-166 is amended to read as follows:

"(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on January 1, 1986.

"(2) The amendment made by subsection (a)(1)(A) shall be deemed to have taken effect on December 12, 1985, with respect to members who—

"(A) died after December 11, 1985, and before January 1, 1986; and

"(B) were, on the date of death, insured in the amount of $35,000 under subchapter III of chapter 19 of title 38, United States Code.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1428) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3974), as amended, was passed.

The title was amended so as to read:

"To provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

ASSISTANCE FOR THE REPUBLIC OF LIBERIA

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to calendar item No. 476 (S. Res. 271), dealing with Liberia.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 271) expressing the sense of the Senate regarding the furnishing of assistance for the Republic of Liberia, and for other purposes.

The Senate proceeded to consider the resolution.

U.S. POLICY TOWARD LIBERIA

Mr. DODD. Mr. President, I rise in strong support of the resolution regarding U.S. policy toward the Republic of Liberia.

On December 10, the Foreign Relations Committee Subcommittee on African Affairs, chaired by my distinguished colleague from Kansas, Senator KASSEBAUM, held a hearing on U.S. policy toward Liberia. Hope is disintegrating for a return to civilian rule by free elections in Liberia, and much of that hearing focused on the U.S. Aid Program to Liberia, in light of events.

Since 1981, the United States has provided Liberia with $375 million in economic and military aid, based on the Government of Liberia's commitment to free and fair elections. Let me just read to my colleagues section 807 of the International Security and Development Cooperation Act of 1985:

In recognition of the special relationship that the United States has with Liberia and of the wide variety of interests that the United States has in Liberia, security assistance for fiscal years 1986 and 1987 is based on the expectation of a successful completion of free and fair elections, on a multiparty basis, in October 1985 as proposed by the Government of Liberia and on a return to full civilian, constitutional rule as a consequence of those elections.

In case there may be any lingering doubts among my colleagues that the government of Samuel K. Doe has failed to meet those requirements, the basic facts about the tragedy that is now occurring in Liberia will dispel them.

When the Doe regime seized power in 1980, there seemed some grounds to hope that power would be shared more equitably in Liberia, that the native African majority might gain a fair share in the Government with the descendants of freed American slaves. Then sergeant, now Major General Doe, the leader of the coup, promised a return to civilian rule. The Doe regime promised free and fair elections. Those promises have been broken and those hopes have been dashed. Look at what has happened.

On September 13, 1985, for example, Ellen-Johnson Sirleaf, one of the Doe regime's prinicipal opponents, was convicted of sedition. Mrs. Johnson-Sirleaf's crime was to give a speech in the United States opposing the economic policies of the Doe regime, as an economist, the Nairobi representative of Citibank, Mrs. Johnson-Sirleaf's opinions on the economic mismanagement of her native land are worth hearing. But the Liberian people did not have the chance. Her Liberal Action Party, and the primary opposition group, the United People's Party, were barred from the elections.

On October 15, the already tained elections were held. And on October 29, the predictable results were announced—a victory, albeit a narrow one, for Samuel K. Doe. Topping the long list of election irreguarities witnessed by opposition figures and Western reporters was a large pile of ballots that were burned outside of the Liberian capital.

In light of Liberia's economic woes, compounded by these political troubles, it is not surprising that a coup was attempted on November 12. It failed, but let no one suspect that failure augers well for Liberia's future.

In response to the coup, Liberian soldiers went on what can only be described as a rampage. There were summary executions, a diplomatic crisis with neighboring Sierra Leone, and arrests of leading opposition figures on trumped-up charges of participating in the coup. According to one observer on the scene, the Government did not have its soldiers under control after the coup attempt. As reported in the Washington Post, this businessman said: "The soliders are just arresting anyone who they think might be a threat."

So at the risk of appearing balanced and consistent—something maybe we ought to try more often around here—it seems to me that the Government of Liberia deserves no better treatment from the United States than does the Government of South Africa.

We know what the Government of Pretoria is, and what it has done to its people. It is a totalitarian regime and it is brutal. Regrettably, the Government in Monrovia also shows signs of totalitarianism. And it also brutalizes its people.

So the credibility of our policy requires that we apply the same rules

and the same standards to both situations. We can be no more concerned about the political prisoners, the political killings and political injustice in South Africa than we are about the political prisoners, the political killings and the political injustice in Liberia.

Liberia is the highest per capita recipient of U.S. foreign aid in Africa. U.S. aid to Liberia has increased sixfold since the Doe regime took power. I think the record shows that to be a very poor investment, indeed.

This Congress has conditioned further U.S. aid on free and fair elections, and on a return to civilian government. The evidence shows that warning has been disregarded. That disregard must now have its consequences.

We should not turn our backs on the people of Liberia, with whom the United States has had a long and unique relationship, but we should have as little as possible to do with the Doe regime.

This resolution asserts that the October elections do not meet the requirements this Congress set for U.S. aid to Liberia. It calls on the President to channel future economic aid to Liberia through nongovernmental channels. And it calls on the President to suspend all military aid to Liberia until the Doe regime's political prisoners are released, and real steps are taken toward free and fair elections and a return to civilian rule. I think that is the only prudent course for U.S. policy toward Liberia at this time, and I urge my colleagues to pass this resolution unanimously.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 271) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 271

Whereas the Republic of Liberia and the United States are bound by ties of mutual respect and friendship;

Whereas the Government of Liberia has undertaken since 1981 to restore civilian rule and establish a genuinely democratic government which will provide all citizens with an equal voice in the goverance of their country;

Whereas the Goverment of Liberia made a public commitment to hold a free and fair election in 1985 and to install a civilian government based on the results of that election by 1986;

Whereas the United States has provided the Republic of Liberia with $375,000,000 in economic and military assistance since 1981 on the basis of the Government of Liberia's commitment to hold free and fair elections;

Whereas the election that took place in the Republic of Liberia on October 15, 1985, has been characterized by improprieties, including the denial of the right to participate by significant opposition parties and candidates and restrictions on the freedom to campaign;

Whereas the results of the election, as announced on October 29, 1985, giving 50.9 percent of the vote to General Doe, were tallied in secret by an ad hoc committee appointed by the military government after an earlier tabulation in the presence of opposition party representatives gave the election to another candidate;

Whereas several political leaders have been arrested and held in detention without charge, allegedly on the grounds that they participated in the attempted coup d'etat of November 14, 1985;

Whereas the Congress, in the International Security and Development Cooperation Act of 1985, expressed the need for free elections in the Republic of Liberia; and

Whereas it is the desire of the Congress that the people of Liberia enjoy the full fruits of democracy as well as the respect of the international community: *Now, therefore, be it resolved,* That (e) it is the sense of the Senate that—

(1) the October 15, 1985, election and vote tally in the Republic of Liberia do not meet the requirements of section 807 of the International Security and Development Cooperation Act of 1985;

(2) the President should channel, to the maximum extent possible, future economic assistance to the Republic of Liberia through nongovernmental organizations; and

(3) the President should suspend military assistance to the Republic of Liberia until the Government of Liberia has released all political prisoners, provided for free and fair elections, and established a civilian government chosen through such election.

(b) The Senate hereby expresses to the people of Liberia the friendship of the people of the United States and the earnest desire of the people of the United States for the establishment of a genuine democracy in Liberia.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

EXTENSION FOR SUBMISSION OF U.S. SENTENCING COMMISSION GUIDELINES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to H.R. 3837 dealing with the United States Sentencing Commission.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3837) to extend the deadline for submission of the initial set of sentencing guidelines by the United States Sentencing Commission, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3837) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on he table was agreed to.

JAMES A. WALSH UNITED STATES COURTHOUSE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to calendar item No. 489, H.R. 2698, the James A. Walsh U.S. Courthouse.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2698) to designate the United States courthouse in Tuscon, Arizona as the James A. Walsh United States Courthouse.

the Senate proceeded to consider the bill.

Mr. DECONCINI. Mr. President, the bill presently before the Senate, H.R. 2698, honors an individual who has served nearly 50 years as a distinguished member of the legal profession in Arizona, Judge James A. Walsh. H.R. 2698, sponsored by my friend and distinguished colleague in the House, MORRIS K. UDALL, would designate the U.S. Courthouse located at 55 East Broadway in Tucson, AZ, the James A. Walsh United States Courthouse. I can think of no more fitting tribute to a man who has given so much to the Federal judiciary than to, at the very least, name a courthouse in his honor.

Throughout his 50 years of service Judge Walsh has proven himself a master in judicial ingenuity. Judge Walsh was admitted to the Arizona State Bar in 1928. Since that time he continued to serve in various public positions including city attorney of Mesa, administrative assistant to U.S. Senator Ernest McFarland, assistant U.S. attorney, Maricopa County attorney and judge of the superior court in Phoenix. In 1947 Judge Walsh left the bench to join one of Arizona's leading law firms, now known as Snell & Wilmer. In 1951-52, he was chief counsel to the Arizona Code Commision which completely revised the statutory law of Arizona. In 1952 President Harry S. Truman appointed Judge Walsh to the U.S. district court. He served as chief judge from 1961 until 1973. On July 9, 1976 he took senior judge status.

I have known Judge Walsh and his family for many years, and have had the privilege of practicing law before

him. His earnestness and objectivity in performing the duties of his office have gained him the respect of all who have appeared in his court. Many lawyers througout the West have learned from him the high values to be placed on hard work and the respect to be given to the civility with which the work of lawyers and judges should be conducted.

Judge Walsh is recognized as one of the finest judges ever to serve in the Western States. A building named in his honor is a fitting tribute to his lifetime of achievements, both as a public servant and an understanding individual.

Mr. President, I want to take this opportunity to personally express my thanks and appreciation to Mr. STAFFORD, chairman of the Environment and Public Works Committee, and his staff Steve Swain, for their outstanding efforts in moving this bill expeditiously through the committee. Through their assistance, we now have a bill that can be sent to the President before the Congress adjourns. I also want to thank the distinguished ranking minority of the committee, Mr. BENTSEN and his staff for their help.

I urge my colleagues in the Senate to unanimously give their approval to this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2698) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. SIMPSON. Mr. President, I inquire of the minority leader if he is in a position to confirm any or all of the following Executive Calendar nominations.

Mr. BYRD. Mr. President, if the distinguished assistant Republican leader will proceed with the items, I believe I will be able to agree with going forward on them.

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia, the Democratic leader. The items are:

Calendar No. 626, J. H. Tyler McConnell; Calendar No. 627, Robert Setrakian; Calendar No. 628, Gerald Ralph Riso; Calendar No. 629, C. Dale Duvall; Calendar No. 630, Sidney Lovett; Calendar No. 631, John Norton Moore; Calendar No. 632, Richard John Neuhaus; Calendar No. 633, W. Bruce Weinrod; Calendar No. 634, Dennis L. Bark; Calendar No. 635, Evron M. Kirkpatrick; Calendar No. 636, W. Scott Thompson; Calendar No. 637, Allen Weinstein; and Calendar No. 638, William R. Kintner.

Also, all military nominations reported out of the Armed Services Committee today, which include 54 Air Force brigadier generals, 1 Navy vice admiral.

If the Democratic leader has reviewed those items and is in a position to agree, I ask unanimous consent that, as in executive session, the nominations just identified be considered en bloc and confirmed en bloc.

Mr. BYRD. Mr. President, there is no objection on this side to proceeding with the nominations, and there is no objection to considering the aforementioned nominations en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

UNITED STATES POSTAL SERVICE

J. H. Tyler McConnell, of Delaware, to be a member of the Board of Governors of the United States Postal Service for the remainder of the term expiring December 8, 1988.

Robert Setrakian, of California, to be a Member of the Board of Governors of the United States Postal Service for the remainder of the term expiring December 8, 1993.

NEW REPORTS

DEPARTMENT OF THE INTERIOR

Gerald Ralph Riso, of New York, to be an Assistant Secretary of the Interior.

C. Dale Duvall, of Washington, to be Commissioner of Reclamation.

UNITED STATES INSTITUTE OF PEACE

Sidney Lovett, of Connecticut, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 19, 1987. (New Position)

John Norton Moore, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

Richard John Neuhaus, of New York, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 19, 1987. (New Position)

W. Bruce Weinrod, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 19, 1987. (New Position)

Dennis L. Bark, of California, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

Evron M. Kirkpatrick, of Maryland, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

W. Scott Thompson, of New Hampshire, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

Allen Weinstein, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

William R. Kintner, of Pennsylvania, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 19, 1987. (New Position)

AIR FORCE AND NAVY

In the Air Force 54 brigadier generals and 1 Navy vice admiral, reported out of the Armed Services Committee today.

GERALD RALPH RISO

Mr. McCLURE. Mr. President, I support the nomination of Gerald Ralph Riso to be Assistant Secretary of the Interior for Policy, Budget, and Administration. Mr. Riso has complied with all requirements of the Senate and the Committee on Energy and Natural Resources. Mr. Riso appeared before the committee on December 12, 1985, and has fully responded to all questions asked of him by the committee. On Tuesday, December 17, 1985, the committee met in open business session and ordered Mr. Riso's nomination favorably reported to the Senate by a unanimous vote.

The position of Assistant Secretary for PBA is a difficult one, but one for which Mr. Riso is exceptionally well qualified. The Assistant Secretary will be the point man for the Department in the development of the annual budget. He will have responsibility for the coordination of the various missions of the Department within the overall policy guidelines of the Secretary and the parameters set by law. He will be responsible for ensuring that the various agencies have adequate resources to fulfill their mandates and protect and conserve the lands and resources of this Nation. His position is one of support for the other Assistant Secretaries to enable them to achieve their objectives.

Mr. Riso has previously held several senior management positions within the Federal Government. He was Deputy Assistant Secretary for Health and Scientific Affairs at the then Department of Health, Education, and Welfare from 1970 to 1972. He also served as Deputy Commissioner of the Immigration and Naturalization Service within the Department of Justice from 1982 to 1984. He comes to this position well qualified, and I urge my colleagues to support his nomination.

U.S. INSTITUTE OF PEACE

Mr. HATFIELD. Mr. President, the confirmation of the nine nominees for the Board of Directors of the U.S. Institute of Peace represents a landmark. The U.S. Institute of Peace is a dream I've shared with many people for a long time—indeed, a dream as old as our Nation. With the Board in place, this independent and nonprofit

educational Institute can begin to study ways to feed America's hunger for peace.

Many times I have stood before this body to encourage you, my colleagues, to support the Institute of Peace. Today I stand before you to say thank you. The years of hard work by the 45,000 members of the National Peace Academy Campaign, my distinguished colleagues and former colleagues Matthew Neely, Jennings Randolph, Vance Hartke, SPARK MATSUNAGA, ROBERT STAFFORD, and many others have paid off. This payoff will, I am certain, reach every citizen in this country who cares to learn how to wage peace.

The U.S. Institute is a dream which became a reality through necessity. Technological wizardry and international tensions complicate our daily lives. Just as we need to actively provide for our defense, we need to know how to protect peace and how to promote it in other countries. The Institute is designed to provide insight into the techniques required to obtain and maintain peace, and these newly confirmed Board members will have the enviable task of crafting and shaping the project. To them I say congratulations and good luck, and to everyone involved in the U.S. Institute of Peace, I say thanks.

C. DALE DUVALL

Mr. McCLURE. Mr. President, I am pleased to bring before the Senate the nomination of C. Dale Duvall to be the Commissioner of the Bureau of Reclamation. Mr. Duvall has complied with all requirements of the Senate and of the Committee on Energy and Natural Resources. Mr. Duvall appeared before the committee on December 12, 1985, and has fully responded to all questions posed to him by the committee. On December 17, 1985, the committee met in open business session to consider his nomination and unanimously voted to report the nomination to the Senate favorably.

Mr. Duvall is the first Commissioner of the Bureau of Reclamation to require confirmation. He comes from the West and is familiar with the important, and essential, contributions which the Bureau has made to the development of this country. He has an appreciation of the future of the Bureau and the many problems which the Bureau faces. Mr. Duvall has been candid and I look forward to working with him in the future. He does not have an enviable task given the seeming myopia of the Office of Management and Budget. While there will be some shift in emphasis for the Bureau in the future, the entire economy of the West will continue to depend on how well the Bureau continues to function.

Mr. Duvall brings to the job important qualifications. He has been treasurer and vice president of the Overseas Private Investment Corp. and previously was managing partner of a multioffice regional CPA firm based in Spokane, WA. I support his nomination and urge my colleagues to do so also.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the vote by which the nominations were considered and confirmed en bloc be reconsidered.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS APPOINTMENTS

Mr. BYRD. Mr. President, will the distinguished assistant Republican leader yield so that I may read a letter into the RECORD?

Mr. SIMPSON. I yield.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, the White House, under date of today, has written the following letter to me with respect to recess appointments:

This is in response to your letter of December 16 to the President, concerning recess appointments during the upcoming adjournment of the Senate.

At this time, the President has no plans to make any recess appointments during the adjournment, assuming that there are votes before adjournment on those nominations currently pending before the Senate. There can be no doubt, however, that the adjournment will be of sufficient duration to permit recess appointments to be made, as envisioned by the Constitution. If for any reason we should decide it is necessary to make recess appointments during the upcoming adjournment, we will, pursuant to previous discussions you have had with Administration officials on this issue, advise you of those appointments before they are made.

With best wishes for a joyous holiday season,

Sincerely,

M.B. OGLESBY, JR.
Assistant to the President.

NOMINATION OF JAMES RICHARDS

Mr. SIMPSON. Mr. President, as in executive session, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of the nomination of James Richards, and I ask that it be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS TO NATIONAL GROUND WATER COMMISSION

Mr. SIMPSON. Mr. President, pursuant to Public Law 98-616, I appoint to be members of the National Ground Water Commission, the following Senators:

Senator DAVID DURENBERGER of Minnesota, Vice Chairman.

Senator DON NICKLES of Oklahoma.

SENATE SCHEDULE

Mr. SIMPSON. Mr. President, just a quick review of things, while the Democratic leader is present.

I believe the majority leader has indicated that there is a possibility of other items yet to come before us this evening.

As the majority leader has discussed, we will remain in session for a time this evening. Regrettably, there is still a possibility of rollcall votes. I wish I could indicate differently, but that is not possible.

We have a bill coming from the House extending various revenue provisions until March 15, 1986, which must be passed by midnight tonight. I know that is repetitive, since the leader mentioned that. Since that time, however, I believe there has been an agreement reached with regard to the low-level radioactive waste transitional legislation. That has been a difficult negotiation. Senator EVANS of the Energy Committee, Senator JOHNSTON, Senator MCCLURE, and Senator THURMOND have been instrumental in resolving that. I think it has been resolved. I do not know if a rollcall vote will be required on it, or perhaps there will be an amendment. I am not certain of that, but I share with my colleagues the fact that that measure may be before us later this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I now understand that the House of Representatives will send us a simple 1-day extension of four provisions which would otherwise expire at midnight tonight, and these four provisions have been acted on before. They are: trade adjustment assistance, cigarette excise tax, railroad retirement, and black lung and Medicare.

We have extended those before. This will be a 1-day extension until tomorrow night at midnight.

I am going to assume that we can pass a 1-day extension on those four

items without a rollcall vote. So there will be no more rollcall votes tonight.

EXTENSION OF CERTAIN TOBACCO EXCISE TAXES AND OTHER EXTENSIONS.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3981.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3981), to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. DOLE. Mr. President, let me indicate that this is a 1-day extension of four items that we have extended before.

The other nine that we mentioned previously will be taken up by the House Rules Committee tomorrow. They will come over sometime tomorrow.

I have suggested that in order to expedite the process tomorrow, maybe the staff on all sides can get together and try to work out what might be acceptable so that we do not have a big debate on the floor.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3981) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEADERSHIP FOR THE FUTURE: THE GIFTED IN A CHANGING SOCIETY

Mr. McCLURE. Mr. President, we are indebted to our colleague, the Senator from Indiana, Mr. QUAYLE, for his leadership role in a recent national seminar, "Leadership for the Future: The Gifted in a Changing Society." The seminar was sponsored by the National Business Consortium for the Gifted and Talented and boasted a distinguished seminar host committee: Secretary and Mrs. William E. Brock, Lilia Clemente, Arthur E. Dewey, the Honorable Alexander M. Haig, Jr., Senator and Mrs. Ernest F. Hollings, the Honorable Frank Ikard, Gen. David C. Jones, Congressman and Mrs. James R. Jones, Congressman and Mrs. Jack F. Kemp, James S. Kemper, Jr., The Honorable Drew L. Lewis, Jr., the Honorable John A. Love, Robert A. Maheu, Attorney General and Mrs. Edwin Meese, Senator and Mrs. Dan Quayle, Congressman and Mrs. Richard T. Schulze, Donald V. Seibert, Dr. Dorothy Sisk, James A. Skidmore, Jr., Congressman and Mrs. Guy Vander Jagt, James R. Whelan, my wife, Louise, and me.

The conference was presided over by Mr. Robert A. Maheu, chairman of the National Business Consortium for the Gifted and Talented.

Senator QUAYLE led off the conference with a strong presentation on the need for the Nation to address the subject of America's leadership for the future and the mobilization of business on behalf of our Nation's greatest asset—our most able young people.

Senator QUAYLE said:

I do believe and I think that your National Consortium points out a lack of appreciation and perhaps a lack of attention that we have in fact given to the gifted and talented. as we look into this new era that we are beginning to enter into with high technology—the growth industries, turning into the 21st century—there is no doubt about it that we are going to face competition like we have never faced before, not just domestically but internationally and as competition rises, as the requirement for getting along and understanding this new technology, obviously we have got to have as much creativity as we possibly can and we have got to have an education base and when you have a statistic that only 13 percent of our school districts have a gifted and talented program, I think that shows a real need for some attention and for some help. It ought to be 100 percent of the school districts, not just 13 percent. I think that the Federal government's role in this area—I might point out as we go down this road—will be one to facilitate, to encourage. There are some availabilities of programs, but I think that the primary emphasis if we are really going to be successful is how we can develop a partnership at the local and state levels with our public and private institutions that deal with education and our private sector. Now, the Federal government has in the past been involved in gifted and talented education that first started in the late 1960's with the National Defense Education Act; the funding there was $2 million but in those days $2 million was real money—today it doesn't go too far. In 1978 where there was probably more attention than there is right now, the Congress passed a Gifted and Talented Children's Act. It was a separate categorical grant. In 1981, with the new Federalism and block grants, the Gifted and Talented Children's Act was forwarded into Chapter 2 of the money that is now on a block grant basis—back to the states and the local communities—they do have the option right now to use the Chapter 2 monies for the gifted and talented but as I stated, you have only 13 percent of the school districts that are utilizing the Chapter 2 funds for gifted and talented and that is a very low statistic.

Keynoting the seminar was the well-known trend analyst, Marvin Cetron, author of a half dozen titles on trends and developments in education, jobs, business, and the future. Mr. Cetron's best-known work is probably "An Encounter with the Future," which he co-authored with Washington Post writer, Thomas O'Toole.

Cetron set the scene:

REMARKS OF MARVIN CETRON, PRESIDENT, FORECASTING INTERNATIONAL

The truth is that our scarcest resource is neither energy or water, it's our kids. And the scarest resource of the scarce resources happens to be the bright ones. We're ignoring them, saying they're bright, they'll take care of themselves, don't worry, they'll get a job or a career, and that's probably true. But they won't get what they could be capable of producing and what they could put out, and that's what we need. If we're going to compete worldwide, we've got to use our brightest and our sharpest, and eight out of 10 of our people go into entrepreneurial jobs. Those are the ones that make jobs for others, and if we don't get these kids the education and capability they require so that they can use their skills—we're not talking about the highest and brightest I.Q., that's not the answer. Anything over 135 (I.Q. points) is great, they can do it on their own. What they need is the stimulating environment that Senator Quayle mentioned earlier. The business of having a summer camp—that's great. The idea of having these kids work for corporations in the summer and helping out is tremendous. Having corporations making available their people to work with them so that they can increase productivity themselves, so they understand things like Junior Achievement—how the capitalistic system works by increasing productivity—and we need the bright ones for this.

We are a country that wastes, and you can see what we can do with conservation of energy alone. We've got to realize that we've got to utilize our equipment better, more efficiently, and think brighter. And to think brighter, you need brighter kids.

A panel of top business executives followed Mr. Cetron's dynamic multi-screen audiovisual presentation and his most provocative remarks.

Mr. James S. Kemper, chairman of the Kemper Group of insurance and financial service companies, led the industry response.

REMARKS OF JAMES S. KEMPER, CHAIRMAN, KEMPER GROUP

I think you could say very properly that what we are involved with here is a movement, a movement on behalf of the gifted and talented, and you need an active and interested constituency to create something called a movement.

It is relatively easy to develop a constituency supporting better education for underprivileged kids—inner-city kids. The villain here is ignorance, and everybody wants to find ways to help these kids to help themselves get out of the underclass and become productive, useful citizens. And the constituency here is also easy because it's politically expedient to devote large sums of money at the federal and state level to get those kids out of the underclass. But when it comes to working with gifted and talented students we're dealing with a tough one here—a relatively small percentage of young people who are exceptionally gifted. There are no villians, and as the public sees it,

there is no urgent necessity to give people who are already gifted beyond the capacities of most of us the opportunity to utilize their talents. It's a tough job (to build a constituency for the gifted and talented), and so far, at least as I have observed, the principle active constituency in support of doing something for the gifted and talented are some government agencies—Labor and Defense are two that come to mind immediately—and the fact that we're here today indicates that the Commerce Department is interested, and the educational establishment, which is a constituency, but not even all of it is what I would call an active constituency in support of the gifted and talented.

Mr. Bruce Smart, Under Secretary of Commerce for International Trade, spoke from his former corporate experience as chairman of the Continental Group.

REMARKS OF THE HONORABLE BRUCE SMART, UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE

It has become increasingly clear that in a country that no longer has the advantages of wide oceans to protect its markets, or technology that cannot flow outside its boundaries, or the best interest structure, or the best education system in the world, we are pretty hopeful if we think that with 5 percent of the world's population and the world's lowest industrialized saving rate that we can somehow remain preeminent in all factors of industry—so that I think that the success of the United States economically, and the economic success of course undergirds military strength—will depend entirely on our ability to develop the gifted people for positions of professional responsibility and/or leadership over the next decade.

Obviously the gifted person coming into adulthood and moving out into the working world is principally a product of two environments; one environment is the family and the home community and the other environment is the educational system; and for those of us who are recruiting these people into work environments that do not relate to where they once were and certainly the large corporation is such an environment. These are environments that are radically different from what these young people have experienced.

So the more gifted people tend to come to us individually very successful academically but they also come with an elitist bent and occasionally with an arrogance about their skills but it is unwarranted when it is measured against the broader spectrum of talent and human competence. They also come it seems to me lacking in experiencing or skills in team play and in leadership because so much of what they have done has been judged on individual effort and they often come, because of elitism and arrogance, lacking in an appreciation of the contribution that can be made to society by people less gifted than they are, who bring a certain determination and perseverence and on whom they must depend if they are to project their ideas over a broad enough group of people to have the ideas have any particular force in the society.

What is the private sector doing about the gifted and talented? What can it do that it's not already doing?

Mr. Theodore C. Rogers, chairman of NL Industries, Inc., responded from the corporate perspective to the challenge of gifted and talented development.

REMARKS OF THEODORE ROGERS, CHAIRMAN AND CEO, NL INDUSTRIES, INC.

I worry and concern myself with the fact that we may be much more capable of adopting technology and discarding technology than we are in incorporating that technology in a change and movement of the fundamental folkways and mores of our society. Therefore it seems to me we produce the edges of severe conflict and strain. How to deal, and how to cope with those strains and conflicts, it seems to me, will become an increasingly large problem for us and the world.

We need the talent and the skills and the creativity to cope with these changes and to carry out and mold an efficient and peaceful world society.

To state the obvious—it's been stated over and over again—we miss about half of the gifted students, and those that we do identify don't really have the resources made available to them to enrich them and challenge them and to motivate them in school. Hence, we have quite a few dropouts who are in fact gifted children. The world needs, and government and business must assist in the development of programs for identification and enrichment of the gifted. We need personal involvement, this isn't something you throw money at. It's something that you have to become personally involved with.

Mr. William Poduska is one of the founders of Prime Computer Co. He then founded Apollo Computer Co. Today he is heavily involved in the startup of his third computer firm. Bill Poduska's remarks were particularly thought-provoking. I quote from them at some length:

REMARKS OF WILLIAM PODUSKA, FORMER CHAIRMAN OF APOLLO COMPUTER, INC.

I'm trying to gather a bunch of people to start a new enterprise, and I can tell you what I look for in the people and the culture of this organization that we're building. I identify six nouns, three of which were stolen from Bob Townsend, my favorite author in the management business. Six nouns that identify the characteristics that I'm looking for in the people that I want to be with me to build this next major enterprise in the computer business.

First of all, I'm looking for excellence. I want people to do things well today. I want people of action. Today's the time to do it, not tomorrow. I don't see why anything can't be done today. I'm looking for people of ego, people who believe in themselves. Not the blustering kind of ego that's born mostly of insecurity, but that thing that's born of inner confidence that says I know what I'm doing and I'm going to do it. Muhammed Ali said one time that it ain't bragging if it's true. The converse is probably true also, that it is bragging if it isn't true.

I want people of ethics. I want people who will not knowingly do any dishonorable thing, not with customers, not with vendors, not with investors, not with employees, not with anybody. Don't con anybody, least of all your family. I'm looking for justice within the organization. I want to fairly award people who put out. I'm going to try to make 50 millionaires out of this new company, but more than the money, they'e going to look in the mirror in the morning and say "that person there did it." Of course, the opposite side of that is true, too. If the enterprise doesn't make it, the reason it didn't make it is staring you right in the face.

Finally, I'm looking for people who want to have some fun. Joy of today—have a laugh in the afternoon or hop into a tavern, or whatever, but also that long-term joy that says "we've done something good, we've really done something good."

If you want to talk about leadership and talent, those are ones I'm looking for. And you notice what I didn't say? I didn't say IQ. Sure, I want bright people, but what is more frequently told than the story of the unfulfilled promise of the genius? I didn't say I'm looking for accomplishment. I'm willing to take raw material. I'd rather have a few of them to look at some books on the subject of management. I would direct your attention to Bob Townsend's book "Up The Organization" and the sequel, "Further Up the Organization," the man has a sense of humor. He seems to be an iconoclast who puts these things into perspective.

Now, with regard to leadership—that's what this seminar is about (the) leadership of the future, the gifted in a changing society. Let me tell you what I think about leadership. I'm an M.I.T.-type jerk—I like the Sloan school of M.I.T., at least some of the things they do. They have a little saying—they talk about the Business Trinity, the issue of what command is about. They say command falls into three broad categories: administration, executive skills, and leadership. It's easy enough to define what administrative skills are. It may not be so easy to acquire them, but I think it's relatively easy to define them. But leadership—ah, that's a different sort of thing, isn't it?

What is it to lead? It must mean something that is not obvious, otherwise all would do it. It must have something to do with courage and determination. It must have something to do with those short human words that have these large meanings like "love," "faith," "hope." Well, I tell you, I heard a Persian proverb—I refuse to call it Iranian, it's always Persian—a Persian proverb that talks about leadership and talks about it in terms of those who know, have knowledge, and those who know that they have knowledge, and it goes some thing like this: "Those who know not, and know that they know not, are students—teach them. Those who know and know not that they know are followers—lead them. Those who know not, and know not that they know not, are fools—avoid them. But those who know and know that they know are leaders—follow them.

So my friends in the audience, and especially the youngsters who are here, I say to you: know, and know that you know. Take ownership of problems, make commitments to solving these problems. But in all of your doing, live also. Enjoy the life that we have. I can find no better words to describe that than the words written in a poem turned into song by James Taylor called "Secret Of Life." It starts out with the line: "The Secret of life is enjoying the passage of time. Any fool can do it. There's nothing to it. As anyone knows, love is the only road. Love yourselves and the work that you do, and we'll all live a little better."

Mr. William McGowan, chairman of the board and president of MCI, the pioneering telecommunications company, contributed to the response from the point of view of his experience in

high tech and entrepreneurial enteprises.

REMARKS OF MR. WILLIAM MC GOWAN, CHAIRMAN OF THE BOARD AND PRESIDENT OF MCI

The American business community, which must go through a major change in the way it operates, the way it structures its organization, the way it makes decisions, has an excellent chance of doing so if it takes advantage of the people who are capable of coping with such a dramatic change, and they are typically the (gifted and talented) youngsters who are the subject of your concern.

We were in a position where one of our major motivations, one of our major tasks in life was surviving. It was in that period that I discovered, simply because I had no choice, that many of the attributes that have developed over the course of years in a substantial number of corporations—certainly not all by a long-shot, but a substantial number of them—were developed, probably all with good intentions, but also with the result that they were typically rather unattractive places for a certain group of people. The group of people that it was unattractive to turned out to be the group of people I decided to try to seek out. When the period was over, through dint of some decisions, there was in front of MCI a great opportunity.

And so therefore we decided that since we were looking for individualistic type people, people who wanted to be individuals, who did not want the typical corporation, I had the advantage of not needing to add the accoutrements of larger corporations that typically you might find.

We encourage that by giving past credit for seniority and for all of the things that they do. We also said that we cannot afford to be a home for you, but we explain to them very carefully there is no home here. If you can't figure out the rest of your life and the rest of your social life and the rest of your community life, then you're in the wrong organization. We don't have credit unions, we don't have teams, we don't have Christmas parties, we expect the individual to function for himself and not rely upon the company.

In being in that position, I think we did collect a group of people who were interested in a challenge, who did not wish to spend the time learning how to adapt to somebody else's way of working, who wanted the opportunity to grow as fast as they could go. We have in the company still a policy that says there will never exist a seniority list, because I don't wish someone who comes in today to think that therefore, they are less than someone who was here 10 years ago.

Mr. Donald Seibert, retired Chairman of J.C. Penney Co., and former president of the national United Way, stepped to the microphone next to lead a panel discussing the programs and project of the National Business Consortium to tackle the basic problems faced by gifted and talented youth as they move into the work force.

REMARKS OF DONALD V. SEIBERT, RETIRED CHAIRMAN OF J.C. PENNEY CO.

I believe significant percentages of school dropouts and juvenile offenders are actually gifted young people, which is a tragedy. Many of these people have not been identified and have not been cultivated and worked with and, in effect, are dropping out of society, let alone missing the opportunity that they have to contribute. For our country to remain competitive, to achieve dominance in the years ahead, we obviously must use our best resources. They are clearly our people. We must have bright minds to tackle tough problems. Dominance in the future will not come from simply being producers but in being creators, and we must establish environments of creativity in which great minds can flourish.

For a powerful conclusion to the half-day seminar, Dr. Larry Eastland returned to the podium to spell out the challenge.

REMARKS OF DR. LARRY EASTLAND, PRESIDENT OF EASTLAND & ASSOCIATES

What we have in the Consortium is more than just concern, because concern must be translated into action. There must be specific, measurable kinds of programs. There must be outcomes to these programs that one can look at and show that indeed, to business people at least, of which I am one, and volunteers, of which I am one; we've got to be able to see in all of this that somewhere on the bottom line that something is succeeding, because it's been said before that of the programs that we see now that train leadership, separate from the educational system, many of them do not apply to the kinds of things that we're concerned about. Unfortunately, there are very few programs that are specifically aimed at developing the knowledge, skills, and abilities of young people. What we have to become is the invisible. We have to, as business people, involve ourselves in providing the kind of invisible curriculum for the young people of this nation. We should not view dollars and resources that we put into the gifted and talented as being competitive with dollars that we put into programs for the general populations in the schools or dollars that we're putting in to help the disadvantaged, that one taking away from one is one that we then give to another. We should look rather at the bottom line dollars that we give, and time and talent that we give to the gifted and talented as being our hedge in a world of competition. We are competing with the gifted and talented of Japan and China and Korea and Singapore and Mexico and Hong Kong and Brazil and Argentina. That's what our dollars are going into.

What we need to teach our gifted and talented are very basic kinds of things, and in order to do this, the national board and the Consortium have been created. The national office serves as a catalyst, as a clearinghouse for ideas and information. There is no national clearinghouse today on gifted and talented on what is going on across the country, the differences in programs, what kinds of knowledge and skills being taught, and what's being received.

The second task of the National Consortium is to identify the corporations and institutions at the local level that are willing to make a commitment, willing to make the commitment of their time and their talents. What we do is to identify those companies that have the vision that it takes to recognize that they must begin to contribute, and that that contribution will come back not just to their corporation, but to other companies in America.

The third goal that we have, and one that we're going to start on very shortly here, is to do a national needs assessment of the gifted and talented students so that we can specifically target the resources that are brought to bear by the consortium itself to the specific needs. If, in the gifted and talented programs in the country, 70 percent are working on computer programs, then there's no reason for us to do that. But if there is an area where we are deficient, those are the areas that we need to target our resources, and we need to be able to feed back into the businesses where that is.

The third is to develop pilot programs, specific pilot programs that will work. We are developing a pilot program right now which we hope to be able to start this coming summer. It will be a national business camp in which we can, on a regional basis, target gifted and talented programs for basic economic competition and leadership education. The point is that we have very little hands-on experience with young people who have the talent and creativity but have yet to have that organized to understand how to take an idea and get it on paper and financially plan it and know the relationship of the economic structure to the creativity structure. Our national business camp will be able to measure numbers of students, numbers of skills that we can produce through our techniques, and particularly, with the help of the corporations' research and development offices, so that the skills that we're producing for tomorrow are the skills that are needed tomorrow.

Dr. Dorothy Sisk, professor of special education at the University of South Florida, spoke for the Nation's teachers of the gifted and talented.

REMARKS OF DR. DOROTHY SISK, PROFESSOR AT THE UNIVERSITY OF SOUTH FLORIDA

As I listened to all of you talk, I couldn't help but think about how many young people that we have who are unmotivated, who are not identified in even the few gifted programs that we have, because the regular program doesn't challenge them. I oftentimes find, too, that as I look at the gifted programs that it's really a little bit more of the same. In fact, I chuckled ruefully this morning when the young man said, "Well, in our program we just do harder work or more work." I think that's part of what the Business Consortium can begin to model for the nation, and that is that we need a different kind of program. We need the types of programs where youngsters can focus in on thinking. I certainly concur with all of the emphasis on becoming computer literate. I also concur with something that maybe we didn't even mention or mean to mention, and that's the fact that we need more people who are mentors who can model the kind of risk-taking, the kind of step forward, and get things done that we saw this morning with the individuals.

TRADE TALKS: AMERICA BETTER LISTEN

Mr. BRADLEY. Mr. President, 2 weeks ago while we were on Thanksgiving recess, the 90 member countries of the General Agreement on Tariffs and Trade [GATT] agreed to establish a preparatory committee to plan the eighth major round of multilateral trade negotiations since World War II. This is a major step forward and those talks could begin next fall.

The trading system is in disarray. international cooperation is at its lowest point since World War II. With

discipline lacking, a full scale trade war is a distinct possibility. Pressures for trade restrictions abound because of current unemployment problems. And those pressures will increase because of the labor adjustment problems inherent in heightened international competition and in the transition from old to new technologies. Overvaluation of the dollar also increases the pressure for protection in this country.

Yet, even as the trading system faces great dangers, opportunities are evident as well. The developing countries, the fastest growing markets for industrial country exports, still have vast pools of unemployed or underutilized resources. Integrating the LDC's more fully into the trading system will be the greatest challenge of the coming decade. If this were to be accomplished, the world economy would get a sorely needed stimulus to growth comparable to the one the world enjoyed after World War II when the United States used its dominant economic power to promote trade liberalization in a series of trade negotiating rounds. For over a generation from 1950 to 1973, the world economy experienced unprecedented growth averaging 3.3 percent per annum. Trade liberalization was a major factor creating that growth and helped spread it around the world.

But those real income gains gave way to stagnation and unemployment in the mid-1970's. Now the trading system, from which all countries have benefited, is under severe pressure. Countries are pursuing more nationalistic trade policies and some are on the verge of adopting the beggar-thy-neighbor policies which characterized the Depression of the 1930's. I participated in a small group of world economic leaders appointed by Mr. Director-General of GATT to study the trading system. We concluded that "today the world market is not opening up; it is being choked by a growing accumulation of restrictive measures. Demands for protection are heard in every country, and from one industry after another." If present trends continue, the trading system could collapse. The new negotiators could reverse that trend. We in Congress have a special responsibility to oversee these negotiations. The Constitution gives to Congress the authority to regulate foreign commerce and to lay and collect duties. The President's authority on trade derives from a congressional delegation of authority. Next year we will debate how and in what form that negotiating authority should be given. The outcome of that debate will determine how ambitious these new negotiations will be.

In the meantime, I urge the Members of Congress to become familiar with the issues, problems and prospects for these negotiations. According to a timely new book by C. Michael Aho and Jonathan David Aronson, Trade Talks: America Better Listen! published by the Council on Foreign Relations in New York, these new negotiations will be more difficult, more complicated and will last longer than any in the past. They could last a decade.

We and the administration have a great deal of work to do in establishing priorities, in developing strategies for maximizing U.S. leverage and in ameliorating the domestic consequences any liberalization we pledge in return for greater market access overseas. We also have to decide how to structure the negotiations in order to hold them together and make progress over the course of a decade. Surely without high-level political attention and active private sector support these negotiations will not succeed. Their book has useful suggestions in this regard.

I highly recommend this new book as an excellent overview of the players, prospects and problems of the new trade talks. The authors have drawn a blueprint for the changes that are needed in the trading system if it is going to survive. I ask that the concluding chapter of the book which details their recommendations, be printed in the RECORD.

TRADE TALKS: AMERICA BETTER LISTEN!

COUNCIL ON FOREIGN RELATIONS

CONCLUSION: OUTLOOK

Trade talks can succeed. If countries cooperate, higher growth and greater discipline are possible. These two goals go hand-in-hand. Neither is possible without the other. No country will sacrifice its own growth prospects for the insubstantial benefits of stronger trade rules. Yet national and international growth prospects will suffer unless the trading rules are overhauled and made relevant to today's fast-changing world economy. To get ready for the 1990s, trade talks will have to address and make progress on both fronts at once.

The ten policy challenges described in chapter 2 will make new negotiations different and more difficult than those in the past. Growing interdependence, the decline in the ability and will of the United States to dictate terms, the proliferation of industrial policies and the emergence of excess capacity in many sectors at a time when world economic growth is slowing puts profound pressure on negotiators. In addition, negotiations will be different because traditional sectoral distinctions are breaking down, global corporate competition is changing, new types of trade barriers have replaced tariffs as the focus of attention, services need to be addressed, and product-life cycles are shortening as the pace of change accelerates. These challenges make it more difficult to build domestic coalitions favoring trade liberalization, particularly because employment and adjustment problems are critical everywhere and are related to broad domestic reforms which ultimately will determine whether trade can be liberalized.

As new trade talks begin, opportunities and pitfalls abound. We expect progress because the alternative is deterioration of the trading system and with it the world economic system. How long the system will hold together without reform is impossible to predict, but few careful analysts believe that the trading system can survive indefinitely without a major overhaul. However, no country, including the United States, is willing to accept the brunt of the costs of renovation. Each would like a free (or at least a subsidized) ride. That's impossible. Therefore political leaders around the world will have to summon up courage and persuade their countries that they must contribute something if everyone is to benefit.

The most critical moves must come from, and the most ominous signs are coming from, the United States. Over 300 protectionist bills have been introduced into Congress in 1985. Members of Congress are currently unprotected from constituent requests for special treatment. They are only hearing one side of the story. The overvaluation of the dollar has eroded the domestic consensus in favor of trade liberalization as exporters facing unprecedented competitive problems are not lobbying for open trade. GATT is not now effective as a means to deflect special interest requests. The feeling is widespread on Capitol Hill that the United States is not vigorously enforcing its existing trade laws. Congress wonders who is in charge of trade policy. Sentiment is brewing to pass some legislation restricting imports and/or rewrite U.S. trade laws expanding the definition of unfair trade practices and to make retaliation mandatory when unfair trade practices are found.

In the face of the possibility that Congress will pass some form of restrictionist legislation, President Reagan has reassessed his trade policy and overall international macroeconomic policy. He instructed the Secretary of Treasury to work together with the other major countries to bring the dollar down. This represents a change in the Administration's position. He has also instructed his USTR, Clayton Yeutter, to work with Congress to put together a trade bill with revisions in U.S. trade laws acceptable to the Administration and with a request for negotiating authority for a new round of trade talks. Whether a trade bill will pass in a form acceptable to the President is uncertain. Much bargaining needs to be done. But at least the process is beginning in earnest. Whatever else emerges from the President's new trade strategy, new trade talks will be a central element. And even if Congress should pass a restrictionist bill, the President has said he will veto it and the veto can be sustained with only 34 votes in the Senate. Passage of a restrictionist bill with a Presidential veto might not be all bad. Indeed, a veto with the threat of an override might be just the leverage the Administration needs to get recalcitrant countries to move forward in negotiations.

The President's strategy, even if arrived at late in the game, is a sound one. A new round of trade talks will both begin to address the manifold problems of the trading system and provide protection for legislators confronted with special interest requests. To take unilateral actions would jeopardize the multilateral talks. But the Congressional pressures are not going to go away, and the Administration is going to have to re-establish its credibility on trade issues by vigorously pressing other countries. If the priorities for action are selected carefully, that could also have the salutary effect of mobilizing domestic interests behind the Administration's strategy. But only in a multilateral context can such

strategies be effectively employed. Then once in the round, the Administration will have to begin to address the labor adjustment problems inherent in granting more market access to import competition. Although the President is not out of the woods yet, he is moving down the right path. What remains to be seen is whether he has the commitment and resolve to see it through.

To revitalize the trading system, rhetoric will have to give way to pragmatism. Ultimately, a package that is perceived as fair to all major interests needs to be developed. That is still years away. For now, countries must get things started one step at a time. We believe that the chances of increasing growth and strengthening trade disciplines will improve if political leaders and their negotiators keep in mind these eight observations.

First, promote growth and discipline; worry less about free trade and protectionism. Progress is more likely if the focus is on positive goals instead of sterile debates. Trade liberalization enhances economic growth. Greater discipline can reduce uncertainty and lead to an expansion of trade, investment and growth. By contrast, free trade, like absolute zero in physics, cannot be attained. Freer trade is all that can be achieved. In an interdependent world where sectoral boundaries blur and national industrial policies conflict, free trade is only useful as an ideal to help in making comparisons. Protectionism is also relative. Legitimate social, cultural and security concerns will always persuade governments to protect key sectors to varying degrees. Countries will continue to promote their own development even if this means protecting their firms against foreign imports and subsidizing their firms' exports. In order to protect against widespread abuse of these practices, negotiators need to develop trade practices and procedures that are responsive and respected so that trade issues are resolved with a minimum of friction. Otherwise the system's credibility will continue to suffer.

Second, learn to live with complexity; stop trying to revolt against interdependence. The world is changing. A return to a simple, isolated existence is impossible even if it were desirable. The world in which the GATT was created is gone forever. As interdependence increases, domestic economic policies cannot clash successfully with world economic trends. Nations can no longer follow independent trade, monetary, and investment policies. Shifting corporate structures and the emerging world information economy provide great opportunities for growth and job creation but are making regulation much more difficult to fine tune domestically or internationally. The line between goods and services is getting harder to distinguish. Similarly, tariffs have declined in importance as obstacles to trade and have been replaced by various sorts of nontariff barriers. Too often government officials and negotiators are trying to solve yesterday's problems. Such myopia creates as many problems as it solves. Therefore, negotiators need to learn to deal with the world as it is and as it is becoming and not base their actions and positions on a view of the world that is no longer relevant.

Third, make sure the underlying principles are right; stop being overly rigid and legalistic. The increased complexity of the world economy and of world competition makes it necessary to focus more on general principles and less on details. Unless the trading system is moving in the right direction, nothing much will help. Because the rate of economic change is accelerating, detailed rules are likely to become outdated and inappropriate more rapidly than in the past. Overriding principles (e.g., nondiscrimination, transparency and reciprocity) with mechanisms for updating rules are necessary to keep the trading system vital and relevant.

Some computer programs now rewrite themselves. They learn from experience and adapt to improve their performance. For example, chess-playing computer programs now defeat all but the best players in the world. The same concept needs to be introduced to trade rules. Trade rules cannot be written in stone. They must be allowed to adapt and change as the world economy and the world trading system change. Following the letter of the law is not helpful when the world for which the law was designed is gone. The United States remains the foremost advocate of a legalistic approach to trade rules. This approach needs to be tempered. The application of rules should depend more on the circumstances of the problem. Nevertheless, ways need to be found to prevent cheating. In the future, prudent application of safeguards and escape clauses may have to replace strict application of rules. However, in emphasizing adaptability, care must be taken not to sacrifice predictability. That is why it is not contradictory to strengthen mediation and conciliation procedures and mechanisms for seeking redress and for enforcing norms.

Fourth, start the process of reform now; don't wait for the crisis. In the past, major reforms were only possible in the face of crisis or collapse. Interdependence makes risking collapse before instituting reforms particularly dangerous. Today, all countries would suffer in a collapse. If depression strikes the United States and the major industrial countries or if the major LDCs are unable to service their debts, all countries will suffer the consequences. Work needs to begin to extend and adapt the trading system to cover the areas that are not now covered within the GATT. It is equally important to pull some of the sectors that have escaped from GATT discipline back into the system and to strengthen GATT discipline. Each country can contribute something now to preserving and promoting the general good, or they may have to pay much more later to restore a broken system.

Fifth, U.S. leadership is critical. Some one must take the lead—only the United States can do this and it must be done at the highest levels. Ronald Reagan needs to be personally involved. As former U.S. Trade Representative Robert Strauss has put it, the President's popularity is not to be saved; it should be spent in order to achieve breakthroughs on trade. In addition, the President must make clear that he has confidence in and will actively support his trade negotiator. Moreover, since the United States will have a new President before negotiations are far under way, the next President and perhaps the one after that will need to make trade a continuing priority. This is needed domestically, otherwise Congress might seize the initative and try to set trade policy. For if U.S. leadership wavers or falters, other countries will pick up the cue and efforts to move forward will be undermined.

Sixth, the United States cannot lead alone. Even as the United States must redouble its efforts to lead, others need to increase their contributions as well. As power diplomacy has faded, the need for cooperation, coalitions and bargaining increases. Unless in today's highly pluralistic world the other pillars of the system, the European Community and Japan, accept their responsibilities, no progress is possible. They must take a less parochial attitude and increasingly assume the burdens and responsibilities commensurate with their size and stake in international trade. This means that the EC should stop holding efforts at trade liberalization and strengthening discipline hostage to the resolution of existing internal and external disputes. For Japan, this means taking further unilateral steps to open its markets and, more fundamentally, to change the social and political attitudes that have made its market so impervious to outside penetration and to dispel the widespread perception that it uses unfair practices to gain competitive advantages. The NICs must also accept that they have responsibilities for maintaining the system and cannot expect to get the benefits of access to industrial-country markets without doing their share to open their markets and support trade rules. Since fundamental social policies and objectives are involved in all the major countries, other heads of state must become active participants. A far-reaching global bargain can only be struck at the higher levels.

Seventh, reforms must be phased in slowly; domestic political constraints are growing, not decreasing. Even as we write of progress, it is clear that reform can only be implemented in an ordered, step-by-step manner, countries will accept more competition and discipline, but only a little bit at a time. Domestic accommodations are needed and domestic adjustment needs time to work. However, limits and schedules have to be developed for adjustment so that uncompetitive sectors are not protected indefinitely to the detriment of their own consumers and the rest of the world. Long phase-in periods are another reason to begin the process now and not delay. Both the long phase-ins and the long duration of the negotiations will also require flexible, continuing processes in GATT to monitor developments and to deal with potential problems before they become full-blown.

Eighth, mobilize the stakeholders in an open trading system. The fate of the trading system depends upon domestic political decisions. Unless the key stakeholders are mobilized to encourage more liberal trade at home and abroad, long-term trade prospects will dim. Multilateral negotiations can help to mobilize the stakeholders in all countries, but internal reforms are needed as well. Trade negotiations are held among the nations of the world, but fundamentally they involve internal disputes with distributional consequences. To maximize the chances of progress, the round should be structured to highlight those domestic conflicts of interest. Internal reforms which increase domestic awareness about the positive as well as the negative consequences of trade liberalization would help the negotiations to move forward.

Countries should adopt open procedures and require cost/benefit analyses of changes in trade policy similar to the environmental-impact statement now required in some countries. Where there are negative consequences for workers, firms, and communities, governments have a responsibility to ameliorate the adjustment burden for those who suffer the consequences of trade liberalization. But that amelioration should be done in such a way that the govern-

ments' responsiblity to the other stakeholders in trade liberalization is also met. Internal and international reforms would be mutually reinforcing. Stronger international discipline would reduce the resort to unilateral action. Internal decisions resulting in fewer unilateral actions would enhance the credibility of the international discipline. Both would work hand-in-hand to restore confidence in the efficiency and the efficacy of the trading system.

Needless to say, a great deal needs to done to reform the international trading system. It will not be easy and it will not happen overnight, but the stakes are too high not to try.

Institutions, like human beings, seldom mark time. The GATT will observe its fortieth birthday in 1987. Much has changed since its inception. But now, as then, the world is sorely in need of more international cooperation on trade matters. In the absence of efforts to make progress on the important international trade issues, the system will regress further. If nations of the world do not begin to focus on these pressing trade problems, the world faces the possibility of a repeat of the 1930s, when the collapse of the trading system contributed to the length and severity of the depression.

Although the problems confronting the trading system are grave, failure to deal with them is a prescription for disaster. If all countries would put aside their longstanding differences and be bold and forthcoming, all countries will gain and a better future is possible. Let us begin that long arduous process.

ARIZONA VOLUNTEERS WHO ASSISTED EARTHQUAKE VICTIMS IN MEXICO CITY

Mr. DECONCINI. Mr. President, at 7:19 a.m. Thursday, September 19, "El Terremoto"—the earthquake—unleashed its fury on the largest metropolitan area in the world, Mexico City. This calamity befell our good neighbor to the South with such devastation and personal tragedy that many in our country suffered as well. The cultural roots between Mexico and the United States made this natural disaster much more personal than most others. The outpouring of support from this country, particularly my home State, reflects our sense of compassion for our friend to the South. With the dust having settled, it is now appropriate that we recognize several displays of enormous humanitarian effort.

Amid the confusion, the dust and the isolation, the world response to our friend in need was virtually universal. In the forefront of these efforts was the individual Arizonan. The spontaneous reaction that resulted from the devastation is indicative of the deep-seeded emotional ties between the two countries. My office became the focal point of some of the relief efforts. It is to these efforts and volunteers that recognition is most deserved.

With the international and domestic telephone communication system severely disrupted, my State offices were flooded with calls from distraught constituents with relatives and friends in the vicinity of Mexico City. From the need for information arose volunteer staffed crisis information centers coordinated through my State offices. After these crisis information centers were established, several Arizona ham radio operators began relaying information from their counterparts in the quake area. During the second day of operation, Phil Richardson, a Tucson area ham operator, proposed utilizing his local club to establish a link with Mexican ham operators so that Mexico City telephone numbers could be contacted and the information relayed back to desperate Arizonans. The coordinated efforts of these individuals, in combination with the local media, provided the conduit for information that helped alleviate the concerns of hundreds of distraught relatives.

These efforts were further enhanced when the domestic phone system became operable 6 days after the initial quake. Several residents of Nogales, AZ, and Nogales, Sonora, sprung into action with their own impromptu communications system. Coordinated by my good friend Irma Maytorena, they relayed messages between relatives and friends in the United States and Mexico City.

Several U.S. companies that had facilities in Nogales, as well as Canacintra, the Industrial Chamber of Commerce of Mexico, displayed overwhelming compassion by not only donating office space and phone lines, but also assuming the significant expense for the hundreds of long distance calls. The actual phone connections to Mexico City were successful in large part due to the persistent efforts of the phone operators. The Mexican National Phone Co. put these operators at the disposal of our volunteers for 14 hours a day.

These are just a few examples of the total effort that was undertaken on behalf of our stricken neighbor. I was proud to be a part of it. Mr. President, I ask unanimous consent to have printed in the RECORD the names of those individuals who assisted me in my limited endeavors to offer assistance. These individuals unselfishly gave of their time and resources to help. This body's recognition of the individuals listed below is a fitting reward for a job well done.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

ASSISTING VOLUNTEERS

Irma Maytorena.
Jannette Marie Raptis.
Maria Sophia Orduno Valle.
Delia Saspe de Ruiz.
Maria Antonieta Alvarez Gaxiola.
Yolanda Varona.
Rosa Maria Haas.
Martha Castro.
Lester H. Van Dyke.
William Wallace.
Roberto E. Hernandez
Luis A.G. Larios
Mike Rico.
Ann Bressi.
Roberto Borboa.
Rhonda Nichols.
Rene' Leglue.
Lupe Klein.
Patrick Wilch.
Betty Medina.
Mollie Smith-Eno.
Wendy Hakes.
Marta Ann Alcumbrac.
Wendy Gerlach.
Darren Clinton Graybill.
Deborah Lynn Teeler.
Brian Laird.
Jim Posner.
Ken McCollester.
Wes Soderquist.
Brad Rich.
Jeff Barker.
Yolanda Arenas.
Jackie Andrew.
Wendy Hannah.
Blanche Carter.
Willa Rackley.
Asociacion De Maquiladoras De Sonora.
Canacintra.
Murt-KB7NE.
Stan-K7KNP.
Doug-WA7IGV.
A.J.-KB7KZ.
Gerard-K7SPH.
Jim-W7FF.
Ted-W7DMT.
Rich WB7QBM.
Bob-KC7HU.
Doris-KC7AQ.
Jim-N7DZN.
Steve-N7AVS.
Elio-WA7ESQ.
Leo-K7JPI.
Owen-AA7Q.
Phil-K7OBS.
Dennis-WD4HRO.
Forest-NI7Y.
Joane Eno.
Earthquake Relief Group.
Marly Carpenteiro.
Mr. & Mrs. Baranca.
Telephono de Mexico.
All Operator's for Telephono de Mexico.
George Kalil.
John Anaya.
Judy Anaya.
Central Bag and Supply Company.
Kalil Bottling Company.

TAX REFORM

Mr. KASTEN. Mr. President, after the dramatic vote in the House Monday, the focus in the tax reform debate shifts to the Senate.

It is up to us to draft a final package that is truly profamily, projobs and progrowth; that remains revenue neutral; and that can gain enough votes to pass.

I believe we will prove ourselves equal to that challenge.

We will rise to the challenge because we are beginning to realize how crucially important tax reform is to the future of this nation.

True tax reform could restore equity and simplicity to our Tax Code and fuel a growing economy well into the 1990's.

Under our current Tax Code, low-income families face steep tax barriers preventing them from climbing the ladder of success. Small businessmen and women are hit by tax rates up to 50 percent, while large corporations play the Tax Code game and pay no taxes at all.

Loopholes in the Tax Code totalled $36 billion 10 years ago. Today, they are at $360 billion. That mean as equal incomes don't pay equal taxes. And that drags our economy down.

It is time for a fundamental restructuring of our Nation's Tax Code.

The package passed by the House provides us a vehicle with which to work. But many changes must be made. I am particularly concerned that the following principles be included:

First. The top tax rate for individuals should be no higher than 35 percent President Reagan has affirmed his support for this goal.

Second. The personal exemption should be raised to $2,000 for all taxpayers, whether they itemize or not. There is no basis for discriminating against a family simply because it decides to itemize its expenses rather than take the standard deduction.

Third. Deductions should not be repealed until tax rates are lowered. Under the House bill, many taxpayers would see their taxes increase in 1986 because deductions are eliminated on January 1 and rates are not lowered until July. This is unfair; it could slow economic growth; and it is hardly the objective of true tax reform.

Fourth. The business tax changes should not bias the Tax Code against capital-intensive industries. The House package would hit especially hard at the kind of capital-intensive industries that predominate in the Midwest. I believe the business section of the Tax Code should not be biased for or against any specific industry. Our goal must be to provide a level playing field for all.

Fifth. Tax reform must be revenue neutral. It should not become the vehicle for an election-year tax increase.

Each of these principles is crucial to a balanced tax reform package.

Mr. President, next year we will have a chance to do something dramatic here in the Senate. We will have the opportunity to fundamentally restructure our Nation's Tax Code to restore fairness and simplicity and equity, and to extend our current economic recovery to the turn of the century.

A chance like this comes to us very rarely. Let us use it wisely. The American people deserve nothing less.

ERISA AMENDMENTS—H.R. 3500

Mr. DECONCINI. Mr. President, I have been particularly interested in following the ERISA amendments of this bill and how they impact on the rights of troubled companies, and entities in bankruptcy. Initially, I must admit I was greatly troubled by some of the provisions that were in the Senate version of the budget reconciliation bill, S. 1730, but I was even more concerned about some of the more far flung amendments contained in various House proposals. My concern, in part, was prompted by not knowing exactly what the various bills were trying to do and because the Judiciary Committees of Congress, which traditionally handle bankruptcy related matters, had not been involved in any degree in the development of this most important legislation that has a dramatic impact on bankruptcy.

I have been encouraged and applaud the process that has taken place since early November, when the Judiciary Committee became aware of the provisions in the bill dealing with bankruptcy, whereby members of the Judiciary Committee staff and other interested parties in the bankruptcy field have met with the Labor Committee staff and staff of the Pension Benefit Guarantee Corporation to discuss the various viewpoints on this legislation. I believe this process has resulted in a final product which is considerably better and more equitable for all who will come into contact with it.

I remain concerned about the impact of certain provisions of the bill on employer companies with sizable unfunded pension liabilities. I do not believe Congress has adequately focused on whether or not the increase in liabilities to the PBGC will make it more difficult for these companies to obtain credit or to raise cash by selling divisions, assets or subsidiaries for badly needed money to pay creditors. I am fearful that credit for troubled companies will be even more difficult to come by when the lender must take into consideration the augmented unfunded pension liabilities of a potential borrower. I can only hope that we are not passing legislation that will have the impact of forcing more and more companies into chapter 11 reorganization proceedings rather than be able to successfully workout their financial problems outside of bankruptcy. On the same theme, only experience will tell us if we have placed such an enormous burden on debtors with unfunded pension liabilities that we negate any hope they have of a successful reorganization and effectively have denied any possibility of meaningful payouts to unsecured creditors in cases involving unfunded pension liabilities.

I have reviewed the provisions of the bill as they impact on companies in chapter 11 of the Bankruptcy Code and I am satisfied that the bill does not intend to couple any new liens or priorities with the increase in liability to the PBGC from 30 percent of net worth to 75 percent of unfunded pension liability. I am also assured that the bankruptcy court will retain exclusive jurisdiction over plan terminations for companies in chapter 11 and that the termination during the pendency of a bankruptcy proceeding does not create any administrative expense priority. Finally, I am satisfied that new section 4069 on evasion of liability, is intended to be narrowly construed and applied only to fraudulent transactions, such as those where inadequate consideration is paid to a distressed company for the sale of valuable assets.

MICHAEL STERN

Mr. CRANSTON. Mr. President, I want to take this opportunity to pay special tribute to a member of the Senate staff who is leaving after over 17 years of service in this body. Michael Stern has worked for the Senate since 1968. He has served as a longtime assistant to Senator LONG; in that capacity he has served as the staff director of the Senate Finance Committee from 1973 through 1980, and since 1981 as its minority staff director.

Michael has been an invaluable resource to members on both sides of the aisle on the Finance Committee and in the Senate at large. His breadth of knowledge, his wise counsel, and his patience in helping carry out the will the Senate are well-known to many, if not all, Senators.

Michael has on many, many occasions assisted me and my staff in working out complicated problems within the jurisdiction of the Finance Committee. He has always been a true professional in every sense of the word, always willing to help in an objective and thorough way and lend his considerable expertise to the tasks that needs to be performed.

Michael has left his mark upon countless measures acted on by this body, but I recall perhaps most vividly his dedication and commitment to helping gain passage of the 1980 Adoption Assistance and Child Welfare Act—legislation designed to improve the lot of America's forgotten foster children. This legislation was of special interest to me and I recall that—in sharp contrast to the interest displayed as to many other issues before the Finance Committee—there were only a handful of outside groups lobbying for its passage. Nevertheless, Michael put in countless hours and boundless energy helping make sure that this landmark legislation became law.

Michael Stern has served the Senate and the Nation extraordinarily well. My staff and I will miss him deeply. I know that his exceptional legislative and analytical skills, his vast experience and knowledge in the extremely

diverse subjects under the Finance Committee's jurisdiction, his keen and insightful mind, and his deep sense of public commitment and public trust will be missed by all who have worked with him.

We wish him all possible success in his new endeavors and have no doubt he will achieve the same success in the private sector that he has achieved in his long career in public service.

CENTRAL AMERICA COUNTER-TERRORISM LEGISLATION

Mr. CRANSTON. Mr. President, during the next session of Congress, the Senate is expected to consider S. 1915, legislation which would provide $22 million in "counterterrorism assistance" to four Central American countries.

This measure represents a compromise reached through protracted bargaining among members of the Foreign Relations Committee. The compromise has been difficult because the legislation deals with one of the very elements in the region that has repeatedly been guilty of abuses of human rights in the past, the national police forces. In 1974, Congress terminated a similar "public safety" program begun in the late 1950's because of evidence of abuses by some of the police officials trained under the U.S. program.

Originally, the Reagan administration made an urgent request for $54 million in counterterrorism assistance. That proposal would have set up an open-ended program which had few restrictions on the expenditure of funds. Because of the history of the public safety program, and because human rights abuses—from the left as well as the right—continue in Central America, I had serious reservations about supporting this legislation.

The compromise establishes a 1-year program providing $22 million in counterterrorism assistance to El Salvador, Costa Rica, Honduras, and Guatemala. Of that total, $1 million will go to a witness protection fund to aid those providing information or other assistance against terrorist activity. In an effort to avoid a repetition of past abuses, the legislation includes numerous restrictions. Before any funds can be given to a country, the President is required to report to Congress twice over the next 12 months and demonstrate that substantial improvements have taken place in that country's human rights situation and in its efforts to set up police and judicial institutions independent of the military. A separate certification is required for Guatemala to demonstrate that an elected civilian government is in power and has made substantial progress in this area after assuming power.

In addition, the General Accounting Office [GAO], an investigatory arm of the Congress, is required to report three times to Congress over the next year on the progress made by each country receiving this U.S. assistance in eliminating human rights violations; in creating law enforcement and judicial systems which promote and encourage the prosecution of criminal acts; and in professionalizing its independent law enforcement agencies. Intelligence agency participation is barred, except for U.S.-based training, and there is a 10-percent cap on lethal weapons expenditures.

While I believe we are taking a risk in authorizing this program, I believe the risk will be worthwhile if the program results in a significant contribution to the professionalization of the police and security forces and the elimination of human rights abuses in the countries receiving assistance. The police and security forces are institutions which must change so that more positive developments in the direction of true democracy can continue to take place in these countries.

The careful restrictions Congress has placed on the program will give us a chance to measure its success. Since Congress must renew the proposal in 1 year if it is to continue, we will be able to determine whether the assistance has helped to bring about the type of change anticipated. If the counterterrorism aid fails to accomplish the goals we have set for it, then we in Congress will have an opportunity to take the appropriate steps to put an end to it.

THE FEDERAL DEFICIT

Mr. LEAHY. Mr. President, like the ancients, last week Congress walked into the proverbial Valley of Decision, when we passed the Gramm-Rudman-Hollings deficit reduction plan.

Our decision to go forward with this historic plan to reduce Federal deficits, like the decision to enter the legendary valley, was only a beginning. Many decisions—the important decisions—lie ahead. And there must be no avoiding them.

We have resolved to set annual limits on the Federal deficit and to retire it by 1991. We have forced ourselves and the President to make the tough choices to meet the goals we set out in law.

Mr. President, now it is our responsibility—our duty—to fashion the actual program under which we will reduce the Federal deficit by $36 billion annually. Members of the Senate, on both sides of the aisle, must work together in a spirit of cooperation to live up to the objectives of Gramm-Rudman-Hollings.

Some favor reducing the deficit by eliminating one-third of the shortfall through cuts in domestic and social programs, one-third through cuts in defense spending and one-third through Federal income tax increases.

The plan I have supported for 3 years, the Hollings-Leahy freeze, would reduce the deficit by freezing all Federal spending at 1984 levels for domestic, social, and defense programs. In addition, wealthy individuals and large, profitable corporations that have paid no taxes would be forced to pay their fair share.

Mr. President, I believe our plan is the most responsible and equitable way of reducing the deficit. Every program is frozen. No one program is favored. No one group is disadvantaged. And every American would benefit from reducing the deficit. In fact, our plan, were it enacted when first proposed in 1983, would have retired the Federal deficit this year.

Some suggest that we must reduce the deficit to stimulate investment and economic growth.

That is only half the story, Mr. President. Reducing the deficit is vital to health of our economy, but it is just as vital to the well-being of our society.

Our children and their children deserve the opportunity we have had to choose a direction for Government and society—to determine their own priorities for the Nation. The ever-growing portion of our annual budget that is wasted on interest payments on the Federal debt jeopardizes the ability of the next generation to choose their own direction. There simply won't be the money for investment in new research that cures disease or famine, or education that enlightens and makes us strong, or any other worthy endeavor which future Americans may wish to explore.

We owe it to ourselves, and especially to future Americans to take seriously the commitment we have made to reduce the deficit. We have entered the valley, now we must begin to find a way out. We need a plan that is fair, responsible and future-minded.

MARTIN LUTHER KING, JR. NATIONAL HOLIDAY

Mr. DURENBERGER. Mr. President, national holidays are important occasions for Americans to break their routines and celebrate our Nation's accomplishments. National holidays are also a time to reflect upon and reinforce the ideas and principles upon which our country was founded, and the men and women who have inspired and represented those ideals.

The inspiration provided by Dr. Martin Luther King, Jr. is fully deserving of that kind of national recognition and reflection. It is truly significant that on January 20, 1986, Americans will celebrate the first annual observance of Dr. King's birthday as a national holiday.

Dr. Martin Luther King, Jr.'s crusade, for which he gave his life, was the fight against the equivocation of the constitutional guarantees of freedom, justice and equality, not only for blacks, but for all minorities, women, the disabled, the elderly, and other groups who have historically not been offered the full measure of American opportunity.

Martin Luther King was born on January 15, 1929, in Atlanta, GA. He attended the first public high school for blacks in Atlanta, Booker T. Washington High School. Completing high school in 2 years by skipping the 9th and 12th grades, he was admitted to Morehouse College at age 15.

Dr. King was ordained into the ministry in the National Baptist Church in 1947, and received a B.A. degree in sociology from Morehouse College in 1948. Following graduation from Morehouse, Dr. King earned Crozer Theological Seminary. Following his seminary training, Dr. King earned a doctorate in theology from Boston University.

In 1964, Dr. King made history by becoming the youngest person ever to receive the Nobel Peace Prize for his adherence to the principles of nonviolence and for the example he set for others working toward peaceful social change. His vision of a better America is an inspiration to us all. In the words of Martin Luther King, Jr.:

Human progress is neither automatic nor inevitable. Even a superficial look at history reveals that no social advance rolls in on the wheels of inevitability. Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals without persistent effort, time itself becomes an ally of the insurgent and primitive forces of irrational emotionalism and social destruction. This is no time for apathy or complacency. This is a time for vigorous and positive action.

Mr. President, these lessons of vigor, diligence, honesty and indeed, hope, in the struggle for the rights of all Americans are the legacy Dr. King left to the modern civil rights movement. Dr. King's spirit lives on in our efforts to extend the provisions of the Voting Rights Act, to preserve the U.S. Commission on Civil Rights, to extend greater economic opportunities to women under the Economic Equity Act, to reinforce Federal support for affirmative action through Executive Order 11246, and to preserve our cornerstone civil rights statutes through the Civil Rights Restoration Act.

Mr. President, I am honored and grateful for the opportunity to follow in the path of this great man. His vision and principles have inspired a generation of citizens and their representatives to "vigorous and positive action." The result is a shared, and healthy impatience with an imperfect world, and the energy to continue to work to change it.

Our need to maintain the courage and conviction for equality and justice is as strong today as it was during Martin Luther King's time with us. Celebrating his contribution to America on January 20 is a fitting opportunity to recommit ourselves to the fundamental principles of freedom, justice, and equality which were at the heart of his life and his legacy to us all.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bill and joint resolution:

On December 16, 1985:

S.J. Res. 238. Joint resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

On December 17, 1985:

S. 1639. An act to authorize the minting of gold bullion coins.

MESSAGES FROM THE HOUSE RECEIVED DURING PROCESS

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 17, 1985, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled joint resolution:

H.J. Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986.

Under the authority of the order of the Senate of January 3, 1985, the enrolled joint resolution was signed on December 17, 1985, during the recess of the Senate by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

At 10:13 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1784) to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3132. An act to amend chapter 44, of title 18, United States Code, to regulate the manufacture, importation, and sale of armor piercing ammunition, and for other purposes; and

H.R. 3838. An act to reform the internal revenue of the United States.

At 2:12 pm., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 2:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to ninety-nine years;

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year", and for other purposes; and

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the first session of the Ninety-ninth Congress.

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:12 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1918. An act to change the date for transmittal of a report.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3931. An act to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts, as the "Captain John Foster Williams Coast Guard Building"; and

H.R. 3974. An act to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to two months housing allowance.

At 4:10 p.m., a message from the House of Represenatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 1884) to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes.

The message also announced that the House has passed the following joint resolution, with an amendment, in which it requests the concurrence of the Senate:

S.J. Res. 240. Joint resolution opposing the Soviet Union's invasion and six-year occupation of Afghanistan against the national will of the Afgan people.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 262. Concurrent resolution correcting the enrollment of House Joint Resolution 187.

ENROLLED BILL SIGNED

At 7:50 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 8:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3838. An act to reform the internal revenue laws of the United States; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3132. An act to amend chapter 44, of title 18, United States Code, to regulate the manufacture, importation, and sale of armor piercing ammunition, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 18, 1985, she, had presented to the President of the United States the following enrolled bills:

S. 1621. An act to amend title 25, United States Code, relating to Indian education programs, and for other purposes.

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to ninety-nine years.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2133. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on a violation of law involving the overobligation of an approved apportionment of appropriations; to the Committee on Appropriations.

EC-2134. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the status of certain budget authority proposed for rescission for which the Congress has failed to pass a rescission bill before the 45-day withholding period; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, and the Committee on the Judiciary.

EC-2135. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the armed forces, and for other purposes; to the Committee on Armed Services.

EC-2136. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report on the breach of the unit cost threshold of the SINCGARS program by more than 25 percent; to the Committee on Armed Services.

EC-2137. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on progress in the preparation of the study of quality and quality assurance guidelines in the design and construction of nuclear powerplants; to the Committee on Environment and Public Works.

EC-2138. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to provide for voluntary private alternative coverage for Medicare beneficiaries, and for other purposes; to the Committee on Finance.

EC-2139. A communication from the Secretary to the Commission on Fine Arts, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1985; to the Committee on Governmental Affairs.

EC-2140. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period to December 13, 1985; to the Committee on Foreign Relations.

EC-2141. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Labor, for the period April 1 through September 30, 1985; to the Committee on Governmental Affairs.

EC-2142. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, the annual report on the Foreign Service Retirement and Disability System for fiscal year 1984; to the Committee on Governmental Affairs.

EC-2143. A communication from the Acting Staff Director of the Commission on Civil Rights, transmitting, pursuant to law, a report on the system of internal accounting and administrative control in effect for the Commission during fiscal year 1985; to the Committee on Governmental Affairs.

EC-2144. A communication from the Assistant Vice President (Employee Benefits) of the Ninth Farm Credit District of Wichita, transmitting, pursuant to law, the annual report on their pension plan for the plan years ending February 28, 1985, and February 29, 1984; to the Committee on Governmental Affairs.

EC-2145. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on legislation to reinstate the death penalty for persons convicted of espionage in civilian courts; to the Committee on the Judiciary.

EC-2146. A communication from the Comptroller of the American Council of Learned Societies, transmitting, pursuant to law, the audited financial statement of the Council for fiscal year 1985; to the Committee on the Judiciary.

EC-2147. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of a leasing system for the North Aleutian Basin, Sale 92, scheduled to be held in January 1986; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. HATCH, from the Committee on Labor and Human Resources, with amendments:

S. 1855: A bill to revise the provisions of the Public Health Service Act relating to health planning (Rept. No. 99-224).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1848: A bill to amend the Federal Food, Drug, and Cosmetic Act to establish conditions for the export of drugs (Rept. No. 99-225).

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. 1968: An original bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits, to increase the maximum daily benefit, and for other purposes.

Mr. President, today on behalf of the Committee on Labor and Human Resources, I am reporting an original bill, S. 1968, to amend the Railroad Unemployment Insurance Act. The bill complements provisions adopted by the Committee on Finance and included in its portion of S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985.

In general, the bill is a package of amendments designed to restore solvency to the railroad unemployment system and to address several concerns raised by rail labor and rail carriers. I recognize that some of the provisions contained in the bill are probably within the jurisdiction of the Senate Finance Committee, and I look forward to that committee's review and consideration.

In 1983, when Congress passed the Railroad Retirement Solvency Act, it established the Railroad Unemployment Compensation Committee to prepare a report on the problems beseting the railroad unemployment insurance system. The bill I am reporting today embodies most of the recommendations made by the committee, recommendations which the Compensation Committee believes are necessary to insure an efficient and equitable benefit system.

Briefly, let me explain the various amendments contained in this bill. First, the bill would increase from $25 to $27 the maximum daily benefits payable to eligible workers for employment and sickness benefits. This would bring the benefits more into line with those available to workers covered by other unemployment systems. Along with this increase, the bill would index the daily benefit rate to insure that the benefit level would grow at a rate comparable to employee compensation rates and overcome the effects of inflation.

At the same time, more stringent requirements for eligbility would be established to guarantee that persons seeking benefits are regular railroad employees. Prior to registering for benefits, employees must have worked at least 6 months and earned a certain level of compensation. A 3 day waiting period would be established for the first registration period of each year.

In order to insure that there are sufficient revenues with which to pay benefits and to insure that those revenues increase with raises in the daily benefit rates, employer contributions would be indexed to the monthly compensation base. The current maximum contribution rate of 8 percent would be increased to 12 percent and any contribution required beyond the 12 percent maximum would be assessed proportionately to other employers.

The contribution of each employer would be based on an experience rating for individual employers, rather than the current system-wide base. This amendment would encourage employers to maintain a high employment level and would produce an employer desire to monitor benefit claims. Employers would be authorized to participate in the investigation, processing, and appeal of employee claims in order to establish which claims are not justified and to make certain that employer contributions are not unduly increased.

In order to guarantee that future claims do not financially overburden the system, there would be a 1.5-percent or 2.5-percent surcharge levied against all employers for any year in which the fund reserve for benefits drops below certain levels.

Finally, in order to improve the efficiency of investigation and processing of benefit claims, the amount of administrative funds assessed to each employer would be increased.

The bill being reported today will help to establish the solvency of the Railroad Unemployment Insurance System and strike a legitimate balance between the interests of the rail carriers and the rail unions. When coupled with the amendments to the system that the Senate Finance Committee has included in its portion of S. 1730, the bill will provide Congress with a solution to the problems besetting the system and I urge my colleagues to support the legislation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

The following-named officer, under the provisions of title 10, United States Code, section 5141, to be Chief of Naval Personnel and to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Dudley L. Carlson, xxx-xx-x... xxx-.../1110, U.S. Navy.

The following officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To be brigadier general

Col. Robert M. Alexander, xxx-xx-xxxx FR, Regular Air Force.

Col. James S. Allen, xxx-xx-xxxx FR, Regular Air Force.

Col. John R. Allen, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Edgar R. Anderson, Jr., xxx-xx-... xxx-... FR, Regular Air Force.

Col. James G. Andrus, xxx-xx-xxxx FR, Regular Air Force.

Col. Malcolm B. Armstrong, xxx-xx-... xxx-... FR, Regular Air Force.

Col. Lester P. Brown, Jr., xxx-xx-... FR, Regular Air Force.

Col. Robert A. Buethe, Jr., xxx-x... FR, Regular Air Force.

Col. Gerald A. Daniel, xxx-xx-xxxx FR, Regular Air Force.

Col. Thomas E. Eggers, xxx-xx-xxxx FR, Regular Air Force.

Col. James W. Evatt, xxx-xx-xxxx FR, Regular Air Force.

Col. Frederick A. Fiedler, xxx-xx-xxxx FR, Regular Air Force.

Col. Paul D. Gleason, xxx-xx-xxxx FR, Regular Air Force.

Col. Joel T. Hall, xxx-xx-xxxx FR, Regular Air Force.

Col. William P. Hallin, xxx-xx-xxxx FR, Regular Air Force.

Col. Floyd E. Hargrove, xxx-xx-xxxx FR, Regular Air Force.

Col. George B. Harrison, xxx-xx-xxxx FR, Regular Air Force.

Col. John R. Harty, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard E. Hawley, xxx-xx-xxxx FR, Regular Air Force.

Col. Harald G. Hermes, xxx-xx-xxxx FR, Regular Air Force.

Col. Thomas W. Honeywill, xxx-xx-... xxx-... FR, Regular Air Force.

Col. John R. Hullender, xxx-xx-xxxx FR, Regular Air Force.

Col. Grover E. Jackson, xxx-xx-xxxx FR, Regular Air Force.

Col. John E. Jackson, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Arlen D. Jameson, xxx-xx-xxxx FR, Regular Air Force.

Col. Jeffery D. Kahla, xxx-xx-xxxx FR, Regular Air Force.

Col. Donald L. Kaufman, xxx-xx-xxxx FR, Regular Air Force.

Col. Vernon J. Kondra, xxx-xx-xxxx FR, Regular Air Force.

Col. Paul E. Landers, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. James J. LeCleir, xxx-xx-xxxx FR, Regular Air Force.

Col. Orthus K. Lewis, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Nathan J. Lindsay, xxx-xx-xxxx FR, Regular Air Force.

Col. John D. Logeman, Jr., xxx-xx... FR, Regular Air Force.

Col. Charles F. Luigs, xxx-xx-xxxx FR, Regular Air Force.

Col. Billy G. McCoy, xxx-xx-xxxx FR, Regular Air Force.

Col. Michael P. McRaney, xxx-xx-xxxx FR, Regular Air Force.

Col. Philip L. Metzler, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Kenneth V. Meyer, xxx-xx-xxxx FR, Regular Air Force.

Col. John M. Nowak, xxx-xx-xxxx FR, Regular Air Force.

Col. Carl G. O'Berry, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard J. O'Lear, xxx-xx-xxxx FR, Regular Air Force.

Col. David C. Reed, xxx-xx-xxxx FR, Regular Air Force.

Col. Jon A. Reynolds, xxx-xx-xxxx FR, Regular Air Force.

Col. Paul L. Roberson, xxx-xx-xxxx FR, Regular Air Force.

Col. Alan V. Rogers, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard M. Scofield, xxx-xx-xxxx FR, Regular Air Force.

Col. John F. Sievertson, xxx-xx-xxxx FR, Regular Air Force.

Col. Victor S. Stachelczyk, xxx-xx-xxxx FR, Regular Air Force.

Col. Kenneth E. Staten, xxx-xx-xxxx FR, Regular Air Force.

Col. Robert F. Swarts, xxx-xx-xxxx FR, Regular Air Force.

Col. Dale W. Thompson, Jr., xxx-xx... FR, Regular Air Force.

Col. Denis L. Walsh, [redacted] FR, Regular Air Force.

Col. Sam W. Westbrook III, [redacted] FR, Regular Air Force.

Col. Robert V. Woods, [redacted] FR, Regular Air Force.

By Mr. LUGAR, from the Committee on Foreign Relations:

Thomas A. Bolan, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH, from the Committee on Labor and Human Resources:

S. 1968. An original bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits, to increase the maximum daily benefit, and for other purposes; placed on the calendar.

By Mr. SPECTER:

S. 1969. A bill to create a National Center for the Prosecution of Child Abuse under the Office of Justice Programs in the Department of Justice; to the Committee on the Judiciary.

S. 1970. A bill to authorize loan guarantees and interest subsidies for severely depressed cities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT:

S. 1971. A bill to transfer certain lands under the jurisdiction of the Secretary of the Interior to the city of Mesquite, Nevada; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for Mr. EAST (for himself, Mr. THURMOND, Mr. QUAYLE, Mr. SYMMS and Mr. HELMS)) (by request):

S. 1972. A bill to authorize the furnishing of military assistance to the National Union for the Total Independence of Angola (UNITA); to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself, Mr. HATFIELD, Mr. HART and Mr. PRYOR):

S. 1973. A bill to provide for multilateral limitations on arms sales, and for other purposes; to the Committee on Foreign Relations.

By Mr. WILSON (for himself, Mr. MATHIAS, and Mrs. HAWKINS):

S. 1974. A bill to prohibit the imposition by the states of the worldwide unitary method of taxation; to the Committee on Finance.

By Mr. GOLDWATER:

S. 1975. A bill to provide that the laws restricting trade between two points in the United States to vessels of the United States shall not apply to inflatable passenger boats or rafts before November 1, 1993; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. 1976. A bill to provide for a study relating to the development of high speed rail systems within the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. SYMMS:

S. 1977. A bill to temporarily increase the duty on Canadian softwood lumber and wood shingles and shakes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. D'AMATO, Mr. DIXON, Mr. DODD, and Mr. MATTINGLY):

S. 1978. A bill to clarify the taxation of certain asset-backed securities in multiple class arrangements; to the Committee on Finance.

By Mrs. KASSEBAUM:

S. 1979. A bill to fulfill the purposes of the Airport and Airway Improvement Act of 1982, promote air passenger safety, and provide equity to airway users; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

By Mr. THURMOND (for himself, Mr. ZORINSKY, Mr. EAST, Mr. SIMPSON and Mr. KERRY):

S. 1980. A bill to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. HEINZ, Mr. GRASSLEY and Mr. MCCLURE):

S. 1981. A bill to provide a duty on surimi; to the Committee on Finance.

By Mr. DECONCINI:

S. 1982. A bill to provide financial assistance to States to enable them to establish or expand teacher education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 1983. A bill to amend the Clean Air Act to control certain sources of sulfur dioxide and oxides of nitrogen to reduce acid deposition, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NICKLES:

S. 1984. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the financial solvency of multiemployer pension plans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 1985. A bill entitled the "Medicare Voucher Act of 1986"; to the Committee on Finance.

By Mr. PELL (for himself and Mr. DANFORTH):

S.J. Res. 252. A joint resolution requesting the President of the United States to negotiate controls upon and the early prohibition of nuclear explosions; to the Committee on Foreign Relations.

By Mr. HATCH:

S.J. Res. 253. A joint resolution to designate the week of March 2, 1986, through March 8, 1986, as "Women's History Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. DENTON, Mr. LAUTENBERG, Mr. CRANSTON, Mr. SIMON, and Mr. MCCONNELL):

S. Res. 278. A resolution to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. HECHT, Mr. EAST, and Mr. DENTON):

S. Res. 279. A resolution expressing the sense of the Senate with respect to any transfer of U.S. territory, including certain islands in the Arctic Ocean; to the Committee on Foreign Relations.

By Mr. GARN (for Mr. SIMPSON (for himself and Mr. CRANSTON)):

S. Con. Res. 98. A concurrent resolution to recognize the historical significance of the former presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust; considered and agreed to.

By Mr. DODD (for himself and Mr. STEVENS):

S. Con. Res. 99. A concurrent resolution supporting expanded cultural exchange between the United States and the Soviet Union; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 1969. A bill to create a National Center for the Prosecution of Child Abuse under the Office of Justice Programs in the Department of Justice; to the Committee on the Judiciary.

CHILD ABUSE PROSECUTION ACT

Mr. SPECTER. Mr. President, today I introduce the Child Abuse Prosecution Act of 1985. This legislation will establish the National Center for the Prosecution of Child Abuse.

The incidence of child abuse in the United States is staggering. The present precedures for the prosecution of child offenders, however, are inadequate to counter this growing nationwide problem. The National Center established by this legislation will provide district attorneys and local prosecutors with the essential support they desperately need to address this tragedy.

In 1983, 1.7 million cases of child abuse were reported—an alarming increase of 800 percent since 1976. As a former district attorney of Philadelphia, I am acutely aware of the problems associated with prosecuting child abuse cases. More recently, as chairman of the Senate Subcommittee on Juvenile Justice and cochairman of the Senate children's caucus, I have heard extensive testimony on the increasing problem of child abuse. I believe we must implement innovative new methods to address this problem. Local prosecutors are primarily responsible for the prosecution of child abuse cases; a nationwide network will provide invaluable support services for their efforts in these difficult cases.

A National Center for the Prosecution of Child Abuse has the support of Attorney General Edwin Meese and his pledge of cooperation by the Department of Justice in implementing this program. On May 12, 1985, the criminal justice section of the American Bar Association endorsed establishment of the National Center under

the auspices of the American Prosecutors Research Institute.

A survey recently conducted for the U.S. Department of Health and Human Services showed an alarming increase in 1984 of documented reports of abused and neglected children. According to the HHS survey, the total number of such reported cases was 1,712,641—a 16-percent increase over 1983 figures. The largest increase is in sexual abuse reporting—from 71,691 reports in 1983 to an estimated 110,878 reports in 1984—an increase of 54 percent.

The increasing reports of child abuse require us to do more to protect our children nationwide. I believe that establishment of a National Center for the Prosecution of Child Abuse is an important step toward achieving this important goal.

This legislation addresses the need to improve procedures for prosecution of child abuse cases and to protect the child victim. The National Center for the Prosecution of Child Abuse would provide the following services:

Training programs for professionals involved in child abuse cases, to improve sensitivity toward the victims;

Dissemination of information about model prosecution programs to prosecutors throughout the United States;

Development of techniques to provide better interviewing of the victim-witness, to avoid further traumatization of the child;

Monitoring of changes in case and statutory law in every jurisdiction and prompt provision of this information directly to prosecutors;

Recommendations of charging and sentencing practices which consider the unique factors involved in child abuse cases; and

Coordination of local and regional interdisciplinary teams to assist local prosecutors in the investigation and preparation of child abuse cases.

Creation of the National Center for the Prosecution of Child Abuse would not be a long-term financial burden for the Federal Government; the National Center would be operated by uniquely qualified criminal justice organizations, such as the American Prosecutors Research Institute and the National District Attorneys Association. It is expected that the local and regional interdisciplinary teams would become financially self-sufficient after a few years, as a result of local private support; the National Center also is expected to become financially self-sufficient after a period of 5 years.

The vital services provided by the National Center currently are not available to most prosecutors. We must act now to provide prosecutors with the information and technical assistance they desperately need in the prosecution of child abuse cases. The National Center for the Prosecution of Child Abuse established by this legislation will coordinate and support the important efforts by prosecutors throughout the United States to combat the growing national problem of child abuse.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prosecution Act of 1985".

FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds that:

(1) Approximately 1.7 million cases of child abuse were reported in this country in 1983, an 800 percent increase since 1976. The more serious of these incidents of physical child abuse and all incidents of child sexual abuse are regarded as crimes and fall within the purview of local prosecutors.

(2) This escalation in reported cases of child abuse has created dramatic case load increases for prosecutors responsible for seeking appropriate redress.

(3) The unique nature of the relationships of offenders to their victims in intrafamilial cases and the fact that, in all abuse cases, the main witnesses are children, requires the exercise of extreme sensitivity on the part of prosecutors responsible for interviewing these young witnesses and preparing cases for trial.

(4) The traditional criminal justice system has not been responsive to the verbal and developmental limitations of children and must be reformed in order to ensure that, while defendants are afforded the full panoply of rights granted them under the constitution or statutes, children are shielded from further vitimization by the system designed to protect them.

(5) Prosecutors do not have the resources necessary to acquire the requisite skills in handling these sensitive cases, the capability to track changes in case and statutory law, or to obtain information on model or innovative programs.

(6) While prosecutors have a wealth of actual case experience, they do not have the resources to monitor, evaluate and recommend changes in State and Federal legislation designed to accommodate the needs of the child witness and thereby eliminate barriers to successful prosecution.

(7) Many prosecutors do not have the benefit of authorities in the fields of pediatric medicine or mental health on which to rely for export testimony and are at a distinct disadvantage when seeking a conviction.

(b) It is therefore the declared policy of the Congress to provide the necessary resources to develop a national prosecutorial capacity to undertake legal research, identify and disseminate model prosecutorial child abuse programs, and provide technical assistance and litigation support to local prosecutors across the country.

ESTABLISHMENT OF CENTER

SEC. 3. (a) part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S. 3711-3712) is amended—

(1) in section 102—

(A) in clause (5) by striking out "and" after the semicolon;

(b) by redesignating clause (6) as clause (7); and

(C) by inserting after clause (5) the following:

"(6) provide for the operation of the National Center for the Prosecution of Child Abuse as provided in Section 103; and"; and

(2) by adding at the end thereof the following:

"NATIONAL CENTER FOR THE PROSECUTION OF CHILD ABUSE

"SEC. 103. (a) The Assistant Attorney General shall provide for the operation of a clearinghouse, to be known as the 'National Center for the Prosecution of Child Abuse', the functions of which shall include but not be limited to the following:

"(1) disseminating nationally information on innovative and model prosecution programs;

"(2) monitoring and evaluating changes in State and Federal legislation based upon the actual case experience of prosecutors, for the purpose of developing model legislation;

"(3) reporting and tracking changes in case and statutory law in every jurisdiction and disseminating this information to prosecutors;

"(4) providing technical assistance and litigation support to prosecutors in child abuse cases;

"(5) coordinating local and regional interdisciplinary teams to assist local prosecutors in the investigation and preparation of child abuse cases; and

"(6) assisting local prosecutors in the design and implementation of efforts for private funding to support the establishment and maintenance of such interdisciplinary teams.

"(b) The Assistant Attorney General is authorized to make grants to or enter into cooperative agreements or contracts with public agencies or private nonprofit organizations to operate the National Center for the Prosecution of Child Abuse as provided in this section.".

AUTHORIZATION AND CONFORMING AMENDMENT

SEC. 4. (a) Subsection (a) of section 1001 of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3793(a)) is amended by adding at the end thereof the following:

"(7) There is authorized to be appropriated $1,300,000 for each fiscal years 1987 and 1988 to operate the National Center for the Prosecution of Child Abuse as provided in section 103.".

(b) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end of the item relating to Part A the following:

"Sec. 103. National Center for the Prosecution of Child Abuse.".

By Mr. SPECTER:

S. 1970. A bill to authorize loan guarantees and interest subsidies for severely depressed cities; to the Committee on Banking, Housing, and Urban Affairs.

SUDDEN AND SEVERELY ECONOMICALLY DEPRESSED CITIES LOAN GUARANTEE AND LOAN INTEREST SUBSIDY ACT

Mr. SPECTER. Mr. President, today I am introducing legislation designed to call the Government's attention to the severe economic distress that many municipalities suffer as a result

of their loss of industry and, thus, their tax bases.

On November 1, 1985, the distinguished acting chairman of the Commerce, State, Justice Appropriations Subcommittee, Mr. RUDMAN, and I called this body's attention to the problems of cities like those in Pennsylvania which have experienced a loss of steel companies and related industries. I noted then that "along with the decline of the industry have come lowered county assessments on homes and businesses, reduced employment, and an aging population."

The city of Clairton, PA, was given as an example of the problems faced by municipalities with declining industries. I stated in the colloquy that, as I pointed out, in 1960, Clairton's population was 18,389. By 1980, the population had declined to 12,188, for a loss of 33.7 percent. A further 6-percent loss is projected by the year 2000. And in 1980, 17.2 percent of the population was over 65 years old. The decline in the city's ratables has produced a fiscal crisis of the first order, to the extent that health and safety are now endangered. The city of Clairton is projecting a deficit of $600,000 by year end, or nearly one-third of the city's $3.2 million budget. As of September 10, 1985, there was only $3,000 remaining in the city's bank account, which was not enough to pay its 13 police officers and 10 firefighters. State police and volunteer firefighters now constitute the city's sole safety forces.

Clairton by no means stands alone. There are many other "steel" towns in a similar situation throughout my State and the country. Other examples in Pennsylvania include, but are not limited to, Aliquippa, Homestead, West Homestead, Duquesne, and Dravosburg.

But the problem is not limited to towns with a declining steel industry. Towns whose economies are based on farming, lumber, textiles, mining, and other industries that are experiencing difficulties are also facing severe economic problems like those being experienced by Clairton. This is truly a national problem in scope.

My bill would authorize long-term loan guarantees and interest subsidies for severely economically depressed cities that are deemed eligible for assistance under criteria to be established by the Secretary of the Treasury. The loan guarantee part of the legislation is modeled on the rescue plan that Congress adjusted for the city of New York a few years ago.

This legislation also contains a provision that would allow severely economically depressed communities to divert portions of their community development block grants to pay for vital municipal services such as police and firefighters where they would not otherwise be able to pay for these services. The Secretary of Housing and Urban Development would give permission to divert funds based on criteria development by the Secretary.

This bill need not impose major new costs on the Federal Treasury. Past loan guarantee programs, such as those for New York City and Chrysler, have demonstrated that guarantees do not cost the Government 1 cent if careful criteria are established for working loans available. The low interest loans need not be a prohibitive expense to the Government if awarded only where needed. My bill explicitly authorizes the Secretary of the Treasury to take such considerations into account in setting eligibility criteria.

I should also add that there will be high costs to doing nothing in terms of the additional benefits that a devastated citizenry will become entitled to if basic municipal services cannot be maintained to protect health and safety.

I urge my colleagues to give this bill their most serious consideration, and I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Sudden and Severe Economically Depressed Cities Loan Guarantee and Loan Interest Subsidy Act".

TITLE I—LOAN GUARANTEES AUTHORITY

SEC. 101. (a) Upon the written request of a unit of general local government and the Governor of the State where that unit of general local government is located, the Secretary of the Treasury may guarantee the timely payment, in whole or in part, of interest or principal, or both, of indebtedness of that unit of general local government in accordance with this title.

(b) Any guarantee under this title shall cease to be effective not later than fifteen years after the date of the issuance of the indebtedness involved.

(c) The Secretary of the Treasury shall prescribe terms and conditions for the making of guarantees under this title.

(d) The Secretary of the Treasury shall also provide interest subsidies where needed to enable cities which meet the requirements established by the Secretary to obtain loans at below market interest rates.

CONDITIONS OF ELIGIBILITY

SEC. 102. (a) A guarantee may be made under this title only if the Secretary of the Treasury finds—

(1) that the unit of general local government is severely economically depressed;

(2) that it has lost such a significant amount of industry, employed population, and, therefore, its tax base; and

(3) that it is in a financial crisis and is unable to meet its financial obligations or to maintain vital municipal services.

The Secretary of the Treasury shall determine the criteria for eligibility.

(b) The Secretary shall include in the criteria prescribed under this title assessments of the viability of the unit of general local government and of the exposure of the United States Treasury.

AUTHORIZATION FOR LOAN GUARANTEES AND SUBSIDY AMOUNTS

SEC. 103. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—EMERGENCY USE OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR CITY SERVICES IN SEVERELY ECONOMICALLY DEPRESSED CITIES AUTHORIZATION

SEC. 201. (a) Upon the written request of a unit of general local government and the Governor of the State where that unit of general local government is located, the Secretary of Housing and Urban Development may permit the unit of general local government to divert portions of its community development block grant to pay for vital municipal services, where the Secretary finds that the unit of general local government has lost such a significant amount of industry and taxpaying population that its tax base can no longer support vital municipal services.

(b) As used in this section—

(1) the term "Secretary" means the Secretary of Housing and Urban Development; and

(2) the term "vital municipal services" includes the services of police and firefighters and ambulance and medical services.

By Mr. HELMS for Mr. EAST (for himself, Mr. THURMOND, Mr. QUAYLE, Mr. SYMMS, and Mr. HELMS) (by request):

S. 1972. A bill to authorize the furnishing of military assistance to the National Union for the Total Independence of Angola [UNITA]; to the Committee on Foreign Relations.

MILITARY AID TO ANGOLA

Mr. HELMS. Mr. President, as our colleagues are aware, the distinguished junior Senator from North Carolina. Mr. EAST, has been necessarily absent from this Chamber for much of this year.

Nevertheless, JOHN is looking forward to his return. Among other issues, he is deeply concerned by the relative lack of interest which our Government has taken in providing assistance to the freedom fighters opposing the Communist government of Angola. My able colleague believes that it is our responsibility to assist all those trying to throw off Communist tyranny, and I agree with him wholeheartedly.

Accordingly, Mr. President, Senator EAST has asked me to introduce on his behalf a bill to provide military aid to the Angolan freedom fighters, along with the statement he had prepared for the legislation.

Mr. President, I ask unanimous consent to submit, at the request of Mr. EAST, the aforementioned bill, and also on behalf of myself and the other cosponsors, Mr. QUAYLE, Mr. THURMOND, and Mr. SYMMS.

● Mr. EAST. Mr. President, I am introducing today S. 1972, a bill to provide $27 million in military aid to

UNITA forces, under the leadership of Dr. Jonas Savimbi, currently fighting the Marxist regime of Angola.

I believe military aid to these anti-Communist and pro-Western forces is necessary for three reasons, Mr. President. First, military assistance will provide necessary supplies and weaponry to UNITA at a time when the Soviet Union appears to be increasing its own massive aid to the MPLA regime and to be preparing for a final onslaught on the freedom fighters. Second, the repeal of the Clark amendment earlier this year, which prohibited any American aid to any group in Angola, permits the United States to play a more active role in southern Africa in behalf of the cause of freedom in that region. American assistance to UNITA, which has long proved itself one of the most effective and reliable pro-Western forces in southern Africa, may well provide the margin of victory in Angola for the supporters of freedom there. The victory of UNITA and the removal of the Marxist regime in Angola would eliminate a source of instability in the region. The 35,000 Cuban troops who prop up the MPLA in power would be sent home, and the assistance that Angola now provides to SWAPO and other terrorist groups in Africa would be ended.

Third, Mr. President, American aid to UNITA would encourage similar anti-Communist forces throughout the world. Afghan, Nicaraguan, Cambodian, and Vietnamese resistance fighters against the Marxist regimes in their own countries would see the United States as a champion of their cause and a source of effective, material aid. The false doctrine that the victory of communism is inevitable would be exposed as the lie that it is, and the claim that the United States has withdrawn from the struggle for freedom and its responsibilities in the world would be refuted.

Mr. President, the regime of the Marxist MPLA seized power in Angola in 1975 after independence from Portugal was gained and in violation of the Alvor agreement, which provided for free elections in Angola. These elections were never held, and the MPLA, with the aid of 13,000 Cuban troops, came to power. There was no pretence that the new regime rested on consent, and since that time popular resistance to the MPLA has grown steadily and dramatically. Since 1983, when UNITA forces won a major victory in central Angola, the regime has been on the defensive and has been forced to rely even more on Soviet and Cuban aid.

In the past 2 years, Soviet military aid to the MPLA has amounted to $1 to $2 billion. Cuban troops in Angola now number some 35,000. Soviet military materiel recently deployed in Angola consists of T-62 heavy tanks, Mig-23 jet fighters, SU-22 fighter bombers, and about 25 MI-24 helicopter gunships. The Soviets have established an air defense line in southern Angola, and Soviet and Cuban pilots have flown Angolan Air Force planes, which in fact are Soviet planes. In July of this year the Soviets undertook and offensive against UNITA forces in eastern Angola. Soviet commanders directed four Government brigades in the offensive, and Soviet military officers directed the MPLA forces down to the battalion level. The Soviets also undertook an offensive against the heartland of UNITA support in Jamba in southeastern Angola. UNITA forces resisted these offensives valiantly and succeeded in blunting the massive, Soviet-coordinated attack.

There are indications, however, that the Soviets are preparing to mount a new offensive in the very near future, and the hard truth is that unless the United States provides military aid to UNITA to counter Soviet and Cuban weaponry and troops, the struggle for freedom in Angola could suffer a serious reverse and perhaps defeat.

Dr. Savimbi has stated many times that he does not seek simply a military victory and the installation of his own forces in power. What he seeks is the withdrawal of all foreign forces from Angola, a free election as promised in the Alvor Agreement of 1975 in which the Angolan people may choose their own government, and the establishment of permanent democratic institutions. UNITA has been forced to wage war against the Marxist regime because that regime has violated its agreement to hold elections, has relied on foreign troops, has waged war against its own people, and has refused to negotiate with UNITA. Nor has the regime shown any disposition to move forward in negotiations over the presence of Cuban troops, the removal of which is a prerequisite in the settlement of the Namibian issue. Indeed, there are more Cuban (and Soviet) military personnel in Angola today than ever before, and they show no sign of leaving.

Mr. President, it is rare that we have an opportunity to help movements like UNITA, which for over a decade has proved its commitment to freedom and its endurance and effectiveness against overwhelming Communist strength. We cannot allow such a movement to be crushed by the tyranny it is resisting, and I urge my colleagues to join with me in providing UNITA the military aid it needs and deserves.●

By Mr. BINGAMAN (for himself, Mr. HATFIELD, Mr. HART, and Mr. PRYOR):

S. 1973. A bill to provide for multilateral limitations on arms sales, and for other purposes; to the Committee on Foreign Relations.

LIMITATION OF CONVENTIONAL ARMS SALE TO THIRD WORLD

Mr. BINGAMAN. Mr. President, today along with Senators HATFIELD, HART, and PRYOR, I am offering legislation intended to limit the sale of sophisticated conventional arms to the Third World. This bill calls on the President to begin discussions with the major arms-supplying countries and encourages formation of a permanent Consultative Commission for Multilateral Arms Transfer Restraint, modeled on the successful Nuclear Suppliers Group which negotiated multilateral restraints on the export of sensitive nuclear technologies in the Ford and Carter administrations. An almost identical bill is being introduced in the House today by Congressman LEVINE.

The reasons for controlling, and hopefully reducing, the sale of advanced conventional weapons to the Third World are very clear. As we gather in this Chamber today, conflicts in Afghanistan, the Persian Gulf, Southeast Asia, Africa, and Central America relentlessly take their toll of human life and threaten the stability of entire regions. These local conflicts, inflamed by the continuing supply of newer and more sophisticated arms, threaten to engulf other states and to provoke wider wars that might involve the United States and the Soviet Union. Most students of international politics believe that a United States-Soviet confrontation, if one were to occur, is most likely to grow out of a regional war in which both superpowers have major interests and considerable prestige at stake. Apart from that menace, arms suppliers also face the possibility that the sophisticated weapons they provide to the rest of the world could be used against them or their allies. This is a lesson the British learned in a very costly fashion during the Falklands war.

The magnitude of advanced arms sales to the developing world is staggering. Based on data supplied by the Arms Control and Disarmament Agency, worldwide arms sales increased tenfold from the early 1960's to the early 1980's. Exports to the Third World accounted for about 80 percent of this increase. Congressional Research Service figures show that from 1977 to 1984, Third World countries doubled their purchases of arms. Foreign sales to the Third World now amounts to over $30 billion a year.

Many countries produce and sell sophisticated weapons. The Soviet Union's record of exporting arms to the Third World—in support of wars of national liberation and in search of hard currency—is abundantly clear. Many Western nations, including our closest NATO allies, also participate in arms trade, as do the Soviet Union's East European allies. In addition, an

increasing number of newly industrializing countries are selling weapons to Third World countries. Brazil, Israel, India, North and South Korea, Taiwan, and China have all developed indigenous arms industries to enhance self-sufficiency, promote economic development, and gain technological expertise. Brazil, for example, has recently had an annual arms sales of $2 billion. And Egypt, India, and Israel all exceed $1 billion in annual arms sales.

Mr. President, the desire to limit arms sales to the Third World is of concern to all Americans. As many in this Chamber will recall, during the Carter administration in 1977, the United States and the Soviet Union initiated discussions on what were then called the Conventional Arms Transfer Talks. A year later, in response to Soviet adventurism in Africa, the United States ended the talks.

In his United Nations speech earlier this fall, President Reagan called on the Soviets to channel competition with the United States along peaceful lines and to enter into negotiations to bring peace to regional hotspots around the world. Multilateral controls on the export of conventional arms would be a major step in this direction.

Former President Nixon also recognized the danger of conventional arms transfers in the fall 1985 issue of the Foreign Affairs Journal. Noting that arms competition in the Third World must be brought under control, Mr. Nixon said:

> U.S. and Soviet arms sales to Third World countries run to billions of dollars. Most of these countries are desperately poor, and they need economic assistance far more than they need additional arms. For the Soviet Union to arm India, while the United States arms Pakistan, can only end in tragedy for the people of both countries. Even though these are only non-nuclear arms, they are instruments of war, and small wars always have the potential of escalating into nuclear wars. There is no prospect for reducing arms sales soon, if at all, but both the United States and the U.S.S.R. have an interest in controlling them and not letting them drag us into conflict.

I share Mr. Nixon's view, and his realistic assessment of the prospects for success, with one qualification: that such discussions should include all major arms suppliers just as the Nuclear Suppliers Group included all major suppliers of nuclear technology. Mindful of the realities of the 1980's, particularly of the emergence of additional actors on the international stage, I believe that progress toward peaceful competition among states inevitably requires a multinational commitment.

In the spring of this year, my distinguished colleague from Oregon, Senator HATFIELD, recognized the need for additional participation in this dialog. Senator HATFIELD's amendment to the foreign aid authorization bill called for conventional arms discussions among the United States, the Soviet Union, and France. That amendment later became public law together with a requirement for an extensive report on this whole area. I am proposing that we further broaden the participation in the negotiations, in the interest of attempting to avoid the circumvention of an agreement.

Mr. President, the legislation that I present for the Senate's consideration is not intended to produce a cessation of arms transfers. Clearly this would be impossible. Moreover, it would also be undesirable. Arms exports can serve U.S. interests to the extent that they strengthen the defensive capabilities of friendly states against aggression by hostile neighbors. What the proposed legislation does is to recommend that this administration establish an international forum modeled after the Coordinating Committee for Multilateral Security Export Controls and the Nuclear Suppliers Group. This new Commission would be comprised of the United States, the Soviet Union, the United Kingdom, France, Italy, and the Federal Republic of Germany. Membership could be expanded later to include other supplier nations.

In the words of this legislation, the purpose of the new Commission would be to "establish guidelines, to regulate the effect of multilateral limitations on arms sales and on the national economies of its member countries; and address other areas pertinent to limiting the sale or transfer of arms." The legislation would also amend the Arms Export Control Act to recognize the threat which the sales of sophisticated arms to the Third World pose to regional and world peace.

Mr. President, I am convinced that there is no greater real threat to world peace then the proliferation of massive quantities of highly sophisticated conventional weapons in regions of great instability. In an immediate sense, conventional arms sales may pose a greater danger than the more dramatic threat of nuclear proliferation.

Mr. President, I also want to take this opportunity to thank Mr. Hugh De Santis, who recently left my staff for a position with the Carnegie Endowment for International Peace, for educating me regarding the threat of international arms sales and for his hard work in preparing the proposed legislation.

Mr. President I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) arms sales worldwide have increased from $3-4 billion per year to $30-35 billion per year over the past two decades;

(2) $25-30 billion of this annual amount represents arms transfer agreements with countries of the Third World;

(3) the accelerating pace of arms transfers to developing countries absorbs resources which could be more productively utilized to foster economic growth;

(4) the proliferation of arms in the developing world tends to undermine geopolitical regional balances;

(5) the deterioration of regional balances has direct implications for North-South relations and East-West relations;

(6) experts agree that any military confrontation between the United States and the Union of Soviet Socialist Republics, and thus another global war, is most likely to stem from a regional conflict in the Third World; and

(7) Third World countries contracted to buy arms from the United States, the Union of Soviet Socialist Republics, and the major West European suppliers between 1980-1984 totaling $40,249,000, $40,201,000, and $33,328,000, respectively.

SEC. 2. (a) It is the sense of the Congress that the President should undertake negotiations with governments of the key arms suppliers in order to establish a consultative commission, modeled after the Coordinating Committee for Multilateral Security Export Controls and the nuclear suppliers group, which should be called the Consultative Commission for Multilateral Arms Restraint (hereafter in this Act referred to as the "Consultative Commission").

(b)(1) The Consultative Commission should be comprised of the United States and the Union of Soviet Socialist Republics, historically the largest arms suppliers, as well as France, the United Kingdom, Italy, and the Federal Republic of Germany.

(2) The Consultative Commission should meet in Geneva, Switzerland, at intervals to be determined by its members in order to negotiate restrictions on sophisticated combat weaponry and the technology of conventional arms production.

(3) The Consultative Commission should—

(A) establish guidelines to regulate the effect of multilateral limitations on arms sales on the national economics of its member countries; and

(B) address other areas pertinent to limiting the sale or transfer of arms, including—

(i) the adoption of mechanisms to safeguard against the circumvention of the arms restraint regime by its member countries; and

(ii) the establishment of a procedural timetable for the purpose of creating an additional forum to facilitate deliberations between member countries of the Consultative Commission and other developed as well as newly industrialized countries on the limitation of arms transfers.

SEC. 3. Paragraph (5) of section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)(5)) is amended by adding at the end thereof the following new subparagraphs:

"(C) the aggregate dollar value and quantity of defense articles, defense services, and design and construction services furnished by the United States to each foreign country and international organization, by category, for the preceding fiscal year, specifying whether such articles and services were furnished—

"(i) by sale under chapter 2 of this Act,

"(ii) by sale under chapter 2A of this Act,

"(iii) by commercial sale licensed for permanent export under section 38 of this Act (including separate listings for the value and quantity of the defense articles and defense services which were licensed for permanent export during that fiscal year and for the value and quantity of the defense articles and defense services which were actually exported on a permanent basis during that fiscal year), or

"(iv) by other authority;

"(D) the aggregate dollar value of all commercial manufacturing license agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization;

"(E) the aggregate dollar value of all commercial technical assistance agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization; and

"(F) the aggregate dollar amount of all offset agreements (as defined for purposes of section 309 of the Defense Production Act of 1950 (50 U.S.C. app. 2099)) associated with commercial licensed sales or government-to-government sales under this Act, which were entered into during the preceding calendar year by the United States suppliers of the defense articles, defense services, or design and construction services sold, listed by foreign country and international organization;".

By Mr. WILSON (for himself, Mr. MATHIAS, and Mrs. HAWKINS):

S. 1974. A bill to prohibit the imposition by the States of the worldwide unitary method of taxation; to the Committee on Finance.

UNITARY TAX REPEALER ACT

Mr. WILSON. Mr. President, I rise today to offer a bill that, unfortunately, must be offered in order that the United States avoid starting an international conflict over the taxation of multinationals.

The legislation that I am introducing, the Unitary Tax Repealer Act, would, first, prohibit States from imposing corporate income taxes on a worldwide unitary basis; second, limit State taxation of dividends received by U.S. companies from foreign corporations; and third, provide States with Federal assistance in gathering information necessary to administer their tax laws relating to multinational businesses. The legislation was prepared by the Treasury Department at the express direction of the President. I am introducing the bill today, as is Representative DUNCAN in the other body, so that the Congress can begin its consideration of the legislation in a timely manner.

Mr. President, the practice of a small but important minority of the States, including my State of California, that assesses corporate income taxes on a worldwide unitary basis has caused serious difficulties with the conduct by the Federal Government of our foreign economic policy. The worldwide unitary method departs from the separate accounting principles of international taxation generally followed by the Federal Government and within the international community. That method imposes severe recordkeeping and administrative burdens on multinational businesses and, because of its departure from internationally accepted taxing principles, often results in double taxation.

These adverse consequences of State worldwide unitary taxation have led to serious formal diplomatic complaints from virtually all of our closest trading partners including Canada, the United Kingdom, Germany, Belgium, the Netherlands, Italy, Switzerland, and Japan. These objections have resulted in the adoption of enabling legislation by the United Kingdom permitting serious retaliatory measures to be taken against United States companies that operate in worldwide unitary States and that have subsidiaries in the United Kingdom. It has become clear that the ability of the Federal Government to speak with one voice in the conduct of its foreign economic affairs is significantly weakened because of these State tax practices.

Over the past 2 years the administration has worked closely with States and affected businesses in an attempt to arrive at a voluntary resolution of the worldwide unitary tax problem. The Treasury Department chaired a Worldwide Unitary Taxation Working Group which in 1984 arrived at principles for the voluntary resolution of the unitary issue at the State level. A number of States responded to this initiative by ceasing the use of the unitary method on a worldwide basis. Other States have not yet acted, however. The failure to date to achieve voluntary compliance by all States with the principles adopted by the working groups, and the increasing international difficulties caused by continued adherence by a few States to the worldwide unitary method, now require that restrictive Federal legislation be adopted.

While the principal foreign commerce issues raised by State worldwide unitary taxation would be resolved if States were to agree that they would not impose worldwide unitary tax on foreign controlled entities, such as limited resolution would cause other serious problems. If a "foreign only" solution were adopted, domestically controlled businesses would thereby be disadvantaged. This would occur because the foreign income of the States, whereas the foreign income of domestically controlled multinationals would continue to be subject to tax at the State level, either on a worldwide unitary combination basis or when repatriated in the form of dividends. The working group recognized expressly the need for competitive balance for domestic multinations, foreign multinational and purely domestic businesses in any resolution of the unitary issue. That principle requires that legislation restricting State worldwide unitary taxation also address the question of equitable State taxation of foreign source dividends.

The legislation I am introducing does not mandate that any specific method of dividend taxation be imposed by the States. Rather, it provides in broad terms for equitable taxation of dividends and suggests certain guidelines that States can follow to avoid the systematic overtaxation and double taxation of U.S. taxpayers—in contravention of a strong Federal policy. Many States, including a number of former worldwide unitary tax States, already compete with these guidelines. Parenthetically, I might also note that even the Ways and Means Committee version of the tax bill recognizes the evil of double taxation by continuing the deductibility of State and local taxes for Federal tax purposes.

States have legitimately contended in the working group and elsewhere that they lack the resources and ability to monitor adequately transactions between members of a water's edge unitary group and related foreign companies outside that group. The Treasury Department agreed with the recommendations of the working group to provide appropriate assistance to the States in order to assure proper operation of the separate accounting method. The working group suggested that an annual information return be filed with the Internal Revenue Service by multinational companies. This return would in turn be shared with the States and with multistate audit agencies and would provide States with some assurance that corporations had allocated and apportioned the appropriate share of the corporation's income to each State. The report would also identify those related companies with which serious income shifting would be most likely to arise. In the summer of 1985, the Treasury Department published for comment a draft of legislation implementing this reporting system. Section 3 of the bill is based upon that draft after taking into account the many comments received from affected businesses and the various States. The information reporting system provided for in the bill is an integral part of the solution to the worldwide unitary problem.

Arguments of federalism and State fiscal sovereignty are not easily overcome. Due concern for rights of the States dictate that they be granted great leeway to tailor their own systems of taxation. However, in this instance the lack of a solution will certainly yield serious international ramifications, including foreign sovereign retaliation against innocent bystanders. Therefore, the Congress must insert itself into the process in order

to avoid a serious disruption of international commerce and so that a solution can be forged.

It is my sincere hope that California and the other six remaining unitary tax States will take remedial action without Federal mandate. However, they are now on notice that the unitary tax repealer has left the station, and, one way or another, the problem will be solved by the end of 1986.

I ask unanimous consent that the text of the Unitary Tax Repealer Act be printed in the RECORD along with a copy of the President's statement of November 8, 1985, addressing the unitary tax issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "Unitary Tax Repealer Act".

SEC. 2. Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SECTION 7518. STATE TAXATION OF FOREIGN INCOME.

"(a) STATE USE OF WORLDWIDE UNITARY METHOD PROHIBITED.—No State shall impose income tax on any taxpayer on a worldwide unitary basis, unless:

"(1) the taxpayer materially fails to comply with the requirements of section 6039A or with the legal or procedural requirements of the income tax laws of such State; or

"(2) neither the taxpayer nor the government of the relevant foreign country provides to such State, within a reasonable period after proper request, material information relating to the determination of the income of the taxpayer on transactions between the taxpayer (or any related corporation described in section (c)(2)) and any corporation not described in section (c)(2) which is a member of the same controlled group of corporations as the taxpayers.

"Notwithstanding the foregoing, this subsection shall not preclude any State from permitting a taxpayer to be taxed on a worldwide unitary basis pursuant to an unconditional election by such taxpayer.

"(b) STATE TAXATION OF FOREIGN-SOURCE DIVIDENDS.—No State shall require the inclusion in the income base upon which State income tax of a corporation is calculated of more than an equitable portion of any dividend received from another corporation, other than a corporation described in section (c)(2)(A) through (E). For purposes of this subsection (b), a State shall not be considered to include in the income base more than an equitable portion of dividends described in the preceding sentence if it—

"(1) excludes from the income base at least eighty-five percent of such dividends;

"(2) excludes from the income base the portion of the dividend that effectively bears no Federal income tax after application of the foreign tax credit; or

"(3) adopts a method of taxation that, considering all the facts and circumstances, results in an equitable apportionment of the dividend to the State substantially similar to (1) or (2), pursuant to regulations to be promulgated by the Secretary.

"This subsection shall not apply to any tax imposed on a dividend by the State of commercial or legal domicile of the recipient. This subsection shall not be construed to permit State taxation of any dividend not subject to State taxation prior to enactment of this section.

"(c) DEFINITIONS.—

"(1) INCOME TAX.—For purposes of this section, the term 'income tax' shall include any State franchise or other tax which is imposed upon or measured by the income of the taxpayer.

"(2) WORLDWIDE UNITARY BASIS.—For purposes of this section, the term 'worldwide unitary basis' means that in computing its State income tax liability a corporation includes in the income base on which the tax is calculated any share of the income of any corporation other than a corporation that is a member of the same controlled group of corporations and is:

"(A) a domestic corporation (including a corporation that has made an effective election under section 936);

"(B) a corporation described in section 922;

"(C) a corporation organized in the Commonwealth of Puerto Rico, Guam, American Samoa or the United States Virgin Islands;

"(D) any foreign corporation if—

"(i) such corporation is subject to State income tax in at least one State by virtue of its business activities in that State; and

(ii) (a) such corporation has, assignable to one or more locations in the United States, at least $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of at least $10,000,000 to or from unrelated parties during its most recent Federal taxable year, or property (other than stock or securities of a corporation) with an aggregate original cost of at least $10,000,000, or (b) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments made for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to one or more locations in the United States is at least 20 percent; or

"(E) any foreign corporation described in subsection (c)(3).

"(3) CERTAIN FOREIGN CORPORATIONS.—A foreign corporation is described in this subparagraph if such corporation—

"(A) is a member of a controlled group of corporations that includes at least one reporting corporation (within the meaning of section 6039A but determined without reference to this paragraph);

"(B) either carries on no substantial economic activity or makes at least

"(i) 50 percent of its sales,

"(ii) 50 percent of its payments for expenses other than payments for intangible property, or

"(iii) 80 percent of all of its payments for expenses,

"to one or more corporations that are described in subparagraph (A) through (D) of paragraph (2) and that are within the controlled group of corporations referred to in subparagraph (A) of this paragraph; and

"(C) under standards established in regulations to be prescribed by the Secretary, is not subject to substantial foreign tax on its net income.

"(4) CERTAIN DOMESTIC CORPORATIONS TREATED AS FOREIGN CORPORATIONS.—For purposes of paragraphs (2) and (3), a domestic corporation shall be treated as a foreign corporation if (i) such corporation has, assignable to one or more locations in the United States, less than $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of less than $10,000,000 to or from unrelated parties during its most recent Federal taxable year, and property (other than stock or securities of a corporation) with an aggregate original cost of less than $10,000,000, and (ii) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to one or more locations in the United States in less than 20 percent.

"(5) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' has the same meaning as in section 6039(c)(4).

"(6) CERTAIN BANK BRANCHES.—For purposes of this section, a domestic branch of a foreign corporation shall be treated as a separate corporation that is incorporated in the United States if such branch is engaged in the commercial banking business. For purposes of the preceding sentence, a branch is engaged in the commercial banking business if—

"(i) the predominant—part of its business consists of receiving deposits or making loans and discounts, and

"(ii) it is subject to supervision and examination by State or Federal authorities having supervision over banking institutions. The Secretary may issue regulations providing that for purposes of this section domestic branches of foreign corporations in other specified industries shall be treated as separate corporations incorporated in the United States."

SEC. 3. Subpart A of part III of subchapter A of Chapter 61 of the Internal Revenue Code of 1954 (relating to information returns) is amended by adding immediately after section 6039 the following section:

"SECTION 6039 A. INFORMATION WITH RESPECT TO CERTAIN MULTISTATE AND MULTINATIONAL CORPORATIONS.

"(a) GENERAL RULE.—A reporting corporation shall file, within 180 days of the due date (including extensions thereof) of its Federal income tax return for the taxable year, a return disclosing information relating to its State income tax returns for state taxable years ending with or within the taxable year of such corporation for Federal income tax purposes. Such return shall include the reporting corporation's income tax liability to each State in which it is liable to pay income tax, its income subject to tax in each State, the method of calculation by which the reporting corporation computed and allocated its income subject to tax by each State, each corporation in which the reporting corporation, or any corporation owning 50 percent or more of the outstanding voting stock of the reporting corporation, owns, directly or indirectly, at any time during the reporting corporation's taxable year, more than 20 percent of the combined voting power of all classes of stock entitled to vote and which, during the reporting corporation's taxable year, has engaged in transactions with the reporting corporation and its includible corporations aggregating $1,000,000 or more, and such other related information as the Secretary may by regulation prescribe.

"(b) REPORTING BY RELATED CORPORATIONS.—

"(1) REPORTING BY COMMON PARENT OF AFFILIATED GROUP.—If a reporting corporation is a common parent of an affiliated group of corporations, in filing the return required by subsection (a) it shall include the information described in subsection (a) with respect to each includible corporation in such affiliated group. Such information shall be filed for the state taxable year of each includible corporation ending with or within the common parent corporation's taxable year for Federal income tax purpose.

"(2) REPORTING ON BEHALF OF OTHER RELATED CORPORATIONS.—If a reporting corporation is a member of a controlled group of corporations that includes a foreign corporation that is described in section 7518(c)(3) but is not required to file a Federal income tax return, then such foreign corporation shall, for purposes of paragraph (1), be considered to be a member of an affiliated group, of which such reporting corporation is the common parent. The preceding sentence shall not apply if the foreign corporation and such reporting corporation are included in a return filed on behalf of an affiliated group pursuant to paragraph (1).

"(c) DEFINITIONS.—

"(1) REPORTING CORPORATION.—

"(A) IN GENERAL.—For purposes of this section, the term 'reporting corporation' means a corporation that is required to file a Federal income tax return for the taxable year, and that

"(i) makes aggregate payments of at least $10,000,000 as compensation for services rendered outside the United States during the taxable year;

"(ii) owns assets situated outside the United States with an aggregate original cost of least $10,000,000;

"(iii) has gross sales occurring outside the United States of at least $10,000,000 during the taxable year; or

"(iv) is subject to tax in at least two States, and owns total assets with an aggregate original cost of at least $250,000,000, at least $10,000,000 of which are located in the United States.

The Secretary shall have authority at any time to increase any dollar threshold set forth in this paragraph. The allocation of compensation payments, property, or sales to or among foreign countries shall be determined under regulations prescribed by the Secretary.

"(B) APPLICATION OF DEFINITION TO RELATED CORPORATIONS.—For purposes of applying subparagraph (A) to related corporations—

"(i) compensation paid by, property owned by, or sales made by members of an affiliated group of corporations shall be treated as if paid, owned, or made directly by the common parent corporation; and

"(ii) compensation paid by, property owned by, or sales made by members of a controlled group of corporations that are not members of the same affiliated group of corporations shall be consolidated and attributed to each member of such controlled group that is required to file a Federal income tax return.

"(2) AFFILIATED GROUP.—For purposes of this section, the term 'affiliated group' means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is required to file a Federal income tax return for the taxable year if—

"(A) stock possessing more than 50 percent of the combined voting power of all classes of stock entitled to vote of each of the includible corporations (except the common parent corporation) is owned directly or indirectly by one or more of the other includible corporations within the affiliated group; and

"(B) the common parent corporation own directly stock possessing more than 50 percent of the voting power of all classes of stock entitled to vote of at least one of the other includible corporations.

"(3) INCLUDIBLE CORPORATION.—For purposes of this section, with respect to any taxable year, the term "includible corporation" means—

"(A) any domestic corporation, other than a corporation exempt from tax under section 501,

"(B) any corporation incorporated in the Commonwealth of Puerto Rico, Guam, American Samoa or the United States Virgin Islands,

"(C) any corporation defined in section 922,

"(D) any foreign corporation that is required to file a Federal income tax return with respect to such taxable year, or

"(E) any other foreign corporation that is described in section 7518(c)(3).

"(4) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' has the meaning given to such term by section 267(f)(1), except that the determination shall be made without regard to section 1563(b)(2)(C).

"(5) CERTAIN BRANCHES TREATED AS SEPARATE CORPORATIONS.—For purposes of this section, a branch described in section 7518(c)(6) shall be treated as a separate corporation that is incorporated in the United States.

"(d) STATUS OF RETURN.—If the information return filed pursuant to subsection (a), or any information reflected on such return, is disclosed or made available to a State tax agency (as defined in section 6103(d)(4)(C)), or to any common agency (as defined in section 6103(d)(4)(A)) in which a State participates, the return may thereupon be treated, if and to the extent provided by the laws of such State, as if originally filed with such State for purposes of the imposition of civil or criminal penalties under the laws of such State for negligence, fraud, or a material understatement of income or of tax liability. Except as provided by the laws of the applicable State, treatment of the information return as a State return shall not extend or otherwise affect any State statute of limitations.

"(e) DOLLAR PENALTY FOR FAILURE TO COMPLY.—

"(1) IN GENERAL—If with respect to any taxable year a reporting corporation fails to comply substantially with the requirement of subsection (a) on or before the due date specified in subsection (a), such corporation shall pay a penalty of $1,000.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the date on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the penalty imposed by paragraph (1) or by any applicable State law) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in penalty under this paragraph shall not exceed $24,000.

"(3) IMPOSITION OF PENALTIES UNDER STATE LAW.—Nothing in this subsection shall preclude any State from imposing any fines or penalties for negligence, fraud, or understatement of income or of tax liability in accordance with the laws of that State."

SEC. 4. Section 6103 of the Internal Revenue Code of 1954 (relating to confidentiality and disclosure of returns and return information) is amended by—

(a) revising subsection (d) to read as follows:

"(d) Disclosure to State Officials, Etc.

"(1) IN GENERAL.—Upon compliance with the procedures and requirements of paragraph 2, returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 45, 51, and 52 and subchapter D of chapter 36, returns described in section 6039A, and return information obtained by the Internal Revenue Service from any foreign government, or agency or department thereof, under the exchange of information provisions of any income tax treaty, estate and gift tax treaty or agreement described in section 274(h)(6)(C), to which the United States is a party, shall be open to inspection by, or disclosure to, any State tax agency for the purposes of, and only to the extent necessary in, the administration of the tax laws of a State, including any procedures with respect to locating any person who may be entitled to a refund. Notwithstanding the preceding sentence, return information obtained under treaties or section 274(h)(6)(C) agreements shall be open to examination or disclosure only to the extent such examination or disclosure is permitted by, and shall be subject to any limitation imposed by, the relevant treaty or agreement. Returns and return information described in this paragraph (1) relating to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation shall also be open to inspection by or disclosure to any common agency.

"(2) PROCEDURES AND RESTRICTIONS.—

"(A) PERSONS TO WHOM INFORMATION MAY BE DISCLOSED.—Except as the Secretary shall prescribe by regulation, inspection shall be permitted, or disclosure made, under paragraph (1) only upon written request by the head of the State tax agency or common agency, and only to the representatives of such agency designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency. Such representatives shall not include any individual who is the chief executive officer of a State or who is neither an employee or legal representative of such agency nor a person described in subsection (n). Returns and return information shall not be disclosed under paragraph (1) to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(B) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATING TO SECTION 6039A REPORTING CORPORATIONS BY STATE TAX AGENCIES, AND COMMON AGENCIES.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (1) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation, may disclose such returns and return information to a State tax agency of any other State, provided the State tax agency of such other State has entered into an applicable nondisclosure agreement with the Secretary

that satisfies the requirement of paragraph (2)(C).

"(C) NONDISCLOSURE AGREEMENT.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (i) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affilated group (within the meaning of section 6038A(c)(2)) that also includes such a reporting corporation shall be required to execute a non-disclosure agreement with the Secretary prohibiting the disclosure of such returns or return information or of any data, information or conclusion extracted or of any data, information or conclusion extracted from or based upon such returns or return information except for the purposes of and under the conditions provided in this section. The required nondisclosure agreement shall contain such terms and conditions as the Secretary shall prescribe.

"(3) DISCLOSURE TO STATE AUDIT AGENCIES.—Returns or return information described in paragraph (1) obtained by any State tax agency may be open to inspection by, or disclosure to, officers and employees of a State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State tax agency. Notwithstanding the preceding sentence, return information obtained under a treaty or section 274(h)(6)(C) agreement shall not be open to inspection by or disclosure to any State audit agency.

"(4) DEFINITION.—

"(A) COMMON AGENCY.—For purposes of this section, the term 'common agency' means a joint or common agency, body, or commission which has been designated under the laws of four or more States to represent such States collectively in the administration of the corporate income tax laws of those States and which has executed a nondisclosure agreement of the type described in paragraph (d)(2)(C).

"(B) STATE TAX AGENCY.—For purposes of this section, the term 'State tax agency' means any agency, body, commission or other body charged under the laws of a State with responsibility for the administration of State tax laws.

((C) STATE AUDIT AGENCY.—For purposes of this section, the term 'State audit agency' means any State agency, body, commission, or entity which is charged under the laws of the State with the responsibility of auditing State revenues and programs."

(b) Striking "subsection (e)(1)(D)(iii)" in subsection (a)(3) and inserting in lieu thereof "paragraph (1) of subsection (d), subsection (e)(1)(D)(iii)".

(c) Striking "subsections (c)" in the second sentence of subsection (p)(3)(A) and inserting in lieu thereof "subsections (c), (d)(2)(A)".

SEC. 5. The second sentence of section 274(h)(6)(C)(i) of the Internal Revenue Code of 1954 (relating to exchange of information agreements) is amended to provide as follows:

"Except as provided in clause (ii), an exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary and appropriate to carry out and enforce the tax laws of the United States (whether criminal or civil proceedings), the tax laws of the beneficiary country and if the parties to the agreement agree, the tax laws of the several States of the United States, including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country (such as provisions respecting bank secrecy and bearer shares.)"

SEC. 6. EFFECTIVE DATE.—The amendments made by this Act shall be effective for taxable years beginning after December 31, 1986.

STATEMENT BY THE PRESIDENT

Since early in this Administration, we have been working with the states, the business community, and foreign governments in an effort to resolve issues related to state use of the worldwide unitary method of taxation. At this time I believe it appropriate for the Federal Government to state its support for the concept of legislation that would:

1. Effect a requirement that multinationals be taxed by states only on income derived from the territory of the United States ("the water's edge requirement"); and

2. Address the question of equitable taxation of foreign source dividends.

We hoped that by this time these principles would have been enacted by the various states that have unitary taxation. Since states have not universally accepted these principles, I am instructing the Secretary of the Treasury to initiate the process of crafting Federal legislation to incorporate these principles into law and to work with the Congress for passage, and also, where appropriate, to enter into negotiations to amend double taxation agreements. I am also instructing the Secretary of the Treasury to pursue enactment of the domestic "spreadsheet" legislation, which has been previously proposed, and which is designed to assist nonunitary states with tax enforcement respecting multinational corporations in order to promote full taxpayer disclosure and accountability.

Further, I am instructing the Attorney General to ensure that the United States' interests are represented in appropriate controversies and cases consistent with this approach.

Mr. MATHIAS. I am very pleased to cosponsor this bill, drafted by the administration and introduced at its request by Senator WILSON. It marks a great stride toward the worldwide unitary tax reform I have been pressing for two decades.

The bill has two major components. First, it restricts the States from applying a unitary tax to corporate income generated beyond U.S. territory and requires the States to follow the principles of the Federal Tax Code in taxing intercorporate dividends from foreign corporate branches. Second, it requires multinational corporations to make fuller financial disclosures to the State taxing authorities on a new domestic disclosure spreadsheet.

Abandoning the worldwide unitary tax will have little direct effect on the revenues coming to the States from corporate taxes. It will, however, give a powerful boost to the economic vitality of the few States that have clung to this method of taxation. The change should enhance the investment climate in these States. In addition, the full disclosure spreadsheet will reassure the States that all the corporations' worldwide operations are being taxed properly in the jurisdictions in which they are generating income.

The worldwide unitary tax has been a source of distress among our foreign trading partners. By introducing a bill this year and vigorously pursuing its enactment next year, we hope to avert retaliatory measures from other countries, such as the pending British action to restrict the advance corporate tax rebate that United States corporations now enjoy in that country.

As one who has worked on this issue for more than 20 years, I am gratified to see the support this proposal has drawn in its present form, from the President and the Senator from California, among many others. The Secretary of the Treasury, James Baker, and his predecessor, White House Chief of Staff Donald Regan, both deserve special mention for their sustained involvement and leadership in maintaining progress on this issue over the past few years. I look forward to working further with all these gentlemen, and with the rest of my colleagues, in advancing the bill through the legislative process next year.

By Mr. GOLDWATER:

S. 1975. A bill to provide that the laws restricting trade between two points in the United States to vessels of the United States shall not apply to inflatable passenger boats or rafts before November 1, 1993; to the Committee on Commerce, Science, and Transportation.

WHITEWATER RAFTING TRADE EXEMPTIONS

● Mr. GOLDWATER. Mr. President, I am today introducing legislation to provide the whitewater rafting industry with a temporary exemption from the Jones Act.

Owners of these river touring companies have been advised by the U.S. Customs Service that the operation of foreign-built inflatable rafts on navigable rivers of the United States is illegal under provisions of the Jones Act. This affects well over 90 percent of the rafts currently owned by professional river outfitters. Because of domestic supply problems, outfitters cannot replace worn rafts for the 1986 river season, let alone replace their entire fleet with U.S.-built rafts. A period of relief and transition is very much justified. The 8-year exemption to the Jones Act provided by my bill is sufficient to determine whether domestic raft manufacturers can begin to service this market.

There are many among my colleagues who are cautious about any proposals to amend the Jones Act. I want to reassure these colleagues that over a period of several months the whitewater industry has worked close-

ly with maritime labor, domestic inflatable raft manufacturers, and other parties to reach accommodation of the interests of these groups. That process is ongoing, and it is not the intent of the river outfitters to strike at the fiber of the Jones Act.

I hope that my colleagues can also appreciate the urgency of this situation and act quickly to resolve the question. The problem has confronted the industry for some time now with the verbal assurances of its Government that no enforcement procedures would occur. However, enforcement has now occurred. Hundreds of river outfitters and their thousands of employees are left without recourse in their business plans for the upcoming 1986 river season.

It has been determined that no administrative or legal remedy is available to river outfitters. What happens next to this segment of recreation is solely in the hands of this Congress. We need to move quickly on any unresolved factfinding, because the stability of this industry depends upon a congressional decision within the next few months.

I thank my colleagues for the time many have already devoted to this problem and for the attention it receives in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), is amended by inserting after the period at the end thereof the following: "Before November 1, 1993, nothing in this section, or in any other provision of law restricting trade between points in the United States to vessels of the United States, shall apply to inflatable passenger boats or rafts not exceeding two and one half tons."●

By Mr. SPECTER:

S. 1976. A bill to provide for a study relating to the development of high speed rail systems within the United States; to the Committee on Commerce, Science, and Transportation.

HIGH SPEED RAIL SYSTEMS

Mr. SPECTER. Mr. President, I am introducing legislation directing the Federal Railway Administration and the National Railroad Passenger Corporation (Amtrak) to conduct a joint study for the purpose of determining the most effective means by which the Federal Government can encourage the development of high speed rail systems within the United States. In conducting such a study, the Federal Railway Administration and the National Railroad Passenger Corporation are directed to consider, among others, such means as tax benefits for private investors; Federal assistance in obtaining necessary rights-of-way; matching Federal grants for developing new technology that could be applied nationally; and the establishment of a pilot program. The recommendations will be reported to Congress within 6 months of enactment.

Last year, April 11, 1984, Congress enacted legislation which I cosponsored granting its consent to an interstate compact among the States of Illinois, Indiana, Michigan, Ohio, and Pennsylvania for the preparation of a feasibility study for the development of a system of high-speed intercity rail passenger service. The bill I am introducing today directs that the Federal study be conducted in consultation with this congressionally recognized compact.

The involvement of Amtrak in this venture is also essential; it has the experience as the national passenger railway and owns much of the track and rights-of-way necessary for development of high-speed rail service. On July 31, 1985, I wrote Mr. W. Graham Claytor, Jr., president of Amtrak, and urged him to study the feasibility of initiating high-speed rail service between Philadelphia and Pittsburgh. I ask unanimous consent that my letter and Mr. Claytor's response be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 31, 1985.

Mr. W. GRAHAM CLAYTOR, Jr.,
President, Amtrak, North Capitol Street, NW., Washington, DC.

DEAR MR. CLAYTOR: I am intrigued by the reports in the recently issued preliminary study of the Pennsylvania High Speed Intercity Rail Passenger Commission that rail service between Philadelphia and Pittsburgh may be accomplished in less than three hours, at speeds of 160 miles per hour or faster. According to the study, such high speed rail systems are currently in use in France, Great Britain and Japan.

Such a system would give Pennsylvania a quality and frequency of service unknown in America, but widely available to those countries presently utilizing safe rapid rail transit between major cities. It also would help meet a growing demand for intercity transportation which some studies have indicated will double by the year 2000.

I strongly urge you to support the development of such rail service, if indeed it is practical for the areas in which it is envisioned.

Thank you for your prompt attention to this important aspect of transportation improvement.

Sincerely,

ARLEN SPECTER.

SEPTEMBER 5, 1985.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I am responding to your July 31 letter concerning reports you have received from the Pennsylvania High Speed Intercity Rail Passenger Commission regarding the feasibility of establishing a 160-mile-per-hour rail service between Philadelphia and Pittsburgh.

While I have not yet seen the reports you mention, I am familiar with the efforts of various groups to establish high-speed rail service in this country, and I can offer some general observations. As you point out, the Japaneses bullet trains and France's Tres Grande Vitesse (TGV) are perhaps the two better known high-speed services in operation today. In the United States, Amtrak currently operates service in the Northeast at 120 miles per hour, the fastest rail passenger service in the country, and we hope to achieve slightly greater speeds as further refinements in our operations permit.

Amtrak has taken the position that it will support the effort of private and public sector initiatives to develop high-speed rail service, but for budgetary reasons we cannot participate financially in the institution of such service. Amtrak did, however, enter into a licensing agreement with the former American High Speed Rail Corporations (AHSRC) for development of high-speed rail passenger service in the Los Angeles-San Diego corridor. Our interest in AHSRC was predicated on the belief that the introduction of high-speed passenger trains to the United States on a commercial basis holds the promise of financial benefits to Amtrak and that prospects are favorable that Amtrak can enter into profitable commercial relationships with the direct providers of high-speed passenger service whereby we could possibly provide reservations, operating and maintenance services, all on a profitable basis. Unfortunatley, AHSRC was not able to secure the private sector financing to institute service, but this does not necessarily work against other entities' efforts to establish service. In fact, the Florida High-Speed Rail Commission was recently formed to consider the feasibility of high-speed rail service in that state, and technical information prepared by the Japanese National Railways was made available to the Commission through AHSRC. Clearly, the development of high speed service should result in greater public awareness of rail service as a viable transportation alternative, and we look forward to the day that the United States will have world class high-speed service.

I appreciate your interest in high-speed rail and hope that you will let me know if you have any further questions about Amtrak's role in its development in the United States.

Sincerely

W. GRAHAM CLAYTOR, Jr.,
President.

Mr. SPECTER. Mr. President, high-speed rail service is the wave of the future, and it is unconscionable that this Nation, once a leader in new technology, should lag so far behind other developed nations such as France, Germany, Great Britain, Canada, and Japan. We cannot settle for a society that fails to develop the infrastructure needed to maximize our potential.

Just as the railroads once paved the way for the development of our Nation, high-speed rail can pave the way for revitalization of our cities by stimulating tourism, increasing employment opportunities, and encouraging business development in now near-deserted urban train stations and in

outlaying cities served by these rails. The greatly reduced travel times—the current 7-hour trip between Philadelphia and Pittsburgh, for example, could be cut to just over 2 hours—and the greater choice in arrival and departure times, will attract vastly more riders with a corresponding savings in oil and gas use and reduction in highway and airport congestion.

We must begin now to develop the transportation infrastructure we will need by the turn of the century. Several years ago, the Congress set up the National Transportation Study Commission to study America's future transportation needs. The Commission's final report predicted that, by the year 2000, this country will need almost double its present ability to transport passengers by common carriers. If we are to meet these travel needs, development of high-speed rail systems should be a high priority.

The Federal study took special note of the absence of an efficient travel mode for short-distance intercity markets—a niche high-speed rail might fill:

Present inter-city service offers limited speed and cost options. In short-range markets, there are no substantial high-speed options—air being relatively slow due to excessive access time, and the auto and bus being fixed at a maximum upper speed limit of 55 miles per hour. This market is often indicated as having potential for high-speed rail service; however, substantial capital investment is required. Where auto, bus and air speeds are often impaired by road and airway congestion, rail services may gain market share when rail speeds and service levels begin to compare favorably with the other modes.

A high-speed rail network will not only provide the transportation system necessary for future growth, but it will also deliver benefits related to its planning and construction. In my own State of Pennsylvania, a study prepared for the Pennsylvania High Speed Intercity Rail Passenger Commission found that new jobs directly created can boost the State's employment growth rate by as much as 68 percent during the construction period—estimated at 8 years—and by up to 35 percent when service begins. A high-speed rail system between Philadelphia and Pittsburgh could provide as many as 24,000 construction jobs and 12,500 permanent positions. Similar economic benefits would be found in the construction of high-speed rail in other States.

It is equally important to note that this economic activity and business activity would be shared by a wide range of industries, sparking an employment upturn in many of the same industries that built the interstate highways, such as construction companies clearing the rights-of-way, and those providing the steel necessary to construct bridges and the other necessities in laying the roadbed. Heavy industry currently building conventional railroad equipment would have a new market, while construction would also involve the advanced technology required for communications, operations, ticketing, and other aspects of a high-speed rail system.

In the cities of participating States, high-speed rail would be expected to provide a new dimension to the revitalization of urban areas which have fallen into neglect as rail service declined. The high-speed rail facilities will stimulate business, construction, employment, and tax revenues.

The five Northeast-Midwest States in the congressionally authorized high-speed rail compact, Pennsylvania, Illinois, Indiana, Michigan, and Ohio, comprise the industrial heartland of America. Today this heartland and its industry has been weakened by recession and new competition and is seeking new businesses and new opportunities. A modern, efficient rail passenger system would attract business and lay a strong foundation for industrial revitalization.

The promise of these economic benefits has stimulated State and local interest in the development of high speed rail service, but the States cannot meet this national need for an improved transportation infrastructure on their own. Timely development of high-speed rail requires Federal assistance. Notwithstanding severe budget constraints, we cannot afford not to make this capital investment in our future, which will yield extreme benefits for the entire country.

As Pennsylvania State Representative Richard Geist, chairman of the PA High-Speed Rail Commission and vice chairman of the national High Speed Rail Association, recently told a group in Washington, DC:

We can either confidently help shape the future, or we can slide further behind other developed nations with our passenger rail technology. The choice is ours.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Railway Administration and the National Railroad Passenger Corporation shall conduct a joint study for the purpose of determining the most effective means by which the Federal Government can encourage the development of high speed rail systems within the United States. In conducting such study, the Federal Railway Administration and the National Railroad Passenger Corporation shall consider, among others, such means as tax benefits for private investors; Federal assistance in obtaining necessary rights-of-way; matching Federal grants for developing new technology that could be applied nationally; and the establishment of pilot programs.

(b) In carrying out such study, the Federal Railway Administration and the National Railroad Passenger Corporation shall consult with members of the Interstate High Speed Intercity Rail Passenger Network Compact.

(c) On or before the expiration of the 180-day period following the date of the enactment of this Act, the Federal Railway Administration and the National Railroad Passenger Corporation shall report, jointly, to the Congress the results of such study, together with their recommendations.

SEC. 2. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 1977. A bill to temporarily increase the duty on Canadian softwood lumber and wood shingles and shakes; to the Committee on Finance.

AMERICAN SOFTWOOD LUMBER STABILIZATION ACT

Mr. SYMMS. Mr. President, yesterday I talked to Mr. Douglas Westenhaver, president of DAW Inc., a lumber manufacturing firm. He is a competent and respected manager. His firm manages 14 lumber mills in Idaho, Montana, Oregon, and Washington.

I contacted him when I heard that two of his Idaho plants, the W-I and DAW mills in the Coeur d'Alene area, are the latest victims of subsidized Canadian lumber imports. The DAW plant is shut down and the W-I plant is facing an environmental deadline on December 21. Because of the economic impact of Canadian lumber on American markets, management cannot justify spending the money to cure the environmental problem.

Consequently, another 235 workers will probably be laid off at these two mills by Christmas. About 160 loggers supplying the W-I plant are idled and more will be out of work if the DAW plant cannot start up again soon.

"This is just the first two mills," according to Westenhaver. "Others will be going down, at least one more (not in Idaho) before Christmas." Doug puts the blame squarely on the Canadians. "Thats what's killing all our dimension mills" he says. In his view, and that of other lumbermen, the Canadians are able to take American markets simply because they are subsidized. "I've been in their plants and I'm not a bit concerned about competing with them. If we could get free timber for 6 months like they do we'd close the borders ourselves. Its not just the mills that are hurting, the quality of life of the workers sure goes way down when they lose their jobs."

Mr. President, I share Doug's view, and those of other Idaho lumbermen. We are being taken for a royal ride. The Canadians love to talk. They are anxious to meet with us often and dis-

cuss trade issues. While we talk, they are taking our markets and putting our people out of work. As Doug says, "It's a shame to be broke and have the people who broke us laughing at us."

The Westenhaver operations are not unique. Riley Creek Lumber, Scott Paper, Champion International, and Potlatch, among others, have experienced downtime or closures related at least partially to import-impacted markets. I am tired of this and our people are tired of it. No one can argue that we are not hurting badly. In 1979, Idaho's timber industry employed 19,400 people; right now we probably have less than 15,000 jobs.

The situation is the same, or maybe worse, nationally. In 1984, the timber industry operated at 80 percent of capacity, had pretax losses of over $300 million, and took over $600 million in writeoffs. More than 30,000 jobs have been lost, 22,000 of them directly attributed to Canadian competition.

We occasionally hear statements that Canadian imports are not really the problem. Mr. President, the Canadian share of the American market has grown from 18.7 percent in 1975 to 30.9 percent in 1984. Between 1979 and 1984, our plant utilization dropped from essentially 100 percent to about 80 percent. If anyone thinks that is a coincidence, the Canadians would really like to talk to you.

Several factors contribute to the Canadian success. A recent ITC study indicates that the Canadian Government sells standing timber—stumpage—at a fraction of the price American producers must pay for standing timber. Canadian sources indicate that Canadian firms are not required to pay the costs of reforesting the cutover land. Most Canadian timber is sold on a negotiated basis, from government entities. In the United States about two-thirds of the timber is harvested from private land with the stumpage price being required to cover all management land reforestation costs. Public timber is usually purchased on a competitive bid basis, guaranteeing fair market price. In addition, environmental constraints on timber harvesting appear to be much more stringent in the United States, thus dramatically increasing costs. All of these factors, and others, have placed American products at a disadvantage.

Mr. President, we have very recently seen a change in tactics by our neighbors to the north. The Canadian Cousul-General from Seattle has been stumping Idaho, claiming that imposition of a tariff would cost us long-term jobs with only four States gaining employment. He cites a study done by an American think tank. His message is, at the least, misleading. First of all, the study in question covers a broad range of natural resources. We are talking only about Canadian timber. More importantly, according to the Congressional Budget Office, the study is based on a faulty premise.

Mr. President, I am certain that in making the Canadians play by the same rules we are using, it will help our ailing timber industry. For this reason, I am introducing a bill to impose a 3-year tariff on imports of Canadian softwood lumber, shakes, and shingles. The tariff is set at 30 percent for 1986, 25 percent for 1987, and 20 percent for 1988. It would end at the end of the third year or earlier if the import level decreases to historic levels—15 percent.

I have been hesitant to introduce this legislation because other measures are already under consideration to restore equity to our lumber trade. I and a number of my colleagues have been involved with this matter for some time now. Last spring, Congress passed a "Symms" resolution calling on our Government to take action on the imported lumber issue. Currently, the Senate has before it a quota bill and a natural resources subsidy bill designed to give us a level playing field for our lumber industry.

I am pleased to be a cosponsor of both bills. The former bill was introduced by my senior colleague, Senator McCLURE. The natural resource subsidy bill was designed to give us a level playing field and was introduced by the Senator from Montana [Mr. BAUCUS].

The quota bill would limit the amount of lumber from other countries that we would accept and the subsidy bill would allow countervailing duties to be imposed in the amount of the subsidy. Either of these bills would be very beneficial. The tariff bill I am introducing is designed to partially offset the subsidies the Canadians enjoy. These subsidies are the edge in exchange rates and the pennies on the dollar rates they pay for stumpage. In other words, the 30-percent tariff would equalize the 30-percent difference between the Canadian dollar and the United States dollar.

Mr. President, I and many of my colleagues have met on numerous occasions with top Canadian officials and key administration figures to emphasize the importance of this matter to resource producing States.

I would still much prefer to avoid legislation. However, our industry can not wait any longer. By introducing this tariff bill, we are providing the Congress and the administration with a full range of options to deal with Canadian lumber.

Mr. President, I send the bill to the desk, so that any colleagues who wish to cosponsor it may do so, for the remainder of the day.

In summary, Mr. President, there will be no action on the part of the Canadians without some action on the part of Congress to demonstrate to them that we mean business. I hope that some of my colleagues will join in this effort.

I have met with Dr. Clayton Yeider on this matter on numerous occasions. I know that he is willing to negotiate with the Canadians, to settle the issue with some sort of administrative solution to the problem. We would welcome that. But, in my view, that will not happen until Congress takes some action.

By Mr. CRANSTON (for himself, Mr. D'AMATO, Mr. DIXON, and Mr. DODD):

S. 1978. A bill to clarify the taxation of certain asset-backed securities in multiple class arrangements; to the Committee on Finance.

RECOVERY ACT FOR MORTGAGES AND OTHER ASSET-BACKED SECURITIES

Mr. CRANSTON. Mr. President, today I am introducing a bill to eliminate impediments to the growth of the mortgage-backed securities market and to permit the development of the new asset-backed securities market. This legislation would amend the Internal Revenue Code to permit the issuance of multiple class passthrough securities backed by pools of mortgages or other assets under the grantor trust rules of the Internal Revenue Code. Other assets include consumer loans, commercial real estate mortgages, and commercial leases.

The secondary mortgage market provides billions of dollars in credit each year to finance home ownership by enabling originators of home mortgages such as thrift institutions and mortgage bankers to resell mortgage loans to investors in the form of mortgage-backed securities. Recently, the first such securities backed by automobile receivables and consumer loans have come to market. An efficient secondary market lowers the cost of funds for that particular market, making it possible for originators: To make mortgage funds available to homebuyers at lower interest rates, to make car loans available at lower cost and, make other types of consumer loans available at lower cost. Under this proposal originators of all types of loans or assets will be able to sell loans or assets in a more efficient manner to other investors for cash and use the new funds to continue the lending process.

There is approximately $300 billion of outstanding mortgage securities in the secondary market. Purchasers of mortgage backed securities include banks, thrift institutions, pensions and other retirement funds, insurance companies and other institutional as well as individual investors. The first issuance of securities backed by pools of mortgages ever accomplished was done under title 8 of the Housing Act of 1968 by the Federal National Mort-

gage Association [FNMA]. One of my constituents from California, Ray Lapin, the First President of FNMA while it was still a part of the U.S. Department of Housing and Development, devised the concept of putting the full faith and credit of the U.S. Government behind securities backed by pools of FHA-VA mortgages. The success of those securities led to the development of the secondary market as we know it today. Mr. Lapin can truly be said to be the "father" of the secondary mortgage market.

Since that time, the secondary mortgage market has developed a variety of mortgage-backed securities that have been attractive to investors in terms of safety, yield, and investment performance. However, because residential mortgages are subject to prepayment at uncertain intervals, the traditional mortgage security lacks call protection—assurance that the investment will have a definite maturity. The lack of call protection—from a cash payment occurring before the stated maturity to the investor—causes investors to demand a higher yield on moneys invested in these securities. This higher cost of funds is passed on to homebuyers and other participants in the market.

Many investors have differing timing needs in structuring their investments. If one pool of mortgages could be structured to pay off on several maturity dates, that is—2 years, 5 years, 10 years et cetera—investors could select the maturity date most compatible with their investment needs. This concept is called the multiple class mortgage-backed passthrough. This multiple class feature would add more predictability to this instrument thereby reducing the demand for higher yields on these securities.

Presently the tax laws, most of which were enacted prior to the development of mortgage-backed securities, have made it difficult to structure securities that provide call protection, as well as securities that rearrange the cash flows from mortgages to create different maturity classes.

The fixed investment trust vehicle, traditionally used to market pools of mortgages in securitized form without tax liability at the pool level, has been interpreted to restrict the flexibility necessary to provide call protection even to a limited extent and the ability to structure different classes of investors with different maturities as defined by proposed treasury section 301. 7701-4(c) published in the Federal Register on May 2, 1984. In early 1984, Sears Mortgage Securities Corp. along with Dean Witter pioneered the development of a multiple class, mortgage-backed passthrough security. The security was set up under the grantor trust rules with multiple classes of ownership and consistent with private letter rulings from the Internal Revenue Service. Two months later the IRS promulgated draft regulations that espoused the view that multiple class shares in collateral pools violate the passive requirement of the grantor trust form. However, the initial Sears/Dean Witter issue was grandfathered. A public hearing was held by the IRS on the proposed regulation on July 31, 1984. At that hearing, numerous witnesses, including the public securities Association, the Mortgage Bankers Association of America, the National Association of Home Builders, Sears' Mortgage Securities Corp., Dean-Witter Reynolds Inc., Norwest Mortgage Co., the Lomas & Nettleton Co., the First Boston Corp., Solomon Bros., and the gentleman from Texas, Congressman STEVE BARTLETT, all testified in opposition to the regulation. The witnesses described the negative effect of the regulation on the mortgage-backed securities market, and why the use of multiple class fixed investment trusts should be differentiated from Treasury concerns regarding other tax deferral investment proposals.

The Bankers Association of America testified:

We cannot overemphasize the importance of multiclass mortgage passthrough instruments to all parties involved.

We find no legal or tax rationale for the consequences of these regulations that would treat certain multiclass mortgage passthrough arrangements as a 'corporation' instead of a trust for tax purposes.

The Public Securities Association stated:

From a public policy perspective, the use of multiple class passthrough custodial arrangements are desirable because investments in traditional 30-year mortgage passthrough securities are somewhat limited, and this new structure, by providing various maturities, will attract many new institutional investors to participate in the mortgage-backed securities market.

We can conceive of no reason why it is sound tax policy, or sound public policy, to pursue adoption of the proposed amendments without a specific exception permitting multiple class mortgage passthrough arrangements to be classified as fixed investment trusts, and not associations taxable as corporations.

The National Association of Home Builders stated:

The recent development of multiple maturity mortgage investments has been extremely beneficial for the housing industry and American homebuyers.

Mortgage-backed securities, the principal tool for raising mortgage money in the capital markets, have had higher yields than other similar investments because of the unpredictable prepayment of the underlying mortgages which makes management of mortgage pass-through portfolios more difficult than for other similar investments. The development of multiple class mortgage investments has substantially reduced the investment risk problems associated with direct investment in mortgage-backed securities. These multiple class investments, by virtue of more predictable maturities, typically have had significantly lower yield requirements than other mortgage-backed securities.

Dean Witter Reynolds, Inc./Sears Mortgage Securities Corp. stated:

. . . offering 'fast-pay-slow-pay' interests in mortgage pools is desirable, because the different interests have different investment characteristics and appeal to different classes of investors.

We think it is wrong as a matter of legal analysis and tax policy not to exclude multiple class mortgage-pass-through arrangements from the amendments proposed . . .

I would like to insert in the RECORD at this time more recent letters supporting the multiclass mortgage-backed passthrough.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MORTGAGE BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, July 31, 1985.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC

DEAR SENATOR: As you know, the Mortgage Association of America has been most interested over the past several years in the development of a multiple class mortgage-backed pass-through security that would not be subjected to the restrictions embodied in the grantor trust tax treatment under the Internal Revenue Code. We view this mechanism as an excellent opportunity for the attraction of needed additional investment capital for one of our country's most important goals—creation and maintenance of an adequate national stock of housing.

We are most pleased that you are in the process of crafting legislation, the "Mortgage-Backed Securities Legislative and Regulatory Improvements Act of 1985," that would authorize the creation of such a security. We would be happy to work with you and your staff in exploring the effect your proposal would have on the market and in offering any possible technical drafting assistance. And, of course, at such time as Congressional hearings might be scheduled on the subject, we would very much appreciate the opportunity to appear and testify in support of the concept.

We understand that group of investment banking firms has designed a similar proposal and have also indicated to them our interest and support in this matter.

Our goal, of course, is the development of the most effective instrument that could be put in place as quickly as possible. We would hope that all interests involved in this effort could agree on a mutually satisfactory course of action.

Sincerely,

_____.

NATIONAL COUNCIL OF
SAVINGS INSTITUTIONS,
October 7, 1985.

Hon. ALAN CRANSTON,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR CRANSTON: On behalf of the National Council of Savings Institutions, I would like to offer some observations on draft legislation prepared by your staff entitled the "Recovery Act for Mortgage-Backed Obligations" (RAMBO).

This legislation recognizes that tremendous change has happened in the mortgage

markets in the past five years. The liquidity of mortgages has increased substantially, and the volume of trading in mortgages and mortgage-related investment vehicles has also grown.

Not only has the use and volume of mortgage-backed securities grown over the past decade, the creativity applied by the market to these instruments has mushroomed. Savings institutions now use mortgage-backed securities in their asset management. As the need to put old loans in portfolio to use, savings institutions are issuing collateralized mortgage obligations, mortgage-backed bonds, and preferred stock. In the majority of these transactions, mortgage-backed securities, not the mortgages themselves, are used as the collateral.

However, the ability to best utilize mortgage-backed securities, both from the investor and issuer point of view is hampered by tax law. The passive management requirements imposed by the grantor trust provision of the tax code have limited mortgage-backed securities. Your legislation addresses this fundamental weakness in the current structure for mortgage-backed securities.

At the present time, we would like to reserve our technical comments on your legislation. However we would like to express support for your efforts and urge that you introduce legislation in this important area.

Kind Regards,

JOHN H. ROUSSELOT

AMERICAN BANKERS ASSOCIATION, MORTGAGE BANKERS ASSOCIATION OF AMERICA, NATIONAL ASSOCIATION OF HOME BUILDERS, NATIONAL ASSOCIATION OF REALTORS, NATIONAL COUNCIL OF SAVINGS INSTITUTIONS,

October 17, 1985.

Hon. BOB PACKWOOD,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is our understanding that legislation is currently being drafted that would amend the tax laws to permit the issuance of multiple-class securities backed by a single pool of mortgages.

The undersigned organizations strongly support proposals that would remove tax liability at the pool level for multiple-class mortgage pass-through securities set up under specified guidelines. With these tax law amendments, multiple-class pass-through securities could be issued that would resemble collateralized mortgage obligations (CMOs) and offer investors a choice of maturities. This would lessen the unpredictability of prepayments and permit issuers to sell mortgage assets at higher prices than can be commanded by using secondary market instruments currently available to them. Thus, issuers could have the benefits of CMOs as well as sale-of-assets treatment for accounting purposes. In turn, homebuyers would realize a benefit in terms of lower interest rates that would result from more favorable secondary market pricing. Indications are that any revenue loss to the Treasury would be negligible.

We, therefore, respectfully urge Congress to hold hearings on this matter and to pass legislation that would authorize these types of multiple-class mortgage securities. Such legislation would expand the universe of investors willing to purchase mortgage products because such securities could be fashioned to accommodate differing investment needs. Pricing benefits would accrue to homebuyers in the form of lower interest rates, and there would be no significant loss to the Treasury.

Sincerely,

JAMES C. CAIRNS,
President,
American Bankers Association.
RONALD F. POE,
President,
Mortgage Bankers Association of America.
JOHN J. KOELEMIJ,
President,
National Association of Home Builders.
DAVID D. ROBERTS,
President,
National Association of Realtors.
KENNETH F.X. ALBERS,
Chairman of the Board,
National Council of Savings Institutions.

Mr. CRANSTON. Mr. President, Treasury officials could promulgate final regulations by the end of January 1986 on these issues, however, from my conversations with them, they have indicated that they will not substantially amend the regulations with respect to mortgage-backed securities trusts to allow the use of multiple class passthrough securities. They have given indications that they would like some guidance from the Congress on this matter. I believe this legislation would provide such guidance.

My bill simply overrides the proposed draft regulations prohibiting multiclass passthrough securities under the grantor trust rules. This proposal provides that multiclass passthrough securities that do not have active management features are considered with the grantor trust rule.

My legislation makes clear that all classes of passthrough securities representing an interest in the same pool of assets must be issued simultaneously, and the interests represented thereby may not be changed after issuance. This does not, however, prevent the passing through of any adjustments inherent in the assets themselves, such as an adjustable interest rate or a prepayment of principal. Furthermore, the pool of assets must be fixed prior to the date of the first payment to security holders, except for a 2-year period in which substitution of substantially similar assets is allowed in connection with a breach of a representation or warranty made by the transfer of the assets to the trust. I believe that these restrictions provide protection against any tax deferral securities being issued under this provision and that the IRS has sufficient regulatory authority to handle such matters.

The bill contemplates that passthrough securities may be issued in one or more classes. A class is defined to include one or more classes. A class is defined to include one or more passthrough securities, each of which represents a pro rata right to specified cash payments and other rights provided for in the identified assets. For example, a class may represent an undivided interest in all of the assets of the trust; an undivided interest that differs from another class of undivided interests in that its right to payments on the assets is senior to or subordinate to such other class in the event of a delinquency or default on an underlying asset; or a sequential—"fast pay" or "slow pay"—interest which receives payments of principal—or similar amounts—on the assets prior to or later than another such interest, together with amounts designated as interest.

The assets which may be owned through a grantor trust are as proposed in the bill described as "financial instruments." These are defined to include: First, any evidence of indebtedness, such as residential or commercial mortgage, automobile loan, commercial bank loan, credit card receivable, or trade receivable; second, any lease receivable; third, any proceeds of a financial instrument, temporary investments of such proceeds and any income thereon, and any property acquired pursuant to foreclosure—or similar realization on a security interest—with respect to any financial instrument; and fourth, any other passthrough security. Proceeds of a financial instrument include any payment thereon or any payment in lieu thereof, such as advances, guaranty payments, insurance proceeds, or foreclosure proceeds. The bill would be effective with respect to passthrough securities issued after April 27, 1984, the effective date of proposed Treasury regulation section 301.7701-4.

The multiclass format has historically been used predominantly for mortgages. However, the securitization of nonmortgage assets, a relatively recent development, was not consciously excluded from early efforts to facilitate the securitization of mortgages. It simply was not in existence.

It would be incongruent to divide the capital markets by permitting one form of assets, mortgages, to be securitized versus other types of assets. Although homeownership is an important goal for many Americans, food, clothing, home furnishing, automobiles, and other consumer items are generally viewed as equally essential necessities. I believe that there is merit to including consumer loans, commercial mortgages, leases and other assets because this could have a substantially beneficial impact on consumers, business, and financial institutions. This is an area that deserves greater attention by the Congress and the Treasury.

For instance, finance companies, thrifts, and commercial banks that are holders of consumer loans will have a format to sell those loans and remove some of the risk inherent in consumer lending, such as student and education loans. Creating a more efficient capital market is one way to lower interest rates on credit card loans in response

to continued consumer complaints that credit card interest rates are too high. Second, the securitization of commercial leases will be beneficial to computer companies as a means to raising capital for expansion by securitization of their equipment leases. Commercial banks for example, should benefit by being able to securitize and sell commercial loans and commercial real estate loans to investors more economically. This should add liquidity and new sources of fee income for these institutions. Mortgage bankers who are unable to withstand increased debt burdens on their balance sheets should benefit greatly from obtaining sale-of-asset treatment for securitization of commercial and residential mortgages. Thrifts, which in recent years have been the hardest hit by the high cost of financing their assets, should benefit greatly as well by having a new asset-liability management tool. This legislation will also provide them new sources of fee income and it will mitigate against loan losses on commercial and consumer loans as they diversify into these new lending areas. Domestic automobile companies have found in recent years that less costly financing alternatives offered by their finance company subsidiaries have been largely responsible for increased purchases of automobiles and have helped revitalize the automobile industry. The inclusion of automobile receivables as qualifying assets will help them substantially. It is also my belief that asset-based passthrough financings will be of substantial benefit to many other companies that are highly leveraged and/or cannot support additional debt burdens on their balance sheets. Indeed, several prominent financial commentators have argued that excessive debt burdens are endangering American corporations. This security can be used to provide asset liability management and improve the ratio of equity to debits of many corporations. Additionally, those Government sponsored agencies that sell mortgages such as Ginnie Mae, Fannie Mae, and Freddie Mac, will certainly benefit from the multiclass mortgage backed passthrough structure as it will lower their cost of funds.

Not to allow the use of a multiclass grantor trust for nonmortgage loans or assets will deprive consumers of the benefits of a more efficient security while creating yet another level of complexity by requiring regulators and investors to treat otherwise very similar assets differently. To not clarify the application of the Internal Revenue Code to the fullest extent possible is counterproductive to the overall tax simplification efforts presently being undertaken by the Congress and administration. While it is clear that the Treasury could proceed with authorizing a multiclass mortgage-backed passthrough, this is too important an area with broad public policy implications to be left solely to the Treasury.

This area has been in limbo since the proposed Treasury regulations were issued in early 1984. These regulations have never been made final. It is recognized that any change in the way business is done could have tax implications. However, because the Treasury has not spoken on these matters, the market has created other instruments such as the collateralized mortgage obligations to carry out this activity. This particular mechanism is an inefficient one and therefore a more costly one. If there are tax problems created by these instruments, it is time that Treasury stepped forward to propose a solution so that business in this important area of the capital markets can go on in an orderly manner.

The secondary market is now a large market with broad-based participation. Private entities such as General Motors Acceptance Corp., the General Electric Credit Corp., Ford Motor Credit Corp., and Chrysler Financial Corp., are now all active participants in the secondary market. The growth of this market is being restrained by anachronistic tax laws and in some cases the application of laws that have no relevance to market activity. Now is the time for the Congress to begin the process of providing a unified framework for the future development and growth of the mortgage and asset-backed securities market to the benefit of consumers, underwriters, and issuers, both private and public. I would urge the chairman of the Senate Finance Committee to schedule hearings on this matter as soon as possible early next year. Mr. President, I ask unanimous consent to include in the RECORD the text of the bill and a technical explanation of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Recovery Act for Mortgage and Other Asset-Backed Securities.

SEC. 2. MULTI-CLASS PASS-THROUGH SECURITIES.

Subpart E of Part 1 of Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 (relating to the treatment of grantor trusts) is amended by adding at the end thereof the following new section.

"SEC. 680. PASS-THROUGH SECURITIES.

"(a) GENERAL RULE.—Holders of pass-through securities that represent interests in cash payments and other contractual rights provided for in identified financial instruments shall be treated for all purposes of this subtitle as the owners of beneficial interests in such payments and contractual rights, and the arrangement pursuant to which such financial instruments are held and such pass-through securities are issued shall be treated as a grantor, trust subject to the provisions of this subpart, provided that—

"(1) the interests in the financial instruments represented by the pass-through securities are established prior to the intitial issuance of the pass-through securities and, pursuant to the terms of the pass-through securities, such interests may not be changed; and

"(2) the financial instruments in which the holders of pass-through securities own interests are identified prior to the first payment made to holders and are not changed thereafter, except that substantially similar financial instruments may be substituted for identified financial instruments within 2 years of such first payment date in connection with a breach of a representation or warrenty made by the seller of all or a portion of the identified financial instruments.

"(b) CLASSES OF INTEREST.—One or more classes of interests in identified financial instruments represented by pass-through securities may be established with respect to the same identified financial instruments, and the arrangement pursuant to which such financial instruments are held and such pass-through securities are issued shall be treated as the same grantor trust.

"(c) BENEFICIAL OWNERSHIP OF FINANCIAL INSTRUMENTS.—Pass-through securities shall represent the ownership of beneficial interests in the underlying identified financial instruments to the extent of the holder's adjusted basis in such pass-through securities allocable thereto for all purposes of this subtitle, including section 593(d), section 851(b)(4), section 856(c)(5), and section 7701(a)(19)(C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) PASS-THROUGH SECURITY.—The term "pass-through security" means—

"(A) an instrument that evidences the holder's contractual right to receive cash payments on identified financial instruments, the holder's rights in any security for such payments, and the holder's rights in other contractual rights contained in or incident to the identified financial instruments, where the issuance of pass-through securities representing interests in such financial instruments is treated as a sale under section 1001 of all or a portion of such financial instruments, and

"(B) the retained beneficial interest of the seller of a portion of such financial instruments.

"(2) CLASS.—The term "class" means a pro rata right to specified cash payments and other contractual rights provided for in identified financial instruments represented by one or more pass-through securities, which pro rata right differs from the right represented by one or more other pass-through securities, if any, established with respect to the same identified financial instruments.

"(3) FINANCIAL INSTRUMENT.—The term financial instrument means—

"(A) any bond, debenture, note, certificate, account receivable, or other evidence of indebtedness, or a participation interest therein;

"(B) any lease receivable;

"(C) any proceeds of a financial instrument temporary investments of such proceeds and any income thereon, and any property acquired due to a default on any fi-

nancial instrument and any income thereon; and

"(D) any pass-through security representing direct or indirect interests in financial instruments described in subparagraph (A), (B), or (C)."

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to pass-through securities issued after April 27, 1984.

TECHNICAL EXPLANATION OF THE BILL

The proposal provides that arrangements for the issuance of "pass-through securities" in one or more "classes" would be taxed as grantor trusts and not as corporations. As in the case of present mortgage pass-through securities, the holder of the security would be treated as the owner of his share of the assets represented by the security. The holder would be taxed on his proportionate share of the payments on the assets to the extent such payments represented either an undivided interest in the income on such assets or income reportable under the stripped bond rules of section 1286 or similar rules.

The proposal limits the proposed tax treatment to passive arrangements that do not carry on a business activity. Accordingly, all classes of pass-through securities representing interests in the same pool of assets must be issued simultaneously, and the interests represented thereby may not be changed after issuance, pursuant to the terms of the security. This does not, however, prevent the pass-through of any adjustments inherent in the assets themselves, such as an adjustable interest rate or a prepayment of principal. Furthermore, the pool of assets must be fixed prior to the date of the first payment to security holders, except for a two-year period in which substitution of substantially similar assets is allowed in connection with a breach of a representation or warranty made by the transferor of the assets to the trust.

As defined in the proposal, pass-through securities represent interests in assets that are treated as having been sold either in whole or in part by the transferor of the assets. Partial sales include transfers in which the transferor retains either an undivided interest in the assets or an interest consisting of one or more stripped coupons or stripped bonds within the meaning of section 1286 of the Code (or similar interests in the case of assets other than debt obligations). The beneficial interest retained by the transferor is also treated as a pass-through security. Essentially, any arrangement other than one treated for federal income tax purposes as an issuance of debt obligations by the transferor is included.

The proposal contemplates that pass-through securities may be issued in one or more classes. A class is defined to include one or more pass-through securities, each of which represents a pro rata right to specified cash payments and other rights provided for in the identified assets, which pro rata right differs from the right represented by one or more other pass-through securities, if any, established with respect to the same identified assets. For example, a class may represent an undivided interest in all of the assets of the trust; an undivided interest that differs from another class of undivided interests in that its right to payments on the assets is senior to or subordinate to such other class in the event of a delinquency or default on an underlying asset; or a sequential ("fast pay" or "slow pay") interest which receives payments of principal (or similar amounts) on the assets prior to or later than another such interest, together with amounts designated as interest.

The assets which may be owned through a grantor trust are described as "financial instruments" in the bill. These are defined to include (i) any evidence of indebtedness, such as a residential or commercial mortgage, automobile loan, commercial bank loan, credit card receivable, or trade receivable, (ii) any lease receivable, (iii) any proceeds of a financial instrument, temporary investments of such proceeds and any income thereon, and any property acquired pursuant to foreclosure (or similar realization on a security interest) with respect to any financial instrument, and (iv) any other pass-though security. Proceeds of a financial instrument include any payment thereon or any payment in lieu thereof, such as advances, guaranty payments, insurance proceeds, or foreclosure proceeds.

The Act would be effective with respect to pass-through securities issued after April 27, 1984, the effective date of Proposed Treasury Regulation §301.7701-4(c).

Mr. D'AMATO. Mr. President, today my colleagues and I are introducing legislation to help foster the growth of the mortgage-backed securities market and the development of a new market in asset-backed securities, including security interests in commercial real estate, equipment leases, credit card receivables, commercial loans, and automobile receivables.

Although I endorse this legislation, I realize that it may not provide a perfect solution. To the extent that the issues regarding phantom profits, original issue discount and revenue neutrality are not adequately addressed by the legislation in its present form, I fully intend that these issues be resolved during consideration of this bill. My qualified endorsement of the bill does not diminish my desire to compel the Treasury Department to clarify existing rules or promulgate new ones regarding the tax treatment of these securities. My colleagues and I have been prompted by Treasury's inaction in this area. This legislation therefore should be a starting point which will hopefully culminate in the passage of legislation or the promulgation of rules that sets forth a rational system of allocating taxes on these securities.

The efforts of our colleague Senator CHAFEE, who has also attempted to address this very complex issue in legislation introduced yesterday, deserve considerable credit. Although that legislation and the bill we introduce today address the taxation of certain securities, they represent slightly different approaches. The most significant distinction between the bills is that Senator CHAFEE's bill applies only to pools backed by mortgage backed securities while the bill that I am cosponsoring would clarify the tax rules as they would apply to many types of asset based securities. Senator CHAFEE's bill may also allow for an election procedure for debt treatment or asset treatment which would affect the taxation of the issuer. The legislation that I am cosponsoring does not change the character of the present multiclass passthrough securities but clarifies the tax treatment of these particular instruments. I am hopeful that we can work with Senator CHAFEE to inspire the Treasury to participate in the process and clarify tax treatment of the securities at issue. These legislative proposals are subject to modification due to the complexity of these issues and I hope that Treasury will finally come forward to address these very important issues.

This legislation would authorize the use of multiple classes of ownership in fixed investment or grantor trusts which are used in issuing passthrough securities. The legislation will harness the innovation of Wall Street to lower the cost of mortgage and consumer credit. These new innovations in the capital markets would provide additonal billions of dollars of credit to these markets and help commerical bankers, thrifts, mortgage bankers, finance companies, computer companies, and others to reduce the cost of financing their assets. This should allow them to reduce interest rates on loans they make to consumers.

Such legislation is a logical next step in the development of the mortgage-backed securities market following on the administration's trusts for investment in mortgages [TIMS] initiative and the recent enactment and signing by the President of the Secondary Mortgage Market Enhancement Act of 1984. This legislation recognizes, however, that other new assets are now a key part of the Nation's capital markets, especially the secondary markets.

The Recovery Act for Mortgage and Other Asset-Backed Securities is a response to the efforts of securities firms that have devised a marketing device that was utilized by them on certain mortgage-backed bonds, called collateralized mortgage obligations. Subsequently these firms attempted to apply this marketing structure to passthrough securities. The Treasury Department, however, on May 2, 1984, proposed restrictive amendments to its regulations on classification of investment arrangements with multiple classes of ownership. This legislation would help the Treasury distinguish the use of multiple class passthrough securities from restrictions proposed by Treasury on other investment arrangements where the Treasury was concerned about tax deferral or tax avoidance use of trusts with multiple classes of ownership.

During hearings held by the Treasury Department's Internal Revenue Service on its proposed regulations in this area, the Mortgage Bankers Association of America, the Public Securities Association, the National Association of Home Builders, and others tes-

tified and supported the concepts we have embodied in this legislation.

This legislation is intended to be revenue neutral and would merely eliminate roadblocks to more efficient capital markets. I believe this legislation will benefit consumers by causing interest rates to decline, assist in the continued recovery of the housing industry, and provide additional liquidity and efficiency in the lending operations of any other lender who securitizes assets. I therefore urge my colleagues to support our efforts to work with the Treasury on an issue of vital importance to investors, lenders, borrowers, and consumers.

I ask that my statement be included in the RECORD as if given.

By Mrs. KASSEBAUM:

S. 1979. A bill to fulfill the purposes of the Airport and Airway Improvement Act of 1982, promote air passenger safety, and provide equity to airway users; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

AIR PASSENGER SAFETY AND EQUITY ACT

● Mrs. KASSEBAUM. Mr. President, I am today introducing legislation I had hoped would not be necessary.

This bill simply treats the airport and airway trust fund in the same manner as Social Security. It states that, notwithstanding any other provisions of law, the receipts and disbursements of the aviation trust fund shall not be included in the totals of the budget of the U.S. Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending of the U.S. Government.

My colleagues are well aware of my longstanding belief that all revenue and spending programs of the Federal Government should be counted in the budget process. We are one country, one people, and one government. We should also have one budget which accounts for all receipts and costs of Government programs.

Unfortunately, in my opinion, the Senate has expressed several times this year its support for moving certain items, notably Social Security, "off budget."

While that is now an accomplished fact, I believe we must look ahead to the protection of commitments that we have made. One such commitment is to a safe, efficient, modern system of air transportation. That promise has been made many, many times over the years. Most recently, in 1981, Congress decided it was fitting and proper that those users of the airways should be responsible for maintaining, expanding, and modernizing the system. Users accepted that responsibility based on explicit assurances that revenues generated by their use would be utilized in the airway and airport system.

Mr. President, let us understand clearly this point. The users of aviation fuel, who pay higher Federal taxes, and the users of commercial airlines, who pay a substantial excise tax with each ticket, have relied on a Government promise. That promise was not merely that their taxes would be dedicated to the airport and airway trust fund but that Congress would expend those tax revenues for that dedicated purpose. Only one side of that bargain has been kept.

Since fiscal year 1982, we have never approached the authorization ceilings for aviation trust fund expenditures. Look at the following figures. Through fiscal year 1985, the Airport Improvement Program obligations have been $360 million less than authorizations and the Facilities and Equipment Program $766 million short. During that same period, the surplus in the aviation trust fund has grown to an estimated $3.3 billion.

Earlier this fall, we passed a transportation appropriation bill which widened considerably the gap between trust fund revenues and spending. In a year when concern about aviation safety has never been greater, we initially passed appropriations levels which would have gutted the air traffic control system, gutted the FAA safety inspection system, and seriously hampered our modernization efforts. Sure we may get this money back in the continuing resolution—this time. Next time our choice will be which day of the week will the air traffic control system be shut down.

Literally billions of dollars have been collected solely and exclusively from aviation users. These dollars rest in the trust fund account, their main purpose being to shelter billions of dollars of other spending. As chairman of the Aviation Subcommittee, a member dedicated to aviation safety, and a citizen who flies, I cannot sanction this abuse of trust.

Mr. President, the House Committee on Public Works and Transportation voted to remove the aviation trust fund from the budget. That provision was narrowly defeated on the House floor. I believe the committee's rationale is convincing, and I ask unanimous consent that the section of the committee report supporting that provision be printed in the RECORD.

We sometimes wonder why the American public is cynical. I do not wonder why aviation users are cynical. They agreed to fund a trust, only to find that Congress could change the definition of "trust." Instead of a safer, more efficient, and more modern airways system, their tax dollars have shielded spending on a myriad of programs which could not survive individual scrutiny. This legislation gives us the opportunity to respond to that cynicism in a positive and responsible way. It gives us the opportunity to regain that trust. And it gives us the chance to be honest.

In closing, Mr. President, I remind my colleagues of a phrase we all learned while young, "you get what you pay for." I hope my colleagues will join me by cosponsoring this legislation and restoring the truth of that simple slogan. I ask unanimous consent that the text of this bill be placed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Air Passenger Safety and Equity Act of 1985."

SECTION 1. Notwithstanding any other provision of law, the receipts and disbursements of the Airport and Airway Trust Fund shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

[Excerpts from H. Rept. 99-300, accompanying H.R. 3500, the Omnibus Budget Reconciliation Act of 1985]

AIRPORT AND AIRWAY TRUST FUND

The Airport and Airway Trust Fund is fully supported by taxes paid by users of the airport and airway system, including a passenger ticket tax imposed on commercial airlines and a fuel tax imposed on general aviation. These tax revenues are used to support capital development of the airport and airways systems, and as a subsidiary purpose, the operations and maintenance of the air traffic control system.

In 1981, the Trust Fund program was renewed and user taxes were increased. The users supported these increases because they recognized that higher taxes were needed to support a major program of modernizing the air traffic control system and expanding airport capacity so that the system could handle the increased demands which would be placed upon it during the 1980s. Unless these capital improvements were undertaken, airport and airway congestion would increase dramatically and we would soon be faced with the undesirable alternatives of either incurring major delays or imposing restrictions on operations at congested airports, thereby reducing the benefits of competition. The only way to avoid these problems was to modernize and expand the system.

Regrettably, the programs established in 1981 have not been fully funded and the users have been paying considerably more into the Trust Fund than has been going out for capital development. In every year since Fiscal 1982, obligation ceilings have been imposed on the Airport Improvement Program and as a result of these ceilings, obligations under the AIP program through fiscal 1985 have been $360 million less than authorizations. In Fiscal 1986, the obligation ceiling imposed by the House Appropriations Committee will produce an addi-

tional shortfall of $92 million below authorized funding.

In the Facilities and Equipment program for modernization of the air traffic control and navigation systems, there has been an even greater shortfall. Through Fiscal 1985, appropriations for this program were $766 million below the authorized level. The House Appropriations bill for Fiscal 1986 produces an additional $318 million deficiency below the authorization.

These shortfalls are inexcusable when user taxes are producing far more revenues than are needed to support the Airport and Airway Trust Fund programs. As a result of the shortfall, the uncommitted surplus in the Trust Fund has grown from $2.1 billion at the end of Fiscal 1982 to an estimated $3.3 billion at the end of Fiscal 1985. By the end of Fiscal 1986, the uncommitted surplus is estimated to reach $4.6 billion under the appropriations bill passed by the House.

With the Trust Fund included in the general Presidential and Congressional budgets, the increase in the Trust Fund's uncommitted surplus has served to reduce the general budget deficit. In other words, since Fiscal 1982 aviation users have contributed $1.3 billion to reduce the general budget deficit and under the House bill for Fiscal 1986 the aviation users will contribute an additional $1.2 billion to reducing the general budget deficit. This is totally inconsistent with the conceptual basis of user funds. The mistreatment of users in this Aviation Trust Fund threatens our ability to extend the user fund concept to other areas.

The shortfall in spending out of the Trust Fund is largely attributable to the inclusion of the Trust Fund in the Presidential and Congressional budgets. When these programs are included in overall budgets the Administration and the Appropriations Committee tend to lose sight of the fact that the Trust Fund programs themselves produce surpluses rather than deficits, and that the justification for imposing specific taxes on aviation users is that the tax revenues will be spent on the aviation system. In the pressure for reductions of general budget deficits, the temptation to cut Trust Fund programs, while gaining the benefit of their revenues, becomes irresistible. Unless this process is stopped, Congress and the users will be unwilling to have the Trust Fund programs continued and the aviation system will suffer the consequences.

If there is an unfunded aviation authorization, the Secretary of Transportation next determines whether the Trust Fund receipts (taxes and interest) for the two years following the close of the next fiscal year will be greater than the unfunded authorizations. If the unfunded authorizations are greater than the net receipts, the Secretary determines the percentage which the excess is of the authorized amounts. Each authorization (Airport Improvement Program, Facilities and Equipment, etc.) is then reduced by this same percentage.

The reported bill also permits the restoration of any reductions if the Trust Fund deficit is subsequently reduced or eliminated. If the Secretary determines in a subsequent estimate that the excess of unfunded authorizations over net receipts has been reduced, the authorizations are restored. Each authorization is restored by an equal percentage, up to a point where the unfunded authorizations will equal estimated net receipts to the Trust Fund.

In sum, inclusion of the Airport and Airway Trust Funds in the general budget process has prevented the Trust Fund from functioning as intended and has led to the users contributing far more in taxes than has been spent for development of the airport and airway systems. If we are to continue to realize the benefits of the Trust Fund, this situation must be changed. Under the reported bill the Trust Fund will be removed from the budget process, but will be subject to the appropriations process and an anti-deficit provision. With these controls the Trust Fund will not operate at a deficit.●

By Mr. THURMOND (for himself, Mr. ZORINSKY, Mr. EAST, Mr. SIMPSON, and Mr. KERRY):

S. 1980. A bill to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes; to the Committee on the Judiciary.

USE OF MUSICAL WORKS IN SYNDICATED TELEVISION PROGRAMS

Mr. THURMOND. Mr. President, I am introducing a bill today along with my distinguished colleagues, Senators ZORINSKY, EAST, SIMPSON, and KERRY. I believe this bill is a fair and equitable reform to the process of licensing performance rights in the copyrighted music which accompanies nonnetwork programs broadcast on television. This legislation will remedy a problem of continued concern to hundreds of local television stations throughout the United States.

Congress is specifically entrusted by the Constitution to ensure a balance of rights in copyright law between the creators and users of intellectual property. As Members of Congress, it is our responsibility to enact a copyright law which will protect the public interest and encourage proliferation of the arts. This Congress would be neglecting its duty if we do not ensure that the copyright law provides a balance in music broadcasting by television stations on syndicated programs.

Specifically, Mr. President, this measure would prohibit the conveyance of a copyrighted audio-visual work to nonnetwork television stations without simultaneously conveying the right to perform in synchronization any copyrighted music which accompanies such audio-visual work.

The problem addressed by this bill can be best explained by a brief discussion on how the current system works for licensing performance rights in television music.

Today, when a local television station buys the right to broadcast a syndicated program, all of the performance rights for copyrighted works embodied in that program are included in the purchase price except for one; the right to broadcast music on the soundtrack. The local television station must separately buy permission to broadcast the music even though the music is already embodied on the soundtrack of the syndicated program.

Generally, the effect of this is to require the local station to go to one of two societies, ASCAP or BMI, to buy a blanket license to broadcast the music on the soundtrack. These two societies currently issue over 95 percent of all blanket licenses. I use the term blanket license for a good reason. The local station is required to buy the "blanket" right to use all 3 million of the compositions controlled by ASCAP or all 1 million of the works controlled by BMI, even though the actual soundtrack of the program involved may contain no more than one or two copyrighted songs.

Mr. President, these local television stations have almost no bargaining power as they seek to purchase the right to broadcast the music on a prerecorded soundtrack. They cannot deal with ASCAP and BMI in an arms-length transaction as that term is ordinarily understood in the marketplace. The local broadcasters have no other alternative but to confront these two giants which control over 95 percent of all blanket licenses. The stations have already purchased broadcast rights in a program, but those rights are virtually worthless without the accompanying right to braodcast its music.

One illustration of the current unfair practice is a recent case in Atlanta, GA, with WAGA television station. WAGA negotiated a music package with suppliers, independent of ASCAP and BMI, to broadcast music for its locally produced programming, that is, its local news and public affairs programs. This music package cost WAGA $740 per month and covers programming which accounts for 60 percent of WAGA's nonnetwork revenue. By contrast WAGA has to pay ASCAP $30,000 per month for a blanket license to cover their syndicated programming which generates only 40 percent of the station's nonnetwork revenue. This is a figure ASCAP is now proposing to raise to $52,000 per month. WAGA has no choice but to pay ASCAP this fee because the music is an essential part of every syndicated program.

Mr. President, it is important here to note that the large corporations who make television programs are the primary beneficiaries of this system. Although ASCAP and BMI collect the money from local stations, most of the money goes back to these corporations. This is because most of the music used on television is composed by employees of the studios which make the shows, not by independent composers. The studios get paid twice. They are paid by the television station to broadcast the program and in addition receive payment as members of ASCAP and BMI.

Local television stations are treated differently from movie theaters in this area. The rental fee paid by theaters to the studios who produce the films shown covers all of the rights of the

studio in the movie, including the copyrights to the music. This is the result of a 1948 court decision. This same rule should apply to syndicated programs shown on local television.

Local television stations are willing to negotiate directly with ASCAP and BMI for broadcast rights in music to accompany programs which they produce locally. But with syndicated programs, television stations have no bargaining position to negotiate for the music used by the corporations which produce syndicated films and serials. Their only choice is to take it or leave it.

Under this bill, the syndicators who license programs to TV stations would be required to simultaneously convey the rights to use copyrighted music on the soundtrack of their programs. It is only logical for the local stations to negotiate one price for the entire package. It is virtually worthless for local stations to have broadcast rights for a syndicated program but not for the music which accompanies it. Indeed, who would enjoy watching that great classic, "The Sound of Music", without hearing the very talented Julie Andrews sing the beautiful songs in that movie.

Congress has a responsibility to ensure a balance between the rights of copyright owners and users. This legislation will restore fairness and balance to this area of the copyright system.

Mr. ZORINSKY. Mr. President, I am pleased to cosponsor Senator THURMOND's legislation that will prevent abuse of the monopoly power of copyright owners who control the music in syndicated TV programs. S. 1980 will permit local TV stations to negotiate with these copyright owners "up front" at the same time they clear the rights to broadcast all of the other elements of a syndicated program.

By bringing the licensing of music into the marketplace, windfall profits now paid to music companies will be eliminated, but the quality of TV music will improve. Under S. 1980, the market will determine the price for each composition. Good music will receive more, bad music, less.

Under the present law, when a syndicated TV program is licensed to a local station for broadcast, a payment is negotiated between the syndicator and the station. However, the copyright in the music on the soundtrack—a small but necessary element which must be cleared before the station can actually broadcast the program—is routinely withheld and licensed separately through two monopolistic organizations, ASCAP and BMI. These two organizations control the rights of 95 percent of all of the music in syndicated TV programs. They use their copyright control to demand that stations buy a "blanket license" from them before the programs already purchased from the syndicators actually can be used.

A blanket license includes the copyrights for all the music licensed by the organization, not just the music actually used in a particular show. ASCAP's blanket license includes 3 million songs. BMI's license requires buying the rights to 1 million compositions.

Stations have little leverage with ASCAP and BMI because they must "clear" ASCAP and BMI's copyrights in order to operate. The price ASCAP and BMI charge stations for these blanket licenses bears absolutely no relationship to the amount or quality of music the stations actually use. Instead, stations are charged a percentage of their gross revenue, currently a little less than 2 percent—in effect, a tax or tribute—for permission to operate.

S. 1980 would amend the copyright law. It would eliminate this inefficient system and bring common sense into the licensing of TV music. The bill would apply the simple principle of "you pay for what you get" to music used by local television stations.

I urge my colleagues to support the bill.

Mr. KERRY. Mr. President, I am pleased to cosponsor this important legislation, which amends the 1976 copyright law to prevent the abuse of the monopoly power of copyright owners who control the music on syndicated TV programs.

The current system in effect requires local broadcasters to purchase a "blanket copyright" for the entire library of music owned by the major performing rights societies even if the broadcaster will actually use only a tiny fraction of these works. Not only is this arbitrary system unfair, but it imposes a growing financial burden on broadcasters, thereby limiting the resources which could otherwise be used to hire musical talent from the local community not represented by one of the national societies.

This legislation will not in any way allow local broadcasters to avoid the obligation to compensate performers, composers, or publishers for the use of the music they have created. Rather, it proposes a fairer and more logical method of arriving at a mutually acceptable license fee for such use by replacing the current blanket copyright with a "source licensing" system.

Source licensing of music performance rights is not a new idea. On the contrary, this system has been used for decades with respect to music on soundtracks of films shown in movie theaters. The simple principle of fairness—you pay for what you use—that lead to the adoption of source licensing for movie theaters in the 1940's should be applied to local broadcast of syndicated programs in 1985.

Musicians, performers, and composers as well as broadcasters and television viewers nationwide will benefit by the creation of a more efficient market for the negotiation of music license fees for syndicated TV programs. Creative artists would benefit because a new TV music market for all creators, not just those affiliated with the major societies, would develop. Furthermore, because source licensing would allow bargaining for the right to use identifiable compositions, artists could command a fee that accurately reflects the unique value of their work. TV viewers would benefit because the quality of TV music would improve, and because broadcasters would be able to reinvest into local news, public affairs, and community programming money currently spent on rights to music they don't use.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. HEINZ, Mr. GRASSLEY, and Mr. MCCLURE).

S. 1981. A bill to provide a duty on surimi; to the Committee on Finance.

DUTY ON SURIMI

● Mr. MURKOWSKI. Mr. President, today I introduce a bill which will establish a new tariff category for surimi, with a 6.5-percent import duty. Surimi is not well known by name and many of my colleagues may be wondering why we need a new tariff category for this product. However, most of us have eaten surimi in one form or another, and its usage in food products is skyrocketing.

"Surimi" is the Japanese word for minced fish. It is made from bottomfish—generally from Alaska pollock—which is put through a process that washes, debones, minces, and presses the fish into a stable, odorless, tasteless intermediate product. This product is then used to manufacture hundreds of different types of finished foods. In Japan, surimi-based products are a major food type. The Japanese eat surimi products in quantities comparable to the American consumption of breakfast cereal. In the United States, surimi-based products are becoming very popular in the form of imitation crab legs, shrimp, scallops, and lobster tails. These products have advanced to the point where most individuals do not recognize that they are eating an imitation unless they are told otherwise.

Mr. President, we must promote fair trade, and that is the reason this legislation calls for a 6.5-percent tariff. Right now, most Japanese surimi is entering duty free, while U.S. producers must pay a 6.5-percent duty if our product is sold in Japan. While the effect of this measure is to raise a tariff of 6.5 percent, the United States should be prepared to remove the proposed tariff when Japan removes its

tariff. The message we must send to Japan is, "You drop your trade barriers, and we will drop ours."

This message needs to be sent because the U.S. surimi market and industry is at a critical stage. If we don't take action now, the Japanese surimi industry is likely to monopolize the U.S. market and cripple our infant industry.

Mr. President, let me give my colleagues some facts that show the dramatic growth of the surimi market in the United States: When the Alaska king crab fishery collapsed several years ago, the Japanese surimi industry spotted a golden opportunity. Japan began producing and exporting imitation crab legs to the United States. In 1981 Japan exported 5 million pounds of crab legs to the United States. By the end of 1985 those exports will have doubled every year to a present level of nearly 100 million pounds and a wholesale value of $200 million.

And that is only part of the picture. Japan not only exports ready-to-eat surimi products to the United States, but has also begun building secondary processing plants in the United States to produce imitation seafood products. In just this year, the number of processing lines in the United States will have grown from 10 to 50. These plants need supplies of raw surimi, and Japanese exports of surimi in 1985 reflect this growing demand. The 6.5 million pounds of raw surimi imported into the United States as of October 1985 represents a 55-percent increase over 1984 total imports. It may sound small compared with the nearly 100 million pounds of finished surimi products that will be imported in 1985, but remember the fivefold increase in secondary processing lines in 1985 and you can get an idea of what the future demand will be. Those 50 processing lines will require nearly 50 million pounds of raw surimi—10 times what was imported this year.

So where, you may ask, is the U.S. surimi producing industry while all this is going on? It is just getting started. The first U.S. plant was located on Kodiak Island in Alaska. It has been operating on an experimental basis for about 1 year, and by the end of this year will have produced about 1 million pounds. Already half a million pounds have been distributed to the research and development departments of U.S. food and ingredient companies. Over 450 organizations in 32 States, involved in everything from cheese to crackers, have shown interest.

This year two seafood companies based in Seattle, WA, announced plans to build surimi plants in Alaska, and on the east coast $1 million has been set aside to study the application of surimi technology to menhaden, an east and gulf coast fishery as large as Alaska's pollock fishery.

Mr. President, as my colleagues can see, the United States has the fish, is developing the technology, and has an exploding domestic market. As our industry grows, it will be looking not only to the U.S. market, but also the Japanese market. Right now Japan gets most of its fish for surimi production from the fishing grounds off Alaska. As the U.S. surimi industry grows, it will displace the Japanese fishing and processing industry. But the Japanese market for surimi will still be there and will become the prime export market for our surimi.

It is for these reasons, Mr. President, that we need this new tariff category. The tariff will put our infant surimi producing industry on an equal footing with the Japanese industry. Matching tariffs is one step in that direction because we will send the message that we want fair and equal trade access. Japan's import quota system is also a barrier to our exports and must be dealt with by the administration under section 301 of the Free Trade Act.

I ask my colleagues to support this legislation as a modest but necessary step to gain access to a key Japanese market for our growing surimi industry.●

By Mr. DECONCINI:

S. 1982. A bill to provide financial assistance to States to enable them to establish or expand master teaching education programs, and for other purposes; to the Committee on Labor and Human Resources.

MASTER TEACHER EDUCATION ASSISTANCE ACT

Mr. DECONCINI. Mr. President, it is with a great sense of responsibility that I introduce legislation which I believe will ultimately improve the quality of education for our Nation. The Master Teacher Education Assistance Act of 1985, if enacted, will provide financial assistance to States to enable them to establish or expand Master Teacher Education Programs resulting in "master teachers" in selected fields of instruction. This is an essential step toward improving and reforming our schools and achieving educational excellence for our children.

The problems with our educational system are complex, and it is difficult to adequately rectify them as a whole. Therefore, I believe a more logical approach would be to systematically address each problem individually. In doing so, we can more realistically achieve our goal of quality education for this country. This legislation which I am introducting was drafted to address one specific goal of our educational reform movement—to improve the quality of instruction within our classrooms.

If enacted, this legislation would provide funds to establish 50 master teacher institutes across the United States. Teachers from both the elementary and secondary school levels would attend these institutes to strengthen their teaching skills and subject knowledge. The high intensity programs developed in the institutes would reach at least 3 percent of their classroom teachers per year. It is anticipated that the graduates of these institutes would return to their school districts equipped and eager to share new skills with their colleagues through formal or informal mentor and peer partnerships.

Mr. President, our United States has moved into a new, postindustrial era of technology and communication. It is imperative that American education meet the challenge of this change. Decidedly, we must acknowledge the fact that this challenge belongs to everyone. It belongs to the taxpayers who provide funds for our educational system; it belongs to the teachers and school administrators who must formulate and translate educational goals into realities; it belongs to parents and students, whose individual lives are directly and profoundly affected by the changes in our educational policy; and perhaps most relevant, it belongs to the Congress, which is responsible for the passage of legislation to appropriate funds to meet the current challenge and make programs such as the Master Teacher Education Assistance Act a reality.

There are a number of reports on the status of education which have recently been issued and among them are several recommendations for change within our current educational system. One of the most notable of these was done by the National Commission on Excellence in Education, a task force organized with the primary purpose of examining the quality of American education. The Commission concluded that "the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people." The Commission points out that quality education for all members of the society is essential for maintaining the country's competitive edge in international economic markets, and for success in the so-called information age.

In focusing on secondary education, the Commission asserts "that the high school curriculum is to diffuse and lacks a central purpose; that high school students are excessively found in general track programs and not academic track programs; that students spend time ineffectively and inefficiently, particularly in comparison with their counterparts in other countries; and that teaching is attacting too few academically able persons and offers a professional life that is, on the whole unacceptable."

Further, the Commission stated that it is the Federal Government's responsibility to take a strong position in meeting the need for educational quality in this country. Every student in America is entitled to look for and find subjects in any of the major disciplines and have a professor or teacher who can impart guidance and instruction in those subjects in preparation of his or her life's endeavor.

Mr. President, I feel we have an obligation to the coming generations to prepare them for the new age. We should do our best to train our teachers and classroom personnel to provide the greatest possible educational system in the world and I believe one means of doing this is to enact the Master Teacher Education Assistance Act of 1985. We cannot afford the risk of not having an educated populace in this time of fierce international competition. Therefore, I urge my colleagues, without hesitation, to join me in the passage of ths legislation as a commitment to progress toward excellence in our public schools. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Master Teacher Education Assistance Act of 1985".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to States for the establishment or expansion, and operation of master teacher education programs in order to improve the quality of instruction by current teachers and by new teachers through intense subject and pedagogic training designed to improve classroom skills.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(2) the term "equipment" has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;

(3) the term "institution of higher education" has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

(4) the term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

(5) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(6) the term "Secretary" means the Secretary of Education;

(7) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(8) the term "State educational agency" has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

PROGRAM AUTHORIZED

SEC. 4. (a) The Secretary is authorized, in accordance with the provisions of this Act, to make grants to States to pay the Federal share of the costs of establishing and operating master teacher education programs for elementary and secondary school teachers within each State.

(b) There are authorized to be appropriated $50,000,000 for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1989.

ALLOTMENT TO STATES

SEC. 5. (a)(1) From the sums appropriated to carry out this Act in any fiscal year, the Secretary shall reserve—

(A) not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and

(B) 0.5 percent for payments for children enrolled in Indian schools, to be allotted in accordance with their respective needs.

(2) From the remainder of the amount appropriated for this Act, the Secretary shall allot to each State—

(A) an amount which bears the same ratio to 50 percent of such remainder as the school-age population of the State bears to the school-age population of all States; plus

(B) an amount which bears the same ratio to 50 percent of such remainder as the number of the children aged 5 through 17 who are counted for the purpose of section 111(c) of the Elementary and Secondary Education Act of 1965 in the State in the fiscal year preceding the fiscal year for which the determination is made bears to the total number of such children in all States.

(b) For the purpose of this subsection—

(1) the term "school-age population" means the population aged 5 through 17; and

(2) the term "States" includes the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

USES OF FUNDS

SEC. 6. Grants under this Act may be used for the payment of the Federal share of the cost of the establishment and operation of a master teacher education program for elementary and secondary school teachers within the State which meet the requirements of this Act.

MASTER TEACHER EDUCATION PROGRAM CRITERIA

SEC. 7. No grant may be made under this Act to any State unless—

(1) the master teacher education program will be conducted for a 3-year period and is designed to reach at least 3 percent of the elementary and secondary school classroom teachers within the State;

(2) the master teacher education program will carry out a skill-based curriculum, including—

(A) subject matter instruction in reading and writing skills, computer science, natural science, mathematics, and humanities;

(B) classroom management;

(C) professional growth and development; and

(D) other appropriate areas of instruction which the State deems appropriate; and

(3) the State will furnish each participant who successfully completes the course of instruction in the master teacher program with an appropriate certificate.

STATE APPLICATION

SEC. 8. (a) Each State which desires to receive assistance under this Act shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Each such application shall—

(1) designate the State educational agency as the State agency responsible for the administration and supervision of the program of assistance under this Act;

(2) describe the establishment or expansion and operation of a master teacher education program for elementary and secondary school teachers within the State which meets the requirements of section 7;

(3) provide assurances that the proposal contained in the application was developed by the State educational agency in collaboration with State and local education officials, State teachers organizations, and the institutions of higher education which have significant responsibilities in teacher training within the State;

(4) provide a description of the procedures under which the local educational agencies within the State will select elementary and secondary school teachers for participation in the master teacher education program;

(5) provide assurances that the percentage of elementary and secondary school teachers from local educational agencies located in rural areas of the State selected for the program will reflect the percentage of elementary and secondary school students from such areas;

(6) describe the length of the enrollment period in the program and the number and location of each project under the master teacher education program to be conducted in the State with assistance under this Act;

(7) describe the manner in which the State educational agency will encourage elementary and secondary school teachers who successfully complete the master teacher education program to participate in a master teacher program or a teacher residency program;

(8) provide assurances that the State—

(A) will use grants under this Act (i) to supplement the level of funds available from non-Federal sources for the purpose of the program for which assistance is sought; and (ii) not to supplant funds from non-Federal sources; and

(B) will not commingle funds made available under this Act with State funds;

(9) provide assurances the State will not expend more than 10 percent of the funds available to it under this Act for administration and oversight of the master teacher education program;

(10) provide assurances that the State educational agency will, at the end of each fiscal year, evaluate the effectiveness of the master teacher education program assisted under this Act;

(11) provide assurances that the State educational agency will pay from non-Federal sources the non-Federal share of the cost to the State of the master teacher education program for which assistance is sought under this Act;

(12) provide that the procedures for the selection of elementary and secondary school teachers by a local educational agency under this Act will not be denied without notice and opportunity for a hearing to the local educational agency before the State educational agency; and

(13) provide such additional assurances as the Secretary deems necessary to assure

compliance with the requirements of this Act.

(c)(1) An application submitted by the State under subsection (a) shall be for a period not to exceed 5 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

(2) The Secretary shall not disapprove an application submitted by the State educational agency without first affording notice and opportunity for a hearing.

(d) The Secretary may approve an application submitted under subsection (a) by a State which has in effect a master teacher education program on the date of enactment of this Act if the master teacher education program substantially meets the requirements of this Act. The Secretary, in carrying out this subsection, may, for fiscal year 1986 and for each of the succeeding fiscal year ending prior to October 1, 1990, waive any particular requirement specified in section 7 or 8 of this Act which the Secretary determines is not essential to carrying out the purposes of this Act and is necessary to carry out this subsection.

PAYMENTS; FEDERAL SHARE

SEC. 9. (a) From the amounts allotted to each State pursuant to section 3, the Secretary shall, in accordance with the provisions of this Act, pay to the State an amount equal to the Federal share of the cost of the program to be assisted under this Act.

(b)(1) The Federal share of each fiscal year shall not exceed 75 percent.

(2) Non-Federal contributions may be in cash in kind, fairly evaluated, including plant, equipment, and services.

By Mr. KERRY:

S. 1983. A bill to amend the Clean Air Act to control certain sources of sulfur dioxide and oxides of nitrogen to reduce acid deposition, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL ACID RAIN CONTROL ACT

● Mr. KERRY. I rise today to offer legislation that addresses a growing problem of national and international significance. Acid rain, a phenomenon resulting from reactions between fossil fuel emissions and atmospheric components, continues to be a major environmental problem threating lakes and streams, forests, human health and manmade structures.

Acid rain damage to aquatic ecosystems, including many freshwater lakes and streams, has been well documented in Europe and eastern North America. The problem, once thought to be an issue only for New England and upper New York State, is quickly revealing itself as one with much broader implications. In addition to the Northeastern States and eastern Canada, recent studies indicate aquatic sensitivity to acidification in the Southeast, areas of the Rocky Mountains, and the Pacific Northwest. The EPA's recently released Eastern Lakes Survey confirms the research of many experts and surprised many by documenting extensive damage thoughout Florida. The National Academy of Sciences projects that, "At current rates of emissions of sulfur and nitrogen oxides, the number of affected lakes can be expected to more than double by 1990, and to include larger and deeper lakes."

Extensive forest damage and growth decline throughout North America and Europe are believed to be the result of acid precipitation. Declines in the United States have been documented in high elevation forests in the Northeast, parts of the Midwest and as far south as North Carolina. It may already be too late to reverse the long-term decline of much of the central European forests from these gaseous pollutants. The emission reductions that countries such as West Germany are undertaking may not save their forests since the pollution effects appear to be cumulative and the recovery time long. Central Europe's experiences should serve as a hard lesson for the United States. In fact, during an acid rain factfinding visit to Europe in January 1984, I visited the Black Forest in Germany and was told by German officials and scientists that much of their damage could be permanent. I believe that we have a responsibility and a vested interest in acting before it is too late for us to undo our past negligence.

The air pollutants associated with acid rain can have direct impact on human health. Evidence indicates that even current levels of sulfur dioxide can produce adverse health effects in some people. Those at greatest risk include people with allergies, children, individuals with bronchitis and more severe respiratory and cardiovascular diseases, the elderly and smokers. It is also suspected that pollutant levels that have been accepted as safe when pollutants are in isolation, may become hazardous when the pollutants are combined—as is the case with acid rain.

Acid deposition at current levels is damaging materials—metal, stone and exterior coatings—as well as many important historic and cultural resources. In addition, acid rain is known to contribute to a deterioration of visibility, particularly in those areas where the pollutants are initially emitted.

Given the magnitude of the effects of acid rain and the growing consensus in the scientific community that it is not confined to a few "dead" lakes in New England, comprehensive, immediate action is indicated. The National Acid Rain Control Act will accomplish the needed emissions reductions while being sensitive to issues of coal miner job displacement, cost responsibilities, equity and other regional concerns. The bill will also allow the flexibility needed to encourage advanced fossil fuel combustion technology.

Let me summarize the major provisions of my bill:

The National Acid Rain Control Act will amend the Clean Air Act to reduce sulfur dioxide (SO_2) emissions by 12 million tons per year and nitrogen oxides (NO_x) emissions by 3 million tons per year by 1995 in the 48 contiguous States and the District of Columbia.

The sulfur dioxide reductions will be achieved in three different ways. First, utilities and industry will, immediately upon enactment, be required to reduce emissions by following a series of mandated steps that include coal washing and the addition of adipic acid before combustion.

Second, each State will have control over allocating the additional reductions based on its share as determined by the EPA Administrator using the best available data. The State plan must call for a phased reduction so that seven-twelfths of the State's share of reductions will be achieved before 1992, and the entire share by 1995. A State may allow a source to substitute emissions of NO_x for SO_2 at a ratio of 2:1. In the event that a State fails to submit a plan, or in the event that the plan is not accepted by the Administrator, major stationary sources will have to comply with an emission limitation equal to 1.2 lbs. of SO_2 per million Btu's of heat input.

Finally, a trust fund will be established by the collection of a fee on the production of electricity generated by fossil fuel combustion. Payments from the fund will be used to help defray capital costs incurred by facilities in meeting their reduction requirements. The subsidy will be paid at a rate of $147 per ton of SO_2 reduced. This amount is designed to reduce electric rate increases payable by utility customers. The fee will be assessed at one of three levels, based upon the 1982 State average SO_2 emissions rate. States with lower rates of emissions will be assessed lower fees. This fee structure is designed to provide equity while recognizing that in order to develop a feasible plan, the costs of emissions reductions must be shared. The trust fund also provides $10 million a year for accelerated research on cleaner burning industrial processes as well as $25 million a year for acid deposition mitigation programs.

Acid rain will not go away by wishing. Congress must act now because, unfortunately, the present administration has abdicated its responsibility to develop a viable solution to this problem. The President asked the National Academy of Sciences, EPA Administrator William Ruckelshaus and Acid Rain Special Envoy Drew Lewis to carry out studies of the problem and report their findings and recommendations. All have concluded that a plan for action must be enacted with haste. So far, the President has declined to heed their common warning but, instead, has decided to hide behind requests for more research. There exists

ample evidence to support our contention that we must act now before it is too late.

Mr. President, I believe that this legislation will provide the tools that will enable us to stop acid rain in a way that will minimize the burden on utilities, other industry and of course, ultimately, our consumers. I am hopeful that in the coming session we will get to work on this profoundly important task.●

By Mr. NICKLES:

S. 1984. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the financial solvency of multiemployer pension plans, and for other purposes; to the Committee on Labor and Human Resources.

MULTIEMPLOYER PENSION PLAN REFORM ACT

● Mr. NICKLES. Mr. President, today I am introducing legislation amending the Multiemployer Pension Plan Amendments Act of 1980.

Under current law, an employer who contractually agrees to contribute to a multiemployer pension plan may be subject to a withdrawal liability for a share of any unfunded vested liability when he ceases to participate in the plan. After 5 years of experience with the Multiemployer Pension Plan Amendments of 1980, which imposes the liabilities, we have found that the liabilities are, too frequently, calculated on an exaggerated artificial basis, thus resulting in an unfair levy on the withdrawing employer.

The problem is that the earnings or interest rate assumptions on which the liabilities are calculated are not in line with actual market conditions or with what the plans are actually earning—or could and should be earning. The calculations should not be based on the so-called plan rate which is permitted under current law.

The use of such rates creates large, unwarranted liabilities that are entirely artificial and have no relation to the actual financial condition and performance of a given plan. But they add substantial risks and costs for employers. The result is that employers are necessarily shying away from the plans. A shrinking base of employer support means a shrinking pool of funds to distribute as benefits in the future.

That clearly is not what was intended. The purpose of the bill I am introducing is to remedy the problem. It will amend the current law to assure the use of more realistic rates in calculating withdrawal liabilities in multiemployer pension plans. The rate required by this legislation is the average yield to maturity on bills, bonds, and notes of the U.S. Government that mature during the period when plan liabilities become due. This is essentially the same treatment current law affords single employer plan sponsors that terminate their plans.

Recent studies show that all but a small fraction of multiemployer pension plans are adequately funded and have no need to assess withdrawal liabilities when realistic rates are used.

The truth is that the need to assess any withdrawal liability is an admission of failure to operate a plan properly. At best, withdrawal liability was conceived as a safety net to be used only when all else had failed. It certainly was not designed to be used routinely as an alternative to proper plan performance. Nor was it designed to encourage reckless behavior such as promises to pay benefits that plan income and earnings cannot support.

A properly run plan keeps benefits in line with plan assets, income and earnings and keeps costs rational and affordable. The considerable majority of multiemployer pension plans already meet that test. My goal is to see to it that all will meet that test.

I am not proposing to remove withdrawal liability as a safety net. But I am proposing to work with employers and employees alike to create a simple and straightforward system that will assure that the safety net will not need to be used. That is my intention in introducing this bill.●

By Mr. DURENBERGER:

S. 1985. A bill entitled the "Medicare Voucher Act of 1986;" to the Committee on Finance.

MEDICARE VOUCHER ACT

● Mr. DURENBERGER. Mr. President, today I rise to introduce the Medicare Voucher Act of 1986. This bill was developed by the Department of Health and Human Services and I introduce it on the behalf of the Department.

The Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA] provides an alternative to traditional Medicare coverage. TEFRA allows Medicare beneficiaries to opt out of traditional Medicare coverage and enroll in a Health Maintenance Organization [HMO] or comparable Competitive Medical Plan [CWP]. For those beneficiaries choosing a health plan, Medicare pays the health plan a premium priced at 95 percent of the average per beneficiary cost for the area in which the health plan enrollee lives.

S. 1985 furthers this concept by broadening the types of health plans that would qualify as alternatives to traditional Medicare coverage. It is an ambitious proposal and will contribute to the process of reform my colleagues in the Congress and I started with TEFRA. I am very supportive of the underlying concept of the bill and look forward to refining the specifics of the proposal as it proceeds through the legislative process in 1986.

Mr. President, the ultimate objective of Medicare reform is to provide Medicare beneficiaries the same choice of health plans they had when they were employed, but with a standard set of hospital, doctor and medical benefits appropriate to elderly and disabled persons.

Medicare will get out of the costly and, to beneficiaries, confusing business of paying doctors and hospitals. Congress was never intended to be an insurance company and we prove it annually. It will be the responsibility of Congress and Medicare to assure access to quality health benefits and competitive, quality health plans.

The experience of the Twin Cities in my homestate of Minnesota has shown that consumer choice of health plans can work for the elderly as well as the non-Medicare population. Experience with the Medicare HMO demonstrations and with the HMO/CMP TEFRA provisions going into effect April 1, 1985 for a fixed prepaid premium has shown that health plans can provide services and benefits to Medicare eligible beneficiaries at least as generous as the traditional Medicare plan. And best of all, major headaches for the elderly covered by Medicare, confusing paperwork and arguments over "reasonable and customary charges," are gone.

The attractiveness of the health plan option is illustrated well by beneficiary enrollment data. Through November 1 of 1985, 1.2 million Medicare beneficiaries, 3.8 percent of the total of eligible beneficiaries, have enrolled in prepaid health plans. There is every sign this number will grow dramatically in 1986 and beyond.

S. 1985, the Department's new proposal, would expand the variety of options available to Medicare beneficiaries. TEFRA limited the range of participating health plans by requiring plans to have physicians on staff or under contract. This requirement basically restricts insurance companies and employer-based plans from participating.

S. 1985 would open the field to health plans providing or paying for medical or hospital services under insurance policies or contracts, and includes plans sponsored by employers or employee organizations, including unions. It calls qualifying health plans, "health benefits organizations" [HBO's].

The most significant feature of this bill is the removal of barriers which now prevent insurers and employer-based plans from participation in Medicare. The TEFRA requirements for participating as a health plan in Medicare would be changed by S. 1985. Plans would qualify only if they could meet a test of actuarial equivalence to Medicare's benefit package and have cost sharing no greater than the average out-of-pocket costs under traditional Medicare. Participating plans would also have to meet a test of financial soundness, provide a mimi-

mum level of hospital care, and exclude providers barred from Medicare.

The bill would make a wider choice of benefit packages available to beneficiaries. Currently, most Medicare beneficiaries purchase "Medigap" coverage to fill-in the coinsurance and deductibles they must pay under the traditional Medicare Program. Too frequently they purchase more coverage than they need. S. 1985 would allow for a combined premium which would offer the beneficiary the advantage of a single insurance policy.

The Voucher Act of 1986 would be of most immediate use for Medicare beneficiaries who have health benefits as part of their retirement benefits. The premium payment would offer advantages to both the retiree and the payer, be it a pension plan or the former employer. The retiree would have the advantage of staying with the health plan he or she had before retirement, eliminating both the need to learn about Medicare's coverage rules and the necessity of first obtaining Medicare's reimbursement and then submitting a supplemental claim. The payer could achieve economies by escaping the rigidity of Medicare's benefit structure by structuring cost sharing to produce better utilization incentives than Medicare, by conducting more effective utilization review, and by making use of preferred provider networks.

S. 1985 would also provide an incentive for more health plans to offer coverage to Medicare beneficiaries and promote more competition in the health care market by removing the restrictiveness of the TEFRA payment for HMO's and CMP's. Current law requires participating health plans to subtract the adjusted community rate [ACR] for the health plan from the average area per capita cost [AAPCC] for all Medicare beneficiaries and commit the difference to lower beneficiary cost sharing, more benefits or simply return it to Medicare. S. 1985, instead, would give plans control over their margin above expenses.

It would even allow plans to make cash rebates to beneficiaries of up to $500 per year. This new flexibility in the treatment of the AAPCC and ACR is important and worthy of attention.

Finally, S. 1985 establishes a single nationwide open enrollment period. This period would work much as open-enrollment for the Federal Employee Health Benefits Program. It would offer plans the opportunity to market their coverage and give beneficiaries the broadest choice and opportunity to compare options.

Since employment originated plans are only available for their own retirees, these plans would be exempted from the open enrollment period. But, the open enrollment still provides a period for comparision shopping, so the annuitant can use it to determine whether his employment-based plan does or does not meet his needs better than alternatives in the marketplace.

As with all Americans, Medicare beneficiaries will do better with choice. Yet, the elderly are often vulnerable to exploitation so great care must be taken in crafting the "rules of the game" for health plan competition under Medicare.

The Medicare Voucher Act of 1986 includes many important concepts which should be discussed and explored by the Congress. It offers beneficiaries more flexibility, promotes health plan participation in Medicare, and provides employers the opportunity to extend coverage to their retirees. It will mitigate the perception among beneficiaries that they have to have all varieties of MediGap coverage, and move the Federal Government to a more appropriate role in the health care marketplace.

Mr. President, I ask unanimous consent that a summary of S. 1985, the text of S. 1985, and the example calculation of actuarial equivalence for the Medicare voucher.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Medicare Voucher Act of 1986".

PAYMENTS TO HEALTH BENEFITS ORGANIZATIONS

SEC. 2. (a) Section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

PAYMENTS TO HEALTH BENEFITS ORGANIZATIONS

"SEC. 1876. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals who are entitled under this section to benefits from a health benefits organization with which he has entered into a contract under subsection (i). The Secretary shall define appropriate classes of individuals, based on such factors as age, sex, disability status and place of residence. The rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class. Each month the Secretary shall pay each such organization the appropriate rate, in advance, for the estimated number of individuals in each class entitled under this section to benefits from the organization. The Secretary shall make appropriate retroactive adjustments for differences between the estimated and actual number of individuals. Payments under this paragraph shall be payable by the Secretary as otherwise provided under this title for services furnished during any month for which the Secretary finds that the organization has substantially failed to meet the requirements of this section.

"(2) For purposes of this subsection, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or actuarial equivalent based upon an adequate sample and other information and data) would be payable in any contract year for services covered under parts A and B, and types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by entities described in sections 1816 and 1842), if payment for the services (and, in the case of services covered only under section 1861(s)(2)(H), if the services were physicians' services or furnished as an incident to a physician's professional service) were to be made other than under this section.

"(3) The payment to a health benefits organization under this section for individuals entitled under this section to benefits from the organization shall be made from the Federal Hospital Insurance Trust Fund and the Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such individuals for the month who have attained age 65, and (ii) 95 percent of the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(a)(1), and

"(B) the product of (i) the number of such individuals for the month who have not attained age 65, and (ii) 95 percent of the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(a)(4).

The remainder of that payment shall be paid by the former trust fund.

"(b) For purposes of this section—

"(1) the term 'health benefits organization' means a voluntary association, corporation, partnership, or other organization which is lawfully engaged in providing or paying for health services under insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar arrangements, and includes a health benefits plan duly sponsored or underwritten by an employer or by an employee organization, and

"(2) the term 'employment based plan' means a plan under which—

"(A) a health benefits organization provides health benefits to at least all individuals residing in a geographic area who were employees of a particular employer at age 65 or at a lower age specificed in the plan (or, alternatively, had served as employees of that employer for at least 10 years or for a shorter minimum period specified in the plan), but who are not current employees,

"(B) the health benefits organization provides health benefits only to families of individuals who are or were employees of that employer, and

"(C) at least 25 percent of the premium (if any) for each employee or former employee is paid by the employer.

"(c) A health benefits organization—

"(1) shall, for an individual entitled under this section to benefits from the organization, provide the categories of services (such as inpatient hospital services and physicians' services) that are covered under this title only through, or shall pay for those categories of services only if furnished through, entities that are permitted to participate in the programs under this title,

"(2) shall provide or pay for, to the extent prescribed by the Secretary, services furnished on an emergency basis in any location that are within the categories of services covered under this title,

"(3) shall provide for a sufficient number of entities to furnish the categories of services covered under this title, and which the organization provides or pays for, in the geographic area in which the individual re-

sides, so as to assure reasonable access to those categories of services, and

"(4) may offer one or more combinations of benefits, as long as it offers to all individuals residing in a geographic area who are entitled under this section to benefits from the organization under a particular employment based plan each combination of benefits that it offers to any such individual, and as long as it offers to all individuals residing in a geographic area who are entitled under this section to benefits from the organization but not under an employment plan each combination of benefits that it offers to any such individual.

"(d) Subject to the provisions of subsection (e), every individual enrolled in the insurance programs under parts A and B (other than an individual medically determined to have end-stage renal disease or an individual to whom section 1862(b)(3) applies) shall be eligible to enroll under this section with any health benefits organization with which the Secretary has entered into a contract under subsection (i) that serves the geographic area in which the individual resides.

"(e)(1) The Secretary may prescribe the procedures and conditions under which a health benefits organization that has entered into a contract with the Secretary under subsection (i)(A) may inform individuals eligible to enroll under this section with the organization about the organization and (B) may enroll such individuals with the organization.

"(2) An individual may enroll under this section with a health benefits organization—

"(A) during August and September of each year,

"(B) during the initial enrollment period described in section 1837(d),

"(C) during a special enrollment period described in section 1837(i) (but without regard to section 1837(i)(1)(C)), and

"(D) as prescribed by the Secretary (to the extent that the Secretary finds it feasible) to enable the individual to be entitled to benefits from the organization beginning with a month during which he no longer resides in the geographic area served by another health benefits organization from which he was entitled to benefits in a previous month but is no longer so entitled.

"(3) The period during which an individual is entitled to benefits under this section from a health benefits organization shall begin—

"(A) in the case of an enrollment under paragraph (2)(A), on January 1 of the following year,

"(B) in the case of an enrollment under paragraph (2)(B), as specified by section 1838(a),

"(C) in the case of an enrollment under paragraph (2)(C), as specified by section 1838(e), or

"(D) in the case of an enrollment under paragraph (2)(D), as specified by the Secretary.

"(4) The period during which an individual is entitled to benefits under this section from a health benefits organization shall terminate—

"(A) as of the end of any year, if the individual has requested termination in August or September of that year,

"(B) as of the beginning of any month during which the individual is no longer entitled to benefits under part A or is no longer entitled to benefits under part B,

"(C) after the third consecutive month for which the individual has failed to pay the required monthly premium, or

"(D) as of the beginning of any month during which the individual no longer resides in the geographic area that the organization serves, if the individual has requested termination in the preceding month.

"(5) Any individual who ceases to be entitled to benefits under this section but who remains entitled to benefits under part A or part B of this title shall be entitled to those benefits as prescribed other than under this section.

"(6) A health benefits organization may refuse to accept the enrollment of an eligible individual under this section with the organization only if the organization accepts enrollments in the order of application and—

"(A) the organization provides health benefits in a geographic area only under employment based plans and an applicant for enrollment residing in that geographic area is not eligible to participate in one of those plans,

"(B) the enrollment of the individual would result in a total new enrollment under this section in a calendar year exceeding a number that the organization had transmitted to the Secretary by the time specified by the Secretary (but not later than June of the preceding year),

"(C) the enrollment of the individual would result in the organization's failing to meet the requirement of subsection (h), or

"(D) the individual lost entitlement to benefits from a health benefits organization under paragraph (4)(B) during the twelve month period preceding the month in which the individual has applied for enrollment.

"(7) A health benefits organization may not terminate the entitlement under this section of any individual to benefits from the organization other than as prescribed by paragraph (4), and shall so notify each individual at the time of the individual's enrollment.

"(f) Any individual entitled under this section to benefits from a health benefits organization who is dissatisfied by reason of his failure to receive any health benefit to which he believes he is entitled shall, if the amount in controversy is at least $100, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health benefits organization a party. If the amount in controversy is at least $1,000, the individual or health benefits organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health benefits organization shall be entitled to be parties to that judicial review.

"(g)(1) The actuarial value of the aggregate payments (including deductibles, coinsurance, copayments, amounts above the levels recognized by the health benefits organization, and amounts for services furnished on days after those for which the organization provides benefits, but excluding premiums) that individuals entitled under this section to benefits from a health benefits organization are required to make for the categories of services (such as inpatient hospital services and physicians' services) furnished in any calendar year that are covered under this title may not exceed the actuarial value of the aggregate payments (including deductibles, coinsurance, amounts above the levels recognized under this title, and amounts for services furnished as days after those for which this title provides benefits, but excluding premiums) that those individuals would be required to make for those categories of services if they were not entitled under this section to benefits from the organization. The Secretary shall consult with recognized actuarial bodies with expertise in health benefits actuarial techniques, such as the American Academy of Actuaries, in developing methods to measure the actuarial values described in the preceding sentence.

"(2) A health benefits organization shall provide, or pay in full for, the first ninety days of inpatient hospital services covered under this title and furnished in a calendar year to an individual entitled under this section to benefits from the organization, except that the organization may require the individual to pay not more than the inpatient hospital deductible for that year (as determined under section 1813(b)(2)) for the first day of each inpatient hospital admission, and not more than 25 percent of the inpatient hospital deductible for each remaining day of the ninety days.

"(3) The organization may charge each individual entitled under this section to benefits from the organization a premium set by the organization, but the premium rate for any particular combination of benefits for all individuals residing in a geographical area who are enrolled under a particular employment based plan shall be the same during a calendar year, and the premium rate for any particular combination of benefits for all individuals residing in a geographic area who are not enrolled under an employment based plan shall be the same during a calendar year. The organization may provide rebates, subject to the condition prescribed by the preceding sentence, instead of charging premiums. Rebates may not exceed $500 per individual for any calendar year, and may not be paid to an individual until the individual has been entitled under this section to benefits from the organization for at least one year (but may cover that initial year).

"(4) The health benefits organization may, in the case of services furnished to an individual entitled under this section to benefits from the organization for an illness or injury for which the individual is entitled to benefits under a workmens' compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan (including a self-insured plan), or under no-fault insurance, charge or authorize the entity furnishing the services to charge, in accordance with the charges allowed under that law, plan, or policy—

"(A) the entity which under that law, plan, or policy is to pay for the provision of those services, or

"(B) the individual, to the extent that he has been paid under that law, plan, to policy for those services.

"(h) (1) Except as otherwise provided in paragraph (2), each health benefits organization with which the Secretary enters into a contract under this section shall, in any geographic area, provide health benefits to at least as many individuals who are not entitled to benefits under this title or under a State plan approved under title XIX as individuals entitled to benefits under this title or under such a State plan.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) if the Secretary determines that—

"(A) special circumstances warrant a modification or waiver, and

"(B) the organization is making reasonable efforts to provide health benefits to individuals who are not entitled to benefits

under this title or under State plan approved under title XIX.

"(i)(1) The Secretary shall enter into a contract with any health benefits organization that agrees to meet, and that the Secretary finds will meet, the requirements of this section.

"(2) Each contract under this section shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health benefits organization involved as he may provide in regulations) if he finds that the organization has substantially failed to meet the requirements of this section.

"(3) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(4) Each contract under this section—

"(A) shall provide that the Secretary—

"(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have the right to audit and inspect any books and records of the health benefits organization that pertain to services performed or determinations of amounts payable under the contract,

"(B) shall require the health benefits organization to report to the Secretary any fraudulent claims submitted to the organization for services furnished to individuals entitled under this section to benefits from the organization,

"(C) shall require the health benefits organization to provide such information to the Secretary as he may request,

"(D) shall require the health benefits organization to provide (and pay for) written notice in advance of the contract's termination,

"(E) shall require the health benefits organization to protect individuals entitled under this section to benefits from the organization and the Secretary from incurring liability for payment of any fees which are the legal obligation of the organization through—

"(i) a contractual arrangement with any hospital that is regularly used by those individuals prohibiting the hospital from holding any of those individuals liable for payment of any fees which are the legal obligation of the organization,

"(ii) insolvency insurance, acceptable to the Secretary,

"(iii) adequate financial reserve, acceptable to the Secretary, or

"(iv) other arrangements, acceptable to the Secretary,

except that the above requirements shall not apply if applicable State law provides those individuals with protection from liability for payment of any fees which are the legal obligation of the organization, and

"(F) shall require the health benfits organization to meet such other conditions as the Secretary may find are needed to carry out effectively the provisions of this section.

"(5) The Secretary may not enter into a contract with a health benefits organization under this subsection if more than one former contract with that organization under this subsection was terminated at the request of the organization within the preceding five year period except in circumstances which the Secretary finds warrant special consideration.

"(6) Any claim of the United States against a health benefits organization shall have priority over any claim of any other entity against the organization.

"(j) The functions vested in the Secretary by subsection (i) may be performed without regard to such provisions of law of regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(k) The provisions of this section preempt any State or local law or regulation that requires benefits more extensive than the minimum benefits specified in this section.

"(l) Whoever knowingly and willfully—

"(1) makes a false representation that there is a contract in force under subsection (i) between the Secretary and an entity, or

"(2) substantially misrepresents the benefits under a contract under that subsection,

shall be guilty of a felony and upon conviction shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.".

(b) Section 1833(a)(1)(A) of the Social Security Act (42 U.S.C. 1395l(a)(1)(A)) is amended by striking out "provides medical and other health services (or arranges for their availability) on a prepayment basis may elect to be paid" and inserting instead "has provided medical and other health services (or has arranged for their availability) on a prepayment basis for not more than one year may elect to be paid for not more than 36 months".

(c) Section 1861(s)(2)(H) of the Social Security Act (42 U.S.C. 1395x(s)(2)(H)) is amended by striking out "to a member of an eligible organization" and "to such a member".

(d) Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagrah (G),

(2) by substituting ", and " for the period at the end of subparagraph (H), and

(3) by inserting after subparagraph (H) the following:

"(I) in the case of a hospital that has been so requested by a health benefits organization that is receiving payments under section 1876, to accept as payment in full for inpatient hospital services furnished to any individual who is entitled under that section to benefits from the organization the amounts that would be accepted as payment in full if the individual were not so entitled.".

(e) Section 1886(c)(1)(D) of the Social Security Act (42 U.S.C. 1395ww(c)(1)(D)) is amended by striking out "an eligible organization (as defined in section 1876(b))" and inserting instead "a health benefits organization that is receiving payments under section 1876".

(f) The first sentence of section 1903(g)(1) of the Social Security Act (42 U.S.C. 1395b(g)(1)) is amended by striking out "health maintenance organization as defined in section 1876 or which is" and inserting instead "health benefits organization that is receiving payments under section 1876 or with".

(g) Section 114(d) of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C 1395mm nt.) is repealed.

EFFECTIVE DATE AND TRANSITIONAL PROVISION

SEC. 3. (a) The amendments made by section 2 apply with respect to services furnished after 1986, but shall not apply—

(1) for the periods and under the conditions specified in section 114(c) (other than paragraph (2)(B)) of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 1395mm nt.),

(2) to any individual who at the end of 1986 is enrolled with a health maintenance organization or competitive medical plan with which the Secretary has entered into a contract under section 1876(h) of the Social Security Act (42 U.S.C. 1395mm(h)), unless—

(A) the individual requests at or after that time that the amendments apply, or

(B) the Secretary determines at any time that the amendments should apply to all members of the organization because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the organization, or

(3) with respect to services furnished to any individual receiving benefits under a plan of a State approved under title XIX of the Social Security Act (unless the services are furnished by an entity that has furnished services to such individuals under section 1876 of that Act (42 U.S.C. 1395mm) before 1987) until the Secretary finds that it is administratively feasible for the amendments to apply.

(b) The amendments made by section 2 of this Act shall apply only with respect to the categories of services covered under part B of title XVIII of the Social Security Act for any individual who at the end of 1986 is not enrolled in the program under part A of title XVIII of that Act but is enrolled with a health maintenance organization or competitive medical plan under section 1876 of that Act (42 U.S.C. 1395mm), unless subparagraph (A) or (B) of subsection (a)(2) of this section applies.

(c) Periods of time that have occurred at any time before as well as after the end of 1986 shall be taken into account for purposes of determining the one year period specified in the amendment made by section 2(b) of this Act.

(d) Notwithstanding subsection (i)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm), the Secretary may enter into contracts under that section that will expire at the end of 1986 although the contracts are for a term of less than one year.

SUMMARY OF MEDICARE VOUCHER ACT OF 1986

Section 1 would assign the bill the short title "Medicare Voucher Act of 1986".

Section 2 would permit the Secretary to contract with health benefits organizations (HBOs) (a broad range of health insurers and health services providers, including health maintenance organizations (HMOs) and competitive Medical plans (CMPs)) to provide private alternative coverage for medicare beneficiaries (other than individuals suffering from end-stage renal disease, or who are working and for whom Medicare is a secondary payer) who chose to participate in such a private plan. Section 2 would also enact additional amendments to current provisions of law concerned with Medicare contracts with such organizations to—

Establish a single, coordinated open enrollment period during August and September of each year (but only for that number of new enrollees, in order of applications filed, previously specified by an HBO), and

to enable the Secretary, to the extent feasible, to provide for individuals who move from the area served by one HBO to an area served by another (similar to the system used by the health benefits program for Federal employees),

Preclude new enrollments for individuals receiving only Supplementary Medical Insurance (SMI) benefits,

Permit cost-based contracts for up to 36 months only for organizations that have been providing (or arranging for) medical and other health services for not more than one year (including periods of time that have occurred before the effective date of the draft bill), and permit those contracts only for SMI benefits,

Permit HBOs to offer separate benefit packages for employer-based groups,

Permit HBOs to offer one or more benefit packages (with deductibles, coinsurance, copayments, levels of benefit payments, and days of coverage to be determined by the HBO) as long as each package limits the actuarial value of the aggregate payments (including deductibles, coinsurance, copayments, amounts above the levels the HBO recognizes, and amounts for days beyond those for which the HBO will pay, but excluding premiums) that Medicare enrollees in the HBO have to make for the categories of services Medicare covers to the actuarial value of their aggregate payments under Medicare,

Require HBOs to cover inpatient hospital services for at least 90 days annually, with a deductible for the first day of an admission of not more than the Medicare inpatient hospital deductible, and coinsurance for each remaining day of no more than 25 percent of the inpatient hospital deductible,

require any hospital, at the request of an HBO, to accept as payment in full for inpatient hospital services furnished to any enrollee of the HBO the amounts that would be accepted as payment in full if the enrollees had not chosen to enroll in the HBO,

permit HBOs to provide annual rebates of up to $500 (instead of charging premiums), but payment of a rebate could not be actually made until the individual had been covered by the HBO for at least a year,

preempt provisions of State or local law requiring benefits more extensive than those under this section, and

make it a criminal offense to represent falsely that an organization is a contractor under this section, or to substantially misrepresent the benefits an HBO offers.

Section 3 would make the provisions of section 2 applicable to services furnished after 1986. Section 3 would also—

retain the transitional provisions enacted in 1982 when Congress amended the provisions of law providing for payments to HMOs,

permit any enrollee of an HMO or CMP at the end of 1986 who was not already covered by those earlier transition provisions to continue his enrollment under the provisions of law then current if either the HMO or CMP had a cost-based contract with the Secretary, unless the Secretary found that the new provisions should apply to all members of an HMO or CMP because of administrative costs or other administrative burdens,

permit any enrollee of an HMO or CMP at the end of 1986 who was enrolled for Medicare SMI (but not Hospital Insurance) benefits to continue enrollment only for SMI benefits (subject to the conditions stated in the previous paragraph), and

apply the provisions of section 2 to beneficiaries who also receive benefits under Medicaid and who are not enrolled in an HMO or CMP as of the end of 1986 only after the Secretary finds that it is administratively feasible.

Example Calculation of Actuarial Equivalence for the Medicare Voucher

A. BACKGROUND

The proposed medicare voucher program would require that qualified policies would have no greater cost sharing than Medicare. More precisely, the actuarial value of the payments for which patients are responsible in a qualified plan for services as defined for Medicare coverage could not be greater than it is in Medicare.

The standard for comparison would be an idealized Medicare plan, which included all the services that meet the Medicare definitions of eligible services and providers, and require no patient payments. The standard would include all payments which beneficiaries (as opposed to the Medicare program) make for services which are reimbursed in any part by Medicare or would be reimbursed if there were no deductibles, coinsurance or benefit limits in Medicare. This standard is used to compare the proportion of the idealized plan benefits that are paid for by Medicare and by any qualified plan under consideration.

There are thus two components to the calculation, Medicare benefits compared to its idealized version and the proposed qualified plan compared to the idealized Medicare version. Specifically:

(1) The actuarial value, relative to the idealized plan, of the deductibles, coinsurance, services excluded by limits, and the excess of actual over reasonable charges for unassigned bills in Medicare.

(2) The actuarial value of the cost sharing, reimbursement limits, and any services excluded by limits in the proposed qualified plans.

Sample calculation are provided below for both of these components. It should be noted that the calculations for the Medicare program need only be prepared once for each fiscal year (and would change by only small amounts from year to year). It would thus be documented in an annual statement by the Secretary on the basis of the best information available.

B. ACTUARIAL VALUE OF PATIENT PAYMENTS IN MEDICARE

The out-of-pocket costs faced by Medicare beneficiaries for covered services consist of the following:

Inpatient hospital deductible and Part A "coinsurance" payments for long hospital and skilled nursing home stays

The $75 deductible and 20% coinsurance in Part B

Hospital stays beyond the 90 days per spell of illness and those claimed for the 60 day lifetime reserve

Inpatient stays for mental and nervous conditions not reimbursed because of the 190 day lifetime limit

Nursing home stays beyond 100 days per spell of illness

Reasonable charges for outpatient services for mental or nervous conditions beyond $500 of charges in a calendar year

Charges in excess of "reasonable charges" for which no assignment is taken (and are thus a liability for patients).

In the following calculations, no adjustment is made for the 190 day lifetime limit on inpatient mental. It would appear very unlikely that any of the qualified plans would waive this limit. If one did, an additional credit would have to be calculated for it.

SAMPLE CALCULATIONS

Unless otherwise noted, the data for these calculations are from tabulations of the 1977 Medicare History File, adjusted to a 1985 basis.

(1) Paying the inpatient hospital deductible and the part A coinsurance amounts for long hospital and skilled nurisng home stays would increase reimbursements by 7.35%.

(2) Paying the $75 deductible and the 20% coinsurance on Part B raise benefit payments for services covered by Part B by 32%. An additional 1% adjustment is needed to allow for the $500 limit on covered servs ices for mental or nervous conditions. Therefore, the following calculations increase Part B payments by 33% to allow for the added cost of filling in these patient payments.

(3) Paying for days beyond the 150 day maximum per spell of illness adds 0.8% to the total number of days covered. These are probably underreported on the MHSF, however, so we increase this by a factor of 1.25. These long term days include relatively few ancillary charges and thus have a lower average cost. Tabulations of cost per day by length of stay suggest the marginal days cost about 82.1% as much as the average below 150 days. An estimate of the cost of covering unlimited hospital stays is given by:

$$.008 \times 1.25 \times .821 \times .954 = .0078$$

The last factor, .954, allows for the portion of Part A reimbursement and cost sharing accounted for by hospital payments.

(4) 34.6% of skilled nursing home days are beyond the 100 day maximum per spell of illness. Allowing 20% for underreporting of such days to Medicare and 80% for the relative cost of days beyond 100 compared to those reimbursed by Medicare, we have an increase in Part A payments as follows:

$$.346 \times 1.20 \times .8 \times .027 = .0090$$

The last factor accounts for the portion of part A reimbursements and cost sharing that is for skilled nursing home care.

(5) Data from the actuarial appendices to the 1985 Trustees' Report for Part B shows that 82.4% of covered charges were for services affected by the physician screens. Other HCFA data for the same year show that 50% of Medicare physician bills were assigned. The average ratio of Medicare approved charges to actual charges was projected to be 77.5%. No data was available that showed this percentage separately for assigned and unassigned claims. Under the assumption that this ratio was only 70% for unassigned claims, paying the excess of actual over approved charges on unassigned claims would increase Part B outlays (if physicians did not change their assignment patterns) as follows:

$$.824 \times .5 \times (1/.70 - 1) = .177$$

(6) Medicare benefits per capita are $2333 (for the aged), of which $1566 is part A and $767 is part B. Total out-of-pocket expenses can then be computed as follows:

Part A:	
Cost-sharing (1566 × .0735)	115
Days past 150 ((1566 + 115) × .0078)	13
SNG days past 100 ((1566 + 115) × .0090)	15
Part B:	
Cost-sharing (767 × .330)	253

Unassigned excess over reasonable ((767 + 253) × .177)	181
Total out-of-pocket costs	577

The total per capita expense including uncovered days and unassigned excess bills is 2333 + 577, or $2910. The percentage that out-of-pocket expenses represent of the idealized Medicare plan is 577 / 2910, or 19.8%

C. CALCULATION OF THE RELATIVE VALUE OF A SUBMITTED PLAN

For illustrative purposes, suppose an insurer submitted a proposed plan with a $250 deductive and 15% coinsurance, each applicable to all covered services, but excluding the excess of actual over reasonable charges on unassigned claims. Suppose further that the coinsurance was limited so that no patient would pay more than $750 in any calendar year.

The proposed plan in effect has a coinsurance rate of 100% on the first $250 and of 15% on the next $5000. The deductible requires enrollees to pay 5.74% of all expenses, and the coinsurance is applied to 40.13% of all expenses (i.e., 40.13% of charges for Medicare covered services are in excess of $250 but not in excess of $5250). Cost-sharing is thus approximately .0574 + (.15) (.4013), or 11.76% of covered expenses. Covered expenses are 2333 + 115 + 13 + 15 + 253 = $2729 (excess over reasonable is not covered), so cost-sharing is $321. The excess over reasonable charges on unassigned claims must then he added, giving total out-of-pocket costs of 321 + 181 = $502. (This is 17.3% of total expenses.) Thus, this plan would qualify as being at least actuarially equivalent to Medicare.●

By Mr. PELL (for himself and Mr. DANFORTH):

S.J. Res. 252. Joint resolution requesting the President of the United States to negotiate controls upon and the early prohibition of nuclear explosions; to the Committee on Foreign Relations.

TEST BAN RESOLUTION

Mr. PELL. Mr. President, the Senator from Missouri [Mr. DANFORTH] and I are introducing a joint resolution today designed to chart a course toward a complete cessation of nuclear testing. We know that many of our fellow Senators share our deeply held belief that ways must be found to increase nuclear stability and reduce the threat of nuclear war. We believe tighter controls on testing leading to a mutual and verifiable ban could be of crucial importance in that effort, and we urge our fellow Senators to join us as cosponsors.

The joint resolution urges the President, at the earliest possible date, to:

Endorse and request Senate consent to ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, signed in 1974 and 1976 respectively;

Call upon the Soviet Union to join in a further agreement reducing the permitted yields of explosions, as specified in the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, to the lowest possible verifiable levels which advances in seismic detection and other verification capabilities will allow;

Express to the Soviet Union and Great Britain the desire of the United States to resume negotiations to conclude an agreement leading immediately or in balanced steps to a mutual and verifiable ban on nuclear explosions to which all nations would be invited to become party; and

Seek Soviet agreement to facilitate negotiations by declaring at the earliest practicable date a mutual moratorium of finite duration on nuclear explosions.

Mr. President, there is strong bipartisan support for effective arms control. The President speaks for all Americans in his desire for the eventual elimination of nuclear weapons. We hope that significant agreements can be reached at an early date in Geneva.

Unfortunately, one key arms control goal for well over two decades remains curiously absent current discussions. That is a comprehensive ban on nuclear explosions. An end to nuclear explosions could be an invaluable underpinning in efforts both to reduce nuclear arms and to deal with space weapons—the goals at the current negotiations. I am convinced that, as our resolution states, the early prohibition of nuclear explosions would constrain the development and deployment of the threatening new nuclear arms, reduce confidence in and reliance upon nuclear arsenals, and strengthen efforts to prevent nuclear proliferation.

Twenty-two years ago, the United States, Great Britain, and the Soviet Union concluded the Limited Test Ban Treaty, which banned nuclear testing under water and in the atmosphere and space. In 1974, President Nixon signed a treaty, the Threshold Test Ban Treaty, which restricts tests in the only medium in which nuclear tests are allowed—underground—to 150 kilotons. In 1976, President Ford signed a companion treaty—the Peaceful Nuclear Explosions Treaty—to ensure that so-called peaceful explosions were not used as a way to test and gain weapons information outside the strictures of the TTBT and PNET. Although never ratified, the treaties have been respected by both sides since 1976. The treaties remain on the calendar of the Committee on Foreign Relations.

In 1977, the committee held extensive hearings on the TTB and PNE Treaties. They received significant support in the scientific community. Representatives of the Secretary of Defense and the Joint Chief of Staff testified that the treaties were in our national security interests. The committee supported the treaties and would have reported them favorably had not the Carter administration shifted its priorities to early attainment of a comprehensive ban. That negotiation did, indeed, make considerable progress, but it lapsed with the change in administration.

The Soviets have made much of the fact that, since 1972, the United States has not ratified significant arms control agreements which have been painstakingly negotiated. Ratification now would demonstrate our seriousness and could help improve prospects for success in Geneva.

The administration, after an extended period of inaction and review, decided in June 1982, that no ratification of the TTB and PNE treaties was possible unless the Soviets agreed to new talks aimed at expanding the agreements' provisions on verification. It took some additional months for the administration to decide what new verification was wanted, and the matter was finally broached with the Soviets in early 1983. The Soviets have rejected at least three separate United States demarches for such discussions, arguing that any discussion of new provisions should follow, and not precede, ratification. Unfortunately, the two sides remain at impasse with regard to these two treaties.

Since the agreements have not been formally ratified, two important provisions related to verification have not been implemented: First, provisions under the PNE for onsite monitoring of preannounced groups of nuclear explosions with an aggregate yield above 150 kilotons; and second, exchange of data and test calibration information under both treaties that should improve each side's verification confidence level.

The Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty can be verified with high confidence. Recent advances in seismology are helping resolve questions about compliance and reassuring us that we can ratify those treaties without threatening our security. Weapons laboratory chiefs have indicated that they can meet their responsibilities under these constraints. We must remember that we have lived under the treaties for nearly 10 years with no significant problems for our security.

In recent years, the Senate has urged the President to seek Senate advice and consent to the two treaties. I believe that that advice should be reaffirmed strongly as the Senate charts, in our resolution, a course toward a complete ban on tests.

With the treaties formally in place, the administration would be in a position to seek a substantially lowered threshold and expanded verification as appropriate. That should take care of any particular verification problems. A radically lower ceiling for tests—which could be only a small fraction of the current ceiling of 150 kilotons—could be agreed upon in safety, given advances in technologies.

With such steps behind us we would be in an excellent position to move on to negotiation of a complete ban. That could be instituted on a date certain or phased in over several years to allow any necessary testing for reliability and durability to be conducted before the complete stop.

Mr. President, I believe it would be misguided to dismiss the possibility of a mutual moratorium out of hand, as so many seem prepared to do. I believe a moratorium could be tailored which would boost prospects for a total ban without any risk to our security. Last summer, Mr. Gorbachev announced that the Soviets would observe a unilateral moratorium from early August through December. The Soviet leader also invited the United States to join in a bilateral moratorium to extend past December. The President seemed initially attracted to the idea, although the White House later seemed much more dubious. Nevertheless, the President indicated a willingness to engage in a mutual moratorium after our necessary testing is completed.

In September, I and other members of a Senate delegation had an opportunity to discuss the Soviet offer with Mr. Gorbachev. The Soviet leader argued strongly for his proposal, maintaining that a joint moratorium would permit a return to the negotiating table to set the terms of a comprehensive ban.

Regrettably, the two leaders did not deal with the moratorium at the summit. Consequently, there seems to be no current prospect for agreement on a mutual moratorium to follow the present unilateral Soviet halt. Nonetheless, the suggestion advanced by Mr. Gorbachev is too important to be dismissed out of hand. It is in our clear interest to test his seriousness by seeing whether a moratorium of finite duration could be put in place while negotiations proceed.

Specifically, we need to establish what verification provisions would apply; and we need to be assured that, despite Mr. Gorbachev's words, a moratorium would not substitute for a formal agreement. A nonbinding pause of uncertain duration is no substitute for a detailed set of long-term agreed commitments with effective verification provisions.

However, a moratorium of a finite duration—such as 1 year—would open the way to a serious resumption of the negotiations on a comprehensive test ban agreement conducted by the Carter administration. Considerable progress on verification matters had been made in these negotiations. The sides had agreed to allow seismic monitoring stations on their territory, and details on inspections on demand to look into suspicious seismic activity were being worked out. Thus, the two sides would not be starting from scratch. A finite duration to a moratorium would give the sides reason to conclude their work expeditiously, although, if success were in sight, there would be nothing wrong with a brief extension of the moratorium.

Critics argue that a moratorium should be avoided because the Soviets might break out of it, as they did in the moratorium which preceded the Limited Test Ban Treaty of 1963. That concern is based on an erroneous recalling of the record. From 1958 until August 1961, both sides observed a testing moratorium, although President Eisenhower announced in 1959 the United States would no longer be bound, thus opening the way to a similar Soviet decision. The Soviets had said they would not remain bound if any Western powers tested. Indeed, following four French tests, the Soviets resumed testing, and the United Staters followed suit several weeks later.

Mr. President, I believe that the test ban agenda I have described is a practical one. It is clear that steadily improved controls on nuclear testing, culminating in a ban on all nuclear explosions, offers many critically important benefits:

Over time, confidence in the reliability of our warheads would erode, although actual reliability should remain high for some time. Eventually, however, the reliance placed on nuclear weapons by both sides would decline, and that would be to everyone's benefit.

A moratorium followed by a ban would curb the modernization of United States and Soviet nuclear warheads. This could prevent them from developing new, smaller warheads with high weight-to-yield ratios to be proliferated on their missile forces, especially MIRV's. It could also impede the development of new technologies, such as x-ray lasers driven by nuclear explosions.

A moratorium and ban would put pressure on the Chinese and the French to stop their testing programs, and a halt by the nuclear nations would certainly deter other nations from starting their own testing programs.

Finally, such steps by the superpowers would serve to reinforce the resolve of the 127 nations who have foresworn nuclear weapons. A ban open to all nations could well give new life to the crucial effort to stop the spread of nuclear nations.

Mr. President, I hope this resolution will receive substantial support from those Senators concerned about the testing problem, and that it will gain the approval of the Senate next year. As ranking Democratic member of the Committee on Foreign Relations, I will seek hearings on this resolution and the issue of continued nuclear testing.

There is no greater imperative than finding a way to stop the nuclear arms race. I believe that the Geneva talks offer promise if the sides are willing to bring them to fruition. I believe, further, that this resolution would complement that effort without being dependent upon success in Geneva to make its own, independent and crucially important contribution. Application of stiffer controls upon nuclear testing as we move toward a complete ban would represent the keeping of longstanding promises to other nations. Just as importantly, it would represent the keeping of an obligation we have to our children and grandchildren to take those positive steps we have the wisdom and resolve to pursue to remove forever the threat of nuclear holocaust.

Mr. President, I ask, unanimous consent that the resolution the Senator from Missouri [Mr. DANFORTH] and I are introducing be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 252

Whereas the United States, the Soviet Union and Great Britain are committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek the discontinuance of all test explosions of nuclear weapons for all time;

Whereas the early prohibition of nuclear explosions would constrain the development and deployment of the threatening new nuclear arms, reduce confidence in and reliance upon nuclear arsenals, and strengthen efforts to prevent nuclear proliferation;

Whereas the early ratification of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty and subsequent agreement to reduce the size of permitted nuclear explosions would make completion of a comprehensive test ban treaty and further progress in strategic arms control more probable;

Whereas the President of the United States has spoken for all American in expressing the desire for the eventual elimination of all nuclear weapons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That at the earliest possible date the President of the United States should—

(1) Endorse and request Senate consent to ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, signed in 1974 and 1976 respectively;

(2) Call upon the Soviet Union to join in a further agreement reducing the permitted yields of explosions, as specified in the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, to the lowest possible verifiable levels which advances in seismic detection and other verification capabilities will allow;

(3) Express to the Soviet Union and Great Britain the desire of the United States to resume negotiations to conclude an agreement leading immediately or in balanced steps to a mutual and verifiable ban on nuclear explosions to which all nations would be invited to become party; and

(4) Seek Soviet agreement to facilitate negotiations by declaring at the earliest practicable date a mutual moratorium of finite duration on nuclear explosions.

Mr. DANFORTH. Mr. President, I am pleased to join the Senator from Rhode Island, Mr. PELL, in introducing this resolution calling for a series of steps toward a comprehensive ban on nuclear explosions.

For more than a generation, American Presidents have sought a complete ban on the testing of nuclear bombs. The reason is simple: Practically nothing would do a better job of slowing down the development of new and more dangerous weapons than a mutually verifiable agreement among the superpowers to quit performing nuclear tests.

There are other benefits to a test ban. The Nuclear Nonproliferation Treaty of 1968 commits the nuclear weapon States to pursue disarmament in exchange for a commitment by the nonweapon States to forgo weapons of their own. A comprehensive test ban remains the single most important indication of our commitment to this pledge. Continued insistent on testing by the superpowers stands as a major barrier to our efforts to stop the spread of nuclear weapons.

Opponents of a test ban have raised questions about our ability to maintain a reliable stockpile in the absence of testing. Prudent design and regular inspection of our warheads, coupled with careful negotiations, can ensure sufficient reliability, In addition, a slight decrease in each side's confidence in its warheads may well be a good thing. Perfect reliability is a requirement only of a first strike policy; it is not necessary for a strategy of deterrence based on retaliation.

Progress toward a nuclear test ban has been stalled too long. The resolution we are introducing today calls on the President to take a series of actions designed to break this stalemate.

The resolution asks the President to endorse the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and submit them to the Senate for ratification. The protocols to these treaties contain important precedents in the area of verification, including the exchange of seismic date and limited onsite inspections, that will go into effect only on ratification.

Second, the resolution calls on the President to pursue an additional agreement reducing the permitted yields of explosions to the lowest possible verifiable levels.

Third, the resolution calls on the administration to resume negotiations, broken off in 1980, with the Soviet Union and Great Britain toward a full treaty to implement a comprehensive test ban.

Finally, as a means of facilitating these negotiations, the resolution endorses a temporary, mutual moratorium on nuclear testing. No declared moratorium can be a substitute for a full, verifiable treaty. We must make clear at the outset that a moratorium that does not lead to a treaty should be discontinued. A pause in testing, however, could be a useful step toward those negotiations.

Mr. President, a verifiable and effective test ban treaty is in our interest and our children's interest. We have attempted in this resolution to identify a number of concrete steps that we can take now to advance this goal.

By Mr. HATCH:

S.J. Res. 253. Joint resolution to designate the week of March 2 through 8, 1986, as "Women's History Week"; to the Committee on the Judiciary.

WOMEN'S HISTORY WEEK

Mr. HATCH. Mr. President, this past October I sponsored a women's conference in Salt Lake City, UT. The theme of this conference, "Discovering the Diversity and Unity of Women," emphasizes the important role women have played, are playing, and will continue to play in American life. Women have played a central role as mothers and homemakers as well as politicians, philanthropists, doctors, businesses executive, laborers, civic leaders, and in many other important fields. Yet we have only begun to recognize them for their contributions.

Today, I am pleased to introduce a joint resolution designating the week beginning March 2, 1986, as "Women's History Week." Representative BARBARA BOXER of California has introduced a companion resolution in the House of Representatives. Throughout our Nation's history, many significant improvements in our quality of life can be attributed to our foremothers' vision and dedication as well as to our forefathers'. The hard work of both women and men brought good ideas to fruition.

Let me give you just one example of such a woman from my own State of Utah. Martha Hughes Cannon is probably one of the best known characters in Utah history. As a child, despite her family's limited income, she dreamed of becoming a physician. She saved as much as she could, and in 1876 enrolled in the premedical department of the University of Deseret. She graduated with an M.D. degrees on her 23d birthday. After receiving her degree in medicine, she studied oratory so that she could be a more effective speaker for public health. She enrolled in both the University of Pennsylvania and the National School of Elocution and Oratory. In 1882, she received a bachelor of science degree from the university, the only woman in a class of 75. She also received a bachelor of oratory degree from the School of Elocution.

She moved back to Utah, set up a private medical practice, got married, and became actively involved in politics and the woman suffrage movement. On January 11, 1897, she began her career in the Utah State Senate, where she continued her work for public sanitation and health. She introduced "An Act Creating a State Board of Health and Defining Its Duties." The act passed, and the first Utah Board of Health was created. Martha Hughes Cannon is only one of many women whose vision and perserverence have improved our lives.

Mr. President, I am impressed with the growing support and enthusiasm for this piece of legislation honoring the contribution of women in our Nation's history. Once again, I urge my colleagues to join me in cosponsoring this joint resolution establishing a week to commemorate the impact of women in our history.

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DURENBERGER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 359, a bill to provide for medical demonstrations in health promotion and disease prevention.

S. 400

At the request of Mr. BINGAMAN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponosr of S. 400, a bill to provide health promotion and disease prevention services to Indians.

S. 1154

At the request of Mr. MATSUNAGA, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 1154, a bill to amend the title XVIII of the Social Security Act to provide direct medicare reimbursement for services performed by registered nurse anesthetists.

S. 1437

At the request of Mr. THURMOND, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1437, a bill to amend the Controlled Substances Act to create new penalties for the manufacturing with intent to distribute, the possession with intent to distribute, or the distribution of "designer drugs," and for other purposes.

S. 1525

At the request of Mr. PELL, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1525, a bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to local educational agencies for dropout prevention demonstration projects.

S. 1562

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1562, a bill to amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes.

S. 1574

At the request of Mr. LUGAR, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1574, a bill to provide for public education concerning the health consequences of using smokeless tobacco products.

S. 1595

At the request of Mr. WARNER, the names of the Senator from Georgia [Mr. MATTINGLY], the Senator from Oklahoma [Mr. NICKLES], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Virginia [Mr. TRIBLE], and the Senator from Arizona [Mr. GOLDWATER] were added as cosponsors of S. 1595, a bill to prevent the implementation of Revenue Ruling 83-3 and other similar considerations affecting the housing allowances of the military and clergy.

S. 1740

At the request of Mr. BYRD, his name was added as a cosponsor of S. 1740, a bill to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake."

S. 1804

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1804, a bill to provide for Federal incentive grants to encourage State health care professional liability reform.

S. 1914

At the request of Mr. GORTON, the names of the Senator from Illinois [Mr. SIMON], and the Senator from New Mexico [Mr. BINGAMAN], were added as cosponsors of S. 1914, a bill to amend the Stevenson-Wydler Technology Innovation Act 1980 to permit cooperative agreements between industry and laboratories owned and operated by the Federal Government, and for other purposes.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from Missouri [Mr. DANFORTH], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1956

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. NUNN], the Senator from Colorado [Mr. HART], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. GLENN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. GOLDWATER], the Senator from West Virginia [Mr. BYRD], the Senator from Tennessee [Mr. GORE], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of S. 1956, a bill to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services.

At the request of Mr. WILSON, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1956, supra.

S. 1966

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. MATSUNAGA], was added as a cosponsor of S. 1966, a bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the names of the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Arkansas [Mr. BUMPERS], were added as cosponsors of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

S.J. RES. 226

At the request of Mr. RIEGLE the names of the Senator from California [Mr. WILSON], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 226, a joint resolution to designate the week of April 6, 1986, through April 12, 1986, as "World Health Week" and to designate April 7, 1986, as "World Health Day."

SENATE JOINT RESOLUTION 231

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. DIXON], was added as a cosponsor of Senate Joint Resolution 231, a joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile".

SENATE JOINT RESOLUTION 239

At the request of Mr. DURENBERGER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 239, a joint resolution designating the week beginning on June 1, 1986, as "National Maternal and Child Health Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. GORTON, his name was added as a cosponsor of Senate Joint Resolution 244, a bill to designate October 8, 1986, as "National Fire Fighters Day."

At the request of Mr. DECONCINI, the name of Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 244, supra.

SENATE JOINT RESOLUTION 246

At the request of Mr. DIXON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution to designate May 25, 1986 as "Hands Across America Day," for the purpose of helping people to help themselves, and commending United Support of Artists for Africa and all participants for their efforts toward combating domestic hunger with a 4,000 mile human chain from coast to coast.

SENATE CONCURRENT RESOLUTION 90

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 90, a concurrent resolution urging the President to convene a conference to develop and International Seaport Security Agreement relating to seaport and passenger vessel security among the United States, its allies, other interested nations, and the private sector.

SENATE CONCURRENT RESOLUTION 98—RELATING TO THE FORMER PRESIDENTIAL YACHT "SEQUOIA"

Mr. GARN (for Mr. SIMPSON, for himself and Mr. CRANSTON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 98

Whereas the former Presidential yacht Sequoia served eight Presidents of the United States, from Herbert Hoover to Gerald R. Ford, over a period of forty-four years;

Whereas the Sequoia was the setting for Presidential meetings, negotiations, and decisions of extraordinary significance for and effect on the history of the United States and the course of world events;

Whereas the Sequoia was disposed of in 1977 to reduce Federal expenditures;

Whereas in recognition of Sequoia's unique historical significance, the private, bipartisan, and nonprofit Presidential Yacht Trust was established in 1981 for the purpose of restoring and preserving Sequoia;

Whereas since 1981 many Americans have visited the Sequoia and demonstated support for her preservation and return to service;

Whereas in response to this support, the Presidential Yacht Trust, in consultation

with the United Sates Navy, has determined that the proper future of the Sequoia is her return to Government service in the United States Navy as the Presidential yacht; and

Whereas the Presidential Yacht Trust has taken steps to fully restore the Sequoia by November 15, 1988, to donate her to the Navy as a gift of the Presidential Yacht Trust and the American people, and to establish an endowment sufficient for her future operation and maintenance: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the unique significance of the former Presidential yacht Sequoia which has made her a symbol of American political heritage and the office of the President:

(2) supports the plans of the Presidential Yacht Trust to donate the Sequoia, with an endowment sufficient for her operation and maintenance, to the United States Navy for service once again as the Presidential yacht.

SENATE CONCURRENT RESOLUTION 99—SUPPORTING INCREASED CULTURAL EXCHANGE BETWEEN THE UNITED STATES AND THE SOVIET UNION

Mr. DODD (for himself and Mr. STEVENS) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 99

Whereas historically the arts have been recognized as a powerful expression of thoughts and feelings, a means to strenghten communication, and one of the most vital ways of understanding the human experience;

Whereas the visual arts, music, theatre, dance, and all other forms of creative expression have the ability to transcend national boundaries;

Whereas nations participating in cultural exchange gain mutual understanding which contributes to continued peaceful coexistence;

Whereas independent citizen groups across the United States have formed to promote cultural contacts between nations, particularly between the United States and the Soviet Union;

Whereas many members of the Senate and House of Representatives have joined together in a Congressional Arts Caucus to demonstrate the importance of the arts to our Nation and the other countries of the world.

Whereas since 1981 the Congressional Arts Caucus has worked to highlight America's cultural activities and the role of these activities in worldwide cooperation; and

Whereas at the recently completed Geneva Summit of November 1985, the President, also recognizing the importance of artistic activity, indicated his intention to secure an increase in cultural exchange between the United States and the Soviet Union: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress strongly supports expanded cultural exchange between the United States and the Soviet Union and pledges to work with the President in strengthening such an expanded cultural exchange which will contribute to mutual cooperation and world peace.

● Mr. DODD. Mr. President, today I am submitting a concurrent resolution supporting expanded cultural exchange between the United States and the Soviet Union. I am pleased to have my distinguished colleague from Alaska, Senator STEVENS, join me as a sponsor of this concurrent resolution.

As a member of the Foreign Relations Committee, I have spent many hours listening to experts testify on new ways to improve diplomatic relations between this country and other nations. Unfortunately, the importance of cultural exchanges among nations is not mentioned often enough. Yet historically, the arts have been proven invaluable in breaking down barriers and fostering cooperative efforts which transcend national boundaries. And such cooperative efforts can lead to the ultimate goal this Nation has pursued since the days of the Founding Fathers: Namely, world peace.

By submitting this concurrent resolution calling for increased cultural exchanges between the United States and the Soviet Union, I am following the lead of independent groups of citizens from my State of Connecticut to California. Such citizens have already taken the first steps in promoting a greater understanding here at home of the cultural heritage of the Soviet people. Likewise, students from my State of Connecticut and many other States have both studied and performed in the U.S.S.R., thereby giving Soviet citizens a better sense of American culture.

At the recent Geneva summit, the President signed an accord to increase artistic exchanges between our country and the U.S.S.R. As a member of the congressional arts caucus, I commend this formal recognition of the importance that the visual arts, music, theater, and dance can play in bringing people of different nationalities together. It is my hope that this Senate concurrent resolution being submitted today will lend further recognition of the important role of the arts in promoting continued peaceful coexistence with the Soviet Union. Identical legislation has been introduced in the House of Representatives by Congressman DOWNEY from New York and Congressman JEFFORDS from Vermont.

In closing, I urge my colleagues to support this concurrent resolution. By so doing, the Senate of the United States will put itself on record as supporting an increased cultural exchange with the Soviet Union.●

● Mr. STEVENS. Mr. President, I'm pleased to join my colleague from Connecticut in submitting this concurrent resolution of support for expanded cultural exchanges between the United States and the Soviet Union.

The exchange agreement reached at last month's summit will significantly enhance communications between our two nations in a variety of fields. In my State of Alaska, our proximity to the U.S.S.R. has meant a real overlap in the anthropological and cultural origins of our native peoples, to say nothing of Alaska's history as a Russian outpost in the 18th and 19th centuries. In addition, our shared arctic climate and the environmental conditions which flow from our existence above the Arctic Circle make Alaska and Siberia one in the challenges posed to us by our geography.

In years past, Alaska Airlines flew direct from Anchorage to Moscow, and the residents of the Bering Sea region had opportunities to visit their Siberian relatives. We have so much in common, so much to share both culturally and scientifically, that this resumption of exchanges between our two countries merits the strongest of congressional support.

Last week, Armand Hammer was in Moscow, meeting with the Cultural Minister and successfully finalizing a bilateral exhibition of masterworks from the Leningrad Hermitage, the National Gallery, Armand Hammer's personal collection, and the Pushkin museum in Moscow. This agreement is the first negotiated under the accord signed at the Geneva summit, and exemplifies what we can hope for in the future, in both the visual and performing arts.

The concurrent resolution we are submitting today is not just a resolution of support, but a resolution of welcome as well. Welcome to the millions of Soviet citizens who, through this sharing of our cultural resources, will be joining their American counterparts in mutual appreciation and increased understanding of our respective nations' cultural heritage.●

SENATE RESOLUTION 278—RELATING TO FUNDING FOR THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. SPECTER (for himself, Mr. LAUTENBERG, Mr. CRANSTON, Mr. SIMON, and Mr. MCCONNELL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 278

Resolved, That the Senate hereby disapproves the current informal freeze, in the absence of a formal rescission request, on funds of the Office of Juvenile Justice and Delinquency Prevention.

Mr. SPECTER. Mr. President, I submit today a resolution in response to a very disturbing situation which has arisen within the Department of Justice regarding the freezing of funds for the Office of Juvenile Justice and Delinquency Prevention [OJJDP].

It has come to my attention that the Office of Management and Budget has

informally recommended to the Department of Justice the rescission of all fiscal year 1986 appropriations for the Bureau of Justice Assistance [BJA] and OJJDP. The Justice Department sought a reconsideration of the proposed rescission of appropriations for BJA. The Department did not, however, seek to avoid the rescission request as to OJJDP funds.

I have been deluged by calls from organizations which currently receive OJJDP grants, and have learned that all OJJDP funds, including their grant moneys now due, have been frozen pending the resolution of the rescission request. This action will halt extremely important studies on juvenile delinquency, which OJJDP has been funding.

The administration has ordered OJJDP not to spend any of its funds until the rescission issue is resolved, notwithstanding that Congress has not yet received a formal notice of a proposed deferral or rescission of OJJDP funds pursuant to the Impoundment Control Act of 1974. A formal rescission notice from the Administration is not expected to be received by Congress until the end of January 1986, at which time the 45-day time period begins for congressional action.

Mr. President, a delay of over 2 months in Federal funding will impose undue hardship on existing and proposed juvenile justice programs nationwide.

This informal freeze, which also includes unspent fiscal year 1985 funds, plainly violates the Impoundment Control Act of 1974. Moreover, it is a slap in the face to Congress, which repeatedly has rejected every single attempt by the administration to limit or eliminate the funding of OJJDP.

On October 29, 1981, the administration formally proposed deferral of OJJDP funds. In response, on December 15, 1981, the Senate passed Senate Resolution 260, which I introduced, expressing its disapproval of the deferral request.

Each year since 1983, the administration has requested zero funding for OJJDP, and each year Congress has provided level funding of $70 million. In the face of continued administration attempts to eliminate funding for this important office, the Congress in 1984 reauthorized OJJDP for an additional 5 years.

Because Congress has repeatedly rejected the proposed eliminations of OJJDP and continued to fund the Office at this level, an effort has been made to eliminate the Office's functions de facto, by having it not spend the appropriated funds. Earlier this year, the administration requested reprogramming of $12.2 million in unspent fiscal year 1984 juvenile justice funds for other purposes. The Senate Committee on Appropriations adopted, and the full Senate passed, an amendment to the fiscal year 1985 supplemental appropriations bill which rejected this subterfuge and directed that these funds be preserved for OJJDP. Conference report language specifically directed that these funds be allocated to the States within the parameters of the law.

Finally, last month the Senate was notified that the Administrator of OJJDP had failed to spend $13.665 million in appropriated funds. Only a few days ago, Congress again appropriated $70 million for fiscal year 1986 and, in the conference report, directed OJJDP to spend the fiscal year 1985 carryover funds in fiscal year 1986, spend the fiscal year 1986 appropriation in fiscal year 1986, and submit to Congress quarterly reports regarding obligations and expenditures for the previous quarter and proposed obligations and expenditures for the forthcoming quarter.

Against this backdrop, the current Justice Department freeze of OJJDP funds can only be considered a direct and clear violation of the directive of the Congress. It would be a travesty for the Administrator's first quarterly report to Congress, due on January 1, 1986, to reflect zero expenditures.

The Department's informal policy to freeze OJJDP funds already has disrupted many vital juvenile justice programs nationwide. A very serious situation has been created by this freeze and anticipated rescission request: numerous juvenile justice projects nationwide are likely to cease even if there is only a slight delay in the receipt of Federal funds.

As chairman of the Senate Juvenile Justice Subcommittee and cochairman of the Senate Children's Caucus, I have held numerous oversight hearings on OJJDP, and the proceedings repeatedly have highlighted the importance of preserving this Office. The testimony presented at subcommittee hearings illustrates the compelling need for the Federal Government to do more, no less, to address the problems facing young Americans today. Continued operation of OJJDP consistent with congressional intent is an important step toward this goal.

There are thousands of people who administer, need, and benefit from juvenile justice programs nationwide. Funding of these programs is desperately needed. Approval of this resolution by the Senate before it goes out of session will help insure the continuation of this important juvenile justice and delinquency program.

I have written to Attorney General Edwin Meese and Office of Management and Budget Director James Miller to express my extreme concern regarding the freeze and anticipated rescission proposal of OJJDP funds. I now urge my colleagues to support this resolution to avert the impending crisis in juvenile justice funding.

Mr. President, I ask that letters from various juvenile justice groups to Attorney General Edwin Meese be printed in the RECORD.

There being objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COALITION OF STATE
JUVENILE JUSTICE ADVISORY GROUPS,
Cape Elizabeth, ME, December 18, 1985.

Hon. EDWIN MEESE,
Attorney General, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: On behalf of the National Coalition of State Juvenile Justice Advisory Groups, I am compelled to convey my grave concern and deepest disappointment at the action of the Administration in regard to the proposed budget which recommends deletion of fiscal year 1986 funds for Juvenile Justice. It is unquestionable that this action flies in the face of repeated expressions of Congress that the Juvenile Justice Program be continued.

Upon notice that this proposal would be submitted, the Office of Juvenile Justice and Delinquency Prevention placed a "hold" on all unobligated fiscal year 1985 funds and all fiscal year 1986 funds. Such an action, particularly in regard to fiscal year 1986 appropriations, will place the states in an extremely difficult position. As you know, the fiscal year began October 1, 1985, and the funds in question are desperately needed by states to continue programs and operations. Because the funding cycle for some state programs begins in the first part of the current year, some state programs find themselves in serious jeopardy. Without the fiscal year 1986 funds, many programs designed and developed to cover any period of time will be terminated without any ability to permit assumption of their costs by state and local governments. Many discretionary programs, moreover, are subject to immediate termination. In addition, most states cannot insure the integrity of Federal funds already in the cycles, absent the Administration funds provided by the Act. It appears to me outrageous not only that many important programs may be terminated, but that this action also jeopardizes the ability of the states to provide accountability for current Federal program funds.

This action is strongly reminiscent of the actions of former President Nixon when he impounded funds appropriated by the Congress. Congress's response at that time was to pass the Budget Impoundment and Control Act. I sincerely, hope that you will reconsider this similar highhanded attempt to subvert the will of Congress.

Very truly yours,

A.L. CARLISLE,
Chair, National Coalition.

THE NATIONAL PTA,
Chicago, Ill., December 18, 1985.

Hon. EDWIN MEESE III,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL MEESE: I am writing on behalf of the 5.6 million members of the National Congress of Parents and Teachers (National PTA) in regard to funding of the Office of Juvenile Justice and Delinquency Prevention. The National PTA is outraged to learn that a rescission has been proposed for this vital program

and that all OJJDP monies have been impounded. It is our understanding also, that the Department of Justice did not appeal this rescission.

The National PTA, urgently requests that the Department of Justice immediately appeal this rescission and release for obligation all monies appropriated for OJJDP by the Congress. Inaction on the part of the Department in this regard would bring to a halt juvenile justice programs in the States and local communities throughout the country, thus threatening the well being of our youth and our communities. Such an outcome would be a total contradiction of the national resolve that juvenile justice and delinquency prevention is a federal priority. Congress passed and, last week, President Reagan signed into law the FY 1986 appropriations for the Department of Justice, including level funding of the OJJDP.

The Office of Juvenile Justice provides the national leadership, the incentives, and the seed money that is absolutely necessary for states to implement programs that will accomplish the goals of the Juvenile Justice and Delinquency Act. The National PTA appeals to you to ensure that the historic federal leadership role in juvenile justice is maintained by appealing the OMB rescission and allowing OJJDP to continue its important responsibilities to our nation.

Sincerely,

MILLIE WATERMAN,
Vice President for Legislative Activity.

DECEMBER 18, 1985.

Hon. EDWIN MEESE III,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: As Co-Chairmen of the Ad Hoc Coalition for Juvenile Justice and Delinquency Prevention, we are writing to express our strong opposition to the recent "freeze" placed on funding of the Office of Juvenile Justice and Deliquency Prevention (OJJDP). We respectfully urge you to reverse this decision.

The Ad Hoc Coalition for Juvenile Justice, comprised of more than 40 national youth services organizations, has been a strong supporter of the Juvenile Justice and Deliquency Prevention Act. We are especially concerned of the effects which this freeze will have on efforts supported under the Act's formula grants to states provision.

Our purpose in writing at this time is not to argue the cost-effectiveness or success of the federal juvenile justice program. We will be making such a case to you at the appropriate time.

We are requesting, however, that you immediately lift the current freeze on OJJDP funds so that the legal mandates of the Act can be carried out. The intent of Congress, as recently as the December 4th action on OJJDP appropriations, is quite clear. The statuatory mandates and enacted appropriations measures are to be carried out.

As our nation leading law enforcement official, we are confident that you are committed to carrying out the law of the land, in this case, the JJDP Act as signed by the President. This current freeze clearly violates the letter and spirit of the law.

Again, we urge the immediate lifting of the freeze. We welcome the opportunity to meet with you and your staff to discuss ways that the Act can better protect the youths and communities that all of us are committed to protecting.

Sincerely,

SHARON MARTIN,
Co-Chair, The Ad Hoc Coalition, YMCA of the USA.
DONALD W. MATHIS,
Co-Chair, The Ad Hoc Coalition, National Network of Runaway and Youth Services.

NATIONAL FUND FOR RUNAWAY CHILDREN, THE NATIONAL NETWORK OF RUNAWAY AND YOUTH SERVICES, INC.
Washington, DC., December 18, 1985.

Hon. EDWIN MEESE III,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL MEESE: The National Network of Runaway and Youth Services, comprised of more than 1,200 member agencies across America, is writing to you to oppose the recent freeze on funds which has been placed on programs administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). This highly-arbitrary and unsound decision is creating immediate havoc with state and local, public and private juvenile justice programs.

This freeze, which has not even been formally submitted to the Congress as a rescission, is puzzling at best. Given the appropriations cut time line of March 1st by Gramm/Rudman, a freeze at this time places extreme and unanticipated hardship on programs including law enforcement, judges, probation, and a myriad of youth services agencies. This freeze is bad policy and should be lifted immediately.

As you well know, Congress has passed and President Reagan has signed both the reauthorization and appropriation legislation which provide for the Juvenile Justice and Delinquency Prevention Act. I strongly urge you to fulfill these statutory mandates and immediately lift the freeze on OJJDP. Thank you for your consideration of the National Network's position opposing the OJJDP freeze.

Sincerely,

JUNE BUCY,
Executive Director.

● Mr. McCONNELL. Mr. President, I join in the resolution of the Senator from Pennsylvania, and urge my colleagues to support it as well. In my judgment, the attempt by the administration to rescind the 1986 funding for the Office of Juvenile Justice and Delinquency Prevention should be soundly rejected. Similar attempts have been made in the past, and each has been disapproved.

Mr. President, last summer the members of the Subcommittee on Juvenile Justice, under the able leadership of Senator SPECTER, advised OJJDP that it was the unanimous judgment of the subcommittee members that all unspent funds from fiscal year 1985 appropriations for that office should be spent, as directed by the act. In a letter dated November 21, 1985, we advised the distinguished acting chairman of the subcommittee on Commerce, justice, State, and Judiciary that we believed that all funds for OJJDP should be retained by the Senate conferees. In that letter, we noted as follows:

As you know, the conference report prepared by the Committee on Appropriations to accompany H.R. 2965, the Department of Commerce, Justice, and State, the Judiciary, and related agencies appropriation bill for fiscal year 1986, would provide for new appropriations to the Office of Juvenile Justice and Delinquency Prevention of only $62,100,000. This amount would be combined with some $7,900,000 in unobligated balances of funds previously appropriated to that office. In this way, the Administration seeks to provide a total appropriation for OJJDP of $70,000,000 for fiscal year 1986.

While this is characterized by the Administration as level funding for OJJDP, we see it as a cut of nearly $8,000,000 in the level of appropriations from the previous year, a significant and unwarranted cut in the funding for this important office.

When the Appropriations Committee's report on this bill goes to conference with the House, we respectfully request that you advise the Senate conferees that the Senate should concur with the House provision of the bill, providing for funding of the Office for fiscal year 1986 at the same level as 1985 and appropriate $70,000,000. In addition, we would ask that you advise the Senate conferees that it is the Subcommittee's belief that the $7,900,000 of funds previously appropriated and now available in unobligated balance should be redirected to the states, as currently provided for in the Senate report.

Mr. President, those letters represent the unanimous judgment of the members of the Juvenile Justice Subcommittee that the programs funded by OJJDP are vitally important, and are deserving of full funding. Happily, the members of this body have uniformally agreed with that assessment.

Nevertheless, now the Office of Management and Budget has informally recommended to the Department of Justice the rescission of all fiscal year 1986 appropriations for the Bureau of Justice Assistance [BJA], OJJDP, and other programs. The Justice Department sought a reconsideration of the proposed rescission of appropriations for BJA. The Department did not, however, seek to avoid the rescission request as to OJJDP funds. As a result, the administration has ordered OJJDP not to spend any of its funds until the rescission issue is resolved, notwithstanding that Congress has not yet received a formal notice of a proposed deferral or rescission of OJJDP funds pursuant to the Impoundment Control Act of 1974. A formal rescission notice from the administration is not expected to be received by Congress until the end of January 1986, at which time the 45-day time period begins for congressional action.

Consequently, a variety of important programs nationwide stand to be disrupted, notwithstanding the clear congressional intent.

Mr. President, I understand the administration's position on funding for OJJDP, and while I support the ad-

ministration whenever possible, on this issue I disagree most stridently. These programs are necessary, these funds are appropriate, and this resolution is a good one. I urge my colleagues to help defeat this latest attempt to delete these funds for children and adolescents who are in need.

SENATE RESOLUTION 279—RELATING TO THE TRANSFER OF U.S. TERRITORY IN THE ARCTIC OCEAN

Mr. HELMS (for himself, Mr. HECHT, Mr. EAST, and Mr. DENTON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 279

Whereas Wrangell Island became a part of the United States by right of confirmed discovery during the voyage of Captain Thomas Long, a citizen of the United States, of the barque *Nile* in 1867 and by right of first possession formalized during the voyage of Captain Calvin L. Hooper of the U.S. Revenue Marine steamer *Corwin* in 1881;

Whereas the Senate had printed a "Report of the U.S. Revenue Steamer *Thomas Corwin*, in the Arctic Ocean," as Ex. Doc. No. 204 in the 1st Session of the 48th Congress;

Whereas the House of Representatives had printed reports on the cruise of the United States Revenue Marine steamer *Corwin* in Alaska and the Northwest Arctic Ocean in the 2d Session of the 47th Congress, in the 1st Session of the 49th Congress, and in the 1st Session of the 50th Congress;

Whereas the Senate and House of Representatives of the United States of America approved on March 18, 1878 an Act in aid of a Polar expedition designed by James Gordon Bennett, a citizen of the United States, which authorized the Secretary of the Treasury to issue an American register to the vessel *Jeannette*, purchased in Great Britain;

Whereas the Senate and House of Representatives of the United States of America approved on February 27, 1879 an Act authorizing the Secretary of the Navy to accept and take charge of the ship *Jeannette* for the use of a North Polar Expedition;

Whereas Jeannette Island was discovered on May 16, 1881 and formally taken possession of on June 3, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Henrietta Island was discovered on May 24, 1881 and formally taken possession of on June 3, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Bennett Island was discovered on July 11, 1881 and formally taken possession of on July 29, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Wrangell, Herald, Jeannette, Henrietta, and Bennett islands were surveyed by the United States Navy for the United States Coast and Geodetic Survey in 1881;

Whereas the United States Coast and Geodetic Survey placed Wrangell, Herald, Jeannette, Henrietta, and Bennett islands in the District of Alaska;

Whereas beginning in 1900 the United States Geological Survey included Wrangell, Herald, Jeannette, Henrietta, and Bennett islands as part of the District, later Territory, and State of Alaska; and

Whereas unlike the governments of Canada and Great Britain, the Government of the United States has never surrendered its sovereignty over these islands; Now, therefore, be it

Resolved, That (a) it is the sense of the Senate that under the United States in any territory, outercontinental shelf, exclusive economic zone, or fishery conservation zone, including the territory described in subsection (b), may only be transferred to any other country—

(1) by treaty, in accordance with Article II, section 2, clause 2 of the United States Constitution which states that "[the President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur;"; and

(2) by enactment of Congress in accordance with Article IV, section 3, clause 2 of the United States Constitution which states that "[t]he Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.".

(b) The territory referred to in subsection (a) includes the islands of Wrangell, Herald, Bennett, Henrietta, and Jeannett which are located in the Arctic Ocean and the outer continental shelf of, and the exclusive economic zone surrounding, those islands.

Mr. HELMS. Mr. President, I am deeply concerned that the Department of State is endeavoring to turn over to the Soviet Union five U.S. islands in the Arctic Ocean. These islands are: Wrangell Island, Herald Island, Jeannette Island, Henrietta Island, and Bennett Island.

There is far more at stake here than the ownership of five small islands covered with ice and snow. What is at stake is how, under the rules of international law, the United States will define its Outer Continental Shelf. If we surrender these islands we will be surrendering an area that amounts to almost half of our entire Outer Continental Shelf.

Moreover, these islands lie in the Arctic between the Soviet Union and the North Pole. If we surrender the islands to Soviet sovereignty we may well be surrendering control of the Arctic Ocean to Soviet nuclear submarines.

The State Department refers to this problem as a boundary dispute involving the 1867 Convention Line established with the purchase of Alaska. It is true that there are substantive issues involving the 1867 Convention Line in the Navarin Basin, south of the Bering Strait. These are questions which ought to be carefully studied, both by the administration and by the Senate.

But the islands are all north of the Bering Strait, in the Arctic Ocean, and deserve to be a focus of separate attention. A glance at the map will show that this is hardly a "boundary dispute," a term which might imply drawing a line a hundred miles one way or another. This is a major issue, substantively different from the Navarin Basin problem, which could determine control of the Arctic Ocean for generations to come.

These islands are U.S. territory and property. They were discovered by U.S. citizens and taken possession of on behalf of the United States. The United States has asserted sovereignty over them. The U.S. Congress has acted upon them as our territory and property. Therefore, it is clear that, under the Constitution, they cannot be alienated by the State Department, without the express consent of both Houses of the U.S. Congress.

The resolution which I am submitting today expresses the sense of Congress that the provisions of the Constitution with regard to the disposition of U.S. territory and property be complied with fully. I hope that the Committee on Foreign Relations will schedule hearings on this resolution at an early date next year, so that all aspects of the issue can be considered. Incredibly, there have never been hearings on this issue; yet the State Department has been blithely proceeding as though this were just a minor issue.

The resolution that I am offering today is simple and to the point. It states that it is the sense of the Senate that under the U.S. Constitution any right, title, or interest of the United States in any territory, Outer Continental Shelf, exclusive economic zone or fishery conservation zone may only be transferred to another country by treaty, within the meaning of article II, section 2, clause 2 of the U.S. Constitution, and by enactment of Congress in accordance with article IV, section 3, clause 2 of the U.S. Constitution.

Mr. President, the President has the power to make treaties, by and with the advice and consent of the Senate, provided two-thirds of the Senators concur. There is no dispute over the President's power to make treaties. All we are saying in this resolution is that this matter is a matter which should be handled by treaty. It is not a matter to be considered as a technical issue settled by an Executive order.

Mr. President, the treatymaking power does not stand alone. Where U.S. territory and property is concerned, there are further requirements. Our Constitution in article IV, section 3, clause 2 states clearly that, "(t)he Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Nowhere, does our Constitution state that the Department of State has the power to hand over U.S. territory to a foreign power

by means of an Executive agreement or other similar instrument.

The historical facts about United States sovereignty over thise islands are clear. Unfortunately, the Department of State has been spreading all manner of disinformation concerning these islands not only to Members of Congress but also to the public at large.

In a letter to me earlier this year, the State Department referred to this matter as "a maritime boundary" issue. It stated that "all of these islands are claimed by the U.S.S.R." The State Department went on to say that "It has been alleged that the United States has claimed sovereignty over the five islands"—it is noteworthy that the State Department states the Soviet claim as an accepted fact, whereas it asserts that "after extensive research, the Department of State has not found any evidence that the Government of the United States has ever formally asserted a claim to any of these islands."

That statement is totally false. In fact, one of my illustrious predecessors representing North Carolina in the Senate, Senator Robert R. Reynolds, dealt with this matter extensively in 1940. The State Department simply has not bothered to look into the historical record. I have spent some months researching that record, including diaries of the period—newspaper accounts of the discovery period—including previously overlooked accounts in Honolulu newspapers of the last century—the U.S. Geological Survey, the CONGRESSIONAL RECORD, and other official documents of record.

So let us be clear about the historical record.

Wrangell Island was discovered during the voyage of Captain Thomas Long, a citizen of the United States, aboard the barque *Nile* in 1867. A new account of this confirmed discovery appeared in the "Pacific Commercial Advertiser" published in Honolulu on November 9, 1867.

First possession of Wrangell Island was formalized during the voyage of Capt. Calvin L. Hooper of the U.S. revenue marine steamer *Corwin* in 1881. Information about this voyage was printed in Senate Executive Document Number 204 in the first session of the 48th Congress. The title of this report is, "Report of the U.S. Revenue Marine Steamer Thomas Corwin, in the Arctic Ocean." The House of Representatives also printed reports about this voyage during the second session of the 47th Congress; during the first session of the 49th Congress; and during the first session of the 50th Congress.

Mr. President, on March 25, 1922, the distinguished Senator Joseph T. Robinson placed a letter in the RECORD written to him by the Captain Commandant of the U.S. Coast Guard, W.E. Reynolds. In his letter, Commandant Reynolds notes that he was a junior officer aboard the *Corwin* and was the officer assigned to carry our flag during the landing on Wrangell Island on August 12, 1881. In the letter he states, and I quote, "The captain and I landed together, being the first to get ashore. I had the flag, and with the captain's permission waved it and took possession of the new land in the name of liberty and of the Government of the United States of America."

Mr. President, the words of Captain Reynolds of the U.S. Coast Guard are certainly crystal clear with respect to taking formal possession of Wrangell Island.

Senators should also take note of the following entry in the log book of Captain Hooper, and I quote:

Friday, August 12, 1881. Lat. 71-04 Long. 177-40 off Wrangle Land. Got under way at 4:00 a.m. After a good deal of bumping and squeezing we reached the land and anchored in a small clear space off the mouth of a small river. Went on shore and took possession in the name of the U.S.

This quotation is contained in a study entitled, "The Discovery of Wrangel Island" by Samuel L. Hooper. It was published by the California Academy of Sciences as Occasional Paper No. XXIV, in San Francisco in 1956.

Prof. John Muir, a member of this expedition, wrote in his book that, and I quote, "A notable addition was made to the national domain when Captain Calvin L. Hooper landed on Wrangell Land and took formal possession in the name of the United States." John Muir, one of our Nation's most famous naturalists, was the founder of the Sierra Club.

The famed arctic explorer Vilhjalmar Steffansson in his book, "The Adventure of Wrangel Island" describing an expedition undertaken in 1921, wrote that, and I quote, "* * * following 1881 * * * the island was United States territory."

The Soviets have, in the past, claimed that a Russian Lieutenant Wrangel discovered the island. This assertion is groundless according to the lieutenant's own memoirs. Wrangel himself wrote in his work, "The Narrative of a Voyage to the Polar Seas in the Years 1821, 1822, and 1823" that, and I quote, "* * * with a painful feeling of the impossibility of overcoming the obstacles with which nature had opposed us, our last hope vanished of discovering the land which we yet believed to exist * * * we had done what duty and honor demanded, further attempts would have been absolutely hopeless and I decided to return."

Mr. President, the matter of Wrangell Island was before the Senate and the House of Representatives in 1939 and 1940. With the gathering storm of World War II about to engulf our Nation, Members of the Senate and the House became concerned about our Pacific air routes. A bill was offered in the House by Congressman Maas authorizing and directing the Secretary of the Navy to construct a naval air station on Wrangell Island. The bill, H.R. 4286, was introduced on February 17, 1939, and referred to the Committee on Naval Affairs. The State Department influenced the committee to take no action on the bill.

Mr. President, a similar bill was introduced in the Senate by a distinguished predecessor of mine from the State of North Carolina, Senator Robert R. Reynolds. While no action was taken on the bill, in the following year, Senator Reynolds introduced a resolution and articles relative to ownership of Wrangell Island.

Mr. President, so that our colleagues may have Senator Reynold's resolution and statement for immediate reference, I ask unanimous consent that the statement of Senator Reynolds of Monday, April 8, 1940, be printed in the RECORD at the conclusion of my remarks as exhibit 1.

Mr. President, I ask unanimous consent that a scholarly article entitled, "The Right of American Sovereignty over Wrangell Island," by Mr. David Nolan and Mr. Mark Seidenberg which appeared in the Canadian historical journal published by the University of Saskatchewan, "Musk Ox," be printed in the RECORD at the conclusion of my remarks as exhibit 2.

On March 18, 1878, the Senate and the House of Representatives approved an act in aid of a polar expedition designed by James Gordon Bennett, a U.S. citizen which authorized the Secretary of the Treasury to issue an American register to the vessel *Jeannettee* which had been purchased in Great Britain.

On February 27, 1879, the Senate and the House of Representatives approved an act authorizing the Secretary of the Navy to accept and to take charge of the ship *Jeannette* for the purpose of a north polar expedition.

Jeannette Island was discovered on May 16, 1881, and formally taken possession of on June 3, 1881, during the congressionally authorized voyage of U.S. Navy Commander George Washington De Long on the *Jeannette.*

Henrietta Island was discovered on May 24, 1881, and formally taken possession of on June 3, 1881, during this same voyage.

Bennett Island was discovered on July 11, 1881, and formally taken possession of on July 29, 1881, during this same voyage.

Mr. President, there is ample published historical material to verify these facts about the three De Long Islands. For example, Houghton Miff-

lin Co. published a two volume work in 1883 entitled, "The Voyage of the *Jeannette*, The Ship and Ice Journals of George W. De Long." These were edited by his wife, Emma De Long. There is also an extensive collection of clippings and other information about this voyage at the Naval Academy in Annapolis.

Mr. President, I ask unanimous consent that excerpts from Captain De Long's journals relating to Henrietta, Jeannette, and Bennett islands be printed in the RECORD at the end of my remarks as exhibit 3.

Mr. President, I ask unanimous consent that the appropriate citations on these five islands from the bulletin of the U.S. Geologic Survey, No. 187, entitled "Geographic Dictionary of Alaska," written by Marcus Baker, the Secretary of the U.S. Geologic Survey, and published in 1902 be printed in the RECORD at the conclusion of my remarks as exhibit 4.

Senators should note that this "Geographic Dictionary of Alaska" was reprinted in a second edition in 1906 by the U.S. Geological Survey. The same citations to these five islands appear in this edition.

Mr. President, in 1930, the U.S. Geological Survey published its bulletin 817 which was entitled, "Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States." This publication was written by Mr. Edward M. Douglas and was a revision and enlargement of the 1923 edition. In the chapter entitled, "Additions to the territory of the United States," Wrangell, Bennett, Henrietta, and Jeannette islands are described. Mysteriously and without explanation, or perhaps owing to the influence of the Department of State, these references were deleted from the 1966 and the 1976 edition of this work which were edited by Mr. Franklin van Zandt. According to information reaching my office, Mr. van Zandt had submitted his manuscript for the 1966 edition to the State Department and was told by the State Department to delete the reference to Wrangell, Bennett, Henrietta, and Jeannette islands.

Mr. President, I ask unanimous consent that the appropriate citations to these islands in the 1930 edition of this bulletin be printed in the RECORD at the end of my remarks as exhibit 5.

The giveaway of these five islands to the masters of the Kremlin is not some obscure action. In fact, back in North Carolina, folks are concerned about this situation as are other citizens around the country judging by the mail that I have received on the issue.

Mr. President, I ask unanimous consent that an excellent article entitled "U.S. Considering Relinquishing Control of Alaskan Islands" which appeared in the Laurinburg Exchange of Laurinburg, NC, on June 5, 1985 be printed in the RECORD at the conclusion of my remarks as exhibit 6.

Mr. President, facts are facts. These five islands are U.S. territory. If the Department of State is endeavoring to give away these islands to the Soviet Union, including the related Outer Continental Shelf areas and economic zone areas, then it is the duty of the Congress to adhere to the Constitution in terms of how territory may be transferred.

Mr. President, this resolution simply expresses the sense of the Senate that the Constitution must be observed in cases where our territory is to be transferred. The resolution outlines the historical facts which I described earlier in order that an accurate description of the sovereign rights of the United States of America over these five islands be presented.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

EXHIBIT 1

[Extension of Remarks of Hon. Robert R. Reynolds of North Carolina in the Senate of the United States, April 8, 1940]

RESOLUTION AND ARTICLES RELATIVE TO OWNERSHIP

Mr. REYNOLDS. Mr. President, under the permission granted me during the course of my remarks, I ask to have printed in the Appendix of the RECORD the resolution (S. Res. 253) to which I referred; a statement which I have prepeared with respect to Wrangell Island; an article from the Washington Post of February 26, 1939; and an article entitled "War of Propaganda May Be Already Won."

There being no objection, the matters referred to were ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 253

Resolved, That the Secretary of State is requested to make a report to the Senate at the earliest practicable date with respect to whether or not the United States has a valid claim to sovereignty over Wrangell Island.

STATEMENT BY HON. ROBERT R. REYNOLDS OF NORTH CAROLINA

Wrangell Island is, roughly, the size and shape of Jamaica, 80 miles long and 35 miles wide. It is rugged rather than rocky with a maximum elevation of about 2,000 feet. So far as we know, there is no permanent ice or snow, with the snows of winter disappearing completely in summer. The minimum temperature in winter is only a little lower than that of Montreal, about the same as that of Winnipeg, and not nearly so low as that of some of the Russian cities. Because the island is small and surrounded by a small ocean, the warmest summers will not be far different from the month of May throughout some of the northwest sections of Canada and some of the northeast sections of the United States. Essentially it is a prairie land—no trees, and only small bushes. The beach is abundantly supplied with driftwood for fuel and for the building of log houses. It is probably the greatest polar bear country in the world. But bearskins have at present a small commercial value. There are no locations better for the trapping of white and blue foxes, and there are considerable quantities of the remains of the prehistoric elephants—mammoths of that fossil monster may be of some importance. It is an excellent station for the walrus and hair-seal industry. Nothing is known about the presence or absence of minerals. Great herds of reindeer are owned by natives and whites in Alaska and suitable breeding stock could be purchased at reasonable cost and landed in Wrangell Island.

Probably Wrangell Island could support some ten to twenty thousand herd equally in value to double that numbers of sheep.

Although the commercial value of Wrangell Island is small, it is not negligible. As a matter of fact I should not have been in the least interested in this island, however, but for my belief that within 25 years from now the Polar Ocean will be one of the chief theaters of air commerce. It is true that we of the United States have plenty of rich land to develop, both at home and in our Territories, particularly in Alaska, and in speaking of Alaska, may I say that I believe that we have come to need badly a supply station under our own flag somewhere on the northern frontier of Asia such as Wrangell Island, for remember that Asia, Russian territory, is located within a stone's throw of our American Territory of Alaska. Fact is, the Little Diamede Island, which we acquired from Russia together with Alaska and Pribilof in the Aleutian Islands for a consideration of $7,200,000, is only about one-half mile from the Big Diamede Island which belongs to Russia itself.

Every other island on this vast northern frontier of Asia is clearly the property of some other nation, either by discovery or by occupation, but I believe that this one spot, Wrangell Island, is clearly ours and the longer that we let it go and remain in the hands of Russia, as of now, the more difficult will be our chance of obtaining our legal rights.

From a purely commercial standpoint as of now, the island would not be worth anything to us, but as I have heretofore stated, within 25 years from now it would be a very valuable spot, so my chief design, that what I have said and done, shall rest entirely on the grounds of public interest and public spirit.

If one looks at the Polar Ocean on a globe, which is the only way of correctly realizing the situation, you will note that Wrangell Island lies straight across from New York and is almost directly in line between the metropolis of New York and Manila, the capital of the Philippine Commonwealth. Even though it is not strategically the most important island on the northern coast of Siberia, it is the only island to which the United States Government has a claim on that vast frontier.

A couple of years ago when I was in Alaska and at which time I visited Point Barrow, the northernmost point in the Western Hemisphere, as well as Deering, Wainwright, Nome, and Siberian waters, friends of mine there and others whom I have met from time to time and place to place who were familiar with Siberia, impressed upon me how the Japanese were penetrating northward into that great country. And, as a matter of fact, several years ago while in Russia I understood that the Soviet Government was encouraging the immigration of its nationals from the congested cities such as Odessa, Leningrad, and Moscow to Siberia and its northeastern portions on the mainland in the neighborhood of Wrangell Island.

At the present time I am informed that a number of Chuckhees, Russian nationals, are occupying the island as a result of our

nationals having been forcibly taken from the island a number of years ago, concerning which incident I shall return to shortly. We have never asked submission of the question to some form of international court, in which case their occupation, coupled with our neglect, could have established ownership, so in this bill I am merely asking that our State Department inquire into the question of whether or not the United States has a valid claim to sovereignty over this island.

It is my information that in September of 1921 several Britishers, together with a small party of Eskimos, landed on Wrangell Island, where they raised the British flag, which they claimed was the third time that the British flag had been placed upon the soil of Wrangell Island. At that time there were some press stories in the United States to the effect that our Government had protested against Britain's occupation of this island, but as to whether or not these statements are authentic I have not been informed. At that time, however, it is my understanding that the Soviet Government of Russia did protest. This protest contained three reasons on account of which Wrangell Island was said to be Russian.

The first reason was discovery of the island by Baron Wrangell a little more than a hundred years ago. Close students of the baron's journey at the time that he was supposed to have discovered Wrangell Island will reveal that he was never anywhere near it. And in addition to that he states in his description definitely that he failed to discover land. Confirmation of this can be obtained easily.

The second Russian claims are on the basis of a landing between the years 1910 and 1915. As a matter of fact, any nation could have claimed Wrangell Island on the basis of a landing in 1910, 1915, or 1921, the latter of which was claimed by the British.

Thirdly, the Russians advance the claim that Wrangell Island is Russian by reason of its immediate proximity to Siberia. The distance from Siberia is about 100 miles, and as to this claim for ownership through proximity might possibly be agreed upon by some future international convention, but it certainly has not been agreed upon in the past.

In the year 1880 or 1881 the New York Herald fitted out a Polar expedition under the command of Lieutenant De Long, an officer on leave of absence from the United States Navy. This was the famous and tragic *Jeannette* expedition, so called after the ship which De Long took north through the Pacific and through the Bering Straits proceeding into the ice which he met northwest of Alaska, firm in the belief that just beyond were the shores of a great continent. Shortly thereafter, while the *Jeannette* expedition was found in the ices of the great Polar region, the American flag was planted on Wrangell Island either by a member of his expedition or by one of the crew of an expedition that went in search of the members of the *Jeannette* expedition.

I claim that Wrangell Island is originally the property of the United States through right of discovery, but it is a principle of international law that claims arising out of the discovery must be followed up within any reasonable time by exploration or occupancy or else it lapses into the territory of a no-man's land.

The British claim some sort of title as of 1854, by way of discovery or otherwise, and the Russians claim title for the same or similar reasons; but, after all, it is not disputed that the American flag was placed on Wrangell Island in 1881 or 1882, and it was actually occupied by the nationals of the United States when the Russian nationals, forcibly and against their will, removed the nationals of the United States from the island to Siberia, and I understand that since then the Russians have occupied the island.

I think it is pretty well conceded—at least, there is no information to the effect—that any human being ever landed on Wrangell Island before the Americans did in 1881, and we know pretty definitely that no landing was made upon the island thereafter for many, many years.

Those who claim to have a knowledge of aerial navigation say that conditions on the whole there are better than in any other area in the world, and, of course, for the time being, we are interested in the acquisition of this island for the reason that, as I have heretofore stated, within 25 years it will be a very valuable spot, as the condition of the island is such that, without great difficulty or excessive expense, airplane bases could be established. Some have ventured that a harbor at one end of the island is so enclosed that aquaplanes could make safe landings, and in the winter, with the airport covered with snow, great passenger and freight planes could land safely on skis. Not only are flying conditions over the polar area on the whole good, according to those who are familiar with this section, but it is much the smaller of the oceans and therefore the easiest ocean to cross. As the settlements creep northward along the great rivers of Siberia and Canada, the polar mediterranean will continually increase in importance through the airways above which connects the various lands.

In conclusion, may I say that Russia is now in the possession of Wrangell Island. I claim that that possession was obtained by force and not by discovery. Of course, on account of Wrangell Island's being in the immediately proximity of Russian territory, it would be easy for Russia to seize and difficult for us to defend, but surely it would be possible to establish the ownership of the island at an international conference. If Russia—or any other country for that matter—then acted contrary to the decision of the conference, the facts would at least be known and the blame would be laid where it was deserved; and again I wish to say that to use Wrangell Island as a base we would have there a short cut for airplanes flying over the top of the globe from New York to Manila instead of around the circumference by such routes as are taken by ships and trains.

Wrangel Island has an area of about 2,000 square miles. Its elevation rises to 2,500 feet, but there is much less land on the south and north. Shoals and sand spits project to sea on the north and southwest. The west and east coast are steep and lofty. The harbor is on the southeast. Tundra covers many parts.

In 1923 a party of Eskimos under an Alaskan trapper were established on Wrangel Island, but Russia, laying stress on the claim made around 1915, forcibly removed the colony in August of 1924 and shortly afterward brought 50 Chuckhees to form a settlement under Soviet officials, and I understand that the colony was visited by Russian airplanes in 1927. At that time these claims were not officially disputed by the United States, according to my information.

Last year I introduced a bill in Congress calling for the establishment of naval bases on Wrangell Island. This resolution was referred to the Naval Committee of the Senate, and no action to date has been taken thereupon. Fact of the matter is, I think that I was a little premature in the introduction of that resolution. I probably then should have introduced a bill such as I am introducing today, requesting the Secretary of State to make a report to the Senate at the earliest practical date with respect to whether or not the United States has a valid claim to sovereignty over Wrangel Island; and then, after the establishment of this claim, if an international congress awards the island to the United States, then would be the proper time for a bill calling for the establishment of naval bases there. At any rate, last year, when I introduced the aforementioned bill, which was referred to the Naval Affairs Committee of the Senate, there appeared in the Washington Post under date of February 26, 1939, an article entitled "United States Owns Wrangell Island. Not Soviet, Says Reynolds," and the subhead of that story reads. "Retired rear admiral, who planted American flag, revives controversy of Arctic possession." I wish to have this article at this juncture printed as a part of my remarks.

I ask that the resolution be referred to the Foreign Relations Committee, and I hope that we may shortly ascertain the rightful owner of this island, which in the future, I am confident, will prove to be a most valuable possession.

[From the Washington Post of February 26, 1939]

UNITED STATES OWNS WRANGELL ISLAND, NOT SOVIET, SAYS REYNOLDS—RETIRED ADMIRAL, WHO PLANTED AMERICAN FLAG THERE, REVIVES CONTROVERSY OVER ARCTIC POSSESSION

Because "first come first served" still is the law of the masterless lands, Rear Admiral William Edward Reynolds, retired, believes the Russians ought to get off Wrangell Island.

It is a matter of personal pride to him, for he "came first," in this case, he said, and planted the American flag on that ice-bound spot in the Arctic Sea one August morning in 1881.

There is a first-class international squabble ready to flare up over this disputed land, and it was another Reynolds who started it.

Last Friday Senator ROBERT R. REYNOLDS, of North Carolina, introduced a bill in the Senate to establish a naval air base on Wrangell Island, but there is small chance of doing that while the Russians are there.

It seems that in 1924, taking advantage of a claim they had made in 1916 that had never been officially disputed, the Russians abducted one Charles Wells, an American sailor from Seattle, and 12 Eskimos peacefully engaged in fishing and hunting and otherwise making good America's title to the spot, and replaced them with a colony of enthusiastic Communists.

RESTRAINS HIS PRIDE

This is a pretty intolerable situation for 79-year-old William Reynolds, who retired as rear admiral in the Coast Guard just when this was going on. But, mild-mannered and dignified, he restrained his outraged pride yesterday and spoke of the arrogant Bolsheviks with creditable courtesy.

"I don't know what right they had to take our island," he remarked, "but then I don't know much about international law. I took possession of Wrangell Island for the United States, and we were the first white

men that ever landed there. Of course, it's named after a Russian, Baron Wrangell, but he never reached the island; he just saw it."

As a matter of fact, it was something of an accident that led to that historic landing party, the gray-haired seaman admitted. The steamship Corwin, on which he was a junior officer at the time, was not sailing about the Artic looking for new lands for Uncle Sam. She was searching for survivors of the exploring ship Jeannette crushed by ice just before.

They didn't find any survivors, but they found a lot of polar bears and walrus, and a good plateau now useful as an airplane landing field, and they presented this chilly spot to the State Department to file away for the future.

FIFTEEN YEARS TOO LATE

Now Senator REYNOLDS has found a use for it, but he is 15 years too late. When, in 1924, Commander M. Davidoff came back in triumph to Vladivostock with Wells and his Eskimos he proudly boasted that once more the proletarian revolution had scored over the "imperialists," who were attempting to "seize the island" because it "would have made an ideal aerial base."

Poor Wells died before he ever got away from Siberia and as Rear Admiral Reynolds is the last survivor of the officers on that historic cruise of the *Corwin*, he is now the only principal of the drama of Wrangell still able to tell the tale.

But Wells' sponsor, Carl J. Lomen, is still very much alive, and so in his claim against the Russian Government for the 167 foxskins and 40 polar bear skins they relieved him of in 1924, not to mention damaged against his firm, the Loman Reindeer & Trading Corporation, which bought from an English firm the trading interests in the island just in time to have them seized behind their backs by the conquering Russian revolutionaries.

But after all, the whole thing rests with the State Department, and the State Department isn't interested now. Maybe if we build that air base Senator Reynolds wants there will be a showdown, and the Russians will be forced to admit the validity of Rear Admiral Reynolds' deed, and pay Lomen his damages. Such at least is the hope of Reynolds, Reynolds, and Lomen.

WAR OF PROPAGANDA MAY BE ALREADY WON—HUNGER IN JOBLESS HOME MORE PERILOUS THAN ANY FOREIGN SPY, IS VIEW

The little man, sitting in his little home, and wondering where he can get another pail of coal, will ultimately decide whether we get into war or stay out, asserts Samuel Grafton, writing in the New York Post. He adds:

"We are being told to watch out for propaganda. Good enough. But in the larger sense, this is a false steer. The propaganda fight has already been fought and won by the Allies. The United States now hates Hitler more than it hated the Kaiser in 1916. The toothiest of British lecturers can add only a drop to the brimming bucket of our hate. * * *

"History is made when the father of the family says he isn't hungry and slides his food down-table to this children, and the kids take it, trying not to think that's all there is, there isn't any more.

"History is made when the foreman at the plant tells John Smith, American worker, that he can't give him a job until the factory gets another war order, but that the factory isn't getting war orders because the Neutrality Act forbids lending money to the Allies. The muse of history really begins to smirk when John Smith walks down the factory street, feeling the stones through his shoes and wondering why the devil we shouldn't lend money to the Allies when it means a job a man can work at and feed his kids with.

"A decent peacetime job would keep John Smith from making this decision. * * *

"Tracing out the figures nationally, I find that the total of W. P. A. workers has been cut almost in half, from 3,043,367 in February to 1,661,970 in September. The rise in 'war boom' employment doesn't even remotely correspond to this wholesale slaughter of W. P. A. pay envelopes. The cut occurs at a time when a job is the best and most vital antiwar propaganda of all, because it talks to a man 7 days a week and 24 hours a day.

"I have a feeling that we are flunking our national test. We are depending on a Neutrality Act, a dike of words against a sea of need and blood. We are asking men to consult the national interest first, at a time when the interests of their children clamor in their ears. We are asking the little man to be big. That is the measure of the smallness of our approach.

"The stage for war, the stage for our participation, is being set. It is a bare stage and on it are a few kitchen chairs, an empty table, a congealing stove; in one of the chairs sits a man who fears the morning and who will accept any hope that comes. So far, we have been afraid to look at him."

EXHIBIT 2

THE RIGHT OF AMERICAN SOVEREIGNTY OVER WRANGELL ISLAND

(David B. Nolan* and Mark J. Seidenberg†)

ABSTRACT

The dispute over rightful sovereignty to Wrangell Island today continues as an international issue of the Arctic. The Soviet Union, United States, the United Kingdom, and Canada at one time or other have asserted interests over this frozen piece of tundra and mountain. The proximity of the island to both the U.S. and Russia has great strategic value in our push-button nuclear age. The issue itself has implications for the resurgence of American military might, for superpower detente, and for international law.

The history of Wrangell Island is filled with courage and tragedy. It is a tale of kidnapping and death.

The valiant Captain Calvin L. Hooper, the *de facto* governor of the Alaska territory, was the first to land on Wrangell Island. He claimed the island for the United States which perfected this claim through effective occupation in accordance with international law.

The Soviet government seized control of Wrangell Island in 1924 and took American citizens into custody. This act is held to have been in violation of international law and American statutes that sought to protect U.S. territorial rights.

Hence the Soviet Union is believed to have occupied Wrangell Island illegally until the present time. International law does not allow any nation to gain sovereignty in such a fashion. The U.S. sovereignty over Wrangell has never been legally ceded to the Soviet Union, either on account of treaty or due to U.S. inaction.

* * * * *

Extensive exploration of the Arctic did not occur until the nineteenth century. It is not surprising that Wrangell Island.[1] one of the largest yet most inaccessible islands in the Arctic did not become known to the world until this time.

Wrangell Island[2] is located eighty-five miles off the northeast coast of Siberia and two hundred seventy miles northwest of Cape Lisbourne, Alaska. It straddles the 180° meridian and the 71° parallel and encompasses an area to two thousand square miles. As with other islands in the Arctic Ocean, accessibility is limited by thick fog and sea ice. Impenetrable ice floes block access even to its southern shore for at least ten months of each year.

Four nations have asserted interests over this island—the United States, the Soviet Union, the United Kingdom, and Canada. The superiority of the claim by the United States can best be understood when placed in the perspective of arctic history and international law.

Early recorded explorations into the Arctic did not intend to lay formal claim to, and take effective occupation of, arctic territory. Without these elements sovereignty will not arise over discovered land. The Greek navigator Pytheas of Massila made the first recorded voyage into the Arctic Ocean in the fourth century. B.C.E., but was turned back by fog and ice.[3] The next recorded voyage into the Arctic of any significance was by a Norse chief named Ottar who sailed into the White Sea, after passing the Kola Peninsula.[4]

By the sixteenth century, England and other maritime nations sought better trade routes to the Orient than the long and arduous routes around the Cape of Good Hope and Cape Horn. In the year 1553 English merchants organized voyages to China by the Northeast Passage across to top of Europe and Asia.[5] In 1594 the Dutch navigator Willem Barents sailed into the Kara Sea.[6]

A Cossack trader named Simon Dezhnev sailed eastward from the Kolyma River in the summer of 1648. The natives of eastern Siberia told him of a "large country" lying to the north of Chukchi and Alaska. He was the first white man to hear of this land called Beringia.[7]

In 1763, another Cossack named Andreyev heard of this land and traveled to the Medvezhi Ostrova to find it. He claimed to have seen a large land to the East from that island location. However, six years later three Russian surveyors named Leontev, Lesev, and Pushkarov confirmed that there was no land that could be seen from such location.[8] Mirages of islands are not uncommon in the Arctic. This factor, added to the difficulty of obtaining star readings for location determinations in arctic fog, have often made land sightings unreliable.

Baron Ferdinand Petrovich von Wrangell, a lieutenant in the Imperial Russian Navy, also heard the tale of the land's existence from the Chukchi chiefs of Siberia. Between 1820 and 1824 he commanded several expeditions in search of the island but he never saw it, let alone land on or occupy it.[9] In April of 1824, at the end of his last arctic expedition, Wrangell wrote:

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* Dr. Nolan Assistant Counsel to the President of the United States.

† Mr. Seidenbergy is Vice-President of an American corporation, living in Seal Beach, California.

[1] Footnotes at end of article.

"[W]ith a painful feeling of the impossibility of overcoming the obstacles which nature opposed to us, our last hope vanished of discovering the land which we believed to exist. We saw ourselves compelled to renounce the object for which we had been striving through three years of hardships and danger." [10]

Despite this failure, Wrangell gained worldwide fame as an arctic explorer. He later became Governor of Russian America. Yet he was never to land upon the island that would bear his name in his honour.

During the mid-nineteenth century, England, still looking for a short-cut to the Orient, attempted to find a Northwest Passage. In 1845 Sir John Franklin left England with a company of 129 to travel over the top of America to Petropavlovsk, Kamachatka. By September, 1846, the expedition's ships had become locked in an ice pack twelve miles from King William Island.

On 11 June 1847 Sir John Franklin died. On 22 April 1848 the ships *Erebus* and *Terror* were deserted and what was left of their crew started on a hopeless march to safety. No one survived. [11]

By 1848 the Royal Geographical Society became concerned over the ships' disappearance and the British Admiralty agreed to its request to organize a search. The United States and Canada also organized searches for the missing ships.

On 6 August 1849, Captain Henry Kellett, R.N., of H.M.S. *Herald*, one of the Franklin search vessels, arrived at a small island west of Cape Lisburne. Upon landing, Kellett took possession and named the island Herald after his ship. He hoisted the Union Jack and claimed the island on behalf of Queen Victoria.

Kellett sighted a large land mass beyond Herald Island to the west which he called Plover in honor of another Franklin relief expedition ship. Whereas no land mass existed at the position noted by Kellett on navigation charts, it may have been a mirage rather than Wrangell Island. In any event, no further landing or exploration was made.

Six years later, on 13 August 1855 Captain John Rogers, in his flagship the U.S.S. *Vincennes*, reached the position ascribed to Plover Island, also known as Kellett Land on the Admiralty charts. [13] When there was no land to be seen from the clear horizons, the charts by the Depot of Charts and Instruments of the U.S. Navy were changed accordingly. It should be noted that the Russian author Shvede gives credit to the American, Rogers, for discovering Wrangell Island [14] on that Congressionally authorized voyage. [15]

The United States' legal rights in the northwest of the North American Continent have a foundation in the Treaty of Adams-de Onus of 22 February 1821 which ceded Spanish rights in Oregon Country to the U.S. [16] The United States' claims to northern parts of the Oregon Country (now southern Alaska) are based, in part, upon voyages of discovery and annexation by Don Juan Francisco de la Bodega y Quadra and Don Ignacio Arteiga for the Spanish Government between 1775–1779. [17]

H.I.M. Tsar Aleksandr Pavlovich of Russia issued a ukase in 1821 banning "transaction of Commerce, and the pursuit of whaling and fishing or any other industry . . . all along the North West Coast of America from the Bering Sea to the 51st parallel." [18] This coast was part of the area ceded to the United States by Spain in 1821. The Tsar's ukase prompted U.S. President Monroe, in his message to Congress on 2 December 1823, to proclaim the Monroe Doctrine. A compromise was reached on 11 January 1825. The United States government ceded the coast of America north of the 54°40' parallel to the Imperial Russian Government as part of a Treaty of Navigation and Fisheries of the Northwest Coast. [19]

As will be seen, this accord was superseded by the Seward-de Stoechl Treaty in 1867 which ceded Russian America to the United States. The 1825 treaty has no bearing on sovereignty over Wrangell Island which was undiscovered at the time.

By the middle of the nineteenth century, Russian interests in expansion beyond the Asian mainland waned just as American interest in expanding to the West increased. The loss of the Crimean War illustrated the vulnerability of the Russian Empire at its extremities.

The Russian government, fearing that its American colony was no longer defensible and recognizing its economic liability, sold the North American lands to the United States for 7.2 million dollars on 20 June 1867. [20] This convention between the governments of Russia and the United States ended all Russian claims to sovereignty east of the demarcation line.

On 18 October 1867 the Tsarist double eagle flag was lowered over Novoarkhangelsk, the capital of Russian-America, and the Stars and Stripes was hoisted over the renamed city of Sitka. Alaska was now a possession of the United States. [21]

The Office of the Solicitor, U.S. Department of State, determined after a review of the documents leading up to and including the Seward-de Stoechl Treaty "that the Emperor of all the Russias ceded to the United States certain territories, and that the United States on its part entered into no commitment which could be interpreted as an understanding not to press claims to any land west of the particular line above described." [22] Therefore, there can be no inference that the United States ceded sovereignty to any as yet undiscovered island to the west of the Diomede Islands.

During this period the American whaling industry expanded into arctic waters. On 14 August 1867 Captain Thomas Long of New London, Connecticut, sailed his whaling bark *Nile* along a trek some thirty miles north of the route navigated by U.S.S. *Vincennes* some twelve years earlier. A seaman named Thomas sighted land (Cape Thomas) to the northeast from the ship's masthead. Captain Long named this territory "Wrangell's Land" as an appropriate tribute to the memory of the Russian explorer who spent three consecutive years above the 69th parallel. [23] Long also was the first to sight the identifying volcano of more than 2000 feet in height on Wrangell Island. He sailed past the southern shore and returned to the port of Honolulu. Between 1868 and 1869 the news of the American discovery of "Wrangell's Land" spread worldwide. Geographical Societies in the United States and Europe honored Captain Long for his discovery. [24]

Other American whalers—the captains Raynor of the *Reindeer*, Philips of the *Monticello*, and Bliver of the *Nautilus* also confirmed the sighting of the large land mass discovered by Thomas Long. They spread their belief that Wrangell was not an island but a frozen continent similar to that at the South Pole, a speculation that prompted the New York Herald to outfit an expedition in 1879, led by Naval Lieutenant George Washington De Long, to Wrangell Island and then the North Pole. [25] De Long and his ship, the *Jeannette*, formerly called the *Pandora*, never made it. The *Jeannette* became locked in ice floes and drifted westward past Wrangell Island where it was crushed and sunk in the summer of 1881.

Fearing for the fate of De Long, the U.S. Congress in early 1881 authorized one hundred and seventy-five thousand dollars for a search. The *Jeannette* relief ships, the U.S. Revenue Marine Steamer, the *Thomas Corwin* and the U.S.S. *John Rogers* entered the Bering Sea in the summer of 1881. Commanding officer of the *Corwin* was Captain Calvin Leighton Hooper.

Hooper at the time commanded the Bering Sea Patrol of the U.S. Revenue Marine, which made him the *de facto* Governor of Alaska. During the spring of 1877, jurisdiction of the District of Alaska was transferred from the Department of War to the Treasury Department. Treasury in turn placed Alaska under the charge of the U.S. Revenue Marine from that year until 1884. [26] Hooper clearly had authority at that time to discover and claim sovereignty over land on behalf of the United States. [27] The *Corwin* also carried aboard a complement of scientists. These included the world renowned naturalist, John Muir, who was later to found the Sierra Club.

The *Corwin* landed on Herald Island in hopes of finding the *Jeannette* or its crew. Unsuccessful in the rescue attempt, Hooper valiantly forced his ship through heavy ice floes to Wrangell Island to the west. [28]

On 12 August 1881, Hooper, Muir, and their party of six made the first recorded landing by man upon Wrangell Island. Edward W. Nelson, a member of the landing party later noted.

"The result of our examination of the Island, so far as we saw, gave not the slightest evidence of its ever having been visited by man before. All subsequent examinations of Wrangell Island by those who have visited it later appear to establish the fact that the landing party from the *Corwin* contained the first men to set foot on this island." [29]

Landing at the mouth of the Clark River on the eastern side of the island, Hooper and his fellow officers raised the American flag and took possession of Wrangell Island in the name of the United States. While Hooper and Muir explored the island, other party members erected a rock cairn and deposited documents recording the significant event. William Reynolds, a member of the party, recalled:

"I had the flag and with the Captain's permission waved it and took possession of the new land in the name of liberty and of the Government of the United States of America. I planted the flag on a bluff a little to the northwest of our landing place and left it there together with a record of our visit." [30]

Hooper called the island "New Columbia." He explained,

"It was believed that as the island had become, by our act of landing upon it, a part of the United States, by selecting a name of national character, no disrespect would be shown to the memory or offense given to the friends of the gallant officer whose name it bore, and that the name given would be adopted by all nations." [31]

The name "New Columbia" never replaced Wrangell, however.

Captain Hooper told Captain L. C. Owens of the American whaler *Belvedere* of his plan to annex Wrangell Island to the United States prior to landing there. The *Belvedere* became the second ship to land at Wrangell

on 19 August 1881. "As soon as we got ashore we saw the signal planned by Lieutenant Reynolds, a small American ensign fastened to a slender piece of driftwood, driven into the soil," confirmed a *Belvedere* crew member.[32]

On 26 August 1881 a party from the *Rogers*, the other relief ship, landed on Wrangell Island. They completed an official survey for the U.S. Government on 13 September of the same year. One crew expedition proceeded overland to the mountains, where a general view of land and water could be obtained. Another group found the cairn left by the *Corwin*, and deposited copies of the documents contained therein, taking the originals for the Navy's report. The crew of the U.S.S. *Rogers* also raised the American flag over Wrangell Island.[33] The crew determined that its new U.S. possession was not a continent but a large island.

Major E. W. Clark, the Chief of the United States Revenue Marine Service, informed the U.S. Coast and Geological Survey in 1881 of the annexation of Wrangell Island to the United States. The U.S.C. & G.S. of the U.S. Treasury Department determined that Wrangell Island should be included in the District of Alaska.[34]

Between the years 1881 and 1910 Wrangell Island was visited exclusively by Americans. These were mostly whalers and walrus and seal hunters. On 8 September 1889 the U.S.S. *Thetis* went to Wrangell Island while cruising the Arctic Ocean, "showing the American flag." [35] In the year 1910 Captain Louis Lane sailed the ship *Adler* of Nome, Alaska, to Wrangell Island with a motion picture company from Hollywood, which filmed a polar bear hunt.

For a period of twenty-nine years following Hooper's claim, U.S. and Russian publications recognized United States sovereignty over Wrangell. U.S. Geological Survey Bulletins No. 169 in 1900, No. 187 in 1902, and Nos. 274 and 299 in 1906 included Wrangell Island as part of the U.S. Russian Naval Maps and Encyclopedia at the turn of the century also show the same designation.

In 1910 the Imperial Russian government, interested in compiling hydrographic charts to facilitate shipping routes from Kolyma to Vladivostok, commissioned two steel icebreaking ships, the *Vaigatch* and *Taimyr*. On 16 September 1911 the *Vaigatch* anchored in a cove off Blossom Point at the southwest corner of Wrangell Island while taking shelter from a gale from the northeast.[36] Its captain sent a landing party ashore on 15 September via whaleboat and motor launch to establish the correct astronomical position by celestial observation. The landing party found a coal deposit and erected a ten meter structure to establish the astronomical position of the landing place before leaving.

The Russians then circumnavigated the island, but unfortunately at a distance too far to contribute to the definite outlining of the coast.[37] This was the only visit that the Russians ever made to the Wrangell Island before 1924, nor did they ever make any claim to the island during their stay.

In 1911 Dr. Rollin Harris, an American oceanographer, again raised interest in the possibility of an as-yet-undiscovered arctic continent. He hypothesized the existence of "Harris Land" to explain tidal movements in the Arctic Ocean.

In 1913 the National Geographic Society planned to finance an expedition to the Arctic to find this new land. Sir Robert Borden, Prime Minister of Canada, asked and received permission to finance the expedition for fear that Americans might make new discoveries north of Canada for the United States.[38].

Vilhjalmur Stefansson, a Canadian who had grown up on the plains of North Dakota, was chosen to lead the expedition. The Canadian government directed Stefansson that "any new or partly unknown lands which the expedition would touch would be observed, position fixed, and the British flag would be planted on these lands."[39]

Stefansson's flagship was the whaler *Karluk* under the mastery of Captain Robert A. Bartlett. Bartlett was a U.S. citizen who had commanded the ship *Roosevelt* for the Peary and Henson expedition to the North Pole during the years 1905 to 1909. The *Karluk* suffered the tragic fate of other vessels and became caught in arctic ice, drifted west along the north coast of Alaska, and eventually sank. For two months the survivors walked south across the polar ice cap, arriving at Wrangell Island on 12 March 1914. Two members of the ship's crew. John Munro and Robert Templeman, raised the Canadian flag over Wrangell Island in celebration of Dominion Day, 1 July 1914.

Of course, Wrangell Island had already been formally claimed by the United States, and the previous establishment of U.S. sovereignty served to cut off subsequent rival claims. Furthermore, Great Britain had transferred jurisdiction of her rights to islands in the Arctic Ocean to the Canadian Government in 1880.[40] Therefore, whatever pretention to sovereignty Great Britain might have had to Herald and Wrangell Islands by virtue of the voyage of the H.M.S. *Herald* in 1849, or the landing on Wrangell in 1914, now belonged to Canada.

The shipwrecked members of the *Karluk* also recognized the prior discovery of Wrangell Island. Bartlett later wrote that "we passed Hooper cairn, which was built by a party from the U.S. Revenue cutter *Corwin* in August, 1881. The cairn, as I could see, was still intact." [41]

Captain Bartlett and an Eskimo crew member, Kakatovik, walked across the ice pack to summon help. Upon Bartlett's reaching Alaska, Captain William E. Reynolds, U.S.R.C.S., immediately ordered a rescue attempt. On 7 September 1914 the American ship *King and Wing* picked up the happy survivors on Wrangell Island (Figure 1). Not knowing that the *Karluk* survivors had already been rescued, the *Thomas Corwin* landed at Wrangell a few days later. The same ship that thirty-three years earlier had carried Hooper to claim the island, re-established the flying of the U.S. flag over Wrangell Island.

After the *Karluk* survivors were transferred to the U.S Revenue Cutter *Bear*, they were transported to the ship's home port of Unalaska where the port commander, William Reynolds (who in 1881 had landed on Wrangell with Hooper) told Bartlett that the island was indeed part of Alaska.

On 13 November 1916 a challenge to U.S. sovereignty over Wrangell Island came from a different source. The Imperial Russian Embassy in Washington presented a memorandum to the U.S. Department of State regarding Russia's claim to lands in the Arctic. It claimed that Wrangell Island, Alaska, was one of the islands which "form an extension Northward of the Continental tableland of Siberia." [42] This argument, like that of the sphere of influence, continuity, or sector theory to the Pole has no validity in international law.[43] Before this claim could again be pressed the Imperial Russian Government was overthrown by the Bolsheviks. World events were to continue to play a major part in the issue of sovereignty over Wrangell.

On 7 July 1918 Allied Commanders, and an army that included Japanese troops, assumed protection of the city of Vladivostok. The threat of the Japanese taking an imperialistic hold in eastern Siberia caused concern, just as the expansion of power by the Bolsheviks had done formerly. In 1920 Stefansson became worried that the Japanese government, in their desire to control eastern Siberia, might try to take Wrangell Island. He observed, "I felt certain that within a year or two they would realize the coming importance of Wrangell Island and would occupy it."

Great Britain, Japan, and the United States were allied against the Bolsheviks. However, if the Japanese (future Pacific rivals to the United States) were to occupy Wrangell Island, it would be difficult to oust them in favor of the Bolsheviks. Therefore, Stefansson met in Ann Arbor, Michigan, with Allen Crawford, a Canadian, and Sir Auckland Geddes, British Ambassador to the U.S., for the United Kingdom to plan an expedition to secure Wrangell Island and also to promote their own economic interests.

Crawford led a party that included four Americans on the American ship *Silver Wave*. When they landed on Wrangell Island on 15 September 1921 the crew raised the Stars and Stripes over the island under Captain Jack Hammer's direction. On 16 September 1921 Crawford raised the Union Jack over Wrangell "in the name of the King and the Empire" as a continuation of Stefanson's "right to the island already established by the Stefansson Canadian Arctic Expedition of 1913–18 and the shipwreck of the *Karluk*." [45] He did not tell anyone aboard the *Silver Wave* that he had raised the British flag over the island.

In 1922 it became *cause célèbre* in the British and American press that Stefansson and company had "claimed" Wrangell Island, Alaska, as part of the United Kingdom. Anglo-American relations became strained over an island in which Great Britain had shown no interest since the discovery of Herald Island in 1849.

The Crawford party landed with provisions for only six months, saying they planned to sustain themselves with hunting. Stefansson's relief mission in 1922 was blocked by ice floes. When Harold Noice arrived aboard the relief ship *Donaldson* on 20 August 1923 only an Eskimo seamstress named Ada Blackjack survived of the original group. A new party led by Charles Wells of Uniontown, Pennsylvania, continued settlement of the island.

When Stefansson realized in 1924 that the Canadian government would not back a sovereignty claim as to *dominium directum* rights he sold his title and his *dominium utile* interests in Wrangell Island to the Lomen Brothers company of Nome, Alaska (Figures 2(a) and 2(b)). On 13 May 1924 Secretary of State Charles Evans Hughes declared that the Lomen Brothers were the owners of the island (Figure 3). On 18 June of that year, the British Colonial Secretary stated in a confidential dispatch: "The United States Government is thought to have a strong, if not indisputable, claim to the Island." [45a]

On 20 August 1924 the Soviet gunboat *Red October* landed on Wrangell Island, armed with a six-pound cannon and a com-

pany of Soviet infantry. The Soviets took Wells by force and the other thirteen Americans on the island and told them they were being taken to Alaska. Instead they were forcibly taken to Vladivostok.[46] The Soviet officials confiscated all the pelts which the trappers had accumulated during the twelve bitter months on the island.[47] Following intervention by the U.S. Consul at Harbin, Manchuria, the Soviets released the twelve Americans still living. The Bolsheviks claimed that Wells had died of pneumonia. His diary was never found.

A year later the Soviets proclaimed Wrangell Island as their territory. But in 1930 the U.S. Department of the Interior publication entitled *Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States* expressly included Wrangell Island as an American possession. Since that time no abandonment by the U.S. of its rightful sovereignty has occurred, nor under international law could such abandonment occur following a deprivation of sovereignty by force.

Besides the abducting of Americans on Wrangell Island, the Russians violated federally promulgated Alaskan law that prohibits the exercise of foreign jurisdiction. The Alaskan Organic Act of 1884 adopted Oregon law, which in turn had adopted the Iowa Territory prohibitions against foreign governmental interference with American sovereignty.[48]

In 1973 the State Department reissued the *Hackworth Digest of International Law* which explained, "The United States has not relinquished its claim to Wrangell Island." In the centennial year of the American landing on Wrangell, the United States government's position has not changed. Captain Hooper formally claimed Wrangell Island on 12 August 1881 and the U.S. established effective occupation until the Soviet invasion.

FOOTNOTES

[1] The island has also been spelled Wrangel and Vrangel. The U.S. Board of Geographic names, by resolution named 29 July 1901 determined that Wrangell Island, Alaska, in the Arctic Ocean should be spelled with two l's. The island was named in tribute to Ferdinand Petrovich von Wrangell who spelled his own name with two l's when he wrote in the Roman alphabet.

[2] Dermot Cole, "Now We're Losing Wrangel Island." *Fairbanks Daily News Miner*, 1 October 1977.

[3] David Mountfield. *A History of Polar Exploration* (New York: The Dial Press. 1974), pp. 15-16, 19-20.

[4] Ibid., p. 23.

[5] Ibid., pp. 27, 33.

[6] Ibid., pp. 33-39.

[7] Leonid Vasilevich Gromov, *Oskolok Drevnei Beringi* (Moskva: Gos izd-vo geogr. lit-ry, 1960).

[8] Ibid.

[9] Lieutenant Baron Ferdinand Petrovich von Wrangell, I.R.N., *Narrative of an Expedition to the Polar Sea in the Years 1820-1823*, ed. Major Sir Edward Sabine, R.A. (London: James Madden and Co., 1840) pp. 342-359.

[10] "Wrangell Island," *The Geographical Journal*, Vol. 62, No. 6, (December, 1923), p. 441.

[11] Leopold McClintock, *The Voyage of the Fox: Discovery of the Fate of Franklin* (London: J. Murry, 1908).

[12] Bertold C. Seaman, *Narrative of the Voyage of the Herald during 1845-51*, (London: Reeve & Co., 1853), pp. 115-116.

[13] Wilhelm Heine, *Di Expedition in die Seen von China, Japan and Ochotsk under Commodore Colin Reingold und Commodore John Rodgers, in auftrage der Regierung der Jahren 1853 bis 1856* (Leipzig: H. Constenoble, 1858-59).

[14] Evgenni Evgenievich Shevde "Ostrov Vrangelya" *Morskoisbornik* God 76. No. 9 (Sept. 1923) pp. i-xiv

[15] 31 August 1852 (10 Stat. L. 100).

[16] 8 Stat. L. 252.

[17] Francisco Antonio Mourelle, *Journal of a Voyage in 1775* (London, 1781).

[18] John J. Underwood, *Alaska: an Empire in the Making* (New York: Dodd, Mead, 1913) p. 265. It should be noted that Prof. William R. Hunt of the University of Alaska, in his book, *Alaska: A Bicentennial History* (New York: W. W. Norton & Company, Inc. and Nashville: American Association for State and Local History, 1976), p. 30, erred in ascribing the ukase to "Alexander II" (Tsar Aleksandr NIkolaevich of Russia).

[19] 8 Stat. L. 302. For background information concerning counter claims of sovereignty to the Oregon County read Thomas Falconer, *Oregon Questions; or a Statement of the British Claims to the Government of the United States of America.* 2nd Ed. (London: Samuel Clark, 1845), and Travers Twiss. *The Oregon Question Examined* (London: Longman, Brown, Green and Longman, 1846).

[20] 15 Stat. L. 539.

[21] The name Alaska was gradually established for this region by local use while the Russians officially designated it Russian America. The name Alaska was proposed for official acceptance by W. H. Seward. Hon. Charles Sumner, and Maj. General H. W. Halleck after the U.S. Government took possession of the region.

[22] Bretton G. Sciaroni. *The U.S. Claim to Wrangell Island*, Contract Study (No. 1722-620057) prepared for the U.S. Department of State on February 4, 1976, p. 30. Also see, F. M. Anderson, "Memorandum" (November 25, 1924), M. S. Department of State, file 861.0144/75 and S. Wittemore Boggs "Delimination of Seward Areas under National Jurisdiction." *American Journal of International Law*, 45, No. 2 (April, 1951), p. 240, fn 2.

[23] Captain Thomas Long, "Arctic Land Discoveries," *The Pacific Commercial Advertiser* (Honolulu), 9 November 1867.

[24] "A Polar Continent: Reported Discovery of a Polar Continent in the Arctic Ocean," *New York Times* (7 December 1867); William W. Wheridens, "The New Arctic Continent or Wrangell's Land" (Chicago: American Association for the Advancement of Science, August 1868); K. M. Baer, "Nesholho slov po povodu novothritoy Vrangelyevshoy zemily", *Izvesti Russhovo Geografícheshovo Obsthestva*, (1968), V4, N7, pp. 333-349.

[25] J. E. Nourse, *American Exploration in the Ice Zones*, (Boston: D. Lothrop and Company), pp. 365-66 and David Mountfield, *A History of Polar Exploration* (New York: Dial Press, 1974), pp. 123-124.

[26] Formal letters of 17 and 24 March 1877 between Secretary of War George W. McCrary and Secretary of Treasury, John Sherman. National Archives, files of the Adjutant General (Microcopy MGGG, reel No. 358).

[27] International law has also recognized the status of private individuals to claim sovereignty on behalf of their country. *A fortiori* Hooper in his official capacity had no less authority regarding Wrangell Island than in his validly ordered claim of Wake Island on behalf of the United States in 1898, while in transit after the Spanish-American War as a member of U.S. Pacific forces.

[28] Muir, *The Cruise of the Corwin*, pp. 140-158; Hooper, *Cruise of the Corwin*, 1881, pp. 53-54.

[29] Nelson, *Congressional Record, Senate*, 22 March 1922, p. 4261, col. 2.

[30] William Reynolds, *Congressional Record, Senate*, 25 March 1922, p. 4538, col. 2. Also included under these papers sent from the Secretary of Treasury Andrew W. Mellon to Secretary of State Charles Evans Hughes, 13 April 1922, M.S. Department of State, file 861.0144/7.

[31] Hooper, *Cruise of the Corwin*, 1881, p. 70.

[32] Wrangel Land: A Description of the Island by a Visitor," *San Francisco Chronicle* (16 August 1882), p. 3.

[33] Nelson, *Congressional Record, Senate*, 22 March 1922, p. 4261, col., stated the "Rogers partly took possession of the island by right of [Captain Long's] discovery, and that was within a space of a few weeks [of the *Corwin* party taking possession for the United States Government]."

[34] In 1900 the U.S. Geological Survey, at the direction of Henry Gannett, issued U.S. Geological Survey Bulletin No. 169 which included Wrangell Island of the Arctic as part of Alaska. Gannett is known as the father of American map making, and was the Chief Geographer of the U.S.G.S., having started in 1882.

[35] Jean Denuce "les expeditions polaires depuis 1800," Bulletin de la Societe Royale de Geographie D'Anvers (Anvers: J. Van Hille-De Bocher, 1911), p. 336. Also see: Charles Herbert Stockton, "The Arctic Cruise of the USS *Thetis* in the summer and autumn of 1889," *National Geographic Magazine* (1890), v. 2, No. 3, p. 194; and D.W. Knox, Captain, U.S.N. (Ret.), letter to Lt. Comdr. F. W. Mead, U.S.N. (Ret.) dated 31 October 1933.

[36] Blossom Point was named by Lt. R. M. Berry, U.S.N. in 1881 after H.M.S. *Blossom.*

[37] L. M. Starokadomskiy, *Charting the Russian Northern Sea Route: The Arctic Ocean Hydrophic Expedition, 1909-1919*; ed. and trans. William Barr, (Montreal: Arctic Institute of North America and McGill-Queen's University Press, 1976) pp. 60-64; Nikolai Nikolaevich Alekseev, "Ostrov Vrangelya," *Bulletin of the Far Eastern Branch of the Academy of Sciences of the U.S.S.R.* (Vladivostok: 1932) No. 3-4, p. 83; L. V. Gromov, *Ostrov Vrangelya* (Magadan; 1961) p. 24; Vilhjalmur Stefansson, "The Russian Visit to Wrangel Island," appendix 9, *The Adventure of Wrangel Island*, op. cit., pp. 393-394.

[38] Vilhjalmur Stefansson, The Adventure of Wrangel Island, pp. 50-51.

[39] Order-in-Council, approved 22 February 1913.

[40] Gordon W. Smith, "The Transfer of Arctic Territories from Great Britain to Canada in 1880, and some related matters, as seen in official correspondence," *Arctic*, March, 1961, Vol. 14, No. 1, pp. 53-73.

[41] Bartlett, *The Last Voyage of the Karluk*, op. cit., p. 173.

[42] The note of 13 November 1916 stated in part:

"Le Gouvernment IMPERIAL profite de cette occasion pour faire ressortir qu'il considère aussi comme faisant partie intégrante de l'Empire les îiles Henriette, Jeannette, Bennett, Herald et Oujedinemia, qui forment avec iiles Nouvelle Sibérie, Wrangel et autres situées près la côte asiatique de l'Empire, une extension vers le nord de la plate forme continentale de la Sibérie.

Le Government IMPERIAL n'a pas jugé nécessaire de joindre à la présente notification les îles Novaia Zemlia, Kologouev, Kolgouev, Waigatch et autres de moindres dimensions situées près la côte européene de l'Empire, étant donné que leur appartenance aux territories de l'Empire se trouve depuis des siècles universellement reconnue.

[43] It should be noted that unsupported claims advanced by the Imperial Russian Government in the above note were rejected by the United States in 1902, as part of the "Whaling and Sealing Claims Against Russia." Herbert H. D. Peirce, *Foreign Relations of the United States, 1902*, Appendix 1, (Washington: GPO, 1903), pp. 18 and 107. Fedor Fedorovich Martens, the legal counsel for the Imperial Russian Ministry of Foreign Affairs, rejected the notion that Russian sovereignty extended northward into the Arctic. He contended that the marginal seas north of Russian mainland were *Mare Liberum* from the judicial point of view. F. F. Martens, "Du territoire de l'etat", *Traite de droit international*, trans. Alfred Leo, (Paris: 1883) v. 1, pp. 495-496.

[44] Stefansson, *The Adventure of Wrangel Island*, op. cit. p. 95.

[45] Ibid, pp. 128-131.

[45a] Colonial Secretary to Governor General: confidential dispatch No. 537. Cited in Bretton G. Sciaroni, *The U.S. Claim to Wrangel Island*, Contrast Study No. 1722-620057 prepared for the Department of State on February 4, 1976, p. 15.

[46] Affidavit of 22 March 1977 by Hilda Koonuknowrunk Weber, one of the American prisoners.

[47] *Japan Advertiser*, 27 January 1925.

[48] On 7 May 1884 the U.S. Congress passed "An Act providing a Civil Government for Alaska", c. 53, 23 *Stat. at Large 24.* That act adopted Oregon law providing it does not conflict with other provisions of Alaskan law. This Act extended to Alaska "An Act Adopting the Statutes and Laws of the Territory of Iowa and the Common Law." *Oregon Acts and Laws Passed by the House of Representatives at a Meeting Held in Oregon City, August, 1845* (New York: N.A. Phemister Company, 1921), p. 16. It should be remembered that the Act of 12 August 1845 became part of the laws of the Territory of Oregon through "An Act to Establish the Territorial Government of Oregon", of 14 August 1848. c. 177. *Stat. at Large 323* (known as the Oregon Organic Act. Laws of the Territory of Iowa, passed at the Extra Session of the Legislative Assembly, begun and held in the City of Burlington: J. H. M. Kenny, 1840, and Des Moines: Historical Department of Iowa, 1902), c. 85.

EXHIBIT 3

THE VOYAGE OF THE JEANNETTE—THE SHIP AND ICE JOURNALS OF GEORGE W. DE LONG, LIEUTENANT-COMMANDER U.S.N., AND COMMANDER OF THE POLAR EXPEDITION OF 1879-1881.

May 16th, Monday.—Land! There is something then besides ice in this world. About seven o'clock this evening Mr. Dunbar, who usually winds his way aloft several times a day, could hardly believe his eyes when they rested on an island to the westward. He called Chipp to look at it, and Chipp saw it was land sure enough, and sent Ericksen to inform me. I had just finished working out our position when the extraordinary news came, and was writing out the result: Latitude 76° 43′ 20″ N., longitude 161° 53′ 45″ E., a drift since the 14th of five and a half miles to N. 16° E. Of course I dropped my books and ran up to the fore yard, and there, sure enough, I saw a small island one half point forward of our starboard beam, the first land that has greeted our eyes since March 24, 1880, nearly fourteen months ago. And our voyage, thank God, is not a perfect blank, for here we have discovered something, however small it may be. Some fog is resting over it, and to the right hand or northward of it, and we do not think we see all of our wonderful landfall. Bearings I take at once, and find our island bears S. 78°45′ W. (magnetic), or (the variation being 18° E.) N. 83° 15′ W. (true), but we can do nothing more. Its distance we cannot estimate. If low land comparatively, it may be forty miles distant (see our idea of Herald Island's distance), and if high land seventy to eighty miles. But after a number of days, if we change the bearing of it to some extent, I can compute its distance, and determine if, and in what manner, we can land upon and take possession of and explore our discovery. Cooped up as we have been for over twenty months, we shall enjoy getting our foot on solid earth or stone as much as if it were Central Park, for it will be a change. But whether it will be earth or stone we do not know of course. What this poor desolate island, standing among icy wastes, may have to do in the economy of nature I do not know, or in fact care. It is solid land, whether of volcanic origin or otherwise, and will stand still long enough to let a man realize where he is. Moreover, this must be the spot to which the ducks and geese have been steadily flying, and if we can get some of them for a change to our canned meats, what a treat! And then bears must swarm on our island! In fine, this island is to us our all in all. We gaze at it, we criticise it, we guess at its distance, we wish for a favoring gale to drive us toward it, and no doubt we would accept an assertion that it contained a gold mine which would make us all as rich as the treasury without its debts. I believe most of us look carefully at our island before we go to bed, to make sure it has not melted away. Fourteen months without anything to look at but ice and sky, and twenty months drifting in the pack, will make a little mass of volcanic rock like our island as pleasing to the eye as an oasis in the desert.

Beside this stupendous island, the other events of the day sink into insignificance.

May 17th, Tuesday.—Our island continues to be the cynosure of all eyes, of course, and as the fog which hung over it yesterday has disappeared today, we are able to define its appearance better, the white portion which the fog hid yesterday showing as a snowy slope extending back to some distance. The shaded portions seem to be rock, with clefts or gulleys in it, in which snow has lodged. The highest and further corner seems to be a volcano top. We are watching the land anxiously enough, and getting our position by observations daily, but of course in one day we have not altered hearings at all. That may be a question of weeks, unless we have stiff winds. Sights today place us in latitude N. 76° 43′ 38″, longitude E. 161° 42′ 30″,—a drift since yesterday of two and one half miles N. 83° W., or exactly toward the island.

Soundings forty-three fathoms (mud and pebbles), a slight drift N. by E. being indicated by the lead line. Temperature, maximum, 11.5°; minimum, minus 5.5°. What lovely weather for the middle of May!

May 18th, Wednesday.—Latitude N. 76° 44′ 50″, longitude E. 161° 30′ 45″. As we draw ahead of our island, we open out quite a face to the northward, and Mr. Dunbar is quite certain that he saw high land above and beyond it to the westward. My repeated visits to the crow's-nest show me a strong appearance of high land, but I have not yet been able to say positively that it is not cloud. At one time I thought I could see a connecting snow-line, as if the upper part of our island sloped backward and upward to a higher ridge beyond, but I was unable to see a snow-peak that Mr. Dunbar saw just before I could join him in the crow's-nest. Weather generally clear, bright, and pleasant. An E. wind freshening, and promising a stronger blow for tomorrow.

The ice opened in a crack about five hunderd yards to the eastward of the ship, and came together toward midnight, the ship receiving several shocks when the ice edges met.

We are favored with an occasional dovekie (black guillemot), shot by some of our people, the luckless bird being attracted by the little lanes and cracks in the ice near us instead of making for the island, where it would be safe. Last Saturday we in the cabin had one apiece for dinner, and I am in hopes of seeing enough hanging to the main boom to have them for dinner fore and aft next Saturday.

May 19th, Thursday.—E.S.E. winds make us move along at a brisk rate, evidenced by our opening out our island's north side. Centre of island bears W. (true).

At 9:30 A.M. the ice quietly opened seventy yards from our starboard bow, and a lane of water about twenty feet in width extended north and south for about three miles, and several other cracks and lanes were visible to the northwest. Whether when we get to the westward of our island the ice will spread and open remains to be seen; but the land is quite close enough, unless we can use it for an advance. We have a crack under our starboard counter that may connect, and a crack ahead in the line of our keel as a starter, which may at any time leave our whole starboard side bare.

May 20th, Friday.—Latitude 76° 52′ 22″ N., longitude 161° 7′ 45″ E.,—a drift since the 18th of nine miles N. 35° W. As the island point observed on the 16th now bears S. 78° 30° W. (true), I can compute the distance by the change in bearing, and the result is twenty-four and three fifths miles (and thirty-four and seven tenths miles on the 16th). The dimensions of it I cannot accurately measure yet, though with an octant I find it subtends an angle of 2° 10′ on this bearing. But from our point of view the island is foreshortened, for I think its greatest length is in an east and west direction. As we draw to the northwest, we open out the western face and shut in the eastern face correspondingly, but I have taken the same point each time for my bearing by the course indicator on the bridge. There now seems to be a curious little island off the western end, which looks like a mound with a beehive on it, but I hope soon to be able to say whether it is a separate island or a continuation of the first one.

Toward midnight a strong appearance of land was seen bearing west by north roughly, like an inclined plane, but clouds rested on so much of it that I cannot speak positively.

Soundings in forty-two fathoms; drift N. W. indicated. At this rate we shall soon get to the shortest distance from our island, which I locate by computation of its distance before mentioned to be in latitude N. 76° 47′ 28″, longitude 159° 20′ 45″ E. E. S. E. gale seventeen to twenty-one miles an hour, and a pleasant temperature plus 16°. At 8:30 a.m. the ship received a blow under water, seemingly near the stern post, and doubtless from some drifting, submerged ice-block.

May 21st, Saturday.—A dull, gloomy day, E. S. E. gale, and I manage to get a meridian altitude, showing that we have made seven miles in latitude at all events. Our island appears only occasionally, but bearing S. 72° W. There seems to be no immediate chance of this blow abating, so it will be a question of waiting to see in what position it leaves us before deciding upon our ability to land upon and take possession of our island.

I am sorry to record the mysterious disappearance of another of our dogs, generally known as Lauterbach, and heretofore recognizable by his having a hairless tail, the result of a scalding accident. He has gone and laid himself away somewhere, for he has been missing several days.

May 22d, Sunday.—At nine a.m. the ship received another severe shock, probably striking ice under water.

May 23d, Monday.—I am sorry to be obliged to record the addition of Chipp to our sick-list. For a long time past he has been in poor condition, growing thin and weak, but insisting on going about and attending to his duty. He has strong dislikes to medicines and medical treatment, and would not believe he stood in need of either. Being overruled in that respect by me, he did take a tonic prescribed by the doctor; but of course, as it was taken unwillingly, under protest, no good was experienced from its use, and it was discontinued. Now nature asserts itself, and he is so reduced, by reason of his failure to eat enough, and so nervous and restless. because of continued loss of sleep, that it is simply impossible for him to keep up, and he is forced to his bed. The doctor hopes to have him around in a few days, but I am not satisfied that a few days can repair the damage already done. Considerable fall of soft, large snowflakes.

May 24th, Tuesday.—The first thing I heard upon arising this morning was that more land was in sight, and the next thing was that the ice was very slack, with many large lanes of water. The strong appearance of land on the 20th, toward midnight, proves to have been land in reality,—another island being added to our discoveries, somewhat longer (if not less distant) than our first named. Upon going up to the crow's nest I had a good view of both islands and of more water than we have seen since September, 1879. In consequence of the subsidence of the wind, the ice has become very slack, and numerous long openings or lanes have occurred, varying in width from twenty to one hundred feet, and in length

from one eighth mile to three miles. Unfortunately for purposes of navigation they are not connected, and though having a general northwest and southeast direction, do not lead to anything. Just at this moment I would be contented if by any means I could get the ship into one of these islands for a temporary breathing spell, and a chance to get some game for our supplies; but, unfortunately, I cannot saw through thirty miles of ice or blast that amount out of my way. The lanes of water are very tantalizing, for they indicate what might be done if there were more of them. They seem to be in our neighborhood only, or within radius of five miles, while the islands are thirty, and say forty miles off—and from that five miles radius to the islands the ice is as close and compact as ever.

However, we made all the use we could of the openings. The iron dingy, the two kyacks, and the oumiack were put into requisition, and away went parties to hunt for birds and seals, dragging the boats from one lead to another, as occasion required. And while a party of men were thus employed in transportating the oumiack on their shoulders she slipped, and brought so much weight on John Lauterbach (a coal heaver) as to double him up and severely strain his back.

"It never rains but it pours," is an old saying, and it seems to be proven in our case, for hardly had we prepared ourselves to take care of Chipp when we have another case, Lauterbach. When I saw him being supported back to the ship by a shipmate, I was afraid he had shot himself, or had been shot by a companion,—accidentally, of course, in both cases,—and I ran out to meet him with considerable alarm. For some time it was impossible to find out what was the matter, for the man was in great pain and unable to talk. However, beyond a severe wrench to the small of his back, there was no injury inflicted, and except for his being laid up for some days no serious consequences are to be anticipated.

Now for the land. It is an island beyond doubt; and its nearest point, which I take to be its southern extremity, bears S. 69° 30′ W., and it subtends an angle of 3° 35′, while our first discovery's eastern end bears S. 17° W., and subtends an angle of 2° 42′. I think both islands extend in a west by north and east by south direction. Computation of the position of our first island from our change of its bearing of the 20th and 24th, would put it more accurately in latitude N. 76° 48′, longitude E. 159°; and until I can get its bearing due south (true), this bearing of today and the 20th are more nearly accurate as to longitude than those of the 16th and 20th.

Latitude N. 77° 16′, longitude E. 159° 33′ 30″. A drift since the 20th of thirty-two and one half miles N. 41° W. This is progress indeed,—eight miles a day. Considering that we commenced the year in latitude 73° 48′, longitude E. 177° 32′, we have no reason to complain at the long step we have made,—310 miles N. 47° W.

Soundings in forty and one half fathoms, and temperature comparatively cheerful, plus 27°.

Our engineer's force are occupied in putting together the windmill pump and getting it ready for the summer's work. Chipp is still quite weak, and in consequence obliged to keep his bed. I have taken every precaution to keep his surroundings as quiet as possible, muffling chair legs, not striking the ship's bell, etc., and he has had a peaceful day in consequence.

May 25th, Wednesday.—Our invalids are progressing slowly. Chipp is still very weak, and obliged to keep his bed altogether by the surgeon's orders, as a surety for rest and quiet. Danenhower is just the same, but as he caught a cold some days ago, he is forced to stay below at all times, except at meal hours. Lauterbach is better, though his back will feel the wrench it received for some days. Alexey is slowly getting his leg to heal, there being now but a very small hole open. Otherwise, we are all as well as usual, and all hands are certainly free from scorbutic taint.

Many of our lanes are found closed today, the ice having come together during the night. A light film, say one eighth of an inch of ice, formed over the lanes not disturbed. Our islands were in plain sight all day, giving me a chance to get good bearings and angles, which are sufficiently indicated by the sketches on the preceding pages.

May 26th, Thursday.—A dull, gloomy day, with overcast sky, and N. N. W. breezes puffing fitfully. The islands were invisible until six p.m., when they came out from the dull, thick haze. The ice seemed to slack up again today, numerous unconnected lanes and ponds showing themselves, but of no use to us yet. Took advantage of the breeze to make the windmill do all the pumping after noon, to the relief of the men on watch, who must have learned to hate the hand-pumps many months since.

May 27th, Friday.—Latitude 77° 14′ 45″ N., longitude 159° 16′ E. A drift since the 25th of five miles S. W. This brings us much nearer our second island, and it is very tantalizing to be gazing at what seems a fine bay and not be able to sail into it. Soundings in thirty-nine fathoms, slight drift S. W. On account of light winds had to close the water gates again and fall back upon hand pumping.

May 28th, Saturday.—Soundings forty fathoms, and the state of the temperature is by no means pleasant, maximum 19°, minimum 15°. Our invalids give me the usual anxiety. Chipp is very weak, and I fear it will take a long time to build him up. Danenhower, of course, will be of no use so long as he is in the ship. Alexey slowly recovers. Lauterbach is improving, his back slowly recovering from the strain. But with many things crowding in on me I almost feel that the crucial moment in our voyage is at hand.

May 29th, Sunday.—We get considerable work out of the windmill today, and our men are consequently relieved from the endless clang-clang of the handpump. Our dull and gloomy weather continues, to my disappointment, for I can get no observations for position. These are particularly desirable now, because I want to fix the position of Henrietta Island. It is very difficult to get good bearings from deck of anything, because the ice-hummocks and ridges are so high and so continuous that it is only here and there that we can see even the plainest land; and then it looks so much like the black spots in the ice, that when one puts his eye down to the sight-vane of the compass, he is as apt to take the bearing of a black spot as of the land. Besides, we cannot see extreme points from the land. Angling with a sextant from aloft is cold work, and some points show too faintly to get a reflection, so that though I have measured angles several times, I have only recorded them when I have been sure of them.

We were startled this afternoon by an enormous flock of ducks, estimated to be five hundred in number—more than any one had ever seen before—flying quite low, and heading to the northward, where I suppose there must be more land. Our dogs took after them in a body, until stopped by water, and turned back.

The ice seems to be very close again, an easterly breeze setting it in motion enough to press against the islands and close all lanes.

Inspection and divine service as usual on Sundays.

May 30th, Monday.—I have decided to send a party to try to make a landing on Henrietta Island. Tired of waiting for a chance to get observations to determine its position, I accept twelve miles as its probable distance southwest and a half west, true. Though I know the traveling will be heavy, I hope that by sending two officers, four men, fifteen dogs, with a sled and light dingy (for ferriage), and seven days' provisions, as the only heavy weights, they will be able to accomplish my object,—landing, leaving a record of our condition, and perhaps bringing back a good supply of birds. Having but one commissioned officer available, Melville, he must take charge of the party. With Chipp and Danenhower both on the sick-list, they can neither be sent, nor left in charge of the ship if I go myself, as is my strong desire. The doctor cannot go, for his steady sick-list puts him hors concours, and my responsibility for the ship and the safety of all hands will not permit me to leave her in charge of Mr. Dunbar, the only sailor man in the cabin besides myself fit for duty. Consequently I make out orders for Mr. Melville to go in command, and to take Mr. Dunbar, Nindemann, Ericksen, Bartlett, and Sharvell with him, and to start tomorrow morning. The weather continues good, with light winds, and barometer rising to 30, and I think we are drawing in toward the island all the time with the ship. Such arrangements as I have made for them and their return I will write out in full tomorrow. To-day I had Sweetman remove the porch from the starboard side of the galley, and I set the men to work digging a trench around the ship. We are now beginning to be straitened for dog food; all our condemned meats, fish, and other suitable articles are ended. Having tried the dogs upon everything to their seeming satisfaction, we at last tried them with potatoes (desiccated). But here was the dividing line. They turned up their noses and walked away in disgust, and no matter how great their hunger, they cannot be induced to astonish their stomachs with such an excellent (?) anti-scorbutic. In fine, something else had to be done, and so I ordered one half pound English pemmican, and one half pound corn meal to be served out to every dog every second day from the ship's stores; and in order that no more of such precious food than was absolutely necessary should be expended for dogs, I gave orders that three old and worn-out dogs should be quietly removed from the ship and shot. Of course I regret taking even a dog's life, but where it is a question of sentiment only in putting priceless food into a dog, from which no work can ever be obtained, the sentiment cannot be tolerated.

May 31st, Tuesday.—At nine a.m., everything being ready, the sledge party, in charge of Melville, started. Mr. Dunbar, Nindemann, Ericksen, Bartlett, and Sharvell composed the personnel, and the following the material:—

15 dogs,
42 lbs. American pemmican,
6 sleeping-bags,
10½ lbs. sardines,

21 lbs. pigs' feet,
42 oz. lime juice,
1 McClintock sled,
1 McClintock dingy,
1 tent,
5 tent-poles,
210 lbs. English pemmican,
42 lbs. bread,
1 cooking-stove and mess gear,
42 lbs. mutton-broth,
5¼ lbs. coffee,
2⅝ lbs. tea,
5¼ lbs. chocolate,
10½ lbs. sugar,
2 rubber blankets,
6 packed knapsacks,
2 rifles,
2 shot-guns,

sextant, artificial horizon, prismatic compass, opera-glass, ensign, medicine, etc.

We all assembled on the ice, and of course cheers were exchanged. Away they went merrily enough until they came to an ice opening, where they were obliged to make a ferriage. Here some of their dogs ran away and returned to the ship, but I sent them back at once, and followed up the sled until they made a new departure. I watched them frequently from the crow's-nest, and at six p.m. I saw them about five miles from the ship, evidently halting for a rest. Of course I sent lime juice, and moreover I started them with eleven gallons fresh water; and besides having Dr. Ambler prepare medical advice and suggestions, I directed Melville frequently to rest his party, to look out for snow-blindness, and to avoid using surface snow and floe ice. Should the distilled water give our during the trip to the island, he was directed to scrape the brokendown crystals from the tops of old hummocks. From the moment of his departure, a large black flag eleven feet six inches square was to be kept flying at the main, and he was frequently to take bearings to it. Should it shut in thick after he had been away forty-eight hours, one of the whale guns or the brass piece will be fired every four hours; and in clear, bright weather, from and after the third noon from his departure, a fire of some material, giving plenty of smoke, will be made at meridian. He is not to remain at the island more than twenty-four hours, and is to do as much as he can in carrying out my written orders.

Of course there is some risk in the this trip. But the weather remains good, light northerly winds prevail, and our drift seems to be directly toward the island. I want to know whether there is any bay in which I can place the ship, and perhaps remedy her leak; whether there is any animal or bird life with which I can replenish our waning stock of provisions; and whether, in the event of disaster, we can fall back upon this island as a place to live, and make a fresh departure for the Siberian coast; whether there is any more land in sight from its summit; and very particularly what is the appearance of the world beyond, whether interminable ice or a chance of water. Should the ice break up around us, I want to know what are the prospects; and so much knowledge can be gained by this visit, as well as the satisfaction of planting our flag upon a newly discovered piece of the earth, that I think the risk of undertaking the journey is justified. During the afternoon, when the weather cleared up, I got good bearings, and I find Jeannette Island on our port bow (S. 11° E. true) and Henrietta Island on our starboard bow (S. 51° W. true), verifying my belief that we are drifting toward the latter island, and heading between the two. My anxiety will be endless and unremitting until I get all hands under my wing again; and I pray God so to aid them and guide us that no mishap may occur.

Soundings in thirty-nine fathoms; slight drift S.S.W., and a low temperature to close our month—9°. Lauterbach restored to duty from sickness.

June 1st, Wednesday.—What next? The doctor informs me this morning that he is of opinion that several of our party under his treatment are suffering from lead poisoning. Newcomb is quite under the weather with severe colic, and Kuehne is about the same. Alexey is complaining in a similar manner, and our steward is very ill indeed. The doctor says he is a little disturbed also, and Chipp has had a sharp touch of it. No less than six people, and the sledge party yet to hear from. Suspicion was first directed to the water, for as all joints about the distiller are red leaded to make them tight, we fear that some of the lead was carried over with the steam and deposited in the receiver. This, unfortunately, cannot be entirely avoided, though it may be reduced. Then I examined all vessels in which drinking water is carried or tea and coffee made, and I put out of commission all having any solder patches, substituting iron vessels lined with procelain. But upon examining our tomatoes, they were found to show traces of lead in larger amounts than the water, and the doctor thinks that the distemper, if I may so call it, is due to our large consumption of that vegetable. The acid of the tomato acts chemically upon the solder used in the tins, and the dangerous mixture is formed; and since we have had tomatoes every day for dinner subsequent to May 4th, it is assumed that we have become largely dosed with lead, and some of us have had to succumb. Inasmuch as we all eat tomatoes, the exemption of the majority is due to their greater capacity for lead, I suppose, for no good reason presents itself to my mind. It has transpired that the steward, who is the worst case, is remarkably fond of this vegetable, and eats of its unsparingly. Of course we have eaten tomatoes four times a week ever since our commissioning, and until May 4th, without any bad result, but that does not prove anything. A very interesting question here comes in. Our canned fruits have, I believe, similar chemical action upon the lead soldering, and no doubt we are absorbing more or less lead all the time. Now does this chemical action begin at once or at the end of two years? A very important question to an Arctic expedition, for of what use is it to secure exemption from scurvy for two years if disabling lead poison finishes you in the third year? The doctor says each severe attack may be mitigated by medicine, but a continued absorption of the lead will produce palsy, and that would certainly be a perplexing disease to deal with in an Arctic ship. If the chemical action begins as soon as the tomato is canned one is in danger at all times. However, as we stood the vegetable four times a week, I order a return to that issue to see what effect well be produced.

We are certainly drawing in upon Henrietta Island, and getting Jeannette Island well opened on the port bow. Bearings today: ship's head S. 10° W. (true); east end Jeannette Island, S. 10° 30′ E.; south end Henrietta Island, S. 51° W.; north end, S. 57° W.; latitude 77° 16′ 14″; but I could get no time sight.

During the forenoon our traveling party were sighted from aloft, apparently more than half way to the island.

Dull and gloomy weather; temperature, maximum 15°, minimum 8°,—lovely for a June day. (Strawberries will be late this year in these latitudes.) The ice seems to have slacked up again, a wide opening occurring about twenty yards west of the ship, and extending for a mile north northwest and south southeast.

June 2d, Thursday,—Henrietta Island has been in sight all day and very plainly too, and I am very much deceived if it is more than eight miles distant.

Our lead invalids are responding to treatment, the steward more slowly than the rest, as his attack was the most severe. I have had occasion hereto fore to note how naturally one of our two Chinese does the work of both whenever one is sick, and I am not surprised, therefore, to see the cook calmly cook for all hands and look out for the cabin and ward-room, and wait upon the table; and just now, with extra things like arrow-root, beef-tea, etc., for the sick, and the serving of one sick officer's meals in his room, he has no easy time of it. But it is all done, and Ah Sam nurses Charles Tong Sing meanwhile. My respect and admiration for these two men are boundless. Everything about the ice seems to have come to a stand again. Ice has formed over all openings.

June 3d, Friday.—Nothing yet to be seen of Melville and his party. Taking all things into consideration, I do not expect him before tomorrow night or Sunday morning; but though neither of these times are here yet, I cannot help the constant uneasiness which I experience. Henrietta Island was in plain sight all day, and we are assuredly closing in on it. Bearings of the south end, S. 52° W. (true), and of the north end S. 61° W (true) I fix our position today in latitude 77° 13′ N., longitude 158° 12′ E.; and by the change of bearing since May 24th I fix the south end of the island in latitude 77.8° N., longitude 157° 43′ E., and that makes it eight miles distant. Our drift since May 25th has been S. 74° W. nineteen miles.

We discovered this morning that the ice under the stern was domed up and cracked, and we came to the conclusion that the ship was trying to rise in her bed. To facilitate this operation, and to prevent too much strain being brought on her keel which prolongs under the rudder, the men were set to work digging away the ice. It was a tough job, for it is as hard as flint, and clings like an old and tried friend. Here and there the mark of the fibre of the wood shows in the attached ice, and in several places the oakum has been torn out of the seams when the ship has been raised a little.

We rig our quarter deck pumps for an hour today, and pump the ship out dry, getting up much of the dirty water which has been stagnant all winter, and of late has occasionally greeted our noses. By counting the number of strokes of our pumps and computing the work done, I find that our leak now amounts to 4,874 gallons a day, or about 203 gallons an hour.

The steward has gone back to duty today, to our great comfort. He seems quite recovered from his share of lead. Chipp is, however, set back again by an imprudent eating of raisins yesterday. Newcomb is terribly down in the mouth, and looks as woe-begone as possible. He has suffered considerably. Curious that so many of us feel no effects of "Lead in ours" as yet! And we are all on the same diet. I hope none of the traveling party have been afflicted, for assuredly they have enough to do for well men.

June 4th, Saturday.—With one thing and another a lively day. As a fog shut everything in after three p.m., I got our brass gun out and loaded it for a signal to our traveling party should they be within range. Before noon it was fairly clear and pleasant weather, and at eleven a.m. I had a fire made on the ice ahead of the ship, and with tar and oakum we made a good black smoke for an hour. About two p.m. I heard a shot,

and going out to see about it I learned that a bear had come up near the ship without being seen by the man on watch (a bright lookout on Dressler's part), and when Starr, who was astern, ran out to get a shot, his aim was so disturbed by his breathlessness that he missed, and away ran Bruin. Chase was given him, of course, and he was fired at; but alas! our 600 pounds of fresh meat escaped.

From Starr's account, he came up and looked at our few remaining dogs, and they looked at him without making a sign. Then Bruin walked to the nearest clothes-pole, deliberately used it to scratch his back and sides against, and then, seeing Starr, commenced to walk away. As he heard the bullet sing he quickened his pace to a run and (why prolong it) escaped. Our tar smoke, no doubt, attracted him. Fired the guns at four p.m. At eight p.m., with a good clearing, we could see nothing of the sledge party.

June 5th, Sunday.—At six a.m., Manson, the man on watch, informed me that the traveling party was in sight. Going out on deck, I could see the silk flag here and there appearing among the hummocks as the sled advanced through the ice. I ordered our colors to be shown, and the men to be turned out to receive the travelers, and then hastening out on the ice tried to fire the whale-gun as a signal to our people that they were seen. After failing once or twice, I left the gun in charge of the men who had come on deck, and came on board. As I reached the mainmast I heard a slight explosion, and, anxious to know whether it was our gun or a shot from the returning party, I was rushing up on the bridge, when crash! I got a terrible blow on the head. Forgetful of the windmill, in my anxiety for the travelers, I had rushed up in time to get a blow from one of its wings flying before a ten-mile wind. Stunned and confused I crawled back, while the blood sprinkled on the ladder and quarter deck, and the quartermaster ran toward me in alarm. Feeling that my head must be cut, I called the steward to get me some water in a basin, and when he came I told him to see what was wrong. He looked at my head, and exclaimed, "Oh my! great big hole!" upon which I concluded I wanted the doctor's opinion, loath as I was to disturb him and add to his already great care and anxiety. When Dr. Ambler came up in the cabin, I learned that I had my head cut open in a four-inch gash, etc. Stitching and plastering followed, and then I resumed my scrutiny of the returning party.

To my relief I could count six people, and all hands seemingly had come to a halt. As soon as possible, I sent out Mr. Cole and the starboard watch to meet them and help them in. At 8.50 A. M. along came the sled, drawn by the dogs and three of the six travelers. Melville and Sharvell had remained with the boat, and Mr. Dunbar was carried part way and walked part way, and reached the ship snow-blind. He was disabled at noon on the third day out, and led or carried thenceforth. Melville sent me the following message, on receipt of which I sent the port watch in Sweetman's charge with a spare sled, and, accompanied by the doctor, I went forward shortly after. By 9.40 A. M. I had them all on board, worn and tired, it is true, but no one disabled but Mr. Dunbar.

Melville's message:

10.30 A. M. I have just broken the sleigh runner, dismounted my boat, and am in the midst of a heavy jam of ice. Please send another sled at once. Landed on the island 5.10 P. M., third day out.

Respectfully,

MELVILLE.

To Lieutenant De Long, Commanding Jeannette.

The party landed on the island on Thursday, June 2d (Friday, June 3d), hoisted our silk flag, took possession of the island in the name of the Great Jehovak and the United States of America, and, agreeably to my orders, named it Henrietta Island. They build a cairn and placed within it the record which I send with them, and made as much examination of the island and search for vegetation as their limited stay would permit. The island is a desolate rock, surmounted by a snow-cap, which feeds several discharging glaciers on its east face. Dovekies, nesting in the face of the rock are the only signs of game. A little moss, some grass, and a handful of rock were brought back as trophies. The cliffs are inaccessible, because of their steepness. The ice between the ship and the island is something frightful. Road-digging, ferrying, and its attendant loading and unloading, arm-breaking hauls, and panic-stricken dogs made their journey a terribly severe one. Near the island the ice was all alive, and Melville left his boat and supplies, and carrying only a day's provisions and his instruments, at the risk of his life went through the terrible mass, actually dragging the dogs, which from fear refused to follow their human leaders. If this persistence on landing upon this island, in spite of the superhuman difficulties he encountered, is not reckoned a brave and meritorious action, it will not be from any failure on my part to make it known. I issued a general order communicating the names and positions of the two islands: Jeannette Island (our discovery of May 16th), in latitude N. 76° 47', longitude E. 158° 56'; and Henrietta Island (our discovery of May 24th), in latitude N. 77° 8', longitude E. 157° 43'; and in the evening I ordered a double ration of whiskey served out forward. At ten a.m. I read the Articles of War and inspected the ship, and at 1:30 p.m. I read divine service.

Thank God, we have at least landed upon a newly discovered part of this earth, and a perilous journey has been accomplished without disaster. It was a great risk, but it has resulted in some advantage.

July 11th, Monday, everything was advanced one and a half miles, and I was counting upon completing another three miles this day, when a lead was found open a quarter of a mile from our dinner camp. Every time I stopped before midnight I could hear the soft roar of water lapping against ice, and I was not much surprised when water was found close at hand. Turned to at 1.50 A.M., and advanced everything to the lead by 3.50. The opening had widened considerably, and several of them followed in close succession, requiring ferrying and bridging, and at 6.40 A.M., when we pitched camp, I am sorry to say we had advanced only two miles altogether instead of three.

While waiting for everything to come up to the first ferry, I was much struck with the unusual appearance of the clouds to the southwest, which gave more indications of water than anything we had yet seen. Calling Mr. Dunbar's attention to them, he expressed his opinion that such clouds did not hang over ice. Climbing to the top of a hummock twenty feet above the water-level, and examining carefully with a glass, I saw unmistakable land and water. It now appears that this was the land seen yesterday. At all events it is land, sure enough, and water, too. What it may be no one can say—whether newly discovered land, or (our longitude being out) some portion of Siberia. It can hardly be any one of the Liakhoff Islands.

Another pleasant feature is our course, southwest being a straight line to it. My change from south to southwest may therefore be a wise act, resulting in our speedier liberation. Judging by ordinary distances, I should say the land is ten to fifteen miles distant; and as I could see quite a large expanse of water, with long streams of detached ice, it may be that once at the margin of this ice-field through which we are now toiling we may have open water to the Siberian coast, thus verifying some part of the statement of Russian explorers. We have exploded so many theories of other people that it will be hard to make us believe that we can have left the ice behind us short of the Arctic circle.

One month ago today our ship went down, and I do not see any one the worse for the work that has fallen to us since. That it is hard work there can be no dispute. It is conceded by everybody to be the hardest work they ever did. The drag, drag, the slips and jerks, the sudden bringing up of the hauling belt across the chest, are fearfully trying; and the working with pickaxes through flinty ice makes every bone ache. From the looks of the weather at camping, I judge we are in for a southeast blow. The sky is overcast, a nasty fog shuts in everything. If we have a southeaster we may be blown miles to the northwest before we can get to this land or water.

Our cocoa and chocolate being exhausted (to my satisfaction, for I like neither), we commenced this evening (morning) on our tea,—one ounce per man is too much, and I shall reduce it to a half ounce. Pipe down at nine a.m. Men to stand watches of two hours. Called all hands at six p.m.; breakfast at seven for everybody but No. 1, and we were delayed until 7.20; occasionally the cooks get bothered with the stoves, and this was the case with our cook, Ericksen, this morning. Found the barometer had fallen to 29.55 at 38°, and the temperature risen to 35°. A thick fog shut in everything at short distances, but we had so much water around us that we seemed already to have reached the margin of the ice. Rain fell at six p.m. heavily, and the S.E. wind, which blew freshly during our sleep, was now only a moderate breeze from south southwest. At eight p.m. I took the dingy and went ahead to look at our prospects. So much fog prevailed that from the camp it was impossible to see the other side of the water around us. Just after I started rain fell again, but the wind shifted to southwest, and a clearing along the horizon indicated a change for the better. I found that in order to make any progress we must ferry our things down a lead about three hundred yards in length, and then drag them across in intervening floe piece to another lead which we must cross. Emptying the first and second cutters at nine p.m., they were made to serve as ferry boats. Hauling loose packages, tents, sleeping-bags, knapsacks, and even dogs and dog sleds was easy enough, but the loaded sleds gave much annoyance, lest improper managing should damage a boat. Using the first cutter alone for this purpose, and hauling one sled at a time over the stern, two trips were made, and then I took her and gave her the two remaining sleds to carry, one over the bow and one over the stern, while six of us got amidships to distribute

weight while we hauled her over. It was risky, I admit, but I did not want to lose the time which would be required to unload, load, and relash the four heavy sleds. I do not think, as it was, we made more than one quarter of a mile good when the arrival of—

July 12th, Tuesday, gave the signal of halting for dinner, which we ate at one a.m. The weather was sensibly colder, and the wind had veered to the west. The sun began to show brightly, and we could see for some distance. The ice ahead of us had all opened with the change of wind, and ferrying was the order of the day. Though not disagreeable work it is at times fearfully slow, particularly when no suitably sized pieces are at hand, and we have to take an island as long as a mail steamer, and seven to ten feet thick, for a ferry boat. However, over we went, traversed two floes one quarter of a mile each in extent, and, finally at 6:30 a.m., halted and camped on an island of ice five hundred years in diameter, and averaging ten feet in thickness, as the best camping place available. Our outlook was not encouraging. Lanes of water not large enough to help us, but wide enough to bother us, and some rough-looking ice lay before us for our next task. The wind had got to northwest and the weather was bright and sunny, but somewhat squally. Distance made good one and a half miles. Nothing could be seen of the land and water we saw yesterday. The southwest horizon was foggy. Many dovekies (guillemots) were seen, several gulls, one auk, and, strange to say, the doctor picked up a live butterfly, which I have preserved. This last is not an habitué of the ice, and was certainly blown from the land by the southeaster of yesterday, or by the southwester which followed it.

Supper at 7:30 a.m. Nobody under our conditions could write very fully all the occurrences of a day, and I am very glad before turning in each morning to remember even as much as I write. The hundred trials and difficulties in getting along, the heavy hauling, etc., are regular, and once mentioned need no repetition. No doubt, one of these days I can more satisfactorily describe our march over the frozen ocean, but just now these rough notes must suffice. Sounded in twenty-five fathoms; muddy bottom, rapid drift S.E. Piped down at nine a.m. Called all hands at six p.m., breakfasted at seven p.m.; fresh N.W. wind; barometer, 30.05 at 40°; thermometer, 31°; cloudy and foggy; under way at eight p.m. Immediately we had to ferry all our things across from the island on which we camped to the one alongside of it, and from there to adjoining ones, and at 12:30 a.m.,

July 13th, Wednesday, we had only made on half mile good, reaching then a strip of ice about a mile long. Halted for dinner, and at 1:50 went ahead again. Traversed this one mile piece, and then came to an opening about two hundred feet wide, separating us from an ice-island, which on the opposite side was near enough to a floe piece to make access easy. By great look there were three large cakes floating along this two hundred and a foot opening; we seized on them, dragged them into position for a bridge, and were thus able to proceed without much delay. Beyond them was a long, flat floe one half mile in extent northeast and southwest, and probably five miles northwest and southeast. As we only took so much of it as was on our course, the one half mile was all that we traversed, and at 6.35 A.M. halted and camped, satisfied that our one and three fourths miles were well made. While the boats were being brought up, Mr. Dunbar and I took the dingy and went down the lead at which our floe terminated, to see what it promised. It resulted in nothing except giving me a high hummock from which I could see well around me. I at once made up my mind that to go on our course tomorrow would be impossible. For not only did we have a fearful half mile of repeated ferryings before we reached good ice again, but the unloading of the boats, and a whole day, would be thus involved. By going across the lead due west we had a level floe running west southwest for two miles, which then connected with good ice, and would enable us to resume our course southwest. This I decided to be my plan of action on again breaking camp. Returning to our camping place I again saw the curious-looking clouds noticed in the southwest on the 11th, and looked anxiously for the same land and water then seen, but was disappointed. Shortly after Mr. Dunbar came to me and said he saw the open water. After some looking in vain, I at last saw it, with ice-streams in it, but no land, and judging from relative distances and my range of view, I think it was inside of eight miles southwest. The weather since midnight had been dull and gloomy. Large ponds, larger than any we had yet seen, were crossed, and more lay beyond us. These, and the remarkable looseness of the ice, led us to infer that we were near open water. As a good clear horizon would decide this question beyond doubt at any time, our foggy weather is all the more deplorable before camping.

And now occurred the first serious breach of discipline among the crew since our commissioning, over two years ago, and on the part of a man whose conduct has been so uniform beyond reproach as to make it the more surprising. It appears that Melville had placed a pair of soles in the stern of one of the boats, and the shaking of the boat in dragging had shifted them on the sleeping-bag of Ed. Starr (seaman). Upon halting to camp, Starr went to the boat, picked up the soles, and flung them some distance on the ice, in a temper. Melville informed him they belonged to him, and ordered Starr to pick them up, at the same time saying, "Don't do that again." To the order Staff paid no attention, but growled something about wet soles and his sleeping-bag, and he did not care whose they were. Hearing Melville repeating his order, and Starr making argumentative and sulky replies I went to the scene, and to my surprise found Starr showing no intention to pick up the soles, but continuing to speak in a surly and disrespectful manner. I at once ordered him to stop talking, and to obey Mr. Melville's order. He paid no attention to either order, but continued his rummaging in the boat; and his growl continued, "A nice place to put wet boot soles," etc., etc. And it was only upon my three or four times repeated order to pick up those soles that he did so. But to my order to keep silent he paid no obedience till he apparently had no more to say. I ordered him to stand up apart from everybody, and in a few moments asked him if he had anything to say in explanation of his conduct—disobedience of Mr. * * * repairs exceed our supply. I have already authorized the use of the leather from the dingy's oars, and this morning I had to have the leather cut off the first cutter's steering oar for patches. This leather will last longer than skin patches, it is true, but I hope the time is not far distant when I can have at least this one care and anxiety removed from my mind. Supper at 7:20 a.m. Piped down at nine a.m. Called all hands at six p.m. Breakfast at seven p.m. Moderate N.W. wind; weather dull and gloomy, with some fog. Under way at 8:15 p.m., some little time having been lost in harnessing up the dogs. Some of them, during our sleep, devoted themselves to eating the hide part of two harnesses carelessly placed within their reach. There were no less than eleven openings in the ice ahead of us before dinner, and we had to bridge and watch three of them. In momentary fear that all eleven might open and give us any amount of trouble, I hurried everything along with all speed, and I am satisfied that by one a.m. we had made a good mile and a half.

July 15th, Friday.—Before midnight the horizon to the northwest began to brighten, and there were indications of a clearing. The heavy masses of fog and clouds began to roll away, and occasional glimpses could be had of the sun and blue sky, with cirrocumulus clouds which seemed to me to be rising from the southeast. By midnight the sky was clearing also to the west and southwest, and I was beginning to peer around for our land and water, when I saw Aneguin ahead of me on a high hummock looking intently to the westward. Hastening forward, he showed me a long black streak on the western horizon, calling it an island. I looked, but saw what I called water, and so it proved upon getting my glasses. I saw the long, regular curve mentioned on the 13th, and, perhaps, the same seen on the 11th. I certainly think it is the open ocean. As from our elevation our horizon could not exceed six miles, I feel satisfied that the edge of the ice must be within that distance, and as the point of the land came down in the middle of the water it is equally evident that we shall come to the water before reaching the land. As the land now bears S. 60° W. magnetic (about W. by S. true) we have been drifting a long distance to the southeast, or else we are vey close to it, for a change of bearing of five points has occurred in fifty-two hours. We have not had wind enough during that time to make any very extensive drift, and our course has been steadily southwest. All things taken into consideration, therefore I assume that we are near land and water, and I decide upon resuming our march after dinner, to head W. by S. directly for both. During dinner (1.40 to 2.20) we saw the moon for the first time, I think, in two months, and what was more satisfactory we saw a seal in a lead near us, and Mr. Collins shot him, while the dingy this time got him before he sunk. Upon resuming the march at 2.20, therefore, we headed W. by S. (true), and I directed Mr. Dunbar to take Anequin with him and go ahead a prudent distance to see whether we were really approaching the open sea, without paying attention to the movements of the sleds. I was certain that Mr. Dunbar and Anequin could go three miles while we were advancing half a mile, and from this three miles a better view could be obtained, and a more correct opinion formed as to its remoteness. If the water were only six miles off, going three miles toward it would permit a very accurate estimate of the remaining distance. Mr. Dunbar carried a rifle and ammunition and some pemmican.

By 5.50 A. M. we had advanced everything three quarters of a mile, and then had come to a smooth place for camping, the only suitable place except one at a much greater distance than I thought we could make in reasonable time. Camped therefore and very fortunately, for no sooner were the tents pitched than it commenced to rain steadily.

The wind had backed to west northwest, the sky had become covered with clouds generally in north and south lines.

The seal comes in splendidly for two things,—food, and grease for our leaking boots. Before camping I had Iversen break off from boat-hauling, and set to work on the preparation of pussy. Removing the backbone and blubber the meat was cut up into small pieces for convenience in stewing, and the amount, twenty lbs., proportionally divided among the five tents. A similar division was made of the blubber, so that I am sure each man got his share for his food and for greasing his boots. Extra alcohol for cooking (2 oz. of salt), and a potful of broken bread to each tent,—seemed to promise a good supper. At 7.15 A. M. we sat down in No. 1 tent to a simply delicious repast. After our long diet of pemmican the change alone was a luxury. We did not stand upon our ship ideas of hanging the seal up until the animal heat had departed, or keeping it for a few days. The seal was shot at 2.30, skinned at four, and eaten at seven, and we feel as if we had dined at Delmonico's. Our seven thirty-thirds of twenty lbs. were cut up in small lumps, boiled in water, three and one half ounces Liebig added, one pint bread crumbs added to that, and salt to the extent of one ounce, and for a feast I shall long remember it. No. 4 tried to fry their six thirty-thirds, and so very successfully that Melville says the taste was like fried oysters!

At 7:30 Mr. Dunbar and Aneguin returned, and I was informed of the result of their journey. They went about three and one half miles, and Mr. Dunbar says he thinks they were half way to the open water. He was raising it very fast, but the land remained as distant as ever,—that is, he could see nothing but the faint snow curve which we have seen all along. Evidently, then, the land is distant, and may be, after all, one of the Liakhoff Islands. But I thank God that our chances seem so good for a speedy getting afloat, and thus rendering comparatively easy our access to it. Piped down at nine A.M. Called all hands at six P.M.

Weather, curiously enough, bright and pleasant, though from the temperature (34° in the sun) one would expect our customary fog.

Under way at eight P.M. Had "a rocky road" ahead of us with some digging, and, though we crossed several leads, but one bridging had to be done.

CHAPTER XIV.—BENNETT ISLAND

16 July—5 August, 1881.

Nearer View of the Island.—A Narrow Escape from Drowning.—Open Water in Various Directions.—Crimson Snow.—Perplexing Views of the Island.—Land or Water?—Making for the Land.—Impassable Roads.—Needle Ice.—Walrus.—Rotten Ice.—Confusion of the Moving Ice.—Clear Weather and New Views.—Recourse to Boats.—Fearful Work.—The Constant Change of the Ice.—Drifting Away from the Island.—How Relief is called.—Sudden Discovery of a Cliff.—A Rush for the Island.—A Terrible Landing.—Taking Possession of Bennett Island.—Plan of Operation.—Assignment of Work.—Geological Foundation of the Island.—Tidal Observations.—Reconnoissance by Mr. Dunbar.—Coal on the Island.—Mr. Chipp sent on an Expedition.—Return of Mr. Dunbar.—His Report.—Disagreeable Weather.—Return of Mr. Chipp.—Record made for Deposit.—The Cold Storm.—Shooting of Dogs.

July 16th, Saturday.—By 12:30 a.m. we had made a good mile from our camp, and halted for dinner. The weather continued bright and pleasant, and a few cirrus clouds were all that could be observed. The island shows more plainly than yesterday, but no water could be seen. At two a.m. resumed our march, and advanced everything another good half a mile by 5:30 a.m. Here there was but a poor place to camp, and, as I was closely occupied with getting sights, I sent Mr. Dunbar ahead to choose a place. He informed me that a quarter of a mile ahead there was a good place, and that, though there had been several leads open, they were not closed, and we might sled right over. I gave the order, therefore, to go ahead, and returned to my work of a Sumner. As I have to carry my instrument box on a dog sled, my movements and those of the sled do not correspond, and I generally have to send to the rear to get my box brought up, and keep by it during the interval between sights to prevent it getting out of my reach. Mr. Dunbar had gone ahead to get a good hummock to look for the water. Much time elapsed without Melville coming back for the second fleet, and I could not understand why. Finally I rushed ahead, with my sextant in one hand and my artificial horizon in the other, and at least found the cause of the delay; the ice had opened again, and left us in a fearful mess. The dog sleds had got over and discharged, but could not get back, and Melville was trying to get his two sleds out of the snarl in which he found himself. I saw we were in for a time, and so it was; for not until nine a.m. did we get all our traps into camp, requiring three hours for what we expected to do in one. However, we are consoled, for Mr. Collins shot a seal meanwhile, the dingy got him, and we have another luxurious supper ahead.

Previous to getting sights, I had a mishap which was annoying. Going to the top of a hummock to take a look at the land, Mr. Dunbar and I had to go out of the road and jump some rather wide openings. Going was all right, but jumping across a four foot opening the ice broke under me as I jumped, and I went into the water up to my neck. My clothes held me up for a moment, and Mr. Dunbar grabbed be by the hood, as he thought, but by the whiskers principally, as I realized, for he nearly took my head off. My knapsack was away to the fear, and I sent Johnson back for it when I reached the dingy. However, I soon got dry clothes on, and, thanks to the bright sun, my wet ones were soon drying. By capsizing of a dog sled we lost 270 pounds of pemmican. Mr. Newcomb shot a bird new to us,—a Mollemokki. The event of the day, however, was the seal,—a fine, large, fat one, giving us food and boot grease. Not much less in importance was the appearance of a walrus,—the first one seen by us in a very, very long time. Though fired at and hit by Mr. Collins and Nindemann, he remained under water finally after many reappearances.

The land showed somewhat plainly today, but I could see no water. Mr. Dunbar thinks he saw it, about seven a.m., to the left of the land, but I do not think he was right.

Supper at 10.15 a.m. Our seal was simply delicious. As it was so late (11:05) when we had finished supper, I concluded to sit up for a meridian altitude, which, when obtained, gave me 76° 41' N. for our latitude, agreeing fairly with my Sumner, roughly plotted as it was. I shall now work my first sight over, with this correct latitude, and see our exact position.

As we have started the lashings of No. 1 sled, and as, in anticipation of rough roads ahead, I have concluded to lighten its load anyhow, we have some work ahead of us before our next march, and shall probably make a late start; I therefore, on piping down at 11.15, ordered all hands to be called at eight p.m. Wind light northwest; barometer 30.40 at 40°; thermometer 31°; sky beginning to cover with cirrus and cirro-cumulus clouds.

Called all hands at eight p.m.; light west breeze, overcast sky; breakfasted at nine p.m. Chipp was discharged from the sick-list and returned to duty. This relieves Melville, who now takes charge of the road and bridge making, in place of the doctor, who now becomes a reserve.

Set to work repairing and lightening Nos. 1 and 2 sleds. Sent Mr. Dunbar ahead to flag out, and upon his return he told me he had seen the water. I now was able to see it from a hummock alongside the camp, and it was to the right of the island. The island itself was much plainer in sight than ever. I am again in hopes that we have made another discovery.

Working my longitude over with correct latitude, I find we are in 76°41'N., and 153°30'E. Soundings, twenty-three fathoms—mud.

The brings me along to—

July 17th, Sunday, upon the arrival of which we promptly sat down to dinner. Turned to at one a.m., and started ahead, leaving Mr. Cole and a sled crew to finish lashing and bring No. 4 sled. At two hundred yards from camp we had some bridging to do, and five hundred yards further some more serious. However, Melville managed it well, and Chipp lost no time in jumping things across, and we finally reached a stretch of hard ice, over which we could make good time, so that, by 6.45 a.m., I am satisfied we had made one and a half miles good. We then halted and camped.

During our march, from the top of a hummock we saw the water to the right and left of the island, and on the right, through spaces between hummocks, we could see it continue for a short distance. Believing we were close to it Mr. Dunbar went ahead one and a half of his miles, and kept raising the water very fast. From his turning point, he says he thinks the water about twice as far as he went, making its distance four and a half miles. After he returned we advanced half a mile more, so that, upon camping, we ought not to be more than four miles off. The land seemed as distant as ever. He says the ice is very much better, much of it being smooth and of last winter's growth, and thinks in two days we can reach the water. But we shall see.

To-day I saw some faint "crimson snow" and several pieces of muddy ice. A very curious seal trick came to light by my breaking through the ice. He had two holes leading from the sea connected by a covered way under the snow and thin crust. I suppose it was to give him a resort in case a bear headed him off. On the ice, by one hole, was a cavity in which the seal had lain and rubbed the shedding hair off his skin.

Supper at 7.45 a.m. Divine service at 8.30. Piped down at nine. Called all hands at six p.m.; breakfasted at seven p.m. Under way at eight p.m. About one quarter of a mile from the camp we came to our first opening in the ice, which, simple enough for the leading dog sled, became very difficult for the heavy sleds and boats, because of a sudden widening. Two other leads beyond widened also, and altogether we had a very delicate amount of work, requiring much care and attention.

Anxious to see what Mr. Dunbar saw before camping, I hastened forward with him to the same high ridge at which he stopped, and which commanded a good view. Here, to my unpleasant surprise, I could see land enough, but no water; and though Mr. Dunbar averred he could see water with streaks of ice in it, I felt inclined to think it was an effect of refraction. After undergoing many kaleidoscopic changes, I began to believe it had settled into land and water, both. The whole back curve remained as a dim outline, but lower down there were apparently dark cliffs and snow patches, but infinitely less distinct and regular. The more I looked the more confused I became, and Mr. Dunbar was nonplussed. At one time I was ready to declare that nothing but ice extended to the land; at another, that the land was very distant, and that we were near an open ocean, with pieces of drifting ice; and again, that mirage had raised and inverted ice hummocks and small peaks, and that there was neither land nor water. This last I abandoned, however, because the light curve above had been too often seen and too well maintained its regularity to be an effect of refraction. I sat and studied this thing for an hour, watching every change carefully with a glass, and I finally made up my mind that part of the dark looking mass was land, but that the lower strata was certainly water. I decided, however, to send Dunbar and the doctor ahead after dinner, to look nearer and speak more surely. Turning back to see what kept Chipp and the boats behind, I learned of the serious ice-openings, and, having got everything advanced a good three quarters of a mile since breaking camp, I halted at midnight and prepared for dinner. Just then Mr. Collins called out to me, "Captain, is that land or water?" Looking south, where he pointed, behold there were some more uncertainties. Was this land or water? If land, then we had seen no water west. If water, then our only land west was the faint curve drawn above and very distant. I was fairly staggered, and Mr. Dunbar looked as if he had been dropped from the clouds. It was a confusing moment to me. The south appearance indicated much greater distance, and if I made for it a S.E. wind might spring up and drift me away from it faster than I could go toward it, and I might, by going to the westward, reach the land or water before a southeaster set me away from it. I decided to await the result of the trip of Dunbar and the doctor.

July 18th, Monday.—At 12:50 a.m. ahead went those two gentlemen, and at 1:15 a.m. we moved along with our effects. After crossing two small leads we struck a long piece—two miles—of smooth ice, made last winter, and got along splendidly. Next to the smooth ice was a long floe of hard, older ice (two miles), and I was beginning to contemplate a good day's work when some unexpected openings occurred among the last winter's ice and threw us back somewhat, and, in consequence, when I halted and camped on the old ice at 5:40 a.m., I think we had barely made two miles good since our breakfast.

The weather had remained pleasant. The sun was frequently obscured, and enabled us to dispense from time to time with our snow-glasses, to the great relief of many who have difficulty in wearing them. Light west airs, the clouds having a slow motion from that direction.

At six a.m. the doctor and Mr. Dunbar returned. They had gone, they thought, four miles ahead of our dinner-camp, and from there had concluded they saw no water at all, but all land; and, though they could form no estimate of the distance of the land, they thought the ice extended to its base. This is slightly different from the "open water in two days," but it cannot be helped. After mature consideration, I have decided to keep on heading for the land for several days yet. From the manner in which we have raised it in two days, I hope it is less distant than supposed; and, as the appearance south can no longer be seen, it is evident that the land west is the nearer, Chipp says he saw a similar appearance north this morning.

If we can get on this land, we shall, at all events, know that we are stationary, and that the wind will not carry us around aimlessly. Unless the Liakhoff Islands are incorrectly charted, this land is not one of them, for the northern point on the chart is still south of west considerably of our position on the 16th. If there ever was open water north of these liakhoff Islands, as stated by Wrangel, Anjou, and Hedenstrom, we may get to it from the south side of this land. "A bird in the hand is worth two in the bush," and I will head for what I can plainly see, instead of bearing away across a shifting sea of ice for something which I cannot see.

Supper at 6:30 a.m. Piped down at nine a.m. Called all hands at six p.m. Breakfasted at seven p.m. Bright and absolutely cloudless. Thermometer 31°. Temperature inside tent No. 6, 48.5°. Under way at eight p.m., and immediately had a stretch of three fourths of a mile, over good ice, bringing up at a lead two hundred years wide. In this we secured a large floe piece, and having everything on it by 10.15 p.m., we ferried across. Then we had a mile of splendid going over smooth ice, and when we halted for dinner at 12.30 a.m.,—

July 19th, Tuesday, I am sure we had made one and three fourths miles good, over a west and north (true) course. The weather bright and sunny, a few cirrocumulus clouds only having appeared in the northeast. The wind remained at south, and seemed inclined to freshen. The land was in plain sight, and though I was so puzzled yesterday, I am not satisfied yet that there is no water.

Turned to at 1.50 a.m. and went ahead. For two miles we had a good road, and then we came to a fearful mess of small ice lumps and water, with a rare large block. It was the kind of ice over which one might walk, but dragging anything was out of the question, while a boat would be knocked to pieces. Some fearful disturbance has occurred here at some time or other, and huge blocks have been reared up on end, and at all angles. Traveling looks something like this:—

In vain I climbed up several large hummocks and kept Mr. Dunbar running around in quest of a better place for crossing. Melville had already commenced the herculean task of digging away some of these huge slabs to level a road, in case we could manage the water-gaps, which seemed almost impossible, when the doctor said he had seen what he thought a better way of crossing farther to the northward. We hastened to the spot, and by some work and management, I think we can get across this mess and on the level ice beyond. But it was now six a.m. and our usual supper time and we had made mearly four miles. The work of crossing would probably require three hours; so, instead of continuing at once, I decided to get supper first and proceed afterwards. I am too anxious to leave this mess behind us, to camp on this side of it, and though we have made a good three and one fourth miles already, I must kept the men at it for a little while longer. The barometer is falling rapidly, 29.95 at 44°, and though the temperature is 31°, I anticipate a S.E wind, and do not want to lose the grip I almost feel I have on the land.

The action of the ice in formation is nicely shown by blocks of wasted (needle) ice, which we pick up and can pull in pieces. The doctor called my attention today to the distinct manner in which the hexagonal prisms were visible, and the vacuole, as well as the lines of successive freezing. The formation is like that of muriate of ammonia, or the basaltic columns in Fingal's Cave. The blocks can be easily separated, flake by flake, vertically and at each freezing line horizontally. (See Appendix G.)

By 7.20 a.m. everything was up to the edge of the rotten pack, and we sat down as soon as possible to supper. The sky remained nearly cloudless, and the sun shone brightly. As everybody was complaining of the heat, I exposed a thermometer to the sun, getting 35°. At 8:40 a.m. turned to and set to work, and from this time to three p.m. we had the hardest time we have had yet. Such a mess of loose cakes, rotten ice, water holes, and pack ice I have never seen. We tried everything, bridging, road-making, and finally, by means of rope, to join the moving mass together. Everything succeeded for a few moments, and then came to nothing; and it was only by rushes and jumps and risks that we got everything on solid ice and camped,—four and a quarter miles good. Towards noon clouds rose rapidly from the southward, and covered the sky so as to prevent my getting a latitude, which I very much desired. Called all hands at eleven p.m., and at midnight sat down to breakfast. Soundings in twenty-two and one half fathoms

July 20th, Wednesday.—Hard as our work was last night I congratulate myself that it was not left till this morning, for we have a thick fog, which would have made our task an impossibility. Temperature 27°, due to the evaporation, for the pools on the ice show not the slightest sign of freezing. Found Foxy dead in the water. He probably had a fit and fell in.

Got under way at 1:30 a.m., and though our work was not so difficult as yesterday, it was still sufficiently trying, and by the time we had succeeded in getting all our things across the one half mile intervening between the hard ice on which we camped and the long level plain beyond, it was six a.m. and I decided to go no further. Tents were accordingly pitched and preparations made for supper. While loading the first detachment of sleds on a cake of ice for ferrying, we were surprised by seeing a walrus come up alongside us, and apparently intent upon getting on our cake too. Mr. Collins hurried along with his gun and fired at him, hitting him near the eye. Down went the walrus, and we thought we had seen the last of him. Soon after, however, we heard a sound of hard "blowing" to the northward of us, among the fearful mess of broken ice, and looking along in that direction, we could see large patches of blood on the ice where it had been ejected in breathing. The doctor at once set out on the hard ice to the west, and Mr. Collins on that to the east, while I sent Mr. Dunbar along to the scene. Soon I heard a shot and a cry for a rope, and then four more shots, and, in five, we killed him and secured the game.

While the doctor was firing at him the walrus was in the water, and, no doubt, if he had been killed at once he would have sunk, but while stunned for moment, Mr. Dunbar cut a hole in a flipper with a knife, and rove in it the doctor's belt, and then one more shot finished him. We hauled him down to camp. He was a young bull, from 1,200 to 1,500 pounds in weight,—more meat than we and the dogs can eat under the circumstances. The choice parts, tenderloin, sirloin, heart, liver, brain, and flippers, will more than suffice for three meals for us, and the dogs may eat all day if they like. The skin will be cut up into pieces and divided for boot soles. The tusks go to Mr. Collins, one of which he gave to the doctor. In the walrus's stomache there were shrimps and small fish like smelt, and numerous sea anemones or sea cucumbers(?).

Fog cleared away about four A.M., but weather remained cloudy and dull. No land in sight up to seven A.M.

We found our walrus stew excellent. It was not as good as stew, the meat being coarser and not so sweet. We shall repeat for breakfast, and carry as much as we can conveniently in the dingy. Piped down at nine a.m. Called all hands at six p.m. Nothing visible on account of fog.

Breakfast should have been ready at seven p.m., but as both our supper and breakfast were cooked by burning blubber, much longer time was required, and it was not until 7.45 that we in No. 1 sat down to our meal. The saving in alcohol has been effected at the expense of time.

Under way at 8.30 p.m., and after advancing three quarters of a mile over our course, W. and S. (magnetic) we came to a broken and confused mass of water and ice, much resembling our recent serious experience, and here I halted the leading sleds. Two of our McClintock sleds had received some hard usage in our troublous trip over the "mess" on the 19th, and needed relashing, and the dingy sled was cripped, one runner being doubled under entirely. Ericksen's dog sled was also hors de combat, and much work was thus in readiness for Sweetman. This delayed us considerably, for I could not attempt to cross the rotten and ugly mess before us with crippled sleds, and I dared not leave anything behind me.

At eleven p.m. the wind had got to N. E. and commenced to blow. Rain fell also, and seemed likely to fall for some time. The ice in the opening (one quarter of a mile of lumps, hummocks and floebergs) commenced moving, and I began to fear it was now impossible to cross. Altogether it was a dreary prospect. Everybody was getting wet. We could not advance over a living, moving, rotting pack, and the increasing wind promised a gale. So I concluded to pitch the tents where we were, as a shelter, and get dinner.

July 21st, Thursday.—At one a.m. the tents came along, and the cooking stoves, and while the cooks pitched camp and prepared dinner, Chipp took the rest of the men back and brought forward the dingy, with walrus meat enough for supper. At two a.m. dinner was ready, alcohol being used as fuel. Rain still continued in squalls, and the ice in front of us was moving before the moderate northeast gale. Clearly this was a case of a lost day, and I accepted the situation.

At 5:30 a.m. the land showed quite plainly between W.S.W. and a half W., and W. by N. Soundings in twenty-two fathoms, and a rapid drift W.S.W. (two points to right of leeward). Supper at seven a.m., and as our bags were the most comfortable things we had at one disposal, we in No. 1 crawled into them at eight a.m. Piped down at nine a.m. During the sleeping time the wind tore around our tents in fierce gusts, threatening to pull them out and whirl them away. Rain fell from time to time. Called all hands at six p.m. Breakfasted at seven p.m. Ice still moving in the lead. Land in plain sight, and much nearer too, extending from S. 87° W. to N. 56° W., both magnetic. Wind strong from east, but moderating somewhat.

The confusion before us was such that I dared not risk trying to cross anything. Large blocks, small lumps, and floebergs were moving along to the southward, and occasionally a large piece, seemingly free, would suddenly be shot up in the air as it was squeezed by larger ones, or its submerged portions became freed from overriding masses. If one of our sleds had been caught in such a predicament, or one of our boats, the result would not be doubtful. The wind seemed inclined to freshen again, and going ahead was out of the question. A quarter of a mile of this living, moving ice would hold a Goliath back.

Looking further north we saw the most promising place yet, which seemingly offered an easy transit across the narrowest part of this ice channel. Sending Mr. Dunbar ahead to pick out the road, I hurried back to bring up the sleds, and at 9:35 P.M. we commenced our first forward movement. Some little pickaxe work gave us a fairly good road, though three jams were threatening to relax and leave water gaps every movement. In fact, hardly had we got the boats through than one of them opened. Meanwhile, a cold fog had shut us in and hidden the island from our sight.

July 22d, Friday.—As but one sled or one boat could be hauled at one time through the passageway above described, it was one A.M. before our last boat was through, and we halted for dinner. We were on a good piece of hard ice, lumpy, but giving fair traveling. This was separated from a much larger piece of hard, old, smooth ice by another ugly mess, which we could get over if it held together; but it was threatening to open at any moment.

Before dinner I had sent Melville forward to cut a road, which was done, and by great good fortune at 2:20 A.M., when we turned to, we got everything through without trouble. Before us there lay a mile of excellent going, which we took so well that at 5.45 A.M., when I pitched camp, I felt satisfied that two miles might be scored as made good from our starting-point at 9:35 P.M. yesterday.

Dunbar and I had gone half a mile further ahead on hard, smooth ice (after passing a ridge at which we camped), and were then brought to a stand by some more confused mess, across and beyond which the fog prevented us from seeing. Though we might have gone as far as this before camping, I preferred to have a clear stretch at first for our next move, hoping to see the land meanwhile, and perhaps change our course to more favorable ice. Saw several murres, one loon, and many gulls. Walrus meat again for supper, and then, except his flippers, we have eaten all the choice parts. Our dogs have literally gorged themselves on the remainder, and some of them are too fat for comfort.

We are, thank heaven, rid of the wet, slushy travel which tried us so long. So many holes have been made through the ice, either old seal-holes or places where mud had collected, that the surface snow in melting has drained off, leaving good, fine, hard traveling. Our only enemy now is an ice-opening, and unfortunately this occurs frequently.

Piped down at nine a.m.; called all hands at six p.m. The sun shining brightly, though much fog around the horizon prevented us from seeing the land. Under way at 8:10 p.m., and made good time over the mile of smooth ice which lay before us. At the end of this mile we came to some trouble; a mess of loose pack, fifty feet in width, and some rough ice beyond, separated us from hard ice one quarter of a mile distant. However, we made a flying bridge, or ferry rather, and by 12:10 a.m.,

July 23d, Saturday, had everything across in safety on the hard ice, and halted for dinner. Turned to at 1:20 a.m. and went ahead. The fog seemed inclined to lift, and we could see a point showing which, from its bearing N.40° W. (magnetic), I judged to be the point which yesterday bore N. 56° W. (magnetic). Shaped a course to carry us to the left of it. We came to some good hard ice again after crossing one bad mess, and I hurried along a good mile and a half to a high ridge, to watch with Mr. Dunbar the reappearance of the land. Upon the ridge we began to see a headland working out from the fog, and bearing N. 84° W. (magnetic), and apparently good ice leading to it. Almost calm at four. At 5:40 a.m. halted and camped, having, I consider, made an advance of two and a half miles west northwest since breaking camp yesterday evening.

The fog now almost uncovered the island and enabled me to determine that the land was one island and not two, as I for some time supposed. The bearings of its extreme points were S. 82° W. and N. 27° W., both magnetic. Other bearings will appear in the sketch which I have directed Mr. Collins to make. I do not think it is now five miles distant, and a long, low point of land, sloping to the ice. I think somewhat nearer. Magnificant weather, calm and cloudless, save for a few streaks of cirro-stratus clouds. Sufficient mist and fog rest over the top of the land to hide whatever is in the background; but several have said they saw high rolling land back from the cliffs, which are shown in the sketch. Broiling hot sun, though the thermometer reads 27°. Got a Sumner, and determined our position to be in latitude N. 76°40', longitude E. 151°25', a change of position since the 16th of twenty-eight and a half miles to S. 88° W. Soundings, twenty and a half fathoms; rapid drift to westward.

Piped down at nine a.m., but I remained up until noon to get a meridian altitude; latitude resulting 76°39'15". So my Sumner was very nearly exact. In fact we are drawing in so rapidly upon the land all the time that I dare say my Sumner is quite exact. Called all hands at six p.m.; under way at eight p.m. Bright, nearly cloudless weather; an appearance of land to the southwest.

Before getting under way got fresh bearings. The extreme points were found to bear as follows: S. 87° W. and N. 18° W., both magnetic, and the low point at which I headed, west (magnetic). Though the weather was bright and pleasant, a fogbank was in the eastern horizon and threatened to advance upon us. In order to give this new island a chance to see the "Stars and Stripes" before the fog shut in, our colors were displayed.

For one and three quarters of a mile we advanced over a good road, and then came to an opening with large and small blocks of ice, but yet water enough to permit a ferry. The ice was all in motion, and as everything might change favorably before we were

ready to cross, no useless labor was indulged in by getting ready bridges or ferrying pieces. At 11:50 p.m. all our sleds and boats were up. At ten the fog had covered us and shut in the land, while an easterly breeze sprang up that changed our sensations from those of uncomfortable heat to those of uncomfortable cold, though probably the temperature remained unchanged.

July 24th, Sunday.—At 12.20 a.m. we sat down to dinner by the opened ice. Some little excitement was created by the appearance of a seal, which Mr. Collins killed; but it sank before the dingy could reach it, and thus our luxurious supper faded away. At 12.50 a.m. turned to; the ice had been alternately moving east and west during dinner, but had now subsided, leaving a lane fifty yards wide of clear water between us and a neighboring hard floe. I at once decided this to be a case for floating boats, and as soon as I had run a line across in the dingy, and Mr. Dunbar had secured its end, the boats were in turn drawn over. The first cutter upon arrival was emptied, and used to ferry dogs, dog sleds, and loose packages, and in one and a quarter hours everything was across, then we proceeded for a short distance three quarters of a mile, and were again confronted by an ice freshet. Large blocks were being swirled around and carried first west and then east; leads were opening and closing every moment; water lanes opened now, where a moment before a good road appeared, and such a state of activity as we have not before seen. Beyond this lay a stretch of good hard ice, and better than that a lead of water on our course west (magnetic), and fifty to one hundred feet wide, while extending as far as the fog would permit us to see, which, it is true, was not far. But the sliding, shifting mess, before alluded to, bothered us exceedingly; though there were three dog-sled trips for each sled, and four trips for the men, a new way had to be found each time, going and returning, and it was not until 6.40 a.m. we got all things over and camped. Mr. Collins, however, at 6.30 shot a seal, and we know that to-morrow we shall have a seal for supper. The land showed just once, about 5 a.m., and we are seemingly quite close to our point. It still bears west, but hardly had we seen it than down shut the fog thicker than ever.

Supper at 7.30. Divine service at 8.30. Piped down at nine a.m. Immediately after a cry was raised "a bear," and away rushed three or four in pursuit. We soon heard two shots, but at 9.45 a.m. all returned without any game. The natives fired at about one thousand yards, but rather wildly, I imagine. Bruin is described as not very large, (sour grapes?) and of a dirty brown color.

As I was very tired upon turning in, I at first slept very soundly; but towards morning (i.e. evening) I became wakeful. During one of these breaks, I heard two shots fired at some distance. Supposing it to be another wild goose chase, I paid no attention to it, and resumed my sleep; but at six p.m., when Mr. Cole called all hands, I learned that at four p.m. Görtz had killed a bear. Bruin came within five hundred yards of the camp, and Görtz crawled within one hundred yards of him unnoticed, and planted his two bullets with good results.

Fog still continues. Light airs from east. Temperature 28°. What lovely weather for the last week in July! Breakfast at seven p.m. Under way at eight p.m. Start fleet where lead bent to West. Go down it in dingy. Lead closes. Much trouble. Strike hard ice finally, but much difficulty in getting gear up to it. Succeed by 12.45 a.m.

July 25th, Monday.—Sent Dunbar ahead, across an ugly mess. He and doctor go together. Strike hard ice, and at its edge they see low point, through fog, one eighth mile distant, bearing west. Turn to at 1:45 a.m. Very ugly time crossing mess. Little or nothing accomplished in distance by six a.m., our usual supper time. Conclude to work all night. Land suddenly shows plainly, and we seem about one mile from it. Moss plainly seen on the face of the cliffs. Go ahead at eight a.m., and from that time to noon, frightful work: ice opening, swirling, swinging us off from land, separating our things in spite of us. Rain sets in and continues in showers. Get our things together and dine at 12:45 p.m. Getting our reckoning straight at the expense of rest. Under canvas to avoid rain. Apparently we are drawing into a bay making an indentation on south side of island. Rain ceases. Turn to at two p.m.; go ahead. Simply fearful work which I can never forget, and ending at six p.m. in a fog which hid everything. Got on a piece of good ice and pitched camp. Bear meat for supper. Twenty-four hours since we commenced work. Wind S.E. Temperature 30.5°. Tired, cold, wet, hungry, sleepy, disappointed, and disgusted; but ready to tackle it again to-morrow. Piped down at nine p.m. This affords me a chance to return to our natural way of living, working by day and sleeping at night.

July 26th, Tuesday.—during the night I was frequently awake, and could hear the wind getting up, and occasionally the rain pattered down. As I gave everybody a good long rest, it was eight a.m. before all hands were called. I then found a northeast gale blowing, a thick fog, and only unsatisfactory glimpses of the land now and then obtainable. The ice to the eastward of us was all in motion, and much water and drift-ice pieces lay between us and the land. Several of the watch declared that during the night, when they saw the land, it was much nearer than when we camped; and Mr. Collins, who turned out during the night, said we were in front of the valley, and he could see clear water between us and an ice-foot, or strip of ice next the land. The situation I think is as follows:—

I think we are far enough under the lee of the point east to escape drifting with the ice pressing down along the island, and passing the point east, even if we are not in an eddy so created, and thus pushed in closer to the land. As nothing can be seen clearly, it would be folly to move into a probably endless confusion, and I shall therefore wait until some plan can be safely carried out.

I do not think I shall ever forget yesterday. Such a time of difficulty and vexation can be experienced nowhere else. Such a shifting of ice and opening of leads! Hardly had we commenced to move our things along what seemed a fair road, than the road broke up; ice broke under us, ice slid away from us, ice moved to the right, when we wanted to go to the left, and vice versa, and each installment of provisions got safely across was considered by me as barely rescued from destruction. And all this time the land, not one half mile off, was tempting us by its solidity, and appealing to our desire for rest by its moss-covered hills and slopes. At eight a.m. yesterday, when we concluded to go on, and worked for twenty-four hours, so many good roads, each leading seemingly directly on shore, presented themselves, that I was embarrassed in a choice. In fifteen minutes they had fallen to pieces, and became puzzling masses of ice and water. There was no question that when I gave it up at six p.m., everybody was used up, and could not possibly have gone further. Everybody was wet up to his knees, stiff legs and cramps annoyed us until we had been an hour or two in our bags, and we were too tired, in fact, to get the rest we stood so much in need of. However, we are all right again this morning, and none the worse off, better off, in fact, for if we had not put in the twenty-four hours in full, we should have been out in the heavy drift ice, and probably miles away from the land by the time this gale is over.

At noon the fog broke away and showed the land for a few moments. We were exactly as I had supposed and indicated by the sketch on the preceding page. The pressure of the ice in swinging off the east point has backed us in toward the bay, and between our floe and the land there is about two miles of water nearly clear of ice. Jammed against our floe are a number of large blocks and hummocks, offering serious difficulty to any attempt to launch our boats. On the off side of these hummocks the sea is breaking considerably. The wind tears around us in fierce gusts. No. 6 tent has been twice blown down. We shall see what the state of affairs is after dinner. Dined at 12:30 p.m. luxuriously on bear stew.

By 1:30 the land was again in fog, and otherwise the situation was as before. My desire was to go ahead, but prudence told me to wait until the weather moderated. The barometer is still falling, the rain beats down from time to time, and nothing can be seen through the fog. I decide to wait for an improvement, and then I shall push on in the second cutter and try to land some provisions.

Soundings in thirteen fathoms; no drift indicated. Our ice is evidently jammed tight. Probably at the first chance the loose hummocks now pressing against it will slack off and leave us place to launch our boats, even if our floe piece does not go bodily in toward the land.

During the afternoon the ice scene was constantly changing. At one moment ice seemed to reach from our floe to the land; at another time lanes of water were seen, and once our floe was left as an island, while it would have been possible to launch a boat and reach the shore. I confess I was tempted to try it, but I realized that the whaleboat could carry nothing more than her crew safely until her garboards were repaired, and that it would take six or seven trips of the two other boats to carry our efforts. The whaleboat has leaked badly each time she has been floated, and the weather to-day (the first chance for repairs) has been such that Sweetman could not handle his tools. Before I could have got one boat in the water ice shoved in between us and the land, and we were once more helpless. It seems as if Providence were directing our movements, for the floe upon which we camped last night is the only large piece of ice to be seen; all else is confusion and trouble. Had I gone farther, or stopped short of this place, it is hard to say where we should be now.

We are moving west slowly, about a mile or a mile and a half from the land, and are now (seven p.m.) abreast a large glacier, whose broken edge (it may be twenty feet high) we can see with a glass. I have watched carefully all day for a landing-place, but not one has shown. The coast is either steep cliff or glacier, and neither is a successful landing-place. The barometer is now at a stand,—I think 29.63 at 33°,—and, though rain is occassionally falling, and the

sky is dark and threatening where the fog does not hide it altogether, I am in hopes the weather will improve during the night. Supper (bear stew) at six p.m. Piped down at nine.

July 27th, Wednesday.—Called all hands at six. Breakfasted at seven. The wind has veered to E., and is dying away. A thick fog continues, hiding everything fifty yards distant. The barometer is rising,—29.67 at 36°, the temperature is 28.5°, from which two things I anticipate clearing weather. Meanwhile, we remain where we are. "Hope deferred maketh the heart sick." Patiently and hopefully have I waited all the forenoon for a clearing, but still, at one p.m., does the fog hang about us impenetrably. The barometer still goes up (29.72 at 35°), and the temperature is 30°

Soundings in sixteen fathoms water, and I am afraid we have drifted down abreast the point west, and are too far west to hope for any benefit from the bay in which yesterday we shoaled our water to thirteen fathoms, in which case we are now beginning to open the west face of the island. This will be the last forlorn hope for open water in this neighborhood.

And yet there is much to be thankful for; everybody is in excellent health, in spite of our terribly hard work; the appetites are something wonderful to thank of, and our sleep is sound and unbroken. Forth-one days of our march over the frozen sea have had no bad effect. Our bear is so nearly consumed that for supper we have only half our usual ration to serve out. (In five meals we have eaten about 250 pounds bear meat. The gross weight was probably 450 pounds.) The only trace our marching shows on us is tender feet, and that probably arises from their being so often wet. Wading through pools would make wet feet if our foot gear was changed every hour.

Chipp described to me the queer way in which the man on watch "calls" his relief. Instead of calling him, which would wake everybody else up, or of crawling over to him, which would also waken everybody, a boat-hook is employed. Chipp says, while awake the other night he saw, to his amazement, a boat-hook slowly coming through this tent door, and poising a moment over Sharvell, poke him vigorously in the back. To show how soundly the man slept, it is worthy of mention that he merely tried to brush it away, as a troublesome fly. This ought to make a good Arctic sketch.

At six p.m. had supper. At 6.45 the fog lifted a little, and showed us the land, seemingly about half a mile off. We have drifted along ashore since last evening, and have left on our right hand the glacier which we were in front of last night; but ahead of us, and apparently extending in to the land, was a very heavy floe of blue ice, separated from us by a few insignificant openings. Such a chance was not to be lost. All hands were at once turned to, and at 7.15 we went ahead with all four sleds, officers dragging also, and then bounced along the boats, and in one hour we had everything on the heavy floe. This we now found to be one and one half miles in width upon going over it, and we were still separated from the land by a half mile of broken ice, water lanes, etc. I at once made up my mind that it could not be done to-night, and that I had better devote a day to it.

The wind had veered to E. S. E., was blowing fresh, and rain began to fall steadily, and when, at 10:45 p.m., just inside the blue floe edge, I gave the order to camp, I think I did a very prudent and sensible thing.

July 28th, Thursday.—Called all hands at seven. Breakfasted at eight. Windy (E.S.E.), foggy, and disagreeable. Land in sight at times. We have gone a short distance to westward. Temperature 29°. Under way at 8:50 a.m. Sent Mr. Dunbar ahead, and after a while we succeeded in crossing the broken ice which had stopped us last night. Here we had a small floe, across which we speeded. The fog now shut in impenetrably, and I feared we were in for a troublesome time. Mr. Dunbar returned, however, and informed me, that after crossing this floe we should find large ice blocks, with only two-foot openings, and that these extended to the ice-foot, or fast ice, and that, moreover, he had climbed up on the ice-foot, and advanced one hundred yards over it toward the land. This was too good a chance to lose, and away we went. But though we made all haste, and got over our last ferry, and acrosss the small floe in splended time, when we reached the further edge we found everything fallen to pieces, and more water and rapidly moving ice than we could undertake. Much of the moving ice looked like small bergs broken off from a glacier foot, and from the rounded lumps of ice on top, and their almost straight edges, I am inclined to think they were icebergs. By 12:30 p.m. we had everything up to the floe edge, and halted for dinner.

The sun now tried to break through the fog, and I hoped for a clearing; but at 1:30 p.m., when we turned to, the fog was as thick as ever. The situation had improved somewhat, for another floe piece had now come along, and a few loose pieces offered a convenient bridge. Away we went, but the floe piece was a small one, and we soon reached its edge. Here was another confusion, but we could make out a larger floe ahead. Everything was embarked on an ice-cake for a ferryboat, and a hauling line run to the floe. By great effort we got our piece clear by four p.m. and commenced to haul over. Suddenly everybody gave a shout, "Look!" Away up over our heads 2,500 (?) feet towered the land, and we were sweeping past it like a mill-stream. Hurriedly sounded in eighteen and one half fathoms. Soon our floe was reached. Away we jumped our sleds and boats, and, seeing two or three large cakes nearly together, ran everything rapidly over until we at last stood at the base of the ice-cap. It was a narrow squeeze, for the men with the tents and remaining loose provisions on their shoulders had hard work to run fast enough to get on the last cake before the other cakes were swept away. Now that we were on the last cake our situation became critical. We could not get up on the ice-foot, for ten feet of water and small lumps intervened, and we were sweeping along by it at the rate of three miles an hour. Our cake was none of the strongest, and in the swirling and running masses, and small bergs, I feared we should be broken up and separated. It was an anxious moment. The southwest cape of the island was not half a mile away, and this was our last chance. Over two weeks of dragging and working to reach this island seemed about to be thrown away. I soon noticed our cake begin to turn around, and saw that it might be whirled into a kind of corner against the fast ice, where, if it remained long enough, a landing might be effected. "Stand by," was the order now, and with sled ropes in hand we waited the trying moment. Soon our cake caught and held. "Now is the time, Chipp!" I shouted, and away we went.

One sled got over on the rough ice-foot all right; a second nearly fell overboard; the third did fall overboard, dragging in Cole; and a piece of ice had to be dragged in by sheer force to bridge for the fourth. When I started the St. Michael's sleds, they seemed to stick somewhere. Watching our cake closely, I saw signs of its giving way. "Away with the boats!"—but how? Nindemann sang out, that he thought we could float the boats below, and haul them over. No sooner said than done, and down they went into the water. The men were hurried from the sleds to the boats, and I saw the first cutter just beginning to haul out, when away swept our ice-cake, carrying Melville, Iversen, Aneguin, and myself, with six dogs. Wilson had carried one load of dogs over in the dingy, but he could not get back for the remainder. Chipp was on the ice-foot with the boats, and I knew he could look out for them, and I felt pretty certain we had saved everything. For ourselves, on the drifting ice-cake, I had some little anxiety, but one corner of our cake fortunately soon after drifted near a fast berg, and by making a flying leap through the air, we escaped in safety. At last! But though standing still, we were not ashore. The ice-foot extended out from the land, and was a confused mass of piled up ice-blocks and ridges,—honeycombed, cracked, and broken,—and presenting a simple impassable road for travel with sleds. Glad enough was I to get a solid foothold anywhere, and I gave the order to camp at 6:30 p.m. (our first sled having got on the ice-foot about five), everything being hauled in as near to the land as possible, say fifty feet from it. Rocks were occasionally slipping down and falling into a little stream of water at the foot of the cliff, the stream being where the thawing of surface ice has left a channel about four feet deep.

The face of the cliff was literally alive with dovekies. Supper at 7:30 p.m. At 8:30 p.m. all hands were called to muster and, led by me, everybody waded, or jumped, or ferried over to the land, where we held on as well as we could to the steep slopes of débris, while our colors were displayed. When all had gathered around me, I said, "I have to announce to you that this island, towards which we have been struggling for more than two weeks, is newly discovered land. I therefore take possession of it in the name of the President of the United States, and name it Bennett Island. I now call upon you to give three cheers." And never were three more lusty cheers given. With great kindness three were then given to me.

I now change the date to the correct one, and record that at 8:30 p.m.,

July 29th, Friday, I added Bennett Island to American soil. Our landing cape I named Cape Emma. Piped down at nine p.m.; fresh E. wind, thick fog; ice off shore rapidly moving west. The birds kept up a fearful chattering all night, but we slept well in spite of it.

EXHIBIT 4

GEOLOGICAL SURVEY NO. 187 SERIES F, GEOGRAPHY, 27

Bennett; island, in the Arctic ocean, north of the New Siberian islands. Discovered by De Long, in 1881, and named by him, after Mr. James Gordon Bennett.

Henrietta; island, in the Arctic ocean, north of the New Siberian islands. Discovered and so named by De Long in 1881.

Herald; island (856 feet high), east of Wrangell island, Arctic ocean. Discovered and landed upon in July, 1849, by Captain Kellett, of H.M.S. *Herald* and named by him after his ship.

Jeannette; island, northeast of the New Siberian islands, Arctic ocean. Discovered by De Long, in 1881, and named by him after his ship *Jeannette.*

Wrangell; island, off the northern shore of Siberia, northwesterly from Bering strait. The existence of this land was reported by natives, in March and April, 1823, to Baron von Wrangell, who then made an unsuccessful search for it. It was first clearly seen and its shore delineated by Capt. Thomas Long, of the New London whaling bark *Nile,* in August, 1867, and by him called Wrangell's Land. From that date to 1881 it was shown on maps as the south end of a tract extending indefinitely northward and, by some, thought to connect with Greenland across the north pole. Its insular character was established by Berry, in 1881, and since that time it has borne the name of Wrangell island. Possibly Plover island of Kellett, in 1849, may be some peak of this island seen from afar.

EXHIBIT 5

BOUNDARIES, AREAS, GEOGRAPHIC CENTERS AND ALTITUDES OF THE UNITED STATES AND THE SEVERAL STATES

WRANGELL ISLAND

Wrangell Island is in the Arctic Ocean, about 100 miles from the Siberian coast. A harbor in the southeastern part is in latitude 70° 57′ N. and longitude 178° 10′ W. The island is about 80 miles long and 30 miles wide; its highest point is 2,500 feet above sea level. It was sighted in 1867 by the captain of a United States sailing vessel. In 1881 officers from United States naval vessels landed on the island and claimed it for the United States.[51] According to newspaper reports of October 4, 1926, the Soviet Government had landed a colony of 50 persons on this island, hoisted the Russian flag, and claimed it for that country. An airplane survey is said to have been made and the area found to be 2,925 square miles.

BENNETT, HENRIETTA, AND JEANNETTE ISLANDS

Bennett, Henrietta, and Jeannette Islands were discovered by the DeLong polar expedition and claimed for the United States in 1881, but were only partly explored.

Bennett, the largest of the three, is about 300 miles from the mainland of Siberia, in latitude 76° 38′ N., approximate longitude 149° E. This island probably has an area of several hundred square miles, possibly more than 1,000, and altitudes above sea level of 300 feet or more.

Henrietta Island is in latitude 77° 8′ N., longitude 157° 45′ E., and Jeannette Island in latitude 76° 47′ N., longitude 158° 56′ E.; each has an area of approximately 50 square miles and an altitude of more than 500 feet.[52]

[From the Laurinburg (NC) Exchange, June 5, 1985]

EXHIBIT 6

U.S. CONSIDERS RELINQUISHING CONTROL OF ALASKAN ISLANDS

"The State Department appears ready and willing to surrender five strategic Alaskan islands and hundreds of thousands of square miles of oil-rich Alaskan outer continental shelf to the Soviet Union without full public debate and Senate ratification of a treaty," according to Carl Olson, Executive Vice President of The Conservative Caucus Research, Analysis & Education Foundation, Inc., of Vienna, Virginia.

"This giveway of literally billions of barrels of America's oil reserves and Alaskan sovereign territory makes the Panama Canal fiasco look insignificant in comparison," Olson declared.

This giveaway was the subject of a high-level State Department delegation which went to Moscow for the week of July 23-27, headed by the department's Legal Adviser Davis Robinson and supported by his staff members Elizabeth Verville and Scott Hajost, and by Harry Marshall and Richard T. Scully of the department's Bureau of Oceans and International Environmental and Scientific Affairs, and by Robert W. Smith of the office of the Geographer.

The enormous size of the giveaway of strategic oil reserves is reflected in official Department of the Interior estimates. The oil-rich outer continental shelf off Alaska is equal in area to six Californias—or three-quarters of the entire U.S. outer continental shelf. Seabeds equal to about twice the size of California lie to the east of the 1867 Convention Line, and seabeds equal to about four Californias lie the west in the vicinity of the Alaskan islands of Wrangell, Herald, Bennett, Heneritta, and Jeannette. The estimated hydrocarbon reserves of the seabeds to the east of the 1867 Convention Line are 12.2 billion barrels of oil equivalent. (The Navarin Basin alone contains 1.9 billion barrels of reserves.) To the west of the 1867 line, which has twice the area, the reserves have not been officially estimated, but it would not be unreasonable to place them at twice the amount for the area to the east of the line. Or, in other words, the State Department is contemplating giving away about 25 billion barrels of oil equivalent to the Soviets.

The State Department's basis for the giveaway involves its novel (and incorrect) portrayal of the "U.S.-Russia Convention Line of 1867", which was used in the purchase of Alaska from Russia in 1867 for $7,200,000.

This stance by the State Department appeared in the Federal Register notice of the leasing of the Navarin Basin (p. 10065, March 16, 1964). In paragraph 16, under the heading "Jurisdiction", was the following language: "The differing claims relate to differing depictions of the line established by the 1867 Conventions Ceding Alaska between the United States and Russia. The United States depicts the 1867 Convention Line as the maritime boundary by arcs of great circles while the Soviet Union depicts the 1867 Convention Line as rhumb lines." There is no question in the State Department's position that the 1867 Convention Line is "the maritime boundary".

Contradicting this characterization is a mass of historical evidence and even the State Department's own words. In the State Department's International Boundary Study No. 14 (revised 1965) on "U.S.-Russia Convention Line of 1867", the language is very clear:

"Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary . . .

"Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used."

So far, the State Department has failed to explain how the United States has relinquished its claim to the islands and seabeds between 1965 and 1984. No treaty, agreement, or other public understanding had been cited for this surrender of American sovereignty.

Even as late as 1978 the noted authority Dr. William E. Butler, Professor of Comparative Law at the University of London, wrote in the book International Straits of the World, Volume 1 "Northeast Arctic Passage as follows: "The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remain to be negotiated."

The five Arctic Alaskan Islands—Wrangell, Herald, Bennett, Henrietta, and Jeannette—were never considered in the purchase of Alaska. Four has not yet been discovered in 1867. Americans discovered and claimed them on Arctic expeditions in following decades. Herals Islands was discovered and claimed by the British in 1849, and was later acquired by the United States.

Bennett, Henrietta, and Jeannette Islands were discovered and claimed by U.S.N. Commander George Washington DeLong aboard the Jeannette in the 1879-81 expedition. The islands still bear his name (the DeLong Islands), and the U.S. Naval Academy in Annapolis has a monument to that expedition.

Wrangell Island, the largest of the five with an area of 2,800 square miles (the size of Rhode Island and Delaware combined), was discovered and claimed on August 12, 1881, by Captain Calvin Leighton Hooper aboard the U.S. Revenue Marine (Coast Guard) ship Thomas Corwin. Among the landing party on Wrangell Island was the famed explorer John Muir, who wrote of his trip in the book. The Cruise of the Corwin, Various surveys, expeditions, and settlements were made on Wrangell Island in the next four decades by Americans. This ended when the Soviet Union invaded the island with a landing of infantry from the ship Red October on August 20, 1924, and took as prisoners the 14 Americans of the Lomen Brothers Company's fur settlement and confiscated all the gear, pelts, and other property. The 12 surviving Americans were eventually released from their imprisonment in Vladisvostok. The Soviets currently maintain slave labor camps on the island.

It is significant to note that in the State Department's reissue of the book Digest of International Law by Green Haywood Hackworth in 1973, the unequivocal settlements is made:

"The United States has not relinguished its claim to Wrangell Island."

Numerous efforts by various parties, including the owners of Wrangell Island, have been made over the decades to take back their property and collect damages for the unlawful occupation by the Soviet Union. Unfortunately, the State Department has not seen fit yet to honor those claims or even the decision by the Foreign Claims Settlement Commission in 1959 in favor of the Lorne Brothers.

"This impending giveaway of the five islands and the enormous tracts of oil-rich outer continental shelf to the Soviets demands the most searching public scrutiny and debate. It must be made in issues for a national decision-making," Olson stated. "The State Department is not empowered to surrender American real estate and seabeds. Only the Congress has that power. It must be brought up in the form of a treaty, signed by the President, and debated and

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[51] See Arctic Pilot, vol. 1, p. 338, 1917; U.S. Geol. Survey Bull. 299, p. 682, 1906; U.S. Hydrographic Office Chart 906; and Problems of polar research, p. 241, New York, Am. Geog. Soc., 1928.

[52] For further information regarding these islands see The voyage of the *Jeannette,* ed. by Emma DeLong, vol. 2, pp. 679-689, Boston 1883, and 47th Cong., 2d sess., H. Ex. Doc. 108, p. 361, 1883.

ratified by the Senate in order to receive the full force of law. The Constitution cannot be ignored in this potentially massive cession of strategic American interests so close to home."

In an ironic comparison with the apparent lenient attitude that the State Department has exhibited toward the Soviets over the seabed boundaries, the State Department has adopted a hardline position toward our ally Canada in the Arctic. This position came to light with the leasing on August 22 of the Diapir Field which borders Canada. The Federal Register announcement of July 23, 1984 (p. 29726) noted a "Jurisdictional Dispute" with Canada over some of the blocks being offered. Although the notice did not say so explicitly, the U.S. position is that the seabed boundary should reflect the "equidistant" theory of boundaries, while this dispute continues, the three petroleum companies which bid on these leases (Union Oil Co. of Calif., Amoco Production Co., and Shell Western E & P Inc.) will have their bid money deposit lie in escrow. Their total winning bids for the four blocks totalled $5,105,000—a substantial affirmation of the rich nature of the Arctic Alaskan outer continental shelf.

AMENDMENTS SUBMITTED

TEMPORARY FAMILY HOUSING FOR DEPENDENTS OF VICTIMS OF THE GANDER, NEWFOUNDLAND AIR CRASH

THUMOND (AND OTHERS) AMENDMENT NO. 1421

Mr. THURMOND (for himself, Mr METZENBAUM, Mr. BYRD, and Mr. FORD) proposed an amendment to the bill (S. 1956) to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services; as follows:

Strike out the phrase "60 days" both places it appears in the bill and insert in lieu thereof "90 days".

RELIEF OF HAMILTON JORDAN

HATCH AMENDMENT NO. 1422

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (H.R. 3363) for the relief of Hamilton Jordan of Lawrenceville, GA; as follows:

At the end of the bill, add the following new section:

SEC. .

(a) Sec. 706 of Title 2, United States Code, is amended by inserting after the words "not to exceed $5,000." and before the words "No action" the following:

"This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 702 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act."

(b) Sec. 304 of Title 28 App. , United States Code, is amended by inserting after the words "not to exceed $5,000." the following:

"This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 302 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act."

(c) Sec. 204 of Title 5 App. 4, United States Code, is amended by inserting after the words "not to exceed $5,000." the following:

"This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 202 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act."

UNFAIR TRADE PRACTICES OF JAPAN

HOLLINGS AMENDMENT NO. 1423

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 1404) to require the President to respond to unfair trade practices of Japan; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel

imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the

Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) POSSESSION CONTENT.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought

copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

TRADE NEGOTIATIONS AND EXPORTS

HOLLINGS AMENDMENT NO. 1424

(Ordered referred to the Committee on Finance.)

Mr. HOLLINGS proposed an amendment to the bill (S. 1860) to amend the Trade Act of 1974 to eliminate barriers and distortions ~~to trade~~, to provide authority for a new round of trade negotiations, to promote U.S. exports, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States

market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and tex-

tile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) POSSESSION CONTENT.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar

month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country,

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

NATIONAL TRADE DATA BANK

HOLLINGS AMENDMENT NO. 1425

(Ordered referred to the Committee on Finance.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 1837) to establish a National Trade Data Bank, to provide authority to revise certain trade and financial agreements, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20

and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category cover-

ing yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) Possession Content.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly

growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions,

such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

EXTENSION OF CERTAIN PROVISIONS OF LAW

HOLLINGS AMENDMENT NO. 1426

(Ordered referred to the Committee on Finance.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (H.R. 3722) to extend until December 14, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; as follows:

Add at the end thereof the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also

reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quanti-

ty of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97 Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) POSSESSION CONTENT.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the

limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

INTERNATIONAL TRADE IN TELECOMMUNICATIONS

HOLLINGS AMENDMENT NO. 1427

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 942) to promote expansion of international trade in telecommunications equipment and services, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) Possession Content.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations per-

formed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Fed-

eral Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-monih period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those coun-

tries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

ARMED FORCES SURVIVORS HOUSING ALLOWANCES

THURMOND (AND OTHERS) AMENDMENT NO. 1428

Mr. SIMPSON for Mr. THURMOND (for himself, Mr. WILSON, Mr. DOLE, Mr. GLENN, Mr. KENNEDY, Mr. MCCONNELL, Mr. GOLDWATER, Mr. SIMPSON, Mr. NUNN, Mr. COCHRAN, Mr. STENNIS, Mr. SASSER, Mr. EXON, Mr. LEVIN, Mr. D'AMATO, Mr. HART, Mr. BINGAMAN, and Mr. DIXON) proposed an amendment to the bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 months' housing allowances; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 90 days.".

"(2) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date, or whose dependents vacate such housing sooner than 90 days after the date of the members death. The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate 90 days after the date of the member's death.".

SEC. 2. The amendments made by section 1 of this Act shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.

SEC. 3. SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.—Section 401(c) of Public Law 99-166 is amended to read as follows:

"(c) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on January 1, 1986.

"(2) The amendment made by subsection (a)(1)(A) shall be deemed to have taken effect on December 12, 1985, with respect to members who—

"(A) died after December 11, 1985, and before January 1, 1986; and

"(B) were, on the date of death, insured in the amount of $35,000 under subchapter III of chapter 19 of title 38, United States Code.".

ADDITIONAL STATEMENTS

TAX REFORM AND THE FUTURE OF 401(k)S

● Mr. BAUCUS. Mr. President, a priority issue for the Senate in the second session will be the tax legislation. My colleagues and I on the Finance Committee will be devoting many hours, days, and weeks to this subject in 1986. A major issue we will have to resolve will be the impact of the tax bill of the private, voluntary retirement savings system and, in particular, on cash-or-deferred retirement savings plans, popularly known as 401(k)'s.

Recently, Tax Notes carried an information and timely exchange on the value and future of 401(k)'s. Authored by Stuart J. Brahs, executive director of the Association of Private Pension and Welfare Plans (pro) and Dr. Gerard M. Brannon, Tax Notes editorial page editor (con), the article discusses the merits, shortcomings, and future of this popular and growing retirement program. I believe this article is a useful contribution to the public debate over one important aspect of the tax reform initiative and I commend it to our colleagues' attention.

The article follows:

[From Tax Notes, Nov. 25, 1985]

CODA'S AND IRA'S

(Commentators: Gerard M. Brannon and Stuart J. Brahs)

SPEAKING OUT

(Gerard M. Brannon)

In its various tax reform proposals, Treasury has been both for and against cash-or-deferred arrangements (CODAs or 401(k) plans). Under a CODA, an employee can take part of his or her current salary as deferred income. Commonly, employers match employee contributions. The arrangement can work like a pension plan, except CODA deferrals can sometimes be withdrawn or borrowed before retirement.

CODAs, like individual retirement accounts (IRAs), usually supplement qualified pension plans. Both arrangements involve some individual choice; in standard pension plans, a "Jiminy Cricket" employee cannot opt out, except by changing jobs. CODAs differ from IRAs by having an employer tie-in; employer matching constitutes pressure on employees to be squirrels rather than crickets.

CODAs are open-ended—they are not subject to the $2,000 contribution limit that applies to IRAs—and I consider this to be a very serious problem. Because individuals with high incomes normally save more and would use CODAs more than low- and middle-income earners. Congress created special nondiscrimination rules for CODAs. Roughly, the eligibility of employees to elect deferral must be like pension plan eligibility, and the deferral rate among the

highest-paid third of qualified employees cannot be more than 150 percent of the deferral rate for the lowest two-thirds.

Treasury I recommended eliminating section 401(k). Treasury II relented to the extent of proposing a dollar ceiling. Treasury 11½, the Baker-Rostenkowski plan, would have retained current law. The Ways and Means Committee's reform bill would place a ceiling on the combined CODA and IRA.

THE CODE ISN'T CONSISTENT

First, let me just list some relevant personal judgments about basic tax policy.

Judgment 1—CODAs, IRAs, and pension plans are all part of a crazy patchwork of savings incentives in present law. We don't encourage all savings, only selected savings (for home, retirement, etc.). Worse, we don't even pay attention to *net* saving; present law encourages borrowing by way of the interest deduction.

Judgment 2—On the whole, the crazy patchwork mostly gives tax reductions for savings that would have occurred anyway. The overwhelming fact is that as we reduced tax penalties on savings, the savings rate didn't rise.

Judgment 3—The institution of qualified pension plans probably has a positive impact on savings. Low-income workers who probably would not save on their own save through pension plans.

Judgment 4—If we were serious about encouraging saving, we should specifically tax consumption. Several feasible consumption tax techniques are available.

Quite apart from these judgments, there are several policy points on which I detect a near consensus among policymakers, as of 1985.

Consensus 1—We won't go to consumption tax.

Consensus 2—We should move toward a law which taxes *income* more consistently, with fewer incentives for saving.

Consensus 3—Through tax reform we should not do anything basic to take away the tax advantages of pension plans.

THE INCENTIVES DON'T WORK

Unlike most pension plans, CODAs and IRAs each have an "individual choice" feature which makes it most likely that they will be used by people who would have saved anyway, i.e., they won't result in more retirement saving.

Among all workers, the IRA participation rate is eight times higher among those earning $50,000 or more than it is among those earning $5,000 to $10,000. Between these same brackets, the rate of CODA use is 20 times higher. This is not just a matter of unfairness, but it means that these provisions are being used by people who would save a substantial amount anyway and it indicates that savings incentives do not increase the savings rate. (These calculations are based on tabulations of the May 1983 Current Population Survey Pension Supplement, done by the Employee Benefit Research Institute.)

I find even less socially redeeming character in CODAs since they are not limited to pension saving. The opportunities to cash them in early without penalty makes them ordinary savings, and if we want to encourage saving through the tax system, the only way to go is to a consumption tax which nets savings against borrowing.

I do find some merit in IRAs as they were before 1981—limited to people not covered by pension plans. Even here, IRAs will be used by those with higher incomes, but they will at least offset some of the unfairness caused by the fact that pension plans apply to some workers but not others.

A problem in a strategy of once-a-generation tax reform is that the Treasury can't stir up many issues. It is hard to get the technical work done on very many topics and each new topic introduced rouses a new hostile constituency. Clearly Treasury was unwilling to do much about pension plans and I guess their position on IRAs was dictated by the number of IRA investors out there. CODAs are growing very fast and in a few years may present as intimidating a political problem as pension plans and IRAs do now. If the Administration is sincere about taxing all income, it should go back to pushing outright repeal of section 401(k) and it should at least hold the line on the dollar limits on IRAs and pension plans so that the growth of money income will narrow these tax benefits.—GERARD M. BRANNON.

ANOTHER VIEW

(Stuart J. Brahs)

The likelihood that meaningful "once-in-a-generation tax reform" will be voted upon by the 99th Congress is uncertain. What is certain is that both the Administration and the Ways and Means Committee have set their sights on pension and other retirement income programs to please the demanding but elusive goal of revenue neutrality. The Administration's back and forth attitude toward cash-or-deferred arrangements (CODAs), or 401(k)s—and more recently, the House tax writers' action to seriously undermine these valuable programs—are a good example of why the tax reform process is the worst possible arena for determining something as important and far-reaching as national retirement income policy.

Unfortunately, Jere, your views on 401(k)s serve only to cloud the issue of what tax reform and retirement income policy should accomplish.

Unlike IRAs, 401(k)s offer employees the prearranged discipline of regular savings managed and professionally invested by their employer who, surveys show, match employees' contributions in 80 percent of plans. While some preretirement withdrawals for specially defined "hardship" cases are permitted in many plans, actual utilization is infrequent and no abuse of this plan feature has been demonstrated. More importantly, however, is the fact that this very feature attracts participation by younger workers (who are typically the least likely to save) because they know they can access these funds in an emergency.

WHO PARTICIPATES

As many as 19 million Americans are now eligible to participate in 401(k)s. Data indicate that between 60-63 percent of eligible employees do participate, for an estimated 10 to 15 million active participants nationwide. Participation rates for workers earning between $10,000-$25,000 are double the IRA participation rates for workers in the same income group. At *every* income level, a higher percentage of those eligible participate in 401(k) plans instead of IRAs. CODAs are subject to strict rules enforcing nondiscrimination. IRA usage—not subject to such rules—is skewed toward upper-income individuals.

CODAs are engendering a revolution in worker savings behavior. 401(k)s play a major role in adapting retirement income options to the needs of a rapidly changing workforce. While we have made great strides in expanding pension coverage, some nagging problems still exist—particularly for workers in small businesses with fewer than 100 employees and for highly mobile workers. Workers who enter and leave the workforce with some regularity, such as working mothers, often have problems with vesting requirements.

401(k)s are contributing greatly to expanding pension coverage for these employees. One reason for the rapid growth of 401(k)s has been the ease of implementation and adoption by small companies and nonprofit organizations who never before could provide an effective retirement income plan. Once vested, workers participating in a 401(k) can roll over their "account" into a qualified plan such as an IRA. Recent data also indicate that for the overwhelming majority of 401(k) plans, full vesting is either immediate or occurs within five years, making CODAs especially attractive to younger, more mobile workers, such as working mothers and those in high tech and other volatile service occupations.

While I fear you're confusing the issue by raising the idea of a consumption tax, Jere, I will agree with you—and you make the point somewhere—that current tax reform proposals, and indeed current tax policies, often penalize savings and seemingly reward borrowing.

THE SAVINGS RATE IS TOO LOW

There is justifiable concern today over the woefully low U.S. savings rate—the lowest of all major industrialized countries and lower than projected for this year by most economists. The U.S. personal savings rate for September 1985 was a dismal 1.9 percent, the lowest it has been since the early 1950s. One cause of the current disheartening trend of borrowing over saving is that a chief byproduct of the 1950s—the baby boomers—is borrowing for homes, cars, and possibly computers to figure their tax returns. And they are not saving nearly enough.

Here, I think the question should not be whether we have a consumption tax instead of a reformed income tax, but whether the U.S. tax code should be an instrument for encouraging responsible behavior, such as saving. One needn't be a Nobel award-winning economist to know the answer to that. If those baby boomers haven't put enough away for retirement by the end of this century, Uncle Sam is going to have to make up the difference between a meager and an adequate retirement for this politically potent age group.

For over four decades, the tax code has been an effective tool to expand coverage of workers in employer-sponsored retirement programs. Since World War II, coverage under benefit plans sponsored voluntarily in the private sector has grown dramatically. Private sector pension plans, as you say in Judgment 3, have had "a positive impact on savings by applying to a lot of low-income workers who probably would not have saved on their own." Fully 70 percent of U.S. workers between the ages of 25 and 64 and in their full-time jobs over one year are now covered by some form of pension plan where they work. But, nearly a third of them have little or no savings beyond what's accrued in their employer-provided plan. These plans comprise an increasingly larger percentage of savings in the United States: 12.7 percent in 1950, 20 percent in 1970, and 30.9 percent in 1980. Without the growth in employer-

sponsored arrangements, the savings rate in this country might be even lower.

WE NEED MORE SQUIRRELS

Now is not a time when we should discourage savings or create new disincentives toward saving for retirement. This is a time we must aggressively seek expanded savings as a deliberate national policy. Or as you put it, create more squirrels.

You have not made an effective or even an ancedotal case against 401(k)s. They are not "open-ended"—the amounts contributed by lower- and middle-income participants in a 401(k) plan determine the amounts that upper-income-employees contribute. There have been no abuses of withdrawals on loans; CODAs are subject to nondiscrimination rules; they have encouraged savings by all income groups. You have not backed up your "fact" that the tax code "mostly gives tax reductions for savings that would have occurred anyway." Given the abysmal savings rate, where is your evidence? Why shouldn't we encourage greater savings by all income groups, especially if savings by the higher income earners in 401(k) plans, for example, leverage greater savings by middle- to lower-income earners?

The real problem we have is that the "crazy patchwork" of retirement income programs should not be toyed with in a fast-paced revenue-driven, tax reform process. There are real questions that should be answered, but there is no time to ask them. You put it well in Consensus #3: "Through tax reform we should not do anything basic to take away the tax advantage of pension plans." AGREED!!!

Tax reform, as the President presented it, was to accomplish fairness, growth, and simplicity. So far, Administration and Joint Taxation Committee options, as applied to 401(k) plans specifically and retirement income and savings policy generally, meet none of these criteria. Pensions and other employee benefits are not "fringes" for the rich, but mainstays of lower- to middle-income working Americans. This applies to 401(k) plans. And just watch the constituency for them grow!!

STUART J. BRAHS,
Executive Director, The Association of Private Pension and Welfare Plans.

POSTSCRIPT

I disagree with Stu. CODAs are not revolutionizing savings behavior, because the total savings rate has not changed with all the so-called savings incentives in the tax law. This crazy system gives tax relief for borrowing and gives relief for liquidating one investment to acquire another. It's not an incentive for saving.

I agree with Stu that IRA usage is skewed to upper incomes and that 401(k) usage *among eligible employees* is less skewed than IRA's When you add the fact that upper-income workers are more likely to be eligible, my numbers show 401(k) usage more skewed than IRA. Both are pretty bad. This ties into my point that the crazy system (tax relief for selected kinds of saving with incentives for borrowing) is just relief for saving that would have occurred anyway.

If one were serious about saving, one should abandon the crazy system and tax consumption, i.e., untax *all net* saving.—GERARD M. BRANNON.●

THE FREE ENTERPRISE SYSTEM

Mr. SYMMS. Mr. President, my colleagues in this body know me as a champion of free enterprise and individual opportunity without government interference. I wish to bring to the attention of my colleagues an example of what creative free enterprise can accomplish through our system which encourages individual initiative.

We in the Pacific Northwest are accustomed to a salad dressing which cannot be surpassed anywhere in America: Lighthouse Dressing. This business owned and operated by my good friends Ed Hawkins and his sons Doug and Ed Jr., is a 3,000 jar per day business which now employs 35 people in Sandpoint, ID.

Lighthouse started as a summer venture to make a little money for college. In 1985, Ed Hawkins' restaurant, the Lighthouse Restaurant, featured a dressing that not only brought customers back for more, but brought them back with empty containers wanting more of Ed's unique dressing.

The free market system and a top quality product soon turned Lighthouse Dressing into a thriving business offering 14 different flavors plus jams and candy in great demand throughout the Pacific Northwest and Western Canada.

Mr. President, I ask that the following article from the Idaho Business Review about the Hawkins' successful venture be printed in the RECORD.

The article follows:

[From the Idaho Business Review, Dec. 9, 1985]

LITEHOUSE DRESSING—A FAMILY AFFAIR

(By Kathy Johansen)

SANDPOINT.—What began as a summer venture to earn extra college money has turned into a successful business for a Sandpoint family. In the summer of 1963, the Hawkins family of Hope, Idaho, began the Litehouse Dressing industry.

A familiar site today in the produce sections of many supermarkets, Litehouse Dressing was born at the Litehouse Restaurant of Hope. The restaurant, purchased by Ed Hawkins in 1958, featured a salad dressing so popular that restaurant patrons brought their empty jars from home to fill with dressing.

The elder Hawkins saw the dressing as a supplement to his restaurant business, but his sons, Doug and Ed Jr., had bigger visions. During his summer break from college, Doug bought 100 jars, filled them with the dressing and literally went door-to-door to businesses to sell his product.

The reception was good, said Doug, and sales continued at a "nice level" until 1974, when the brothers decided to escalate their production. They moved from Hope to Sandpoint, where their plant is presently located on the northwest edge of town.

Along with productions, the Hawkins also broadened the dressing's marketing area which reaches throughout the Northwest and into parts of Canada. Litehouse now offers 14 different flavors of dressings and has diversified, producing huckleberry jams and syrups and a chocolate-covered huckleberry candy. The goal of the plant, said Hawkins, is to produce other high quality food items, but he would not disclose what their next product might be; however, he said, plans are underway.

Total production of the dressing takes place at the Sandpoint plant, including the printing of the jar lettering and the production of the mayonnaise used in making the dressing. Such operations were previously done in Seattle.

The mayonnaise machine is capable of producing 60,000 pounds of mayonnaise in one shift, said Hawkins, and approximately 3,000 jars of dressing are made each production day. The plant employs 35 area residents.

The Hawkins family seem to have found the right ingredients—a good recipe, family input and local help—to successfully fulfill a dream and business venture that began 22 years ago.

STAR WARS

● Mr. SIMON. Mr. President, Townsend Hoopes is a former Assistant Secretary of Defense who has contributed to this country in a variety of ways.

Recently he gave a talk to the Milwaukee Institute of World Affairs on the whole question of star wars.

But it is really more than simply a comment on star wars. It outlines a sane, sensible policy for this Nation to be following.

We should be listening to these voices of sanity, rather than to the voices that would push us into an irrational policy.

I urge my colleagues to read his remarks.

I ask that the speech be printed in the RECORD.

The speech follows:

TOWNSEND HOOPES: ADDRESS TO MILWAUKEE INSTITUTE OF WORLD AFFAIRS, NOVEMBER 12, 1985

You have given me a very large topic—the Summit and Beyond—to discuss in the culminating lecture of this seminar series. To do the subject justice would have seemed, a month ago, to require a gift of prophecy, but I doubt if this is any longer the case. Regrettably, it is now rather clear that this Summit Meeting is not going to amount to much in substantive terms—an exercise in public relations and posturing for the home audiences, a mutual effort to reassure a world worried about nuclear war, and perhaps an agreement to meet again. This last could be a promising development.

But it is now almost certain that there will be no agreement on arms control. The best to be hoped for on that fundamental issue are new guidelines for the negotiators at Geneva. But even that is a long shot. Until a few weeks ago, I believed there was an historic opportunity to reaffirm explicitly a tacit understanding on the paramount reality: mutual vulnerability—that mutual vulnerability is an existential condition of our age; that neither side can significantly alter the present stalemate, no matter how great its military and technological exertions; that we and the Soviets face a common security problem based on the reality that we will live together or perish together; that we should accordingly reinforce those attitudes and policies that rule out war between the two superpowers.

What are the chances for such an understanding? Not very good. Obstacles to such commonsense exist in both camps, but the Soviets seem closer to grasping this reality than the Reagan Administration. A new Soviet leader, indeed a new generation of Soviet leadership, has taken over from the diminished band of tired old men who were the last of the original revolution-makers, and the new men seem determined upon a major effort to clear away the dry rot—to reinvigorate and redirect Soviet society. But to achieve this even partially, Gorbachev knows he needs a stable international environment, and especially a stable relationship with the United States. He needs, above all, to avoid a vast new arms race that would serverly constrict plans for economic reform. And I believe he understands that a new arms race would be dangerously destablizing as well as futile. I believe he has made this clear, for example, in his interview with Time magazine, and in a series of quite respectable proposals for arms reductions which he has since put forward.

The Reagan Administration is unfortunately ambivalent, a house deeply divided from the top down. The rational part of the apparatus sees a need for compromise to reduce the threat of catastrophic war and to give reassurance to worried allies. But key Reaganites, in their heart of hearts, really don't want an agreement—any agreement—with the "focus of evil" whose machinations they see as the root cause for 9/10ths of the troubles in a seething world.

Professional military men, represented on the Joint Chiefs of Staff, support balanced arms reduction agreements, for they see dangerous uncertainty and loss of control in a continuing arms race that has no limits. But civilian leaders in the Pentagon, (like Weinberger, Ikle, and Perle) don't really want to give up the arms race, for they still nurture the illusion that this will overstrain the smaller Soviet economy and run it into breakdown. For the first time in our postwar history, we have a Secretary of Defense who is an avowed opponent of arms control.

President Reagan is somewhere in between these positions—susceptible to reason on occassion, but with an instinctive preference for confrontation, polarization an no binding agreements. His illusion is that Star Wars can work and will be good for the country. Unfortunately for all of us, he is too shallow an intellect to think through these issues with clarity or precision, so his government has become a cacaphony of conflicting voices.

We are now in the fifth consecutive year of an unprecedented military build-up (which is not incidentially the largest single contribution to the unprecedented national budget deficit, which is in turn the chief cause of the present paralysis in Congress over budget reductions). Mr. Reagan and Secretary Weinberger continue to assert that the buildup is required because the Soviets somehow managed to get way ahead of us in the 1970's and are continuing at a relentless pace. CIA estimates however have consistently shown that Soviet military spending has been steady, at a growth factor of about 3% a year, with no significant surges since the early 1970s—that is to say over the past 15 years.

Recently there has been growing resistence to further increases in defense spending, so the country may be slowly returning to a better sense of proportion about security. But after 5 years of buildup and a near tripling of the defense budget, no one can say with confidence that our people, our industry, or our society are safer today against the threat of nuclear war.

The truth is there is no way to protect people and cities against the nuclear threat. Mutual vulnerability is now an irremovable condition of life. When we start from the fact that each superpower possesses some 10,000 warheads and the means of their delivery, then additional weapons and delivery systems do not change the strategic balance or in any way improve the security of either side. Both populations remain totally vulnerable in the event of nuclear exchange.

As I have said, I don't believe this rock bottom truth has really penetrated Mr. Reagan's mind. But the considerble public tolerance and sympathy for this vagueness here suggests a wider ambivalence in the American psyche. By instinct and heritage we are a nation of "can-do" unilateralists. American historical experience has made it natural for us to act alone, but difficult for us to accept the idea of interdependence, and even more difficult for us to cooperate with nations whose political philosophy we despise and whose power we fear. We have preferred either to avoid them or destroy them. But now an attempt to destroy them would very probably bring about our destruction as well. In part, this mind-set is explainable by our heritage of separation, both physical and philosophical. Our forefathers came to America to escape what they regarded as a Europe riven by intrigue, corruption, and alien ideologies, and this produced an enduring American legacy of aloofness and moral censure toward the rest of the world. The heritage of separation, carrying with it the sense that we are both different and better, has shaped the American attitude toward political conflict and the use of power. It has made us impatient with deep-seated disputes between and within older nations—disputes that must be lived with because they can never be clearly resolved. Inescapable interdependence is the oldest story for every other nation in the world, but we Americans continue to resist any limits on our freedom of action.

When we meet resistance from allies or adversaries, the rebuff tends to strengthen our national preference for acting alone, and also for believing that military force can cut the Gordian knot. In a strange way, we still conduct our foreign policy as though we were a unique nation standing somewhat outside of history. History is something that happens to other people.

Yet we now exist in a world where practical power is widely diffused, where no single state or coalition of states has control, where interdependence is a fact and cooperation a necessity. The plain truth is that the United States does not have either the resource base or the political will to police the world. Neither does the USSR. We cannot be sure how this truth affects Soviet ambitions, but the macho portion of the American mind seems to chafe against these limitations, finding them irritating; they force us to face the fact of interdependence even among unequal nation states. We resist, for interdependence dilutes our sense of uniqueness and puts fetters on our freedom of action.

But if our situation is truly one of interdependence, and if our vulnerability to destruction cannot be removed no matter how much we spend on sophisticated defense, then surely wisdom lies in facing that fact and putting first things first. The highest priority task is to find sufficient common ground with the other superpower so that we can significantly lower the risks of nuclear war. This in turn requires focus on agreements that can stabilize the relationship by fostering greater predictability and thus the growth of some essential minimum of mutual trust. Like it or not, the ability to control and reduce nuclear arms by agreement has become the primary barometer of the US-Soviet political relationship—inevitably so because the life or death of both nations depends on how the opposed arsenals are managed.

For this reason, the issue of nuclear arms control must be at the top of our agenda with the Soviets, must be tenaciously pursued, and must be segragated from other issues. Every effort must be made to avoid linking nuclear arms agreements with various regional conflicts that beset the world—in Lebanon, Afghanistan, Central America, or South Africa. Such linkage is a powerful and instinctive reaction of the American political system; it gives us emotional satisfaction to say we will refuse to reduce our nuclear weapons until the USSR gets out of Poland. But with respect to progress on nuclear arms control, such linkage is self-defeating. Our refusal, for example, to ratify SALT II (1979) exercised no leverage over Soviet behavior in Poland or Afghanistan, but did contribute to a growing uncertainty in the nuclear arms race.

Unfortunately, the Reagan Administration has developed no clear sense of priorities. It tends to denigrate arms control agreements, and it resists setting aside, even temporarily, the many other issues on which it feels it must confront the USSR.

It is notable that in the flurry of arms reduction proposals over recent weeks, all of the original offers came from the Soviets. The Reagan Administration reacted, belatedly and with evident reluctance, prodded by public opinion at home and by pressure from NATO allies in Europe to make its own proposals for reduction, compromise and accomodation. And then the President went to the United Nations and tried to shift the focus of public opinion away from nuclear arms control, by talking about selected regional issues, like Nicaragua and Afghanistan.

Now I don't wish to be misunderstood. Nuclear arms agreements that limit the stockpiles will not of course solve all of our problems. They will not, for example, resolve the basic conflict of purpose and values between us and the Soviet Union. Under the best possible circumstances, Americans must continue to live with a range of Soviet positions and actions that will seem to us illogical or offensive. And competition will continue at the political, economic and idelogical levels, for each superpower seeks to extend its influence in the world.

But precisely because the differences are so basic and sharp, it is very important that we proceed as much as possible on the basis of knowledge and fact, so that we can at least reduce the distorting influences of myth. The Soviet union is of course not an ideological abstraction, but a nation, the outgrowth of the Russian state that has lived for centuries on the borders of Europe and which has partaken, partially, in the development of modern Europe. Despite its arbitary character (perhaps because of it, since Russian governments have always been arbitrary), the Soviet Government finds ultimate support in the nationalism and patriotism of the Russian people. The Soviet economy is backward, inefficient, and overcentralized, but it is also large, strong, and able to resist outside pressures. The Soviet Government is a dictatorship given

to arbitrary and brutal methods both at home and where its writ runs abroad, but Soviet leaders do not glorify offensive war as a way to achieve their goals in the world; in theory—and substantially in practice—they aim at military power to hold "imperialist" power in check, thereby allowing social-economic forces in the world to determine the future. Such is their Marxist-Leninist doctrine.

Soviet leaders appear to retain a residual belief that history will proceed according to Marxist-Leninist analysis, and also a revolutionary attitude toward the outer world. In foreign affairs they seek to exploit disintegrative change in the existing international order, but there is little or nothing left in the USSR of the original dream of communist utopia. They make no pretense, for example, of believing in a classless society, and they defend their own internal social-economic stratification with great rigor. Despite the reality of their revolutionary impulse, their chief preoccupation is the defense of their internal system, their national boundaries, and their buffer zone in Eastern Europe. Which means in practice that, while they seek to maximize Soviet influence in the international arena, they consistently do so within the bounds of a cautious, pragmatic, low-risk prudence—which may owe something to their ultimate belief (or hope) that history is on their side.

Given the very real differences in the two systems, and given also the mutual suspicion and distrust, I would argue that a basic understanding about nuclear arms is the vital key to assured mutual survival. And I would argue that this is entirely possible, for each side has the rational capacity to recognize what must be done to assure its own survival.

I would further argue that only through agreements can inherent uncertainties be reliably reduced, and numerical ceilings and qualitative prohibitions on weapons be formally established and monitored. Only through sustained negotiations and sequential agreements can agreed weapons limits be pushed steadily downward.

Beyond the Summit, the possibilities for improving the relationship will thus depend on a genuine mutual effort to broaden the areas of cooperation. I am sorry to say that Mr. Reagan's simplistic anti-communism, combined with an instinctive tactical approach that narrows the options in nearly every situation, suggests that the relationship is unlikely to improve much while he is in office. I would like to be proved wrong on this point. But under Mr. Reagan, our political system has become the victim of a shallow public dialogue on foreign affairs, for he and his men insist on casting almost every foreign policy problem—from Lebanon to Nicaragua—almost exclusively in terms of military competition with the USSR. In a strange way, he serves as a kind of unwitting PR man for the USSR, inflating Soviet influence in places where its actual assets are quite marginal. Marxist ideology is really quite shopworn and motheaten, but Mr. Reagan periodically pulls it back from the political "ash heap of history." His approach reflects strong distaste for diplomatic solutions and a preference for straightforward action involving the threat or use of American military muscle. The trouble is that an American tendency to unilateral action in situations which are inherently interdependent serves only to complicate and aggravate those situations, bringing us no closer to a workable solution.

It seems to me that Star Wars is perhaps the ultimate example of wrongheaded American unilateralism—unilateralism gone bonkers. In his address to the nation in January 1983, President Reagan proclaimed the vision of a wholly new strategy; a Star Wars defense would replace the morally uncongenial doctrine of deterrence, where-under our security rests on the explicit threat to reduce our adversaries to rubble. Despite cogent attacks on the credibility of this proposal, he has not wavered from his original objective. As recently as March 29 of this year he told the National Space Club: "we need to render obsolete the balance of terror—or mutual assured destruction as it is called. Now, this is not, and should never be misconstrued as, just another method of protecting missile silos."

What the President is telling the American people is that we can achieve a nice, clean, technological, once-and-for-all solution to the threat of nuclear destruction without the need for Soviet cooperation. The implicit promise is breathtaking: once the strategic defense system is in place, neither the Soviet Union (nor any other potential adversary) would ever again pose a nuclear threat to us or our allies. The competition in strategic offensive weapons and other forms of military technology would somehow come to a benign halt.

If this were merely the vision of something distant, propounded by a scientist or a moral philosopher, it would not be much noticed. But it was propounded by the American President, and not merely as a desirable, if remote, possibility, but as the centerpiece of global strategy now, to be backed by $26 billion in hard cash for research and testing. The Reagan rhetoric has given the impression that a reliable alternative to the deterrent strategy lies within our grasp; moreover, that the Soviets can be readily persuaded of its benefits for them. A significant percentage of Americans, yearning for a simple way to escape the baffling nuclear nemesis, tends to look favorably on this scheme.

In the pre-nuclear ear concentration of effort on defense against attack was the natural order of things. And defense was, and is, morally more comfortable than reliance on nuclear deterrence. But the nuclear age is different. The destructive power of one nuclear warhead can kill a city (including millions of people). So the possession by both sides of thousands of warheads means there can be no effective defense in the sense that President Reagan hopes for.

To kill 1,000 silos would require a minimum of 2,000 warheads, but to kill 10 major cities would require only 10 warheads. 100 weapons used against our cities would utterly destroy the United States as an operating society (and conversely the Soviet society). But 100 warheads is only 1% of the available weaponry on each side, and the means of delivering warheads to their targets continue to grow more varied and more sophisticated. There is no conceivable way in which a defense system could prevent "leakage" against nuclear missiles to the extent of 1%. Yet unless the system formed a permanent, impenetrable umbrella, the vast cost and effort and political strain required to construct it would be useless.

There are, I believe, decisive technical reasons why the Star Wars system would not work, and I can perhaps deal with some of those in the question period. However, even if we assume it is technically feasible, it would be fatally flawed by its vulnerability to Soviet countermeasures. There is no argument about this. The scientific community is virtually unanimous in believing that a wide range of countermeasures against missile defenses are available; also that they are less expensive and less technically demanding to deploy than the defenses themselves. Zealous cheerleaders for Star Wars like Mr. Weinberger chastise critics by asserting they are the same people who said we could not get to the moon. But the analogy is false. The effort to get to the moon was not complicated by the presence of an adversary. A platoon of hostile moonmen with axes could have made it a disaster.

Rather astonishingly, the Administration has argued that the Soviets will welcome the effort. For example, General Abrahamson who directs SDI, has said that "when they see that we have embarked on a long term effort to achieve an effective defense, supported by a strong national will, then they will give up on the development of more offensive missiles and move in the same direction." We must ask ourselves, if it were the Soviets who were hell bent to develop a strategic missile defense, how would the U.S. react? Mr. Weinberger once remarked that an effective Soviet missile defense "would represent one of the most frightening prospects I could imagine." Why does he think so? Because he would perceive it as an effort to deny the US its retaliatory capacity, its deterrent. How is it possible, one wonders, that the Administration can so totally fail to understand that the Soviets will have the same perception of the Star Wars program?

In the late 1960s, the Soviets developed a rudimentary, ambiguous antiballistic missile defense around Moscow. Did we at that point conclude that our land and seabased missiles were obsolete? On the contrary, we countered directly development of the so-called MIRV missile (multiple independently targetable re-entry vehicle) which was designed specifically to confuse and evade a Soviet defense system should it be fully built. The central fact is here abundantly clear: faced with Soviet defensive developments which we interpreted as having the potential to deprive us of our retaliatory capacity, we moved resolutely to assure that our warheads could still penetrate. There was in our policy councils no thought of "giving up" on the further development of offensive missiles.

The Soviets will react to Star Wars in exactly the same way for exactly the same reasons. And if, as seems likely, they not only proliferate their offensive arsenal to ensure penetration, but also attempt their own version of strategic defense, the U.S. will be sucked into the development of further offensive weapons as well. The result will be the most expensive, most dangerous, most unnecessary and most futile round yet seen in the nuclear arms race.

It will be noted of course that the professional operatives in the Administration are trying to reshape the President's vision—to develop a more limited defense program confined to terminal defense around land-based missile silos. Four points should be made about this different effort: (1) it seems to be proceeding without the President's full understanding; (2) it will contribute nothing to population defense; (3) it will protect our silos only against intercontinental ballistic missiles, but will provide zero protection against missiles fired in low trajectory from submarines lying off our coasts, or against cruise missiles; (4) perhaps most important, it is likely to trigger the same kind of Soviet reaction as would a full-scale Star Wars effort—that is, the develop-

ment of countermeasures to neutralize the defense, thus triggering a new arms race.

As these criticisms gather force, the Administration is beginning to shift its rationale for the program. Secretary Weinberger now tells us Star Wars is necessary because the Soviets no longer believe in mutual assured destruction; therefore, second-strike deterrence is not enough to avoid war. Another new argument is that Star Wars is merely a response to a large-scale Soviet strategic defense effort. Indeed a retired officer, General Graham, has suggested that the strategic defense initiative should be renamed the strategic defense response. Truth is the casualty here. The Soviets have of course carried on research on missile defense possibilities, but there was no mention of this in 1983 when President Reagan first announced Star Wars. And neither then nor now has there been the slightest hint of concern from our own military people that Soviet defense developments in any way hamper our ability to penetrate with ballistic missiles or air-launched cruise missiles. In short, this is a phony argument, employed to manipulate a public opinion that has developed increasing doubts about the program.

My regrettable conclusion is that Star Wars is another naive American effort to escape the condition of vulnerability in the nuclear age. It began with a presidential obsession with a dubious idea; it has gained momentum through the magnetic attraction of presidential power—it is a case of self-deception reinforced by sycophancy, greed and hype. Defense contractors, who doubt that Star Wars will ever work, are lining up at the Pentagon door rubbing their hands; politicians and assorted experts are visibly hedging their bets, wary of losing their influence with this Administration if they reject the program out of hand. Thus has a vague notion of stardust and moonbeams been converted in 3 years into what looks like becoming the Great Pork Barrel in the Sky.

If we pursue Star Wars, we can expect only increased aggravation and tension in the US-Soviet relationship, endless expense and no improvement in our security. Star Wars is a trillion dollar *mirage* in which our nation will be endlessly, and pointlessly, pursuing an ever-receding technological horizon. We will never quite get there. But in the process, we will impose the kinds of pressure on the USSR that are likely to magnify the dangers of war. Our allies—and the world at large—will have greater reason to doubt our judgment and commonsense.

If we genuinely wish to improve U.S.-Soviet relations, we must start by recognizing the fundamental fallacy of believing that national safety can be secured by unilateral means. For the naked truth is that our survival is in the hands of the Soviet leaders and the survival of the Soviet Union is in the hands of our leaders. That is a difficult fact to face, but it is a fact.

Also, we must recognize that deterrence, based on the consequence of mutual destruction in the event that one side attacks the other, remains the controlling reality. Mutual Assured Destruction is a morally unsatisfying description of strategy, and there is no doubt that Mr. Reagan's vision of a leak-proof astrodome spread over our country and much of the free world is far more appealing to our ethical and aesthetic sense. Unfortunately, Mutual Assured Destruction is not an idea that can be worn today and cast off tomorrow like a change in the fashion of clothing. For it is not so much a strategy as a condition—simply stated, it is the very likely consequence of nuclear war.

If all responsible American leaders—Republicans and Democrats, military officers and civilian officials alike—shrink from the idea of launching a first-strike because they see they are peering into an abyss of limitless uncertainty and peril, where even "success" would bring down on our country a dimension of disaster beyond anything any nation has suffered or even dreamed about—then I suggest it is reckless ignorance to argue that the Soviets view the same prospect with equanimity—that they don't believe in the reality of Mutual Assured Destruction; that they are possessed fanatics who prefer death to life. All the evidence runs in the opposite direction. Like us, they want their system to survive and evolve. Like us, they are circumscribed by the same lethal uncertainties and the limits these place upon any sane policy.

A final point. In his famous and successful call for a Limited Test Ban Treaty at American University in April 1963, President Kennedy gave eloquent expression to the sense of proportion I have tried to define this evening. He said: "Americans are neither omnipotent nor omniscient," and warned his countrymen that "we must not see a distorted and desperate view of the other side; we must not see conflict as inevitable, accommodation as impossible, and communication as nothing more than an exchange of threats."

The Russian response to that statesmanship was immediate and forthcoming (in other passages, the Kennedy speech expressed sympathy for hard Russian realities, including the terrible losses of World War II; it showed an understanding of the truth that security is a mutual problem and that negotiations to strengthen it must be conducted on the basis of equality). Pravda printed the speech in its entirety—a first for Soviet journalism at the time. Averell Harriman went to Moscow and negotiated the Limited Test Ban Treaty in less than a month.

We will never fully agree with the USSR and will never totally eliminate nuclear weapons—indeed there are considerations of stability which will dictate that we should not try. But a process of substantial mutual reductions carried on incrementally over a period of years and verified to the satisfaction of both sides would impart a very reassuring measure of trust and confidence to the US-Soviet relationship, and the world would breathe a little easier.

To achieve this, we need arms control agreements. The challenge of serious negotiation has been, and remains, formidable. But there is no other way.

TOWNSEND HOOPES

President, Association of American Publishers (1973-)

Under Secretary of the Air Force (1967-69)

Author: "The Limits of Intervention" (1970), "The Devil and John Foster Dulles" (1973).●

UNITED STATES-BRITISH EXTRADITION TREATY

● Mr. LUGAR. Mr. President, the Senate Foreign Relations Committee has devoted many hours this year to consideration of the United States-United Kingdom Supplemental Extradition Treaty.

Senator PRESSLER, chairman of the Subcommittee on European Affairs, recently wrote an excellent article on the treaty which analyzes the issues relating to it.

Mr. President, I ask that Senator PRESSLER's article from the November 16 to 17, 1985, edition of the International Herald Tribune be printed in the RECORD.

The article follows:

THIS EXTRADITION TREATY IS AN OCCASION

(By Larry Pressler)

WASHINGTON.—The U.S. Senate has a tremendous opportunity to strike a blow against international terrorism by ratifying the U.S.-British extradition treaty. Surprisingly, the Senate may refuse to do so. Yet the opportunities embodied in the accord, which is now before the Senate Foreign Relations Committee, are clear. Above all, it would deny fugitives accused or convicted of certain serious crimes the ability to avoid extradition from the United States on the ground that their offenses were "political."

Ratification is on hold because a small but vocal group of Irish-Americans has tried to turn the debate into a referendum on support for the IRA. Without ratification, America will be a safe haven for IRA terrorists. Ratification would ensure extradition of those accused of the most serious offenses, including aircraft hijackings and sabotage, crime against diplomats, hostage-taking, murder and the use of firearms and explosives.

In recent years, four terrorist fugitives from British justice have escaped to freedom in the United States, and many more are likely to do so if this loophole remains open. All four cases involved members of the IRA who were convicted of or sought for murder or attempted murder. Three of those four cases involved the death or injury of innocent civilians. Yet under the present extradition treaty, U.S. courts classified each of these offenses as "political" and refused extradition.

Much of the current debate focuses on the "legitimacy" of IRA violence. This dangerous diversion must be stopped. The real issue is terrorism.

The treaty, signed last June by President Reagan, is consistent with recent government policy. Since 1981 the United States has signed, and Congress has ratified, extradition treaties with Mexico, Colombia and the Netherlands. None of those ratifications provoked protest. Each treaty allows the executive branch, not the courts, to determine whether a political-offense exception is necessary.

Such treaties offer three advantages: First, a political-offense exception to extradition is reserved for unusual cases, ensuring flexibility to safeguard individual rights. Second, terrorists are clearly warned that routine political-offense exceptions will not be granted, stengthening the deterrent against such incidents. Third, mutual cooperation among Western governments in the battle against terrorism is greatly increased.

The proposed U.S.-British treaty is consistent with the European Convention on the Suppression of Terrorism adopted in 1976. It provides that the broadest range of terrorist offenses will be grounds for extradition. The Europeans saw the need for a compatible, universal approach to terrorism; so should Americans.

Ironically, even Ireland's strong extradition treaties both with the United States and Britain are similar to the proposed U.S.-British treaty and have repeatly been by Irish courts for the transfer of felons.

Although the United States has demanded repeatedly that its European allies take even more aggressive steps in terrorist situations where U.S. interests are at stake, it is seen to be waffling on this treaty.

As a Justice Department official said in August, "The United States cannot condemn terrorism committed abroad against our citizens and then provide shelter on these shores for perpetrators of such atrocities against citizens of other countries."

This treaty meets the need, but it does not exceed it. The treaty does not extend the range of extraditable offenses, nor diminish the requirement for a substantive case against the fugitive. It does not diminish the standard of evidence required to convict the fugitive, if he has not already been convicted. It does not affect the U.S. government's right to consider whether an extradition request is being improperly sought, for example because of religious or political beliefs. America's time-honored policy of providing a haven for political refugees will not be affected by Senate ratification of the treaty.

But homicide cannot be confused with political protest, and the right of asylum is not jeopardized when two allied democratic states jointly arrange to extradite terrorists. Stable and reliable extradition treaties are crucial if Western democracies are to prevail in their war against terrorism.●

IRANIAN HUMAN RIGHTS ABUSES

● Mr. HATFIELD. Mr. President, a few days ago three victims of the brutal Khomeini regime came to my office and described the horrors they had experienced as political prisoners in Iran. Their ordeals clearly demonstrate that human rights continue to be systematically violated in that country. For that reason, last week the U.N. General Assembly approved ratification of a resolution on the situation of human rights in Iran, detailing its deep concern over the specific and detailed allegations of abuses. I am sure my colleagues will be shocked and distressed, as my staff and I were, at the stories of brutality which these victims have suffered at the hands of a tyrant. While we must remain concerned about Khomeini's support for international terrorism, it is important to focus on acts of lawlessness that take place within Iran.

Mr. Hossein Dadkhah still suffers from the effects of the tortures he endured while in Tehran's Evin Prison. His feet were severely beaten, and several toes had to be amputated as a result of irreparable injury. Mr. Dadkhah's wife and brother were both executed by the regime. His parents were arrested and severely beaten, the psychological trauma causing both to suffer nervous breakdowns. Mr. Dadkhah's 18-month-old child has been taken by the regime as a hostage against his return to Iran.

Ms. Narges Shayesteh, a former teacher, was imprisoned for 2½ years. The effects of torture are still evident on her nose, hands, knees and chest, where during a 5-hour session with Khomeini's guards she was branded with 15 cigarettes.

Ms. Mojan Homayounfar is a former student of fine arts and a teacher. During her 3-year imprisonment one of her legs was amputated and the other crushed. Confined to a wheelchair, Ms. Homayounfar suffers a variety of ailments as a result of her ordeal.

These three victims are convinced that international exposure of the Khomeini regime's atrocities plays a crucial role in reducing the number of executions and the use of torture. In Ms. Shayesteh's words, "If because of a brief speech in a foreign parliament or an interview, one person is going to receive fewer lashes or one less person is executed, it is worth all the effort." She adds, "I have been in those prisons."

Mr. Dadkhah emphasizes, "We are the exceptions; we have gotten out. But 50,000 others have been executed, and 140,000 more may also be executed unless we do something about it. There are presently over 576 prisons and 3,771 professional torturers whose identities have been revealed in a recently published list. Such levels of repression reveal the extent of the present struggle for freedom in Iran."

Testimony given by Mr. Dadkhah, Ms. Shayesteh and Ms. Homayounfar in a recent press conference at the United Nations was instrumental in the December 6, 1985 ratification of the U.N. General Assembly Resolution on the situation of human rights in Iran. The General Assembly has expressed its deep concern over the specific and detailed allegations of abuses, "in particular, those related to the right to life, such as summary and arbitrary executions; the right to freedom from torture or cruel, inhumane or degrading treatment or punishment; the right to liberty and security of person and to freedom from arbitrary arrest or detention; the right to a fair trial; the right to freedom of thought, conscience and religion and to freedom of expression; and the right of religious minorities to profess and practice their own religion."

The systematic violation of human rights in Iran has been known to us for some time. Various international organizations have published numerous reports on the situation over the past 4½ years. The gravity of the Iranian situation has not been adequately portrayed; reporters wishing to investigate allegations are denied entry and appeals by international organizations such as Amnesty International and the United Nations go unanswered.

In its November 1985 report to the Political Affairs Committee of the European parliament, Amnesty International reported that its organization "has repeatedly requested Iran to comply with the international human rights instruments to which it is committed, calling for the implementation of adequate safeguards against torture and ill-treatment of prisoners in Iran, for the release of prisoners of conscience, for fair trials for all political prisoners and for an end to executions. Meanwhile the organization continues to receive numerous and persistent reports that human rights abuses are still occurring today."

Amnesty notes that the Iranian regime has officially acknowledged over 6,000 executions; the organization adds that many executions are carried out in secret. The actual total is probably much higher.

The Council of Europe in its Written Declaration of January 1985 declared that the Assembly is "appalled at reports of arrest, torture, and execution of political opponents of the regime resulting in 40,000 executions and 120,000 political prisoners since June 1981." The Council voiced its "strongest possible protest against the repressive measures" of the present regime in Iran.

The European parliament, the U.N. Economic and Social Council, the U.N. Commission on Human Rights, and the British Parliamentary Human Rights Group, among others, also have expressed their deep concern over abuses of human rights in Iran.

Unfortunately, despite the level of international protest in this matter, the Iranian envoy to the United Nations clarified his Government's position: "We do not claim that we observe human rights standards * * * the Bill of Human Rights" he said, "is more of an introduction to the material conception of Jewish-Christian culture. We urge our critics no to criticize us for violating what we do not believe in."

In an urgent plea for her fellow Iranians, Ms. Homayounfar asks "every humanitarian individual and organization to expose these atrocities, and thus contribute to the cause of humanity." Ms. Homayounfar, Ms. Shayesteh and Mr. Dadkhah have overcome their personal tragedies in order to help others, and I am hopeful that the U.S. Senate will continue to pressure the Khomeini regime and not let these human rights abuses go unnoticed.●

"SARGE" RICHARDS

Mr. SYMMS. Mr. President, in the December, 1985 issue of Better Homes and Gardens, author Kathryn Stechert tells the magazine's thousands of readers about 12 unique Americans who keep the Christmas spirit alive year-round.

One of these 12 is a close friend to many Idahoans in Boise, 71-year-old Bob Richards, or "Sarge" to most of us.

I am delighted that "Sarge" Richards has been singled out by a major national publication for recognition. He is living proof that you are only as old as you feel.

For years "Sarge" has brought hope and joy to many senior citizens in my State. With jokes and encouragement he has made a success of the "Happy Hoofers," a loose-knit group of some 100 seniors who walk, joke, laugh, and hug—in other words, bring happiness to others.

If anyone wants to lighten their day and give a spring to their step, all they have to do is read about "Sarge" Richards.

Mr. President, I ask that the Better Homes and Garden article about "Sarge" be inserted in the CONGRESSIONAL RECORD along with an article about him from the Idaho Statement.

The articles follow:

[From Better Homes and Gardens, December 1985]

KEEPING HAPPY IN HAPPY HOOFERS

With a punctuality the airlines surely would envy, about 70 senior citizens in Boise, Idaho, get together twice a week to walk. The group, all members of the 100-strong Happy Hoofers and all aged "60 or better," don't just walk; they also talk and laugh and hug one another. The group's founder, 71-year-old Bob Richards, is known as Sarge or Papa Hoofer. He starts each Happer Hoofer walk with an authoritative blow of his whistle, followed by a joke. "We want to keep the word 'happy' in 'Happy Hoofers,'" he explains. Then come the hugs—five big ones delivered to whoever is handy—and the group sets off. The walks always end at a restaurant so the hoofers can rest and talk. "It's like a chicken coop," says Sarge, "lots of good, healthy chatter and lively laughter." The whole thing is so healthful, in fact, that Boise doctors sometimes recommend it as therapy for their older patients.

[From the Idaho Statesman, Nov. 18, 1985]

BOB RICHARDS AND HIS HAPPY HOOFERS

"There were three crows on a telephone wire," Bob Richards said as he gave his morning address. "What were they doing there? Waiting to make a long distant 'caw'!"

His audience, the Happy Hoofers, Boise's senior walkers, let loose with a chorus of boos and laughter. Then there was an exchange of hugs, and more laughter, as their walk along the Greenbelt got under way.

This ritual takes place at 9 a.m. every Tuesday and Saturday morning in Boise, and it's as dependable as the rising sun—though the jokes and routes vary. The Hoofers have been walking together for longer than four years now, and Mother Nature hasn't been able to do anyhing to stop them.

"Rain or shine, sleet, snow and fog haven't stopped us yet," said Richards, 71, the group's founder. "We haven't missed a scheduled walk in over four years."

Richards helped organize the Happy Hoofers in August four years ago with two other seniors, because at the time there wasn't a walking program in the Boise Center's Growing Younger program.

"It started with just three of us, but I knew it would work," Richards said. "Since then it's been just like the birth of a child, with normal and steady growth. We have over 100 Happy Hoofers now, depending on the season. The friendships are so strong now that you couldn't break them up if you wanted to."

Richards takes pride in the fact that the Happy Hoofers developed by word of mouth, with no recruiting or advertising, and that politics have no place within their organization.

"There are no committees, board of directors, and no punching of the clock," Richards said. "We've retired from all of that. We just start the day with hug and humor therapy, and our walk—we're just a happy bunch of senior walkers."

By general acclaim, Richards is "Papa Hoofer." With the help of other Hoofers, Richards organizes the group's monthly schedule, and has an answering machine at home that directs the Hoofers to their next meeting place, walking area and where they will gather afterward for fellowship and breakfast.

"Everyone walks at their own pace, with the group in high gear walking six or more miles," Richards said, "Then when they're all back together in the restaurant, good healthy chatter fills the air. It sounds like a chicken, coop!"

Other senior walking groups have grown out of the Happy Hoofers, including the Wednesday Night Owls and the Line Dancers, who dance as a group and visit nursing homes. And there have even been three Happy Hoofer marriages to date. As the Hoofers continue to grow, Richards looks forward to what he considers his main responsibility.

"My job is just to keep the word 'happy' in the Happy Hoofers," he said. "Ulltimately we'll all be meeting together in Happy Hoofers Heaven."

TEENAGE PREGNANCY

● Mr. DURENBERGER. Mr. President, one of the most pressing and, indeed, troubling issues of our time is that of unwanted pregnancies. I know of no other issue that can divide and confound this body, and this country, as this issue does. Recently, the questions of family planning and abortion came to the fore as funding for family planning programs under title X of the Public Health Service Act came under congressional consideration.

Although the Senate Labor and Human Resources Committee has agreed to reauthorize the title X family planning program, many aspects of the recent debate indicate that we are far from resolution of the many differences of opinion and philosophy on the prevention of unwanted pregnancies, particularly teenage pregnancies, family planning, adoption, and abortion. In that vein of further investigation and debate, I urge my colleagues to read the recent cover story in Time magazine, entitled, "Children Having Children."

Mr. President, I ask that the full text of the article be printed in the RECORD.

The article follows.

[From Time Magazine, Dec. 9, 1985]

CHILDREN HAVING CHILDREN—TEEN PREGNANCIES ARE CORRODING AMERICA'S SOCIAL FABRIC

Before the baby came, her bedroom was a dimly lighted chapel dedicated to the idols of rock 'n' roll. Now the posters of Duran Duran and Ozzy Osbourne have been swept away and the walls painted white. Angela Helton's room has become a nursery for six-week-old Corey Allen. Angie, who just turned 15, finds it hard to think of herself as a mother. "I'm still just as young as I was," she insists. "I haven't grown up any faster." Indeed, sitting in her parents' Louisville living room, she is the prototypical adolescent, lobbying her mother for permission to attend a rock concert, asking if she can have a pet dog and complaining she is not allowed to do anything. The weight of her new responsibilities is just beginning to sink in. "Last night I couldn't get my homework done." she laments with a toss of her blond curls. "I kept feeding him and feeding him. Whenever you lay him down, he wants to get picked up." In retrospect she admits: "Babies are a big step. I should have thought more about it."

The rhythm of her typing is like a fox trot, steady and deliberate. It is a hot summer day in San Francisco, and Michelle, a chubby black 14-year-old, is practicing her office skills with great fervor, beads of sweat trickling down her brow. She is worried about the future. "I have to get my money together," she frets. "I have to think ahead." Indeed she must. In three weeks this tenth-grader with her hair in braids is going to have a baby. "I have to stop doing all the childish things I've done before," she gravely resolves. "I used to think, ten years from now I'll be 24. Now I think, I'll be 24, and my child will be ten."

It is early afternoon, and the smells of dirty diapers and grease mingle in the bleak Minneapolis apartment. The TV is tuned to "All My Children," and Stephanie Charette, 17, has collapsed on the sofa. Her rest is brief. Above the babble of the actors' voices comes a piercing wail. Larissa, her three-week-old daughter, is hungry. In an adjacent bedroom, Joey, 1½ years old and recovering from the flu, starts to stir. Stephanie, who is an American Indian and one of ten children herself, first became pregnant at 15. It was an "accident," she explains. So too was her second baby. "I'm always tired," she laments, "and I can't eat." Before Joey's birth, before she dropped out of school, Stephanie dreamed of being a stewardess. Now her aspirations are more down-to-earth. "I want to pay my bills, buy groceries and have a house and furniture. I want to feel good about myself so my kids can be proud of me." It has been a long, long while, she confides, "Since I had a good time."

They are of different races, from different places, but their tales and laments have a haunting sameness. Each year more than a million American teenagers will become pregnant, four out of five of them unmarried. Together they represent a distressing flaw in the social fabric of America. Like Angela, Michelle and Stephanie, many become pregnant in their early or midteens, some 30,000 of them under age 15. If present trends continue, researchers estimate, fully 40% of today's 14-year-old girls will be pregnant at least once before the age of 20. Says Sally, 17, who is struggling to

raise a two-year-old son in Los Angeles: "We are children ourselves having children."

Teenage pregnancy has been around as long as there have been teenagers, but its pervasiveness in this country, the dimensions of its social costs and the urgent need to attack the problem are just beginning to be widely appreciated. According to a Harris poll released in November, 84% of American adults regard teenage pregnancy as a serious national problem. The news in recent weeks illustrates the growing concern:

In Wisconsin last month, Governor Anthony Earl signed landmark legislation designed to combat unwanted teen pregnancies and, as he put it, to "limit thousands of personal tragedies that are played out in our state every day." The law, which won unanimous approval in the state legislature, provides funding for sex education in public schools, repeals restrictions on the sale of nonprescription contraceptives and provides $1 million for counseling pregnant adolescents. It also takes the unusual step of making grandparents of babies born to teenagers legally responsible for the babies' financial support. "All of us," said Earl, "young people and parents of young people, have a responsibility for our actions."

At Chicago's DuSable High School, controversy erupted when school officials decided to establish an on-campus health clinic, authorized to dispense contraceptives to students who have parental permission. The school, which serves one of the nation's poorest neighborhoods, is battling a veritable epidemic; each year about one-third of its 1,000 female students are pregnant. The clinic has elicited picketing and protest, mostly by religious and antiabortion groups, but the school has refused to back down. Says, Principal Judith Steinhagen: "All I can say is, we're trying to keep some young ladies in school and off welfare."

The school board in Los Angeles announced that it too plans to open a health clinic offering contraceptives to high school students. So far, nine schools around the U.S. have taken this step, and others are expected to follow suit. Says School Board Member Jackie Goldberg: "There's an appalling number of teen pregnancies. I hope to upgrade the quality of teen medical care, and I hope that young men and women will consider the ramifications of being sexually active."

Such strong and controversial measures reflect the magnitude of the problem and its consequences. Teen pregnancy imposes lasting hardships on two generations: parent and child. Teen mothers are, for instance, many times as likely as other women with young children to live below the poverty level. According to one study, only half of those who give birth before age 18 complete high school (as compared with 96% of those who postpone childbearing). On average, they earn half as much money and are far more likely to be dependent on welfare: 71% of females under 30 who receive Aid to Families with Dependent Children had their first child as a teenager.

As infants, the offspring of teen mothers have high rates of illness and mortality. Later in life, they often experience educational and emotional problems. Many are victims of child abuse at the hands of parents too immature to understand why their baby is crying or how their doll-like plaything has suddenly developed a will of its own. Finally, these children of children are prone to dropping out and becoming teenage parents themselves. According to one study, 82% of girls who give birth at age 15 or younger were daughters of teenage mothers.

With disadvantage creating disadvantage, it is no wonder that teen pregnancy is widely viewed as the very hub of the U.S. poverty cycle. "A lot of the so-called feminization of poverty starts off with teenagers' having babies," says Lucile Dismukes of the Council on Maternal and Infant Health in Atlanta, a state advisory group., "So many can't rise above it to go back to school or get job skills."

Among the underclass in America's urban ghettos, the trends are especially disturbing. Nearly half of black females in the U.S. are pregnant by age 20. The pregnancy rate among those ages 15 to 19 is almost twice what it is among whites. Worse still, nearly 90% of the babies born to blacks in this age group are born out of wedlock; most are raised in fatherless homes with little economic opportunity. "When you look at the numbers, teenage pregnancies are of cosmic danger to the black community," declares Eleanor Holmes Norton, law professor at Georgetown University and a leading black scholar "Teenage pregnancy ranks near the very top of issues facing black people."

The shocking prevalence of teenage pregnancy among white as well as black Americans was brought to light earlier this year, when the Alan Guttmacher Institute, a nonprofit research center in New York City, released the results of a 37-country study. Its findings: the U.S. leads nearly all other developed nations in its incidence of pregnancy among girls ages 15 through 19. As a point of comparison, AGI investigations looked at five other Western countries in detail: Sweden, Holland, France, Canada and Britain. Though American adolescents were no more sexually active than their counterparts in these countries, they were found to be many times as likely to become pregnant. And while black teenagers in the U.S. have a higher pregnancy rate than whites, whites alone had nearly double the rate of their British and French peers and six times the rate of the Dutch. Observes AGI President Jeannie Rosoff: "It's not a black problem. It's not just an East Coast problem. It's a problem for all of us."

It is also a complex problem, one that strikes many sensitive nerves. The subject of teenage pregnancy seems to raise almost every political explosive social issue facing the American public: the battle over abortion rights: contraceptives and the ticklish question of whether adolescents should have easy access to them; the perenially touchy subject of sex education in public schools; controversies about welfare programs; and the precarious state of the black family in America. Indeed, even the basic issue of adolescent sexuality is a subject that makes many Americans squirm.

To understand the nature of the problem, one must look beyond statistics and examine the dramatic changes in attitudes and social mores that have swept through American culture over the past 30 years. The teenage birth rate was actually higher in 1957 than it is today, but that was an era of early marriage, when nearly a quarter of 18- and 19-years-old females were wedded. The overwhelming majority of teen births in the '50s thus occurred in a connubial context, and mainly to girls 17 and over. Twenty and 30 years ago, if an *unwed* teenager should, heaven forbid, become pregnant, chances are her parents would see that she was swiftly married off in a shotgun wedding. Or, if marriage was impractical, the girl would discreetly disappear during her confinement, the child would be given up for adoption, and the matter would never be discussed again in polite company. Abortion, of course, was not a real option for most until 1973, when the Supreme Court ruled it could not be outlawed.

All this has changed. Today if a girl does not choose to abort her pregnancy (and some 45% of teenagers do), chances are she will keep the baby and raise it without the traditional blessings of marriage. "The shotgun marriage is a relic of the past," observes Mark Testa, of Chicago's National Opinion Research Center. With teen marriges two to three times as likely to end in divorce, he explains, "parents figure, why compound their mistake?" In 1950 fewer than 15% of teen births were illegitimate. By 1983 more than half were, and in some regions of the country, the figure exceeds 75%. Unwed motherhood has become so pervasive that "we don't use the term illegitimate anymore," notes Sister Bertille Prus, executive director of Holy Family Services, a Los Angeles adption agency for pregnant teens.

With the stigma of illegitimacy largely removed, girls are less inclined to surrender their babies for adoption. In fact, fewer than 5% do (compared with roughly 35% in the early 1960s). "In earlier times if a girl kept her child, society would treat her like an outcast," reflects Sister Bertille. "The fear and guilt are not the same as before."

Unwed motherhood may even seem glamorous to impressionable teens. "They see Jerry Hall on TV, flinging back her hair, talking about having Mick Jagger's second [out-of-wedlock] child, and saying what a wonderful life she has," bristles Daphne Busby of Brooklyn, founder of the Sisterhood of Black Single Mothers. A succession of attractive stars, including Farrah Fawcett and Jessica Lange, have joined Hall in making a trend of extramarital pregnancy, something that 35 years ago helped get Actress Ingrid Bergman blackballed in Hollywood.

But if unwed motherhood has lost much of its notoriety, premarital sex has over the same period become positively conventional. Like it or not, American adolescents are far more sexually active than they used to be. Guttmacher statisics show that the incidence of sexual intercourse among unmarried teenage women increased by two-thirds during the 1970s. Moreover, the sexual revolution seems to have moved from the college campus to the high school and now into the junior high and grade school. A 1982 survey conducted by Johns Hopkins Researchers John Kantner and Melvin Zelnick found that nearly one out of five 15-year-old girls admitted that she had already had intercourse, as did nearly a third of 16-year-olds and 43 percent of 17-year-olds. "In the eyes of their peers, it is important for kids to be sexually active. No one wants to be a virgin," observes Amy Williams, director of San Francisco's Teenage Pregnancy and Parenting Project (TAPP). The social pressure even on the youngest adolescents can be daunting. Says Stephanie, 14, of suburban Chicago, now the mother of a four-month-old, "Everyone is, like, 'Did you lose your virginity yet?' "

Social workers are almost unanimous in citing the influence of the popular media—television, rock music, videos, movies—in propelling the trend toward precocious sexuality. One survey has shown that in the course of a year the average viewer sees more than 9,000 scenes of suggested sexual intercourse or innuendo on prime-time TV. "Our young people are barraged by the mes-

sage that to be sophisticated they must be sexually hip," says Williams. "They don't even buy toothpaste to clean their teeth. They buy it to be sexually attractive."

And yet, for all their early experimentation with sex, their immersion in heavy-breathing rock music and the erotic fantasies on MTV, one thing about American teenagers has not changed: they are in many ways just as ignorant about the scientific facts of reproduction as they were in the days when Doris Day, not Madonna, was their idol. In a study funded by the Rockefeller Foundation, Demographer Ellen Kisker of Princeton University found that teenage girls are awash in misinformation. Among the commonest myths: that they could not become pregnant the first time they had sex, if they had it only occasionally or if they had it standing up. Adolescents are especially foggy on the subject of contraception.

A National Opinion Research Center survey of teenage mothers found that few were familiar with the IUD, and most, says Researcher Pat Mosena, "didn't even know what the diaphragm was." Mistaken notions about the health risks of the birth control pill are rampant. All this may help explain why, according to Johns Hopkins researchers, only about one in three sexually active American girls between ages 15 and 19 uses contraceptives at all. And many who do use them have a rather weak grasp of the methodology: one-quarter of the girls in the NORC survey said they were using birth control at the time they became pregnant.

It is the naiveté and ineptitude coupled with less openness in American society generally about birth control that, according to Guttmacher researchers, constitute one of the most striking differences between American adolescents and their European peers. In Sweden teenagers are sexually active even earlier than they are in the U.S., and they are exposed to even more explicit television. However, the Swedish National Board of Education has provided curriculum guidelines that ensure that, starting at age seven, every child in the country receives a thorough grounding in reproductive biology and by age ten or twelve has been introduced to the various types of contraceptives. "Teachers are expected to deal with the subject whenever it becomes relevant, irrespective of the subject they are teaching," says Annika Strandell, the board's specialist in sex education. "The idea is to dedramatize and demystify sex so that familiarity will make the child less likely to fall prey to unwanted pregnancy and venereal disease."

In Holland, sex is similarly demystified. While the country has no mandated sex-education program, teens can obtain contraceptive counseling at government-sponsored clinics for a minimal fee. In addition, the Dutch media have played an important role in educating the public, says Dr. Evert Ketting of the Dutch Mental Health Center, citing frequent broadcasts on birth control, abortion and related issues. "We've been told that no Dutch teenager would consider having sex without birth control," says Guttmacher Spokeswoman Jane Murray. "It would be like running a red light."

The signals are quite different for American teenagers. Last summer, when the American College of Obstetricians and Gynecologists unveiled a new public service announcement designed to combat teenage pregnancy, all three major TV networks balked. The reason: the announcement included the word contraceptives. These are the same networks that, as one ABC official put it, routinely depict intercourse to "the point of physical motion under the covers of a bed." Network officials have since relented, but the offending word has been dropped.

How to explain this skittishness? "We are still very much governed by our puritanical heritage," answers Faye Wattleton, president of the New York-based Planned Parenthood Federation. "While European societies have chosen to recognize sexual development as a normal part of human development, we have chosen to repress it. At the same time, we behave as if we're not repressing it." In studying various cultures, the Guttmacher researchers found that the highest teen-pregnancy rates were in countries with the least open attitudes toward sex. "The ambivalence our society is projecting about sex is costing us a lot," concludes Institute President Rosoff.

People who work directly with teenagers agree. "We maintain this incredible double standard with teenagers about sex," says Alice Radosh, coordinator of pregnancy and parenting services in the New York City mayor's office. "If you're swept away by passion, then you didn't do anything wrong. But if you went on a date after taking the Pill or with a diaphragm, then you're bad. You were looking for sex, and that's not permitted."

The message that contraception is bad is often reinforced by parents, who are loath to admit that their children are sexually experienced. "I went to my mom five different times to see if she could at least get me to a doctor to get me on the birth control," recounts Nancee Mason, 19, from Pontiac, Mich., who has a nine-month-old son. "But my mom is the kind of person who, if you mention sex, she turns all red and clams up."

The Reagan Administration has taken steps to make it difficult for teenagers to obtain contraceptives. Since taking office, the President has repeatedly tried to restrict the availability of family-planning services. One-third of the women who seek such services at federally funded clinics are teenagers. In 1983 the Administration further attempted to control teenage access to contraceptives by issuing what quickly became known as the "squeal rule." The regulation required federally funded clinics to notify parents within ten days of prescribing contraceptives to minors. However, the squeal rule was squelched in the courts on the ground that it would have increased unwanted pregnancies and abortions.

Even without the risk of being squealed on, many young girls are embarrassed about going to a public clinic. "I chickened out,"confesses Debra Stinnett, 18. "I just never went back to Planned Parenthood for the pills." She now has a one-year-old daughter. Studies show that, on the average, teens wait twelve months after first becoming sexually active before they seek contraception. By then it is often too late. "When you're young," says Kim Adalid, 19, of Lawndale, Calif., a wise old mother to two, "all you think about is the weekend."

When they do become pregnant, many girls simply hide the fact, denying it even to themselves. For Angela Spencer, 16 of Lawndale, reality did not hit home until five months into her pregnancy, when she entered a special school for young mothers. "A lot of girls had already had their babies," she relates. "When I walked in that classroom, it was like the first time I realized what was happening to me." Unable to grasp their situation, adolescents frequently wait too long even to consider having an abortion. The gravity of such a decision often eludes them. "I was going to have an abortion, but I spent the money on clothes," confesses Sonya Lyde, 18, of Chicago, now the mother of a seven-month-old boy.

According to the most recent statistics, almost 30% of U.S. abortions are performed on teenagers. Abortions seem to be commonest among the affluent. "Upper-middle-class girls look at abortions as a means of birth control," says Myra Wood Bennett, a county health official in southern Illinois. The poorer girls, she notes, simply cannot afford it. Federal funding of most abortions for low-income women was barred by Congress in 1976; only nine states have stepped into the breach, providing for abortions without restrictions.

There is for many young girls another, less tangible factor in the sequence of events leading to parenthood: a sense of fatalism, passivity and, in some cases, even a certain pleasure at the prospect of motherhood. Such attitudes are especially prevalent among the poor. Take Zuleyma, 16, of Los Angeles, who gave birth last May: "I thought I might want to have a baby," she says. "I was thinking more in the future, but things happen." Or Derdra Jones of Chicago, who gave birth at 15: "Part of me wanted to get pregnant," she confesses. "I liked the boy a lot, and he used to say he wanted a baby." Or Marquel, 17, of Hawthorne, Calif.: "I had birth control pills in my drawer. I just didn't take them," she says. "My life was getting boring. I wanted a baby."

For young girls trapped in poverty, life offers few opportunities apart from getting pregnant. High school may seem pointless. Even graduation is little guarantee of a job. Their lives are circumscribed in every sense. Says Social Worker Lisa Rost, who counsels such youngsters at Project Hope in Chicago: "Some of these kids have never seen Lake Michigan." Pregnancy becomes one of the few accessible means of fulfillment. "Nobody gets more attention than a little girl who's pregnant," observes Bishop Earl Paulk of Chapel Hill Harvester Church, a Protestant church in Atlanta that sponsors a program for pregnant teens. "It feels good to be the center of things."

Youngsters who get pregnant often have a history of feeling deprived and neglected. Many have been abused or raped. "Their getting pregnant has nothing to do with sex," observes Pat Berg, director of a Chicago program for homeless youth. "It's attempting in a perverse sense to get some security and nurturing needs met. . . . It's like when kids get puppies." Finally, there is little social pressure to persuade them to postpone childbearing, notes Joy Dryfoos, who has conducted research for the Rockefeller Foundation. Middle-class girls tend not to have babies, she says, "because Mother would kill them if they did." For the lower socioeconomic groups, she says, "it's the big shoulder shrug. They don't get abortions. They don't use contraception. It's just not that important; they don't have a sense of the future."

No wonder teenage pregnancies have reached epidemic proportions in some ghetto areas. According to Guttmacher statistics, black American teenagers have the highest fertility rate of any teenage population group in the entire world. (Israeli Arabs come in a distant second.) One in four black babies in the U.S. is born to a teen mother, most of them unwed. "In the black community, the phenomenon of teen marriage is

almost gone," observes Mark Testa of NORC. "Eventually these girls get married, but it might be years later and not to the father of the child." Young black women under age 24 are facing "a shrinking pool of marriageable—that is, economically stable—young men," explains Sociologist William Julius Wilson of the University of Chicago, who coauthored a 1985 study titled "Poverty and Family Structure." The reasons he cites for the dearth of eligible candidates: unemployment, incarceration and an appalling rate of murder, the leading cause of death of black males age 15 to 44.

Wilson is part of a new breed of black academicians and leaders who have begun to acknowledge teenage pregnancy as a major issue for the black community. The National Urban League has declared it its No. 1 concern and last spring, on Father's Day, launched a program aimed at teenage boys, the often forgotten partners in the problem of teen pregnancy. Says League President John Jacob: "We cannot talk about strengthening the black community and family without facing up to the fact that teenage pregnancy is a major factor in high unemployment, the numbers of high school dropouts and the numbers of blacks below the poverty line."

The public recognition from black leaders is a significant departure from the past. Back in 1965 when New York Senator Daniel Patrick Moynihan, then Assistant Secretary of Labor, released a study depicting instability in the black family and stressing the problem of the absentee father, he was roundly accused of racism for ignoring the economic basis of the situation. In the heyday of the civil rights movement, admits Jacob, "teenage pregnancy was not the kind of subject we were willing to deal with publicly. We felt the black community would be blamed." That lack of attention was unfortunate, as black leaders now acknowledge. In the years since the Moynihan report, observes Eleanor Holmes Norton, the status of the black family has deteriorated. In 1965, she points out, only about one-third of black children were born to single mothers. Now more than half are. She insists that the black family remains strong, but admits "there have been important structural changes that will be hard to reverse."

Some blame the welfare system for contributing to the desintegration of the black family by providing an incentive for young women to have babies. While rules vary from state to state, indigent girls generally become eligible for public assistance in their third trimester of pregnancy. Most social-service workers argue, however, that the welfare system is at most a minor factor in teenage pregnancy. "It's possible that with no assistance, we would see fewer kids going to term," says Radosh of New York City's mayor's office. "But I don't think you'd see fewer getting pregnant."

Guttmacher researchers concur, pointing out that countrys like Holland, Sweden and France provide far more generously for indigent young mothers, yet have low pregnancy rates. Research by Sociologist Frank Furstenberg of the University of Pennsylvania further refutes the notion that teenagers who become pregnant are simply looking for a handout. In following 400 young black mothers in Baltimore, Furstenberg discovered that most were "surprisingly motivated to get off welfare." In fact, 17 years after bearing a first child, only one-quarter were receiving public assistance..

Despite the discrepancy in statistics, teen pregnancy, as black leaders are quick to point out, should not be seen as a specifically black problem. Rather, says Jacob, it is a poverty-related problem. "It has a greater impact on the black community because it is a poor community." Indeed, poor whites as well as blacks tend to have high rates of teenage pregnancy. In the largely white community of North Adams, Mass., an old mill town where unemployment has been high, teen pregnancy is reaching epidemic levels. One out of five births at North Adams Regional Hospital is to an adolescent, and 90% of the young mothers wind up on welfare. "I'm seeing a world where kids feel being pregnant is a viable option," sighs Maggie Bitman, who runs a parenting program in North Adams. "They feel their lives are in disarray." The situation is similar in the mostly white, down-at-the-heels southern counties of Illinois, and in white, working-class areas where the work has disappeared. The underlying reasons for the pregnancies are no different from those in urban ghettos: lack of opportunity, absence of interesting alternatives to childbearing. The girls feel "locked into their stations in life," says Health Official Wood Bennett of southern Illinois. "They're not motivated to break out."

Needy girls who imagine that having a baby will fill the void in their lives are usually in for a rude shock. Hopes of escaping a dreary existence, of finding direction and purpose, generally sink in a sea of responsibility. With no one to watch the child, school becomes impossible, if not irrelevant. And despite the harsh lessons of experience, many remain careless or indifferent about birth control. About 15% of pregnant teens become pregnant again within one year; 30% do so within two years. "You ask, 'Why didn't you come in for the Pill?' and they say, 'I didn't have time,'" says an exasperated Kay Bard of Planned Parenthood in Atlanta. "Their lives begin to spiral out of control."

The problems faced by children of such parents begin before they are even born. Only one in five girls under age 15 receives any prenatal care at all during the vital first three months of pregnancy. The combination of inadequate medical care and poor diet contributes to a number of problems during pregnancy, says Dr. John Niles of Columbia Hospital for Women in Washington: "Teenagers are 92% more likely to have anemia, and 23% more likely to have complications related to prematurity, than mothers aged 20 to 24." All of this adds up to twice the normal risk of delivering a low-birth-weight baby (one that weighs under 5.5 lbs.), a category that puts an infant in danger of serious mental, physical and developmental problems that may require costly and possibly even lifelong medical care.

Infants that escape the medical hazards of having a teenage mother do not always manage to negotiate the psychological and social perils. Desirée Bell, 19, of New York City, had her first son at age 15 and her second the following year. Her elder son Eddie has a learning disability and was almost auitistic as an infant. Bell, who has managed heroically to complete high school and secure a good job with the city, blames herself for his problems. "I hated the fact that I was pregnant," she recalls. "I was resentful of my unborn child. I used to punch myself in the stomach. Poor Eddie," she muses, "the first year I wouldn't play with him. He didn't talk until he was nearly two; he would just grunt. I would say, I traumatized my own son."

Desiree Bell has recognized her error and tried to give her son the extra attention he needs. Not all tennagers do. According to the Children's Aid Society in New York City, one of the oldest family agencies in the country, a large number of babies delivered to teenage mothers wind up in foster care. "Teenagers get excited about this little, adorable person that's all theirs," explains Barbara Emmerth of the New York City—based Citizens' Committee for Children, "but when the kid is in the terrible twos and the mother wants to go out on dates instead of taking care of the little monster, they change their minds."

Often the state must intervene in cases where abuse or neglect is suspected. Two-year old Ana Marie seemed to be perpetually falling and hurting herself. "I didn't pay her enough attention," admits her mother Kim Adalid, 19, who also has a three-year old son and expects a third child in January. After one of Ana Marie's mishaps, Kim took her daughter to a doctor, who quickly discovered that the child's arm was broken. Believing that the girl had been neglected (a charge that Kim vigorously denies), the doctor filed a report with the California courts. Ana Marie was taken away and placed with a temporary guardian.

Such interventions come at a considerable cost. In Illinois, state officials calculated that teenage pregnancy cost $853 million in medical care, day care, welfare and other social programs last year. It has been estimated that overall, the U.S. spends $8.6 billion on income support for teenagers who are pregnant or have given birth.

Most programs addressing the problem of teen pregnancy are directed at the group easiest to identify and help adolescents who are already pregnant or have given birth. The goals: to ensure that the girls obtain adequate prenatal care, continue their education and learn how to be good parents. Providing prenatal care has become a bigger problem since 1982, when the Reagan Administration reduced the appropriation for the Feeding Program for Women, Infants and Children, which offers nutritional supplements and medical care to low-income expectant mothers. The cuts say critics, will prove expensive in the long run, because caring for undersize, ailing infants through Medicaid is many times as costly as preventive prenatal measures. In recent years, private organizations and local governments have attempted to fill the gap left by WIC cutbacks. San Francisco's TAPP, a model program that the state plans to extend to other cities, has helped reduce the incidence of low-birth-weight infants to about 4% among the teenagers it counsels, against a national average of 17%.

Keeping young mothers in school has proved to be a stickier problem. Among TAPP counselees, for example, nearly half who were not enrolled in school were persuaded to resume their education. Unfortunately, an additional 31% who had been attending decided to drop out. In New York City, special public high schools have been established for pregnant teenagers to encourage them to stick with it. New York has also established day-care facilities at 18 of its 117 high schools, so that mothers can continue to attend after they have given birth.

Increasingly, conservative religious organizations have got into the business of aiding pregnant teenagers as a way of discouraging abortion. Jerry Falwell's Moral Majority has, for example, developed a nationwide $4 million program called Save-a-Baby, run in

conjunction with an adoption agency. "We agree to assist girls who are fixing to have an abortion, if they will let the baby live," says Jim Savley, the program's executive director.

Other programs for teen mothers emphasize careful instruction in family planning to prevent more unwanted pregnancies. Some go so far as to send a social worker to the hospital shortly after the girl has given birth in order to present gifts of condoms and contraceptive foam, along with something for the baby. Increasingly, programs like the Door in New York and Crittenton Center in Los Angeles have extended their contraceptive-counseling programs to teens who have not yet become pregnant. Crittenton purposely holds discussion groups that mix young mothers with other adolescents to reinforce the lessons on birth control. "When they see how hard it is to be a mother," says executive Director Sharon Watson, "they don't get pregnant."

Many believe that such lessons should be a regular part of the curriculum in public schools. According to the Time poll taken by the research firm of Yankelovich, Skelly & White, Inc., 78% of Americans respond yes to the question "Do you favor sex education in the schools, including information about birth control?" And yet, despite the majority opinion the subject of sex education remains a divisive one. On one side are those like Wattleton of Planned Parenthood who argue that Americans should learn to accept adolescent sexuality and make guidance and birth control more easily available, as it is in parts of Europe. On the other side are those who contend that sex education is up to the parents, not the state, and that teaching children about birth control is tantamount to condoning promiscuity. Sex-education classes are simply "sales meetings" for abortion clinics, says Phyllis Schlafly, a leading right-to-lifer. In addition, she claims, there is simply no way to tell youngsters about contraception "without implicitly telling them that sex is O.K. You've put your Good Housekeeping seal on it."

The conflict has contributed to riotous clashes at school-board meetings whenever the sex-education curriculums come up for review. Last year, for example, when New York City developed a program designed to help combat a runaway rate of teenage pregnancy, religious groups presented a list of 56 objections. In middleclass San Juan Capistrano, Calif., the fray over sex-education reform grew so heated last spring that conservative opponents showed up at a school-board meeting dressed in Revolutionary War garb and bearing a cannon.

In 1981 the Reagan Administration instituted a program to, in its words, "encourage teenagers not to engage in sexual activities" and foster "good communication between parents and child about sexual matters." The plan has won favor with conservative church groups but has been derided by family-planning advocates as an unrealistic "chastity act." Terrance Olson, professor of family sciences at Brigham Young University in Provo, Utah, is using funds from the new program to develop a conservative sex-education curriculum. Olson's offering stresses abstinence, and, he says, "we try to involve teenagers with their parents in understanding the issues of marriage, family and reproduction." The program has been tested in selected schools in Utah, California and New Mexico since 1982, but, he admits, "we can't have a lot of evidence yet that we've changed behavior."

Changing human behavior is, of course, always an elusive objective. When Researcher Douglas Kirby, head of the Washington-based Center for Population Options, studied the behavioral effects of sex education, he found them to be few and far between. Sex-education graduates certainly knew more about reproduction, but that did not significantly affect their habits. There was, however, one important exception. Kirby found that when sex-education programs are coupled with efforts to help teenagers obtain contraceptives, the pregnancy rate drops sharply.

The model for this type of program was the Mechanic Arts High School in St. Paul, which in 1973 became the first public high school in the U.S. to have its own full-service health clinic in the building. Set up by St. Paul-Ramsey Medical Center, it offered everything from immunizations to sport physicals to treatment for venereal disease. Significantly, it also advised teenagers on contraception and dispensed prescriptions for birth control devices (provided that parents had agreed beforehand to allow their children to visit the clinic).

Such clinics now exist at four other St. Paul high schools (Mechanic Arts High has been closed). The results have been dramatic. Between 1977 and 1984, births to female students fell from 59 per thousand to 26 per thousand. Even girls who did become pregnant seemed to benefit from the counseling. At Mechanic Arts High, their dropout rate fell from 45% to 10%, and only 1% had another unwanted pregnancy within two years of the first. The controversial clinic at Chicago's DeSable High School and ones at other schools around the country were modeled after St. Paul's pioneering program.

For all their apparent success, in-school clinics do not necessarily get at the emotional wellsprings of teenage pregnancy: the sense of hopelessness and resignation felt by many underprivileged girls. In Milwaukee, Janice Anderson, a successful black businesswoman, is trying to do something about it. Anderson, 36, was inspired to act last March when she read that her hometown led the country in birthrates among black teenagers. "I sat up in bed at 2 a.m. and wrote down the name of every black professional woman I knew," she recalls. "I came up with a list of 42 names and wrote to each one, asking them to come help their sisters." Anderson's early-hour inspiration evolved into Reach for the Stars, a volunteer program that pairs inner-city adolescents with black role models who are successful achievers.

Similar groups have begun to appear around the country. In New York, the Family Life program, co-sponsored by the state and the Children's Aid Society, is attempting to give dead-end kids a sense of self-esteem, says Michael Carrera, its energetic director. Since the program's initiation last February, not one of the 55 participating youngsters has become pregnant or fathered a child.

These efforts are aimed at what may be the true root of the teenage pregnancy problem: not simply lack of sex education or access to birth control but a sense of worthlessness and despair. Recounts Watson of Crittenton Center: "The girls tell me, 'Before I was pregnant, I was nothing. Now I am somebody. I'm a mother.'" As long as adolescents look in the mirror and see nobody there, they are likely to seek identity by becoming—ready or not—somebody's mother.

THE MISSING-FATHER MYTH

They are the forgotten partners. It is obvious but often overlooked: for every teenage mother there is a father, usually a teenager who finds himself treated as an outsider, receiving none of the solicitous attention that occasionally attends the mother and child. These fathers are usually depicted as churlish scamps, irresponsible hit-and-run artists out to prove their sexual prowess without a thought for the consequences. Until recently, no one even seemed to factor the father into the situation. But with the surge of concern about teenage mothers, several groups and studies have taken a closer look at teenage fathers. Their findings have challenged many prevailing myths.

A recent study partially funded by the Ford Foundation revealed that many young fathers are not only willing but eager to help their partner and offspring. The project, coordinated by New York City's Bank Street College of Education, offered vocational services, counseling, and prenatal and parenting classes to nearly 400 teenage fathers and prospective fathers in eight U.S. cities. At the end of the two-year program, 82% reported having daily contact with their children; 74% said they contributed to the child's financial support. Almost 90% maintained a relationship with the mother, whom they had known for an average of two years. "We are learning that many teen fathers are anxious to participate in the parenting of their children," says Prudence Brown of the Ford Foundation, but she points out, "they need a lot of help and support to help them assume a responsible father role."

Teenage fathers usually have lower incomes, less education and more children than do men who wait until at least the age of 20 to have children. One reason for this is that a teenager who has got his girlfriend pregnant often compounds his first mistake with a second one: dropping out of school. "When they leave school, they head right for a low-paying job," says Amy Williams, the executive director of the Teenage Pregnancy and Parenting Project in San Francisco. "Their own internal drummer says to them, 'If you are going to be a good father, you have to get a job.'" Few are able to perceive the trap they are falling into. Says a counselor: "Five years down the line, they won't have skills to qualify for much more than work in a fast-food restaurant."

Teenage fathers are usually bewildered by the news of the impending arrival. Their own fathers, statistics show, were often phantom parents, and the young men have very little idea of what a father is supposed to do. Notes Debra Klinman, project director of the Bank Street College study of teenage parents. "A lot of fathers want to love their babies and do the right thing for them, but they don't see how to do what is right."

For many of the young men there is also a conflict between the desire to provide for their children and doubts about their own abilities as providers. Says Tommy Milladge, a counselor at the Youth and Family Center in Lawndale, Calif.: "The paradox felt by teen fathers is that while they want the young lady to receive services, they are ambivalent because they can't provide for them the way they should. It defeats their masculinity." Until recently it was thought that this same sense of masculine pride would prevent young fathers from participating in programs designed to help them. The Bank Street College study showed that

the opposite was true: teen fathers lunged at the opportunity, particularly where job training was offered. At the end of the two-year program, 61% of the previously unemployed young men had found jobs. Perhaps more important, 46% of those who had dropped out of school had resumed their education.

Programs designed to assist teenage fathers are still relatively few, but their growing number offers hope in arresting the cycle of children producing children. Terry, who is now 21, has a 17-month-old child and is himself the child of teenage parents. After being helped by the Teenage Pregnancy and Parenting Project in San Francisco, he is now a counselor there. "My father was a parent when he was a teenager," Terry says firmly. "My mother and grandmother were. It didn't stop with me or with my brothers. I know it will stop with my son."●"

NATIONAL FIREFIGHTERS DAY

● Mr. GORTON. Mr. President, I am pleased to join my distinguished colleagues in cosponsoring Senate Joint Resolution 244, which designates October 8, 1986, as "National Firefighters Day." Appropriately, this day will occur during National Fire Prevention Week.

As chairman of the Subcommittee on Science, Technology, and Space, which oversees and authorizes the Federal Fire Prevention and Control Act, I am well aware of the tremendous dedication of our Nation's firefighters. These courageous men and women are devoted to saving lives. I can think of no group more deserving of such an honor.

Mr. President, I ask the Members of the Senate to reflect, for a moment, on the magnitude of the job of fighting fires in this country. Each year, public fire departments respond to roughly 2½ million fires. There are over 28,000 public fire departments, staffed by over 2 million career and volunteer firefighters. Property damage resulting from fires costs us between $6 and $7 billion per year. Tragically, civilian—nonfirefighters—fire deaths still exceed 5,000 per year, and civilian fire injuries top 28,000 per year; but I am encouraged that civilian fire injuries and deaths have declined in recent years.

I am distressed, however, that the loss of life to firefighters is increasing. Last year, 117 firefighters died in the line of duty. Injuries to firefighters exceed 100,000 per year, which is roughly 24 injuries per 1,000 fires attended. More than 10 percent of these injuries are severe enough to require hospital treatment. Clearly, firefighting is one of the most hazardous occupations in our Nation.

Fire prevention and control is primarily a State and local responsibility. The Federal role is to provide services that are impractical for each community to develop, such as the collection of fire data, research into the causes of fires and methods to reduce fire loss, and education. Training programs at the National Fire Academy promote firefighter safety. The U.S. Fire Administration seeks to reduce firefighter deaths and injuries by funding projects such as fires—a project to improve the protective equipment worn by firefighters.

The U.S. Fire Administration recognized the sacrifice made by our firefighters by establishing the National Fallen Fire Fighters Memorial in Emmitsburg, MD. During the annual Fire Prevention Week ceremonies, an observance is held at the memorial to increase public awareness of the hazards faced by firefighters. The bronze plaque on the beautiful 7-foot pyramid-shaped cairn of Indiana and Pennsylvania limestone carries the following message from our President, Ronald Reagan:

Dedicated to the thousands of fire fighters who lost their lives in the very act of saving others.

I commend this memorial and the annual observance to your attention.

Mr. President, I commend Senator DECONCINI for introducing this resolution, and I join with the other sponsors to express our gratitude for the sacrifices made by our gallant firefighters, our Nation's first line of defense against the ravages of fire.

FIREFIGHTER WALTER McGINN, A BRAVE BOSTON HERO

● Mr. KENNEDY. Mr. President, last Sunday, Boston firefighter Walter McGinn demonstrated his willingness to make the ultimate sacrifice when he risked his life to save a 28-year-old man about to leap from an elevated highway in Boston. Fireman McGinn wrapped himself around the man, who finally succeeded in jumping, dragging McGinn with him. Together they plunged 30 feet to what could have been sudden death for them both. Fortunately, McGinn's firefighting colleagues were perfectly positioned below, and managed to break their fall with a safety net. McGinn and four of the nine firefighters holding the net were injured, but not seriously, and the man they were trying to save was unhurt.

The need for committed public servants is revealed time and time again by those who face such crises with quiet heroism. But the courage of Walter McGinn in his unrelenting and successful effort to salvage the life of a man he did not know writes an eloquent chapter of bravery all its own. We are all grateful for the strength and dedication of men and women like Walter McGinn whose commitment in the service of their fellow human beings is an inspiration to Americans everywhere. The faith and leadership that Walter McGinn and his colleagues demonstrate daily is a tribute to the best ideals of our people and our country, and I salute his personal act of humanity.●

INFANT MORTALITY

● Mr. DURENBERGER. Mr. President, infant mortality is a major public health problem in this country. The rate of infants dying during their first year of life has markedly decreased over the years, but in recent years the rate of decline has suddenly slowed. While everyone tries to figure out just why this has happened, the U.S. infant mortality rate remains higher than that of a dozen other developed nations. This is completely unacceptable.

One thing is well known and undeniable: low birth weight is the single most important factor in the early death of infants. Babies born weighing less than 5½ pounds are 40 times more likely to die in their first 4 weeks of life than are their normal weight counterparts. Neonatal intensive care has been able to save the lives of many tiny ones; however, the cost of this high technology treatment is tremendous—between $15,000 and $100,000 for every baby's intensive care hospital stay.

Why not do all we can to keep these infants in the best incubator of all—their mother's womb? It makes all the sense in the world. And how do we do that? A recent Institute of Medicine study concluded that the single most important thing is for all pregnant women to receive adequate prenatal care.

This, unfortunately, is not happening in this country, given the variability of States' eligibility levels for the Medicaid Program and the sparseness of preventive services for low-income, high-risk pregnant women in this country.

Mr. President, there are two bills which have yet to be reported out of the Committee on Governmental Affairs, of which I am a member. S. 1620, of which I am the sponsor, would establish a Council on Access to Health Care. The other, S. 1209, sponsored by my distinguished colleague, the Senator from Florida, [Mr. CHILES], would set up a National Commission on Infant Mortality.

Mr. President, these two measures go hand in hand and are good policy for improving this Nation's health. We need to assure that all pregnant women have access to prenatal services. We need to know what the problems are with the current programs and how they can be made more effective. We also have to identify just how far we as a nation have come in assuring needed access to health care services for all Americans and what effects the recent changes in the financing of the health care industry are having on the access and quality of services.

This Council and Commission would give us information we need to accomplish these things. Only with this information can we really move ahead and get services to those who need them. Then we can certainly say that we are improving the public's health.

In a recent article in the Atlantic, Stephen Budiansky presented a timely view of what some of the problems are and why they exist for pregnant women who need prenatal care but are unable to get it.

Mr. President, I ask that this article be printed in the RECORD following my statement. I also ask my colleagues on the Governmental Affairs Committee and in Congress for their support of these important legislative initiatives. I look forward to returning in the new year and seeing their successful passage through both the committee and Senate.

The article follows:

PUBLIC HEALTH: A MEASURE OF FAILURE

Infant mortality, a public-health problem that most Americans, if they had to guess, would probably rank in importance somewhere between yellow fever and beriberi, has been getting a lot of attention lately. Public-health officials, who make their living dealing with things like AIDS, Legionnaires' disease, and an astounding assortment of poisonings, have come to refer to infant mortality with words like "worrisome" and "disquieting." Congressional hearings, governors' association reports, and mayoral task forces have become the order of the day.

The concern began three years ago, when the pace of decline in the country's rate of infant mortality suddenly slowed. Since 1965, when the infant-mortality rate in the United States was 24.7 deaths per thousand live births, the rate had fallen quickly—by 4.4 percent a year, on average. By 1982 infant mortality stood at 11.5 deaths per thousand live births. Then, in 1983, the rate fell by only 2.6 percent, to 11.2 deaths per thousand, and it seemed to many that nearly two decades of steady progress had come to an end.

Infant mortality has long been regarded as an indicator of a nation's health overall. In the United States it has had an added significance, underscoring gross economic and racial disparities in health and access to health care. It is not surprising, then, that interpretations of the slowdown have been distinctly political. When the 1983 figures were released, the Children's Defense Fund and the Food Research and Action Center—two Washington-based organizations that had been protesting the Reagan Administration's cutbacks in funds for Medicaid and food stamps—seized on them as evidence that the Administration's policy was causing real harm. Federal officials reacted by dismissing the slowdown as temporary—a "statistical artifact"—and suggested that in any case the major remaining causes of infant mortality were smoking, drinking, and drug-taking by pregnant women.

Provisional data for 1984—the most recent available—show that the slowdown had persisted: since 1983 the infant-mortality rate fell by only 2.8 percent. These days Administration officials do not try to argue that the pace of decline in infant mortality is satisfactory. But the explanations for the slowdown continue to have political implications, and the Administration continues to belittle any connection with the budget.

So far the debate has been less than illuminating. The best evidence to support a connection between infant mortality and the funding of social programs is a slight increase—immediately following the 1981-1982 cuts in the budgets of many federal health programs—in the percentage of women failing to receive timely prenatal care. Although that increase is significant inasmuch as it reversed a ten-year trend, its size is not impressive: from 1981 to 1982 the percentage of all pregnant women who either received no prenatal care or received it only in the last trimester rose from 5.2 to 5.4.

The budget-cut critics have been able to make a stronger case by marshaling data from states and localities which appear to show jumps in infant-mortality rates following cutbacks in health services. One often cited found that the infant-mortality rate for five Boston neighborhoods nearly doubled in a single year following funding cuts for neighborhood health centers. The trouble with such data is that vital statistics always fluctuate greatly from year to year in a small population. In a neighborhood where 100 babies are born each year there should be an average of one infant death a year, given the current U.S. infant-mortality rate of 10.6 per thousand. But there might well be two infant deaths one year and none the next. Such fluctuations would cause the infant-mortality rate for the neighborhood to appear to jump to twice the national average and then fall to zero. Trends are reliably ascertained only by looking at large samples or by sampling over a long period.

Because the debate over the cause of the recent slowdown has focused on the short term, a larger message contained in the numbers has been lost. The data point to the existence of a problem that has little to do with the politics of the past few years and a lot to do with the fundamental nature of our health-care system.

To put the story in context, we really need to begin with 1900, when an infant born in America faced a one-in-ten chance of dying before its first birthday. Infectious diseases, abetted by poor sanitation and unopposed by antibiotics, took the biggest toll on infant life.

Public-health researchers divide infant deaths into two groups: those that occur within the first four weeks (the majority being the result of low birth weight) and those that occur from the age of one month to one year (generally as a result of environmental factors, such as infectious disease or accidents). In 1900 a third of infant deaths occurred in the first month, and two thirds after—a sobering reminder of the threat once posed by whooping cough, scarlet fever, diphtheria, and other illnesses.

By 1950 the overall infant-mortality rate had fallen by two thirds. Significantly, nearly all of the improvement had come in the category of deaths after four weeks. Infectious disease had been conquered, but the underweight newborns were dying as readily as ever.

After a long plateau from 1955 or so to 1965, infant mortality began another sharp decline. From 1965 to 1982 it fell by half, but this time the bulk of the improvement—three quarters—came in the category of deaths within the first four weeks. The explanation is not hard to discern: beginning in the mid-sixties intensive care for underweight newborns came into its own. Incubators, monitoring devices, and respirators designed especially for infants were perfected; hospitals established regional intensive-care facilities for newborns. Infants who once would have had no chance to survive were being saved.

Meanwhile, the reason for all the new facilities—low birth weight—persisted. Today low birth weight is the single most important factor in the early deaths of infants. Newborns who weigh less than five and a half pounds are prone to such problems as hemorrhages, infections, and respiratory ailments. As a result they are forty times more likely to die in their first four weeks than are their normal-weight counterparts. The difference in American infant-mortality rates for blacks and whites—black infants are twice as likely to die—is paralleled by a difference between the two groups in the incidence of low birth weight. Despite all the progress achieved in the United States since 1900, the low-birth-weight rate has declined slowly—much more slowly than the rate of infant mortality. For example, whereas from 1965 to 1982 the overall infant-mortality rate fell by 4.4 percent per year and the rate of infant mortality in the first month by 4.8 percent per year, the low-birth-weight rate fell by only 1.2 percent per year.

The biological cause of low birth weight is simply not understood. Some people have suggested that the disappointing U.S. statistics for low birth weight and infant mortality mean that a fundamental physiological limit has been reached, and that it is unreasonable to expect much more improvement. Over and over again, however, epidemiological studies have shown that inadequate prenatal care, poor nutrition, poor education, teenage pregnancy, smoking, drinking, and drug use are risk factors. Moreover, the performance of the United States does not match that of other developed countries. For the past twenty years the United States have never ranked higher than thirteenth on the list of countries with the lowest infant-mortality rates. Those countries whose rates are lower than ours continue to make progress in achieving further reductions; they also have less incidence of low birth weight. It has been argued that in the Scandinavian countries and Japan, where infant-mortality and low-birth-weight rates are lowest, the population is ethnically homogeneous. Yet even if one considers the infant-mortality and low-birth-weight rates for white Americans only, the Scandinavians and the Japanese are still ahead.

The Reagan budget cuts in programs designed to improve nutrition, education, and health care may have made those services marginally less effective, but the real message in the statistics is that even when those programs were fully funded they did not go far enough. Conservative ideologists hold that the Great Society and War on Poverty programs, started in the 1960s, failed because they were poorly managed or were based on speculative social theories. But there is nothing speculative about the effects of prenatal care. A recent study by the Institute of Medicine, an affiliate of the National Academy of Sciences, concluded that providing adequate prenatal care to women who currently lack the means to receive it could reduce the national incidence of low birth weight by 15 percent—ten years' worth of progress at current rates. Medicaid, which provides free medical care to the poor, is hampered by some perverse restrictions. In twenty states a pregnant woman in a two-salary household cannot receive Medicaid coverage for prenatal care, no matter how low the household income might be. A

single pregnant woman living alone must have an income far below the federal poverty level of $437.50 a month to qualify in most states. In the worst case, Alabama, the cutoff is $88 a month. Even before the Reagan budget cuts only about half of all women of childbearing age whose incomes fell below the federal poverty line were eligible for Medicaid.

The obvious solution is to spend more money—not a very popular idea these days. But the implicit decision, made in the 1960s, to save infants through the high technology of neonatal intensive care has proved very costly indeed—running to perhaps $2 billion a year. A stay in an intensive-care nursery can cost from $15,000 to well over $100,000. According to the Institute of Medicine study, preventing low birth weight would be cheaper. The study compared the cost of providing adequate prenatal care to one large group of women at high risk of having underweight babies—the 1.4 million women who did not finish high school who receive some form of government assistance, and who are not now receiving adequate prenatal care—with the savings that would be realized if there were fewer underweight babies in need of hospitalization. It was calculated that the investment in prenatal care would yield a net return of from $12 million to $29 million a year.

Prevention may become an even more attractive investment as further innovations in high-tech intensive care yield diminishing returns. Already in geriatrics wards much life-sustaining technology is merely death-delaying; machines can keep a patient breathing while doctors stand by, helpless to alter the course of the ailment. Geriatrics technology has advanced faster than medicine. Provisional statistics from the Department of Health and Human Services for 1983 and 1984 suggest that this may also be the case with neonatal intensive care. For although the overall infant-mortality rate continues to decline slowly, as does the mortality rate for vulnerable infants under four weeks old, the rate for infants four weeks old and over actually appears to be increasing. In other words, the heroic efforts of the intensive-care nursery are keeping alive for at least a month more infants who used to die shortly after birth—but many of those infants still die before the year is out.

Our present system of health insurance ensures that society as a whole foots the bill—in the form of higher insurance premiums—for any new medical technology that makes it out of the experimental phase. Society likewise foots the bill for treating uninsured patients, because hospitals pass on the costs in the form of higher fees. Yet those same hospitals that take charity cases in an emergency generally refuse to provide free preventive care. Medicaid, similarly, winds up paying emergency intensive-care costs of "medically needy" infants whose mothers have been ineligible for prenatal-care coverage. These costs are large but hidden, and they won't be eliminated until all pregnant women are assured access to prenatal care as a matter of course.—STEPHEN BUDIANSKY.●

THE IMPORTANCE OF CONTINUING TO COMPLY WITH THE SALT II TREATY

● Mr. LEVIN. Mr. President, I wish to join my Senate colleagues and other concerned Americans in urging the President to continue to observe the provisions of the SALT II Treaty beyond the treaty expiration date of December 31 of this year.

When considering the desirability of extending the provisions of the SALT II Treaty, and it is indeed desirable, it is important to note possibly the most unusual and important aspect of the SALT II Treaty. This treaty, unratified by the Senate and not officially binding upon either the United States or the Soviet Union, has nonetheless been observed by both countries since 1980. Despite many, strong disagreements between both countries; despite treaty limitations which explicitly and rigidly restrict the development and deployment of nuclear weapons on both sides; the SALT II Treaty in large measure has been observed by both countries. This is a wonder. The question is, Why has the unratified SALT II Treaty been observed for so long? Many close advisers to the President have recommended that he repudiate the treaty. He hasn't, and neither have the Soviets.

Let me suggest why this is so.

There are two reasons for observing a treaty: One is the benefits realized by observing the treaty. The other is the cost of repudiating the treaty.

The SALT II Treaty benefits the United States in a variety of ways. Most importantly, the treaty has put explicit, verifiable limits on the development, modification, and deployment of nuclear weapons: ICBM's, submarine-launched ballistic missiles, bombers, and cruise missiles. These limits have nonetheless permitted modernization of the respective nuclear forces. We have now reached those limits in the area of submarine-launched missiles and both sides are now decommissioning or otherwise removing older submarines from their nuclear roles. This is a clear example of the treaty working to our mutual benefit. The Soviet Union, alone, between 1974 and today, has retired hundreds of missiles from its nuclear forces in order to replace their older missiles with newer ones and still remain within the limits of the SALT I and SALT II Treaties. These treaties have worked and are working.

Critics of the treaty will point out that the destructive power of the nuclear forces of both the United States and the Soviet Union has increased despite the SALT agreements. They are correct. The treaties were not intended to reduce the size of the nuclear forces, but to limit growth of nuclear weapons, especially of the most dangerous weapons. Those critics tend to ignore the fact that the Joint Statement of Principles within SALT II was to serve as the basis of SALT III negotiations. And in SALT III, one of the principal objectives was significant and substantial reduction in strategic offensive weapons. In other words, SALT II was a critical precondition for the actual reduction of the nuclear arsenals of the United States and the Soviet Union. Another benefit of the SALT process has been that it has established an agreed-upon rubric for the conduct of these extraordinarily important and complex negotiations. These rules and procedures were hard won and it would be a tragedy to jeopardize them by repudiating the SALT II agreement.

Beyond the benefits of continued observance of the SALT II Treaty, there are the costs of repudiation. Repudiation of SALT II would almost certainly bring an end to substantive arms control negotiations for the Reagan administration. The recent summit between President Reagan and Secretary General Gorbachev has established a framework for negotiations. This framework would be dashed if the President refuses to continue observing the SALT II limits. This would be bad enough, but, worse, such action could precipitate a nuclear arms race of frightful dimensions. The technological genies which live in our aerospace industries are capable of shaping nuclear weapons to be used in space or on Earth that are beyond our imaginations. Other nuclear weapons control treaties, such as the test ban treaty or the nuclear nonproliferation treaty, could be swept away in such an arms race. The hope for a better, more secure world which the Geneva summit extended to us all would be gone for many years.

It is for these reasons that I urge the President to heed his better instincts and the heartfelt hopes of people everywhere and continue U.S. compliance with the SALT II Treaty.●

TRIBUTE TO POSTMASTER NATALE E. FELICETTI

● Mr. PELL. Mr. President, I noted with great interest over the weekend a most deserving tribute in the Westerly Sun to retiring Postmaster Natale E. Felicetti of Westerly, RI, which I would like to share with my colleagues.

In this period when it seems fashionable to criticize Federal and postal employees, many of whom go unrecognized year after year for their excellent contibutions to the quality of life and individual citizens, it is most rewarding to read a fine tribute regarding a career civil servant who has sacrificed much to ensure that families are brought closer through the mail service.

The career of Natale E. Felicetti is an example of excellence and sacrifice in Government service. It is a remainder to the citizens of our country of exemplary service rendered on a daily basis by many Federal and postal employees. Equally important, the example set by Postmaster Felicetti is one

for current and future Federal employee to aspire to.

My warmest congratulations to Postmaster Felicetti.

Mr. President, I ask that the text of the article from the Westerly Sun appear in the CONGRESSIONAL RECORD.

The article follows:

[From the Westerly Sun, Dec. 15, 1985]

RETIRING POSTMASTER RECALLS A DRAMATICALLY DIFFERENT DAY

(By Stephanie LaTour)

WESTERLY.—When Postmaster Natale E. Felicetti started working for the Postal Service in 1936, at 65 cents an hour, all mail was delivered by train and sorted by hand.

Back then, it cost only two cents to mail a sealed letter, even less for an unsealed one.

In his 49 years with the Postal Service, Felicetti has seen a lot of change.

As his retirement approaches, he looks back on the good old days, when the service had not "lost its personal touch."

"When I used to deliver mail down in Misquamicut, I knew all the families personally," Felicetti says.

"In fact, the most tragic stage of my career was the hurricane of 1938, when I saw those people lose their homes and their lives. It was horrible.

"My favorite work, though, was doing the window clerk position because that's when I got to meet everybody," he adds.

"Of course, we have to keep up with progress. But it's too bad we have to lose that personal touch along the way."

Felicetti was in high school when the Depression began, working as a delivery boy. Sometimes the chauffeurs and maids of the Watch Hill families would sneak him an ice cream after a delivery, he says.

"You really appreciated a thing like that in those days. Everyone helped each other and learned the value of a dollar. Why, I used to go out on a date with 20 cents in my pocket."

After graduating from Westerly High School in 1932, Felicetti went to Rhode Island State College (now the University of Rhode Island) with the idea of becoming a dentist. But he had to leave college to get a job after an illness had drained away much of his parents' money.

"My sister urged me to take the postal exam. I had never thought about it, but I figured 'Why not?' Well, I'm glad she did think of it because I ended up loving the Postal Service."

"Sometimes I would dream about being a big Wall Street broker, you know. . . . But I've never really considered leaving the Postal Service. It's the greatest."

Felicetti, who got a 94.5 on that original test, moved up in the Postal Service through the years. He became a permanent letter carrier in 1941, a sub-clerk in 1942, a regular clerk in 1944, then assistant postmaster in 1955.

During World War II, when the night employees had to work with the blinds drawn tight for the wartime blackout, Felicetti would call families if a letter arrived from "their boys overseas," he says. "They would come at any time of the night to get those letters, even past midnight. We knew how important it was to them."

"In 1966, Felicetti helped organize a program called "Packages for Vietnam," allowing people to send Christmas packages to family members in Vietnam for half price. The local committee later received a letter from Vietnam commander Gen. William C. Westmoreland commending the program, through which hundreds of packages and cigarette cartons were sent to the front.

One of the biggest periods of change came in 1971, says Felicetti, when the Postal Service was reorganized as an independent organization. The postmaster position, which had been a "political plum," became based more on merit, he says.

When former postmaster Charles Butler retired in 1976, Felicetti was appointed to replace him, after rigorous screening.

Since then, he has been responsible for running the post office, maintaining a budget and making improvements. "I basically have to oversee everything. It has kept me pretty busy," he says.

As postmaster, Felicetti is on call seven days a week. One year, he even had to go out on Christmas day to take care of an express mail delivery.

Many other activities have kept him busy, including an appointment as beach commissioner, a position on the Advisory Charter Revision Commission and involvement in the Lions Club, Knights of Columbus and the Calabrese Society.

Felicetti, now 71 lives with his wife, the former Yvonne Boucher of Voluntown, on Lawrence Street. He says he likes gardening and spending time at the beach during his free time.

Many members of Felicetti's family work for the Postal Service, including his son Robert N. Felicetti, postmaster of West Kingston, and his son-in-law, Glenn Handley, a postal carrier in West Warwick. He has a daughter, Sheila Handley of Westerly, and five grandchildren.

"I tell the young people, like my grandchildren, to consider entering the Postal Service," he says, "You can't beat it for security and for the opportunity to move up if you work hard."

What will Felicetti do after retiring in January?

He says he plans to "take it easy" for a few months and take care of his ice cream business at the beach.

"It will be a readjustment," he says, "There's no question about it, I'm definitely going to miss the place."

There will be a testimonial dinner in honor of Felicetti on Jan. 18. at the Calabrese Club, starting with a social hour at 6:30 p.m., then dinner at 7:30 p.m. Invited guests include Leo Manfred, chairman, George Salimano, vice chairman, Joseph Turco, Anthony Chiaradio Jr., Capt. Robert Chiaradio and Milton Holland. The Calabrese Club may be contacted for tickets.

ACTION ON RADON NEEDED

● Mr. LAUTENBERG. Mr. President, just over a year ago, the potential for significant indoor radon contamination came to our attention when Stanley Watras, a worker at a nuclear facility in eastern Pennsylvania, set off a radioactive alarm upon entering the facility. The source of Mr. Watras' contamination turned out to be his home, which contained dangerously high levels of radon contamination: the highest levels ever recorded in a residence. The level of radiation Mr. Watras was exposed to was equivalent to exposure to 455,000 chest x-rays in a single year.

Since the Watras incident, we have learned a great deal about radon. But for every question we address, another arises. From studies on uranium miners, we know that exposure to high levels of radon over an extended period of time results in lung cancer. But we don't know what levels in a home would pose a similar threat.

Radon contamination in Pennsylvania, New Jersey, and New York has been traced to large deposits of uranium lying in a geologic formation known as the Reading Prong. But radon problems have been detected throughout the country, under vastly different geologic conditions.

Mitigation has worked in some homes, but not in others. In some, radon levels were reduced to safe levels, one to rise again to hazardous concentrations.

The need for increased Federal attention to radon is clear. The Centers of Disease Control has estimated that 6 million Americans could be exposed to hazardous levels of radon. An estimated 5,000 to 30,000 lung cancer deaths may be attributable to radon each year. Over the course of this year, I have tried to focus Federal attention on the dangers of radon.

Earlier this year, I joined Senators MITCHELL and BRADLEY in sponsoring the Indoor Air Quality Research Act of 1985, which was adopted by the Senate as an amendment to the Superfund reauthorization bill. This bill establishes, for the first time, within EPA, a comprehensive indoor air program, with an emphasis on radon. It lays the foundation for an effective national radon program

Additionally, during consideration of the fiscal year 1986 HUD-Independent Agencies appropriations bill, I was successful in securing $1.5 million in funding for the EPA for radon research, and an additional $1.5 million for general indoor air research. This funding is a starting point, and represents a down payment on a 5-year plan that professional staff at EPA has developed for Administrator Thomas. EPA intends to use the bulk of these funds for an expanded radon mitigation demonstration project, which has been started on a limited scale in Pennsylvania. It is my hope that EPA will include New Jersey in this expanded program.

Mr. President, radon is a national problem. Some 30 States have been found to have some degree of radon contamination. In New Jersey, we identified our problem earlier than most other States. Problems in New Jersey, and Pennsylvania, are well documented. In three radon workshops I have held throughout New Jersey, almost a thousand people have attended, a clear indication of the level of concern in my State. And it is only a matter of time before this concern is shared by citizens throughout this country.

There is a clear need for action. Four steps must be taken in our efforts to deal with the problem of radon: First, we must assess the scope of our problems nationally, and find the hot-spots; we must develop efficient and affordable mitigation measures; we must establish adequate health guidelines for residential radon exposure; and we must disseminate this information to the public.

Radon is a problem that can be dealth with, and must be dealt with. I will continue to work to see the Federal Government take the necessary action on radon, and hope my colleagues will join me in this effort.●

A TRIBUTE TO FRANCIS "MAC" McADAMS

● Mr. DODD. Mr. President, I wish to pay tribute to a friend and a fine public servant, Francis H. McAdams, known by his family and friends as "Mac," who recently passed away.

Mac's life spanned an ever-active 69 years. He devoted most of those years to the world of aviation: Flying seemed a fitting avocation for this man's generous and imaginative spirit.

Mac was one of the original members of the National Transportation Safety Board, which is responsible for investigating airline accidents, and a longtime advocate of improved training for airline pilots.

To the residents of Washington, DC, Mac is probably best remembered as the board member in charge of investigating the Air Florida jet crash into the 14th Street Bridge, a tragedy that killed 78 people. With his reassuring and fatherly manner, Mac was able to comfort the entire city in a time of grief and confusion.

Mac was also known as the "great dissenter" among his colleagues on the board. In keeping with his determined character, he was not afraid to disagree with the other members on findings of probable cause in transportation accidents.

The dissent for which he is best known involved a midair collision over San Diego in 1978 that killed 144 people. Not satisfied with the board's conclusion that the probable cause "was the failure of the flight crew" of one of the planes, Mac argued that "inadequacies of the air traffic control system" were the probable cause. This contention was eventually adopted as the board's majority opinion. Everyone of us who uses the airlines owes a debt of gratitude to Mac for his persistence and thoroughness in ensuring that these tragic accidents would never be repeated.

Born in Brooklyn, NY, Mac graduated from Georgetown University and Law School. His affinity for flying began in 1939 when he earned his commercial pilot's certificate. He served as a Navy Pilot in World War II and was executive officer of an aircraft-carrier fighter squadron. After the war, he was employed by Capital Airlines as an attorney. His civil career in Government began when he joined the Civil Aeronautics Board in 1948.

In 1967, Mac was appointed to the Transportation Safety Board by President Johnson. He was reappointed three times thereafter, by Presidents Nixon, Ford, and Carter. He served with the Safety Board until 1983. He then served as safety counselor of the Air Transport Association, the major airlines' trade group.

Mac is survived by two daughters, Hope and Wootie, two sons, Michael and Peter, a son-in-law, Steven, and a grandson, Simon, of whom he was very proud.

Mac will long be remembered by his family, his friends, and those he worked with and for. His many and valuable contributions will not be forgotten. But most of all, Mr. President, we shall miss him.●

NEXRAD

● Mr. DANFORTH. Mr. President, I would like to update my colleagues on the status of development of the Federal Government's next generation weather radar system. The system, known as Nexrad, is being developed to the specified requirements of the National Weather Service, the Federal Aviation Administration, and the Air Force, and is intended to replace existing Federal weather radar units, many of which were designed in the 1950's and 1960's.

The Nexrad system will improve dramatically our ability to monitor and predict severe weather conditions such as tornadoes, thunderstorms, and flash floods. Nexrad is a Doppler radar system, capable of generating detailed meteorological data which, combined with advanced processing and display systems, will revolutionize severe weather forecasting.

Nexrad is being developed to support a number of Federal missions, including hazardous weather warnings, flash flood predictions, aviation warnings, water resource management, and protection of military resources. Improved performance of these missions will reduce the annual average of 600 deaths and $20 billion in damages caused by severe weather in the United States.

Mr. President, the benefits of Nexrad will be greatest in areas such as my home state of Missouri, where tornadoes and thunderstorms are common. Tests have shown that Nexrad can provide tornado warnings in specific areas with average lead times of 20 minutes, compared to the current average of one-minute lead time for area-specific warnings. The warnings also will be accurate enough to increase responsiveness. One problem with the current system is that warnings are often general or inaccurate, and frequent false alarms cause people to ignore the forecasts. Nexrad will provide warnings that are timely and accurate enough to enable people to take measures to protect themselves and their property from severe storms.

Nexrad will provide significant benefits to Missouri, where, in an average year, severe weather kills or injures nearly 100 people and causes about $80 million in economic damage. I am very pleased that three of the first 10 Nexrad units will be installed in Missouri.

I also anticipate that Nexrad will improve the services provided by the National Severe Storms Forecast Center and the National Aviation Weather Advisory Unit, both of which are located in Kansas City, MO. These facilities have respective national responsibility for severe weather advisories and aviation warnings. Both facilities already do excellent jobs of providing area advisories, but Nexrad is needed to increase the lead time of these advisories and to enable local forecasters to develop more specific watches and warnings.

Mr. President, Nexrad development has proceeded in accordance with system requirements and a schedule agreed upon by the three responsible agencies. The schedule, which calls for deployment of the first operational Nexrad units in 1988, was observed through research phases and into a competitive evaluation phase involving two system contractors. Limited production is scheduled to begin during fiscal year 1986. The administration, however, reduced Nexrad funding in order to study Nexrad against alternative technologies to see if a more cost-effective system should be developed.

The Commerce Committee, which authorizes National Weather Service and Federal Aviation Administration funding, has supported the original technical requirements and schedule originally established for Nexrad. With regard to the administration's decision to undertake a study of alternative technologies, the committee stated, in a report on a fiscal year 1986 National Oceanic and Atmospheric Administration [NOAA] authorization bill (S. 1103), that:

> Regardless of whether such study is carried out, all interested parties agree that the original development schedule and technical requirements for Nexrad should not be compromised. The Committee notes that the Nexrad schedule calls for limited production of Nexrad units during fiscal year 1986, and the committee expects to be notified by NOAA of NOAA's plans for proceeding with established system requirements.

The administration's study, carried out by the Advisory Committee for Nexrad system requirements evaluation, has been completed, and I was pleased upon receiving the Advisory

Committee's final report to learn that the Advisory Committee has echoed the position taken by the Commerce Committee. The Advisory Committee reported that the technical requirements for Nexrad are appropriate and should not be compromised. The Administrator of NOAA, Tony Calio, has informed me that he believes Nexrad development should proceed without further delay.

Mr. President, I am encouraged by these recent developments. However, I remain concerned about future administration actions to unreasonably delay Nexrad development. While spending for Nexrad will unavoidably come under scrutiny pursuant to the new Gramm-Rudman budget process, Nexrad should be considered in the context of necessary Federal programs. The cost of the system will be great, in the order of several hundred million dollars, but the benefits will be even greater. If Nexrad reduces by 1 percent the property damage caused by severe weather, the system will pay for itself in 2 years. This estimate ignores the potential for saving of lives, which we cannot measure in dollars. The need for the Nexrad system is clear, and I hope my colleagues agree that its development should not be subject to any unnecessary delays.●

TRIBUTE TO WEST VIRGINIA SERVICEMEN

Mr. ROCKEFELLER. Mr. President, last Thursday, a tragic air crash claimed the lives of 258 American soldiers of the 101st Airborne Division. Five of these young men were West Virginians. I would like to take a moment to pay tribute to Pfc. Mark Abrams of Rhodell, Sgt. Kevin Gantzer of Wheeling, Pfc. Thomas Hileman of Fairmont, P2c David Jordan of Nitro, and Sgt. James Mollett of Kermit, and all their brethren. These dedicated men were part of a multinational peacekeeping force in the Middle East. After serving their country half way across the world, they were on their way home to spend the holiday season with their families and friends. I know I join with the entire country in expressing my deep sympathy to each family. I hope they will find some comfort knowing the selfless role their loved ones played in furthering the case of world peace. As Charles Dickens wrote:

When Death strikes down the innocent and young, for every fragile form from which he lets the panting spirit free, a hundred virtues rise, in shapes of mercy, charity, and love to walk the world, and bless it.●

SUPPORT FOR MEDVID PANEL ON ASYLUM

● Mr. HUMPHREY. Mr. President, on December 6, I introduced a resolution on behalf of myself and 52 of my colleagues that would establish a special Senate panel on asylum to investigate the bungling of the case of Miroslav Medvid. I have been greatly encouraged by the tremendous support from across the political spectrum that this resolution has received. Today I received a letter from Hyman Bookbinder of the American Jewish Committee, pledging their support for this resolution. I ask that the full text of this letter be printed in the CONGRESSIONAL RECORD.

The letter follows:

THE AMERICAN JEWISH COMMITTEE,
Washington, DC, December 18, 1985.
Senator GORDON HUMPHREY,
Hart Office Building,
Washington, DC.

DEAR SENATOR: We support your efforts to thoroughly investigate the human rights case of the Ukranian seaman, Miroslav Medvid, who was returned by the U.S. Border Patrol to the Soviet Freighter, the Marshall Koniev, on October 29, 1985.

The American Jewish Committee is pleased to note the wide range of bi-partisan support you have received for your proposal to create a special 7 member panel. We offer full cooperation in your efforts to explore the implications of the Medvid case and its significance for our present asylum procedures.

Sincerely,

HYMAN BOOKBINDER,
Washington Representative.

MARTIN LUTHER KING DAY

● Mr. RIEGLE. Mr. President, 1986 marks the first year that we as a nation will acknowledge the contributions and achievements of the Reverend Martin Luther King, Jr., by celebrating a national holiday in his honor on January 20. I would like to take a few moments to reflect on the vital contributions Dr. King made as a leader in the fight for equality.

Dr. King's courage and restraint inspired a new quest for a freedom long awaited for by our Nation's minorities and the oppressed. Through his nonviolent resistance and passionate oratory, Dr. King was able to elevate the struggle for civil rights to the forefront it deserved on the national agenda.

Dr. King's basic doctrine, as he proclaimed in a speech during the bus boycott in Montgomery, AL, was as follows:

If you will protect courageously, and yet with dignity and Christian love, when history books are written in future generations, the historians will have to pause and say, "There lived a great people—a black people—who injected new meaning and dignity into the veins of civilization." This is our challenge and our overwhelming responsibility.

Dr. King spoke not for one group, but for many, and although he did not live to see his dream come true, we as a nation must continue to keep his dream and commitment to equal opportunity for all people alive.

In my home State of Michigan, there are many tributes and events taking place to honor one of the few individuals in our Nation's history who touched our collective conscience as deeply as did Mr. King. January 20 will serve as a reminder of the work still to be done, and the challenges still to be met as we strive to reach the dream that Dr. Martin Luther King cherished.●

SMALL BUSINESS COMMITTEE'S INITIATIVE TO SIMPLIFY "SMALL PURCHASE" PROCUREMENT PRACTICES

● Mr. WEICKER. Mr. President, the Committee on Small Business is now in the process of conducting an inquiry into the "small purchase" practices used by various Federal agencies. The ultimate purpose of this committee initiative is to devise ways to simplify the Government's small purchase procurement procedures and forms to encourage small businesses to compete in this segment of the Federal procurement market. Today, I would like to share with my colleagues the broad outline of the committee's effort and to enlist their suggestions and their support.

To begin, Mr. President, let me describe what is meant by a "small purchase" in the Federal procurement process and where these procurements fit in the overall universe of the total Federal procurement market. By statute, any procurement opportunity which is valued at less than $25,000 is recognized as a "small purchase" and may be awarded through so-called "simplified small purchase procedures." Small purchases encompass the acquisition of the complete spectrum of items of supply, services, and construction (principally repair or alteration of existing structures). In the acquisition of supplies, small purchases can include both one-time buys of common, commercial items by remote field offices to the repetitive purchase of "spare parts" fabricated to Government design specifications by the large inventory control points operated by the military services to stock the Defense Department's supply system.

In fiscal year 1985, the executive branch expended slightly less than $183 billion through slightly more than 21.1 million procurement actions (contract awards and contract modifications). What is generally not recognized is that 98.1 percent of these procurement actions, some 20.7 million procurement actions, are below the "small purchase" threshold, only recently raised from $10,000 to $25,000.

This vast "small purchase" market, which aggregated to a total of slightly more than $16 billion in fiscal year 1985, or about 8.8 percent of the total

for the fiscal year, should be a prime market for small business participation. This fact was recognized by the Congress in 1978, when it established a statutory small business reserve for small purchase contracting opportunities. Under Public Law 95-507, all procurements conducted under small purchase procedures were reserved for exclusive competition among small business concerns.

Yet, Mr. President, from the very limited data available from the Federal procurement data center (the Government's centralized procurement data repository operated by the General Services Administration under the statutorily recognized policy direction of the office of Federal procurement policy), it is estimated that small businesses receive less than 50 percent of the "small purchase" contract awards. Further, one would intuitively expect that the award of contracts for supplies, services, or construction valued at $25,000 or less would be highly competitive. This, too, does not seem to be the case. In fiscal year 1985, 45.1 percent of all procurement actions reported as "small purchases," almost 9.4 million procurement actions, totaling $7.3 billion, were made on a noncompetitive basis. Even after eliminating modifications to existing contracts, which are legitimately noncompetitive, it is estimated that between 30-40 percent of small purchase contract awards are being made on a sole-source basis. We need to know, Mr. President, why this is so, and that is part of the goal of the committee's inquiry.

If we find that the small purchase market is as noncompetitive as it appears to be, it may be that we need to communicate to the managers of the Federal procurement system that the congressional mandate for competitive procurements, clearly enunciated in the Competition in Contracting Act of 1984, does extend to those purchases below the small purchase threshold. I would hasten to add any legislative direction aimed at enhancing the competitive character of these millions of small purchase contract awards must give special recognition to the costs, in terms of time and personnel, that may be associated with seeking to foster such an improved competitive environment. Competitive procurement practices are not an end in themselves, but a means to better utilization of taxpayer dollars to fulfill recognized public requirements in the most effective manner. But, Mr. President, the procurement process, whether it be for "small purchases" or those contract opportunities over the small purchase threshold, must be an open process that permits any qualified supplier to compete.

From the committee's initial efforts, it has become clear that the "small purchase" element of the overall Federal procurement process, some 20.7 million procurement actions in fiscal year 1985, have received very little attention, both within the executive branch and from the Congress. The principal reason is probably that all these actions totalled "only" $16 billion in fiscal year 1985, a "mere" 8.8 percent of the total, and are therefore considered "small potatoes" by those charged with managing the procurement process.

Mr. President, I have already alluded to the very inadequate data that is being centrally maintained through the Federal Procurement Data System [FPDS]. The data on "small purchase" procurement actions being reported to the EPDS does not differentiate the simple, but important, distinction between types of actions. For example, we presently cannot readily determine whether an action is a new contract award or a modification to an existing contract. Nor, can we separate out those awards of less than $1,000 which are currently exempt by regulation from any requirement to seek competition. This makes impossible any analysis of the competition that exists in a market that has consistently constituted the vast majority of contract awards. Similarly, the current FPDS reporting system does not differentiate among contract modifications included in the "small purchases" count. For example, five contract modifications to a $5 million contract, if each were under $25,000, would be counted as a "small purchase" action along with a $1,500 modification to a true small purchase contract of, say, $15,000. It almost seems that the data collection system, the FPDS, was designed to obscure the parameters of the "small purchase" market, rather than to define them.

Interestingly, the committee staff's initial inquiries have revealed that more detailed information, in significantly divergent formats, is being maintained at the Department of Defense, by one of the military services, by that services major procurement commands, and even by major procurement centers within those service procurement commands. Interviews reflect that this additional data is being collected because these procurement managers believe that it is needed to manage effectively. Presently, the Office of Federal Procurement Policy is leading a comprehensive assessment of the Federal Procurement Data System. Hopefully, the inadequacy of the data being centrally collected on small purchases will be addressed during this effort.

Congress, too, has been generally inattentive to the vast small purchase segment in the overall Federal procurement market, despite devoting substantial time and energy to Federal procurement practices, generally, and those of the Department of Defense, in particular. During the 98th Congress, three major pieces of basic procurement policy legislation were enacted into law: The "Competition in Contracting Act of 1984", a part of Public Law 98-369; the "Defense Procurement Reform Act of 1984", title XII of Public Law 98-525; and the "Small Business and Federal Procurement Competition Enhancement Act of 1984", Public Law 98-577. Yet, all of those important pieces of procurement policy legislation properly focused on the solicitation and award of contracts above the small purchase threshold, the 1.9 percent of the procurement actions (only 411,407 in fiscal year 1985) which accounted for 91.2 percent of the procurement dollars expended ($166.8 billion in fiscal year 1985). The Committee now believes, Mr. President, that the "small purchase" procurement process, should receive a comprehensive review to assure that the congressional objectives embodied in the recently enacted legislation, especially the Competition in Contracting Act of 1984, are reflected in the small purchases procurement market.

Some useful analysis of the small purchases procurement practices of the executive agencies has been undertaken through the leadership of the Office of Federal Procurement Policy [OFPP]. In seeking to implement Executive Order 12352 (Federal Procurement Reforms), issued in March 1982, OFPP organized six interagency working groups, one of which was charged with devising concrete recommendations to implement section 1(E) of the executive order. This provision of the executive order tasked the managers of the Federal Procurement System to "establish programs to simplify small purchases and minimize paperwork burdens imposed on the private sector, particularly small businesses."

The final report of the OFPP task group was issued in March 1984, and distributed to the various executive departments and agencies by OMB in May 1984. Each agency was left to its own initiative to make use of the report's array of recommendations. One of the task group's most promising endeavors, the development of a model small purchase manual for use by all agencies, seems to have languished. Mr. President, the seemingly unnecessary differences in the procedures and forms used by the various executive agencies in awarding small purchase contracts is one of the complaints most frequently heard from small businesses.

Further, Mr. President, the task group, composed of agency procurement managers, tended to focus on changes that would be most beneficial to those doing the buying for the agencies rather than those competing to win the contracts, the small business contractors. In working with the

report of the OFPP task group on small purchase simplification, the committee will seek to inject greater balance by working closely with various groups representing the interests of small business Government contractors.

Some of the task group's recommendations were incorporated into OMB's so-called "management budget" for fiscal year 1986 (Management of the United States Government, Fiscal Year 1986). Several legislative proposals relating small purchase simplification were subsequently presented to the Congress, one being referred to the Small Business Committee and the others being referred to the Governmental Affairs Committee and its Oversight of Government Management Subcommittee. From initial analyses, it appears that they will need substantial revision, lest they impede and diminish the participation of the small business Government contractors, whose participation we should be encouraging. But, Mr. President, these legislative proposals from OMB and the underlying work done by the OFPP-led task group, do encourage me that others believe that the small purchase procurement process is in need of attention by Congress as well as the executive.

Mr. President, the committee's staff inquiry into the small purchase procurement practices of the various executive agencies is now proceeding with assistance being provided by an experienced procurement policy analyst on detail from the General Accounting Office. Let me now outline the two basic parts of our inquiry.

First, the committee staff is reviewing the regulatory guidance, principally part 13 (Small Purchase and Other Simplified Purchase Procedures) of the government-wide Federal Acquisition Regulation [FAR], which provides the basis for the array of supplementary guidance—agency small purchase manuals as well as local procedure and forms peculiar to specific buying activities. To supplement this review of the "paper guidance", the staff is conducting discussions with those agency officials charged with establishing small purchase policy guidance, with special attention being given to obtaining their views on various proposals for improvement and to solicit further suggestions based upon their experience as public purchasing professionals. In addition, the committee staff has been collecting and analyzing the studies of Federal small purchase procurement practice that they have been able to identify from sources both inside and outside of Government. Very careful attention is being directed to findings and recommendations flowing from reviews of particular procurement centers, which have been conducted by the inspectors general, or other internal audit groups, of the various executive agencies and the military departments within the Department of Defense. Included among those reports is a recent review of the small business administration's procurement operations conducted by the SBA inspector general.

The second element of the committee's inquiry includes a series of visits to selected purchasing offices with substantial small purchase procurement activity. This will permit the staff to observe the process first-hand, to test the validity of problems identified and concerns expressed by small business Government contractors. The visits will also provide the committee staff with the opportunity to evaluate proposals for improvement from the viewpoints of both those who execute small purchase procurements on behalf of the Government and those small business contractors who compete for these contract opportunities. During these visits, the committee staff will be working closely with both the agency competition advocates and SBA respresentatives at the visited purchasing center, especially the breakout procurement center representatives.

Initially, the committee staff are focusing on Defense Department purchasing centers, since DOD has the lion's share of small purchase procurement activity in terms of both numbers of actions and dollars expended. According to the Federal Procurement Data System's report for fiscal year 1985, DOD reported 14.5 million procurement actions below the $25,000 small purchase reporting threshold, some 70 percent of the total number of actions, government-wide. These small purchase actions had an aggregate value of some $12.5 billion, which was 77.5 percent of the $16 billion Government-wide total.

Mr. President, there are two additional reasons for looking to DOD small purchase procurement activities first. Small purchase procurement operations, especially high volume operations, are very labor intensive. Given the shear volume of DOD's small purchase procurement responsibilities, and the fact that much of this activity is concentrated in repetitive buys of spare parts and support equipment by a relatively few inventory control points that stock the DOD supply system the military services and the Defense Logistics Agency have undertaken their own initiatives to make the process more efficient. Principally, they have undertaken the expanded use of computers to realize faster purchases with fewer people. For example, the Army Materiel Command [AMC] has been testing an automated procurement system on its small purchase procurement operation at communications-electronics command [CECOM] at Fort Monmouth, NJ. With the success of the tests at CECOM, AMC's Command Automated System for Procurement (CASPR) will be expanded to the small purchase operations at AMC's other inventory control points. Similar efforts are underway within the Navy at both its ships parts control center and the naval supply center, Norfolk. The Defense Logistics Agency has been operating an automated small purchase procurement activity at the defense general supply center in Richmond.

While recognizing the substantial efforts at improvement now being taken throughout the Department of Defense, we cannot ignore the facts that many of the spare parts "horror stories," which have so captured the public's attention and so discredited DOD's acquisition process, were for buys that fell below the $25,000 "small purchase" threshold, and were, therefore, receiving almost no review as to the noncompetitive character of the awards or the reasonableness of the prices resulting from these sole source buys. Mr. President, the two $659 ashtrays for the Navy, E-2C Hawkeye purchased by the Naval Air Station at Miramar, CA, were acquired on a sole source basis, using small purchase procedures.

The committee staff is planning to visit some of these base-type small purchase operations. And, if time permits, visits will be made to civilian agency activities with low-volume small purchase procurement operations. It is our intention to maintain a Government-wide perspective in our inquiry and in the recommendations that flow from the committee's efforts to simplify the Government's small purchase market to foster small business participation.

Mr. President, the committee staff investigation which I have just outlined will result in the issuance of a committee staff report. If warranted, the committee will hold multiple days of hearings during the early spring. The purposes of these hearings would be threefold: (1) to review the findings and recommendations of the staff report, hearing from Representatives of both the Federal agencies and the small business government contractors; (2) to motivate executive branch procurement policymakers to make appropriate administrative changes to foster expanded small business participation in the "small purchase" Federal procurement marketplace; and (3) to shape any appropriate legislative package needed to fully attain the objectives of small purchase procurement simplification.

Mr. President, it would be my expectation that any legislation flowing from this committee effort would likely fall within the jurisdiction of the Governmental Affairs Committee, and its oversight of Government Management Subcommittee. Specifically,

we may well make first use of the authority to test innovative procurement procedures which is provided by section 15 of the Office of Federal Procurement Policy Act.

This important committee effort in the procurement arena is being carried forward on a bipartisan basis. My colleague and ranking minority member of the Small Business Committee, DALE BUMPERS, has contributed his staff resources to the effort. We would welcome the contributions of committee members active in the Federal procurement arena: Senator DIXON, who joined me in the last Congress in moving S. 2489 into law; Senator NICKLES, chairman of our Procurement Subcommittee; my friend from Michigan, Senator LEVIN, who serves as the ranking minority member of our Procurement Subcommittee as well as companion panels on the Armed Services and Governmental Affairs Committees; and my friend from Georgia, Senator NUNN, former ranking minority member of the committee and presently ranking minority member of the Armed Services Committee. Senator NUNN has repeatedly suggested the need to test innovative procurement techniques to simplify many defense procurements; we look forward to exchanging ideas with him as our two efforts move forward.

Throughout this committee effort, I have instructed our staff to maintain a close liaison with the staff of the Governmental Affairs Committee, especially its Subcommittee on the Oversight of Government Management, chaired by Senator COHEN, who along with Senator LEVIN, carried the Competition in Contracting Act of 1984 into law. Concurrently, close liaison is also being maintained with the staff of the Committee on Armed Services, and its Subcommittee on Defense Acquisition Policy, chaired by Senator DAN QUAYLE. If the experience of the last Congress are any guide, such a cooperative working relationship among our three committee's could well lead to a followon success to the effort that saw the enactment of important companion procurement reform legislation: The "Defense Procurement Reform Act of 1984," title XII of Public Law 98-525, and the "Small Business and Federal Procurement Compeitition Enhancement Act of 1984," Public Law 98-577.

Mr. President, the small purchase procurement simplification initiative of the Committee on Small Business is a major undertaking that I wanted to share with my colleagues. Once again, I enlist their suggestions and their support, for if our effort is successful the ultimate beneficiaries will be many thousands of small business Government contractors and the Government agencies to whom they will be providing their supplies, services, and construction.●

● Mr. NICKLES. Mr. President, as the Chairman of the Small Business Committee has indicated, small purchase procurements need to be reviewed for competitiveness. Substantial changes in the law governing these procurement actions were made last year. The Small Business Committee is beginning an initiative to review and evaluate those changes to see if further improvements in the Governmentwide procurement system are necessary.

The volume of small purchases is staggering. The Federal Government expended $183 billion in fiscal year 1985 for approximately $21.1 million procurement actions; $20.7 million of these actions were small purchases, that is, less than $25,000. The dollar amount of these actions were $16 billion, small in comparison to total procurements. So pervasive are the small purchases, however, two such purchases are made every second of the workday.

I anticipate that we will find that the reforms made in 1984 for more competitive purchases will show reductions in the cost of procurement actions. Changes were desperately needed in light of the ongoing revelations of exorbitantly priced spare parts by the military. However, we need to verify any improvements and propose further changes if needed.

Given the chance to compete, small business has shown the innovation and efficiency to produce substantial savings in our procurement budget. The use of set-asides and other artificial means of promoting small business participation only glosses over the problem. What we need to emphasize is the ability and opportunity of small business to compete head-to-head with the larger companies.

In hearings I have held in Oklahoma, small businesses are asking for the chance to compete and a reduction of the burdensome paperwork required in Federal procurements. The Committee will also address the paperwork issue as we review the Small Purchase and Other Simplified Purchase Procedures in the Federal Acquisition Regulation.

Mr. President, I want my colleagues to know that the committee will be proceeding in this fashion and as chairman of the Subcommittee on Government Procurement, I solicit their input on the scope and nature of our work.●

● Mr. COHEN. Mr. President, I rise today to commend my colleague from Connecticut, Senator WEICKER, for taking the initiative to review the Federal Government's "small purchase" procurement practices. With much of the focus these days on major weapons system acquisition, not enough attention is being paid to the tens of millions of "small purchases" made each year.

While these purchases, in the aggregate, represent only a small percentage of the Government's annual procurement budget, they account for the vast majority of transactions. For this reason, I agree with the chairman of the Small Business Committee that Congress should look beyond the big-dollar buys to see how the small dollars are being spent.

The Competition in Contracting Act [CICA], which was passed last Congress, requires agencies to use competitive procedures, except under certain circumstances, in procuring property or services. CICA recognizes that the competitive procedures required of large purchases may not be cost-effective for small purchases and, therefore, requires that agencies provide "special simplifed procedures" for those purchases under $25,000.

These procedures do not, however, exempt agencies from awarding contracts competitively. Rather, CICA specifically states that agencies, in using small purchase procedures, "shall promote competition to the maximum extent practicable." While this does not mean that agencies are to use the formal source selection procedures proscribed by CICA, they should make some effort to solicit offers from more than one source.

Unfortunately, this does not seem to be the case in over one-third of the small purchase contract awards, according to the Small Business Committee staff's preliminary examination. I would encourage my friend from Connecticut, in reviewing the Government's "small purchase" procedures, to carefully consider the extent of competition, determine why so many contract awards are made noncompetitively, and perhaps recommend what can be done to encourage more competition on these small-dollar buys.

As chairman of the Governmental Affairs Subcommittee on Oversight of Government Management, which would have jurisdiction over any legislation in this area, I again commend Senator WEICKER for undertaking this initiative and look forward to working with him on this important issue.●

● Mr. DIXON. Mr. President, I am pleased to take this time to share with our colleagues the current initiative that we are taking in the Senate Small Business Committee to review the Federal Government's small purchase procurement procedures. I also look forward to again working with Chairman WEICKER and the other members of the Small Business Committee on a major procurement initiative.

During the past several years, Congress increased from $10,000 to $25,000 the level below which Federal agencies may use small purchase procedures. This increase has been consistent with efforts to raise the threshold on other related procurement activities. A number of agencies have also taken

their own initiatives, or have made recommendations for improvements to the policies and practices for using small purchase procedures.

However, Congress has not undertaken a systematic or comprehensive review of the agencies' implementation of the small purchase programs, or assessed the advantages and disadvantages of this program to the small business contracting community. The Small Business Committee's review is therefore timely and important, particularly in light of the fact that over 98 percent of all Government contract actions, and over 70 percent of all DOD contract actions, fall under the $25,000 small purchase level.

Mr. President, in 1984 Senator WEICKER and I joined together in the Small Business Committee to greatly expand the opportunities for small and minority businesses to participate in the Federal Government purchase of major systems and subsystems. Our efforts culminated in the enactment of the Small Business and Federal Procurement Competition Enhancement Act of 1984, Public Law 98-577. In addition, because of the initiatives we took in the Small Business Committee, major portions of our work were made applicable to DOD and incorporated in the Department of Defense Procurement Reform Act of 1984, title XII of Public Law 98-525.

The procurement work that we have undertaken on the Small Business Committee in the past gives me great hope that, in the near future, we may be able to recommend to our colleagues a package of procurement recommendations that will improve the Federal Government's use of small purchase procedures, reduce the time and cost of conducting these contract actions, and, by expanding competition, increase the participation of small and minority businesses in the Federal marketplace.

I would welcome the comments and assistance of our colleagues, the small business community, and the Federal agencies in this review. I also want to compliment the Small Business Committee's chairman [Senator WEICKER] and ranking member [Senator BUMPERS] for their leadership in this comprehensive and bipartisan initiative.●

● Mr. NUNN. Mr. President, I am pleased to join with the chairman of the Senate Small Business Committee, Senator WEICKER, in calling attention to the work that the Senate Small Business Committee has under way reviewing the small purchase procurement practices of the Federal Government. This review is long overdue, and represents another important procurement initiative by the Small Business Committee. The executive branch has also undertaken some valuable reviews of their own policies and procedures, and have made recommendations which the Small Business Committee will be analyzing, as well. These recommendations, coupled with the committee's inquiry, should provide the committee with a solid foundation from which we can assess the need for further legislative or regulatory action in this area early next year.

Mr. President, there is no secret that the Federal acquisition process has become overly complex, time-consuming, and burdensome. During the past several years, Congress has undertaken a wide range of procurement reforms. Many of these reforms have focused on the highly visible, large dollar value purchases. In the Department of Defense, for example, the legislative and regulatory attention has been directed primarily at the procedures for purchasing major weapons system.

But as Chairman WEICKER correctly noted in his statement, the overwhelming number of procurement actions in the Federal Government generally, and in the Department of Defense specifically, are for purchases under the "small purchase" threshold of $25,000. Even though these purchases account for less than 9 percent of the dollars of Federal procurement activity, they account for over 98 percent of the contract actions on a Government-wide basis, and over 70 percent of the contract actions within DOD. When properly used, the small purchase procedures provide a means for the agencies to carry out the millions of routine, noncontroversial, low dollar value contract actions that the Government must make.

Mr. President, I believe it is important that the Congress carefully study the procedures used to award these contracts, and it is appropriate that the Small Business Committee undertake this initial review at this time. The need for congressional oversight in this area is long overdue.

Furthermore, many of the small and minority businesses that we have consistently tried to encourage to participate in the Federal procurement process can be expected to receive their first contracts as a result of the small purchase process. Yet with the large number of potential competitors for these contracts, it was surprising to note that almost half of the small purchase actions were still awarded on a "non-competitive" basis. Any reform of the small purchase procedures which further expands the opportunities for small and minority businesses to actively and aggressively compete for a share of the Federal procurement dollar enhances the viability of the business itself and pays both direct and indirect dividends to the Federal Government.

Finally, I believe we in Government need to find a way to simplify the total acquisition system. Any initiatives that we may adopt in the area of small purchase procedures could provide a potential model for streamlining and simplifying the high dollar value purchases in the Federal Government, particularly in the Department of Defense.

I want to compliment the chairman of the Small Business Committee on undertaking this initiative. As a senior member of the Small Business and Governmental Affairs Committees, and as the ranking member of the Senate Armed Services Committee, I look forward to working with him and Senator BUMPERS on this timely review of the Government's small purchase procedures.●

● Mr. BUMPERS. Mr. President, I am pleased to join the Senator from Connecticut, the distinguished chairman of our committee, in introducing the Small Business Committee's initiative to simplify "small purchase" Federal procurement practices. The committee has begun an extensive inquiry into the "small purchase" practices used by various Federal agencies. The purpose of the study is to devise ways to simplify Federal small purchase procurement procedures to encourage small businesses to compete in this segment of the Government procurement market.

A "small purchase" is one valued at less than $25,000 and, by statute, is to be awarded through simplified procedures. Out of the total 21.1 million procurement actions recorded by the executive branch in fiscal year 1985, 98.1 percent were below the small purchase threshold, but those actions accounted for only 8.8 percent of the funds expended for all procurement actions. In spite of the fact that the Government procurement market is flush with small purchases, little attention is paid to that side of the market because the related dollar expenditure is so low. Congress did recognize this potential small business market in 1978 when it established a statutory small business reserve for small purchase contracting opportunities. Under Public Law 95-507, all procurements conducted under small purchase procedures were reserved for exclusive competition among small business concerns.

Despite this statutory backing, it is estimated that small businesses receive less than 50 percent of the small purchase contract awards. In fiscal year 1985, somewhere between 30 and 40 percent of all small purchase procurement actions were made on a noncompetitive basis. The purpose of our inquiry is to find out why this is so, how much it costs to use noncompetitive procedures and what changes should be made.

To make it clear that the Competition in Contracting Act of 1984 requires that all Government purchases, including those below the small purchase threshold, are to be made on a

competitive basis, the committee hopes to do the following: first, focus attention on the fact that 98 percent of all procurement actions are considered small purchases; second, create through the Federal Procurement Data System a method of determining whether an action is a new contract award or a contract modification which need not be made on a competitive basis; third, work with the Office of Federal Procurement Policy and its task force to devise concrete recommendations for establishing programs to simplify the small purchase procurement process; fourth, review the regulatory guidance provided in the Federal Acquisition Regulation for small purchases and discuss methods of improvement with those agency officials charged with establishing small purchase policy guidance; and fifth, have committee staff visit selected purchasing offices which have substantial amounts of small purchase activity and witness first-hand the problems identified by small business government contractors.

The committee has scheduled to have this review completed by late March 1986 and expects to conduct hearings on the results by April. The intended result is to create a small purchase procurement market which benefits those thousands of small businesses which can provide valuable services to the Government. This is a fully bipartisan effort in our committee, as the other statements by my colleagues reflect, and I hope the Defense Department is aware of our commitment to reform. I am instructing the minority staff of the Small Business Committee to participate fully in the background work for this projet, and I look forward to working with Senator WEICKER and my other colleagues on the committee on this important issue.●

OJO CALIENTE CRAFTSMAN CO.

● Mr. BINGAMAN. Mr. President, on my last trip to New Mexico, I made a special trip to the small northern New Mexico community of Ojo Caliente to visit a unique family-owned company, Ojo Caliente Craftsman. The company is owned and operated by Daniel Joseph, Julian Joseph, and Phil Archuleta. Ojo Caliente Craftsman fabricates and manufactures safety directional and informational signs for traffic control. The signs are constructed with the latest in silk-screen technology. Presently, 60 percent of their contracts are with the U.S. Forest Service and 30 percent are with the State of New Mexico. The other 10 percent are out-of-State contracts.

The reasons for my visit was to commend Ojo Caliente Craftsman for their innovative business practices and achievements in improving productivity and honor them as runner-up in a recent Senate Productivity Award. It is appropriate, I believe, that its contribution to northern New Mexico's economic development be recognized in this manner.

The population of Ojo Caliente is 415 and Ojo Caliente Craftsman employs 45 people. It is the company's philosophy to employ workers from Ojo Caliente or the immediate surrounding areas. Such commitment to local economic development is exemplary in this day and age of high technology and industrial expansion. I have great respect for Mr. Julian and Daniel Joseph and Mr. Phil Archuleta for their hard work, for their quality product, and for their commitment to creating and maintaining opportunities for challenging employment to the citizens of Ojo Caliente.●

COMMENDING ROBERT L. SUMMITT ON PROMOTION TO RANK OF REAR ADMIRAL, MEDICAL CORPS, U.S. NAVAL RESERVE

● Mr. SASSER. Mr. President, I rise today to pay tribute to Robert L. Summitt, the first person to be promoted to the rank of admiral who is also dean of a medical college. This is only the latest of many triumphs that Dr. Summitt has experienced during his distinguished career.

A native of LaFollette, TN, Dr. Summitt graduated from Davidson College and received his doctor of medicine from the University of Tennessee College of Medicine in 1955. Upon completion of his internship, he entered the U.S. Navy in 1956. While in the Navy he was designated a flight surgeon in 1957, a position he maintained during his active career in the Navy.

When Dr. Summitt left the Navy in 1959 he began a 2-year residency program in pediatrics at the University of Tennessee Medical College-City of Memphis Hospitals. Following a fellowship at the University of Tennessee and a fellowship in genetics at the University of Wisconsin, Dr. Summitt joined the faculty of the University of Tennessee College of Medicine. Since April 1981 he has been the dean of the college of medicine.

As a member of the Naval Reserve since 1957, Dr. Summitt has taken his commitment of service seriously by creating innovative programs to assist the Navy with its medical readiness planning. One of these programs is Naval Medical Reserve PRIMUS [physicians reservists in medical universities and schools], which Dr. Summitt was instrumental in organizing. This is a nationwide program with the detachment at the University of Tennessee being the Nation's largest and most active.

Dr. Summitt is to be commended for his outstanding work not only to his country, but to the advancement of the study of medicine. He has set an example of dedication to duty which should be emulated by all. I am sure that Dr. Summitt will experience more honors in his distinguished career, and I congratulate him on his most recent promotion.●

SPEECH DELIVERED BY THOMAS A. DINE ON UNITED STATES-ISRAEL RELATIONS

● Mr. WILSON. Mr. President, as is the case with many policy issues with which the Congress is presented, there are often many possible approaches and many competing concerns. And, as we search for answers, we speak with our constituents, with groups that have interests in and expertise with the questions at hand. When the question concerns Israel, there are few groups as understanding of the issues and well prepared to meet them as the American Israel Public Affairs Committee.

Mr. President, the executive director of AIPAC, Thomas A. Dine, recently gave a speech before the Comstock Club in Sacramento entitled "U.S.-Israel Cooperation: Pressing the Peace Issue." It touches on matters across the spectrum of United States-Israel concerns, from the very troublesome Pollard spy case to basic issues affecting the peace process in the Middle East. I believe that the speech provides important insights on a number of topical issues, and I therefore ask that it be printed in the RECORD.

The speech follows:

UNITED STATES-ISRAEL COOPERATION: PRESSING THE PEACE ISSUE

(By Thomas A. Dine)

Thank you Harry Tonkin, for that generous introduction. It is a privilege to come before the Comstock Club, and I look forward to receiving your questions, indeed hearing your comments, following my prepared remarks.

What I plan to do today is, first, speak about the whys and wherefores of the U.S.-Israel relationship, then the part that the American pro-Israel lobby plays in this and, third, analyze the most pressing issue of all in the Middle East, the peace process.

But, before I address these, I want to comment on the topic that has been in the headlines for the past ten days, the question of a U.S. Navy civilian employee, a counter-intelligence analyst, selling our documents to Israeli government officials.

It is a fact that the bilateral partnership between Washington and Jerusalem is strong, indeed very strong today, and rests on a firm moral, political, and military foundation. But it is also fact that the Pollard spy scandal has cast a shadow over the relationship. A whole list of allegations have been made by our Justice and State Department against the accused; in Israel a stunned and skeptical public, press, and parliament have vigorously asked their government to explain why certain officials would purchase U.S. Government secrets.

Yesterday, the Israeli Cabinet, after a week of hesitation, made a clear statement about the Israeli role and apologized to the

American government. I am pleased by this move, but I believe it behooves both governments to move quickly and forthrightly on this matter and get back to the basics in the bilateral relationship. U.S. interestes are involved; so are Israel's.

I suggest several guidelines to overcome the current problem:

(1) The policy of friends not spying on friends must be reaffirmed and adhered to. The Pollard case—and perhaps revelations about the U.S. covertly acquiring Israeli military plans—are the exception, not the rule. The Cabinet statement yesterday was explicit: "Spying on the United States of America stands in total contradiction of our policy." The White House articulated similar words last week. Neither is to engage to covert activities against the other.

(2) All the purloined papers in Government of Israel hands must be returned to Washington.

(3) Israel should make available to U.S. investigators, for questioning, those Israelis involved with the arrested John Pollard.

(4) A credible, independent inquiry needs to be undertaken by Israel, led by a respected public figure. As we in this country have painfully learned, the government cannot investigate itself. There are many individuals of stature in Israel who could explore and analyze the initiators of this episode, how it took on a life of its own, and why there was a failure of accountability.

(5) Those Israeli officials involved, outside and inside the Israeli political mainstream, must be dealt with in an appropriate manner and steps must be taken so that such an episode not be repeated. It is encouraging that the unit, perhaps a rogue outfit, responsible for this egregious incident will be dismantled.

(6) And finally, underlying problems in the U.S.-Israel partnership revealed by this anomaly must be dealt with in a spirit of cooperation which has frankly characterized the bilateral relationship over the years. I would start first with the two intelligence communities. Enormous amounts of information are already shared. As one high-ranking U.S. official told me last week, "An intimate degree of cooperation has been achieved between the intelligence services. . . . It is broad and far-reaching and among the best we have in the world." We have learned, however, that there is information not shared. Awkward arrangements need to be squarely dealt with. Friends do check up on friends, but public accusations of parallel spying must stop. The only beneficiaries of current tensions in American-Israeli ties are the Soviets and their surrogates such as Syria. The U.S. has no interest in damaging Israel's intelligence abilities; President Reagan personally thanked Prime Minister Peres, when he was in Washington, for Israel's help in both the *Achille Lauro* hijacking and the U.S. interception of the flight with the perpetrators of the ship's hijacking and the Klinghoffer murder. Israel has no interest in upsetting American intelligence efforts. It would be timely, then, for the heads of the CIA and Mossad to meet in an intelligence summit so that inconsistencies among various agencies in both governments can be ironed out, working parameters reviewed, and altered arrangements made.

As this episode is fully and thoroughly addressed inside Israel and between the two governments, we must not be diverted. We need to keep our eyes on real American interests in the region:

The preservation of the U.S.-Israel alliance;

The preservation of a secure and sound Israel;

The preservation, indeed the forwarding of, an on-again, off-again peace process.

Let me now turn to the essence of the U.S.-Israel relationship. What makes the two peoples, the two democracies, kindred spirits?

First are the unique moral and political bonds between the two countries. The nation-state of Israel, recreated out of the ashes of the Holocaust and the results of British colonialism, since May of 1948 has proved itself to be a determined, feisty democracy, with the promising energy and visions of an immigrant people.

Israel has emerged as the only stable country in the Middle East. It has and regularly pursues meaningful free elections. It possesses a robust free press, checks and balances to prevent and correct abuses of authority, as witness what happened following the Sabra and Shatilla tragedies in September 1982 and now the Pollard case, extensive protections for the rights of individuals and minorities, basic equality for women, and other safeguards that are typical of a free society. It stands in sharp contrast to the other countries of the region—feudal monarchies like Saudi Arabia, one-bullet regimes like Jordan and Egypt, dictatorships like Syria, or radical states like Libya and Iran.

The moral and political bonds between the United States and Israel give them more than a common value system, a common sense of purpose. It means that Israel is and will be allied with the United States over the long term, long after erstwhile friends of convenience are supplanted and superceded. Israel has emerged as a geopolitical ally of the United States. This was enunciated by President Reagan on November 29, 1983 in his announcement of strategic cooperation between the two countries. Since then, Israel has demonstrated on multiple occasions its strategic value to the United States. Israel has:

Undertaken military planning with the United States to meet threats to mutual interests in the Middle East and the Eastern Mediterranean. And today through Wednesday discussions are again underway in Washington to enhance plans and develop new areas of cooperation.

Participated in joint naval exercises with the Sixth Fleet.

Made facilities available for the storage and maintenance of U.S. materiel for American use in a conflict. Pre-positioning of materiel is one agenda item being discussed this week.

Engaged in military training exchanges with the United States Marines.

Entered into formal arrangements and conducted two simulated tests to provide access to its sophisticated hospital facilities for U.S. military casualties in a conflict.

Undertaken joint research and development projects with the Pentagon to build on the technological expertise acquired from decades of conflict.

Stepped up its cooperation with the United States to combat international terrorism.

These undertakings have considerable strategic significance for the deterrent posture of the United States in the Middle East and Eastern Mediterranean. They provide tangible evidence to the Soviet Union and its clients that U.S. capabilities are supplemented and supported by Israel. Although, of course, Israel is a small nation, the Soviet Union understands better than some just what this means:

Israel's knowledge of and experience with Soviet equipment have for many years helped the United States develop more effective military countermeasures and tactics.

Israel's naval and air forces are sufficiently strong to challenge Soviet naval forces in the Eastern Mediterranean and therefore make a significant difference to the Soviet calculus of the balance of power in that area when added to American force deployments.

Israel has demonstrated the vulnerability of Soviet SAMs and MiGs, forcing the Soviet Union to divert expenditures from force expansion to force renovation, and discrediting the weapons on which much Soviet influence depends. The recent Syrian-Israeli dogfight over Lebanon and Syria is only the most recent example of this. The Israelis devised an innovative application of the U.S.-made AIM9L air-to-air missiles—which the Israelis fired from their F-15s at a range of twenty miles. Pentagon officials were astounded. "It is a remarkable feat," said one. "We've never fired one beyond the range of thirteen miles!"

The U.S. has invited all NATO nations, Japan, and Israel to participate in the research and development of the Pentagon's proposed Strategic Defense Initiative (SDI) and only the United Kingdom and Israel have said, "Yes!"

Israel's role as a friend and ally of the U.S. goes beyond the confines of military cooperation in the important Middle East region. More and more, it is a two-way street.

According to Congressional testimonies, over the last few years, Israel has voted with the United States in the United Nations in the highest percentage of any other country in the world, including the governments of Canada, England, France, Germany, Italy, and Japan.

After Spain, Greece, Turkey, and Oman rejected the U.S. Government's request to station a Voice of America transmitter on their soils to beam new programs into the Soviet Union, Washington went to Jerusalem and Israel, after intensive debate, accepted.

Israel now implements technical assistance development programs in Africa, at America's request.

And in the war on terrorism, America and Israel work side by side, as I mentioned earlier, in the whole Achille Lauro affair.

And it should be noted that with all of this, the Legislative and Executive branches of our government have come to view U.S. economic and military assistance to Israel as what several Senators label, a "bargain." To put the grants and loans slated for Israel into their proper perspective, just compare them to what the U.S. annually pays to protect Western Europe and Japan. Top Pentagon and State Department officials estimate that U.S. defense of Europe costs, in actual cash outlays alone, over $129 billion a year. The defense of Japan and Korea costs us an estimated $47 billion per year.

Contrast this with military aid to Israel, totaling $1.8 billion this year. And remember that all of the military grants for Israeli defense purposes are spent right here in the U.S. In short, we have a strong, deepened affinity for Israel and we have correctly backed that up with American military and economic assistance.

The American people at large are quite aware of the importance of this relationship. Three weeks ago, a Harris Poll showed support in this country for Israel to be at an

all-time high. Sixty-four percent of Americans side with Israel on Middle East questions, 14 percent with the Arabs. Nearly 90 percent, according to Harris, see the PLO as an enemy of the United States.

The pro-Israel community is the activation of this American consensus. In Washington, the American Israel Public Affairs Committee or AIPAC is the keeper of that consensus. AIPAC is the political arm of America's pro-Israel activists. As a citizens' group, we promote through the political and policy process close and consistently strong U.S.-Israel relations. As such we contribute to Mr. Jefferson's and Mr. Madison's grassroots democracy.

AIPAC's objective is to affect the outcome of the foreign policy debate in our country. We engage in lobbying on Capitol Hill and within the Executive branch. We work closely with Members of Congress, with their staffs, with House and Senate committees, with Administration political officials, with career experts at the National Security Council, the Departments of State, Defense, and Treasury, and the CIA.

We engage in grassroots political action across the country. AIPAC members, in Congressional District after Congressional District, are Jews and Christians, liberals and conservatives, neo-liberals and neo-conservatives, Democrats and Republicans. We try to enlarge and enhance the pro-Israel consensus that stretches from one end of the political spectrum to the other. Our personal views—citations of history or of future trends notwithstanding—take a back seat as we build political bridges, not burn them. In short, we provide a domestic base to U.S. policy in the Middle East.

What about the prospects for peace between Israel and its neighbor Jordan, and perhaps even Palestinians who dwell on the "West Bank?" Why is the peace process, begun so dramatically by President Sadat and joined in by Menachem Begin, now in such a precarious position?

The seemingly endless Arab-Israel conflict needs to be broken down into each of its significant parts. We need to see the cards each player holds as they maneuver around the idea of an international peace conference, perhaps to be hosted by the United Nations.

First are the political activities of the PLO. Its military arm is weaker than ever, but Yasir Arafat has played Arab leaders off each other and gained himself continued clout. Israel and the United Sttes have both denied Arafat a place in peace negotiations as long as the PLO rejects or refuses to acknowledge Israel's right to exist and continues to uphold terrorism as its form of political action. Egypt embraces Arafat, but Jordan more and more is ambivalent, trying to distance itself from an unyielding chairman. King Hussein remains wedded to the February 11th accord with the PLO—but with less and less enthusiasm. A key happening in the peace process would be Hussein breaking from Arafat and dealing directly with Israel.

This leads to the second player in this precarious situation, Syria. Syria's alliance with the Soviets and Syria's efforts to divide-and-conquer the PLO compose one Syrian objective: preeminence in the Arab world. Destroying Israel is, in truth, less a Syrian goal than is the unification of all the Arab states under a banner of anti-West, anti-Zionist slogans, with Syria itself in the lead. Hatred is a significant, unifying force—and Syria's Assad intends to exploit it. The terrorism exported by Assad is his tool to train cadres—and it is a crafty mechanism. No public attacks, but frequent quiet murders. This ploy appears to keep Hussein's attention; it may also put the King into a political quagmire. Recent signs of reconciliation between Syria and Jordan have raised eyebrows in Washington. Will this lead to further motion in the peace process or less? Perhaps Syria is being drawn into the framework of an international conference. Damascus says it want in if the Soviets can play a role. This affects Palestinian representation as well, becasue Syria wants to bring its own Palestinian contingent and so further weaken Arafat. But, on the other hand, Syria remains firmly in the Soviet sphere and advocates a pan-Arab delegation. Moving into an international conference with these intentions puts further pressure on Jordan to adopt a non-negotiating line toward Israel.

Meanwhile, Jordan retains a moderate position. Hussein's overtures to Shimon Peres indicate his interest in rapproachment with Israel and his need for friendship with the United States. But the King is dragging his heels as long as he seeks an Arab consensus and Arab cover. In doing so, the King allows Arafat to retain a veto over his moves and allows Syria to blackmail him against Sadat-type boldness.

The Soviet Union wants to join the international peace conference as well—but it wants peace far less than it wants influence and turmoil. Soviet interests are best served by complicating life for Western powers, especially the U.S. In fact, the whole idea of an international conference itself originated with Brezhnev. Such a grouping would inject Moscow into a central nerve of Middle East decision-making. Having employed terrorism as an ineffective wedge for their policies—the Soviets now seek to come to the table. Having realized they cannot disrupt peace directly, they hope to at least manipulate the outcome of peace talks. In this effort, country-courting has been a new and successful Soviet ploy. Two weeks ago, the United Arab Emirates followed Oman's lead and established diplomatic relations with the Soviet Union. Previously, Kuwait was alone among the Gulf Cooperation council states to have formal ties with the Soviets. These maneuvers are calculated. In stark contrast to committed U.S.-Israel friendship, the Soviets establish ties that bind with the adhesive of opportunity. The pure pragmatism of an alliance determines its creation—or its cremation. The Soviets are playing political hard ball—and everybody knows it. The stopper is the condition issued by Prime Minister Peres—Soviet participation only if Moscow renews diplomatic relations with Israel.

Meanwhile, Washington and Jerusalem have coordinated their roles in this process. There is agreement on four major principles:

An international conference should only be an accompaniment, a prelude, not a place to negotiate. It cannot replace direct, bilateral talks between Jordan and Israel.

At an international conference, Syria cannot be allowed a veto.

The PLO, as presently constituted, cannot be involved because of its refusal to recognize Israel's right to exist, to renounce terrorism totally, and to accept U.N. Resolutions 242 and 338. Palestinians must be people of peace, not terror.

The Soviet Union can only be involved if it is prepared to alter its diplomatic policies toward Israel. Hopefully this will include the emigration of Soviet Jewry.

In this vein, Israel's Prime Minister has made it clear to his Likud coalition partners at home and his American ally that if the right conditions are met, he will:

Agree to an international conference with Jordan;

Agree to a PLO presence; and

Agree to Soviet participation.

The time for a break-through for peace is now. It is clear Peres is ready to play. The ball is in Hussein's court. There is motion among the players, but the process needs forward play, movement underway, real exchange.

The Reagan Administration has made it clear—over and over again—that Israel is the reality with which the Arab nations must deal. Arab nations must rid themselves—once and for all—of their delusions and agree to co-exist with an Israel that is here to stay. Our focus is on Jordan, to break through the vultural and political inhibitions in the Arab world and to at last deal directly with its neighbor across the river.

Prospects for peace are better than they have been in a long time. Peace is the hope of the American pro-Israel community. This is the hope of the U.S. Congress and Administration. This is the hope of the Israeli Government. And in this special season for all of us, this could become the new reality we deal with and nurture in 1986.

Thank you.●

SENATOR ROCKEFELLER'S REMARKS AT MARSHALL UNIVERSITY

● Mr. PELL. Mr. President, my distinguished colleague and the junior Senator from West Virginia recently addressed a large gathering of business leaders, educators, and students on the role of education in strengthening his State's and our Nation's competitiveness. He made his remarks at Marshall University, one of West Virginia's fine public institutions, at a special meeting of the Huntington, WV, Rotary Club on November 23, 1985.

It is indeed a fine statement on the critical need to make a major investment in education at all levels. Senator ROCKEFELLER's assistance in elementary, secondary, and higher education, and I would respectfully request that his Marshall University speech, "Education: Responding to the Competitive Challenge" be inserted in the RECORD in its entirety.

The remarks follow:

"EDUCATION: RESPONDING TO THE COMPETITIVE CHALLENGE"

Today I would like to talk with you about the most critical issue facing West Virginia and our country: how we insure our economic competitiveness in a world economy that is changing at a stunning pace.

We are facing this challenge at a time when our businesses, our workers, our universities—even our public schools—compete with those around the world. That's a fundamental change from the 1950's and 60's; it places major responsibilities on the entire nation; and it adds a new dimension to the economic problems already facing our state.

I cannot think of a better gathering to discuss the problem of economic competitiveness than here at Marshall University. So

many of you—through the Center for Regional Progress and other initiatives—have been deeply involved with revitalization activities in this state. From first-hand experience, you know how much is at stake in terms of jobs. You've worked hard to generate public and private investments that contribute to growth and development of our local economies.

I see the challenge of economic competitiveness as a three part problem. We must have economic and trade policies that give us a reasonable chance to compete. We must also look at the way we do business and adapt some of our habits to the current realities of intense international competition. Finally, we must step up critical investments—both public and private—in areas that can boost our industrial performance: principally, education, training, research, and advanced technology.

Let's talk first about economic and trade policy.

West Virginia's unemployment rate of 12.6 percent is the legacy of a brutal recession and lopsided recovery. Throughout this period, our industries have struggled with the handicaps of high interest rates and an overvalued dollar—and many of them continued to lose jobs. Now, faced with an unprecedented trade deficit of at least $150 billion this year, the rest of the country is realizing the problem isn't confined to states like ours. The overvalued dollar has been a great equalizer: inflicting damage on West Virginia's coal miners, Iowa's wheat farmers, oil drillers in Texas, aircraft producers in Washington state and the computer industry in California.

Now that trade is a front burner issue in the Congress, there are some encouraging signs. The actions taken by the United States and other industrialized countries in the last two months to reduce the value of the dollar are most welcome, and the Administration should be commended for its role in initiating them. But the dollar is still roughly 30 percent higher, relative to other major currencies, than it was in 1980. Continued international monetary coordination will help, but real headway will depend on fundamental changes in general economic policy—both here and abroad.

Here at home, we have to substantially reduce the federal budget deficit. If coupled with changes in monetary policy, deficit reduction will help us to lower interest rates and produce a more favorable set of exchange rates. We must reduce the deficit fairly, so that we don't sacrifice critical investments for our future, but we must reduce the deficit. I supported the Gramm-Rudman amendment mandating a five year glidepath to a balanced budget because it was a departure from business as usual, and business as usual hasn't come to terms with the deficit crisis.

We must also stand up to unfair trade practices, and insist that other countries open their markets to our products and services. Nobody likes to resort to protectionist actions; as we export roughly 20 percent of what we produce in West Virginia, we cannot take lightly possible threats of retaliation against our exports.

But our trade laws are there for a reason, and we in the Congress have to continue to pressure the Administration to enforce them much more aggressively. We can't keep on doing nothing when other countries subsidize their exports and close their markets to our products. It makes you wonder what the Administration is saving its enforcement powers for if competitors feel free to resort to a variety of "non-tariff" barriers like standards, tests, and regulatory requirements to keep our products out.

Henry Kissinger wrote recently that "the United States cannot be the only nation practicing free trade in an increasingly mercantilist world." Where trade policy is concerned, we cannot drift while other countries chart their course. Try explaining to an unemployed steelworker how our government can preach free trade, while government ownership, subsidy and control of the steel industry is a basic fact of economic life almost everywhere in the world. Try explaining to anyone how we battle for years to get our oranges, lumber, telecommunications equipment into Japan, while millions of VCR's pour into this country.

Ultimately, we need to modernize, adjust and compete—not hide behind our borders and opt out of the world economy. Our prosperity—and everyone else's—depends on a high level of world trade. But we must insist that our trading partners open their markets to our products, that Europe and Japan play their part in the world economy and accept their share of exports from the third world countries as well.

To secure our competitive position in world trade, however, we'll need to go beyond economic and trade policy, as important as they are. We will have to face up to the rapid changes taking place in world markets—and recognize that some of the policies we followed, the ways we did business, and the habits we developed when the United States dominated international trade are no longer good enough.

I'm encouraged by the growing interest in more cooperative approaches to labor-management relations in many sectors of American industry. In the past, the strength of our competitive position allowed us to lead the world economy despite labor-management hostility. But those days are gone, and they won't be returning. Continuing the old antagonisms will cost us dearly—and in some cases, like the recent conflict at Wheeling-Pittsburgh, throw a company's survival into doubt.

The new contract ratified at Wheeling-Pitt, which ended an extremely bitter 98-day strike, was a tremendous breakthrough in labor-management relations. It envisions genuine opportunities for workers to participate in the full range of decisions affecting the company's future. Involving workers in solving problems—from the shop floor to the board room—is an inherently more productive way to do business, as so many of our competitors have demonstrated. While the antagonisms are deeply ingrained—particularly in our part of the country, labor and management simply must try to kick this habit—and recognize that they can accomplish so much as partners than as adversaries.

Competitiveness also depends on our industries having access to the most advanced technology available. Again, our foreign competitors—like Japan—offer some useful lessons. Over the years, the Japanese have made strenuous efforts to learn about our scientific research and discoveries: they've combed our professional journals, sent students to our unversities, and consulted extensively with American companies and researchers. Partly because of the language barrier, we don't regularly follow technological developments in Japan—even though first-rate research and innovation is occurring there.

In the Senate, I have sought to improve access to Japanese scientific and technical information through legislation which increases our government's efforts to translate such material. This bill, which I introduced with Senator Baucus of Montana in May, has been approved by the Senate Commerce Committee. At the very least, if our companies, scientists, and engineers could read about what the Japanese are doing, we'd know more about the kinds of technologies and products that will soon be competing against us. And in some fields, what we learn could spell the difference between keeping up with the competition and falling behind.

Despite the pressure created by the federal budget deficits, and our state's continuing recession, we cannot forget that some investments are absolutely essential to our economic well-being. If we scrimp on research and development, on technological innovation, on job training, we will save some money today—and pay the price in low growth and lost opportunities for years to come.

In my view, nothing is more important than investing in education at all levels. As the President's commission on education pointed out in its report entitled "A Nation at Risk," "knowledge, learning, information and intelligence are the new raw materials of international commerce." Anyone who believes that we can have a world-class economy without a world-class education system is deluding themselves.

The Reagan Administration deserves great credit for establishing the commission that wrote "A Nation at Risk." That commission rang a firebell in the night, with its memorable warning that our education system is "being eroded by a rising tide of mediocrity that threatens our very future as a Nation and as a people."

That commission and other studies have painted a disturbing picture of the contrast between our education system and Japan's. Japan has the highest rate of high school completion and literacy in the world. Japanese students study and learn more. As a major report by private corporations says, the Japanese students "spend more time in class than their American counterparts; by the time they graduate from high school, they have completed the equivalent of a second year at a good American college." In addition, Japanese children are consciously taught to appreciate team work and a sense of responsibility for others, the very qualities that universities and businesses say are declining among young Americans.

The good news is that America's wave of self-examination rather immediately turned into a push for reform. The most significant and dramatic efforts have taken place in the states, with a focus on public schools. Within a year after "A Nation at Risk," it was possible to issue another report "A Nation Responds," which described the tangible commitments of governments, business leaders, and individual educational institutions to achieve greater excellence in education.

West Virginia was among the states that responded vigorously. Along with our southern state neighbors, and fueled by the understanding of the economic significance, we built the coalitions to improve our schools. This has been a major undertaking. West Virginia ranked 44th in the nation in teacher salaries. Our high school dropout rate also placed us in the bottom ten states. And about 10.5 percent of the state's population has a college education, well below the national average of 16.5 percent.

As Governor, I went through an intense and sometimes painful assessment of the condition of West Virginia's educational system. West Virginia simply had to produce better student test scores, teacher salaries, literacy rates, curriculum, and candidates for college. Moreover, as Judge Recht ruled in 1982, there were serious inequities in the local funding of schools which had to be eliminated.

I am proud of the action we took. A revised "Master Plan for Public Education in West Virginia" emerged, drawing on the expertise and ideas of countless public and private leaders, as a blue-print for long-range educational change. It established new guidelines for textbooks, school accreditation, curriculum, student testing, and many other aspects of education that seriously needed up-dating. Some of the measures in the plan were already underway, but many others represented major advances in the school system.

Key steps called for in the revised Master Plan are now being taken. This year, ninth-graders will be required for the first time to complete an additional unit of science in order to graduate—to make their knowledge of science more comprehensive and attuned to today's demands. And new teachers will be required to pass tests on basic skills and certain subjects in order to qualify for positions.

But we could implement only so many changes with the funding available. The struggle for additional funding was frustrating but absolutely essential. With the Legislature, $29 million was appropriated to help equalize salaries for both teachers and service employees. This was the first step of a three-year program to bring all teacher salaries up to a level which could attract and retain the talent we must have to improve our public schools.

Today, the fate of the state's educational reform effort is in question. I believe that West Virginians understand how high the stakes are. The quality of our school system is the key to the state's economic destiny, and we can't have a first-rate education system unless we are willing to pay for it.

In stating those hard truths, our political leaders need the support of the business and education leaders of our state. Many distinguished members of the business community are here today. You know the cost of failing to provide students with the basic requirements for success in the workplace. In very real terms, you recognize support for the school system as an investment whose profits can be measured in increased productivity, a strengthened ability to compete for the Saturn plans and high-tech firms of the future.

Clearly, the main responsibility for improving our education system rests with the state. But the federal government's role, while limited, can also be pivotal. We all remember the federal government drive to emphasize education in response to Sputnik in the late 1950's—a drive that propelled the innovation and the prosperity of the 1960's.

It is the federal government that must continue to keep our country on the cutting edge of research in computers, engineering, math and sciences. Moreover, the federal government should assist in pioneering new approaches in curriculum and teaching.

For example, I introduced the Technology Literacy Act of 1985. At an early age, students should be exposed to the skills and concepts they need to compete in an increasingly technological world. My legislation would support efforts to develop effective curricula in technology education and to train teachers accordingly.

With respect to higher education, I believe that the importance of the federal government's role is undeniable—particularly in the area of student financial aid. The Reagan Administration's earlier proposal to cut over $2.3 billion in student aid programs was disastrous. I fought this suggestion aggressively, and was part of a successful effort to restore most of the funding in the federal budget.

At the same time, I am interested in exploring changes within the student aid system. More and more students are getting through college by going heavily into debt through student loans. As a consequence, they feel enormous pressure to find a decent-paying job immediately after graduation from college. The incentives for public service just do not exist for these young people. And it is similarly difficult for them to take any time to explore options for careers.

In order to motivate and enable students to perform community service as well as to meet critical needs, student aid as grants in return for a certain amount of time in community service should be considered. A recent report by the Carnegie Foundation strongly endorses this idea. Deploring a lack of commitment to "citizenship" among young people, the report calls upon the younger generation to take an active interest in society's problems—and urges that avenues for letting them do so be opened.

Using ROTC as a model, such a program could help pursue the ultimate goal of restoring and increasing America's competitiveness. For example, a program specifically designed for individuals interested in teaching would achieve a number of critical related objectives. Grants or fellowships would be given to students to receive a college education, with special emphasis on training for teaching. Certain obligations would be accepted by the student, the main one being an agreement to teach for two or three years after graduation. The student assistance could be geared towards fields where there are teacher shortages, such as math and science. In addition, like the National Health Service Corps program for doctors, this effort could provide teachers to areas of the country with the greatest need.

The intensified nature of international competition poses a great challenge for our country, but it presents real opportunities as well. To borrow a word from the Carnegie report, we need nothing less than an American "resurgence" in productivity and everything that contributes to it: research, technological innovation, education at all levels.

Despite the budgetary difficulties we face, it is not a time for retrenching, or even standing pat. It is a time to enlist the talents of our private sector, our universities, and our government in the kind of constructive partnership that has meant so much to other areas of our country. We need only to look at Silicon Valley in Northern California, Route 128 in Massachusetts and the Research Triangle in North Carolina to see what can happen when universities and the private sector work together. Your efforts here, in the Huntington area, could improve the industrial landscape in our state considerably—and deserve the support of all of us.●

PRESIDENT'S VETO OF COPPER RELIEF LEGISLATION

● Mr. BINGAMAN. Mr. President, I am greatly disappointed by the action of President Reagan in vetoing legislation to provide relief to the beleaguered copper industry. Unfortunately, this action is further evidence of the President's complete and utter refusal to help U.S. copper workers and producers.

The amendment which was added to the textile import bill during earlier Senate consideration, would have revitalized the copper industry by mandating that the United States enter into negotiations for voluntary production restraint agreements with major copper-producing countries. The President had earlier refused pleas to enter into such negotiations so it is not surprising he has now vetoed this bill.

Domestic copper production is at an all time low. There has been a 50-percent reduction in U.S. employment and a 25-percent loss in production. Sixteen major mines have closed. At the same time foreign production, much of it financed by U.S. backed international financing, is at an all-time high. As a result, there is a glut in the world copper supply.

We in Congress must continue to press the case for copper relief. There must be impressed upon the President the need to address the unfairness of the current situation, and I shall continue to do this in Congress.●

THE LANGUAGE OF FOREIGN TRADE

● Mr. PELL. Mr. President, one of the greatest threats to our economic and national security is our inability to conduct business in the languages of the international marketplace. It is unconscionable that the wealthiest nation with the greatest educational institutions should find itself at a disadvantage of this nature in the international arena. To my mind, it is absolutely clear that our ability to keep our competitive edge rests squarely on our willingness to improve our facility with other languages and cultures.

I would like to commend to my colleagues an excellent article written by Leonard Lauder entitled "The Language of Foreign Trade" which appeared in the New York Times on October 7. This article forcefully demonstrates just how far we are falling behind other nations in foreign language education, and of the great disservice this does to our trade position. His trenchent analysis provides persuasive argument for increasing our commitment to foreign language instruction and international education.

The threat that this situation poses to the strength of our economy moved my colleagues on the Senate Subcommittee on Education and me to in-

crease our Federal commitment to foreign language instruction. In the Higher Education Amendments of 1985 which were recently reported out of the subcommittee, we expanded the international educational program by making new provision for the establishment of language resource centers, intensive summer language institutes and fellowships for advanced graduate training in foreign languages.

Analyses such as Mr. Lauder's clearly support such an expansion, and I would ask that the full text of his article be printed in the RECORD.

[From the New York Times, Oct. 7, 1985]

THE LANGUAGE OF FOREIGN TRADE

(By Leonard A. Lauder)

The debate rages over United States foreign-trade difficulties. But nobody is talking about the one issue that is more disturbing and far more revealing about the underlying problem than our overvalued dollar, closed foreign markets and the other obvious causes of our stunning trade deficit.

Why has no one raised the fact that so many Americans engaged in foreign trade can speak no language but their own? It's getting late in the day to realize that the language of international trade is not English. The language of international trade is the language of the customer.

In part, Japan, West Germany and other successful exporting nations have penetrated foreign markets because they have tried to understand the cultural peculiarities of those markets. Their executives take the trouble to learn the language of the country with which they wish to trade as the first step in gauging demand.

It is self-evident that you can't sell unless there is a demand for the product. It is also self-evident that you can't begin to understand what a people demand if you can't talk to them on their own terms. Their own terms, of course, means their own language.

It is hard to find figures on how many American business executives overseas speak the native tongue; it is certain, however, that virtually all foreign business executives in the United States speak English. S.I. Hayakawa, a former U.S. Senator, estimated a few years ago that there were 10,000 Japanese in business here, all of whom spoke English, compared with 1,000 American in business in Japan, of whom perhaps a handful spoke Japanese. That no hard data exist is not surprising. There's not enough interest to gather it.

The situation today is not better and is probably worse than it was when Mr. Hayakawa made his estimate. As far as business is concerned, our national parochialism is growing worse. A study commissioned by the National Council on Foreign Language and International Studies questioned 1,690 young men and women in 564 business schools working toward their doctoral degrees in business in the spring of 1984.

The study found only 17 percent of these students were taking one or more courses in international affairs and foreign languages. In 1976, that figure was 25 percent. Those surveyed are the people who will one day be teaching in business schools training our future business executives. In an area crucial to the health of business and the United States economy, these future teachers are inadequate.

Meanwhile, we continue to demand that the rest of the world speak English, play by our rules, buy more of our goods. Not in our country, in theirs. From a deficit-inflated dollar to the tongue-tied American executive, our foreign-trade problems are largely a self-inflicted wound.

Next May, the first class will graduate from the Joseph R. Lauder Institute of Management and International Studies at the University of Pennsylvania with an M.B.A., from the Wharton School and an M.A. in international affairs from the School of Arts and Sciences. There will be 51 of these dual-degree holders, all with a foreign-language proficiency. That same spring, 50,000 more M.B.A. candidates will graduate from the other 563 business schools. In just 13 of those schools are courses in foreign languages and international affairs required for graduation.

American business and business education are not the only guilty parties. The State Department does not require a foreign language to enter the Foreign Service. There are more teachers of English in the Soviet Union than there are students of Russian in the United States. Aside from the coverage given by a few national newspapers, the media's coverage of world affairs is scanty to the point of ridicule. A national survey of high school seniors to assess their knowledge of international affairs showed recently that 40 percent thought that Israel was an Arab nation.

After World War II, as other nations were rebuilding, the United States was a world player shaping its own terms. The U.S. still has the world's mightiest economy, but it is now one of several mighty economies. We are watching our strength and influence erode before our eyes. Paradoxically, this is happening not from weakness but from arrogance.

ORDERS FOR THURSDAY

RECESS UNTIL 11 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. on Thursday, December 19, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business for not to extend beyond the hour of 11:30 a.m. with Senators permitted to speak therein for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. I have just indicated that following morning business we can expect to turn to the conference report hopefully on the continuing resolution. That should be over between 1 or 1:30. I assume that prior to disposition of that, we will know the fate of the reconciliation conference report.

We might be in a position to advise Members by midafternoon on when we may expect sine die adjournment.

But there could be votes. Probably there will be votes on a conference report, or conference reports.

If there are other items that we can clear, we will take them up. I will make every effort to avoid rollcall votes tomorrow so that we may expedite sine die adjournment.

There could be some other matters on the Executive Calendar, if we can agree on those.

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess until 11 a.m., Thursday, December 19, 1985.

The motion was agreed to; and, at 8:05 p.m., the Senate recessed until tomorrow, Thursday, December 19, 1985, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 18, 1985:

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, provided that in no case shall any of the following officers be appointed in a grade higher than lieutenant colonel:

LINE OF THE AIR FORCE

Carne, James E., [redacted]
Dunn, Payton E., Jr., [redacted]
Gilson Mark D., [redacted]
Irwin, George F., Jr., [redacted]
Malec, Thomas A., [redacted]
McClure, Edward J. Jr., [redacted]
Miller, Howard H., [redacted]

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, provided that in no case shall any of the following officers be appointed in a grade higher than lieutenant colonel.

CHAPLAIN

Brown, D. Bruce, [redacted]

NURSE CORPS

Alexander, Elizabeth A., [redacted]
Witt, Sandra M., [redacted]

BIOMEDICAL SCIENCES CORPS

Pontier, John H., [redacted]
Walker, Marilyn A., [redacted]

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of sections 593, 8374 and 8379, title 10 of the United States Code. Promotions made under section 8379 and confirmed by the Senate under section 593 shall bear an effective date established in accordance with section 307, title 32 United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Terry O. Bernhardt, [redacted]

Maj. Bruce K. Blakeman, xxx-xx-xxxx
Maj. Mark H. Bondo, xxx-xx-xxxx
Maj. Bernard C. Bryan, Jr., xxx-xx-xxxx
Maj. Richard Czarnota, xxx-xx-xxxx
Maj. Gilbert R. Dardis, xxx-xx-xxxx
Maj. George G. Ervice, xxx-xx-xxxx
Maj. Frank J. Fullmer, xxx-xx-xxxx
Maj. Robert G. Hawk, xxx-xx-xxxx
Maj. Joseph R. Herkalo, xxx-xx-xxxx
Maj. Gordon J. Hill, xxx-xx-xxxx
Maj. Paul C. Hlavaz, xxx-xx-xxxx
Maj. Frank C. Johnson, xxx-xx-xxxx
Maj. Kenneth G. King, xxx-xx-xxxx
Maj. Richard O. Lillie, xxx-xx-xxxx
Maj. Darrell L. Logan, xxx-xx-xxxx
Maj. Sherman P. McKenney, xxx-xx-xxxx
Maj. Louis Olivas, xxx-xx-xxxx
Maj. Robert R. Olson, xxx-xx-xxxx
Maj. David R. Parker, xxx-xx-xxxx
Maj. Seth E. Perelman, xxx-xx-xxxx
Maj. William J. Peters, Jr., xxx-xx-xxxx
Maj. Joe L. Rhoden, xxx-xx-xxxx
Maj. Kenneth L. Ross, xxx-xx-xxxx
Maj. Charles C. Taylor, Jr., xxx-xx-xxxx
Maj. Gary A. Tenney, xxx-xx-xxxx
Maj. Howard J. Thomsen, Jr., xxx-xx-xxxx

LEGAL

Maj. Joseph F. Speelman, xxx-xx-xxxx
Maj. Ronald E. Wurtz, xxx-xx-xxxx

MEDICAL CORPS

Maj. Michael T. Phillips, xxx-xx-xxxx

NURSE CORPS

Maj. Bettyann Herreros, xxx-xx-xxxx

IN THE AIR FORCE

The following officer for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grade and date of rank to be determined by the Secretary of the Air Force provided that in no case shall the officer be appointed in a grade higher than indicated:

LINE OF THE AIR FORCE

To be major

Mumford, Paul R., xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be major

Kellogg, Scott K., xxx-xx-xxxx
Perkinson, Diana T., xxx-xx-xxxx

DENTAL CORPS

To be major

Alkire, Randy G., xxx-xx-xxxx
Boyle, John J., Jr., xxx-xx-xxxx
Bradford, Victor P., xxx-xx-xxxx
Briley, John B., xxx-xx-xxxx
Dickerson, Herman S., xxx-xx-xxxx
Greenwell, John H., III, xxx-xx-xxxx
Ramer, John P., xxx-xx-xxxx
Robinson, Paul M., xxx-xx-xxxx
Standelmann, Philip P., xxx-xx-xxxx
Zinser, Philip J., Jr., xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for promotion in the Air Force Reserve, under the provisions of sections 593, 8362, and 8371, title 10, United States Code:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Abbott, Thomas F., xxx-xx-xxxx
Abe, Harry H., xxx-xx-xxxx
Ames, Robert T., Jr., xxx-xx-x...
Anzures, Armando, xxx-xx-xxxx
Aylsworth, William E., xxx-xx-xxxx
Ballard, Almon B., xxx-xx-xxxx
Beason, John P., xxx-xx-xxxx
Bell, Raymond L., Jr., xxx-xx-xxxx
Bertocchi, Robert P., xxx-xx-xxxx
Blessing, David A., xxx-xx-xxxx
Bloomgren, Edwin L., xxx-xx-xxxx
Borandi, Bernard A., xxx-xx-xxxx
Breeden, George M., III, xxx-xx-xxxx
Bruce, Alan H., xxx-xx-xxxx
Buettner, Gerald F., xxx-xx-xxxx
Bush, William J., II, xxx-xx-xxxx
Cameron, Albert A., xxx-xx-xxxx
Campbell, Patrick K., xxx-xx-xxxx
Carroll, Winfred N., xxx-xx-xxxx
Cernohous, Arthur B., Jr., xxx-xx-xxxx
Cetola, Robert T., xxx-xx-xxxx
Cormier, Rene V., xxx-xx-xxxx
Cotton, Ralph A., xxx-xx-xxxx
Crigler, Louis A., xxx-xx-xxxx
Csady, John M., xxx-xx-xxxx
Dake, Terrence L., xxx-xx-xxxx
Daniels, Ralph F., xxx-xx-xxxx
Davis, Winston R., xxx-xx-xxxx
Day, Alvin L., xxx-xx-xxxx
Dibeler, Vernon H., II, xxx-xx-xxxx
Dittrich, Mark S., xxx-xx-xxxx
Edgar, Robert N., xxx-xx-xxxx
Emmons, Edwin I., xxx-xx-xxxx
Fairbanks, Robert A., xxx-xx-xxxx
Ferguson, Charles M., xxx-xx-xxxx
Finkleman, David, xxx-xx-xxxx
Foley, William H., Jr., xxx-xx-xxxx
French, Gale H., xxx-xx-xxxx
Frenett, Franklin A.P., xxx-xx-xxxx
Fuos, Alton C., xxx-xx-xxxx
Garland, Edward W., xxx-xx-xxxx
Garver, Edward G., Jr., xxx-xx-xxxx
Gerenz, Ralph F., xxx-xx-xxxx
Gobbo, Eugene C., xxx-xx-xxxx
Goodwin, John B., xxx-xx-xxxx
Granado, Alfonso R., xxx-xx-xxxx
Greenberg, Jonathan L., xxx-xx-xxxx
Guerra, Rafael, Jr., xxx-xx-xxxx
Hafler, Harry A., xxx-xx-xxxx
Handy, James H., xxx-xx-xxxx
Harris, George W., xxx-xx-xxxx
Harris, Joe R., xxx-xx-xxxx
Herndon, Thommie D., xxx-xx-xxxx
Hogan, Danny A., xxx-xx-xxxx
Holbrook, Reed W., xxx-xx-xxxx
Holloway, Jay, xxx-xx-xxxx
Hone, Stephen A., xxx-xx-xxxx
Hooper, George L., xxx-xx-xxxx
Horton, Burrell M., xxx-xx-xxxx
Hudenburg, Donald P., xxx-xx-xxxx
Hurst, Wendell L., xxx-xx-xxxx
Jack, Tharon L., xxx-xx-xxxx
Jankowski, Alan J., xxx-xx-xxxx
Johnson, Gene H., xxx-xx-xxxx
Kirkstadt, James M., xxx-xx-xxxx
Klotzkin, Kenneth C., xxx-xx-xxxx
Luther, Charles R., xxx-xx-xxxx
Maher, James P., xxx-xx-xxxx
Marshall, Robert E., xxx-xx-xxxx
Martin, Donald F., xxx-xx-xxxx
Martin, Donald R., xxx-xx-xxxx
Maxton, Gary L., xxx-xx-xxxx
McCormick, James M., xxx-xx-xxxx
McFarland, Marshall J., xxx-xx-xxxx
Mikulecky, Richard J., xxx-xx-xxxx
Miller, John M., xxx-xx-xxxx
Mitchell, G. Thorpe, xxx-xx-xxxx
Monoyios, Louis E., xxx-xx-xxxx
Moore, Harry E., Jr., xxx-xx-xxxx
Morris, David G., xxx-xx-xxxx
Mosier, Bruce M., xxx-xx-xxxx
Mulder, Grant R., xxx-xx-xxxx
Murr, James C., xxx-xx-xxxx
Nelson, Wayne N., xxx-xx-xxxx
Nichols, Carney D., xxx-xx-xxxx
Niven, William A., xxx-xx-xxxx
O'Benland, Carl T., xxx-xx-xxxx
O'Dell, Lawrence W., xxx-xx-xxxx
Palmer, Adrian S., xxx-xx-xxxx
Patrick, Herbert L., III, xxx-xx-xxxx
Patterson, James A., xxx-xx-xxxx
Peters, Michael J., xxx-xx-xxxx
Petty, David L., xxx-xx-xxxx
Pierce, James E., xxx-xx-xxxx
Polk, James G., xxx-xx-xxxx
Porten, Ronald E., xxx-xx-xxxx
Quarnaccio, Michael J., xxx-xx-xxxx
Rankin, Jerry R., xxx-xx-xxxx
Reiling, Keith T., xxx-xx-xxxx
Reilly, Edward A., Jr., xxx-xx-xxxx
Riessen, Herbert P., xxx-xx-xxxx
Riffey, Douglas G., Jr., xxx-xx-xxxx
Ritchie, Richard S., xxx-xx-xxxx
Ryan, Larry G., xxx-xx-xxxx
Ryder, Randolph C., Jr., xxx-xx-xxxx
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IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of section 624, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force:

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IN THE ARMY

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Portmann, Joslyn V., xxx-xx-xxxx
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Schuster, John M., xxx-xx-xxxx
Simpson, Eugene P., xxx-x...
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To be colonel

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MEDICAL CORPS

To be colonel

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Haynes, Ralph L., xxx-x...

MEDICAL SERVICE CORPS

To be colonel

Charboneau, Keith N., xxx-x...

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To be lieutenant colonel

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Cheney, Perry S., xxx-x...
Ching, Daniel G., xxx-x...
Doggett, John J., III, xxx-x...
Foldesi, Robert S., xxx-x...
Gipe, George W., xxx-x...
Holmes, Joe L., Jr., xxx-x...
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MEDICAL SERVICE CORPS

To be lieutenant colonel

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Tate, John C., xxx-xx-xxxx

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3370:

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Buchan, Valerie B., xxx-xx-xxxx
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Hart, Thomas W., xxx-xx-xxxx
Henrichs, Roger, xxx-xx-xxxx
Herrmann, Richard J., xxx-xx-xxxx
Hilton, James M., xxx-xx-xxxx
Hood, Donald A., xxx-xx-xxxx
Howard, Larry D., xxx-xx-xxxx
Hunter, John W., xxx-xx-xxxx
Hyatt, Richard S., xxx-xx-xxxx
Jacobi, Eugene M., xxx-xx-xxxx
Jensen, William M., xxx-xx-xxxx
Jevec, Robert J., xxx-xx-xxxx
Kerins, James J., xxx-xx-xxxx
Keyt, Keith A., xxx-xx-xxxx
Knight, George A., xxx-xx-xxxx
Knox, Kenneth E., xxx-xx-xxxx
Kuck, Inara Z., xxx-xx-xxxx
Lacy, Duane B., xxx-xx-xxxx
Lange, Elwin H., xxx-xx-xxxx
Langkamp, Joseph P., xxx-xx-xxxx
Langlois, Alan M., xxx-xx-xxxx
Larsen, James H., xxx-xx-xxxx
Larsen, Robert J., xxx-xx-xxxx
Layman, George B., xxx-xx-xxxx
Leaks, Roger, Jr., xxx-xx-xxxx
Lee, Jung M., xxx-xx-xxxx
Lenox, John A., xxx-xx-xxxx
Levin, Kenneth N., xxx-xx-xxxx
Livingood, James R., xxx-xx-xxxx
Lloyd, Felix R., xxx-xx-xxxx
Long, Tom, xxx-xx-xxxx
Luce, Bryan R., xxx-xx-xxxx
Maguire, George J., xxx-xx-xxxx
Marsik, Frederic J., xxx-xx-xxxx
Martin, Larry E., xxx-xx-xxxx
McBride, Jacque M., xxx-xx-xxxx
McLean, Dale C., xxx-xx-xxxx
Means, Gary E., xxx-xx-xxxx
Mees, John C., xxx-xx-xxxx
Menard, Norman P., xxx-xx-xxxx
Miller, Charles A., xxx-xx-xxxx
Miller, Cledith A., xxx-xx-xxxx
Miller, Gerald J., xxx-xx-xxxx
Monroe, James E., xxx-xx-xxxx
Morganstern, Howard, xxx-xx-xxxx
Myers, Melvin H., xxx-xx-xxxx
Neeson, John F., xxx-xx-xxxx
Nelson, Gordon M., xxx-xx-xxxx
Neumann, Earnst F., xxx-xx-xxxx
Newsome, Cecil G., xxx-xx-xxxx
Norton, Tommy G., xxx-xx-xxxx
O'Daniel, George R., xxx-xx-xxxx
Oliveri, Benedetto, xxx-xx-xxxx
Opie, William E., xxx-xx-xxxx
Paris, Donald A., xxx-xx-xxxx
Peebles, Jack L., xxx-xx-xxxx
Pender, James B., xxx-xx-xxxx
Perlin, Harris I., xxx-xx-xxxx
Pfannenstiel, Raymo, xxx-xx-xxxx
Pillow, Walter W., xxx-xx-xxxx
Pinkham, Carlos F., xxx-xx-xxxx

Porter, Loril K., xxx-xx-xxxx
Pritchett, Gegory, xxx-xx-xxxx
Puckett, Thomas C., xxx-xx-xxxx
Radune, William F., xxx-xx-xxxx
Rettinger, Robert L., xxx-xx-xxxx
Revis, Donnie R., xxx-xx-xx...
Richard, James M., xxx-xx-xxxx
Risko, Michael, Jr., xxx-xx-xxxx
Ritter, Ronald L., xxx-xx-xxxx
Rosenbluh, Edward S., xxx-xx-xxxx
Ross, Edwin S., xxx-xx-xxxx
Running, Joseph M., xxx-xx-xxxx
Schmechel, Walter W., xxx-xx-xxxx
Serio, Gary F., xxx-xx-xxxx
Shannon, Mack R., xxx-xx-xxxx
Sheppard, Samuel J., xxx-xx-xxxx
Sikora, Gregory J., xxx-xx-xx...
Silke, Terry P., xxx-xx-xxxx
Simpson, George W., xxx-xx-xxxx
Smithee, Robert W., xxx-xx-xxxx
Snyder, Otis W., xxx-xx-xxxx
Soehl, Gene H., xxx-xx-xxxx
Sonneborn, Duane G., xxx-xx-xxxx
Spatz, Marvin, xxx-xx-xxxx
Spina, Arthur J., xxx-xx-xxxx
Steele, Carroll L., xxx-xx-xxxx
Stroman, William D., xxx-xx-xxxx
Thebeau, Robert S., xxx-xx-xxxx
Theriot, Howard J., xxx-xx-xxxx
Thompson, John P., xxx-xx-xxxx
Thompson, Joseph H., xxx-xx-xxxx
Thornton, Shirley A., xxx-xx-xxxx
Thorson, Thor J., xxx-xx-xxxx
Tierney, James P., xxx-xx-xxxx
Toler, Joseph R., xxx-xx-xxxx
Twitty, Willie L., xxx-xx-xxxx
Vance, Delmous Jr., xxx-xx-xxxx
Vanhee, Steven L., xxx-xx-xxxx
Wakayama, Junro E., xxx-xx-xxxx
Walters, Jerry M., xxx-xx-xxxx
White, Eric B., xxx-xx-xxxx
Willis, Finley Jr., xxx-xx-xxxx
Wodarz, Roy R., xxx-xx-xxxx
Yamilkoski, Paul J., xxx-xx-xxxx
Yarter, Maurice A., xxx-xx-xxxx
Yeager, Raymond E., xxx-xx-xx...

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Bell, Joan E. L., xxx-xx-xxxx
Brooks, Patty S., xxx-xx-xxxx
Hodges, Patricia A., xxx-xx-xxxx
Hutchinson, Geoffre, xxx-xx-xxxx
Lilly, Marsha C., xxx-xx-xxxx
Much, Diane D., xxx-xx-xxxx
Needleman, Barbara, xxx-xx-xxxx
Phillips, Sharon L., xxx-xx-xxxx
Richards, Charlotte, xxx-xx-xx...
Rowe, Barbara J., xxx-xx-xxxx
Stevens, Renee P., xxx-xx-xxxx
Sturges, Patricia A., xxx-xx-xxxx
Sweeney, Bonnie M., xxx-xx-xxxx
Tommervik, Dale A., xxx-xx-xxxx
Vallejo, Alfredo, Jr., xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Ackerman, Norman, xxx-xx-xxxx
Beck, Gary F., xxx-xx-xxxx
Bloomberg, Mark S., xxx-xx-xxxx
Fox, Jay D., xxx-xx-xxxx
Kastello, Michael D., xxx-xx-xxxx
Lane, Robert T., xxx-xx-xxxx
Mason, Douglas W., xxx-xx-xxxx
Taylor, Robert V., xxx-xx-xxxx

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 716:

MEDICAL CORPS

To be colonel

Brooks, Viola P., xxx-xx-xxxx
Frushour, Stephen J., xxx-xx-xxxx
Guistolisi, Vincent, xxx-xx-xxxx
Surti, Nergesh, xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Cecil, Gerald T., xxx-xx-xx...
Taylor, Thomas W., xxx-xx-xxxx
Wood, Piers M., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Fairchild, William, xxx-xx-xxxx
Ferguson, Lucian M., xxx-xx-xxxx
Jordon, Robert D., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Brown, David L., xxx-xx-xxxx
Grimwood, Ronald, xxx-xx-xxxx
Insalaco, Samuel, xxx-xx-xxxx
Karsh, Richard B., xxx-xx-xxxx
Vike, Jean, xxx-xx-xxxx
West, Walter C., xxx-xx-xxxx

IN THE MARINE CORPS

The following-named Marine Corps Enlisted Commissioning Education Program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code section 531:

Aivaz, Susan A., xxxx
Anderegg, Anthony R., xxxx
Burdette, Mark W., xxxx
Campbell, Alton E., xxxx
Clark, John F., III., xxxx
Cohen, Gregory K., xxxx
Cole, Paul L., xxxx
Connare, Randall M., xxxx
Cozine, Larry D., xxxx
Engel, Shawn A., xxxx
Ferry, Timothy E., xxxx
Gdanski, Gregory T., xxxx
Grace, Matt L., xxxx
Hensen, Mark A., xxxx
Hernandez, Edward G., xxxx
Jones, Leah A., xxxx
Koch, Gary D., xxxx
Lennon, Michael K., xxxx
Lewis, Jason N., xxxx
Merchant, Steven L., xxxx
Montgomery, Daniel P., xxxx
Moore, Michael S., xxxx
Nerio, Willie S., Jr., xxxx
Noblit, Michael W., xxxx
Ramirez, Michael J., xxxx
Santiago, Vinent W., xxxx
Sawicki, Timothy L., xxxx
Soehnlin, Craig A., xxxx
Summer John A., xxxx
Sykes, David L., xxxx
Vandenabeele, Rene A., Jr., xxxx
Wall, Cody W., xxxx
Waugh, Robert M., xxxx
Whitehead, George B., xxxx

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, sections 531 and 2107:

Ainsworth, Kevin, N., xxxx
Alder, Donald C., xxxx
Amidon, Todd C., xxxx
Amundson, Craig A., xxxx
Anderson, Earl J., xxxx
Anderson, Phillip Q., xxxx
Anderson, Steven K., xxxx
Arnold, Jefrey M., xxxx
Baker, William H., xxxx
Baldwin, Claude IV, xxxx
Barber, Jon A., xxxx
Barnes, Darryl G., xxxx
Bass, Harold C., xxxx
Beller, Stephen C., xxxx
Belleville, Thomas R., xxxx
Benhoff, David A., xxxx
Berget, Cristopher C., xxxx
Bevan, Timothy P., xxxx
Bissell, Michael S., xxxx
Black, Mark E., xxxx
Bley, John C., xxxx
Blomlie, Roxanne K., xxxx
Bohn, Michael F., xxxx
Bontell, Michael J., xxxx
Bowen, Peter S., xxxx
Brady, Jeffrey L., xxxx
Brannen, William P., xxxx
Brannon, David A., xxxx
Brodfuehrer, Steven P., xxxx
Broniec, Frank G., xxxx
Brunter, Randy J., xxxx
Byrne, Shawn P., xxxx
Caldwell, Kenneth C., xxxx
Canada, Jimmy D., II, xxxx
Carberry, Michael K., xxxx
Carlson, Christopher G., xxxx
Carnesi, Thomas III, xxxx
Carroll, Geoffrey C., xxxx
Carusone, Jeffery S., xxxx
Cassidy, Michael J., xxxx
Chura, Gary P., xxxx
Clancy, Matthew J., xxxx
Clark, Lyle R., xxxx
Clemens, Lance M., xxxx
Cobb, Steven R., xxxx
Connor, Richard A., xxxx
Cook, Daniel R., xxxx
Cote, Johanne L., xxxx
Coulter, Jeffrey A., xxxx
Cradic, Anthony L., xxxx
Craft, Douglas M., xxxx
Craig, Colin M., xxxx
Craig, Michael R., xxxx
Cromer, Peter G., xxxx
Curtis, Christopher M., xxxx
Dantonio, Patrick J., xxxx
Darmi, Mickey T., xxxx
Daugharty, Jeffrey T., xxxx
Davis, Brian J., xxxx
Dawson, David P., xxxx
Deckert, Paul B., xxxx
Denn, Douglas A., xxxx
Dennis, Aaron L., xxxx
Dillon, James T., xxxx
Dinauer, Stephen R., xxxx
Dodds, Richard B., xxxx
Doig, Michael A., xxxx
Dolson, Christopher J., xxxx
Donovan, Michael J., xxxx
Dorian, Winston F., xxxx
Dorman, Steven B., xxxx
Douglass, Travis L., xxxx
Downs, Brady C., xxxx
Dube, Hans G., xxxx
Dumke, Brad R., xxxx
Duncan, Robert A., xxxx
Edgerly, Daniel O., xxxx
Eid, Bradley F., xxxx
Escalante, Yori R., xxxx
Fairfield, Douglas H., xxxx
Farr, Peter R., xxxx
Fazekas, Scott J., xxxx
Fitzpatrick, Will, Jr., xxxx
Forbes, Allen P., xxxx
Ford, Partick W., xxxx
Frayer, Edward J., xxxx
Freund, Kirk L., xxxx
Fuka, Louis, xxxx
Garcia, Randall E., xxxx
Gero, John K., xxxx
Gerst, Charles A., xxxx
Gill, Peter B., xxxx
Gionfriddo, Robert J., xxxx
Giornelli, Raymond B., xxxx
Glazier, Guy P., xxxx
Gordon, Kerry T., xxxx
Goulet, David G., xxxx
Grant, Jeffrey G., xxxx
Greer, Adam T., xxxx

Gregory, Daniel T., Jr., xxxx
Hall, Charles E., xxxx
Hamester, Mark, xxxx
Hamilton, Michael D., xxxx
Hansen, Eric G., xxxx
Harmon, Robert A., xxxx
Harrington, Timothy J., xxxx
Harris, Mark E., xxxx
Harryman, Timothy P., xxxx
Hart, Edward H., xxxx
Hatcher, Wesley M., xxxx
Hearney, Brenden K., xxxx
Helgason, Kurt A., xxxx
Hensell, James L., Jr., xxxx
Herran, Francisco, xxxx
Hershberger, William, xxxx
Hess, Daniel G., xxxx
Hoens, Robert J., Jr., xxxx
Holmes, Brian T., xxxx
Hooker, Daniel L., xxxx
Horst, Derek M., xxxx
Howard, Christopher E., xxxx
Hrinko, John J., xxxx
Hughes, Samuel B., xxxx
Humphries, Donald, Jr., xxxx
Jeffrey, Joseph M., xxxx
Jeffries, Edward M., xxxx
Johnson, Borden M., xxxx
Johnson, Gary E., xxxx
Johnson, James L., xxxx
Johnson, Kathryn E., xxxx
Jones, Robert A., xxxx
Kamps, Larry G., xxxx
Kapp, Edward A., xxxx
Karnay, Laurie L., xxxx
Karnes, Jeffrey A., xxxx
Keers, Frederick, III, xxxx
Kennedy, Andrew R., xxxx
Kicklighter, Rodney K., xxxx
Kissane, Philip A., xxxx
Knight, Tracy S., xxxx
Koziuk, Gregory G., xxxx
Kraus, Daniel., xxxx
Krieger, Jeff J., xxxx
Kucera, Dane P., xxxx
Kudlak, David M., xxxx
Kurth, Douglas S., xxxx
Laforest, James R., Jr., xxxx
Landreth, Jack J., xxxx
Lauson, William J., xxxx
Lawson, Allen V., xxxx
Leary, Michael P., xxxx
Lenhard, Lee E., xxxx
Leo, Kenneth J., xxxx
Logan, Timothy K., xxxx
Lopez, Victor D., xxxx
Lord, John S., xxxx
Lovejoy, Owen R., II, xxxx
Lozada, Eriberto P., Jr., xxxx
Lozano, Jose R., xxxx
Lucente, Frank J., xxxx
Luster, Frank, III, xxxx
Lutkenhouse, John F., xxxx
Lyons, William A., xxxx
Mabry, Jeffrey D., xxxx
MacFarlane, Colin J., xxxx
Mahler, Mark A., xxxx
Mahne, Kevin P., xxxx
Malavet, Roman F., xxxx
Maloy, Patick O., xxxx
Manning, Stephen F., xxxx
Maples, William C., xxxx
Marano, Joseph A., xxxx
Marsh, Christopher N., xxxx
Martin, Kelly A., xxxx
Martin, Mary J., xxxx
Mason, William T., xxxx
Mathis, Bonner L., xxxx
Matkin, John T., III, xxxx
Maxmin, Christopher W., xxxx
May, Thomas F., xxxx
McCarthy, Christopher, xxxx
McCarthy, Kevin F., xxxx
McCarthy, Timothy W., xxxx
McCartney, Terrence E., xxxx
McClurg, Henry J., xxxx
McCombs, Robert H., xxxx
McCoy, Marc D., xxxx
McCullough, James C., xxxx
McDonald, James A., III, xxxx
McDonough, John F., III, xxxx
McFall, Monte R., xxxx
McGinnis, Thomas D., xxxx
McHugh, James P., xxxx
McIlvried, Bruce D., xxxx
McKay, Raymond N., xxxx
McLaughlin, Stephen D., xxxx
Meizoso, Stephen C., xxxx
Merriman, Gerald A., II, xxxx
Michaels, Timothy R., xxxx
Miller, Douglas W., xxxx
Minchin, Edward H., III, xxxx
Moline, Todd D., xxxx
Monahan, Daniel P., xxxx
Moore, Keith M., xxxx
Moore, Ronald D., xxxx
Morant, Kevin F., xxxx
Mullen, William F., III, xxxx
Mullins, James M., xxxx
Munoz-Dones, Pedro, III, xxxx
Murtha, Michael P., xxxx
Needham, Peter D., xxxx
Nelms, Joe D., xxxx
Nerad, Anton H., xxxx
Neulen, Barry C., xxxx
Nicholls, Marc T., xxxx
Nickle, Bruce E., xxxx
O'Brien, Andrew G., xxxx
O'Keefe, Timothy F., xxxx
Oliver, Lawrence J., xxxx
O'Neil, Patrick W., xxxx
Orr, Alan J., xxxx
Owen, Stephen S., xxxx
Owens, Ben H., xxxx
Ozmer, Joseph W., II, xxxx
Palacius, Lynette M., xxxx
Parker, John K., xxxx
Pastva, Timothy A., xxxx
Peet, Christopher H., xxxx
Petro, Kenneth C., xxxx
Petto, Joseph J., xxxx
Pfiester, Andrew J., xxxx
Pickett, George D., xxxx
Pipho, Stuart A., xxxx
Pixler, Darryl S., xxxx
Planeta, Christopher C., xxxx
Pockette, Michael D., xxxx
Polk, William M., xxxx
Powell, Kenneth D., xxxx
Rabil, Daniel J., xxxx
Radnich, Lisa M., xxxx
Recio, Francisco, xxxx
Redman, Benjamin L., xxxx
Regan, Brian F., xxxx
Reitz, David M., xxxx
Remington, Eric J., xxxx
Renier, Jeffrey S., xxxx
Ridderhof, Phillip J., xxxx
Roche, Paul L., III, xxxx
Rogers, Philippe D., xxxx
Root, Christopher R., xxxx
Royston, Timothy M., xxxx
Ruf, Joseph, III, xxxx
Russell, Thomas W., xxxx
Ryder, Lawrence S., xxxx
Rynne, Brian T., xxxx
Sanborn, Russell A., xxxx
Schmanske, Brian M., xxxx
Schmidt, Steven J., xxxx
Schreck, Paul C., xxxx
Sears, Stephen A., xxxx
Seith, James P., xxxx
Shanley, Kevin E., xxxx
Sheets, Dennis T., xxxx
Shepherd, Stephen S., xxxx
Skuodas, Michael A., xxxx
Slaughter, Aaron T., x...
Slayne, Kevin F., xxxx
Smith, Brian W., xxxx
Smith, Cary K., xxxx
Smitherman, Joe V., II, xxxx
Soong, Warren J., xxxx
Stanovich, Mark E., xxxx
Stearrett, David H., xxxx
Steidl, Eric J., xxxx
Stevens, John A., xxxx
Stone, Eric B., xxxx
Strotman, Samuel J., xxxx
Summerlin, Raymond, xxxx
Swords, Michael T., xxxx
Taber, George L., IV, xxxx
Tadeo, Terrell A., xxxx
Teeples, James S., xxxx
Temples, David D., xxxx
Thomas, Tommy D., xxxx
Thome, Christopher W., xxxx
Thompson, Kevin L., xxxx
Thompson, Mark A., xxxx
Thorne, Thomas R., xxxx
Thornton, Michael W., xxxx
Tipton, Leslie A., xxxx
Tolley, Bruce E., xxxx
Tomassetti, Arthur, xxxx
Tornetta, Stephen A., xxxx
Trabun, Michael A., xxxx
Tracy, Richard J., xxxx
Trimble, Kent D., xxxx
Tucker, William A., xxxx
Turek, Paul J., xxxx
Urie, James H., Jr., xxxx
Vagedes, Michael M., xxxx
Vandervoorn, Patrick, xxxx
Vaseghi, George H., xxxx
Vincent, William L., II, xxxx
Vosteen, David A., xxxx
Walpole, Kenneth K., xxxx
Walton, Kyle M., xxxx
Waters, Jeffrey A., xxxx
Wawrzyniak, Daniel J., xxxx
Weber, Hans F., xxxx
Weinberg, Steven B., xxxx
Wember, Anthony P., xxxx
Whitehouse, Thomas W., xxxx
Whiting, Philip V., xxxx
Wiedenhoeft, Shawn L., xxxx
Wiersma, David B., xxxx
Wilbur, David A., xxxx
Willard, Lee B., xxxx
Williams, Alan F., xxxx
Williams, Richard H., xxxx
Winkelman, Perrin D., xxxx
Wise, Mark R., xxxx
Wixted, Donna M., xxxx
Wood, Lewis E., xxxx
Wright, Justin A., xxxx
Wright, Lawrence E., xxxx
Wunder, George F., IV, xxxx
Zobrist, Kenneth E., xxxx

The following-named U.S. Naval Academy graduate for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 531:

Mimms, Bernard F., xxxx

FEDERAL TRADE COMMISSION

Daniel Oliver, of Connecticut, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1981, vice James C. Miller III.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Joan M. Gubbins, of Indiana, to be a member of the National Council on Educational Research for a term expiring September 30, 1988, reappointment.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18, 1985:

RAILROAD RETIREMENT BOARD

William J. Doyle III, of Maryland, to be Inspector General, Railroad Retirement Board.

U.S. POSTAL SERVICE

J.H. Tyler McConnell, of Delaware, to be a member of the Board of Governors of the U.S. Postal Service for the remainder of the term expiring December 8, 1988.

Robert Setrakian, of California, to be a member of the Board of Governors of the U.S. Postal Service for the remiander of the term expiring December 8, 1993.

DEPARTMENT OF THE INTERIOR

Gerald Ralph Riso, of New York, to be an Assistant Secretary of the Interior.

C. Dale Duvall, of Washington, to be Commissioner of Reclamation.

U.S. INSTITUTE OF PEACE

Sidney Lovett, of Connecticut, to be a member of the Board of directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

John Norton Moore, of Virginia, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

Richard John Neuhaus, of New York, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

W. Bruce Weinrod, of the District of Columbia, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

Dennis L. Bark, of California, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

Evron M. Kirkpatrick, of Maryland, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

W. Scott Thompson, of New Hampshire, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

Allen Weinstein, of the District of Columbia, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

William R. Kintner, of Pennsylvania, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 5141, to be Chief of Naval Personnel and to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Dudley L. Carlson, xxx-x... 1110, U.S. Navy.

IN THE AIR FORCE

The following officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

Col. Robert M. Alexander, xxx-xx-xxxx FR, Regular Air Force.

Col. James S. Allen, xxx-xx-xxxx FR, Regular Air Force.

Col. John R. Allen, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Edgar R. Anderson, Jr., xxx-xx... FR, Regular Air Force.

Col. James G. Andrus, xxx-xx-xxxx FR, Regular Air Force.

Col. Malcolm B. Armstrong, xxx-xx-... FR, Regular Air Force.

Col. Lester P. Brown, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Robert A. Buethe, Jr., xxx-x... 7571FR, Regular Air Force.

Col. Gerald A. Daniel, xxx-xx-xxxx FR, Regular Air Force.

Col. Thomas E. Eggers, xxx-xx-xx... FR, Regular Air Force.

Col. James W. Evatt, xxx-xx-xxxx FR, Regular Air Force.

Col. Frederick A. Fiedler, xxx-xx-xx... FR, Regular Air Force.

Col. Paul D. Gleason, xxx-xx-xxxx FR, Regular Air Force.

Col. Joel T. Hall, xxx-xx-xxxx FR, Regular Air Force.

Col. William P. Hallin, xxx-xx-xxxx FR, Regular Air Force.

Col. Floyd E. Hargrove, xxx-xx-xxxx FR, Regular Air Force.

Col. George B. Harrison, xxx-xx-xxxx FR, Regular Air Force.

Col. John R. Harty, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard E. Hawley, xxx-xx-xxxx FR, Regular Air Force.

Col. Harald G. Hermes, xxx-xx-xxxx FR, Regular Air Force.

Col. Thomas W. Honeywill, xxx-xx-... FR, Regular Air Force.

Col. John R. Hullender, xxx-xx-xx... FR, Regular Air Force.

Col. Grover E. Jackson, xxx-xx-xxxx FR, Regular Air Force.

Col. John E. Jackson, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Arlen D. Jameson, xxx-xx-xxxx FR, Regular Air Force.

Col. Jeffery D. Kahla, xxx-xx-xxxx FR, Regular Air Force.

Col. Donald L. Kaufman, xxx-xx-xxxx FR, Regular Air Force.

Col. Vernon J. Kondra, xxx-xx-xxxx FR, Regular Air Force.

Col. Paul E. Landers, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. James J. LeCleir, xxx-xx-xxxx FR, Regular Air Force.

Col. Orthus K. Lewis, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Nathan J. Lindsay, xxx-xx-xxxx FR, Regular Air Force.

Col. John D. Logeman, Jr., xxx-xx-... xxx-... FR, Regular Air Force.

Col. Charles F. Luigs, xxx-xx-xxxx FR, Regular Air Force.

Col. Billy G. McCoy, xxx-xx-xxxx FR, Regular Air Force.

Col. Michael P. McRaney, xxx-xx-xxxx FR, Regular Air Force.

Col. Philip L. Metzler, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Kenneth V. Meyer, xxx-xx-xxxx FR, Regular Air Force.

Col. John M. Nowak, xxx-xx-xxxx FR, Regular Air Force.

Col. Carl G. O'Berry, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard J. O'Lear, xxx-xx-xxxx FR, Regular Air Force.

Col. David C. Reed, xxx-xx-xxxx FR, Regular Air Force.

Col. Jon A. Reynolds, xxx-xx-xxxx FR, Regular Air Force.

Col. Paul L. Roberson, xxx-xx-xxxx FR, Regular Air Force.

Col. Alan V. Rogers, xxx-xx-xxxx, Regular Air Force.

Col. Richard M. Scofield, xxx-xx-xxxx FR, Regular Air Force.

Col. John F. Sievertson, xxx-xx-xxxx FR, Regular Air Force.

Col. Victor S. Stachelczyk, xxx-xx-xxxx FR, Regular Air Force.

Col. Kenneth E. Staten, xxx-xx-xxxx FR, Regular Air Force.

Col. Robert F. Swarts, xxx-xx-xxxx FR, Regular Air Force.

Col. Dale W. Thompson, Jr., xxx-xx-... xxx-... FR, Regular Air Force.

Col. Denis L. Walsh, xxx-xx-xxxx FR, Regular Air Force.

Col. Sam W. Westbrook III, xxx-xx-... FR, Regular Air Force.

Col. Robert V. Woods, xxx-xx-xxxx FR, Regular Air Force.

FOREIGN SERVICE

Foreign Service nominations beginning L. Paul Bremer III, and ending Jerome F. Tolson, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 28, 1985. (Confirmed minus one nomination: Edwin G. Corr, to the class of career Minister.)

HOUSE OF REPRESENTATIVES—*Wednesday, December 18, 1985*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, *December 17, 1985.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Wednesday, December 18, 1985.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Forgive us, O God, for waiting until difficulties to admit our needs; forgive us for waiting until good times to give thanks; forgive us for waiting until we have lost our way to seek direction. We offer our praise to You, O God, that Your spirit supports us in all the moments of life, in good times and bad, wherever we are or whatever we have done, and that we can never be too distant from You to be blessed by Your love and grace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 228, nays 143, answered "present" 4, not voting 59, as follows:

[Roll No. 472]

YEAS—228

Ackerman	Fowler	Murtha
Addabbo	Frank	Myers
Akaka	Fuqua	Natcher
Alexander	Garcia	Nichols
Anderson	Gaydos	Nowak
Andrews	Gejdenson	Oakar
Annunzio	Gilman	Olin
Anthony	Glickman	Ortiz
Aspin	Gonzalez	Panetta
Barnard	Gordon	Pease
Barnes	Gradison	Pepper
Bates	Gray (PA)	Perkins
Bedell	Green	Petri
Beilenson	Hamilton	Porter
Bennett	Hatcher	Pursell
Berman	Hayes	Ray
Bevill	Hefner	Regula
Biaggi	Hertel	Reid
Boggs	Hillis	Richardson
Boland	Hopkins	Rinaldo
Boner (TN)	Horton	Robinson
Bonior (MI)	Howard	Rodino
Borski	Hoyer	Roe
Boucher	Hubbard	Rowland (GA)
Boxer	Huckaby	Roybal
Breaux	Hughes	Russo
Brooks	Hunter	Sabo
Broomfield	Hyde	Savage
Brown (CA)	Jeffords	Scheuer
Broyhill	Jenkins	Schneider
Bruce	Johnson	Schulze
Bryant	Jones (OK)	Schumer
Bustamante	Jones (TN)	Sharp
Byron	Kanjorski	Shelby
Callahan	Kaptur	Shumway
Carper	Kastenmeier	Shuster
Carr	Kennelly	Sisisky
Chapman	Kildee	Skelton
Chappell	Kolter	Slattery
Clinger	Kostmayer	Smith (FL)
Coelho	LaFalce	Smith (IA)
Coleman (TX)	Lantos	Smith (NE)
Collins	Lehman (CA)	Snyder
Conyers	Lehman (FL)	Solarz
Cooper	Leland	Spratt
Coyne	Levin (MI)	St Germain
Daniel	Levine (CA)	Staggers
Darden	Lipinski	Stallings
Daschle	Long	Stokes
de la Garza	Lowry (WA)	Studds
Dellums	Lujan	Swift
Derrick	Luken	Synar
Dicks	Lundine	Tallon
Dingell	MacKay	Thomas (GA)
Dixon	Madigan	Torres
Donnelly	Manton	Torricelli
Dorgan (ND)	Martinez	Towns
Dowdy	Matsui	Traficant
Downey	Mazzoli	Valentine
Duncan	McCloskey	Vander Jagt
Durbin	McDade	Vento
Dwyer	McEwen	Visclosky
Dyson	McHugh	Volkmer
Early	Meyers	Waxman
Eckart (OH)	Mica	Weiss
Edgar	Mikulski	Wheat
Edwards (CA)	Miller (WA)	Whitley
English	Mineta	Whitten
Erdreich	Moakley	Wirth
Evans (IL)	Mollohan	Wise
Fascell	Montgomery	Wolpe
Fazio	Moody	Wright
Feighan	Moore	Wyden
Fish	Morrison (CT)	Wylie
Florio	Mrazek	Yates
Foglietta	Murphy	Yatron

NAYS—143

Archer	Bateman	Bliley
Armey	Bentley	Boehlert
Bartlett	Bereuter	Boulter
Barton	Bilirakis	Brown (CO)
Burton (IN)	Hiler	Roukema
Carney	Holt	Rowland (CT)
Chandler	Ireland	Saxton
Chappie	Jacobs	Schaefer
Cheney	Kasich	Schroeder
Clay	Kolbe	Schuette
Coats	Kramer	Sensenbrenner
Cobey	Lagomarsino	Shaw
Coble	Latta	Sikorski
Coleman (MO)	Lent	Siljander
Combest	Lewis (CA)	Skeen
Conte	Lewis (FL)	Slaughter
Coughlin	Lightfoot	Smith (NJ)
Courter	Livingston	Smith, Denny (OR)
Craig	Lloyd	Smith, Robert (NH)
Crane	Loeffler	Smith, Robert (OR)
Dannemeyer	Lott	Snowe
Daub	Lungren	Solomon
Davis	Mack	Spence
DeLay	Marlenee	Stangeland
DeWine	Martin (NY)	Stenholm
Dickinson	McCain	Strang
DioGuardi	McCandless	Stratton
Dornan (CA)	McCollum	Stump
Dreier	McGrath	Sundquist
Edwards (OK)	McKernan	Sweeney
Emerson	McMillan	Swindall
Evans (IA)	Michel	Tauke
Fiedler	Miller (OH)	Tauzin
Flippo	Molinari	Taylor
Franklin	Monson	Thomas (CA)
Frenzel	Moorhead	Vucanovich
Gallo	Morrison (WA)	Walker
Gekas	Nielson	Watkins
Gingrich	Oxley	Weber
Gregg	Packard	Whitehurst
Grotberg	Parris	Whittaker
Gunderson	Pashayan	Wolf
Hall (OH)	Penny	Wortley
Hall, Ralph	Quillen	Young (FL)
Hammerschmidt	Ridge	Zschau
Hansen	Roberts	
Hartnett	Roemer	
Hendon	Rogers	
Henry	Roth	

ANSWERED "PRESENT"—4

Applegate	Goodling
Bonker	Obey

NOT VOTING—59

Atkins	Heftel	Owens
AuCoin	Hutto	Pickle
Badham	Jones (NC)	Price
Bosco	Kemp	Rahall
Burton (CA)	Kindness	Rangel
Campbell	Kleczka	Ritter
Crockett	Leach (IA)	Rose
Dymally	Leath (TX)	Rostenkowski
Eckert (NY)	Lowery (CA)	Rudd
Fawell	Markey	Seiberling
Fields	Martin (IL)	Stark
Foley	Mavroules	Traxler
Ford (MI)	McCurdy	Udall
Ford (TN)	McKinney	Walgren
Frost	Miller (CA)	Weaver
Gephardt	Mitchell	Williams
Gibbons	Neal	Wilson
Gray (IL)	Nelson	Young (AK)
Guarini	O'Brien	Young (MO)
Hawkins	Oberstar	

□ 1015

Mr. ROGERS changed his vote from "yea" to "nay."

Mr. MARLENEE changed his vote from "present" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 1884) "An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 86. An act to amend the laws of the United States to eliminate gender-based distinctions;

S. 1574. An act to provide for public education concerning the health consequences of using smokeless tobacco products; and

S. 1918. An act to change the date for transmittal of a report.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KILDEE). The Chair intends to take certain business requests before the 1-minute speeches.

CAPTAIN JOHN FOSTER WILLIAMS COAST GUARD BUILDING

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 3931) to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. SHAW. Mr. Speaker, reserving the right to object, I yield to the chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD], for an explanation of this legislation.

Mr. HOWARD. I thank the gentleman from Florida for yielding.

Mr. Speaker, during the Revolutionary War, Capt. John Foster Williams commanded a number of vessels, including the largest ship in the Massachusetts navy, the 26-gun, *Protector.* He was captured by the British in 1781 and sent to a London prison, from which he escaped and resumed his role in the war. After independence was won, Captain Williams continued to serve his country. He headed the committee of the Boston Marine Society which designed the first revenue cutter, the *Massachusetts,* and served as its commander from the completion of its construction in 1790 until his death in 1814.

Mr. SHAW. Mr. Speaker, this bill is supported by the administration. My side of the aisle supports it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the General Services Administration building known as the "United States Appraiser's Stores Building", located at 450 Atlantic Avenue, Boston, Massachusetts, shall hereafter be known and designated as the "Captain John Foster Williams Coast Guard Building", in recognition of Captain John Foster Williams' contributions to the Commonwealth of Massachusetts during the Revolutionary War. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be reference to the "Captain John Foster Williams Coast Guard Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1030

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CHANGING TRANSMITTAL DATE OF A REPORT

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1918), to change the date for transmittal of a report, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to afford the chairman of the Foreign Affairs Committee an opportunity to explain the reason for this.

I yield to the gentleman for his explanation.

Mr. FASCELL. Mr. Speaker, I thank my colleague, the ranking Republican member of the Committee on Foreign Affairs for yielding.

Mr. Speaker, I rise in support of S. 1918, a bill to change the date for transmittal of a report to Congress on the employee stock ownership plan in business enterprises in Central America and the Caribbean.

This bill makes a technical change in the Foreign Assistance Act, changing the date of a required report from December 31, 1985, to October 1, 1986. The report deals with the use of employee stock ownership plans and development efforts in Central America and the Caribbean. ESOP's can potentially be a useful mechanism to promote development and private ownership in developing countries.

I look forward to reading the conclusions of this report.

Mr. Speaker, I urge the adoption of S. 1918.

Mr. BROOMFIELD. Mr. Speaker, we endorse the recommendation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 713(d) of the International Security and Development Cooperation Act of 1985 is amended by striking out "December 31, 1985," and inserting in lieu thereof "October 1, 1986,".

(b) The amendment made by subsection (a) shall take effect as of December 30, 1985.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXPRESSING SENTIMENT OF CONGRESS REGARDING DEATHS OF MEMBERS OF THE 101ST AIR ASSAULT DIVISION AT GANDER, NEWFOUNDLAND, CANADA

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the resolution (H. Res. 345) to express the sentiment of Congress regarding the deaths of members of the 101st Air Assault Division in an airplane crash on December 12, 1985, at Gander, Newfoundland, Canada, while en route home for the season's holiday, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. HOPKINS. Mr. Speaker, reserving the right to object, I do so so that the chairman might have an opportunity to explain his position.

I yield to the gentleman from Alabama [Mr. NICHOLS].

Mr. NICHOLS. I thank the gentleman for yielding.

Mr. Speaker, the resolution merely expresses our sorrow at the deaths of the 248 members of the 101st Airborne Division. It extends our sympathy to their families; it expresses our respect and gratitude to the members of the 101st Division for their service with the peacekeeping force. It also directs the Clerk of the House to transmit a copy of the resolution to the families of the deceased soldiers.

Mr. HOPKINS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. I thank the gentleman for yielding to me.

Mr. Speaker, as a sponsor of House Resolution 345, joined by the gentleman from Missouri [Mr. SKELTON], the gentleman from Tennessee [Mr. SUNDQUIST], and the gentleman from Indiana [Mr. MCCLOSKEY], I would like to ask that we pass this resolution, and that we thereby express our sorrow again to the survivors of these 248 American service men and women who died in that tragic plane crash at Gander, NF.

Through this resolution, hopefully, we can insist that from now on, that we see to it that our military troops have safe transportation and are not being transported on old, commercial airlines which are not adequate for travel.

I thank the Members of the House for this time to express our sympathy. Also to express our appreciation to President Ronald Reagan and Mrs. Nancy Reagan for their going to Fort Campbell, KY, this week for that memorial service. Those who watched on television know that what we saw there firsthand, and that is that President and Mrs. Reagan were wonderful in their expressing sorrow, one-on-one, to the more than 500 survivors who crowded that hangar there at Fort Campbell in western Kentucky.

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, on Monday of this week, along with other Members of this body and the Senate, I accompanied the President and Mrs. Reagan to Fort Campbell to pay the respect and express the sympathy of this Nation to the bereaved families and loved ones of those proud men and women of the airborne division who lost their lives in the airplane crash in Newfoundland 6 days ago.

Having looked into the anguished faces and felt their grief and shared their sense of loss, I am persuaded that this resolution is profoundly appropriate and deserves our unanimous approval. It seems to me to be so unfair at this time of year when most of us are setting up our Christmas trees that for some unknown reason this world tears down the trees of joy and happiness for some families in this country.

Our efforts must not end with the passage of this resolution, and it will not. I am pleased and proud to note that under the leadership of our distinguished chairman, Mr. NICHOLS, the Armed Services Subcommittee on Investigation already has begun gathering information and inquiring into all aspects of the military process which ended so tragically last week in Newfoundland.

I commend our chairman and the authors of this resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the resolution. We were saddened by the loss of 248 of our servicemen and women. I am sure that many of my colleagues will be receiving inquiries of what will be done by our Government for the families of those killed. Mrs. SCHROEDER, in just a few minutes, will offer a resolution which I also support which would cover additional benefits for the families.

Let me briefly explain what these families will receive. The Veterans' Administration, the Department of Defense, and the Social Security Administration are providing casualty assistance to the families of these men and women to help them apply for their benefits. Social Security death benefits will be paid in a number of cases. The Department of Defense does pay a death payment of 6 months' salary, funeral costs and medical benefits to the survivors under CHAMPUS.

The widows and children of those killed may receive any or all of the following benefits from the Veteran's Administration: dependency compensation; educational assistance up to the age of 18; servicemen's group life insurance of up $35,000. You voted for a $50,000 life insurance policy for all the servicemen but that is not effective until January 1.

Mr. Speaker, I am writing each Member today detailing these benefits.

MR. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. I thank the gentleman for yielding to me.

Mr. Speaker, I joined other members of the Kentucky and Tennessee congressional delegations on Monday as President and Mrs. Reagan attended a memorial service at Fort Campbell for the victims of last week's crash. I'm sure the gentleman from Kentucky would agree that the loss of those 248 lives was perhaps the most heartfelt tragedy in the history of the 101st Airborne Division. The President's appearance at the memorial service demonstrated to the world that the tragedy was more than a loss to the families of those brave peacekeeping forces from Fort Campbell—it was a loss to our entire Nation.

Mr. Speaker, more than 1 million Americans have died while serving their country this century. It is only fitting that we continue to preserve their memories, the ideals for which they so valiantly fought, and the quest for worldwide human rights. The resolution offered by the gentleman from Kentucky expresses this sentiment on behalf of these fallen soldiers of the Screaming Eagles.

The efforts of those who have died in service to this country and its allies were to ensure that you and I could speak freely, voice our opposition and our support of government publicly without fear of retaliation, travel this country and beyond unchecked by stone walls, barbed wire, and guard towers, and worship as we please.

These young Fort Campbell men who perished served the cause of peace and freedom not only for our country, but for the entire troubled Middle East. We enjoy freedom only because of men such as those who serve at Fort Campbell—men and women who are willing to sacrifice their lives in the service of our country. We must never forget the brave people who have joined in that fight and made the ultimate sacrifice, and all who have served honorably.

I thank the gentleman from Kentucky for offering this resolution.

□ 1040

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding. I certainly echo his comments and the comments of others.

Vermont and a friend of mine lost a fine young soldier in this tragic crash, and I wish to express my concern over the events that occurred and my support for the resolution.

Mr. Speaker, I rise in support of House Resolution 345, expressing the deep sorrow of Congress over the death of 248 members of the 101st Airborne Division in Gander, Newfoundland, on December 12, 1985. I would like to join my colleagues in sending our profound sympathy to the families of these brave men and women who were returning home from the difficult job of maintaining peace in the Middle East.

I am especially saddened by the death of Emery S. White III, the son of Wilma and Emery White, Jr. of Fair Haven, VT. Emery was returning

home to spend Christmas with his wife, Stephanie, and his family, after completing 6 months of duty with the multinational peacekeeping force in the Sinai.

Emery attended Fair Haven High School, enlisted in the Army at age 17 and completed his degree while in the service. In 1974, when Emery signed up, joining the armed services was not a popular career choice. More money and fame were to be found in many other jobs. Yet, Emery was exceptionally dedicated, and after his first tour, he decided to make the Army his career. Like his father and grandfather before him, also members of the American Legion Post 49 in Fair Haven, Emery was willing to act upon his dedication to his country and place his life on the line in the defense of peace.

Emery's enthusiasm was an asset to the 101st Air Assault Division. He served 11 years in the Army, achieving the rank of staff sergeant. A serious and handsome young man, Emery was unusually attentive to his family, particularly during times of need. I well remember when, about 3 years ago, my car broke down and Emery let his father borrow his new Pontiac in order to drive me to my meeting. His service often kept him apart from his family, wife, and young son, Emery IV, taking him twice to Germany as a tank commander and to Korea as a member of the honor quard. In all of his endeavors, Emery served his country with distinction.

We all owe Emery a debt of gratitude. It is men and women like Emery who allow the rest of us to lead our lives free from the threat of war. I realize that this knowledge does little to lessen the grief of his family. However, I want them to know that my thoughts, and the appreciation of all Americans, are with them at this difficult time.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I take this opportunity to express my support for and urge the passage of this resolution. At the very least, we can, through this resolution, extend our sorrow at the deaths of these soldiers of the 101st Airborne, extend our sympathy to the families and loved ones, and also accord them respect and gratitude for the job that they were doing and are doing.

I might say that this summer I had the opportunity to drive through and visit Fort Campbell, KY. The commanding general, Maj. Gen. Burton Patrick, took me throughout the installation and showed me the soldiers that were there, and with great pride—and justifiable pride—the job that they were doing. So I know firsthand what fine young men and women they were.

I doubt if any other congressional district, other than the one that is the home of Fort Campbell, KY, suffered as much as the district that I represent. Three young men from the Fourth Congressional District of Missouri were aboard that airplane and perished in that crash.

By serving in the Armed Forces of the United States, these soldiers who were on active duty demonstrated their commitment to liberty and democracy, and we should not forget that, nor should we forget the tradition of the 101st Division and their peacekeeping efforts.

This resolution, which is introduced by the gentleman from Kentucky [Mr. HUBBARD], cosponsored by this gentleman from Missouri, myself, is designed as a remembrance to these outstanding soldiers. I realize that words are little consolidation at a moment like this, but the loved ones and the families should know that those who did die on that fateful day, the 12th of December, are remembered and respected.

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Speaker, I am honored to speak today on behalf of these families that have suffered so much and the fine men who died in this untoward event.

I had the privilege of being an enlisted man in the 101st when it was activated in World War II, so I have a feeling of brotherhood with regard to these fine men who, at the very zenith of their career, were taken away from their families and taken away from their loved ones.

There is no real way to express the sorrow the people of the United States feel for these fine young men who dedicated their lives to the strengthening of their country and preserving it, only to be snatched away really on the eve of the tremendous emotional event of coming back from their hard service overseas to be with their families at Christmastime. No tragedy could hardly be worse than that.

So I think all of us have a tremendous feeling of sympathy. We hope that the families will have at least some comfort in their grief, knowing that their young people who were involved in this were giving nobly so much of their lives to their country.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Further reserving the right to object, I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I join with the rest of my colleagues in mourning these several hundred young men who met their deaths in this fiery crash. As a former Army Air Corps pilot, I especially mourn these dedicated airmen and peacekeepers.

But I think we would fall short in our obligation to revere their memory and do the necessary things if we did not do what we can to make sure that nothing like this ever happens again.

Just look at the headline in this morning's Times: "Pentagon Denies That It Is Responsible for the Safety of the Plane" that crashed. No; they say they are not responsible. "The Rome office of the International Peacekeeping Force," says the Defense Department, "was responsible for the chartering, safety, and operation of the flight" that crashed.

Mr. Speaker, I feel that something has gone terribly amiss here. I feel that a terrible mistake took place. If anybody could have seen that Air Force captain, if anybody could have seen his wife report on the conversation and the letter she had from her husband about his terrible misgivings about getting on that plane, someone would feel that there is something rotten in the state of Denmark that that flight was ever dispatched.

The Defense Department abjures all responsibility. Who ordered those men onto that plane? Was it the tooth fairy? Did they go to a tourist office and try to get the cheapest ticket they could back home? No, they were under orders, and it was our military authority that put them on the plane.

Now, I have no problem with the military using charter transportation to transport our men around the world. It is apparently cheaper than using military aircraft, and it should be just as safe. But something went wrong in the supervision of this charter flight and that charter company and the whole charter operation of the military. Something went pathetically, tragically, horrifyingly wrong when this company that had a long record of poor maintenance and poor recordkeeping was never brought up short and those 250-odd men were ordered onto that plane. And to pile Pelion onto Ossa, to rub salt in the wounds of the American people, the Defense Department stands back, eyes wide with innocence, and says, "We had no responsibility in that matter. It is the peacekeeping force that is responsible for the safety and the inspection and the mechanics of supervising these charter flights."

Mr. Speaker, I feel that we have lost all sense of accountability in our military, and this is not the first instance. We have had instance after instance after instance in the last few years where the military simply denies all responsibility.

I want to know where the court-martial is going to be and who is going to be court-martialed. I want to know

where there is going too be accountabilty and some factfinding and some remedies produced so that this kind of horrifying thing will never happen again.

We must reestablish accountability in the military. Somebody ought to be court-martialed. Somebody's military career ought to come to a grinding halt, just as those 248 lives came to a pathetic, grinding halt.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. I am delighted to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman for yielding, and I really appreciate having the time. I also want to thank the gentleman from Alabama and the gentleman from Kentucky for bringing this to the Members' attention.

I want to point out to the Members that very shortly we will have another bill coming up. I think one of the tremendously frustrating things that all of us are feeling around here is that although we will pass this memorial resolution and we feel so strongly for those families whose Christmas holidays have been really ruined—and we know that they were terribly ruined because of the loss of these young men who were serving us and preserving our freedoms—we feel a little helpless.

The next bill that will come up is going to be very important because we can do something for these families, and I just wanted to use this time to explain it. One of the things we will be able to do is this: We found out that one of the oversights has been that when someone in the armed services is killed, obviously their housing allowance stops immediately, and what happens is that while their dependents are allowed to remain in their housing for 60 days after the death, they have to start paying rent. So it almost becomes a vaudeville reenactment. You have the base commander going over to pound the rent out of the dependents, and their money to pay the rent has all been stopped.

We are going to introduce a bill to cover that rent for 2 months. This will happen forever and ever. This should have been done long ago. When anyone is killed in active duty, giving their dependents housing during that 60-day period for that transition without the money to pay for the housing is really giving them nothing.

Furthermore, the gentleman from Mississippi [Mr. MONTGOMERY] has pointed out that we had passed the life insurance bill for members of the armed services and raised the limits from $35,000 to $50,000, but it was not to take effect until January of next year. The gentleman has checked it out and found there is so much money in the fund—the premium is very low—and he is going to attempt to amend my bill to make that retroactive to cover these people.

□ 1050

I think that is the least we can do. It costs a very minimal sum, and it goes beyond just being able to wring our hands. None of that ever brings these young men back. We all know that. We all know that there is absolutely nothing we can do to really soothe what is really going on in those families and the tremendous loss they are feeling this Christmas. But if we can do anything to at least relieve a little of the financial stress, that is very helpful.

I want to say that when I first talked about this on the House floor, I was very touched because I had phone calls from Members such as the gentleman from Illinois [Mr. CRANE] and many others saying they wanted to do anything that they could. Everybody on the Armed Services Committee has been terribly helpful.

So I just want to thank everybody for doing this, and to the families we say, we realize it is token, but we are doing everything we can and we really do agonize.

Mr. Speaker, I thank the gentleman from Kentucky [Mr. HOPKINS] for yielding.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I might make mention of the fact that the Army has just informed me that on Friday at 2 p.m., there will be a memorial ceremony at Fort Campbell, KY, regarding the loss of the 248 101st Airborne Division soldiers, and there will be a plane leaving Andrews Air Force Base at noon on Friday for Members of the Congress.

Mr. Speaker, further at this time, I ask unanimous consent that there be additional words attached to this resolution on the last page thereof, paragraph 4. I ask unanimous consent that it reads as follows:

(4) Directs the Clerk of the House to transmit a copy of this resolution to the families of the deceased servicemen and servicewomen and to the commanding officer of the 101st Airborne Division, Major General Burton Patrick.

Mr. Speaker, I ask unanimous consent for those words to be attached thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I join my colleagues in condolence to those who were lost in the tragedy. I happened to have one of my constituents in that plane crash.

Mr. HOPKINS. Mr. Speaker, in withdrawing my reservation of objection, I ask that all Members' of the House of Representatives names be added to this resolution.

The SPEAKER pro tempore. The Chair is waiting for the words of the amendment under unanimous consent to arrive at the Clerk's desk.

Did the gentleman ask that all Members' names be listed in the RECORD as cosponsors?

Mr. HOPKINS. That is correct, Mr. Speaker, that all Members' names be listed in the RECORD as cosponsors of this resolution. I ask unanimous consent for that permission.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The list of Members' names referred to is as follows:

A

Ackerman, Addabbo, Akaka, Alexander, Anderson, Andrews, Annunzio, Anthony, Applegate, Archer, Armey, Aspin, Atkins, AuCoin.

B

Badham, Barnard, Barnes, Bartlett, Barton, Bateman, Bates, Bedell, Beilenson, Bennett, Bentley, Bereuter, Berman, Bevill, Biaggi, Billirakis, Billey.

Boehlert, Boggs, Boland, Boner, Bonior, Bonker, Borski, Bosco, Boucher, Boulter, Boxer, Breaux, Brooks, Broomfield, Brown (CA), Brown (CO), Broyhill, Bruce, Bryant, Burton (CA), Burton (IN), Bustamante, Byron.

C

Callahan, Campbell, Carney, Carper, Carr, Chandler, Chapman, Chappell, Chappie, Cheney, Clay, Clinger, Coats, Cobey, Coble, Coelho, Coleman (MO), Coleman (TX), Collins, Combest, Conte, Conyers, Cooper, Coughlin, Courter, Coyne, Craig, Crane, Crockett.

D

Daniel, Dannemeyer, Darden, Daschle, Daub, Davis, de la Garza, DeLay, Dellums, Derrick, DeWine, Dickinson, Dicks, Dingell, DioGuardi, Dixon, Donnelly, Dorgan (ND), Dornan (CA), Dowdy, Downey, Dreier, Duncan, Durbin, Dwyer, Dymally, Dyson.

E

Early, Eckart (OH), Eckert (NY), Edgar, Edwards (CA), Edwards (OK), Emerson, English, Erdreich, Evans (IA), Evans (IL).

F

Fascell, Fawell, Fazio, Feighan, Fiedler, Fields, Fish, Flippo, Florio, Foglietta, Foley, Ford (MI), Ford (TN), Fowler, Frank, Franklin, Frenzel, Frost, Fuqua.

G

Gallo, Garcia, Gaydos, Gejdenson, Gekas, Gephardt, Gibbons, Gilman, Gingrich, Glickman, Gonzalez, Goodling, Gordon, Gradison, Gary (IL), Gray (PA), Green, Gregg, Grotberg, Guarini, Gunderson.

H

Hall (OH), Hall (TX), Hamilton, Hammerschmidt, Hansen, Hartnett, Hatcher, Haw-

kins, Hayes, Hefner, Heftel, Hendon, Henry, Hertel, Hiler, Hillis, Holt, Hopkins, Horton, Howard, Hoyer, Hubbard, Huckaby, Hughes, Hunter, Hutto, Hyde.

I

Ireland.

J

Jacobs, Jeffords, Jenkins, Johnson, Jones (NC), Jones (OK), Jones (TN).

K

Kanjorski, Kaptur, Kasich, Kastenmeier, Kemp, Kennelly, Kildee, Kindness, Kleczka, Kolbe, Kolter, Kostmayer, Kramer.

L

LaFalce, Lagomarsino, Lantos, Latta, Leach (LA), Leath (TX), Lehman (CA), Lehman (FL), Leland, Lent, Levin (MI), Levine (CA), Lewis (CA), Lewis (FL), Lightfoot, Lipinski, Livingston, Lloyd, Loeffler, Long, Lott, Lowery (CA), Lowry (WA), Lujan, Luken, Lundine, Lungren.

M

Mack, MacKay, Madigan, Manton (NY), Markey, Marlenee, Martin (IL), Martin (NY), Martinez, Matsui, Mavroules, Mazzoli, McCain, McCandless, McCloskey, McCollum, McCurdy, McDade, McEwen, McGrath, McHugh, McKernan, McKinney, McMillan, Meyers (KS), Mica, Michel, Mikulski, Miller (CA), Miller, (OH), Miller (WA), Mineta, Mitchell, Moakley, Molinari, Mollohan, Monson (UT), Montgomery, Moody, Moore, Moorhead, Morrision (CT), Morrison (WA), Mrazek, Murphy, Murtha, Myers (IN).

N

Natcher, Neal, Nelson, Nichols, Nielson, Nowak.

O

O'Brien, O'Neill, Oakar, Oberstar, Obey, Olin, Ortiz, Owens, Oxley.

P

Packard, Panetta, Parris, Pashayan, Pease, Penny, Pepper, Perkins, Petri, Pickle, Porter, Price, Pursell.

Q

Quillen.

R

Rahall, Rangel, Ray, Regula, Reid, Richardson, Ridge, Rinaldo, Ritter, Roberts, Robinson, Rodino, Roe, Roemer, Rogers, Rose, Rostenkowski, Roth, Roukema, Rowland (CT), Rowland (GA), Roybal, Rudd, Russo.

S

Sabo, Savage, Saxton, Schaefer, Scheuer, Schneider, Schroeder, Schuette, Schulze, Schumer, Seiberling, Sensenbrenner, Sharp, Shaw, Shelby, Shumway, Shuster, Sikorski, Siljander, Sisisky, Skeen, Skelton, Slattery, Slaughter, Smith (FL), Smith (IA), Smith (NE), Smith (NJ), Smith, Denny (OR), Smith, Robert (NH), Smith, Robert (OR), Snowe, Snyder, Solarz, Solomon, Spence, Spratt, St Germain, Staggers, Stallings, Stangeland, Stark, Stenholm, Stokes, Strang, Stratton, Studds, Stump, Sundquist, Sweeney, Swift, Swindall, Synar.

T

Tallon, Tauke, Tauzin, Taylor, Thomas (CA), Thomas, (GA), Torres, Torricelli, Towns, Traficant, Traxler,

U

Udall.

V

Valentine, Vander Jagt, Vento, Visclosky, Volkmer, Vucanovich.

W

Walgreen, Walker, Watkins, Waxman, Weaver, Weber, Weiss, Wheat, Whitehurst, Whitley, Whittaker, Whitten, Williams, Wilson, Wirth, Wise, Wolf, Wolpe, Wortley, Wright, Wyden, Wylie.

Y

Yates, Yatron, Young (AK), Young (FL), Young (MO).

Z

Zschau.

Mr. HOPKINS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the consideration of the amendatory language offered by the gentleman from Missouri [Mr. SKELTON]?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Strike out the period at the end of the resolution and insert the following: "and to the commanding officer of the 101st Airborne Division, Major General Burton Patrick.".

The SPEAKER pro tempore. Without objection, the modification will be made.

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Alabama?

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I was in my office watching this proceeding and I had to run over to say a few things that I had on my mind about the tragedy that has confronted our country.

Yesterday, Mr. Speaker, I had the sad duty to talk to two families in my district who had lost loved ones in the crash. One was a brother who was terribly broken up and, when I asked if there was anything I could do to help, he said, "Congressman, yes, there is one thing. Could you tell me why? Could somebody tell me why or how it happened?"

Now, we do not know at this point, but I could tell you this. Since the accident occurred Thursday, I have been attempting to get documents. I got some, and it is not adding up to a very pretty picture.

Mr. Speaker, I would just like to read for the RECORD a statement that came out of the NATI inspection, the so-called white glove phase II inspection. This was making reference to a pilot that worked for Arrow Air. This is what it says in the remark, section, Mr. Speaker:

Unsatisfactory ramp inspection. Recommend additional NATI emphasis as soon as practical. This ramp inspection was conducted at Logan Airport in Boston and as a result of the specific unsolicited urgent request of Captain Michael Sanjenis, an Arrow Air DC-8 Captain, who stopped this inspector on the ramp at Logan and not only requested that I look at his DC-8 and fly on it with him, but pleaded, demanded, begged and requested that the FAA * * * "please, please, home in on Arrow to stop current company maintenance practices before an accident occurs." He stated that it would be better to * * * "shut down the company rather than keep flying the aircraft."

Now, I do not mean to suggest that that was why that plane crashed, but there is plenty of evidence in the NATI phase II inspection indicating all kinds of deficiencies with that carrier that simply cried out for a detailed investigation.

Mr. Speaker, I only hope to God that when this is all finished, we will not find that that accident was caused by somebody's failure to perform their duties.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the resolution, as modified, as follows:

H. RES. 345

Whereas on December 12, 1985, 248 members of the 3d Battalion, 502d Infantry, 101st Air Assault Division, based in Fort Campbell, Kentucky, died in an airplane crash after takeoff from Gander International Airport in Newfoundland, Canada, while returning home from a tour of peacekeeping duty in the Sinai Peninsula;

Whereas peace in the Middle East is vital to the security of the United States;

Whereas the stationing of these men and women in the Sinai Desert as part of the multinational force and observers, under the constant threat of terrorists attacks, was necessary to help secure the blessing of peace for the peoples of Israel and Egypt; and

Whereas Congress and the American people are united in grief over the untimely loss of our soldiers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the American people—

(1) express profound sorrow at the deaths of the soldiers of the 101st Air Assault Division while returning to their loved ones and families;

(2) extend deepest sympathy to their loved ones and families; and

(3) accord respect and gratitude to the members of the Division, who served courageously and loyally as peacekeepers in the Middle East; and

(4) directs the Clerk of the House to transmit a copy of this resolution to the families of the deceased servicemen and servicewomen and to the commanding officer of the 101st Airborne Division, Major General Burton Patrick.

Mr. HUTTO. Mr. Speaker, I rise in support of House Resolution 345.

It is with a heavy heart that we honor those 248 soldiers of the 101st Air Assault Division who lost their lives in the tragic airplane crash last Thursday. It is difficult for us, but even more difficult for the families, to understand why these young people had their lives terminated at such an early age. Two youths from my district—Specialist 4th Class Tony Brasfield of Panama City and Specialist 4th Class Jeffrey Kee of Pensacola—were among the fatalities. I

have extended my sympathy to their families and would broaden that to include all the families who lost loved ones in this tragic accident.

Although we cannot understand this unfortunate tragedy—especially as they were on their way home to rejoin their families for a joyful holiday season—we can take solace in the fact that they gave their all in the service of their country. They had completed their tour of duty as part of the Multi-National Force keeping peace in the Sinai, a desolate place of difficult duty that I visited 3 years ago just about the time Israel turned the Sinai over to Egypt.

All the words we may say cannot change the circumstances of the sacrifice of these lives. I am convinced that these fine young Americans did not die in vain. I believe the world is a little better because they served the cause of peace. We will remember them with pride. May God comfort their loved ones in their bereavement.

The SPEAKER pro tempore. The question is on the resolution, as modified.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HUBBARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 33, as follows:

[Roll No. 473]

YEAS—401

Ackerman	Bryant	Donnelly
Addabbo	Burton (CA)	Dorgan (ND)
Akaka	Burton (IN)	Dornan (CA)
Alexander	Bustamante	Dowdy
Anderson	Byron	Downey
Andrews	Callahan	Dreier
Annunzio	Carney	Duncan
Anthony	Carper	Durbin
Applegate	Carr	Dwyer
Archer	Chandler	Dyson
Armey	Chapman	Early
Aspin	Chappell	Eckart (OH)
Atkins	Chappie	Eckert (NY)
Barnard	Clay	Edgar
Barnes	Clinger	Edwards (CA)
Bartlett	Coats	Edwards (OK)
Barton	Cobey	Emerson
Bateman	Coble	English
Bates	Coelho	Erdreich
Bedell	Coleman (MO)	Evans (IA)
Beilenson	Coleman (TX)	Evans (IL)
Bennett	Collins	Fascell
Bentley	Combest	Fawell
Bereuter	Conte	Fazio
Berman	Conyers	Feighan
Bevill	Cooper	Fiedler
Biaggi	Coughlin	Fields
Bilirakis	Courter	Fish
Bliley	Coyne	Flippo
Boehlert	Craig	Florio
Boggs	Crane	Foglietta
Boland	Daniel	Foley
Boner (TN)	Dannemeyer	Ford (MI)
Bonior (MI)	Darden	Fowler
Bonker	Daschle	Frank
Borski	Daub	Franklin
Bosco	Davis	Fuqua
Boucher	de la Garza	Gallo
Boulter	DeLay	Garcia
Boxer	Dellums	Gaydos
Breaux	Derrick	Gejdenson
Brooks	DeWine	Gekas
Broomfield	Dickinson	Gibbons
Brown (CA)	Dicks	Gilman
Brown (CO)	Dingell	Gingrich
Broyhill	DioGuardi	Glickman
Bruce	Dixon	Gonzalez
Goodling	Mazzoli	Shaw
Gordon	McCain	Shelby
Gradison	McCandless	Shumway
Gray (PA)	McCloskey	Shuster
Green	McCollum	Sikorski
Grotberg	McCurdy	Siljander
Guarini	McDade	Sisisky
Gunderson	McEwen	Skeen
Hall (OH)	McHugh	Skelton
Hall, Ralph	McKernan	Slattery
Hamilton	McMillan	Slaughter
Hammerschmidt	Meyers	Smith (FL)
Hansen	Mica	Smith (IA)
Hartnett	Michel	Smith (NE)
Hatcher	Mikulski	Smith (NJ)
Hawkins	Miller (CA)	Smith, Denny (OR)
Hayes	Miller (OH)	
Hefner	Miller (WA)	Smith, Robert (NH)
Hendon	Moakley	
Henry	Molinari	Smith, Robert (OR)
Hertel	Mollohan	
Hiler	Monson	Snowe
Hillis	Montgomery	Snyder
Holt	Moody	Solarz
Hopkins	Moore	Solomon
Horton	Moorhead	Spence
Howard	Morrison (CT)	Spratt
Hoyer	Morrison (WA)	St Germain
Hubbard	Mrazek	Staggers
Huckaby	Murphy	Stallings
Hughes	Murtha	Stangeland
Hunter	Myers	Stark
Hutto	Natcher	Stenholm
Hyde	Neal	Stokes
Ireland	Nichols	Strang
Jacobs	Nielson	Stratton
Jeffords	Nowak	Studds
Jenkins	Oakar	Stump
Johnson	Oberstar	Sundquist
Jones (NC)	Obey	Sweeney
Jones (OK)	Olin	Swift
Jones (TN)	Ortiz	Swindall
Kanjorski	Oxley	Synar
Kaptur	Packard	Tallon
Kasich	Panetta	Tauke
Kastenmeier	Parris	Tauzin
Kennelly	Pashayan	Taylor
Kildee	Pease	Thomas (CA)
Kindness	Penny	Thomas (GA)
Kleczka	Pepper	Torres
Kolbe	Perkins	Torricelli
Kolter	Petri	Towns
Kostmayer	Pickle	Traficant
Kramer	Porter	Traxler
LaFalce	Pursell	Valentine
Lagomarsino	Quillen	Vander Jagt
Lantos	Rahall	Vento
Latta	Rangel	Visclosky
Leach (IA)	Ray	Volkmer
Leath (TX)	Regula	Vucanovich
Lehman (CA)	Reid	Walgren
Leland	Richardson	Walker
Lent	Ridge	Watkins
Levin (MI)	Rinaldo	Waxman
Levine (CA)	Roberts	Weaver
Lightfoot	Robinson	Weber
Lipinski	Rodino	Weiss
Livingston	Roe	Wheat
Lloyd	Roemer	Whitehurst
Loeffler	Rogers	Whitley
Long	Roth	Whittaker
Lott	Roukema	Whitten
Lowery (CA)	Rowland (CT)	Williams
Lowry (WA)	Rowland (GA)	Wilson
Lujan	Roybal	Wirth
Luken	Russo	Wise
Lundine	Sabo	Wolf
Lungren	Saxton	Wolpe
MacKay	Schaefer	Wortley
Madigan	Scheuer	Wright
Manton	Schneider	Wyden
Markey	Schroeder	Wylie
Marlenee	Schuette	Yates
Martin (IL)	Schulze	Yatron
Martin (NY)	Schumer	Young (AK)
Martinez	Seiberling	Young (FL)
Matsui	Sensenbrenner	Zschau
Mavroules	Sharp	

NOT VOTING—33

AuCoin	Dymally	Gray (IL)
Badham	Ford (TN)	Gregg
Campbell	Frenzel	Heftel
Cheney	Frost	Kemp
Crockett	Gephardt	Lehman (FL)
Lewis (CA)	Mitchell	Rose
Lewis (FL)	Nelson	Rostenkowski
Mack	O'Brien	Rudd
McGrath	Owens	Savage
McKinney	Price	Udall
Mineta	Ritter	Young (MO)

□ 1115

So the resolution, as modified, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 345, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, due to official business, I was unavoidably detained during the rollcall vote on House Resolution 345. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. MINETA. Mr. Speaker, I was unavoidably detained during the rollcall vote on House Resolution 345. Had I been able to be present, I would have voted for this bill.

Along with my colleagues, I send my deepest sympathies to the families of those killed in the Gander accident.

DEATH GRATUITY TO SURVIVORS OF MEMBERS OF ARMED FORCES

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 months' housing allowances, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3974

Be it enacted by the Senate and House of Represntatives of the United States of American in Congress assembled,

SECTION 1. INCREASE IN DEATH GRATUITY FOR SURVIVORS OF MEMBERS OF THE ARMED FORCES DYING ON ACTIVE DUTY.

(a) INCLUSION OF HOUSING ALLOWANCES IN AMOUNT OF DEATH GRATUITY.—Section

1478(a) of title 10, United States Code, is amended by striking out "shall be equal" and all that follows through "$3,000" and inserting in lieu thereof "shall be $3,000 plus an amount equal to the total amount payable for two months for the housing allowances authorized under sections 403, 403a, and 405 of title 37 for a member entitled to such allowances who has the same pay grade, duty location, and dependency status as the decedent, determined at the rates in effect at the time of death of the decedent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to death gratuities payable under chapter 75 of title 10, United States Code, for deaths occurring after December 11, 1985.

SEC. 2. SURVIVORS OF DECEASED MEMBERS OCCUPYING GOVERNMENT QUARTERS.

(a) GENERAL.—The Secretary concerned should provide dependents of a member of the Armed Forces who become entitled to a death gratuity under chapter 75 of title 10, United States Code, and who are occupying Government quarters at the time of the death of the member, a reasonable period of time before being required to vacate such quarters.

(b) SECRETARY CONCERNED DEFINED.—For the purposes of this section, the term "Secretary concerned" has the meaning given that term in section 101 of title 10, United States Code.

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 1 hour.

Mrs. SCHROEDER. Mr. Speaker, I yield 30 minutes, for purposes of debate only, to the gentleman from Alabama [Mr. NICHOLS], the distinguished ranking member on the committee.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentlewoman from Colorado [Mrs. SCHROEDER] for bringing this humanitarian legislation before the House today and urge my colleagues' wholehearted support.

We were all deeply saddened by the tragic loss of 248 service members last week in the air crash at Gander, Newfoundland.

I would like to extend my personal condolences to the families of Joe Highfill and John Wright, both of Daleville, AL, and Carl Simmons of Banks, AL, who were all from my congressional district. I am proud of the work that Joe, John, and Carl were doing in the Mideast with the 101st Airborne, and share with you in the loss of three very fine young men.

These young Army men and women had recently completed a peacekeeping assignment in the Sinai and were en route to Fort Campbell, KY—the home of the 101st Airborne Division—to spend Christmas with their families.

In addition to personal grief at the loss of a loved one, military families also face a variety of more pragmatic concerns. Military pay and allowances, including payments in kind like on-base housing, stop when the service member dies. Even for such time as they are permitted to remain, families in Government quarters must start paying rent.

Landlords for off-base housing obviously expect the rent to be paid on time, even though military housing allowances have stopped.

The current Military Estate Program includes a death gratuity of $3,000 payable immediately after the member's death to help defray a variety of expenses until Government and private insurance benefts are paid. The death gratuity does not contain a component specifically targeted to housing costs, however.

The gentlewoman's bill fills that void by adding to the death gratuity a payment equal to 2 month's housing allowances and urges that families be permitted to remain in Government quarters for a reasonable period of time following the member's death.

This is worthwhile, humanitarian legislation; I urge my colleagues' strong support.

Mr. Speaker, I think we have overlooked this in the past. I think we are correcting a deficiency that should have been done long before. We are simply saying that if someone dies on active duty, that his family be allowed 2 months of housing allowance that today is denied to them.

I think this is a commonsense approach. It is not very expensive to the Government, and I would certainly hope that this is passed unanimously on the floor. I think it will be, and I again would like to commend the gentlewoman from Colorado [Mrs. SCHROEDER] for originating the bill. I am proud to sponsor it.

I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first thing I want to say is this bill would not be here if it had not been for the hard work of the gentleman from Alabama [Mr. NICHOLS] and many other people on this House floor, including the staff of the Armed Services Committee.

The chilling tragedy in Gander focuses on an oversight in the law that should have been corrected long ago. This bill corrects that oversight. Dependents' entitlements to housing stop with the death of the military member. The services have the option of allowing dependents of deceased service members to remain in Government quarters for up to 60 days. However, there is a catch. The dependents must pay a rental charge for on base family housing and those who are off base obviously must continue to pay the landlord. These families are under enough stress and financial strain without having to scurry for their rent.

My bill would provide 2 months of basic allowance for quarters [BAQ] and variable housing allowance [VHA] to the dependents of a deceased member of the Armed Forces. The bill is retroactive to December 11, 1985, and would apply to the dependents of the plane crash of the 101st Airborne Division.

The amount of the BAQ and VHA depends on rank and location. Most of the victims of the Gander's plane crash were E-2's, E-3's, and E-4's. If my bill were not approved, their dependents would have to pay $300 to $500 per month for housing.

These are young families with a low family income. Not having to pay for housing will ease their already painful transition. This benefit is long overdue and desperately needed.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, my heart, like all of ours, goes out to the grieving families of the 101st Airborne. I speak for many of my constituents, two of whom are Navy officers, are two sons, Jorge and Michael.

But I would like to note that we here dedicate ourselves not to the next emergency, but that the monument to the men of the 101st be that there be no serviceman on food stamps, that there be no serviceman or his family in inadequate housing, that they do not have to take cheap charters because they do not make enough to go home for the holidays. Let this be their monument, and let us dedicate ourselves through this measure to that end, that the men and women that are serving in the Armed Forces shall not be denied and shall be given what the civilians are guaranteed almost as an entitlement. That will be our monument to the men of the 101st past, present, and future. Blessed are the peacemakers: for they shall be called the children of God.

Mr. Speaker, this was the mission of the men and women of the 101st Airborne who lost their lives.

Mrs. SCHROEDER. Mr. Speaker, I yield such time as he may consume on this very important item to the gentleman from Alabama [Mr. NICHOLS], a very distinguished member of the subcommittee.

Mr. NICHOLS. Mr. Speaker, I thank the gentlewoman from Colorado for yielding me this time, and certainly would want to join with my colleagues in commending her for the resolution that she brings to this body this morning. It is timely, it is in order. It costs very little, and it is the least that this body can do to express our deep sympathy and appreciation to those who paid the supreme sacrifice.

I want to also thank my friend from Kentucky [Mr. HUBBARD], for the ear-

lier resolution that he passed here as the prime sponsor. I want to say I deeply appreciate that as well.

Finally, I would like to respond to the number of inquiries that have reached the Armed Services Committee, that have been sent to the Investigations Subcommittee. They come from Members from this entire body that want some answers to this. We are getting some mail, and some inquiries, not so much from the widows or from the fathers and mothers of these people, but these inquiries come from people who have loved ones in the service and are asking questions, very important questions about the safety of the aircraft in which our people fly.

You know a serviceman does not control his own destiny. He cannot choose Delta, or PanAm, or American. He goes where he is sent, and he flies on the plane in which he is put. So it is extremely important that we look into this.

For that reason, on the day of the crash when the gentleman from Kentucky [Mr. HOPKINS] first came to me about it, I instructed our staff to get cracking on this matter. The bottom line is that we are moving on it. We expect to hold hearings, hopefully the first or second week when the Congress returns in January.

We are not interested so much because we do not have the technical know-how to physically go out and go through the wreakage and decide what the cause of the crash was. The Canadian Aviation Board is currently looking into that matter. But it is very much the responsibility of this Congress to ask the question of why we are leasing civilian aircraft in the first place. Perhaps we do not have enough military planes to fly these people, and I believe that is probably the case.

But we want to know something about the safety of this particular plane that was leased to fly these people back home for Christmas.

□ 1130

So Mr. Chairman, I would want this body to know that we are currently looking into the matter and we expect to have some report to offer when we get back here in January.

Mr. McCURDY. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Oklahoma.

Mr. McCURDY. I thank my subcommittee chairman for yielding, and I agree with him totally. I commend him for taking this effort, and we will be conducting the investigation in our subcommittee.

Mr. Speaker, I rise in strong support of this resolution and as an original cosponsor.

Mr. DICKINSON. Mr. Speaker, I yield myself 2 minutes.

I would like to respond to the gentleman, the distinguished chairman of the Committee on Agriculture, Mr. DE LA GARZA, who has pointed out some of the deficiencies in the past in the military, and asked that there not be one serviceman eligible for food stamps; that they be not required to go on cheap charter trips, and so forth.

I would just like to remind the Members that we just passed a bill here last week called Gramm-Rudman. We have not gone through a very penurious time, a time of denial in the past few years; 5 years at least, and we have just now cut back drastically on what the defense budget is going to be.

Zero percent growth this year, probably a negative growth the next few years because of Gramm-Rudman. That sounds great; everybody is happy that they are onboard; they are happy to balance the budget, but I am telling Members, we are going to live to regret it.

The same thing that Mr. DE LA GARZA was referring to; they are not going to improve, they are going to get worse. I think everybody should be alerted to that because things are going to get worse not better; they are not going to have adequate housing, they are not going to be assured that they will not be eligible for food stamps because of the anticipated cutbacks in the future. There is going to be a negative growth in spending, not looking after the Members' interests.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DICKINSON. Mr. Speaker, I yield myself 2 additional minutes.

Mr. DE LA GARZA. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. DE LA GARZA. I thank the gentleman very much, and I agree with him, and I am concerned that Gramm-Rudman is going to be very detrimental in this respect; but I would also remind my colleague that just 2 days or 3 days ago there was an article in the newspaper about how you cost what you buy in the Defense Department.

I know there may be controversy about it, but that article said that about $7 billion could have been saved if they had done this cost analysis or however it is called; so I would agree with the gentleman and I would urge him to look at every nook and cranny into how the Pentagon operates, because in spite of Gramm-Rudman, in spite of bad management, we still cannot allow the serviceman to suffer indignities beyond what the normal civilian does.

Mr. DICKINSON. Mr. Speaker, I agree with the gentleman from Texas, but let me say that much, much of the waste—and it is waste—that is carried on within the Department of Defense is mandated by the people sitting on this floor and in the other body. We require them to spend money that they do not want to spend; we stretch out the production programs that runs up the unit cost of an airplane $1 million per copy because of ordering less at a time instead of buying at the most economical rate.

We have on this floor mandated, in action with the Senate, buying three 747's that the Air Force said that they did not want, did not need, did not know what to do with them when they got them; we forced that on the Air Force, and these are actions that this body and the other body force on the military.

The problem is not entirely with the Department of Defense; we have just as many problems coming out of this body.

Mr. DE LA GARZA. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. DE LA GARZA. I accept that part of the responsibility, and I assure the gentleman that I will join him and other responsible Members to see, to the extent that we can be responsible also. I am not pointing the finger at the Department of Defense.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DICKINSON. Mr. Speaker, I yield myself 1 additional minute.

Let me say, Mr. Speaker, when we mandate that we have to continue to buy A-10 aircraft because they are made in somebody's district year after year after year, when we mandate that we have got to buy C-12's not asked for because somebody has an interest in it, when we mandate they have got to buy 747's that the Air Force says it does not need, does not want, do not know how to use; we do it, in the Congress.

If you will join me when these things come up in bills to have a majority on the floor to cut out some of this waste that the Congress is doing, then there will be real economies.

Mr. DE LA GARZA. The gentleman has my commitment in that respect.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, first I wish to commend the gentlewoman from Colorado. This is an excellent piece of legislation. My only thought, though, is it is too bad that a tragedy such as this has to be the cause of bringing it up and making it law.

We ask the best of our young men and our young women. The gentlewoman from Colorado [Mrs. SCHROEDER] is the champion of their welfare, and it is very fitting and appropriate that she be the one that offers this bill, and I am pleased to join her as a cosponsor for this very fine piece of

legislation. It is the least that we can do.

I also wish to commend the gentleman from Alabama [Mr. NICHOLS], who is the chairman of the Subcommittee on Investigations. I urged him to investigate the unanswered questions regarding the crash in Gander, Newfoundland; not just for what happened there, but for those young men and young women who in the future will be flying to and from.

We have worldwide interests. We have Americans flying to and from far places in this world every day, and the loved ones and the families and friends have the right, for those young people, to travel safely to and from those far places in the defense and interests of our country.

Mr. Speaker, I am pleased that his investigation will go forward, and I thank him for his responsiveness to requests.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished new member of the committee, the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Speaker, eight fine Arkansans lost their lives in the Arrow Air tragedy this past week.

As a cosponsor, I rise in strong support of this bill, and I want to thank the gentlewoman from Colorado [Mrs. SCHROEDER], who has worked very hard all year on other matters related to the families in our military services.

This is a tragic event. In a few moments, the Honorable SONNY MONTGOMERY will offer an amendment to increase the insurance death benefits to $50,000. Effective December 11, 1985, instead of the effective date of January 1986.

I would like to say that my heart goes out to the many families of the fine men and women killed in this tragic event, and I also want my colleagues to know that I sent a letter to our chairman, LES ASPIN, yesterday, asking him to take a full look at how we charter aircraft to transport our military personnel; because it is haunting to know that there is a possibility that this airplane was not airworthy; and second, there has been safety incidents that had gone unreported.

In closing, I urge my colleagues to vote for the Schroeder bill and also for the amendment to be offered by the gentleman from Mississippi [Mr. MONTGOMERY].

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the very distinguished senior member of the committee, the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I very much congratulate the gentlewoman from Colorado for her leadership in this and other matters relative to the welfare of service personnel. She has done an outstanding job in this, and I want to congratulate her upon it.

I think this legislation is very much needed. It is a pity that we have to have such a tragic, dramatic event, such a sorrowful event such as this to bring to our attention the fact that laws are not always what they should be.

I hope we all join together and unanimously pass this legislation, and I again congratulate all the Members who have been active in bringing this to the floor.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the very distinguished senior Member, the gentleman from Ohio [Mr. SEIBERLING.]

Mr. SEIBERLING. Mr. Speaker, I thank the gentlewoman, and I commend her for bringing this legislation to the floor.

This tragedy has affected families all across the Nation. Two of them are in my own congressional district. I think it is entirely fitting that the President of the United States personally went to Kentucky to be with the families.

□ 1140

I think it is fitting that the Congress has passed the resolution just previously acted on as well as taking up this resolution. I think it is important because it shows to the families that not only is official Washington but that the entire Nation is rallying around them, expressing its solidarity, its grief, and its commitment to those families and to the families of all servicemen, that we avoid this kind of tragedy and, having done so, will show again that these men who died in the service of their country did not die in vain.

Mr. Speaker, I thank the gentlewoman for giving me this time.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to a distingushed member of the Appropriations Committee, the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I want to compliment the gentlewoman from Colorado for her efforts in this regard. I had the distinct honor and pleasure to serve on the Personnel Subcommittee of Armed Services in my first term. The leadership of Mr. DICKINSON and Mr. PRICE at the time was certainly important. Certainly Mr. ASPIN also, as chairman of the Subcommittee on Personnel at the time, made a great difference to the servicemen and women of this country. But I think it should be said that the gentlewoman from Colorado has always shown, in my experience, the greatest concern and made the greatest efforts on behalf of all of those who serve this Nation. I would be remiss if I did not mention that her efforts, particularly with this bill, are absolutely one of the most important things I think all of us can do to show those who do serve their country and serve our country willingly, fairly, and honestly, in the finest traditions of our country, that we care about them and their families. It is, after all, the families of those who do serve who oftentimes suffer the most.

So it is with great pleasure that I rise in very strong support of the gentlewoman's legislation.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. I thank the gentlewoman for yielding this time and appreciate her not calling me a senior Member.

Mr. Speaker, I rise in strong support of this legislation. It comes from the heart of all of us. It goes out to all those families who have or will suffer any kind of similar situation like this, and it is in the best intentions, it is in the best tradition of this House, that we very strongly endorse H.R. 3974.

My district, which includes Fort Bragg and Pope Air Force Base, has not been spared in this most recent tragedy. I thank the very compassionate gentlewoman from Colorado for bringing this legislation forward. I would also like the RECORD to show that I was unavoidably detained and was not here to vote for House Resolution 345.

Mr. Speaker, had I been here, I would have, of course, voted in favor of that resolution.

I urge my colleagues to strongly support the legislation now before us.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentlewoman for yielding.

Mr. Speaker, I rise for two purposes. To salute the gentlewoman for her leadership in bringing this resolution to the House. It is fitting and proper that we adopt it, and I hope that it is adopted unanimously.

The second purpose for which I rise is to extend my personal condolences to the families of the four men who were on that plane who happen to live in my congressional district. The families have suffered grievously, the Nation has suffered grievously. There is no way to fully account for the problem at this point although at some point I hope that we will understand the cause of the crash, but, more importantly, I would that the families recognize from the earlier resolution and from this measure that the gentlewoman is bringing forward that the Congress, particularly the House of Representatives, are standing behind the families and extend to them the greatest condolences in their time of grief.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. I thank the gentlewoman very much.

Mr. Speaker, I want to commend the gentlewoman from Colorado and the gentleman from Alabama for bringing this resolution to the floor. It gives all of us an opportunity to express our deep appreciation to the families of those who suffered this great tragedy. In Huntsville, AL, Vincent Turner, staff sergeant, paid the supreme sacrifice. I am grateful to you for giving us the opportunity to say a great thank you to the families for their sacrifice.

Mr. Speaker, I urge strong support of the resolution.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 2 minutes to just say that in the panic that has gone on in trying to get this bill crafted a few names were left off the cosponsor list, very regrettably. I would like to say who they are, because once we have called the bill up it is too late to put them on.

First of all, one of the people who cares the most about all sorts of families and has been always active on this committee forever and ever, Congressman BENNETT of Florida, he wanted to be one of the original cosponsors, and his name is now on the list. Congressman OBEY of Wisconsin, Congressman PHIL CRANE of Illinois, and Congressman SUNDQUIST of Tennessee. All of them were very helpful. Also another Congressman who really should be on the list, I think somehow got lost, but they were recovered, and I just wanted to say how many people voted so hard to bring this to the floor.

I yield such time as he may consume to the Congressman who has been hit the hardest, the base was in his district where these young men and their dependents are. He has been working on this day and night. He reminded all of us of this news a week ago when he first heard about it in the whip meeting, and we were absolutely stunned, stricken, and did not have any idea what to do.

He has given us all guidance and made many suggestions during the following week. I would now like to yield to Congressman HUBBARD from Kentucky such time as he may consume.

Mr. HUBBARD. I thank the Speaker.

Mr. Speaker, I naturally appreciate the generous remarks from the gentlewoman from Colorado. We express a great appreciation to you for bringing this bill before us; appreciation also to Mr. DICKINSON of Alabama; appreciation also to Mr. NICHOLS of Alabama for being the one handling House Resolution 345 which passed the House by a record vote of 401-0 just minutes ago.

Yes, as a Member of Congress who represents Fort Campbell, KY, I hope that each Member will give this bill his support. Indeed, our unanimous support from the House of Representatives. Certainly what we are trying to do here through this appropriation, through this housing, is the least that we can do for these widows and survivors of these 248 men and women in the armed services of our country who were tragically killed last Thursday morning early in Gander, Newfoundland. Much has been said about the cause of the tragedy. Actually, we do not know at this moment exactly what did cause it. Some originally or initially suspicioned terrorism since the plane originated in the Middle East. The more we find out about that particular plane and how many times that Arrow Airline plane had aborted takeoffs, including one last summer when the Kentucky Air National Guard which is based in Congressman MAZZOLI's district coming back from Michigan, I believe, taking off there in Michigan, coming back to Louisville, KY, that same airline, the same plane, was aborted in its takeoff. There were members of the delegation who were killed who had written and one had even sent a tape recording back home to his wife expressing their fear of the transportation that would be bringing them back from the Sinai, where they had spent 6 months in the service of our country, to Fort Campbell. I believe we heard on TV news the other night the tape recording of the officer, Captain Manion, who, prior to that plane leaving the Sinai in Cairo, Egypt, had, to his wife, through that tape recording, expressed his fear of this particular trip home because of the airplane that they knew they would be flying. Yes; these men have died in the service of their country. We hope and pray they have not died in vain. We, as Members of Congress, can see to it that they did not die in vain because we can urge, and insist, and demand that the Federal Aviation Administration and the Department of Defense in the future see to it that our American troops are transported on planes just as safe as Air Force One or as the planes that you and I, as Members of Cognress, will be taking from Washington National Airport or Dulles Airport returning to our homes this weekend for the Christmas and New Year's holidays.

Mr. DICKINSON. Mr. Speaker, would the gentleman yield?

Mr. HUBBARD. I would be glad to yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

I did not mean to interrupt, but I thought the gentleman was finishing.

I would just like to make a couple of points, though. The Department of Defense charters aircraft. They have to do this because there are not enough passenger aircraft within the Department of Defense to transport troops. Nobody would suggest that we put them in the cargo hold of a C-130 or 141 or C-5 with no seats and without adequate comfort. So in order to transport troops, we have standing contracts with major airlines under the CRAF Program so that in an emergency we can take over and have transports full of troops, and the leasing of commercial aircraft is standard operating procedure. The point is, though, that it is not up to the Department of Defense to certify the airworthiness of the aircraft that they rent. It is up to the FAA. They have to certify the aircraft. The Department of Defense cannot go in until Delta or Pan Am or Arrow Air, the Department of Defense, insofar as I know at this point, unless something else develops, is no more responsible for the Arrow aircraft that went in than they were for the Air Florida that crashed here in Washington a couple of years ago. It is the Federal Aviation Administration authority that has to certify the airworthiness. If they did their job, then I think much of the problem we have had would be obviated. I just think we ought to be aware instead of excoriating the Army or DOD for not furnishing safe aircraft. It is up to the FAA to provide and to certify airworthiness. Small business tries to get into it. The Department of Defense would be chastised if they only went to the big airlines for their charters, even if the bigger airlines had them available for charter.

So I just mention this to discuss it. I do not disagree with anything the gentleman has said, but I do think we ought to keep that in mind.

Again, getting back to Gramm-Rudman, we are going to pay a price down the road if we cut as deeply into the defense budget and FAA. So I thank the gentleman.

Mr. HUBBARD. I thank the gentleman from Alabama for his remarks, and hopefully we can still agree that we do want to see to it, whatever Government agency it is, that our military troops have safe aircraft in which to be flown from place to place or base to base.

In closing, Mr. Speaker, as the Congressman who represents Fort Campbell, KY, and as a Democrat, I would be remiss if I did not say that President and Mrs. Reagan were extemely helpful at that memorial service. First of all, their willingness to go from Washington to Fort Campbell for that service on such a sad occasion. President and Mrs. Reagan went individually, one on one, to more than 500 of these survivors, shaking hands, embracing them, encouraging them, and promising to do what they can to see to it that these servicemen are never forgotten and, in fact, did not die in vain.

□ 1155

So congratulations to our President and First Lady for class acts, for sure,

as they went to Fort Campbell and were so helpful there, reminding these dependents and survivors that their loved ones are heroes.

Mrs. SCHROEDER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Ohio [Ms. OAKAR], who has cared an awful lot about this issue.

Ms. OAKAR. I thank my friend for yielding, and I want to first of all commend the gentlewoman for having this legislation brought up today. I think the gentlewoman is a champion in this whole area of reform and survivors' benefits, and I want to congratulate her and all of those responsible for the legislation.

Mr. Speaker, I want to take just a second to relate to the issue that was mentioned about this airline. We are remembering the military who died. There were civilians who died, as well. One of the stewardesses was from my area. I talked to some of her loved ones, and the tell me that she was always very concerned about this airline and that one of the engines was out for couple days, and so on, and she called home. The whole crew was very concerned about going forward with this flight. Senator GLENN and I are going to take some statements from members of the family to verify this.

I think the thing that bothers me the most at this point in time, though, is that the Defense Department is going ahead and still booking this airline. This airline, I have done a little checking on them, they have a terrible record, in terms of safety. The gentlewoman from Colorado and I serve on the Committee on Post Office and Civil Service. We know the RIF's that have gone on with respect to Federal employees that relate to FAA, and I think we really should insist that the Defense Department, at least temporarily, not use this particular airline. I think that is the least they should do, in view of all of the questions asked.

Mrs. LLOYD. Mr. Speaker, I rise in support of this bill.

This Nation was stunned last week when the tragic news arrived of the Arrow Air crash in Gander, Newfoundland, killing 248 soldiers and all crew members on board.

The entire Nation feels the loss, however, none so much as the families of these service members. These Army personnel were on their way home for the holidays, which makes it doubly tragic.

This bill is to ensure that the family members—the wives, the husbands, the children—are protected against immediate eviction from their homes at this most difficult time. Department of Defense policy terminates benefits to survivors upon the death of the service member. This creates undue and unnecessary hardship.

This bill would also protect others in this situation in the future. It protects those living both on base and off base, as is only fair.

This is not a blank check. This bill provides living expenses for 2 months—a reasonable time for a family to make plans and adjust to their tremendous loss.

In the spirit of humanitarianism, I urge every Member of this body to support this bill. Let's take care of our own—as we should.

Mr. DICKINSON. Mr. Speaker, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. MONTGOMERY], the very distinguished chairman of the Committee on Veterans' Affairs, for the purpose of offering an amendment.

AMENDMENT OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MONTGOMERY: At the end of the bill add the following new section:

SEC. 3. CHANGE IN EFFECTIVE DATE FOR INCREASE IN MAXIMUM AMOUNT OF INSURANCE UNDER SERVICEMEN'S GROUP LIFE INSURANCE [SGLI] PROGRAM.

Section 401(c) of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166) is amended by striking out "on January 1, 1986" and inserting in lieu thereof "with respect to deaths occurring after December 11, 1985".

Mr. MONTGOMERY. Mr. Speaker, I take this opportunity to thank the gentlewoman from Colorado [Mrs. SCHROEDER] for giving me the opportunity to offer this amendment to her unanimous-consent request to bring this bill up. I want to also say that I serve on the Personnel Subcommittee with the gentlewoman, and she has tremendous concern for the personnel and families of our military.

Now, what this amendment does, it says that the servicemen's group life insurance, that is the life insurance program for the military, under this amendment that insurance would be raised from $35,000 to $50,000. That comes under the Veterans' Affairs Committee, anyway, and that is one reason why I am offering this amendment. It is retroactive. The amendment says those from December 11 through January 1, 1986, who would lose their lives would be eligible for $50,000 of life insurance.

Now, as of January 1, by unanimous vote in the House and in the Senate, signed by the President, we raised the SGLI life insurance from $35,000 to $50,000, as of January 1, 1986; so we are giving a 20-day coverage that would cover these 248 persons of the military who were killed at Gander, Newfoundland.

Now, this fund is self-sustaining. I want to make this perfectly clear. That is not money coming out of the Treasury. This is a separate fund. The serviceman pays for this fund. The rate is $2.80 a month.

By raising this limit from $35,000 to $50,000, those after January 1 would have to pay around $4, 8 cents a thousand for the insurance.

I would predict that 99 percent of those 248 personnel had this insurance coverage. You are in the insurance program unless you opt to get out of the insurance program. So I would say most of those did have the insurance.

Now, I have briefly tried to explain this amendment. It raises from $35,000 to $50,000, it is not taking any money out of the Treasury, this is a self-sustaining fund, the fund is in good financial shape, and it would give the families $15,000 worth of additional insurance.

I would like to thank the gentleman from Florida [Mr. SHAW] for making this suggestion to me and the gentleman from Pennsylvania [Mr. MURTHA] for saying, "Why don't you ask Mrs. SCHROEDER and add this amendment on to the bill?"

Mr. Speaker, I yield to the gentleman from Flordia [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, I would like to say at the outset that there is no finer friend that the veterans of the United States or their families have in the House of Representatives than SONNY MONTGOMERY, the gentleman from Mississippi.

There is nothing that we can do for these men and women who perished in this crash other than to give them a decent burial at this time. But we do have a genuine obligation to their families to do everything that we possibly can to relieve their loss which they will feel for the rest of their lives.

I compliment the gentleman on this most important and most fair amendment, and I would certainly urge its adoption, and I am sure it will be adopted.

Mr. MONTGOMERY. Mr. Speaker, it was recommended by the actuaries last year that we raise this insurance from $35,000 to $50,000. We passed it in the House last year. For some reason, the Senate did not act on it. But this is 2 years in a row we have raised it from $35,000 to $50,000. With this amendment, those who lost their lives on December 12 would be covered.

Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. I appreciate very much the gentleman yielding.

Mr. Speaker, we are all deeply saddened at this tragic accident that happened last Thursday.

The gentleman from Mississippi [Mr. MONTGOMERY] will recall that he and I and other members of the Armed Services Committee visited our multinational force in the Sinai a little over 3 years ago, just before the Sinai was turned back to Egypt. We were impressed with the indomitable spirit and the enthusiasm of those who were on service in that very desolate and lonely spot. Of course, we all believe

and know that these men and women were in the service of their country in the finest tradition of those who would serve in the armed services of the United States. Two of those who were fatalities were from my district, Sp4. Tony Brasfield, of Panama City, and Sp4. Jeffrey Kee, of Pensacola. Our prayers go out to their families and to all of the families who lost loved ones in the tragic airplane crash.

Mr. Speaker, I want to commend the gentleman from Mississippi [Mr. MONTGOMERY] for offering this amendment. I remember that we passed special legislation exempting from income tax those who lost their lives in Beirut and also in Grenada, and I think that what the gentleman has done here in offering this amendment is even better, extending from $35,000 to $50,000 the amount of insurance which would have gone into effect January 1, now to make it retroactive to apply to these and help to ease the burden a little bit for those families.

I would also like to commend the gentlewoman from Colorado [Mrs. SCHROEDER]. I am very pleased to be an original cosponsor. We all have great concern and sympathy for those who have felt this loss at this time of year. Our hearts and prayers go out to each one of them.

Mr. MONTGOMERY. I certainly thank the gentleman, a member of the Armed Services Committee.

Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON], who is a ranking member of the Committee on Veterans' Affairs and a very hard-working Member of Congress.

Mr. SOLOMON. Mr. Speaker, I thank the chairman very much, and I just want to commend both the gentleman from Mississippi and the gentlewoman from Colorado for the bill which she is offering and which the gentleman is amending.

Mr. Speaker, the Veterans' Compensation Subcommittee did include this in the omnibus veterans' compensation bill, which would increase it from $35,000 up to $50,000.

I want to commend also the gentleman from Florida [Mr. SHAW] for recommending it.

As the chairman of the Veterans' Affairs Committee has mentioned, this fund is actuarily sound. This does not create a hardship on the fund. Certainly I would urge everyone to unanimously accept the gentleman's amendment.

Mr. Speaker, I would just like to comment on a statement that was made earlier by the chairman of the Committee on Agriculture, when he talked about the possibility of servicemen receiving food stamps. Mr. Speaker, it was not too long ago, back in 1978, 1979, when most of our servicemen were on food stamps. The salaries and the benefits in this country for our military people were so low that they were actually receiving food stamps for their families. Not only that, but we were losing thousands and thousands of very experienced technical people, both commissioned officers and noncommissioned officers, to the private sector.

I just want to remind everybody here that when we talk about the defense budget that almost 50 percent of every dollar that we appropriate and authorize for the defense budget goes toward salary and benefits for our military people, including the housing bill that we will be passing here today. I think we ought to keep that in mind, because we must maintain a strong national defense. Certainly the gentleman in the well [Mr. MONTGOMERY], the Armed Services Committee, the gentleman from Alabama [Mr. DICKINSON], have done an outstanding job in defending our defense budget. But when it comes to next year, let us keep this in mind: We do not want our military people on welfare, we do not want them going out to the private sector and losing those career people.

Again, I commend the gentleman in the well. This is a good amendment, and we ought to adopt it right away.

Mr. MONTGOMERY. I thank the gentleman for his support.

Mr. Speaker, I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I just want to congratulate the gentleman on his amendment. I think it shows how fair the gentleman is. The gentleman is absolutely right, we should have done this. The gentleman did do it, and I am really pleased that he did all the staff work and all the leg work and all the running around that it took to put all this together. I thank the gentleman and I am sure the families will thank him, too. I realize it is very little that we are doing, but I think it shows how much this country cares about its veterans, about its service people and that even at this very busy time we will take this time to make sure we do everything we can to make sure they are treated as equitably and as fairly as they possibly can be.

Mr. MONTGOMERY. I thank the gentlewoman for what she said.

Mr. Speaker, there is a tendency sometimes, if you pass a bill in the House, then you do not follow up on it. But I certainly will work with the gentlewoman. In the Senate we have had problems before on this insurance, and we might have problems on the bill that the gentlewoman introduced today, and certainly we need to follow up. We have about 48 hours to do it.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Mississippi [Mr. MONTGOMERY].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

CONFERENCE REPORT ON H.R. 2100, FOOD SECURITY ACT OF 1985

Mr. DE LA GARZA. Mr. Speaker, pursuant to the order of the House of Monday, December 16, 1985, I call up the conference report on the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of December 17, 1985.)

The SPEAKER pro tempore. Pursuant to the order of the House of Monday, December 16, 1985, the conference report is considered as having been read.

The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

□ 1210

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House will take its final vote today on one of the most important national issues we have faced in this session of Congress: Economic survival of large segments of American agriculture.

The House will vote today on the conference report on the Food Security Act of 1985, H.R. 2100. This is a massive piece of legislation, and I know that Members will have different views on almost every one of the 18 titles. But I believe you can sum up this bill in one four-letter word: Good.

This is a good bill because it says to the agriculture community and the nation that in spite of all the budget constraints, and in spite of all the problems we face, the Congress does

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recognize that American agriculture is in trouble, and the Congress is not going to jerk the safety net out from under the American farmer.

This is a good bill because it will help make American agriculture more competitive while it preserves basic income protection to the greatest degree possible at this time in order to get the bill through this Congress and signed into law. Mr. Speaker, I know perfectly well that some Members believe this bill does not give us all the income protection we need and I agree. The situation in some parts of rural America today is critical. Years of low prices, declining exports and collapsing land values have produced a crisis in some areas. The trouble has spilled over to produce serious problems in agriculture credit, and we will be dealing with that issue in a separate piece of legislation later today.

If I could write this farm bill by myself, it would include stronger provisions for higher target prices. But no single member alone can write this bill. The final product must be one on which the House, the Senate, and the President can agree.

Mr. Speaker, legislation is the art of the possible. If we want a farm bill, it must be one that can get the votes needed to pass the House and the Senate today. I believe that the House conferees have brought you a final product that was written within the art of the possible, and that the American agriculture community can live with. It provides a degree of protection that I hope will help many farmers to survive until better times.

Mr. Speaker, we need a farm bill. We need it because agriculture is this Nation's most basic industry. What happens to agriculture eventually effects the entire economy and to every group in this country. North as well as South. East as well as West. Urban as well as rural. Every Member of this House has a basic stake in giving our agricultural community a chance to survive and to return to economic health.

Let me speak briefly about costs. This bill will cost money, but as I told the House when we passed our own bill, this conference report meets our congressional budget targets. It will cost more than the proposal the administration brought us for what most of us thought was a prescription for tearing down the effectiveness of farm programs. But it will cost billions of dollars less than the cost of existing law.

When this bill passed the House in October, it met the congressional budget target, nearly $8 billion under the baseline cost of extending current law, according to the Congressional Budget Office. A preliminary estimate of the conference bill shows that we will have savings below baseline—for the 1986–88 budget cycle—of nearly $11 billion compared with the requirement of just under $8 billion.

Now let's look briefly at potential costs, and I ask the House to remember that these are projections based on assumptions of possible production, domestic demand, foreign demand, and weather for years into the future. At best, and the experts are clear about this, these are educated guesses which can be changed greatly if the weather changes or if any of a number of other key factors should change.

The Agriculture Department has estimated that the price support portions of the bill over the 3-year budget cycle—based on November commodity stock estimates—may average 1.7 percent of the total Federal budget. By the fifth year of our bill, price support program costs are estimated to be down to under 1 percent of the total Federal budget. For the entire 5 years, the average would be under 1.5 percent of the total Federal budget.

If you take the entire farm bill, including all other programs like farm credit, research, overseas food aid and everything else, the bill covers spending which would average just over 3.5 percent of the total Federal budget in the first year and less than 3.2 percent for the entire 5 years.

At the same time, the House should be aware that this is not going to be the last word on farm policy. The budget reduction bill which became law a few days ago will affect agriculture as well as most other Government programs, and we will have to keep the situation in agriculture under continual review.

Let me speak briefly, also, about the conservation section of our bill. I believe this represents one of the most significant soil protection measures adopted by Congress since I became a Member of this House. I think these provisions of the bill will be remembered long after our current economic problems have been forgotten.

H.R. 2100 includes 5 year commodity stabilization programs for dairy products, wool and mohair, wheat, feed grains, cotton, rice, peanuts, soybeans, sugar and honey. But in addition to those programs which appear in the first nine titles of the bill, H.R. 2100 includes a great many other important provisions.

Title 10 includes general provisions applying to groups of commodities.

Title 11 covers trade programs. These include programs to help expand our commercial trade, programs to continue the Food and Peace Program and to expand some of our other efforts to relieve hunger abroad, and a compromise on cargo preference.

Title 12 is the conservation title. It includes the new sodbuster and swampbuster programs which are designed to protect erodible land and wetlands for future generations.

Title 13 covers programs for agricultural credit and rural development. This includes an interest buy-down program for some borrowers who have loans guaranteed by the Farmers Home Administration. It also includes new rules to govern the way in which the Agriculture Department handles foreclosed land.

Title 14 covers programs for agricultural research, extension, and teaching. It provides some useful and potentially important new steps in research including a directive to develop appropriate controls on the development of biotechnology.

Title 15 includes the Food Stamp Program and related provisions including an extension of the temporary Food Assistance Program. In this title, we extend the Food Stamp Program with some needed and modest improvements for the needy, including the so-called working poor.

Title 16 includes a group of significant marketing programs. These include authorization for new programs of farmer-financed beef and pork promotion and provisions dealing with marketing orders and grain inspection.

Title 17 includes a group of provisions dealing with food processing and inspection, new regulations for the makeup of agricultural stabilization and conservation committees, and the creation of a National Agricultural Policy Commission. Also, this title includes improvements in the National Aquaculture Improvement Program, improvements in the Federal program for protecting animal welfare, and it includes provisions to modernize the Virus-Serum-Toxin Act.

Title 18 includes the effective date for the bill which is, for the commodity programs and many others, a 5 year bill.

Mr. Speaker, I know that many Members are especially concerned at this moment with what the bill does for our major commodity programs. Before I go into fuller details, let me briefly summarize the major thrust of what we have in the conference report.

For wheat, feed grains, cotton and rice we try to make our crops more competitive on world markets so that we can increase sales and hopefully improve market prices for farmers. This will be done by programs including more flexible price support loan rates. At the same time, we try to protect the farmers' total return for his crop by maintaining target prices. For wheat and feed grains, we have what amounts to nearly a 3 year freeze with reductions that cannot total more than 10 percent over the life of the bill. Cotton and rice also will be held at current levels in 1986 with later reductions that cannot amount to more than 10 percent over the life of the bill. The House, as you know, approved what amounts to a 5-year freeze for target prices, and I believe the compromise we achieved comes much closer to our bill than it did to either the Senate bill or the administration's proposals.

For dairy products, our bill is a compromise. It retains the so-called whole herd surplus reduction program to give dairy farmers a chance to deal with the problem of milk surpluses, and it says in effect that if we can't solve the problem in this way there will have to be more reductions in price supports.

Now, Mr. Speaker, I want to review the bill in some further detail. Because of the pressure of time, the material which follows is not organized to follow the exact breakdown of the titles of the bill. Instead, it will give the House an idea—very briefly in some cases—of how we have dealt with many but not all of the items in this massive piece of legislation:

The major provisions of the bill include:

COMMODITY STABILIZATION PROGRAMS

For wheat and feed grains (titles 3 and 4), the target price and commodity support loan programs for 1986 through 1990 crops include a market-oriented system for setting price support loans at levels that would make American crops competitive in international markets, coupled with target price protection.

Basic initial price support loan rates for grains would start at $3 a bushel for 1986 wheat and $2.40 for 1986 corn. From 1987 on, loans for grains would be set each year by formulas using average market prices of recent years, with any declines limited to 5 percent a year. After calculating the basic initial rates, the Secretary would then have discretionary power to further cut the rate for any year by up to 20 percent if—first, market prices in the previous season failed to top 110 percent of the previous year's loan rate, or if, second, he determines that a further cut is needed to compete on world markets. For the 1986 crop only, the Secretary would be required to use this authority to drop the loans at least 10 percent. The Secretary would have discretionary authority to allow repayment of support loans at levels which could be set as low as 70 percent of the loan rate. The Secretary would have discretionary authority, in addition, to give producers one of two alternate types of marketing certificates to help promote exports.

Target price income protection would operate with whichever loan system was used, and any cut in loan rates below the basic level in any year would be offset by increased target price payments which would not be subject to payment limits. Target prices, which protect farmers' income with direct payments when market prices are below the target, would be frozen at current levels ($4.38 a bushel for wheat and $3.03 a bushel for corn) through 1987 to prevent cuts in per-bushel returns to farmers. In succeeding years, the rate would be not less than 98 percent of the 1987 level for 1988, not less than 95 percent for 1989 and not less than 90 percent (but not less than $4 wheat and $2.75 for corn) in 1990.

To qualify for benefits in a year in which carryover wheat stocks exceed 1 billion bushels, wheat producers would be required to reduce acreage as follows: In 1986, a maximum diversion of 25 percent (including a mandatory minimum reduction of 15 percent, a mandatory in-kind paid diversion of 2.5 percent, and a further reduction at Secretarial discretion of 7.5 percent); in 1987, a maximum reduction of 27.5 percent (including a mandatory minimum of 20 percent and a further 7.5 percent at the Secretary's discretion); and in 1988–90 a maximum of 30 percent (including a mandatory minimum of 20 percent and 10 percent at the Secretary's discretion). (For the 1986 wheat crop only, the Secretary would be required to offer growers who planted before announcement of the program a chance to idle an additional 10 percent of their base in return for payments.) For feed grains, if stocks exceed 2 billion bushels of corn, the 1986 reduction would be a maximum of 20 percent of which 12.5 percent would be a mandatory minimum, 5 percent would be discretionary with the Secretary and 2.5 percent would get in-kind payment. For 1987–90 the maximum would be 20 percent (including a mandatory minimum of 12.5 percent plus up to 7.5 percent at the Secretary's discretion). For all grains, the Secretary would have discretionary authority to offer producers a further voluntary paid diversion beyond the basic requirements of the bill.

The bill requires the Secretary to allow haying and grazing on diverted acres in 1986 and grazing in 1987–90 if State agricultural stabilization committees request it. The Secretary has discretionary authority for haying in 1987–90.

The Secretary would have discretionary authority to offer producers a Target Option Program under which the individual grower's wheat target price would go up if he elected to use higher levels of acreage reduction and would decline at lower acreage-cut levels. Also optional for the Secretary is a plan varying target price levels for farms of different sizes in an effort to concentrate benefits on medium-sized farms.

The Secretary would be given discretionary authority under the bill to proclaim marketing quotas for wheat and provide for a mandatory control program. This quota program, if the Secretary should choose to use it, would be subject to approval by producers of wheat in a referendum.

The bill requires the Office of Technology Assessment to study Federal grain export quality standards. It also provides that 6 months after the study, the Agriculture Department would have to revise its export grading rules, in line with study findings, to protect the quality of export grain.

For cotton and rice (titles 5 and 6). The bill continues the traditional framework of target prices, price support loans, and voluntary supply control, but it includes new features to make the crops competitive on world markets and has a shorter target price freeze than the bill provides for grains.

For cotton:

The basic support loan is set at 55 cents a pound for 1986 with annual reductions (based on continued use of a traditional market-linked formula) of no more than 5-percent annually and a floor of 50 cents. If the basic rate is not competitive on world markets, the Secretary would choose one of two alternate market enhancement plans for repayment of loans. Under one plan, he could lower the repayment rate by up to 20 percent, thus allowing farmers to redeem their crops and sell them at a competitive price. Under the second plan, repayment would be at rates varied periodically through the year to keep pace with world markets. As a backup to assure competitiveness in case world market levels fall below the new loan repayment levels, the Secretary at such tims would issue in kind certificates to domestic and foreign buyers to bridge the gap between the effective support and the market.

Target prices would be held in 1986 at the 1985 rate of 81 cents a pound and then could be cut to no lower than 98 percent of the 1986 level in 1987, 95 percent in 1988, 92 percent in 1989 and 90 percent in 1990.

For farmers who want to qualify for price supports during periods of heavy supply, the Secretary would require acreage diversions of up to 25 percent and could offer a voluntary paid supplemental diversion program if greater acreage cuts were needed.

For rice: The basic loan rate would be $7.20 per hundred pounds for 1986 and then based on 85 percent of an average of past market prices with a 5 percent limit on annual cuts and a floor of $6.50. To keep rice competitive, growers could pay off their loans at lower rates and then sell the crop at market levels. Repayment could be set as low as 50 percent of the basic loan in 1986 and 1987 and scaled up to 70 percent of the loan by 1989 with up to half of the gap covered by negotiable payment in kind certificates. If the market price was below the repayment level, the crop would be kept competitive in foreign markets by issuing in kind marketing certificates to exporters bridging the gap between domestic and world prices. (The "marketing loan" plan under which growers can repay support loans at a reduced rate would be applied in the case of rice to the 1985 crop as well as the 1986–90 crops in order to prevent a heavy surplus buildup from this year's harvest.)

Target prices would be frozen at $11.90 per hundred pounds for 1986 and then scaled down under the same formula provided for cotton.

For farmers who want price support when surpluses are big, the Secretary would require acreage reductions of up to 35 percent and could offer a voluntary paid diversion program for any further needed reductions.

For dairy products (title 1). The bill is designed to reduce surpluses through a whole-herd diversion program. If this plan has not cut surpluses sharply, substantial support cuts would be authorized beginning in 1988. Chief features include:

The bill continues the current $11.60 per hundred pound support level for calendar 1986 but also activates an 18-month, Farmer-Funded Program under which producers can voluntarily elect—in return for payments set on a bid basis—to take entire dairy herds out of production in order to reduce surpluses. To fund the program, farmers would pay an assessment of 40 cents per hundredweight during 1986 giving them a net effective return of $11.20 on manufacturing-grade milk. On Jan. 1, 1987,

the Secretary would be required to lower the support rate to $11.35 but the assessment would drop to 25 cents. On Oct. 1, 1987, the assessment would end but the Secretary would be required at the same time to lower the support to $11.10. Beginning Jan. 1, 1988, the Secretary would be required to make 50-cent annual cuts in the support rate if surplus purchases are expected to exceed 5 billion pounds a year or 50-cent increases if surpluses are expected to be under 2.5 billion pounds. After the whole herd disposal program ends, the Secretary would have discretionary authority to adopt a diversion program of whole-herd or partial cuts. Differentials used in setting minimum fluid milk prices in some marketing orders would be increased to reflect current transportation costs.

For livestock (portions of titles 4 and other titles). To protect livestock producers in case of heavy dairy cow sales into the meat market because of a Milk Diversion Program, the bill requires additional Government purchases of 400 million pounds of red meat during the duration of the whole-herd diversion for export or domestic donation. In a related area, the bill includes new authority for farmer-funded beef and pork promotion with a requirement that producers could get refunds of checkoff contributions during the period between the start of the programs and later referendums (within 22 months of the start of the beef program and 24–30 months from the start of the pork program) on whether to continue the programs. The beef checkoff would be $1 per head (including imported beef) with a credit of up to 50 cents for assessments of state beef councils; the pork checkoff would be 1/4 of 1 percent of the sale price of hogs and imported pork. Also, the bill requires that imported meats, livestock and poultry comply with American standards and residue regulations.

For soybeans (title 8). The bill continues the basic price support loan rate through 1986 and 1987 at the current minimum rate of $5.02 a bushel. For the next 3 years, rates would be based on an average market price formula with reductions limited to no more than 5 percent a year and with a floor of $4.50 per bushel. In all five years, the Secretary would have authority to reduce loan levels by an additional 5 percent if necessary to keep the crop competitive in world markets. The Secretary would also have discretionary power to allow repayment of loans for less than the original rate so the beans could go to market instead of government stockpiles.

For sugar (title 9) and wool and mohair (title 2). The bill generally extends current programs. The current wool support formula would be frozen for five years. Sugar supports would continue for five years at not less than the 1985 level of 18 cents a pound. To avoid a buildup of surplus stocks in government hands caused by forfeitures of support loans when market prices are low, the bill requires that import quotas currently scheduled through Sept. 30, 1986, would be extended for at least 3 months, thus reducing per-month import levels. As an alternative, the Secretary could reduce quota levels to protect domestic prices. Beginning with the next quota year, the Secretary would be directed to operate the sugar program with quota levels which avoid any cost to the Government. Also, the bill provides that beginning with the 1987 quota year, no import quotas can be given to countries which are net importers of sugar unless they verify that they do not import Cuban sugar.

The peanut program (title 7) would be continued without major changes. Support for peanuts grown under a domestic (food and seed) quota would be adjusted in 1966 and future years for increases in farm costs but not by more than 6 percent per year in 1987–90, and access to quota sales at the domestic support rate would be broadened by sharing growth in the quota between old and new growers. The bill sets a floor of 1.1 million tons (the current floor) under the annual domestic peanut quota for the next 5 years, but provides the quota can increase if domestic needs grow.

Honey supports (title 9) would be cut from the present 65 cents a pound to 64 cents in 1986 and 63 cents in 1987. In the next 3 years the Secretary could make cuts of up to 5 percent annually, and he would have discretion for all 5 years to allow repayment of loans at below the loan rate.

Payment limitations and other general commodity provisions (title 10) in the bill continue the present $50,000 annual per producer ceiling for program payments. Exempt from the ceiling would be: First, target price payments which offset support loan cuts below basic loan levels; second, any payments made under several program cost-reduction items which the bill provides for discretionary use by the Secretary; and third, any gains farmers realize when paying off support loans at less than the initial loan level. A $100,000 ceiling would be provided for disaster payments to producers of grain, cotton and rice and similar disaster payments are authorized for the 1985–90 crops of soybeans, sugar beets and cane and peanuts. Advance deficiency payments would be required for 1986 crops using target price programs and would be discretionary in future years, and 5 percent of total deficiency payments could be made in kind at the Secretary's discreting. New provisions for determining crop and total farm acreage bases are included, along with revisions in the farmer-owned grain reserve program putting new limits on the reserve. And in programs using target prices, the Secretary would have discretion to make payments to farmers who are eligible for loans and target prices but agree to forgo those benefits.

Trade (title 11): The bill mandates a payment-in-kind bonus export promotion program designed to make American commodities more competitive in world markets as well as a package of continued and expanded export credits.

The bonus export program provides that surplus commodities owned by the Government must be provided to exporters, processors or foreign buyers to encourage the development and expansion of overseas markets for American crops including processed farm products. The Secretary would be directed to use $2 billion worth of commodities for the program over the next 3 years to counter unfair foreign trade practices and generally to make American products more competitive, and at least 15 percent of the program could be devoted to exports of poultry, meat and meat products.

In the export credit area, the bill requires the Secretary of Agriculture to make available not less than $5 billion annually in short-term export credit guarantees for the life of the bill where such guarantees would improve the competitive position of American exports. The Secretary is also required, for the 1986 through 1988 fiscal years, to make not less than $325 million a year available in cash or in surplus commodities for direct export credits to counter the subsidies, import quotas or unfair trade practices of foreign countries. (The direct credits, whether in cash or in kind, could be used in so-called "blended credit" export programs.) The bill also broadens the purposes for which an existing intermediate (three-to-10-year) export credit program can be used and directs the Secretary to make available intermediate loan guarantees of at least $500 million a year through 1988, with a ceiling in fiscal 1989 of $1 billion. A previously authorized export credit revolving fund is reauthorized under the bill. Also, the Agriculture Department would be directed to operate a pilot test of barter programs with at least two countries to acquire strategic or other materials for which there are unmet national stockpile goals.

To improve coordination of Federal agency programs in overseas food assistance, the bill creates a new Presidential special assistant for agricultural trade and food aid. And to expand overseas food aid and trade promotion programs, the legislation extends the Food for Peace Program and provides that at least 75 percent of the foods shipped under the donation phase of the program must be in the form of processed, fortified or bagged products. For fiscal year 1986, shipments under the donation phase would be maintained at the 1985 level of 1.8 million tons. The bill also authorizes expanded operations under a related program providing surplus commodities for needy people abroad and it provides that not less than one-tenth of 1 percent of Food for Peace (Public Law 480) funds for fiscal 1986 and 1987 must be used for a farmer-to-farmer technical assistance program. Further, the bill creates a new Food for Progress Program under which the President would be authorized to donate commodities to countries which promote free enterprise in their domestic food production systems.

The bill includes a section revising existing cargo preference regulations which require that 50 percent of certain Government funded agricultural exports must be shipped in American-flag vessels. The measure states that commodities exported under Public Law 480 (Food for Peace) and

other designated assistance programs will be subject to a cargo preference floor starting at 60 percent in calendar 1986 and rising to 75 percent in 1988 and thereafter (in place of the current 50 percent). The bill provides that additional funds needed for these increases would come from the Department of Transportation and it exempts from cargo preference a number of commercial-style export credit programs operated by the Agriculture Department including blended credit programs. If the Transportation Department is not able to provide the needed funds, the new provisions would be shelved and existing law would come back into effect.

The bill requires the Secretary of Agriculture and the U.S. Trade Representatives to pursue agricultural trade consultations with major producing countries. Trade-related studies required by the bill include one to determine the impact on U.S. agriculture of imports of Brazilian ethanol, and another on specific unfair trade practices by other countries which affect American exports.

Conservation (Title 12): The conservation section includes new programs to protect fragile soils and wetlands for future generations and move a substantial amount of erodible into less intensive use.

For highly erodible land which has not been cultivated since 1980, the bill provides a sodbuster program to discourage plowing up fragile soils. If a farmer planted a crop on fragile land in violation of the terms of the bill, he would lose price supports and other farm benefits for all of his crops in the year of the violation. Highly erodible land which was used for crops (or idled under a Government acreage control program) between 1981 and 1985 would initially be exempt from the sodbuster penalties, but this grandfather clause exemption would disappear for any affected producer who fails to begin applying a conservation plan by 1990 or 2 years after completion of a soil survey of his land, whichever is later. Producers would have until 1995 to complete application of the conservation plan. A companion swampbuster provision would deny farm benefits to producers who convert wetlands to crop use in the future except in cases where the impact of the action is found to be minimal.

For highly erodible soils which are already in crop use, the bill provides a long-term Conservation Reserve Program under which farmers would contract for periods of 10 to 15 years to return 40 to 45 million of such acres to less intensive uses such as grass or trees, which in some cases may be used to establish shelterbelts. In return for compliance with the contracts, growers would get cash or in kind land rental payments (established on a bid basis) plus payments covering a part of the cost of needed land treatment measures. No more than 25 percent of the land in any county could be enrolled in the Reserve except in countries where the Secretary of Agriculture decides that higher levels would not hurt the county economy. There would be a $50,000 limit on annual payments to farmers under reserve contracts.

Also, the bill includes an extension of the Resources Conservation Act, requiring the Agriculture Department to produce assessments of soil and water resources in 1995 and again in 2005 to help policymakers develop long-term plans for protecting those vital national resources. A further section permits Governors of States which have State laws to protect farmland from urban development to file suits in cases where the Federal Government has not followed procedures of a Federal farmland protection law. (The Federal law requires, among other points, that Government agencies must consider alternatives before taking actions which result in shifting farmland to nonfarm use.)

The bill requires the Secretary of Agriculture to establish a procedure under which adverse determinations made under these new conservation provisions may be appealed.

The bill authorizes the Secretary of Agriculture to formulate plans and give technical assistance to property owners, State and local agencies, and interstate river basin commissions to protect the quality and quantity of subsurface water, reduce flooding hazards, and control salinity. The Secretary must report to Congress on this matter by February 15, 1987.

Credit and Rural Development (title 13): The bill reauthorizes and in some cases revises Federal farm credit and rural development programs. It requires the Secretary, through September of 1988, to operate a $490 million program under which the Agriculture Department and private lenders would share equally in the cost of a reduction in interest rates for hard-pressed farmers who hold loans guaranteed by the Farmers Home Administration. The Government could pay for 2 percent of the overall buy-down or one-half of the total, whichever was less. The bill also includes discretionary authority for a program of planting-season advance commodity loans to farmers beginning it 1986. Authorization ceilings include annual caps for the 1986 through 1988 fiscal years of $3.48 billion for Farmers Home Administration farm operating loans with a phased shift from an equal division between direct and guaranteed loans to a third-year division of $870 million for direct and $2.610 billion for guaranteed loans. For farm ownership loans, the bill authorizes $520 million annually, beginning with an equal division between direct and guaranteed loans and ending with a third-year division of $130 million direct and $390 million in guarantees. (The Secretary is authorized to transfer up to 25 percent of each year's guarantee allocation into direct loans.) For emergency disaster loans there would be ceilings of $1.3 billion in fiscal 1986, $700 million in 1987 and $600 million in 1988. Under other changes made by the bill, disaster loans would no longer be available for those who could get credit elsewhere or, beginning in 1987, to those who do not buy crop insurance when it is available. In addition, disaster loans would be banned for farms larger than family-size.

For rural development programs, the bill authorizes $340 million annually for 3 years in direct water and waste disposal loans and $250 million annually in guaranteed industrial development loans plus $115 million in direct community facility loans. The bill also provides a new method of determining eligibility for water and sewer loans and grants based on community income and health and sanitary needs.

A clear title provision in the bill is designed to protect buyers of farm products from challenges to the title to their purchases while still allowing lenders to protect liens on farm products. The bill clears buyers from liability on liens against the commodities bought from farmers unless they have been given notice of those liens directly or via a State central registry system. The new provisions will be effective in 12 months, giving time for States to set up central filing systems if they wish to do so.

Also the Agriculture Department would be ordered to observe a number of new restrictions on the way it handles farmland acquired by the government in future foreclosures of FmHA loans. Among other provisions, USDA would be forbidden to sell such land if the sales would depress local farmland values, and first priority in any sales or leases would have to be given to operators of farms which are not larger than family size. In leases, the bill calls for giving priority to former owners of the land and sales prices must reflect the probable income the land can produce. Where FmHA-owned land is administered under management contracts, contracts must be let under competitive bids with preference to local small businessmen, and the use of conservation practices may be required on land which has been classed as highly erodible as a condition of sale or lease.

The bill allows the Secretary to acquire from FmHA borrowers who cannot repay their loans conservation, recreational or wildlife easements on land which has been in crops but is classed as wetland, upland or highly erodible. In return, the Secretary could cancel part of the borrower's debt. Also, the bill gives the Secretary discretion to make loans to distressed FmHA borrowers who plant softwood timber crops on marginal farmland which is security for their existing loans. The new credit would reamortize the old loans, would be limited to an overall total of 50,000 acres, and would be repayable when the timber produces revenue or within 45 years. The bill requires a study of procedures used by FmHA for farmer appeals when loan applications are rejected, and a further provision creates a new, speedier appeals system using informal meetings. Other amendments require FmHA to process loan applications within 60 days, to provide funds on approved loans within 15 days, and to continue the agency's Small Farmer Training and Technical Assistance Program. Also, when FmHA or Small Business Administration farmer-borrowers are foreclosed or bankrupt, the agencies would have discretionary power to allow the borrower to

remain in his home as a renter for at least 3 years.

Research (title 14): the research section includes a 5-year extension of funding authority for agricultural research and extension programs, and a number of new research priority guidelines.

Among other items, the bill authorizes a 3-year program of special grants for educational and counseling programs to develop income alternatives for producers who have been forced out of farming by economic stress. It also directs the Secretary of Agriculture to develop appropriate controls on the development and use of biotechnology in agriculture. The bill also includes a provision urging USDA to emphasize, in its research and teaching programs, new technology suitable for small and moderate-sized farms. The Secretary of Agriculture would be directed to report on the feasibility of more complete studies of the relationship between diet and blood cholesterol in humans, and dietary calcium and its importance in human health and nutrition. The bill allows the Secretary to make cooperative, cost-sharing agreements with private agencies, organizations or individuals to develop new agricultural technology, authorizes research on new uses for farm and forest products, and directs the Secretary to conduct demonstration projects on the development or commercialization of crops that would supply strategic industrial products. Federal agricultural research funding authorizations would be extended through 1990 with fiscal 1986 ceilings including $600 million for Federal activities, $270 million for contributions to cooperative research in State experiment stations and $370 million for contributions to cooperative extension programs in States (with $10–$20 million annual increases in following years for the three programs), and $7.5 million annually for aquaculture research.

The bill authorizes competitive research grants at a level of $70 million for the period covered by the bill and for grants and fellowships for food and agricultural sciences education at an annual level of $50 million. It authorizes the Research Facilities Act for the period covered by the bill at a level of $20 million with a Federal-State matching provision for facilities at State cooperative institutions. It authorizes $25 million annually for animal health and disease research. It also authorizes permanent extension funding for the historically black "1890" colleges and universities and $10 million annually for 5 years for extension facilities at these institutions. The bill creates a new program of agricultural productivity research with demonstration projects to run for at least 5 years and, if practicable, 12 to 15 years.

Food assistance: The food program section of the bill extends the Food Stamp Program for 5 years, including the program for Puerto Rico which operates on a cash basis, improves some program benefits, and requires all States to set up special employment and training programs to help move jobless stamp recipients onto payrolls. The bill also extends for 2 years, through fiscal 1987, the Temporary Emergency Food Assistance Program authorizing distribution of Government surplus foods to the needy.

Among the food stamp changes were steps to increase work incentives by establishing a separate child care deduction and revising the earned income deduction, both of which are used in calculating stamp benefits; changes in asset limitations to make the program more accessible to working poor and elderly households; an increase in the excess shelter cost deduction, and action to strengthen program accountability and management.

Other food assistance provisions in the bill would extend the Commodity Supplemental Food Program for women and young children for 5 years and broaden the program to serve elderly persons in cases where this would not deny benefits to women and children. The bill also would authorize increased nutrition education for low-income people and strengthen current efforts to monitor nutrition of low-income people.

Other provisions (various titles): The bill provides that in order to prevent damage to older gasoline engines on farms, the Environmental Protection Agency must not reduce the lead limit in gasoline to below 0.1 gram per gallon until January 1, 1988. In the interim, the Agriculture Department and EPA would study the need for lead in engines, completing the study by January 1, 1987 and reporting within 6 months on whether it would be appropriate to modify future general lead-limit rules in the case of gasoline used for farming purposes.

H.R. 2100 modernizes the Federal Virus-Serum-Toxin Act, a law which regulates veterinary biologics, to give the Agriculture Department control over intrastate as well as interstate sales (giving producers of intrastate products up to 4 years to comply with Federal regulations), but would allow States which have effective regulatory systems to retain them. Another provision bans imports of Flue-cured or Burley tobacco which does not pass U.S. pesticide residue tests used for American-grown tobacco. Also, the bill directs the Agriculture Department to continue random checks to determine if imported Canadian potatoes meet U.S. standards.

The bill revises standards for the humane handling of animals by research facilities, dealers and exhibitors. It directs the Secretary to develop standards containing minimum requirements in areas including housing, feeding, shelter, veterinary care, and experimental procedures that minimize pain and distress.

Other sections include: A ban for a total of 5 years on price supports and certain other farm benefits for persons convicted of growing or storing controlled substance drugs; a directive to the Secretary to conduct a pilot project under which wheat, cotton, feed grain and soybean growers in at least 40 counties would test a program of using futures or options markets to protect their incomes (with participating producers assured by the USDA that their returns could not fall below support loan levels); a requirement that tobacco importers, in addition to reporting the country of origin of the product, must also identify the intended U.S. purchaser; and a provision authorizing watermelon producers to adopt a checkoff program to finance research and promotion.

Also included are provisions to: Require the Secretary of Agriculture to give 60 days notice to the Senate and House Agriculture Committees before he acts to terminate marketing orders for nonprice supported crops; extend the life of a food security wheat reserve; require the Secretary to designate three administrative areas for the selection of community Agricultural Stabilization Committees in all counties with some exceptions such as in counties with less than 150 farmers; require the Secretary to control grasshoppers and Mormon crickets on Federal rangeland; and make all rural utilities eligible to borrow from the Rural Electrification Administration also eligible to borrow from the Banks for Cooperatives of the Farm Credit System (at present, eligibility is restricted to co-ops with a specified minimum of farm or aquatic producer-members).

Mr. Speaker, I reserve the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. I thank the gentleman for yielding me this time.

Mr. Speaker, I wish to congratulate the chairman and the ranking member for this outstanding bill.

Mr. Speaker, back in the spring, when this House began work on this bill, I joined with my committee colleagues in setting out goals for the bill which we were responsible for construction.

At that time, we summarized the task. We said, "This Nation needs a workable, creative, and realistic blueprint for the survival of American agriculture."

My support for this bill is a declaration of my belief that we've achieved our overall purpose, and we've come as close as is legislatively possible to the five goals we set for ourselves.

They are these: One, to provide an effective farm policy which is budget responsible. At $52 billion for those of you concerned about the budget, this is billions less than a freeze.

Second, to recapture American agriculture's competitive edge in world and domestic markets. Today, American agriculture will be first, not last, when we craft foreign trade policy, and we have given the Department tools such as the bonus bushel to bring us back into the competitive world market we need.

Third, to create a bridge from Government domination to an improved marketplace. This is a transition bill. We will ratchet away from farming the Government, again, to farming the

marketplace as we all want in this country.

Fourth, to recognize profitability as a key element in the long-term stability of American agriculture. There is a safety net in this bill. We did not cut the legs from under agriculture in America, but we did provide a method of a safety net to allow American agriculture to prosper in the next 5 years.

Lastly, to guarantee American consumers a plentiful and stable supply of nutritious food and fiber products. Certainly, the best deal in the world is for the American consumer. Less than 17 percent of disposable income is used in this country for the purchase of food; by far and away the best deal in the world.

Mr. Speaker, creating a 5-year farm program is a congressional duty that must occur without a guarantee of future precision. It must be policy capable of withstanding gale-force winds of economic and natural influences outside this committee's control.

With all of our influence and power, Congress still can't control the weather. We can't control the crops. And we have no crystal ball to predict the successes of our export incentives.

In other words, there is no precision in this business. There is only the promise that, if Congress follows through on its own promise to reduce the deficit, bring down high interest rates and deflate the strong dollar overseas, this bill will successfully stabilize the American farm community and begin to lead it away from the Government trough.

Some wanted a farm bill that would pull down the curtain of subsidies immediately. This is not that bill. I can safely say that no member of a congressional agriculture committee, neither Republican or Democrat, House or Senate, is willing to pay the awful price of an immediate end.

That price, at a minimum, would be bankruptcy for one-third of America's farmers and a permanent loss of production and markets to foreign competition.

The bill we've created depends heavily on the use of export markets to replace Government subsidies to American farmers in the future. And well it should. Throughout the history of this country, the one consistently bright spot in our balance of trade has been our farm production.

Unfortunately, we lost sight of that for a while. The United States was virtually the only postwar nation on Earth with all of its farming, manufacturing and industrial complexes still intact.

We were so enraptured with exports of hard goods and with America's market leadership over the last four decades that we began tinkering with the foundation of it all, farm exports.

Today, we are nothing more than another competitor in world markets—and one with a bad reputation and expensive products, at that. Hard goods—everything from cars to computers—today come from many places with softer currencies, and many farm products come from more reliable sources.

We need this entire Government to think first about the trade of American farm products. America's market advantage comes from the farm. We must never forget that.

If we keep that in mind, this bill will successfull ratchet down Government's intrusion on the market-oriented farm economy that we need for long-term success of the American farm community.

We've created export incentives to help and we've created the tools that will make it work. They include a strong conservation reserve program encompassing some 40-million acres; a solid new control on marginally productive and fragile croplands; a workable dairy program that will help dairymen without hurting the red-meat producer; and commodity programs that maintain a delicate balance between competing commodities.

The entire package comes together in a 5-year plan that continues to provide the American food consumer with stability of product and price.

Just as importantly, it takes into consideration the fact that the American farm family is a consumer as well as a producer. We can't ever forget that once they've provided the rest of us with food, they must be able to afford it, as well.

Colleagues, this is a good bill, certainly as good as any this Congress is capable of creating.

If you join me today in approving this plan, and join me in the future in cutting our national deficits and the interest rates which will fall with the debt; if you help me keep the wolves away from the door of our farm credit system and join in promotion and nurturing of our farm exports program, I assure you right now that this is the best farm policy offered by Government in generations.

I urge your vote in favor of passage of this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in reluctant opposition to this conference report. For nearly 1 year, my colleagues and I on the Agriculture Committee have worked countless hours to produce a new omnibus farm bill, and I have the deepest respect for the efforts of the chairman and our other colleagues to produce the compromise we have before us.

Unfortunately, what American farmers need is not a compromise. American farmers need a program which is bold, which breaks new ground, and which will lead us and our farmers out of this morass. As we started this process so many months ago, American farmers said they wanted a change in policy, but instead, they are basically getting the same old tired programs.

The conference report has three main problems, particularly with the grains.

First, most importantly, the bill offers no realistic promise that commodity prices will improve; indeed, they will fall.

Second, in large part, prices will stay depressed as surpluses will continue to build because the bill will not lead to an effective surplus control program. It leaves too much discretionary authority in the hands of an administration which has indicated it will not act aggressively to bring production into line with demand.

Third, the bill provides benefits indiscriminately. The largest producers will reap most of the limited Federal dollars we have to spend because this measure makes no mandatory effort to target income supports to the small- and medium-sized family farms which should be the focus of Federal agricultural policy.

A little less than 1 year ago, the administration came to the Congress with a bill decimating farm programs, and sure to decimate farm income. Rejection of that proposal was loud, swift, and conclusive from both sides of the aisle. In the House, we held the line and stood firm through this time of crisis. But today we have before us a bill very much like the one the President and his Agriculture Secretary saw pronounced dead on arrival last winter. That product is due in large part to the fact that the long shadow of the President's veto pen hung over the other body as it worked and over the conferees as they met so tirelessly.

However, when I go back to Kansas I cannot stand in that shadow. I will have to face my farmers in the harsh light of my vote today. While there are some provisions and particularly the conservative section, the question is not between this bill or no bill, it is between this bill and a better bill. I think we could have, indeed should have, produced a better bill for our farmers and I cannot endorse this program with my vote. We will be back.

Mr. MADIGAN. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I thank the gentleman for yielding me this time.

Mr. Speaker, for the better part of a year now, we have been involved in an effort to write a new farm bill or, better put, after months and months of hearings and hard work and so many choices between a rock and a hard place, I think perhaps that effort

would be better described as a gauntlet.

Mr. Speaker, we have held quorums, we have held hearings, we have held listening tours, we have sat on a wagon tongue, we have figured, studied, penciled out, discussed and cussed virtually every farm proposal from shutting down the ASCS office to instant parity as of yesterday.

In the meantime, the adversity in farm country continues and hard-pressed farmers and ranchers have not so patiently been waiting, and we have been forced to go ahead with our cropping plans with no farm bill.

□ 1220

Our difficult but necessary challenge has been to somehow address the adversity we are going through and still keep this farm bill within the budget limitations that we enacted in this Congress.

Does this bill meet all these requirements? No, it does not. It is not the best possible farm bill. It is, however, the best bill possible when we look at all the problems and the difficult circumstances we face.

This is not the farm bill that PAT ROBERTS would write, nor any member of the Agriculture Committee on the Senate or the House side. But again, Mr. Speaker, I believe it is the best bill possible under these very difficult circumstances. It is time to pass this bill.

Now, there will be those who will say with great passion that we have not done what we should do in terms of protecting farm income, yet compared to the proposal that was first advanced when our Republican Members sat down with David Stockman, this bill is absolutely generous.

The other side of that story, Mr. Speaker, is that the budget restrictions we are operating under did not come from the administration; they came from the budget, passed by a majority in this House months ago, some of them the very Members who are now doing the criticizing.

To all of my colleagues who now worry about the cost of this bill let me say that these cost predictions are guesstimates at best. Time and again I have asked the so-called budget experts how they can predict the weather, trade policy, interest rates, value of the dollar, embargoes, crop yields, and all the rest that goes into it that will affect the cost of this bill. However, the cost of not acting in terms of the adversity that we are going through in farm country will be far greater.

More to the point, as we become market competitive, which this bill will enable us to do, the farmer is made whole to the best of our ability to do that. So, my friends, in terms of the future obligations that would be incurred if we did not pass this bill, these figures will look very small in comparison.

I know that within minutes of the passage of this farm bill there will be people on both sides of the aisle who will do a lot of criticizing. I do not know who I have been more irritated with during this yearlong process, the administration for dragging its heels and poisoning the well or those who always prefer an issue to a bill. Let me tell my colleagues that I do not have of any farmer who can take an issue to the bank and countersign it.

Maybe I am a little touchy on this subject. Maybe it is because we have gone through a year of frustration and agony, and yes, even anger. Maybe it is because I lost the initiative that I worked very hard for, although it is now discretionary in this bill. But I say to my colleagues, do not stand there and criticize this bill and cast a reluctant vote against it when it was your budget, a budget that I did not vote for, that put us in this straitjacket. And if you voted for Gramm-Rudman, which a great many of us voted for—I did not—and you exempted eight or nine programs out of that budget process, and you are going to put us in that straitjacket as of next spring, I think, when you say, "Well, we just don't have a bill," that the administration simply held that heavy sword over it, that is demagogery at best.

There doubtlessly will be an emergency bill this spring. This bill gives the Secretary of Agriculture unprecended discretionary authority. All of us have an obligation to work with him not only to pass this bill but to implement that policy in the best interests of producers. In other word's you'll have your chance to put up political hay but we had better get the harvest such as it is in first.

We need the bill. We need this bill to stabilize land values and to keep the FDIC off of our backs. We need a bill. I urge a yes vote.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I thank the committee chairman, the gentleman from Texas [Mr. DE LA GARZA], for yielding this time to me, and I rise in unenthusiastic support of the conference report.

I commend the conferees, must especially the distinguished chairman of the committee. There is no question that this was their best effort, in spite of President Reagan's attempts to demolish the traditional farm price support programs.

Mr. Speaker, I rise in unenthusiastic support of the conference report on H.R. 2100, the Food Security Act of 1985. I am unenthusiastic about this conference report because it does not represent, in my view, the best possible policy for American agriculture. Rather, it represents the best that we are going to get.

There should be no question among our colleagues about the vital importance of the American farmer. We need the farmer so that we can continue to have an abundant food supply.

But if we want the farmer to continue to be productive, we should be willing to consider his and her need for a reasonable standard of living, and a return on the investment in the farm. In the name of budget austerity and as a precursor of Gramm-Rudman, we don't do that with this farm bill. And the fact that the White House and administration officials, including the Secretary of Agriculture, were so involved with the details of the conference on this bill makes me very suspicious of its value to agriculture over the next 5 years. Remember, this is the administration that effectively proposed the termination of farm price support programs when the President proposed his farm bill last spring. He even proposed abolishing the domestic sugar program.

I am very pleased with the sugar provisions of the bill. It continues a program that I have worked for so hard throughout my years in Congress, and one which will continue to help to provide a measure of stability for my farmers in the years to come. I am also very pleased that the House conferees agreed in principal with a Senate provision that directs the Department of Agriculture to modify its policy on import quotas so that we can continue to run the sugar program with no cost to the Government. This provision is very similar to a directive I sponsored on the fiscal 1986 continuing appropriations resolution.

The dairy provisions represent somewhat of a midpoint between the original House and Senate provisions. There is no question that the dairy farmers I represent would be much happier with the dairy program that was passed by the House as part of the farm bill, but this is one of those cases where the program had to be modified to meet the President's objections or be vetoed.

The dairy program will have the price support level frozen at $11.60 per hundredweight until January 1, 1987. At that time the support price drops to $11.35, and drops again to $11.10 on October 1, 1987. There will not be a paid diversion program initially, as the House had proposed, but the whole herd buyout provisions will be in place for 18 months, subject to the issuance of regulations by the Secretary of Agriculture. The buyout is financed by a producer assessment of 40 cents per hundredweight, which drops to 25 cents on January 1, 1987, and ends in October 1987. Support prices will continue to drop by 50 cents per hundredweight each year beginning in 1988 if the Secretary determines that Government purchases of dairy products will exceed 5 billion pounds. Standby authority for a paid diversion program is retained in the conference agreement. I believe we could have done better but for the administration's opposition.

The wheat and feed grains program also offers us a farm program that's been put

through the thrasher. Target prices will be frozen at $4.38 per bushel for wheat and $3.03 for corn for 2 years, and begin to drop in 1988. Deficiency payments made as a result of these target prices will be limited to $50,000. Loan rates will be set as a percentage of the average market price for 3 of the past 5 years, dropping the high and low price years, similar to the program approved by the House. Farmers will be required to set aside land in order to be eligible for these programs if surpluses exceed 1 billion bushels of wheat and 2 billion bushels of corn.

But there is a cautionary note at this point. The Gramm-Rudman provisions will take effect soon, and there is a strong danger that farm price support levels will have to be cut even more to meet the mandates of Gramm-Rudman. However, any farmer who signs a contract with the Government by February 1, 1986, should lock in the price support levels specified in the 1985 farm bill conference report today. The agreement on Gramm-Rudman states that:

Payments and loan eligibility under any contract entered into after a sequester order has been issued for a fiscal year would be subject to a percentage reduction.

The President is supposed to submit his first round of spending cuts on Gramm-Rudman on February 1. It is essential that farmers make their decisions quickly, and sign up for the program to lock in these amounts.

Mr. Speaker, I want to do what is best for the farmers I represent. I have come to the conclusion that the approval of this conference report is better than having farmers continue to wonder what our farm programs will be if we do not approve this agreement. I will continue to take the counsel of the farmers I represent, my best advisers.

In order to give the American farmer some certainty for the days ahead, and with the knowledge it was the best possible in the face of a Presidential veto. I urge my colleagues to approve this conference report on the 1985 farm bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. Mr. Speaker, these are very difficult times for me. As I meet here on the floor of the House and as we meet in our conference and as we have our ties and suits on and talk about these issues, I then go back to my district and I see the pain that is there, and I see the good farmers who have always been recognized as leaders in their communities now facing the threat of bankruptcy. And it is not just the farmers, it is the small business people, it is the towns, and it is all of our area.

And let me say, Mr. Speaker, that if anybody here thinks we can have that pain only exist in our rural areas, they do not know what our country is like. I think we are going to feel it across the country.

In my opinion, this bill does not adequately address that problem. The farm bill as it came from the House Agriculture Committee would have strengthened farm income, and that is what we need to do in our area.

The administration opposed many sections of that bill and indeed opposed many of the efforts in our conference committee. With a veto threat constantly held above us, they wanted more and more to cut back on what could be done. But thanks to the efforts of the House members of that conference committee, let me say that this bill is a lot better than it would otherwise have been.

I want to commend the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], I want to commend the gentleman from Illinois [Mr. MADIGAN], and I want to commend all the conferees, be they Republican or Democrat. As I sat in that conference committee, let me say that there was no partisanship on the House side of the aisle. We held together and tried to do more for our farmers, but time and again the Senate side and the administration would prevail. The other body would carry water for the administration, and the leadership over there on the majority side would vote as a bloc and block what we were trying to do.

I am sorry that this bill is not better than it is for our farmers, but I do commend the Members who were in that conference, and I do say to all the world that this bill is not nearly as bad for our farmers as it might have been without the work of the House conferees, both Republicans and Democrats, in that conference committee.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding time to me.

As a House conferee representing the Committee on Ways and Means, there were some points contained in this legislation that really did violence under our rules to the jurisdiction of the Ways and Means Committee. All of those were resolved with one exception. The one exception has to do with the Sugar Program. Under the legislation introduced by the other body to this farm bill we have an unfortunate situation now contained in title IX that really has the effect of imposing vastly higher tariffs on sugar imports into this country. If you go to the objectives of this legislation, namely, to provide for agricultural exports, among other things, I think there is a potential with that kind of protectionism in this legislation for retaliation against other agricultural exports.

In addition to that, the other objective is to assure consumers an abundance of food at reasonable prices, and what we are going to witness with this provision in title IX is an escalation of the cost of sugar to the American consumer. It is unfortunate that that occurred. As I say, it came from the other body, and we were not able to get it removed in the conference. However, I have assurances from our colleagues here and from the distinguished committee chairman that perhaps we can at least minimize the impact of it legislatively next year.

I do not want to raise objection to all the good work of the conferees from the House side, but I did want to express my objections to what our colleagues in the other body did to flaw an otherwise basically good bill and one that represents many conscientious efforts by distinguished Members in this Chamber.

Mr. Speaker, I rise in opposition to the conference report on H.R. 2100, the Food Security Act of 1985. Specifically, my greatest concern centers around section 902, the prevention of sugar loan forfeitures.

As a conferee from the House Ways and Means Committee, I raised an objection to this specific section on two separate occasions during conference proceedings. Since the section in question had trade ramifications, I warned the other conferees that I intended to raise a point of order on the floor of the House if my concerns were not addressed. Compromise language was drafted to alleviate my concerns with section 902 and I was assured that this language would be substituted. During a unanimous consent request to waive points of order against the farm bill conference report, I was again reassured that my concerns had been taken care of, and therefore, I did not object to the request. Subsequently, my legitimate concerns with section 902 were disregarded and the original language remains in the conference report.

It was not my original intention to attempt to derail the entire conference report over one section, however, the repeated lack of any consideration to what I believe are legitimate concerns is extremely distressing. It has always been my understanding that the U.S. legislative process was structured so that the concerns of the minority would also be addressed.

With respect to the serious shortcomings of section 902 as it now stands, let me begin by outlining the existing Sugar Program in the United States. Excess production characterizes the world sugar economy, and sugar stocks are estimated at more than 50 percent above normal needs. World production is expected to continue to increase slightly despite low prices. The price of raw sugar in the world free market has averaged less than 5 cents a pound, the lowest in 15 years. Since passage of the current Sugar Program—1981 farm bill, U.S. imports have been limited to roughly half of their traditional level in order to prop up the artificially high U.S. price—about 22 cents a pound.

The means by which high U.S. prices are protected is an absurdly convoluted process established to please a limited domestic sugar growers industry. Section 902 is an attempt to further shore up these domestic price supports by increasing import restric-

tions on foreign sugar. Section 902 specifically requires the Secretary of Agriculture to "operate the Sugar Program established under section 201 of the Agriculture Act of 1949 (7 U.S.C. 1446) at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation [CCC]." Existing provisions provide that excess sugar may be forfeited to the CCC in lieu of payment on outstanding sugar loans. If the Department of Agriculture is mandated to run the Sugar Program on a no-net cost basis, as prescribed in section 902, then a nonaccumulation of sugar would mean no forfeitures of sugar to the CCC. To achieve this end, dramatic reductions in imported sugar would have to be initiated.

U.S. Trade Representative Clayton Yeutter, in a letter to Ways and Means conferees, warns that the provision requiring the Sugar Program to be operated so that there would be no cost to the Federal Government would require the United States to significantly reduce the sugar import quota—the letter is attached. Estimates place this reduction at more than a third compared to 1984–85 quota levels. Such action would also severely limit the discretion of the President to implement this program in a way which best meets our national interest. Many countries would challenge our restrictive import policy, and a drastic reduction in our sugar quota would undermine our efforts to resist new foreign barriers to our own agricultural exports.

Tightening the sugar quota would have a severe economic effect on a number of developing countries, including many of those encompassed in the Caribbean Basin Initiative [CBI]. Our exports to these countries will surely suffer if they cannot export to us. Furthermore, there is speculation that section 902 violates existing international trade agreements.

The impact of section 902 will also hurt the remaining U.S. cane sugar refiners. Their access to raw sugar has already been reduced by over 35 percent since the passage of the 1981 farm bill and, as a result, nearly 3,000 jobs have been lost in this industry. Most refiners are operating on reduced schedules, and at least one or two more may close if the import quota is lowered further. In addition, the high U.S. price for sugar has encouraged substitution by other sweetners, especially corn, which now accounts for over 25 percent of caloric sweetners.

The higher domestic sugar prices caused by section 902 would expand the differential between United States and world prices, which would encourage more imports of sugar-containing products. Since 1981, U.S. imports of sugar-containing products, particularly confectionary products, have increased dramatically. For example, imports of chocolate bars were over 400 percent greater last year than in 1981.

The ultimate loser as a result of the section 902 proposal, however, would be the American consumer. Forced to pay escalating prices on cane sugar and sugar-containing products, the domestic consumer would once again bear the burden of subsidizing a small, specialized industry. Protectionism has never solved our trade problems in the past, and never will in the future. the inclusion of section 902 in the farm bill is conclusive proof that prior attempts to protect the domestic sugar growers through import restrictions were unsuccessful. What makes one think that these additional import restrictions will prove any more successful?

In conclusion, I believe that I have demonstrated that my concerns are indeed legitimate. In an effort to satisfy the special interest concerns of some of the conferees, and to help expedite passage, my substitute language that would have essentially guarded against additional import restrictions was never honestly included in the farm bill. American consumers and exporters will pay the price for this narrow, special interest legislation. It will prove a high price to pay for the marginal political support it is designed to buy.

THE U.S. TRADE REPRESENTATIVE,
Washington, December 11, 1985.

Hon. PHILIP M. CRANE,
U.S. House of Representatives, Washington, DC.

DEAR PHIL: As you proceed to the House-Senate Conference on the Agriculture, Food Trade and Conservation Act of 1985, (H.R. 2100), I want to convey to you our concerns about certain trade provisions of this bill which fall within your responsibilities as conferees from the Ways and Means Committee. For this purpose, I am enclosing a copy of letters already sent by this office to conferees of the Senate and House Agriculture Committees.

Your committee staff specifically asked whether the Administration would be able to implement the sugar provisions of the Senate version of the bill without modifying import restrictions. Under current and foreseeable market conditions, it would not be possible to operate the sugar program at no cost to the Federal Government except by imposing much greater restrictions on imports.

At present levels of domestic production and imports, there is an excess of supply over demand for sugar compared to that necessary to maintain the domestic price at a level that would prevent forfeitures of sugar to the Commodity Credit Corporation (CCC). If the Administration were compelled to operate the sugar program so as to prevent forfeitures and thus avoid cost to the CCC, there would be no way to sustain domestic prices without either increasing the demand for sugar or limiting supplies of sugar. We do not believe there is any likelihood that domestic sugar demand will expand in the near future. Any rebalancing would therefore have to be made on the supply side of the equation. There is no authority to limit domestic sugar production. Therefore, the sugar program could not be operated without cost to the CCC without imposing much more severe reductions on sugar imports, a step that would raise serious legal and trade policy problems.

Sincerely,

CLAYTON YEUTTER.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. Speaker, I rise in opposition to the bill. I do so knowing full well the difficulty that our ranking member and our chairman had in coming to an agreement.

We are told that this bill is a freeze, but I have to say that the only freeze I see is that farmers are frozen out of a decent income and a higher price. Frankly, I do not know how we are going to be able to go home and tell those farmers who are now facing this long, cold winter what they must do in light of the fact that for the next 4 years they are going to see a reduction in income and a reduction in price.

All we can do is to voice our opposition loudly and clearly this morning. All we can do is to insure that they know that the fight goes on, and that at long last at one point in the future we will realize the importance of the family farm, realize the importance of a good, solid return on investment, and realize what an important element in our economy they all are.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in support of the legislation, and I wish to commend the conferees for their efforts.

Mr. Speaker, I rise today in support of H.R. 2100—the 1985 farm bill. I do so, however, with several reservations—especially to the commodity programs for wheat, feed grains, and soybeans which I will address in a minute.

It is easy to vote against a farm bill for political posturing. Some politicians never will vote "aye" no matter what might be in a farm bill; they make a career of saying, "It wasn't good enough." However, the only responsible vote for a member of this house or the other body is "aye." What, I ask is the alternative? Can you imagine the chaos that would result if Congress adjourned without passing a farm bill? The impact on the farmers and ranchers of facing that possibility as they try to secure loans and plan their 1986 farm year would be devastating. If we do not pass this farm bill now, every astute observer of Capitol Hill farm politics knows a bill crafted in 1986 will be far less generous and far too late.

As a conferee on the trade title of this legislation, I can report to my colleagues that this was a long, difficult and tedious conference. I commend the members of the Agriculture Committee and especially the chairman of the committee, Mr. DE LA GARZA, and the ranking minority member, Mr. MADIGAN, for their patience and perseverance in trying to craft a farm bill that will effectively address our Nation's farm problems within the fiscal restraints that exist.

There continues today to be great frustration and uncertainty in rural America about our agricultural crisis and Congress' inability to adequately correct it. As a member who represents farmers, cattlemen and a congressional district largely dependent upon agriculture, this bill will determine the future for thousands of my con-

stituents over the next several years. I share with my colleagues who are members of the Agriculture Committee their uncertainty about this farm bill and their frustration in trying to build a consensus for new directions in policy.

If our agricultural problems stemmed for a single source, it would be much easier to select the right solutions. Unfortunately, the major dilemma that exists today in agriculture is the multitude of problems which confront us: High interest rates, declining land values, low commodity prices, and an archaic Tax Code, dwindling export markets, foreign agricultural subsidies, the high value of the dollar, and many others. All are separate concerns, yet all have interrelated effects; and they must be addressed in a coordinated fashion to effectively provide a bright future for American agriculture.

Today, we consider the conference report on the 1985 farm bill. There are some who consider omnibus farm legislation to be the trough at which American agriculture depends for sustenance. There will be Members who criticize this farm bill because it does too much and because it is too expensive. There are many others who criticize this farm bill because it does not do enough. Where this farm bill is deficient, however, is not in the scope of its assistance, but the depth of its innovation and direction for the future.

In the past, agriculture has generally relied on the farm bill as the sole means of addressing our agricultural problems. However, it should also be considered an opportunity to lay down long-term policy goals for where we want agriculture to be in the future, rather than a short-term reaction to the fundamental problems which are symptomatic of agriculture. In addition to establishing a sound policy foundation for agriculture, this farm bill should also complement other legislation which this Congress has passed this year that also addresses fundamental problems in agriculture.

Aside from the farm bill, Congress has legislated many reforms this year which will chart a new course for agriculture for the rest of this century. For example, the tax bill which we passed yesterday will bring about major changes in the Tax Code that have a positive effect upon agriculture. While I objected to the rule under which that legislation was brought to the House floor, I made public my intention to vote for it because, in general, it is a beneficial step for Nebraskans and most American individual taxpayers. Accordingly, I voted against the motion to recommit it to committee and cast an oral vote for its passage.

For too long the tax code has enticed nonfarm investment in agriculture by those who are not reliant upon agriculture for a living but who instead farm the Tax Code for tax shelters. This type of investment has encouraged overdevelopment and overproduction in agriculture at the expense of traditional family-owned and family-operated farming operations.

The Export Administration Act which we passed earlier this year will also have positive and very crucial results for American agriculture. During the last 12 years, agriculture has borne the brunt of four major trade embargoes. These embargoes have cost U.S. farmers billions of dollars in lost exports and seriously impaired the credibility of the United States as a reliable trading partner. The Export Administration Act will curb the administration's prerogative to blatantly misuse grain and food embargoes as a tool of foreign policy and send a strong message to our trading partners that the United States is a reliable supplier of agricultural products.

I was pleased to successfully lead the fight for anti-embargo provisions and for contract sanctity through my membership on the Trade Subcommittee of Foreign Affairs and as a conferee on this farm bill.

Congress will also later today address legislation that will restructure the Farm Credit System, this Nation's largest agricultural lender. While this legislation is only the first step in addressing the debt crisis in agriculture, it is a necessary step to insure the future financial solvency of the Farm Credit System and, therefore, most importantly loan funds for farmers and ranchers at competitive rates.

Finally, to address the crippling effect that Federal deficits and high interest rates have had on agriculture, Congress has finally adopted serious deficit reduction measures. The Gramm-Rudman-Hollings deficit reduction package will impact agriculture in several ways. While this measure will force equal restraints in defense and domestic programs, including agriculture—which I will address shortly—it will have a positive impact on agriculture as it is effective in reducing the deficit and lowering interest rates for farmers and ranchers.

All of the legislation which I have just mentioned is in many ways progressive, innovative, and positive for agriculture. However, while these measures will compliment the 1985 farm bill, they alone cannot be a substitute for an equally progressive and innovative farm bill. Although many sections in the farm bill are certainly innovative, others remain shackled to the worn theories of the past.

To mention the improvements which have been made in this farm bill, I would first like to commend the members of the Conservation and Credit Subcommittee for their work in drafting a conservation title that is long overdue. The sodbuster-swampbuster provisions of the farm bill will discourage the development of marginal, highly erodible farmland which has not only been bad conservation policy, but also bad economic policy. The development of marginal lands has contributed to surplus production, the cost of our farm programs, and the debt crisis of many farmers.

With regard to farm debt and rural development problems, the conference report not only reauthorizes FmHA credit and rural development loan programs, but also requires the USDA to establish a 3-year interest buy-down program under which the Federal Government and commercial lenders will share equally in interest-rate reduction for borrowers of FmHA guaranteed loans.

As a conferee on the trade title of this farm bill, I would also point out that the export of our agricultural commodities was a top priority of both House and the other body. We are all well aware of the decline in our agricultural exports during the past several years; and with it, farm income. While agricultural exports alone will not solve our farm problems, we cannot ignore the importance of the contribution they make to our farm economy.

The reasons for the decline in our agricultural exports is due to a number of factors. One is certainly the high value of the dollar. Another is the predatory trade practices and subsidies of our foreign competitors. Increased world production has also taken its toll on U.S. exports.

The trade title of this farm bill is the best ever passed by Congress. It invigorates the competitiveness which has long been the trademark of American agriculture and has made it our Nation's largest exporting industry. In addition to reauthorizing existing commercial export promotion programs, the conference report requires the USDA to use at least $2 billion of CCC-owned commodities over the next 3 years to counter unfair foreign trade practices and recapture markets lost to foreign subsidized exports to create new business opportunities for American farmers.

The food assistance title, for which I was also a conferee, is also the best for American farmers—and recipients—that Congress has ever passed. For the impoverished regions of the world that need our assistance, this bill reauthorizes and restructures many of our food aid programs to better target and utilize our food aid dollars. While some may criticize spending money for foreign assistance at a time when U.S. agriculture suffers, I would point out that many nations which were once recipients of Public Law 480 donations are now large commercial purchasers of U.S. agricultural commodities.

Furthermore, the extent and application of cargo preference requirements, an issue which has been terribly divisive in this Congress, has been moved to a compromise and away from all-out counterproductive warfare. Both the House and the other body have been embroiled in this controversy since earlier this year when a U.S. district court ruled that cargo preference was applicable to the USDA's blended credit program. I am not happy with the compromise insisted upon by conferees of the other body, but after several days of negotiations and debate in conference, an agreement was reached in which all commercial export promotion programs, including the blended credit and intermediate credit programs, would be exempt from cargo preference requirements. In return, the U.S. maritime industry will be permitted to increase its share of food aid and famine relief shipments from the current 50 percent to eventually 75 percent of such cargoes.

The cost of this additional cargo preference requirement will be allocated to and paid for by the Department of Transporta-

tion. Assurances were also given by conferees from the Merchant Marine and Fisheries Committee during the conference that in the event the additional funding for cargo preference is not actually made available, then the so-called "snapback" provision will not expand cargo preference beyond current law. I am very pleased that our commercial export programs can once again begin to function unencumbered by cargo preference requirements.

The sections of the farm bill I have mentioned are worthy and commendable. There are, however, other sections, specifically the crucial programs for wheat, feed grains, and soybeans, that are the weak link in this farm bill.

It is both unfortunate and unnecessary that we are faced with basically the same warmed-over price support programs that were incorporated in the 1981 and previous farm bills. During the farm bill debate in the House, we had before us options that would have targeted the benefits of these programs more effectively. Unfortunately, they were rejected. Under our current farm programs, farm income has declined at the same time that surpluses and Federal expenditures have increased. Unless we move away from these programs, more of the same will continue in the future.

As we consider this legislation today, I think we should all be cognizant of what might occur during the next year with regard to these programs. Under the target price-loan rate mechanism in this farm bill, farmers will be forced into continued overproduction, surpluses will continue to grow, and the cost of these programs will continue to escalate. Either one, or both of two scenarios are likely to occur. Because of the record domestic carryover of grain and a glut of unprecedented size on the world market, I anticipate that the commodity programs for wheat and feed grains will within a year either collapse under their own weight, or self-destruct under the restrictions of Gramm-Rudman.

Until we move away from programs that attempt to support every bushel of wheat and corn, regardless of whether they are needed or not, we will continue to make ineffective and inefficient use of our farm programs. We will have to eventually target our resources toward our family-owned and-operated farms in a manner that provides them with a decent return on their investment and labor in agriculture.

While I am reluctant to vote for this farm bill because of the commodity programs that I have mentioned, I also recognize that we must continue to move forward. Imperfect as this farm bill may be, responsible national legislators operating in a tight fiscal climate and serving in a Congress increasingly populated by urban-oriented legislators do not have the luxury to pick and choose what programs we like or dislike. If we did, I would not hesitate to vote against the commodity programs for wheat, feed grains and soybeans in this bill. However, if we reject this bill there will be no farm bill and we will have rejected not only the negative, but positive provisions of this legislation.

We would be left with chaos for our farm constituents and for the Nebraska economy. Some Nebraska and farm State legislators may take the easy, politically expedient way out by voting "nay." Fortunately, there are always enough responsible legislators to give them the luxury of an irresponsible vote.

Next year, and whenever necessary thereafter, I am quite willing to address these programs once more. Then, perhaps we will adopt some of the alternative programs which we rejected earlier this year. Several were far more innovative and realistic in moving us toward the goal of a bright future for agriculture.

Mr. Speaker, at this time, I urge my colleagues to vote for the bill.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

□ 1230

Mr. FRENZEL. Mr. Speaker, I was a bit player in the conference along with the gentleman from Illinois [Mr. CRANE] on a number of trade issues which were satisfactorily resolved, and on the sugar issue which the gentleman mentioned.

I was one of those in the House who supported the House sugar position, although 142 of us did not. The Senate language was much tougher. The gentleman from Illinois [Mr. CRANE] and I were assured that it would be modified. On that basis in the RECORD of November 16 the gentleman from Illinois [Mr. MADIGAN] and the gentleman from Texas [Mr. DE LA GARZA] had mentioned that our objections had been overcome. Mr. CRANE and I then agreed to the unanimous consent request that brings this bill to us.

Apparently the people who assured us that they would take care of this situation were not able to do it. I say with considerable sadness, but no bitterness that I will support the bill, but it will be a long time before I agree to another unanimous consent request from the House managers.

This was a disappointing experience. I know the House managers did the best they could, but I feel they let us down in this case.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Subcommittee on Cotton, Rice and Sugar, the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Speaker, I thank the gentleman for yielding. I certainly want to thank the chairman and all the conferees for the many, many hours of hard work that went in to bringing this conference report to the floor of the House.

Mr. Speaker, let me urge my colleagues to support this legislation. It is not a perfect bill. Any of us would like to make changes. But it is a good bill.

I would like to address my remarks to cotton, rice and sugar.

In the area of sugar, we basically have a freeze, a continuation of the existing sugar program as is, which will protect American sugar farmers and allow them to stay in business.

For cotton and rice, Mr. Speaker, we are doing something dramatically different that has never been done before with an agriculture bill. We are going to the marketplace. In the last 4 years, we have seen our sales of cotton go from 14 million bales to 8 million bales, with similar reductions in rice, because of the strong American dollar, because of countries subsidizing, because of countries dumping, and we have been paying our farmers to cut back and reduce their production while the rest of the world has been expanding.

We are going to reverse that with this bill. We are going to the world marketplace. We are going to recapture our markets. We are going to see our prices actually go down to begin with, but we are going to pay our farmers this protection, and then we are going to see prices rise once we recapture our markets.

Mr. Speaker, this bill offers hope for the American farmer. I think it offers real hope to allow us to regain our markets, to regain prices, and still with the safety nets that have been provided.

Mr. Speaker, I would urge all of my colleagues to support this legislation.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I rise to talk a bit about the dairy provisions of this bill. They are important provisions.

The dairy program will largely rely upon the concept of a whole-herd buyout.

There will likely be many people who will take the responsibility for being the father of the whole herd buyout concept. I am not entirely sure, however, that I want to have that dubious distinction, but I do with respect to this bill and therefore have a duty to explain to you what it means.

Dan Hollingsworth of California has promoted this concept. He is an example of the dairy farmers who have again come forward and said, "We are willing to pay for another supply management program. The milk diversion worked last time. Although we are not going to repeat that program, we have a better one. If we can get enough farmers to voluntarily sell their herds to the Secretary of Agriculture, then we can reduce milk production without having to put farmers through bankruptcy. Remember that for every dairy farmer that we can get to go out of business voluntarily, we save four from the spate of bankruptcies that would occur if we were to get our herd

size down through price reductions alone.

I must however, point out that we have put all of our milk in one bucket in this instance. If the whole herd buyout fails because enough farmers do not take advantage of it, then dairy farmers will face annual price cuts until such time as we have reached a supply and demand balance.

The success of the program will depend, first, upon the Secretary of Agriculture; he must make the program work. Second, its success will depend upon the farmers themselves, for they must take advantage of it.

We have a little insurance in the bill, good faith insurance, that says that the Secretary must run a good program, because if he does not, he loses his price cut authority in the out years.

It is with confidence, however, that I stand here and echo the view that this program can and will work. If the enthusiasm that farmers have shown for this program is matched by their participation, the program has every chance of success. If they do not, the program has no chance at all. And the result will be exactly what this program was designed to prevent—the wholesale bankruptcy of dairy farmers, rather than the whole-herd buyout of cows.

We, in Congress, can legislate a good idea, but it will take the farmers to really make it work.

Mr. Speaker, I also want to discuss the bill's food stamp provisions and how they impact on energy assistance and standard utility allowances. This is a complicated issue, and it is one that has generated a surprising amount of controversy.

I approached this issue from the perspective that we, on the Agriculture Committee, had no business changing the Energy Assistance Act. This statute falls within the jurisdiction of the Education and Labor and Energy and Commerce Committees. In taking a position of neutrality on this issue, I think the conferees have recognized that the issue properly falls outside of the Agriculture Committee.

In fact, both the House and Senate have agreed with this assessment, voting as each body did to delete the provisions aimed at overturning the provisions of the Low-Income Home Energy Assistance Act. It is obviously the sentiment of Congress that the courts to date have properly interpreted the provisions of the Energy Assistance Act.

My only hope is that we have not overly confused the issue. I know that the Education and Labor Committee will look at this issue next year, and hope that we will, at that time, be able to explicitly, rather than implicitly, affirm the court decisions on this issue to date.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, yesterday the St. Paul Pioneer Press & Dispatch carried the headline, "Official Says Farm Bill No Help to Agriculture." And in that article an official of the Farm Credit System in Minnesota was quoted as saying, "We believe there is a financial crisis in our industry, agriculture. We believe farms have more debt than farmers can pay with projected incomes."

He went to say, "The 1985 farm bill which cleared a congressional conference committee on Saturday won't change farm income projections substantially."

Mr. Speaker, farm groups are divided on many issues, but they are united in their opposition to more of the same old farm policy. What we have here, thanks to the Senate and the White House, is worse than more of the same, it is less of the same. We do not need to spend more on farm programs to help agriculture. What we need is a better farm policy that directs its assistance to mid-sized and small-family farms across America.

The President showed positive influence on a good issue, tax reform, yesterday and helped to get that measure passed. But what we need is his positive influence for the right kind of farm policy. Instead he has used his influence to produce a farm bill that will lower farm income and increase commodity surpluses. I'll be voting against this farm bill because farmers deserve better.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I certainly rise in support of the conference report.

I believe the conference committee has done a pretty darn good job, especially given the time constraints it operated under and given the task it had of fitting the conference report within the budget resolution and a strong Presidential request that farm spending for fiscal years 1986 through 1988 be kept within certain parameters.

They say history repeats itself and certainly that is true with respect to the recent history of House consideration of conference reports on farm bills. On December 16, 1981, we passed the conference report on the 1981 farm bill as our last such action in the 1st session of the 97th Congress. Here we are 4 years later at the tail end of a session with farmers and others anxiously awaiting for word on farm programs that will apply for the 1986 crops and beyond.

Mr. Speaker, during the consideration of H.R. 2100 in the House in September, Mr. OLIN, of Virginia, and I cosponsored an amendment to change the dairy title of the bill. We failed in that effort but I understand that the conference agreement has adopted some of the provisions of the Senate amendment to H.R. 2100 that I sought to include in the dairy title and so I now believe that with those "required" reductions in milk support levels in future years and a "whole-herd" buyout provision, there is a chance of achieving for the first time greater reliance on the marketplace for milk products that will benefit both dairy farmers and consumers.

I am also pleased that the soybean title of the conference substitute remains much as it operated in the last 4 years with a feature to maintain flexibility on loan levels in future years so that soybeans will not accumulate in Government storage and so that U.S. soybeans can continue to compete in world markets but with some protection to producers.

Also, the feed grains title, I understand, is one that corn growers can endorse and support. It provides a farm program giving income support to producers in the next critical 2 or 3 years while moving to a greater market orientation in the last 2 to 3 years of this 1985 farm bill. Meanwhile, I support provisions in this bill that will help corn producers to expand the use of corn products as a gasoline additive and as a good sweetener.

The conference agreement is a massive document that contains many, many technical provisions that only the members of the Conference Committee from the House will be able to explain in detail. However, I have maintained close contact with the ranking member, ED MADIGAN, from my State of Illinois, during the conference, and he advises me that this is a compromise measure that, while perhaps not perfect, is one that we can support. It may require close oversight by the Congress as it is implemented, but that it apparently will continue to provide the loan levels, target prices, and other farm program assistance to farmers that they are in desperate need of in the near term.

Mr. Speaker, I commend my colleague from Illinois, ED MADIGAN, the ranking member of the committee, and Chairman DE LA GARZA, of the Agriculture Committee, for their efforts in shaping this piece of legislation and bringing it to us in a form that I believe will be acceptable to the President. I urge you to support this measure and send it to the President for his signature.

Mr. MADIGAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield.

Mr. MADIGAN. Mr. Speaker, I want to take just a second of the gentleman's time to express my gratitude to the gentleman for his assistance in the last couple days that made it possible for us to get on the floor here today. I thank the gentleman very much.

Mr. MICHEL. I thank the gentleman.

Mr. Speaker, I have said all along that it is absolutely imperative that before we pass the continuing resolution, we pass a farm bill, hopefully a credit piece of legislation to go along with it before the Congress adjourns. I think both sides would be in agreement on that score.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it had been my hope to be able to vote for this farm bill. Certainly our farmers need desperately for some improvements as far as income is concerned and some hope for the future.

In the past 50 years, our objectives have been to try to keep supply and demand in balance in the hopes that we would be able to assure our farmers that they could receive a reasonable price for their products in the marketplace.

But under this legislation, at the insistence of the President and many of the Members of the U.S. Senate, we are changing that goal. We are accepting a new goal.

The objective is to reduce our prices to still lower levels than we have today, at a time in which we have great financial stress among the farmers of this Nation, while increasing grain surpluses to an even greater level. As far as the wheat and feed grains, we are today looking at the largest surpluses in the history of this Nation and the projections are that they will go even higher under this bill.

I think that is wrong, Mr. Speaker. I think what we need to do is to bring about a balance of supply and demand, to strengthen market prices so our farmers have some hope for the future. But, unfortunately, as I look at this bill, as far as wheat and feed grain farmers are concerned, I simply do not see that hope. I do not see that we are providing the opportunity for our farmers to receive better prices in the marketplace.

For that reason, Mr. Speaker, I very reluctantly will vote against the bill.

In addition, Mr. Speaker, I would like to point out that I was deeply involved in the farm bill conference regarding the cargo preference issue. In fashioning those cargo preference amendments, the conferees made no changes in the threshold concept of U.S.-flagship availability already contained in the Cargo Preference Act. Rather, the amendments in the conference report are based on the understanding that cargo preference continues to apply only to the extent U.S. flagships are "available." I also oppose the cargo preference provisions of this farm bill and provides still another reason to oppose this measure.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. FRANKLIN], a member of the committee.

Mr. FRANKLIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to also compliment the ranking member and the chairman of the Agriculture Committee for their diligent and intelligent work on this conference committee report, and I firmly support it.

Mr. Speaker, I am vitally interested and my district is vitally interested in the commodities of cotton and rice, and I also want to take this time to commend our chairman of that subcommittee, the gentleman from Louisiana [Mr. HUCKABY], and the ranking minority member, the gentleman from Minnesota [Mr. STANGELAND]. They held firmly committed to getting the best bill possible from the conference and I believe they have succeeded in that effort.

We have done something in this bill that I think is innovative and will help all American farmers. We have not given them everything that they need or everything certainly that they want, but I think for the first time what we have said to the American farmer is that we are going to put the U.S. Government behind you and we are going to make the commodities that you grow more competitive in world markets, in the sincere hope through this effort that your price will rise and that you can return profitability to your operations in the future.

That is basically a statement that I believe the gentleman from Louisiana [Mr. HUCKABY] made earlier concerning the commodities of cotton and rice that are so valuable to my district.

But, Mr. Speaker, what I want to do is to express to all of my colleagues the importance of getting the farmers of this Nation a bill that they can go to their banks with within the next 2 months, get their financial houses in order, make their cropping plans and farm next year. Farmers need a plan and a farm program so that they will know how to make their cropping plans and financial arrangements.

Absolutely, the worst thing that this House could do would be to deny the American farmer that knowledge of what he is going to be operating under and what structure he is going to be operating under next year. Refusing to adopt this conference report would deny farmers the right to obtain financing and reduce efficient production for lack of knowledge sufficient to plan adequately. It would be devastating to our economy nationally, and certainly it would be killing to our agricultural economy.

Mr. Speaker, I strongly urge my colleagues to support this conference report and thereby restore profitability to agriculture in the future.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I must reluctantly rise in opposition to this conference report. I am reluctant because I understand and appreciate the time and effort that went into the development of this farm bill, and because I have great regard for my colleagues who support this measure and especially for the work of our chairman whose endeavors are responsible for a bill that is better than proposed by the Administration.

Still, the decision of how to vote on such an important piece of legislation must be made on the merits rather than the amount of time that has gone into its formulation. And while this bill has some commendable provisions, on the whole I find that it fails completely on the issue of concern to so many farmers facing economic disaster—income security.

This bill promises wheat and feed grains farmers one thing and one thing only—lower prices for their products. Farmers who cannot make a decent living today, receiving prices that are lower than their production costs, simply cannot be expected to survive on still lower prices.

The fact that this bill does so little for farmers is sad, and more than a little ironic. When the Agriculture Committee began this long process last year, we had many disagreements on how best to address the problems of American farmers, but one thing all involved seem to agree on was that we needed a new far policy and not a simple rehashing of the current failed system. The agreement before us today continues that basic policy, with lower prices.

I also find it ironic that we are willing to assist the farm credit system—and I am thankful for my colleagues' help on this matter—but we will do nothing under this bill to allow farmers to earn enough to pay their loans.

The central issue of this debate is clear: Does this bill establish a program which ensures Americans an adequate supply of food and fiber at a reasonable price which allows our farmers a fair income?

The answer is equally clear: it does not.

If we adopt this conference report, we are painting a dim future for the American farmer, and we are setting the stage for our citizens to pay a far greater share of their income for food.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. Mr. Speaker, I thank the distinguished ranking minority

member of the Agriculture Committee for yielding to me.

Mr. Speaker, I want to urge my colleagues to vote for this conference report.

I voted for the bill when it left the House over the objections of my administration, and this conference report is far superior to that bill.

Agriculture is the most important industry in my State, and it is in trouble in my State just as it is in yours for all the same reasons that we all share. But my State has also been hit by three hurricanes which have ravaged our crops. I learned something.

□ 1245

I found out that the crops in my State, soybeans and sugar cane, two of the crops in my State, did not qualify for any kind of emergency disaster grant relief that we give to other commodities. This conference report corrects that oversight and now makes that available, and that is certainly good.

Secondly, the administration announced a very high, too high, import quota on sugar coming into this country. I oppose that very strongly. What that is going to mean is that the sugar program that has never cost the taxpayers any money will, which means greater deficits; secondly, it means that we will have greater imports, worsening our trade; and thirdly, it is not a good signal to farmers.

This bill corrects that by saying that has to be taken care of, it has to be operated on a no-cost basis, which probably means the import quota period will be extended for about 3 months to see to it that that does not happen.

Thirdly, for the taxpayers this bill is good, and for the farmers as well, because it begins to move us back to a market-oriented farm economy by the reduction of target prices ever so gradually, when we get out of the current bind we are in, to get to a market-oriented economy once again.

So I compliment the members of the Committee on Agriculture, and in particular my good friend, the gentleman from Louisiana, JERRY HUCKABY, who did an outstanding job, and certainly the chairman and the ranking minority member, for having produced and brought forth a far superior conference report to the bill we all supported, and something we can all vote for in good conscience as being good for agriculture, good for the taxpayers and, therefore, good for the economy of this country.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. BROWN].

Mr. BROWN of California. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 2100, the 1985 farm bill. This legislation is the result of months of work by both the House and Senate Agriculture Committees, and stands as a monument to the determination of the Members and staff who have toiled to deal with a very difficult situation in the farm sector. It is not a perfect bill, and I expect that we will have to return to these issues again in the coming months, so deep are the problems of agriculture. We will also have to debate farm policy next year to further cut the agriculture budget under the deficit reduction package we recently passed.

But there are many features of this legislation which are landmark changes and deserve the support of all Members of the House. Many of these programs are the result of years of work by Members and individuals whose vision is being rewarded in this bill.

This legislation makes major advances in our soil conservation programs. It establishes a conservation reserve to retire highly erodible acreage. It even focuses on the problems of western irrigated agriculture with an option for the Secretary of Agriculture to consider soil and water salinity problems in the establishment of a conservation reserve. This provision is one which I am especially interested in and I would like to personally thank Mr. JONES, the chairman of the Conservation, Credit, and Rural Development Subcommittee for holding onto this provision in conference.

This bill, for the first time, links conservation and price support programs, in the "sodbuster" provisions. Under this proposal, farmers who plow highly erodible land must have an approved soil conservation program in place before they can receive farm program benefits. This is a landmark advance in our soil conservation efforts, and Mr. JONES is to be congratulated for getting this program enacted. I would be remiss if I did not also pay tribute to Mr. Thomas Barlow who, in the mid 1970's, first brought this scheme to my attention. That was a time when even mentioning a link between price supports and conservation could get you in trouble, yet Mr. Barlow and other farsighted conservation advocates plugged away on the concept that we are addressing today.

Tucked away in the massive provisions of this bill is the Agriculture Productivity Act which the House passed earlier this year. This act establishes a program of research into sustainable, biological approaches to farming, an area which has great promise for reducing farm operating costs. Mr. WEAVER of Oregon is to be congratulated for his tireless effort over recent years to get this needed initiative enacted. Here again, we are seeing the completion of an initiative which began nearly 10 years ago and has involved the efforts of dozens of farsighted individuals.

I would like to comment on the dairy provisions of this legislation, an area in which I was deeply involved during the House debate on H.R. 2100. Every Member of the House owes a great debt to Mr. COELHO, the chairman of the House Agriculture Subcommittee on Livestock, Dairy, and Poultry, for his work in crafting the legislation before us. Mr. COELHO was faced with a tremendous legislative challenge and rose to the occasion with the skill and energy that we all recognize him for.

The provisions in the conference report should deal effectively with the overproduction in our dairy sector with minimum disruption to dairy producers. This compromise agreement is nearly identical with the approach that I was seeking earlier this year—a price freeze for 1986 with reductions beyond that, combined with a whole herd buyout. The whole herd buyout is especially attractive since it allows those producers who want to leave the dairy business a transition mechanism. Under this proposal, the Government would use funds collected from dairy producers to buy out the entire herd of dairy farmers who want to get out of the business.

I have supported this concept for some time, but due to the parliamentary situation in the House during our debate on H.R. 2100, I was forced to oppose it, hoping to secure a price freeze in the House and get the whole-herd provision in the Senate. The compromise before us had secured the same result, in reverse order, and deserves our support. This provision is also testimony to the energy of one individual, Mr. DAN HOLLINGSWORTH of California, who devised the whole-herd buyout scheme a few years ago and has been doggedly pursuing the idea ever since. It is rare that we see so clearly an issue on which one person has made the difference, and Mr. HOLLINGSWORTH deserves special recognition for his work on the dairy provisions before us.

I am pleased with the research title of this bill and thank Mr. BEDELL and Mr. ROBERTS, the chairman and ranking member, respectively of the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture, for their efforts. The research, extension, and teaching programs reauthorized in this bill hold the promise for agriculture's future and need our support. I am pleased that the conferees have held three issues of importance to me: new crop research, pesticide resistance, and a review of the formula for the distribution of funds for cooperative extension. I wish that the competitive grant program could have been authorized for more than $70 million, given the new tasks that we are assigning to the

program. But its increasing support in a time of austerity is comfort enough to me.

I would like to raise one cautionary note on the matter of funding for research, extension, and teaching in agriculture. Next year, we will be starting the process of deficit reduction required by the recent legislation on that matter. Civilian research is now only about one-quarter of our total Federal research and development budget, down from one-half in 1981. It is extremely vulnerable to this budget cutting process which is occurring at a time of great promise for agriculture research and extension, and a time of great need in agriculture teaching. We must exercise caution in our zeal to find areas for budgetary reduction lest we threaten the future of agriculture in this country.

I would like to take special notice of a major advancement in the humane treatment of laboratory animals contained in the conference report. It is a revised version of the Improved Standards for Laboratory Animals Act of 1985, H.R. 2653, which I introduced in the House, and S. 1233, introduced by Senator DOLE in the Senate. Over 140 Members of Congress cosponsored H.R. 2653, and 40 Senators cosponsored the Senate version.

This legislation is not new; Senator DOLE and I introduced earlier versions of this legislation in the 98th Congress, H.R. 5725 and S. 657. Hearings were held on this legislation in the Senate Committee on Agriculture, Nutrition, and Forestry on July 20, 1983, and in the House Agriculture Subcommittee on Department Operations, Research and Foreign Agriculture on September 19, 1984. The revisions made to the 1983-84 bills were based on testimony given at these hearings.

The intent to title XX is to increase assurances that laboratory animals are treated humanely, while at the same time not restricting scientific inquiry. The legislation amends the Animal Welfare Act, the primary law concerning the care and transportation of animals. These amendments are necessary in addition to the new NIH animal care guidelines since a large portion of our Nation's laboratories do not fall under the NIH umbrella.

I would like to thank the many people who reviewed the various versions of this legislation, provided my office with pertinent background information, and prepared several thoughtful suggestions and critiques for my review. I was especially grateful to the many Representatives, who may have preferred no legislation at all, for their constructive comments and efforts in this behalf. This legislation will be setting new standards in some areas, and I encourage a continued dialog between the research community and the Secretary of Agriculture in regard the needs and capabilities of research facilities in meeting these standards.

I think it would be useful to attach a summary of the legislation at this point:

SUMMARY

Title XX of the Farm Bill would reduce distress and pain to laboratory animals through three approaches:

(1) Strengthen standards for laboratory animal care.—The legislation includes requirements for the use of painkillers and euthanasia, provisions for exercise for dogs, and a physical environment adequate to promote the psychological well-being of primates; requires researchers to give assurances that alternatives to practices which may cause pain and distress to animals have been considered; and allows the Secretary of the U.S.D.A. to set regulations regarding care, treatment and practices in experimental procedures to minimize pain. It encourages humane treatment of animals by requiring research facility employees working with animals to have animal care training once a year. As in the past, the Secretary is not given the authority to make rules, regulations, or orders (except for reporting requirements) regarding design, outlines, or guidelines of actual research. In addition, all standards may be deviated from when the researcher deems it scientifically necessary.

(2) Increase enforcement of the Animal Welfare Act.—The legislation requires each facility to appoint an Institutional Animal Committee, including at least one member not affiliated with the laboratory and a veterinarian. This Committee will be responsible for representing society's concern regarding the care and treatment of laboratory animals, inspecting the facility twice a year and notifying the institutions and appropriate federal authorities of violations. Federal Research Facilities shall also appoint a Federal institutional Animal Committee which will report to the Agency head instead of U.S.D.A. If a facility, given the opportunity to correct violations, does not adhere to the Animal Welfare Act, federal agencies are directed to suspend or revoke funding. The U.S.D.A. Animal and Plant Health Inspection Service (APHIS) would be required to inspect facilities at least once a year, with follow-up visits until violations are corrected. Fines for violators of the Animal Welfare Act will be increased.

(3) Reduce unintended duplication of experiments using animals and encourage the use of more humane and non-animal procedures. —The legislation calls for the creation of a national information service to help reduce unintended duplication of experiments using animals and to disseminate information on human and alternative methods of research currently being developed. This service will be made available on a voluntary basis to researchers.

Due to an inadvertent error, there is some question as to whether the amendments allow the Secretary to require annual reporting from Federal Research Facilities. It was the intention of the final agreement that, as in the past, government agencies would still be responsible for inspecting their own research facilities but that these Federal Research Facilities would still be required to file annual reports. I will be supporting a technical amendment to this portion if needed.

Title XX takes several steps forward in assuring that animals which are used in research receive humane care and treatment, and that pain and distress to these animals are minimized. However, this legislation still protects the right of each research facility from interference with its ability to conduct its research.

I would like to thank the distinguished majority leader in the Senate, Senator DOLE, the Senator from Montana, Senator MELCHER, as well as the distinguished Congressman from Washington, Congressman FOLEY, for their strong support and efforts on behalf of this legislation.

There are many other provisions of this conference agreement which merit attention and support. But most in need of notice is the work that Mr. DE LA GARZA and Mr. MADIGAN have put into the process of getting H.R. 2100 enacted. We all owe our gratitude to them for the work that they have done this year, and the work which will need to be done in coming months as we struggle to deal with the farm crisis. We owe them our thanks and our support for this conference report.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report on the farm bill. I commend all who have participated in the process resulting in this bill because the efforts were great, the consideration serious, sincere, and empathetic to the plight of agriculture and, as Chairman DE LA GARZA has said, this is the best consensus product that could, given our constraints, be produced. I am optimistic that the results of this bill will be positive.

I would associate myself with the remarks of the gentleman from Louisiana [Mr. HUCKABY] and the gentleman from Mississippi [Mr. FRANKLIN] in the positive things they have said here today about this bill. I hope that they are right and I think they are. I believe this bill can bring stability and improvement in the farm income picture, and it is important for purposes of predictability and being able to make responsible business decisions that we have a responsible law from which to take guidance.

No one should continue this bill as a panacea. It is not. It will not solve all of Agricultures problems. My farmers tell me time and time again that they feel the larger problem in agriculture cannot be fixed by the simple passage of a farm law. They tell me that the farm economy will come into proper relationship with the rest of the economy when we reclaim foreign markets, lost through embargoes and a too-strong dollar and unfair trade practices; when we get deficits under control and real interest rates down to affordable levels. These are not items that can be fully addressed in farm legislation, but to the extent we can,

we have tried. Those of us who are agriculture conscious must remain ever vigilant to opportunity for agriculture when we consider the budget and trade issues. I think the trade features of this bill are among its better features. The Ways and Means Committee could add to what we have done. The conservation features of this bill are very positive and will have benefit for our farmers now and will help conserve a precious natural resource, our soil, for the future.

The conference report on the farm bill before us today contains the reauthorization of several food assistance programs. The major food assistance programs. The major food assistance program is the food stamp program which has been reauthorized for the life of the bill. The Temporary Emergency Food Assistance Program, which provides surplus commodity distribution authority, has been reauthorized for 2 years. I am pleased that the conference did adopt a proposal I offered along with Senator DOLE and the gentleman from California [Mr. PANETTA]. This proposal requires that States set up an employment and training program designed to help certain food stamp participants move into regular employment by providing training and experience and improving the employability of participants. It also allows the States to coordinate employment and training activities under both the food stamp and AFDC programs.

States will have considerable flexibility in designing their programs. State flexibility is important if this program is to succeed. The employment and training program may encompass, at the discretion of the State, job search training and support programs, such as job finding endeavors; training in employment techniques; job placement; or, other training and support activities aimed at improving the employability of food stamp participants.

The bill I introduced earlier this year, H.R. 2745, provided the basis for the employment and training program contained in this conference report. I appreciate the cooperation and assistance of other members of the conference, especially Senator DOLE and Mr. PANETTA. I believe that we have a sound, workable employment and training program—one that combines State flexibility and appropriate review and oversight by the Secretary of Agriculture.

EMERSON EMPLOYMENT AND TRAINING PROGRAM DETAILS

First, States must design and operate an employment and training program encompassing one or more of the components listed, by April 1, 1987, and may include job search and workfare. State flexibility is ensured and the Secretary retains the authority to approve the State program.

Second, all persons subject to work registration are required to participate in the State employment and training program, including Indians on reservations. States may temporarily exempt additional persons and categories of persons based on participation of 30 days or less, work opportunities, cost-effectiveness of participation, and personal circumstances, such as lack of child care. These latter exemptions are of a temporary nature and must be reevaluated at the beginning of each certification period for inidividual exemptions and periodically for categorical exemptions.

Third, States may operate employment and training programs for those food stamp participants not required to participate, either permanently or temporarily. Those persons volunteering for employment and training programs would be able to participate in the same programs as operated for those required to participate. Volunteers will receive the $25 as well, under the same requirements for other participants. Volunteers will be accepted into the State program whenever practicable. States may have a program component for volunteers only.

Fourth, States must reimburse participants for costs that are reasonably necessary and directly related to participation in the employment and training program. The maximum reimbursement is $25 per month, per participant. Reimbursement for this cost is based on a 50-percent State match and is calculated outside the grant to States for employment and training programs.

Fifth, the State employment and training program will be a part of the overall State plan of operations. Failure to comply with the requirement to submit an employment and training program for Secretary approval or failure to adhere to such program with result in withholding of Federal funds, as in all violations of the State plan of operation. Regular administrative and judicial review procedures apply.

Sixth, State employment and training grants are set at $40 million for 1986; $50 million for 1987; $60 million for 1988; and, $75 million for 1989 and 1990 (depending on the length of the farm bill). These funds may be used only for employment and training activities related to the State program.

Seventh, the Secretary shall set minimum performance standards, which shall vary according to such factors described by the Secretary, including program characteristics and the types of programs chosen. Such standards can vary from State to State and shall take into consideration the costs to States and the degree of participation by exempt persons. In addition, such standards will relate to those required to participate in an employment and training program and not either permanently or temporarily exempt. In addition, such standards will take into consideration such factors as placement in unsubsidized employment; increase in earnings; reduction in the number of persons participating in the food stamp program; and, other factors as determined by the Secretary and related to employment and training. It is recognized that setting specific minimum performance standards is an essential component of any successful employment and training program. However because this food stamp employment and training program will have different program components and different types of participants, setting minimum standards at this time would be an arbitrary function. For example, States with a simple job search program for recently unemployed persons will have an easier task in meeting standards than other States. Therefore the Secretary is given the authority to delay implementation of the minimum standards for up to 18 months after the beginning of the food stamp employment and training program so that appropriate minimum standards can be determined. In order to allow appropriate phasing in of this employment and training program, the standards shall not exceed 50 percent through 1989.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our friend and colleague, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the conference report. This bill simply reduces surpluses by pushing farmers out of business, and most of the dairy farmers who will go out of business are going to be from the Upper Midwest because of the class I differential which still remains in this bill.

I have no criticism of the conferees. I understand how difficult that problem is. I think this bill is simply an example of how little running room one has when the administration is against one rather than for one and can brandish a threat of a veto in order to get most of what it wants.

There were alternatives available which would have been less costly to the taxpayer and less brutal to the farmers, but unfortunately, the bill does not take them and a human tragedy is about to result.

The administration has taken the 60-percent support it got from farmers in the last election and they have used that as a club to resist really fundamental agricultural reform. The result is this bill today, and the result is that a lot of farmers are going to experience a very brutal crunch in the next 2 years.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report. I would like to compliment the distinguished chairman of the House Agriculture Committee, ranking Republican, Mr. MADIGAN, and other members of the committee for their diligence, patience and fine work in bringing a farm bill to the floor that addresses so forcefully the serious problems facing agriculture today.

The 5-Year Food Security Act of 1985 includes a resource conservation provision for the lasting protection of our most valuable resource—the soil.

PAST HISTORY

Fifty years ago, the Federal Government launched an ambitious program to cope with what was then recognized as Ameri-

ca's most serious environmental problem: The severe soil erosion that threatened hundreds of millions of acres of agricultural land throughout the country. Since then, U.S. taxpayers have spent billions of dollars to help farmers defray part of the cost of soil conservation practices, and to provide free technical assistance on how to control erosion. Despite this massive Government effort, soil erosion remains a serious national problem.

EROSION PROBLEMS ARE SERIOUS

The U.S. Department of Agriculture [USDA] estimates that soil is eroding at more than twice the official tolerance rates on 96 million acres (23 percent) of the Nation's cropland. More than 3 billion tons of soil are eroded by wind and water from our cropland each year. Another 63 millon acres of land in pasture, range or forest use are eroding at more than double the rate that the USDA considers tolerable. In Ohio we have nearly 2 million acres of eroding cropland that need conservation. In my district, more than 15 percent of the cropland is eroding at excessive rates.

Soil erosion is a deceptively subtle environmental problem. Yet the major form of soil erosion, sheet and rill erosion, usually is invisible even to experts because the soil is washed away in a shallow, uniform layer (sheet erosion) or from minute channels on the soil surface (rill erosion). An acre of land exposed to a sheet and rill erosion rate of 5 tons annually—the average tolerance level—is losing less than one thirtieth of an inch of soil each year, about the thickness of a dime.

CONSERVATION PROVISIONS IN THE FARM BILL

We have once more reached a time for a change. The soil conservation provisions of this bill are the most intensive conservation efforts ever undertaken in this country. We expect, by the end of this decade, to retire about 10 percent of the Nation's cropland—some 40 to 45 million acres of the Nation's most highly erodible, and generally least productive, cropland. In addition to reducing soil erosion, the water quality of our streams, rivers, and lakes will be greatly improved. Fish and wildlife interests will also greatly benefit from the movement to permanent land cover.

CONSERVATION COMPLIANCE

For the first time, plowing up of erodible land for unneeded crop production will be discouraged by this bill. Some lands just should not be farmed. Once plowed, such lands are subject to erosion so severe that the land may not recover for decades. Farmers will still be able to plow out and convert to cropland these lands. They just won't be able to get any help from the taxpayer through price support loans and other Federal program benefits when they do so.

Soil conservation enjoys the overwhelming support of farmers and the public at large. I believe, without question, that this conservation provision in the bill is a good one for the farmer and for the consumer and taxpayer. I urge my colleagues to give it and the entire conference report their full support.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on the 1985 farm bill. In doing so, I want to begin by extending special commendations to the distinguished chairman, Mr. DE LA GARZA and our distinguished ranking member, Mr. MADIGAN. Without the leadership, counsel and wisdom of these two men there would not be a farm bill before us today. They deserve the thanks of every farmer in America.

These are special and tragic times in American agriculture. They demand special and unique responses from our Federal Government. We must stabilize farm income in the short run. We must move toward a more market oriented Farm Program in the long term. We must respond to the differing needs and philosophies of every commodity and every region of the country. We must also live within our budget limitations.

The task of the conference committee was to do all of this and still remain sensitive to the desires of the House, the Senate and the administration. The fact that we have any farm bill at all is nothing short of a miracle.

DAIRY

The dairy title is obviously a compromise but it does accomplish the goals we set for a new Dairy Program earlier in the year with a supply management program to reduce stocks, a support price to maintain farm income in the short run and a program in the out years that leans toward more market orientation.

The Whole-Herd Buy-Out Program pays producers to leave the dairy industry by having them slaugther or export their entire herd thus eliminating enough milk production to get supply and demand in balance. The program would be funded by producers through an assessment.

In the program the Secretary of Agriculture would be required to remove 12 billion pounds of milk over the 18-month life of the program. Producers would be required to submit a bid to the Secretary of Agriculture outlining the payment they would accept to leave the dairy business for 3 to 5 years. The Secretary would then have the discretion to chose the bids that he determines to be reasonable.

The Dairy Program, as I have said, ought to be maintaining farm income during a time of supply management while moving to more market orientation. This legislation accomplishes that by keeping the effective support price of milk above $11 per hundredweight in 1986 and 1987 while implementing the Whole-Herd Buy-Out Program.

If past history holds true this should result in a market price which will exceed the support price of milk by the end of 1986. As we all recall the Minnesota-Wisconsin series price reached an all time high during the recent partial diversion program. If implemented properly by the Secretary of Agriculture, the Whole-Herd Buy-Out Program should accomplish our goals in the short term as well as the long run.

In 1986 the support price is frozen at a level of $11.60 and reduced to $11.35 in 1987. There will a 40-cent assessment from April 1, 1986 to December 31, 1986, and a 25-cent assessment from January 1, 1987 to September 30, 1987. This assessment should pay for the entire Whole-Herd Buy-Out Program. In 1988 through 1990, there will be a 50 cent price cut annually if Government purchases are to exceed 5 billion pounds.

From the perspective of dairy farmers from the Upper Midwest, I must acknowledge one major inconsistency with the dairy provisions that came out of the conference committee, and that is for an increase in price differentials for certain areas of the country.

Changes in price differentials are not necessary at this time. With a Whole-Herd Buy-Out Program implemented to reduce production by 12 billion pounds over an 18-month timespan why do we need to increase in the price of class I milk in certain areas of the country.

Economists I have consulted have indicated that such legislated increases are likely to increase production in these areas by some 120 million pounds which will increase the cost of the Dairy Price Support Program by $25 million.

In a time when we are faced with surplus production we ought to be moving milk from areas with a surplus rather than creating an artificial incentive to produce more milk.

With this one exception, the dairy title of the farm bill is quite good as it gives those farmers experiencing financial difficulties or just having a desire to pursue other business ventures a chance to leave the dairy business not through a foreclosure or an auction but through the Whole-Herd Buy-Out Program.

While maintaining farm income in the short run with an effective support price of more than $11 in the first 2 years of the bill, it also sends a signal to producers that the dairy industry is leaning toward a more market orientated policy in the future.

CONSERVATION

The conservation title of the farm bill could possibly be the best and strongest title in the bill. Soil erosion is a growing problem across this country and it is imperative that something

be done so that our children will also have a foundation on which to grow.

The Conservation Reserve Program will pay producers either through cash or in-kind payments to take their highly erodible land out of production for 10 to 15 years. The intent if the legislation is to remove 40 to 45 million acres over the 5-year life of the bill.

The sodbuster and swampbuster provisions will protect fragile soils and wetlands by penalizing producers who cultivate on highly erodible soil. Producers doing such would be unable to receive price supports and other farm benefits. Highly erodible land that was tilled between 1981 and 1985 will be initially exempted from the program; however, this exemption would not be valid if a producer does not begin applying for a conservation program for his farm by 1990 or if a he doesn't start a program 2 years after a soil survey has been taken.

Due to or extreme desire to maximize our production and plant fence row to fence row, many of our producers have disregarded conservation practices. We are already feeling the effects of major losses of our topsoil. Any more delay in restoring our most important natural resources and our next generation will be paying dearly in years to come.

CREDIT

It is no wonder that the agricultural credit sector has fallen on hard times with substantial decreases in farm income over the past few years.

Just 2 weeks ago we passed legislation to help the Farm Credit System try and help itself. Quite possibly we will be faced with similar legislation in the next session; however, it will most likely deal with the problems facing the commercial banking industry, specifically the agricultural banks.

To insure that the Farmers Home Administration remains a credible lender the conference committee reauthorized $4 billion annually over the next 3 years to provide for farm ownership and farm operating loans to FmHA borrowers. In addition, the Secretary of Agriculture is required to operate a $490 million program through September 1988, which USDA and private lenders would share equally the cost of reducing interest rates to FmHA borrowers.

Farm ownership loans are set at $520 million annually with half being direct loans and the other being guaranteed. By 1988 direct farm ownership loans will be at $130 million and with guaranteed loans will be at $390 million. In reference to farm operating loans, $3.48 billion will be divided equally between direct and guaranteed loans in 1986. By 1988 direct farm operating loans will be $870 million while guaranteed operating loans will be more than $2.6 billion.

Also included in the credit title is the "clear title" provision introduced by Mr. STENHOLM and myself. The clear title provision would protect buyers of agricultural products from a legal loophole that can force buyers to pay twice for a product when there is a lien against the seller. While the clear title provision has changed from when it was introduced it gives States a choice of implementing a central filing system or the prenotification system as in the original clear title bill. States will have 12 months to decide between a central filing system or prenotification system. If a central filing system is not in place in a year, the prenotification system will have to be implemented.

Due to the fact that the prenotification system has been around for nonagricultural products for many years, it is only fitting that buyers of agricultural products be adequately protected as well.

FEED GRAINS

In the wheat and feed grains sections the same concern over maintaining farm income was exhibited by the freezing of target prices at current levels for the first 2 years of the bill. Decreases of 2, 3, and 5 percent of the target price will be in effect in the last 3 years of the bill. This type of policy adopted by the conferees should make U.S. grains more attactive in the international market but at the same time give farmers target price protection.

In 1986 and 1987 the target price for feed grains will be set at $3.03 per bushel with gradual reductions beginning in 1988. The loan rate for feed grains is set at $2.40 per bushel in 1986 and may be reduced as much as 5 percent annually. The Secretary of Agriculture is given discretionary authority to reduce loan rates up to 20 percent annually if market prices in the previous year fail to top 110 percent of the previous years loan rate or if the Secretary determines that a further cut is needed to compete in world markets.

In the title, the Secretary of Agriculture is given discretionary authority to allow the repayment of loans at levels which could be as low as 70 percent of the loan rate. He could also give producers one of two types of marketing certificates to help promote exports.

Feed grain producers with a desire to get into the Government program would have to idle a maximum of 20 percent of their base in 1986 if stocks are to be over 2 billion bushels. Of the 20 percent set-a-side, 12.5 percent would be a mandatory minimum, 5 percent would be discretionary with the Secretary and 2.5 percent would receive an in-kind payment. For 1987 through 1990 the maximum acreage reduction would be 20 percent with a mandatory minimum of 12.5 percent and 7.5 percent at the Secretary of Agriculture's discretion.

The Soybean Program continues with a $5.02 loan rate for 1986 and 1987. In the remaining years of the bill the loan rate can be reduced by as much as 5 percent; however, there is a floor of $4.50 per bushel. The Secretary of Agriculture has discretionary authority to allow repayment of loans for less than the original rate to encourage exports instead of adding to Government stockpiles.

A MIRACLE

Looking at the various titles that affect Wisconsin farmers directly, I am pleased that this bill protects farm income in the short run then phasing into a more market orientated approach in later years. The incorporation of the Whole Herd Buy-Out Program gives us a chance to cull cows and not farmers. Programs within the wheat and feed grain sections protect farm income yet send out the signal that America is coming back strong in the export market. The conservation title with its sodbuster, swampbuster and conservation reserve provisions directly address the concerns of millions of Americans and finally the credit title provides credit to FmHA borrowers and at the same time offers them a means to get their interest payments at reasonable rates.

No one who has spent an extraordinary amount of time on this bill is completely happy with the outcome of all of its titles; but when you consider commodity, regional, market, philosophical and personal differences, it is nothing less than a miracle that we have a farm bill at all.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague and friend, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the conference report. It is not that those of us from New York and other urban communities fully appreciate and understand the problems that our farmers are having, but we do know that the farmers are having serious problem, and KIKA DE LA GARZA was kind enough to have several meetings with those of us from urban communities to explain some of the complex problems that the farmers are facing.

We truly realize that many of our colleagues believe that many of those problems are not resolved in this legislation, but I do hope and am looking forward next year to working very closely with the farm community, hoping that we can work out a farm policy that more Members of the Congress can understand and, therefore, more of us can support.

I think the Gramm-Rudman, in and of itself, means that we should expect less Federal funds for many of the projects that those of us who come from communities that need Federal

support, maybe if we tried to reach out and understand each other's problems a little better that we will be able to have a more effective Congress and do the best we can for the people who voted to put us here.

So I think this bill goes a long way to bring some support for the farmers who so sorely need help.

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Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I want to again commend the chairman of the Agriculture Committee, Mr. DE LA GARZA, and my ranking minority member, Mr. MADIGAN, for their sterling leadership and guidance on this farm bill. And, I want to express my profound appreciation for the opportunity to work alongside my Agriculture Committee colleagues on both sides of the aisle for the long hours it took to write this bill.

There is no need for us to recite the problems faced by farmers and their families today. I think by now we are all aware of the serious situation faced by producers: Falling prices, plummeting land values, the evaporation of our export markets, just to name a few. But although we in Congress may be familiar with the problems, I suggest that it is time we strip away the statistics and see the real human suffering that is occurring in farm country. We are not talking about numbers: We are talking about living, breathing individuals who have bills that they want to pay but can't because the land into which they have put their sweat and toil is not returning enough for them to live on. And no one knows this better than farmers themselves.

This bill is not perfect; farmers know and understand that. If I were to write a farm bill just for mid-Michigan, it would be different in many respects. But this bill must address the needs of a wide variety of producers across the Nation, and there are no simple, easy answers to the stress farm families face.

What we have tried to do in this bill is to provide profits in agriculture by providing markets for farm products. The thrust of this bill is to maintain much-needed income bridges for farmers and to provide income protection: It does this by essentially freezing target prices for the next 3 years at current levels and maintaining the dairy price support at the current level through next year. The whole-herd buyout, very popular in farm country, will help those farmers who have not been able to afford either to stay in the dairy business nor to leave it, to get a start in another area. This bill has the strongest conservation program of any farm bill in history, protecting our fragile lands through the conservation reserve, sodbuster and swampbuster provisions. Farm exports, so vital to improving commodity prices, receive a boost through the bakers dozen and other initiatives in the bill. And, I am very pleased that the bill maintains our sugar program intact, and at no net cost to the taxpayers.

Yes, this is a bill that will help our farmers get through the tough times they are experiencing. It is long past time that Congress produces a farm bill, and I am pleased that we have produced such an encouraging one. I urge my colleagues to pass this bill without delay.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague and friend, the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota, Mr. Speaker, I rise in opposition to the 1985 conference farm bill.

I realize the development of the 1985 farm bill has been a long and arduous process, complicated by the severely depressed economic conditions in agriculture. I believe most would agree that our present farm policies have failed. Within the last 5 years, net family farm income has declined, farm debt has drastically risen, and farm exports have plunged downward. Yet, with the adoption of this bill, the taxpayers will be spending too much on the wrong kind of farm program and family farmers will receive too little.

In recent years, farm programs have not worked because they waste funds on corporate agriculture while ignoring the family-sized farm. Yet, as I have repeatedly stated throughout the past year, this farm bill can easily be viewed as "less of the same" current policy. It's a flawed bill, one which will not work.

We need a price support system that really does what it is supposed to do; provide a bridge over price depressions; a bridge over which family farmers can move during periods of sustained low commodity prices.

We don't need a price support under every gallon of milk produced by the 3,000 milk cows in the morning on the largest dairy operation in the country. We don't have to place a loan rate under every bushel of wheat, barley, or corn produced by the largest producers in America. We do need a basic price support on which family farmers can depend when market prices don't keep pace with the costs of production.

Why did Congress fail to chart a new course? It's simple. Those who now get the bulk of the benefits in the farm program fight hard to keep them. Under our supply management farm program, the biggest producers get the biggest benefits. For example, in 1984, less than 20 percent of all direct Government agricultural benefits went to financially stressed farmers. So, in order to give $1 to a struggling farmer, we will be giving $4 to his prosperous neighbor—and competitor.

For more than a decade, Federal farm programs have forced America's farmer to overproduce in a hopeless effort to meet rising costs in the disastrously low crop prices. The family farmer and the whole agricultural system that the farmer supports confronts the darkest financial crisis to grip rural America since the Great Depression. If current trends are not reversed, many experts believe that one of every three farms in America today will be bankrupt or beyond help within 2 to 3 years.

Farmers have suffered 4 consecutive years of negative return on equity, averaging a loss of 7 percent per year. Since January of 1981, approximately 28,000 farmers have gone out of business in the United States and we now are losing them at a rate of nearly 1,600 every week. In addition, USDA analysts report that net farm income could fall by 10 percent, from $29 billion this year to as low as $22 billion next year. Just 2 years ago, net farm income stood at $34.5 billion.

If we're going to save family farmers, we're going to have to take control of agricultural production from the hands of centralized, integrated food conglomerates. We have to wean the big corporate farms from the public trough and utilize the available money to provide a stronger target price for first increment of production for family farmers.

In closing, I must remind everyone that our best farmers are going out of business because they cannot pay their bills with their current income. They—the American family farmers—must be given a fighting chance to hold on until improvements are made in monetary, fiscal, tax, trade, and foreign policies. Changes within these areas coupled with a subsequent increase in commodity prices and world demand for American exports, is what is needed today.

Mr. Speaker, I must sadly conclude that this 1985 farm bill does not move in that direction. It is the same old approach—just less of it—and that's not enough for the family farmers in trouble in America.

I intend to keep fighting for the right kind of help for our farmers.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. COMBEST] a member of the committee.

Mr. COMBEST. Mr. Speaker, for nearly a year now, I have been telling the people in my district who are concerned about agriculture that the farm bill has to meet three things: It has to be a bill that can be signed, it has to be a bill that provides income protection, and it has to be a bill that is within budget.

I think we have met those three things. And the fact that it was such a difficult time, I want to highly commend the chairman of the committee, the ranking member of the committee, and every member of the committee.

There may have been some differences on exact philosophy. I do not believe there were any differences on where we were trying to go in a farm bill, and that was to provide some income stability to agriculture and to try to help out agriculture in probably the most difficult times they have ever faced.

I believe it is important to note that we have in this bill some opportunities that I think will provide income protection, that I think will provide the opportunity for us to be competitive in world markets, and certainly be able to get us to a position to regain some of the markets that we have lost. At the same time, the income of that farmer will be protected, and the brunt of us being competitive in world markets will not be left on the back of the farmer.

I think there are some good parts, there are some bad parts, but I would certainly say that given the constraints we have, I highly recommend that Members vote for the farm bill.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in support of the 1985 farm bill and urge my colleagues to vote for adoption of this conference report.

Everyone recognizes that this bill is not perfect. It does not provide a remedy for the agricultural ills of this country.

This bill is the result of much compromise, which was reached only after many months of diligent negotiation. Such accommodation is a natural part of the normal legislative process, and I commend my colleagues on the Agriculture Committee for their hard work in molding this legislation.

This bill does allow our farmers to hang on until a real solution can be found.

One particular provision in the bill which I would like to highlight is the establishment of a National Commission on Agricultural Policy. I have been advocating the creation of this type of study group for many months.

Early this year, in one of my regular meetings with an advisory group of farmers and agribusiness from my district, I was told that those in the agricultural community are going to have to set aside their differences which divide them by region and commodity. They need to unite in an effort to find ways to reverse the desperate farm situation in this country.

A national commission will bring together various agricultural elements and provide the mechanism for finding long-term answers for a very disturbing situation.

The future security of the United States is jeopardized if we allow our great agricultural machinery to deteriorate and do not maintain the necessary means for feeding and clothing our own people. We have to find some answers soon.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I rise in order to engage in a colloquy with the chairman of the Agriculture Committee in order to clarify the meaning and intent of a provision of this bill.

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield, which title and section is it to which the gentleman from Ohio refers?

Mr. SEIBERLING. It is the provision entitled "Control of grasshoppers and Mormon crickets on public land," in the general provisions portion of the bill. As chairman of the Public Lands Subcommittee of the Committee on Interior and Insular Affairs, I am concerned about this provision, which would allow the U.S. Department of Agriculture to use funds appropriated by the Congress for use of the U.S. Department of the Interior.

I would ask the gentleman if my understanding of this provision is correct in that the Agriculture Department must first use its own appropriated funds for grasshopper control before asking for funds from the Interior Department?

Mr. DE LA GARZA. Yes; that is correct. I would also like to point out that the continuing resolution will increase the funding of this Agriculture Department program substantially. However, we felt that this provision of the farm bill was needed to insure that no matter what the status of Agriculture Department funds, money would be available for grasshopper control on Department of Interior rangelands if and when it is needed.

Mr. SEIBERLING. Am I correct in saying that any funds derived from appropriations for the Interior Department pursuant to this provision will be used on Interior Department rangelands?

Mr. DE LA GARZA. Yes; that is correct.

Mr. SEIBERLING. And is it the intent of the gentleman that the Department of the Interior look to funds appropriated for management of BLM lands as the proper source of funding for grasshopper control on BLM lands?

Mr. DE LA GARZA. Yes; that is our intent.

Mr. SEIBERLING. And is my understanding correct that this provision is not intended to override existing laws or regulations, including those pertaining to the management of public lands, to authority over those lands, or to the protection of the environment?

Mr. DE LA GARZA. Yes; that is correct.

Mr. SEIBERLING. I thank the gentlemen and the distinguished chairman for their reassurances on these points.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH] who has been very helpful.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the conference report on H.R. 2100, the Food Security Act of 1985, the most important piece of legislation this year to my congressional district, the second most agricultural in the Nation.

I would like to take this opportunity to commend and congratulate the leadership of the House Agriculture Committee; namely, Chairman DE LA GARZA, and ranking minority member MADIGAN, for their persistence in finally bringing the most complex farm legislation in the Nation's history next door to its legislative home; namely, signature into final law.

My support for this measure is predicated on the fact that this Nation's farmers and ranchers need a farm bill. Continued price and income supports, although not at levels satisfactory or necessary to the survival of thousands of farmers in Nebraska and across the country, are needed in final law as soon as possible to provide assurance to lenders.

In the last 24 hours, I have called top officials of every agricultural organizaiton in Nebraska. They don't like the proposal before the House today, but almost unanimously, they recommend that I vote for it because agriculture must have a bill with which to work.

Let me briefly list provisions of greatest importance in this legislation to my congressional district:

Loan and target price programs for wheat and feed grains are continued, including a 2-year freeze on target prices. Although I would have preferred a 5-year freeze, as in the House version, this provides minimum assurance over the next 24 months of income security to our farmers.

The sugar program is continued with a freeze of the loan rate at 18 cents per pound, while making provisions that should provide for the continued operation of the program at no net cost to the U.S. Treasury. In addition, growers whose financial status has been imperiled by the bankruptcy of the Great Western Sugar Co. or other firms will receive fulfillment of their contractual entitlements for sugar delivered under this bill.

Beef and pork promotion programs are included. These self-help provisions are intended to help address recent declines in retail demand for nutritious red-meat products.

The export title is very strong and shows the recognition of the Congress that agricultural exports are essential

to the revitalization of rural America. The export commodity bonus program, plus the export credit/credit guarantee programs, should stimulate American agricultural exports in areas of growing demand for our food.

I was pleased that the conference committee adopted language to exempt commercial export programs, including blended credit, from cargo-preference requirements, although I personally oppose the expansion of the cargo-preference requirement to 75 percent on food aid shipments. I also oppose the so-called snapback provision that would set aside this agreement if sufficient funds are not available from the Department of Transportation.

I strongly support the conservation title of this bill, including the sodbuster and conservation reserve provisions. These provisions are essential to preserve our most valuable soil and water resources.

Provisions are also included to extend USDA credit, rural development, research, extension, and food programs. Also, grain quality standards, a topic of great interest and concern in Nebraska, will be carefully reviewed under the provisions of this bill.

Mr. Speaker, this isn't a perfect bill. Many say this bill isn't enough. It's not as much as I would like. But it is the bill we will get this year, and we can continue to work on it to make it a better piece of legislation. I encourage my colleagues to join me in supporting it.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA], our distinguished chairman of the Subcommittee on Nutrition.

Mr. LUNDINE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from New York.

Mr. LUNDINE. Mr. Speaker, I rise in support of the conference report in spite of the provision on peanuts.

I rise in support of the conference report on the 1985 farm bill, H.R. 2100. While I do not agree with every aspect of this piece of legislation, I commend the conferees for their efforts on behalf of the farm sector of the economy.

I am much happier with the dairy provisions in the conference report than those in the farm bill which the House passed in October. In the southern tier of New York dairy farmers do not sell their product to the Federal Government. We have a milk shortage in our area which forces processors such as Cuba Cheese, Leprino Cheese, and Dunkirk Ice Cream to ship milk in from Ohio and Pennsylvania. Because my farmers do not contribute to the national dairy surplus problem, I am pleased that they will not have to pay to finance a dairy diversion program which benefits only those large farmers who can afford to cut back on their production. While the dairy diversion program was designed to help address the dairy surplus problem, I do not believe that the 18-month diversion program did so effectively, and am therefore pleased that the conferees have removed this section from the farm bill.

I support the dairy provisions in the conference report primarily because of the whole-herd buyout provision, and the freeze in the milk support price for 1986. I firmly believe the buyout mechanism will allow some of America's dairy farmers to get out of the dairy business with both their dignity and their assets intact. I was also pleased to see that the compromise retains the increase in the class 1 differential, which will help processors reduce their transportation costs for hauling fluid milk.

This farm bill begins to move our farm programs in the right direction. We must begin to wean farmers off Government price supports and move toward a more free market farm economy. I believe that the dairy provisions of the Food Security Act of 1985 takes the necessary first steps toward such an economy.

However, I am very disappointed that the conferees failed to alter significantly the peanut and sugar provisions. These two programs force consumers to pay artificially inflated prices for food staples such as peanut butter. I proposed phasing out the peanut program when the House first took up the farm bill because it is an antiquated and unnecessary quota system. This peanut price support forces consumers to pay more for American peanuts than our Canadian neighbors. I will continue to oppose the authorization of these boondoggles that my colleagues call farm programs.

And yet, while I disagree with these provisions, I think that the conferees showed foresight in their adoption of a 2-year freeze on wheat and corn target prices. Wheat and corn farmers are among the hardest hit by the declining farm economy and this freeze will begin to help these farmers stabilize their lives and businesses.

American farmers have experienced tremendous difficulties over the last 5 years. Some of their problems have been a direct result of Government programs that were orginally intended to make their lives better. Farmers in my district know how the Federal Government has tried to help and they know how it has failed. I support this legislation not because it is an answer to all the problems that American farmers face, but because it is clearly a step in the right direction—a step toward a free market farm economy.

Mr. PANETTA. Mr. Speaker, first of all, I want to thank the chairman of the committee and the ranking member on the Republican side for the help and assistance in putting together one of the titles that sometimes few people pay attention to, but it is the title on food assistance and nutrition which impacts on millions of American citizens in this country.

Mr. Speaker, H.R. 2100, the Food Security Act of 1985, is the constructive and responsible product of months of hard work by both the House and Senate. It is a bill that strikes a balance between the pressing needs of our agricultural sector and the need for budgetary restraint. I urge my colleagues to support its passage.

There are many reasons why this bill is worthy of widespread support. As chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, I would like to highlight several areas that are of particular concern to me. I hope the following discussion will influence Members, particularly those from nonagricultural districts, to support this bill.

DOMESTIC HUNGER

Title XV of H.R. 2100 relates to domestic food assistance and nutrition programs. It would take affirmative steps to address the current domestic hunger problem by reauthorizing and improving the Food Stamp Program, the Temporary Emergency Food Assistance Program [TEFAP], and the Commodity Supplemental Food Program. Title XV would also augment these efforts by strengthening current programs for nutrition education and nutrition monitoring for low income households.

I am very pleased that the bill that has emerged from conference with the Senate includes several key food stamp benefit enhancements. In my view, this is the best package of food stamp changes since 1977. As I have stated to this body many times over the past 3 years, we have a serious and growing problem of hunger in America. The Food Stamp Program is this Nation's bulwark against hunger. If we want to ease the hunger pangs of our most vulnerable citizens, the Food Stamp Program is the best way to reach them.

I regret that all of the program improvements approved by the House did not survive the conference committee. H.R. 2100 restores only a small portion of the deep cutbacks mandated in 1981 and 1982. However, it does include important changes to: First, restore the earned income deduction from 18 to 20 percent; second, establish a separate child care deduction; third, raise the ceiling on the excess shelter deduction from $139 to $147; fourth, increase the liquid assets limitations from $1,500 to $2,000 for nonelderly households and from $1,500 to $3,000 for single elderly households; and fifth, eliminate the sales tax that about 20 States and localities impose on food stamp purchases.

Many of these changes are targeted on the working poor. Not only do they increase work incentives but they result in fairer treatment for those who work. In combination with the innovative Employment and Training Program mandated by this legislation, these provisions will greatly strengthen the Food Stamp Program's ap-

proach to work requirements and incentives.

The principal author of the Employment and Training Program adopted by the conferees was Representative BILL EMERSON. Much credit belongs to Mr. EMERSON for crafting a reasonable compromise between the House and Senate provisions. I was pleased to be involved in developing this proposal.

My understanding of the adopted proposal, as reflected both in legislation and the Joint Explanatory Statement of Conference, is that it calls for maximum State flexibility in designing employment and training programs. While the Secretary would exercise approval power over each State's plan and could refuse to approve plans that are unworkable, the Secretary would not be expected to substitute his judgment for that of the States in designing the various aspects of the plan. For instance, the Secretary would be expected to ussue broad guidelines on how to operate job finding clubs but not tell the States precisely how to run them. The details of who would participate for how many hours or weeks would be a matter of State discretion.

Furthermore, States would be afforded great flexibility in determining which categories of participants and which individuals would be exempt from the employment and training program. So long as a State has a rational basis for exemptions—and does not reduce the pool of persons involved to the point that virtually no one is served—these exemptions should be approved. The Secretary should approve a State's request to exempt persons who have participated in the Food Stamp Program 30 days or less so long as a logical reason for doing so—such as the desire to target limited resources on longer term recipients—has been provided.

In establishing numerical performance standards for the States, the Secretary would be required to consider the costs to each State of the standard developed for that State. If meeting the standard would entail large additional State expenditures, it would be a sign that the Secretary has developed unreasonable and unrealistic performance standards.

Furthermore, the Secretary is expected to vary the performance standards from State to State since he must consider the differing approaches chosen by States and the differing nature of the populations to be served. The Secretary would be well advised, in my view, to forgo any numerical performance standards until fiscal year 1989, as the legislation explicitly authorizes, in order to have the benefit of the actual experience of States in operating programs. This would provide a more informed basis for setting standards.

I hope that in regulating the employment and training programs, the Secreatry has the wisdom to avoid the pitfalls that have plagued earlier attempts at enforcing work requirements. Above all, Congress does not want a paperwork shuffle where States engage in perfunctory compliance with arbitrary numerical standards. We really want meaningful programs that will result in constructive changes in people's lives. If States wish to target their resources on a minority of employable recipients in order to provide a more intensive—and possibly more expensive—program for these people, they should be able to do so. We want positive results that are most likley to emerge from cooperative Federal and State efforts in operating these programs.

There are many other positive aspects of the bill:

The Food Stamp Program is reauthorized for 5 years with spending ceilings that should prove adequate barring unforeseen increases in unemployment or inflation.

The treatment of low-income home energy assistance [LIHEA] benefits in the Food Stamp Program has been clarified. The Department's policy memorandum disallowing standard utility allowances for recipients of vendor payments has been overruled. These recipients, as well as other energy assistance beneficiaries, generally can now receive the same standard utility allowance as all other households.

Categorical eligibility has been established for households composed exclusively of AFDC or SSI participants. This should provide significant relief in administering the program.

Additional projects to test standardized benefits and simplified applications would be authorized.

Many antifraud measures and improvements in program management have been mandated, including fraud detection units, increased verification, enhanced use of computers, better targeting of monthly reporting and retrospective budgeting, and tougher sanctions against stores violating the Food Stamp Act.

Reasonable timeframes have been provided for State and local adminstrators to implement food stamp changes. The nightmare of implementing the 1982 law will not be repeated since the Secretary has been given flexibility for orderly implementation.

Major improvements in the Commodity Supplemental Food Program are provided. Not only would local programs be able to serve elderly persons—if there is caseload available after women and children are served—but new program sites should find it easier to join the program. Administrative funding has also been strengthened.

The TEFAP Program would be strengthened, with administrative funding to be provided in advance to States and emergency feeding organizations. Although States would be subject to a matching requirement for Federal administrative funds, it should be one that is relatively easy to satisfy. In-kind contributions will be considered and the State would not have to match any funds passed on to the local level or expended by the State for local level activities.

Funding for the Puerto Rico block grant would be increased to reflect anticipated increases in the cost of food.

A new program of nutrition education for low-income persons would be authorized and nutrition monitoring of this population would be improved.

Altogether, these and other provisions comprise a very positive step forward for domestic nutrition programs. This bill constitutes one of the few legislative bright spots for our Nation's poor in recent years.

WORLD HUNGER

I am most pleased that the conference committee approved the essential elements of an amendment I authored, and introduced with Representative COOPER EVANS, to provide surplus commodities oversees via section 416 of the Agricultural Act of 1949. For the first time, minimum tonnages of grains, oilseeds, and dairy products would be mandated for overseas distribution. For each of the next 5 years, no less than 500,000 metric tons of grains and oilseeds and 150,000 metric tons of dairy products will be made available through private voluntary organizations, cooperatives, and others.

While worldwide attention on famine appears to be waning, a food crisis remains in many areas of the globe. Section 416 can be a valuable tool in meeting the demand for emergency food assistance. By mandating that 5 percent of the commodities provided under this program must be monetized, the bill will greatly improve the effectiveness with which it will be distributed.

MARKETING ORDERS

H.R. 2100 includes several amendments that will improve the operation of marketing orders. By increasing the potential penalties that marketing order violators may face, H.R. 2100 will improve the enforcement and administration of marketing orders.

The bill also overturns a recent arbitrary decision by USDA to terminate the marketing order for hops. While the hops order certainly can and should be improved, its mandated dissolution by the Secretary—against the wishes of the industry—was not warranted. H.R. 2100 includes safeguards that should discourage similar arbitrary activity by the Secretary in the future.

A third marketing order amendment would reaffirm the confidentiality of information provided by growers and handlers subject to an order. While the final bill is not as strong as I had hoped, I believe it sends a clear message to the Department not to freely release the names and addresses of growers and handlers nor provide a mailing service for private parties who seek to express their views to such handers and growers. The amendment also reinforces the confidentiality of many other types of information—such as acreage, production, and other commercial data.

CONCLUSION

This bill is a positive step forward in many areas. In these times, it is difficult to frame legislation that meets the many competing policy concerns. I believe that Agriculture Chairman DE LA GARZA and ranking minority member MADIGAN merit high praise for their cooperative effort to bring this constructive legislation to this jucture. I urge the House to enact H.R. 2100.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my good friend from Illinois for yielding me this time.

No one is entirely satisfied with this bill, but I do want to congratulate the chairman of the Agriculture Committee and the ranking member and all of the people who have worked so hard on this legislation. It is not easy legislation and we appreciate the job you have done on it.

The real issue here is either we are going to have a bill or we are not, and I think the worst possible position for our Congress and our farmers to be in would be to not have a bill.

I feel there is a real defect in this bill in the sense that we do not have a diversion program. Diversion in the area of dairy, which got our inventory down by 3 percent last year, was a good step in the right direction, and the diversion program proved right. We do not have it in this bill, but we cannot have everything we want.

But this bill does have some real pluses, and in the area of trade is where we find a real plus. Either we are going to export more, import less or produce less. Those are the only three avenues we have.

This avenue of exporting more is one that is really emphasized in this legislation. We are going to open up more markets overseas, we are going to internationalize our markets, we are going to GATT and ask for a better agreement so that we have agriculture and many factory products on the same level in our GATT negotiations. So I think we are making some real progress in this area.

Last week, we heard that agriculture exports were at their very lowest.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. JONES] our very distinguished chairman of the Subcommittee on Conservation and Credit who has done yeoman work in this endeavor.

Mr. JONES of Tennessee. Mr. Speaker, at this point I want to say to this body that the gentleman from Texas, Chairman DE LA GARZA, deserves much credit, as does the ranking member of this full committee for the great job that they have done in over 2 years in putting together a farm bill that I think is commendable and very helpful, and that this body, without a doubt, appreciates, just as the previous speaker said, and we need so badly.

Mr. Speaker, after nearly 2 years of earnest, hard work, the Congress is finally ready to adopt a new long-term farm bill. Although we have missed our deadline for enacting this bill by nearly 3 months—and few people believe this truly will be a long-term bill—we, nevertheless, have a conference report that, in my opinion, deserves the support of this House.

I will be the first to admit that this farm bill could be better in some respects, and I certainly wish it did more to improve farm income. However, there comes a time when we finally have to accept the realities of the budget process and the political process. If I didn't think this was the best we could do at this time I would not support this bill. But I am convinced we fought a good battle, and now is the time to move on.

Without a doubt, interim changes will have to be made in agriculture policy before this bill expires 5 years from now, whether due to the recently enacted more rigorous budget constraints, or a further deepening of the already severe economic depression across our Nation's Farm Belt.

If for no other reason, I urge my colleagues to support this bill because of its soil and water conservation provisions. This bill is the most significant achievement in the field of resource conservation since the 1930's. The "sodbuster," "swampbuster," and conservation reserve programs established by this farm bill will change the face of rural America.

Five years from now I predict the American people will look back on this legislation and remember it for one reason: The foresight we will demonstrate today when we adopt a new, enlightened national policy of stewardship for our most precious natural resources.

Again, I urge my colleagues to support this bill and remove the uncertainty so our Nation's farmers will finally know what programs they will operate under in this crop year.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Speaker, I rise in strong support of this conference report and just stand here to plead with all of my colleagues to vote for this conference report and pass it. It is not the best bill in the world, it is not everything that I would like to see in a farm bill. But it is the best we can do.

Let me tell my colleagues I am very saddened to hear some of my colleagues who represent agricultural districts stand and say they cannot support this conference report. I would like to remind them all that we have tried everything, and if they are going to vote against this, what is their alternative? We have done the best we could. We have fought the fight, and I want to commend the chairman of the committee and the ranking member and the chairmen of the subcommittees, the Democratic chairmen of the subcommittees. We had the best philosophical farm debate in the Agriculture Committee that anybody can recall. It was not partisan, but it was philosophical, and we tried everything.

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We tried everything on this floor, from high price supports, rigid controls, to what the House committee passed, and the House turned those other alternatives down.

If the House turned those alternatives down, then I think we have done the best job possible. This conference report is as close to the House bill as you can get, without actually having the House bill that we passed here before it went to conference.

So I say, I plead with the Members of this body, pass this conference report.

Mr. Speaker, this is not a great bill and it certainly will not, in and of itself, solve all of agriculture's problems. But that should not come as any surprise to any of us because I cannot recall any farm bill that has guaranteed a profitable farm sector.

I am disappointed that this conference report does not include a mandatory marketing loan which would permit farmers to repay their Government loans at the price they receive in the marketplace. But it does contain discretionary authority for the Secretary and I am one Member who will be doing everything in my power to encourage the administration to implement the marketing loan and offer farmers some hope for the future.

H.R. 2100 does not do nearly for farmers what I or many of my colleagues think needs to be done. But it does offer some short-term stability in the way of target price protection that, hopefully, will sustain our financially squeezed producers until market prices are bolstered.

This bill also contains significant conservation provisions that will remove from

production at least 40 million acres of highly erodible land and discourage fragile soils from being exposed in future years. It also maintains the present sugar program that generates $1 billion in the Red River Valley economy which borders my congressional district.

One other point, having been personally involved in the farm bill conference's work on the cargo preference issue, I know that we have made some significant changes in the manner in which our Nation's cargo preference laws will be applied. I would emphasize, however, one thing that was not changed by the conference, and that is the preexisting statutory requirements regarding the "availability" of U.S.-flag ships. Nothing in the conference report makes any attempt to define the "availability" of U.S.-flag ships or to affect pending litigation relating to this issue.

In conclusion, this is not a great bill and, in some instances, may not even be characterized as a good bill. But it is the best we have been able to come up with after a full year of congressional deliberations.

I know I will be joining many here today in fighting for improvements when we return next year. But we need to pass a bill now and I urge my colleagues to support the 1985 farm bill conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished vice chairman of the committee, our distinguished whip, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I rise in support of the conference report, and commend the chairman and the ranking members, and all members of the committee for this product which I think is an excellent one, and I urge support of the conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the chairman. I want to commend everybody that worked on this.

Mr. Speaker, I rise in opposition to the conference report. I cannot support a bad 5-year bill that, by lowering loan and target price rates, guarantees a lower net farm income from 18 to 20 percent according to the numerous credible econometric studies. The Congressional Budget Office [CBO] puts the figure at 25 percent. It is bad for our farmers and ultimately for consumers because production will be concentrated in fewer hands. It is bad for interest rates. It is bad for farm employment and bad for urban employment because demand for machine tools will be substantially suppressed. We can and should do more for farmers.

Farm income is the lowest since the Great Depression. The committee bill will make it lower by lowering price supports. The Board of Governors of Federal Reserve has reported that there is a $111 billion negative cash flow annually in the farm industry. Rather than gaining assets they are losing them at this incredible rate.

Two hundred thousand jobs have already been lost as a direct result of the declining farm economy including 80,000 in the manufacturing of farm equipment alone. At the current pace, 270,000 additional jobs can be expected to be lost in the next 5 years. Ultimate jobs lost could be as high as 800,000 which in itself imposes staggering economic costs.

Farmers will not be the only ones to suffer if the 1985 farm bill reduces net farm income. Wharton Econometrics Forecasting Associates of Philadelphia, the Farm Journal, the Food and Agricultural Policy Research Institute at Iowa State University and the University of Missouri study commissioned by the National Corngrowers Association, as well as other documentation all agree on the agregate catastrophic economic effect an impact of lower farm income on the economy as a whole.

The Wharton study shows that every American will be affected. Consumer interest rates alone are predicted to increase by as much as 1 to 2 percent by 1987 depressing other industries such as automotive production and housing; 270,000 jobs outside agriculture could be lost at a rate of three times the job loss for farmers according to the figures. The study indicates the national debt could swell an additional $20 billion before 1990.

The Reagan administration is no friend of the farmer. The administration and the Farm Bureau claim that prices must drop to "market clearing levels" if farmers are to regain lost export markets. This argument does not hold water today.

Lower prices will not regain export markets. Lower prices will only throw our Nation into a sever depression that, in the words of my distinguished colleague from Oregon JIM WEAVER, will "make the 1930's look like a garage sale."

If the administration argument had any basis in fact, our exports would be booming today. Comparing our export performance thus far, for the 1985–86 marketing year for wheat sheads some light. Those on the low-price bandwagon say that the export volume is supposed to rise 1 percent for every 1 percent decline in prices. Wheat exports have declined 37 percent compared to a year ago and the U.S. export price is down by 13.5 percent. Actual export volume has dropped 2.74 percent for each 1 percent drop in export prices.

Dan McGuire, director of the Nebraska Wheat Board, may have put it best when he said that "if the United States Government allows itself to be used by millers, bakers, international trading companies, and multilateral corporations to take the lead in lowering world grain prices, this country will deserve the corresponding decline in world prestige that goes along with it."

Rural Americans have a right to life. This bill takes away that right. Its bad policy. I urge my colleagues to vote against it.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. MORRISON], a very valuable member of the committee.

Mr. MORRISON of Washington. Mr. Speaker, this farm bill attempts to do two things at once, and it might well succeed. First of all, it provides income protection for farmers growing these supported crops to the extent that we can afford under budget pressures.

The second thing it does is it is market oriented. It gradually tells the world that we are going to compete, and the trade provisions provide support from the U.S. Department of Agriculture in making that statement to the world.

The conference report is a balance, and it is worthy of your support. I feel that it is fiscally responsible, and it includes new policy, of which we can be proud.

I commend the chairman, Mr. DE LA GARZA; our ranking member, Mr. MADIGAN, for the finesse in finding this balance, and the courtesies they have extended to all of us as Members of this body.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague from Oregon [Mr. WEAVER].

Mr. WEAVER. Mr. Speaker, contained in the conference report is the organic farm bill which I sponsored and which passed a a freestanding bill in the House earlier in this session. This is landmark legislation which will start us on the path toward a more fundamentally sound agriculture without degradation of our soils and water and will help us produce cleaner, cheaper food and to feed ourselves and others in the future. I vote today for that organic farm bill.

Mr. OBERSTAR. Mr. Speaker, I rise to address the cargo preference subtitle of this legislation. This provision exempts certain export commodities from cargo preference entirely, while requiring 75 percent of Public Law 480 and section 416 commodities principally, to be carried on U.S.-flag vessels.

This provision could be administered in such a way as to be extremely detrimental to the ports of the Great Lakes.

Mr. Speaker, Great Lakes ports are heavily dependent on Food for Peace, or Public Law 480 title II, cargoes, as well as those exported under section 416 of the Agricultural Act of 1949. These cargoes act as magnets, encouraging vessels to enter the Great Lakes/St. Lawrence system, pick up these commodities, and while they are in the system, pick up other cargoes at other ports.

Without these Food-for-Peace magnet cargoes, Great Lakes ports would be hard-pressed to survive, financially.

The requirement that 75 percent of these cargoes be transported on U.S.-flag vessels, which choose not to serve the lakes, has the potential to destroy Great Lakes ports and the port-related sectors of our Great Lakes economy.

Faced with that potential for disaster, the Senate added a provision guaranteeing a

minimum percentage share, or metric tonnage, whichever is lower, of bagged, processed or fortified commodities for Great Lakes ports for the next 4 years. That share is based on the 1984 shipping figures.

This provision is absolutely essential for the lakes, within the context of a 75-percent reservation for U.S.-flag vessels. We are appreciative of the efforts of those Senators who were able to include this minimal protection in the Senate version of the forum bill.

In conference we asked whether House conferees representing the Merchant Marine and Fisheries Committee, that figure is a floor and not a ceiling. We were assumed that the reference is a minimum. As a conferee, I reaffirm that intent and insist that the provision be administered in such a way that Great Lakes ports are not frozen at the 1984 shipping level, because that was a poor cargo year for the lakes.

However, other ports ranges expressed concern that this provision, minimal as it is, would cause cargoes to be diverted from their ports.

That is not the intent of this language.

Virtually the only cargoes our ports handle are the bagged, processed and fortified commodities of title II, Public Law 480, and section 416. If the Department of Agriculture fails to properly interpret and apply the availability concept contained in the Cargo Preference Act, then, under this legislation, the lakes will be eligible to bid on less than 5 percent of all grains shipped under Public Law 480, titles I, II, and III, and are more likely to successfully bid on a mere 3 percent.

There is no question in my mind that the administration can, as it must, administer the entirety of this provision of the farm bill in such a way that no port range suffers any loss of preference cargoes under this provision.

I also want to put my colleagues and the USDA on notice that, should any port range be discriminated against in the administration of this subtitle, there will be that much added pressure to see the entire provision self-destruct at the earliest possible moment.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our distinguished colleague the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in support of the conference report we have before us today. We have not yet found the magic wand of the improved farm income so vitally necessary, but in this bill we have laid a foundation that will move us in that direction.

It also moves us in the direction that we must go for budget reasons. The bill before us today is some $3 billion below the bill that was reported from the House a few weeks ago. The trendlines are in the direction that it must go if we are to meet the commitments of Gramm-Rudman, as tough as they will be.

In this bill we have a title called the Clear Title Act. In this case, we do not have a better bill; we have a conference bill. We have a conference, a disagreement between the House and Senate concerning what clear title should be.

There is substantial agreement that the buyer of farm products should be removed from liability, from those actions that he has no knowledge about. The House version provided for prenotification of those individual buyers. The Senate, in their bill, had central filing.

The conference committee action on clear title, or during conference committee action on this, I commended Senator COCHRAN of Mississippi, the prime sponsor of the Senate version, for his statements. In his statement he said, because the buyer would have to rely completely upon the accuracy of data when he searches the State-compiled list prior to purchase, it is only appropriate to place the risk of any error that might escape the attention of a reasonably diligent buyer on the lender.

I completely concur with the distinguished Senator from Mississippi; buyers have enough of a risk of their ordinary daily operations without being saddled with the additional concerns of accuracy and verification of lien notices generated by a central file, and I hope that the actions of this conference will work that problem out.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the ranking member, and I rise in support of the conference report.

Mr. Speaker, I rise in support of this conference report and want to take this opportunity to commend the House conferees on H.R. 2100 for their diligence in crafting a farm bill which lends at least some degree of certainty to the rules under which our dairy farmers will be operating for the next 4 years.

I also want to thank the farmers of the 26th Congressional District of northern New York who spent hours and hours of their time in discussion with my office in order that we might fashion a bill with which we could all live. We realize there are imperfections, but considering the herculean problems we were all attempting to solve. I believe the conference report addresses many of the concerns which were expressed.

As I have said in the past, I am not enamored with the prospect of an assessment on our farmers. However, I am proud that the dairy industry, as always, is willing to make the sacrifice and take the necessary steps toward solving the suplus problem we are facing. I hope the whole-herd buyout program is successful in addressing the situation and reducing the glut which has been created. I am skeptical, however, that further spot shortages could occur in the Northeast as they did under the dairy diversion program.

I am pleased that the mandatory diversion program was dropped in conference. I am also encouraged the provisions relating to casein have been retained, since I believe that foreign imports of Casein have contributed to the situation we are trying to resolve. The increase in the milk-marketing order differentials will also be beneficial to the Northeast.

In conclusion Mr. Speaker, I can in good conscience lend my support to the conference report. It is a carefully crafted compromise which I believe our farmers can live with and which deserves a chance.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the legislation.

After months of debate and delay the House and Senate have reached tentative agreement on a new farm bill.

We have put this off long enough. Farmers in Iowa and across the country need an answer. We have already passed the fall fertilizer season in my State and many farmers are beginning to talk to their lenders about arranging financing for next year's crop. No lender is going to give them an answer one way or another without knowing what our farm policy is going to be for the coming years and the near future. Our farmers have been left in the dark long enough.

I think we must pass this legislation today, but as you are all aware, this bill or any other farm bill will not provide the sole answer to the problems in our rural economies. But a responsible farm bill is a major factor in the effort to regain some stability for farmers in Iowa and across the country.

This farm bill provides a measure of that much needed stability. Under the bill, target prices are protected over the life of the bill giving farmers the opportunity to plan their operations with some confidence in their longer range projections. I supported the House bill's freeze over the 5-year life of the bill, but the Conference Committee was unable to reconcile themselves to that and have provided a 2-year freeze with modest declines in the out years. Nevertheless, this is a somewhat of a victory in itself, in light of the fact that the administration wanted to cut the farmer off at the knees in a few short years.

Now that we've dodged that bullet of a 1-year freeze on target prices, we have to turn our attention to the forces that prey upon profit prospects of our farmers. One great culprit in that category is a Federal deficit that feeds our high interest rates and our still too strong dollar. We've taken decisive action against that problem by passing legislation mandating a balanced budget by 1991. Now Congress must demonstrate the political courage to pull the reins in on federal spending and restore fiscal responsibility.

As I said, these actions are all a part of more comprehensive approach to address the problems in rural America. In addition

to deficit reduction measures we're on the verge of passing long overdue legislation which will reorganize the farm credit system and make it more accountable to its owner/borrowers.

Now that we know where we stand with respect to some protection of farm income, we must begin investigating ways to bring our production costs toward some synch with those numbers. And I believe we should start with one of farmers' greatest input costs, high interest rates. Declines of a point or two in this regard will, in many cases, make the difference between going out of business and staying on the farm. We must do what we can to begin to address the farm problem from this angle.

In addition to commodity price protection, the bill will give Iowa farmers and others a conservation program with some teeth and the most comprehensive trade title we've had in a farm bill.

There's a tough road ahead and this bill will not answer all of our concerns. But by providing our farmers some stability and a measure of predictability we can begin to address the other forces and problems that so directly affect our agricultural economy.

Mr. MADIGAN. Mr. Speaker, I yield 45 seconds to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 2100, the Food Security Act of 1985 and commend the distinguished chairman, the gentleman from Texas [Mr. DE LA GARZA], and the ranking minority member, the gentleman from Illinois [Mr. MADIGAN] for guiding this bill to the House floor. As a member of the conference for foreign affairs portions of the bill, I can attest to this being one of the hardest-working conferences I have ever attended. Chairman DE LA GARZA and Chairman HELMS, and their staffs, are to be commended for their unflagging effort to get this important measure before the Congress before the end of the 1985 session.

There are a number of provisions in this report which are particularly meritorious. I am pleased that the Public Law 480 title II minimums were increased, that there is a mandatory 5-percent minimum for monetization, and that section 416 provisions were adopted which are beneficial for private voluntary organizations. It was important too to that we increased child immunization activities in connection with Public Law 480. As an author in 1980 of the legislation for a 4 million ton food security wheat reserve, for use as a Public Law 480 backup in case of serious food shortages, I am pleased that the conferees agreed to extend this humanitarian food reserve for another 5 years.

Several new initiatives in the export title of the conference report deserve special mention:

The new Food for Progress Program, under which food aid is to be provided on grant or highly concessional terms to countries committed to moving their agricultural activities toward a free market system I was proud to have sponsored that proposal, which was proposed by the President, in the House.

Also the new program for promotion of private enterprise abroad under which foreign currencies, derived from Public Law 480 aid are to be loaned to banks, cooperatives, and other intermediaries in the developing countries; which will in turn use the money for loans to nongovernmental businesses, small farmers, and other private entities for productive private enterprise activities. I was pleased we could reach accommodation with Chairman HELMS who was also sponsoring Food for Progress and private enterprise promotion legislation in the Senate.

Another new initiative is a Special Assistant to be appointed by the President who shall serve in the White House as an advisor, a recommender, an ombudsman, and in particular as an expediter Governmentwide for our foreign food aid and agricultural trade promotion programs.

Upon the whole, this is a good report and I urge its adoption.

Mr. DE LA GARZA. Mr. Speaker, I yield 1½ minutes to the distinguished chairman of the Subcommittee on Livestock and Dairy, the gentleman from California [Mr. COELHO].

Mr. LEHMAN of California. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Speaker, I rise in support of this legislation. I would like to especially congratulate the gentleman from Texas [Mr. DE LA GARZA] for the good work he has done, and most especially, my colleague from California for crafting a dairy compromise that is in the best interest of all dairymen in this country.

Mr. COELHO. Mr. Speaker, I rise in strong support of the conference report and all its different provisions. I would like to specifically speak to the dairy provisions, which are a compromise, and I think address the problems of all the dairy interests throughout the United States.

We were concerned about maintaining a support price that would keep our dairy farmers alive financially. What we have here is a price that is guarnateed for the 1986 year; we have a supply program, a whole-herd buyout that I think will work over an 18 month period; the dairy farmers are willing to pay for it themselves.

We have a situation where we are cutting the taxpayers by their costs of this program, by $3.7 billion; and we have a situation where, if this program works that we will have at the end of 18 months the effective dairy price being above the price support price, so that the dairy farmer does not have to worry about the price support cuts that the administration and others would like to see occur.

I think it will work; I think it is an effective program, and I applaud and congratulate those that have worked hard for it.

Mr. KASTENMEIER. Mr. Speaker, it is with a sense of regret that I cast my vote today in opposition to the conference report on the 1985 farm bill.

Some have argued that we should support this bill because it is a miracle that we have any farm bill at all and that this bill is the best we could do. While I agree that this bill is somewhat better than President Reagan's original proposal to simply cut loan and target prices for grains and the support price for milk, I cannot bring myself to vote for this bill because it so blatantly misses the point.

The point is that American farmers and rural counties are facing the absolute worst of times. Farmers need income. This bill will lower the prices they receive.

Ultimately I have to ask myself if I can defend this bill to farmers who are facing the imminent loss of their farms, if I can assure them that it will help them to survive. Since I cannot give that assurance, I must vote against the bill.

I voted for the 1985 farm bill when it passed the House in October because it at least contained a dairy diversion program. That program would have spread the reduction in surplus production around so that no section of the country and no individual farmers would be asked to give up too much.

In the conference report, however, the diversion program was replaced by the whole herd buy out. This program will reduce milk production. But it will do so by speeding up the exodus from dairy farming. It requires farmers to submit bids to USDA on how much per hundredweight they need to get out of dairying and how much their production would be if they stayed in. There are going to be inequities resulting from this bidding process.

Wisconsin dairy farmers may be more inclined than others to take part in the program. This is because the terms of the bill are much more beneficial to farmers the further away you get from Wisconsin, thanks to the increases in class I differentials included in the bill. Some estimate that Florida dairy farms will gain over $50,000 a year because of those increases. Our farmers gain almost nothing.

Finally, although the bill purports to accomplish a price freeze for dairy farmers, there will be decreases. The 15-cent promotional deduction and the 40-cent deduction to pay for the whole herd buyout will reduce the effective price to $11.05. In 1987 we are likely to see two cuts of 25 cents each. Those cuts can be followed by more cuts at 50 cents each.

Grain loan and target prices will decline over the life of the bill. I had supported efforts to pass legislation controlling grain supplies and prices. It certainly would have been possible to work out the details to fine

tune a certificate program—similar to that introduced by Mr. BEDELL—for grains that would have allowed domestic prices to rise by controlling supply, allowed farmers to produce extra grain for export, and still would have honored existing import/export commitments. The President, however, made clear his intention to veto any such approach and the Congress narrowly turned its back on farmers. We apparently just missed the point on how serious our agricultural crisis is.

There is one component of the bill which I do regret not voting for. The bill includes a soil conservation section which contains a sodbuster/swampbuster provision to stop the spread of farming to erodible lands, a conservation reserve to remove such lands which are already being farmed from production, and a longer term program which will encourage farmers to develop soil conservation plans which will keep such lands out of production. Unlike certain parts of the bill, this is a provision we can be proud of.

Mr. DREIER of California. Mr. Speaker, America's farmers have been sending the Congress a long and loud SOS, signaling the utter failure of our farm policies. Unfortunately, we are responding with our own SOS: the "same old subsidies."

This legislation may show compassion, but it shows little foresight or, for that matter, hindsight. The billions we've directed at farmers to help them over the past decade has not helped avoid the current crisis: Indeed, some say it has helped precipitate it. And here we go with another dose of SOS.

What will the farmer and the taxpayer get for the 50-odd billion dollar price tag of this bill? Commodity prices lower than the ones that have led farmers into the poor house, for one. And a price structure too rigid to give American farmers a fighting chance on world markets, for another.

We have spent countless hours in this chamber this year bemoaning two national crises, in our farm and trade policies, without giving much attention to any link between the two. This is a monumental mistake.

Does anyone of us really expect that the woes of American agriculture will be truly solved 5 years from now when this authorization expires? I hope we will find time during that span to develop a new agricultural trade policy, not as an afterthought to a subsidy bill, but as part of a real solution to the farm income problem.

Mr. SENSENBRENNER. Mr. Speaker, on Saturday, December 14, House and Senate conferees broke an impasse and approved a fundamental change in the Federal program to subsidize dairy prices. Missing from the program is a dairy diversion plan which would pay the dairy farmer to cut production, and was contained in the House version.

Mr. Speaker, I cannot support any farm legislation which does not include a diversion plan, since dropping the paid diversion will not save money and will ruin the family farmer.

The dairy diversion program, established to help stabilize the supply and demand for milk, was in effect from January 1984 through March 1985. The program resulted in a reduction of 1984 milk production by about 3.74 to 4.11 billion pounds. The General Accounting Office directly attributes a $650 million savings to the program. However, evidence suggests that milk production, and therefore the Department of Agriculture's price—support purchases, will increase after the program's end. A dairy diversion program works for both the taxpayer and Federal Government. This has been rejected by the conferees for another, untried program.

Without a diversion program the family farmer in the Midwest will be ruined, while the corporate conglomerate farms in other areas of the country will benefit. The Congressional Budget Office estimates that any price cuts will decrease net farm income by 30 percent. For Wisconsin farmers, declining profitability will result in lower land prices, reducing the value of the collateral on some loans, creating further financial difficulties. Additionally, as many as 45 regional marketing-order districts restricting the sale of milk from region to region will be designed primarily to benefit Southeastern producers. This limits the Wisconsin farmer's ability to sell his product to a small area.

Mr. Speaker, like many other Midwest States, Wisconsin's agriculture truly is Americana. The drive to succeed is there, but the small farmer is threatened and with him the farm economy as the backbone of America.

Mr. SMITH of Iowa. Mr. Speaker, it became obvious early this year when we could not override a veto of a very modest credit bill that essentially what is in this bill is the very most which we could pass and he signed. It is essentially an extension of existing programs with reductions in loan rates mostly offset by higher deficiency payments.

I had high hopes we would also be able to secure a good long term conservation reserve removing a large share of the 60 million acres of highly erodible land. However, I am really sorry to say that the conservation reserve section of this farm bill represents a waste of the best opportunity we have had and perhaps the best we will ever have to make some real progress toward removing 60 million acres of highly erodible land out of production in this country.

This bill sets up conditions for enrolling land in the conservation reserve which those who pay the cost of carrying the land cannot meet. It would require an owner and the mortgagor to give a permanent easement in return for rent payments received for only 10 years. No owner would give a permanent easement in return for a few years of annual payments unless the annual payments were a great deal higher than the $50 per acre they intend to pay. The result is that the conservation reserve approved in that bill will attract only a small portion of the amount of the highly erodible land we need out of production.

The bill also prohibits owners who farm any erodible land after 1990 from participating in soil conservation programs or the annual-set-aside programs. To avoid disqualification, owners would be required to erect soil conservation structures and fully comply with an approved plan. Even if sufficient Federal matching money were available (and it is not) to terrace and bring that much land into compliance in a few years, it would cost more than seven times as much per year for each of the next 10 years as farmers have been able to match.

Since the majority of farmers will have some such erodible land which they cannot possibly afford to idle without a payment and will therefore be disqualified for the annual control program after 1990, they will have no set-aside acres and will also put all their erodible land in grain crops and perhaps plow up any remaining land which could be tilled. With the majority of producers out of the annual production control program, production will increase instead of being reduced and the annual program will not control supplies after 1990 either.

The effect of these provisions is to largely defeat the purpose of the conservation reserve section and the bill will be a flop if it is not amended. It will result in more erodible land being farmed instead of less.

Mr. EVANS of Illinois. Mr. Speaker, I rise in opposition to the conference report. I recognize the hard work of the conferees and commend them for their efforts to improve the farm bills produced by both bodies.

However, I cannot in good conscience tell farmers in my district or across this Nation, that the proposal being offered here tonight is good farm policy for 1985 or for the next 4 years. The agreement falls short of addressing the urgent needs of our farmers, and most importantly, does nothing to enable farmers to increase their income. Without such an increase, banks and businesses in our rural communities will suffer and unemployment will continue in our manufacturing centers.

If this program becomes law, I fully expect the Congress to be back here in 1986 and 1987 facing a deepened depression in the farm belt of this Nation. Our farmers and our Nation deserve and demand better.

Mr. DAUB. Mr. Speaker, I rise to support the conference report on the farm bill. Although there are still problems with this legislation, it is in many ways an improvement over the version the House sent to conference last October.

There is a very real danger that by the next decade America could become a net food importer. Since we enacted the last farm bill, American commodity exports have fallen 25 percent. Although other factors such as the high dollar were significant in this decline, our inflexible farm programs inducing storage, rather than sale, of farm products was certainly one important factor in this trend.

The 1981 bill with its rigid loan rate structure made mounting surpluses almost a certainty. It told our competitors in ad-

vance how much to plant and how much of our markets they can take. As a result, exports have fallen and the American farmer is swimming in a sea of grain.

It has been estimated that wheat and corn exports could fall another 20 percent next year.

Argentina, Paraguay, and Uruguay have 215 million acres of very fertile soil which are as yet unplowed. This is nearly half of all cropland in the United States. Unless we do something about inflexible loan rates the signal those countries will get is: Gentlemen start your plows.

The most significant change that the conference report makes over the House bill and current law is its recognition of our competitive problem and the inclusion of more flexible loan rates to address it. This bill signals that the United States will not continue to tell our competitors in advance the prices at which we sell and how much of the world markets we are willing to give them.

Furthermore, the conference report contains important and innovative programs for export assistance. It contains $500 million for a badly needed intermediate credit program, $2 billion worth of commodities for an export bonus program, $5 billion for short term credit and $325 million for "blended credit" export programs.

The House bill continued cargo preference requirements that force federally generated exports to be shipped on uncompetitive American flagships. Although an improvement over the House provisions, the conference report does not completely solve the problem. In fact, cargo preference requirements are increased from 50 to 75 percent for food donation programs, but the cost of to the Agriculture Department will not be over the current level of 50 percent.

Importantly, the conference report exempts export and blended credit programs from the cargo preference requirements. Current provisions, preserved in the House bill led to suspension of the blended credit program to the great detriment of our commodity exports. The conference version should resolve this problem.

At the same time, the bill maintains income supports for farmers with a 3-year target price freeze spread over 4 years for wheat and feed grains. While not as generous as the original House bill, and not directed at the farmers who are in most need which I would like to see, these provisions will maintain an income safety net for farmers in these difficult times.

This bill represents a milestone in our efforts to conserve the most important natural resource agriculture has: our soil. I have been trying for a long time to get many of the conservation measures in this bill enacted. The conservation reserve and the sodbuster and swampbuster provisions are significant steps toward these worthy conservation goals.

The tax reform bill passed yesterday contains conservation provisions that I offered in the Ways and Means Committee. This legislation puts the sodbuster and swampbuster provisions in the Tax Code and denys the deduction for clearing land to add to unneeded production. These provisions will compliment the farm bill conservation section.

This farm bill is projected to cost about $53 billion over the next 3 years. This is a record amount of farm spending and with it the Congress has demonstrated its concern for the plight of rural American. Despite this record spending, we should be candid enough to admit that we don't have all the answers for the complicated farm problems.

Perhaps the best thing that can be said about recent actions Congress has taken is that, on the whole, Congress has apparently done more for farmers than to them. Two actions justify this conclusion.

First, the farm bill will reform inflexible price supports which has lead to record grain supplies and provide income maintenance needed in the Midwest.

Second, the Gramm-Rudman balanced budget bill should reduce the overvalued dollar also making farm products more competitive overseas. Real control of Federal spending will provide vital interest payment relief for farmers.

Finally, it should be noted that the ratio of urban to rural members in Congress is declining. Without Farm State members sticking together on the farm bill, we may not get one at all and that would be tragic. We need a farm bill this year, not a continuation of the 1981 bill farmers have suffocated under the last 4 years.

I urge adoption of the conference report.

Mr. BIAGGI. Mr. Speaker, I rise to urge support of H.R. 2100, the farm bill. The House conferees are hopeful this legislation will help resolve a serious dispute that has created tremendous resentment and hostility between two important industries. I am, of course, alluding to the issue of cargo preference. The 1954 cargo preference law provides that U.S.-flag vessels will carry at least 50 percent of goods given away—and sales subsidized—by the Government. Newly developed promotional export programs sponsored by the U.S. Department of Agriculture have raised the issue of the scope of the cargo preference laws.

The Department of Agriculture emphasized the "commercial" nature of the export programs and felt that cargo preference should not apply. The Department of Transportation viewed at least one of these programs, blended credit, as subject to cargo preference because of the extensive Government assistance that made the sales competitive on the world market. Finally, the Department of Transportation agreed that though cargo preference was legally binding, it would not be applied in this case because to do so would undermine USDS's export program.

After the agencies resolved their difference the matter was taken to Federal court, where the judge found that the export program in question fell within the scope of cargo preference.

Shortly after the court decision, Secretary Block terminated all sales under the blended credit program. This action caused great harm to both our farmers and seafarers.

In the aftermath of the court action and Secretary Block's termination of the program, representatives of the maritime and agricultural industries met to see if there was any possibility of a compromise to resolve the problems. After numerous meetings, spanning almost 6 months, hard negotiations, and a great deal of blood, sweat, and tears, an agreement was reached. This compromise was adopted by the Senate and with minor improvements became the language adopted by the conferees.

The compromise provides that subsidized sales will be exempt from cargo preference. In exchange for this concession, donational programs will be subject to a 75-percent cargo preference requirement. I would point out that this increase in cargo preference will have absolutely no impact on agricultural spending. The added costs associated with the use of U.S.-flag vessels will be paid by the Department of Transportation.

The compromise reached with the Senate assures the agriculture industry that promotional export programs will not be subject to cargo preference and will not be delayed or interrupted by administrators and courts debating the applicability of cargo preference.

The maritime industry will enjoy an increase in cargo because of the 75-percent cargo preference requirement on donational sales.

Under the compromise, neither side can claim a complete victory. There are substantial risks for the maritime industry in entering into this agreement with agricultural interests. USDA has a history of noncompliance with cargo preference, some programs seem particularly designed to circumvent the letter of the cargo preference law. These factors, among others, forced me to be cautious in accepting the compromise.

I know that both industries are sanguine that this compromise will be beneficial to all parties by eliminating uncertainty and ending this harmful dispute between two crucial American industries. I, quite frankly, am not so optimistic. Cargo preference is essential to the merchant marine, and the merchant marine is indispensible to national security and economic independence. Whatever happens, I hope the future of the maritime fleet is safe.

Mr. MADIGAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me tell you what this bill is not; it is not a magic carpet upon which farmers are going to glide through the balance of the 1980's. It is a compromise between the economic problems on American farms and the budget deficit problems of our Government.

It maintains the safety net for farmers, but it moves us in the direction of becoming more competitive in world markets.

I want to take the balance of my time to say to all of the members of the committee, including those who

did not get everything they wanted, that you were all gentlemen, and I congratulate you on your demeanor; and to the staff that undertook the Herculean task of putting this report together over the weekend, I express my personal thanks, my personal thanks to the chairman for his good humor and intelligence throughout this process.

Ladies and gentlemen, this is a reasonable product; it deserves your support. I hope you will cast a favorable vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield one-half minute to our distinguished colleague, the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Speaker, I rise in strong support of the conference report, and commend the work of the conferees; particularly the chairman, Mr. DE LA GARZA, the ranking minority member, Mr. MADIGAN, and all the others.

Mr. Speaker, there is much to be commended in the conference report on H.R. 2100, Food Security Act of 1985. The conferees worked hard and have delivered a bill that is much improved over the one passed by the House. I especially appreciate the leadership of our committee chairman, Mr. DE LA GARZA, and the ranking minority member, Mr. MADIGAN, in insisting that a farm bill must be completed and acted upon before adjournment.

Even the dairy provisions, which I strongly opposed when the House considered the bill, are now improved. Gone is the mandatory diversion program which would have paid farmers for not producing milk. Gone is the cost-of-production formula which would have pushed up milk support prices and further encouraged production.

The whole-herd buyout provisions, which I initially opposed, now seem to offer the best opportunity to make an immediate—and economical—impact on the soaring increases in mik production. Support price cuts alone would have taken too long to achieve the results we must have.

The combination—whole-herd buy out for a limited period of time coupled with scheduled decreases in the support price as long as there are immense surpluses—is an acceptable plan.

It starts us in the right direction.

It is budget responsive.

It provides the long-term policy statement our dairymen need and deserve.

I do continue to have some reservations, however. I was surprised and disappointed to learn that the conference recommended discretionary authority for the Secretary of Agriculture to impose a diversion program or extend the whole-herd buyout if the initial 18-month buyout does not achieve the necessary decrease in production.

It is imperative that the initial 18-month buyout achieve its goals—the reduction of our national dairy herd by an estimated 935,000 cows and a reasonable balance between milk production and consumption. If we achieve that balance, the reduction of price supports established in the bill will be adequate to maintain an equilibrium.

The Agriculture Committee must monitor the buyout closely to be sure it achieves the necessary reductions and be prepared to take corrective legislative action if it does not. Neither another diversion program nor an extension of the whole-herd buyout will be a satisfactory response if this experiment fails. It must be a one-time action; it must get the surplus down to about 5 billion pounds. We can accept no other answer.

I also am disappointed that an assessment will be imposed on all dairy farmers. I had hoped it would not be necessary, but I now recognize that the fiscal realities of meeting a budget target mandate the assessment. Another note of caution, however. The initial 40-cent assessment, followed by a 25-cent assessment, may not be sufficient to pay for the buyout that will be needed. Careful scrutiny of the costs and revenue of the program will be required of the Agriculture Committee.

Retaining the legislated class I differentials is unfortunate. Some States will benefit; others may be penalized. Assuming legislative control of the differentials was politically inspired, and the levels set do not necessarily relate to the actual cost of transporting and handling of milk. I fear that regional imbalances may result because of this action and ask that the Agriculture Committee be prepared to offer a prompt remedy before the imbalances severely impair regional milk production.

Although the dairy title is not perfect, it is an acceptable improvement, and one of many parts of H.R. 2100 now worthy of our support.

I strongly support the emphasis on conservation that is included in the bill. The recent floods in western Virginia, invading the full length of the congressional district I represent, impresses even further the need for scrupulous care of the soil. We can no longer ignore the damage—and the potential tragedy—of the abuse of our resources. H.R. 2100 goes a long way in enforcing the necessary stewardship of our farmland.

I also joined in the effort by the gentleman from Texas [Mr. STENHOLM] and others in removing the double standard that has been in effect for buyers of farm products. The inclusion of clear title provisions in the farm bill is a necessary improvement in agricultural business transactions.

The bill continues to recognize the wisdom of investment in research; it continues support of our land-grant colleges. It boosts our commitment to both domestic and international nutrition programs. It provides the goundwork for an improvement in trade—a vital issue if our immensely productive and efficient farm community is going to regain its role as an active exporter of quality food and fiber.

Just as importantly, H.R. 2100 recognizes the necessity that any farm bill we pass must be sensitive to the overall economy of this country. We are trying to control the deficit. We simply cannot afford to provide all of the income support needed to guarantee the profitability of every farmer. H.R. 2100 offers the assurance of a reasonable, market-oriented floor under farm prices. It is a healthy, feasible, economical plan. Unless we subdue the raging deficits, no farm policy can by itself be the salvation of American agriculture.

Mr. Speaker, the work, of the last year has been intense. The House Agriculture Committee labored over this bill; we debated, we discussed, we may even have argued at times. But each of us wanted the best possible long-term policy for our country's farmers. The conference report on H.R. 2100 is the best effort for these times. I urge my colleagues' support.

□ 1320

Mr. DE LA GARZA. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas has 1 minute remaining.

Mr. DE LA GARZA. Mr. Speaker, the end result of what we do here today is a credit to our Nation and to our people. It is our system of government which allows us to be truly representatives of the people. We want the world to know that we care, that within the framework of the art of the possible we were responsible and yet compassionate. This is the most important thing we do here today, telling American agriculture that we care.

We cannot delay any longer. The future is now, the place is here, the vote is "yes."

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 96, not voting 13, as follows:

[Roll No. 474]

YEAS—325

Ackerman	Dyson	Leland
Addabbo	Early	Lewis (FL)
Akaka	Eckart (OH)	Lightfoot
Andrews	Eckert (NY)	Livingston
Annunzio	Edgar	Lloyd
Anthony	Edwards (CA)	Loeffler
Applegate	Emerson	Long
Aspin	Erdreich	Lott
Atkins	Evans (IA)	Lowery (CA)
AuCoin	Fascell	Lowry (WA)
Barnard	Fazio	Lujan
Barnes	Feighan	Lundine
Barton	Fiedler	MacKay
Bateman	Fish	Madigan
Beilenson	Flippo	Manton
Bennett	Florio	Marlenee
Bentley	Foglietta	Martin (IL)
Bereuter	Foley	Martin (NY)
Berman	Ford (MI)	Matsui
Bevill	Ford (TN)	Mavroules
Biaggi	Fowler	Mazzoli
Bilirakis	Franklin	McCain
Boehlert	Frenzel	McCandless
Boggs	Frost	McCloskey
Boland	Fuqua	McDade
Boner (TN)	Gallo	McEwen
Bonior (MI)	Garcia	McHugh
Bonker	Gaydos	McKernan
Borski	Gejdenson	McMillan
Bosco	Gekas	Meyers
Boucher	Gilman	Mica
Boulter	Gingrich	Michel
Boxer	Gonzalez	Mikulski
Breaux	Goodling	Miller (OH)
Brooks	Gordon	Mineta
Broomfield	Gray (PA)	Mitchell
Brown (CA)	Grotberg	Moakley
Brown (CO)	Guarini	Molinari
Broyhill	Gunderson	Mollohan
Bruce	Hall (OH)	Montgomery
Burton (CA)	Hamilton	Moore
Burton (IN)	Hammerschmidt	Morrison (CT)
Bustamante	Hartnett	Morrison (WA)
Byron	Hatcher	Murtha
Callahan	Hawkins	Myers
Campbell	Hayes	Natcher
Carper	Hefner	Neal
Carr	Hendon	Nielson
Chapman	Henry	O'Brien
Chappell	Hiler	Oakar
Chappie	Hopkins	Olin
Clay	Horton	Ortiz
Clinger	Howard	Owens
Coats	Hoyer	Oxley
Cobey	Hubbard	Panetta
Coble	Huckaby	Parris
Coelho	Hughes	Pashayan
Coleman (TX)	Hutto	Pease
Collins	Hyde	Pepper
Combest	Jeffords	Perkins
Conte	Jenkins	Pickle
Cooper	Johnson	Pursell
Courter	Jones (NC)	Quillen
Coyne	Jones (TN)	Rahall
Craig	Kanjorski	Rangel
Crockett	Kaptur	Ray
Daniel	Kasich	Regula
Darden	Kemp	Reid
Daub	Kennelly	Richardson
Davis	Kildee	Ridge
de la Garza	Kindness	Rinaldo
Dellums	Kleczka	Roberts
Derrick	Kolbe	Robinson
DeWine	Kolter	Rodino
Dickinson	Kostmayer	Roe
Dicks	Kramer	Roemer
Dingell	LaFalce	Rogers
Dixon	Lantos	Rose
Donnelly	Latta	Roth
Dowdy	Leach (IA)	Roukema
Duncan	Leath (TX)	Rowland (CT)
Durbin	Lehman (CA)	Rowland (GA)
Dwyer	Lehman (FL)	Roybal
Rudd	Solarz	Traficant
Savage	Solomon	Traxler
Saxton	Spence	Udall
Scheuer	Spratt	Valentine
Schuette	St Germain	Vander Jagt
Schulze	Staggers	Visclosky
Selberling	Stallings	Walgren
Sharp	Stangeland	Walker
Shaw	Stenholm	Waxman
Shelby	Stokes	Weaver
Shumway	Strang	Weiss
Shuster	Stratton	Wheat
Siljander	Studds	Whitehurst
Sisisky	Sundquist	Whitley
Skeen	Sweeney	Whittaker
Skelton	Swift	Whitten
Slaughter	Swindall	Wilson
Smith (FL)	Tallon	Wise
Smith (IA)	Tauke	Wolf
Smith (NE)	Tauzin	Wolpe
Smith (NJ)	Taylor	Wortley
Smith, Denny (OR)	Thomas (CA)	Wright
	Thomas (GA)	Wylie
Smith, Robert (OR)	Torres	Yatron
	Torricelli	Young (AK)
Snowe	Towns	Young (FL)

NAYS—96

Alexander	Green	Packard
Anderson	Gregg	Penny
Archer	Hall, Ralph	Petri
Armey	Hansen	Porter
Bartlett	Hertel	Ritter
Bates	Holt	Rostenkowski
Bedell	Hunter	Russo
Bliley	Ireland	Sabo
Bryant	Jacobs	Schaefer
Carney	Jones (OK)	Schneider
Chandler	Kastenmeier	Schroeder
Cheney	Lagomarsino	Schumer
Coleman (MO)	Lent	Sensenbrenner
Conyers	Levin (MI)	Sikorski
Coughlin	Levine (CA)	Slattery
Crane	Lewis (CA)	Smith, Robert (NH)
Dannemeyer	Lipinski	
Daschle	Luken	Snyder
DeLay	Lungren	Stark
DioGuardi	Mack	Stump
Dorgan (ND)	Markey	Synar
Dornan (CA)	McCollum	Vento
Downey	McCurdy	Volkmer
Dreier	Miller (CA)	Vucanovich
Edwards (OK)	Miller (WA)	Watkins
English	Monson	Weber
Evans (IL)	Moody	Williams
Fawell	Moorhead	Wirth
Fields	Mrazek	Wyden
Frank	Murphy	Yates
Gibbons	Nowak	Zschau
Glickman	Oberstar	
Gradison	Obey	

NOT VOTING—13

Badham	Hillis	Nichols
Dymally	Martinez	Price
Gephardt	McGrath	Young (MO)
Gray (IL)	McKinney	
Heftel	Nelson	

□ 1335

The Clerk announced the following pair:

On this vote:

Mr. Gray of Illinois for, with Mr. Nelson of Florida against.

Mr. LENT and Mrs. SCHNEIDER changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 1603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2903. An act to designate the Federal Building and U.S. Post Office located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958; and

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1437. An act to amend the Controlled Substances Act to create new penalties for the manufacture with intent to distribute, the possession with intent to distribute, the possession or the distribution of 'controlled substance analogs', and for other purposes;

S. 1740. An act to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake";

S. 1896. An act to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts as the "Captain John Foster Williams Coast Guard Building";

S. 1956. An act to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services; and

S. Con. Res. 98. Concurrent resolution to recognize the historical significance of the former Presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust.

FARM CREDIT SYSTEM RESTRUCTURING AND REGULATORY REFORM ACT OF 1985

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1884) to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 7, strike out all after line 23 over to and including line 25 on page 8 and insert:

"SEC. 4.28C. BOARD OF DIRECTORS OF THE CAPITAL CORPORATION.—(a)(1) The Board of Directors of the Capital Corporation shall consist of five members, of which—

"(A)(i) three members shall be elected by the farm credit banks that own the voting stock in the Corporation, with—

"(I) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net contributor of capital to the Corporation;

"(II) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net recipient of capital (other than through the sale of loans or other assets at fair market value) from the Corporation; and

"(III) one such member being elected without regard to the restrictions in clause (i) and (ii).

"(ii) Each such bank shall have the right to cast one vote to fill each such vacancy without regard to the number of voting shares owned by such bank.

"(B) two members shall be appointed by the Chairman of the Farm Credit Administration Board.

"(2) Members appointed by the Chairman under paragraph (1)(B) shall be selected from United States citizens—

"(A) who are not borrowers from, shareholders in, or employees or agents of any institution of the Farm Credit System; and

"(B) who are experienced in financial services and credit.

"(3) The Farm Credit Administration Board shall, in its sole discretion and for purposes of the election of directors to the Capital Corporation only, project whether—

"(A) institutions within a district are or will be a net contributor of capital to the Corporation, or

"(3) the institutions within a district are or are expected to become net recipients of capital from the Corporation.

"(4) The Farm Credit Administration Board shall issue regulations providing for fair and equitable representation of all public and private interests on the Board of Directors of the Capital Corporation. The bylaws of the Corporation shall prescribe the procedures, established pursuant to regulations issued by the Board, under which directors of the Corporation will be nominated and elected.

"(5) Notwithstanding paragraph (1), in the event the Secretary of the Treasury purchases any obligation of the Farm Credit System Capital Corporation under section 4.28J, and for so long as such obligation remains outstanding, the Board of Directors of the Capital Corporation shall be expanded by two members, of which—

"(A) one member shall be appointed by the Secretary of Agriculture; and

"(B) one member shall be selected by the other members of the Board of the Capital Corporation, including the appointee of the Secretary of Agriculture, which member shall not be a—

"(i) borrower from, shareholder in, or employee or agent of any institution of the Farm Credit System; or

"(ii) a government employee.

"(b) Members of the Board of Directors shall serve two-year terms, except that, of the members first elected or appointed to the Board of Directors, one elected member and one appointed member shall serve initial terms of one year.

"(C) The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

"(d)(1) Members of the Board may succeed themselves and may serve until their successors are duly seated.

"(2) Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.

Page 14, lines 10 and 11, strike out "of the loss of the use of the accumulated net worth of their institution".

Page 14, line 22, strike out all after "terms" down to and including "Corporation" in line 24.

Page 20, strike out lines 15 and 16, and insert "System institutions, (3) the salaries and benefits of the senior executive officers of System institutions (except associations) will be frozen, such freeze to remain in".

Page 21, line 10, strike out "fective only" and insert "fective for any fiscal year only".

Page 22, line 17, strike out "prescribe."." and insert "prescribe.".

Page 22, after line 17 insert

"SEC. 4.28L. TAX STATUS OF CONSOLIDATED OBLIGATIONS.—Consolidated notes, bonds, debentures, or other obligations, the issuance of which is joined in by the Capital Corporation pursuant to paragraph (13) of section 4.28G, shall have the same tax status as provided by this Act with respect to such obligations issued by the banks.".

Page 33, line 13, after "charters" insert "and certificates of territory".

Page 33, line 21, after "territory" insert ", unless subsequently agreed to by the board of directors of such association or associations".

Page 33, line 25, after "ties." Such associations shall not be (i) charged any assessment under this Act at a rate higher than that charged other like associations in the district or (ii) discriminated against in the provision of any financial service and assistance (including, but not limited to, access to credit and rates of interest on loans and discounts) by a district Farm Credit bank to the association and its member-borrowers.

Page 35, line 12, after "and" insert "regulate".

Page 37, line 5, strike out "employees."." and insert "employees.".

Page 37, after line 5, insert:

"(15) Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions: provided, That no salary scale or rate of compensation shall be approved under this provision unless determined to be fair and reasonable.".

Page 38, lines 11 and 12, strike out "other than national banks," and insert "other than federally regulated financial institutions,".

Page 76, lines 24 and 25, strike out "System institution shall establish from among such board's members a credit review committee" and insert "System institution shall establish one or more credit review committee(s), which shall include farmer board representation.".

Page 77, line 4, after "committee." insert "when a loan applicant requests review of an adverse credit decision, a majority of persons serving on such reviews committee must be persons who were not involved in making the adverse decision.".

Page 79, after line 2, insert:

LOAN REVIEW

SEC. 307. Each local landing institution of the Farm Credit System established under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) shall—

(1) review each loan that has been placed in non-accrual status by such institution to determine whether such loan may be restructured based on changes in the circumstances of such institution as the result of this Act and the amendments made by this Act; and

(2) notify in writing the borrower of each such loan of the provisions of this section.

Page 80, after line 4, insert:

(c) In carrying out the duties and functions specified in subsections (a) and (b), the Governor of the Farm Credit Administration shall serve at the pleasure of the President.

Page 80, line 5, strike out "(c)" and insert "(d)".

Page 84, after line 14, insert:

SEC. 607. Section 5.2 of the Farm Credit Act of 1971 (12 U.S.C. 2223) is amended—

(1) by striking out "; APPOINTMENT" in the caption;

(2) in subsection (a)—

(A) by designating the first and second sentences as paragraphs (1) and (2), respectively; and

(B) by amending paragraph (2) (as so designated) to read as follows:

"(2)(A) The seventh member shall be elected by the borrowers at large in a district.

"(B) For purposes of this section, the term 'borrowers at large in a district' means—

"(i) a voting shareholder of a Federal land bank association and a direct borrower, and a borrower through an agency, from a Federal land bank;

"(ii) a voting shareholder of a production credit association; and

"(iii) a voting shareholder or subscriber to the guaranty fund of a bank for cooperatives.";

(3) in the second sentence of subsection (b)—

(A) by striking out "and" before "in the case"; and

(B) by inserting before the period at the end thereof the following: "; and in the case of an election by the borrowers at large, such notice shall be sent to all borrowers at large in the district"; and

(4) by inserting after the fifth sentence of subsection (c) the following new sentence:

"Each borrower at large shall be entitled to cast one vote.".

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I do so for the purpose of allowing the chairman of the Committee on Agriculture to explain to the Members assembled here exactly what is contained in the Senate amendments to the House bill.

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield, this is the farm credit legislation, and it is basically the House bill as approved by this Chamber, with certain amendments that were added in the Senate. Most of the amendments were technical in nature or were to correct a specific problem in one area or another of our Nation.

The main amendment was one where the configuration of the Capital Corporation Board was changed from what we had in the House, and I think for the better, that we now have a board that will encompass members of contributing banks, members appointed, and when and if there is an infusion of funds from the Federal Government, then there will be members of the board appointed by the Secretary of Agriculture and by the chairman of the board.

Mr. Speaker, I think that is the main amendment. Beyond that, it was basically the House legislation with minor amendments.

Mr. Speaker, I would like to address my remarks to certain minor changes made in the other body to the Farm Credit Act Amendments of 1985, specifically section 4.28G(15). This critical section of the legislation contains criteria intended to govern and regulate the transfer of funds among farm credit institutions as required by this act. It was the intent of our committee in drafting this legislation that there be specific criteria to prevent the depletion of the assets of healthy farm credit institutions in the systemwide effort to aid financially troubled farm credit institutions. In our view, it would be totally counterproductive to weaken financially healthy institutions in the process of attempting to strengthen those currently experiencing economic difficulties. If this were to occur, the system's farmer and cooperative borrowers served by healthy institutions would be faced with skyrocketing interest rates that would seriously impair their economic viability and would result in serious economic hardship. Moreover, weakened farm credit institutions will be unable to compete with the commercial lending sector, thus depriving farmers of badly needed benefits from interest rate competition.

In not quantitatively restricting contributions by farm credit institutions to the Capital Corporation, the committee granted more flexibility to that Corporation. However, it was the committee's intent that contributions to the Capital Corporation not erode accumulated net worth of the contributing institutions to the point that the cost of credit to farmers would no longer be competitive and that the contributors would be placed in financial jeopardy. I believe that it is important to recognize that institutions will need to borrow against the value of their accumulated net worth to make contributions to the Capital Corporation. The costs of this borrowing will inevitably cause interest rate increases to farmer and cooperative borrowers of healthy farm credit institutions. The criteria are intended to limit such increases. And they are needed to safeguard the economic strength of sound farm credit institutions against future downturns in the agricultural economy.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for his explanation. I understand the explanation and would comment that neither the administration nor the leadership on this side of the aisle has any objection to the Senate amendments.

Mr. DE LA GARZA. Mr. Speaker, I would appreciate it if the gentleman, under his reservation of objection, would yield briefly to the gentleman from Tennessee [Mr. JONES], the chairman of the subcommittee.

Mr. MADIGAN. Mr. Speaker, under my reservation of objection, I yield to the gentleman from Tennessee [Mr. JONES].

Mr. JONES of Tennessee. I thank the gentleman for yielding, and I want to say to my dear friend, the gentleman from Illinois [Mr. MADIGAN], the ranking minority member, and to Mr. COLEMAN, also, that we do appreciate the splendid cooperation we have had from all of you and for the good job that has been done on your side of the aisle.

You have done a very splendid job. Had it not been for good help that we have had from you, we might not be this far along.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman from Tennessee [Mr. JONES] for his comments and for his friendship.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Speaker, I would like to pose a question to the chairman of the Committee on Agriculture concerning the effect of the report of that committee concerning this legislation. The bill we are considering on the floor today is, except for certain amendments made by the other body, the bill reported by our committee on December 6, 1985. Is it the chairman's understanding that the committee's report on this legislation, House Report 99-425, expresses the intent of Congress with respect to the provisions of the bill?

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. DE LA GARZA] to comment.

Mr. DE LA GARZA. Mr. Speaker, it is our intention that it so do.

Mr. STENHOLM. I thank the gentleman.

Mr. COLEMAN of Missouri. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that by utilizing the procedure we are following now that we would accept the Senate amendments and therefore avoid a conference that might bog this legislation down. As the gentleman from Illinois and the gentleman from Texas have both worked hard, with the gentleman from Tennessee [Mr. JONES] and myself, we certainly would want to avoid that situation and expedite this along the way to the President for his signature. Is that the procedure we are using here today, and to make sure that we pass this before we adjourn here this week?

Mr. MADIGAN. The unanimous-consent request of the gentleman from Texas is to agree to the Senate amendments to the House bill, which are supported by the Republican leadership, the Democratic leadership and the administration.

If the unanimous-consent request is granted, the bill goes directly to the President. We are hoping that he will approve it. We are hoping that the consequence of that will be a reduction in the interest rate being paid on bonds by the Farm Credit Administration.

Mr. COLEMAN of Missouri. I certainly join the gentleman in that regard, and I appreciate the gentleman's yielding to me.

Mr. MADIGAN. I thank the gentleman for all of his hard work.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Vermont [Mr. JEFFORDS].

□ 1350

Mr. JEFFORDS. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to point out as to why these colloquies are necessary in that the other body held no committee hearings on this bill, and it is important that we put into the RECORD our understanding on some of these critical issues.

Mr. Speaker, I would like to address my remarks to the distinguished chairman of the Agriculture Committee with respect to the interpretation of a change which was made in the bill by

the other body. As originally reported by our committee and passed by the full House of Representatives on December 6, section 5.12(d)(6) of the bill gave the FCA authority to establish standards for farm credit institutions with respect to loan security requirements and the borrowing repayment and transfer of funds and equities between institutions. The provision was amended in the Senate to include the authority to "regulate" these transfers of funds among system institutions. Sections 4.28(g) (14) and (15) of the bill also address the subject of the transfer of funds and administration of financial assistance to system institutions by the Capital Corporation. The provisions of these sections contain very important criteria that are intended to govern transfers of funds which may be required under the act. Regulations which the Farm Credit Administration is authorized to promulgate under these provisions must be consistent with these specific statutory criteria.

I believe that any exercise of the regulatory authority provided for in section 5.12(a)(6) as amended by the Senate must be strictly in accordance with the criteria so carefully crafted by our committee and passed upon now by both bodies of Congress. Is it also the chairman's understanding that the exercise of regulatory authority by the FCA relative to contributions to the Capital Corporation and the transfer of funds and equities among system institutions be consistent with the criteria set forth in sections 4.28(G) (14) and (15) and explained in the House Agriculture Committee report (99-425) to the legislation?

I yield to the gentleman for his response.

Mr. DE LA GARZA. I thank the gentleman for yielding. I would say to the gentleman, yes, I agree with the interpretation as enunciated by our distinguished colleague, and I would so attest that as far as being chairman of the committee, I would attest to the fact that this would be the legislative intent as far as our Chamber is concerned.

Mr. JEFFORDS. I would like to address my remarks to the distinguished chairman of the Agriculture Committee. With regard to the composition of the Board of Directors of the Capital Corporation, it is my understanding that two of the members should be elected from districts in which all three financial institutions—the Bank for Cooperatives, the Federal Land Bank and the Federal Intermediate Credit Bank—are net contributors to the Capital Corporation. Net contributors means that each institution as a whole contributes more funds to the Capital Corporation than it receives from that entity. This ensures that those districts which bear the greatest burden in assisting troubled institutions are appropriately represented on the Capital Corporation Board. I would point out that this was an important dialog, at least between the two bodies, and I would ask the chairman if his understanding is the same as mine.

I yield to the gentleman for his response.

Mr. DE LA GARZA. Yes, it is.

Mr. JEFFORDS. I thank the gentleman.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, I would just ask the chairman a quick question. In the House consideration of this bill, we agreed to an amendment which froze the salaries of executive officers of the Farm Credit System during the period of time that a Federal line of credit was in effect. As far as the chairman is aware, does that language remain in the bill, and that the Senate has approved and sent over here?

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield, yes, they are. Plus a further amendment that would make the salaries subject to FCA approval.

Mr. GLICKMAN. I thank the chairman.

Mr. MADIGAN. I thank the gentleman from Kansas and I yield to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. I thank the gentleman for yielding.

Mr. Speaker, it is not my intention to object to this unanimous-consent request. However, I do have, as you know, some reservations about the bill; not with the procedure calling for unanimous consent, but with the substance of the bill itself.

I would hope that the Treasury Department, before it exercises its legal right now to provide financial assistance, would call upon the full resources of the Farm Credit System first prior to resorting to the taxpayers' money. Further, I would hope that prior to submission to the Congress of an appropriations bill in order to implement this legislation if need be, that they would come forth with a plan that would require shared sacrifices on all those that would benefit from such Federal financial assistance, such as the shared sacrifices that were called for in the Chrysler Loan Guarantee legislation. Shared sacrifices from labor, management, the financial institutions with an interest in Chrysler, the stockholders, the workers, et cetera.

Mr. MADIGAN. I thank the gentleman for his comments and I now yield to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. I thank the gentleman for yielding to me.

If the chairman would respond to a question with regard to this measure, I would simply like to ask: When the measure left the House of Representatives there were two provisions, one prohibiting the Farm Credit Administration from providing a charter to a competing PCA or Federal land bank in a case in which the Production Credit Office or a Federal land bank voted against a merger. There was also protection in the bill to investigate any reports of threats, intimidation, any type of retaliation against voting for mergers in the recent elections.

I would ask if those provisions are still within the bill.

Mr. DE LA GARZA. If the gentleman will yield, yes, I am happy to report to the gentleman that his provision is still in the bill and additional language was added by Senators BOREN and MCCLURE.

Mr. ENGLISH. I thank the gentleman very much.

Mr. MADIGAN. Mr. Speaker, I support the unanimous-consent request, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. STANGELAND. Mr. Speaker, reserving the right to object, I will not object. I would like the attention of the chairman of the subcommittee and the chairman of the full committee for just a moment for a brief discussion and colloquy.

Mr. Speaker, let me just advise the Members of the body that I intend to support this motion and support passage of this bill. However, I am very concerned because this has been done, through necessity, in great haste. That is no reflection on the chairman of the committee or the chairman of the subcommittee. It had to be done.

I just want to remind the Members of the body that the Farm Credit Administration, the Farm Credit System, belongs to the farm borrowers. It was structured that way, they were the ones who controlled it, they were the ones who elected their board of directors, and they were the ones who hired their administrators.

For years this Congress has attempted to take control of the Farm Credit System, and with this bill, we are effectively doing that. I would like to engage in a brief discussion with the chairman and the chairman of the subcommittee for purposes of some legislative history. What I would urge and request of the two distinguished chairmen is that when we come back next year, in an atmosphere of more time and ability to pause and reflect on what we have done, that we contin-

ue to review and hold hearings on the Farm Credit System.

I would also request that at time that we maybe take some field trips so that we can hear from some of the leaders among the farm borrowers as to what they see as a future for the Farm Credit System.

This fix had to be done now; it had to be done in haste. I understand that. But I think we want to review and reflect on what we have done today and maybe next year, if we have made some errors, that we might want to look at some corrections.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Tennessee [Mr. JONES].

Mr. JONES of Tennessee. I thank the gentleman for yielding to me.

Mr. Speaker, let me say to the gentleman before I engage in the answer to the question that the gentleman has just given me, that we started hearings this year in March. We have held a number of days of hearings and we have had many detailed hearings.

I must insist that what has been done here has not been done in haste, because I have never seen a subcommittee spend as many hours, and staff as many hours on working and putting together a piece of legislation as they have this farm credit proposal that we have before the Members.

As far as next year's concern, the answer of course is yes. We expect to have an oversight over this proposal from here on out because it is going to be our duty to do so.

Mr. Speaker, as an original cosponsor of this legislation, and as one who stands behind it with my full support, I urge speedy adoption by the House.

The committee has worked diligently for nearly a year establishing an in-depth record of unquestioned need for this bill. We have operated in a completely open, bipartisan process, involving the Departments of Agriculture and the Treasury, the Farm Credit Administration, the Farm Credit System, commercial lenders, general farm organizations, and rural advocacy groups from throughout the country.

This bill is vitally important to our Nation's agriculture industry. It provides a number of tools critically needed by the Farm Credit System to enable it to survive the current—and as yet unyielding—depression in our farm economy. More importantly, however, by throwing a lifeline to the Farm Credit System we can help stave off the avalanche of farm foreclosures and an even more severe crash in farmland values which would inevitably result if the Farm Credit System were to fail to meet its legal obligations to its bond holders.

Again, I strongly urge adoption of this bill.

Mr. Speaker, because we are considering S. 1884 for final passage, I would like to clarify a number of issues for the record.

One issue of concern is the interpretation of section 201 of the bill as it amends section 5.16(a)(2) of the Farm Credit Act. This portion of the bill comes into play when one or more associations in a district rejects a proposed district wide merger of PCA's or FLBA's in that district.

We realize that some mergers have already taken place. It was never our intent that the language of the House amendment to S. 1884 serve to invalidate the disclosure upon which the merger-votes were based nor the actions of the farmer-stockholders who approved their association's participation in these districtwide mergers. The action of the Congress at this point in time regarding the merger and overchartering issue could not have been anticipated at the time the disclosures were made to stockholders.

The language of the bill before us simply means that FCA will not be authorized to issue a charter to a merger association which would include the territory served by those associations which did not approve the merger, with one exception, and that is in the case of any charters issued during 1985 for districtwide new or merged associations. The Senate amendment will permit overchartering in this latter situation provided that the board of directors of the association to be overchartered approves that action. Under no circumstances should this section be interpreted as invalidating a merger that was approved by the other associations whose territories comprise the balance of the district.

One further point regarding this section of the bill. At several points the language of this section refers to "a majority vote of the voting stockholders." Although this language differs from the traditional language of the statute on voting procedures, that being "a majority of the stockholders present and voting and voting by written proxy," it was not intended to change the election process or the level of majority required. The issue here is specifically whether the preceding provision conflicts with another section of the act which is not being amended. This section permits associations to voluntarily merge with other like associations upon the vote of a majority of each of their stockholders present and voting or voting by written proxy at duly authorized meetings. Again, it was not our intent to revise the existing voting procedure by which borrower-shareholders would approve such actions.

Another of the issues which must be clarified involves the new section 428I dealing with the limitation on the powers of the Capital Corporation. Of specific concern are the restrictions on the sale of real property which had secured a liquidated loan.

The restriction reads in part "Previous owners shall be advised of the pending sale and shall not be precluded from purchasing their former property." It is essential that these restrictions not be interpreted to require the Capital Corporation to conduct an extensive manhunt for the previous owner of property prior to the sale of any real property. The Capital Corporation should make a reasonable effort to notify the previous owner of property by at least writing to that owner at his last known address. Once a reasonable effort has been made, the requirements of this selection will be satisfied. Further, this provision should not be interpreted as giving the previous owner a preferential right to repurchase the property. It was never our intent, by way of this provision, to place a cloud over the title of property sold by the Corporation. Buyers of property from the Corporation should receive clear title and not have to worry that at some point in the future a previous owner would claim that he was never notified of the sale of his property and now has a right to reclaim it.

On the issue of financial reporting requirements by System institutions, specifically referred to in section 5.19(b), it is our intent that each institution of the Farm Credit System should make and publish an annual report of condition, but not preclude the Farm Credit Administration from accepting a consolidated report in lieu of hundreds of separate reports.

Finally the bill provides for a salary freeze for certain System officials. It was our intent, as was previously discussed on the House floor, that the salaries of certain System officials should be frozen only when Federal financial assistance is provided to the System and then only for those senior bank management officials—the CEO and those senior executive officers who report directly to the CEO. This restriction was not intended to apply to association personnel. The Senate amendment clarified the bill language originally approved by the House to conform to this position.

We believe that this is a reasonable position in that it will not discourage or demoralize current employees of Farm Credit banks, and should help ensure that the banks are able to attract competent, quality staff to work through this most difficult period. Most importantly, it will ensure that essential credit delivery services to farmers are not adversely affected.

This should clarify our intent on these issues.

□ 1400

I will be happy, indeed happy to go into any area of the country where we are needed or where we are wanted and do any type of a hearing that is

necessary as far as farm credit is concerned.

Mr. STANGELAND. Mr. Speaker, I thank the chairman of the subcommittee, and I just want to reiterate that my comments were not meant to reflect on the gentleman or his committee.

I know that you have done a yeoman job, but I think it is safe to say that while you started hearings in March, the Governor of the Farm Credit Administration would never ever admit to the seriousness of the problem until late September or early October. It was not the committee's fault, it was not your fault, it was their fault, and that is what forced you to act in haste. I apologize if the gentleman dislikes the word, "haste." I do not mean it as a reflection. But I do want it to be in the RECORD that there are some of us who are concerned about what we are doing and have done, and I want to be sure about this. I know you are a reasonable man and will come back and correct the things next year that can be corrected.

Mr. Speaker, I thank the gentleman very much.

Mr. JONES of Tennessee. Mr. Speaker, will the gentleman yield to me once more?

Mr. STANGELAND. I am more than happy to yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Speaker, I appreciate that very much.

I will say to the gentleman that I am aware of the fact we have had our problems with the farm credit group as much as anybody else because I was here for the 1970 update of the program, and then again in 1980, and history shows, especially in 1980, that we barely got a bill signed due to the fact that the Farm Credit Administration would not agree to what this subcommittee and what this Congress thought was right. They would not agree to it. They finally did succumb to what we wanted to do, and that is where we are today.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. STANGELAND. I am happy to yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman for yielding.

I appreciate this opportunity to make a brief statement on behalf of my constituents out in the Third District of Nebraska. They have more concern about farm credit than about any other issue at the present time, and they are going to have a far happier Christmas if we can get this bill sealed, signed, and delivered.

Let me say that the chairman of the subcommittee, the gentleman from Tennessee [Mr. JONES], the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], the gentleman from Illinois [Mr. MADIGAN], and the gentleman from Missouri [Mr. COLEMAN] have been great in the way they have worked so hard to bring this bill to the floor. I talked to the President by phone the other day, and he said he is eager to sign it. So again I thank my colleagues.

Mr. Speaker, I rise in support of this legislation designed to assist and reform the Farm Credit System.

As members of the 99th Congress, we need to take necessary action to pass farm credit legislation before Christmas adjournment.

This bill, S. 1884, is vital to American agriculture. Thousands of farm and ranch families will have a much merrier Christmas if they know that the farm credit bill has been signed, sealed, and delivered.

The quicker Congress acts on farm credit, the faster investors will gain confidence in the System, thereby lowering interest rates to hard-pressed borrowers.

Our President has agreed to sign this most important piece of legislation.

Last night, by unanimous approval, our other body approved this legislation. It is now up to us to keep the ball rolling for all of American agriculture.

This bill will do the following:

First, S. 1884 will stabilize the FCS, reducing the System's cost of funds in the money markets and thereby reducing interest rates to borrowers.

Second, this bill will require new protections for FCS member-borrowers through improved access to individual borrower information, loan appeal procedures, and foreclosure forbearance policies.

Third, this legislation is needed to help prevent continuing deterioration of land values across our country which would further exacerbate current problems.

Fourth, access to Treasury funds is allowed only when need is established, and is entirely discretionary with the Treasury Secretary.

Fifth, exhaustive congressional hearings by numerous committees have determined as immediate need for action—time is of the essence!

Sixth, the Senate has passed a companion bill, and the administration has voiced support for farm credit legislation.

Seventh, if the System should default on their bond issues, severe repercussions would be felt by commercial banks, savings and loan associations, credit unions, insurance companies, States and municipalities, pension funds, and individuals located throughout the United States.

Nebraska has been one of the hardest hit States when it comes to farm credit. All of us have read and heard countless statistics concerning this problem. But they bear repeating, for they drive home so well the seriousness of the disaster confronting us. The farm debt picture is vividly frightening:

Widespread occurrences of insolvency;

USDA data shows that one out of every three commercial farms is experiencing severe financial stress;

One of five commercial farms has a negative cash flow;

In Nebraska, our farmers are faced with the highest average debt-to-asset ratio of any State.

And we must keep in mind that since these figures were gathered, there has been a disastrous downslide in livestock and grain prices;

Cattle prices are at their lowest levels in 7 years;

Cattlemen in Nebraska and across the Nation are losing around $150 per head on fed cattle;

Wheat and corn prices are below many farmer's production costs;

Corn has sold for less than $2 for fall delivery in many Nebraska towns.

The downward pressure on prices has intensified as this year's harvest was brought in. The USDA forecasts bumper crops for 1985:

This includes a record-setting corn crop of 8.72 billion bushels or 221 metric tons;

Total feed grain production for 1985 that is expected to total 271 million metric tons, 35 million above last year.

Prices of many commodities have already plunged to their lowest levels since 1978, about 15 percent lower than 1984 levels. And with this economists are predicting a drop in farm income—to between $25 and $29 billion, down from an estimated $34.5 billion in 1984. Obviously, when this income shrinks, farmers cannot pay their obligations and face ruin. USDA estimates that about one in three commercial farmers cannot pay his bills.

Already 6.5 percent of the farmers in the 7-state region of the Kansas City Federal Reserve District (which includes Nebraska) went out of business between October 1984 and March of 1985. This is an annual rate of 13 percent. With about 57,000 farms left in Nebraska, this is 7,410 per year or 20.3 per day—nearly 1 per hour! This is the most liquidations since the 1930's. Charles Schroeder, director of Nebraska's Agriculture Department, has predicted that "10–15 percent—6,000 to 9,000—of Nebraska's farmers will be displaced by liquidation, bankruptcy, or foreclosure in the next 6 to 9 months.'"

Add to this the high value of the U.S. dollar, which has placed a prohibitive "tax" on our export commodities; the worst grasshopper infestation in decades; the most severe drought in parts of Nebraska in 80 years; the most State bank failures since the Great Depression (113 as of December 13, 1985, compared to 79 in all last year and 48 the year before); and the largest decline in land values in the history of the State (down over 48 percent).

The list of variables goes on and on. Yet these are only the cold, hard numbers—the facts and figures. There are other more disturbing realities of this urgent situation—the human drama that surrounds farm families when they are forced to leave agriculture—or try to hang on.

A self-sacrificing farm family comments. We are "depriving ourselves of most of life's offerings * * * to pay for those who

have failed. God only knows how we are trying. Everything we buy is high. Everything we sell we take what we can get."

A Nebraska farm wife observes her husband. I "looked across the table this noon and my husband's hands looked more like a piece of leather rather than skin. Has lost weight too, will be glad when this slaughter is over * * *."

And the excerpts of a letter I received from RaeJean Skalicky, a young girl from Verdigre, NE: "if it weren't for the food pantry in Verdigre we would have to sell out and move * * *. This is because the FDCI takes everyone's money and then gives them nothing to live on * * *."

These are the very people who have built the foundation of this great country of ours. Many of these families are the descendants of pioneer homesteaders who earned their land the hard way. They came to depend on the financial judgment and guidance of the FCS. We are now finding out that even the FCS has feet of clay.

This bill is essential to the future of agriculture and I ask my colleagues to vote for this bill.

Mr. STANGELAND. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas [Mr. DE LA GARZA]?

There was no objection.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRIES

Mr. HARTNETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HARTNETT. Mr. Speaker, I would beg the indulgence of the Chair. I would like to inquire parliamentarily and procedurally, what will be the parliamentary and procedural manner by which we will handle the continuing resolution if and when it should arrive here?

The SPEAKER pro tempore. The Chair will state to the gentleman in response to his question that there are no procedures in place at this time to consider that question. As soon as the Chair finds out the procedures, I could respond, but not at this time.

Mr. HARTNETT. Mr. Speaker, the reason for my procedural and parliamentary inquiry is that this Member understands that there has been some agreement made among the majority, among the leaders of the majority party, that there will be no recorded votes even if the continuing resolution is made available within the next few hours, that there will be no recorded votes by this body until tomorrow after 12 o'clock noon when the shuttle comes back from Florida. I just wondered whether or not the Chair was aware of that or whether the leadership would comment on that.

The SPEAKER pro tempore. The Chair is not aware of that at all. The Chair is not in a position to respond to that inquiry.

Mr. HARTNETT. Mr. Speaker, could I make a unanimous-consent request to make a request of the leader to vary from the schedule for the purpose of inquiring of the majority leader the balance of the day's schedule of legislation and the schedule perhaps for the balance of the week?

The SPEAKER pro tempore. There is no one here that the Chair sees to respond to that at this time.

Mr. HARTNETT. Mr. Speaker, I just wanted to make that unanimous-consent request to inquire of the leadership what the schedule for the balance of the week might be for legislation today and tomorrow. But there is no one here that would respond? Is that what the Chair said?

The SPEAKER pro tempore. The Chair will attempt to accommodate all Members as soon as the schedule is made available to myself.

Mr. HARTNETT. I thank the Chair.

Mr. Speaker, I would like to reserve the right to object, and I would like to ask the gentleman from Texas [Mr. DE LA GARZA] if he has any information as to what the legislation might be for the balance of the day and for tomorrow, if that is possible.

Mr. DE LA GARZA. Mr. Speaker, the gentleman kept looking at me when he mentioned "majority leader," and I regret to inform him that I am not the majority leader; I only deal in agriculture, and I know of no deals or no arrangements. I will be here with the gentleman when and if a vote is called.

Mr. HARTNETT. I thank the gentleman and I thank the Chair.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the adoption of the Senate amendments to the House amendment to the Senate bill, S. 1884.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPRESENTATIVE BILL NELSON IS FIRST HOUSE MEMBER TO ENGAGE IN A SPACE MISSION

(Mr. BONKER asked and was given permission to address the House for 1 minute.)

Mr. BONKER. Mr. Speaker, as we meet today one of our distinguished colleagues is at the Kennedy Space Center preparing for lift-off on board the space shuttle *Columbia*. I know all of us are proud and pleased that Representative BILL NELSON will be the first Member of the House of Representatives to be a crew member on a NASA space mission.

The *Columbia* space shuttle will be launched Thursday morning and will spend 5 days in outer space.

As chairman of the Subcommittee on Space Science and Applications with jurisdiction over this Nation's space programs and because he represents the 11th Congressional District of the State of Florida, which include the Kennedy Space Center, BILL NELSON is a unique choice for this mission. He is also in superb physical condition and has met the demands and rigorous training required of today's astronaut.

In flight, BILL will be learning firsthand how the Space Program operates and how the acquired knowledge will contribute to developing a permanent U.S. space station. He certainly will return better informed about our Space Program and better equipped to deal with his responsibilities as chairman of the subcommittee that oversees the Space Program.

To Representative BILL NELSON and his fellow astronauts on the space shuttle *Columbia*, we wish them a safe and successful journey.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL MIDNIGHT, JANUARY 10, 1986, TO FILE A PRIVILEGED REPORT

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight, January 10, 1986, to file a privileged report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. FRANKLIN. Mr. Speaker, reserving the right to object, I will not object; I simply wish to ask the chairman of the committee, has this been cleared with the minority?

Mr. FASCELL. Mr. Speaker, if the gentleman will yield, does the gentleman refer to the filing of the report?

Mr. FRANKLIN. Yes.

Mr. FASCELL. Yes; it was approved by the entire committee.

Mr. FRANKLIN. Mr. Speaker, I do not object.

Mr. FASCELL. Mr. Speaker, that is not as far as the date is concerned. I do not want the gentleman to misunderstand me. I have been directed by the Committee on Foreign Affairs by a vote of that committee to file this report, and that is what I am trying to do.

Mr. FRANKLIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

OPPOSING THE SOVIET UNION'S INVASION AND 6-YEAR OCCUPATION OF AFGHANISTAN

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 240) opposing the Soviet Union's invasion and 6-year occupation of Afghanistan against the national will of the Afghan people, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. SOLARZ] so he can explain to us what this resolution does.

Mr. SOLARZ. Mr. Speaker, I will be very brief.

This resolution has already been adopted by the other body. It condemns the Soviet Union for its invasion of Afghanistan as we approach on December 27, 1985, the sixth anniversary of that day which will truly live in infamy.

Over the course of the last 6 years, as a result of the Soviet invasion of Afghanistan, a quarter of the Afghan people have been driven into exile. Hundreds of thousands of Afghans have been killed. The Soviet Union's Army of occupation has engaged in the carpet bombing of the countryside and has waged war in the most cruel and barbarous fashion.

This resolution not only condemns the Soviet Union for its invasion and occupation of Afghanistan, but it also pays tribute to the heroism of the Afghan people in their just struggle against the occupation of their country by the Red army.

□ 1410

The resolution also takes note of the fact that the Soviet invasion of Afghanistan has repeatedly been condemned by the United Nations, the Nonaligned Movement, the European Parliament, the Islamic Conference, and the Association of Southeast Asian Nations.

It expresses the sense of the Congress that the United States should in addition to condemning the invasion of Afghanistan express its support for a negotiated political settlement of that conflict which would be based on the complete and total withdrawal of Soviet forces from that country and the restoration of the independence and nonaligned status of Afghanistan, the self-determination of the Afghan people and the return with honor of the Afghan refugees to their own nation.

I particularly want to pay tribute, Mr. Speaker, to my very good friend and colleague on the Foreign Affairs Committee, the gentleman from California [Mr. LAGOMARSINO] who has been waging a heroic struggle of his own to focus attention here in the Congress and around the country on the depredations of the Soviet Union in Afghanistan. It was particularly at his urging that I agreed to seek unanimous consent to consider this resolution today before the House adjourned for the year.

I know there are many other Members who share our views about the need to continue focusing attention on this problem lest we forget about the heroic struggle which continues to be waged at this very moment.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Joint Resolution 240. This resolution marks the sixth anniversary of the Soviet invasion and occupation of Afghanistan. More importantly it justly honors the forces of the Afghan people who have been valiantly opposing the Soviet aggression.

The Soviet invasion of Afghanistan and the Soviet refusal to withdraw—despite repeated urging that they do so—remain the most flagrant violations of international law. The Soviet Union refuses to accept reasonable political settlement, despite repeated condemnation by the Nonaligned Movement, the United Nations, and many other international organizations. Settlement is available through the United Nations. Yet, the Soviet Union has ignored opportunities to secure peace.

For 6 years now, the Afghan people have endured tremendous suffering. Noncombatants, women, and children, have not been spared. The most basic necessities of the civilian population—their crops and livestock—have been targets in the Soviet war against innocent people.

Particularly because of this human suffering, it is important that the world continue to oppose the Soviet war in Afghanistan. With this resolution, the United States will be clearly reminding the Soviet leadership of the firmness of the opposition of the American people to the Soviet actions.

I urge adoption of the resolution.

Mr. LAGOMARSINO. Mr. Speaker, I want to pay tribute to the chairman of the subcommittee, the gentleman from New York [Mr. SOLARZ] and the chairman of the full committee, the gentleman from Florida [Mr. FASCELL] for helping to bring this matter to the floor today. It did require asking for unanimous consent and I appreciate both gentlemen being willing to do that.

Mr. Speaker, once again we approach the Christmas season and, once again, we struggle to complete all the necessary and pending business of the Congress. Yet, in our rush to adjournment, we cannot and should not forget those for whom there is no peace; there is no joy; there is no solace. We cannot forget, especially, the brave and courageous people of Afghanistan.

It is for this reason that I, along with Senator HUMPHREY in the Senate, have introduced legislation to condemn the 6 years of aggression waged against the independent country and people of Afghanistan; to support continued aid for the Afghan population, both inside and outside Afghanistan; and to urge the expeditious conclusion of a negotiated settlement based on—

The complete withdrawal of all foreign troops;

Restoration of the independent and nonaligned status of Afghanistan;

Self-determination for the Afghan people; and

The return of the Afghan refugees with safety and honor.

Mr. Speaker, Senate Joint Resolution 240 is simple and straightforward. It seeks not only to condemn the Soviet Union, under Mikhail Gorbachev, for its brutal, illegal, and immoral subjugation of the Afghan people, but also to insure that the people and nations of the world know that this Congress still cares about the plight of the people and culture of Afghanistan.

Let me for a moment, Mr. Speaker, read from a recent Washington Post editorial, in part, the editorial entitled "Afghanistan: This Is Genocide," reads:

> Soviet troops with their Afghan clients have driven 4 million people out of the country and perhaps another 2 million out of their homes. Massively and indiscriminately, they bomb civilians—they bomb funerals. They destroy villages, crops and agricultural facilities. For the children, they drop cute, limb-shattering booby traps disguised as harmonicas and birds. Torture [according to the recent United Nations-sponsored "Ermacora Report" on human rights inside Afghanistan] is "commonplace" and the operation of the judicial system "creates an atmosphere of insecurity and anguish." "There is apparently no health care for the majority of the population. As a consequence, the infant mortality rate has reached 300 and 400 per 1,000." Civilian deaths number "approximately 500,000."

Furthermore, Mr. Speaker, the editorial states:

> When half the population is uprooted and a third driven into exile, when infant mortality reaches plague levels, when half a million civilians die and uncounted millions of others are maimed and malnourished, when, as Professor Ermacora reports, the situation is getting worse, all this moves Soviet conduct well beyond what is ordinarily called "human rights violations." The word that comes to mind when one reads this report is genocide.

I also will enclose a New York Times editorial entitled "Soviet Toys of Death."

Mr. Speaker, there can be no denying that a genocide is truly underway today in the Afghanistan. The Soviets have planned it that way, just as they planned the forced famine of the Ukraine in the early 1930's. How can we do anything but condemn this blatant and savage attack on, as the U.S. Ambassador to the United Nations, Vernon Walters, says, "everything Afghan"?

Mr. Speaker, the resolution before the House today must be approved, in order to send a very clear and very strong statement to the Soviet Union, and to the rest of the world. That message reads simply: We refuse to accept that the Afghan nation has been conquered, we refuse to allow the plight of Afghanistan to fade from memory; we refuse to accept the illegal and immoral occupation of that south Asian nation; in essence, we refuse to let Afghanistan die.

Very rarely in the course of human events does one confront such a tragedy as the invasion and continued occupation of Afghanistan. The evidence in this case is clear cut and available to the world, despite the fact that the Soviets continue to try to hide their crimes against the Afghans from the rest of humanity. The events unfolding in Afghanistan are probably the greatest threat to world order today.

And, Soviet imperialism, Mr. Speaker, is the greatest danger to world peace. All we need to do is to look at the events unfolding in Afghanistan. Despite their historical claims to the future of mankind, there is Afghanistan. Despite their continued professions of peaceful intentions, there is Afghanistan. Despite their statements that it is the United States which is responsible for the "dangerous world situation," there is Afghanistan. Despite their claims of the need for a world alliance against "western imperialism," there is Afghanistan.

Mr. Speaker, I cannot help but be moved by the reports I read emanating from the refugee camps along the Pakistan-Afghan border region. I am certain that most of my colleagues are also moved by such tragic events. For further information on this crucial foreign policy and humanitarian matter. I call to the attention of my colleagues the work of the Congressional Task Force on Afghanistan, which I cochair, as well as the recent report in the United Nations on human rights abuses in Afghanistan by a dedicated international civil servant, Prof. Felix Ermacora—who the Soviets, incidentally, now call a Nazi. There is certainly no lack of solid information on the tragic plight of the Afghan nation if one is interested in discovering the truth about the Soviets barbarous policies there.

In sum, Mr. Speaker, I urge my colleagues to review the facts about Afghanistan. They will undoubtedly come to the conclusion I reached: There is a brutal war under there, claiming millions of innocent victims, and destroying what was once a peaceful and harmonious balance between tribal customs, rugged mountainous terrain and Islamic faith. Clearly, the global ambitions of the Soviet Union has destroyed that delicate balance, Mr. Speaker. It is up to us to condemn the Soviets for this. The people of Afghanistan and the world demand nothing less.

I appreciate the support of the cosponsors of this important resolution, and urge the adoption of House Joint Resolution 469. Thank you, Mr. Speaker.

[From the New York Times, Dec. 10, 1985]

SOVIET TOYS OF DEATH

A powerful antiwar poster that Americans saw everywhere in 1970 showed bodies heaped in the Vietnamese village of My Lai. The caption was terse, taken from an inquiry into that massacre perpetrated by Americans: "Q. And babies? A. And babies."

No such posters draw attention to the ghastly, deliberate crippling of children by Soviet invaders in Afghanistan. Indeed, having grown skeptical of Presidential anecdotes, some Americans may wonder if Ronald Reagan was talking through his evil-empire hat when the accused Russians of sowing insurgent areas with bombs disguised as toys. The evidence isn't anecdotal. The evil is real.

It lies exposed in a report to the United Nations Commission on Human Rights. This inquiry, the first ever by the U.N. into abuses charged against a Communist state, seems to have been scrupulously conducted by an Austrian legal expert, Felix Ermacora. Barred from Afghanistan, he gathered incontrovertible testimony of the slaughter of civilians from Afghans who fled to Pakistan.

The report asserts: "The most horrible type of incident was that caused by the explosion of antipersonnel mines and especially of children's 'toys.' Many witnesses testified that children had been very seriously wounded, having their hands or feet blown off, either by handling booby-trap toys they had picked up along the roadway, or by stepping on them. . . .

"The types of booby-trap toys encountered include those resembling pens, harmonicas, radios or matchboxes, and little bombs shaped like a bird. This type of bomb, consisting of two wings, one flexible and the other rigid, in the shape and colors of a bird, explodes when the flexibile wing is touched.

"The Special Rapporteur was also able to obtain a number of photographs, especially those of children between 8 and 15 years of age, with hands or legs blown off, either by handling booby-trap toys or during the explosion of mines."

To the generalized horror of a war that has claimed 500,000 lives since 1979, there is thus added the special horror of toys of death. No wonder the Soviet bloc tries to defame the messenger. It contends that Mr. Ermacora is pro-Nazi because he served Hitler's army, as a private. Tellingly, the Soviet Union found nothing wrong with his credentials when he presented reports about human rights abuses in Chile and South Africa.

The issue isn't Mr. Ermacora, but the validity of his charges. If they are false or exaggerated, why not open Afghanistan to independent observers? As long as this dirty war is sealed from sight, someone should photograph those maimed youngsters and plaster posters everywhere, with the caption: "Q. And children? A. Yes, especially children."

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding. I want to join the gentleman in his remarks.

The gentleman from California [Mr. LAGOMARSINO] has been a leader in the Congress in focusing attention on this brutal invasion and occupation of Afghanistan by the Soviet Union.

I want to commend our distinguished subcommittee chairman, the gentleman from New York [Mr. SOLARZ] for helping to bring this measure to the floor at this time.

When we talk with the Soviets about human rights, they say they have a different definition of human rights than we do and they continually remind us of our homeless, our blacks, and our Indians.

I think it is appropriate that we remind them with regard to human rights violations of the manner in which they are violating millions of people in Afghanistan, forcing them to leave their homes, to flee to Pakistan.

Along with the gentleman from California [Mr. LAGOMARSINO], our delegation visited some of those refugee camps in Pakistan and saw the millions of people who are living in tragic circumstances because of the war and bloodshed that continually is inflicted upon them in their homeland.

I hope that eventually we will see a peaceful negotiation of this occupation by the Soviet Union, this ruthless occupation. Certainly this resolution helps to focus our attention on the need to do just that and to continue to assist those refugees.

Mr. Speaker, I urge my colleagues to support the measure.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I thank the gentleman for yielding me this time.

I simply rise to express my strong support for this resolution. As someone who has lived and worked in two adjacent countries of Afghanistan and who knows the frontier region quite well, I want to express myself strongly for this measure.

Mr. Speaker, I rise today in support of this important legislation opposing the Soviet invasion of Afghanistan. For 6 long years, the Soviets and the puppet government of Babrak Karmal have been waging a brutal, bloody, and senseless war of attri-

tion against the Afghan people. The United Nations has repeatedly condemned the Soviet presence and called for the complete removal of all Soviet troops from Afghanistan. But in an all too-familiar a pattern, the Soviets turn a deaf ear to world outcry.

Some years ago, I worked in two countries adjacant to Afghanistan, Pakistan and Iran, and feel strongly on this subject. The continuing tragedy of Afghanistan has deeply affected Pakistan in particular hundreds of thousands of refugees have fled to that country. Millions of other Afghans have been displaced within their own country.

The United States must continue to press for a withdrawal of Soviet troops. Yet, we must also realize that the Soviets need an incentive to settle the problems of Afghanistan. Until that happens, the United States should continue to supply much-needed military equipment and supplies to the mujahidin freedom fighters.

This struggle goes on, and even the most optimistic observers acknowledge that there is no end in sight. Thousands of Afghans have been killed, hundreds of villages burned or totally devastated by Soviet "carpet bombing."

Thousands of Afghan children have been sent to the Soviet Union for "schooling and brain washing." Perhaps this is the most tragic consequence of the Soviet invasion, because even when the Soviets eventually pull out of Afghanistan, it will have set the stage for future subversion, tyranny and control.

We must do everything possible to press for a negotiated settlement now so as to avoid the complete destruction of another freedom loving and once independent nation.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I just want to point out that it has been almost 6 years, next week it will be 6 years since the Soviets invaded Afghanistan. That genocidal war has gone on long enough. I think it is entirely appropriate that we continue to focus attention on it.

Mr. RUDD. Mr. Speaker, today, we are considering House Joint Resolution 469—opposing the Soviet Union's invasion of Afghanistan and the 6-year occupation. This is a commemorative of sorts, although a grisly one. It marks Soviet oppression in its most vile form. Where besides the filling, thousands of children are sent to the Soviet Union for reeducation. The children's ties with their culture and their families are severed. Then they are later returned to spy on their former loved ones, those still alive.

Afghanistan is also the country where the Soviets practice and experiment with chemical weapons. People die horrible and agonizing deaths just to satisfy a few scientists in the Soviet Union's quest to wage effective chemical warfare. No wonder 25 percent of the population has fled the country. But fleeing terror is customary when Communists take power. But the Soviets underestimated the strength and the spirit of the Afghani people. They had thought that by replacing one puppet with another they might win the confidence of the people. They had thought that an ill-armed and disorganized resistance would not be able to stand against their mighty array. They had expected the Afghans to build a minaret to the memory of 100,000 armed guests.

But nothing of that sort happened. They were faced with bullets. Many of the ordinary soldiers were surprised to find that the Afghans had turned to shooting at them—a clear breach of the Afghan tradition of hospitality.

I say to the Soviet apologists of this world that they suffer from historical ignorance and moral blindness. They have not shouted the plight of the Afghans from the rooftops. And the only way the free peoples of Afghanistan will survive is through our help.

The whole problem in Afghanistan is the presence of Soviet troops. All the other problems take root from that one central difficulty. Therefore, any solution to this problem must include total withdrawal of the Soviet forces from Afghanistan.

How do we achieve this? The answer is both aid and negotiation. We must supply enough aid to the freedom fighters to make it in the best interest of the Soviets to negotiate, and if there were no resistance in Afghanistan, then the world would soon forget their cause—as they have done in other places.

This resolution we are considering today, accomplishes these goals. It calls for continued aid to the Afghan population and it urges a political settlement based on the withdrawal of Soviet troops. I commend this legislation to my colleagues. Thank you, Mr. Speaker.

Mr. BROOMFIELD. Mr. Speaker, on December 27, 1979, the Soviet Union launched its brutal invasion of Afghanistan. Since that day, the Soviets have sought to consolidate their control over the country with a repressive and ruthless occupation force. As a result, over one-fourth of the prewar population has fled the country and now constitutes the largest refugee population in the world. The Soviets and their puppet regime in Kabul have stepped up their military campaign against civilians in an apparent attempt to depopulate the country.

The Soviet invasion of Afghanistan and the continued murderous occupation of that country has been repeatedly condemned by the Non-Aligned Movement, the United Nations, and European Parliament, the Islamic Conference Organization, and the Association of Southeast Asian Nations. This important resolution expresses congressional condemnation of 6 years of Soviet aggression in Afghanistan, urges continued aid to Afghans both inside and outside the borders of their native land, and urges expeditious conclusion of a negotiated political settlement in that country which would ensure self-determination for the Afghan people.

I want to commend the gentleman from California [Mr. LAGOMARSINO] for sponsoring this legislation in the House and I urge my colleagues to give it their full support.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York [Mr. SOLARZ]?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 240

Whereas December 27, 1985, will mark six years since the Soviet Union invaded the independent nation of Afghanistan;

Whereas, as a result of said invasion, over one-fourth of the prewar population has fled the country and now constitutes the largest refugee population in the world;

Whereas Soviet and Kabul regime forces have stepped up their military campaign against the civilian population, including attacks on Pakistan's territory;

Whereas Afghan freedom fighters have frustrated all Soviet attempts to suppress them and withstood unrelenting attacks by Soviet forces with unmatched courage and sacrifice and with high morale; and

Whereas the Soviet invasion and repression of the Afghan nation and people has been repeatedly condemned by the Nonaligned Movement, the United Nations, the European Parliament, the Islamic Conference Organization, and the Association of Southeast Asian Nations; Now, therefore, be it

Resolved by the Senate and House of Representatives of the Unted States of America in Congress assembled, That the Senate of the United States of America—

(1) condemns the six years of aggression waged against the independent country and people of Afghanistan;

(2) urges expeditious conclusion of a negotiated political settlement based on—

(A) the complete withdrawal of all foreign troops;

(B) restoration of the independent and nonaligned status of Afghanistan;

(C) self-determination for the Afghan people; and

(D) the return of the Afghan refugees with safety and honor.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: In the resolved clause, following the words "Congress assembled, That", delete the words "the Senate of".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. SOLARZ].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 187

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent from the immediate consideration of the concurrent resolution (H. Con. Res. 262) correcting the enrollment of House Joint Resolution 187.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I have discussed this matter with the gentleman. It is a necessary and technical change, and I hope it is approved.

I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding.

The Senate is holding up the enrollment of House Joint Resolution 187 until this correction is made in order that when the resolution goes to the White House it will be technically correct in every respect. This is a minor omission that occurred during the final markup of the legislation.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 262

In enrolling the joint resolution (H.J. Res. 187) to approve the "Compact of Free Association" and for other purposes, the enrolling clerk is directed to make the following change:

In the second sentence of subsection (l) of section: 106, after the words" Fish and Wildlife Service" insert "the National Marine Fisheries Service,".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

IF THE REPUBLICAN COMMITTEE IS SERIOUS, HERE IS A GOLDEN OPPORTUNITY FOR DISCLOSURE

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. ST GERMAIN. Mr. Speaker, the National Republican Congressional Committee claims to be beating a hasty retreat from its expensive media campaign to promote the release of income tax returns.

Faced with my bill, H.R. 3935, which would put their announced disclosure program into law, the National Republican Congressional Committee now says that there are questions about the "tax problems" of only one of the House's 435 Members.

With the presumed sanctity of IRS records, the statement of NRCC official, Russ Schriefer, is indeed interesting. Mr. Schriefer has either pierced the confidentiality of the IRS, or he is a visionary.

□ 1425

For the information of the National Republican Congressional Committee, I have a signed statement that I now offer and publish in the CONGRESSIONAL RECORD from my tax accountant, who confirms that my returns are not being audited or questioned for the years 1979 through 1984 except for the issue of one deduction that I have long since publicly disclosed.

Now all stout-hearted Republican Members of the House and Senate who march to the tune of their National Republican Congressional Committee must do two things, cosponsor my disclosure things, put their taxes in the RECORD—when you do I will—as a result of a legislative action of the Congress, and publish in the CONGRESSIONAL RECORD a statement from their tax accountants about the status of their returns, the returns of the Republican Members of Congress, for 1979 through 1984, to prove they are not being audited or questioned.

The voters of Rhode Island, the target of the NRCC media blitz about income tax returns, will be watching with interest.

The statement referred to follows:

MEMORANDUM FROM KAPLAN, MORAN & ASSOCIATES, LTD., CERTIFIED PUBLIC ACCOUNTANTS, PROVIDENCE, RI

To: Congressman F. St Germain.
From: Richard A. Kaplan, CPA, JD.
Date: November 25, 1985.
Subj: Summary of Investment in Coal Partnerships.

During the period 1978–1981, when the world-wide oil shortage reached serious proportions, coal was being promoted as an alternative source of energy. In this environment, many partnerships were organized and promoted to acquire or lease property for the mining of coal. You, along with hundreds of others, were solicited for and invested in such partnerships organized by Swanton Corporation. Thousands of other individuals invested in similar partnerships organized by other syndicators.

Traditionally, partnerships in the business of developing energy resources are structured to utilize tax incentives established to attract investment into this high-risk field. The development, mining, and sale of coal resources, like oil and gas, is a business that requires substantial risk capital. Generally, investors in this field are provided with significant tax deductions in the initial years (during the development period) and are subject to the payment of income taxes in later years, if and when the development operations produce oil, gas, or coal saleable at competitive prices.

As we all know, the energy crisis has eased and gas prices have fallen; accordingly, the market for coal has not materialized as expected. As a result, the partnerships in which you invested have not been successful and have developed serious financial difficulties. Consequently, the partnerships and the developer, Swanton Corporation, have been petitioned into bankruptcy.

In addition, the IRS has audited the tax returns of the partnerships and is claiming that certain deductions reported to the partners were not allowable. The partnerships have engaged tax counsel to represent them and protests have been filed with the IRS. Settlements are being discussed between the IRS and tax counsel; however, because the issues are extremely technical, at this time it is not possible to determine the outcome.

If the IRS prevails with its claims, the partners will be liable for prior years' income taxes and related interest.

Your tax returns have been prepared accurately, and in accordance with the instructions submitted to you by the partnerships' accountants. As a limited partner, you had no control over the recordkeeping or tax accounting for the partnerships; and, as required by IRS rules, we included on your returns the tax information reported to you by the partnerships on Form K-1.

These K-1 forms were prepared by independent CPA's engaged by the general partners and were relied upon by you and us to be in compliance with existing tax law, and supported by the tax opinions issued by the partnerships' legal counsel.

Your last acquisition of an interest in a coal partnership was in 1981, a year before the IRS notified you and the other partners that they were questioning the tax deductions.

Your tax returns are not being audited or questioned, except for the deductions related to the coal partnerships.

If I can be of further assistance with this matter, please let me know.

RICHARD KAPLAN.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests and special orders at this time, after which the House will recess and return later to conduct regular business.

NOT A PENNY FOR HOUSING THE HOMELESS

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Pennsylvania is a member of our Committee on Banking, Finance and Urban Affairs, I would like to state that it has come to my attention that the

other body has placed in the continuing resolution some special legislation for special people. There is a Member of the other body who, in 1983, fought tooth and nail to prevent a housing bill from being adopted in the Congress.

Again this year, Members will recall we put our housing bill into reconciliation. Once again, the same individual Member of the other body is saying, "No, no, no. He is using parliamentary chicanery to deny the people of this Nation safe, decent, sanitary housing."

The SPEAKER pro tempore. The gentleman should not refer to the other body and he is skirting very closely on offensive language.

Mr. ST GERMAIN. We shall not skirt offensively. We were just thinking of the homeless of this Nation, the people who are being evicted from buildings built with tax dollars for the profits of developers.

I am told that in that particular piece of legislation, the continuing resolution, will be over $1 billion for a project for synfuels. A billion dollars for synfuels is fine, is it not? But not one penny for the homeless. I think that is a tragedy.

FORTHCOMING TRIBUTE TO PETER RODINO

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to advise my House colleagues that some time this afternoon, as soon as possible, we will be paying tribute to our great friend and colleague, the gentleman from New Jersey, Mr. PETER RODINO.

A TRIBUTE TO THE HONORABLE PETER W. RODINO, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. RANGEL] is recognized for 60 minutes.

Mr. RANGEL. Mr. Speaker, this is the 20th anniversary year of what may be our Nation's most significant civil rights law, the Voting Rights Act of 1965. More than any other piece of legislation, the Voting Rights Act symbolizes this Nation's commitment to include the excluded and give voice to the voiceless.

But laws, commitments, and ideals do not come about on their own—they are nurtured by legislators and inspired by leaders. For this reason, as we conclude the 20th anniversary year of this momentous legislation, it is only fitting that we pay tribute to a particular legislator and leader. This is a man who—more than anyone else—has spent his career shepherding virtually every civil rights bill through Congress and thus breathing equality and justice into the laws of this Nation. Mr. Speaker, I am referring to my good friend and distinguished colleague, PETER W. RODINO.

Twenty years ago, when the ink dried on the Voting Rights Act and it became law, it seemed—to borrow a phrase from Martin Luther King—that we had reached the mountaintop and were in sight of the promised land. At the time we thought that the uphill battles were behind us. We now know, however, that there are many peaks and valleys to cross.

But at each step in the struggle for social justice, PETER RODINO has been there. When hard work had to be done, PETER RODINO did it. When principle needed an advocate, PETER RODINO spoke it. For PETER RODINO, it is not the popularity of a cause that counts—it is the principle.

These days our task is more difficult. We are faced with an administration that offers tax breaks to segregated schools and tried to gut effective affirmative action programs. But one thing is reassuring: We can count on PETER RODINO to fight for justice. As chairman of the Judiciary Committee, PETER has said over and over that he will not tolerate any attempts to turn back the clock on civil rights. And his word is as good as his deed.

In the dark days of the last 5 years, PETER RODINO has been a guiding light. He led the fight to extend the Voting Rights Act. He was an original sponsor of the Martin Luther King holiday bill. He is working to prevent tax dollars from going to institutions that discriminate. He has stood up for jobs and housing, fought cuts in education, and stymied administration attempts to eliminate affirmative action and legal services for the poor. He is, in short, a watchdog and champion of the people.

PETER's commitment to social justice dates back long before it became a popular cause. By the time the Supreme Court struck down "separate but equal" In the landmark Brown against Board of Education case in 1954, PETER RODINO was already on record opposing that dehumanizing doctrine. In 1949—his first term in Congress—he voted to integrate the Women's Auxiliary of the Coast Guard. The following term he battled a bill that would have authorized the building of a segregated veterans' hospital.

A member of the Judiciary Committee since 1950, he fought injustice early and effectively. He was instrumental in gaining passage of every major civil rights bill—in 1957, 1960, 1964, 1965, 1966, and 1968—drafting key provisions and managing them on the floor of the House. His leadership is tested and true.

For PETER, civil rights is not just a legislative struggle. It is a human struggle. He is sensitive to the way dignity has been denied, and the way it needs to be restored—which is what he did when he joined with me in helping to obtain a Federal charter for the all-black 369th Infantry Veterans Association, whose service to this Nation had all too long been ignored.

Over the years I have worked closely with PETER on the Select Committee on Narcotics Abuse and Control. It pains him to see young people on the outs, trapped and broken by drugs, and he is determined to change it. His reason is simple: opportunities should be opened, not closed—everyone, regardless of race, creed, or station in life, deserves an equal chance. No one should be excluded, for any reason.

For PETER, that is the essence of American life. It is why he has dedicated his career to civil rights and social justice. It is why his record reads like a testament to the promise of equality and fairness as inscribed in our Constitution.

I am proud to be a colleague and friend of PETER W. RODINO—a man of integrity and vision, and a leader among peers. As for the hopes crystallized 20 years ago by the Voting Rights Act—because of PETER RODINO, I know they will be protected and fulfilled.

□ 1435

Mr. Speaker, I yield to the gentleman from California [Mr. EDWARDS] one of the outstanding civil rights advocates and chairman of the subcommittee that involves itself with the protection of our Constitution on the Judiciary Committee.

Mr. EDWARDS of California. Mr. Speaker, I'm pleased that the gentleman from New York [Mr. RANGEL] has arranged this opportunity for us to talk about our dear friend, and my chairman and leader, PETER RODINO.

It's going on a quarter of a century that I've had the privilege of having PETER as a close friend and fellow member of the Committee on the Judiciary.

I became a member of the Judiciary Committee in mid-1963. Emmanuel Celler was the chairman, and a fine one, and PETER RODINO was the No. 2 Democrat. This was the beginning of the era of the civil rights battles, so beautifully referred to by my friend, the gentleman from New York [Mr. RANGEL] when the United States finally discovered its conscience with regard to the 10th of our population which is black.

Chairman Celler needed a lot of help in those years. Fortunately in 1963 John F. Kennedy was President only to be cruelly assassinated in November of that year. But the seeds had been sown, and in 1964 the omnibus civil rights law was enacted, authorized chiefly by Chairman Celler and Congressman RODINO, his right hand, and

supported enthusiastically by President Lyndon Johnson.

This landmark 1964 civil rights bill was followed by others in that proud period of American history, and PETER RODINO was the key leader in each and every one, even more so when he became Judiciary chairman in January 1973.

This steady devotion to civil rights and to fair play continues to this day. If anything, the flame burns brighter. I know this because I chair the Judiciary subcommittee that handles civil rights matters, and never, I repeat, never, have I not had the enthusiastic support of my chairman when action to protect civil rights was needed.

Mr. Speaker, the many millions of Americans who are minorities, whether black, Hispanic, disabled, handicapped, or old, have found their champion in PETER RODINO. They trust him because he is trustworthy. He is always there when he sees discrimination or unfair treatment. His door is always open to the most lowly person, not only to the rich and famous.

I was also privileged to be a member of the Judiciary Committee chaired by PETER RODINO during the impeachment proceedings relating to President Nixon. If there was any time in PETER'S career which might be described as his finest hour, it was surely then, because it was he who was totally responsible for directing this awesome proceeding, as referred to by the gentleman from New York, one that dealt with the very foundations of our American civilization.

The history books of the Nixon impeachment inquiry have been written. The books are remarkable and unique because there is nothing in them that is not in praise of Chairman RODINO. Nothing, Mr. Speaker, not one word of criticism. There was no moment in history when the House of Representatives did not stand higher in the affection and esteem of America and the world.

For example, it was generally understood that the impeachment inquiry would be in the nature of a grand jury considering an indictment, in which case President Nixon would not be entitled to have his lawyer always present and authorized to cross-examine the witnesses.

Well, Mr. RODINO said, "No, this is not a grand jury proceeding. President Nixon should of course have an attorney present at all times, with the right to cross-examine the witnesses."

So that's the way the inquiry was established. James St. Clair was Nixon's attorney, and due process was guaranteed to the President.

My experience in the impeachment inquiry, Mr. Speaker, was typical of every relationship I have had with PETER RODINO.

I don't know how old PETER RODINO is. By my standards he is still very young. He still hears the call to battle for justice with vigor and eagerness. Each year he seems more anxious and more skillful in meeting the challenges of injustice and inequality.

Mr. RANGEL. I thank the gentleman from California. He certainly has the credentials that make him a leader in the civil rights family.

Mr. Speaker, I yield to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Speaker, I thank the gentleman from New York for allowing me to participate in this great, great expresssion of our gratitude to a great American. And let me say to the gentleman from New York that today he has done another great thing, as he does every day, and I really appreciate it.

Let me say to the gentleman also that as chairman of the Congressional Black Caucus, not officially speaking here today, but as chairman of the Congressional Black Caucus, I know that our Members would like to express themselves in this matter of honoring this great American who has done so much in the cause of helping not only black people, but people of ethnic minorities everywhere.

Mr. Speaker, on this the 20th anniversary year of the Voting Rights Act of 1965, I would like to pay tribute to a colleague who—as a legislator and leader—has singularly exemplified the democratic spirit of that law.

The Voting Rights Act was the legislative culmination of the civil rights movement. By guaranteeing the right to vote, it gave substance to the constitutional compact that "we the people"—all the people—do indeed make up this Government.

However, until this act was signed into law, this constitutional compact—so central to our democratic system of government—had all too long been denied. But fortunately, there were a few brave souls—early on—who had the courage and determination to challenge injustice and make this compact a reality. I am here today to honor one of them—my good friend and colleague, the distinguished chairman of the Judiciary Committee, PETER W. RODINO.

"We the people"—the social compact of our Constitution—has long been a guiding principle for PETER W. RODINO. He has always believed in a generous government, an inclusive government, one that does not turn a cold shoulder to the cries for help from its citizens. When one American suffers, PETER W. RODINO feels the pain. For him, a community is much greater than a collection of individuals—it is the vigorous pursuit of the common good for everyone.

For the poor and hungry, PETER W. RODINO protects programs to restore dignity.

For minorities, PETER W. RODINO champions laws to ensure equal and adequate opportunities.

For the urban dweller, he battles drugs and crime with tough-minded legislation.

For all Americans, he promotes laws to aid education, the elderly, consumers, and taxpayers.

The bottom line in his philosophy of government is really a circle—one large enough to ensure that every American from every background has an opportunity to participate in the advantages of our society.

Today, with an administration in power which seeks to overturn 25 years of civil rights progress, PETER RODINO is in the trenches fighting to ensure that our government not forget the have-nots of our society. It is a difficult struggle—against those elusive and powerful forces of apathy, indifference, and insensitivity—but PETER is there, working hard, building coalitions with likeminded colleagues.

As chairman of the Judiciary Committee, he has fought proposals to erode our antidiscrimination laws, blocked attempts to limit the power of the Federal courts, preserved legal aid for the poor, and extended the Voting Rights Act.

As a defender of the have-nots, he supports jobs for young people, security for the elderly, housing for the dispossessed, and benefits for veterans. His commitment to civil rights is profound and real, and he expects no less from the government—which is why he pushed so hard for the Martin Luther King holiday bill, as an expression of that national commitment.

But then again, as the son of an Italian immigrant, he knows what it's like to be outside the mainstream. We must remember that there were laws on the books for much of this century which set national quotas for immigration to America—all based on ethnic origin. These laws were aimed at keeping out Italians, Jews, Slavs, and the many peoples of Eastern Europe. And they stayed on the books—until PETER RODINO changed that, with the passage of the immigration reform law of 1965, which he singlehandedly guided through Congress. For him, America is synonymous with opportunity for all—and he is determined to see that prejudice of any kind will never again be an obstacle to individual advancement.

If, as Thomas Jefferson said, eternal vigilance is the price of liberty, we are fortunate to have PETER RODINO as our guardian of the Constitution. Because when the Constitution says "We the people," PETER RODINO will do everything to ensure that the true meaning of that expression is fulfilled.

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Mr. RANGEL. I thank the gentleman from Texas [Mr. LELAND] who has

said so eloquently what so many Americans wish that they would have the opportunity to say in this august House.

I yield to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding, and I first want to commend the gentleman for taking this opportunity, and giving us all the opportunity to speak about the achievements on behalf of the American people by our distinguished chairman of the committee on the Judiciary, PETER RODINO, and to celebrate and to renew our commitment to the Voting Rights Act; 20 years in service to making America's promise real rather than imagined for many who have suffered discrimination in our history.

I want to associate myself with the remarks of the gentleman from Texas [Mr. LELAND]. I think his remarks were eloquent and really gave a unifying theme to what we all believe about PETER RODINO which is, he treats the words of the Constitution as a promise to be realized, not a promise to be deferred or ignored.

He ties that together as the chairman of our Judiciary Committee. I am honored to be a member of that committee. I have served on that committee for the 3 years that I have been in the Congress, and it was a special thrill, as a new Member of Congress, to have the opportunity to serve under PETER RODINO on his committee.

He has distinguished himself throughout his career in the House, and his name is synonymous with notions of fairness, fair play, opportunity, fighting against discrimination, and opening up our country to those who would like to come and share in its promise and help to build that promise for the future.

In my district, he is known as Mr. Immigration. He is known as the person that we all know who fought to abolish the quota system; to do away with ethnic discrimination in our immigration laws, and to allow the idea of coming to America to be much more fully realized around the world.

It is a record that all of us hope, in our service in the House, we could have just one small part of in looking back over our careers. Here is a man who has been in the forefront of civil rights, in the forefront of immigration, who stood tall for the Constitution and the impeachment inquiry in the early seventies; who was always thought of as the bulwark of constitutional rights, willing to take an unpopular stand if necessary to see to it that constitutional rights of people, no matter how unpopular, no matter how controversial, will be respected.

That is what has made this country great, the ideas and the ideals that PETER RODINO makes a part of his work day every day, he is someone that we all look up to and the American people should honor and be thankful for, and I thank the gentleman from New York [Mr. RANGEL] for the opportunity to participate.

Mr. RANGEL. I thank the gentleman from Connecticut, and I know exactly what he is talking about when he says he spent his freshman years starting off on the Judiciary Committee, because all of my adult life in politics I knew of PETER RODINO, and never even dreamed that I would have the opportunity to come here and to be working with him as a Member of this Congress; and then to serve on that committee at a time where his mere presence there gives so much hope to people that cannot possibly come to Congress, but those who are looking for citizenship, those who are seeking to rid our streets of drugs and certainly those who thought that the Nation was in far more serious trouble before he was able to steer the ship through those waters; that serving on the Judiciary Committee sort of makes each member a part of history.

So I know exactly how the gentleman felt when he first met with him on the committee on the Judiciary.

I yield to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Speaker, Congressman PETER RODINO, the distinguished chairman of the Judiciary Committee, is today being honored for his 36 years of service. There must be a great many Members of this body who have benefited from his counsel, his patience, and his sure-handed capacity as a legislator over the years. As a recently arrived colleague, I have appreciated his management of some of the most controversial business to come before the House this session. As an admirer in years past, I welcomed his persistence in managing the Civil Rights Act of 1966. Because of his efforts, America is a better place to live.

But I suspect that whatever debts we in the House owe Mr. RODINO, and they are many, his constituents in Essex County, NJ, have even more reason to stop and pay tribute to him. He has been an advocate of positions long before they became comfortable. He has insisted on a careful review of the most controversial legal issues of the post-war era. That even-handedness has earned him the respect of families as far away as south Texas and as close as the north ward of Newark. I salute Mr. RODINO and wish him well.

Mr. RODINO. I thank the gentleman for his eloquent contribution to Mr. RODINO.

I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for allowing me to participate. I want to commend him for taking the initiative to pay this very worthy tribute to one of our most distinguished colleagues.

I am sure there is a part of all of us that fancies ourselves as having a real impact on our Nation's glorious history, but in reality, very few of us have made our presence felt in the fashion that the honoree of your special order has made throughout the country.

Mr. Speaker, long before I ever came to Congress or even dreamed of coming to Congress, PETER RODINO was one of those few Members of this institution that I had heard of who had so clearly affected the lives of so many millions of Americans that his name was known to all of us.

I think Chairman RODINO's particular contribution, his understanding that in a system where democratic principles are so valued and must be responded to, there is also a special place for those who understand the careful balance of our Constitution and the importance of the protections of the rights of individuals and minorities against what might happen to be the particular whims of the majority at any given time, and no one has stood taller than Chairman RODINO in fighting to protect those constitutional principles, those fundamental rights that our Constitution and Bill of Rights give to individuals.

Mr. Speaker, to come here many years after I had known of Chairman RODINO's work and to see him acting up close as a member of the committee which he so ably chairs is a very special honor for me.

Just last week, once again as he has done in the area of civil rights and immigration and in that constitutional crisis of the impeachment proceedings in 1973 and 1974, the chairman went to the well to speak with respect to the constitutional implications of the Gramm-Rudman leg,slation and to remind us of the very carefully balanced system that was designed in this Constitution, our coequal branches of government, and to warn us of his fear that that particular proposal would give away and tilt that balance improperly.

I suspect that, at some point in the near future, his prophecy on that evening that we passed this legislation will once again be proven to have been correct.

I am happy to be a part of this special order and to be part of a process where I get to work so closely with this fine gentleman.

Mr. RANGEL. The country thanks you for your contribution on behalf of your testimony for PETER RODINO.

I yield to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman from New York, and congratulate him for giving us all this opportunity.

Mr. Speaker, as the youngest member of the Democratic delegation from New Jersey, I am often surprised by the extent of the influence and the leadership by our relatively small delegation: Mr. HOWARD in Transportation, Mr. ROE in Public Works, Mr. FLORIO with the environment, Mr. HUGHES, with law enforcement.

Bringing this unique delegation together, these very skilled individuals, has been PETER RODINO. Ours, like many, could have been a delegation of a few powerful people. Instead, it is a combination of effective leaders, and a real fighting team; a team which has been led through all these years by PETER RODINO.

I know it is common to see Chairman RODINO in terms of this leadership; it is how we see him most in the House, but it is also, I would suggest, not enough. It is not the entire story of PETER RODINO, the story of a chairman of a powerful committee, an important delegation.

You see, for some of us, he is more than just an influence when we got to the House; he is part of the story of bringing us to the House of Representatives.

□ 1500

He has made this institution a place where people want to serve. He has made this a place, even a profession, that people want to be a part of. He has made it a noble, dignified, and a special place. That is an important part of this story, a very important part for the young people in my State, indeed throughout the country, who will look to be a part of this institution because of what PETER RODINO has made the Congress. There are, in fact, many aspects of the Rodino story: pride in the institution, a symbol, too, for the Italian-American people in New Jersey and throughout America who look to him with a special pride as an example to us of what we have become now in the American family, the special role that we can have.

I suppose as we all look at the story of PETER RODINO and his career we have our own stories: pride in the institution, an ethnic pride, a memory of his defense of the Constitution.

I want to add another, a new chapter. Unfortunately, we also live in a time of intolerance, a time of radical politics, most recently, I would submit, from the Radical Right. It has brought to mind the efforts to deregulate guns or to roll back the progress on civil rights. It has been, unfortunately, a time of intolerance. Standing against what might be popular for the moment, what might be captured by some new elements in a new popular political wave, has been PETER RODINO.

Often, I am afraid, the only thing that has stood between the radical politics of the moment and the defense of common sense and our Constitution has been PETER RODINO. That has made him important for our country. It means that PETER RODINO has been more than just another Member of this institution. He has been the pride of Newark for so many years, he has been the pride of America for these last 10 years, but he is also representing something special in this decade as we have confronted this new element in American politics.

I congratulate the gentleman from New York for taking this special order, and I thank him for yielding this time to me so that I may participate in this tribute to our colleague.

Mr. RANGEL. I thank the gentleman. I share what the gentleman says of the contribution that PETER RODINO has made in terms of the prestige and respectability of the Congress. I think it is adequately and accurately recorded that after the impeachment proceedings that we had that the prestige of the Congress had never been higher than when PETER RODINO chaired the Committee on the Judiciary.

I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to join with our able colleague, the gentleman from New York [Mr. RANGEL] to recognize the contributions of the distinguished chairman of the Committee on the Judiciary, PETER RODINO. It has been my honor to serve with Chairman RODINO these past 9 years in the House. This House is a great institution, but it is Members like PETER RODINO that make it shine. He has been a counselor to me and to many Members, a friend who is always ready to spend time with any Member who has a problem or seeks his counsel. He has worked his way for 36 years through the ranks of this institution speaking out and providing leadership on a range of issues important to our Nation and important to the people: Immigration reform, civil rights laws, voters' rights, antitrust issues are some of the landmark contributions that PETER RODINO has built. He has worked with the public interest foremost in mind, the rights of minorities, the rights of the needy, the downtrodden, a champion of those who otherwise were without power and a voice in the centers of power.

Congressman RODINO was that voice first, and, working with others like Minnesota's beloved leader, Hubert Humphrey, they turned the voices in the wilderness of indifference into a chorus and overwhelming chorus of support for justice and for equity.

Chairman PETER RODINO has rightly received national recognition for his historic role when a dark shadow was cast over our Nation during the Watergate proceedings. Chairman RODINO led the way with those who served this House and our Nation superbly. I am, of course, proud of Chairman RODINO because we obviously share a common American-Italian heritage, but his early service led the way so that today a candidate's or Member's nationality is not a factor, rather, it is a question of competence and the competition of ideas, fairness and doing the job well for the American people.

Chairman RODINO, we who serve with you understand and know the tremendous sacrifices that you have made to work in this House. We appreciate your efforts. We hope to complement and emulate your role and maintain the humaneness and commonsense that has characterized your actions these many years.

I thank the gentleman for yielding.

Mr. RANGEL. I yield to the gentleman from Massachusetts. [Mr. FRANK].

Mr. FRANK. I want to thank the gentleman from New York for taking out this special order and giving all of us an opportunity to pay tribute to PETER RODINO. I have, myself, like many others, a special personal reason for being so happy about the role he plays. As I enter middle age, PETER RODINO takes me back to my youth because he was elected to Congress when I was 8 years old, then living in New Jersey about 3 miles across Newark Bay, which was not that far because you could walk across Newark Bay in the hottest of weather at that point, that is, if your nasal passages were somewhat insulated.

For me to have gone off to Massachusetts to start out on a political career and 32 years later to have arrived in the Congress, and who do I come across there? Not suprisingly, of course, chairing the Committee on the Judiciary on which I enjoyed serving, the same PETER RODINO.

So for that continuity I am grateful.

For even more things I am grateful, however. I think the central contribution that he has made has been an enormous one, the decency in American politics is the extent to which he has transcended race. We have in this country since our founding been cursed with racism. The stain of racism is a flaw in our constitutional democracy from an original document which embraced slavery up until today when we still have far to go in eradicating racism and its consequences from our society.

PETER RODINO has been for more years than almost anybody in this country can remember a major force who insists there can be no compromise with racism, that the democratic ideals that we profess, and of which we are so proud, and which indeed distinguish this country among most of the rest of the world because we profess and, to a great extent, live up to those ideals; PETER RODINO has been a

champion of insisting that we apply them without regard to race.

Racism has been, as I say, the major obstacle.

It is interesting to note that that ability to transcend racism, because of his obvious and sincere and nonpolitical commitment to that goal of democracy, has been a two-way street, because as PETER RODINO's district has changed it is American history for an individual often to represent the ethnic composition of the district he or she comes from. That is part of the American tradition. People who have been discriminated against, whether black, Hispanic, Portuguese-Americans, Jewish-Americans, Greeks, Irish, Italian-Americans, they have wanted to send one of their representatives to Congress to fight for them. That is how PETER RODINO originally came here. As his district has evolved, as it moved to a point where there is now a majority of black people, his majority has increased because his ability to transcend and confront racism everywhere is clear to everyone. Having a PETE RODINO who started out representing a constituency in which Italo-Americans looked to him to combat the discrimination that they faced and now to have him continually returned here by a majority black district, that is a kind of example of an ability to transcend race that we need more of.

He and his constituents both, I think, are to be congratulated for their partnership against racism which they have.

One other point that I will make, because I know there are many people who will want to join in the tribute to this genuinely great man.

His commitment to democracy, his protection of the Constitution in times of great crisis, have been commented on. Let me add one other thing. As a member of the Committee on the Judiciary for the 5 years that I have been in the House, he is superb parliamentarian. Those of us who serve in this House, I think, have a justifiable sense of the importance of good parliamentarians, people who can come into this Chamber of conflict, which is what it is, where people fight about very important ideas and can, without giving up their idealism, understand how to make things work, how to reach agreements, how to move things forward; not compromising on essentials but showing a degree of conciliation, a sense of respect for the people with whom you disagree, a sense of civility. PETER RODINO combines a zeal for the principles of democracy with a civility and personal relations that makes him a very unique asset.

We are indeed lucky to have him chairing the Committee on the Judiciary of the House of Representatives during this time, and I want to thank the gentleman from New York. This is typical of the kind of leadership that the gentleman from New York has shown that he would have taken out this special order and given us a chance not just to pay tribute to PETER RODINO, no, but by paying tribute to PETER RODINO reaffirm our commitments to the principles of constitutionalism, of democracy, of fairness, and opposition to racism that he embodies.

So I thank the gentleman from New York.

Mr. RANGEL. Mr. Speaker, we are lucky to have people like the gentleman from Massachusetts to respect the leadership of our PETER RODINO.

I yield to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. First of all, Mr. Speaker, let me thank the gentleman for setting aside this time to talk about a person who has done so much for this country, PETER RODINO. I remember as a young activist many, many years ago in my college days there was always one name we could get in the room that we could talk about, if we could get a message to PETER RODINO, I am certain he would be able to hear and to understand the fight and the plight that we were going through. As we moved through the years and heard more about the work of PETER RODINO, I think everywhere you go when you talk about civil rights you have to add the name PETER RODINO because he has been one for fairness and he has been out there when it was not even popular to talk about those kinds of issues, that PETER RODINO felt free to do just that.

The people of New Jersey and the people of the United States of America have to be very proud of this man. He has been a real champion of all these causes.

He is a person who does not waste words. You know, some people get involved in a tremendous amount of rhetoric, say a lot of things. But PETER RODINO does not waste words. He feels in terms of the fact that all people should be treated the same, and as a result of that his actions throughout his life have demonstrated that.

I was happy to come here and finally meet PETER RODINO. I used to see his picture in the paper, and I used to watch him on television and hear him on radio from time to time, and I always thought he was a big, big man. And to come here and find out that in size or stature he is not that big, but when it comes to heart, and commitment, and dedication to fairness PETER RODINO stands tall among all.

So I thank the gentleman for taking out this special order and yielding this time to me.

Mr. RANGEL. I thank the gentleman. And I think the gentleman says it well when PETER RODINO turns out to be a hero even to those people who are privileged to serve with him in this House.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Speaker, it gives me great pleasure to join with my colleagues in paying tribute to my chairman, PETER RODINO.

I have served with Chairman RODINO on the Judiciary Committee since I first came to Congress in 1959. It has been a pleasure and privilege to work with the gentleman from New Jersey on some landmark legislation through the years, most notably the historic civil rights laws of the 1960's, the difficult but important revision of the immigration laws in 1965, and more recently the successful ongoing efforts to preserve the Legal Services Corporation and the Voting Rights Act.

Those who know Chairman RODINO know him to be a man of ultimate integrity and commitment, a man dedicated to the pursuit of justice. No event more exemplifies those characteristics than his leadership during the difficult impeachment hearings in 1974. Perhaps more than any other figure involved in that unfortunate period in our history, PETER RODINO showed the American people how our system was meant to work. He became the symbol for millions of Americans of the honest, fair public servant whom many thought no longer existed. He restored for so many their faith in Government.

And, justifiably so. For PETER RODINO is a sterling example of what public service should be all about: hard work, dedication, commitment, compassion, a sense of fair play, integrity, humility, strength of conviction, and an abiding relief that ours is still the best system of government devised.

Mr. Speaker, when the history of the last 36 years of the U.S. Congress is written PETER RODINO will surely stand out as a Member of the House of Representatives who truly made a difference. I am pleased to join with his many friends and admirers today in honoring him for his exceptional service to this body and to the country.

□ 1515

I thank the gentleman from New York.

Mr. RANGEL. Well, it is really beautiful for the record and for the Nation when warriors such as yourself would take time out to congratulate our leader, Mr. RODINO.

The Speaker, I yield to the gentleman from Michigan [Mr. CONYERS], a member of the Committee on the Judiciary, who has worked with the honoree.

Mr. CONYERS. I thank the gentleman.

Mr. Speaker, to my colleague from New York, CHARLIE RANGEL, I want to thank him for his thoughtfulness in taking this commemorative special order for 36 years of service and dedication.

I would just like to pick up where my colleague from Wisconsin [Mr. KASTENMEIER] has left off. When I got here for the Voter Rights Act of 1965, there was a history of unsuccessful struggles about voting rights and civil rights in America. Emanuel Celler, of your city, and PETER RODINO, of Newark, NJ, were then leaders. The late Clarence Mitchell was the chief lobbyist for the NAACP. And I remember that, with Congressman EDWARDS and myself and a few others, we were not a very large group in the Congress, trying to blaze this historic trail of picking up the civil rights struggle from 1865 and bringing it into the last half of the 20th century.

PETE RODINO was at the forefront of that battle, and he has never left the helm. Even now, where the civil rights struggle has taken a completely different tone and has moved on to far more complex issues, it is still the chairman of the Judiciary Committee who puts in the strategy sessions, the meetings behind the hearings that develop the legislation, the amendments, that keep moving us forward, even in this period of adversity.

Now, in a reflecting mood, too, let me tell you about the most moving part of my career with the chairman of the Judiciary Committee, and that was during the impeachment process. And you know, like so many things in history, it is easy to forget how fragile the times and the circumstances were around impeachment. When we first began that process, there was open speculation whether the country could stand the first attempt at an impeachment of a President in American history, the first serious attempt. And the question that floated around Washington was: Can PETER RODINO handle being the chairman of an impeachment process? Does he have the ability to not pull the Judiciary Committee together but to pull the Government together, to keep the American people from dividing into perhaps irreconcilable factions over this question that was really very, very emotional.

We were working under a charged atmosphere, I say to my brother from New York, that was unlike any I have ever worked in, in the legislative process. It was night and day, it was touch and go. No one had any idea what the outcome would be.

But to borrow a phrase from my colleague from Wisconsin, RODINO guided us in a way that led people to a fair and honest conclusion that they could arrive at themselves. And, believe me, around the impeachment process that was quite a feat.

Now, what is not known about PETER RODINO needs to be revealed by this Member, and I want to just say this to you in the confidences of our discussion here in this room. This man has artistic qualities. He is a musician, a composer, he has written and produced songs. His demeanor is so judicial that it belies the fact that here lies the heart and soul of an artist. And this warms the cockles of my heart, CHARLIE; I mean it makes me feel good to know that my chairman has a little soul and a great spirit as well, and it is out of those feelings that I am very happy to join you in this special order.

Mr. RANGEL. I hope that one day the gentleman from Michigan might share his artistic ability on the bass fiddle with all of his colleagues.

The Chair would like to recognize the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. I thank the gentleman very much.

Mr. Speaker, I am very pleased that the gentleman has taken this special order to honor a very special person, one who has meant a great deal to the United States of America and especially to the institution of the House of Representatives.

I feel very strongly that I stand here today not only as myself but as the wife of my husband, Hale Boggs, who had such admiration and devotion to PETER RODINO, and also to represent my daughter, Barbara Sigmund, who is a politician in New Jersey, who feels so strongly that PETER is one of her mentors and one who inspires her to keep working in the political vineyards for the good of all of the people of New Jersey.

So I suppose I have a triple-threat tribute to Chairman RODINO. I would like especially to thank him for his true love of the Constitution of the United States. And the fact that he recognizes that we fought a revolution, as many countries since us have done, and when we did, we toppled a government. But between 1781 and 1787, we built a new one, deliberately, thoughtfully, and we codified into the Constitution of the United States those principles that the Revolutionary War had been fought over.

PETER recognizes all of this, and it gives me tremendous pleasure to say that he is a member of the House Commission on the Bicentennary of the House, which will occur in 1989. I can think of no greater celebration of the breadth of the institution of the House of Representatives as we know it than to have PETER RODINO helping to preside over the festivities that will be incumbent to that celebration.

I salute him as a friend, I salute him as Hale's old and trusted ally, and I salute him as my daughter's mentor and inspiration. I thank you very much [Mr. RANGEL] for allowing me the privilege of saying so.

Mr. RANGEL. The House is privileged that you and your family would take the time to pay that kind of tribute to PETER RODINO.

The Chair recognizes the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, I want to thank my friend and colleague from New York for arranging this and for giving me an opportunity to express my feelings about PETE RODINO.

As you know, I am neither an attorney nor a member of the Judiciary Committee, but I have come to learn and admire and love Chairman RODINO.

There is one specific episode which I would like to relate, because I think it depicts the fundamental decency and humanity of this extraordinary individual.

As you may recall, Mr. Speaker, 5 years ago I was attempting to gain recognition for one of the great heroes of the Second War, Raoul Wallenberg, another great humanitarian. We had legislation moving to bestow upon him the second honorary citizenship that we as the Congress have bestowed on anyone, the first one having been bestowed upon Winston Churchill. And there was a lot of support for my legislation, but there were also some legal obstacles; and one of the legal obstacles that I learned was that honorary citizenship really cannot be bestowed upon anybody who may still be alive. And, of course, our hope was in 1981, and it is to a lesser extent today, that Wallenberg may still be alive in the Gulag Archipelago. And this seemed to be an insurmountable obstacle, how do we get over the fact that everything was in place, we had the votes, but we really could not move to get the legislation to the floor because there was a legitimate legal objection?

My, wife, Annette, and I went to see Chairman RODINO in his office. And he said, "Well, TOM, I want to see this tremendous man honored and recognized, but we have very serious difficulty. Can you state that he is no longer alive? Because if you can state that, we will have no problem."

I said, "Mr. Chairman, in good conscience, I cannot do so. I do not know. I think the probability is that he is no longer alive, but he may be."

He said. "Well, I simply will have to work long and hard to find the proper legal mechanisms that will allow me to let the legislation go through, because we simply cannot allow a legal obstacle to stand in the way of honoring one of the great heroes of World War II."

Had it not been for PETER RODINO—and no one knows about this story, no one did until now, because he did not want to get credit, he just shared it with my wife and me in the privacy of

his study—the Raoul Wallenberg legislation would not have come before the House and he would never have been honored by the Congress and by the President and by the American people as a great hero, saving innocent lives during the Second World War.

Chairman RODINO is a renaissance man. We have just heard he is a musician and artist. But he is quintessentially a warm, humble human being.

As you know, Mr. Speaker, every year we have a dinner for those of us who belong to the gymnasium, and it is a very informal occasion. And I always seek out PETE RODINO during those occasions, because people let their hair down, sit around for several hours and talk and reminisce. And I must say I have learned more about this body, the values of our society, what democratic free people are all about, during those informal, off the record tutorials with PETER RODINO than probably through any other means.

He is a man who represents the finest values of our society. He has no prejudices. He is filled with compassion. He is a humanitarian of the highest order, and I believe it is fitting indeed that this tremendous spectrum of his colleagues from both sides of the aisle, representing all views, all attitudes, all opinions, pay tribute to a man and hope and pray that his service to the Nation will continue for many, many more years to come.

Mr. RANGEL. Thank you, TOM, for sharing these very sensitive experiences with our colleagues.

The Chair recognizes the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, it is a great privilege for me to have the chance to rise and pay my respects to Chairman RODINO. And, Mr. Chairman, I wish to express to you my appreciation for the leadership you took in arranging this opportunity so that I and a number of my colleagues could express our appreciation and admiration and true devotion to PETER RODINO and everything that he stands for. You have rendered us a wonderful service in having taken the initiative and the leadership to arrange for this opportunity for us, and I wish to thank you for that.

□ 1530

I notice that there is quite a diversity of people here; races, colors, creeds, committee assignments. We are not all on the Judiciary Committee. As a matter of fact, none of the people on the floor now are on the Judiciary Committee, and that bespeakes something great about PETE. What it means is that he is the man of all seasons. It is not just the people he works with, not just the Members he works with on the Judiciary Committee who have come to appreciate his truly noble qualities, but the vast spectrum of the Congress. Of course, that is because each of us shares with him one thing that we all have in common: That is a love and devotion to that great, wonderful, magnificent document that undergirds American life, the Constitution of the United States.

Each of us in our own way is determined to preserve it and enhance it so that the next generation will inherit a democratic system even stronger and more vibrant and richer than the one that we inherited from our forefathers. So we all have a common thread in our devotion to PETE because we all have the same love and veneration of that Constitution. And we look upon him as the protector of that Constitution and the patron saint of the Constitution.

ORDER OF BUSINESS

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent to address the House for 1 hour.

The SPEAKER pro tempore. Without objection, the gentleman from Maryland is recognized for 60 minutes.

There was no objection.

A TRIBUTE TO THE HONORABLE PETER W. RODINO, JR.

Mr. MITCHELL. Mr. Speaker, I yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. I thank the gentleman.

So we all share this common love and devotion of the Constitution. That is the one binding, golden thread that links every Member of this Congress with every other Member of this Congress. Whatever else we may think about the broad range and breadth of economic and social and political issues facing this country, we are as one in our determination to protect and enhance that glorious document known as the Constitution of the United States.

We look upon PETE RODINO as primus inter pares, as first among equals in his devotion to that instrument and his feeling of responsibility. He represents us all in his devotion and his caring for that document and the principles that is represents.

We have had 200 years of American history. Mr. Speaker, but it fell to the era of PETER RODINO to be in stewardship of that Constitution and our Judiciary Committee at the time of the greatest constitutional crisis this country has ever seen. Namely, the feeling on the part of many Members of this House that the time had come, the awesome time had come for the Constitution to begin unrolling its procedures, its scenarios on an issue that it had never had to face before in 200 years of American history: The unseating of an American President who had committed legal, indeed, criminal wrongdoing during his term of office. We had never faced that procedure before. We had never faced that challenge before. The Constitution had never been tested before. We were all groping our way.

PETE RODINO, I suppose, is a politician like the rest of us; he is not a great constitutional scholar. I suppose he would be the first to presume that he is not a constitutional scholar any more than any of us are constitutional scholars. We are working politicans. But PETE RODINO, with his legal acumen, his depth of legal learning, with his feeling, his deep feeling for the meaning of the Constitution, his respect for its processes, his capacity to reach out to his colleagues, his utter cool under the most incredible pressure I think that any Member of this House within living memory has ever felt, PETE RODINO, during that incredibly awesome period when the House was making demands on the Constitution and when the Constitution was making demands on the House, absolutely unparalleled in our history, unprecedented in our history, as luck would have it, we had among us a prince of men. The best that our House ever produces in terms of character, integrity decency, credibility, in that role, at that uniquely critical time in history. There is not a man or a woman in this body, who, during those awesomely critical days, was not deeply proud, intensely proud of the cool, the calm, the character, the leadership that PETE RODINO diplayed hour after hour, day after day, week after week, in that awesome constitutional crisis that our country faced unique in our history.

So I want to express to PETE RODINO my thanks to him to the invaluable service that he gave to his country, the sense of pride that he gave to each one of us. It seems that at that time, certainly, all of us rose to the hour, but none of us rose more than PETE RODINO. There is no way we could have had a finer, more exemplary figure of a man for all seasons, a man of character, strength, integrity, calm leadership in that critical role at that critical hour.

I want to pay my respects to PETE, my gratitude to PETE for extraordinary service that he has rendered us and wish him health and happiness and a continuingly productive career for many, many, many years to come.

I want to thank the gentleman for his opportunity.

Mr. MITCHELL. Mr. Speaker, I think most of white America today does not remember or does not choose to remember that just a few short years ago I and people of my color were branded as inferior, as second-class citizens in this country. America does not remember or perhaps it does not choose to remember that a black

Member of Congress some several decades ago faced the indignity of going into the Members' Dining Room only to have most of the Members walk out because he was black.

White America does not remember or perhaps it does not choose to remember that this branding of me and others of my color was done under the law, and the signs were visible all over this country to ensure that that law of segregation was carried out, and at the same time attempt to instill in me and other black Americans the idea that we were, indeed, inferior.

If we were allowed to vote, we had to pay a poll tax. If we wanted a drink of water, you had to go to the water fountain marked "colored." There were few, if any, places of public accommodation in which we could eat. No hotels in which we could stay, for the most part. We had a system of apartheid in this Nation or in parts of this Nation that was as grim and ugly as anything that presently exists in South Africa today.

What most people do not remember was that the struggle to break that law which branded me inferior did not begin with the civil rights decade in the sixties. It began in the fifties and in the forties and in the thirties. But in the fifties there were few, if any, whites who were willing to address that issue. We were so caught up with fighting communism and all other kinds of things only a handful of whites, comparatively, were willing to speak out against the indignities heaped on me and others of my race by law.

□ 1540

Among that handful was PETER RODINO, the chairman of the House Judiciary Committee. For it was in the early fifties he started his remarkable record of voting against and crafting legislation against the poll tax and the segregated facilities.

He and Adam Powell worked very hard, close together, in order to try to break that system. I repeat, I reiterate, there were not many whites who had the courage to do this. PETER RODINO was one of them.

As the struggle heated up in the sixties, remarkably akin to what is going on in South Africa, more and more whites began to join our common struggle for freedom in this Nation. But PETER RODINO seized that opportunity to start moving legislation to end the unjust laws, to end the unjust thing, "That some tamed into mercy being wise, But could not starve the tiger from its eyes."

It was RODINO who crafted legislation—civil rights legislation—often working with my brother, Clarance Mitchell, Jr., of the NAACP. As a result, I stand here today as a Member of this distinguished, historic body. That is a personal debt I owe to PETER RODINO.

For all the other blacks who, when they are able to, move around this country with some sense of dignity, some sense of personhood, some sense of manhood and womanhood, that is an enormous debt that we owe to PETER RODINO.

I too remember the impeachment process. I too remember how we often looked to PETER RODINO to guide us in moving toward the impeachment of a President, and that is an awesome thing to even consider, but with his judicious temperament he guided us and held this body together, and held the Nation together.

So as I pay tribute to Chairman RODINO, I want to stress that it is now more than ever that he is needed, now more than ever he needs to be the chairman of the Judiciary Committee, Mr. Speaker, because there are forces in this Nation who would roll back the clock; there is no doubt in my mind that there are forces unleashed in this Nation over the last 5 to 8 years who would willingly see blacks stripped of all the gains that we have made.

Mr. Speaker, I say to the Members of the House that there are people in the administration who have no consideration for civil rights or for blacks of for poor or for other minorities, and there PETER RODINO stands as chairman of the Judiciary Committee, blocking the attempts of the forces of the administration and the other external forces that would almost seek to reduce us to second-class citizenship again.

I could not live with myself if I had not come over to pay tribute to this man, a giant to whom we owe so much, not just black people, but the Nation owes him so much, because the Nation is the better off in my opinion because of the second emancipation of black people such as myself.

I salute him and wish him Godspeed, and pray that he will forever continue to work in this House on behalf of that which is just and right and decent.

Mr. Speaker, this great Nation of ours could not have been built without the courage certain Americans have shown in the face of adversity. Twenty years ago, our Nation's leaders braved the sweltering heat of injustice and passed a series of laws—culminating in the Voting Rights Act of 1965—which guaranteed all Americans their basic constitutional rights. To choose the cool breeze of justice—and not to succumb to the oppressive heat of injustice—took courage in those days. Courage in the face of adversity.

Today, I stand before you to honor a colleague who has shown this type of courage throughout his entire congressional career. He has fought for civil rights—with courage. He has battled the forces of reaction—with courage. And he held a standing President accountable to the Constitution—with courage. I am speaking of my trusted colleague and friend, the respected chairman of the Judiciary Committee, PETER W. RODINO, Jr.—a man of principle, a profile in courage.

For much of PETER RODINO'S career in Congress, civil rights was not among the more popular of causes. In the early 1950's, when our Nation was consumed with protecting the American way of life from communism, too few Americans were willing to admit that injustice from within our system was as much of a threat as tyranny from without.

But PETER RODINO was not part of the complacent majority. He spoke out early against discrimination, and often—taking Edmund Burke's comment to heart, that "bad laws are the worst form of tyranny." With his votes against poll tax, against segregated hospitals, and for public housing—all in the early fifties—he planted the seeds of conscience early in his public record. And his impact would grow.

By the late 1950's—as our Nation grudgingly began to open its eyes to racial discrimination—momentum for civil rights remedies slowly began to gather steam. At that time, PETER RODINO joined with the original civil rights advocate in Congress—Adam Clayton Powell, Jr.—and helped fashion the 1957 civil rights bill, which created the U.S. Civil Rights Commission to monitor racial injustice in America. Thus, PETER RODINO was in on the beginning—working on the first civil rights bill of its kind.

PETER continued to work closely with Adam Clayton Powell on subsequent antidiscrimination amendments—championed by Powell. And in those trying days, when the hot lamp of scrutiny focused on Adam Clayton Powell—his good friend PETER RODINO stood by him, weathering the storm in his nation and his district, unswerving in his belief that justice can never prevail if it is forced to answer to public opinion.

This is an admirable pattern in PETER'S career—advocating issues before they were popular, and even when they are not.

Consider his work for women's rights and the ERA—before it was popular. Or his support for social justice in an age of defense spending and budget cuts. Or his efforts to keep guns out of the hands of criminals despite the overwhelming power of the gun lobby.

Today, as chairman of the Judiciary Committee, he is in a unique position—a bulwark against this administration's attempt to roll back civil rights progress, refusing to be stampeded on legislation to dismantle affirmative action or strip the courts of their ability to enforce the law. It is a time to appreciate PETER RODINO, now more than ever.

Mr. Speaker, one of the great ironies of modern culture is that it is easier to expound one's love for humanity as a whole, than to show that love for one's neighbor. But not for PETER RODINO. This is civil rights at its most basic—and it is what

makes PETER RODINO a man of principle, an American profile in courage.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL. I yield to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

I would like to take this opportunity to congratulate the gentleman from New York [Mr. RANGEL] for displaying the kind of initiative that has so characterized his service in the community as well as in the House. It is that kind of leadership that has clearly distinguished him over the years and has earned for him the respect of so many of his colleagues because of it.

One might ask, what manner of man is PETER RODINO? If you are a newcomer to the Congress and have no sense or knowledge of history, you watch him function—very quietly, very effectively, and very unassumedly. But that would hardly give you any insight to the nature or the history of the man. For those of us who have had the privilege—and it is a genuine privilege indeed—of having served with him over the years and who have gone further into the history of this very, very genuine individual whose concern for all human beings has been manifest throughout his entire career, well, we know better.

I think it is important that we recognize that on an occasion like this, this initiative gives us an opportunity to express our views, our different perspectives, and it becomes a learning process. And it is even more significant that we say these kind words and repeat the performances and recall the experiences while Mr. RODINO is still with us to hear them and to read them, and in the process we educate ourselves.

It has been said that he was among a handful of white men who spoke up for human rights. That really comes as no surprise to me because I know about PETER RODINO. I knew about him long before I came to Congress. I admired him from a distance, I read a great deal about him, I knew of his activities in Jersey, I knew of his family, and I knew from whence the man was born. He has the very spirit of equity and fairness inculcated into his very bones, as a result of the teaching and the conduct of his own parents who came from the common land of my forebears. They came here seeking justice and opportunity, and to a large extent they found it, but not without difficulty.

But you might expect that for those who come from another land. Ordinarily people might be satisfied and say, "Well, I've made it, I'm doing well, and why should I be concerned?" But PETER's grasp of the entire picture was much more comprehensive, certainly more broad, and he knew that the question of opportunity was one that all man had the right to have, especially in this Nation of ours which was founded and based on the Constitution of the United States.

He expected difficulties, and I guess both his parents did. But he found that those over here before him were confronted with similar difficulties, even more so, more profound, more grievous, and there were very few voices speaking out for them at that time. He designated himself as a crusader, but with no fanfare and no public announcement. It was just his own commitment to see if he could make things right.

To embark on that kind of an undertaking in those days was not without some peril, and it was not without being subjected to some criticism and abuse. But as he persisted in the goal that he established to see that all men were given an opportunity to be treated equally, he would then ask himself, is the cause just? When people would confront him and question his conduct, of course, their response was, "Yes, but—." He would not countenance the "but." The "yes" was sufficient. Oh, he did not need their affirmative response. He knew in his own mind and heart that he was right, and he went on.

He came to the Congress and worked his will in a slow-moving Congress. In that slow-moving Congress never did he expect 1 day to assume the position of leadership he now enjoys nor to acquire the degree of respect and effectiveness he built up en route to this day. But as a result of his efforts in and out of the Congress, there was a great contribution and there was great change in our Nation, and today we are looking at a different world. It is not the pure world that we would like, with equality and justice for all, but we made substantial progress.

□ 1550

And notwithstanding the monumental achievements legislatively and in our society through court decisions and change of attitudes, he still persists. He persists. And it is that constancy of effort that distinguishes him in a very quiet fashion, effective fashion. In fact, he does not engage in diatribe. He does not engage in inflammatory rhetoric. He deals with the facts and he deals with the possible.

Something progress is slow. Sometimes it moves at an accelerated pace. But there is always progress; there is never retreat. There is always constancy. There is always commitment. There is always indefatigable effort to make things right.

I and he share a common heritage. He does not suffer from tunnel vision. He understands that in order for his world to be better, all people should be given that opportunity that our Founding Fathers provided and on the basis which this country was founded. He fights discrimination. He fights obstacles and barriers for all people.

When we take this day to pay special tribute to PETER RODINO, we are doing something very unusual

In the 17 years I have served in the Congress, I have never seen this happen before. I do not know about the years before that. He is a very unusual man.

From my perspective, he has made his mark, clearly has made his mark as a champion of human and civil rights, undeniable. If he were to stop there, it would be more than enough. But he went on. He went on to preserve the stability of this Nation at a time of crisis, where any other country in the world may have had governments toppling, may have had bloodshed, may have had consternation and confusion and chaos. Because he as chairman of the Judiciary Committee functioned in a fair, universally accepted fairness, he was under careful scrutiny throughout the world, and no one every questioned his fair approach to a very serious, serious situation, the impeachment, a possible impeachment of the President of the United States of America.

And here we are, we have this once a young man, now mature in his days, acquiring the wisdom, the patience, the tolerance, the understanding of responsibility and equity, holding in his hand the fate of a nation, the fate of a President.

He discharged himself in an extraordinary fashion, universally acclaimed. We as Members of the House or Representatives should feel proud and privileged to have served with a man and to serve with a man who has deported himself in such glorious, glorious fashion.

For myself, as a Member of the House, I so feel. As a dear friend of PETER RODINO for many years, I am just jubilant and overwhelmed at the notion that we take time out on this day to pay tribute to the extraordinary man who will make a mark in history for a series of events, but in the end he will be indelibly impressed in the minds and hearts of those who have benefited as a result of his crusade of a lifetime.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MITCHELL. Mr. Speaker, I yield to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my friend, the gentleman from Maryland, for yielding. I thank my colleague, the gentleman from New York [Mr. RANGEL] for having scheduled this special order.

Let me say that I am looking at my friend with great regret, because he, of course, at some point, probably in 1986, will be sitting in this Chamber hearing the encomiums that others

will deliver to him, because he is about to leave our presence, and that will be a distinct loss to this body. But we will reserve our comments about our friend from Baltimore for a later day.

But for now, we are talking about our colleague and friend, PETER RODINO, who is my chairman in the Judiciary Committee.

I have just two or three very brief reminiscences.

One, when I was first elected and, of course, the gentleman and I came to Congress the same year, 1971, one of the very first people who called me to welcome me to the Congress was Congressman RODINO, then the ranking member, the ranking Democrat, on the Judiciary Committee. He was not only very gracious and warm about welcoming me to the Congress, as I guess he did to every new Member, but perhaps with a little additional warmth because of the fact that, as we jokingly say, my name ends with a vowel and that obviously indicated to the chairman that the number of Italo-Americans in the Congress was expanding.

Another reminiscence that I have very vividly in my memory is playing with the chairman in paddle ball, as we call it down in the House gym. As we know, sometimes in the off moments away from the panoply of the House and its decorum and its protocol, that is sometimes the way you really get to learn and know someone well. And it was my privilege to be partners with the chairman in several matches, and I learned there that, while he might have been, as they say in the trade, one step slower than he used to be, he more than made up for it with a knowledge of the game and the angles of the board and a certain bit of cunning, I guess you might say.

My next reminiscence very quickly is, of course, what we all experienced back in 1974 when the chairman conducted the very difficult hearings on the question of impeachment. We heard from our colleagues today and we will hear for years to come—probably forever—the excellent way in which he conducted himself, the excellent way in which he led that committee, and the excellent work product that was developed as a result of his leadership and his knowledge of the Constitution of the United States.

I think it did all of us proud even at a time of great trauma and great strain.

The next, of course, and last is the fact that I have worked now with the chairman for many years on the Judiciary Committee with respect to many pieces of legislation, some of which my friend, the gentleman from Maryland, has earlier said, those which protect the minorities of the United States, which guarantee opportunity, which keep the Constitution alive and strong with respect to people, and the chairman has been in the forefront of all those efforts. On the committee, I have had a chance to see him operating on a very close basis.

At times, the chairman can be stern. He can be extremely available and warm. He can be demanding. He can be forebearing. It depends on the nature of what needs to be done, and that determines the tactics and the techniques that the chairman brings to bear.

So he has shown in every way, I would say to our colleagues and to the country, the best of what the House of Representatives and the Congress seeks in its Members, and that is intelligence, determination, leadership instinct, but most of all, a compassion for the people and a willingness to try to help them.

So I want to thank my friend from Maryland for yielding me this time. I thank the gentleman and our congressional classmate, the gentleman from New York [Mr. RANGEL] for having developed this. I think we saluted the 20th anniversary of the Civil Rights Act, an important moment in American history, and the man that played a very pivotal role in that piece of history is the one whom we celebrate today, Mr. RODINO.

The only misgiving I had when I watched this on television a minute ago was the fact that this typically takes place when a Member is retiring or leaving. I am glad to know from earlier comments that this is not the case with the chairman, that this is just simply a unique way to celebrate him and the Civil Rights Act at the same moment.

So I want to thank the gentleman and would wish him well, and wish our chairman many more years of performance and good health.

A TRIBUTE TO HON. PETER RODINO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, at the outset, let me take this opportunity to express my appreciation to our colleague from New York [Mr. RANGEL] for having taken out this special order this afternoon and to have afforded all of us an opportunity to pay respect and honor to one of the most esteemed Members of this body.

I deem it a great pleasure and, in fact, an honor to participate in this special order and to be able to say a few words about a man whom I have come to admire and respect and indeed love for what he stands in this body.

I think all of us who have served with PETER RODINO not only refer to him as the Chairman, but very fondly oftentimes refer to him as PETE, because of the very special relationship that we have with PETER RODINO.

As I think back over many of the things that have occurred over the years that have made him stand out in this body, I suppose at the top of the list would be the great leadership he provided for this body during the time of the impeachment hearings. I think all Americans watched their TV sets intently every night watching those proceedings while the fate of a President of the United States hung in the balance and while the U.S. Constitution hung in the balance, and when the three parts of our Government were in a crisis such as we have never known before.

I think all of us who serve in this body were proud of the judicious manner in which he conducted those hearings. And when the hearings were over, a great service had been rendered, not only to the Congress and to the House, but to the entire Nation.

It was out of that hearing in which he conducted himself with such dignity and legal acumen that the Nation took a good hard look at this man who was then being considered as one of the persons whom this Nation wanted to offer himself to run for the Presidency of the United States. Being the humble individual he is, he declined this type of an opportunity, offering to the American people the fact that he had merely done the job that he felt should be done and had to be done in the way in which he had done it, but he had no aspirations for the highest office in the land.

But out of that special occasion when he conducted those hearings, I think all of us realized the greatness of this man with whom we serve.

I had occasion shortly after he had completed the impeachment hearings to sit down with him and to ask for his support and his guidance and his advice when the House called upon me to chair the House Select Committee on Assassinations, a task that I realized I needed some additional counsel for if I was going to be able to undertake that tremendous responsibility on behalf of the House.

I recall sitting down with PETE and asking for his advice and his wise counsel, and I was the beneficiary of it. As a consequence of it, oftentimes during the course of those hearings, I would go back and sit down with him and ask for further advice and counsel. And he was always there and always willing to take the time to help me or any other Member in any manner in which we needed the benefit of his advice and counsel.

We have heard today tremendous accolades being given this outstanding statesman and Member of this body, particularly his accomplishments and his feats in the area of civil rights. But I think his contributions to this Con-

gress and to this Nation extend far beyond the field of civil rights.

We cite his civil rights legislation because it has been so far-reaching. As I sat here a few moments ago and discussed the special order with my colleague, the gentleman from New York, CHARLES RANGEL, he mentioned to me that great contribution that PETE has made in the area of voting rights and the accomplishment of his voting rights legislation in this House, how many additional minorities and black Members of Congress sit here today because of the far-reaching effect of that legislation which he shepherded through the Congress many years ago.

But beyond that, as we look around the Nation, as we look at the city councils and the State legislatures and in the house and senate of many of the States around the Nation, we find many minorities and blacks sitting there today because of the unique leadership that he gave this body during a period in which minorities and blacks did not have the right and privilege of being able to vote or to be able to run for and become elected to public office in the way in which they can do that all over our Nation today.

□ 1605

I had occasion a few years ago to go into PETE's district and campaign with him during a period in which he was campaigning in what we thought at that time was going to be a relatively close race for him. I was proud to be one of the persons here in the House whom he had asked to come into his district and campaign with him.

But one of the greatest experiences I have had was to be able to walk up and down the street and go in and out of various places of business and to other affairs with PETE RODINO. The esteem with which he is held in his own congressional district is something to behold. He is totally revered and respected and admired by the people who have elected and reelected him to Congress for so many years. It was indeed a pleasure to be able to see the love and respect and admiration that they have for him.

I want to mention just a little special human touch that has always meant a great deal to me about PETE RODINO. I think all of us who know him knew of the great love that existed between him and his late wife, who passed a few years ago. The thing I remembered and admired so very much was that all of us knew that every Friday night was reserved for a date with his wife. He never put anything above that. Every Friday night was reserved for her, and these two people who had been married for so many, many years always had that special date every Friday night. It is something which I have always thought of because I have never been able to find the time to do that in my own relationship with my own wife, and I just have to admire a man who kept that special date with his wife all of those years in a great love affair which they shared until she passed.

So in closing, Mr. Speaker, I just want to say that oftentimes we do something in this body that makes you proud to be a Member of the body, and this is one of those days, when we can take time out of our busy schedules to pin the flowers and the roses on one of our colleagues while he is still with us. Sometimes we have occasion and a tendency to wait until something has happened to someone and then oftentimes they are not able to smell the flowers and see the flowers that are being pinned upon them.

I think the House does itself honor today by paying honor and tribute to a man who has become a legend in his own time. PETER RODINO, whenever he leaves the House—and we hope he is going to be with us many, many more years—will leave here a great tradition and with a great reputation.

I recall one of the greatest fights that we had here on the floor was when a former colleague of this House attempted to amend the Constitution to prohibit busing of children pursuant to court order desegregation cases. I will never forget the high tension in the House and the high emotion as that particular issue was debated here in the House. I will never forget the long hours that PETE spent with the Congressional Black Caucus and other Members of the House on both sides of the aisle who were determined not to turn back the clock in terms of the progress that we were making in desegregating segregated schools throughout this Nation in providing young children, black and white, an opportunity to gain the education that they are entitled to under our Constitution.

But that has been his life. He is a person who has added new dimensions to the preservation of the constitutional guarantees that are given to every American, whether it be an American adult or an American child. He has added a new dimension to protecting those rights under the Constitution that are so precious to each and every one of us.

Once again, I deem it a great honor to have been able to participate here this afternoon.

Mr. Speaker, at this time I am pleased to yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Speaker, I would like to add my thanks to the gentleman from New York [Mr. RANGEL] for providing this opportunity for us.

Much has been said about Chairman RODINO, all of it praiseworthy, all of it worthwhile, and all of it true. I would like to add to it, Mr. Speaker.

Since I have been in this body 5 years, being here has made me a patriot, or more of a patriot, seeing the people from all different parts of America, from all different walks of life; coming here gives you a real window view of what America is all about.

What is America all about? It is about her people, the people of this country, from all different backgrounds and all different ideas and all different personalities, and they come to this Chamber and they work together and they push and they pull and they try the best they can to govern this country. The more people you see here, and the more people that one gets to know, the prouder one is to be an American.

I would like to add my thanks, really, to Chairman RODINO, to him for his kindness and for being my friend and one of my mentors in this body. He is one of the people who, when I sit back at home and think about why I love this Congress and why we all love this Congress, is one of the reasons, a man who has made his mark on history. The United States of America will forever be a better country because of what PETER RODINO has done in passing landmark civil rights legislation, in chairing the Committee on the Judiciary during Watergate.

PETER RODINO can sit back with pride and satisfaction. He is one of the few lucky individuals able to point at history and say, "I have indeed made a difference, a positive difference." He is a man who is tough. He is not tough in the conventional sense. He does not go around and swagger. In fact, he is a very polite and kind gentleman. But in his gut, he is tough. When it came time to pass civil rights legislation, with all the opposition and vituperation that was thrown upon those who worked for its passage, when it came time to defend the Constitution of the United States under Watergate, we needed a tough person, and Chairman RODINO was tough.

But Chairman RODINO was also fair. If one had to characterize the way the American people regard Chairman RODINO, I think it would be both of those—tough and fair; tough in being unrelenting but fair in not pushing his advantage too far. In every move we make even today in the 3 years that I have been on the Committee on the Judiciary, the paramount concern of the chairman is: Are we being fair? Are we not just taking our own viewpoint into account, but listening to the viewpoints of others and giving them a fair shake? He has been eminently fair. He is a kind gentleman. As my good colleague from Ohio mentioned, he is a family man.

There are many different attributes that one can, with pride and with justification, point to about Chairman

RODINO, but I would like to simply underscore that difficult combination of toughness and fairness. There are many who are tough and many who are fair, but there are few who combines that in the right proportion to become outstanding servants to this Nation. PETER RODINO has been such. I am a better person for having served under him and from knowing him. America is a better place, a much better place, that he took his call to public service and has done such an outstanding and remarkable job.

□ 1615

Mr. STOKES. Mr. Speaker, I thank the gentleman for his great contribution to the special order.

I am pleased to yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding and commend him for the remarks which he has entered into the RECORD this day. I want to also take this time to commend the gentleman from New York [Mr. RANGEL] who has arranged for this special order. In addition to what I personally am about to say in tribute to our good friend, PETER RODINO, since the gentleman from New York [Mr. RANGEL] is also here on the floor, I want to tell him I think in many ways a lot of what is going to be said today about PETER RODINO could very well be said about CHARLIE RANGEL. I think it is important for us to recognize that PETER RODINO has really generated new PETER RODINO's. Each year that he is here, someone else comes up to begin to fight the battles that PETER has been at the forefront of fighting, and CHARLIE RANGEL is one of those people and has respresented his people in New York very well for so many years.

As I said, I rise today to honor a man whose accomplishments in the House of Representatives have been an inspiration to us all, a man who for 36 years has worked to protect and defend not only the letter, but the spirit of the U.S. Constitution as well. As an able and well-respected lawmaker, this man, our colleague, is one of the most important gears which keeps the legislative process running. I speak, of course, of Congressman PETER RODINO.

I feel privileged to have had the opportunity to serve under Chairman RODINO on the Judiciary Committee as a member of the Crime Subcommittee and on his own Monopoly Subcommittee. I have observed his lead role in a number of issues close to my heart, particularly in the area of crime and drugs. He has worked long and hard to toughen our anticrime laws as well as rid the Nation of illegal drugs.

Chairman RODINO has a stunning record of contributions in the area of civil rights and legislation, and all of us remember how he saved our system of Government in 1974 with this fair and impartial handling of President Nixon's impeachment hearings. You have heard today the tributes being paid to him, not only in his role as a leader for civil rights, but in his role as a leader for the implementation of civil rights, for the quotas being abolished, for fair, tough, legitimate but compassionate immigration laws for the people of this country, for the people of the world who want to make America their home.

This is what PETER RODINO has stood for all of his life, in addition to just those years that he has served in the legislative body.

I would like to just for a very short time take a little bit of a different tact. In the 3 years since I have been here and have served on the Judiciary Committee, I have gotten to know him not only as a man whom I respected before I came to this body, as a man whose name was known to many of us as young lawyers, as a leading lawyer in the United States, but I have gotten to know him as an individual, and I think many people forget, even as we, our own body, the colleagues of PETER RODINO pay tribute to him those people that are listening here today may not understand that PETER RODINO is not only a symbol, and not only a hard-working individual, but a friend to many and a warm, personable human being. The time that I have spent here I have found him to be willing to listen to people, not only those who come from the outside and have a problem about immigration, or a problem about law enforcement, or a problem about antitrust matters, but right here, the people, his colleagues who have questions, who are new, who need to be schooled in some of the more difficult issues, who need to understand the process. He always has the time to sit down right here on this floor or in his office and talk to you about the issues, explain what he is doing, what he has done, what he thinks about an issue. That has been of great help and of great importance to myself and a large number of my colleagues, especially the younger colleagues who have only been in this body for a short time. But in that short time, we have learned to respect him, not only for what he has done, but for who he is and for his dedication to the individual as well as for his dedication to the law, to the Constitution, and to the United States.

I can tell you, stretching my memory back over 20 years and more, I have a vivid picture of PETER RODINO. But since I have been in this Congress, that picture, that mental image you get of people you hear about and read about and talk about and admire from afar, has been embellished by personal knowledge of the individual. I am sorry that everyone out there in this country cannot get the same experience that we have had of being able to know him personally. If they would, they would find that they would have an admiration, a respect, even in a way a love for this man that goes beyond what they might have already, in terms of their knowledge of him through the printed and the spoken and the written media.

He is truly a leader of this body. He is truly a 20th century renaissance man in his devotion to those things that make life better for individuals and for his country, and I am very, very proud of him. But more so, grateful for the opportunity to be able to serve with a gentleman of his caliber, a lawyer of his stature, and a legislator of his respect.

I know I speak for all of my colleagues when I say, PETER, many, many more good years of leading the United States for equality, for democracy and for justice, not only for this country, but for all of the free people of the world.

I thank the gentleman once again for sharing some of his time with me.

Mr. STOKES. Mr. Speaker, we thank the gentleman from Florida for those observations he has made here and his contribution.

I also want to concur not only in the gentleman's remarks regarding PETER RODINO, but also his very fine remarks regarding our good friend, the gentleman from New York, CHARLIE RANGEL. I agree that anyone sitting on the Judiciary Committee, and particularly at the time that CHARLIE RANGEL sat on that committee and his seniority, having sat through the Watergate impeachment hearings under the chairmanship of PETER RODINO, that has to rub off in terms of the manner in which this man serves in the Congress. I agree with the gentleman that CHARLIE RANGEL certainly exemplifies many of the fine qualities that are exemplified through our colleague, PETER RODINO.

Mr. Speaker, I am pleased at this time to yield to the gentleman from New York, our friend [Mr. GARCIA].

Mr. GARCIA. I thank my colleague from Ohio [Mr. STOKES] for giving me these few minutes to talk about not only a fine Congressman, bur a personal friend.

Many of my black colleagues, when it comes to talking about the Voting Rights Act, think that they are the only minority group that has a franchise on what the Voting Rights Act is all about. I stand here today as a Hispanic, a person born and raised in the community that I represent today, the South Bronx. I am one of those persons who in 1965 was elected to the New York State Legislature because of PETER RODINO's work on the Voting Rights Act. I know that he and Martin Luther King walked side by side during those battles.

One of the magnificent opportunities that we have here in this legislative body is that many times we lobby, and we work very hard to generate the votes that are necessary to pass legislation and we do not always know who the recipients are going to be of that legislation. I am sure that when they were working, Martin Luther King and PETER RODINO, side by side, to pass the Voting Rights Act, that they did not know that a BOB GARCIA existed on 138th Street in the South Bronx, and that I would be elected.

We have tried to do some research and find whether there are any other legislators still in public office who were elected in that very first historic year of 1965. As hard as I have tried, we still have not found anybody. I think I may be the last one of that group.

But PETER RODINO is a person who I am sure many people who are listening today never knew. They got to know him during the Nixon trials and during those terrible years in the 1970's when we were not sure of what the outcome would be in terms of the Presidency. But PETER RODINO then became a national and an international personality.

I have always prided myself in saying that those of us who come out of communities like Newark, of immigrant families, immigrant parents, like the gentleman from New Jersey [Mr. RODINO] can govern and rule in this great country as well as anybody else. It just seems to me that based upon all that he has done for so many, that this special order put together by my colleague, the gentleman from New York [Mr. RANGEL] who, by the way, served during those years in which the impeachment of a President was taking place—I would like everybody to know that I do not talk about that in any sense politically. I talk about that as probably a magnificent moment in history only because it tested our own ability to judge each other, and that we came out the stronger for it. I think it was that quiet assertiveness of the gentleman from Newark, NJ [Mr. RODINO] who gave a certain tranquility to this Nation, and there are times that we may disagree. I must tell you that I am amongst those who, on the question of the immigration bill has disagreed with PETER RODINO, but I have never disagreed because of the fact that I felt that he was being underhanded. Not at all, he has always been above-board, and always a person that you know that when he gave his word, as he did during the immigration battle that there are certain portions of that legislation that under no circumstances would he surrender to the opposition, and he did not. He held fast, a man of his word. That is Congressman PETER RODINO.

I am delighted that my colleague and my friend for many years, the gentleman from New York [Mr. RANGEL] has given me this opportunity and has taken this special order celebrating the 20th anniversary of the Voting Rights Act.

□ 1630

I thank him very much for giving me these few moments to thank a good friend, a person who will always be a friend; a person who is what is great about America, a person who will continue to serve because the spirit is so strong, that I would like to not only ask permission to revise and extend my remarks, because there is so much more we can say about PETER RODINO, but I would like to associate myself with all of the remarks that have been made today.

Mr. STOKES. I thank the gentleman for his valuable contribution.

Mr. SYNAR. Would the gentleman yield?

Mr. STOKES. I yield to the gentleman.

Mr. SYNAR. Mr. Speaker, I just want to add my remarks to all those that people have spoken today. I have grown to admire, over the 7 years that I have been in the U.S. Congress the determination and hard work of PETER RODINO. We have not always agreed, but I will tell you this, he is a tough negotiator; he has always stood for those things and principles which I think all of us in this country admire; and I join with the accolades today.

Mr. STOKES. I thank the gentleman for his remarks.

At this time I am pleased to yield to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Speaker, I take great pleasure in participating in this special order to honor PETER RODINO, one of the finest legislators that has ever served their country in Congress. I want to compliment my colleague from New York, Mr. RANGEL, for providing us the opportunity to commend PETE for his 36 years of distinguished service to this Nation.

PETE RODINO came to the House in 1948, after being elected by the citizens of the 10th Congressional District of New Jersey. In the almost four decades since, he has consistently honored his commitment to his constituents and the State of New Jersey and, in so doing, has earned the admiration of all his colleagues in Congress.

PETE RODINO's list of legislative achievements, as chairman of the House Judiciary Committee, and international, national, and local awards, and honorary degrees, which reflect those accomplishments are so extensive, as to preclude my mentioning them all. He has served on Presidential Commissions and his name was frequently mentioned in connection with national office. In addition, he is a decorated veteran, having earned a Bronze Star while serving with the 1st Armored Division in Italy during World War II and special recognition for his service by the Italian Government.

For all PETE RODINO has done in service to the Nation, be it on the battlefields of Europe, or in the Halls of Congress, he will leave no greater legacy to his country than the landmark civil rights legislation he authored and fought for in the early to mid-1960's. He also earned a special place in history for his chairmanship of the Judiciary Committee, as it undertook the first Presidential impeachment inquiry in over 100 years during the tumultuous Watergate period. His calm, measured stewardship during the many hearings and investigations insured orderly and objective proceedings.

As a scholar of the Constitution, he has been especially careful to craft laws which affect our judicial system, and our society, in a manner consistent with the dictates of our most basic legal document. His work in that area will be felt for generations to come. We are most fortunate that that work, is not yet complete. He is richly deserving of this tribute. It has been, and continues to be, an honor to serve the Nation with an individual of Congressman RODINO's caliber. I want to wish him continued success in the Congress, good health, and best wishes for a happy holiday season.

Mr. STOKES. I thank the distinguished gentleman from Massachusetts for his contribution to the special order.

At this time I want to once again express the appreciation of all of us here in the House to our distinguished colleague, the gentleman from New York [Mr. RANGEL] for having taken out this special order this afternoon; and to have afforded all of us in the House an opportunity to be able to pay tribute to one of the great Members of this House.

It was certainly thoughtful of the gentleman, and considerate, to not only take out the special order but to invite all of us to participate. It is only fitting now that you be recognized to close the special order. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman from Ohio.

Mr. Speaker, this has been a very unusual special order in that there have been so many Members that wanted to pay tribute to PETER RODINO and for you to be able to come and to ask unanimous consent to continue this tribute. I want to thank the gentleman for it.

I also want to thank my dear friend and colleague, the gentleman from Georgia [Mr. RAY] who had time scheduled but because there were so

many people, he yielded to those Members to pay this special tribute; and to the gentleman from Texas [Mr. GONZALEZ], who was here, too.

I thank the Chair for this wrapping up of a tribute to PETER RODINO, a tribute to the 20th anniversary of the Voting Rights Act.

Mr. RANGEL. Mr. Speaker, I submit at this point in the record various statements and letters from civil rights and community organizations that wanted to say on their behalf, for making a stronger Voting Rights Act and therefore a stronger country, "Thank you, Chairman PETER RODINO":

A. PHILIP RANDOLPH INSTITUTE,
New York, NY, December 12, 1985.

Hon. CHARLES B. RANGEL,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN RANGEL: I am delighted to join the voices honoring Judiciary Committee Chairman Peter Rodino through a Special Order on December 16, 1985. Congressman Rodino has uniquely championed the cause for the protection of civil rights in our country, for the protection of fundamental human rights around the world, and for the protection of refugees forced to flee from their native lands.

Most of our citizens are aware of Chairman Rodino's enduring contributions to the fundamental civil rights legislation that still exists as a beacon to the most disadvantaged and oppressed in our society. Perhaps fewer people are aware of the debt of gratitude that we all owe to Congressman Rodino for his commitment to bringing justice and humanity to the refugee laws of our country.

Recently, Chairman Rodino has led the effort to achieve through legislation an end to the tragic plight of the Haitian and Cuban refugee boat people. He has not only introduced this legislation but he has actively rallied support for this basic humanitarian issue. When many of these refugees were recently threatened with deportation, Congressman Rodino swiftly initiated a campaign of concern to halt these unjust deportations until Congress can act on remedial legislation early next year.

In conclusion, Chairman Rodino is a most effective leader and he is a cherished friend.

Sincerely,

BAYARD RUSTIN,
President.

AMERICAN CIVIL LIBERTIES UNION
Washington, DC, December 12, 1985.

Hon. CHARLES B. RANGEL,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RANGEL: The civil rights and personal freedoms of many Americans have come under an unprecedented assault in recent years, from many quarters including the Reagan Administration. Too infrequently during this period have we had the opportunity to reflect on where we have been or to examine where we are headed as a nation under law.

Today's tribute to Rep. Peter W. Rodino provides a fitting opportunity both to acknowledge the many contributions of a great defender of civil rights and liberties, and to rededicate ourselves to the constitutional principles for which his illustrious career in Congress has come to symbolize. Let us also use this occasion to reaffirm our commitment to the full restoration of civil rights protection for all Americans.

The ACLU is honored to have been a part of this acknowledgement.

Sincerely

MORTON H. HALPERIN.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, December 12, 1985.

Hon. CHARLES RANGEL,
House of Representatives,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RANGEL: On behalf of the AFL-CIO and its constituent working men and women, I would feel privileged to be associated with the Special Order for Chairman Peter Rodino on Thursday, December 12, 1985 in the U.S. House of Representatives.

The Honorable Peter W. Rodino has few, if any, equals as a Congressional leader. The legislation which he has helped enact into law contains some of the most important new policy directions for this Nation and its citizenry. The elimination of national origin quotas as a basis of U.S. immigration policy comes vividly to mind, even though 20 years have since passed. His current efforts to further reform our immigration laws indicates his long-lasting commitment to this issue. His floor management of the 1966 Civil Rights bill also comes to mind. And we know of his work on behalf of the Civil Rights Restoration Act of 1985 to correct the *Grove City* Supreme Court decision which weakened many of the rights established in the 1966 law.

In all of our association with Chairman Rodino, we have found him to be a man of quiet temperament, fair-minded spirit, sensitive political judgment and legislative expertise. His hand in legislation, while not always the most visible hand, is the strong and effective one. And when visibility was most necessary to ease the impact of a major Constitutional crisis, we remember how Chairman Rodino carefully and calmly, for all the Nation to observe, led the House Judiciary Committee through its deliberations in 1973 and 1974 of the first Presidential Impeachment inquiry in over 100 years. It was masterful and, alone, worthy of our admiration, respect, and gratitude.

Protecting and advancing the rights of minorities and women, the vulnerable and the victim, is the consistent theme of Peter Rodino's public career. The AFL-CIO has been, and continues to be, a strong supporter of these public policy initiatives and we look forward to working with Chairman Rodino in future Congressional efforts in these areas.

The tribute of his colleagues is well occasioned.

Sincerely,

LANE KIRKLAND,
President.

THE AMERICAN JEWISH COMMITTEE,
Washington, DC, December 10, 1985.

For almost four decades in Washington I have seen literally thousands of members of the Congress come and go—and have observed their work closely. In my opinion Peter Rodino must be included in no more than a handful of members whose character and leadership and achievements place them in a special category of Congressional superstars. Whether it be in the field of civil rights or civil liberties or international human rights or immigration or social justice, Pete Rodino has made historic contributions.

HUMAN BOOKBINDER,
Washington Representative.

CENTER FOR NATIONAL POLICY REVIEW, INC,
Washington, DC, December 12, 1985.

Hon. CHARLES B. RANGEL,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RANGEL: It is a privilege for us at the Center for National Policy Review to join with you in honoring Congressman Peter W. Rodino.

From his authorship of the House majority report on the Civil Rights Act of 1957 (the very first civil rights bill in this century) to his leadership role in passage of the historic Civil Rights Act of 1964 and the Fair Housing Act of 1968 to his authorship and the indispensable part he played in enactment of the Voting Rights Act Extension of 1982, Peter Rodino has been a stalwart in the battle against discrimination.

As one who has been privileged to work with Mr. Rodino on many of these efforts, I can testify to the personal qualities that have enable him to achieve such a remarkable record—an ability to place himself in another persons's shoes and feel the sting of injustice, a willingness to persist in the face of adversity, the leadership, drafting and tactical skills to bring his ideas to fruition, an understanding heart. For us who work in the Leadership Conference on Civil Rights, it was not a difficult decision at all to select Mr. Rodino as a recipient of the first Hubert M. Humphrey Award in 1978. What is all the more remarkable is that civil rights is only one of the areas in which he has advanced the cause of fairness and opportunity for all Americans.

In these days of preoccupation with the mounting national deficit, it may be well to recognize that there are some debts that can never be fully repaid. Preeminent among these is the debt that all of us as Americans owe Peter Rodino for helping us to become a better nation.

Sincerely,

WILLIAM L. TAYLOR.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, December 11, 1985.

Hon. CHARLES B. RANGEL,
Rayburn Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE RANGEL: It was with great pleasure that I received word of your intention to conduct a Special Order in recognition of the invaluable work of Representative Peter Rodino. On behalf of the National Council of La Raza. I wish to express deep appreciation of his tireless commitment to protection of the civil rights of persons throughout the nation.

Representative Rodino has played a central role in the formulation and passage of major civil rights initiatives for nearly three decades. He has forcefully confronted problems of discrimination long-felt by minorities, securing employment and voting rights for Hispanics and other disadvantaged groups and fighting to protect those rights. In doing so, Representative Rodino has earned the respect of his colleagues, his constituents, and all members of the civil rights community.

For these reasons and many others, Representative Rodino deserves the highest praise. We commend you for your efforts,

and fully support the Special Order in his honor.

Sincerely,

RAUL YZAGUIRRE,
President.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
Washington, DC, December 12, 1985.

Hon. PETER W. RODINO, Jr.,
Chairman, House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 185 national organizations in the Leadership Conference on Civil Rights, representing minorities, women, the disabled, labor, senior citizens and religious organizations, we want to express our deepest appreciation for your leadership on civil rights issues.

Over the past several decades, the Leadership Conference has turned to you time and again on all the crucial civil rights issues before the Congress. And without fail, your commitment, your knowledge, and your integrity have produced overwhelming bipartisan victories. Indeed, every civil rights measure that has been enacted into law bears the indelible imprint of Chairman Peter Rodino.

Among your most important legislative achievements in recent years has been your zealous protection of the Constitution against the assaults of the Radical Right. No civil rights law has been immune from the Right's attack. However, you have prevented the Radical Right from enacting one single item on its legislative agenda.

There is no question that history will smile very favorably on your outstanding contributions to our Nation. And we will remain forever indebted to you for your effective leadership.

We in the Leadership Conference look forward to working with you to further our Nation's irrevocable commitment to providing equality of opportunity for all Americans.

With warmest personal regards,

Sincerely,

RALPH G. NEAS,
Executive Director.
BENJAMIN L. HOOKS,
Chairperson.

LEGAL DEFENSE FUND,
New York, NY, December 12, 1985.

Hon. PETER W. RODINO, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN RODINO: The NAACP Legal Defense and Educational Fund, Inc. wishes to express to you our sincere appreciation for your legislative effort over the past thirty-eight years on behalf of poor people and Black people in our nation. You have understood the vital need in a democracy for the majority to establish and protect the rights of the minority.

Your contributions to making available opportunities for Black Americans in the labor market have been far-reaching and effective. In drafting and shepherding to passage the fair employment divisions of the Civil Rights Act of 1964, you are responsible for a law that has played a significant role in removing many of the vestiges of a legacy of slavery.

The passage of the Voting Rights Act of 1965, the subsequent extensions to that act, including the Voting Rights Act of 1982 is legislation that become law because you have cared. Across the years in your work as a member for the Judiciary Committee and in your Chairmanship of that Committee, you have demonstrated time and time again your commitment to the meaningful inclusion of Black Americans in the benefits, rights, privileges, and opportunities of this land.

Thank you, Mr. Chairman, for your steadfastness and your commitment. It has truly made a tremendous difference.

Sincerely,

JULIUS L. CHAMBERS,
Director-Counsel.
ELAINE R. JONES, ESQ.,
Washington Office.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, December 11, 1985.

Hon. CHARLES B. RANGEL,
House of Representatives, Rayburn House Office Building, Washington, DC,

DEAR MR. RANGEL: The National Association for the Advancement of Colored People strongly supports the Special Order for Congressman Peter W. Rodino. We appreciate your submitting the enclosed statement to the Congressional Record.

As you know, Congressman Rodino has made many significant contributions to civil rights and he is very respected in the civil rights community. The NAACP considers it an honor to have this opportunity to express our thanks and appreciation to this great public servant.

Sincerely yours,

ALTHEA T. L. SIMMONS,
Director.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Brooklyn, NY, December 12, 1985.

STATEMENT OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE IN SUPPORT OF THE SPECIAL ORDER FOR CONGRESSMAN PETER W. RODINO

The National Association for the Advancement of Colored People is proud to honor its long-time friend, Representative Peter W. Rodino. He has been a staunch supporter and leader in the struggle for equality and civil rights.

To accurately portray Representative Rodino's contribution to civil rights it is important to consider the social and political climate of the nation which led to the consideration of major civil rights legislation. The first civil rights measure since Reconstruction was enacted into law in 1957 three years after the landmark decision in *Brown v. Board of Education* and black Americans were raising the conscience of the nation by their insistence that they were citizens too and that the nation live up to its promise of democracy.

Peter W. Rodino authored the majority report on the Civil Rights Act of 1957 which created the U.S. Commission on Civil Rights, authorized the Attorney General to prosecute persons interfering with the right to vote and established the civil rights division of the U.S. Department of Justice. Mr. Rodino authored the majority report on the 1960 Civil Rights Act which enabled Federal agents to enroll voters in areas where blacks were being denied the right to vote. These two measures were the cornerstones for future civil rights legislation.

Again in 1964, Representative Rodino led the U.S. House of Representatives in passing the historic Civil Rights Act of 1964 which prohibits racial or religious discrimination in public accommodations; prohibits race, color, sex, religion or national origin in employment practices among other civil rights protections.

Representative Rodino has shown consistency in his efforts to further civil rights. He has the enviable record of maintaining a consistent 100 per cent voting record on civil rights legislation as reflected on the NAACP Civil Rights Report Card. Mr. Rodino was the floor manager of the Civil Rights Act of 1966; authored the Voting Rights Act Extension of 1982 and was a leader and strong supporter of the years of effort to pass legislation establishing Martin Luther King's birthday as a national holiday.

Mr. Rodino wrote the majority report for the fourth civil rights act in 1968.

Representative Rodino's commitment to and perseverance and persistence in civil rights action, his unflinching support of the goals of equality—a birthright of American citizens—is helping to move our nation toward a positive affirmation of justice for all.

Peter W. Rodino has a vision of what this country should be. A vision that reaches far beyond where we were then in 1957 and where we are now in 1985. He realizes that even now, in 1985, twenty years after the passage of the Voting Rights Act, that there is still yeoman work to be done in achieving equal and civil rights for all.

As we move forward in our attempts to complete the unfinished civil rights agenda, the civil rights community, inclusive of the 2100 branches, 38 state and area conferences and 600 youth and college units of the NAACP, is grateful that it has a friend in Representative Rodino. As a member of the National Association for the Advancement of Colored People, Mr. Rodino continues to be a ardent advocate of equality for all.

We join members of the Congress and others who acknowledge the many accomplishments of Representative Peter W. Rodino in this Special Order.

BENJAMIN L. HOOKS,
Executive Director.

NATIONAL COALITION FOR HAITIAN REFUGEES,
New York, NY, December 12, 1985.

Hon. CHARLES B. RANGEL,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN RANGEL: We are priviledged to have this opportunity to honor House Judiciary Chairman Peter Rodino for his unparalleled achievements in protecting and advancing fundamental civil and human rights.

Our 34 national member organizations have an immediate reason to thank Congressman Rodino. In 1983 he singlehandedly initiated legislative efforts to end the tragic plight and legal limbo of a deserving group of Haitian and Cuban refugee boat people.

This cause that he championed has now produced legislation that will provide for the protection of these refugees and the adjustment of their status. Chairman Rodino has not contented himself with crafting legislative relief, rather he has also joined the chorus of voices urging an immediate halt to the deportation of any otherwise eligible beneficiaries of this legislation until Congress has concluded its deliberations.

We are proud of Rep. Rodino. His work on behalf of the underprivileged and his concern for their plight is unique and merits the gratitude of the entire country.

Sincerely,

BAYARD RUSTIN,
President, A. Philip Randolph Institute.
MICHAEL S. HOOPER,
Executive Director.

ANTHONY J. BEVILACQUA,
Bishop of Pittsburgh.
JAY MAZUR,
General Secretary-Treasurer, ILGWU.

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.,
New York, NY, December 12, 1985.
Hon. CHARLES B. RANGEL,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN RANGEL: We write in support of the special order which you have requested in the U.S. House of Representatives to honor Chairman Peter W. Rodino. It is appropriate that Members of Congress, as well as the nation at large, be given the opportunity to pause and recognize the many major contributions which Chairman Rodino has made to our country, especially in the area of civil rights.

At every critical juncture in civil rights legislation over the past four decades, Chairman Rodino has been a key actor. His active involvement in the passage of civil rights bills in 1957, 1960, 1964, and 1968, and his pivotal role as floor manager of the 1966 civil rights bill have beyond a doubt improved the lives of millions of Americans previously denied their rightful place in our society. His authorship in 1982 of the Voting Rights Act Extension is further testament to his lasting commitment to ensuring the participation of all Americans in our democracy.

The National Council of Churches, through the Immigration and Refugee Program of its Division of Church World Service, has also enjoyed a special relationship with Chairman Rodino on immigration and refugee matters. This dates to the chairman's role in the mid-1960s in eliminating the discriminatory national origins quota system which until that time existed in our immigration laws. As sponsor of the Refugee Act of 1980, Chairman Rodino also saw to it that United States laws encompassed legitimate refugees from persecution, regardless of their country of origin.

Most recently, Chairman Rodino's championing of the rights of Haitian and Cuban refugees, through his pending bill H.R. 23, is an activity which enjoys the broad support of the religious community. Chairman Rodino, as the experienced Chairman of the Committee on the Judiciary, is in a key position to ensure enactment of this critically important legislation, as well as to assure fair and equitable immigration reform in the 99th Congress.

We appreciate your efforts, Congressman Rangel, in requesting this important and most appropriate special order. The distinguished history of responsible and compassionate leadership of Chairman Rodino should be made a matter of public record.

Sincerely,
Rev. Dr. ARIE BROUWER,
General Secretary.

NATIONAL URBAN LEAGUE, INC.,
Washington, DC, December 12, 1985.
Hon. CHARLES B. RANGEL,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN RANGEL: On behalf of the National Urban League, it is a genuine pleasure to support the Special Order honoring Congressman Peter Rodino. By every standard of measurement, Mr. Rodino has earned this special recognition from his colleagues in the House of Representatives. I am delighted that the National Urban League Movement has this opportunity to express its sincere appreciation for his outstanding contributions and continuing commitment to civil rights enforcement in this nation.

We also applaud the Congressman's enduring support of the Voting Rights Act. In almost four decades as a Member of Congress, Mr. Rodino has proven himself a dedicated and effective lawmaker.

Sincerely,
DOUGLAS G. GLASGOW,
Vice President, Washington Operations.

NATIONAL WOMEN'S POLITICAL CAUCUS,
Washington, DC, December 11, 1985.
Hon. CHARLES B. RANGEL,
Member of Congress, Longworth House Office Building, Washington, DC.
(Attention of Kevin Cullather).

DEAR CONGRESSMAN RANGEL: I heartily endorse your request for a Special Order on Thursday to honor Congressman Peter W. Rodino, Jr.

His record is one of consistent and strong advocacy for human rights. We particularly appreciate his staunch support of the Equal Rights Amendment, the Civil Rights Act of 1964, and the Civil Rights Restoration Act.

We hope he continues in the Congress for many years.

Sincerely yours,
IRENE NATIVIDAD,
National Chair.

STATE OF NEW JERSEY,
DEPARTMENT OF THE PUBLIC ADVOCATE,
Trenton, NJ, December 11, 1985.
Re: Special order—Honorable Peter Rodino.
Hon. CHARLES RANGEL,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN RANGEL: I am pleased to write this letter in support of your special order of Thursday, December 12, 1985, honoring my long-time friend and associate, Congressman Peter Rodino, for his years of leadership in the area of civil rights. As a native Newarker and, therefore, a constituent of Congressman Rodino, I am proud of his contributions to the movement for equal opportunity in all sectors of American society. Congressman Rodino has consistently demonstrated an admirable level of integrity and leadership in seeking to inspire the federal government to fulfill its mandate to preserve and protect the rights of all people. He has overcome great obstacles in this struggle, but has persevered. As a member and later as Chairman of the House Judiciary Committee, he has been forthright in directing that Committee through difficult legislative battles which have resulted in improving the lot of the underprivileged throughout American society. On this day I am honored to join with you and the many others who will salute Peter Rodino for his leadership, courage and dedication to purpose.

Sincerely,
ALFRED A. SLOCUM,
Public Advocate.

Mr. CONTE. Mr. Speaker, I would like to thank my good friend from New York, CHARLIE RANGEL, for taking out this special order for the distinguished chairman of the Judiciary Committee, my paisan, PETER RODINO.

It is very appropriate that we're holding this special order in 1985, the 20th anniversary of the passage of the Voting Rights Act. As a member of the Judiciary Committee back in 1965 when that landmark legislation was passed, PETER RODINO can take a great deal of credit for actually shaping the form of that bill. As a strong supporter of that legislation myself, back in 1965, I'm pleased to be standing in the well today.

The Voting Rights Act was a bill that said to a watching world that all of our citizens—whatever the color of their skin, whatever their religion, would have the right to vote without harassment or fear. Because of PETER RODINO's work, those noble challenges became the law of our Nation.

As chairman of the Judiciary Committee, PETE became known to the Nation as the man who conducted the Watergate hearings with fairness, with openness, and with candor. At times, back in the 1970's it seemed as though the future of our great Republic rested on his shoulders. He faced the challenges of those hearings in a responsible, nonpartisan fashion.

His 36 years in Congress are marked by PETER's love and concern for the Constitution, which he reveres and defends with passion. He is a credit to the Italian-American community, a credit to this institution, and a credit to this Nation. I am proud to have served, and to serve, in the House with this great American.

Mr. DINGELL. Mr. Speaker, it is indeed an honor to pay tribute to my good friend and colleague from New Jersey. In the 30 years that I have served as a Member of this body, I have always found PETE RODINO to be a man of integrity and a public servant who charges ahead until he finds the truth.

Everyone remembers Watergate—the scandal, the humiliation of many public officials and the very difficult actions the legislative branch had to take in Watergate's aftermath.

Let me tell you about the Judiciary chairman's latest stellar accomplishment. When my Investigation's Subcommittee and other subcommittee's were uncovering the EPA scandal in 1982 and 1983, we were stonewalled by the Justice Department. The leadership of the House requested Mr. RODINO to investigate the strange, if not illegal, conduct of the Department during that period.

After 2½ years of indepth investigation, which was needlessly prolonged by struggles with the Justice Department, the committee has now issued its report—a report that would not have been possible under a chairman of less integrity and tenacity. I believe the report is a monument to PETE RODINO's thoroughness and fairness.

The report confirmed our worst suspicions. In withholding Superfund documents from the committee under the ruse of executive privilege, senior officials at the Department of Justice and the White House were deliberately keeping the Congress and the American people from learning about this administration's failure to enforce laws designed to protect the public health and the environment. The compelling evidence amassed during this investigation clearly justified the committee's vote to refer the report to the Attorney General with a request for the appointment of an

independent counsel and the referral to the U.S. district court.

PETER RODINO has been the driving force of this and other investigations where it was necessary that the public be informed of wrongdoing and impropriety.

PETE RODINO will be remembered as a true friend of this body, its members and the public trust.

Mr. FISH. Mr. Speaker, I am delighted to join my colleagues today to honor a good friend and a great legislator, the Chairman of my Judiciary Committee, Congressman PETER W. RODINO, I have served with the chairman since my first days in the Congress in 1969 as a member of the Judiciary Committee, and for the past 4 years as ranking minority member, our differences on legislation have often been overcome by the fundamental nature of the committee's work and the important national goals we have pursued in the committee. The chairman has always tried to be accommodating and appreciative of the views of the minority. I am proud to call him friend.

Congressman RODINO has been one of the most effective legislators in the history of the Congress. He has led the Judiciary Committee through radically changing times.

He was involved in the early days of the civil rights movement in writing reports on landmark bills in 1957, 1960, 1964, and 1968. He was the floor manager of many of these bills, and when he was not the manager, he was on the floor to insure passage of civil rights legislation. He also pushed for and succeeded in passage of the Voting Rights Act of 1965 and subsequent extensions of this vital legislation. He is the House expert on immigration.

I served on the committee during the Watergate impeachment inquiry, and recognized the chairman's firm leadership and his fairness and thoroughness throughout 7 long months of our consideration. The impeachment hearings were a special time to those of us who participated, and I will not forget his critical role.

Mr. KILDEE. Mr. Speaker, I wish to join my colleagues in honoring Congressman PETER W. RODINO, Jr., for his service in Congress. Congressman RODINO'S record in Congress is one of honorable service to his constituents and to the country. When we review his accomplishments, we see a clear record of caring and concern for the people of this country. His efforts in civil rights were instrumental in passage of many of our Nation's most important pieces of civil rights legislation. He was the author of the Voting Rights Act Extension in 1982, and he authored majority reports on civil rights in 1957, 1960, 1964, and 1968.

Congressman RODINO's accomplishments in civil rights alone are worthy of great praise, but he has done so much in so many different areas. He authored the Victim and Witness Protection Act of 1982. He kept the Nation together during our gravest constitutional crisis when he chaired the Watergate impeachment inquiry. He led the efforts to cut off aid to countries that do not help in the eradication of illegal narcotics. He was a leader in ending the unfair national origin quotas as the basis for immigration policy in 1965. This is just a small sample of what he has done while in Congress.

James Madison wrote in the Federalist Papers that the purpose of government was to protect the rights of all its citizens from ". . . some common impulse . . . adverse to the rights of other citizens, or to the permanent and aggregate interests of the community." Congressman RODINO has learned this valuable lesson well. His whole career in Congress is one of making sure that the rights of the community and its citizens were not sacrificed for the benefit of special interests. His accomplishments exemplify what is best about government. He has shown that government works for the people. His great concern, compassion, and commitment have brought honor to this great legislative body. For these reasons, I am proud to join my colleagues in honoring Congressman PETER W. RODINO, Jr., and all that he has done, and I look forward to serving with him for many more years.

Mr. ADDABBO. Mr. Speaker, I am pleased to join my colleagues in paying tribute to my good friend PETER RODINO. I would also like to compliment my colleague from New York [CHARLES RANGEL], for calling for a special order in honor of a man who has served in Congress with distinction for 36 years.

Congressman RODINO earned the respect and admiration of the country with his handling of the Watergate inquiry. In one of our Nation's most difficult periods, he was entrusted with the special responsibility of guiding the country through one of its most trying crises. Because of his leadership and the innate strength of our Constitution, our Republic emerged from this crisis a stronger and more just democracy.

Though his name is most often associated with the Watergate hearings, it is by no means his only significant accomplishment in his 36 years on Capitol Hill. PETER RODINO was at the vanguard of the civil rights movement in this country, long before it was commonly recognized as an important moral issue. It was the leadership and initiative of people like Congressman RODINO, that brought the national disgrace of segregation to the forefront of public consciousness. The true test of leadership is the ability to recognize an important issue and successfully change public attitudes about it. Defined in these terms, PETER RODINO was one of the leaders of the civil rights movement in this country.

In his important role of chairman of the House Judiciary Committee, he continues to take a leading role in defining and shaping national priorities and promoting justice. His efforts to make narcotics control a component of U.S. foreign policy could once and for all give our Government the leverage it needs in dealing with countries that permit drug growers and exporters to operate openly within their borders.

His name is also on a landmark piece of legislation now pending before this body, one that addresses the very difficult question of immigration policy. As one of the leading proponents of the move that eliminated national origin quotas, he is now fighting to ensure that people of all races and ethnic backgrounds have an equal opportunity to come to America without fear of discrimination or exploitation.

PETER RODINO has always been somewhat of a pioneer in Congress. He has often been the first to speak out on important issues. His hard work and determination has opened doors for other ethnic-Americans, myself included. The greatest tribute that we can pay him is to continue to work for a society in which all Americans can pass through the doors of opportunity that he helped open.

Mr. HUGHES. Mr. Speaker, I rise tonight to honor my respected colleague from New Jersey, the Honorable PETER RODINO.

As the chairman of the House Judiciary Committee, Congressman RODINO has shown remarkable leadership in a number of important legislative areas, including civil rights and immigration reform; bankruptcy, commercial law, and antitrust policy; and protecting and preserving the constitutional rights of all Americans.

Even before assuming the Judiciary Chair in 1973, PETER RODINO carved out a record of accomplishment in the civil rights area and was instrumental in congressional passage of the Civil Rights Act of 1964. As the former chairman of the Immigration Subcommittee and prime sponsor of the Refugee Act of 1980, Congressman RODINO has played an important role in shaping our immigration laws.

Few members can match the tremendous record of legislative accomplishments which Congressman RODINO has achieved since he was elected to the 81st Congress in November 1948. His hardwork and leadership led to the congressional enactment of the Omnibus Crime Control and Safe Streets Act of 1968, the Voting Rights Act Extension in 1982, and, in 1984, legislation making Martin Luther King's Birthday a national holiday.

The distinguished "Dean" of the New Jersey delegation has continued to pursue his fundamental interests in these areas in the 98th and 99th Congress. As an original sponsor of the Civil Rights Restoration Act of 1985, he has been instrumental in efforts to protect the civil rights of all Americans by ensuring that the Federal Government does not support discrimination based on race, gender, age, or physical handicap. As the prime sponsor of the Immigration Control and Legalization Amendments Act of 1985, Chairman RODINO has continued to provide tremendous leadership in updating our immigration laws.

Mr. Speaker, Congressman RODINO has been an inspiration to all of us who have the honor of serving in Congress. As a member of the New Jersey delegation and Chairman of the Judiciary Subcommittee on Crime, I have had the real privilege of working with Congressman RODINO. His leadership continues to be invaluable to all of us. He is truly a remarkable man deserving of this special recognition. Thank you.

Mr. BENNETT. Mr. Speaker, I rise to pay tribute to Representative PETER RODINO, chairman of the House Judiciary Committee. He was elected to Congress in 1948, as was I, and so we have been colleagues and good friends now for almost 40 years. Those have been years of outstanding achievement for Congressman RODINO as he has succeeded in passing outstanding legislation in the fields of: civil rights, law enforcement, narcotics control, immigration, copyright, bankruptcy and other major legislative concerns. He is a man of compassion and idealism and yet with a steady and uncommon wisdom. I treasure his friendship and wish many more years here in constructive leadership for our country.

Mr. HOWARD. Mr. Speaker, I would like to join my colleagues in recognizing the outstanding contributions and accomplishments of the chairman of the House Judiciary Committee, the gentleman from New Jersey [Mr. RODINO].

My relationship with PETER RODINO dates back to 1964 when I was first elected to Congress from the Third Congressional District of New Jersey. As a freshman Congressman, I looked to PETER RODINO for guidance and assistance, which he never failed to provide. To this day, as the dean of the New Jersey delegation, he offers inspired leadership on matters of critical importance to our State. Because of the example he sets, I believe we have one of the most cohesive delegations in the country.

PETER RODINO has also provided strong, enlightened leadership as chairman of the Judiciary Committee. His brilliant performance during the Watergate impeachment proceedings is what most people recall about Mr. RODINO. But in many ways, the courageous stands he has taken on a host of controversial issues before his committee could have an even greater long-term impact on our society.

PETER RODINO may be the single most effective protector and defender of the Constitution in Government today. In an era subject to frequent shifts of public opinion. PETER RODINO stands firm in his refusal to tamper with the Constitution to satisfy vocal minorities. This is the mark of a responsible legislator and indeed, a statesman.

I thank PETER RODINO for his courageous leadership and wish him many more years of service in the public interest.

Mr. GREEN. Mr. Speaker, today I rise to join my colleagues in this special order to honor one of our own colleagues, Congressman PETER W. RODINO.

In a career that has spanned almost four decades, Congressman RODINO has been elected to the U.S. House of Representatives for 19 successive terms. He has represented a district in New Jersey which has gone through many changes in his years of service. Despite a changing constituency and growing urban problems, the 10th Congressional District has consistently voted to return him to Congress.

In his years as a House Member, Congressman RODINO has proven himself to be a skillful legislator. As chairman of the House Judiciary Committee, Congressman RODINO has played a central role in moving important bills to the floor, including measures to consider the Equal Rights Amendment, extension of the 1965 Voting Rights Act, fair housing, and immigration reform.

Among his many accomplishments, Congressman RODINO may best be remembered for his role in conducting House Judiciary Committee impeachment proceedings against President Nixon in 1974. A man of conscience and a faithful observer of the constitution, Congressman RODINO directed Watergate hearings in the House with caution and a sense of commitment to the spirit of the Constitution. He opened up the hearings by firmly stating that the committee must faithfully live up to its constitutional responsibility in the proceedings. Congressman RODINO held that "the real security of this Nation lies in the integrity of its institutions and the trust and informed confidence of its people." His skillful and patient work in the committee resulted in three articles of impeachment approved overwhelmingly by committee members. Only the President's resignation prevented any further action by the full House.

His adherence to the basic tenets of the Constitution is probably best illustrated by his contribution to civil rights. Congressman RODINO has expressed his concern for civil rights by consistently supporting major civil rights bills in 1957, 1960, 1964, 1965, 1966, and 1968. He has also produced legislation to extend enforcement of the Voting Rights Act.

Congressman RODINO has shown his dedication to preserving our present system of government and to insuring that basic rights guaranteed by the Constitution are not abused. I thank Representative RANGEL for bringing this special order to recognize Congressman RODINO's service to the people—recognition that is long-awaited but deserved.

Mr. CLAY. Mr. Speaker, I rise today to pay homage to one of America's most distinguished jurists and civil libertarians, the Honorable PETER RODINO. In 36 years service in the U.S. House of Representatives Congressman RODINO has fought to guarantee justice for all Americans.

As the chairman of the House Judiciary Committee, Representative RODINO has been a leader in the battle against time-honored legal inequities which were once believe inherent in our democratic system. PETER RODINO authored the reports on the civil rights bills of 1957, 1960, 1964, and 1968; and served as the floor manager of the landmark Civil Rights Act of 1964. Later, Chairman RODINO directed the Watergate impeachment inquiry and established the Law Enforcement Assistance Administration. More recently, Congressman RODINO has worked to improve U.S. immigration policy and revise U.S. bankruptcy, copyright, and antitrust laws. Always maintaining his penchant for the interests of ordinary people, Congressman RODINO is a proven spokesman for the interests of women, minorities, and working people, and has demonstrated an unyielding respect for justice as well as the law.

Through his work on the House Judiciary Committee, Congressman RODINO has profoundly influenced the field of jurisprudence and earned a preferred position in the history of the United States Congress. Never losing sight of the singular importance of civil liberties, Congressman RODINO has maintained an unyielding respect for the same values as those great men who founded our Nation.

Mr. Speaker, our Nation is much better off for the contributions of our distinguished colleague from New Jersey. Congressman PETER RODINO has played an instrumental role in shaping the fabric of our national life and in so doing he has touched the lives of generations of American citizens. It is my pleasure to serve with PETER RODINO in the U.S. House of Representatives and it is my honor to join my colleagues in this special tribute to a masterful lawmaker, the very honorable—Congressman PETER RODINO.

Mr. GILMAN. Mr. Speaker, I rise today to join my colleagues in honoring and commending my dear friend and colleague, PETER RODINO. I am pleased to be able to voice my high regard for PETER RODINO because it is not often that we in Congress are afforded the opportunity to recognize and praise the important contributions of our fellow Members. PETER is particularly deserving of recognition, having worked so diligently in his 36 years as a Congressman to improve the quality of life for all Americans.

As many of us know, PETER RODINO has been a champion of equality and a leader in the civil rights campaign. He was a major figure in fighting for the adoption of the civil rights bills of 1957, 1960, 1964, and 1968. He was also the author of the Voting Rights Act Extension, and was the floor manager of the landmark Civil Rights Act of 1966. PETER continues to fight for the enforcement of civil rights. Last Congress, the long-held dream to make Dr. Martin Luther King's birthday a national holiday was finally realized, with the help of PETER RODINO. Earlier this year, I joined with PETER and many more of our colleagues in urging the President to avoid action on proposals to amend Executive Order 11246, which lays the legal groundwork for affirmative action programs. PETER RODINO helped enact laws to protect the civil rights of all U.S. citizens, and he continues to staunchly defend those laws to this day.

During my 13 years as a Member of Congress, my respect and admiration for PETER RODINO has only grown. I have often turned to our chairman of the Judiciary Committee for guidance on the many matters relating to our Constitution, to the courts, and to our fight against crime. As a fellow member of the Select Committee on Narcotics Abuse and Control, I commend him for helping to make narcotics control an integral part of our U.S. foreign policy. PETER was instrumental in directing the Watergate impeachment inquiry in a fair and forthright manner. He has significant-

ly contributed to immigration reform and he has helped to revise U.S. bankruptcy, copyright, and antitrust laws.

PETER whose congressional district in New Jersey is quite close to my own in New York, is always cooperative in working with others in matters of mutual concern. He is a pleasure to work with and a credit to the Congress—always bearing in mind what can be so easily forgotten by others: that our Government is for the people.

PETER RODINO has labored continually these last 36 years to protect the people and improve the way of life for all Americans. I am therefore grateful to our colleague, the gentleman from New York, CHARLIE RANGEL, for holding this special order.

Accordingly, I am honored to be able to state for the record how proud I am to be able to work with such a dedicated and skillful lawmaker, and to have as a friend and colleague such a talented leader.

Mr. GLICKMAN. Mr. Speaker, when we speak of PETER RODINO, many Americans remember their first acquaintance with him as the individual who chaired the hearings on the impeachment of Richard Nixon. Remembering those somber days, we think of the even-handed and fair manner in which Chairman RODINO conducted those hearings. His stewardship of those hearings only serve as an example of his commitment to the preservation of our Constitution which has been a hallmark of his career in the House for over a third of a century.

Chairman RODINO'S commitment to desegregation and civil rights in general, predates his years in the House. One of the first votes he cast upon entering the House was to desegregate the Armed Forces. Each piece of civil rights legislation from that time to this bears his mark and in many cases enactment was due in no small part to his stewardship and dedication to open access and participation in society for all citizens of our country regardless of race, creed, or color.

Chairman RODINO'S imprint on our Nation's laws is not only felt in the very important and fundamental area of civil rights. He has also been a leader in the areas of crime prevention and control, victims compensation, immigration reform, antitrust legislation, drug and narcotics control, and the often unheralded area of bankruptcy. In each instance, his sense of commitment to justice and improvement in the quality of life for all citizens is what each of us thinks of when we think of PETER RODINO.

I am proud to serve on the Judiciary Committee under his chairmanship, and stand with pride today to honor PETER RODINO'S outstanding accomplishments. I look forward to continuing to work with him in the years to come.

Mr. GUARINI. Mr. Speaker, it is an honor for me to speak about a man whose far-reaching accomplishments in the field of public service serve as an example to all legislators and lawmakers. As dean of the New Jersey congressional delegation, Chairman RODINO provides the elected Representatives from our State with a model of legislative initiative, legal prowess and dedication to human welfare. I am proud to highlight some of this man's great accomplishments today.

Since his election to the 81st Congress in 1948, Congressman RODINO has dutifully served New Jersey's 10th District. Greater Newark, beset with a host of urban maladies, has benefited from his tenure in office. During the past three decades, demographic changes, which caused many to abandon this city, called Mr. RODINO to battle for the rights of a disenfranchised urban poor. The monumental task of providing adequate representation to such a complex, diverse district has been achieved successfully through this man's untiring efforts.

As the author of the majority reports on civil rights legislation in 1957, 1960, 1964, and 1968, Mr. RODINO has established himself as a leader with a demonstrated commitment to equality for all of America's citizens. His timely recognition of the minority right to vote, and his fight against established policies of segregation, paved the way for an entire generation of blacks to fully participate in our Nation's legislative process. His outstanding record in the field of civil rights has not been limited to a period of our country's history when national consciousness was drawn to these issues. As exemplified by his authorship of the Voting Rights Act Extension of 1982, considered to be one of the most significant civil rights bills of our time, Chairman RODINO has continued to act as a watchdog for the vigilant preservation of minority rights.

With Chairman RODINO at its helm since 1973, the House Committee on the Judiciary has been the source of a vigorous campaign against crime. Again, in the forefront of legislative initiative, he cosponsored the Omnibus Crime Control and Safe Streets Act of 1968, as statistics of handgun violence and assault rose to epidemic proportions. Mindful of the many people who have suffered at the hands of criminals. Chairman RODINO authored the Victim and Witness Protection and Assistance Act of 1982. Through his efforts to provide judicial equity to all citizens, the needs of victims are not considered secondary to our legal responsibility for punishing criminals.

As director of the first Presidential Impeachment inquiry in over 100 years, Congressman RODINO'S dedication to the principles of the U.S. Constitution was brilliantly manifested during the Watergate era. As America was plunged into a trying period of self-doubt and low national morale, his legal expertise and vitality added new life to the Constitution and pulled the United States through a crisis which threatened to undermine our precious system of laws. Only a man of exceptional character could have defended his country so well.

Congressman RODINO demonstrated this exceptional character during 5 years of dedicated military service. As a volunteer for service in World War II, he was commissioned overseas and achieved the rank of captain after a successful naval career. His honors include the Bronze Star.

He has an outstanding reputation as a dedicated family man. His two children reflect some of this man's admirable qualities. Peter, his son, enjoys a successful career as an attorney. Margaret, his daughter, shares Congressman RODINO'S musical ability to compose song lyrics. One of his most treasured hobbies is playing with the use of words in poetry, prose and music.

Congressman RODINO'S multifaceted abilities and experiences augment his brilliant career in public service. As a humanitarian, patriot, family man and legislator, he continues to be an inspiration for all those interested in serving as an elected official. At a time when our Nation's young people are in desperate need of an example, Congressman RODINO'S commitment to social justice, civil rights and the common good provide an ideal for America's youth. Today, I salute this man who has acted as a defender of his country and as a defender of his country's Constitution.

Mr. SEIBERLING. Mr. Speaker, it has been my privilege and pleasure to serve on the Judiciary Committee with PETER RODINO throughout my 15 years in the House, 13 of them with him as chairman of the full committee. His courage and dedication have been an inspiration to me as they have been to not only his colleagues on the committee and in the House but to millions of people all over America and indeed the world.

His commitment to our Constitution has been absolute. His dedication to the cause of human rights, civil rights, and civil liberties has been unequivocal. His record in protecting the rights of minorities has been unsurpassed.

Mr. Speaker, we honor PETER RODINO tonight because he has brought great honor to us all.

Mr. FLORIO. Mr. Speaker, today I join in honoring our colleague, PETER W. RODINO, JR., for his distinguished record as New Jersey's Congressman from the 10th district.

The House career of PETER RODINO is marked by his fairness and deep sense of justice in our society. He was elected to the House of Representatives in 1948 representing a large part of Newark. A well-liked and trusted member of Congress, he rose steadily through the ranks of the Committee on the Judiciary. During the years before his chairmanship, Mr. RODINO was a decisive force in drafting and passing many civil rights bills.

The passage of the fair employment practices provision in the 1964 Civil Rights Act and the 1966 housing bill were crucial bills in which Mr. RODINO played an instrumental role. Mr. RODINO also displayed his skill by being the chief floor manager of the Johnson administration's Immigration Reform Law which ended national origin quotas.

Chairman RODINO'S most famous public achievements was his chairmanship of the Judiciary Committee in the impeachment of President Nixon in 1974. There is no

question that the cautious and fair way PETER RODINO conducted that proceeding brought great credit to himself and to the integrity of the House of Representatives.

Today, PETER RODINO is regarded as one of the most respected and influential Members of Congress. I take great pride in serving with him in the New Jersey delegation, of which he is dean. PETER RODINO's contributions have helped build a Nation dedicated to civil liberties for all and I am pleased to join in commending and thanking him.

Mr. BEVILL. I am proud to join my colleagues today in recognition of the many fine achievements of Congressman PETER W. RODINO of New Jersey. PETE has served 36 years in Congress and has been chairman of the House Judiciary Committee since 1973. In that role, he presided over the Watergate impeachment proceedings. During that time, I believe that PETE did more to preserve the integrity and improve the image of the House of Representatives than anyone else has ever done.

I remember being in Speaker Carl Albert's office the day PETE came in and asked Albert how he planned to handle the impeachment proceedings. There was no precedent for this because no one knew how it had been handled in Andrew Johnson's era. Albert had decided it would be best for PETE to handle it in the Judiciary Committee and told him so. I believe that was a wise decision. PETE is dedicated to justice, honesty and fairness. I don't think anyone could have done a better job than he did during a difficult time in our Nation's history.

Watergate was not the only sensitive issue which PETE has handled. He took a leadership role during another tumultuous time. In the 1960's, he authored civil rights legislation and guided it through Congress.

PETE RODINO has truly make his mark on history and he will always be remembered as a great statesman and an influential lawmaker. I am proud to say I serve in Congress with PETE RODINO.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman from New York taking the time to honor our colleague, Congressman PETER RODINO. It is infrequent that we take the time to honor a colleague who has such a record of service, and who, happily, is not retiring.

Mr. Speaker, 1974 was a tragic year for our country. In that year, we saw our President resign in shame, the first to do so in our Nation's history. Ironically, it was also a year in which the House of Representatives experienced one of its finest hours.

As the television cameras captured every word and our Nation tuned into watch, the House Judiciary Committee carefully navigated its way through the impeachment hearings. At the helm was our colleague, PETER RODINO; who, up to that time was not well known throughout the country, though respected by his colleagues and exceedingly popular in his own 10th Congressional district of New Jersey. The men and women who served on the Judiciary Committee and Chairman RODINO through their conduct assured the Nation of the stability of our Government.

It is for his key role and delicate handling of the Watergate crisis that Congressman RODINO will be most remembered. However, even before that historic summer, his place in history was assured, for PETER RODINO has been one of the great congressional leaders on the cause of civil rights. His mark is on every major piece of civil rights legislation of the past 3 decades. Ranging from his authorship of the majority committee reports on four civil rights bills, to his serving as floor manager of the 1966 Civil Rights Act and his authorship of the 1981 Voting Rights Act extension, PETER RODINO has played an indispensable role in bringing about equal rights under the law for all Americans.

For every Member who has served with Congressman RODINO during his 36 years in this House, it has been a great privilege. One of the truly historic figures of American Government, PETER RODINO has much still to contribute. I hope that the Members of this House and the people of our Nation will continue to benefit from his high integrity, intelligence and compassion for many years to come.

Mr. LAFALCE. Mr. Speaker, many distinguished Americans have served in the Congress of the United States. Few have had the impact of PETER RODINO, who for 36 years, has been making significant contributions to the people of the United States as a Member of the House of Representatives.

We are all aware of Congressman RODINO's masterful handling of the Judiciary Committee's impeachment hearings. Confronted with a constitutional crisis, he performed with distinction and the country which he so loves emerged unscathed, with its constitutional institutions stronger than ever. What is, perhaps, less known are the contributions which Congressmen RODINO, has made in the field of civil rights. As Chairman of the Judiciary Committee, he is, of course, at the heart of the legislative arena in the civil rights area. His achievements are legion: the civil rights bills in 1957, 1960, 1964, and 1968; author of the Voting Rights Act Extension; and floor manager of the Civil Rights Act of 1966. Millions of Americans have PETE RODINO to thank for the civil rights which they now enjoy, but which were for so long denied.

In recent years there have been efforts to engineer a retreat from the great civil rights triumphs of the sixties. We, in Congress, can rest assured that with PETER RODINO at the helm of the House Judiciary Committee there will be no substantial retreat in the area of civil rights. Rather, he will continue his efforts to make the American dream come true for all of us. PETER RODINO, we salute your career and your achievements.

Mr. HAMMERSCHMIDT. Mr. Speaker, throughout my 19 years in the House of Representatives I have had the pleasure of serving with one of the best lawmakers ever to be a membr of this Chamber, the distinguished chairman of the Judiciary Committee, PETER RODINO. He has served his New Jersey district with integrity and determination for 36 years now.

Although PETE and I don't always see eye to eye on certain issues, I have nothing but the greatest respect for his skill as a legislator. As the chairman of the Judiciary Committee, he has addressed a wide range of controversial issues, and skillfully led the committee through one of the most turbulent periods in this Nation's history. Through his dedicated work on civil rights enforcement legislation, he has helped innumerable Americans. In fact, PETE wrote the majority reports on civil rights bills in 1957, 1960, 1964 and 1968, and also authored the Voting Rights Act Extension.

Civil Rights isn't his only area of expertise, however. Chairman RODINO also has a keen interest in immigration legislation, and was instrumental in leading the successful effort to eliminate national origin quotas as the basis of our country's immigration policy. In this Congress, he is the coauthor of immigration reform legislation that has already been approved by the Immigration Subcommittee. Among his other outstanding legislative accomplishments are revisions of U.S. bankruptcy, copyright, and antitrust laws.

All of these achievements are impressive, but there is still another outside the sphere of the Judiciary Committee that cannot be omitted. PETE serves as a senior member of the Select Committee on Narcotics Abuse and Control, where he has worked to make narcotics control and integral part of U.S. foreign policy, and to find solutions to the tragedy of drug abuse.

In closing, I would just like to express my thanks to this great statesman for his tireless work and high principles, and say that I hope to continue to see him across the aisle for some time to come.

Mr. DINGELL. Mr. Speaker, it is indeed an honor to pay tribute to my good friend and colleague from New Jersey. In the 30 years that I have served as a Member of this body, I have always found PETE RODINO to be a man of integrity and a public servant who charges ahead until he finds the truth.

Everyone remembers Watergate—the scandal, the humiliation of many public officials and the very difficult actions the legislative branch had to take in Watergate's aftermath.

Let me tell you about the Judiciary chairman's latest stellar accomplishment. When my Investigation's Subcommittee and other subcommittees were uncovering the EPA scandal in 1982 and 1983, we were stonewalled by the Justice Department. The leadership of the House requested Mr. RODINO to investigate the strange, if not illegal, conduct of the Department during that period.

After 2½ years of indepth investigation, which was needlessly prolonged by struggles with the Justice Department, the committee has now issued its report—a report that would not have been possible under a chairman of less integrity and tenacity. I believe the report is a monument to PETE RODINO's thoroughness and fairness.

The report confirmed our worst suspicions. In withholding Superfund documents from the committee under the ruse of executive privilege, senior officials at the Department of Justice and the White House were deliberately keeping the Congress and the American people from learning about this administration's failure to enforce laws designed to protect the public health and the environment. The compelling evidence amassed during this investigation clearly justified the committee's vote to refer the report to the Attorney General with a request for the appointment of an independent counsel and the referral to the U.S. district court.

PETER RODINO has been the driving force of this and other investigations where it was necessary that the public be informed of wrongdoing and impropriety.

PETE RODINO will be remembered as a true friend of this body, its Members, and the public trust.

Mr. MATSUI. Mr. Speaker, I rise today to join with my colleagues from both sides of the aisle to pay tribute to a man of great accomplishment, Congressman PETER RODINO.

My admiration for PETER RODINO dates to my college years when Congressman RODINO stood in the forefront of legislative action on behalf of civil rights. He helped to lead the fight for the great civil rights bills of our time including the Voting Rights Act, the Civil Rights Act and open housing legislation. He made us proud of our Government and our Constitution during the trying months of the Watergate impeachment hearings.

As a freshman Member of the House of Representatives I had the great honor of serving on the Judiciary Committee under Chairman RODINO. I was most fortunate to have the opportunity to learn about the legislative process at the hand of a master.

Chairman RODINO is also a man of great compassion. He kindly agreed to be interviewed by my 13-year-old son, Brian, and patiently answered questions about Watergate.

Mr. Speaker, for his leadership, his compassion and his steadfast defense of our Constitution, every Member of this body and every American owes Congressman PETER RODINO a debt of gratitude.

Mrs. COLLINS. Mr. Speaker, I am here today to honor my distinguished colleague PETER W. RODINO, whose 36 years in Congress stand for one proposition: one man can and has made a difference.

What is that difference? One aspect of it is civil rights. PETER RODINO authored the majority reports of civil rights bills in 1957, 1960, 1964, and 1968. He wrote the voting rights extension of 1982. He was the floor manager of the Civil Rights Act of 1966. He was a leader in making Martin Luther King's birthday a national holiday.

When minority men and women across this Nation needed PETER RODINO, he was always there fighting the hard fight for racial equality and justice, and doing so before many others had signed on to the cause.

Indeed, Mr. RODINO has never shied away from tough challenges. When a President placed himself above the law, PETER RODINO marshaled his Judiciary Committee in voting for impeachment.

In addition, the Congressman has used his judiciary post to push for the important Victim and Witness Assistance Act, to eliminate national origin quotas as the basis of U.S. immigration policy, and to cut off aid to nations that do not cooperate with the United States in curbing the flow of narcotics into this Nation.

These and his other achievements, too numerous to discuss in this short amount of time, indicate the magnitude of the difference that Mr. RODINO has made to this Nation. While he will be sorely missed when he retires at the end of this Congress, his remarkable accomplishments will be with us, and this Nation, for many, many years to come.

Thank you, Mr. Speaker, and thank you, PETER RODINO.

Mr. WEISS. Mr. Speaker, it is my pleasure to join in this special order to honor one of the most respected Members of the House, our friend and colleague from New Jersey, Congressman PETER RODINO, chairman of the Committee on the Judiciary. It is eminently appropriate that we honor him on the 20th anniversary of the passage of the Voting Rights Act of 1965.

For more than 37 years, the House of Representatives has been graced by the extraordinary skill, the quiet determination, and the superlative sense of justice of PETER RODINO. A glance at his legislative accomplishments looks like a list of Congress' proudest moments. He managed the Voting Rights Act of 1965, and played a vital role in its extension in the 98th Congress; he guided House consideration of the immigration reform law in 1965, which eliminated the discriminatory national origin quotas that had formed the basis of 40 years of immigration policy; he was floor manager of the open housing bill of 1966; and he was a key player in establishing Martin Luther King's birthday as a national holiday.

Chairman RODINO is also well remembered for his masterful leadership during the impeachment hearings of President Richard Nixon in 1974, which took place only shortly after he had assumed the chairmanship of the Judiciary Committee. His patience, wisdom, and fair-mindedness helped reassure our country, in that troubled time, that justice was in good hands in Congress.

The eighties have been trying times for the proponents of civil rights and fairness in Federal policies. Yet no one has more deftly coped with the exigencies of the eighties than PETER RODINO. Faced with issues like school prayer, abortion, gun control, and school busing, he has unapologetically used his considerable influence to stop pernicious legislation, and promote important initiatives on issues such as women's rights.

We in this body only constitute a small portion of PETER RODINO's innumerable admirers. He has been a hero and a role model to millions of Americans, and a popular and deeply respected representative from the city of Newark, whose citizens have elected him to office 19 consecutive times. Citizens everywhere concerned about the protection of civil and constitutional rights have cause for deep appreciation of Chairman RODINO and his work in Congress.

When James Madison served in Congress in the early 19th century, he was lauded by his colleagues as "the conscience of the Senate." Mr. Speaker, PETER RODINO has served as the conscience of the House over the last three decades. We in Congress, together with the people of our Nation look forward to the continued exercise of that conscience for many years to come.

Mr. DELLUMS. Mr. Speaker, it seems hard to believe that when PETER RODINO first came to the 81st Congress I was a student in junior high school. But that observation reinforces in my mind the duration and durability of his service to the Congress, the people of New Jersey, this Nation and millions of non-Americans as well.

We and they have truly benefited from his devotion to duty and his commitment to open up doors of opportunity for all Americans, regardless of national origin, race, gender, age, or economic status.

For 37 years PETER RODINO has been in the forefront of the struggle for human rights, civil rights, social justice, peace and the termination of the arms race, both nuclear and conventional. He played a key role in drafting civil rights legislation, from the Civil Rights Act of 1957 through the extension of the Voting Rights Act in 1982. He forced a showdown with this administration over making Martin Luther King, Jr.'s birthday a national holiday.

In 1965 he led the legislative struggle to eliminate national origins' quotas as the basis for U.S. immigration policy. He was a dominant force in the passage of the Refugee Act of 1980.

For 15 years he has stood with me in opposing the madness of the nuclear arms race, in opposing an ever-escalating Pentagon budget, and in opposing U.S. intervention in Third World countries. He has been an outspoken champion of oppressed people everywhere, and people everywhere should be in his debt because of that commitment, courage, and determination to have this Nation live out the principles proclaimed in our own Declaration of Independence.

So, on this special day of tribute to a distinguished colleague, I applaud his record of public service, I proclaim respect and admiration for his record of real achievement—but, most of all, I am proud to call him friend and brother in the struggle for peace and social justice.

Mr. FEIGHAN. For almost four decades, Congressman PETER RODINO has been one of America's outstanding civil rights legislators. First as a freshman Member, and later as chairman of the House Judiciary Committee, he has consistently and effectively pressed for increased civil and economic rights for all Americans.

Since coming to the House of Representatives in 1949, Congressman RODINO has been in the forefront for the fight for civil rights. Well before the Supreme Court decision in Brown against Board of Education Congressman RODINO was concerned about equal rights for all Americans. In his first year in Congress, he fought to end the poll tax and other insidious forms of segregation.

Congressman RODINO's continued commitment to equal rights helped shape the major antidiscrimination laws which now protect all Americans. He drafted and managed key portions of all the civil rights legislation which became law between 1957 and 1968. This House has seldom seen such a tireless crusader for equal opportunity in housing, employment, and education.

In 1984, when the Supreme Court unceremoniously overturned two decades of civil rights law, the country turned once again to Chairman RODINO. As he did so many times in the past, once again the gentleman from New Jersey spearheaded the fight to restore those laws.

In short, Congressman RODINO's outstanding civil rights record, his integrity and his commitment are examples for us all.

Mr. DYMALLY. Mr. Speaker, it is clear even to the casual observer that for some of us, this podium serves as a "bully pulpit" from which we try to impart what wisdom we have to our colleagues, and, if the timing is right, to the Nation. One person who does not take the pulpit often is our colleague PETER RODINO. And from him, we have much to learn. Here is a man who is quiet. Some have even described him as shy in public. But PETER RODINO's craftsmanship has given shape to nearly every landmark piece of civil rights legislation signed into law during the third of a century that he has represented the 10th District of New Jersey in the House of Representatives. He is the kind of legislator we all wish to be: knowledgeable, competent, and effective.

PETER RODINO holds a chair that often places him in an uncomfortable position with respect to his colleagues and with respect to certain sectors of the American public. Given that often uncomfortable position, it is a testament to the skill and wisdom of Judiciary Committee Chairman PETER RODINO that he is among the most respected members of this body. And I mean respected on both sides of the aisle. If any single thing can be pointed to as being the basis for that respect which we all have for our colleague, I think it is his sense of fairness. The body of civil rights legislation for which he has been in large part responsible is one manifestation of that sense of fairness. But most people will have to admit that it was his conduct of the Nixon impeachment hearings that forever established Mr. RODINO's single-minded fairness.

As a man of liberal political philosophy presiding over the impeachment of a President of conservative political philosophy, his opportunity for unfair political advantage was obvious. But PETER RODINO was unswerving in his intention to see that this onerous proceeding was carried out with the soberness and the fairness that deliberation over the decision to remove a sitting President of the United States from office deserves. Throughout those hearings, PETER RODINO showed the Nation the best that a representative of the citizens of this country has to give. He brought honor to himself and honor to this body through his role in that sad incident in our Nation's history.

I wish to commend Congressman RANGEL for calling this special order to honor PETER RODINO. I believe that in recognizing PETER RODINO's accomplishment we also make a statement about what we want this body to be: a place where the rights of the citizens of this country will be upheld with strict fairness, where the common good is valued above political advantage. PETER RODINO has done much to make that ideal vision of the Congress a reality.

Mr. DWYER of New Jersey. Mr. Speaker, it is a privilege to join in this special order paying tribute to one of the most distinguished Members of this body, and the dean of our New Jersey delegation, PETER RODINO.

I know that the people of New Jersey take great pride in having our interests so expertly represented on the Judiciary Committee which he has chaired for 12 years. Chairman RODINO has been a staunch protector of our constitutional freedoms in his leadership role on the Judiciary Committee, and is distinguished for his fairness and courage in promoting civil rights.

The chairman has also been a powerful force in our national efforts to control crime and crack down on illicit drug trafficking, and he wrote the 1982 legislation providing assistance and protection for crime victims and witnesses.

His constituents in New Jersey's 10th Congressional District know they have a steadfast advocate for their interests in Congressman RODINO, who has been their able representative for 36 years. He has shown time and time again his concerns for the people of his district and the State of New Jersey. As members of the New Jersey congressional delegation, we are proud to have him as our dean.

The chairman's many accomplishments, and his skills as a legislator and statesman, were brought to the attention of the entire Nation when he presided over the historic Watergate impeachment hearings in 1974. These were sensitive, difficult times for our nation, and Chairman RODINO showed how well our democratic system of governance works when thoughtful, experienced, and fair-minded leaders are at the helm. His leadership gave Americans confidence in our legislative process at this critical juncture in our history; it is a feeling of security in our institutions and constitutional freedoms that has endured under Chairman RODINO's continuing leadership.

Above all, the chairman is respected for his courageous work in behalf of America's minority citizens, working tirelessly for equal rights and equal opportunities. He realizes that there is still a long way to go, and has been undaunted in his work in behalf of America's disadvantaged citizens.

Chairman RODINO's vision and wisdom has served as an inspiration to all of us in our work toward a better and more just America. It is a fight we must continually undertake to safeguard our freedoms and improve our society.

I thank my distinguished colleague from New York, Mr. RANGEL, for calling this special order. It is truly an honor to take part in a tribute to a man who has given so much to this institution and to the country, and who will continue to serve as a guiding force for justice and equality for all Americans.

Mr. ROE. Mr. Speaker, it is a great honor for me to rise today and join in this well-deserved tribute to our colleague and my good friend PETER RODINO, the dean of the New Jersey congressional delegation.

In his 36 years of service in this body PETE RODINO has clearly established himself as an outstanding legislator whose accomplishments have been an inspiration to us all.

America is truly a better place thanks to PETE RODINO. As both a member and later chairman of the powerful House Judiciary Committee, he was responsible for both writing and securing passage of most major civil rights bills approved by Congress. He drafted the fair employment practices provision of the historic 1964 Civil Rights Act and a year later was chief House manager of the Johnson administration's immigration and reform law that eliminated the national origin quota system that had been the basis of American immigration policy for more than 30 years. In 1966 he served as floor manager of this landmark Civil Rights Act of 1966.

To many Americans, PETE RODINO reached the zenith of his distinguished career during the turbulent time of the Nixon impeachment proceedings. Those were indeed troubled times for all Americans. There was doubt in the land. The very pinnacle of American Government, the Presidency, was shaken by scandal. But a calming voice, filled with both authority and fatherly kindness was heard. And that voice belonged to PETE RODINO.

His fairness and professionalism in handling the impeachment inquiry gave the public new confidence that, indeed, the American system of government does work and that it will endure.

As dean of the New Jersey congressional delegation, PETE RODINO has utilized those same leadership skills he demonstrated during the Watergate impeachment proceedings. His bipartisan approach in dealings with both Democratic and Republican Members from our State has helped make the New Jersey delegation the powerful force it is in the House today.

But first and foremost, PETE RODINO is a champion to the people he represents in the 10th Congressional District of New Jersey. The 10th District is representative of many troubled older inner-city areas around the Nation. But thanks mainly to the efforts of

PETE RODINO that area is rebounding from the problems of the past. There is hope and optimism for the future.

PETE, serving with you in the House for the past 16 years has indeed been an honor. I join with our colleagues, the members of your fine family and the people of America in saluting your contributions to our great Nation. It is my hope that you will choose to serve with us for many more years.

Let me conclude by stating that PETE, I am proud to call you my friend.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleague, CHARLES B. RANGEL, in paying tribute to the distinguished Chairman of the House Judiciary Committee, and my very good friend, the Honorable PETER W. RODINO, JR., on the occasion of the 20th anniversary of the Civil Rights Act of 1966.

PETE has championed many causes in the past, and oftentimes, his efforts and his support have meant the difference between success and failure. He was the floor manager of the landmark Civil Rights Act of 1966, and his steadfastness and dedication to civil rights enforcement is demonstrated in his authoring of the civil rights bills of 1957, 1960, 1964, and 1968, and the Voting Rights Act Extension, and his support for numerous bills relating to this subject.

As the Congressman for the 10th District of New Jersey, and a veteran of 36 years of service in the House of Representatives, PETE has distinguished himself time and again—as chairman of the House Judiciary Committee; as a delegate to the North Atlantic Assembly; as an assistant to the majority whip and a member of the House steering committee; and as a former chairman of the Immigration and Nationality Subcommittee as well as chairman of the Monopolies and Commercial Law Subcommittee of the House Judiciary Committee. In every endeavor, he has labored diligently and with devotion to the highest standards of excellence.

His exemplary performance and commitment to fairness during the impeachment hearings demonstrated boundless proof of his skill and concern for our great Nation and its people. In addition, PETE was instrumental in insuring the beginning of a totally new and more democratic concept in American immigration policy, because it was largely through his leadership that the Immigration and Nationality Act Amendments of 1965 became law, doing away with the national origins quota system which discriminated against every nationality and ethnic group.

PETER RODINO is a legislator of extraordinary abilities, and has dedicated his career in public service to equal justice under the law, fairness, and an end to all forms of discrimination. His dedication to these high standards are an inspiration to all Members of Congress, and to all citizens in this country. On the 20th anniversary of the Civil Rights Act of 1966, I am proud to join with my colleagues in saluting this great American, PETER W. RODINO, JR., as he continues in his efforts as chairman of the House Judiciary Committee to secure civil rights and justice for all citizens in our Nation.

Mr. FORD of Michigan. Mr. Speaker, I am pleased to be able to join my colleagues in this Special Order honoring the distinguished gentleman from New Jersey, PETER RODINO. Throughout his career, PETER has been a leader on civil rights issues. We choose this day to honor him because it is the 20th anniversary of one his proudest accomplishments, the passage of the Civil Rights Act of 1966.

During his 36 years in Congress PETER RODINO has been a most effective and diligent representative of his constituents. He has been a masterful lawmaker and a leader on such historic legislation as the Voting Rights Extension Act, and the 1965 Immigration Act which reformed the U.S. policy on immigration.

As chairman of the Judiciary Committee he was called upon to oversee the investigation into the impeachment of our 37th President. During a time when caution and integrity were needed he displayed both. His careful investigation of all the evidence drew bipatisan support and helped to bring to a close one of the most trying times in our history. His career has been marked with many other milestones that are too numerous to mention here. I know all of us join in congratulating PETE on his peerless service to the public good and wish him continued success and happiness in the years ahead.

Mr. RUSSO. Mr. Speaker, I'm delighted to have the opportunity to say a few words in honor of one of the most respected and effective Representatives in the history of this body. Actually, you could say a great many words about a man like PETER RODINO, but I want to keep this simple and clear because it doesn't require a great deal of fancy talking to describe this man. He is honest, he is good, he is wise, he is compassionate and he knows his job and does it with a degree of excellence and dedication that serves as a model for us all.

As an Italian-American, I must say that I take special pride in what Chairman RODINO has accomplished. He can take the seemingly impossible issues and legislatively make an impact—on immigration, narcotics, antitrust laws, to cite a few. The Nation will not forget with what delicate skill he handled the impeachment hearings, or the minorities his tremendous work on civil rights legislation.

So I am among the many who stand in awe of this man's ability to see us through our rough times and provide a calm and judicious presence at all times. The distinguished gentleman from New Jersey also has a way of guiding you that acknowledges your own need to participate and make your own contribution. I know this from firsthand experience because he was my first chairman when I arrived here, wet-behind-the-ears, from Chicago. This generous man taught me in the kindest of ways and trusted me to handle a major bill for the Judiciary Committee. I've never forgotten his confidence in me, and it is such a chairman who inspires you to develop your own confidence and legislative bill.

I'm indebted to Chairman RODINO for all I learn from him, and this country owes a continuing debt of gratitude to him. Despite the fact that he is a senior U.S. Congressman, with power and influence, he does not lose his perspective and simply goes about the business of working on justice for all. I respect him and I trust him. PETE, keep up the good work.

Mr. WHEAT. Mr. Speaker, it is truly an honor to say a few words about Chairman PETER RODINO, a colleague with whom I am privileged to work in the U.S. House of Representatives, and who I respect tremendously, as a great citizen.

Chairman RODINO has been an inspiration to me since 1964, when he displayed unrelenting diligence to ensure the passage of the Civil Rights Act of that year. In fact, he has been a principal proponent in the passage of all major civil rights legislation during his long tenure in Congress.

Mr. Speaker, this year marks the 20th anniversary of the Voting Rights Act of 1965, a bill that passed the Congress in large part due to Chairman RODINO's determined effort. It was his leadership in the House on this issue that has enabled this country to live up to the democratic concepts of our Constitution and ensure that all men who are created equal may have an equal vote. And since that year, he has continued to exhibit courage and determination in ensuring fair and equal rights for all citizens of this great country.

Time and time again, Congressman RODINO's legislative expertise has resulted in laws that have improved the quality of life for the Nation's needy people. More importantly, the principles embodied in those laws have improved the lives of all people of this Nation. It was Chairman RODINO who noted with both sense and sensitivity that civil rights bills are not just for blacks, but rather they are for all of us. His work has improved the opportunities of minorities to vote and has hastened the desegregation of public schools and public facilities. Most importantly, he has helped all Americans to demonstrate to the world that we are what we say we are; a democratic society, based on the principle of equality for all men.

I hope that my colleagues will join with me in applauding Chairman PETER RODINO. He has continued to protect the principles of human dignity and concepts of individual liberty that make America such a strong, and unique Nation.

Mr. FASCELL. Mr. Speaker, I am delighted to pay tribute today to my friend and our colleague from New Jersey, PETER RODINO, with whom I have had the honor and pleasure of serving in the U.S. Congress for over 30 years.

Three words aptly describe his efforts throughout his congressional service: respect, wisdom and fortitude. During his 36 years in the U.S. House of Representatives, PETER RODINO has been the champion of the downtrodden, the forgotten, and the abused. He is a man of vision who has taken a stand, who has heralded unpopular causes because it was the right thing to do.

Our colleague's able leadership of the House Judiciary Committee is legend. I am ever thankful that it was PETER RODINO who was at the helm during the Nixon impeachment hearings and I will always remember his grace and wisdom at that difficult time in our history. For years, and most recently this year, he has been at the intellectual forefront of the immigration reform debate, sharing his respect for the Constitution and for human rights with others as he has struggled to make the necessary changes in our immigration laws. He has also fought tirelessly for the cause of civil rights for all people of this country and for this he has the respect and admiration of a nation.

Our colleague from New Jersey is a friend to the friendless, a light of hope to the disenfranchsied, a man of courage and strength. I am glad to have this opportunity to express my appreciation, admiration and respect for this exemplary public servant. I thank my friend for his extraordinary dedication to his country and I wish him continued success in all of his efforts.

Mr. CROCKETT, Mr. Speaker and my colleagues: I am both pleased and honored to be able to share in this well-deserved tribute to my chairman, PETER RODINO.

It has been my honor and privilege to serve under Chairman RODINO on the Judiciary Committee since March 1982. In the almost 4 years since I joined the committee, I have watched as Chairman RODINO fairly and thoroughly approached the business of the committee, and tackled some of the thorniest problems facing our society today.

He has led the committee through examinations of U.S. immigration policy; of reorganization of courts; or revisions of bankruptcy, copyright, and antitrust laws; and strengthening of civil rights legislation. He has fought the administration's efforts to weaken law enforcement and equal opportunity guidelines, and efforts by others to weaken or abandon the Government's commitment to civil and voting rights in our country. He was a strong support of the Martin Luther King Birthday bill, as well as many other pieces of legislation which evidence his strong and firm commitment to equal justice.

It would be hard for anyone to summarize in a few minutes what Chairman RODINO has meant to minorities and disadvantaged in this country. Over his 36 years in the House of Representatives, his record stands alone among his peers in his defense of the constitutional rights of all our citizens. From his oversight and leadership in the impeachment hearings over Watergate, to his primary role in establishing and maintaining Federal programs to assure equal access to legal services, PETER RODINO has been the champion of those whose rights are in jeopardy,

When the history of the past half century of progress in civil rights and constitutional guarantees is written, PETER RODINO's name will rightly figure prominently in it.

I am proud to have the opportunity to serve with him in the Congress.

Mr. UDALL. Mr. Speaker, there's an ancient political slogan, first used, I think, by Tiberius Caesar, or was it Grover Cleveland, that said, "Public office is a public trust."

And, Mr. Speaker, no man in public office today better embodies the spirit of that old, and very appropriate, adage than the gentleman from New Jersey, my friend PETER RODINO.

At a time when confidence in the very foundations of our political system was being undermined; at a time when confidence in those in public office was being assaulted; at a time when the Nation looked for strength and integrity, PETER RODINO, the chairman of the House Committee on the Judiciary, provided that strength and that integrity.

We often hear that "The office makes the man." Well in this case, the office didn't make the man. In this case the man made the office. Well, Mr. Speaker, we all were fortunate that we had such a man as PETER RODINO in that office. As the newly elected chairman of the House Judiciary Committee in 1973, he did not bend to the tremendous pressures exerted by the most powerful office in the world. He did not succumb to temptations to take the easy way out, to rush to judgement, to be politically expeditious. The stewardship of Chairman RODINO in the matter involving the impeachment proceedings of Richard Milhous Nixon was arguably the finest hour of the U.S. House of Representatives.

We saw, on both sides of the aisle, the dignity and the restraint and the courage of a truly great legislative and deliberative body.

And it is to the everlasting credit of PETER RODINO that the impeachment proceedings were perceived around the world as careful, fair, and judicial.

And though his great fame came primarily from those dramatic and exhausting days of 1973 and 1974, let us not forget, Mr. Speaker, Chairman RODINO's outstanding service to his district, his great State of New Jersey, and to his country. His career in the House of Representatives has been marked by tireless effort, compassion, and skill.

Yes, public office, is a public trust. And PETER RODINO is proving that to be true every day of his career in public office.

Mr. Speaker, I say this with all sincereity: I feel honored and privileged to have served with him since I came to the Congress in 1961 and to be able to call him a colleage and a friend.

Mr. BROWN of Colorado. Mr. Speaker, For a decade, PETER RODINO has presided over a committee whose charges includes the administration of justice, the war against crime, the legal rules governing the economy, and the defense of the Constitution.

As chairman of the Judiciary Committee, PETER RODINO has left his stamp on legislation covering diverse areas affecting every American citizen. When Mr. RODINO entered Congress in 1948, black Americans were not able to vote in many areas. The crucial legislation to change this situation—the Voting Rights Act—is now 20 years old. As the driving force behind this and other historic civil rights measures, PETER RODINO has served all Americans. He helped to bring the benefits of democracy to people previously disenfranchised. He helped to make this a "more perfect union."

PETER RODINO won an enduring place in American history when he chaired the Judiciary Committee's deliberation on the impeachment of the President. At a time of grave constitutional crisis, Mr. RODINO served with distinction.

As a new member of the Judiciary Committee this year, I have appreciated his courtesy and fairness in the conduct of the committee's business. Mr. RODINO has worked diligently and skillfully to advance his vision of the public interest. While candid in the defense of his own point of view, he is more than willing to let other Members defend theirs. It has been a pleasure and an education to have him as my chairman. It has been an honor to serve with a man who, as author of the Voting Rights Act, contributed so much to make this a more just society.

Mrs. BURTON of California. Mr. Speaker, today, as we honor our colleague PETER RODINO, his accomplishments during his long and distinguished career will be described and praised by all of us who hold him in such high regard.

Chairman RODINO'S achievements and his courageous stands on the great civil rights issues of the past decades are well-known. We were all reminded this year, the 20th anniversary of the passage of the Voting Rights Act, of his great contributions to the political rights of Amercians. He led the fight recently for the extension of that landmark legislation. That the rights of all Americans today are secure and that this is truly a nation with freedom of opportunity is in large part due to the efforts of PETER RODINO.

I would like to focus on one chapter in the history of this fine gentleman. During one of the darkest periods for this Government, the Watergate crisis, PETER RODINO brought respect to this institution and reassured all of us that our system of government can withstand concerted efforts to undermine it. His leadership on the Judiciary Committee, his skillful and judicious guidance of the impeachment process was instrumental in bringing Congress and the Nation through that difficult period.

I thank my friend CHARLIE RANGEL for arranging this special order and giving us the opportunity to honor PETER RODINO.

Mr. RINALDO. Mr. Speaker, it gives me a great deal of pleasure to participate in this special order today to honor a close friend, Congressman PETER W. RODINO.

I have known PETE since before I came to Congress in 1972, but over the years I have come to respect him as a colleague and an influential Member in the House of Representatives. PETE RODINO is the dean of the New Jersey congressional delegation, and he is a leader in every sense of the word. The qualities of character, fairness,

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and integrity which the country saw in 1974 as he presided over the impeachment inquiry of the House Judiciary have been known to people in New Jersey for years. While many people say it was his finest hour, they ought to know that out of the cameras and the lights, PETE RODINO is just as fair, honest, and forthright. That is why he has been reelected to Congress for the last 36 years with overwhelming margins and why we in the New Jersey delegation and the House as a whole hold him in such high esteem.

There are many qualities that go into making a good Representative. He must be intelligent, politically astute, have firm principles but also be willing to compromise and negotiate when that is in the Nation's interests. PETE RODINO has all these qualities. He is a great believer in the legislative process and as my colleagues know he has helped steer through Congress landmark legislation on civil rights, crime, immigration, the judicial system, bankruptcy, copyright, and antitrust laws.

Mr. Speaker, our Nation has always depended on people like PETE RODINO. Individuals who have a strong sense of tradition, who dedicate themselves to careers in public service the way he has, and who are willing to make the kinds of sacrifices he has made in order to make America a better and more just nation.

It is a pleasure for me to join my colleagues today in honoring PETE RODINO, and I want to extend my best wishes to him for many more fruitful years in the House of Representatives.

Mr. STOKES. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FRANK ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. RAY] is recognized for 5 minutes.

Mr. RAY. Mr. Speaker, I rise today to focus attention on the issue of the abuse of the franking and postal patron mail service which has been recently publicized in the national news. I would like to applaud a gentleman in the other body, Senator MATHIAS, for his initiative in this area. Senator MATHIAS, chairman of the Rules Committee, initiated the recent disclosure of the amounts of money spent on mass mailings. He felt that this type of disclosure would cause an increased awareness that these mailings were not free. The disclosure found hundreds of thousands of dollars being spent on these mailings at a time when the interest on the deficit is projected to be in excess of $140 billion for 1986. I'm surprised somebody hasn't received the golden fleece award for this excessive expenditure of public funds.

Official mail has become the fastest growing cost of running Congress. The awareness by the public and Congress that is resulting from this disclosure should serve as a conscience and curtailment within itself, and I hope that it does. In my opinion the Members of the House of Representatives should take the initiative and disclose House expenses. Why should any congressional expenses be kept private from the taxpayers?

Although Members must maintain communication with their constituents, I feel that this extensive mailing should be minimized. Members should have the freedom of using the franking privilege to answer constituents' letters. Constituents' questions and concerns are of utmost importance. The problem arises though with mass "blanket" mailings. The number of postal-patron publications such as newsletters must be decreased. I support correspondence that serves information gathering purposes and that which responds to constituent needs. Otherwise, I feel that moderation is of the essence. We need to set an example for the American people. In a time when we are encouraging moderation in spending, we should be practicing what we are preaching. After all, franking isn't free. Congress has to write a check to the Postal Service for every letter or newsletter that we send.

I commend the other body and encourage my colleagues to examine the issue and move in that direction also.

□ 1640

TRIBUTE TO PETER RODINO AND THE VOTING RIGHTS ACT

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I was not able to be here earlier when the distinguished Members were paying tribute to Congressman RODINO, but I wanted to add my voice to those tributes by my colleague, LOU STOKES and others.

Mr. RODINO is certainly symbolic of what the Voting Rights Act means to all Americans because of his great work. That act, in and of itself, ensured that Americans have access to participate in our democracy. So we commend him for that. But to me, I think of PETER RODINO as, in a way, a contemporary Mr. Constitution. He is the protector of the Constitution in this Congress.

When I was running for office 9 or so years ago, the national figure that I wanted to appear in my literature more than anyone else was PETER RODINO. He consented to do that. I remember how thrilled I was and how all my campaign supporters were to have him appear.

In my district, beyond that, he is very, very important for other reasons besides civil rights legislation. He is, in fact, very responsible, if not the most responsible person, for reform in immigration laws. So many people who have seen the quota system with respect to different countries being discriminated against in the past saw a big change in the law thanks to PETER RODINO's action and that Immigration Act that passed some years ago. So I think we remember him for these and other reasons, but I just wanted to pay tribute to a wonderful American. We wish him many, many more years of service in this body and certainly to our great country.

DEMOCRACY ENDOWMENT INTERFERES IN FRANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Colorado. Mr. Speaker, last year funds from the National Endowment for Democracy were secretly funneled to the military-backed candidate in Panama's Presidential election. By secretly interfering in another country's free elections, NED was undermining democracy, not promoting it.

After that incident, NED promised to operate openly and to stop meddling in the internal politics of other countries. In spite of those promises, it has come to light that NED has secretly been channeling funds to groups actively opposed to the democratically elected Government of France.

NED gave $830,000 to a labor union engaged in anti-Mitterrand activities. It also provided $575,000 to a student group that has been named as the youth arm of an outlawed paramilitary organization. NED's interference in French domestic politics is documented in an article by Mark Schapiro and Annette Levy in the December 23, 1985, New Republic, which I would like to submit for the RECORD.

NED's French involvement raises serious questions about NED's ability to operate openly and to avoid meddling in the domestic politics of other democracies. Once again, NED has done more to undermine democracy than to promote it.

This Congress has authorized the use of funds to promote democracy around the world. We have not authorized the use of funds to interfere in existing democracies.

To institute an international political action committee that interferes with existing democracies makes a

sham out of our efforts to advance self-government. For those who have forgotten, America's holding high the torch of freedom means something far different than NED's efforts to manipulate foreign democracies or waste taxpayers dollars.

Mr. Speaker, NED is a loose cannon. It has shot more holes in our ship of state than any other. It is time to redirect its efforts to promoting democracy—not subverting it.

NED TO THE RESCUE

(By Mark Schapiro and Annette Levy)

(Mark Schapiro is a writer based in Washington, D.C., and an associate of the Center for Investigative Reporting. Annette Levy is a staff writer for the Paris newspaper Liberation.)

The National Endowment for Democracy seeks to "strengthen democratic ideas and institutions," President Reagan proclaimed in France last May. The mission of the Endowment, established in 1983 by the administration and Congress, is to promote democracy by giving money to citizens' groups, trade unions, scholars, and others in foreign countries. Critics of NED have asked why the U.S. should be interfering in the politics of foreign countries, but the Endowment's supporters argue that in most of the world democratic forces need all the help they can get.

The members of the European Parliament who warmly applauded Reagan's speech might have been surprised to learn that one country where NED officials have decided democratic institutions are in dire need of such aid is France. Two of the biggest beneficiaries of Endowment funding—receiving a total of almost $1.4 million in the last 19 months—are a French white-collar workers' union and a small right-wing student group in Paris. The two organizations have been in the forefront of opposition to the policies of President François Mitterrand.

This is exactly the kind of situation NED skeptics have worried about since the beginning. After all, imagine the fuss if the French government were to give financial support to liberal groups active in opposing President Reagan. Indeed, NED's subsidy is even stranger because the French student group is the offshoot of a paramilitry organization that was outlawed in 1982 because of alleged involvement in bombings, drug smuggling, and gangland-style killings.

Funds for the Endowment are channeled into France through the Free Trade Union Institute, which coordinates worldwide activities for the AFL-CIO. The Institute, whose headquarters are in Paris, was designated by Congress to receive more than two-thirds of NED's $18 million budget in each of the last two years. (Congress has since dropped the requirement.) Most of the Institute's funds are distributed to anticommunist unions in Latin America and Asia. But about ten percent of the U.S. aid stays in Paris.

In April 1984 the Institute gave two-year grants totaling $575,000 to the L'Union Nationale Inter-Universitaire (UNI), a student activist group that reportedly has less than 1,000 members. At the same time the Institute gave $830,000 to the Force Ouvrière (F. O.), a nationwide union with an annual budget of roughly $5.4 million. Defenders of the grant say it was used to resettle political refugees, but the evidence suggests otherwise. The F.O. is a rival to France's largest labor union, the Confédération Générale du Travail (CGT), which is controlled by the French Communist Party. Only the Philippines, whose democratic institutions are in somewhat more danger than France's, received more assistance from the Institute.

The student organization's credentials as a "democratic institution" are suspect. According to a 1982 French Parliamentary Inquiry Commission, UNI is a "satellite movement" of the Service d'Action Civique, an organization of French Algerians created in 1962 to serve as a security force for right-wing politicians. Over the next two decades SAC evolved into a paramilitary organized crime ring and became more violent. The top SAC official in Marseilles was assassinated along with five family members in 1981, apparently for refusing to turn over incriminating documents to his colleagues. SAC established UNI in 1968 in response to left-wing activism on French campuses. The chief of the Paris branch of SAC told the parliamentary commission, "In fact, we could not use young people of 18 to 19 years of age, they are too uncontrollable. SAC didn't 'move' enough for them when they were introduced [at that age], so we sent them to UNI."

Carl Gershman, the president of the Endowment and former assistant to U.N. Ambassador Jeane Kirkpatrick, defended the aid to the two groups. "We intervene in a democratic country to encourage the democratic debate. We support institutions involved in that process." The F.O., he said, "is competing with an organization [the CGT] that has a nondemocratic orientation." Gershman said that he did not know about UNI's connection to SAC until late November, and said the grant has been suspended until an investigation of UNI's history is completed. But Irving Brown, who oversees activities of the Free Trade Union Institute, admitted he knew about UNI's controversial parent organization when he disbursed the Endowment funds. "I know you will tell me about SAC and everything," he said. "There is a little bit of everything in UNI. We have to help the democratic forces which fight against the Russians."

Asked why it is necessary to bolster democratic institutions in country with one of the longest and most stable democratic traditions in the world, Gershman responded by citing NED's activities in Guatemala, where the Endowment supported voter education efforts prior to the November 3 elections. "All sides observing the voting there praised the efforts we made to encourage voting, the democratic process," Gershman said.

What is the similarity between France and Guatemala? "It's not France in terms of being a new democracy," he explained. "But they are both sovereign states; they are both sovereign nations." We apply our consistent principles across the board."

The apparent importance of supporting groups operating freely in democratic Western European nations was not mentioned when Reagan persuaded Congress to establish the Endowment in 1983. Rather, the administration portrayed NED as a way to provide support for democratic institutions countries such as Argentina or in dissatisfied Soviet bloc countries such as Poland.

Supporters also insisted that NED's activities would be completely aboveboard. The revelations of covert funding of operations abroad that plagued the CIA in the 1960s and 1970s would be avoided. The United States would be proud to assist people struggling for democracy. To insulate itself from the CIA, NED even refuses to hire current CIA or other intelligence agency employees. Gershman asserts that "what we do has to be also to stand the light of day."

The Endowment has not been completely open about its activities in France. Its most recent annual report did list the grant to the Force Ouvrière. The report described UNI's publishing efforts ("A comprehensive program to provide an effective counterweight to the propaganda efforts of leftwing organizations of professors"), which NED funded, but did not identify the group by name. Gershman says that all recipient will be listed by name from now on. Nor did NED formally notify the Mitterrand government—which the State Department has called "our best anti-Soviet ally in Western Europe"—of its support for two organizations that have been in the forefront of the French opposition. The French governments has refused to comment.

Eugenia Kemble, the executive director of the Free Trade Union Institute, has advocated that NED be less forthcoming about its funding. She proposed last April that NED projects in France and eight other countries be secretly funded. In a confidential memo to Gershman, Kemble said that recipients might "either be endangered or embarrassed if specific budgets were published or announced." Kemble noted that "either repressive governments or Communist front groups could use the information to hurt individuals or unions we are seeking to help." This is probably true in Chile, Poland, Paraguay, Nicaragua, and the other countries she listed. But France? Democratic groups there face no repressive government. The CGT is communist-dominated, but the Force Ouvrière and other anticommunist unions are perfectly free to challenge it. If their activities are legitimate, they should welcome public disclosure of their funding and activities. Ironically, the CGT has come to the Force Ouvrière's defense, perhaps because it too is said to receive foreign funding—presumably from Moscow—which it prefers not to disclose.

Gershman claims that he responded to Kemble's memo verbally. "I don't like doing memos like this that some reporter from some crazy French newspaper can get ahold of. I indicated to her my view on this—Don't come here thinking you can keep these projects from the public. These relationships are subject to full disclosure.' " Gershman says that all such "sensitive" projects would be halted in the future or made public. The House Subcommittee on International Operations has been informed about the "sensitive" operations abroad, according to Richard McBride, a subcommittee aide, but has agreed with Kemble not to release details of the operations to the public. Kemble refused to comment.

Gershman's commitment to "full disclosure" is not shared by the recipients of NED's largess. Gershman, Brown, and Kemble have all confirmed the Endowment's financial support of UNI. Nevertheless, a spokesman for the group still denies it, calling statements that the organization has received funding from the Endownment "a fantasy of journalists."

André Bergeron, president of the Force Ouvrière, said, "I'm not going to confirm of deny it. We have funds that are being used to help people obliged to leave their countries—in southeast Asia, in Chile, in Poland." Bergeron added, "I don't know the Free Trade Union Institute. I have never heard of this Endownment for Democracy." Irving Brown, the director of the Institute, says he has known Bergeron since 1947.

Nor is it entirely clear how the grant to the Force Ouvrière has been spent. Gershman says the money was used for organizing immigrant laborers. Brown and Bergeron say it paid for the resettlement of political exiles and nothing else. But the only specifics they provide are a grant of 80,000 francs (slightly more than $10,000) for the Paris office of Solidarity, the Polish trade union. An internal NED document says the Endowment money supports "education on parliamentary procedure, combatting antidemocratic forces, factional organizing, education on how to organize, how to demonstrate, how to service members, and publication and dissemination of materials."

The truth is that Endowment grants to groups in countries where democratic institutions are already functioning will inevitably violate the Endowment's rules. These guidelines prohibit any funds from being used on behalf of political candidates. The F.O. and UNI grants were not specifically intended for partisan purposes. But Gershman conceded that Endowment support could have freed the groups to use other funds for more explicitly political purposes.

"You cannot control the individuals involved," he said. "The Endowment is committed to supporting pluralism. The Free Trade Union Institute, which the Endowment supports, enjoys the benefits of freedom. The organizations the Institute supports are engaged in nonviolent acts common to a democracy. The fact that the Endowment supports a project engaging in nonviolent democratic activity—I don't see anything wrong with that."

Of course, there's nothing wrong with "nonviolent democratic activity." But it is not terribly democratic for any government to fund partisan political organizations in another democratic country. The Endowment should have learned this lesson before. Last year, for example, it was revealed that a labor institute in Panama, funded by NED, had contributed approximately $20,000 to the campaign of the military-backed presidential candidate, who won the election by all of 1,700 votes. The U.S. ambassador in Panama sent a classified cable to the State Department urging that "this harebrained project be abandoned before it hits the fan."

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from Texas [Mr. GONZALEZ] is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, the aircraft disaster that took the lives of 248 U.S. soldiers and 8 civilian aircraft crew members last week is a shocking, sad event. But it is not enough to mourn and bury the dead; there are lessons to be learned. Not just how and why it happened, but what might have happened if the disaster had taken another form—such as an attack on these soldiers while they were on duty as members of the almost unknown Multinational Force and Observers, those forgotten forces who guarantee the Camp David accord that followed the last war between Egypt and Israel. And we must also ask ourselves another question: Why do we not only expose these troops to forgotten corners of the world on missions of dubious but supremely dangerous import; but also expose them to the questionable virtues of flying on unknown airlines whose rates are cheap, but whose safety is dubious?

We know nothing about why the Arrow Air DC-8 crashed at Gander, NF. We may never know. But it is a supreme irony that the Department of Defense today, as it did in Vietnam, flies living soldiers on private charters; the dead return on military aircraft. The Department of Defense claims that it can't provide the aircraft to fly its troops; that it is cheaper and more efficient to use commercial airlines. So the Department of Defense spends about $450 million a year on commercial transportation.

I doubt that the Government would ask commercial carriers to ferry troops into combat zones. Certainly not; this would be too risky. Carrying passengers, it seems, is a commercial function. Therefore, troops who are on their way to a combat area will be flown by commercial carrier—but only to a safe point. After that, it is a military mission. And today, as in the days of Vietnam, the dead come back on military aircraft. The dead are not passengers, but freight, and the military carries its own freight. What a travesty this is; what a commentary on the state of our thinking. War can be commercialized, but the ashes of war are the business of the Government. So it is that these fine soldiers traveled on an airline unheard of by anyone outside the charter business, on an aircraft that some allege was falling apart; on an airline that seems to have had problems retaining pilots, because of pilot concerns about the safety of the aircraft they flew.

The least we can do is determine just what kind of standards it is that the Government expects of charter carriers that carry our soldiers around the world. It would be far better if the Government used its own aircraft; let us at least be responsible for our own soldiers: Surely that is not too much to ask.

But there is another, deeper, and more urgent question to ask: Why were they where they were in the first place? What if their deaths had come about not because of a grisly, ghastly accident, but a surprise attack? We would not then be only mourning the dead; we would be pondering the far greater issue of whether we would be drawn into war against the enemy that attacked them.

Hardly anyone knew that the Multinational Force and Observers even existed, before last week's accident. I doubt that very many people know what it is, even today, let alone what it does. Fewer still have asked why it exists and what it would mean if that force were attacked. My own attempts to raise these questions, time after time, have gone ignored.

The Multinational Force is supposed to inspect the Sinai frontier between Egypt and Israel, and assure that neither side is about to mount an attack. They are thus to guarantee the peace between these two countries. But if there is peace, why is there a need for this armed force? Genuine peace does not call for a third-party force of armed personnel to separate the sides. They are there, in other words, because what is called peace is not peace; it is only a suspended war.

What could this tiny force do if it were attacked? It was no armor, no air force, no artillery.

I gave the composition of this force at the time and said that the second greatest number component is the Fiji Island component. West Germany does not have any there, Britain and France and Italy have token forces about 10 or 11, and Colombia has 500 now. They originally had 1,000, but since then they had trouble back home and called back 500 of the 1,000. So it could, in fact, do almost nothing to resist an attack. It would have to stand aside or be obliterated, just as a similar UN force had to stand aside or be obliterated when Israel decided to invade Lebanon. Militarily then the force becomes insignificant.

What then is the purpose of the force? It is to serve as a token; truthfully it is to serve as a hostage, just as hostages were taken in ancient days, by warring feudal barons. If either side to an agreement showed bad faith, the hostages would die and war ensue. In this case, the United States soldiers are hostages; if either Egypt or Israel were to kill them, there would be fearful consequences—or would there? Would it merely be another Beirut disaster, mourned and soon forgotten? In either case, the mission would prove futile. If the force were attacked and obliterated, it would have failed. If the United States were then drawn into war, it would be a war against either a close ally or an ally we have tried to court for many years. If the fatalities were mourned and forgotten, their lives would have been wasted, just as an almost equal number of marines were wasted in Lebanon in 1983.

Let us suppose that our intelligence sources revealed a military buildup in the Sinai, by one side or another; would the U.S. forces stay in place, in the middle? Would they pull out? Would our Government communicate the possibility of impending war to one side or the other, thus assuring enmity from an ally—since both contenders are our allies?

□ 1655

The presence of U.S. troops in the Multinational Force creates a dilemma

of immense proportions. In any kind of military or political crisis, it becomes an insurmountable obstacle to a happy and a solicitous resolution from the standpoint of the safety of our troops.

Yet we go on, as if the dilemma does not exist, that it cannot happen, or that it will not happen. We go on as if the unfolding disasters in Lebanon had not happened, a disaster that came about, in part, because of what? Military unpreparedness? Well, I could hardly say that. I stood on this floor over a period of 14 months, asking the question that I am raising now of President Reagan.

About some 6 months before October 1983, I found out that the Joint Chiefs of Staff had been unanimously advising the President against that decision. Yet the Commander in Chief willfully continued. As a matter of fact, on the Thursday when this House was adjourning, before the weekend of October 24, the last words printed in the RECORD were mine, and they were addressed to the President and my colleagues, reminding them that as they took off to a nice, good, comfortable supper, and the President would retire to his dining room in the White House, to stop and think of the marines who were in the shadow of death in Beirut. I felt extremely sad, distressed, when, back home that weekend, on Sunday morning, the terrible news broke about the murder of those 241 marines in their sleep.

I say that we have the duty on this case, that is, the so-called Multinational Peacekeeping Force in the Sinai, more so than the President did, even though it should be a shared responsibility and particularly assumed by the Commander in Chief, because for the first time, as I said before and have said ad infinitum, beginning with the day that this House passed the resolution my voice was raised, and I asked this specific question: "Was this unprecedented?" And, of course, it was.

Never since 1789, in the first Congress, has the Congress mandated a deployment of a service component of our armed services. And we did. We have. And so I have asked the leaders in the committees that have responsibility to have oversight.

I have been doing this now off and on since December 1981. And it is very distressing to see these concerns, these apprehensions, not groundless, but they have been fulfilled by these direful consequences. We do have to consider what would happen in case of an outbreak of hostilities between Egypt and Israel, what would happen in the case we knew that war was about to break out, what would happen in the case of a surprise attack, what could happen in the case, even, of a buildup of a crisis. Examine all of these cases, and in every one we see not only an inexcusable military folly in committing lightly armed forces to one of the most heavily armed areas of the world, we can foresee, as well, a political catastrophe. We cannot afford the luxury of saying that it cannot happen. Such disasters do happen and have. We cannot assume the best case. We must consider what would happen in the worst case. And that has not been done and is not being done.

We cannot rest on our complacent assumption that because we say we have good will we will be believed or that others filled with anger and ambition would be deterred by a handful of forces set out there as a token of our good will. If the deaths of these young people ever means anything, it must mean that at the very least we will at long last take commercial profit out of military functions like transporting troops to and from war zones, to and from military missions, that we will at least put military missions above commercial profit. That is the least, my colleagues. But far more important, it should also cause us to ask: What were they doing there in the first place? Did their mission make or does it continue to make any sense? Does it make sense? What if there is a disaster of a military nature?

The time to ask those questions is now, as I have been trying to say, not after a disaster. It is too late then, just as it has been in Lebanon and in Gander.

Let us honor these young people, honor them by accepting our responsibility. Surely, that is not too much to ask in this case.

Mr. Speaker, I yield back the balance of my time.

PERSONAL EXPLANATION

Mr. BOLAND. Mr. Speaker, during yesterday's House proceedings on H.R. 3838, the gentleman from New York [Mr. MCHUGH] offered an amendment relating to campaign financing. I was absent and not recorded.

I was detained in a discussion on the continuing resolution in another part of the Capitol.

Had I been present, I would have voted "aye."

Mr. Speaker, in the Democratic caucus, of December 10, there was a record vote on an identical McHugh amendment. I supported it at that time and I am so recorded in the records of that caucus.

RETIREMENT OF DAVID POGOLOFF, CHIEF HOUSE VA LIAISON STAFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 10 minutes.

Mr. BOLAND. Mr. Speaker, one of the primary responsibilities of the Federal Government is to assist those who have served in their country's Armed Forces. The Congress has sought to discharge that responsibility by creating and funding programs to provide medical care, education assistance, and opportunities for homeownership to our Nations veteran's and their families. We all know, however, that those programs only do what Congress intended them to do when they are adminstrated by people of compassion, skill, and resourcefulness.

Today, I want to pay tribute to one of those people, Dave Pogoloff, who has devoted the last 41 years of his life to ensuring that our veterans programs work I doubt that there is a Member of this House who doesn't know Dave personally, or whose VA caseworker has not benefited from Dave's sage counsel and extraordinary dedication. He has served as the Chief of the House VA liaison team for the last 20 years, and it would be impossible even to estimate how many seemingly unresolvable VA cases have been straightened out due to his efforts. Others have received the credit for those efforts, most notably the Members of the House who could convey to their constituents the good news that their VA problems had been solved. But all of us know, Mr. Speaker, that our "success" with the VA was merely a reflection of the resolved that Dave made a long time ago to do all that he could to guarantee that veterans received all to which they were entitled from the programs that had been designed for them.

Dave will soon be retiring after serving under seven Presidents and nine VA Administrators. His retirement will conclude a career in service to the Nation that began on the battlefields of World War II. Dave carries with distinction a visible remembrance of that combat experience, an experience that gave him special insights into the needs of our veterans. He has labored tirelessly to meet those needs and his labors have been immeasureable value. We will miss his experience and his ability in the months ahead, but I know that none of us would deny Dave the chance to spend more time with his wife, Florence and their children and grandchildren.

Congratulations, Dave, on your distinguished career and best wishes for a long and happy retirement.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, December 17, 1985, the Chair declares the House in recess subject to the call of the Chair.

Bells will be rung 15 minutes before the House reconvenes.

Accordingly (at 5 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1835

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock and 46 minutes p.m.

PERMISSION TO FILE FURTHER CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a further conference report on the joint resolution (H.J. Res. 465) making appropriations for the further continuing resolution for the fiscal year 1986, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. CONTE. Mr. Speaker, reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I am just wondering, while the gentleman is on the floor with the request, whether we could get some idea from the members of the conference committee where we stand on the conference report, whether or not the issues are being resolved, what issues are still outstanding, so that the Members could get some idea as to where we are on the issues involved.

Mr. CONTE. Mr. Speaker, further reserving the right to object, we have been meeting all day. We have resolved all problems and issues in the conference except one—defense—and we are almost on the verge, on the threshold, of resolving that; and we hope we can resolve that by 7 o'clock tonight.

Mr. WALKER. If the gentleman will further yield under his reservation of objection, have we cut back on some of the spending areas in the domestic programs that were giving some Members of the House some problems the other day?

Mr. CONTE. We made cuts on Interior, we made cuts on the agricultural section, we made cuts on the transportation section.

Mr. WALKER. Where does that bring us in terms of the $600 million overage that OMB was talking about on the previous bill?

Mr. CONTE. When we come back in, I will have those figures. Counsel will be working on it. But I can say that we have been in close contact with OMB, and they will recommend signing this continuing resolution if we hold at this figure.

Mr. WALKER. With those figures. And, finally, I just had a conversation with the gentleman. I understand that the Senate is determined to hold firm on their position to grant themselves a 40-percent outside honorarium figure, which would, as the gentleman points out, not affect the House because of our rules, but is an item of some controversy. Is it my understanding that the Senate is determined to hold firm on that issue?

Mr. CONTE. The House held very firm on that issue, based on the debate we had the other night, and the Senate voted late this afternoon to retain the 40 percent, a 10-percent increase, $7,500 they can earn more in honorariums. That will not apply to the House of Representatives.

Mr. WALKER. Will that come back as an amendment in disagreement so there can be a separate vote on it?

Mr. CONTE. I think that will be part of the conference. I am not sure.

Mr. WALKER. I thank the gentleman. He has been very helpful.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

□ 1850

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Massachusetts can tell me whether the Symms amendment which would transfer the Animal Damage Control Program from the Interior Department to the Agriculture Department, which of course is a legislative act that is within the jurisdiction of two House legislative committees.

Will it be reported in technical disagreement or will it be accepted by the House conferees?

Mr. CONTE. If the gentleman will yield, I certainly cannot answer that question. I cannot recall. Do you recall whether that was in technical disagreement in the original continuing resolution that came here the other night?

Mr. SEIBERLING. I am informed that it is in technical disagreement in the Agriculture appropriation bill, and the continuing resolution incorporates the Agriculture appropriation bill by reference. But I am not clear as to whether with doing it that way a vote could be called when the agriculture part gets to the House in the continuing resolution since it simply incorporates the Agriculture bill by reference.

If it is not in a form where we can have a separate vote on it in the House, then I will object to the unanimous-consent request at this time.

Mr. CONTE. The gentleman and I have worked together very closely on many of these issues. I hope the gentleman will not object. You can bring that out when we come back in. Otherwise, we can be here Saturday night. This is merely a unanimous consent to file a report, that is all.

Mr. SEIBERLING. I have already informed the distinguished gentleman from Mississippi that an objection will probably be raised by me or by the gentleman from Michigan [Mr. DINGELL] unless we can have an opportunity to vote on that, or unless the conferees remove it from the conference report.

The House Agriculture Committee had a similar amendment offered by the same Member of the other body which they removed from the Agriculture bill which we approved today. I think that since it has been removed from the legislative bill, it is legislation that should not be in the appropriation bill. It would change an existing responsibility of the Interior Department that has been in effect since 1939, and we cannot allow the Members of the other body to lightly do that sort of thing and take advantage of the nuisance value of having to resist it in conference; just take it lying down.

So I feel at this time that I have to reserve our rights in the Interior Committee and Merchant Marine Committee to, we have to protect our rights and the only way I know is to object.

Mr. CONTE. I would hope that the gentleman will withhold any objection. Let me tell him what the scenario is.

First of all, you and I agree on the issue. I do not believe it should go over to Agriculture, but I hope you will not object. All you are doing, is we will have to get the Rules Committee back in session right now; go before the Rules Committee and get a rule and come back down here and you are going to be here until 10 or 11 o'clock. Your are holding up the whole House, and the end result is not going to be any different.

I promise you this: That I will go back to that conference and raise that issue immediately.

Mr. SEIBERLING. I appreciate that, but all I can say is that we are being asked to approve, by unanimous consent, the filing of a conference report which has not even been completed yet, and we do not know what is in it, and we do not know whether we are going to have any right to raise this issue.

Mr. CONTE. If the gentleman will yield, that is a normal procedure. The only thing you file the conference report for, it does not mean that the House has accepted it. We will have to take the conference report here to the House and debate the conference report.

Mr. SEIBERLING. Let me ask the gentleman, when the conference report comes before the House, will it either be brought before the House by

unanimous consent in order to take it up, or by a rule, because my concern is that by giving this unanimous consent there will not have to be any further consent to taking up the conference report. Am I correct in that?

Mr. CONTE. The gentleman from Ohio will have the opportunity, if this unanimous consent is granted, will have the opportunity when we come here tomorrow, whatever the Speaker says, to debate the conference report. At that time we can discuss it. But before that, I will rush over to the Senate and bring this issue up and see if we can clarify this issue and see if there is some way of bringing it in technical disagreement outside the conference report.

Mr. SEIBERLING. Well, it is one thing to debate the conference report and it is another thing to have the power to knock out something that is a nongermane piece of legislation that the other body introduced.

Mr. CONTE. I will do my best on it.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. BOLAND. The only reason we make this unanimous-consent request now is so that the House will not be kept in recess. If we make this unanimous-consent request and it is agreed to, then the Members can leave. But a failure on the part of any Member to object to the unanimous consent will signify that we have got to stay here in recess until the House convenes, and then we can make that request on the floor, and of course, as the gentleman knows, you could make that without a unanimous-consent request.

Mr. SEIBERLING. The majority leader advised me that if necessary they would ask for a rule in order to make in order an objection to that particular feature of the bill.

Mr. BOLAND. You could make that request of the Rules Committee; that is correct.

Mr. SEIBERLING. I would like to make that request of the Rules Committee if the rule is being sought, but at this point, we do not know whether a rule will be sought. I just feel that unless we resist these efforts at the 11th hour, these midnight raids that the other body is in the habit of making on our legislative committees, they are going to walk over us every time.

Mr. CONTE. If the gentleman will yield, and I may stand corrected, I do not think it is in the prerogative of the Rules Committee to make that kind of a rule in order for a conference report. You are either going to vote for the conference report——

Mr. SEIBERLING. Not unless the rule is sought at which point they could condition the granting of the rule on certain features being open for challenge on the floor.

Mr. CONTE. I doubt it. The only thing you are going to do here, as Mr. BOLAND said, is keep the House in session and recess until we come back here and file which could be, you are doing a disservice to everybody else in the House because the end result is not going to be any different. It is going to be later, 10, 11 o'clock tonight.

Mr. SEIBERLING. The disservice is that those gentlemen on the other side of the Capitol use this technique as a kind of blackmail to force us to swallow things that we would not otherwise take. Somebody has to get their back up sometime; we cannot always be in an appeasement mode. That is the reason why I am raising this point.

I will say this: Based on the assurance the gentleman has given me that he will make an effort to try to see that this is either eliminated or brought back here in a form where we can challenge it and have a vote on it or the assurance of the majority leader that if a rule is sought we will have an opportunity to request a similar vote to be made in order on the rule, I will withdraw my reservation. I hope the gentleman will make a serious effort because we cannot be put in this position every time, just before we are ready to adjourn and everybody wants to go home for Christmas; I do, too.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REQUEST FOR CONSIDERATION OF H.R. 3979, EXTENSION OF CERTAIN INTERNAL REVENUE CODE TAX PROVISIONS FOR A TEMPORARY PERIOD

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3979) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BREAUX. Mr. Speaker, reserving the right to object, I reserve the right to object and would like to ask the distinguished gentleman from Florida is the legislation that he is seeking to bring up by unanimous consent, how does it affect or what are the implications with regard to the revenue provisions of the so-called Superfund legislation? How does it affect that?

I yield to the gentleman for his response.

Mr. GIBBONS. It does not legislate in the area of the Superfund; it does legislate in the area of a number of major taxes that the Government levies and some exceptions, and if the gentleman will yield further, I will be glad to run over those items so that all of us know what is at stake here.

Mr. BREAUX. I ask the gentleman under my reservation, Is the gentleman telling this body that there are no provisions with regard to any funding programs for the Superfund legislation in the gentleman's legislation?

□ 1900

Mr. GIBBONS. There is none in here concerning Superfund. No, sir, that is correct. There is nothing in here that concerns Superfund.

Mr. BREAUX. Reserving the right to object, Mr. Speaker, I think it would be helpful to the Members if the gentleman from Florida would cover the areas that are in fact covered under his legislation.

Mr. GIBBONS. I would be happy to do that if the gentleman will yield.

Mr. BREAUX. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, this bill is an important piece of legislation, and, of course, it is very critical for the functioning of the Government.

The first thing this bill would do is extend the research and development tax credit that has been so important to so many Members.

The second thing it would do, it would extend the targeted jobs credit that expires very shortly.

It extends the research expense allocation rules and the solar and geothermal tax credit. The legislation would also extend the tax-free employer-provided educational assistance programs and the qualified employer-provided group legal services program. It covers the expense of up to $35,000 annually for the cost of removing architectural barriers for the handicapped.

It would extend the current moratorium on the net operating loss carryover rules. It would extend the present-law provisions for the award of attorney fees in tax litigation. It would extend the tax-relief provisions of the Vietnam MIA's and their spouses from tax consequences.

It would extend—and this is most important, Mr. Speaker—the 16-cent cigarette excise tax which was recently extended to midnight tonight. It would also extend the 4-cent-per-gallon exemption for taxicabs relative to the gasoline tax.

Mr. Speaker, if the gentleman will yield further, these are all important, but the most important one is the research and development tax credit which will expire. And then, of course, there is the cigarette tax that will

jump up tonight in many States unless it is extended.

I am aware of the gentleman's concern about the Superfund Program, and I am trying in my own individual way to cooperate and find a solution to that. I frankly do not have a solution, but my deepest sympathies are with trying to find a solution for that and I will continue to work toward that purpose.

Mr. Speaker, I hope that no one will object to this request.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

I would say to my distinguished colleagues on the Ways and Means Committee right now that minutes and hours are precious, and days are a long, long time. The gentleman indicated a number of provisions that are going to expire. For example, that very important research and development tax credit, when does that in fact expire? Is it tonight? Is it tomorrow? I mean is it imminent?

Mr. GIBBONS. December 31.

Mr. THOMAS of California. It expires on December 31?

Mr. GIBBONS. Yes.

Mr. THOMAS of California. Well, that clearly indicates to me there is some time.

Is there anything in this bill of an extreme urgency nature that would make it necessary for us to have to act now at the 11th hour, making it literally the 11th hour, rather than something like 2 weeks or 3 weeks?

Mr. GIBBONS. Some of the Medicare freezes will be unfrozen as of midnight tonight, and the cigarette tax will, of course, jump in many States tonight and will not automatically come back down if the Congress acts after that.

I would say to my good friend and very conscientious colleague, the gentleman from California [Mr. THOMAS], that I want to solve the problem. The gentleman and I were in that conference together today trying to solve the problem on the Superfund excise matter, and I realize that the gentleman wants to use every bit of leverage that he has to solve this problem.

But I would hope and pray that the gentleman would not object. I have tried to analyze it as best I can. I do not think it really helps to solve the problem. There are a very few hours left in this session, and hopefully tomorrow we could get some movement on the excise tax. But I would hate to have ill tempers caused by any objection that might be brought up now.

Mr. THOMAS of California. Mr. Speaker, will the gentleman from Louisiana continue to yield?

Mr. BREAUX. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I would tell my friend, the gentleman from Florida, that it is sometimes substantive, and also sometimes there is a degree of comity, and one of the things I think we have to do around here is put in proper priorities. It seems to me that if we are going to move this rather large comprehensive bill dealing with matters which expire at midnight tonight and clear on to the end of the year, this Member would be constrained to object.

However, if we met the most extreme needs, which I believe we ought to be using these kinds of circumstances to cover, my understanding is that on the cigarette tax consequences would occur which probably could not be unraveled, and that would not be true on the Medicare provisions. So if the gentleman persists in pushing the entire package, this gentleman will be constrained to object. If we could have an agreement that will move only that item which is necessary to be moved, for example, a 24-hour provision for the cigarette tax, then I certainly would feel that the procedure we are undertaking now would be appropriate.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

If there is an objection—and it appears there will be an objection to the bill as introduced—and if the acting chairman of the Ways and Means Committee, the gentleman from Florida [Mr. GIBBONS], does not ask unanimous consent to extend for at least 24 hours section 106, which would be an extension of the increase in the cigarette tax, this Member would ask this body by unanimous consent to extend the collection of that cigarette tax, which is presently at 16 cents, which would reduce down to 8 cents and would trigger in some 12 States automatically.

I would ask unanimous consent, if the gentleman from Florida [Mr. GIBBONS] does not, for 24 additional hours. That would allow the Rules Committee an opportunity to meet tonight and bring a rule to the floor tomorrow, and then the body could work its will on this broad extension on the expiring of tax credits that personally I feel do need to be extended.

Mr. THOMAS of California. Mr. Speaker, will the gentleman continue to yield?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, may I ask the gentleman from Florida if he is interested in restricting the request to section 106?

Mr. GIBBONS. I am sorry, I did not hear the question.

Mr. THOMAS of California. Would the gentleman be interested in restricting his request to section 106 and make that the entire provision?

Mr. GIBBONS. Mr. Speaker, I guess if there is an objection, I would reluctantly do so. I would hope there would not be an objection.

I really think this, if the gentleman would yield further—I have been through these closing sessions of Congress before, and all of us try to use the greatest amount of leverage that we can, but sometimes in the use of that leverage we get some ill feelings started, and that, bearing upon my experience, has not been productive to solving problems. The gentleman and I are interested in solving the same problem. I want to solve the problem of the Superfund tax, and I want to continue working with the gentleman and, under any circumstances, will continue working with him. But there are a lot more people involved in this.

It is so easy to object. I have found that some people will not be as patient as the gentleman from California has been in this, and we are going to have to really rely from hereon on comity and the kind of restraint that is necessary to get legislation passed.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield further?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding, and this will be the last statement on the part of the gentleman from California. If the gentleman from Florida does not wish to offer only section 106, the gentleman knows well that we just had a Ways and Means Committee meeting in which, in speaking among ourselves, we got a little carried away in terms of even creating new tax law in extending programs beyond H.R. 3838 that we already passed.

□ 1910

We passed a nonbinding resolution on the floor which folks talked about in terms of key dates within the tax bill. We are already now beginning to shift dates around.

It just seems to me that what we ought to do is use emergency procedures in emergency situations. The only emergency that I see in this entire package is section 106. Certainly I would not oppose utilizing emergency procedures for an emergency purpose. The entire package is not such

and therefore I feel constrained to object.

The SPEAKER. Is there objection to the request of the gentleman from Florida [Mr. GIBBONS]?

Mr. THOMAS of California. Mr. Speaker, I said that I object.

The SPEAKER. Objection is heard.

EXTENDING UNTIL DECEMBER 19, 1985, APPLICATION OF CERTAIN TOBACCO EXCISE TAXES

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3981) to extend until December 19, 1985, the application of certain tobacco excise taxes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. STARK. Reserving the right to object, Mr. Speaker, I reserve the right to object to inquire of the distinguished acting chairman of the Ways and Means Committee if the gentleman would have any objection—it is my understanding that the bill the gentleman is now offering extends the cigarette tax for 24 hours.

There are two other provisions which expire at midnight tonight, the physician freeze and the hospital freeze, both of which would cost beneficiaries under Medicare a great deal of money.

I would ask unanimous consent later to include those two provisions for 24 hours in this unanimous-consent request.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, this member of the Ways and Means Committee and one who is interested, of course, in not losing the revenue from the cigarette tax, would have no objection at all to the request of the gentlemen.

I do believe that we have accommodated this situation before. This is similar and I would have no objection to those being included.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I can understand why the gentleman would want to add one or two more expiring provisions to the extension of the tobacco tax, but I also want to point out there are other expiring provisions in the longer extender bill that to me are equally important, particularly the credits that we would extend for research and development.

Now 240 different Members have cosigned this R&D bill and we have provided in the tax reform bill for an extension of the credit on a 3-year basis. We ought to have those credits in place.

I am willing to go with the gentlemen for 24 hours for these two or three little short ones, but the problem that we have got is that we ought to move forward on reconciliation and if in the next 24 hours we cannot get some accommodation, I think those of us who are interested in doing reconciliation are going to have to take whatever means we can to advance it, because that is the problem we have.

I am concerned about research and development. I am not going to object to the 24 hours. I can understand that, but by another 24 hours I am going to come in here with some guns blazing, too.

Mr. STARK. Mr. Speaker, I appreciate what the distinguished gentleman from Texas has said. I was a cosponsor with the gentleman of those research and development issues and the gentleman is quite correct. If they were expiring in 24 hours, I would indeed urge my colleagues to include them.

I understand under my reservation that there is a bill that has been introduced that will extend the two Medicare provisions for 24 hours. It is my understanding there would be no objection.

Mr. DAUB. Mr. Speaker, will the gentleman yield under his reservation?

Mr. STARK. I am glad to yield to the distinguished gentleman from Nebraska.

Mr. DAUB. So that the additional two items that the distinguished gentleman and chairman of the subcommittee, the gentleman from California [Mr. STARK] offers to the motion before us, would be an extension for 24 hours on current law as it applies to Medicare, physicians' freeze and reimbursement, not any of the other things we have done that would be subject to reconciliation. This is an extension of current law only. Do I understand the gentleman correctly?

Mr. STARK. The reservations that I discussed were for Medicare. There are also two other provisions which I have not discussed previously, but if I were to ask unanimous consent to introduce H.R. 3982, they would include railroad unemployment compensation and trade adjustment, for 24 hours, both of which expire tonight. Those are current law and just for 24 hours.

Mr. DAUB. Mr. Speaker, will the gentleman continue to yield?

Mr. STARK. I am glad to yield to the gentleman.

Mr. DAUB. We in no way by adding these four provisions to the main cigarette tax extension for 24 hours intend to do anything more than extend current law.

Mr. STARK. That is absolutely correct.

Mr. DAUB. I thank the gentleman.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am delighted to yield to the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. Mr. Speaker, I would like to ask the gentleman a question. I know that the committee has been working very hard, particularly after Gramm-Rudman and tax reform, to deal with some of these issues that the Committee on Ways and Means has jurisdiction of. I know all the other committees on reconciliation have worked hard.

At this time I am informed by my staff of the Budget Committee that we are now down basically to the Ways and Means issues.

I have basically two questions that I would like to direct to the gentleman if I could.

One, at this point is the only major item that remains in disagreement, in wide disagreement, the Superfund issue?

Mr. STARK. Mr. Speaker, I would be glad to yield to the distinguished gentleman from Florida for that. It is my understanding that this is a major item of disagreement. In the absence of the chairman of the Ways and Means Committee, I would be constrained not to speak for anyone but myself; but I would feel that certainly is one of the items that this gentleman is concerned about.

I would be glad to yield to the gentleman from Florida if he would like to respond.

Mr. GRAY of Pennsylvania. Could I ask a second question and maybe the gentleman from Florida or the gentleman from California might reply.

Mr. STARK. I am delighted to yield for the gentleman's inquiry.

Mr. GRAY of Pennsylvania. Has there also been a vote on that issue within the subgroup in the conference?

Mr. STARK. To my knowledge, there has not.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am delighted to yield to my distinguished colleague, the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, let me say, I would be happy to accept amendments proposed by the gentleman from California [Mr. STARK] to only extend current law in the field of the Medicare expiring provisions and the trade adjustment assistance expiring provisions and the railroad retirement expiring provisions, but——

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, when the gentleman says railroad retirement, he is talking about the benefits.

Mr. STARK. Railroad unemployment.

Mr. GIBBONS. Railroad unemployment.

Mr. GRAY of Pennsylvania. Mr. Speaker, would the gentleman from Florida be able to answer the question that I asked?

Mr. GIBBONS. Mr. Speaker, if the gentleman will yield further, there have been no votes in the conference of the subcommittee that the gentleman referred to on any of these matters that are under discussion, such as the Superfund.

Mr. GRAY of Pennsylvania. Would that be the major issue?

Mr. GIBBONS. That is the major issue, that is the one causing all the heat here tonight.

Mr. GRAY of Pennsylvania. Well, I will certainly say to the gentleman in conclusion, I would hope that there would be some way before we depart for adjournment that we could reach an accommodation on reconciliation.

I think there are many Members who worked very hard and who would like to be able to say as we go back that we have achieved some of the savings of reconciliation. Perhaps if there is no way to reach agreement on that one major item, there might be mutual agreement between the conferees of the House and the Senate to delay that until we return, but go forward with the rest of the savings of reconciliation, so that the American people will know as we adjourn that all of the other savings that have already been achieved by the working subgroups could be packaged and could be brought to the floor for a vote.

I would hate to see us adjourn with no reconciliation savings, because every day we are losing money on those savings.

Mr. STARK. Mr. Speaker, the distinguished gentleman is absolutely correct, in the opinion of this gentleman. I share the gentleman's concern. I am aware of the good work the gentleman has done.

There are many items of the reconciliation bill which were agreed by both sides on a bipartisan basis in the House.

I would share the gentleman's hope that we are able to go forward.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the distinguished gentleman from Texas, a member of the Rules Committee.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I share the concern of my chairman on the Budget Committee about the fate of the remaining items in this reconciliation package, that we may be losing a tremendous number of potential savings by not acting.

I am sorry, but I feel constrained, I am going to feel constrained to object to anything other than the cigarette tax 24-hour extension.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I would like to point out to the gentleman that the cigarette tax, of course, causes a loss of revenue. There are only four items that expire in 24 hours. We are extending 24 hours. All of them expire at midnight. Everything else expires on December 31. None of those are being carried over. That strictly has to do with the Railroad Employment Fund, which will cause us a loss, so will the cigarette tax, the Medicare provisions, which will cause an increase to some of the recipients there that we do not want to have happen, and the trade adjustment assistance, which is helping people because of that particular program, that is all that is being extended, nothing more. The rest of it has to come back tomorrow. So the gentleman would have every opportunity to pursue this.

Mr. STARK. Mr. Speaker, further reserving the right to object, I would like to enter into a dialog with the distinguished gentleman from Texas [Mr. FROST].

My initial reason for wishing to add these would be that the expiration, if we do not extend for 24 hours, could cause some permanent increases to beneficiaries. The other items might have a budget impact.

By inaction in that area, we are costing the average Medicare beneficiary substantial increases over the year, which we would wish to change later.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I understand the point the gentleman has made. I think it is very important that Members realize what is at stake here in terms of the reconciliation package. I would hope that we would have the assurance of all the members of the Ways and Means Committee who are here that everything would be done to wrap up the entire reconciliation package, perhaps along the lines suggested by the chairman, the gentleman from Pennsylvania [Mr. GRAY] tomorrow, and that we not lose all these other items.

Mr. STARK. Mr. Speaker, further under my reservation of objection, I would assure the gentleman that I would tonight along the lines the chairman, the gentleman from Pennsylvania [Mr. GRAY] has suggested, give the gentleman my proxy, if the gentleman would be constrained to withdraw his objection. The gentleman has this gentleman's assurance that that is exactly what I would like to see accomplished.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield further?

Mr. STARK. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I would go even further than that. I have already signed the conference report documents. I cannot do any more than that. We have not been able to reach agreement. I realize what the gentleman says is very true. There is a lot of money hanging here, a lot of savings. I hope we are going to get them. I am going to try to get them.

The SPEAKER. Is there objection to the request of the gentleman from Florida [Mr. GIBBONS]?

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LOTT. Mr. Speaker, I would like to understand what the request is, because there was a lot of discussion back and forth.

The SPEAKER. It contains the extension of the cigarette tax.

Is there objection to the request of the gentleman from Florida [Mr. GIBBONS]?

The Chair hears none on that matter.

Mr. WALKER. Reserving the right, Mr. Speaker, when it was announced from the Chair, it said "certain excise taxes." The cigarette tax is the only thing covered in it? There are no other excise taxes covered, is that correct?

The SPEAKER. The gentleman's statement is correct.

Mr. WALKER. Mr. Speaker, I thank the Chair and I withdraw my reservation of objection.

Mr. GIBBONS. Mr. Speaker, I have asked unanimous consent to take it up right now, have I not?

The SPEAKER. That is the only thing pending before us right now.

Mr. GIBBONS. Mr. Speaker, is it on second reading, is it amendable?

The SPEAKER. The gentleman is entitled to time or the Chair can put the question.

Mr. GIBBONS. Mr. Speaker, I was going to yield to the gentleman from California for an amendment which would include the other things that we have discussed.

Mr. Speaker, I yield only for the gentleman's amendment.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I ask unanimous consent that the provisions in H.R. 3982, which are merely the 24-hour extension of the Medicare provisions, the railroad unemployment compensation provisions, and the trade readjustment assistance provisions, as was discussed previously under my reservation, be amended to

the gentleman's unanimous-consent request, the bill being considered under unanimous consent.

The SPEAKER. Does the gentleman offer an amendment? The gentleman does not at this particular time have to ask unanimous consent. Is the gentleman offering an amendment?

Mr. STARK. I did, Mr. Speaker, I asked unanimous consent.

□ 1925

Mr. STARK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. There is no objection. The question is on the amendment offered by the gentleman from California [Mr. STARK].

Mr. CAMPBELL. I thought he asked unanimous consent, Mr. Speaker.

The SPEAKER. The amendment is in order once we get unanimous consent on the request made by the gentleman from Florida [Mr. GIBBONS].

Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "December 19, 1985" and inserting in lieu thereof "December 20, 1985".

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK:

SECTION 1. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 20, 1985".

SEC. 2. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 18, 1985" each place it appears and inserting in lieu thereof "December 20, 1985".

SEC. 3. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 20, 1985".

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CAMPBELL. Mr. Speaker, reserving the right to object, I do so strictly to ask the question of the author of the amendment, the gentleman from California, if this is the same 24-hour period and these are only the expiring provisions that would expire if this were not extended for 24 hours? Is that correct?

Mr. STARK. If the gentleman would yield, I would respond that it is a 24-hour extension, the same 24-hour period on provisions in current law, and just those that were previously discussed.

Mr. CAMPBELL. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

POINT OF ORDER

Mr. WALKER. Mr. Speaker, I reserve a point of order against the amendment.

The SPEAKER. The gentleman reserves a point of order against the amendment.

Does the gentleman from California [Mr. STARK] wish time? Apparently the gentleman does not.

The gentleman from Pennsylvania will have to make his point of order now.

Mr. WALKER. Mr. Speaker, the point of order that I reserved was that the germaneness of this particular amendment to the bill under consideration, I think, is in question. The main reason for reserving the point of order is that, as I understand it, the gentleman is substituting the language of a particular bill at this point, or adding as an amendment the language of a bill.

My question is whether or not the language in that bill says 24 hours.

Mr. STARK. As I speak to the distinguished gentleman, 24 hours is being written in the amendment.

If the gentleman will yield further, it is the clear understanding of this gentleman that it is 24 hours as an amendment to the bill offered by the gentleman from Florida.

Mr. WALKER. Further under my point of order, Mr. Speaker, that is not, then, the language that was announced by the Clerk a moment ago because if that is just being written in at the present time, we have different language than was announced by the Clerk. I think the gentleman is going to have to withdraw the amendment that was previously offered and put the new amendment at the desk, if that is the case.

Mr. STARK. If the gentleman will yield, it is my understanding that there was a typographical error in the amendment sent to the desk. It is the intention of this gentleman that it be 24 hours. It was clearly understood with the gentleman from Florida that the amendment was to be 24 hours.

The SPEAKER. The Chair would state that the gentleman is correct that the Clerk read the date of December 20 with all the extensions.

Mr. WALKER. Perhaps the gentleman would ask unanimous consent that the amendment previously announced would be withdrawn so that we could announce the proper amendment at the desk at the present time.

AMENDMENT OFFERED BY MR. STARK, AS MODIFIED

Mr. STARK. Mr. Speaker, I offer a modified amendment.

The Clerk read as follows:

Modified amendment offered by Mr. STARK: At the end of the bill add the following:

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 19, 1985".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 18, 1985" each place it appears and inserting in lieu thereof "December 19, 1985".

SEC. 4. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 19, 1985".

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GIBBONS. Mr. Speaker, we agree to the amendment.

The SPEAKER. Without objection, the amendment, as modified, is agreed to.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program."

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS, 1986

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report pro-

viding for the consideration of a conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. LOTT. Mr. Speaker, reserving the right to object, and I do not intend to object, but I just want to make sure I understand. This is just for a late filing of the rule on the continuing resolution; is that correct?

The SPEAKER. The Chair will answer in the affirmative. It is for the purpose of a late filing of a rule on the continuing appropriations resolution.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON H.R. 3979

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight to file a privileged report on the bill, H.R. 3979, from the Committee on Ways and Means.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. LOTT. Mr. Speaker, reserving the right to object, if I could, I would like to make sure we understand exactly which bill this is and what this rule might be.

The gentleman is asking for late filing on the rule on the bill from Ways and Means that has been discussed here earlier where there was an indication there would be an objection?

Mr. PEPPER. Other than the matter that has already been without objection.

Mr. LOTT. I would ask the chairman if we have some idea what that rule would be?

Mr. PEPPER. We would have the meeting this evening, as soon as the membership can be convened. We were going to meet at 6:30, but there was a delay in the matter here on the floor, so we will have the meeting in the next half hour.

Mr. LOTT. Mr. Speaker, I believe at this time we would have to object to that.

The SPEAKER. Objection is heard.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3974. An act to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to two months' housing allowances.

HOUR OF MEETING ON TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST TO AUTHORIZE THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON THE LEGISLATIVE DAY OF THURSDAY, DECEMBER 19, 1985

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time on the legislative day of Thursday, December 19, 1985, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I suggest that perhaps with the schedule becoming a little confusing, it might be better to wait until tomorrow to make that request so that members have a little bit better idea as to what we are going to be doing, where we are going to be going before granting that recess authority.

It may well be appropriate at some point during the day to do that, but right now I sense that there is a good deal of confusion as to what we might be facing tomorrow and that that recess authority is something that we might want to consider in light of understanding the schedule tomorrow.

Mr. WRIGHT. If the gentleman would withhold his objection, let me see if I can clarify any of that which may be in question in his mind.

It is our thought that immediately we will take up some commemorative resolutions that the gentleman from New York [Mr. GARCIA] will seek to bring up under unanimous consent.

□ 1935

Following that, there would be no votes today, none at all.

We will adjourn then, pursuant to the request that has already been granted to the Rules Committee, to file a rule by midnight tonight until 11 tomorrow. At that time, we expect to have the continuing resolution for Members to vote upon.

It might become necessary, however, for the Speaker to declare a recess, and let us wait for some period of time in order for the continuance of these things in the reconcilation bill that have to be continued to be brought before us, and unless the Chair has the authority to declare recesses, then Members are compelled to sit around interminably, and there is no way for us to accurately foretell how long this process may take.

But it is our hope that if this flexibility is granted in a routine way, as it always usually is, at least to the Chair, then we will be able to finish tomorrow and Members can expect to go home late tomorrow.

Mr. WALKER. Reserving the right to objection, I certainly share with the gentleman that goal. The point this gentleman was making is that by the time that we finish with the continuing tomorrow morning or tomorrow afternoon, we will have a better idea where we stand, and it seems to me at that point the gentleman could renew this request and we would know a little more where we are and it might be entirely appropriate. But nevertheless, it seems to me given where we are and the situation tomorrow that we may be granting rather board authority on something where the schedule is very fluid, and somewhat nebulous.

I just wonder if the gentleman might withhold that request until we get past the first business of the day tomorrow, and where we have a little bit better idea what we will be facing.

Mr. WRIGHT. Well, if the gentleman insists, since it takes unanimous consent, surely we will wait until that time, if it accommodates the gentleman.

Mr. WALKER. I thank the gentleman.

NATIONAL FETAL ALCOHOL SYNDROME AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 189), designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. MINETA). Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 375, designating the week of January 12, 1985, as "National Fetal Alcohol Syndrome Awareness Week." I want to thank the gentleman from Indiana [Mr. COATS] for introducing this legislation and for bringing it before the House in such an expedient manner.

The purpose of this resolution is to draw attention to the tragic cause of mental retardation among our Nation's newborns—a tragic cause that, in the case of fetal alcohol syndrome, can be entirely preventable. All expectant women need to made aware of the dangers of alcohol consumption and abuse during pregnancy, and of the possible long-term effects that alcohol consumption can have on their unborn child.

As ranking minority membere of the Select Committee on Narcotics Abuse and Control, I share the deep concern of my colleagues that we address the many issues surrounding alcohol and substance abuse. As little as two drinks per day have been associated with an increase in the incidence of low birth weight babies. Two drinks, twice a week has been shown to significantly increase the possibility of miscarriage. Since no specific amount of alcohol has been determined as safe for pregnant women, the Surgeon General has recommended that all pregnant women, and all women considering becoming pregnant, abstain from all alcohol consumption.

Conservative figures estimate that between 1,500 and 2,000 children are born each year suffering from fetal alcohol syndrome. Approximately 36,000 are born suffering with the less severe problem of fetal alcohol effects. By designating the week of January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week," we will be increasing the public's awareness of the dangers of drinking while pregnant. By doing so we hope we will be able to reduce and prevent the occurrence of fetal alcohol syndrome. I hope that my colleagues will join in support of this important resolution.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 189

Whereas fetal alcohol syndrome is one of the three major known causes of birth defects with accompanying mental retardation in the United States;

Whereas fetal alcohol syndrome can result in such serious health problems as: deficiencies in prenatal and postnatal growth that are associated with mental retardation; developmental disabilities that may cause an infant to experience delays in learning to walk and speak; and heart defects, including defects in the wall between the pumping chambers of the heart;

Whereas in cases in which fetal alcohol syndrome is avoided, infants may still experience alcohol-related birth effects, known as fetal alcohol effects, which are a series of health problems that include increased irritability during the newborn period and hyperactivity;

Whereas the discovery of fetal alcohol syndrome as a major health problem is a recent occurrence, and many questions regarding the illness remain unanswered;

Whereas there has never been an infant born with fetal alcohol syndrome whose mother did not consume alcohol during pregnancy;

Whereas fetal alcohol syndrome can be prevented if pregnant women and women considering pregnancy abstain from alcohol consumption; and

Whereas the Surgeon General of the Public Health Service has issued an advisory stating that pregnant women and women considering pregnancy should not consume alcohol: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning January 12, 1986, hereby is designated "National Fetal Alcohol Syndrome Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SESQUICENTENNIAL YEAR OF THE NATIONAL LIBRARY OF MEDICINE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 198), to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 198

Whereas the National Library of Medicine houses the world's largest and most distinguished collection of health science literature in the world;

Whereas the National Library of Medicine has pioneered in developing the renowned MEDLARS system that provides worldwide access to this literature;

Whereas American health professionals, in research, education, and practice, have reaped great benefits from the communications systems and services provided by the National Library of Medicine;

Whereas the health of American citizens has been improved as a result of the rapid access to biomedical information enjoyed by health practitioners utilizing the services of the National Library of Medicine; and

Whereas the long and distinguished history of the National Library of Medicine is worthy of special commemoration by the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year of 1986 is designated as the "Sesquicentennial Year of the National Library of Medicine" and that in recognition of the occasion of the one hundred fiftieth anniversary of the founding of the National Library of Medicine, the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies, programs, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRUCK AND BUS SAFETY WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 235), to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object but would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the distinguished gentleman from California [Mr. ANDERSON] who is the chief sponsor of House Joint Resolution 445, to designate the week of January 26 through February 1, 1986, as Truck and Bus Safety Week.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding and want to thank both the chairman of the subcommittee and the ranking member for bringing this matter up on rather short notice.

I would like to share just a little history on this resolution so that our colleagues know the importance of this. Many of us in Government, industry, and labor want to help enhance public awareness of the need for improved truck and bus safety, and so it was decided to help publicize the matter throughout the country, by designating a week as Truck and Bus Safety Week, and the week of January 26 to February 1 was chosen. If we were to wait until we came back on January 21, to pass this, then there would not be adequate time to do a proper job of publicizing this. It is hoped that schools will become involved with posters and contests. The American Trucking Association is expected to participate in the same manner, they are behind this, and so is the American Bus Association.

Along with other organizations such as the Motor Vehicle Manufacturers Association, the Highway Users Federation, the American Association of Motor Vehicle Administrators, the National Association of Manufacturers, and other major industry and labor groups, they want to get people's attention, everyone's attention, to the needs of improving truck and bus safety.

So, that is whct this is all about. I am particularly interested, since I am chairman of the subcommittee that has jurisdiction over such matters. The gentleman from Pennsylvania [Mr. SHUSTER] is the major cosponsor of this legislation, and we have been joined by over 150 others who have also cosponsored House Joint Resolution 445.

So I want to thank the gentleman for bringing the resolution up under such short notice.

Mr. HANSEN. Mr. Speaker, I appreciate the comments made by the gentleman from California and concur with them.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 235

Whereas trucks and buses provide essential transportation services to all Americans;

Whereas five million trucks travel more than one hundred and thirty-eight billion miles each year, bringing raw materials, finished goods, food, and other essential products to market;

Whereas the trucking industry along employs more than seven million four hundred thousand Americans and generates annual revenues in excess of $200,000,000,000;

Whereas the bus industry employs approximately fifty thousand people and provides service to over ten thousand cities and communities;

Whereas the safe maintenance and operation of trucks and buses is vital to the health and safety of motorists, pedestrians, and other users of the Nation's highways, roads, and streets;

Whereas the safe maintenance and operation of trucks and buses is also vital to the companies and individuals directly involved in the provision of such transportation services;

Whereas the safe maintenance and operation of trucks carrying hazardous materials is essential not only to the safety of the immediate highway environment, but often to the surrounding environment as well;

Whereas State governments are increasing their efforts to improve safety compliance both on their own and with funding assistance provided by the Federal Government;

Whereas there is a continuing need for congressional inducement to improve highway safety; and

Whereas improvements in the safe operation of trucks and buses result from activities undertaken by management and labor, including activities to ensure driver professionalism: Now, therefore, be it

Resolved by the Senate and House of Representives of the United States of America in Congress assembled, That the President is authorized and requested to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week" and to call upon Federal, State, and local government agencies and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, December 17, 1985, the Chair declares the House in recess, subject to the call of the Chair.

Bells will be rung 15 minutes before the House reconvenes if there is business to transact.

Accordingly (at 7 o'clock and 44 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 9 o'clock p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2100) "An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes."

The message also announced that pursuant to the provisions of sections 1928–1928d, title 22, United States Code, as amended, the Vice President appoints Mr. ROTH as a member and chairman, on the part of the Senate, of the North Atlantic Assembly during the 99th Congress.

The message also announced that pursuant to the provisions of Public Law 94–118, the President pro tempore appoints Mr. ROTH as a member, on the part of the Senate, of the Japan-United States Friendship Commission.

The message also announced that pursuant to the provisions of Public Law 83–420, the Vice President appoints Mrs. KASSEBAUM as a member, on the part of the Senate, of the Board of Directors of Gallaudet College.

The message also announced that pursuant to Executive Order 12131, signed by the President on May 4, 1979, as extended, the Vice President appoints Mr. KASTEN as a member, on the part of the Senate, of the President's Export Council, vice Mr. ROTH.

The message also announced that pursuant to the provisions of Public Law 99–83, the Vice President appoints Mr. COCHRAN as a member, on the part of the Senate, of the International Advisory Commission for the Caribbean Region.

The message also announced that pursuant to the provisions of Public Law 98–459, the President pro tempore appoints Mr. Russell Mills, Ph.D., of Kansas, as a member, from private life, to the Federal Council on the Aging.

The message also announced that pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, the Vice President appoints Mr. MURKOWSKI, Mr. SPECTER, and Mr. ABDNOR as members, on the part of the Senate, of the U.S. Senate Caucus on International Narcotics Control.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. STOKES, for 60 minutes, today.

Mr. MITCHELL, for 60 minutes, today.

(The following Members (at the request of Mr. KLECZKA) to revise and extend their remarks and include extraneous material:)

Mr. RAY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. RANGEL, for 60 minutes, today.

(The following Members (at the request of Mr. BROWN of Colorado) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Colorado, for 5 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. BOLAND, for 10 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAUB, prior to the vote on the conference report on H.R. 2100, today.

Mr. LEWIS of Florida, following the vote on House Resolution 345, today.

(The following Members (at the request of Mr. FRANKLIN) and to include extraneous matter:)

Mr. GILMAN in four instances.

Mr. LAGOMARSINO.

Mr. LEWIS of Florida.

Mr. CHANDLER.

Mr. BROOMFIELD.

Mr. PORTER.

Mr. GREEN in two instances.

Mr. KINDNESS.

Mr. DUNCAN.

(The following Members (at the request of Mr. KLECZKA) and to include extraneous matter:)

Mr. BARNES in two instances.

Mr. DYMALLY.

Mrs. KENNELLY.

Mr. CLAY.

Mr. WILLIAMS.

Mr. OBERSTAR.

Mr. MCHUGH.

Mr. WIRTH.

Mr. LEVINE of California in two instances.

Mr. MOAKLEY.

Mr. CROCKETT in two instances.

Mr. ROE in two instances.

Mr. STOKES in two instances.

Mr. WILSON.

Mr. GAYDOS.

(The following Members (at the request of Mr. HANSEN) and to include extraneous matter:)

Mr. MADIGAN.

Mr. BROYHILL.

Mr. PORTER.

Mr. COURTER.

Mr. MCKERNAN.

Mr. THOMAS of California.

Mr. ROGERS.

Mr. CONTE.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 86. An act to amend the laws of the United States to eliminate gender-based distinctions; to the Committee on the Judiciary.

S. 1437. An act to amend the Controlled Substances Act to create new penalties for the manufacture with intent to distribute, the possession with intent to distribute, the possession or the distribution of "controlled substance analogs", and for other purposes; to the Committees on Energy and Commerce and the Judiciary.

S. 1740. An act to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake"; to the Committee on Public Works and Transportation.

S. Con. Res. 98. Concurrent resolution to recognize the historical significance of the former Presidential yacht *Sequoia*, and express support for her donation to the U.S. Navy by the Presidential Yacht Trust; to the Committee on Armed Services.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel;

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program;

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year," and for other purposes; and

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to 99 years.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following title:

On December 17, 1985:

H.J. Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986;

H.J. Res. 450. Joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986, as "National Organ and Tissue Donor Awareness Week";

H.R. 2694. An act designating the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building"; and

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission.

On December 18, 1985:

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress; and

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year," and for other purposes.

ADJOURNMENT

Mr. ANDERSON. Mr. Speaker, I move that the House to now adjourn.

The motion was agreed to; accordingly (at 9 0'clock and 1 minute p.m.), under its previous order, the House adjourned until tomorrow, Thursday, December 19, 1985, at 11 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of calendar year 1984 and the second and third quarters of calendar year 1985 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Beryl Anthony, Jr	11/18	11/21	Italy						4.71		4.71
Hon. John J. Duncan	11/18	11/21	Italy						4.71		4.71
Hon. Bill Frenzel	11/18	11/21	Italy						4.71		4.71
Hon. Willis D. Gradison	11/18	11/21	Italy						4.71		4.71
Hon. Barbara B. Kennelly	11/18	11/21	Italy						4.71		4.71
Hon. W. Henson Moore	11/18	11/21	Italy						4.71		4.71
Hon. Donald J. Pease	11/18	11/21	Italy						4.71		4.71
Hon. Charles B. Rangel	11/18	11/21	Italy						4.71		4.71
Hon. Dan Rostenkowski	11/18	11/21	Italy						4.71		4.71
Hon. Richard T. Schulze	11/18	11/21	Italy						4.71		4.71
Hon. Guy Vander Jagt	11/18	11/21	Italy						4.71		4.71
Thelma J. Askey	11/18	11/21	Italy						4.71		4.71
Joseph K. Dowley	11/18	11/21	Italy						4.71		4.71
James C. Healey	11/18	11/21	Italy						4.71		4.71
Robert J. Leonard	11/18	11/21	Italy						4.71		4.71
John J. Salmon	11/18	11/21	Italy						4.71		4.71
Arthur L. Singleton	11/18	11/21	Italy						4.71		4.71
Rufus Yerxa	11/18	11/21	Italy						4.71		4.71
Committee total									84.78		84.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Nov. 15, 1985.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Guy Vander Jagt	4/8	4/11	Italy				385.77				385.77

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
Note.—Amended report to show additional transportation expense.

DAN ROSTENKOWSKI, Chairman, Dec. 4, 1985.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter W. Rodino, Jr., MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							7,781.54				7,781.54
William J. Hughes, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							7,781.54				7,781.54
Patricia Schroeder, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,608.47				8,608.47
Frederick C. Boucher, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,608.47				8,608.47
Carlos J. Moorhead, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,608.47				8,608.47
Henry J. Hyde, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,608.47				8,608.47
Bill McCollum	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,608.47				8,608.47
Garner J. Cline, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation					8,325.30		25.30				8,325.30
Arthur P. Endres, Jr., staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,325.30				8,325.30
Hayden Gregory, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							7,781.54				7,781.54
Thomas M. Boyd, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military Transportation							8,608.47				8,608.47
Charlene Vanlier Heydinger, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military Transportation							7,781.54				7,781.54
Sandra Sincavitz, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military Transportation							7,781.54				7,781.54
Gail Higgins Fogarty, staff	8/25	9/7	Italy		1,664.00						1,664.00
Commercial transportation							1,951.87				1,951.87
Committee total					29,640.00		116,867.13		2,800.01		149,307.14

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
Note.—Local tranportation for Vietnam, India, and Pakistan will be reported at a later date.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1985

Name of Member or employee	Date Arrival	Date Departure	Country	Per diem [1] Foreign currency	Per diem [1] U.S. dollar equivalent or U.S. currency [2]	Transportation Foreign currency	Transportation U.S. dollar equivalent or U.S. currency [2]	Other purposes Foreign currency	Other purposes U.S. dollar equivalent or U.S. currency [2]	Total Foreign currency	Total U.S. dollar equivalent or U.S. currency [2]
Bowen, Brooks	9/21	9/29	England	767.77	1,048.00		1,879.47				
						54	[3] 73.71				3,001.18
Cassani, Rudolph V	7/12	7/20	Switzerland		1,554.72		840.50				
							[4] 319.00				2,714.22
Lent, Norman, MC	8/3	8/6	Colombia		458.00		[3] 1,355.00		65.57		

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1985—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	8/7	8/8	Ecuador		216.00						
	8/9	8/12	Peru		432.00		[3] 218.87				
	8/13	8/14	Brazil		216.00				100.86		
	8/15	8/17	Argentina		372.00				186.62		
	8/18	8/19	Brazil		216.00		[3] 41.47		84.52		
							[5] 7,536.10				10,522.92
McKernan, John R., MC	8/13	8/14	Canada	213.74	158.00		546.22				704.22
Seifert, Gerald	7/7	7/20	Switzerland		1,027.00		1,223.00				2,250.00
Stelle, William	9/22	9/26	England		542.00		1,682.00				
							[3] 25.00				2,231.00
Sullivan, Mary Beth	9/14	9/21	France		690.00		1,342.02				
							[3] 46.21				2,078.23
Westcott, Jacquelyn M	7/12	7/21	England	1,581.43	804.00		1,846.49				
							[3] 112.29				2,762.78
Committee total					7,715.72		18,087.35		461.48		26,264.55

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Ground transportation.
[4] Requested additional airfare—returned to United States earlier.
[5] Air Force transportation provided $7,536.10 per person.

WALTER B. JONES, Chairman, Nov. 14, 1985.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2412. A communication from the Acting Comptroller General of the United States, transmitting a report on the status of budget authority proposed for rescission under the Impoundment Control Act, for which Congress failed to pass a rescission bill (H. Doc. No. 99-138); to the Committee on Appropriations and ordered to be printed.

2413. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed Letters of Offer to Turkey for defense acticles estimated to cost $50,000,000 or more, pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2414. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, and for other purposes; to the Committee on Armed Services.

2415. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed Letters of Offer to Turkey for defense articles and services, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER. Committee on the Judiciary. H.R. 2468. A bill to amend the Legal Services Corporation Act to authorize appropriations for additional fiscal years, and for other purposes, with an amendment (Rept. 99-448). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON. Committee on Rules. H. Res. 348. A resolution waiving certain points of order against the conference report on House Joint Resolution 465, a joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes (Rept. 99-449). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

The Committee on Appropriations discharged from further consideration of H.R. 2851; H.R. 2851 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 3979. A bill to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes; jointly, to the Committee on Ways and Means, and Energy and Commerce.

By Mr. DUNCAN:

H.R. 3980. A bill entitled: The Unitary Tax Bill of 1985; to the Committees on Ways and Means.

By Mr. GIBBONS:

H.R. 3981. A bill to extend until December 19, 1985, the application of certain tobacco excise taxes; to the Committee on Ways amd Means.

By Mr. STARK:

H.R. 3982. A bill to extend until December 20, 1985, the trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. BERMAN:

H.R. 3983. A bill to amend the Export Administration Act of 1979 to prohibit certain exports to countries supporting international terrorism; to the Committee on Foreign Affairs.

By Mr. BROWN of Colorado:

H.R. 3984. A bill to amend the National Endowment for Democracy Act to prohibit grants to organizations affiliated with any member of the Board of Directors of the Endowment; to the Committee on Foreign Affairs.

By Mr. CONYERS:

H.R. 3985. A bill to amend chapter 96 of title 18, United States Code; to the Committee on the Judiciary.

By Mrs. KENNELLY:

H.R. 3986. A bill to ensure timely action under the provisions of the trade laws safeguarding national security; to the Committee on Ways and Means.

By Mr. LEVINE of California:

H.R. 3987. A bill to provide for multilateral limitations on arms sales, and for other purposes; to the Committee on Foreign Affairs.

By Mr. McKERNAN (for himself, Mr. STUDDS, and Mrs. SCHNEIDER):

H.R. 3988. A bill to enhance the enforcement of laws conserving American lobster; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 3989. A bill to amend the Communications Act of 1934 to prohibit the encoding of satellite-transmitted television programming until decoding devices are fully available at reasonable prices; to the Committee on Energy and Commerce.

H.R. 3990. A bill to provide comprehensive reform of the trade laws, and for other purposes; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

By Mr. ACKERMAN:

H.R. 3991. A bill to amend the Federal Aviation Act of 1958 to require air carrier employees and ticket agents to provide the details of any scheduled stopover to any person who makes a reservation or purchases a ticket for a flight which will involve any such stopover; to the Committee on Public Works and Transportation.

By Mr. KEMP (for himself, Mr. STRATTON, and Mr. BROOMFIELD):

H.J. Res. 494. Joint resolution to authorize the establishment of a memorial to honor Prince Volodymyr the Great of the Ukraine; to the Committee on House Administration.

By Mr. SEIBERLING:

H. Con. Res. 262. Concurrent resolution correcting the enrollment of House Joint Resolution 187; considered and agreed to.

By Mr. EDWARDS of Oklahoma (for himself, Ms. FIEDLER, Mr. HORTON, Mr. CRANE, Mr. BARTON of Texas, Mr. BOULTER, Mr. WALKER, Mr. MONSON, Mr. WEBER, Mr. GINGRICH, Mr. PURSELL, Mr. FAWELL, Mr. LUNGREN, Mr. TAUKE, Mr. SMITH of New Hampshire, Mr. DIOGUARDI, Mr. SILJANDER, Mr. ARMEY, Mr. MACK, Mr. KOLBE, Mr. DENNY SMITH, Mr. CRAIG, Mr. MOORHEAD, Mr. GALLO, Mr. CALLAHAN, Mr. DELAY, Mr. ECKERT of New York, Ms. SNOWE, Mr. MCMILLAN, Mr. DICKINSON, Mr. RIDGE, Mr. MCCOLLUM, Mr. HENDON, Mr. HARTNETT, Mr. VANDER JAGT, Mr. HAMMERSCHMIDT, Mr. THOMAS of California, Mr. LEWIS of California, Mr. HILER, Mr. OXLEY, Mr. ZSCHAU, Mr. DANNEMEYER, Mr. LOWERY of California, Mr. GUNDERSON, Mr. COURTER, Mr. MCCAIN, Mr. MCEWEN, Mr. CLINGER, Mr. COMBEST, Mr. BURTON of Indiana, Mr. MARLENEE, Mr. SHAW, Mr. SPENCE, Mr. SKEEN, Mr. MARTIN of New York, Mr. CAMPBELL, Mrs. ROUKEMA, Mr. BROWN of Colorado, Mr. DUNCAN, Mrs. HOLT, Mr. STUMP, Mr. LOEFFLER, Mr. GOODLING, Mr. O'BRIEN, Mr. LOTT, Mr. ARCHER, Mr. DORNAN of California, Mr. BLILEY, Mr. WYLIE, Mr. LEWIS of Florida, Mr. BOEHLERT, Mr. ROGERS, Mr. NIELSON of Utah, Mr. SMITH of New Jersey, Mr. COBEY, Mr. MCKERNAN, Mr. GROTBERG, Mr. SCHUETTE, Mr. MCCANDLESS, Mr. COATS, Mr. HOPKINS, Mr. LIGHTFOOT, Mr. SLAUGHTER, and Mr. SHUSTER):

H. Res. 347. Resolution to amend the Rules of the House of Representatives to require a rollcall vote on passage of any measure making appropriations or providing revenue; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 808: Mr. MCKINNEY and Mr. PURSELL.

H.R. 945: Mr. MCCANDLESS, Mr. BROWN of Colorado, and Mr. CALLAHAN.

H.R. 1169: Mr. MOODY.

H.R. 1435: Mr. WISE, Mr. GALLO, Mr. SAXTON, Mr. CHANDLER, and Mr. NIELSON of Utah.

H.R. 1508: Mr. CARPER.

H.R. 1946: Mrs. MARTIN of Illinois.

H.R. 2280: Mr. THOMAS of Georgia, and Mr. VISCLOSKY.

H.R. 2440: Mr. SISISKY.

H.R. 2451: Mr. NEAL.

H.R. 2489: Mr. WOLPE.

H.R. 2684: Mr. WALGREN, Mr. ROE, and Mr. GORDON.

H.R. 2752: Mr. ROSE, Mr. MATSUI, Mr. OWENS, and Mr. PENNY.

H.R. 2887: Mr. KOLTER, Mr. SAXTON, Mr. SIKORSKI, and Mr. ROBINSON.

H.R. 2943: Mr. LUKEN, Mr. HOWARD, and Mr. LIVINGSTON.

H.R. 2952: Mr. DURBIN, Mrs. SCHNEIDER, Mr. JEFFORDS, Mr. SCHUMER, and Mr. WEISS.

H.R. 3035: Mr. VISCLOSKY.

H.R. 3260: Mr. MACKAY, Mr. SOLOMON, Mr. RANGEL, Mr. DWYER of New Jersey, and Mr. JONES of North Carolina.

H.R. 3281: Mr. RANGEL and Mr. AKAKA.

H.R. 3521: Mr. ENGLISH.

H.R. 3593: Mr. DORNAN of California and Mr. ROE.

H.R. 3594: Mr. DIOGUARDI.

H.R. 3616: Mr. GRAY of Pennsylvania and Mrs. BOXER.

H.R. 3626: Mr. HARTNETT and Mr. SILJANDER.

H.R. 3630: Mr. LEHMAN of California.

H.R. 3655: Mr. APPLEGATE, Mr. CROCKETT, Mr. GAYDOS, Mr. HOWARD, Mr. KOLTER, Mr. LIPINSKI, Mrs. LLOYD, Mr. MANTON, Mr. QUILLEN, Mr. RANGEL, Mr. SAXTON, Mr. TRAFICANT, Mr. VOLKMER, and Mr. WILSON.

H.R. 3710: Mr. BEILENSON, Mr. HYDE, Mr. BEVILL, Mr. KINDNESS, Mr. FRANKLIN, Mrs. BENTLEY, Mr. PORTER, Mr. BLILEY, Mr. WILSON, Mr. MONTGOMERY, Mr. DEWINE, Mr. NIELSON of Utah, Mr. GINGRICH, Mr. SMITH of New Hampshire, Mr. EDWARDS of Oklahoma, and Mr. SAXTON.

H.R. 3723: Mr. GLICKMAN.

H.R. 3907: Mr. MCCOLLUM.

H.J. Res. 316: Mr. DENNY SMITH, Mr. KRAMER, Mr. VENTO, Mr. DUNCAN, Mr. LUNDINE, Ms. SNOWE, Mr. EVANS of Illinois, Mr. PETRI, Mr. CHANDLER, Mr. LOTT, Mr. LOWRY of Washington, Mr. MICA, Mrs. MARTIN of Illinois, Mr. APPLEGATE, and Mr. NATCHER.

H.J. Res. 376: Mr. PANETTA.

H.J. Res. 421: Mr. LIVINGSTON.

H.J. Res. 439: Mr. LANTOS, Mr. TOWNS, Mr. CHAPPIE, Mr. DURBIN, and Mr. HUGHES.

H.J. Res. 445: Mr. BARTLETT, Mr. DENNY SMITH, Mr. BLILEY, Mr. BROYHILL, Mrs. MEYERS of Kansas, Mr. YOUNG of Florida, Mr. MRAZEK, Mr. ANTHONY, Mr. LIVINGSTON, Mr. WHITTEN, Mr. BOULTER, Mr. DAUB, Mr. TRAXLER, Mr. FROST, Mr. ADDABBO, Mr. SHUMWAY, and Mrs. LONG.

H.J. Res. 451: Mr. GUARINI, Mr. ST GERMAIN, Mr. EDWARDS of Oklahoma, Mr. STAGGERS, Mr. SIKORSKI, Mr. HARTNETT, and Mr. NIELSON of Utah.

H.J. Res. 479: Mr. GUNDERSON, Mr. DIOGUARDI, Mr. SAXTON, Mr. RINALDO, Mr. CLAY, Mr. EDWARDS of Oklahoma, Mr. WILSON, Mr. LEVINE of California, Mr. LOEFFLER, Mr. RANGEL, Mr. KASTENMEIER, Mr. MORRISON of Connecticut, Mr. HUTTO, Mr. KLECZKA, and Mr. LELAND.

H. Con. Res. 36: Mr. KOSTMAYER.

H. Con. Res. 175: Mr. RAHALL.

H. Con. Res. 224: Mr. BURTON of Indiana.

H. Con. Res. 241: Mr. MARTIN of New York, Mr. HORTON, and Mr. ORTIZ.

H. Res. 39: Mrs. BENTLEY and Mr. LAGOMARSINO.

H. Res. 60: Mr. SILJANDER.

H. Res. 194: Mr. BLILEY.

H. Res. 245: Mr. BURTON of Indiana, Mr. COATS, Mr. COLEMAN of Texas, Mr. COUGHLIN, Mr. FLIPPO, Mr. KOLTER, Mr. MOODY, Mr. NIELSON of Utah, Mr. REGULA, Mr. SCHULZE, and Mr. WILLIAMS.

H. Res. 346: Mrs. BYRON, Mr. ACKERMAN, Ms. MIKULSKI, Mr. MCCAIN, Mr. LANTOS, Mr. UDALL, Mr. LENT, Mr. MAVROULES, Mr. KOSTMAYER, Mrs. SCHROEDER, and Mr. LEHMAN of Florida.

EXTENSIONS OF REMARKS

FLORA LEWIS ON UNFPA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GREEN. Mr. Speaker, I would like to bring to my colleagues' attention an article by Flora Lewis on the international population dilemma. As a coparticipant—along with Representative PETER KOSTMAYER and the Population Council—in the lawsuit discussed in the article, I highly recommend this insightful article by this renowed journalist who was just recently presented with the Fourth Estate Award for excellence in journalism.

The article follows:

[From the New York Times, Dec. 13, 1985]

FOREIGN AFFAIRS—THE SURVIVAL QUESTION

(By Flora Lewis)

WASHINGTON.—A Federal appeals court here has made a foreign policy decision on a technically that highlights the peculiar means some conservatives are using to force their views of morality on the rest of the world.

The court rules that the Agency for International Development may release $10 million to certain countries after the money was withdrawn from the United Nations Fund for Population Activities. Werner Fornos, president of the Washington-based Population Institute, had sued to freeze the money in an effort to restore it to the important U.N. agency.

All this legal wrangling is really about abortion and sterilization in countries struggling against explosive birth rates, which menace not only their own hopes for the future but the fate of the world. Specifically, it is about the charge that China forces some people to undergo these operations, or offers financial incentives.

Evidence that China does so was not even offered, but the Administration position was that it is up to China to prove it has punished anybody who has forced such an "abuse" on its citizens. Nor is there evidence that the Administration really wants to poke into China's one-family, one-child program, or its legal system.

A remarkable letter from President Reagan to Senator Jesse Helms, dated Oct. 6, explains the political trade-off that Mr. Helms extracted.

The "Dear Jesse" letter starts off saying how much the President wants confirmation of Winston Lord as U.S. Ambassador to China. Then it switches to a lengthy assurance that China will not get any American funds through the U.N. program to help its population control efforts. Then it repeats the urgency of speeding Mr. Lord to Peking, where he has now taken up his assignment.

The connection isn't drawn explicitly, but it's perfectly obvious. It is also obvious that by holding up dozens of diplomatic confirmations until he got his way, and threatening to do it again, Senator Helms has cowed the State Department into an embarrassing and counterproductive stand.

The $10 million China was receiving was a drop in the bucket compared with the $1 billion it spends to try to stabilize its population at the projected 1.3 billion by the year 2000. But it was an important symbol of U.S. support for an excruciatingly difficult national effort, and the prohibition was an insult.

It is ironic, furthermore, that the U.S. won't take China's word on the population control measures that it uses, but accepts more dubious assurances that China won't alow billions of U.S. dollars in nuclear technology aid to seep out and thwart nuclear nonproliferation.

But it is even more hypocritical to cut off birth control support in the name of a U.S.-legislated definition of morality in a world of spreading famine and strained resources. This is a mouth race, alongside the arms race, because there is no way economic development can even keep up with unlimited demographic growth in most of the poor countries. The choice is between "natural" population control, that is Malthusian tragedy, and human responsibility.

As Werner Fornos notes, undermining the U.N. fund will make only a token difference to China. But it will really hurt up to a hundred other countries that are just beginning to understand that age-old attitudes mean disaster in the world's new circumstances. The dominant official view in Africa had been that more people mean more power, and the only way to catch up with better off countries is to outnumber them.

At present rates, by the middle of the 21st century Nigeria will have the population that China has now, and Kenya double the present U.S. population. There are many more factors in braking population growth than birth control—including education, better health care, better agricultural policies.

But there has to be recognition that how many people there are in the world and how they live are directly related. Until about a century and a half ago, the world population had been almost stable over two millennia. The biblical injunction to reproduce was needed to assure human survival.

Now science has changed the survival question, requiring human care to protect nature's ability to support our numbers. It is incredible that a privileged group in the U.S. should presume to punish others trying to face this dilemma, and in the name of morality. Survival remains the issue, though in different terms. Mr. Helms' dictated position is not only bad policy, it is immoral in the most profound human sense.

THE LATIN AMERICAN DEBT CRISIS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GARCIA. Mr. Speaker, yesterday's New York Times ran an article on the Latin American debt crisis by Pedro-Pablo Kuczynski which I am inserting in the RECORD.

Mr. Kuczynski offers a number of concrete possibilities for aiding Latin nations. No matter what we may think of his suggestions, it is important to continue to examine all possibilities for solving this crisis. Its effects are potentially as devastating for us as for the nations of the region.

The article follows:

[From the New York Times, Dec. 16, 1985]

AT THE LATIN DEBT HOSPITAL

(By Pedro-Pablo Kuczynski)

The high occupancy rate in the Latin American debt hospital continues. Argentina has left the emergency room, but another debtor, Mexico, is showing symptoms that it may have to return unless it gets a massive injection of funds to pay interest. These two countries plus Brazil account for two-thirds of the nearly $400 billion Latin American external debt, of which about $280 billion is owed to international commercial banks, 40 percent of them in the United States.

Two statistics are worth remembering about this debt: It is equivalent to almost four times the exports of the region. And the interest, most of it at floating rates, absorbs close to 40 percent of annual export earnings. The debtor countries and their creditors are thus perilously exposed to a run-up in international interest rates. When Latin debtors could not make ends meet in 1982 and banks cut back new lending, debt amortization payments had to be postponed. A similar crunch now would jeopardize interest payments, a far more serious problem for lenders.

In the last three years, Latin America has paid the interest on its external debt by cutting back imports. It has thereby built up a large trade surplus but at the cost of very depressed economies. The modest lending that has come from banks has been offset by cutbacks in trade credit and by the flight of capital. Large trade surpluses and negligible capital inflows are obviously not sustainable much longer. Latin America's economies have to grow again and they need external capital to do so. To think otherwise is to ignore economic history.

What can be done?

First, Treasury Secretary James Baker has called for $9 billion a year in multilateral bank lending, mainly by the World Bank, to 15 high-debt countries, as well as for some $20 billion in commercial bank lending over three years to the same 15. There is much work to be done to translate this initiative into concrete cooperation between lenders and debtors.

Second, while it may be unrealistic to expect large international organizations to make major new loan commitments now, they do have money for immediate disbursement. The World Bank and the Inter-American Development Bank have almost $25 billion of committed but undisbursed loans to Latin American countries. Meanwhile,

public works are virtually paralyzed and unemployment is rampant.

Why wait? The programs are ready, the workers are ready, the money is there. It should not be impossible for the World Bank, for a temporary period, to increase its share of development projects to which it is already committed.

We should think too of privatizing sluggish state enterprises. Recently, I met in Buenos Aires with the minister of the newly created Secretariat of Privatization, Manuel Tanoira, who like a late 20th century shepherd keeps his flock of state enterprises on their toes. The biggest threat he has over them is that he might sell them, which would do wonders for the inefficient ones. There are recent precedents for this. In Brazil, the state oil company has successfully sold shares worth $400 million to the public. Mexico recently sold the state hotel chain.

These are good signs. While public initiatives such as Mr. Baker's are necessary to prevent the collapse of high-debt economies, private initiative is needed to carry them back to growth and avoid the excesses of the past.

A balanced approach is needed. The worst that could happen is to think that business-as-usual will be enough, especially at a time when real interest rates are still relatively high and commodity prices are at record low levels.

A HOMETOWN VIEW OF A HEARTLAND TRAGEDY

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. EVANS of Iowa. Mr. Speaker, on Sunday, December 15, the New York Times published a commentary, which originally appeared in the Iowa City Press-Citizen, about the current crisis in rural America.

We commend this article to the attention of our colleagues for its especially insightful and moving treatment of the human dimension to the problems facing Iowa agriculture today.

THE HANDS OF ANGER, FRUSTRATION, HUMILIATION

Imagine for a minute that tomorrow, your boss tells you that for the next 12 months, you're going to earn only two-thirds of your salary. You can't quit your job.

What would you do? Quick.

The mortgage payment is already a week overdue. The kids need boots, and it's snowing. Quick.

The last two checks you wrote bounced, and the bank wouldn't pay them. The pediatrician's bill is overdue. The corner grocery store won't let you put anything on your charge account. Quick.

Your spouse is angry; you're not holding up your end of the deal. What are you going to do? Quick.

Your father and grandfather have done the same job as you're doing now. They went through the Depression. They lived on pork and potatoes, and they made it. You are the third generation. You're blowing it. Think fast. You don't have much time. Weeks, maybe months.

The pressure builds, the stress is stronger. You keep going to work, hanging on. It doesn't matter. Nothing you do matters. You are powerless.

This the kind of thing Dale Burr probably felt. And it is the kind of thing many other Iowa farmers feel every day.

There are accounts of bank transactions and economic explanations and other hypotheses as the murder and suicide story unravels. But that's not what it is really all about. It's about people—alone, desperate and powerless with nowhere to turn.

Once the Burrs were one of the wealthier families in the county. They were well-thought-of people. Salt of the earth. Churchgoers. A family of farmers carrying on a tradition. That was a year or two ago. That's how fast things crumble.

Target prices, price supports, ceilings, sealing crops. The terminology doesn't matter. It's welfare. Farmers know it. And farmers are proud people. Nobody really wants to live that way. But for now, there is no choice.

Many Iowa farmers already have taken deep pay cuts. They've scaled down operations. They've swallowed their pride—gone to stress clinics, sought therapy, stood in line at the market with food stamps in their pockets.

Some of it was bad judgment. Some of it was bad luck. The mid-1970's was a boom time for Iowa agriculture, but everyone else caught on. Physicians' fees rose, hospital costs rose, the cost of cars and homes and tractors and loans and mortgages and a college education rose. Then the bottom fell out—for farmers. Now things are so out of kilter that people who once were pillars of their communities are falling into poverty, depression and disrepute.

This is the farm crisis—the people who are alive and hanging on, and those who have died at the hands of anger, frustration, humiliation. And they are here.

Politicians tell us it is only a matter of balancing the books. That if we can reduce the deficit, deflate the value of the dollar, increase exports and give the free market reign—then, everything will be all right.

But if there's one thing that is clear from Mondays tragic series of murder and suicide, it is that the farm crisis is not numbers and deficits and bushels of corn. It is people and pride and tears and blood.

The time has come for the state and the county to reach out to farmers who are suffering—not because they are failed businessmen and women, but because they are human beings whose lives are falling apart—fast.

NATIONAL NEIGHBORHOOD HOUSING SERVICES WEEK

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MINETA. Mr. Speaker, I call upon my colleagues to join me in support of a resolution to designate the week beginning June 1, 1986, as National Neighborhood Housing Services Week. The purpose of this resolution is to generate increased private sector awareness of and support of NHS' efforts in revitalizing America's neighborhoods. Further, this resolution would recognize the thousands of volunteers who are contributing so much to NHS' success, both in terms of their time and financial resources.

For the past 14 years, NHS partnerships of residents, businesses, and local governments have been working together to combat neighborhood deterioration and preserve and produce decent affordable housing for the benefit of the current NHS residents. The NHS track record of achievement, whether it is a rural community or the most urban of cities, is impressive. Today, scores of NHS neighborhoods, once written off as as destined to become slums, are healthy self-reliant communities, and the NHS' have been able to move on to serve other neighborhoods of need in their cities.

The Congress' role in assisting this grassroots effort is through the work of the Neighborhood Reinvestment Corporation which we created to help local communities establish new NHS's and provide technical services to the existing NHS's. The success of this effort is impressive. A total Federal cost of $109 million over the past 15 years has been leveraged into approximately $3.5 billion in reinvestment in NHS neighborhoods. But no numbers can capture the renewed sense of pride and confidence the residents of these neighborhoods have in their futures, the majority of whom are lower income, elderly, and minority.

The operating costs of these local efforts are provided largely through private contributions from local business. Keeping NHS's strong and enabling them to serve additional neighborhoods requires a steady broadening of this contributions base. "National NHS Week," in drawing attention and giving recognition to NHS's work, will significantly aid every local NHS in strengthening its private sector base of support.

I hope my colleagues will join me in designating the week of June 1, 1986, as "National NHS Week." Passage of this resolution will not mandate an outlay of Federal funds. It will, however, significantly enhance a national grassroots effort which is saving hundreds of neighborhoods across America, a priceless resource which billions of dollars could not replace.

The resolution follows:

RESOLUTION TO DESIGNATE THE WEEK BEGINNING ON JUNE 1, 1986, AS "NATIONAL NEIGHBORHOOD HOUSING SERVICES WEEK"

Whereas America's neighborhoods contain the ethnic, social and economic relationships which are fundamental to a strong and diverse nation;

Whereas, when the physical, economic and social structure of a neighborhood deteriorates, it causes great harm to the homes, businesses, and residents of the neighborhood, particularly for the elderly and poor;

Whereas, the reversal of such deterioration is essential to the strength of America's families, neighborhoods and businesses;

Whereas, throughout the United States, NHS programs which are partnerships of local residents, business leaders and government officials, are working to revitalize more than 200 neighborhoods;

Whereas, NHS programs have generated more than three billion dollars in reinvestment funds to revitalize America's neighborhoods; and

Whereas, to accomplish their aims, such programs utilize primarily local and private resources and the assistance of hundreds of volunteers who contribute countless hours of volunteer work: Now, therefore, be it

Resolved by the House of Representatives of the United States of America in Congress assembled, That the week beginning on June 1, 1986, is hereby designated as "National NHS Week", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe such week with appropriate ceremonies and activities.

BILL McCARTHY

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. FORD of Tennessee. Mr. Speaker, I'd like to take this time to say, "Thanks for a job well done to a departing legis fellow, Mr. Bill McCarthy. Bill, a 25-year veteran of the Social Security Administration, will return to his Baltimore office where he presently serves as the Director of Policies and Procedures for the Office of Assessment.

If Bill is half as good in Baltimore as he was over the past year in my office, those recipients of Social Security checks can rest easy about the way that Agency is being run. His record at Social Security speaks for itself. Back in 1960, he started as a claims representative in the New York region. In 1967, he moved to Baltimore, and began 10 years of distinguished service at the Bureau of Health Insurance—now known as the Health Care Finance Administration. While at work at BHI, he helped develop a system of onsite visits to providers of health care. In his current position, he was instrumental in designing a quality measurement system for all cash payment programs. Today, he is involved in quality measurement of SSI programs. Mr. McCarthy is also the recipient of several Social Security achievement awards.

However, while he has spent 25 illustrious years serving the American public, it will be this last year that my staff and I remember best. His experience, leadership, wit, and professional attitude brought from Baltimore were invaluable assets to my office. He provided us with answers to a variety of health-related issues, ranging from the particulars of the Medicaid and Medicare programs, to whether or not the Baltimore Orioles would survive the rigorous competition of the America League East. He always took the time to carefully answer the questions of the staff. It was easy to see the care that went into all of Bill's work. I only wish that each of the other 434 Members of this body had the special opportunity that my office was able to enjoy.

While testimonials are often employed on posthumous occasions, or on the eve of retirement, let me happily announce that this Bill is not about to be tabled. Still a few years short of his 50th birthday, Bill McCarthy will undoubtedly be closing in on Social Security longevity records, if he so chooses. For a man so young, he has accomplished so much.

Bill's caring about whatever he does is quite evident by the numerous community activities he has participated in. To Bill, his wife, Marie, and children Bill Jr., Nancy, and Kathleen, I wish all the continued success in the world. Though he returns to Baltimore, I am convinced that someone with his kind of credentials will be assisting House Members once again in the very near future.

HANDBOOK OF ELECTRONICS INDUSTRY COST ESTIMATING DATA

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MCGRATH. Mr. Speaker, I would like to bring to the attention of my colleagues the existence of a recently published book entitled "Handbook of Electronics Industry Cost Estimating Data." The book was written by Theodore Taylor and is a carefully revised version of earlier works describing cost factors which must be considered to complete a wide variety of tasks at all stages of a manufacturing and production process.

I was pleased to see that the Defense Logistics Agency cooperated with the author and publisher to produce this comprehensive volume. With accepted standards for production of electronic equipment, many arms of the executive and legislative branches can improve planning and avoid errors and overcharges, which have undermined public confidence in Government management.

Projects on the cutting edge of technology are, by their nature, prone to unforeseen difficulties. At the same time, projections can be made accurately for many routine activities. This increases certainty in cost estimates and other information that legislators, military personnel, and other Government officials need to make policy decisions and purchases.

I congratulate Mr. Taylor and his collaborators for their contribution to technical literature.

A copy of the handbook was given to me by a constituent, Mr. George Telecki, of Malverne, NY, who is an editor for the book's publisher. I would be happy to make my copy available for review by Members or staffs dealing with procurement issues or the budget process.

COMMEMORATING A CHAMPION

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MCHUGH. Mr. Speaker, the breeding and racing of horses has long been a part of New York State's heritage, and I would like to take a moment to note that this year has marked the 70th birthday of Exterminator, the greatest of all New York State racehorse champions. This magnificent competitor, who died in 1945 and was buried in Broome County, NY, is believed by many to be the best all-around racehorse America ever produced.

Earlier this year, the New York State Legislature honored Exterminator by passing a special resolution. One passage of that May 30 resolution notes Exterminator's accomplishments:

Exterminator won 34 stake races, thereby establishing an American record that has stood intact for over 60 years, including among others the Kentucky Derby, the Travers in Saratoga, and the Pimlico in 1918; the Saratoga Cup in 1919; the Autumn Gold Cup at Belmont in 1920; the Frontier at Windsor in 1921; and the Brooklyn Handicap at Aqueduct in 1922, earning over $250,000 during his lifetime, and ultimately winning 49 races in 99 starts.

I might add that some racing historians believe that Exterminator's 1922 victory in the Brooklyn Handicap was the greatest horse race ever run.

The same New York State Legislature resolution puts Exterminator's illustrious career in the context of some important facts about New York State racing which I would like to share with my colleagues:

The racing industry in New York State has resulted in an annual attendance of more than 11 million patrons while over $3 billion is wagered annually in New York, representing more than 15 percent of total nationwide attendance and over 28 percent of total wagers; and out of this amount, local and State governments receive over $270 million and total employment exceeds 7,900, generating a total payroll of over $68 million. The breeding industry is one of the fastest growing industries in New York State, resulting in the care of over 63,000 horses on breeding farms, which directly generate more than $120 million and over 7,000 jobs for the economy of New York State.

Exterminator, the most famous New York State racehorse champion of all time, was the horse that helped the most, in those critical years immediately following World War I, to make racing the immensely popular industry it has become in my State.

As always, stories of special horses also involve special people. In this case, the special person is Jules Levitt, of Binghamton, NY. Mr. Levitt has devoted much energy to bringing Exterminator's exploits before the public, and is active in soliciting support for an appropriate memorial for Exterminator. I am pleased to acknowledge his dedicated efforts.

CONGRESSIONAL SALUTE TO THE HONORABLE FRANK W. MURPHY OF NEW JERSEY ESTEEMED POSTMASTER, COMMUNITY LEADER AND GREAT AMERICAN

HON. ROBERT A. ROE
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. ROE. Mr. Speaker, on Sunday, January 19, 1986, the people of the city of Paterson, my Congressional District and State of New Jersey will join together in testimony to a distinguished citizen, outstanding community leader and good friend, Hon. Frank W. Murphy of New Jersey, who announced his retirement from his high office of public trust as Postmaster and Sectional Center Manager of the Northern New Jersey District of the U.S. Postal Service effective October 2, 1985. I know that you and our colleagues here in the Congress will want to join with me in deep appreciation of all of his good works and share great pride in the success of his achievements with his good wife Mary; son Frank W. Jr. of Ramsey, NJ; daughters and sons-in-law: Mary Frank Verrone of Park City, UT; Maureen and husband Louis Morelli of Malibu Beach, CA; Sharon and husband John Borino of Stanhope, NJ; and Kathleen of North Haledon, NJ; and grandsons Craig and Keith Murphy; Mark, Glenn and Scott Verrone; Ryan and Todd Morelli; and Sean M. Ryan Borino as they celebrate this milestone of achievement in their family endeavors.

As we gather together in tribute to Postmaster Murphy's standards of excellence throughout his lifetime and his outstanding public service during the past 31 years plus in the vanguard of our Nation's postal operations, there is much that can be said about Frank Murphy and his exemplary record of performance in providing postal services responsive to the needs of our people dedicated to swift and reliable distribution and delivery of mail—a highly significant and vital link in our national and international communications network.

Mr. Speaker, Frank Murphy was born on July 25, 1918, in the city of Paterson, NJ, the first son of John B. and Esther Murphy. He attained his elementary and secondary education at Our Lady of Lourdes Grammar School and St. John's Cathedral High School in Paterson, NJ. He received his B.A. degree from St. Bonaventure University in 1940 where he had also earned an R.O.T.C. commission as second lieutenant in the field artillery of the U.S. Army. His legal studies at Fordham Law School was interrupted on December 7, 1941, by the destructive attack by Japan on our U.S. Naval Base at Pearl Harbor, HI. He was the first member of the class of 1943 to depart for active duty with our Armed Forces after taking his physical examination on December 11, 1941 and accepting his active duty orders the week of December 15, 1941.

Frank Murphy served our country as a captain in the field artillery during World War II. He participated in many battles in the European Theatre of War receiving the highest commendations of merit for his military service including the U.S. Armed Forces medal of the Order of the Purple Heart which is awarded to servicemen wounded in action. He also received the five European Battle Stars, the Bronze Star, as well as the French Fourragere, Distinguished Unit citation, etc.

At the end of World War II he was selected by the VII Army Corps headquarters as Commanding Officer of two provisional military government detachment teams assigned to Halle, Germany. He served as Military Governor of this city of a quarter of a million population. Upon his return to the United states in October 1945 he continued in the U.S. Army Reserves until compulsory retirement in 1968 with the rank of lieutenant colonel.

Frank completed his legal education and attained his L.L.B. degree from Rutgers Law School in 1948. He served his law clerkship with the law firms of Peter Hofstra, Esquire and Wendell W. Furrey, Esquire, both of Paterson, NJ; passed the New Jersey Bar examination and was admitted to the practice of law in New Jersey and the Federal District Court in 1949.

Frank Murphy, esquire, established a law partnership with Edward F. Furrey, esquire, under the firm name of Furrey and Murphy, Esquires, Paterson, NJ and continued on a full and part-time basis until the dissolution of the partnership in 1969.

Mr. Speaker, Frank Murphy has been an active participant in many community improvement programs. He served the city of Paterson as exectuve secretary to Mayor Lester F. Titus (1952–54), Secretary to Paterson Board of Adjustment (1952–54), Chairman of Paterson Purchasing Commission (1952–54) and Paterson's first Director of Slum Clearance and Urban Development (1953–54).

In April, 1954, he was appointed Postmaster of the city of Paterson by President Eisenhower with the advice and consent of the U.S. Senate. It is interesting to note at that time he was the youngest postmaster in our Nation to have been appointed to a city as large as the size of Paterson, NJ.

Mr. Speaker, the U.S. Postal Service has over 700,000 employees and handles more than 131 billion pieces of mail annually. In addition to the national headquarters, there are regional, district and sectional center offices supervising almost 40,000 post office branches, stations and community-based offices throughout the United States.

Throughout his postal career, postmaster Murphy has forged ahead with dedication, devotion and sincerity of purpose in achieving efficient mail handling systems for the people of our region. We applaud his knowledge, training, hard work and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community. He has always applied the most sophisticated and advanced techniques of his profession.

Over the course of his tenure as postmaster he vigorously pursued continuous updated training within the postal system in all managerial areas including scientific disciplines and studies involving specialized instruction and practice at the Postal Service Management Institute, Bethesda, MD where he received certificates of achievement in American Management and Associates Training. He also participated in various seminars and training courses at the University of Pennsylvania, Hobart College and the University of Southern California.

Among his many assignments as postmaster he was postmaster training officer for post offices located in New Jersey at Newark, Trenton, Jersey City, Hackensack, Clifton and Passaic and served on countless advisory promotion boards. He was past president of the Bergen-Passaic County Chapter of the National Association of Postmasters of the United States. He received many citations of merit for the quality of his service as a postmaster. In April 1969 he was the recipient of the Superior Accomplishment Award of the Post Office Department of the Philadelphia region. He was selected by Postmaster General Winton N. Blount as 1 of the 30 outstanding postmasters in the Postal System to serve on the newly formed five Postmaster Selection Boards in May 1969 and received letters of commendation from Postmaster Generals W.M. Blount and E.T. Klassen dated October 8, 1970 and February 5, 1974 respectively for his exemplary service spanning a period of 58 months for the Postmaster Selection Boards in both the Philadelphia and New York postal regions.

Upon enactment of the Postal Reorganization Act of 1971 which created the U.S. Postal Service as an independent establishment of the executive branch of our Federal Government, Postmaster Murphy was appointed Sectional Center Manager headquartering in Paterson, NJ. It is interesting to note that he was among 552 sectional center managers appointed within the United States and as of his retirement in October 1985 was numbered among a total 217 of these most prestigious postal management officers remaining in the organizational structure of the U.S. Postal Service.

Mr. Speaker, Postmaster Frank Murphy has been a staunch supporter and active participant in many charitable and civic endeavors. He was a charter member of the Bernard Armitage American Legion Post No. 360 where he served as Vice Commander, Judge Advocate, President and member of the Board of Trustees. He is a member, Catholic Lawyers Guild; Knights of Columbus, Council No. 240; St. Anthony's R.C. Church, Hawthorne, NJ; and the Paterson Rotary Club. We are especially proud of his highly compassionate fund-raising campaign efforts for charity on national, State, county and municipal levels in support of many most worthwhile eleemosynary organizations including Paterson Community Chest drives, St. Joseph's Hospital Building Development Fund drive; and his leader-

ship service as annual chairman for 4 years on behalf of the March of Dimes.

Mr. Speaker, in reflecting upon the history of our great country and the good deeds of our people who have made our representative demoncracy second to none among all nations throughout the world, I appreciate the opportunity to call your attention to this distinguished gentleman and seek this national recognition of all of his good deeds. Frank Murphy's quality of leadership and sincerity of purpose dedicated to service to people have truly contributed to the quality of life and way of life here in America. As we commemorate his retirement as Postmaster and Sectional Center Manager of the United States Postal Service, we do indeed salute an esteemed Postmaster and great American—Hon. Frank W. Murphy, Esquire of New Jersey.

ADVANCING TAX REFORM

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LIGHTFOOT. Mr. Speaker, since coming to Congress, I have voiced my support for tax reform—tax reform that is fair to the average American, tax reform that is simple, and tax reform that is truly a reform of our existing Tax Code.

During the past year, we in Congress have received hundreds of thousands of letters and postcards on every imaginable objection to the present Tax Code, as well as on many provisions of the various proposals which have been debated.

We must recognize that no matter how many objections we have with the bill before us today, the House Ways and Means Committee has devoted months of arduous debate to this massive project. Too much has gone into this effort to "throw the baby out with the bath water."

There are provisions in the bill which concern me greatly. The loss of the investment tax credit will be very hard on companies in my State of Iowa, as will limiting the use of tax-exempt municipal bonds. For this reason, I opposed considering this bill under a closed rule and I voted accordingly.

However, a number of good changes will come from this bill. It provides for a reduction of individual tax rates for the middle- to lower-income taxpayer. It protects employee benefits, which concerned many of my constituents. For the most part, it retains the deductibility of State and local taxes which otherwise would have been devastating to many small communities in Iowa which are already suffering from reduced tax bases brought on by the problems in agriculture. The bill also preserves the deduction for charitable contributions for those taxpayers who do not itemize. Also retained was the deduction for interest on the first and second mortgages for the homeowner.

With respect to small business, this bill also brings needed changes. H.R. 3838 reduces the tax burden on the small businesses which are an integral part of the economic activity in my district. Of considerable importance to me, as well, are the changes the bill makes in tax provisions affecting agriculture. In this bill we are recognizing the damage "tax loss" farming has done to farming as a livelihood and we are working to prevent further abuses in this area.

I was also fortunate to have included as a provision a bill I introduced, H.R. 2277, to exempt liquidating farmers from the alternative minimum tax. In this regard, I owe a great deal of thanks to the members of the committee for their sensitivity to the particular problem this tax has created for those farmers who would otherwise settle their debt and retire from farming without declaring bankruptcy.

While I hope this measure will be improved upon by the other body, I nonetheless remain supportive of the process and wish to see tax reform advanced.

REVITALIZING THE SUPERFUND

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LANTOS. Mr. Speaker, those of us in the Congress who feel deeply about environmental issues achieved a major victory when the House of Representatives approved H.R. 2817 extending and strengthening the Superfund Program. Our action will hasten the cleanup of dangerous chemical waste dumps and will lead to faster and more effective cleanup of toxic and hazardous waste dumps all across our Nation.

Our legislation will solve problems that have plagued the Superfund in the past by providing additional resources and by requiring the Environmental Protection Agency to begin cleanup work on over 600 toxic waste dumps immediately. It also requires chemical companies and Government agencies to provide information about dangerous chemicals to communities located near chemical plants and dump sites.

The Superfund Program was enacted in 1980—in response to environmental disasters such as Love Canal. It soon became clear, however, that the $1.6 billion originally allocated for this program was woefully inadequate to cope with a problem of this scope and magnitude.

After 5 years of EPA effort, not a single site on the national priorities list of the most hazardous sites has been cleaned up. EPA's record on other aspects to this program is equally appalling. With the passage of this legislation, the Congress is sending a message to EPA that the American people want action, that we mean business. Our action in approving this legislation demonstrates our determination to do that.

The problem of toxic waste sites is one of alarming proportions. Recent reports indicate that there may be as many as 10,000 dangerous toxic waste dump sites that will need to be cleaned. The administration's proposal to fund Superfund at a level of $5.3 billion over the next 5 years is completely inadequate.

Our legislation goes much further toward providing an adequate response to this frightening environmental crisis. It authorizes $10 billion through the year 1990, which will ensure that many, many more hazardous waste sites are cleaned up. The measure also establishes a mandatory cleanup schedule and requires the Environmental Protection Agency to begin actual cleanup at roughly 600 sites during the next 5 years.

An important component of the legislation is a provision that communities located near chemical plants and hazardous waste sites and facilities would be given the right to know what chemicals are being handled or stored in those facilities. Companies would be required to provide information to help communities respond to emergencies caused by the sudden release of toxic chemicals.

The bill establishes the concept that the polluters must pay for the damage caused at these toxic sites. It provides for taxes on oil and chemical producers to help offset the cost of the cleanup. The tax on polluters provides a fair way to finance Superfund by placing the tax burden where it belongs.

Mr. Speaker, the Superfund is one of this Nation's most important environmental programs. Our legislation protects human health and the environment while ensuring that our cities are safer and cleaner. We have taken a major step forward in the fight for a clean and safe environment through the passage of this bill.

Approving this legislation, however, does not complete the involvement of the Congress. We must continue to fight to ensure that this program is administered properly and that the intent of Congress is followed. Those of us who are firmly committed to preserving and protecting our natural environment must work to insure that the cleanup of hazardous toxic waste sites is vigorously pursued. We owe this to our children and our children's children.

SPACE MISSION OF HON. BILL NELSON

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BILIRAKIS. Mr. Speaker, I wanted to take a moment to extend my very best wishes to my friend and colleague, BILL NELSON, on the eve of his momentous journey on the space shuttle *Columbia.*

I am certain that everyone shares the admiration and respect I feel for BILL as he undertakes this most courageous and extraordinary feat. The milestone which BILL NELSON will make is one that we, as Mem-

bers of Congress, can share and participate in, for he will be representing this entire body in the annals of history. The gavel from the Speaker's rostrum which our colleague will carry into space with him is indicative of all that the House of Representatives stands for and, like the American flag which proudly stands on the Moon, will send a clear and distinct signal to the world of the pride we feel for the House of Representatives, the most free legislative body in the world.

An elected official's active participation in a space mission is, I am certain all will agree, truly outstanding. The significance and importance of this act cannot, and should not, be overlooked, for by sending the chairman of the Subcommittee on Space Science and Applications up on the shuttle, we will be simultaneously pronouncing the pride we feel for NASA and our continuing support for the maintenance of our excellent space program.

BILL NELSON'S journey, Mr. Speaker, is significant in that it truly brings to light the extraordinary gains that our space program has made. It was, after all, not all that long ago when space travel was no more than the dream of an administration and the fantasy of our society. We have, in a few short decades, not only safely landed and returned our astronauts on the Moon, but can now, thanks to American ingenuity and talent, boast the first space vehicle capable of repeated flights. Today, thanks to NASA, the dream of frequent space travel is a reality, and the fantasy of space flight availability to Americans in all walks of life is sounding and looking more and more possible.

Mr. Speaker, I am proud of the capability of our space shuttle and proud of NASA for making it possible. I am also proud that the *Columbia*'s next mission will carry a Member of the U.S. House of Representatives on board. Last but certainly not least, Mr. Speaker, I am proud that that Member will be my colleague, friend, and fellow Floridian, BILL NELSON. Congratulations BILL, and bon voyage!

TRIBUTE TO EMILIO J. LAGOMARSINO

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BADHAM. Mr. Speaker, I rise to pay tribute to the memory of E.J. "Red" Lagomarsino who died on November 3, 1985. He was the beloved father of our esteemed colleague, BOB LAGOMARSINO. E.J. was a leader in California and that is why his son, our colleague, is a leader in this body. I ask that the article from the Ventura County Star-Free Press be included in the permanent RECORD.

[From the Ventura County (CA) Star-Free Press, Nov. 4, 1985]

EMILIO J. LAGOMARSINO DIES

Emilio Joseph Lagomarsino, youngest and last of the legendary Lagomarsino brothers of Ventura and the father of Rep. Bob Lagomarsino, died Sunday. He was 81.

Death came at Community Memorial Hospital, Ventura, where he had been a patient only a few days, though he had been in declining health for some time because of a heart condition and malignancy.

Rep. Lagomarsino, summoned Friday from Washington, D.C., when his father's condition became grave, was at the bedside, as were Mr. Lagomarsino's wife of 60 years, Marjorie, and their other two children, Richard Lagomarsino and Catherine (Katy) Wood.

A private family mass was said this morning, and the family announced that no public services will be held. Memorial donations may be made to Californians for a Drug-Free Youth, care of American Commercial Bank, 304 E. Main St. Ventura 93001.

The three Lagomarsino brothers—John, William, and Emilio—figured prominently in the history and development of Ventura. Each made his mark in a different field: John in banking, William in ranching and Emilio in liquor wholesaling and property development.

They were the sons of John and Catherina Lagomarsino, who came to Ventura in 1896 and prospered with a liquor sales enterprise and two saloons.

Emilio Lagomarsino was born Feb. 2, 1904, in a two-story house on Santa Clara Street, where the now-closed Bank of America branch building now stands. He graduated from Ventura High School in 1922, and three years later won a degree from the school of commerce at the University of California, Berkeley.

Although trained in banking, he first tried his hand in the hardware business in Santa Paula, then joined the Title Insurance & Trust Co. staff in Ventura. (His wife is the daughter of the late A.C. Gates, who was manager of the Title Insurance Co. office.)

With repeal of Prohibition in 1933, Mr. Lagomarsino was made mindful of his father's success in the liquor business. He borrowed $2,500 and established Lagomarsino Wholesale Liquors, which has become the largest dealership of its kind in the Tricounties.

He became involved in property ownership and management through the Ventura Realty Co., and he also acquired ranching interests in Somis, Simi Valley and Ojai.

Shortly after World War II, he joined with the late John Rizzo in spearheading organization of the former Ventura Savings & Loan Association. Its subsequent sale yielded an unexpected bonanza to shareholders. Later, Lagomarsino and Rizzo were among the largest shareholders of the Channel Islands State Bank, which was sold to Wells Fargo Bank.

In 1973, he again was attracted to a banking venture and became the founding chairman of the board of American Commercial Bank of Ventura. He and a former mayor of Ventura, the late Albert Albinger, were the principal movers to create the institution, which now has branches in Downtown Ventura, on South Mills Road and on Telephone Road.

Mr. Lagomarsino was familiarly known as "Red." In his youth, he had fiery red hair; the color faded in later years, but he remained fiery by nature.

"Sure, I shoot off my mouth a lot," he once told the Star-Free Press in an interview, "but I like to let people know where I stand."

He led the opposition in the 1970s against relocation of the County Courthouse from Downtown Ventura to the 80-acre tract that had been acquired at Victoria Avenue and Telephone Road. For the county government headquarters to move away would mean the death of Downtown, he feared, and he owned many parcels of property there. In later years, he somewhat grudgingly approved the Downtown renewal programs.

Although he was acclaimed as one of the county's wealthiest personages, Mr. Lagomarsino rarely relaxed from the day-to-day responsibilities of running his business. And while he was prideful of his son Bob's success in politics—as mayor of Ojai, state senator and U.S. congressman—he abstained almost totally from political activity.

"I don't interfere with Bob and he doesn't interfere with me," he once said in an interview.

He was a former Ventura planning commissioner, a director of California Mission Trails and had been active in support of Villanova School and St. Joseph's Convalescent Hospital of Ojai. He also was a director of the Constitution Life Insurance Co. of America.

Besides his wife, sons and daughter, he is survived by a sister, Nilda Lagomarsino of Ventura; 10 grandchildren; and seven great-grandchildren. Besides his brothers, a sister, Delvina Medley, preceded him in death. All of the family have their lifetime roots in Ventura.

Following today's private family mass at Our Lady of the Assumption Church, with Monsignor Donald Mulcahy officiating, burial was in the family plot at Ivy Lawn Cemetery, Ventura, under direction of Ted Mayr Funeral Home.

Rep. Lagomarsino, who was originally assigned to be a witness at Sunday's general election in Guatemala, was to return to Washington later in the day.

TRIBUTE TO TOMMY WINEBRENNER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. RODINO. Mr. Speaker, I want to join my fellow Members in their tribute to Tommy Winebrenner, a gentleman who has looked after the interests of all Members. Tommy brought professionalism to the House floor in his handling of legislation from both sides of the House.

Tommy always knew what was going on or not going on in the House. He lent assistance to the rookies and took care of the senior Members when they needed to know the details of floor actions. He is an outstanding example of a dedicated public servant in "the people's House."

Tommy has been in the House for the past 30 years and has held the position of minority doorkeeper for the last 10. He is almost an inspiration up here on the Hill and we hate to see him leave. I would like to wish him the best of fortune in his new career and know that he will always be remembered here on the House floor.

SID YATES HONORED BY THE UNIVERSITY OF CHICAGO ALUMNI ASSOCIATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEHMAN of Florida. Mr. Speaker, recently our colleague SID YATES received another honor to add to the many he has gained since he was first elected to this House in 1948. In June, the Alumni Association of the University of Chicago awarded him its 1985 Alumni Medal. I would like to share with our colleagues the article from the fall 1985 issue of the University of Chicago magazine that discussed the award and its distinguished recipient. Mr. Speaker, the article follows:

ALUMNI MEDAL TO CONGRESSMAN YATES

"Life is strange," said Rep. Sidney R. Yates, PhB'31, JD'33, upon his receipt of the Alumni Association's 1985 Alumni Medal. "I had no inkling when I was on campus that I would wind up in Congress as my life's work. As a matter of fact, running for the House every two years, I'm kind of surprised that it turned out to be my life's work." Yates was one of seven alumni and ten graduating seniors on whom the Alumni Association bestowed awards at its annual assembly on June 1, Reunion Day, in the Oriental Institute's Breasted Hall.

Yates, a former assistant attorney general in Illinois, turned to politics in 1948. "I was trained as a lawyer and practiced for a while, but I never really enjoyed the practice," said Yates. "When I returned from service in the Navy in World War II, I looked around for a new way of life and decided I wanted to go to Congress. And thereby hangs a tale, for in Chicago—politics being what it is—the wish may be father to the thought but it's a long way from the thought to its realization."

In 1948 Democrats in the Illinois ninth Congressional District, which in a brief span of eight years had swung from Republican to Democrat and back again, were faced with the "monumental task" of defeating an incumbent Republican. Though Yates asked for the nomination ("In retrospect, I'm really surprised by my chutzpah," he told his audience) the district's ward committeemen decided, instead, on a candidate of German descent. As the year wore on and President Harry Truman's prospects for reelection seemed to plunge, the German candidate grew nervous. When the postmaster of Chicago died unexpectedly the candidate managed to be appointed in his place. And with six weeks to go Yates agreed to run for the House seat.

"The result is history," said Yates. "Today when young people ask me how to be elected to political office, I tell them to do what I did: find a ticket on which Harry Truman is running for president, Adlai Stevenson the elder is running for governor, and Paul Douglas is a candidate for the Senate. With such a ticket, one can be elected."

Yates' congressional career was interrupted in 1962 when he ran unsuccessfully for the Senate; the following year he was appointed ambassador to the United Nations on the Trusteeship Council by the late President John F. Kennedy. In 1964 Yates was re-elected to his former seat in the House, a position that he continues to hold today. In Congress he is perhaps best known for his role as chairman of the Subcommittee for the Department of the Interior and Related Agencies, which oversees funding for, among other federal agencies, the Smithsonian Institution and the National Foundation on the Arts and the Humanities. He is a senior member of the House Appropriations Committee, a member of the Foreign Operations Subcommittee, the Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, and a congressional representative to the U.S. Holocaust Memorial Council.

In accepting the Alumni Medal, Yates credited the University for his political longevity. "The professors, the students, the activities, the athletic teams, the classes, the clash of ideas—the total ambience—fashioned my philosophy and my vision of America in a way that found favor in the political arena," he said. "I came out of the University a liberal Democrat and I remain one today. Some of my Democratic brethren are looking for a more attractive ship to board, but they haven't found any yet. As for me, I like the ship I'm on."

TRIBUTE TO A MEMBER OF THE 101ST AIRBORNE DIVISION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEVIN of Michigan. The tragedy that struck so many families in our Nation was felt in my district in Michigan. Private Ricardo Guerra perished with his comrades last week in the air disaster which ended the lives of those members of the 101st who were on their way home to share the holiday season with their loved ones.

Rick Guerra was a resident of the city of Ferndale. He graduated from Ferndale High School in 1979 and attended Oakland Community College before entering the Army. Rick was an enthusiastic soldier who found his duties as a member of the international peace-keeping force fulfilling. His family and friends in the Ferndale community will miss him.

All of us who live in the 17th District of Michigan share the loss of Private Guerra and all of the other men and women who so proudly served as members of the famous 101st Airborne. Their loss is one that will be especially remembered as the holidays approach for many years to come. We will all recall the tragedy at Gander International Airport in the Newfoundland snows and keep the memory of these fallen soldiers in our minds and in our hearts.

IMPACT OF TAX REFORM ON STATE HOUSING PROGRAMS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. RAHALL. Mr. Speaker, I am greatly concerned over two provisions of H.R. 3838, the tax reform bill, which in their present form may undermine the ability of States to finance housing programs, many of which are intended to aid low-income households and moderate-income first-time home buyers. The first of these provisions deals with the volume cap that would be imposed on a State's ability to issue tax-exempt bonds, while the second would impose stricter limitations on the use of mortgage revenue bonds.

Under the tax bill, a volume cap would be placed on the amount of tax-exempt bonds State and local governments may issue, while other restrictions on equity incentive provisions would be imposed as well. This volume cap would effectively limit the ability of States, including my home State of West Virginia, to issue tax-exempt bonds required to provide financing for their various housing programs. The West Virginia Housing Development Fund informs me that under H.R. 3838 their bond distributions would be so substantially reduced that virtually all such financing could be directed toward housing repair—to restore areas devastated by floods in both 1983 and this year—with little available for other equally necessary projects.

States must be allowed to issue bonds in a reasponsible manner, and above all, in the volume necessary to meet their respective needs. This basic premise is undermined by other limitations under the tax bill which would restrict the use of mortgage revenue bonds. The restrictions imposed may be so severe as to preclude their use in my State. The income and other targeting provisions involved are equally restrictive, acting effectively to eliminate the functioning of the vitally important housing programs toward which they are directed.

Mr. Speaker, I remain committed to modifying these provisions of the tax bill as congressional deliberations on tax reform continue.

HIGH TECH IN STEEL

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. WALGREN. Mr. Speaker, recently at my request, the House congressional steel caucus hosted a hearing on high technology in the steel industry. Many of us from steel-producing regions of the country believe that the health of the steel industry in the future depends very much on our ability to promote research and development at the highest levels for this industry.

Two of the witnesses come from my home area of Pittsburgh, and I have attached their remarks for the review of my colleagues. Dr. Richard K. Pitler is senior vice president for the Allegheny Ludlum Steel Corp. Dr. R.J. Fruehan is a Carnegie-Mellon University professor and director of CMU's Center for Iron and Steel Research.

I applaud their leadership in focusing attention on the importance of research and development in our steel industry.

REMARKS OF RICHARD K. PITLER FOR THE SPECIALTY STEEL INDUSTRY OF THE UNITED STATES BEFORE THE CONGRESSIONAL STEEL CAUCUS

Mr. Chairman and Members of the Congressional Steel Caucus:

I am Richard K. Pitler, senior vice president technical director of Allegheny Ludlum Steel Corporation.

I appreciate the opportunity to talk to you this morning about research and development in behalf of the specialty steel industry. Since time is limited, I will touch only briefly on the record of the industry, current status of R&D, and the future for research and development in the industry.

Let me take a moment to define what we mean by specialty steels. I mean those materials which are broadly defined as stainless and corrosion-resistant alloys; tool and high speed steels; high-strength alloys; heat-resistant alloys, such as the superalloys; electrical steels for transformers and motors; and magnetic and controlled-expansion alloys used in electronics.

In short, specialty steels are the materials without which no modern economy and no modern defense system can function.

The state of technology in the specialty steel industry in this country is acknowledged even by our overseas competitors to be superior or fully equal to that of any offshore competitor. This view is confirmed by a number of studies by the Office of Technology Assessment, Commerce Department, and—most recently—the National Academy of Engineering.

The current advanced state of technology in the industry is a direct result of our long and continuous research-and-development efforts. Some examples of fruits of past R&D follow.

1. The use of argon/oxygen decarburization or vaccum oxygen decarburization for the production of most stainless and other specialty steels.

2. The almost exclusive use of continuous casting to produce stainless corrosion-resistant and some electrical steels. Almost all stainless steels for flat-rolled product are now continuously cast, and some companies have achieved continuous-casting ratios of 90 to 100 percent. Stainless billets also are being continuously cast—with continuous-casting ratios on the order of 30 to 50 percent.

3. The development and use of vacuum induction melting, vacuum arc remelting and electroslag remelting techniques for special-purpose alloys for high-technology applications. These techniques are used in superalloys for gas turbine engines, special tool steels, and some electrical alloys.

4. The development of powder techniques applied to superalloys and tool steels.

5. The use of new forging techniques for some of the superalloys and other special alloys, such as using large GFM forging machine.

6. The installation of modern computer-controlled gage-control systems on both flat-rolling and bar mills.

7. The development and use of new descaling systems that allow lower acid usage and minimize environmental problems with waste-water treatments.

These kinds of process-technology developments, which produce more uniform products more reliably, are continuing today. There is going on in the industry a major effort in the area of process control. This means the integration of sensors, computers, computer networks and manufacturing facilities to produce manufacturing systems which will improve productivity; improve product quality, uniformity, and reliability; reduce energy consumption; and improve yields. These efforts will enhance our ability to use statistical quality-control methods in our melt shops, rolling mills, and annealing and pickling facilities. These efforts are using substantial R&D resources for development of the sensors and for development of the software that goes into the computer programs which will control our processes.

One example is the four-level hierarchical control system that my company, Allegheny Ludlum Steel Corporation, uses in its melt shops. Another example of on-going R&D in this area is the cooperative pilot program being carried out by industry and Government at the Cytemp Specialty Steel Division of Cyclops Corporation to develop an automated, robotic work cell for a power-metallurgy facility. This facility has been developed to make improve superalloy "near-net shapes" through a unique method combining atmospheric-pressure consolidation followed by hot, isostatic-press consolidation. I have with me an example of the kind of part that is produced by this unique, R&D-developed power-metallurgy technique.

A further example of advanced process development being carried out by the industry is the direct casting of specialty steel strip. By this, I mean the production of a coilable, light-gage product made directly from melt. Here is a picture of the process as it's carried out in our laboratory and some stainless steel product that was cast by this process and, then, finished in our production cold-rolling operations to a light-gage product, which is being evaluated by some of our customers.

In the product area, research-and-development activities in the specialty steel industry have produced a host of new materials. There have been the superalloys for aircraft gas turbines, and, I've already mentioned that this work is continuing with the production of powder-metallurgy near-net shapes.

There is work being carried out on new intermetallic alloys for even higher temperature service. There have been developed special corrosion-resistant materials. Some are as resistant to seawater as titanium and more cost effective. These have found use in power-plant condensers and geothermal energy-generation systems. Some are being used in the new high-efficiency, home-heating furnaces where new corrosion problems have been encountered and where conventional materials are no longer adequate.

More energy-efficient electrical steels for transformers have been developed. In recent years, this development has accelerated with lighter-gage materials and laser-treatment techniques being applied to achieve even greater energy savings.

The specialty steel industry developed the low-cost stainless type 409 alloy, which helped make possible a reliable catalytic converter for automobiles. Now that manufacturers are starting to produce total exhaust systems from manifold through tailpipe out of stainless steels, the industry has developed a variety of relatively low-cost, heat-resistant, and corrosion-resistant materials—which have much better formability than the older alloys. Without improved formability, it would have been impossible to economically produce the tubular exhaust manifold which now is being specified on a number of engines and which saves weight as well as reduces exhaust emissions.

There are many, many other examples of past and present R&D results that have been implemented by the specialty steel industry in the United States. I have tired to touch on the major ones to give you the flavor, scope, and variety of the R&D that has gone, and is going, on in the industry.

It is difficult to speak about a single level of R&D expenditure in the industry since R&D expenditures vary considerably from one company to another within the specialty steel industry. However, I think we can make some general statements about the level of R&D spending. For most major producers in the industry, R&D expenditures vary from about 1½ to 2½ percent of sales. R&D expenditures for most of these companies have increased steadily over the last 5 to 10 years. However, it should be pointed out that, although R&D dollars have increased, the technical manpower supported by those dollars, unfortunately, has either remained the same or decreased. Because of inflation, more dollars are buying less effort. The net effect of this squeeze is that we have had to learn how to be more efficient in doing R&D. We are required to be more focused in the projects that we select. I believe the squeeze has reduced the number of long-term, high-risk R&D projects that we attempt while increasing the emphasis on shorter-range, quicker-payoff projects. Research and development is—after all—an investment in the future, and—like any investment—the probability of return has to be measured against the risks and availability of resources.

R&D is but one step toward a more cost-effective product for our customers. The other step required, often glossed over in public discussion, is the deployment of that R&D whether it be new technology or new equipment to produce better products. There has to be a balance between the resources we allocate to develop the new information by research and development and the resources we have available to commercially deploy in the marketplace the results of that research and development. As available resources decrease, we tend to decrease our research-and-development effort in proportion to our ability to use or deploy the results of that research-and-development effort.

Thus, I have to say that the future of R&D in the specialty steel industry is not clear. R&D has been healthy in the past. It's healthy today but there are indications that it is starting to bleed slowly. R&D is being injured, although not yet acutely or catastrophically and—perhaps—not even very visibly. Nevertheless, our ability to invest in the future is being injured.

If you're in the development business, you have to be an optimist; so, I have to say that the possibilities for the future are unlimited. However, R&D is only one part of a corporate organism. It will not be healthy unless the whole organism is healthy. That, to me, means our specialty steel companies must have an opportunity to make a profit when they are technically up to date and are effecient producers. This is the only way we will generate the resources to make investments in R&D and investments for the utilization of that R&D. This is the only route to maintaining our technical health, competitive position and favorable prospects for the rest of the 80's.

In the R&D area, I believe that Government does have a proper role in supporting fundamental studies which bear on the general needs of industry and to encourage efficient, intercompany, cooperative research

on generic problems. As an example, I mention the need for data regarding mechanical and physical properties of materials at or near the melting point. This is the kind of information that would be very useful for people trying to develop a strip casting process and, perhaps, various forms of high-temperature, powder-compaction processes. Cooperative R&D on environmental problems is another area where Government could be helpful. We need recognition by the Government that capital generation and capital availability are vital requirements for the utilization of technologies in such capital-intensive industries as ours. Technology moves quickly throughout the world today, and those with the capital to install that new technology will be those who become the technological leaders in the production of specialty steels.

In closing, may I read a description of the specialty steel industry given November 16, 1982: "The speciality steel industry is an efficient, technologically up-to-date and export-oriented branch of the steel industry. Its output is used in a wide range of demanding applications critical to an industrial economy."

These were the words of President Reagan following an in-depth, 2-year study of our industry. They were true then. They are true still. And, we and our people are determined to keep them true in the future. With your support in fostering research, in sharpening trade-law enforcement, and in strengthening our basic economy, we can succeed.

Again, let me say that I appreciate the opportunity to share some of my thoughts with you today, and I hope this brief presentation has been helpful to your understanding our specialty steel industry.

SUMMARY OF PRESENTATION TO STEEL CAUCUS

Current Status in Industry: There has been a tremendous decrease in industrial research and development in the steel industry with less than half the number of people involved as compared with only five years ago. For example, at U.S. Steel the number of people was approximately 1500 in 1975, 1000 in 1980 and only 300 in 1985 in research. In some companies the cuts have been less drastic. Long term and basic research from which new technologies involve is almost nonexistent in industry at this time.

The government has never been a major sponsor of industrial research in steelmaking. The major exception would be the DOE thin slab casting project.

The government has never been a major sponsor of industrial research in steelmaking. The major exception would be the DOE thin slab casting project.

Current Status in Universities: University research in steelmaking is extremely small compared with other areas. Five years ago, AISI sponsored about $1M in research, for 1986-87 it will only be around $400,000. N.S.F., through the Engineering Directorate, sponsors about $1M and two Industry University Cooperative Centers at $125,000 each. These figures are extremely small compared to other areas. The Materials Directorate of N.S.F. sponsors 14MRL at $1.5M each and 5 "mini centers" at $500,000. The total budget on Materials is over $100M as compared to $1M in steelmaking. The Steel Centers should receive at least $500,000 per year from N.S.F. to have a major impact. A brochure describing the Center at Carnegie-Mellon is attached.

Improvements for Industrial Research: The government should allow and sponsor collaborative research by the industry; the individual companies cannot afford the high cost of some projects and collaboration is the only way. The "steel initiative" is a good example. The committee, which I am a member of, has put together research programs that are relevant and viable. They should also help sponsor other projects, such as, the K R demonstration program out of the DOE Clean Coal program.

There are industrial collaborative research efforts which have been coordinated by AISI and CMP(EPRI). The university Centers are also a form of collaborative research. The industy should consider taking these efforts a step further and explore the possibility of a national steelmaking research center. This center would be supported by all the companies doing research on problems and processes of mutual interest. The development and organization of such a center will not be easy but it may be the best answer for the long term problem of research in the industry and the government could aid in it's development.

Improvements in University Research: In order to do any long term basic research and train the personnel for a technically advanced steel industry, the government should support more university research.

1. At least double the individual grant program at N.S.F. to $2M per year.

2. Increase the N.S.F. funding at the existing Steel (Colorado School of Mines) and Steelmaking (Carnegie-Mellon University) Centers to at least $500,000. These Centers have signficant industrial backing and input. For example, at C-MU there are fourteen member companies contributing a total of about $280,000 per year which insures the programs that are truly relevant to the industry.

3. N.S.F. should consider additional Industry-University Centers. Possible areas include casting and computer aided manufacturers.

THE PROMISE OF A FUTURE IN GUATEMALA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GARCIA. Mr. Speaker, the Sunday edition of the New York Times ran two excellent articles on Guatemala, a nation which recently elected its first civilian ruler in 15 years.

Today, President-elect Marco Vinicio Cerezo Arevalo of Guatemala is visiting the United States as part of a goodwill tour he is making before his January 14 inauguration. While Guatemala has had a difficult history with respect to human rights in particular, and democratic principles in general, it is important that Mr. Cerezo is given a chance to establish democracy in his country. The building of democracy is part of a process. It does not hinge on a single event. As Mr. Cerezo has so clearly stated, we too stand to loose if democracy fails in Guatemala. It is, therefore, in our interest to help him, as long as we believe in his ability to achieve democracy in Guatemala.

Mr. Cerezo has asked that we give him time. That is the least we can do for him. I commend the two New York Times articles to my colleagues.

[The New York Times, Dec. 15, 1985]

GIVE GUATEMALA A CHANCE

(By J. Michael Luhan

SAN SALVADOR.—It isn't often that we hear good news from Guatemala. But the result of the election last week are exactly that—a glimpse of what may be the first genuine democratic opening in that tortured country since the Central Intelligence Agency toppled its last legitimate Government, in 1954.

One night in 1982, I was asked as a favor to deliver some documents to a residence in Bethesda, Md. Waiting for me on the front lawn was a small, haggard-looking man clad in dirty tennis shorts and T-shirt. When I pulled up at curbside, he emerged from the darkness of the shrubbery. Taking the documents, he asked that I tell no one the location of the house, for the sake of his family's safety.

Next month, that man, Marco Vinicio Cerezo Arevalo, will become the democratically elected civilian president of Guatemala. The dramatic change in his fortunes, from the hunted prey of his right-wing enemies to their constitutional chief, is the result of his own personal courage and a complex set of fortuitous circumstances.

The opening that led to his election is a slim one, indeed, with the pressures of economic collapse and a trigger-happy Guatemalan Army ready to seal it shut again. But Guatemalans are greeting the change with considerable hope, and for that reason it deserves the support of Guatemala's democratic allies.

I spent election day in a rural farm town that traditionally had been an electoral base for the National Liberation Movement, the right-wing group that calls itself the "party of organized violence." Last week, Mr. Cerezo's Christian Democratic Party swept the district.

What made its campaign a success? My Indian friends said it was the sickening violence, directed by the army, that had turned the town into a graveyard between 1980 and 1982—violence cheered on by the National Liberation Movement and its anti-Communist pronouncements. One Indian explained: "It's better to have a lawyer than a general as president, someone who understands the laws, who respects life."

One of the most important changes will involve the large labor organization that supported Mr. Cerezo's candidacy. For the first time in decades, the labor minister, who will probably come from this organization, will not be expected to betray the labor movement, and there is hope for a progressive new labor code.

On election night, as Mr. Cerezo's 70 percent victory margin was coming into focus, a social democratic intellectual appeared on Guatemalan television and hailed the results. In April, this man was in exile. Now, he is founding a new party of the left.

In 1980, Mr. Cerezo himself astonished Guatemalans by returning from the United States. Before he left, he had decried the violence of the Guatemalan Government in a press conference in Washington. It was taken as his swan song, for he had committed the cardinal sin of Guatemalan politics—showing its dirty laundry in public. Death nearly embraced him several weeks later in Guatemala in a hail of bullets from a passing police car. He miraculously sur-

vived—and, with him, Guatemala's frail hopes for civility.

Civility is a long way off—but it is now at least a dream. The local guerrillas have proved inept at changing the status quo by force, but the military has been unable to crush them, even with 30 years of unbridled violence. The business community, a long-time ally of the violent right, has pragmatically decided that violence and corrupt dictatorship are bad for business. The businessmen played a key role in turning the generals out.

What remains is a country struggling to emerging from chaos, and numbing violence that has taken the lives of 50,000 people since 1978.

The Reagan Administration must recognize how narrow and treacherous Mr. Cerezo's path will be. Washington must not force him to entangle himself in a regional conflict. It should not press him with unneeded military aid or urge him to adopt economic policies punishing to his country's poor. Nor should it burden him with an ambassador who cares more about President Reagan's ideology than Mr. Cerezo's perilous reality.

Guatemala deserves better. President Reagan, give President Cerezo a break. Let him decide, with your faith in him and your help, what Guatemala's destiny is to be.

[The New York Times, Dec. 15, 1985]

WHEN A LANDSLIDE IS NOT A MANDATE

(By Stephen Kinzer)

GUATEMALA—Even with a landslide victory in last week's presidential election, Marco Vinicio Cerezo Arévalo must tread a fine line. He recognizes what he has called "the tremendous injustices" in Guatemala life. Yet he is also aware that his freedom to do something about them will be restricted not only by the country's faltering economy but also by the desire of some traditionally powerful people—particularly military officers, conservative businessmen and large landowners—to maintain a system that has brought them wealth and influence.

During the campaign, Mr. Cerezo carefully worded his proposals to convey a desire for change without unduly alarming his adversaries. He said, for example, that he favored "concerted development" rather than land reform, and that he would be willing to hold "conversations," but not dialogues, with Marxist insurgents. "Certain terms," he explained, "produce an emotional response in this country."

Although he will not be inaugurated for a month, Mr. Cerezo has disclosed his thinking on the critical issue of land tenure. He said he would not seek to confiscate or even to buy land from families that own huge estates, but at his first news conference as President-elect he announced a proposal that might have a similar effect: a new tax on unused land. Many wealthy owners use only part of their sprawling plantations, allowing vast areas to lie fallow. If the new Congress approves a heavy tax on such land, some owners could be forced to sell part of their holdings or allow peasants to lease them. The measure would also represent the first serious attempt in years to force landowners to pay their share of taxes, itself a radical departure in Guatemalan politics.

The proposal was the first step in what is likely to be an extended minuet between Mr. Cerezo's reformist Government and the entrenched centers of power. Guatemala's extremes of wealth and poverty are most visible in rural areas, where hundreds of thousands of workers migrate with the seasons, following the coffee and cotton harvests. In the past, landowners have opposed measures that would give peasants their own land for fear many would drop out of the migrant labor force. But experts say no substantial progress can be made against poverty as long as no land is available for the 75 percent of the population that, according to Mr. Cerezo's figures, live without access to life's basic necessities.

Several weeks before the election, Mr. Cerezo held a private meeting with some of the country's most recalcitrant businessmen and landowners. "He said he didn't like the landowners and had no use for them," said one businessman who was present. "He said he knew they felt the same way about him. But he said we all needed each other at this moment, and he appealed for an attitude of understanding."

And the new President must worry about more than the fears of the rich. He is assuming leadership of a country in which nearly half the people are illiterate and two-thirds have no access to safe drinking water. The problems of health care and housing are acute. He was elected to bring change, and many Guatemalans will be disillusioned if he moves too cautiously. "He is going to have to take the interests of the private sector into account," said Leonel Sisniega Otero, a rightist politician, "and that will undoubtedly cause problems with members of his own party."

In addition, to the needs of landless peasants, Mr. Cerezo will face rising demands from the urban poor. Many work in factories for subsistence level wages, and labor organizing has been punished with dismissal or worse. Mr. Cerezo said last week that he would allow unions to organize and would not repress strikes, both radical departures in a country where, according to Christian Democratic figures, only 211 collective bargaining agreements have been signed in 50 years.

Because salaries have been held very low despite surging inflation, some fear an outbreak of labor protests soon after the inauguration. "I hope the schoolteachers and other workers will take a reasonable attitude," the President-elect said. "They have to realize that they can't kill the goose before it starts laying eggs."

As he searched for allies, Mr. Cerezo could not help but be encouraged by the support of the man he defeated at the polls, Jorge Carpio Nicolle, whose National Union of the Center will hold the second largest bloc of votes in the new Congress. "We know that our role is to be in the vanguard of defending the new democratic system," Mr. Carpio said after conceding defeat.

The outgoing chief of State, General Oscar Mejía Victores, has also wished the civilian Government well. He says he does not object to Mr. Cerezo's plan to disband the feared Technicial Investigations Directorate, which has been accused of involvement in political kidnapping and torture. He hinted, however, that officers would continue to follow political developments with interest.

"I am not God," Mr. Cerezo warned after his victory, "and I am not going to perform miracles in this country." The new leader went on to say that he was taking at face value the army's pledges not to obstruct his Government. "If I finish my term, it will be because they obeyed," he told reporters, "and if I do not, it will be because they did not obey, in which case we will talk in Miami."

LABOR IN SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. RANGEL. Mr. Speaker, I rise to bring the plight of South Africa's unions to the attention of my colleagues.

The freedom of association is a privilege which many Americans take for granted. Our workers are permitted to choose whether they wish to be represented by a union, or whether they wish to maintain an open shop. This choice is made without government harassment, and is protected by Federal statute.

South African workers do not enjoy this privilege. They live in a country which officially suppresses any expression of opposition to the status quo. Black miners who are building a growing union movement are closely watched by the government, and many have been arrested for their antiapartheid sentiments. However, this National Union of Mineworkers continues to grow rapidly. As its strength grows, so does its influence. Considering that the vast majority of workers are black, it is very likely that the trade union movement will soon be at the forefront of the freedom movement.

Mr. Speaker, we must understand that freedom will come to South Africa. Time is running out for apartheid, and leaders who advocate change are being heard more and more by young activists. A truly free labor movement would be a gigantic step in the right direction. We must encourage them if we are to bring about a peaceful demise of apartheid.

I would like to submit the following article for inclusion in the CONGRESSIONAL RECORD. It was written by William Lucy, the International Secretary-Treasurer of AFSCME. I urge my colleagues to read it closely.

LINKS OF FREEDOM

(By William Lucy)

The Free South Africa Movement is making "Voodoo II"—the second term sequel of Ronald Reagan's presidency—anything but a re-run. That's bad news for the government in Pretoria, which has found refuge in the administration's southern Africa policy of "constructive engagement." It's bad news too for companies and banks that exploit cheap black labor in South Africa but say they abhor the social system of legalized discrimination that makes their fat profit margins possible. But it's good news in the townships, in the squatter camps, in the mines and in the schools of South Africa, where the institutions of apartheid are most oppressive and most despised.

Reverberations of the Free South Afica Movement have also reached the black trade unions in that county. Very appropriate, because it was the arrest and detention of twenty-one black South African trade union leaders last November that ignited the mass public demonstrations in the U.S. against both apartheid and the administration's policy in the region.

In an era of single issue campaigns, the Free South Africa Movement is not just an-

other "cause." It is a direct and creative political tactic, one rooted in the long tradition of conscientious dissent. The Free South Africa Movement has been an antidote for the state of political comatose that has threatened to seize the opponents of a teflon President. It has recruited new cadres of activists and inspired veterans in all other movements for social change in the U.S.

Perhaps the Free South Africa Movement's most valuable contribution has been to focus national and local attention on the shameless bankruptcy of American foreign policy toward people of color who are fighting for peace and their right to self determination. But once again, the administration has tried to walk away from its own policy failure, this time by closing the American liaison office in the Namibian capital of Windhoek, which was set up to monitor the South African troop withdrawal from Angola

But U.S. policy in Southern Africa is being regularly exposed to an American audience that is repulsed by what is sees as ugly flashbacks to the days of Bull Conner, to the days when black American citizens were routinely beaten, tortured, murdered, jailed and denied their civil rights. One opinion poll has found that nearly 41 million adults who know about the daily demonstrations in front of the South African embassy supported them. Divestment campaigns have mushroomed throughout the country, buoyed by this groundswell of opposition to aparthied and our own government's cozy relationship with such a racist and undemocratic regime.

This upsurge clashes with those who believe that apartheid can and is, indeed, withering away. Some paternalistically point to the alleged harm that disinvestment by U.S. companies operating in South Africa would have on black workers there. Better to rely on economic growth or the Sullivan Principles, or more unions for black workers. Better for black South African unionists and workers to stick solely to economic reform, leaving the racist social order of apartheid intact. This kind of strategy is both reactionary and untenable, and merely serves to camouflage support for an unjust and oppressive status quo. It is also being articulated at a time when black South African workers and their unions have emerged as a strategic and unified political force, one increasingly empowered to cripple or shut down the economy. The Two Day Stay Away, which was organized last November in less than a week by a coalition of trade unions, student groups and community and political groups, paralyzed South Africa's industrial heartland. This explicitly political strike drew the support of one million workers, even though union members number only about 300,000.

The working class movement in South Africa now has reached the point where black unions have grown five times more rapidly than white unions since the government was forced to offer limited recognition to black unions in 1979. The fact is that the entire South African economy would collapse if all black workers were to go on strike for about three days. The leadership role of black trade unions, therefore, is critical. It is also the reason why more than 400 black trade unionists were detained by South African authorities between 1981 and 1983.

But it is too late. Our union brothers and sisters are already clutching the jugular vein of the South African economy: the mineral-rich sector. Only seven weeks before the 5-6 November 1984 general strike, the National Union of Mineworkers (NUM) shook the industry and the government to their roots, with the first legal strike by black mineworkers in South African history. Although the strike was settled within three days—after seven miners were killed, 500 injured and mine property worth millions of dollars destroyed—the tremor remains alive.

Nearly 40 percent of South Africa's GNP is derived from foreign trade, gold accounts for about 50 percent of the nation's export earnings, and the mining sector is by far the largest single source of government tax revenues. The fact that black mineworkers' wages average only one-sixth ($160 per month) of white workers' wages may—just may—have something to do with this profit bonanza.

But then there is the other side of the ledger. The NUM, which was formed only three years ago, represented four percent of the mining workforce in 1983. Last year that percentage shot up five-fold to 20 percent of South Africa's half million black miners.

Under the banner of the Free South Africa Movement, organized labor in the U.S. will continue to step-up its anti-apartheid campaign. Since day one when this movement began, organized labor has grown with it, marched in it and celebrated each blow struck for freedom and self-determination in South Africa.

Apartheid is seen as an enemy of American workers. Strategic minerals imported from South Africa help satiate the Pentagon's nuclear weapons orgy, while social programs are strangled to death. South African steel imports have been increasing 5,000 percent in the last ten years, while hundreds of thousands of American steelworkers have been especially hard hit by apartheid exports. A major study by Steelworkers Local 65 in Chicago found that 30 percent of the white former steelworkers laid off from U.S. Steel Corporation's South Works plant in 1979 are still unemployed; among black workers the rate of joblessness is at 61 percent after five years. This tragedy is even more bitter because the South Works plant produces steel beams identical to those imported from South Africa to construct a new state building in Chicago—in their city and paid for with their state tax dollars.

Thus, as the spotlight of anti-apartheid resistance sprays out from the success of the Free South Africa Movement, the American labor community will continue to bring to light to its members the deep connections between the fight against Reagan's "constructive engagement" foreign policy and his anti-worker policies at home, and the fight for freedom and self-determination in South Africa.

Yet our responsibility is much, much greater than our economic self-interests. We must be equal to the challenge of upholding our own integrity. The ripened wisdom of the late Amilcar Cabral must serve as our mandate. It was he who said: ". . . In the modern world, to support those who are suffering and fighting for their liberation, it is not necessary to be courageous; it is enough to be honest."

NEW TRADE AGREEMENT WITH CHINA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BONKER. Mr. Speaker, just over 2 years ago, I stood before this body to commend the executive branch's then-new guidelines for exports of advanced technology to the People's Republic of China. Today, I again rise to commend the executive branch for its most recent efforts to liberalize trade with the People's Republic of China. Yesterday, Secretary Baldrige announced a new multilateral agreement on exports of certain high technology exports to the People's Republic of China. After 10 months of negotiations with our allies in the Coordinating Committee on Multilateral Export Controls [Cocom], agreement has finally been reached on a new set of procedures which will eliminate multilateral and interagency review for up to 75 percent of all United States exports to the People's Republic of China.

As many Members will recall, the export control policy announced in November 1983 transferred China from a restrictive export control country group to a less restrictive group composed of other friendly, nonaligned nations, and established a three-tiered technology zone system to guide licensing decisions in seven commodity control list categories. While the 1983 policy helped to expedite United States consideration of export licenses, problems within Cocom have steadily grown, due in large part to the tremendous increase in the number of China cases. Exporters routinely experience delays in excess of 6 to 9 months, which frustrates United States businessmen and Chinese customers, hinders the growth of United States-China trade, and creates friction in United States-China relations. At a time of burgeoning trade deficits, the United States can ill afford delays in export license approvals, particularly to an export market such as China, which was worth almost $6 billion in 1985.

Confronted with these excessive delays, the Commerce Department initiated multilateral discussions in February on ways to expedite China case processing. An agreement among Cocom members was tentatively reached this fall, fully approved last week, and made effective as of December 15. The new procedures would expedite exports to the People's Republic of China by eliminating Cocom review for export licenses falling within the new technical boundaries in 27 commodity control list categories, and by requiring only postshipment notification. Among the CCL categories covered by the new agreement are computers, machine tools, fiber optics, telecommunications switching equipment, oscilliscopes, semiconductor manufacturing equipment, and electronic instruments. Commerce Department officials estimate that over 75 percent of the exports which

previously required multilateral and interagency review will now receive expedited U.S. consideration. Those applications falling within the new technical parameters should be processed by the Department of Commerce within 30 days.

The agreement requires that a Chinese end-user certificate accompany each export license application. The administration announced yesterday that the Technology Import/Export Bureau of the People's Republic of China Ministry of Foreign Economic Relations and Trade [MOFERT] will issue and validate end-user certificates, and in fact already has an end-user certificate program in place. While the new licensing procedures are effective now, a cutoff date of February 15, 1986, has been established, after which all new license applications to the People's Republic of China falling within the agreement's parameters, must be accompanied by Chinese end-user certificates. Commerce Department officials announced that export administration regulations specifying the details of the new guidelines and indicating interim procedures will be published later this week.

Mr. Speaker, I applaud the long hours of negotiations devoted to this effort by the Departments of Commerce, State, Defense, the Joint Chiefs of Staff, and others. The new Cocom agreement represents a much-needed step forward in expediting export license applications to the People's Republic of China for certain adavanced technology, while maintaining careful procedures for reviewing, and possibly denying, items which may present national security risks. I am encouraged by this new agreement, and hope that it serves as further inducement for the U.S. companies to market their products in China. I urge my colleagues to bring this new policy to the attention of their high technology constituents.

FOREIGN INVESTMENT COMPANY PROVISIONS CONTAINED IN SECTION 625 OF H.R. 3838

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. CRANE. Mr. Speaker, I would like to express my concern over the Foreign Investment Company [FIC] provisions contained in the foreign tax provisions, section 625 of H.R. 3838, the Tax Reform Act of 1985. These provisions will have potentially severe impact on the extension of U.S. business activity abroad, and can be interpreted to penalize legitimate investments abroad which do not involve abuses or evasion of taxation. Further, a number of the foreign provisions contained in H.R. 3838, including the FIC provisions, were adopted by the Ways and Means Committee with no public participation or comment. Indeed, neither the President's proposals nor the earlier Treasury Department recommendations to the President contained these provisions. Such a procedure raises important concerns about the fairness of the tax reform process not to mention the wisdom of these provisions.

Prior to September 26, when the Ways and Means Committee went into closed session, there had been no proposal to modify the current FIC provisions. However, among the options placed before the committee at that time was a drastic departure in current tax policy governing the taxation of FIC's. This change, as well as other options in the foreign tax area, was not among those changes proposed by either the President or the Treasury Department. Most importantly, this proposal was never the subject of public hearings. The Ways and Means Committee ultimately adopted this proposal in modified form.

The proposed new FIC provisions would require U.S. investors in a FIC to recognize currently their portion of the annual earnings and profits of the FIC, regardless of the fact that they have not received a dividend from the FIC and are not in a position to compel the FIC to declare a dividend. Stated differently, this proposal would radically alter current tax policy by penalizing U.S. investors for undistributed earnings and profits in situations in which they cannot, as a group, compel distributions of those profits. They are thus faced with the unwelcome prospect of paying tax on income they have not received.

The proposed FIC provisions purport to ameliorate the unfairness of this requirement by permitting payment ot tax to be deferred—provided a penalty, in the form of interest, is paid. The Ways and Means Committee itself recognized this unfairness in their report at page 409. However, the purpose of this tax reform effort was not to create unfairness and then ameliorate it, but rather, to make the tax system fairer than it was before. On this measure, alone, the changes proposed by the committee in the treatment of investments in FIC's should be rejected.

A taxpayer should not be required to pay tax on imputed income which he doesn't receive and which he couldn't compel to be paid to him. Present law concerning FIC's is premised on the concept that the U.S. taxpayer is using a foreign corporation to defer current taxation of the income from his overseas business operations. Accordingly, it is appropriate to tax such deferred income as though it were constructively received as dividends, on the theory that the taxpayer could have compelled the payment of dividends and, instead, used his control over the foreign corporation to avoid such payment.

However, where the U.S. taxpayer does not have, either alone or with other U.S. taxpayers, the ability to compel dividend payments, it is fundamentally inequitable to, in effect, penalize him for not doing something he cannot do, that is compel dividend payments. The taxpayer is forced to pay tax without the ability to compel the income with which to pay the tax, thus violating the ability to pay principle.

Congress wrestled with this problem when it drafted the current subpart F rules in 1961 and 1962. The Treasury Department initially proposed that U.S. shareholders of foreign corporations be taxed currently on undistributed earnings of foreign corporations, regardless of the extent of U.S. ownership. The Committee on Ways and Means rejected this approach as overreaching. An important memorandum prepared by the staff of the Joint Committee on Taxation for members of the Ways and Means Committee on this fundamental question noted that such a proposal raises certain basic questions as to whether or not the shareholder has income within the meaning of the 16th amendment when he has received nothing and does not have the right and power to demand payment.[1]

The staff memorandum concluded that there was serious constitutional problems with the proposal and, accordingly, adopted the view that only if the U.S. shareholders possessed the power to declare a dividend would there be any basis for taxing them on undistributed income of a foreign corporation. The FIC provisions as enacted, and as contained in present law, reflect this conclusion and subject the taxpayer to dividend taxation only where the shareholders who are U.S. taxpayers have the power to require payment of dividends via ownership of at least 50 percent control of the FIC.

The proposed FIC provisions would violate the long standing ability to pay principle and would raise the same constitutional issues today as in 1961 and 1962. Accordingly, this aspect of the proposed provisions needs to be explored thoroughly before any precipitate action is taken in the name of tax reform, especially where such reform might be unconstitutional.

Nevertheless, this proposal has never been publicly examined or discussed during the process of tax reform. When the Committee on Ways and Means held hearings on proposals to reform the foreign tax provisions of the Code on July 11 and 12, 1985, none of the testimony given, or the statements presented to the committee, touched on this proposal. There was no reason to, inasmuch as no one, including the Ways and Means Committee itself, has been apprised of this tax reform. Accordingly, though it would appear that major initiatives to sell U.S. financial services abroad would be severely compromised by this proposal, there was no opportunity for the committee to develop facts to support the proposed change. Simply put, this proposal may have negative impacts on U.S. competitiveness abroad, and be deleterious to our economy. But the committee had no way of determining such facts.

The foregoing changes in the FIC rules are radical changes in current tax policy that have not been subject to the full consideration and debate necessary to determine the wisdom of adopting them. Such full consideration is critical to effective leg-

[1] Hearings on the Tax Recommendations of the President Contained in His Message Transmitted to Congress Before the House Committee on Ways and Means, 87th Cong., 1st Sess., Vol. 1, p. 311 (1961). Hearings and the critical Joint Committee Staff memo are attached hereto.

islation, and, particularly where the tax law is concerned, is necessary to preserve public confidence in our tax system.

Clearly, this House should consider carefully whether to adopt a measure as poorly and thoughtlessly crafted as is the bill proposed by the Ways and Means Committee. It is not enough to say that such deficiencies can be cured in the Senate. It is our responsibility to accept or reject this measure as it is now, for it may well become law, notwithstanding the wisdom of our Senate colleagues.

HOUSE PASSES STRONG SUPERFUND REAUTHORIZATION

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BROYHILL. Mr. Speaker, on Tuesday, December 10, the House moved boldly forward to ensure that the American people are protected from the dangers posed by hazardous waste dump sites. We did this by passing H.R. 2817, the Superfund Amendments of 1985, by a vote of 391 to 33. This bill, of which I was an original cosponsor, greatly expands and strengthens the Superfund Program while reauthorizing the effort for 5 years at a level of $10 billion, a six-fold increase over current levels.

Mr. Speaker, a thorough review of this legislation demonstrates why the legislation was approved so decisively by the House. H.R. 2817 creates uniform cleanup standards and places emphasis on permanent solutions to eliminate the toxic characteristics of waste. The bill allows States to impose more stringent State standards during cleanup. It also creates a workable settlement policy which will encourage private parties to step forward and clean up waste sites rather than tying the program up endlessly in the courts.

The bill expands opportunities for citizens to obtain technical information about site health risks and response action plans, to participate in the decisionmaking process, and to challenge certain EPA decisions regarding cleanup plans. Furthermore, it establishes a program and fund to address leaking underground storage tanks. Finally, the bill establishes a new and effective program to ensure that our citizens are aware of the presence of dangerous chemicals in their communities and the hazards associated with those chemicals, as well as a program to ensure that localities can respond to chemical emergencies in a timely fashion.

Mr. Speaker, my only regret with regard to this legislation is that the House adopted an amendment offered by our colleague from Pennsylvania which would require anyone who manufactures, uses or stores chemicals to report any "release" of that chemical on an annual basis. The Administrator of EPA tells us that this amendment could force most of our small businesses, hospitals, schools and farmers to file emissions inventories, and that for most, it will be extremely difficult or impossible to do this. H.R. 2817 contains a 2-year pilot project to determine if such inventories can be compiled efficiently and to determine if there would be a commensurate benefit. We should wait for the results of this pilot project before we impose such a requirement on our Nation's small businesses. It is my hope that this amendment will be altered in the House-Senate conference on Superfund.

Regardless of this, Mr. Speaker, I believe that the House has passed a comprehensive Superfund reauthorization bill that strengthens our Nation's program to clean up hazardous waste dump sites. I hope that we can move quickly to conference with the Senate and place a bill on the President's desk as soon as possible.

CREATION OF INTERNATIONAL LAW COMMISSION

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEATH of Texas. Mr. Speaker, last week amid all the furor of the Congress seeking to finish business and recess, a little-noticed event occurred which should be brought to the attention of my colleagues. A distinguished group of international legal specialists announced here in Washington the creation of an Independent Commission on Respect for International Law to monitor the actions of relevant governments regarding the rule of law. Under the leadership of Dr. Burns Weston of the University of Iowa and with such eminent legal scholars as our former colleague Father Robert F. Drinan of Georgetown University and Richard A. Falk of Princeton University, the new Commission is well qualified to examine international relations from an international law perspective and help to clarify these issues for the public in the United States and abroad.

I believe that the two most fundamental issues of world politics today are, in the first instance, how we contain and constrain weapons of mass destruction, and in the second, how we can best advance the rule of law. It is my hope that the formation of the Independent Commission on International Law will play a key role in the achievement of this second objective.

TURKEY AND FRESNO STATE

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEHMAN of California. Mr. Speaker, I would like to share with the House of Representatives this commendable editorial from the McClatchy News Service which publishes three California newspapers, the Fresno Bee, Modesto Bee, and Sacramento Bee. The comments expressed in this editorial shed light on the discriminating and misconstrued attacks against the Armenian community by Turks committed to bury the issue of the Armenian Genocide—forever.

TURKEY AND FRESNO STATE

The siege mentality of the Turkish government on the subject of the massacres of Armenians during World War I was detailed faithfully in an article about Fresno State University in a mass-circulation Istanbul newspaper.

The article, as reported in The Bee, accused Gov. Deukmejian of "introducing Armenian terrorism in universities." Exhibit A was Fresno State's Armenian studies program, in which Professor Dickran Kouymjian, according to the Turkish newspaper, "speaks about Armenian rights and tries to justify the murder of Turkish diplomats by Armenian terrorist organizations." There was more, all of it unfair and distorted.

The question was raised whether The Bee should have carried news about such a mendacious article, thereby perhaps enhancing its impact. However, the report, carried in Turkey's largest daily, is worth review and comment for two reasons:

First, it gives discouraging proof of the lasting power of the official Turkish line on the massacres—the revisionist history that rejects the whole idea that calculated massacres occurred, and claims that efforts by Armenians around the world to keep the memory green are provocative and vengeful.

It's the same defensive that the U.S. State Department panders to by opposing attempts to memorialize the massacres by congressional resolution.

The rationale is that we shouldn't ruffle our Turkish allies by reminding them of an unpleasant episode from that nation's past. This official Turkish failure to acknowledge what is demonstrably true compounds the anguish of those who remember, and their descendants.

The acts of a murderous few who invoke the grievances of Armenians give the Turkish government an excuse for claiming that all references to the massacres and the need for remembrance just give terror a protective cloak.

That a major organ of Turksh news and opinion is singling out Fresno State while peddling this line is disheartening and outrageous, but it's worth knowing about.

Which brings up the second point. The newspaper's accusation underlines how the terrorist fringe holds Armenians hostage. All but a handful reject violence unequivocally; they just want the redress of remembrance. Yet the chance of Turkey's setting the record straight, slight as it may be, is diminished further each time the killers kill and Turkish paranoia grows.

So what are Armenians in the disaspora to do? They can't be immobilized by the terror, they can't retreat to muteness about the need for remembrance. Academics like Kouymjian should not be intimidated: They have a right to explore all aspects of Armenian-Turkish relations, including the roots of violence.

The only response is to continue to call for what's right—but at the same time to condemn violence clearly and repeatedly and to isolate the killers in every way possible. Some members of the Armenian community find this insulting and gratuitous: Why should they have to keep declaring that good ends don't justify violent means?

It's hard to answer that. But it's one of the pernicious effects of terrorism—good people who may share some of the terrorists' stated goals have to keep taking their

distance from any evil that is done to achieve those goals.

TRANE CO. TO PRODUCE A NEW STATE OF THE ART LINE OF AIR-CONDITIONERS IN TYLER, TX

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. HALL of Texas. Mr. Speaker, at this time when new technology is needed to bolster the economy, the Trane Co. a leading supplier of air-condition products, will spend more than $43 million over the next 2 years to develop and manufacture a new line of residential central air-conditioning products at their Tyler, TX, facility; $36 million will go toward the purchase of high-technology, state-of-the-art production equipment for improved design and manufacture of compressors and cabinet configuration for the new product line and more than $7 million will be spent for engineering design and development and on a marketing introduction plan for the new line of products.

This project, called BolDesign, will introduce into the marketplace a totally new line of residential central air-conditioners ranging from 1 through 6 tons of capacity. Advantages of the BolDesign are improved design standardization, faster turnaround of inventories, shorter engineering redesign time and greater ease of servicing Trane products.

If we are going to address the deficit constructively, we have to do it through productivity. I laud the efforts of the Trane Co. in Tyler. TX, and look forward to a successful operation.

AN EXTRAORDINARY ACT OF HEROISM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LANTOS. Mr. Speaker, I would like to bring to the attention of my colleagues an act of extraordinary heroism—one man's fight against violence and desecration of religious buildings and sacred objects.

On Saturday December 7, Buzz Cody, the 55-year-old sexton of Congregation Emanu-El B'Ne Jeshurun in Milwaukee, was beaten and burned with a caustic chemical after he refused to turn over the temple's holy scrolls to three vicious hoodlums.

This brave and extraordinary man now lies in a hospital suffering from second-degree burns, which he received when he was assaulted by these vandals. Buzz Cody refused to comply with the assailants demand that he open the holy ark where the sacred Torahs were kept. The terrorists punched, kicked and burned him, cut him on one hand with a sharp instrument, tied and gagged him and then dragged him into a storage room. He was found there by a janitor many hours later.

The Rabbi of the synagogue, Rabbi Francis Barry Sillberg, described Buzz Cody's amazing courage: "He (Buzz Cody) was willing to sacrifice himself for his duty. This is an extraordinary, noble thing. In my view this is the supreme sacrifice a human being can make, to refuse to allow the scrolls of the Torah or any sacred object to be desecrated."

Mr. Speaker, all of us who are concerned with freedom of religious belief can never condone such examples of bigotry, intollerance, and violence. Mr. Cody risked his life to preserve these religious objects. Men of such courage are too rare today. I am certain that my colleagues in this House share my outrage at such appalling acts of religious intolerance and vandalism. And I am equally certain that they join me in praising and commending the courage and bravery of Buzz Cody.

TRIBUTE TO WILLIAM H. VILLINES, JR.

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. HUBBARD. Mr. Speaker, today I would like to pay tribute to William H. Villines, Jr., of Benton KY, who died Wednesday, December 4, 1985, at the age of 66 years.

"Keg" Villines was a longtime, close friend of mine and was indeed a dear friend to many in western Kentucky. A retired electrician and a veteran of World War II, he was a very active member of several organizations throughout western Kentucky, including the Symsonia Masonic Lodge No. 917, the Scottish and York rites, Rizpah Shrine Temple of Madisonville, Veterans of Foreign Wars Post No. 5484 in Providence, and the Benton Veterans of Foreign Wars Post.

"Keg" Villines was very helpful to me in my campaigns for State senator in Kentucky and for the U.S. House of Representatives.

He is survived by his wife, Mrs. Virginia Villines; a daughter, Barbara Blagg of Benton; four sons, Chris Villines, the mayor Providence, KY., Herbie K. Villines of Alameda, CA, Wiliam H. Vilines III of Benton, and Roy H. Villines of Norris City, IL, a brother, Melvin Villines of Gilbertsville, KY.; four sisters, Watseka Archibald of Middletown, KY., Nevelyn Fritz of Providence, KY., Roberta Johnson of Evansville, ID, and Sue Villines of Henderson, KY., and seven grandchildren.

I join with the many friends of this outstanding Kentuckian in extending my sympathy to the family of William H. Villines, Jr.

A LOOK AT PRESIDENT ALFONSIN

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GARCIA. Mr. Speaker, on Sunday, the New York Times Magazine ran a story on President Raul Alfonsin of Argentina. Since taking office, President Alfonsin and his government have stood as symbols of the democratic renaissance of Latin America.

He has successfully brought to trial former military leaders in his country. He is making a concerted effort to deal with his nation's considerable economic problems. But perhaps most important, he is working to institutionalize democracy in Argentina. This is no small feat when one considers the state of affairs in Argentina a few short years ago.

I am submitting the Times Magazine article for the RECORD.

ALFONSIN'S ONE-MAN SHOW

(By Lydia Chavez)

One recent morning, President Raul Alfonsin of Argentina sat in a cramped, book-lined study at the 93-acre presidential compound in a suburb of Buenos Aires to talk about his first two years in office. The 58-year-old leader was thinner and more relaxed than he was a year ago. Up at 7 A.M., he had already read the newspapers and held a long meeting with Dante Caputo, his Foreign Minister. Technicians worked outside setting up cameras for the arrival of some foreign guests. Mr. Alfonsin, who answers questions briefly rather than taking the opportunity to launch into a monologue, was unruffled by the activity. He spoke in the soft tone of his provincial hometown of Chascomus, rather than in the harsh, distinct accent of the capital with which most Argentines speak.

One of the more difficult moments of his presidency, he said, occurred last spring, when he spoke before 140,000 people in the Plaza de Mayo. I had a vivid memory of that evening. The crowd waved banners and chanted "Alfonsin, Alfonsin." The air smelled of barbecued sausage. The political banter was friendly, relaxed. Argentines were comfortable with being "called to the plaza." The rectangular park of green lawns in front of the pink granite presidential palace—the Casa Rosada—is the place where dictators and tyrants as well as elected civilians have all promised to take care of the people, to give them jobs.

Mr. Alfonsin appeared on the balcony. His dark suit fit badly. The usual bags under his eyes were particulary prominent. He started slowly, but picked up speed. His hands pounded the air for emphasis. The scene was so familiar that it took a moment for the crowd to comprehend what he was saying. When it did, people booed.

Instead of promising jobs, as so many before him had done, the President talked for 45 minutes about suffering, no growth and less public spending. The crowd was stunned.

"It was a difficult speech," Mr. Alfonsin acknowledged as I recalled the tension. "Especially because I was harassed. I believe that what people expect from me is sinceri-

ty, that I tell them what I think, that I do not cheat them. Therefore, there might have been some confusion that night, but then they analyzed and saw that the President does not fail them, that he really tells them what he thinks."

Mr. Alfonsin's first 24 months in office have been the most turbulent early term of office experienced by any of the many new Latin American presidents who have led their countries into democracy during the 1980's. Twice, he has gone on nationwide television to warn coup plotters against conspiring to destabilize his Government. In the last four decades, Argentine civilian presidents have been able to hold onto office for only half the six-year term. Generally, the military returned during an economic crisis. Perhaps Mr. Alfonsin's greatest advantage over his civilian predecessors is that never before in the country's history has the military been so discredited.

Mr. Alfonsin, who, according to his aides, runs basically a one-man show, has before him the daunting tasks of reversing four decades of economic instability and winning the military's backing. For now, the economic crisis has subsided, but it has done so before, only to explode again. As he searches for a long-term solution to inflation, Mr. Alfonsin must modernize the military's role. The armed forces must be brought under the wing of the new democracy—not allowed to regain its historical prestige as the alternative government. So far, Mr. Alfonsin has confronted the economic crisis by leaving the solution to his able ministers and then backing them with all the weight of his popularity. He has managed the military by asserting his control. He has yet to confront the larger issue of making the country's 80,000 troops contented participants in the new democracy.

The speech in the Plaza de Mayo was a dramatic break with the past; it was an end to the days when the Government meant secure jobs. It also represented a sharp reversal from Mr. Alfonsin's own early promises and dreams as a candidate and first-year President. Then, he vowed to improve wages and generate growth; to bring this once rich country of 30 million people out of nearly a decade of nightmarish military rule and into a democracy rich with material as well as spiritual promise.

Many times during his first two years Mr. Alfonsin's dreams have confronted an inhospitable reality. At times his response has been belated, confused or even reactionary, reaching back to the legal traditions of despots. It has never been weak. When the military refused private courts-martial for leaders, the case went to a civilian court and a public trial. When inflation raged at more than 1,000 percent, the civilian leader clamped on wage and price controls and pledged on nationwide television what no Argentine President had ever dared to promise: the Government would no longer print money unbacked by revenues. When a wave of terrorism seemed to be gaining force, he risked international criticism and imposed a state of siege.

"When he comes to terms with something, he does it," said Jacobo Timerman, the newspaper editor.

Argentina's natural resources rival those of most developed countries, and its population is highly educated, compared with other Latin American countries. Yet despite these riches, it has been more than 50 years since it has fulfilled its promise of enjoying one of the world's highest living standards. As Marcelo E. Aftalión, a sociologist and lawyer, said in an interview, the country's great natural wealth has been more of a hindrance than a help. Argentines always know they can count on the nation's rich farmland to bail them out of a crisis, he said.

Argentine history focuses on personalities and events, rather than traditions, laws or ideas. It is propelled by dramatic emotional swings. It is broadly viewed as the "Europe" of Latin America, but it is in fact not much more stable than its remote, backward northern neighbor, Bolivia. Examples of the country's emotionalism abound. When the military Government invaded the Falkland Islands in 1982, the country cheered wildly. Little more than three months later, Argentines turned against the war. Their new animosity seemed to spread like a brush fire, sociologists said. "We are led quickly from enthusiasm to disappointments because neither if founded in reason," Mr. Aftalión said. "People here believe more in magic than in reason."

The writer V.S. Naipaul has said that "Argentine political life is like the life of an ant community or an African forest tribe: full of events, full of crisis and deaths, but life is always cyclical, and the year ends as it begins."

Mr. Alfonsin, a country lawyer from the small town of Chascomus; 70 miles east of the capital, has been a master at harnessing and containing that emotionalism to lead a populist bandwagon in directions his countryment never imagined. A member of Congress, he rose to office at a time when Argentina was ready for change. The grim details of the armed forces' campaign against a group of urban guerrillas were just beginning to emerge. The debacle of the military's 1982 decision to invade the Falklands—a decision Mr. Alfonsin questioned—had left it without the authority or money to govern.

Mr. Alfonsin's credentials as a new type of leader were impeccable. He had risked his life by investigating the disappearance of many citizens. As a candidate, he boldly attacked the Peronist leaders, whose party had not lost an election in four decades, charging that they were making a pact with the military to assure their election.

Many of his early presidential speeches played to the Argentine ego and the working-class ear. The former military rulers would be tried, wages would rise, the foreign debt would be paid on easier terms, and the country's foreign policy would be sympathetic to others seeking liberation. In the last two years, however, the civilian leader has tamed and changed the aspirations of the Argentines. Instead of leading a debtors' cartel, as American bankers feared, the Argentines are one of the major debtors in compliance with their International Monetary Fund accord. Instead of barring foreign investment, Mr. Alfonsin welcomes it. Instead of criticizing American foreign policy in Nicaragua, the Argentines are taking a second look at their own.

With the breathing space in the economic crisis assured by Mr. Alfonsin's tactics, the President's mind, his aides say, is now preoccupied by the military. The dishonored men he followed into office, a Western diplomat said, have turned into Mr. Alfonsin's most vexing problem.

On the one hand, Mr. Alfonsin said, the military's former leaders and some of its active officers must be punished for the counterinsurgency campaign in the late 1970's that wiped out the guerrilla threat but resulted in the deaths of more than 9,000 innocent civilians, including women and children. At the same time, the military must be won over, or at least controlled. Without its cooperation, Mr. Alfonsin's Government, like six others in the last 30 years, could be ousted. "We have to realize that to make the country we want, we have to count on the military," he said. "What we have to put an end to are the differences that make no sense." So far, however, he has been unable to mend those differences.

Mr. Alfonsin has managed the military primarily by cracking down on any signs of discontent or insubordination. He began his term hoping the military would try itself. When it refused, the case passed to the civilian courts. In a 20-week public trial this year, the testimony detailed how army posts became torture centers, how pregnant women were killed, how children disappeared. The Government has stressed that nine former officers are on trial, not the institution, but the distinction blurred to anyone listening to the testimony and reading the newspapers and magazines. The military's reaction was to unite.

Mr. Alfonsin says now: "We could have [illegible] up all this if what we had planned had been accomplished. In no way is it a trial of the institution, but I suppose there has to be some sort of spiritual pressure."

The President lacks rapport with the country's officers. A high-ranking official from the Defense Ministry described it as "an institutional relationship." Mr. Alfonsin has purged the high command three times in the last two years, and cut their budget by 35 percent. Most of the officers have nothing to do, said one retired captain. These budget cuts, as well as the country's attacks on the military's human-rights record, have strengthened the institution's unity, said Andres Fontana, who studies the military for the Center for the Study of State and Society. But it has not made the military feel very good about democracy.

Dante Giadone, who advised Mr. Alfonsin on the military during his first year in office, said the President was reluctant to enforce any dramatic reforms at the beginning of his term.

"Civilians have an exaggerated sense of the military's power," he said. "It is just an institution, but Alfonsin wanted to wait. He could be right, because he has this political smell, this sense of when it is right to do something."

Mr. Alfonsin has been guided by this political sense to take actions that appear undemocratic. When the public trials of nine former military rulers ended in October, Buenos Aires became engulfed in a wave of bomb threats and explosions. Government officials immediately suspected the military. Mr. Alfonsin, wanting to act quickly, arrested six officers and six civilians. When legal complications arose, he declared a state of siege to keep them in custody. Foreign diplomats worried about the reaction abroad. At home, the support for the beleaguered President was overwhelming. Few people, and no human-rights groups, questioned whether those arrested were guilty. The evidence against some of them, according to Government officials, amounted to incriminating telephone conversations. A further investigation has yet to turn up enough evidence to press charges.

But the arrests produced the desired effect. The nearly daily bomb incidents, which actually increased after the state of siege was imposed, have diminished. The front pages of the newspaper are no longer filled with stories about hundreds of school-

children being evacuated because of bomb threats. Already, the Government is more relaxed, and there is little chance the state of siege will be extended beyond this month.

The President and his aides hope the tension with the military will ease after the trial of their former leaders has ended and the verdicts are announced. Five of the former military leaders—including the three Presidents—could be sentenced to long terms. Harsh sentences are also predicted for the commanders who are being court-martialed for the disastrous 1982 war with Britain. The verdicts in both trials are expected before the end of this year. Even after the shock of these trials is over, however, the military will continue to be under legal scrutiny. More than 1,700 cases are pending against other officers.

Although the President's public speeches talk more about reconciliation, human-rights groups are pressing for the trials to continue. Most political scientists believe the military is so discredited that it would take considerable time and a major crisis in Mr. Alfonsin's administration before the armed forces posed a serious threat. Historically, the economy has always provided the crisis. Aides say Mr. Alfonsin sensed danger last year, when the country began to spin into hyperinflation. At that time, he successfully contained the problem, but nearly every businessman and economist believes much more must be done to turn the respite into a lengthy period of stability.

Argentina's inflation rate had climbed to almost 700 percent a year by January 1985, the powerful unions were threatening strikes, and Argentine ministers were arguing over how to repay the country's $50 billion in foreign debt. The President's promise to improve the country's standard of living was impossible to fulfill: Argentina was broke. the Government was adding to the inflation, printing nearly 20 percent of its budget of $9 billion a year. As inflation sped toward 1,000 percent by last June, banks began to file for bankruptcy, and rumors of a coup spread.

All Mr. Alfonsin had done by that point was to replace his Economics Minister and old friend Bernardo Grinspun, whom bankers dreaded because of his crotchety, combative style. The new Minister was Juan V. Sourrouille, a Harvard-trained economist with a reputation as an able technocrat. Unknown to the public, Mr. Sourrouille was preparing a major economic plan. In June it was ready, Mr. Alfonsin dramatically imposed wage and price controls and halted the Government's printing presses.

Argentines fell in step so quickly that Government officials were amazed. The powerful union bosses attacked the measures, but the traditional Peronist leaders won few votes in the recent elections. Inflation has slowed dramatically, to about 2 percent a month. Mr. Alfonsin predicts inflation will settle down to 20 percent next year, the lowest since 1969. And, although the value of real wages has declined 30 percent, the measures retain broad public support.

Nearly overnight, Argentina went from being one of the most troubled of the world's debtors to one of those in the region able to make its interest payments. "Economists from all over the world come to see how we function. because they are in awe of how this is being carried through," Mr. Alfonsin said recently, obviously enjoying the country's new status.

But the serious, structural changes have yet to be made, Government officials, bankers and economists say. "So far, it is a miracle, but they are not finished," said Franco Modigliani of the Massachusetts Institute of Technology, a winner of the Nobel Memorial Prize in Economic Science, who visited Argentina recently. "They have to put an end to the wage and price freeze and find a more permanent settlement with the budget by making more permanent cuts to replace the temporary ones."

Mario S. Brodersohn, the Treasury Secretary, is adamant about making those permanent changes. The public sector, which accounts for 20 percent of all employment, will be restructured, he said, and new foreign investment will be sought. But the President has pulled back somewhat from his plans to streamline the government and to sell the companies, and this stage of reform is not progressing as rapidly as the June measures.

The President's goals of modernizing the country's industrial base with new foreign investment and restructuring the bureaucracy run up against a strong socialist tradition in the nation and in his party. Foreign investment here means Argentine products have to compete, and Argentines have a reputation for not liking to sell.

Another obstacle to the Government's plan to turn the public companies over to the private sector comes from the private sector itself, according to César Jaroslavsky, the president of the Radical bloc in the lower house. Many private companies live happily from Government contracts, he said. Businessmen here freely acknowledge that such contracts are fairly easy to get, that all it requires is to take some public employee to lunch, suggest picking up his life-insurance payment, or even giving him a salary. Argentines are accustomed to looking to the Government and their President to take care of them economically, despite the experience of the counterinsurgency period. Mr. Alfonsín's speech in the Plaza de Mayo broke with tradition, but Argentines are set in the way they perceive their Government or make their money.

In Mr. Alfonsin's Government, his aids say, there is no trio of advisers, as in Washington, that manages the administration. The two men who are most often at his side are Dante Caputo, the Foreign Minister, and José Ignacio López, a former journalist with close ties to the powerful Roman Catholic Church. There is, however, no inner circle. Mr. Alfonsin is always reaching out. "It seems like there are always at least 10 people around the President," one minister said. In a week's time, he will meet with more than 40 groups. He seems to love talking with middle-class Argentines and has a special, fatherly rapport. "He has a very personal style, people identify with him," Mr. Brodersohn said.

Mr. Alfonsin takes little time for himself, and likes to maintain a rigorous schedule, aides said. A more adventurous, less disciplined tendency, however, sometimes emerges. A lover of good food, especially desserts, he will watch his eating studiously at lunch and then splurge in the evening. He has been known to drop into an Italian restaurant near the presidential residence and order mushrooms sautéed in garlic. If he catches a group of children touring through the Casa Rosada, he will stop and chat. His rare leisure time is spent with his grandchildren.

Mr. Alfonsin used to be an avid reader, but with all the interruptions, he has since taken up watching movies on his home video set. He loves police films and comedies. One recent Saturday, after his guests had left, he stayed up until 4 A.M. watching movies.

Among well-known Argentine businessmen, it is difficult to meet one who has not talked with the President. "Every four months or so we go to see Alfonsin," said one prominent businessman. "He is very pluralistic. This is how he has gained the good will of so many of us." His personal style disarms his strongest critics. At a dinner for businessmen, one aide said, the President will ask the most hostile guest to sit next to him. After rushing through a meeting, he will take a visitor's hand in both of his and pause unhurriedly to chat. A wealthy Argentine businessman said, "You know, I wasn't one of those who voted for Mr. Alfonsin, but he has surprised me."

Most Latin officials and businessmen think nothing of keeping someone waiting for an hour, but Mr. Alfonsin detests tardiness, his aides say. He eats a light lunch, takes a quick siesta, and is back in the office by 3 p.m. Three days a week, Mr. Alfonsin works at the Casa Rosada. One minister said Mr. Alfonsin often called unexpectedly during the day to invite officials over for a chat. "He gets angry when any of us travels; he feels like we should be back here," the minister said.

If someone comes unprepared to a meeting, the President will let it be known. He listens to a multitude of advisers, then makes his decision. The President's strongest trait is an incredible will, aides and friends said. All agree that he has supreme, almost serene confidence in his own abilities. Once his mind is made up, aides say, he is anxious to get on with an announcement. Some people are frustrated by his management style, and say the Government depends too much on the President. When his attention turns from a problem, progress on finding a solution slows, a former aide said. So far, however, Mr. Alfonsin's style has appeared to work successfully.

Argentine politics have always contained a current of anti-Americanism and anti-imperialism. Argentines are sensitive about being exploited by the northern superpower. Foreign investment is viewed suspiciously. In his speeches, Mr. Alfonsin has slowly chipped away at these sentiments. He talks of respect, nonintervention and independence, but also of new possibilities with the United States. After criticizing American and European trade policies in a recent interview, Mr. Alfonsin said Argentina was unlikely to "change the philosophy" of the European Economic Community. The United States, however, better understands the need to open its markets to Argentine goods, he says. One close friend said Mr. Alfonsin admired American democracy tremendously. Aides say he is "passionate" about studying English, and when he was in the United States last year, he insisted that for his benefit his bilingual ministers speak English instead of Spanish. He is also said to be fascinated with the way in which American democracy produces leaders as different as Ronald Reagan and Jimmy Carter.

United States officials have also come to admire Mr. Alfonsin's approach to foreign policy, which is less radical than they expected. Little was known about Mr. Alfonsin when he took office, and his speeches had what American officials considered a leftist touch. He criticized the American role in Nicaragua and scolded American bankers as mercenary. Nowadays, however, the Argentines are repaying their debt and taking a

second look at Nicaragua. Although they have extended a small credit line to the Sandinista Government, and are active in the movement to seek a negotiated settlement, their support is more cautious. "We believe that now in Nicaragua a very important process will unfold whereby they will have to choose and everyone will then see what to do," Mr. Alfonsin said. "They are heading toward a constitutional reform, and if they establish a pluralistic democratic system, then we will be with them not only politically but economically. If they choose a different system, we will continue to defend the principles of self-determination and nonintervention, but we will not feel as bound in other areas.

Mr. Alfonsin has also had a profound effect on the way in which the United States Government views Latin America. American officials appreciate the risk Mr. Alfonsin took in imposing wage and price controls, and, albeit baffled by the state of siege, which would appear to undermine the image of stability being sought, they admire his political acumen in knowing that the controls would produce the desired effect. Most importantly, the United States has taken a second look at the debt problem. For the first time, Mr. Alfonsin said, American officials are seriously considering Latin America's call for debt-repayment schedules that permit growth.

Raúl Alfonsin has four more years in office. If he endures, it will be the first time a civilian Argentine President has completed a term since Peron was re-elected in 1952. The odds appear strong that he will. Political scientists are beginning to believe a new political sanity and patience is gaining strength in Argentina. They point to the recent elections as proof of that. Although Mr. Alfonsin polls favorable ratings of 73 percent, his Radical Party won only 43 percent of the vote in last month's elections. In the past, such a popular leader would insure his party a sweep, and would begin a new "movement," Hipólito Yrigoyen, the Radical President, did that in the 1920's. Mr Peron did the same in the 1940's. Until recently, the country chose between a movement or the military. The opposition political parties hardly mattered.

In the November congressional elections, however, Argentines showed restraint. They rejected making Mr. Alfonsin the leader of a new movement, as many had predicted, and instead spread their votes among the different parties. Moreover, the Peronist leaders who won were not the old-line union cronies, but the new "renovators" who preach democracy. Mr. Alfonsin dreams, he said, of successive Governments in which democracy becomes more than a notion to Argentines.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 19, 1985, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 28

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on regulatory activities of the Office of Management and Budget.
SD-342

CANCELLATIONS

DECEMBER 19

9:30 a.m.
Labor and Human Resources
Aging Subcommittee
To hold hearings to examine the participation of older workers in the Job Training Partnership Act (P.L. 97-300).
SD-430

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to resume markup of proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

HOUSE OF REPRESENTATIVES—*Thursday, December 19, 1985*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, as the heavens are high above the Earth, so great is Your love to us and to all who hear Your Word. We thank You, gracious God, in all the blessings and gifts of this life, and we ask Your blessing upon this place and all who labor here. As we celebrate the joy of this holiday season our hearts are filled with gratitude for the wonders of life—for faith and friendship and family, for responsibilities and hopes, for deeds of sharing and words of comfort. May Your benediction be with the people of our land and of our world that there may be peace on Earth and good will to all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SOLARZ. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. Does the gentleman appreciate the fact that there are a lot of Members who would like to get home for Christmas?

Mr. SOLARZ. I appreciate that fact, Mr. Speaker, but this is for an important purpose.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLARZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 130, answered "present" 4, not voting 59, as follows:

[Roll No. 475]

YEAS—241

Addabbo	Anthony	Barnard
Akaka	Applegate	Barnes
Alexander	Archer	Bateman
Anderson	Aspin	Bates
Andrews	Atkins	Bedell
Annunzio	AuCoin	Beilenson
Bennett	Hatcher	Porter
Berman	Hawkins	Pursell
Bevill	Hayes	Quillen
Boland	Hefner	Rahall
Boner (TN)	Hertel	Rangel
Bonior (MI)	Hillis	Ray
Borski	Hopkins	Regula
Bosco	Horton	Reid
Boucher	Howard	Rinaldo
Boxer	Hoyer	Robinson
Breaux	Hubbard	Rodino
Brooks	Huckaby	Roe
Broyhill	Hughes	Rose
Bruce	Hutto	Rostenkowski
Bryant	Jenkins	Rowland (GA)
Bustamante	Johnson	Roybal
Callahan	Jones (OK)	Rudd
Carper	Jones (TN)	Sabo
Carr	Kanjorski	Savage
Coelho	Kaptur	Scheuer
Coleman (TX)	Kemp	Schneider
Collins	Kennelly	Schulze
Combest	Kildee	Schumer
Conyers	Kolter	Shelby
Cooper	Kostmayer	Shumway
Coyne	Lantos	Shuster
Craig	Leath (TX)	Sisisky
Crockett	Lehman (FL)	Skelton
Darden	Levin (MI)	Smith (FL)
Daschle	Levine (CA)	Smith (IA)
de la Garza	Livingston	Smith (NE)
Dellums	Long	Smith (NJ)
Derrick	Lowry (WA)	Snyder
Dicks	Lujan	Solarz
Dingell	Luken	Spratt
DioGuardi	Lundine	St Germain
Dixon	MacKay	Staggers
Donnelly	Manton	Stallings
Dorgan (ND)	Markey	Stark
Dornan (CA)	Matsui	Stokes
Downey	Mazzoli	Stratton
Duncan	McCloskey	Studds
Dwyer	McCurdy	Sweeney
Dyson	McDade	Swift
Eckart (OH)	McEwen	Synar
Eckert (NY)	McHugh	Tallon
Edgar	McMillan	Tauzin
Edwards (CA)	Mica	Thomas (GA)
English	Miller (CA)	Torres
Evans (IL)	Miller (WA)	Torricelli
Fascell	Mineta	Towns
Fazio	Moakley	Traficant
Feighan	Molinari	Udall
Fish	Mollohan	Valentine
Foglietta	Montgomery	Vento
Foley	Moody	Visclosky
Ford (TN)	Moore	Volkmer
Fowler	Morrison (CT)	Vucanovich
Frank	Mrazek	Walgren
Frost	Murphy	Watkins
Gaydos	Murtha	Weiss
Gejdenson	Myers	Wheat
Gephardt	Natcher	Whitley
Gibbons	Neal	Whitten
Gilman	Nielson	Williams
Glickman	Nowak	Wise
Gonzalez	Oakar	Wolpe
Gradison	Oberstar	Wortley
Gray (PA)	Olin	Wright
Green	Panetta	Wyden
Guarini	Pease	Wylie
Hall, Ralph	Pepper	Yates
Hamilton	Perkins	Yatron
Hammerschmidt	Petri	
Hartnett	Pickle	

NAYS—130

Armey	Boehlert	Cheney
Badham	Boulter	Clay
Bartlett	Brown (CO)	Clinger
Barton	Burton (IN)	Coats
Bentley	Campbell	Cobey
Bereuter	Carney	Coble
Bilirakis	Chandler	Coleman (MO)
Bliley	Chappie	Conte
Coughlin	Kramer	Schaefer
Courter	Lagomarsino	Schroeder
Crane	Latta	Schuette
Dannemeyer	Leach (IA)	Sensenbrenner
Daub	Lent	Shaw
Davis	Lewis (CA)	Sikorski
DeWine	Lewis (FL)	Siljander
Dickinson	Lightfoot	Skeen
Dreier	Lloyd	Slaughter
Durbin	Loeffler	Smith, Denny (OR)
Edwards (OK)	Lott	Smith, Robert (NH)
Emerson	Lungren	Smith, Robert (OR)
Evans (IA)	Mack	Snowe
Fawell	Martin (IL)	Solomon
Fiedler	Martin (NY)	Spence
Fields	McCain	Stangeland
Flippo	McCandless	Stenholm
Franklin	McCollum	Strang
Frenzel	McKernan	Stump
Gallo	Meyers	Sundquist
Gekas	Michel	Swindall
Gingrich	Mitchell	Tauke
Goodling	Moorhead	Taylor
Gregg	Morrison (WA)	Thomas (CA)
Grotberg	Ortiz	Vander Jagt
Gunderson	Oxley	Walker
Hansen	Parris	Weber
Hendon	Pashayan	Whitehurst
Henry	Penny	Whittaker
Hiler	Ridge	Young (AK)
Holt	Roberts	Young (FL)
Hunter	Roemer	Zschau
Hyde	Rogers	
Ireland	Roth	
Jacobs	Roukema	
Kasich	Rowland (CT)	
Kolbe	Saxton	

ANSWERED "PRESENT"—4

Dymally	Obey
Kastenmeier	Ritter

NOT VOTING—59

Ackerman	Gray (IL)	Monson
Biaggi	Hall (OH)	Nelson
Boggs	Heftel	Nichols
Bonker	Jeffords	O'Brien
Broomfield	Jones (NC)	Owens
Brown (CA)	Kindness	Packard
Burton (CA)	Kleczka	Price
Byron	LaFalce	Richardson
Chapman	Lehman (CA)	Russo
Chappell	Leland	Seiberling
Daniel	Lipinski	Sharp
DeLay	Lowery (CA)	Slattery
Dowdy	Madigan	Traxler
Early	Marlenee	Waxman
Erdreich	Martinez	Weaver
Florio	Mavroules	Wilson
Ford (MI)	McGrath	Wirth
Fuqua	McKinney	Wolf
Garcia	Mikulski	Young (MO)
Gordon	Miller (OH)	

□ 1115

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 2698. An act to designate the U.S. Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse";

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the U.S. Sentencing Commission, and for other purposes; and

H. Con. Res. 262. Concurrent resolution correcting the enrollment of House Joint Resolution 187.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 3, 7, and 10 to the bill (H.R. 1890) "An act to provide for an equitable waiver in the compromise and collection of Federal claims."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 231. Joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will not accept 1-minute speeches at this particular time.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. WHITTEN submitted the following conference report and statement on the concurrent resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-450)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 5, 11, 15, 16, 27, 28, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 52, 53, 54, 55, 59, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 106, 116, 121, 122, and 134.

That the House recede from its disagreement to the amendments of the Senate numbered 9, 12, 17, 18, 19, 20, 21, 25, 61, 118, 119, and 120, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

(a) Such amounts as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986 (H.R. 3037), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee on Conference (House Report Numbered 99-439), as filed in the House of Representatives on December 12, 1985, as if such Act had been enacted into law.

Notwithstanding any other provision of this Joint Resolution, each appropriation item in the referenced bill (H.R. 3037) made available under this subsection may be reduced by six-tenths of one percentum, if applied to every appropriation item, rounded to the nearest thousands of dollars, except for the following appropriations: Child Nutrition Programs and Special Milk Program which are true entitlements: Provided, That such reductions if made shall be applied proportionally to each program, project, and activity as set forth in the conference agreement (H. Rept. 99-439).

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

Delete the matter proposed by the House and stricken by the Senate and delete the matter proposed by the Senate; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(b) such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1986, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1986, and for other purposes

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $21,078,169,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $15,917,144,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $4,870,016,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $17,744,770,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,178,564,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,267,734,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10,

United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $272,250,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $584,430,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,066,568,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $926,716,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $12,642,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $18,975,507,000, of which not less than $1,471,600,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,787,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $24,477,071,000, of which not less than $770,000,000 shall be available only for the maintenance of real property facilities, and of which $100,000,000 shall be available only to reimburse United States Coast Guard Operating Expenses for operations and training relating to the Coast Guard's defense and military readiness missions: Provided, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $3,650,000,000 shall be available for the performance of such work in Navy shipyards: Provided further, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels, funds shall be available for a test program to acquire the overhaul of four or more vessels by competition between public and private shipyards. The Secretary of the Navy shall certify, prior to award of a contract under this test, that the successful bid includes comparable estimates of all direct and indirect costs for both public and private shipyards. Competition under such test program shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, or Office of Management and Budget Circular A-76: Provided further, That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: Provided further, That obligations incurred or to be incurred hereafter for termination liability and charter hire in connection with the TAKX and T-5 programs, for which the Navy has already entered into agreement for charter and time charters including conversion or construction related to such agreements or charters shall, for the purposes of title 31, United States Code, (1) in regard to and so long as the Government remains liable for termination costs, be considered as obligations in the current Operation and Maintenance, Navy, appropriation account, to be held in reserve in the event such termination liability is incurred, in an amount equal to 10 per centum of the outstanding termination liability, and (2) in regard to charter hire, be considered obligations in the Navy Industrial Fund with an amount equal to the estimated charter hire for the then current fiscal year recorded as an obligation against such fund. Obligations of the Navy under such time charters are general obligations of the United States secured by its full faith and credit.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,612,050,000, of which not less than $238,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $5,556,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $19,536,813,000, of which not less than $1,385,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,432,569,000, of which not to exceed $11,117,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That not less than $91,147,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $780,100,000, of which not less than $49,865,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $894,950,000, of which not less than $37,100,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $57,200,000, of which not less than $2,850,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $902,700,000, of which not less than $22,200,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,652,800,000, of which not less than $57,300,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,806,200,000, of which not less than $37,000,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; not to exceed $920,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed $680,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: Provided, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $143,300,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,200,000, and not to exceed $1,500 can be used for official representation purposes.

TENTH INTERNATIONAL PAN AMERICAN GAMES

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Tenth International Pan American Games) provided by any component of the Department of Defense to the Tenth International Pan American Games; $10,000,000.

ENVIRONMENTAL RESTORATION, DEFENSE

For the Department of Defense; $379,100,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration and hazardous waste disposal operations, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: Provided further, That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,524,200,000, to remain available for obligation until September 30, 1988.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, as follows:

Chaparral program, $57,500,000;
Other Missile Support, $5,000,000;
Patriot program, $963,400,000;
Stinger program, $258,500,000;
Laser Hellfire program, $234,200,000;
TOW program, $190,500,000;
Pershing II program, $236,300,000;
MLRS program, $531,900,000;
Modification of missiles, $196,800,000;
Spares and repair parts, $312,000,000;
Support equipment and facilities, $56,632,000;

In all: $2,904,332,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $138,400,000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $4,684,800,000, to remain available for obligation until September 30, 1988.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,497,200,000, to remain available for obligation until September 30, 1988: Provided, That none of the funds provided herein may be obligated or expended for production base projects until the Secretary of the Army has submitted to the Committees on Appropriations of the House of Representatives and the Senate a specific funding and program plan for RDX modernization which responds to congressional requirements on program phasing and direction concerning full funding, and which provides for initiation of site specific work at Louisiana Army Ammunition Plant not later than June 30, 1986.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, includ-

ing tactical, support, and nontracked combat vehicles; the purchase of not to exceed two thousand four hundred and sixty-four passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, as follows:

Tactical and support vehicles, $965,397,000;

Communications and electronics equipment, $2,868,859,000;

Other support equipment, $1,341,000,000;

Non-centrally managed items, $105,300,000;

In all: $5,275,556,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $5,000,000.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $11,175,678,000, to remain available for obligation until September 30, 1988: Provided, That $322,871,000 shall be available only for the procurement of nine new P-3C anti-submarine warfare aircraft: Provided further, That six P-3C aircraft shall be for the Naval Reserve.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $5,001,000;

TRIDENT I, $36,226,000;

TRIDENT II, $581,986,000;

Support equipment and facilities, $17,107,000;

Tomahawk, $724,804,000;

AIM/RIM-7 F/M Sparrow, $359,200,000;

AIM-9L/M Sidewinder, $125,800,000;

AIM-54A/C Phoenix, $343,600,000;

AIM-54A/C Phoenix advance procurement, $24,800,000;

AGM-84A Harpoon, $314,873,000;

AGM-88A HARM, $236,000,000;

SM-1 MR, $20,300,000;

SM-2 MR, $509,719,000;

SM-2 ER, $303,200,000;

Sidearm, $30,500,000;

Hellfire, $51,768,000;

Laser Maverick, $173,458,000;

IIR Maverick, $27,809,000;

Aerial targets, $105,600,000;

Drones and decoys, $29,400,000;

Other missile support, $12,309,000;

Modification of missiles, $64,933,000;

Support equipment and facilities, $86,210,000;

Ordnance support equipment, $16,289,000;

MK-48 ADCAP torpedo program, $417,437,000;

MK-46 torpedo program, $125,115,000;

MK-60 CAPTOR mine program, $59,600,000;

MK-30 mobile target program, $18,600,000;

MK-38 mini-mobile target program, $3,499,000;

Antisubmarine rocket (ASROC) program, $15,551,000;

Modification of torpedoes, $115,055,000;

Torpedo support equipment program, $70,575,000;

MK-15 close-in weapons system program, $150,146,000;

MK-75 gun mount program, $17,905,000;

MK-19 machine gun program, $1,196,000;

25mm gun mount, $5,501,000;

Small arms and weapons, $11,305,000;

Modification of guns and gun mounts, $58,117,000;

Guns and gun mounts support equipment program, $1,200,000;

Spares and repair parts, $166,601,000;

In all: $5,227,795,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $210,500,000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,354,700,000;

SSN-688 attack submarine program, $2,609,600,000;

Battleship reactivation program, $469,000,000;

Aircraft carrier service life extension program, $52,000,000;

CG-47 cruiser program, $2,652,500,000;

DDG-51 destroyer program, $74,000,000: Provided, That the Secretary of the Navy shall select a second source, by the most expeditious means available, for the CG-47 and DDG-51 SPY-1 radar; AEGIS production test center, shipyard and shipboard combat system integration; AEGIS color graphic display systems; solid state frequency converters; and propellors in order to begin competition between the current contractors and the second source contractors in fiscal year 1988: Provided further, That any such selection shall not adversely affect the CG-47 and DDG-51 shipbuilding program schedule and costs;

LSD-41 landing ship dock program, $403,400,000;

LHD-1 amphibious assault ship program, $1,313,600,000;

MCM mine countermeasures ship program, $197,200,000;

MSH coastal mine hunter program, $184,500,000;

T-AO fleet oiler program, $278,500,000;

T-AGOS ocean surveillance ship program, $115,100,000;

T-AG acoustic research ship program, $57,000,000;

ARTB nuclear reactor training ship conversion program, $175,400,000;

T-ACS auxiliary crane ship conversion program, $82,500,000;

T-AVB logistic support ship program, $26,900,000;

LCAC landing craft program, $307,000,000;

Strategic sealift program, $228,400,000;

For craft, outfitting, post delivery, and cost growth, $500,800,000;

In all: $10,840,400,000, to remain available for obligation until September 30, 1990: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $241,700,000: Provided further, That additional obligations may be incurred after September 30, 1990, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: Provided further, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: Provided further, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: Provided further, That of the funds appropriated in fiscal year 1983 for the FFG-7 guided missile frigate program, $40,000,000 previously available only for an X-band phased array radar shall be available for the fiscal year 1984 guided missile frigate program (FFG-61). The FFG-61 shall be equipped with the MK-92 fire control system, Phase II update.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed nine hundred and twenty-four passenger motor vehicles of which eight hundred and twenty-five shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $923,806,000;

Communications and electronics equipment, $2,096,302,000;

Aviation support equipment, $1,133,019,000;

Ordnance support equipment, $1,349,747,000;

Civil engineering support equipment, $232,558,000;
Supply support equipment, $58,917,000;
Personnel and command support equipment, $434,143,000;
Spares and repair parts, $279,838,000;
Non-centrally managed items, $125,300,000;

In all: $6,377,630,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $256,000,000.

COASTAL DEFENSE AUGMENTATION

For the augmentation of United States Coast Guard inventories to meet national security requirements, $235,000,000, to remain available until expended: Provided, That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, to be made available to the Coast Guard for operation and maintenance.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed two hundred and three passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,660,766,000, to remain available for obligation until September 30, 1988.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $23,255,424,000, to remain available for obligation until September 30, 1988, of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law: Provided, That of the amounts appropriated not to exceed $280,000,000 shall be available for competitive procurement of Air Force One mission replacement aircraft: Provided further, That none of the funds in this Act may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: Provided further, That funds appropriated by this Act may be applied to a follow-on multiyear contract for F-16 production in which contract options shall be included to adjust the multiyear contract to accommodate the results of the air defense aircraft competition; such competition shall be completed no later than July 1, 1986, and a contract awarded within sixty days thereafter.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $8,312,442,000, to remain available for obligation until September 30, 1988.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed eight hundred and forty-nine passenger motor vehicles of which eight hundred and one shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, as follows:

Munitions and associated equipment, $1,239,877,000;
Vehicular equipment, $340,869,000;
Electronics and telecommunications equipment, $2,608,650,000;
Other base maintenance and support equipment, $4,626,287,000;
Non-centrally managed items, $54,700,000;

In all: $8,571,383,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $299,000,000: Provided further, That no obligation may be incurred for the procurement of 30mm armor piercing ammunition unless there is component breakout for the depleted uranium penetrator.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $365,000,000;
Army National Guard, $531,800,000, of which, subject to enactment of authorizing legislation, not more than $40,000,000 may be used for minor projects to facilitate the delivery, storage, training and maintenance of Army National Guard equipment;
Air National Guard, $255,000,000;
Naval Reserve, $100,000,000;
Marine Corps Reserve, $70,000,000;
Air Force Reserve, $180,000,000;

In all: $1,501,800,000, to remain available for obligation until September 30, 1988.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed four hundred and ninety passenger motor vehicles of which two hundred and fifty-one shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,302,740,000, to remain available for obligation until September 30, 1988.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $31,000,000, to remain available for obligation until September 30, 1988.

NATO COOPERATIVE DEFENSE PROGRAMS

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy; $15,000,000, to remain available for obligation until September 30, 1988.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,798,172,000, of which $17,000,000 is available only for completing development, transitioning into low-rate initial production, and initial procurement of shipsets required to arm UH-60 Blackhawk helicopters with Hellfire missiles, to remain available for obligation until September 30, 1987.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $10,065,239,000, of which $17,523,000 is available only for the Low Cost Anti-Radiation Seeker Program and $5,500,000 is available only for the Laser Articulating Robotic System, to remain available for obligation until September 30, 1987.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $13,718,208,000, of which $17,613,000 is available only for the Low Cost Seeker Program and $5,000,000 is available only for the purpose of carrying out a research program to develop new and improved verification techniques to monitor compliance with any antisatellite weapon agreement that may be entered into by the United States and the Soviet Union, to remain available for obligation until September 30, 1987.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,637,386,000, of which $700,000 shall be available only for the purpose of carrying out, through the Office of Technology Assessment, a comprehensive classified study to be submitted to the Appropriations Committees of the House of Representatives and the Senate, together with an unclassified version, no later than August 30, 1987, to determine the technological feasibility and implications, and the ability to survive and function despite a preemptive attack by an aggressor possessing comparable technology, of the Strategic Defense Initiative Program; and $8,287,000 shall be available only for the joint Department of Defense-Department of Energy Conventional Munitions Technology Development Program, to remain available for obligation until September 30, 1987: Provided, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: Provided further, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; $118,500,000, to remain available for obligation until September 30, 1987.

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $2,100,000, to remain available for obligation until September 30, 1987: Provided, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $393,000,000.

NAVY STOCK FUND

For the Navy stock fund; $638,500,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $37,700,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $415,900,000.

DEFENSE STOCK FUND

For the Defense stock fund; $149,700,000.

ADP EQUIPMENT MANAGEMENT FUND

For the purchase of automatic data processing (ADP) equipment; $100,000,000.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $101,400,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $22,083,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 8002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: Provided, That such contracts may be renewed annually.

SEC. 8004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8005. Appropriations for the Department of Defense for the current fiscal year and hereafter shall be available for: (a) expenses in connection with administration of occupied areas; (b) payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (c) payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (d) leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of the Act of July 9, 1942 (56 Stat. 654; 43 U.S.C. 315q), rentals may be paid in advance; (e) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (f) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (g) the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a), and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (h) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; (i) the purchase of right-hand-drive vehicles not to exceed $12,000 per vehicle; (j) payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for ships inducted into industrial fund activities or contracted for in prior fiscal years: Provided, That the Secretary of Defense shall notify the Congress promptly prior to obligation of any such payments; (k) payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations, for such work either inducted into the industrial fund activity or contracted for in that fiscal year; and (l) payments for depot maintenance contracts for twelve months beginning at any time during the fiscal year.

SEC. 8006. Appropriations for the Department of Defense for the current fiscal year and hereafter shall be available for: (a) military courts, boards, and commissions; (b) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; and (c) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law.

SEC. 8007. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8008. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 8009. During the current fiscal year and hereafter:

(a) The President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of section 1512 of title 31, United States Code, whenever he deems such action to be necessary in the interest of national defense.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

SEC. 8010. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8011. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8012. During the current fiscal year and hereafter, vessels under the jurisdiction of the Department of Transportation, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

SEC. 8013. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

SEC. 8014. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: Provided, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: Provided further, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8015. During the current fiscal year and hereafter, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Service concerned.

SEC. 8016. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: Provided, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: Provided further, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: Provided further, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: Provided further, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8017. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8018. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $13,334,000 for the current fiscal year: Provided, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: Provided further, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8019. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: Provided, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8020. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $950,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8021. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer.

Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8022. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 8023. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprograming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprograming is requested has been denied by the Congress.

SEC. 8024. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 8025. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $43,563,000: Provided, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8026. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: Provided, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8027. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: Provided, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: Provided further, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: Provided further, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8028. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1987.

SEC. 8029. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8030. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8031. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 8032. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 8033. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8034. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: Provided, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8035. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8036. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 8037. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

T-700 series aircraft engines;
MK-46 torpedo program;
Bradley Fighting Vehicle transmission;
M-1 tank chassis;
M-1 tank engine;
M-1 tank fire control components; and
LHD-1 amphibious assault ships.

SEC. 8038. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8039. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8040. None of the funds appropriated by this Act shall be available for the transportation of equipment or materiel designated as Prepositioned Materiel Configured in Unit Sets (POMCUS) in Europe in excess of four division sets: Provided, That the foregoing limitation shall not apply with respect to any item of equipment or materiel which is maintained in the inventories of the Active and Reserve Forces at levels of at least 70 per centum of the established requirements for such an item of equipment or

materiel for the Active Forces and 50 per centum of the established requirement for the Reserve Forces for such an item of equipment or materiel: Provided further, That no additional commitments to the establishment of POMCUS sites shall be made without prior approval of Congress.

SEC. 8041. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) No funds appropriated by this Act may be used for the transfer of a technical data package from any Government-owned and operated defense plant manufacturing large caliber cannons to any foreign government, nor for assisting any such government in producing any defense item currently being manufactured or developed in a United States Government-owned, Government-operated, defense plant manufacturing large caliber cannons.

(TRANSFER OF FUNDS)

SEC. 8042. None of the funds appropriated in this Act may be made available through transfer, reprograming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8043. Of the funds appropriated by this Act for strategic programs, the Secretary of Defense shall provide funds for the Advanced Technology Bomber program at a level at least equal to the amount provided by the committee of conference on this Act in order to maintain priority emphasis on this program.

SEC. 8044. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8045. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

SEC. 8046. None of the funds appropriated by this Act may be used to appoint or compensate more than 37 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 8047. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programed to be occupied by, (civilian) military technicians of the component concerned, below 66,086: Provided, That none of the funds appropriated by this Act shall be available to support more than 43,157 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programed to be occupied by, persons in an active Guard or Reserve status: Provided further, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 8048. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1986 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1986, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1987 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1987 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1987.

(TRANSFER OF FUNDS)

SEC. 8049. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 8050. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 105 of the Intelligence Authorization Act (Public Law 99-169) for fiscal year 1986.

(TRANSFER OF FUNDS)

SEC. 8051. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance, Army, Navy, and Air Force appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That such transfers shall not exceed $168,200,000 for Operation and Maintenance, Army; $420,300,000 for Operation and Maintenance, Navy; and $164,000,000 for Operation and Maintenance, Air Force.

SEC. 8052. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: Provided, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: Provided further, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8053. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8054. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8055. None of the funds appropriated in this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, or excessing of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 8056. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 8057. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8058. No more than $166,766,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8059. None of the funds appropriated by this Act should be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8060. None of the funds appropriated by this Act shall be used for the transfer of the Department of Defense Dependents Schools (DODDS) to the Department of Education.

SEC. 8061. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: Provided, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8062. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major

defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8063. None of the funds appropriated by this Act shall be available to pay any member of the uniformed services for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

SEC. 8064. Within funds available under title II of this Act, but not to exceed $100,000, and under such regulations as the Secretary of Defense may prescribe, the Department of Defense may, in addition to allowances currently available, make payments for travel and transportation expenses of the surviving spouse, children, parents, and brothers and sisters of any member of the Armed Forces of the United States, who dies as the result of an injury or disease incurred in line of duty to attend the funeral of such member in any case in which the funeral of such member is more than two hundred miles from the residence of the surviving spouse, children, parents or brothers and sisters, if such spouse, children, parents or brothers and sisters, as the case may be, are financially unable to pay their own travel and transportation expenses to attend the funeral of such member.

SEC. 8065. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8066. Of the funds made available to the Department of the Air Force in this Act, not less than $3,000,000 shall be available for the Civil Air Patrol.

SEC. 8067. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. 8068. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: Provided, That the products must meet pre-set contract specifications.

(TRANSFER OF FUNDS)

SEC. 8069. Not to exceed $100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: Provided, That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: Provided further, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

SEC. 8070. None of the funds available for Defense installations in Europe shall be used for the consolidation or conversion of heating facilities to district heating distribution systems in Europe: Provided, That those facilities identified by the Department of the Army as of April 11, 1985, as being in advanced stages of negotiations shall be exempt from such provision: Provided further, That nothing in this section shall prohibit the conversion or consolidation of heating facilities to district heating distribution systems at Bad Kissingen, Hessen, in the Federal Republic of Germany.

SEC. 8071. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

SEC. 8072. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1986: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance in the Trust Territories of the Pacific Islands by using Civic Action Teams.

SEC. 8073. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8074. None of the funds available to the Department of Defense may be used to transport any chemical munitions into the Lexington-Blue Grass Army Depot for purposes of future demilitarization.

Sec. 8075. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2) of the Department of Defense Authorization Act, 1985, without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 8076. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1986 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

SEC. 8077. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8078. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1986 for construction or services to be performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8079. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 8080. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: Provided, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8081. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 8082. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

SEC. 8083. Under regulations prescribed by the Secretary of Defense, the Department of the Air Force and the Defense Logistics Agency may test a flat rate per diem system for military and civilian travel allowances: Provided, That per diem allowances paid under a flat rate per diem system shall be in an amount determined by the Secretary of Defense to be sufficient to meet normal and necessary expenses in the area in which travel is performed, but in no event will the travel allowances exceed $75 for each day in travel status within the continental United States: Provided further, That the test approved under this section shall expire upon the effective date of permanent legislation establishing a flat rate per diem system for both military and civilian personnel.

SEC. 8084. Notwithstanding any other provision of law, during fiscal year 1986, the Department of Defense is to conduct a pilot test project of providing home health care to dependents entitled to health care under section 1076 of title 10, United States Code: Provided, That such care is medically necessary or appropriate, more cost effective than to continue paying for otherwise authorized CHAMPUS benefits in medical facilities, and the beneficiary is not covered for such care under any other public or private health insurance plan.

SEC. 8085. Not more than $2,744,293,000 of the funds appropriated by this Act may be obligated for permanent change of station travel (including all expenses of such travel for organizational movements): Provided, That assignments for temporary duty may not be increased in order to circumvent this limitation: Provided further, That this limitation may be exceeded only upon a determi-

nation and notification to the Congress by the Secretary of Defense that such action is necessary to meet national security requirements.

SEC. 8086. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education: Provided, That notwithstanding any other provision of law, those individuals who received assistance under the Army National Guard Assistance for Military Professional Development program and who forfeited money as a result of its cancellation on July 22, 1985, and who could not continue in this program, shall be reimbursed for the moneys they forfeited: Provided further, That no interest shall be paid on the amounts reimbursed.

SEC. 8087. None of the funds appropriated in this Act shall be used for professional surveying and mapping services performed by contract for the Defense Mapping Agency unless those contracts are procured in accordance with the selection procedures outlined pursuant to section 2855 of title 10, United States Code.

SEC. 8088. During the current fiscal year, effective January 1, 1985, the rate of the basic allowance for quarters authorized by section 403(a) of title 37, United States Code, which is payable to a member of the uniformed services who was entitled to that allowance on December 31, 1984, shall not be less than the rate of the basic allowance for quarters that was in effect for that member on December 31, 1984 (unless the member holds a lower grade than he held on that date or has had a change in dependent status from a "with dependents" status to a "without dependents" status).

SEC. 8089. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8090. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8091. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8092. The lands described in Bureau of Land Management casefile AA-57372 shall be conveyed to the Municipality of Anchorage pursuant to the public interest land provisions of the North Anchorage Land Agreement if such lands are declared excess to the needs of the Army in Alaska.

SEC. 8093. Section 1411 of the Department of Defense Authorization Act, 1986, (Public Law 99-145) is amended to read as follows:

"SEC. 1411. CONDITIONS ON SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS.

"(a) LIMITATION ON FISCAL YEAR 1986 FUNDS.—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

"(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

"(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions), except in accordance with subsections (b), (c), (d), and (e).

"(b) NATO CONSULTATION.—Subject to subsections (c), (d), and (e), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

"(1) has submitted to the North Atlantic Treaty Organization, a force goal stating the requirement for modernization of the United States proportional share of the NATO chemical deterrent with binary munitions and said force goal has been formally adopted by the North Atlantic Council;

"(2) has developed in coordination with the Supreme Allied Commander, Europe, a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

"(3) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

"(c) CONDITIONS FOR FINAL ASSEMBLY.—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and, subject to subsections (d) and (e), may only be used for such purpose on or after that date if—

"(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

"(2) the President, after that date, transmits to Congress a certification that—

"(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

"(B) handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

"(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

"(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner transmitted to Congress, accompany such certification) is ready to be implemented;

"(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

"(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

"(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

"(d) RESTRICTIONS ON PRODUCTION OF THE BIGEYE BOMB.—Except as provided below, none of the funds appropriated pursuant to authorizations of appropriations in title I may be used for procurement or assembly of the BIGEYE binary chemical bomb or for procurement of components for the BIGEYE bomb until 60 days after the Secretary of Defense has submitted a report describing—

"(1) the specific operational requirements which must be achieved by the BIGEYE system; and

"(2) the actual performance of the system during operational testing with respect to each of the operational test criteria; and

"(3) any exceptions to the operational criteria deemed acceptable by the Department of Defense.

"Subject to subsection (b) nothing in this subsection will prohibit the procurement of BIGEYE production facilities and associated equipment.

"(e) RESTRICTION ON PRODUCTION OF THE GB-2 ARTILLERY PROJECTILE.—None of the funds appropriated pursuant to authorizations in title I for procurement or assembly of the GB-2 artillery projectile may be obligated or expended before October 1, 1986.

"(f) SENSE OF CONGRESS.—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

"(g) REPORT.—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

"(1) efforts to provide key civilian workers at military support facilities in Europe—

"(A) with personal and collective equipment to protect against the use of chemical munitions; and

"(B) with the training required for the use of such equipment;

"(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

"(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and control facilities in European member nations of NATO against chemical attack; and

"(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.".

SEC. 8094. None of the funds appropriated in this Act may be obligated or expended for procurement of C-12 aircraft unless such aircraft are procured through competitive procedures (as defined in section 2302(2) of title 10, United States Code), which shall be restricted to turboprop aircraft.

SEC. 8095. None of the funds in this Act may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: Provided, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8096. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: Provided, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8097. None of the funds appropriated by this Act or any other Act may be obligated or expended to carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after October 3, 1985, a test against an object in space of a dedicated anti-satellite weapon.

SEC. 8098. Of the funds made available by this Act to the Department of the Army, $7,200,000 shall be transferred to the Bureau of Land Management for the relocation of the district office at Fort Wainwright, Alaska.

SEC. 8099. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures alcoholic beverages with nonappropriated funds for resale (including alcoholic beverages sold by the drink) on a military installation located in the United States, unless such alcoholic beverages are procured in the State, or in the case of the District of Columbia, within the District of Columbia, in which the installation is located: Provided, That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That not later than one year after the date of enactment of this Act, the Secretary shall transmit a report to the Congress concerning the implementation of this section.

(TRANSFER OF FUNDS)

SEC. 8100. The Secretary of Defense may transfer, not to exceed $468,000,000 from the Foreign Currency Fluctuation, Defense account to appropriations provided in title II of this Act: Provided, That the Secretary of Defense shall report to the Committees on Appropriations of the House of Representatives and Senate of transfers made under this authority: Provided further, That funds so transferred shall be made available for the same time period and purpose as the appropriation to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority provided elsewhere in this Act.

SEC. 8101. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $4,700,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 8102. The amendments made to section 7572(b)(3) of title 10, United States Code, and to section 3 of Public Law 96-357 (10 U.S.C. 7572 note) by section 606 of the Department of Defense Authorization Act, 1986, shall apply to reimbursement of expenses incurred on or after October 1, 1985, by a member of a uniformed service on sea duty.

SEC. 8103. (a) In addition to other funds made available by this Act, $6,306,906,000 shall be available for obligation and expenditure from prior year unobligated balances from the following accounts in the amounts specified:

	Prior Year Transfer
Aircraft Procurement, Army—1985/87	$117,900,000
Missile Procurement, Army—1984/86	10,100,000
Missile Procurement, Army—1985/87	56,400,000
Procurement of Weapons and Tracked Combat Vehicles, Army—1984/86	336,500,000
Procurement of Weapons and Tracked Combat Vehicles, Army—1985/87	253,800,000
Procurement of Ammunition, Army—1984/86	30,400,000
Procurement of Ammunition, Army—1985/87	147,700,000
Other Procurement, Army—1984/86	81,000,000
Other Procurement, Army—1985/87	176,500,000
Aircraft Procurement, Navy—1984/86	60,800,000
Aircraft Procurement, Navy—1985/87	490,500,000
Weapons Procurement, Navy—1985/87	15,000,000
Shipbuilding and Conversion, Navy—1982/86	391,600,000
Shipbuilding and Conversion, Navy—1983/87	691,300,000
Shipbuilding and Conversion, Navy—1984/88	398,600,000
Shipbuilding and Conversion, Navy—1985/89	517,800,000
Other Procurement, Navy—1984/86	75,790,000
Other Procurement, Navy—1985/87	200,693,000
Procurement, Marine Corps—1985/87	47,717,000
Aircraft Procurement, Air Force—1984/86	246,400,000
Aircraft Procurement, Air Force—1985/87	864,000,000
Missile Procurement, Air Force—1984/86	29,400,000
Missile Procurement, Air Force—1985/87	53,400,000
Other Procurement, Air Force—1984/86	94,127,000
Other Procurement, Air Force—1985/87	253,349,000
Procurement, Defense Agencies—1984/86	15,000,000
Procurement, Defense Agencies—1985/87	21,000,000
Research, Development, Test and Evaluation, Army—1985/86	96,130,000
Research, Development, Test and Evaluation, Navy—1985/86	188,000,000
Research, Development, Test and Evaluation, Air Force—1985/86	264,000,000
Research, Development, Test and Evaluation, Defense Agencies—1985/86	82,000,000
TOTAL	$6,306,906,000

(b) The foregoing unobligated balances in subsection (a) shall remain available for obligation only for the time period provided when originally appropriated, and may be transferred by the Secretary of Defense to appropriations in titles I, II, III, IV, VI and VII as may be required for only the military pay raise of October 1, 1985, payments to the military retirement trust fund including those requirements that may be established by subsequent acts of Congress, the Mariner Fund and the Coastal Defense Augmentation account, and for increased readiness of conventional forces in programs funded in the operation and maintenance accounts, including but not limited to flying hours, steaming hours, and training: Provided, That no funds may be transferred or obligated until 15 days after the Secretary of Defense notifies the Committees on Appropriations of the House and Senate of such transfers and obligations: Provided further, That $852,100,000 shall be available only for the Mariner Fund and may not be obligated or expended for any purpose until enactment of legislation establishing a Mariner Fund program for construction and lease of militarily useful vessels and until 60 days after notification to the Committees on Appropriations of the House and Senate of the intent to obligate from such Fund: Provided further, That notwithstanding any other provision of this section, after May 1, 1986, obligations from the Military Personnel accounts contained in this Act shall not exceed a rate in excess of the rate required to limit total obligations to the obligation ceilings established by law for such accounts for fiscal year 1986: Provided further, That in addition to funds appropriated elsewhere in this Act, $140,000,000 of the foregoing unobligated balances shall be for the Coastal Defense Augmentation account: Provided further, That none of the foregoing unobligated balances may be transferred, reprogramed, or otherwise applied to offset the impact of sequester orders required under the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the transfer authority contained in this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8104. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8105. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be used for the installation, maintenance, and operation of a 22¾ x 36-inch perfecting web offset press with in-line folder procured by or for the Department of the Air Force under solicitation number F01600-85-B0021.

SEC. 8106. None of the funds made available by this Act may be used to alter the command structure for military forces in Alaska.

SEC. 8107. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment.

SEC. 8108. No funds appropriated under this Act for the Strategic Defense Initiative Program shall be earmarked by any agency of the United States Government or any contractor exclusively for contracts with non-United States contractors, subcontractors, or vendors, or exclusively for consortia containing non-United States contractors, subcontractors, or vendors, prior to source selection in order to meet a specific quota or allocation of funds to any allied nation. Furthermore, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award Strategic Defense Initiative contracts to United States contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: Provided, That allied nations should be encouraged to participate in the Strategic Defense Initiative research effort on a competitive basis and be awarded contracts on the basis of technical merit.

SEC. 8109. None of the funds appropriated pursuant to this Act to or for the use of the Department of Defense may be obligated or expended for any purpose unless such funds have been authorized to be appropriated for such purpose by law other than this Act: Provided, That the preceding sentence does not apply to funds appropriated in this Act for Coastal Defense Augmentation; $375,000,000.

SEC. 8110. Of the funds available in the Army Industrial Fund, $25,000,000 shall be

available to be used to implement immediately, or to transfer to another appropriation account in this Act to be used to implement immediately, the program proposed by the Department in its letter of August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics, to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: Provided, That anthracite or bituminous coal shall be the source of energy at such installations: Provided further, That during the implementation of this proposal, the amount of anthracite coal purchased by the Department shall remain at least at the current annual purchase level, 302,000 short tons.

SEC. 8111. The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration will jointly determine which payloads will be launched on Titan II launch vehicles and certify by notice to the Congress that such launches are cost-effective as compared to launches by the space shuttle and do not diminish the efficient and effective utilization of the space shuttle capability: Provided, That this section may be waived only upon certification by the Secretary of Defense that certain classified payloads must be launched on the Titan II launch vehicle as opposed to the space shuttle, for national security reasons.

SEC. 8112. (a) REVISIONS TO DEFENSE CONTRACT ALLOWABLE COST PROVISION.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (e)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall submit to the committees named in subparagraph (C) and proposed regulations that would make substantive changes to regulations prescribed under the second sentence of subparagraph (A) before the publication of such proposed regulations in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

"(C) The committees named in this subparagraph are—

"(i) the Committees on Armed Services and on Government Operations of the House of Representatives; and

"(ii) the Committees on Armed Services and on Governmental Affairs of the Senate.".

(2) Subsection (h)(2) is amended by inserting ", in an exceptional case," after "concerned may".

(3) Such section is further amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection (j):

"(j)(1) The Comptroller General shall periodically evaluate the implementation of this section by the Secretary of Defense. Such evaluation shall consider the extent to which—

"(A) such implementation is consistent with congressional intent;

"(B) such implementation achieves the objective of eliminating unallowable costs charged to defense contracts; and

"(C) such implementation (as well as the provisions of this section and the regulations prescribed under this section) could be improved or strengthened.

"(2) The Comptroller General shall submit to the committees named in subsection (e)(2)(C) a report on such evaluation within 90 days of publication by the Secretary of Defense in the Federal Register of regulations that make substantive changes in regulations prescribed under subsection (e) or (f) or in any other regulations of the Department of Defense pertaining to allowable costs under covered contracts.".

(b) CONGRESSIONAL COMMITTEE REVIEW OF PROPOSED INITIAL REGULATIONS.—(1) The regulations required under section 911(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145), to be prescribed not later than 150 days after the date of the enactment of such Act shall be submitted to the committees named in paragraph (2) before the publication of such regulations in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

(2) The committees named in this paragraph are—

(A) the Committees on Armed Services and on Government Operations of the House of Representatives; and

(B) the Committees on Armed Services and on Government Affairs of the Senate.

(c) INITIAL COMPTROLLER GENERAL EVALUATION AND REPORT.—The Comptroller General shall submit to the committees named in subsection (b)(2) a report on the Comptroller General's initial evaluation under subsection (j)(1) of section 2324 of title 10, United States Code, as added by subsection (a). Such report shall be submitted within 180 days of the publication by the Secretary of Defense under section 911(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145), of the regulations referred to in such section.

This Act may be cited as the "Department of Defense Appropriations Act, 1986".;

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the subsection named in said amendment insert: (c); and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"(e) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1986, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:".

An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1986, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $398,566,000.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $1,403,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $2,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $56,114,000, to remain available until expended: Provided, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: Provided further, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $10,000,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses: Provided further, That the dollar equivalent of value, in excess of the grazing fee established under law and paid to the United States Government, received by any permittee or lessee as compensation for an assignment of a grazing permit or lease, or any grazing privileges or rights thereunder, and in excess of the installation and maintenance cost of grazing improvements provided for by the permittee in the allotment management plan or amendments or otherwise approved by the Bureau of Land Management, shall be paid to the Bureau of Land Management and disposed of as provided for by section 401(b) of the Federal

Land Policy and Management Act of 1976 (43 U.S.C. 1701): Provided further, That if the dollar value prescribed above is not paid to the Bureau of Land Management, the grazing permit or lease shall be canceled.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, That appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": Provided further, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: Provided further, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: Provided further, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

Notwithstanding any other provision of this Act, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for fiscal years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $301,222,000, of which $4,420,000 to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $5,665,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, which will remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $21,296,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), $15,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $40,670,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 191 passenger motor vehicles of which 178 are for replacement only (including 67 for police-type use); purchase of 4 new aircraft for replacement only; acceptance of one donated aircraft as an addition; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $410,000 for the Roosevelt Campobello International Park Commission, $490,000 for the Volunteers-in-the-Park program, not less than $3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, and $175,000 for the National Capital Children's Museum and $175,000 for the Arena Stage as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)), $627,763,000 without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451): Provided, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: Provided further, That hereafter appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: Provided further, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: Provided further,

That the educational center to be located at the Boott Mill Complex, Building No. 6, in the Lowell National Historical Park, Massachusetts, is hereby designated and shall be known as the "Paul E. Tsongas Industrial History Center": Provided further, That $150,000 shall be available solely for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $11,096,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $24,945,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1987.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $114,121,000, to remain available until expended, of which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $3,168,000 to carry out the provisions of sections 303 and 304 of Public Law 95-290; including, subject to authorization, $8,100,000 be expended for engineering and construction of the Burr Trail National Rural Scenic Road in and adjacent to the Capitol Reef National Park and the Glen Canyon National Recreation Area and an interpretive center near the town of Boulder, Utah, such funds to be transferred to the State of Utah for accomplishment of these activities in accordance with the provisions of a cooperative agreement to be developed among the National Park Service, the Bureau of Land Management, Garfield County, and the State of Utah: Provided, That appropriations for maintenance and improvement of roads within Capitol Reef National Park and Glen Canyon National Recreation Area and construction and maintenance of an interpretive center shall hereafter be available for such purposes without regard to whether title to such road rights-of-way or lands for the interpretive center is in the United States: Provided further, That in the event the National Park Service fails to maintain the road as provided under the terms of said cooperative agreement, any rights-of-way which may be transferred to the National Park Service will revert to Garfield County: Provided further, That in the event of reversion of the road to Garfield County, the County shall provide payment to the United States of an amount based upon the depreciated value of the capital investment resulting from Federal funds expended on the road for construction purposes; and including $2,000,000 to assist local communities to protect Mammoth Cave National Park from groundwater pollution: Provided further, That the National Park Service share of the Mammoth Cave protection project shall not exceed 25 per centum: Provided further, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,300,000, to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended: Provided further, That funds made available pursuant to this Act for the Cumberland Gap Tunnel shall only be available when the States of Kentucky and Tennessee have entered into an agreement with the National Park Service to operate and maintain all portions of U.S. Route 25E, including the Tunnel, within the boundaries of the Cumberland Gap National Historic Park.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $98,400,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $50,000,000 is for the State Assistance program including $1,650,000 to administer the program: Provided, That State administrative expenses associated with the State grant portion of the State Assistance program shall not exceed 15 percent: Provided further, That none of the State Assistance funds may be used as a contingency fund: Provided further, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $852,000 shall be available in 1986 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,800,000.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For the operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For the operation of the Jefferson National Expansion Memorial Commission, $75,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 aircraft and 286 passenger motor vehicles, of which 242 shall be for replacement only, including not to exceed 174 for police-type use and 6 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: Provided, That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: Provided further, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: Provided further, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: Provided further, That the loan ceiling established under section 4(b) of Public Law 97-310, the Wolf Trap Farm Park Act, as amended, is increased to $9,500,000. Notwithstanding the loan repayment provisions of Public Law 97-310, the dollar amount of items paid for by the Wolf Trap Foundation from funds provided by the additional loan authority in this section that is subsequently reimbursed to the Foundation by a court award or insurance settlement shall be repaid to the Secretary of the Interior by the Wolf Trap Foundation within 90 days of the date of the court award or insurance settlement.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $431,961,000: Provided, That $52,324,000 shall be available only for cooperation with States or municipalities for water resources investigations: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: Provided further, That in fiscal year 1986 and thereafter, all amortization fees resulting from the Geological Survey providing telecommunications services shall be deposited in a special fund to be established on the books of the Treasury and be immediately available for payment of replacement or expansion of telecommunications services, to remain available until expended: Provided further, That the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 16 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: Provided, That appropriations herein made shall be available for paying costs incidental to the

utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: Provided further, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local governments.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed 8 passenger motor vehicles for replacement only; $168,018,000, of which not less than $45,260,000 shall be available for royalty management activities including general administration: Provided, That notwithstanding any other provision of law, when in fiscal year 1986 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, the Secretary shall pay only the reasonable cost of reproducing such data and information: Provided further, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d).

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $134,255,000, of which $79,537,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: Provided, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, $85,153,000, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; and notwithstanding 31 U.S.C. 3302, an amount equal to receipts to the General Fund of the Treasury from performance bond forfeitures, estimated at $500,000 in fiscal year 1986, to remain available until expended: Provided, That no funds shall be used to finalize or implement any proposed rule, or take any other action which would result in the adoption by the Office of Surface Mining Reclamation and Enforcement of a rule or regulation pursuant to section 507(a) of Public Law 95-87 which would require applicants to reimburse the Department of the Interior for costs incurred in the collection of application fees for permits to conduct surface coal mining and reclamation operations; for permits to conduct coal exploration; for processing mining plans; or for the review of surface coal mining and reclamation permits.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, $207,385,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), including failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, when pursuant to the procedures set forth in section 521 of the Act, the Secretary determines that a State is systematically failing to adequately administer the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $891,312,000, of which not to exceed $54,556,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1987, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1987: Provided, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs: Provided further, That not to exceed $18,042,000 shall be obligated for automatic data processing in fiscal year 1986; and includes expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $2,886,000, to remain available until expended; and an additional $6,000,000 which, notwithstanding any other law, is immediately available for obligation before January 18, 1986, by the Secretary of the Interior through the Bureau of Indian Affairs only for the emergency provision of hay to Indians using the distribution formula of the Indian Acute Distress Donation Program to aid in maintaining foundation cattle herds in Montana, North Dakota, and South Dakota. The Secretary may, but is not required to, enter into contracts under section 102 of the Indian Self-Determination Act (88 Stat. 2206; 25 U.S.C. 450f) in connection with the appropriation made in this paragraph and no indirect cost or overhead shall be allowed under any such contract from any appropriation. All costs incurred directly or indirectly by the Secretary in connection with the appropriation made in this paragraph for other than the direct cost of the hay and its transportation shall be met from other amounts appropriated for the operation of Indian programs. Any part of the appropriation made in this paragraph which is not expended by March 15, 1986, shall be deobligated and shall not be available for obligation or expenditure.

The Secretary of the Interior shall make a report or reports to Congress by September 1, 1986 on (1) the use of the appropriation in the preceding paragraph, (2) the impact of the drought disaster on the Indian reservations in Montana, North Dakota, and South Dakota, (3) long-term strategies to address the disaster on each of those reservations, and (4) the effectiveness of the carrying out of the roles (including resource management and the establishment, waiver, and collection of grazing fees and rents or other payments) of the Federal and tribal governments in ranching, agriculture, and other land use on Indian reservations throughout the United States with recommendations to improve that effectiveness.

None of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: Provided further, That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: Provided further, That notwithstanding any other provision of law, within fourteen days of the date of enactment of this Act the Snowflake Dormitory in Arizona shall be closed and thereafter no funds available to the Bureau of Indian Affairs shall be available to operate an educational or boarding program at that location: Provided further, That notwithstanding any law or regulation, in allocating funds for aid to public schools under the Act of April 16, 1934, as amended, the Secretary shall enter into contracts only for the provision of supplementary educational services for Indian children: Provided further, That the Secretary of the Interior shall transfer without cost to the Saint Labre Indian School of Ashland, Montana, the interests of the United States in the supplies and equipment acquired by or for the school during the period when it was financially aided by the Bureau of Indian Affairs.

CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $101,054,000, to remain available until expended: Provided, That no funds shall be expended for land acquisition on behalf of the Covelo Indian Community until the Community has sufficient non-Federal funds, which when combined with the Federal funds, will complete the land acquisition: Provided further, That such amount includes $22,000,000 for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), and to ensure that a priority for the use of these funds is given to Navajo families who are actual, physical residents of the Hopi Partitioned Lands on the date of enactment hereof, and to expedite relocations and construction under this proviso (1) with respect to any lands acquired pursuant to section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d-10(a)), the Secretary shall not be required to enter into contracts under section 102 of the Indian Self-Determination Act (88 Stat. 2206; 25 U.S.C. 450f) in carrying out this proviso, (2) the Secretary's authority under section 106(a) of the Indian Self-Determination Act (88 Stat. 2210; 25 U.S.C. 450j(a)) shall apply for contracts for construction under this proviso without regard to the status of the contractors with respect to any lands acquired pursuant to section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d-10(a)), (3) the Secretary may carry out construction and lease approvals or executions under this proviso without regard to the Commission's regulations and under such administrative procedures as the Secretary may adopt without regard to the rulemaking requirements of any law, executive order, or regulation, (4) an action under this proviso is not a major Federal action for the purpose of the National Environmental Policy Act of 1969, as amended, and (5) after January 1, 1986, the Secretary may issue leases and rights-of-way for housing and related facilities to be constructed on the lands which are subject to section 11(h) of the Act of December 22, 1974, as amended (25 U.S.C. 640d-10(h)).

ROAD CONSTRUCTION

Not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs: Provided, That $3,200,000 of the contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund for road construction to serve the Navajo Reservation shall be used by the Secretary of the Interior for road construction projects to serve land transferred or acquired under the Act of December 22, 1974, as amended (88 Stat. 1712; 25 U.S.C. 640d et seq.): Provided further, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any Indian reservation or land other than the Navajo reservation.

ALASKA NATIVE ESCROW ACCOUNT

For the Federal contribution to the Alaska Native Escrow Account related to proceeds received by Federal agencies from lands or resources of lands after the date of withdrawal of the land for Native selection as authorized by Public Law 94-204, an amendment to the Alaska Native Claims Settlement Act (43 U.S.C. 1631-1641; 89 Stat. 1476), and Public Law 96-487, the Alaska National Interest Lands Conservation Act (94 Stat. 2497), $7,877,000: Provided, That those funds appropriated hereunder which represent proceeds received from lands which have been conveyed on or before the date of enactment of this Act shall be distributed to the appropriate Native corporations pursuant to Public Law 96-487 immediately upon receipt in the escrow account: Provided further, That those funds which represent proceeds received from lands withdrawn for Native Selection but not yet conveyed on the date of the enactment of this Act will be held in the escrow account and invested until conveyance, and shall, during the time that such funds are on deposit in the escrow account, be entitled to their share of the interest earned by the escrow account pursuant to the first proviso of section 2(b) of Public Law 94-204.

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $4,000,000 from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1986, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,300,000: Provided, That notwithstanding section 102 of the Indian Financing Act of 1974, as amended (25 U.S.C. 1462) and regulations restricting the purposes for loans under that Act, the Secretary may make a loan under title I of that Act to the Zuni Pueblo for the acquisition in trust for the Pueblo of private lands in the area known as Zuni Heaven in an amount not to exceed $1,470,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $2,210,000, to remain available until expended: Provided, That during fiscal year 1986, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $80,376,000, of which (1) $77,903,000 shall be available until expended for technical assistance; repurchase premium, late charges, and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; $2,000,000 for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix: Provided, That issuance of such loan shall be contingent upon approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration, and a written guarantee from the Government of the United States Virgin Islands as to the source of funds to be used for repayment of the loan; construction grants to the Government of Guam of $4,583,000, as authorized by law (Public Law 98-454; 98 Stat. 1732); direct grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272, and Public Law 98-454; 98 Stat. 1732); and (2) $2,473,000 for fiscal year 1986 for salaries and expenses of the Office of Territorial and International Affairs, of which not to exceed $1,000 shall be available during 1986 for official reception and representation ex-

penses: Provided further, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: Provided further, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): Provided further, That upon enactment of this Act the remaining balance of fiscal year 1985 funds provided in Public Law 98-473 for a grant to the College of the Virgin Islands Eastern Caribbean Center is released to the College of the Virgin Islands.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $80,372,000, of which $70,922,000 is for operations, and $9,450,000 is for construction, to remain available until expended: Provided, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): Provided further, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, $43,411,000, of which not to exceed $10,000 may be for official reception and representation expenses: Provided, That notwithstanding any other provision of law, of the funds provided under this heading, not to exceed $300,000 shall be used to pay or repay the costs of development of alternative winter stock water supplies by water users who have been deprived of winter stock water from the main channel of Willow Creek, Idaho, below Ririe Dam and Reservoir because of the operation of the dam and reservoir (hereinafter in this account referred to as claimants).

Any payment to a claimant made under this section shall constitute full settlement and satisfaction of all claims such claimant may have against the United States relating to the loss of winter stock water from Willow Creek, Idaho. The provisions of this section shall not apply to any claim settled prior to the date of enactment of this Act.

The Secretary shall make a payment to a claimant only if—

(1) the claimant notifies the Secretary of his claim within six months after the date of enactment of this Act;

(2) the claimant provides an affidavit proving, to the satisfaction of the Secretary, his use of winter stock water from Willow Creek prior to December 31, 1979; and

(3) the claimant executes a waiver and release, in a manner satisfactory to the Secretary, of any and all claims against the United States relating to the loss of winter stock water from Willow Creek, Idaho. Such waiver and release shall be recorded in the county where the claimant's land is located.

Any claimant who has developed an alternate winter stock water supply since December 31, 1979, shall be eligible for a payment of an amount equal to the actual construction costs incurred by such claimant in the development of such supply, as determined by the Secretary.

Any claimant who has not developed an alternate winter stock water supply as of the date of enactment of this Act, shall be eligible for a payment of an amount equal to the funds necessary for the development of such supply, as determined by the Secretary. The Secretary's determination shall be based on the size and configuration of the claimant's land and on the size and type of the claimant's livestock operation.

Costs and expenses incurred by a claimant in the operation and maintenance of his alternate winter stock water supply shall not be reimbursable.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $20,378,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $16,214,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $780,000: Provided, That the Secretary of the Interior shall submit to the House and Senate Committees on Appropriations a revised Memorandum of Agreement between the Bureau of Indian Affairs and the Office of Construction Management, vesting the program direction and control of the facility design, construction, repair, operation and maintenance programs of the Bureau in the Office of Construction Management, and a detailed plan for implementation of said Agreement, within 60 days of the enactment of this Act.

OFFICE OF THE SECRETARY

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payment in foreign currencies which the Treasury Department shall determine to be excess to the normal requirement of the United States, for necessary expenses of the United States Fish and Wildlife Service and the National Park Service as authorized by law, $1,000,000, to remain available until expended: Provided, That this appropriation shall be available, in addition to other appropriations, to such office for payment in the foregoing currencies (7 U.S.C. 1704).

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 5 additional aircraft, all of which shall be for replacement only: Provided, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That funds transferred pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: Provided, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands within:

(a) An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree west longitude line south along that longitude line to its intersection with the line which passes between blocks 598 and 642 on Outer Continental Shelf protraction diagram NK 19-10; then along that line in an easterly direction to its intersection with the line between blocks 600 and 601 of protraction diagram NK 19-11; then in a northerly direction along that line to the intersection with the 60 meter isobath between blocks 204 and 205 of protraction diagram NK 19-11; then along the 60 meter isobath, starting in a roughly southeasterly direction; then turning northeast and north until such isobath intersects the maritime boundary between Canada and the United States of America, then north northeasterly along this boundary until this line intersects the 60 meter isobath at the northern edge of block 851 of protraction diagram NK 19-6; then along a line that lies between blocks 851 and 807 of protraction diagram NK 19-6 in a westerly direction to the first point of intersection with the seaward limit of the Commonwealth of Massachusetts territorial sea; then southwesterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree west longitude line.

(b) The following blocks are excluded from the described area: In protraction diagram NK 19-10, blocks numbered 474 through 478, 516 through 524, 560 through 568, and 604 through 612; in protraction diagram NK 19-6, blocks numbered 969 through 971; in protraction diagram NK 19-5, blocks numbered 1005 through 1008; and in protraction diagram NK 19-8, blocks numbered 37 through 40, 80 through 84, 124 through 127, and 168 through 169.

(c) The following blocks are included in the described area: In protraction diagram NK 19-11, blocks numbered 633 through 644, 677 through 686, 721 through 724, 765 through 767, 809 through 810, and 853; in protraction diagram NK 19-9, blocks numbered 106, 150, 194, 238, 239, and 283; and in protraction diagram NK 19-6, blocks numbered 854, 899, 929, 943, 944, and 987.

(d) Blocks in and at the head of submarine canyons: An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (45 U.S.C. 1331(a)), located in the Atlantic Ocean off the coastline of the Commonwealth of Massachusetts, lying at the head of, or within the submarine canyons known as Atlantis Canyon, Veatch Canyon, Hydrographer Canyon, Welker Canyon, Oceanographer Canyon, Gilbert Canyon, Lydonia Canyon, Alvin Canyon, Powell Canyon, and Munson Canyon, and consisting of the following blocks, respectively:

(1) On Outer Continental Shelf protraction diagram NJ 19-1; blocks 36, 37, 38, 42-44, 80-82, 86-88, 124, 125, 130-132, 168, 169, 174-176, 212, 213.

(2) On Outer Continental Shelf protraction diagram NJ 19-2; blocks 8, 9, 17-19, 51-52, 53, 54, 61-63, 95-98, 139, 140.

(3) On Outer Continental Shelf protraction diagram NK 19-10; blocks 916, 917, 921, 922, 960, 961, 965, 966, 1003-1005, 1009, 1011.

(4) On Outer Continental Shelf protraction diagram NK 19-11; blocks 521, 522, 565, 566, 609, 610, 653-655, 697-700, 734, 735, 741-744, 769, 778-781, 785-788, 813, 814, 822-826, 829-831, 857, 858, 866-869, 873-875, 901, 902, 910-913, 917, 945-947, 955, 956, 979, 980, 989-991, 999.

(5) On Outer Continental Shelf protraction diagram NK 19-12; blocks 155, 156, 198, 199, 280-282, 324-326, 369-371, 401, 413-416, 442-446, 450, 451, 489-490, 494, 495, 530, 531, 533-540, 574, 575, 577-583, 618, 619, 621-623, 626, 627, 662, 663, 665-667, 671, 672, 706, 707, 710, 711, 750, 751, 754, 755, 794, 795, 798, 799.

(e) Nothing in this section shall prohibit the lease of that portion of any blocks described in subsection (d) above which lies outside the geographical boundaries of the submarine canyons and submarine canyon heads described in subsection (d) above: Provided, That for purposes of this subsection, the geographical boundaries of the submarine canyons and submarine canyon heads shall be those recognized by the National Oceanographic and Atmospheric Administration, Department of Commerce, on the date of enactment of this Act.

(f) Nothing in this section shall prohibit the Secretary of the Interior from granting contracts for scientific study, the results of which could be used in making future leasing decisions in the planning area and in preparing environmental impact statements as required by the National Environmental Policy Act.

(g) References made to blocks, protraction diagrams, and isobaths are to such blocks, protraction diagrams, and isobaths as they appear on the map entitled Outer Continental Shelf of the North Atlantic from 39° to 45° North Latitude (Map No. MMS-10), prepared by the United States Department of the Interior, Minerals Management Service, Atlantic OCS Region.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. The Secretary of the Interior is hereby directed to make every effort during the balance of fiscal year 1986 to resolve the outstanding conflicts with respect to the future leasing and protection of lands on the California outer continental shelf for oil and gas exploration and development. To this end, the Secretary shall submit to the Congress once every 60 days following the date of enactment of this Act until the end of fiscal year 1986 a report summarizing the progress of negotiations carried out to resolve these outstanding conflicts. Such negotiations shall be conducted by the Secretary and the following Members of Congress to be designated by the Speaker of the House of Representatives and the Majority Leader of the Senate:

(1) The Chairmen and ranking minority members of the following committees and subcommittees of the Congress having jurisdiction over these issues:

(A) The Subcommittee on the Interior of the Committee on Appropriations of the House of Representatives.

(B) The Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs of the House of Representatives.

(C) The Subcommittee on the Panama Canal and Outer Continental Shelf of the Committee on Merchant Marine and Fisheries of the House of Representatives.

(D) The Subcommittee on the Interior of the Committee on Appropriations of the Senate.

(E) The committee on Energy and Natural Resources of the Senate.

(2) Two United States Senators from California.

(3) Seven members of the California delegation to the House of Representatives.

SEC. 112. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $126,283,000, of which $6,840,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $57,986,000, to remain available for obligation until expended, to carry out activities authorized in Public Law 95-313: Provided, That a grant of $3,000,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations incurred in the preceding fiscal year for forest fire protection and emergency rehabilitation, including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,054,629,000, of which $182,053,000, for reforestation, timber stand improvement, co-

operative law enforcement, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1987: Provided, That the unobligated balances available September 30, 1985 and funds becoming available in fiscal year 1986 under the Act of October 14, 1980 (16 U.S.C. 1606), shall be transferred to and merged with the National Forest System appropriation account as of October 1, 1985: Provided further, That notwithstanding any other provision of law, subsection (e) of section 303 of the Act of October 14, 1980, as amended by the Act of January 6, 1983, Public Law 97-424 (16 U.S.C. 1606), is repealed and subsection (d) of section 303 of the Act of October 14, 1980, as amended by the Act of January 6, 1983, Public Law 97-424 (16 U.S.C. 1606), is amended to read as follows:

"(d) The Secretary of Agriculture is hereafter authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for—

(1) reforestation and timber stand improvement as specified in section (3)(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 (d)); and

(2) properly allocable administrative costs of the Federal Government for the activities specified above.".

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $223,865,000, to remain available until expended, of which $27,449,000 is for construction and acquisition of buildings and other facilities; and $196,416,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: Provided, That funds becoming available in fiscal year 1986 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: Provided further, That road construction standards used to construct Forest Service roads, purchaser credit roads, or purchaser elect roads shall be applied, or other management initiatives or administrative cost-saving actions taken, including reductions in personnel or overhead charges, in fiscal year 1986 in a manner so as to achieve a 5 per centum reduction in the average cost per road mile as compared to fiscal year 1985: Provided further, That such actions shall be taken so as to achieve this 5 per centum reduction in each Forest Service region: Provided further, That notwithstanding any other provision of this Act or any other provision of law, $9,915,000 of the contract authority available in the Federal Highway Trust Fund and not otherwise appropriated shall be available to the Forest Service for road construction to Forest Development Road Standards to serve the Mount St. Helens National Volcanic Monument, Washington: Provided further, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $28,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: Provided, That of the amount appropriated, $3,900,000 shall be paid to Edwards Investments, an Idaho partnership, upon delivery of a quitclaim deed to the United States conveying acceptable title to all of Edwards Investments' interest in all of those portions of a former Chicago, Milwaukee, St. Paul, and Pacific Railroad right-of-way between Avery, Idaho and St. Regis, Montana that cross or adjoin Federal lands, including all of Edwards Investments' interests in all improvements on said right-of-way. Upon acquisition, some or all of the right-of-way may be used as a road and available for public travel where determined appropriate by the Chief of the Forest Service.

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $782,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967, as amended (16 U.S.C. 484a), all funds deposited by State, county or municipal governments, public school districts or other public school authorities pursuant to that Act, to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement in accordance with section 401(b)(1), of the Act of October 21, 1976, Public Law 94-579, as amended, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000, to remain available until expended, to be derived from the fund established pursuant to 16 U.S.C. 1643(b).

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 252 passenger motor vehicles of which 13 will be used primarily for law enforcement purposes and of which 233 shall be for replacement only; acquisition of 161 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 2 for replacement only, and acquisition of 43 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction. The Secretary of Agriculture may authorize the expenditure of any no year appropriation available to the Forest Service for emergency actions related to emergency flood repair needs at the Monongahela National Forest and at the Parsons, West Virginia, Research Laboratory: Provided, That funds made available for such emergency actions shall be available for the payment of obligations incurred during the preceding fiscal year and funds expended pursuant to this provision must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: Provided further, That no less than $24,000,000 shall be made available to the Forest Service for obligation in fiscal year 1986 from the Timber Salvage Sale Fund appropriation.

Provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Not to exceed $900,000 shall be available from National Forest System appropriations or permanent appropriations for the specific purpose of removing slash and cull logs from the Bull Run, Oregon, watershed to preserve water quality and reduce fire hazards.

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest Service.

Current permit holders who acquired their recreational residence permit after the next to last fee adjustment shall have their annual permit fee computed as if they had their permit prior to the next to last fee adjustment, except that no permittee shall receive an unearned credit.

Notwithstanding any delegations of authority provided for in regulations of the Department of Agriculture or in the Forest Service manual, the Chief of the Forest Service shall, personally and without aid of mechanical devices or persons acting on his behalf, execute (1) all deeds conveying federally owned land which exceeds $250,000 in value, (2) all acceptances of options on lands to be acquired which exceed $250,000 in value, (3) all recommendations that condemnation be initiated, (4) all letters accepting donations of land, (5) all decisions on appeals of decisions related to land transactions made by regional foresters, and (6) land related transmittals to the House or Senate Committees on Appropriations, including all proposals for congressional action such as the acquisition of lands in excess of the approved appraised value, condemnation actions, and other items covered in reprogramming guidelines.

Funds available to the Forest Service shall be available to conduct a program of not less than $3,400,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

(INCLUDING RESCISSION)

Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980, (Public Law 96-126) and subsequently made available to carry out Part B of title I of the Energy Security Act (Public Law 96-294) by Public Laws 96-304, 96-514, and 98-473, the amounts available to the Board of Directors of the United States Synthetic Fuels Corporation and not obligated as of the date of enactment of this Act are rescinded, except that this rescission shall not apply to (1) funds made available for Clean Coal Technology by this Act; (2) such amounts as may be necessary to make payments for synthetic fuels projects or modules for which legally binding awards or commitments for financial assistance were entered into under title I of the Energy Security Act before the date of enactment of this Act; and (3) $10,000,000 to be used to terminate the Corporation in accordance with subtitle J of the Energy Security Act: Provided, That to the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act in connection with such awards or commitments, the Secretary shall complete such action within 30 days of enactment of this Act: Provided further, That the limitation in Public Law 98-473 on the initial use of $5,700,000,000 of such funds only for obligation to synthetic fuel projects with Letters of Intent authorized by the Board of Directors of the United States Synthetic Fuels Corporation on or before June 1, 1984, is hereby repealed: Provided further, That of the funds in the Energy Security Reserve prior to the date of enactment of this Act $400,000,000 shall be available for the Clean Coal Technology Program in the Department of Energy authorized under the Clean Coal Technology Reserve proviso of Public Law 98-473 for the purpose of conducting cost-shared Clean Coal Technology projects for the construction and operation of facilities to demonstrate the feasibility for future commercial applications of such technology, to remain available until expended, of which $100,000,000 shall be immediately available; (2) an additional $150,000,000 shall be available beginning October 1, 1986; and (3) an additional $150,000,000 shall be available beginning october 1, 1987: Provided further, That the proviso in Public Law 98-473 depositing and retaining in the Clean Coal Technology Reserve $750,000,000 of funds in the Energy Security Reserve rescinded by said Act is amended so as to reduce the current amount of such deposited and retained funds to $350,000,000: Provided further, That notwithstanding section 191 of the Energy Security Act (Public Law 96-294), effective the date of enactment of this Act, the Board may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act for synthetic fuel project proposals, except that nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of the Act: Provided further, That (1) within 60 days of enactment of this Act, the Directors of the Synthetic Fuels Corporation shall terminate their duties under the Energy Security Act and be discharged; and (2) within 120 days of enactment of this Act, the Corporation shall terminate in accordance with Subtitle J of said Act: Provided further, That within 60 days of enactment of this Act (or earlier, in the event of absence of a Chairman of the Synthetic Fuels Corporation) the Secretary of the Treasury shall assume the duties of the Chairman: Provided further, That, notwithstanding any other provisions of law, the duties and responsibilities of the Secretary of the Treasury under Subtitle J of said Act or this Act may not be transferred to any other Federal department or agency: Provided further, That notwithstanding such termination, the Advisory Committee established under section 123 of the Energy Security Act (42 U.S.C. 8719) shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of said Act: Provided further, That the Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation rights which each Director, officer, or employee shall be legally entitled to under any contract in effect on the date of enactment of this Act: Provided further, That effective on the date of enactment of this Act, no change in any compensation or benefit in effect on the date of enactment of this Act shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable: Provided further, That effective on the date of enactment of this Act, (1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code; and (2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act: Provided further, That the Corporation, by September 15, 1986, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report (1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985 and (2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(c)(3)).

Of the funds available from the Energy Security Reserve to the Secretary of Energy for alcohol fuel loan guarantees under Public Law 96-304, as amended by Public Laws 96-514, 97-12 and 97-394, the Secretary shall provide a loan for odor abatement at an ethanol producing facility that has received financial assistance under title II of Public Law 96-294 and that was in operation on November 1, 1985: Provided, That—

(1) such loan shall not exceed 90 percent of the net cost of the odor abatement project and in no case shall the amount of such loan exceed $3,000,000,

(2) the Secretary shall not provide such loan until the Secretary has received satisfactory assurances that a non-Federal share in the amount of 10 percent of the net cost of the odor abatement project is available,

(3) payment of principal under the loan shall not be due until the repayment in full of permanent financing guaranteed by the Department of Energy for the construction of such ethanol producing facility,

(4) interest shall accrue immediately upon receipt of the loan and payment of interest shall be made at regular intervals established by the Secretary but not to exceed the current average rate of outstanding marketable obligations of the United States with comparable maturities,

(5) the Secretary shall not make such loan until the Secretary has received satisfactory assurances that any expenses of operating equipment installed using funds made available under this loan shall be paid by the New Energy Corporation of Indiana,

(6) principal and interest payments made under this loan shall be repaid into the Alcohol Fuels Loan Guarantee Reserve, and

(7) the Secretary shall establish such other terms and conditions as the Secretary considers appropriate.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Within 60 days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), issue a general request for proposals for clean coal technology projects for which the Secretary of Energy upon review may provide financial assistance awards. Proposals for clean coal technology projects under this section shall be

submitted to the Department of Energy within 60 days after issuance of the general request for proposals. The Secretary of Energy shall make any project selections no later than August 1, 1986: Provided, That the Secretary may vest fee title or other property interests acquired under cost-shared clean coal technology agreements in any entity, including the United States: Provided further, That the Secretary shall not finance more than 50 per centum of the total costs of a project as estimated by the Secretary as of the date of award of financial assistance: Provided further, That cost-sharing by project sponsors is required in each of the design, construction, and operating phases proposed to be included in a project: Provided further, That financial assistance for costs in excess of those estimated as of the date of award of original financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and only up to 25 per centum of the original financial assistance: Provided further, That revenues or royalties from prospective operation of projects beyond the time considered in the award of financial assistance, or proceeds from prospective sale of the assets of the project, or revenues or royalties from replication of technology in future projects or plants are not cost-sharing for the purposes of this appropriation: Provided further, That other appropriated Federal funds are not cost-sharing for the purposes of this appropriation: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $312,848,000, to remain available until expended, of which $535,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and $8,230,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, $2,010,000 to be derived by transfer from the account entitled "Alternative fuels production", of which $200,000 is derived from Public Law 98-146 for a wood pellet gasifier facility, and $2,775,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: Provided, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That notwithstanding any other provision of law, funds appropriated under this head in Public Law 97-394 for a Western Hemisphere alternative fuels facility feasibility study, which remain unobligated, shall be available for carrying out any fossil energy research and development activities: Provided further, That $15,000,000 of the sum provided under this heading shall be available for demonstration of the Kilngas coal gasification process, with the provision that the United States Treasury shall be repaid up to double the total Federal expenditure for such process from proceeds to the participants from the commercial sale, lease, manufacture, or use of such process.

Of the funds herein provided, $29,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: Provided further, That 10 per centum private sector cash or in-kind contributions shall be required for obligations incurred in fiscal year 1986, 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That cost-sharing shall not be required for the costs of constructing or operating government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: Provided further, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 3 passenger motor vehicles, for replacement only, $13,668,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $449,418,000, to remain available until expended: Provided, That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5821(b)(1)(B), of the amount appropriated under this head, $10,319,000 shall be available for a grant for basic industry research facilities located at Northwestern University without section 111(b)(2) of such Act being applicable: Provided further, That section 404 of Public Law 98-558 shall not be effective in any fiscal year in which the amount made available for low income weatherization assistance from appropriations under this head is less than 5 per centum above the amount made available in fiscal year 1985: Provided further, That $7,500,000 of the amount provided under this heading shall be available for a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: Provided further, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal government obligations: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $24,623,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $113,043,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the Secretary of Energy, may exchange agricultural products owned by the Commodity Credit Corporation for crude oil to be delivered to the Strategic Petroleum Reserve: Provided, That the Secretary of Energy shall approve the quantity, quality, delivery method, scheduling, market value and other aspects of the exchange of such agricultural products: Provided further, That if the volume of agricultural products to be exchanged has a value in excess of the market value of the crude oil acquired by such exchange, then the Secretary of Agriculture shall require as part of the terms and conditions of the exchange that the party or entity providing such crude oil shall agree to purchase, within six months following the exchange, current crop commodities or value-added food products from United States producers or processors in an amount equal to at least one-half the difference between the value of the commodities received in exchange and the market value of the crude oil acquired for the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $60,682,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: Provided, That revenues and

other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

The reporting requirement established by the last paragraph under the heading "Department of Energy Alternative Fuels Production" in an Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1980 (42 U.S.C. 5915 note; Public Law 96-126), is hereby repealed.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and V and section 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, $823,133,000: Provided, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1987, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts, for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1987.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $46,947,000, to remain available until expended: Provided, That the Rosebud, South Dakota, hospital shall be designed and constructed with a capacity of 35 beds.

ADMINISTRATIVE PROVISIONS

INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: Provided, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: Provided further, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: Provided further, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: Provided further, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: Provided further, That notwithstanding any other provision of law, to satisfy the outstanding judgment against the Seattle Indian Health Board resulting from termination of its occupancy of the Kobe Park building in Seattle, Washington, $180,000 shall be provided from the unobligated balance available to the Indian Health Service from prior years' appropriations. Such payment shall be made only if the owners of the Kobe Park Building Company accept the sum named as full satisfaction for current or future claims against the Seattle Indian Health Board and the individual members of the Board.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $67,476,000 of which $50,323,000 shall be for part A and $14,820,000 shall be for parts B and C: Provided, That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1987.

OTHER RELATED AGENCIES

Navajo and Hopi Indian Relocation Commission

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $22,491,000 to remain available until expended, for operating expenses of the Commission: Provided, That notwithstanding any regulation to the contrary, the Commission shall notify the Secretary of the Interior by January 1, 1986, of those eligible relocatees who, as of November 30, 1985, were physically domiciled on the lands partitioned to the Hopi Tribe, who had applied by November 30, 1985, for relocation to the lands which are subject to section 11(h) of the Act of December 22, 1974, as amended (25 U.S.C. 640d-10(h)): Provided further, That none of the funds contained in this or any other Act may be used to evict any Navajo houshold who, as of November 30, 1985, is physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $178,063,000 including not less than $777,000 to carry out the provisions of the National Museum Act, $175,000 to be made available to the trustees of the John F. Kennedy Center for the Performing Arts for payment to the National Symphony Orchestra and $175,000 for payment to the Washington Opera Society for activities related to their responsibilities as resident entities of the Center, and such funds as may be necessary to support American overseas research centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That none of these funds shall be available to a Smithsonian Research Foundation.

MUSEUM PROGRAMS AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, $2,500,000, to remain available until expended and to be available only to United States institutions: Provided, That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: Provided further, That none of these funds shall be available to a Smithsonian Research Foundation: Provided further, That not to exceed $500,000 may be used to make grant awards to employees of the Smithsonian Institution.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $5,551,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $11,075,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, $4,000,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $33,754,000, of which not to exceed $2,200,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $3,300,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $3,392,000.

ENDOWMENT CHALLENGE FUND

For the purpose of an endowment challenge fund for the Woodrow Wilson International Center for Scholars, $1,000,000, to remain available until September 30, 1988: Provided, That such sums shall become available only to the extent matched on a three-to-one basis by private funds: Provided further, That these funds may be invested in securities approved by the Board of Trustees and the income from such investments may be used to support programs of the Center deemed appropriate by the Trustees and by the Director of the Center.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $137,260,000, of which $121,678,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 per centum of the funds provided for section 5(c) shall be available for assistance pursuant to section 5(g) of the Act, and $15,582,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $29,400,000, to remain available until September 30, 1987, to the National Endowment for the Arts, of which $20,580,000 shall be available for purposes of section 5(1): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ARTS AND ARTIFACTS INDEMNITY FUND

For payment of certified claims for losses or damages pursuant to the Arts and Artifacts Indemnity Act of 1975, $300,000, to remain available until expended: Provided, That such funds shall be available to the National Endowment for the Arts for obligation only for claims for losses or damages which the Federal Council on the Arts and Humanities has certified as valid and reported to the Speaker of the House of Representatives and the President pro tempore of the Senate, as provided by the Act.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $110,818,000, of which $96,618,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, of which not less than 20 per centum shall be available for assistance pursuant to section 7(f) of the Act, and $14,200,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,660,000, to remain available until September 30, 1987, of which $17,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

There is hereby authorized a program to support artistic and cultural programs in the Nation's Capital to be established under the direction of the National Endowment for the Humanities. Not to exceed $5,000,000 annually is authorized to provide grants for general operating support to eligible organizations located in the District of Columbia which are engaged primarily in performing, exhibiting and/or presenting arts.

Eligibility for grants shall be limited to not-for-profit, non-academic institutions of demonstrated national repute and is further limited to organizations having an annual operating budget in excess of $1,000,000 for each of the three years prior to receipt of a grant. The following organizations are deemed eligible to receive grants under this section: Folger Theater, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Capital Children's Museum, the National Symphony Orchestra, the Washington Opera Society, and Ford's Theater.

The Chairman of the National Endowment for the Humanities shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the Commission on Fine Arts determine the eligibility of applicant organizations in addition to those herein named.

Of the funds provided for grants, 70 per centum shall be equally distributed among all qualifying organizations and 30 per centum shall be distributed based on the size of an organization's total operating budget compared to the combined total of the operating budgets of all eligible institutions. No

organization shall receive a grant in excess of $500,000 in a single year.

An application process shall be established no later than March 1, 1986, and initial grants shall be awarded no later than June 1, 1986.

There is hereby appropriated $2,000,000, to remain available until expended, to carry out the provisions of this section.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,523,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $382,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,585,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,712,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $21,000, to remain available for obligation until September 30, 1987.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,329,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,250,000, to remain available for obligation until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,125,000: Provided, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: Provided further, That any persons so designated shall serve without cost to the Federal Government.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: Provided, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1)(A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: Provided, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: Provided further, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: Provided further, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: Provided further, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: Provided further, That funds provided in this Act may be used

by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution, are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

SEC. 314. None of the funds provided in this Act may be used to establish new grizzly bear populations in any unit of the National Park System or the National Forest System where no verified grizzly bear population currently exists. None of the funds provided in this Act may be used for augmentation in occupied areas of grizzly bear habitat unless an augmentation plan has been developed and made available for public review and comment in full compliance with the National Environmental Policy Act by all participating federal agencies: Provided, That it is not intended to prohibit the preparation of proposals to augment existing grizzly bear populations in occupied grizzly bear habitat: Provided further, That such augmentation may be conducted only with funds specifically identified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: Provided further, That notwithstanding any other provision of law, agencies included in this Act are authorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

SEC. 315. Notwithstanding any other provision of law, section 8336(j)(3)(A) of title 5, United States Code is amended by striking "5 years" and inserting in lieu thereof "10 years".

SEC. 316. Section 317 of title III of the Act of December 30, 1982 (96 Stat. 1966), is amended by deleting the words "but before December 31, 1985".

SEC. 317. Funds available to the Department of the Interior and the Forest Service in fiscal year 1986 for the purpose of contracting for services that require the utilization of privately owned aircraft for the carriage of cargo or freight shall be used only to contract for aircraft that are certified as air-worthy by the Administrator of the Federal Aviation Administration as standard category aircraft under 14 CFR 21.183 unless the Secretary of the contracting department determines that such aircraft are not reasonably available to conduct such services.

SEC. 318. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1986 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 319. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: Provided, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

SEC. 320. The provisions of section 2(a)(2)(A) of the Mineral Lands Leasing Act of 1920 (41 Stat. 437), as amended by section 3 of the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1083) shall not take effect until December 31, 1986.

SEC. 321. (a) None of the funds available to the Bureau of Indian Affairs for the construction of housing on lands acquired pursuant to section 11 of Public Law 93-531, as amended, shall be expended until a report is submitted to the House and Senate Committees on Appropriations detailing the proposed uses of such funds on the lands acquired pursuant to section 11 of Public Law 93-531.

(b) In addition to plans for housing, the report shall include a description of other services intended to be provided including, but not limited to, water, sewers, roads, schools, and health facilities. If such services are not to be provided the report shall describe alternative services available. The report shall further identify the proposed sites to which households will be relocated, including the distance from the Joint Use Area to such sites. This report shall be submitted no later than February 15, 1986, by the Navajo and Hopi Indian Relocation Commission and shall include the views of the Secretary of the Interior on the provision of housing and roads on the new lands.

SEC. 322. Notwithstanding any other provision of law, the limitation placed on the Secretary of the Interior by the last sentence of section 319 of "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes", as enacted into law by Public Law 98-473 (98 Stat. 1837), shall remain in effect until Congress determines otherwise.

SEC. 323. The Secretary of the Interior, acting through the Bureau of Indian Affairs and in consultation and cooperation with the Secretary of Health and Human Services and the Secretary of Education, shall develop and begin implementation of a program which provides instruction in health promotion and disease prevention to juvenile Indians enrolled in schools operated by, or on behalf of, the Bureau of Indian Affairs

And the Senate Agree to the same.

SEC. 324. Public Law 96-388, as amended (36 U.S.C. 1401 et seq.), is further amended as follows:

(1) The first sentence of section 36 U.S.C. 1401 is amended to read: "There is hereby established as an independent Federal establishment the United States Holocaust Memorial Council (hereinafter in this chapter referred to as the 'Council').";

(2) 36 U.S.C. 1407 is amended by adding the word "invest," after the word "administer," in the first sentence, and by adding the following new sentence as the penultimate sentence: "Funds donated to and accepted by the Council pursuant to this section are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds."; and

(3) By adding the following new sections at the end of 36 U.S.C. 1408:

"REPORT TO THE CONGRESS

The Executive Director shall make a full report annually to the Congress of his stewardship of the authority to construct, operate, and maintain the Holocaust Museum, including an accounting of all financial transactions involving donated funds.

AUDIT BY THE COMPTROLLER GENERAL; ACCESS TO RECORDS

Financial transactions of the Council, including those involving donated funds, shall be audited by the Comptroller General as requested by the Congress, in accordance with generally accepted auditing standards. In conducting any audit pursuant to this section, appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files and other papers, items or property in use by the Council, as necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances."

SEC. 325. Each amount of budget authority provided in this Act, or made available in the Energy Security Reserve for the Clean Coal Technology Program, for payments not required by law, is hereby reduced by 0.6 per centum: Provided, That such reductions shall be applied ratably to each account,

program, activity, and project provided for in this Act; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(e) Such amounts as may be necessary for projects or activities provided for in the Department of Transportation and Related Agencies Appropriations Act, 1986, at a rate for operations and to the extent and in the manner provided for in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1986, and for other purposes.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine, $51,300,000, together with $500,000 of the unobligated balances available under this head at the beginning of fiscal year 1986, and of which $3,500,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: Provided, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $3,500,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $64,500,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $28,000,000, to remain available until expended.

COAST GUARD

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, $1,652,000,000, of which $10,000,000 shall be derived from unobligated balances of "Pollution fund" and of which $15,000,000 shall be expended from the Boat Safety Account: Provided, That, notwithstanding any other provision of law, of the funds available under this head $789,800,000 shall be available for compensation and benefits of military personnel: Provided further, That, of the funds available under this head, not less than $328,000,000 shall be available for drug enforcement activities: Provided further, That the number of aircraft on hand at any one time shall not exceed two hundred and ten, exclusive of planes and parts stored to meet future attrition: Provided further, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1990, $217,300,000: Provided, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: Provided further, That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: Provided further, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: Provided further, That the requirements for such written warranties shall not cover combat damage.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $5,200,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $351,800,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $61,502,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law, $21,000,000, to remain available until expended: Provided, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

For necessary expenses to carry out the provisions of title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372), $1,000,000, to be derived from the Offshore Oil Pollution Compensation Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1986 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

For necessary expenses to carry out the provisions of section 18 of the Deepwater Port Act of 1974 (Public Law 93-627), $1,000,000, to be derived from the Deepwater Port Liability Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1986 for the "Deepwater Port Liability Fund".

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1986 for recreational boating safety assistance: Provided further, That no obligations may be incurred for the improvement of recreational boating facilities.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, personnel, legal, public affairs, and executive direction for the Federal Aviation Administration, $64,400,000: Provided, That the Secretary of Transportation is authorized to transfer appropriated funds between this appropriation and the Federal Aviation Administration appropriation for operations: Provided further, That this appropriation shall be neither increased nor decreased by more than 2 per centum by any such transfers: Provided further, That any such trans-

fers shall be reported to the Committees on Appropriations.

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing obligation of funds for similar programs of airport and airway development or improvement; purchase of four passenger motor vehicles for replacement only, $2,694,600,000, of which not to exceed $446,000,000 shall be derived from the Airport and Airway Trust Fund: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: Provided further, That none of these funds shall be available for new applicants for the second career training program.

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1990, $993,000,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: Provided further, That of the funds available under this head, $10,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs.

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, for research, engineering and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, to be derived from the Airport and Airway Trust Fund and to remain available until expended, $190,000,000, together with $15,000,000 to be transferred from unobligated balances of "Facilities and equipment", of which $3,036,412 shall be available for icing and related next generation weather radar atmospheric research to be conducted by the University of North Dakota, $2,000,000 shall be available for the Center for Research and Training in Information-based Aviation and Transportation Management at Barry University and $2,000,000 shall be available for the Institute for Aviation Safety Research at Wichita State University: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

GRANTS-IN-AID FOR AIRPORTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $693,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $925,000,000 in fiscal year 1986 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally-owned civil airports in the vicinity of the District of Columbia, including purchase of eight passenger motor vehicles for police use, for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition, $34,100,000: Provided, That there may be credited to this appropriation funds received from air carriers, concessionaires, and non-federal tenants sufficient to cover utility and fuel costs which are in excess of $6,682,000: Provided further, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, or private sources, for expenses incurred in the maintenance and operation of the federally-owned civil airports.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

For necessary expenses for construction at the federally-owned civil airports in the vicinity of the District of Columbia, $7,000,000, to remain available until September 30, 1988.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). The aggregate amount of such obligations during fiscal year 1986 shall not exceed $75,000,000. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $203,761,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That not to exceed $48,415,000 of the amount provided herein shall remain available until expended: Provided further, That all unobligated amounts made available under this head in prior fiscal years for the establishment and implementation of a demonstration bonding program for economically and socially disadvantaged businesses shall remain available for such purposes until expended: Provided further, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-federal employees: Provided further, That none of the funds provided in this Act shall be used for the approval of, or to pay the salary of any person who approves projects to construct a landfill in the Hudson River as part of an Interstate System highway in New York City.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT (HIGHWAY TRUST FUND)

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $8,500,000.

HIGHWAY-RELATED SAFETY GRANTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,000,000 to be derived from the Highway Trust Fund: Provided, That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": Provided further, That none of the funds in this Act shall be

available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1986 for "Highway-related safety grants".

HIGHWAY BEAUTIFICATION

Funds appropriated and obligated to carry out sections 131 and 136 of title 23, United States Code, which have been deobligated subsequent to enactment of this Act shall remain available until expended.

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $16,000,000, of which $10,666,667 shall be derived from the Highway Trust Fund: Provided, That the unobligated balance of funds appropriated in Public Law 93-98 for Wheeling, West Virginia, is hereby made available for allocation to carry out highway projects on the Federal-aid system in Wheeling, West Virginia at full federal expense.

FEDERAL-AID HIGHWAYS (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,836,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,750,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1986, except that this limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, or section 320 of title 23, United States Code.

RIGHT-OF-WAY REVOLVING FUND (LIMITATION ON DIRECT LOANS) (HIGHWAY TRUST FUND)

During fiscal year 1986 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $50,000,000.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $13,900,000, of which $953,000 shall remain available until expended, and not to exceed $1,601,000 shall be available for "Limitation on general operating expenses".

MOTOR CARRIER SAFETY GRANTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out provisions of section 402 of Public Law 97-424, $17,000,000, to be derived from the Highway Trust Fund and to remain available until September 30, 1989.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended, $10,000,000, of which $5,000,000 shall be derived from unobligated balances of "Research, training, and human resources".

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $3,000,000 to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary: Provided, That, notwithstanding subsection (b) of section 146 of the Federal-Aid Highway Act of 1970 and any agreement entered into under such subsection, the Secretary of the Interior shall not be required to convey to the State of Maryland any portion of the Baltimore-Washington Parkway located in the State of Maryland, and the State of Maryland shall not be required to accept conveyance of any such portion: Provided further, That funds authorized by such section may be expended without regard to any requirement of such an agreement that such portion of the Baltimore-Washington Parkway be conveyed to the State of Maryland.

WASTE ISOLATION PILOT PROJECT ROADS

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, $7,000,000, to remain available until expended.

RAIL LINE CONSOLIDATION PROJECT

(TRANSFER OF FUNDS)

For necessary expenses to carry out a project to consolidate two rail lines on a common alignment in the vicinity of Orange, Texas, that demonstrates methods by which a rail line consolidation project will reduce motor vehicle traffic congestion and increase employment, to remain available until expended, $4,000,000 to be derived from unobligated balances of "Research, training, and human resources".

AIRPORT-HIGHWAY DEMONSTRATION PROJECT

(TRANSFER OF FUNDS)

For necessary expenses to carry out a highway project to depress a highway in Shawnee, Oklahoma, that demonstrates methods of improving air service to a small community by extension of a runway over a depressed road, to remain available until expended, $1,350,000 to be derived from unobligated balances of "Research, training, and human resources".

EXPRESSWAY GAP CLOSING DEMONSTRATION PROJECT

For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, there is authorized to be appropriated $23,500,000, to remain available until expended, of which $9,000,000 is hereby appropriated: Provided, That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(INCLUDING TRANSFERS OF FUNDS)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), $88,851,000, of which $5,000,000 shall be derived from unobligated balances of "Research, training, and human resources", and of which $29,894,000 shall be derived from the Highway Trust Fund: Provided, That not to exceed $36,296,000 shall remain available until expended, of which $14,833,000 shall be derived from the Highway Trust Fund: Provided further, That, of the funds available under this head, $10,000,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research: Provided further, That for the purpose of carrying out a national program to encourage the use of automobile passive restraints as authorized by 23 U.S.C. 403, an additional $500,000 is available to be derived from unobligated balances of "Carpool and vanpool projects".

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 406 and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $149,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $126,500,000 in fiscal year 1986 for "State and community highway safety" authorized under 23 U.S.C. 402: Provided further, That none of these funds shall be used for construction, rehabilitation or remodeling costs or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $28,800,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: Provided further, That none of the funds in this Act shall be available for the planning or execution of programs authorized by section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $5,000,000 in fiscal years 1983, 1984, 1985, and 1986: Provided further, That not to exceed $5,000,000 shall be available for administering the provisions of 23 U.S.C. 402.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $10,120,000.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,764,000, of which $1,500,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $10,600,000, to remain available until expended.

RAIL SERVICE ASSISTANCE

For necessary expenses for rail service assistance authorized by section 5 of the De-

partment of Transportation Act, as amended, for Washington Union Station, as authorized by Public Law 97-125, and for necessary administrative expenses in connection with federal rail assistance programs not otherwise provided for, $20,200,000, to remain available until expended: Provided, That none of the funds provided under this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: Provided further, That none of the funds in this Act shall be available for the acquisition, sale or transference of Washington Union Station without the prior approval of the House and Senate Committees on Appropriations: Provided further, That, of the funds available under this head, $15,000,000 shall be available for allocation to the States under section 5(h)(2) of the Department of Transportation Act, as amended: Provided further, That, notwithstanding any other provision of law, a State may not apply for fiscal year 1986 funds available under section 5(h)(2) until such State has expended all funds granted to it in the fiscal years prior to the beginning of fiscal year 1981, other than funds not expended due to pending litigation: Provided further, That a State denied funding by reason of the immediately preceding proviso may still apply for and receive funds for planning purposes: Provided further, That, notwithstanding any other provision of law, of the funds available under section 5(h)(2), $10,000,000 shall be made available for use under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding the limitations set forth in section 5(h)(3)(B)(ii).

CONRAIL LABOR PROTECTION

Such sums as may be necessary shall be made available for necessary expenses of administration of section 701 of the Regional Rail Reorganization Act of 1973 by the Railroad Retirement Board.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.), $12,500,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program: Provided further, That the Secretary may waive the provisions of 23 U.S.C. 322 (c) and (d) if such action would serve a public purpose: Provided further, That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

(INCLUDING TRANSFERS OF FUNDS)

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $616,000,000, of which $23,000,000 shall be derived from unobligated balances of "Conrail labor protection" and $5,500,000 shall be derived from unobligated balances of "Rail labor assistance" as of September 30, 1985: Provided, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: Provided further, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1986: Provided further, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriation Act shall be deemed a violation of 31 U.S.C. 1341: Provided further, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): Provided further, That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-federal sources: Provided further, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: Provided further, That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvement shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The total commitments to guarantee new loans pursuant to sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, shall not exceed $4,000,000 of contingent liabilities for loan principal during fiscal year 1986: Provided, That the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided further, That the aggregate amount of such notes or other obligations during fiscal year 1986 shall not exceed $100,000,000.

REDEEMABLE PREFERENCE SHARES

Notwithstanding any other provision of law, the Secretary of Transportation is hereby authorized to expend proceeds from the sale of fund anticipation notes to the Secretary of the Treasury and any other moneys deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, for uses authorized for the Fund, in amounts not to exceed $33,500,000.

CONRAIL COMMUTER TRANSITION ASSISTANCE

(TRANSFER OF FUNDS)

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000 to be derived from unobligated balances of "Research, training, and human resources" and to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $30,000,000, of which not to exceed $650,000 shall be available for the Office of the Administrator.

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $17,400,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $2,150,000,000, to remain available until expended.

DISCRETIONARY GRANTS

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,045,500,000 in fiscal year 1986 for grants under the contract authority authorized in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

LIQUIDATION OF CONTRACT AUTHORIZATION

For payment of obligations incurred in carrying out section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $775,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, to remain available until September 30, 1987, $218,750,000, of which $18,750,000 shall be derived from unobligat-

ed balances of "Research, training, and human resources".

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $227,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year except as hereinafter provided.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $1,916,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: Provided, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 shall be available for services as authorized by 5 U.S.C. 3109.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, for expenses for conducting research and development and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674), $19,300,000, of which $6,975,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,600,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,975,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C 5901-5902), $22,300,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $50,480,000, of which $2,300,000 shall be derived from unobligated balances of "Payments for directed rail service": Provided, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $1,000,000 for directed rail service authorized under 49 U.S.C. 11125 or any other legislation.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed $10,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator; disbursements by the Administrator for employee and community projects; not to exceed $1,000 for official reception and representation expenses of the Secretary; not to exceed $25,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); $400,284,000, to be derived from the Panama Canal Commission Fund: Provided, That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects.

CAPITAL OUTLAY

For acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $14,000 per vehicle); to employ services authorized by law (5 U.S.C. 3109); $25,500,000 to be derived from the Panama Canal Commission Fund and to remain available until expended.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95-620, of fund anticipation notes, $33,500,000.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, to remain available until expended, $2,400,000, of which not to exceed $500 may be available for official reception and representation expenses.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: Provided, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322(a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

SEC. 307. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-federal parties

intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 308. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation.

SEC. 309. None of the funds contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 310. Notwithstanding any other provision of law, total amounts of contract authority authorized for fiscal year 1986 in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, shall be available for obligation through fiscal year 1989.

SEC. 311. None of the funds in this or any other Act shall be available for the planning or implementation of any change in the current federal status of the Transportation Systems Center.

SEC. 312. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 313. (a) For fiscal year 1986 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1985, no State shall obligate more than 40 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1986, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and the Federal Lands Highway Programs.

SEC. 314. None of the funds in this Act shall be available for salaries and expenses of more than one hundred thirty-eight political appointees in the Department of Transportation.

SEC. 315. Not to exceed $1,700,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 316. The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1986 shall not apply to obligations for the remaining approach and bridge removal work necessary to complete the new bridge alignment for the Zilwaukee Bridge.

SEC. 317. (a) Section 5(b)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting after the first sentence the following new sentence: "Any funds apportioned for fiscal year 1982 or 1983 under subsection (a) for expenditure in an urbanized area with a population of less than 200,000 may be expended in an urbanized area with a population of 200,000 or more.".

(b) Section 5(c)(4) of the Urban Mass Transportation Act of 1964 is amended by striking the period at the end of the first sentence, and inserting the following: "except that any fiscal year 1982 funds made available to a Governor under section 5(b)(2) of the Urban Mass Transportation Act of 1964, as amended, that are unobligated as of October 1, 1985, or become unobligated thereafter, shall remain available for expenditure under section 5 until October 1, 1986.".

SEC. 318. Notwithstanding any other provision of law, within 60 days of the effective date of this Act the Urban Mass Transportation Administration shall reapportion under section 9 of the Urban Mass Transportation Act of 1964, as amended, those funds available for reapportionment pursuant to subsection (c)(4) of section 5 of that Act.

SEC. 319. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan, area until a source of operating funds has been approved in accordance with Michigan law: Provided, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 320. The Secretary of Transportation shall enter into negotiations for full funding contracts with the appropriate local governmental authorities to construct (1) the minimum operable segment, MOS-1, of the downtown Los Angeles to San Fernando Valley Metro Rail project; (2) the north and south legs of the downtown component of metrorail in Dade County, Florida; and (3) the downtown transit project (bus tunnel) in Seattle, Washington: Provided, That the Secretary shall commence negotiations with appropriate local authorities to enter into such contracts no later than 30 days after enactment and shall conclude such negotiations no later than 90 days after enactment: Provided further, That such contracts shall cover total project costs including federal financial participation consisting of fiscal year 1984 and fiscal year 1985 discretionary grants funding made available pursuant to section 331 of this Act, fiscal year 1986 discretionary grants funding in accordance with the accompanying Joint Explanatory Statement of the Managers, and future funding as made available by the Congress.

SEC. 321. The Urban Mass Transportation Administration shall enter into a contract with the Southern California Rapid Transit District to conduct a study of the potential methane gas risks relating to the proposed alignment of the Metro Rail project beyond the Minimum Operable Segment, MOS-1. None of the funds described in section 320 may be made available for any segment of the downtown Los Angeles to San Fernando Valley Metro Rail project unless and until the Southern California Rapid Transit District officially notifies and commits to the Urban Mass Transportation Administration that no part of the Metro Rail project will tunnel into or through any zone designated as a potential risk zone or high potential risk zone in the report of the City of Los Angeles dated June 10, 1985, entitled "Task Force Report on the March 24, 1985 Methane Gas Explosion and Fire in the Fairfax Area". Funds for this study, in an amount not to exceed $1,000,000, shall be made available from funds previously allocated for the MOS-1 project, commencing within 30 days of enactment.

SEC. 322. The limitation on obligations for the Discretionary Grants Program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 323. (a) Notwithstanding any other provision of law, the Secretary of Transportation may use not to exceed one-half of 1 percent of—

(1) the funds made available for fiscal year 1986 by section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 3 of such Act to contract with any person to oversee the construction of any major project under such section;

(2) the funds appropriated for fiscal year 1986 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 9 of such Act to contract with any person to oversee the construction of any major project under such section;

(3) the funds appropriated for fiscal year 1986 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 18 of such Act to contract with any person to oversee the construction of any major project under such section;

(4) the funds appropriated for fiscal year 1986 pursuant to section 4(g) of the Urban Mass Transportation Act of 1964, as amended, to contract with any person to oversee the construction of any major public transportation project substituted for an Interstate segment withdrawn under section 103(e)(4) of title 23, United States Code; and

(5) the funds appropriated for fiscal year 1986 pursuant to the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under such Act.

(b) Any contract entered into under subsection (a) shall provide for the payment by the Secretary of Transportation of 100 percent of the cost of carrying out the contract.

(c) This section shall take effect on October 1, 1985, and shall cease to be in effect at the close of September 30, 1986.

SEC. 324. (a) GENERAL RULE.—Tolls collected for motor vehicles on any bridge connect-

ing the borough of Brooklyn, New York, and Staten Island, New York, shall only be collected for those vehicles exiting from such bridge in Staten Island.

(b) ENFORCEMENT.—The Secretary shall withhold 1 percent of the amount required to be apportioned to the State of New York under sections 104 and 144 of title 23, United States Code, on the first day of the fiscal year succeeding any fiscal year in which tolls collected for motor vehicles on the bridge referred to in subsection (a) are collected for those vehicles exiting from such bridge in the borough of Brooklyn.

(c) PERIOD OF APPLICABILITY.—This section shall apply on and after the 90th day following the date of enactment of this section, except that this section shall not apply after the date on which the Secretary publishes in the Federal Register a determination under subsection (d).

(d) REMOVAL OF LIMITATION.—

(1) DETERMINATION OF SECRETARY.—Subsections (a) and (b) shall cease to be in effect if, upon petition by the Governor of New York under paragraph (2), the Secretary determines that—

(A) a substantial loss of revenues has resulted from the limitation imposed by subsection (a), or

(B) such limitation has resulted in significant traffic problems,

and the Secretary publishes such determination in the Federal Register.

(2) PETITION.—The Governor of New York may petition the Secretary for a determination under paragraph (1) at any time after a period of six consecutive months in which tolls collected for motor vehicles on the bridge referred to in subsection (a) have been collected only for those vehicles exiting from such bridge in Staten Island.

SEC. 325. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may conduct a demonstration project for a period not to exceed two years in order to determine the effects on the National System of Interstate and Defense Highways located in Wyoming of the use of such highways by vehicles in excess of 80,000 pounds gross weight but meeting axle and bridge formula specifications in section 127 of title 23, United States Code.

SEC. 326. Section 18(e) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection, the term 'Federal funds or revenues' does not include funds received by a recipient of funds under this section pursuant to a service agreement with a State or local social service agency or a private social service organization.".

SEC. 327. Section 119(d), 23 U.S.C. is amended by adding at the end of such section: "Notwithstanding any other provision of law, and for the purposes of this subsection, the phrase 'segments of the interstate system open to traffic' shall include a proposed four-lane, limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing interstate highway which was originally built without the aid of funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and which connects to the east with an interstate highway on which tolls are charged. The construction of the proposed highway shall include a bridge over the Monongahela River.".

SEC. 328. (a) Title XI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1501 et seq.) is amended by adding at the end thereof the following:

"AERONAUTICAL CHARTS AND MAPS

"SEC. 1118. Notwithstanding the provisions of section 1341 of title 31, United States Code, or any other provision of law, the United States Government shall enter into agreements to indemnify any person who publishes a chart or map for use in aeronautics from any claim, or portion of a claim, which arises out of such person's depiction on such chart or map of any defective or deficient flight procedure or airway, if such flight procedure or airway was—

"(1) promulgated by the Federal Aviation Administration;

"(2) accurately depicted on such chart or map; and

"(3) not obviously defective or deficient.".

(b) The table of contents of the Federal Aviation Act of 1958 is amended by inserting immediately after the item relating to section 1117 the following:

"Sec. 1118. Aeronautical charts and maps.".

SEC. 329. Notwithstanding section 108(b) of the Federal-Aid Highway Act of 1956, sums appropriated to the State of New York under 23 U.S.C. 104(b)(5)(A) during the fiscal year ending September 30, 1986, may be obligated for Interstate construction projects under section 108(b) of the Federal-Aid Highway Act of 1956 or for Interstate substitute highway projects under 23 U.S.C. 103(e)(4): Provided, That the withdrawal value for New York under 23 U.S.C. 103(e)(4) shall be reduced by the amounts obligated hereunder for Interstate highway substitute projects. The federal share of the cost to complete any such Interstate substitute highway projects to which this provision applies shall be 85 per centum. In carrying out this provision the State of New York and the Secretary of Transportation shall assign highest priority to the completion of Interstate construction projects. This section shall expire on October 1, 1986.

SEC. 330. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan: Provided, That the immediately preceding provision shall not apply to $10,000,000 apportioned to the Detroit Department of Transportation.

SEC. 331. The Congress disapproves the proposed deferral D86-21, pertaining to the Urban Mass Transportation Administration, as set forth in the message of October 1, 1985, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

SEC. 332. Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended—

(1) in the first sentence of paragraph (2) of subsection (d) by inserting "freight" before "railroad"; and

(2) in the first sentence of subsection (e) by striking out "1985" and inserting in lieu thereof "1987".

SEC. 333. The Act approved July 28, 1937 (50 Stat. 535), is amended by striking out in the first paragraph thereof, "and approaches thereto" and by inserting at the end thereof "The States of Maine and New Hampshire are authorized to assume all construction, maintenance, and operational authority over the approach roads and grade separation stuctures in their respective areas. As provided in Maine Private and Special Law, Chapter 38, 1985, and New Hampshire Statutes, Chapter 415, 1985, the respective States shall require the Authority to provide Authority funds for capital improvements.".

SEC. 334. Notwithstanding any other provision of law, the first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "($55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

SEC. 335. Notwithstanding any other provision of law or regulation, the Secretary of Transportation shall, within 30 days after enactment of this section, issue in the Federal Register a Notice of Intent to prepare an environmental impact statement for the construction of the north and south legs of the downtown component of metrorail in Dade County, Florida: Provided, That the absence of a federally-approved environmental impact statement for this project shall not preclude or delay the negotiations required under section 320 of this Act.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1986"; and the Senate agree to the same.

Amendment Numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by the House and stricken by the Senate, insert the following:

(h) For the purposes of Sec. 252(a)(6)(D)(i)(II) of Public Law 99-177, the section of the Statement of the Managers entitled "Definition of Program, Project, and Activity as provided by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985" shall be considered to be the reports filed by the Committees on Appropriations for the purpose of defining "Program, Project, and Activity".

And the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the first sum named in said amendment insert: $1,065,000,000; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(j) such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1986, at a rate for operations and to the extent in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1986, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of

the increase in capital stock, $109,720,549 for the General Capital Increase, as authorized by section 39 of the Bretton Woods Agreements Act, as amended (Public Law 79-171), to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $1,353,220,096.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $700,000,000, for the second installment of the United States contribution to the seventh replenishment, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

For payment to the Special Facility for Sub-Saharan Africa by the Secretary of the Treasury, $75,000,000, to remain available until expended: Provided, That funds made available under this heading shall be paid to the Special Facility for Sub-Saharan Africa no later than December 31, 1985.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $29,077,390, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $40,000,000, to remain available until expended; and $38,000,983 for the United States share of the increase in paid-in capital stock to remain available until expended; and $11,700,000 for the United States share of the capital stock of the Inter-American Investment Corporation to remain available until expended: Provided, That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $1,230,964,704.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $11,909,408 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $100,000,000 to remain available until expended: Provided, That none of the funds provided by the United States to the Asian Development Bank may be made available if the Republic of China (Taiwan) is denied any of the rights and privileges of full membership in the Asian Development Bank: Provided further, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank in excess of the rate provided for an individual occupying a position at level V of the Evecutive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $226,230,498.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $62,250,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $16,188,910, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $48,564,032.

PARTICIPATION IN INTERNATIONAL FINANCIAL INSTITUTIONS

(a) Titles I, II, and III of H.R. 2253 as reported on May 15, 1985, and section 3 of H.R. 1948 as introduced April 3, 1985, are hereby enacted.

(b) Section 102 of H.J. Res. 465 shall not apply with respect to the provisions enacted by this paragraph.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $277,922,475: Provided, That no funds shall be available for the United Nations Fund for Science and Techology: Provided further, That the total amount of funds made available by this paragraph shall be available only as follows: $148,500,000 for the United Nations Development Program; $48,150,000 for the United Nations Children's Fund; $1,900,000 for the World Food Program; $900,000 for the United Nations Capital Development Fund; $250,000 for the United Nations Voluntary Fund for the Decade for Women; $1,282,500 for the International Convention and Scientific Organization Contributions; $1,800,000 for the World Meteorological Organization Voluntary Cooperation Program; $17,715,000 for the International Atomic Energy Agency; $9,000,000 for the United Nations Environment Program; $900,000 for the United Nations Educational and Training Program for South Africa; $1,429,975 for the United Nations Development Program Trust Fund to Combat Poverty and Hunger in Africa; $225,000 for the United Nations Institute for Namibia; $180,000 for the Convention on International Trade in Endangered Species; $250,000 for the World Heritage Fund; $90,000 for the United Nations Voluntary Fund for Victims of Torture; $225,000 for the United Nations Fellowship Program; $400,000 for the Center on Human Settlements; $14,725,000 for the Organization of American States; and $30,000,000 for the International Fund for Agricultural Development (except that the funds provided by this paragraph for the International Fund for Agricultural Development shall not be made available to such organization until a budget request has been received by the Congress and the United States has entered into an agreement to participate in the second replenishment of the organization and, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, such funds may be made available only for the second replenishment of the International Fund for Agricultural Development, except that to the extent that these funds cannot be so utilized, they shall revert to the Treasury as miscellaneous receipts).

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other

purposes, to remain available until September 30, 1986, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $699,995,900: Provided, That not less than $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: Provided further, That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $250,000,000: Provided, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to or information about access to, a broad range of family planning methods and services: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $200,824,200: Provided, That not less than $12,500,000 shall be provided for child survival programs and activities.

Child Survival Fund: For necessary expenses to carry out the provisions of section 104(c)(2), $25,000,000.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $169,949,700: Provided, That of this amount not less than $4,000,000 shall be made available only for the International Student Exchange Program.

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, $174,358,930: Provided, That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: Provided further, That up to $2,280,000 may be made available for hybrid poplar energy farming in Nepal: Provided further, That up to $1,200,000 may be made available for the establishment of land use management system in Costa Rica if requested by the Government of Costa Rica.

Central America Development Assistance: Of the funds appropriated to carry out the provisions of sections 103 through 106, not more than $250,000,000 shall be available for Central America except as provided through the regular notification process of the Committees on Appropriations.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available after January 1, 1986, to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: Provided, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in Title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, $10,790,000.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed $18,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1986, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $18,000,000.

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the Agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: Provided, That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: Provided further, That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1987.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $35,000,000.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $22,500,000, to remain available until expended.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $80,500,000, to remain available until expended: Provided, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 percent of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $43,122,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $376,350,000: Provided, That not more than $20,000,000 of this amount shall be for Foreign Affairs Administrative Support: Provided further, That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1986 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women: Provided further, That not less than $2,500,000 shall be used to carry out the purposes of section 636(d): Provided further, That not less than $1,200,000 shall be available for the International Development Intern Program: Provided further, That none of the funds appropriated or made available (other than funds appropriated or made available by this paragraph) pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for the operating expenses of the Agency for International Development: Provided further, That none of the funds in this Act may be used to relocate the Regional Inspector General's Office in Cairo to another country: Provided further, That after February 28, 1986, none of the funds appropriated by this paragraph shall be available for the operating expenses of the International Development Cooperation Agency.

Operating expenses of the Agency for International Development Office of Inspector General: For necessary expenses to carry out the provisions of section 667, $21,050,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: Provided, That the full-time equivalent staff years for the Office of the Inspector General for fiscal year 1986 shall not be less than one hundred and ninety-three: Provided further, That up to three percent of the amount made available under the paragraph "Operating expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this paragraph.

Trade credit insurance program: During the fiscal year 1986, total commitments to guarantee or insure loans for the "Trade credit insurance program" shall not exceed $250,000,000 of contingent liability for loan principal.

Trade and development program: For necessary expenses to carry out the provisions of section 661, $18,900,000.

Housing and other credit guaranty programs: During the fiscal year 1986, total commitments to guarantee loans shall not exceed $152,000,000 of contingent liability for loan principal: Provided, That the President shall enter into commitments to guarantee such loans in the full amount by this paragraph, subject only to the availability of qualified applicants for such guarantees.

Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, $3,700,000,000: Provided, That of the funds appropriated under this paragraph, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1985, whichever is later: Provided further, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions

of section 202(b) of Public Law 99-83, and not less than $200,000,000 shall be provided as a Commodity Import Program: Provided further, That it is the same sense of the Congress that the recommended levels assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: Provided further, That not less than $250,000,000 of the funds appropriated under this paragraph shall be available only for Pakistan: Provided further, That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law, which are inconsistent with the cash transfer nature of this assistance, or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648(H. Rept. No. 98-1159): Provided further, That pursuant to section 660(d) of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this paragraph shall be available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: Provided further, That a report of the investigation shall be provided to the Congress: Provided further, That funds appropriated under this paragraph for Mozambique may be made available only for activities in support of the private sector: Provided further, That of the amounts made available by this paragraph for Mozambique, $5,000,000 may not be made available until a democratic election has been held in Mozambique: Provided further, That of the funds provided under this paragraph only $125,000,000 shall be made available for the Philippines: Provided further, That of the funds appropriated or otherwise made available under this heading, $15,000,000 shall be made available only for Cyprus (except that any offshore procurement must meet Agency for International Development procurement source and origin regulations): Provided further, That not less than $15,000,000 of the funds provided under this paragraph shall be made available only for Ecuador, which sum shall be disbursed within thirty days of enactment of this Act: Provided further, That up to $20,000,000 of the funds provided under this paragraph may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: Provided further, That not less than 35 percent of the funds allocated for the Human Rights Fund for South Africa shall be made available in accordance with section 802(d) of Public Law 99-83: Provided further, That the obligation of funds made available under this paragraph to finance tied all credits shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFER OF FUNDS

Transfer of funds: Of the unobligated funds remaining from funds appropriated for the "Economic support fund" for Lebanon in Public Law 98-63, $22,850,000 shall be tranferred as follows: (1) $12,500,000 to the "Child Survival Fund", (2) $5,350,000 to "Internal Organizations and Programs" for the United Nations Children's Fund, and (3) to "International Narcotics Control: Provided, that except for such transfers", amounts remaining unobligated as of September 30, 1985, from funds appropriated for the "Economic Support Fund" for Lebanon in Public Law 98-63 shall, notwithstanding sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, be made available only for Lebanon: Provided further, That, to the extent that these funds cannot be used to provide assistance for Lebanon, they shall revert to the Treasury as miscellaneous receipts.

RESCISSION

Deobligation and rescission of funds: $11,200,000 of the funds remaining in the "Syria Termination Account" created by Public Law 98-151 are deobligated and are rescinded: Provided, That the authority contained in sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, shall not be exercised to permit the use of funds remaining in the "Syria Termination Account" created by Public Law 98-151 for any other purposes that those for which the account was created.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATIONS

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $3,872,000.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $11,969,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1986 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $14,250,000.

During the fiscal year 1986, total commitments to guarantee loans shall not exceed $142,500,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $130,000,000: Provided, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481, $57,529,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $338,930,000: Provided, That not less than $12,500,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: Provided further, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: Provided further, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: Provided further, That no more than $8,150,396 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: Provided further, That not more than $2,500,000 of the funds appropriated under this heading shall be available for the orderly movement of overland Vietnamese refugees presently located at the Dong Ruk (Site 2) refugee camp in Thailand to a safe haven either in Thailand or in another location more directly under the control of the United States where they may be joined with other Vietnamese refugees: Provided further, That each of the earmarks contained in section 108 of Public Law 99-93 shall be reduced by 1.7 percent.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, $7,420,000.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $34,000,000: Provided, That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1986: Provided further, That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $782,000,000: Provided, That of the funds made available under this paragraph only $40,000,000 shall be available for the Philippines: Provided further, That only $215,000,000 shall be made available for Turkey: Provided further, That the reports required by section 702 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) shall also be provided to the Committees on Appropriations: Provided further, That these

reports shall supersede the reporting requirements relating to El Salvador contained in the last proviso of the paragraph under the heading "Military Assistance" contained in the joint resolution entitled "a joint resolution making urgent supplemental appropriations for the fiscal year ending September 30, 1984, for the Department of Agriculture", approved July 2, 1984 (Public Law 98-332) and section 533 of the Foreign Assistance and Related Programs Appropriations Act, 1985 (as enacted in Public Law 98-473); Provided further, That not less than $40,000,000 of the funds made available under this paragraph shall be available only for Tunisia.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $54,489,500.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $5,190,000,000, of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, and not less than $325,000,000 shall be available only for Pakistan: Provided, That if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel: Provided further, That during fiscal year 1986, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $5,190,000,000: Provided further, That of the funds made available under this paragraph, only $427,852,000 shall be available for Turkey: Provided further, That of the funds made available under this paragraph, only $450,000,000 shall be available for Greece: Provided further, That of the funds provided under this paragraph only $15,000,000 shall be made available for the Philippines: Provided further, That none of the funds made available under this paragraph shall be available for Guatemala, unless the President makes the following certifications to the Congress:

(1) For Fiscal Year 1986, an elected civilian government is in power in Guatemala and has submitted a formal written request to the United States for the assistance, sales, or financing to be provided.

(2) For Fiscal Year 1986, the Government of Guatemala made demonstrated progress during the preceding year (A) in achieving control over its military and security forces, (B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights, and (C) in respecting the internationally recognized human rights of its indigenous Indian population: Provided further, That not more than $553,900,000 of the funds made available under this paragraph shall be available at concessional rates of interest: Provided further, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification process of the Committees on Appropriations: Provided further, That not less than $27,000,000 of concessional credits shall be provided only for Tunisia.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $325,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1986.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1986 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $1,110,000,000: Provided, That during the fiscal year 1986, total commitments to guarantee loans shall not exceed $12,000,000,000 of contingent liability for loan principal.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $18,357,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: Provided, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this paragraph.

TITLE V—GENERAL PROVISIONS

SEC. 501. None of the funds appropriated in this act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Act amendatory of supplementary thereto.

SEC. 502. Except for the appropriations entitled " International disaster assistance". and "United States emergency refugee and migration assistance fund" not more than 15 per centum of any appropriation item made available by this Act for the current fiscal year shall be obligated during the last month of availability.

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country

SEC. 504. None of the funds appropriated or made available purusant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,000 shall be for representation allowances for the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: Provided

further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading "Trade and development program", not to exceed $2,000 shall be available for representation and entertainment allowances.

SEC. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria.

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree.

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs for the same general purpose and for the same country as originally obligated or for activities in the Andean region: Provided, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by the management of the international financial institution.

SEC. 521. Section 620A(a) of the Foreign Assistance Act of 1961 is amended by inserting "the Export-Import Bank Act of 1945," after "the Peace Corps Act,".

SEC. 522. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweight the injury to United States producers of the same, similar, or competing commodity.

SEC. 523. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 524. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance," "Energy and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating Expenses of the Agency for International, Development Office of Inspector General", "Anti-terrorism assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

SEC. 525. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

SEC. 526. None of the funds appropriated under this Act may be used to lobby for abortion.

SEC. 527. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1985, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, on whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to the United States Government personnel or their dependents or from entering the United States unlawfully.

SEC. 528. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

SEC. 529. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special notes of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security

Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

SEC. 530. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

SEC. 531. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, as long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

SEC. 532. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

SEC. 533. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

SEC. 534. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

SEC. 535. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Foreign Affairs and the Committees on Appropriations by February 1, 1986, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance program conducted by these recipient nations.

SEC. 536. None of the funds appropriated or otherwise made available pursuant to this Act for "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification process of the Committees on Appropriations.

SEC. 537. Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the Governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: Provided, That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961: Provided further, That assistance may be provided to Bolivia for Fiscal Year 1986, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

For Fiscal Year 1986—

(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.

SEC. 538. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

SEC. 539. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

SEC. 540. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to add or strengthen professionally trained staff to undertake environmental review of projects; or have development management plans to substantially increase the environmentally trained staff engaged in review of the ecological impacts of prospective projects;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will encourage staff and borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly use the resources of available nongovernmental conservation and indigenous peoples' organizations, and consistent with international procurement policies, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(3) vigorously promote a commitment of these institutions to increase the proportion of their lending programs supporting environmentally beneficial projects and project components, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate or light capital technology projects. Examples of such projects include small scale mixed farming and multiple cropping; agroforestry; programs to promote kitchen gardens; watershed management and rehabilitation; high yield woodlots; integrated pest management systems; dune stabilization programs; programs to improve energy efficiency; energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems; and improved efficiency and management of irrigation systems.

(4) vigorously promote the establishment within the Economic Development Institute of the World Bank to institute a component which provides training in environmental and natural resource planning and program development;

(5) ensure that there is a thorough evaluation within the U.S. Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs; the potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality, siltation, spread of water borne diseases, forced resettlement, deforestation, threats to the land, health and culture of indigenous peoples, top soil management, water logging and salinization in irrigation projects, and pesticide misuse and resistance;

(6) call for, by May 31, 1986, separate and special meetings of each of the Boards of Executive Directors of these insitutions to discuss their environmental performance, and ways in which this performance can be improved, including alternative projects considered and alternative configurations of projects with specific attention to environmental problems associated with the following categories of projects: large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; agriculture and rural development projects; and

(7) in preparation for the meetings referred to in clause (6), the United States Executive Directors of the Multilateral Development Banks shall request the preparation of reviews by the International Bank for Reconstruction and Development and the Inter-American Development Bank from available information, of their environmental performance over the past decade with

respect to the categories of projects referred to in clause (6); the United States Executive Directors shall request that these reviews specifically discuss the environmental problems explicitly referred to in clause (5).

(b) The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by March 31, 1986, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in clauses (1) through (4) of subsection (a).

(c) The Secretary of the Treasury and the Secretary of State shall undertake initiatives, in addition to those described in clause (6) of subsection (a) to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives, and with the ministries from which they receive their instructions, of other donor nations to these institutions.

(d) In the report of the Secretary of the Treasury required by subsection (b) regarding the implementaion of staffing measures suggested in clause (1) of subsection (a), the Secretary of the Treasury shall specifically discuss the International Bank for Reconstruction and Development's progress in adding environmentally trained professionals, or in developing and implementing alternative plans for environmental staffing in each of the Bank's six regional offices to review projects for their prospective ecological impacts.

SEC. 541. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to population, development assistance and to the need for informed voluntary family planning.

SEC. 542. Not less than $15,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

SEC. 543. None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.

SEC. 544. The President shall make available to the Cambodian non-communist resistance forces not less than $1,500,000 nor more than $5,000,000 of the funds appropriated by this Act for "Military Assistance" and for the "Ecomonic Support Fund", notwithstanding any other provision of law: Provided, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

SEC. 545. (a) SENSE OF CONGRESS.—It is the sense of Congress that no foreign military sales financing appropriated by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(b) CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems or other new advanced military weapons, must be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

SEC. 546. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

SEC. 547. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

SEC. 548. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance" program, "International Military Education and Training", Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

SEC. 549. Any joint resolution introduced on or after February 1, 1986, which states that the Congress objects to the proposed sale to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems (submitted to the Congress on October 21, 1985), shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

SEC. 550. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunized diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort

to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 551. The foreign debt burdens of many Third World nations have contributed to their economic decline and inability to engage in a significant economic recovery;

The United States foreign military assistance loan programs, which have had very high interest rates in past years, have contributed to the security of our friends and allies, but also have played a contributing role in adding to the debt burdens of many of our friends and allies;

United States foreign aid has, among its major objectives, the enhancement of the military and economic security of our friends and allies and our own security;

A foreign assistance program which adds significantly to the debt burdens of our friends and allies by forcing the weaker of those nations to use funds which could be used for development for repayment of loans impairs their economic development unnecessarily and is not in either their or our interest;

The past few years have seen several positive legislative steps taken to alleviate the FMS loan-related debt burdens of our friends and allies by reducing interest rates, stretching out the repayment period of these loans, and by increasing the level of MAP grants and forgiven FMS credits;

These steps have helped to ease these problems in the short term, but the long-term debt servicing problems of our friends and allies remain;

It would be in the best interests of our friends and allies to alleviate their debt burdens brought about by past loans and to bring about a more streamlined and straightforward approach to their programs in this area;

Such streamlined, straightforward programs would make it easier to develop country programs and would ease current pressures on the United States to grant to aid recipients the most favorable terms on their military loan programs: Now therefore

(1) it is the sense of the Congress that a more simplified, streamlined, straightforward foreign military assistance program is in the national interest and in the interest of the military and economic security of our friends and allies throughout the world;

(2) that greater concessionality only to match economic need as appropriate should be incorporated into future military assistance programs;

(3) that FMS loan programs extending the repayment period beyond the useful life of the items to be purchased could tend to increase the long-term debt burdens of our friends and allies;

(4) that the FMS concessional loan program contains a significant grant element in the recipient nation and that the Congress should actively consider replacing this program with a more straightforward approach;

(5) the President is urged to propose, in the next formal Congressional Presentation for Security Assistance Programs, reforms and refinements in the foreign military assistance programs along these lines for consideration by the appropriate committees of the Congress.

SEC. 552. (a) Notwithstanding any other provision of law, the President is authorized—

(1) to deny nondiscriminatory (most-favored-nation) trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty set forth in column number 2 of the Tariff Schedules of the United States, and

(2) to deny credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

*(b) If the President has not denied nondiscriminatory trade treatment to the products of Afghanistan before the date that is 45 days after the date of enactment of this joint resolution, the President shall submit to the Congress on such date * * *.*

This subsection may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1986".

And the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 106. Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated $40,000,000, to remain available until expended, for "Watershed and Flood Prevention Operations" for emergency measures as provided in sections 401 and 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2203-2205).

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 107. Notwithstanding any other provision of this joint resolution, not to exceed an additional $9,549,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses, as authorized under 12 U.S.C 2249: Provided, That hereafter the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 108. (a) Notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94-369) or any other provision of law, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in: (1) New York, New York but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for any authorized project in New York, New York under title I of such Act, as amended or for any authorized project in New York, New York under title I of the Public Works and Economic Development Act of 1965, as amended; (2) New Jersey but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for the rehabilitation and renovation of Buildings 1002, 1006 and such other structures at Camp Kilmer, Edison, New Jersey as may be agreed upon between Middlesex County and the Department of Defense for use as a shelter for the homeless in Middlesex County, New Jersey; (3) California but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for infrastructure projects and economic development activities at the site of the abandoned General Motors plant in the city of South Gate, California; (4) Alabama but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for infrastructure projects and related economic development activities for the Jasper Industrial Park at Jasper, Alabama; and (5) Illinois but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for (i) the restoration, rehabilitation and renovation of existing buildings and structures within the Illinois and Michigan Canal National Heritage Corridor, and (ii) a $400,000 grant to the Will County Development Company for the establishment of a revolving loan fund.

(b) The project for flood control, Red Rock Dam and Lake, Iowa authorized by the Flood Control Act approved June 28, 1938, is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers to acquire from willing sellers fee simple interest in real property which is subject to periodic flooding in connection with the operation of the project, using funds heretofore and hereafter appropriated.

(c) In addition, for the Economic Development Administration, "Economic development assistance programs"; $8,500,000, to remain available until expended, of which $4,000,000 is for a grant to Lexington County, South Carolina, for all expenditures related to the development of a state-of-the-art fiber optics/medium power cable research and development facility in Lexington County; and of which $4,500,000 is for a grant to the City of Fort Worth for the continued renovation, construction, rehabilitation and establishment of economic development facilities and related infrastructure activities of the Fort Worth Stockyards project.

(d) In addition, for the United States Information Agency, "Educational and Cultural Exchange Programs"; $2,500,000 for re-

imbursement of expenses for international games for the handicapped as authorized by section 207 of Public Law 99-93: Provided, That reimbursement for each organization conducting such games shall not exceed the total amount of necessary and reasonable expenses incurred by such organization in excess of donations and government services furnished.

And the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 110. (a) Notwithstanding any other provision of this joint resolution, no funds made available to the Department of Justice during fiscal year 1986 shall be used to implement, or to adopt as a permanent rule, New Offense Example 363, providing coverage for "insider trading" offenses, of 28 C.F.R. section 2.20.

(b) This section shall become effective upon the date of enactment of this joint resolution and shall expire 180 days after the effective date of this joint resolution: Provided, That this section shall not apply to any case pending before the United States Parole Commission as of the effective date of this joint resolution.

And the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 111. (a) For an additional amount for the Commission on the Bicentennial of the United States Constitution, "Salaries and Expenses", authorized by Public Law 98-101 (97 Stat. 719-723), $12,000,000 to remain available until expended.

(b) Section 5 of Public Law 98-101 (97 Stat. 719) is amended—

(1) in section (b), by striking out "up to five persons,"; and

(2) in paragraph (2) of subsection (e), by striking out "the services" through the end of such paragraph and inserting in lieu thereof "services".

(c) Notwithstanding section 5(a) of Public Law 98-101 (97 Stat. 719), the rate of pay of the staff director of the Commission on the Bicentennial of the United States Constitution shall not exceed 95 per cent of the rate of basic pay for level I of the Executive Schedule pursuant to section 5312 of title 5, United States Code.

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 112. None of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1986, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with all of the restrictions and provisions of Public Law 99-180 of December 13, 1985, except that such funds may be expended for the continued representation of aliens prohibited by said Act where such representation commenced prior to January 1, 1983, or as approved by the Corporation.

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *113*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

Amend the matter inserted by said amendment to change the word "Senate" to "Congress" in subsection (a) and subsection (b); and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *114*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *115*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *116*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *117*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *118*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 119. Notwithstanding any other provision of this joint resolution, up to $8,000,000 of the funds appropriated for the Veterans Administration under the heading "Medical care" in Public Law 99-160 may be transferred to and merged with the funds provided under the heading "General operating expenses".

SEC. 120. Notwithstanding any other provision of law or this joint resolution, the Administrator of Veterans Affairs shall delegate to hospital directors the authority to administer not less than 15 of the new fiscal year 1985 major construction projects and not less than 10 of the new fiscal year 1986 major construction projects in the manner and under the conditions established for the delegation of the nursing home care construction projects at Ann Arbor, Tampa, and Fresno. The Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a list of the proposed delegations not later than 15 days after enactment of this joint resolution. The Administrator shall, within available resources, provide additional funds and personnel ceilings to each hospital director with a delegated project for necessary and adequate engineering, contracting, and other technical support. The delegation of authority for actual construction of said facilities shall be at the discretion of the selected hospital directors.

And the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 121. None of the funds made available by this or any other Act for fiscal year 1986 to the Office of the Secretary, Department of the Interior, shall be expended to submit to the United States District Court for Eastern California any settlement with respect to Westlands Water District v. United States, et al., (CV-F-81-245-EDP) until: (1) April 15, 1986, and (2) until the Congress has received from the Secretary and reviewed for a period of 30 days a copy of the proposed settlement agreement which has been approved and signed by the Secretary.

And the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

Delete the matter proposed by the House and stricken by the Senate and delete the matter proposed by the Senate in said amendment; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 122. Appropriations and funds available to the United States Fish and Wildlife Service shall be available for, and the Secretary of the Interior shall immediately resume preparation of, all environmental assessments and statements that are necessary prerequisites to the translocation of a portion of the existing population of Southern sea otters (Enhydra lutris nereis) to one or more locations within their historic range in accordance with the recovery plan for such species. In preparing such assessments and statements the Secretary shall consider section 10(j) of the Endangered Species Act (16 U.S.C. 1539(j)) as well as pending legislation that would amend such Act: Provided, That the Secretary of the Army is directed to accomplish emergency bank stabilization, shore protection, and flood control work to protect public-owned property in the vicinity of Jarvis Avenue, Fargo Avenue, North Shore Avenue, Rosemont Avenue, Burger Park, North Sheridan Road, and Lake Michigan in Chicago, Illinois, at full Federal expense using funds heretofore and hereafter appropriated at an estimated cost of $1,000,000.

And the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate num-

bered 102, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 123. No penalty shall be applied nor any State or agency agreement terminated pursuant to sections 1512, 1515, or 1521 of the Public Health Service Act during fiscal year 1986, nor if appropriations under title XV of that Act are reauthorized by August 15, 1986, shall any agency be required to take action to anticipate termination of financial assistance under that title. Sums appropriated by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, for the award of grants under section 1516 of the Public Health Service Act may be used for grants under that section to State agencies that were authorized to receive grants for fiscal year 1982 under section 935(b) of the Omnibus Budget Reconciliation Act of 1981: Provided, That no sums may be obligated under the authority of this sentence after the date upon which a law is enacted to extend the authority to appropriate amounts to carry out title XV of such Act.

And the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *124*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 125. Notwithstanding any other provision of this joint resolution, the Secretary of Health and Human Services shall extend, for one additional year, approval of the municipal health services demonstration projects located in Baltimore, Cincinnati, Milwaukee, and San Jose authorized under section 402(a) of the Social Security Amendments of 1967.

And the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 126. From the amounts awarded to a State from its allotment under section 2003 of the Social Security Act for fiscal year 1986, the State shall use to maintain and improve the availability and quality of training provided under section 401(b)(1), 98 Stat. 2196, such sums as the State may determine to be required.

And the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *127*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 128. Notwithstanding any other provisions of this joint resolution or any other provision of law, any student residing in an area designated as a natural disaster area pursuant to a provision of Federal law may apply or reapply for a Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965 and be eligible for and receive a Pell award based on income earned in calendar year 1985 instead of 1984 if individuals whose incomes are taken into account in determining the student's eligibility for and amount of a Pell Grant have been unable to pursue normal income-producing activities in 1985 as a result of the natural disaster.

And the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numberd 109, and agree to the same with an amendment, as follows:

In lieu of the matter sticken and inserted by said amendment, insert: *129*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numberd 110, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *130*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 131. Notwithstanding any other provision of this joint resolution, there is appropriated $150,000 for fiscal year 1986 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee pursuant to section 381 of the Public Health Service Act.

And the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment: insert: *132*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *133*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *134*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 135. Notwithstanding any other provision of this joint resolution or any other Act, the Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of Federal construction and procurement projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.

And the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 136. Effective on and after January 1, 1986, section 908(b) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1), is amended by striking out "30 percent" in paragraphs (1) and (2) and inserting in lieu thereof "40 percent".

And the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *138*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *139*; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *140*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *141*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *142*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *143*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *144*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate num-

bered 130, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *145*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numberd 131, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 146. Notwithstanding any other provision of law, the Administrator of the General Services Administration and the Secretary of Commerce are hereby authorized, for the purposes of supporting the United States' international trade position, to locate the International Trade Administration Boston District Office in the new World Trade Center, Boston, Massachusetts. A report shall be made to the Committees on Appropriations no later than February 1, 1986 detailing the steps taken and agreements reached to achieve this move.

And the Senate agreee to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *147*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *148*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *149*; and the Senate agree to the same.

For the entire resolution and Senate amendments:

JAMIE L. WHITTEN
(except for amendment No. 4 only in regard to chemical weapons, strategic defense initiative, and unobligated balances setaside; and amendment No. 5),
EDWARD P. BOLAND
(except for amendment No. 4 and amendment No. 117),
WILLIAM H. NATCHER
(except for amendment No. 4 only in regard to chemical weapons),
NEAL SMITH,
JOSEPH P. ADDABBO,
SIDNEY R. YATES
(except for amendment No. 4),
DAVID R. OBEY
(except for amendment No. 4 and amendment No. 117),
EDWARD R. ROYBAL
(except for amendment No. 4),
TOM BEVILL,
BILL CHAPPELL, Jr.,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W. G. HEFNER,
SILVIO O. CONTE
(except for amendment No. 4 and amendment No. 117),
JOSEPH M. MCDADE,
LAWRENCE COUGHLIN,
RALPH REGULA,
VIRGINIA SMITH,
JOE SKEEN,
Managers on the Part of the House.

MARK O. HATFIELD
(except for amendment No. 4),
TED STEVENS,
LOWELL WEICKER, Jr.,
JAMES A. MCCLURE,
THAD COCHRAN,
MARK ANDREWS,
JOHN C. STENNIS,
ROBERT C. BYRD,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
FRANK R. LAUTENBERG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Amendment No. 1: Provides that programs, projects, or activities provided for in Agriculture, Rural Development, and Related Agencies Appropriation Act of 1986 (H.R. 3037) shall be available to the extent and in the manner provided for in the conference report and joint explanatory statement of the managers (H. Rept. 99-439), filed in the House of Representatives on December 12, 1985, as if such Act had been enacted into law. The House resolution provided for a rate of operations based on the House passed bill and the Senate amendment provided for a rate of operations based on the Senate passed bill.

The conference agreement provides that each appropriation item in the referenced bill (H.R. 3037) made available under Section 101(a) may be reduced by six-tenths of one percentum, if applied to every appropriation item, rounded to the nearest thousands of dollars, except for the following appropriations: Child Nutrition Programs and Special Milk Program which are true entitlements: *Provided*, That such reductions if made shall be applied proportionally to each program, project, and activity as set forth in the conference agreement (H. Rept. 99-439).

COMMERCE, JUSTICE, STATE AND JUDICIARY

Amendment No. 2: Deletes language proposed by the House and stricken by the Senate which would have funded the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies at the levels in H.R. 2965 as passed the House, and deletes language proposed by the Senate which would have funded these departments and agencies at the levels in the conference report on H.R. 2965. The President signed H.R. 2965 into law on December 13, 1985 (Public Law 99-180). Therefore, language specifying funding levels for these departments and agencies in this joint resolution is unnecessary.

Amendment No. 3: Deletes language proposed by the Senate that the conference report on H.R. 2965 be considered as including Senate Amendment No. 134.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

Amendment No. 4: Section 101(b) of House Joint Resolution 465 provides appropriations for programs, projects and activities provided for in the Department of Defense Appropriations Act, 1986. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 3629 as passed the House of Representatives on October 30, 1985. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in H.R. 3629 as reported to the Senate on November 6, 1985, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 465 incorporates some of the provisions of both the House and Senate versions of the Department of Defense Appropriations Act, 1986, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-332 and Senate Report 99-176 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Department of Defense Appropriations Act, 1986, put in place by this joint resolution incorporates the following agreements of the managers.

IMPACT OF EMERGENCY DEFICIT CONTROL ACT

The conferees agree that none of the funds appropriated by this Act shall be applied in a manner that would offset the impact of sequestration under provisions of the Balanced Budget and Emergency Deficit Control Act of 1985. This instruction, however, shall not prohibit the reprogramming of funds for the purposes of preventing breaks, stoppages or delays in funded programs, projects, and activities.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
MILITARY PERSONNEL, ARMY	22,712,000	21,761,423	21,109,765	21,078,169
MILITARY PERSONNEL, NAVY	17,221,400	16,472,073	15,838,363	15,917,144
MILITARY PERSONNEL, MARINE CORPS	5,217,400	5,041,377	4,835,456	4,870,016
MILITARY PERSONNEL, AIR FORCE	19,187,900	18,341,185	17,688,587	17,744,770
RESERVE PERSONNEL, ARMY	2,394,400	2,159,254	2,203,014	2,178,564
RESERVE PERSONNEL, NAVY	1,353,600	1,297,123	1,264,334	1,267,734
RESERVE PERSONNEL, MARINE CORPS	290,000	278,842	272,200	272,250
RESERVE PERSONNEL, AIR FORCE	622,500	597,153	583,330	584,430
NATIONAL GUARD PERSONNEL, ARMY	3,430,800	3,238,217	3,062,098	3,066,568
NATIONAL GUARD PERSONNEL, AIR FORCE	995,100	953,204	926,516	926,716
TOTAL, MILITARY PERSONNEL	73,425,100	70,139,851	67,783,663	67,906,361

The following items represent language as agreed to by the conferees:

MILITARY PAY RAISE

The conferees agree to a reduction of $1,887,500,000 from requested amounts associated with the October 1, 1985, military pay raise. Funding for this requirement is discussed further under the heading Availability of Unobligated Balances later in the statement of the managers.

MILITARY/CIVILIAN WORKYEAR REDUCTIONS

The Senate reduced military personnel funding by $330,191,000 and civilian personnel funding by $477,500,000 as a result of its recommendation to hold workyears at fiscal year 1985 levels. The Senate recommendations are based on its contention that the Department is overstaffed in headquarters and administrative personnel. The conferees agree that reductions are available in these areas, but believe that levels recommended by the Senate would not be achievable in one fiscal year. The conferees agree to a reduction of $217,100,000 in the military personnel accounts. The conferees direct that any decreases in end strength below authorization as a result of this funding reduction must come from headquarters and administrative staff functions. In addition, the conferees recommended a reduction of $477,500,000 in Operation and Maintenance funding for improved productivity. The conferees encourage the Secretary of Defense to apply this adjustment by using sound management techniques that encourage productivity and quality improvement. The conferees agree that this reduction should be, but is not required to be, applied against civilian personnel workyears.

PERMANENT CHANGE OF STATION TRAVEL

The conferees agree to total funding of $2,744,293,000 for Permanent Change of Station (PCS) travel for fiscal year 1986. In addition the conferees have agreed to a general provision (Section 8085) which places a ceiling of a like amount on funds to be obligated by the Department for PCS Travel in fiscal year 1986. The funds provided for PCS Travel are sufficient to initiate all new PCS programs and allowances contained in the appropriation request. The conferees agree that the Department may initiate the PCS reimbursements which a newly authorized for fiscal year 1986, but only from within the funding ceiling allowed in this Bill. If additional funds are required to initiate these new programs, they should only be derived through a reduction in PCS moves or costs. The following chart identifies the funds requested and appropriated for specific new PCS initiatives in fiscal year 1986.

PCS REIMBURSEMENTS

[In thousands of dollars]

	Budget	Conference
Household Goods Weights	242,300	126,600
New PCS Reimbursements	0	0
Temporary Lodging Entitlement	132,472	132,472
Junior Enlisted Dependent Travel	21,051	17,556
Travel to Designated Place	15,325	12,781
Dependent Under 2 Mileage	10,100	8,423
All Other PCS Items	2,446,461	2,446,461
Total PCS	2,867,709	2,744,293

Insofar as the increase to Household Goods Weight Allowances is concerned, the conferees agree that the Department may only increase weight allowances as follows: junior enlisted personnel with dependents to 5,000 pounds and junior enlisted with no dependents may increase up to 1,500 pounds in all situations. No other increases may be funded until the Department and GAO completed their respective reviews of the PCS program and the Congress has received and approved a funding request.

ARMY ENLISTMENT BONUS/NEW ARMY COLLEGE FUND DUPLICATION

The Senate included a general provision prohibiting payment of an Army College Fund kicker to any service member who also receives an enlistment bonus, and expressed concern that duplication of these two programs is excessive to the needs of the Army. This provision would apply only to these service members who contract to enlist on or after the date of enactment of this Act. The House did not address this issue. The Senate also reduced the Army's enlistment bonus request by $8,000,000, based on a lower accession mission due to increased retention. The conferees accept the Senate general provision but reduce the Army's enlistment bonus request by only $2,000,000, as proposed by the House, to allow additional funding flexibility which may be required as a result to this modification.

The conferees realize that the impact of such a change in the Army's overall enlistment benefits package cannot be quantified without data based on actual Army experience. The conferees expect to be kept fully informed regarding the Army's accession programs, and will continue to examine this issue during its consideration of the fiscal year 1987 budget request.

TUITION ASSISTANCE

The House included report language directing the Department of Defense to provide guidance to all Services to implement a uniform policy which would allow students under the DOD tuition assistance program to utilize any educational institutions accredited by the Department of Education and the Council on Postsecondary Accreditation. The Senate did not address this issue. The conferees agree with the House position.

GUARD/RESERVE FORCES

The conferees agree to a reduction of $195,530,000 from requested amounts resulting from authorization reductions in full-time reserve end strengths. The conferees also agree that the Department should make every effort within available resources to increase drilling reserve average strengths above the minimums required in the 1986 Defense Authorization. Additionally, the Civilian Technician strengths addressed below are the basis for the Technician floor as established in Section 8047.

The following table summarizes strength levels as agreed to by the conferees.

FISCAL YEAR 1986 GUARD/RESERVE STRENGTHS

	Budget	Authorization	Conferees
Selected Reserve (average strength):			
Army Reserve	291,921	290,639	290,639
Navy Reserve	134,400	134,212	134,212
Marine Corps Reserve	41,900	41,900	41,900
Air Force Reserve	75,600	75,600	75,600
Army National Guard	444,000	440,025	440,025
Air National Guard	108,700	108,700	108,700
Total	1,096,521	1,091,076	1,091,076
Full-Time Reserve (end strength):			
Army Reserve	14,714	12,157	12,157
Navy Reserve	19,510	19,010	19,010
Marine Corps Reserve	1,475	1,475	1,475
Air Force Reserve	635	635	635
Army National Guard	30,679	23,731	23,731
Air National Guard	7,269	7,269	7,269
Total	74,282	64,277	64,277
Military (Civilian) Technicians:			
Army Reserve	7,623	7,623	7,623
Air Force Reserve	9,042	9,042	9,042
Army National Guard	24,129	26,629	26,629
Air National Guard	22,792	22,792	22,792
Total	63,586	66,086	66,086

MANAGEMENT OF RESERVE FORCES FULL-TIME SUPPORT PROGRAMS

The House included report language directing the Department of Defense not to allow further conversions of civilian technicians to AGR status until a report is submitted to the Committee outlining the Department's efforts to resolve the problems associated with the full-time support program and the House Appropriations Committee responds to such report. The Senate did not address this issue. The conferees agree to the House language.

MILITARY PERSONNEL, ARMY

The conferees agree to provide $21,078,169,000 instead of $21,761,423,000 as recommended by the House and $21,109,765,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−8,000	−12,100	−10,000
MILITARY PAY RAISE	601,157	541,041		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,500		
DEPENDENT UNDER 2 MILEAGE	4,400		3,667	3,667
HOUSEHOLD GOOD WEIGHTS	95,000	43,700	79,207	48,600
RETIRED PAY ACCRUAL	5,650,951	4,833,690	4,748,551	4,748,551
OVERSEAS HOUSING ALLOWANCES	98,714	97,716	98,714	97,714
AVERAGE END STRENGTHS—GROWTH	44,000	22,000	44,000	22,000
SELECTIVE REENLISTMENT BONUS	158,703	149,203	135,504	140,504
ENLISTMENT BONUS	115,400	113,400	107,400	113,400
OFFICER AVERAGE PAY RATES	4,736,478	4,721,478	4,721,478	4,721,478
PCS REIMBURSEMENTS		42,500		
SUBSISTENCE-IN-KIND	406,538	406,538	394,138	394,138
TEMPORARY LODGING EXPENSE	53,680	53,680	44,769	53,680
JUNIOR ENLISTED DEPENDENT TRAVEL	9,230	9,230	7,697	7,697
TRAVEL TO A DESIGNATED PLACE	6,075	6,075	5,066	5,066
ALL OTHER ITEMS	10,731,674	10,731,674	10,731,674	10,731,674
TOTAL, MILTARY PERSONNEL, ARMY	22,712,000	21,761,423	21,109,765	21,078,169

MILITARY PERSONNEL, NAVY

The conferees agree to provide $15,917,144,000 instead of $16,472,073,000 as recommended by the House and $15,838,363,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−10,100	−19,650	−15,000
MILITARY PAY RAISE	429,483	386,535		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,300		
DEPENT UNDER 2 MILEAGE	2,100		1,754	1,754
HOUSEHOLD GOOD WEIGHTS	43,200	21,700	36,029	24,100
RETIRED PAY ACCRUAL	4,160,052	3,551,923	3,498,852	3,498,852
FUNDED TRAVEL—SHIP O/H		−1,900	−1,900	−1,900
MILITARY PERSONNEL ADJUSTMENTS	9,150,339	9,150,339	8,962,992	9,033,139
AUTHORIZED END STRENGTH GROWTH	162,400	115,400	162,400	162,400
SELECTIVE REENLISTMENT BONUS	269,554	268,804	228,740	238,740
AVERAGE STRENGTH GROWTH	37,000	22,000	37,000	37,000
TEMAC FUNDING	23,000		23,000	13,000
PCS REIMBURSEMENTS		25,400		
UNEMPLOYMENT COMPENSATION	31,980	31,980	28,980	28,980
SUBSISTENCE-IN-KIND	351,291	351,291	336,091	336,091
TEMPORY LODGING EXPENSE	35,621	35,621	29,708	35,621
JUNIOR ENLISTED DEPENDENT TRAVEL	3,300	3,300	2,752	2,752
TRAVEL TO A DESIGNATED PLACE	2,800	2,800	2,335	2,335
PCS MOVES—MANAGEMENT			10,000	
ALL OTHER ITEMS	2,519,280	2,519,280	2,519,280	2,519,280
TOTAL, MILITARY PERSONNEL, NAVY	17,221,400	16,472,073	15,838,363	15,917,144

MILITARY PERSONNEL, MARINE CORPS

The conferees agree to provide $4,870,016,000 instead of $5,041,377,000 as recommended by the House and $4,835,456,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−3,000	−4,800	−4,000
MILITARY PAY RAISE	136,491	122,842		
DEPENDENT UNDER 2 MILEAGE	100		80	80
HOUSEHOLD GOOD WEIGHTS	15,600	7,700	13,009	8,600
RETIRED PAY ACCRUAL	1,297,896	1,106,022	1,090,896	1,090,896
FY 1985 RETENTION CARRYOVER		33,000		33,000
SELECTIVE REENLISTMENT BONUS	104,253	101,753	94,472	94,472
MILITARY PERSONNEL ADJUSTMENTS	2,828,524	2,828,524	2,814,811	2,818,624
AUTHORIZED END STRENGTH GROWTH	10,700	4,700	10,700	10,700
PCS REIMBURSEMENTS		16,000		
UNEMPLOYMENT COMPENSATION	17,614	17,614	14,614	14,614
SUBSISTENCE-IN-KIND	100,586	100,586	97,886	97,886
TEMPORARY LODGING EXPENSE	8,171	8,171	6,815	8,171
JUNIOR ENLISTED DEPENDENT TRAVEL	2,221	2,221	1,853	1,853
TRAVEL TO A DESIGNATED PLACE	750	750	626	626
ALL OTHER ITEMS	694,494	694,494	694,494	694,494
TOTAL, MILITARY PERSONNEL, MARINE CORPS	5,217,400	5,041,377	4,835,456	4,870,016

Military Personnel, Air Force

The conferees agree to provide $17,744,770,000 instead of $18,341,185,000 as recommended by the House and $17,688,587,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−5,900	−13,350	−9,500
MILITARY PAY RAISE	510,061	459,055		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,500		
DEPENDENT UNDER 2 MILEAGE	3,500		2,922	2,922
HOUSEHOLD GOOD WEIGHTS	88,500	40,800	73,808	45,300
RETIRED PAY ACCRUAL	4,816,907	4,079,198	4,051,307	4,051,307
MILITARY PERSONNEL ADJUSTMENTS	10,446,035	10,446,035	10,316,904	10,356,035
AUTHORIZED PERSONNEL END STRENGTH GROWTH	100,500	49,500	100,500	100,500
SELECTIVE REENLISTMENT BONUS	100,283	97,783	91,284	94,284
RENTENTION/LONGEVITY GROWTH	21,700	10,700	21,700	21,700
PCS REIMBURSEMENTS		66,100		
OFFICER MANYEARS			−27,900	
UNEMPLOYMENT COMPENSATION	39,021	39,021	27,021	27,021
SUBSISTENCE-IN-KIND	141,809	141,809	137,609	137,609
TEMPORARY LODGING EXPENSE	35,000	35,000	29,190	35,000
JUNIOR ENLISTED DEPENDENT TRAVEL	6,300	6,300	5,254	5,254
TRAVEL TO A DESIGNATED PLACE	5,700	5,700	4,754	4,754
PCS MOVES-MANAGEMENT			−5,000	
ALL OTHER ITEMS	2,872,584	2,872,584	2,872,584	2,872,584
TOTAL, MILITARY PERSONNEL, AIR FORCE	19,187,900	18,341,185	17,688,587	17,744,770

Reserve Personnel, Army

The conferees agree to provide $2,178,564,000 instead of $2,159,254,000 as recommended by the House and $2,203,014,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousand of dollars]

	Budget	House	Senate	Conference
SURPLUS FUNDING	50,000	30,000	50,000	30,000
MILITARY PAY RAISE	54,686	49,217		
RETIRED PAY ACCRUAL	603.447	443,820	513,247	513,247
AGR END STRENGTH GROWTH	80,661	29,261	35,061	29,261
BRANCH OFFICERS BASIC COURSE	32,451	27,451	32,451	27,451
RESERVE INCENTIVES		6,350		6.350
SUBSISTENCE-IN-KIND			−900	−900
ALL OTHER ITEMS	1,573,155	1,573,155	1,573,155	1,573,155
TOTAL, RESERVE PERSONNEL, ARMY	2,394,400	2,159,254	2,203,014	2,178,564

Reserve Personnel, Navy

The conferees agree to provide $1,267,734,000 instead of $1,297,123,000 as recommended by the House and $1,264,334,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
TAR END STRENGTH GROWTH	58,172	53,672	51,372	53,672
MILITARY PAY RAISE	29,366	26,429		
RETIRED PAY ACCRUAL	334,628	284,488	281,528	281,528
RESERVE INCENTIVES		1,100		1,100
ALL OTHER ITEMS	931,434	931,434	931.434	931,434
TOTAL, RESERVE PERSONNEL, NAVY	1,353,600	1,297,123	1,264,334	1,267,734

Reserve Personnel, Marine Corps

The conferees agree to provide $272,250,000 instead of $278,842,000 as recommended by the House and $272,200,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	6,400	5,760		
RETIRED PAY ACCRUAL	71,450	60,882	60,050	60,060
RESERVE INCENTIVES		50		50
ALL OTHER ITEMS	212,150	212,150	212,150	212,150
TOTAL, RESERVE PERSONNEL, MARINE CORPS	290,000	278,842	272,200	272,250

RESERVE PERSONNEL, AIR FORCE

The conferees agree to provide $584,430,000 instead of $597,153,000 as recommended by the House and $583,330,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	14,370	12,933		
RETIRED PAY ACCRUAL	155,531	130,521	130,731	130,73
RESERVE INCENTIVES		1,100		1,10
ALL OTHER ITEMS	452,599	452,599	452,599	452,59
TOTAL, RESERVE PERSONNEL, AIR FORCE	622,500	597,153	583,330	584,43

NATIONAL GUARD PERSONNEL, ARMY

The Conferees agree to provide $3,066,568,000 instead of $3,238,217,000 as recommended by the House and $3,062,098,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	79,802	71,822		
RETIRED PAY ACCRUAL	898,792	835,558	757,192	757,192
AGR END STRENGTH	203,942	64,312	60,042	64,312
DRILLING RESERVE AVG STRENGTH	1,698,925	1,716,986	1,698,925	1,698,925
RESERVE INCENTIVES		200		200
SUBSISTENCE-IN-KIND			−3,400	−3,400
ALL OTHER ITEMS	549,339	549,339	549,339	549,339
TOTAL, NATIONAL GUARD PERSONNEL, ARMY	3,430,800	3,238,217	3,062,098	3,066,568

NATIONAL GUARD PERSONNEL, AIR FORCE

The Conferees agree to provide $926,516,000 instead of $953,204,000 as recommended by the House and $926,516,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	25,684	23,116		
RETIRED PAY ACCRUAL	267,136	227,608	224,436	224,436
RESERVE INCENTIVES		200		200
SUBSISTENCE-IN-KIND			−200	−200
ALL OTHER ITEMS	702,280	702,280	702,280	702,280
TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE	995,100	953,204	926,516	926,716

TITLE II—OPERATION AND MAINTENANCE

The conferees agree to the following amounts for the Operation and Maintenance accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE—SUMMARY				
ARMY	20,190,630	18,659,638	19,043,039	18,975,507
NAVY	25,797,700	23,862,002	24,528,310	24,477,071
MARINE CORPS	1,667,400	1,615,128	1,609,000	1,612,050
AIR FORCE	20,924,400	19,507,672	19,468,901	19,536,813
DEFENSE AGENCIES	7,568,900	7,340,076	7,479,956	7,432,569
ARMY RESERVE	779,600	774,980	793,100	780,100
NAVY RESERVE	954,500	896,415	896,700	894,950
MARINE CORPS RESERVE	61,600	57,120	57,200	57,200
AIR FORCE RESERVE	907,700	896,844	910,200	902,700
ARMY NATIONAL GUARD	1,605,200	1,646,305	1,656,500	1,652,800
AIR NATIONAL GUARD	1,830,100	1,803,862	1,806,200	1,806,200
NATIONAL BRD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY	920	820	920	920
CLAIMS, DEFENSE	158,300	148,300	143,300	143,300
COURT OF MILITARY APPEALS	3,200	3,200	3,200	3,200
PAN AMERICAN GAMES		10,000	10,000	10,000
ENVIRONMENT RESTORATION, DEFENSE			429,100	379,100
(BY TRANSFER)		(329,100)		
GRAND TOTAL, OPERATION AND MAINTENANCE	82,450,150	77,222,362	78,835,626	78,664,480

The following items represent agreements of the conferees:

AUTHORIZATION COMPLIANCE

The amounts recommended by the conferees for each Operation and Maintenance appropriation are, for the most part, at or below the authorized level for those accounts. The exceptions to this compliance with authorization are in the Guard and Reserve accounts and result from the confer-

ees' attempts to improve the capabilities of the reserve components. The conferees were able to fund some high priority readiness items which were not in the Authorization package by offsetting these readiness initiatives with reductions against lower priority or over-budgeted programs. The conferees agree not to apply all of the Authorization non-programmatic reductions in the Operation and Maintenance accounts, because this would have resulted in a "double-dip" against many of the specific program reductions agreed to by the conferees. The Department is directed, where appropriate, to consider the unspecified Authorization cuts when applying the conference reductions.

DRUG INTERDICTION

PATROL AIRCRAFT FOR CUSTOMS SERVICE

The conferees agree to provide $6,000,000 for modification of two patrol (P-3A) aircraft to be transferred to the Customs Service instead of $7,427,000 as provided by the Senate. Any additional funds required to complete modification of these aircraft should be provided within available resources.

DEPARTMENT OF DEFENSE DRUG INTERDICTION MISSIONS

The conferees provide nearly $300,000,000 to enhance drug interdicton efforts of the Department of Defense. The conferees strongly believe that the Department can and should play a major role in helping to minimize the importation of illegal drugs.

In addition to specific enhancements of drug interdiction contained in this conference report, the conferees provide an appropriation of $35,000,000 to Aircraft Procurement, Air Force, to initiate the formation of a drug interdiction element or elements within the Air Force. This level of funding will allow the Air Force to commence the configuration of one AC-130H-30 pressurized drug surveillance aircraft and to establish an appropriate command and control element for the drug interdiction mission within the Air Force.

The conferees believe that the Air Force special operations forces would be the appropriate choice to carry out this new mission. The conferees note that the provisions of the Posse Comitatus Act require that support to civilian law enforcement be provided with no degradation to service combat readiness. Although the Department has considered other approaches, the conferees strongly believe that the best balance of providing peacetime drug interdiction and building wartime combat capability is to purchase and configure the initial AC-130H-30 special operations aircraft for both missions. The conferees believe that this approach will be the most cost-effective in meeting both the drug interdiction and Posse Comitatus objectives of the Department.

To this end, the conferees believe that this new drug interdiction initiative is compatible with and addresses the need for the replacement of aging AC-130 gunships. The configuration of replacement AC-130 pressurized gunships can provide an ideal surveillance and detection aircraft with sensors, communications, and other equipment that is also compatible with the drug interdiction assistance mission. The conferees believe it is important for the Air Force to move promptly to establish this new drug interdiction program. Accordingly, the conferees direct the Air Force to take the necessary steps to ensure delivery of the first AC-130H-30 pressurized drug interdiction aircraft no later than January 31, 1987. The configuration and schedule for this initial aircraft is predicated on the use of a currently available C-130h-30 stretched variant, in order to permit a pressurized drug interdiction/gunship aircraft. Older gunship configurations are unpressurized and thereby unsuitable for the drug interdiction role and are severely limited in the gunship role. The first aircraft shall be a fully operational drug interdiction aircraft with maximum subsystems integration possible to permit contingency installation of remaining gunship-peculiar equipment in wartime or other national emergency.

The conferees recognize the contracted nature of this schedule and therefore direct the Air Force to immediately proceed with the contracting necessary to assure the needed priorities for the radar and subsystems, CFE airframes and equipment, and other such means of expediting delivery of the aircraft. The conferees strongly support the national consensus for a swift response to the need for DOD assistance against the drug threat. In this regard, the Department should consider budgeting for an additional nine pressurized drug surveillance aircraft in fiscal years 1987 and 1988, in order to allow the Air Force to perform its priority role in assisting the overall drug interdiction effort.

CUSTOMS SERVICE DRUG INTERDICTION PROGRAM

The conferees agree with the Senate position to allocate $7,900,000 in contract savings to purchase two additional Blackhawk helicopters to replace two older Blackhawk helicopters which the Senate directed the Army to transfer to the Customs Service Drug Interdiction Program.

STOCK FUNDS REFUNDS

The House refunded a total of $2,425,000,000 from Defense Department stock funds to the Operation and Maintenance accounts as a result of reduced fuel prices and excess cash balances. In addition, the House directed the Stock Funds to reduce cash reserves from 11 to 5 days. The Senate refunded a total of $1,774,900,000 for the same reasons; however, the Senate reductions were based on different assumptions. Additionally, the Senate directed the Departments to study the proposal to reduce cash reserves from 11 to 5 days.

The conferees agree to a total refund of $2,043,600,000 to the Operation and Maintenance accounts. This refund assumes that the Department has overestimated fuel prices by $435,500,000. The conferees also agree that the stock funds will experience cash excesses in fiscal year 1986 in an amount equal to the excess cash earned in fiscal year 1985 (above the amounts assumed when the fiscal year 1986 budget was prepared), and have reduced stock fund cash balances by $1,608,100. Included in this reduction is the Army Aviation spares refund addressed in the Senate report. The conferees did not agree to the House position to refund from the stock funds refunds directly to the Operation and Maintenance account for Navy real property maintenance, Marine Corps Reserve material readiness items, or Air Force depot maintenance. Finally, the conferees agree that the Department should study the House proposal to reduce stock fund cash reserves from 11 to 5 days and submit a report to the Committees by February 15, 1986.

INDUSTRIAL FUNDS

The House recommended refunds from Defense Department Industrial Funds to the Operation and Maintenance accounts of $940,000,000 based on net operating results in fiscal year 1985 in excess of estimates made by the Department in the fiscal year 1986 request. The Senate recommended reductions of $200,000,000 for the same reason, but based on the Department's latest estimates on net operating results. The conferees agree that the appropriate refund amount to the Operation and Maintenance accounts is $400,000,000. This refund is based on the Defense estimates for excess fiscal year 1985 net operating results of $200,000,000 but assumes that fiscal year 1986 rates are overpriced by a like amount and that the Industrial Funds will experience another $200,000,000 excess in net operating results in fiscal year 1986. The conferees do not agree to the House recommendation to refund $71,000,000 from the Industrial Funds directly to Navy Operation and Maintenance for Depot Maintenance.

REAL PROPERTY MAINTENANCE

The conferees agree to increase funding for Real Property Maintenance by $114,500,000 from the budget request instead of $175,500,000 as recommended by the Senate. The conferees further agree with the Senate language requiring all funding identified in the justification material for recurring maintenance projects be used for only that purpose. Further, the additional funding provided in excess of the budget request shall be used for recurring maintenance except that $5,928,000 shall be available for projects associated with Hurricane Elena damage as identified in the Senate report.

RECRUITING AND ADVERTISING

The conferees agree to a total reduction of $35,550,000 to recruiting and advertising resources. This is $13,450,000 below the Senate and $13,750,000 above the House amounts. The conferees question the Army's minimum desired goal of 59% of high quality non-prior service accessions, considering the minimum requirement of the Marine Corps is 35% and the two services are similar in their requirements for technical expertise. As such, the conferees direct the Office of the Secretary of Defense to examine whether the Army's minimum quality requirement should be higher than the Marine Corps and report its results to the Committees on Appropriations by May 1, 1986.

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) TESTING AND RESEARCH

The House provided $15,000,000 for the Army to begin testing recruits for Acquired Immune Deficiency Syndrome (AIDS). The Senate provided $67,600,000 for all the Services to begin testing all military for AIDS. The Senate also included $52,600,000 in Army Research and Development funds for research on AIDS. The conferees agree to provide a total of $55,100,000 for testing for AIDS, broken out as follow:

Army	$42,600,000
Navy	5,000,000
Air Force	5,000,000
Army National Guard	2,500,000
Total	55,100,000

The conferees agree that the Department of Defense must submit to the Committees on Appropriation a comprehensive AIDS Testing policy by February 1, 1986.

The conferees agree to provide $40,000,000 to the Army for research on AIDS. The conferees insist that the Department of Defense work, to the maximum extent possible, with the National Institutes of Health

in developing AIDS testing and research programs.

PROFESSIONAL DEVELOPMENT EDUCATION ISSUES

The Senate reduced $13,923,000 from the various Services' professional education programs based on a Defense Inspector General report which cited serious problems with how education requirements are determined and how officers educated under this program are not effectively utilized. The House did not address this issue. The conferees agree to a reduction of $11,423,000, but direct that, to the extent possible, the cuts not be applied against in-house professional education programs, such as the Naval Post Graduate School.

FLAT RATE PER DIEM

The conferees agree to a reduction of $6,400,000 instead of the $11,800,000 as provided by the Senate. The conferees further agree to the Senate general provision (Sec. 8083) on flat rate per diem with the understanding this provision is intended to be in effect throughout the period covered by this Act.

PUBLIC AFFAIRS AND LEGISLATIVE LIAISON LIMITATIONS

The conferees agree with the Senate that public affairs and legislative liaison activities should not be held to fiscal year 1985 levels. However, the following public affairs and legislative liaison programs are reduced due to excessive program growth:

	Public Affairs	Legislative Liaison
Army	0	−$50,000
Defense Agencies	−$50,000	−50,000
Total	−50,000	−100,000

MEDICAL READINESS

The conferees agree to increase funding for medical readiness by $125,900,000 instead of $235,500,000 as proposed by the Senate. The conferees recognize the critical need for improving wartime medical readiness. Funds will provide for requirements for two Army MASH units, one combat support hospital, two medical evacuation units, two Navy fleet hospitals, and one Air Force 500 bed hospital. In addition, funding provides $20,000,000 to further reduce the backlog of Army maintenance and repair projects at medical facilities in Central Europe below the levels programmed in the fiscal year 1986 budget request.

The conferees direct that this funding is contingent upon the Assistant Secretary of Defense for Health Affairs submitting a plan and funding profile to the Committees on Appropriations by March 15, 1986, which describes the unfinanced requirement for wartime medical readiness and how the requirement will be satisfied.

The conferees further agree with the House report language on medical readiness in the European Command (EUCOM)

PREFINANCING NATO REPAIR PROJECTS

The conferees agree to permit the Defense Department to continue to prefinance NATO repair projects in fiscal year 1986. The conferees are concerned that by prefinancing repair projects, the United States is not reimbursed for projects that are eligible for and should be funded with NATO Infrastructure funds. The conferees direct the U.S. European Command (EUCOM) to submit a report to the Committees on Appropriations by May 1, 1986, to include for fiscal years 1983 through 1985 a list of repair projects and associated costs: (1) for which the Department has applied for NATO Infrastructure funding; (2) that were determined eligible for NATO Infrastructure funding; (3) that were prefinanced with operating funds; and (4) that were recouped by NATO Infrastructure funds. The conferees also direct EUCOM to report on the status of the fiscal year 1986 repair project and associated costs by May 1, 1986.

COMPETITIVE RATE PROGRAM

The conferees agree with the report language of the Senate regarding any future change in the existing rate system for Alaska and Hawaii.

PRICE OF TOBACCO PRODUCTS

The conferees agree to delete the Senate provision requiring the Department to increase the price of tobacco products and also have restored associated funding. The conferees are concerned about the health issues surrounding tobacco products and the military, and direct the Assistant Secretary of Defense for Health Affairs to submit a report on his recommendation concerning this vital issue by March 1, 1986. This report should include a study to determine the effects of cigarette prices on military consumption patterns, the health of military personnel, and the economic cost to the military and society. Additionally, the conferees direct the Defense Department to report on the economic impact of increasing the price of tobacco products in commissaries and exchanges, and of including state and local taxes in the price of tobacco products. Further, the Department should inform the Committees of the status of an internal Defense Department proposal to discontinue the sale of cigarettes in commissaries.

CONTRACTING OUT LIBRARIES

The House requested that the Department of Defense ensure that if contractors are used to provide technical library services, their practices take into account national security concerns. The Senate did not address this issue. The conferees accept the House position, with clarifying language as follows:

The conferees are concerned that the Department of Defense may be contracting with corporations, partnerships, associations or individuals who are not employees of the Department of Defense, for the management of technical libraries, including proprietary data and information that is classified or of a sensitive nature. The conferees request that if the Department considers the use of outside contractors in providing technical library services, it must ensure their practices take into account national security concerns.

REPORT ON COST SAVINGS UNDER CONTRACTING OUT PROCEDURES

The House requested the Secretary of Defense to submit a report on cost savings resulting from efforts contracted to the private sector since January 1, 1981. The Senate considered this reporting requirement excessive. The conferees agree the requirement for a report on the experience of the Department of Defense since October 1, 1983 on the conversion to contractor operation, commercial or industrial type functions which had previously been performed by Department of Defense personnel, is not excessive and is requested by April 15, 1985.

CONTRACTED ADVISORY AND ASSISTANCE SERVICES

The House directed the Department of Defense to revise the definitions of contracted advisory and assistance services and submit the fiscal year 1987 budget exhibits based on the new definitions. The Senate did not address this issue. The conferees agree with the House language and further agree that this requirement does not affect the execution of the fiscal year 1986 program. The language refers to the preparation and execution of fiscal year 1987 and future budgets.

NONREIMBURSABLE DETAILS OF DOD PERSONNEL

The conferees agree with the House position on limiting nonreimbursable details of Department of Defense personnel. While the conferees agree that, in general, nonreimbursable details are improper, there are limited circumstances in which they may still be allowed. If the detail is in fulfillment of a specific personnel development or career enhancement program, or to a headquarters or appropriate Office of the Secretary of Defense level, it would not be subjected to this limitation.

SPECIAL OPERATIONS FORCES

The conferees agree with the language included in the House report concerning Special Operations Forces, with the exceptions that (1) there to no personnel ceiling placed on the 23rd Air Force, (2) the reports requested by the House should be submitted to the Congress no later than March 1, 1986, and (3) the report addressing the feasibility of creating a single command structure for Special Operations should also address options other than creation of a subordinate command of JCS.

CIVILIAN WORKYEAR REDUCTIONS

Reductions made in reference to civilian workyear reductions are discussed in the Military Personnel section of this report.

OPERATION AND MAINTENANCE, ARMY

The conferees agree to provide $18,975,507,000 instead of $18,659,638,000 as recommended by the House and $19,043,039,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY				
STOCK FUND FUEL (REFUND)	441,237	400,237	412,537	406,387
STOCK FUND PRICE REESTIMATE	2,695,941	2,210,541	2,318,241	2,318,241
FOREIGN CURRENCY EXCHANGE RATE		−462,400	−418,400	−418,400
INDUSTRIAL FUND—REFUND	1,941,256	1,761,256	1,881,256	1,821,256

[In thousands of dollars]

	Budget	House	Senate	Conference
INFLATION REESTIMATE	322,599	311,599	311,599	311,599
DEPOT MAINTENANCE	1,688,000	1,699,000	1,699,000	1,699,000
EXPENSE/INVESTMENT CRITERIA CHANGE	164,100	31,000	31,000	31,000
REAL PROPERTY MAINTENANCE	1,607,400	1,632,400	1,657,400	1,632,400
CIVILIAN PAY REDUCTION RESTORATION	−262,400	−131,200		
UNEMPLOYMENT COMPENSATION (NAFE)	13,459	12,163	13,459	12,163
CLASSIFIED PROGRAMS		−2,735	−3,240	−4,240
BASE OPERATING SUPPORT		−30,000	−30,000	−30,000
FORCE MODERNIZATION	564,200	534,200	433,100	483,100
COMMAND AND CONTROL	932,600	922,600	922,600	922,600
COMMUNICATIONS		−10,000	−10,000	−10,000
ADP MANAGEMENT		−15,000		−2,300
IMPROPER USE OF O&M FUNDS		−15,000		
YEAR END SPENDING		−6,000		
PERSONAL SERVICES CONTRACTING	19,000	16,000	19,000	19,000
CONTRACT STUDIES		−5,000		−2,500
ADMINISTRATION	658,700	638,700	638,700	638,700
PRODUCTIVITY	5,288,484	5,188,484	5,288,484	5,288,484
RECRUITING/ADVERTISING	290,800	273,800	266,800	273,800
ADMINISTRATION/SUPERVISION	7,000	4,000	7,000	7,000
OTHER COMBAT EQUIPMENT ACTIVITIES	154,600	152,600	154,600	154,600
MECHANIZATION OF THE CORPS OF ENGINEERS	3,400	2,400	2,400	2,400
DISPLACED EQUIPMENT	238,100	235,100	238,100	238,100
INFRASTRUCTURE SUPPORT	2,200	1,200	1,200	1,200
CONTRACTING INITIATIVES	5,000		5,000	5,000
CAPITAL EXPENSE EQUIPMENT	6,800	5,800	6,800	6,800
OTHER PERSONNEL ACTIVITIES	41,900	39,900	41,900	41,900
CIVILIAN TRAINING	6,000	5,000	6,000	6,000
OPERATIONAL SUPPORT	6,800	3,800	6,800	6,800
AREA ORIENTED DEPOT MODERNIZATION	6,000	4,000	6,000	6,000
AUDIT FOLLOW-UP		−10,000		
AAFES LEASE PAYMENTS		−1,000		
DESIGN COSTS OF NONAPPROPRIATED FUND PROJECTS		−1,000		
FAMILY ACTION PROGRAMS		−10,000	−24,500	−20,000
FINANCIAL MANAGEMENT		−5,000		
EXCESS PROPERTY		−5,000		
INVENTORY CONTROL		15,000		
BASE OPERATIONS—EUROPE HOMES	6,086	2,586	6,086	2,586
MORALE, WELFARE & RECREATION	503,586	479,086	503,586	499,086
REICHEL FACILITY—RUG AND SHOE FACTORY	15,300	14,800	15,300	14,800
WESTCOM HEADQUARTERS	2,041	305	2,041	305
WARTIME HOST NATION	8,800	4,400	8,800	8,800
AUTOMATIC TELEPHONE SWITCH	10,000		10,000	10,000
HISTORIAN PROGRAM	4,428	3,628	4,428	3,628
DRUG TESTING	9,800	11,300	9,800	11,300
SGT. YORK OPERATING SUPPORT	69,800			
AIDS TESTING		15,000	42,600	42,600
MEDICAL ENHANCEMENTS		40,000		20,000
LEGISLATIVE LIAISON ACTIVITIES		−140		−50
PUBLIC AFFAIRS ACTIVITIES		−385		
PROFESSIONAL EDUCATION			−4,708	−4,708
AVIATION SPARE REFUND			−98,000	−98,000
ARMY LIFE CYCLE SUPPORT SOFTWARE			−1,143	−1,143
ARMY DEPOT SYSTEM REORGANIZATION			−1,200	−1,200
AUDIOVISUAL ACTIVITIES TRANSFER			1,000	1,000
ENVIRONMENTAL RESTORATION			−128,400	−128,400
COMMISSARY SUBSIDY			−32,700	
MEDICAL READINESS			63,100	39,200
DIVAD REPLACEMENT			4,800	4,800
READINESS INITIATIVES			1,87,000	137,000
CIVILIAN WORKYEAR REDUCTION			−149,800	−149,800
ALL OTHER ITEMS	2,717,613	2,717,613	2,717,613	2,717,613
TOTAL, ARMY	20,190,630	18,659,638	19,043,039	18,975,507

ARMY READINESS INITIATIVES

The conferees agree to provide $137,000,000 for Army readiness initiatives instead of $187,000,000 as recommended by the Senate. The conferees understand this funding will be used to enhance unit training, and provide for necessary equipment and supplies for force protection and organizational clothing and equipment.

MEDICAL ENHANCEMENTS

The conferees agree to provide $20,000,000 to the Army for the enhancement of medical staffing. Based on the recent review of Madigan Army Medical Center citing a severe shortage in nursing staff, the conferees direct that $7,700,000 of this funding be used to satisfy the shortage of nursing and ancillary staff at Madigan.

WARTIME HOST NATION SUPPORT

The conferees agree to provide $8,800,000 in operation and maintenance funding for Wartime Host Nation Support, $4,400,000 above the House level. The conferees agree with the direction included in the Senate report restricting the use of the funds only for the Host Nation Support program and instructing the Army to budget for operations in the fiscal year the units are activated.

ARMY REDUCTIONS FOR ADP MANAGEMENT

The conferees agree to a reduction of $2,300,000 for management of automatic data processing (ADP) to be applied to the Army's National Training Center Feedback System.

YUMA PROVING GROUNDS

The conferees agree to the Senate Report language contained in the continuing resolution which allows the Army to move forward with contract support functions at Yuma Proving Grounds under the conditions established in the Senate report accompanying H.J. Res. 465.

OPERATION AND MAINTENANCE, NAVY

The conferees agree to provide $24,477,071,000 instead of $23,862,002,000 as recommended by the House and $24,528,310,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE NAVY				
STOCK FUND FUEL—REFUND	1,906,303	1,728,303	1,786,603	1,757,453
STOCK FUND PRICE REESTIMATE	3,440,203	2,651,303	2,759,803	2,707,803
INFLATION REESTIMATE	379,000	364,000	364,000	364,000
FOREIGN CURRENCY EXCHANGE RATE		−242,800	−198,800	−198,800
INDUSTRIAL FUND—REFUND	7,663,222	7,194,222	7,593,222	7,523,222
DEPOT MAINTENANCE (AIRCRAFT-VEHICLES)	2,027,200	2,047,200	2,047,200	2,047,200
REAL PROPERTY MAINTENANCE	801,000	846,000	851,000	846,000
PRODUCTIVITY	2,880,708	2,831,308	2,880,708	2,880,706
PAY REDUCTION RESTORATION	−345,700	−172,850		
UNEMPLOYMENT COMPENSATION (NAFE)	2,500	2,175	2,500	2,175
EXPENSE/INVESTMENT CRITERIA CHANGE	223,300	42,100	42,100	42,100
MILITARY PERSONNEL	30,000	10,900	10,900	10,900
CLASSIFIED PROGRAMS		−4,612	−4,612	−4,112
FLEET COMMANDS AND STAFF	105,623	97,919	104,623	103,523
SPECIALIZED TRAINING	166,300	165,300	165,300	165,300
INACTIVE SHIP REWORK	75,422	422	422	422
BASE OPERATING SUPPORT		−35,000	−35,000	−35,000
NAVAL SEA SYSTEMS COMMAND	1,766,697	1,736,697	1,736,697	1,736,697
TRAINING SUPPORT	376,900	375,900	375,900	375,900
CNO STAFF OFFICES	48,375	46,755	47,375	46,755
MILITARY PERSONNEL COMMAND	117,386	112,386	112,386	112,386
EXCESS PROPERTY		−5,000		
ADP MANAGEMENT		−25,000	−25,000	−25,000
IMPROPER USE OF O&M FUNDS		−20,000		
CONTRACT STUDIES		−10,000		−5,000
NAVAL SPACE COMMAND	17,857	16,857	16,857	16,857
CRUISE MISSILE	87,183	86,183	86,183	86,183
AUDIT FOLLOWUP		−10,000		
YEAR END SPENDING		−10,000		
SMALL CLUBS		−1,000		
FINANCIAL MANAGEMENT		−10,000		
SEALIFT	573,400	557,400	573,400	573,400
COMMAND AND CONTROL	651,600	636,600	636,600	636,600
COMMUNICATIONS		−11,000	−11,000	−11,000
SUBMARINE INACTIVATIONS	61,641	29,641	61,641	61,641
T-AGOS OPERATIONS	38,232	33,232	38,232	38,232
MCM OPERATIONS	800		800	
AIRCRAFT MOD INSTALLATIONS	268,112	258,112		258,112
STATION HOSPITALS	165,406	165,294	165,406	165,294
MANPOWER ENGINEERING CENTER	20,353	20,028	20,353	20,028
NAVAL AUDIT SERVICE	26,346	25,846	26,346	25,846
COMMAND HEALTH CARE	519, 287	518,237	519,287	518,237
LAW ENFORCEMENT PERSONNEL ON NAVAL VESSELS		15,000	15,000	15,000
READY RESERVE FLEET DISPOSAL		3,600		3,600
LEGISLATIVE LIAISON ACTIVITIES		−65		
PUBLIC AFFAIRS ACTIVITIES		−135		
RECRUITING/ADVERTISING		−2,500	−4,000	−3,250
PROFESSIONAL EDUCATION			−3,585	−3,585
TRANSPORTATION			−13,000	−13,000
NAVY MATERIAL COMMAND			−20,040	−15,000
STEAMING HOURS			−85,000	−65,000
AUDIOVISUAL ACTIVITIES			1,000	1,000
ENVIRONMENTAL RESTORATION			−42,900	−42,900
COAST GUARD REIMBURSEMENT		100,000		100,000
AIDS			11,000	5,000
P-3A MODIFICATIONS			3,747	3,000
COMMISSARY SUBSIDY			−1,600	
CIVILIAN WORKYEAR REDUCTION			−54,900	−54,900
ALL OTHER ITEMS	1,703,044	1,703,044	1,703,044	1,703,044
TOTAL, NAVY	25,797,700	23,862,002	24,528,310	24,477,071

STEAMING HOURS

The conferees agree to reduce funding for steaming hours by $65,000,000 instead of $85,000,000 as provided by the Senate. The conferees further agree with the Senate report language which expresses concern with the Navy's continued overallocation of steaming hours to the deployed fleet. The conferees believe the Navy should make every attempt to stay within the budget request of 50.5 steaming days per quarter for the deployed fleet and the historical experience of 27.4 steaming days per quarter for the non-deployed fleet. If additional steaming days become available during fiscal year 1986, they should be allocated to the non-deployed fleet.

FLEET COMMANDS AND STAFF

The conferees agree to a reduction of $1,050,000 for the Navy's Fleet Commands and Staff based on the Navy's insistence on funding fiscal year 1985 audiovisual activities for the Fleet Commands and Staff after the Congress specifically reduced this program in fiscal year 1985.

While the conferees agree to restore $6,654,000 of the reduction made by the House, the conferees direct that funds shall not be moved into or out of this account without prior approval of Congress. Furthermore, the conferees wish to make it understood that the way in which the Navy internally reprograms and shifts funding in the administrative and associated activities account is of Congressional concern and will be monitored by the House and Senate Defense Appropriations subcommittee in fiscal year 1986.

SHIP REPAIR AND MAINTENANCE POLICY

The House included report language which opened up Selected Restricted Availabilities (SRAs) on a coast-wide basis. The Senate included a general provision which expressed the sense of the Senate to encourage competition while recognizing personnel impacts. The Senate provision also called for opening up repair work on Naval Reserve Ships to coast-wide bids.

The conferees agree with the intent of the sense of the Congress bill language proposed by the Senate to encourage competition while recognizing personnel impact. Since the language does not pertain to the use of funds, the conferees have included the intent of the discussion of ship maintenance policy in this statement of the managers.

The primary objection to expansion of ship repair work for short term maintenance projects is that the personnel impact could be substantial. The conferees understand that the nature of Navy service frequently requires personnel to spend extended periods of time away from their families which has become the most significant personnel retention impediment. Perform-

ance of short term maintenance in homeport permits Navy personnel to be with their families periodically. This consideration has driven Navy policy toward retention of such sort term ship work to homeport.

Although the conferees are understanding of the personnel concerns, there is also a recognition that expanded competition beyond the homeport is an effective means to instill competition in the industry, achieve lower costs, and retain the broadest possible industrial mobilization base. For shorter term maintenance work, the personnel and expanded competition objectives can be conflicting.

The conferees believe that the Navy should endeavor to maximize competition for ship repair with the objective of attaining lowest cost while remaining cognizant of personnel impact. In this regard, consideration of the competitive contract bidding methodology should be determined on the basis of the nature of the work to be performed, independent of duration.

The Navy has repeatedly testified to the critical need to retain the ship repair industrial base. The dearth of work planned for the current and future years for non-homeport yards will make it difficult to achieve the dual objectives of retaining industrial capacity and the current Navy personnel policy. As an interim measure, until the Navy has established a competitive contract bidding methodology for all forms of ship maintenance based on the nature and scope of the work to be performed, the Navy should endeavor to implement increased competition in short-term maintenance and repair contracts, where feasible, with a goal of competing twenty-five percent on a coastwide basis.

Since there is a marginal personnel impact for SRA and PMA Navy Reserve fleet ship repair conducted outside the homeport area, the Navy should contract for such work through coast wide bidding procedures. The exception to this approach would be for those Naval Reserve vessels which do not share a homeport with the active Navy fleet.

CERTIFICATION OF PRIVATE YARDS

The House included language which directed the Navy to cease providing the use of Navy piers and drydocks to private shipyards to perform ship maintenance and repair projects, unless no such facilities are available in other private shipyards. The Senate did not address this issue. The conferees agree that there are instances where, for operational, security or other mission reasons, the Navy desires to contract out ship repair work to be performed at Navy yards. The conferees agree that in these circumstances, the Navy may award contracts to ship repair facilities who do not own their own piers or drydocks. Additionally, the conferees agree that ship repair facilities which lease piers or docks from other concerns should be eligible for repair work.

PUBLIC/PRIVATE SHIP REPAIR COMPETITION

The House included language to provide for a test program to require the overhaul of two or more vessels by competition between public and private shipyards. The Senate language called for six or more ships. The conferees agree to a competition for overhaul of four or more ships.

COAST GUARD OPERATING EXPENSES

The House included a provision providing $100,000,000 to the Navy to transfer to Coast Guard operating accounts. The Senate did not address this issue. The conferees agree to add $100,000,000 to the Operation and Maintenance, Navy account. The conferees agree that these funds shall be used by the Navy to reimburse the Coast Guard for expenses related to training of the Coast Guard and maintenance by the Coast Guard of equipment which would be available to carry out missions determined by the Navy in the event of hostilities. The conferees also agreed to fund additional Coast Guard equipment as addressed in the Procurement section of the Conference Report and Statement of Managers.

ROTATION OF SES IN THE NAVY

The House requested the Secretary of the Navy to delay the implementation of his plan to rotate Senior Executive Service members throughout the Navy. The Senate did not address this issue. The conferees agree with the House position. The conferees believe this issue requires the benefit of hearings and further review by the cognizant congressional committees before implementation to determine its impact on program turbulence. The conferees would be greatly concerned if the Secretary of the Navy implemented a program to rotate Senior Executive Service members before hearings can be held.

OPERATION AND MAINTENANCE, MARINE CORPS

The conferees agree to provide $1,612,050,000 instead of $1,615,128,000 as recommended by the House and $1,609,000,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS				
STOCK FUND FUEL—REFUND	37,700	35,400	35,900	35,650
STOCK FUND PRICE REESTIMATE	240,790	212,790	212,790	212,790
FOREIGN CURRENCY EXCHANGE RATE		−11,200	−11,200	−11,200
REAL PROPERTY MAINTENANCE	242,000	248,000	248,000	248,000
EXPENSE/INVESTMENT CHANGE	15,400	2,900	2,900	2,900
PAY REDUCTION RESTORATION	−15,500	−7,750		
PRODUCTIVITY	453,152	446,452	453,152	453,152
IMPROPER USE OF O&M FUNDS		−2,000		
O&M OF NEW EQUIPMENT/INITIAL ISSUE EQUIPMENT	55,861	54,861	55,861	54,861
RECRUITING/ADVERTISTING		−2,300	−1,000	−1,700
AUTHORIZATION ADJUSTMENT		−22		
TRANSPORTATION			−15,600	−10,600
INFLATION			−1,000	−1,000
MILITARY END STRENGTH			−1,400	−1,400
CIVILIAN WORKYEAR REDUCTION			−7,400	−7,400
ALL OTHER ITEMS	637,997	637,997	637,997	637,997
TOTAL, MARINE CORPS	1,667,400	1,615,128	1,609,000	1,612,050

OPERATION AND MAINTENANCE, AIR FORCE

The Conferees agree to provide $19,536,813,000 instead of $19,507,672,000 as recommended by the House and $19,468,901,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE				
STOCK FUND FUEL—REFUND	2,251,970	2,022,870	2,089,170	2,056,020
STOCK FUND PRICE REESTIMATE	1,950,768	1,614,268	1,751,968	1,701,968
FOREIGN CURRENCY EXCHANGE RATES		−269,200	−225,200	−225,200
INDUSTRIAL FUND—REFUND	2,303,800	2,083,800	2,233,800	2,163,800
INFLATION REESTIMATE	191,239	178,239	178,239	178,239
REAL PROPERTY MAINTENANCE	1,500,300	1,535,300	1,535,300	1,535,300
PAY REDUCTION RESTORATION	−201,900	−100,950		

[In thousands of dollars]

	Budget	House	Senate	Conference
EXPENSE/INVESTMENT CRITERIA CHANGE	82,100	15,500	15,500	15,500
UNEMPLOYMENT COMPENSATION (NAFE)	12,137	9,224	12,137	9,224
PRODUCTIVITY	4,122,192	4,041,792	4,122,192	4,122,192
MILITARY PERSONNEL	18,860	−240	−240	−240
SPACE OPERATIONS, ETC	972,240	922,240	922,240	922,240
INVENTORY CONTROL POINT	571,733	566,733	571,733	571,733
INVENTORY CONTROL AUDIT		−10,000		
LOGISTICS SUPPORT	205,415	203,415	205,415	205,415
BASE OPERATIONS SUPPORT		−30,000	−30,000	−30,000
CLASSIFIED PROGRAMS		−1,885	1,046	−785
ADMINISTRATION	596,300	591,300	596,300	596,300
TRAINING AND PERSONNEL	1,390,270	1,388,470	1,390,270	1,390,270
COMMUNICATIONS DIVESTITURE SAVINGS		−10,000		
NORTH WARNING RADAR	368,056	361,856	361,856	361,856
CONTRACTOR SUPPORT	37,720	17,720	17,720	17,720
STRATEGIC SUPPORT		−5,000		
SOFTWARE MODERNIZATION		−2,000		
MEDICAL	1,273,800	1,270,550	1,273,800	1,272,550
MANAGEMENT OF ADP		−25,000		−6,800
IMPROPER USE OF O&M FUNDS		−10,000		
AUDIT FOLLOW-UP		−10,000		
YEAR END SPENDING		−4,000		
GOLF COURSES		−5,000		
TAC DEPLOYMENT COSTS	10,790	9,590	10,790	9,590
AIR BASE SURVIVABILITY	40,000	24,000	40,000	34,000
I-S/A AMPE	58,000		58,000	
TELEPHONE SYSTEM UPGRADES (SCOPE DIAL/SCOPE EXCHANGE)	10,800	3,300	10,800	3,300
HISTORIAN PROGRAM	6,634	5,634	6,634	5,634
SERVICE WIDE SUPPORT	376,239	373,139	376,239	373,139
DEPARTMENTAL HEADQUARTERS	104,992	102,312	104,992	102,312
COMMAND AND CONTROL		−20,000	−20,000	−20,000
LEGISLATIVE LIAISON ACTIVITIES		−120		
DRUG INTERDICTION			2,100	
MEDICAL READINESS			5,600	5,600
PROFESSIONAL EDUCATION			−5,000	−2,500
PUBLIC AFFAIRS ACTIVITIES		−130		
FLAT RATE PER DIEM			−10,800	−5,400
TRANSPORTATION			−28,000	−28,000
NATO AWACS			−4,486	
KC-135 FLYING HOURS			−86,700	−22,000
EDS			−4,500	−2,250
COMPTROLLER CONTRACT			−3,959	−2,759
COMMISSARY SUBSIDY			−43,400	
COMPONENT REPAIR			−334,000	−167,000
USAFE			−50,000	−25,000
AUDIOVISUAL TRANSFER			3,000	8,000
CIVILIAN WORKYEAR REDUCTION			−157,600	−157,600
RECRUITING AND ADVERTISING			−3,000	−1,500
AIDS			9,000	5,000
CIVILIAN TRAINING			6,000	3,000
NON-LETHAL AID TO AFGHANISTAN			10,000	10,000
ENVIRONMENTAL TRANSFER			−96,000	−96,000
STUDS			−20,000	−20,000
ALL OTHER ITEMS	2,669,945	2,669,945	2,669,945	2,669,945
TOTAL, AIR FORCE	20,924,400	19,507,672	19,468,901	19,536,813

AIRCRAFT ENGINE COMPONENT REPAIR

The conferees agree to reduce funding for aircraft engine component prepair by $167,000,000 instead of $334,000,000 as recommended by the Senate. The conferees further agree that the Air Force was not justified in requesting funding in fiscal year 1986 for a deficiency which was funded in fiscal year 1985, but have recommended the lower reduction so as not to create a depot maintenance backlog. The conferees direct the Air Force to provide more detailed and appropriate justification for depot maintenance activities in the fiscal year 1987 budget request.

KC-135 FLYING HOURS

The Senate, based on a Defense Inspector General report, reducted fiscal year 1986 KC-135 flying hours from 157,165 to 115,185 which resulted in a cut of $86,700,000 from Operation and Maintenance, Air Force. The House did not address this issue. The conferees, based on futher discussions with Defense Inspector General and Air Force personnel, have agreed to a reduction of $22,000,000 which equates to a flying hour decrease of 9,800. The conferees have concluded that KC-135 flying hour requirements have been overstated, especially in the overhead and training categories.

MANAGEMENT OF ADP

The House recommended a decrease of $25,000,000 as a result of a non-programmatic Authorization reduction of ADP management. The Senate did not address this decrease, but instead made other specific reductions. The conferees agreed to a specific reduction of $6,800,000 against ADP Management associated with the Command ADP Modernization Program (CAMP). Since CAMP procurement funds have been eliminated by the Department in the outyears, the conferees agree the fiscal year 1986 Operation and Maintenance funding is not required.

USAFE

The Senate reduced funding for USAFE by $50,000,000. The House did not address the issue. The conferees agree to a $25,000 reduction for USAFE to streamline administrative headquartes activities in Europe.

EUROPEAN DISTRIBUTION SYSTEM

The Senate reduced the European Distribution System (EDS) progrma by 4,500,000 based on the rationale that the Air Force has overstated the peacetime mission requirements of this wartime system. Additionally, the Senate questioned the fact that this system flies preset/predetermined routes on a regular basis, often with little or no cargo. Also, the Senate questioned whether the use of the system solely by the Air Force is the most efficient use of Government resources. The House did not address this issue. The conferees have agreed to a reduction of $2,250,000 which should still allow EDS crews to meet or exceed their minimum proficiency requirements. Furthermore, the conferees agree that the Air Force should not fly regularly scheduled routes, except on a short term basis for training purposes. Finally, the conferees agree that, in peacetime EDS should be available for use by all United States military components in the European theatre. In fiscal year 1986, this use should be on a space-available basis. In fiscal year 1987, the Air Force should develop an operational plan, in conjunction with the U.S. European Command to provide theatre airlift support. The conferees agree that the Air Force should not consider increases in EDS flying

hours unless they are associated with this multi-service mission.

AIR FORCE COMPTROLLER CONTRACT SERVICES

The conferees agree to a reduction of $2,759,000 to the Air Force for comptroller contract services in fiscal year 1986. This is $1,200,000 above the Senate and $2,759,000 below the House. The conferees direct the Air Force to demonstrate the productivity improvements and how manpower can be streamlined as a result of this effort with a report to the Committees on Appropriations by May 1, 1986.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

The conferees agree to provide $7,432,569,000 instead of $7,340,076,000 as recommended by the House and $7,479,956,000 as recommended by the Senate. Details of the adjustments are as follows:

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, DEFENSE AGENCIES				
FOREIGN CURRENCY EXCHANGE RATE		−14,400	−14,400	−14,400
STOCK FUND PRICE REESTIMATE	130,203	41,203	116,203	116,203
OSD—GENERAL REDUCTION	134,756	133,756	134,756	134,756
OSD—CONTRACT STUDIES AND ANALYSIS	18,638	16,320	18,638	16,320
PAY REDUCTION RESTORATION	−151,400	−75,700		
ORGANIZATION OF JCS—SPECIAL FUND	50,000			
ORGANIZATION OF JCS—GENERAL REDUCTION	379,236	368,018	379,236	379,236
DEFENSE LOGISTICS AGENCY	1,701,770	1,694,504	1,701,770	1,701,770
WASHINGTON HEADQUARTERS SERVICES	94,004	88,304	94,004	88,304
YEAR END SPENDING		−7,000		
ADP MANAGEMENT		−10,000		
SMALL CLUBS		−1,000		
BASE OPERATIONS SUPPORT	200,200	190,200	190,200	190,200
INVENTORY CONTROL		−5,000		
AMERICAN FORCES INFORMATION SERVICE	56,433	54,433	56,433	56,433
DOD DEPENDENT SCHOOLS	664,070	653,770	664,070	658,070
MEDICAL INFORMATION SYSTEMS	81,763	78,763	81,763	81,763
DEFENSE COMMUNICATION AGENCY/DCA	280,612	276,612	280,612	280,612
CLASSIFIED ACTIVITIES		−18,048	−20,526	−16,653
PRODUCTIVITY		−38,700		
CONTRACT STUDIES		−10,000		
IMPROPER USE OF O&M FUNDS		−2,000		
EXPENSE/INVESTMENT CRITERIA CHANGE	16,000	3,000	3,000	3,000
REAL PROPERTY MAINTENANCE	83,800	83,800	103,800	83,800
STUDY OF JOINT-DUTY CAREER SPECIALTY		100		100
DEFENSE AUDIOVISUAL AGENCY	21,936	11,936		
DEFENSE NUCLEAR AGENCY—TRAVEL	3,299	2,757	3,299	2,757
DEFENSE CONTRACT AUDIT AGENCY—HEADQUARTERS	173,082	172,882	173,082	172,882
AID TO AFGHANISTAN		10,000		
DLA—PROCUREMENT TECH. ASSISTANCE PROGRAM	2,000	7,500	5,000	7,500
DIS—BACKLOG		20,000	20,000	20,000
DEFENSE COMMUNICATIONS AGENCY—CINC INITIATIVES	4,182			
COMMAND AND CONTROL		−10,000	−10,000	−10,000
LEGISLATIVE LIAISON ACTIVITIES		−175		−50
PUBLIC AFFAIRS ACTIVITIES		−75		−50
INFLATION			−4,500	−4,500
CHAMPUS			−15,000	−15,000
FLAT RATE PER DIEM			−1,000	−1,000
ENVIRONMENTAL TRANSFER			−43,400	−42,400
CIVILIAN WORKYEAR REDUCTION			−107,800	−107,800
RECRUITING AND ADVERTISING			−7,100	−7,100
FAMILY ADVOCACY			−4,000	−4,000
PEER REVIEW			7,500	7,500
QUALITY ASSURENCE			50,000	30,000
ALL OTHER ITEMS	3,624,316	3,624,316	3,624,316	3,624,316
TOTAL DEFENSE AGENCIES	7,568,900	7,340,076	7,479,956	7,432,569

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

The House provided a total reduction of $10,300,000 to the Department of Defense Dependent Schools (DODDS). This was based on a reduction of $7,100,000 for the Master Teacher Program and $3,200,000 for a Department of Defense Inspector General report. The Senate did not address this issue. The conferees agree on a reduction of $6,000,000

Investigation into the reduction of $7,100,000 for the Master Teacher Program revealed that included in this number is $6,250,000 to purchase computers for classrooms. A classroom computer purchase was approved by the Defense Resources Board for fiscal year 1987. However, the conferees agree that $3,500,000 of the $7,100,000 reduced for the Master Teacher Program, should be reinstated to purchase computers for the classroom. The conferees believe the funding provided here is adequate for the total program requirements, and no funds to purchase computers for classrooms should be included in the fiscal year 1987 budget request.

AUDIOVISUAL ACTIVITIES

Based on the disestablishment of the Defense Audiovisual Agency (DAVA), the House reduced the DAVA budget by $10,000,000, leaving $11,936,000 for reprogramming to other services and Agencies receiving the DAVA workload. The Senate reduced the DAVA budget by $21,936,000 and provided a total of $5,000,000 to the Services for audiovisual activities.

The conferees agree to reduce the DAVA budget by $21,936,000 and provided a total of $10,000,000 to the Services for audiovisual activities, as follows:

Army	$1,000,000
Navy	1,000,000
Air Force	8,000,000
Total	10,000,000

The conferees believe the Services and the Armed Forces Information Service can provide the necessary audiovisual operations, at the same level provided by DAVA, within the funds provided in this Bill.

QUALITY ASSURANCE

The conferees agree to appropriate $30,000,000 to fund quality assurance and quality enhancement programs at the Defense Logistics Agency. This funding is to provide training for contract management and quality assurance personnel to ensure the Department receives quality products from commercial sources.

FAMILY ADVOCACY

The conferees agree to the Senate's position on the Department of Defense Family Advocacy Program. The conferees agree that the Family Advocacy Program is a health care program and should not be transferred to the force management and personnel directorate.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conferees agree to provide $780,100,000 instead of $774,980,000 as recommended by the House and $793,100,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY RESERVE				
STOCK FUND FUEL—REFUND	24,730	23,630	23,630	23,630
STOCK FUND PRICE REESTIMATE	137,241	119,041	119,041	119,041
CIVILIAN PAY RESTORATION	−12,400	−3,100		
EXPENSE/INVESTMENT CRITERIA CHANGE	200			
ANTITERRORISM INITIATIVES		4,700	4,700	4,700
TRAINING ASSISTANCE BY READINESS GROUPS		1,000	1,000	1,000
UPGRADE OF COMMUNICATIONS		1,200	1,200	1,200
AGR END STRENGTH REDUCTION—O&M SUPPORT	8,389	7,069	8,389	8,389
MILITARY END STRENGTH			−5,400	−4,000
RECRUITING AND ADVERTISING	52,900	52,900	48,400	50,650
OVER 40 MEDICAL SCREENING			700	
FORCE STRUCTURE INITIATIVE			22,900	6,950
ALL OTHER ITEMS	568,540	568,540	568,540	568,540
TOTAL, ARMY RESERVE	779,600	774,980	793,100	780,100

Operation and Maintenance, Navy Reserve

The conferees agree to provide $894,950,000 instead of $896,415,000 as recommended by the House and $896,700,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, NAVY RESERVE				
STOCK FUND FUEL—REFUND	139.284	132.284	132.284	132.284
STOCK FUND PRICE REESTIMATE	233.679	193.079	193.079	193.079
EXPENSE/INVESTMENT CRITERIA CHANGE	17,700	3,400	3,400	3,400
REAL PROPERTY MAINTENANCE	37,381	40,881	44,381	40,881
PAY REDUCTION RESTORATION	−2,700	−675		
PRODUCTIVITY	67,051	65,351	65,351	65,351
AUTHORIZATION ADJUSTMENT		−10		
MILITARY END STRENGTH			−400	−400
RECRUITING AND ADVERTISING	17,100	17,100	13,600	15,350
ALL OTHER ITEMS	445,005	445,005	445,005	445,005
TOTAL, NAVY RESERVE	954,500	896,415	896,700	894,950

Operation and Maintenance, Marine Corps Reserve

The conferees agree to provide $57,200,000 as recommended by the Senate instead of $57,120,000 as recommended by the House. Details of the adjustment are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
STOCK FUND FUEL—REFUND	21,596	17,396	17,396	17,396
PAY REDUCTION RESTORATION	−200	−50		
PRODUCTIVITY	4,110	3,810	3,810	3,810
EXPENSE/INVESTMENT CRITERIA CHANGE	100			
AUTHORIZATION ADJUSTMENT		−30		
ALL OTHER ITEMS	35,994	35,994	35,994	35,994
TOTAL, MARINE CORPS RESERVE	61,600	57,120	57,200	57,200

Operation and Maintenance, Air Force Reserve

The conferees agree to provide $902,700,000 instead of $896,844,000 as recommended by the House and $910,200,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
STOCK FUND FUEL—REFUND	137,734	130,334	130,334	130,334
STOCK FUND PRICE REESTIMATE	71,055	64,055	64,055	64,055
EXPENSE/INVESTMENT CRITERIA CHANGE	1,000	200	200	200
PAY REDUCTION RESTORATION	−14,000	−3,500		
PRODUCTIVITY	330,174	317,674	317,674	317,674
SPECIAL OPERATIONS FORCES READINESS ENHANCEMENT	15,735	22,035	22,035	22,035
AUTHORIZATION ADJUSTMENT		44		
REAL PROPERTY MAINTENANCE			7,500	
F–4 UPGRADE			2,400	2,400
ALL OTHER ITEMS	366,002	366,002	366,002	366,002

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, AIR FORCE RESERVE	907,700	896,844	910,200	902,700

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conferees agree to provide $1,652,800,000 instead of $1,646,305,000 as recommended by the House and $1,656,500,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
STOCK FUND FUEL—REFUND	63,448	49,348	49,348	49,348
STOCK FUND PRICE REESTIMATE	434,795	406,795	406,795	406,795
EXPENSE/INVESTMENT CRITERIA CHANGE	5,000	1,000	1,000	1,000
CIVILIAN TECHNICIANS	653,372	688,372	688,372	688,372
FEDERAL FUNDING FOR ARMORY OPERATIONAL COSTS		20,000		20,000
MOD & REPAIR OF OFFICE FOR FULL-TIME NATL GUARD PER		6,000	6,000	6,000
PARTIIAL FED FUNDING FOR MAJOR REPAIR & RENOVATION		7,000		7,000
PAY REDUCTION RESTORATION	−25,900	−6,475		
PRODUCTIVITY		−200	−200	−200
AUTHORIZATION ADJUSTMENT		−20		
MILITARY END STRENGTH			−7,700	−6,000
RECRUITING AND ADVERTISING	39,200	39,200	37,200	38,200
ROLAND MAINTENANCE			15,000	4,100
FORCE STRUCTURE INITIATIVE			20,000	4,100
AIDS			5,000	2,500
ENVIRONMENTAL PROJECTS			400	400
ALL OTHER ITEMS	435,285	435,285	435,285	435,285
TOTAL, ARMY NATIONAL GUARD	1,605,200	1,646,305	1,656,500	1,652,800

NATIONAL GUARD ARMORY OPERATION AND MAINTENANCE

The House included $33,000,000 to fund the modification and repair of armory office and work space resulting from increased Federal missions, major repair and renovations to the armories, and to offset armory operating costs resulting from the influx of Federal equipment and full-time Federal personnel. The Senate included only $6,000,000 for this purpose. The conferees agree to the House position concerning funding, but direct the Department to request only such funds in fiscal year 1987 that are sufficient to match the growth in funding by the states over fiscal year 1986 levels for these purposes.

ENVIRONMENTAL PROJECTS

The conferees agree to the increase of $400,000 as recommended by the Senate for the continuation of the program to conduct engineering projects coordinated with State and other federal agencies at national or state parks and forests. To amplify on the parameters of the test, the conferees agree that such projects must be restricted within the United States and territories. The test projects selected must enhance military related training and must not compete with projects which would otherwise be performed by private concerns. The conferees agree that the Army National Guard should begin budgeting this important program in fiscal year 1987.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conferees agree to provide $1,806,200,000 as recommended by the Senate instead of $1,803,862,000 as recommended by the House. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
STOCK FUND FUEL—REFUND	364,580	344,580	344,580	344,580
STOCK FUND PRICE REESTIMATE	140,361	124,961	124,961	124,961
PAY REDUCTION RESTORATION	−26,800	−6,700	−4,400	4,400
PRODUCTIVITY	703,855	696,855	696,855	696,855
EXPENSE/INVESTMENT CRITERIA CHANGE	4,800	900	900	900
AUTHORIZATION ADJUSTMENT		−38		
ALL OTHER ITEMS	643,304	643,304	643,304	643,304
TOTAL AIR NATIONAL GUARD	1,830,100	1,803,862	1,806,200	1,806,200

T-39 AIRCRAFT

The House and Senate have agreed that the Air Force must retire the Air National Guard's T-33 aircraft fleet in fiscal year 1986 and replace it with 45 T-39 aircraft. The conferees wish to clarify that this action is intended to provide an interim capability until such time that the Air Force budgets for and deploys a permanent replacement aircraft that fully meets the requirements of both the active and guard forces for electronic countermeasures training. As part of this interim measure, the Air Force should also phase out the T-33s in the active inventory as soon as possible, and either replace them with T-39 aircraft or provide the Guard with sufficient T-39s to accomplish the mission for the total force. The conferees further agree to the House language that allows transfer of leased C-21A aircraft to the Air National Guard for Detachment One, Andrews Air Force Base, Maryland, unless C-21A aircraft are purchased for this purpose in the Guard and Reserve equipment appropriation.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

The conferees agree to provide $920,000 as recommended by the Senate instead of $820,000 as recommended by the House.

CLAIMS, DEFENSE

The conferees agree to provide $143,300,000 as recommended by the Senate

instead of $148,300,000 as recommended by the House.

ENVIRONMENTAL RESTORATION, DEFENSE

The conferees agree to provide $379,100,000 in budget authority instead of $329,100,000 by transfer as recommended by the House or $429,100,000 as recommeded by the Senate.

TITLE III—PROCUREMENT

The conferees agree to the following amounts for the Procurement accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	3,892,500	3,337,300	3,504,200	3,524,300
TRANSFER FROM OTHER ACCOUNTS		(217,600)	(101,800)	
MISSILES	3,386,700	2,939,232	3,056,050	2,904,332
TRANSFER FROM OTHER ACCOUNTS		(124,500)	(49,700)	
WEAPONS, TRACKED COMBAT VEHICLES	5,739,100	3,749,004	4,629,900	4,684,800
TRANSFER FROM OTHER ACCOUNTS		(806,896)	(240,800)	
AMMUNITION	2,635,000	1,858,200	2,588,213	2,497,200
TRANSFER FROM OTHER ACCOUNTS		(215,200)	(209,900)	
OTHER	5,712,800	4,809,986	5,214,730	5,275,556
TRANSFER FROM OTHER ACCOUNTS		(297,400)	(238,000)	
TOTAL, ARMY	21,366,100	16,693,722	18,993,093	18,886,088
TRANSFER FROM OTHER ACCOUNTS		(1,661,596)	(840,200)	
TOTAL FUNDING AVAILABLE	21,366,100	18,355,318	19,833,293	18,886,088
NAVY:				
AIRCRAFT	12,062,600	10,446,400	10,289,651	11,175,678
TRANSFER FROM OTHER ACCOUNTS		(594,600)	(566,382)	
WEAPONS	5,627,900	5,093,733	5,372,563	5,227,795
TRANSFER FROM OTHER ACCOUNTS		(109,600)	(15,000)	
SHIPS	11,411,600	8,648,900	10,840,400	10,969,440
TRANSFER FROM OTHER ACCOUNTS		(2,058,500)	(1,057,600)	
OTHER	6,601,200	5,682,694	6,463,560	6,377,630
TRANSFER FROM OTHER ACCOUNTS		(312,762)	(221,000)	
COASTAL DEFENSE AUGMENTATION			375,000	235,000
MARINE CORPS	1,726,800	1,610,749	1,689,982	1,660,766
TRANSFER FROM OTHER ACCOUNTS		(85,717)	(31,056)	
TOTAL, NAVY	37,430,100	31,482,476	33,414,656	35,282,269
TRANSFER FROM OTHER ACCOUNTS		(3,161,179)	(1,891,038)	
TOTAL FUNDING AVAILABLE	37,430,100	34,643,655	35,305,694	35,282,269
AIR FORCE:				
AIRCRAFT	26,165,500	20,722,700	24,142,651	23,255,424
TRANSFER FROM OTHER ACCOUNTS		(1,458,300)	(648,000)	
MISSILES	10,862,700	8,043,527	8,770,831	8,312,442
TRANSFER FROM OTHER ACCOUNTS		(155,000)	(64,400)	
OTHER	9,538,000	7,890,918	8,831,674	8,571,383
TRANSFER FROM OTHER ACCOUNTS		(347,476)	(282,000)	
TOTAL, AIR FORCE	46,566,200	36,657,145	41,745,156	40,139,249
TRANSFER FROM OTHER ACCOUNTS		(1,960,776)	(994,400)	
TOTAL FUNDING AVAILABLE	46,566,200	38,617,921	42,739,556	40,139,249
NATIONAL GUARD AND RESERVE COMPONENTS		582,000	2,063,800	1,501,800
TRANSFER FROM OTHER ACCOUNTS		(8,000)	(178,400)	
TOTAL FUNDING AVAILABLE		590,000	2,242,200	1,501,800
DEFENSE AGENCIES	1,391,900	1,181,869	1,426,914	1,302,740
TRANSFER FROM OTHER ACCOUNTS		(36,000)	(36,000)	
TOTAL FUNDING AVAILABLE	1,391,900	1,217,869	1,462,914	1,302,740
DEFENSE PRODUCTION ACT PURCHASES	59,000		31,000	31,000
NATO COOPERATIVE DEFENSE PROGRAMS			15,000	15,000
TOTAL NOA	106,813,300	86,597,212	98,064,619	97,393,146
TRANSFER FROM OTHER ACCOUNTS		(6,827,551)	(3,940,038)	
TOTAL FUNDING AVAILABLE	106,813,300	93,424,763	102,004,657	97,393,146

BINARY CHEMICAL MUNITIONS

The House bill included no funds for production of chemical weapons or for related production facilities. The House bill also included a general provision incorporating the restrictive language in the House-passed authorization bill. The Senate bill included the budget request of $65,346,000 for production of the GB-2 artillery projectile and the Bigeye bomb and $98,300,000 for production facilities and prove-out.

The conference agreement provides the following funding:

	Budget	House	Senate	Conference
Weapons:				
GB-2 155mm Artillery Proj	$21,700,000		$21,700,000	$21,700,000
Bigeye Bomb:				
Navy	21,531,000		21,531,000	[1] 3,000,000
Air Force	22,115,000		22,115,000	[1] 3,000,000

	Budget	House	Senate	Conference
Subtotal, Production	65,346,000		65,346,000	27,700,000
Production Facilities:				
Bigeye QL Facility	48,000,000		48,000,000	48,000,000
Bigeye Fill/Lap Facility	28,300,000		28,300,000	28,300,000
Bigeye Metal Parts Facility	17,600,000		17,600,000	17,600,000
Components Prove-out	4,400,000		4,400,000	4,400,000
Subtotal, Production Facilities	98,300,000		98,300,000	98,300,000
Total	163,646,000		163,646,000	126,000,000

[1] Funded in Research, Development, Test and Evaluation, Navy.

The conference agreement also includes a general provision (Sec. 8093) which amends Section 1411 of the Department of Defense Authorization Act, 1986 (P.L. 99-145). Section 1411 applies conditions on spending funds for binary chemical munitions. The conference agreement makes three substantive changes to the original Section 1411. First, obligation of all funds is made subject to an additional requirement (b)(1) that the President certify to the Congress that a force goal stating the requirement for modernization of the United States share of NATO chemical deterrent has been submitted to NATO and formally adopted by the North Atlantic Alliance.

Second, obligation of funds for Bigeye components is subject to the requirement (d) that the Secretary of Defense submit a report describing the operational requirements for Bigeye, actual performance of Bigeye during operational testing with respect to the requirements, and any exceptions deemed acceptable. Obligation for Bigeye components may occur no sooner than 60 days after submission of the report. The conferees agree that the report required by section 1411(d) will be submitted to the Comptroller General for review and certification. The conferees urge the Department to cooperate with the General accounting Office during Bigeye testing and to fully share data from prior tests so that this review and certification may be expedited. The $6,000,000 included in the bill for Bigeye, while authorized in title I of the Authorization Act (procurement), is appropriated in Research, Development, Test and Evaluation, Navy since it will be used for additional operational test and evaluation. The conferees agree that the restrictions included in the revised section 1411(d) shall apply to the $6,000,000 appropriated in RDT&E, Navy.

Third, none of the funds included for procurement of the GB-2 artillery projectile may be obligated before October 1, 1986, and then only when the provisions of subsection (b) ("NATO Consultation") are satisfied. Final Assembly of the GB-2 may not occur before October 1, 1987 and then only when the provisions of subsection (c) ("Conditions for Final Assembly") are satisfied. The conferees agree that the GB-2 artillery projectile be procured on a fully funded basis, consistent with Departmental policy.

The conferees agree that, by funding production facilities in the accompanying bill, the restrictions on the $10,800,000 for related construction in the statement of managers on the Military Construction Appropriation Act, 1986 are lifted.

Inflation Savings

The conferees recommend $1,036,000,000 in fiscal year 1985 inflation savings to adjust for the fact that actual inflation rates were lower than those originally estimated and funded for that year, as proposed by the House. Of this amount, $116,000,000 is reflected in agreed upon adjustments to individual Air Force aircraft procurement programs.

The conferees, in addition, recommend a $1,702,000,000 decrease in the fiscal year 1986, 30 percent, inflation premium budgeted for the major procurement accounts, as proposed by the House. The conferees understand that there is no consensus on the best index for accurately forecasting major procurement program inflation costs. That issue currently is under intensive review. The conferees strongly support the full funding principle to include the use of a properly adjusted inflation premium. The recommendation is intended to remove excess inflation adjustments for the major procurement accounts, but at the same time to ensure that adequate funds are included to cover future inflation costs.

Minority Business Participation

The conferees reiterate the House's concern and expectations regarding expanded opportunities for minority businesses and historically black colleges and universities. Additionally, the conferees agree with the House language requesting a detailed plan to meet the stated goal for expanded participation.

NAVSTAR Global Positioning System User Equipment

The conferees regard the successful operation of the Global Positioning System (GPS) Joint User Equipment Program as essential, and therefore direct the Department of Defense not to develop any GPS user equipment outside the sponsorship, direction, and coordination of the Joint Program Office. The intention of the conferees is to ensure the successful implementation of programs within the responsibility of the Office, and not to expand its responsibilities to cover management of equipment for special uses, such as range, advance technology, mapping, special forces, and classified applications.

Sources of Ball Bearings

High precision ball bearings are a necessity in the manufacture of jet engines and other high technology devices. The conferees are concerned over availability of ball bearings, and over the possible use of ball bearings of foreign manufacture in critical weapons systems and components. The conferees direct the Department to study and report not later than June 30, 1986 on this subject. The report is to include: an assessment of the criticality of the ball bearing industry to national defense; an assessment of the current strength and long term economic viability of the U.S. ball bearing industry; an analysis of the extent to which ball bearings of foreign manufacture are used in weapons systems and components procured by DOD; an assessment of the implications for readiness and sustainability of using ball bearings of foreign manufacture; and an analysis of the feasibility of restricting DOD to using ball bearings of domestic manufacture only.

Aircraft Procurement, Army

The conferees agree to the following amounts for the Aircraft Procurement, Army, account:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
Aircraft				
FIXED WING:				
C-12 CARGO AIRPLANE		12,000		12,000
ROTARY:				
EH-60A HELICOPTER (QUICKFIX) (MYP)	118,600	37,500	54,300	110,200
EH-60A HELICOPTER (QUICKFIX) (MYP) (PY TRANSFER)		(64,300)	(64,300)	
EH-60A HELICOPTER (QUICKFIX) (MYP) (AP-CY)	24,400	24,400	24,400	24,400
AH-64 ATTACK HELICOPTER (APACHE)	1,178,200	1,137,300	1,143,200	1,137,300
AH-64 ATTACK HELICOPTER (APACHE) (AP-CY)	55,300	55,300	46,100	55,300
UH-60A (BLACK HAWK) (MYP)	267,000	220,800	260,900	228,700
UH-60A (BLACK HAWK) (MYP) (AP-CY)	199,000	199,000	199,000	199,000
TOTAL, AIRCRAFT	1,842,500	1,686,300	1,727,900	1,766,900

[In thousands of dollars]

	Budget	House	Senate	Conference
MODIFICATION OF AIRCRAFT				
OV-1 SURVEILLANCE AIRPLANE (MOHAWK)	27,700	22,700	22,700	22,700
RC-12D RECON AIRPLANE	500	500	500	500
RV-1 RECON AIRPLANE	500	500	500	500
AHIS ATTACK HELICOPTER (COBRA-TOW)	124,500	104,500	114,500	134,500
AHIS ATTACK HELICOPTER (COBRA-TOW) (PY TRANSFER)		(20,000)	(20,000)	
CH-47 CARGO HELICOPTER (MYP)	253,300	222,500	216,400	233,900
CH-47 CARGO HELICOPTER (MYP) (PY TRANSFER)		(11,200)	(17,500)	
CH-47 CARGO HELICOPTER (MYP) (AP-CY)	124,800	124,800	124,800	124,800
CH-54 CARGO HELICOPTER (TARHE)	500	500	500	500
UH-1 UTILITY HELICOPTER (IROQUOIS)	12,200	12,200	12,200	12,200
UH-60A (BLACK HAWK) MODS	15,400	14,200	15,400	14,200
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)	158,800	146,800	83,800	174,700
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP) (AP-CY)	51,800	50,000	20,000	20,900
AIRBORNE AVIONICS	1,000	1,000	1,000	1,000
MODIFICATIONS UNDER $900,000 (AIRCRAFT)	100	100	100	100
ACFT SWW	17,000	17,000	17,000	17,000
TOTAL, MODIFICATION OF AIRCRAFT	788,100	717,300	629,400	757,500
SPARES AND REPAIR PARTS	949,700	849,700	849,700	849,700
Support Equipment and Facilities				
OTHER SUPPORT				
AVIONICS SUPPORT EQUIPMENT	67,800	51,700	57,800	67,800
AVIONICS SUPPORT EQUIPMENT (PY TRANSFER)		(16,100)		
COMMON GROUND EQUIPMENT	35,000	35,000	35,000	35,000
AIR TRAFFIC CONTROL	9,400	9,400	9,400	9,400
SYNTHETIC FLIGHT TRAINING SYSTEMS	131,600	122,100	131,600	122,100
INDUSTRIAL FACILITIES	61,900	61,900	61,900	61,900
WAR CONSUMABLES	6,500	6,500	6,500	6,500
UNDISTRIBUTED REDUCTION		−10,000		
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	312,200	276,600	302,200	302,700
INFLATION REESTIMATES FOR FY86		−5,000	−5,000	−5,000
INFLATION PREMIUM, FY86		−81,600		−81,600
PRIOR YEAR PROGRAM SAVINGS		−40,000		
(PY TRANSFER)		(40,000)		
FY85 INFLATION FAIRNESS ADJUSTMENT		−66,000		−66,000
(PY TRANSFER)		(66,000)		
TOTAL, AIRCRAFT PROCUREMENT, ARMY	3,892,500	3,337,300	3,504,200	3,524,200
TRANSFER FROM OTHER ACCOUNTS		(217,600)	(101,800)	
TOTAL FUNDING AVAILABLE	3,892,500	3,554,900	3,606,000	3,524,200

PRIOR YEAR SAVINGS

The conferees recognize $117,900,000 in prior year savings in Army Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

AH-64 APACHE ATTACK HELICOPTER

The conferees acknowledge the late receipt of a proposal to procure the AH-64 airframe and target acquisition/designation system under multiyear contracts. No such multiyear procurement is approved at this time due to the continuing difficulties in achieving rate production and uncertainties about the total Ah-64 program and its stability. To preserve the option of having a multiyear contract, the conferees provide the full $55,300,000 for advance procurement as proposed by the House.

The conferees agree that a proposal to enter one or both of the proposed multiyear contracts may be considered as part of a 1986 supplemental or may be proposed as a new start in fiscal year 1987. Any such proposal should be substantiated by comparable, negotiated contract data.

The conferees agree that 18 AH-64s from the 1986 program will be provided for the Army National Guard as provided in the authorization legislation.

UH-60 BLACKHAWK

The conferees agree to provide $228,700,000 for 80 UH-60s which shall include two for the Customs Service drug interdiction program as proposed by the Senate. The conferees agree not to provide the $32,200,000 as budgeted and recommended by the Senate for special operations forces modifications. The conferees understand that additional research and development is required for the UH-60 as well as the CH-47 modifications proposed, and procurement is premature at this time.

The conferees agree to allocating $7,900,000 in contract savings to procure 2 additional helicopters to replace older ones which are to be transferred to the Customs Service Drug Interdiction program, as proposed by the Senate.

ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)

The conferees agree to provide a total of $195,600,000 which includes $174,700,000 to fully fund 39 AHIPs and to extend the budgeted funded delivery period by 3 months, and $20,900,000 for advance procurement of 31 additional sets of long lead materiels. This advanced procurement funding level, combined with materiels currently on contract, will support production of 48 units in fiscal year 1987 as permitted by a recent Departmental decision memorandum.

The conferees note that the extra funding available by reducing the 1986 program from 56 to 39 will provide for procurement of maintenance sets and other support equipment associated with restricting the fielding to the field artillery aerial observer mission.

SYNTHETIC FLIGHT TRAINING SYSTEMS

The conferees agree to delete advance procurement funding which was improperly budgeted. The conferees agree, however, that this action shall not result in termination of any current contracts. If there is a demonstrated and justified need for advance procurement funds, the Committees agree that a new P-1 line may be established using internal reprogramming procedures with prior notification. The conferees are in agreement that all future simulator procurement be budgeted on a full-funding basis.

MISSILE PROCUREMENT, ARMY

The conferees agree to the following amounts for Missile Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
Other Missiles				
SURFACE-TO-AIR MISSILE SYSTEM:				
CHAPARRAL	110,400	37,200	110,400	57,500
OTHER MISSILE SUPPORT	5,000	5,000	5,000	5,000
PATRIOT	983,400	967,400	974,600	963,400
STINGER	304,100	244,100	258,500	258,500
PERSHING II	334,700	334,700	236,300	236,300
AIR-TO-SURFCE MISSILE SYSTEM:				
LASER HELLFIRE SYSTEM	250,700	250,700	234,200	234,200
ANTI-TANK/ASSAULT MISSILE SYSTEM:				
TOW 2	226,900	159,300	177,650	168,500
TOW 2 (AP-CY)	22,000	22,000	22,000	22,000
MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	507,800	450,600	459,900	490,900
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (PY TRANSFER)		(46,500)	(24,700)	
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (AP-CY)	41,000	41,000	41,00	41,000
TOTAL, OTHER MISSILES	2,786,000	2,512,000	2,519,550	2,477,300
Modification of Missiles				
MODIFICATIONS:				
PATRIOT	17,200	17,200	17,200	17,200
CHAPARRAL	112,900	112,900	112,900	112,900
HAWK	54,100	54,100	49,300	49,300
TOW	37,800	37,800	17,400	17,400
TOTAL, MODIFICATION OF MISSILES	222,000	222,000	196,800	196,800
SPARES AND REPAIR PARTS	322,000	312,000	312,000	312,000
SUPPORT EQUIPMENT AND FACILITIES:				
AIR DEFENSE TARGETS	21,000	21,000	21,000	21,000
ITEMS LESS THAN $900,000 (MISSILES)	3,800	3,732	3,800	3,732
PRODUCTION BASE SPT	29,900	29,900	29,900	29,900
OTHER PRODUCTION CHARGES	2,000	2,000	2,000	2,000
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	56,700	56,632	56,700	56,632
COMPONENT BREAKOUT		−10,000		−10,000
INFLATION REESTIMATES FOR FY86		−4,000	−4,000	−4,000
INFLATION PREMIUM, FY86		−71,400		−71,400
PRIOR YEAR PROGRAM SAVINGS		−25,000	−25,000	
(PY TRANSFER)		(25,000)	(25,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−53,000		−53,000
(PY TRANSFER)		(53,000)		
TOTAL, MISSILE PROCUREMENT, ARMY	3,386,700	2,939,232	3,056,050	2,904,332
TRANSFER FROM OTHER ACCOUNTS		(124,500)	(49,700)	
TOTAL FUNDING AVAILABLE	3,386,700	3,063,732	3,105,750	2,904,332

PRIOR YEAR SAVINGS

The conferees recognize $66,500,000 in prior year savings in Army Missile Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

CHAPARRAL

The conferees agree to provide $57,500,000 for Chaparral, instead of $37,200,000 as proposed by the House or $110,400,000 as proposed by the Senate. These funds will allow continuation of the program, to include some of the non-recurring production costs of the new Rosette Scan Seeker (RSS). This reduction is without prejudice, in anticipation of completion of the scheduled testing later in the year. Accordingly, no recurring production funding is provided.

PATRIOT AIR DEFENSE SYSTEM

The Conferees agree to provide $963,400,000 instead of the $967,400,000 proposed by the House or the $974,600,000 proposed by the Senate. The Conferees agree that the separate savings identified by each Committee are achievable.

STINGER

The conferees agree to provide $258,500,000 as proposed by the Senate to procure at least 3,439 Stinger missiles, instead of $244,100,000 as proposed by the House. The conferees recognize that the agreed sum exceeds authorization, but are concerned over providing air defense assets, especially following cancellation of DIVAD. The Army is directed to obtain authorization before obligating or expending funds in excess of the sum currently authorized.

The conferees agree with the Senate position requiring a review of the continued sole source procurement of the Stinger missile.

The conferees agree to provide $168,500,000 for production of TOW-II, instead of $159,300,000 as proposed by the House or $177,650,000 as proposed by the Senate. The conferees direct the Army to procure the maximum possible number of missiles, with 14,000 as a goal.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conferees agree to the following amounts for Procurement of Weapons and Tracked Combat Vehicles, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEH				
TRACKED COMBAT VEHICLES:				
CARRIER, COMMAND POST LIGHT, FT, M577A2	23,600	23,600	44,100	33,600
CARRIER, PERSONNEL, FT, ARM, M113A2	82,900	82,900	144,000	122,900
BRADLEY FIGHTING VEHICLES (MYP)	1,007,000	909,300	958,100	931,000
BRADLEY FIGHTING VEHICLES (MYP) (PY TRANSFER)		(21,700)		
BRADLEY FIGHTING VEHICLES (MYP) (AP-CY)	27,600	23,600	24,900	22,300
BRADLEY FVS TRAINING DEVICES	79,400	79,400	79,400	79,400
FIELD ARTILLERY AMMUNITION SUPPORT VEH	101,500	70,200	101,500	70,200

[In thousands of dollars]

	Budget	House	Senate	Conference
RECOVERY VEHICLE, MED, FT, M88A1	215,800	181,600	215,800	211,400
RECOVERY VEHICLE, MED, FT, M88A1 (PY TRANSFER)		(2,800)		
ABRAMS TANK SERIES ROLL (MYP)	1,749,600	1,478,400	1,348,200	1,556,300
ABRAMS TANK SERIES ROLL (MYP) (PY TRANSFER)		(77,900)	(77,900)	
ABRAMS TANK SERIES ROLL (MYP) (AP-CY)	359,200	344,000	316,800	316,800
M60 SERIES TANK TRAINING DEVICES	20,400	20,400	20,400	20,400
M1 SERIES TANK TRAINING DEVICES	65,600	65,600	65,600	65,600
MODIFICATION OF TRACKED COMBAT VEHICLES:				
CARRIER, MOD	56,200	56,200	56,200	56,200
FIST VEHICLE (MOD)	80,800	76,100	80,800	76,100
BFVS SERIES (MOD)	19,000	5,300	19,000	12,000
HOWITZER, MED SP FT 155MM M109 SER(MOD)	25,400	15,700	25,400	15,700
ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)	20,400	20,400	20,400	20,400
TANK, CMBT, FT, 105MM GUN, M60SER(MOD) (MYP)	130,600	113,600	110,600	110,600
105MM TANK GUN (MOD)	6,000			
TANK, M1 SERIES (MOD)	70,100	47,500	64,200	64,200
TANK M1 SERIES (MOD) (PY TRANSFER)		(7,000)		
ROBOTIC OBST BREACHING ASSULT TANK (MOD)	17,800	9,600	9,600	9,600
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	649,000	628,000	628,000	628,000
VALUE ENGINEERING	1,000	1,000	1,000	1,000
ITEM LESS THAN $900,000 (TCV-WTCV)	800	800	800	800
PRODUCTION BASE SUPPORT (TCV-WTCV)	95,800	82,200	90,800	90,800
PRODUCTION BASE SUPPORT (TCV-WTCV) (PY TRANSFER)		(8,600)		
TOTAL, TRACKED COMBAT VEHICLES	4,905,500	4,335,400	4,425,600	4,515,300
WEAPONS AND OTHER COMBAT VEHICLES:				
SERGEANT YORK DIVAD GUN	406,500			
SERGEANT YORK DIVAD GUN (GENERAL REDUCTION)		−256,517		
SERGEANT YORK DIVAD GUN (PY TRANSFER)		(256,517)		
SERGEANT YORK DIVAD GUN (AP-CY)	11,000			
SERGEANT YORK DIVAD GUN (AP-CY) (GENERAL REDUCTION)		−104,479		
SERGEANT YORK DIVAD GUN (AP-CY) (PY TRANSFER)		(104,479)		
FOLLOW-ON AIR DEFENSE GUN				150,000
FOLLOW-ON AIR DEFENSE EQUIPMENT (PY TRANSFER)			(150,000)	
ARMOR MACHINE GUN, 7.62MM M240	27,100	27,100	27,100	27,100
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM	14,500			
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM (GENERAL REDUCTION)		−12,900	−1,900	
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM (PY TRANSFER)		(12,900)	(12,900)	
GRENADE LAUNCHER, AUTO, 40MM, MK19-3	9,000	9,000	9,000	9,000
LAUNCHER, SMOKE GRENADE	2,100	2,100	2,100	2,100
MORTAR, 81MM, XM252	6,100	6,100	6,100	6,100
MOTAR, 120MM	5,000	5,000		5,000
M16 RIFLE	39,300	35,000	35,000	35,000
PERSONAL DEFENSE WEAPON, 9MM	7,500	7,500	7,500	7,500
VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP)	45,600	45,600	38,700	35,700
VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP) (AP-CY)	8,300	3,700	5,000	5,000
TANK MUZZLE BORESIGHT DEVICE	4,600		4,600	4,600
MODIFICATION OF WEAPONS AND OTHER COMBAT VEHI:				
DIVAD (MODS)	500			
HOWITZER, 155MM, M114A2 (MOD)	1,700	1,700	1,700	1,700
M16A1 RIFLE MODS	3,300	3,300	3,300	3,300
MODIFICATIONS UNDER $900,000 (WOCV-WTCV)	800	800	800	800
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	183,600	29,000	29,000	29,000
SPARES AND REPAIR PARTS (GENERAL REDUCTION)		−125,000		
SPARES AND REPAIR PARTS (PY TRANSFER)		(125,000)		
ITEMS LESS THAN $900,000 (WOCV-WTCV)	2,900	2,900	2,900	2,900
PRODUCTION BASE SUPPORT (WOCV-WTCV)	51,400	15,400	51,400	51,400
(PY TRANSFER)		(36,000)		
5.56 CARBINE XM4	2,800			
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	833,600	−304,696	211,300	376,200
INFLATION REESTIMATES FOR FY86		−7,000	−7,000	−7,000
INFLATION PREMIUM, FY86		−120,700		−120,700
PRIOR YEAR PROGRAM SAVINGS		−75,000		
(PY TRANSFER)		(75,000		
FY 85 INFLATION FAIRNESS ADJUSTMENT		−79,000		−79,000
(PY TRANSFER)		(79,000)		
TOTAL, PROCUREMENT OF WEAPONS AND TRACKED COMBATE VEH	5,739,100	3,749,004	4,629,900	4,684,800
TRANSFER FROM OTHER ACCOUNTS		(806,896)	(240,800)	
TOTAL FUNDING AVAILABLE	5,739,100	4,555,900	4,870,700	4,648,800

PRIOR YEAR SAVINGS

The conferees recognize $590,300,000 in prior year savings in Army Procurement of Weapons and Tracked Combat Vehicles. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

M-1 TANK

The conference agreement funds 840 tanks in fiscal year 1986 as proposed by the House. The conferees agree that no basic multiyear contract for the tank program may provide a procurement rate greater than 720 per year, but that options for higher annual procurement may be established. Beyond fiscal year 1986, exercising these contract options must be approved by the Committees on Appropriations of the House and Senate.

DIVAD FOLLOW-ON

The conferees agree to provide $150,000,000 to procure off-the-shelf air defense equipment to be identified later by the Department. Such procurement shall be subject to standard reprogramming procedures, as specified by the Senate.

PROCUREMENT OF AMMUNITION, ARMY

The conferees agree to the following amounts for Procurement of Ammunition, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION				
ATOMIC MATERIEL:				
NUCLEAR WEAPONS SUPPORT MATERIEL	5,200	5,200	5,200	5,200
CONTROLLED ITEMS:				
CTG, 5.56MM, BALL M193	18,100	18,100	18,100	18,100
CTG, 5.56MM, BLANK M200	12,000	12,000	12,000	12,000
CTG, 5.56MM, BLK M200, LKD F/SAW	2,200	2,200	3,000	2,200
CTG, 5.56MM, 4 BALL M855/1 TRCR M856 LKD	9,600	9,600	9,600	9,600
CTG, 5.56MM, BALL M16–A2	25,000	25,000	25,000	25,000
CTG, 5.56MM, TRACER M16–A2	6,500	6,500	6,500	6,500
GENERAL REDUCTION 5.56 MM		−10,000		−10,000
CTG, 7.62MM, TRCR M62 LKD	500	500	500	500
CTG, 7.62MM, 4 BALL M80/1 TRCER M62 LKD	25,000	25,800	25,800	25,800
CTG, 7.62MM, BALL M80 LKD/M13	700	700	700	700
CTG, 7.62MM, LKD 4 BALL ITRACER OHF	1,4000	2,000	2,000	2,000
CTG, 7.62MM, SPEC BALL M118	1,900	1,900	1,900	1,900
CTG, CAL .22, BALL LR	2,700	2,700	1,600	1,600
CTG, 9MM, BALL	1,400	1,400	1,400	1,400
CTG, CAL .45, BALL M1911	2,200	2,200	2,200	2,200
CTG, CAL .45, MATCH GRADE	800	800	100	100
CTG, CAL .50, LKD 4 BALL/1 TRCR W/M15A2L	9,600	11,300	11,300	11,300
CTG, CAL .50, APIT, M20 LKD	1,400	1,400	1,400	1,400
CTG, CAL .50, BALL LKD	2,400	3,800	3,800	3,800
CTG, CAL .50, BLK, M1A1, LKD W/M9LK F/M2	15,000			
CTG, CAL .50, LKD TRACER M17	4,100			
CTG, CAL .50, LKD 4 BALL/1 TRACER W/M9 L	44,400	48,000	48,000	48,000
CTG, 20MM, LKD TP–1 M220 SERIES MLB M14A	19,300	7,900	7,900	7,900
CTG, 25MM, HEI–T M792 W/F	18,900	18,900	18,900	18,900
CTG, 25MM, APDS–T M791 W/M28 (MYP)	11,100	11,100	11,100	11,100
CTG, 25MM, TPT LKD M793 MLB M28	37,700	37,700	37,700	37,700
CTG, 30MM, LKD HEDP M789 W/FUZE (MYP)	26,000	5,000	5,000	5,000
CTG, 30MM, LKD TP M788 (MYP)	3,800	9,300	9,300	9,300
CTG, 40MM, TP–T M813 F/SGT YORK (MYP)	11,300			
CTG, 40MM, HE W/PROX M822	31,000			
CTG, 40MM, HEDP M430	48,800	35,800	43,500	43,500
CTG, 40MM, TP F/MK19	4,800	4,800	4,800	4,800
CTG, 40MM, PRAC M781	6,000	4,600	4,600	4,600
CTG, 75MM, BLANK, M337A1 F/HOWITZER	2,800	2,800	2,800	2,800
CTG, 81MM, ILLUM IUK XM853	15,700		15,700	
CTG, 81MM, HE IUK W/FUZE	31,700		31,700	
CTG, 81MM, SMK RP IUK XM819	12,400		12,400	
CTG, 81MM, IMP 1/10 RANGE TNG XM880	2,400		2,400	
CTG, SUB CAL .22, PRACT CHG=2 M745M	1,100	1,100	1,100	1,100
MORTAR AMMO		96,200		96,200
CTG, 4.2-INCH, ILLUM, W/FUZE	27,300			
CTG, 4.2-INCH, SMOKE, WP	6,700			
CTG, 105MM, HEAT MP T M456A2	47,200	41,600	41,600	41,600
CTG, 105MM, TP–T, M490	51,200	14,600	32,100	32,100
CTG, 105MM, TRACE–P FOR M833	2,300	2,300	2,300	2,300
CTG, 105MM, DS–TP M724	89,400	89,200	89,400	89,400
CTG, 105MM, APFSDS–T M833	46,800	42,300	46,800	42,300
CTG, 120MM APFSDS–T M829	59,700	75,000	75,000	75,000
CTG, 120MM HEAT–MP–T, M830 (MYP)	27,300	31,000	27,300	31,000
CTG, 120MM TP–T XM831 (MYP)	29,600	29,600	29,600	29,600
CTG, 120MM TPCSDS–T, M865 (MYP)	29,700	35,000	35,000	35,000
CTG, 120MM, HE W/MULTI/OPTION FUZE	30,300			
CTG, 120MM, ILLUM	4,000			
CTG, 120MM, SMOKE	11,200			
PROJ, 155MM, HE, ICM M483 (MYP)	299,800	181,100	299,800	269,800
PROJ, 155M, SMK, WP, M825	16,300	10,000	16,300	13,100
PROJ, 155MM, HE, ADAM M731 (MYP)	26,500	14,600	26,500	20,600
PROJ, 155M, HE, RAAMS M741 (MYP)	71,600	45,800	71,600	48,700
PROJ, 155MM, HE, COPPERHEAD (EA)	235,000	220,800		220,800
(PY TRANSFER)			(167,613)	
CHARGE, PROPELLING, 155MM, GREEN BAG M3	27,700		24,400	12,200
CHARGE, PROPELLING, 155MM, WHITE BAG M4	30,400			
CHARGE, PROPELLING, 155MM, RED BAG M203	20,400	20,400	20,400	20,400
CHARGE, PROPELLING, 155MM, WHITE BAG M11	17,800	17,800		
PROJ, 8-INCH, HE, ICM (DP), M509		50,000	50,000	50,000
PROJ, 8-INCH, HE, RAP, M650		10,000	10,000	10,000
CHARGE, PROPELLING, 8-INCH WB, M188	29,200	29,200		
FUZE, MTSQ M577/M577A1	49,300	40,200	49,300	49,300
FUZE, MTSQ M582/M582A1	10,500	10,500	10,500	10,500
PRIMER, PERC, M82	2,900	2,900	2,900	2,900
GROUND IMP MINE SCAT SYS AP M74 (MYP)	14,500			
GROUND IMP MINE SCAT SYS AT M75 (MYP)	26,500			
CANISTER MINE PRACTICE XM88 (VOLCANO)	1,500		1,500	
CANISTER MINE (VOLCANO) XM87	2,600		2,600	
MINE, AT, BLU–91/8 (VOLCANO (MYP)	12,600		12,600	
MINE, AP, BLU–92/8 (VOLCANO) (MYP)	5,000		5,000	

[In thousands of dollars]

	Budget	House	Senate	Conference
MTR RKT 5 IN MK22 MOD 4 (EA)	5,400	5,400	5,400	5,400
LINE CHARGE M58A3 (MICLIC) (EA)	12,300	12,300	12,300	12,300
LINE CHARGE INERT M58A2 (MICLIC) (EA)	1,200	1,200	1,200	1,200
MODULAR PACK MINE SYSTEM	36,000		36,000	
DEMOLITION MUNITIONS & OTHER	16,500	16,500	16,500	16,500
DEMO KIT BANGALORE TORPEDO	3,000	3,000	3,000	3,000
LIGHTWEIGHT MULTI-PURPOSE SYSTEM	107,600	41,600	59,200	59,200
LIGHT WGT MULTI PURPOSE SYSTEM TRNR	3,100	3,100	3,100	3,100
HYDRA 70 RKT, MPSM HE M261 WHD (MYP)	28,900	28,900	28,900	28,900
HYDRA 70 RKT, MPSM PRAC M267 WHD	5,400	5,400	5,400	5,400
GRENADE, HAND, ALL TYPES	33,000	33,000	33,000	33,000
SIGNALS, ALL TYPES	33,500	14,900	14,900	14,900
SIMULATORS, ALL TYPES	28,700	19,900	19,900	19,900
GENERAL INCREASE/WAR RESERVE AMMO		162,100	400,000	200,000
MISCELLANEOUS:				
AMMO COMPONENTS/SUPPORT, ALL TYPES	21,300	21,300	21,300	21,300
ITEMS LESS THAN $900,000 (MISC-AMMO)	3,700	3,700	3,700	3,700
SPARES AND REPAIR PARTS	1,000	1,000	1,000	1,000
AMMUNITION PECULIAR EQUIPMENT	5,200	5,200	5,200	5,200
NITROGUANIDINE (LB)	25,000	25,000	25,000	25,000
COMP A-5	9,100		9,100	
COMP C-4	9,000		9,000	
COMP B	4,400		4,400	
PBX 0280	1,600		1,600	
CYCLOTOL 70/30	2,800		2,800	
COMP LX-14	5,800		5,800	
AMMO 9WW/ELT	1,700	1,700	1,700	1,700
CLASSIFIED PROGRAMS	21,700		21,700	21,700
TOTAL, AMMUNITION	2,266,600	1,825,400	2,122,600	2,001,200
AMMUNITION PRODUCTION BASE SUPPORT				
PRODUCTION BASE SUPPORT:				
PROVISION OF INDUSTRIAL FACILITIES	280,600	167,600	288,000	276,100
COMPONENTS FOR PROVE-OUT	14,000	9,600	14,000	14,000
LAYAWAY OF INDUSTRIAL FACILITIES	22,500	22,500	22,500	22,500
JEFFERSON PROVING GROUND MODERNIZATION	2,000	2,000	2,000	2,000
CHEMICAL DEMILITARIZATION PROGRAM	49,300	49,300	81,300	81,300
PRODUCTION BASE MODERNIZATION			103,100	103,100
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT	368,400	251,000	510,900	499,000
INFLATION REESTIMATES FOR FY86		−3,000	−3,000	−3,000
GENERAL REDUCTION, PY TRANSFER			−8,387	
(PY TRANSFER)			(8,387)	
PRIOR YEAR INFLATION SAVINGS		−78,000		
(PY TRANSFER)		(78,000)		
PRIOR YEAR PROGRAM SAVINGS		−137,200	−33,900	
(PY TRANSFER)		(137,200)	(33,900)	
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	2,635,000	1,858,200	2,588,213	2,497,200
TRANSFER FROM OTHER ACOUNTS		(215,200)	(209,900)	
TOTAL FUNDING AVAILABLE	2,635,000	2,073,400	2,798,113	2,497,200

PRIOR YEAR SAVINGS

The conferees recognize $178,100,000 in prior year savings in Army Ammunition Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

MORTAR AMMUNITION

The conference agreement provides a lump sum of $96,200,000 for motar ammunition, as proposed by the House. The conferees are in agreement that the Army shall submit a report to the Appropriations Committees for approval of the allocation of this sum. Such allocation shall include the two 81mm training rounds and 120mm mortar ammunition.

155MM ICM

The conferees agreement provides $269,000,000 for procurement of the 155mm Improved Conventional Munition. The Army has had serious start-up problems at the integrated production facility which manufactures this round which have resulted in delayed deliveries. The Army has turned top management attention to this problem and has made some progress; however, the conferees believe this effort must continue until the new plant is fully on-line. The conferees therefore direct that no more than $181,100,000 may be obligated until the Army conducts a thorough investigation of this situation and reports to the Appropriations Committees on specific problems, proposed solutions, and implementation plans and schedules.

COPPERHEAD

The conference agreement funds 6,900 projectiles for $220,800,000 as proposed by the House. The conferees are in agreement that the Department shall submit for approval a report to the Committees on Appropriations of the House and Senate on the cost effectiveness of establishing a second source for Copperhead prior to entering such a contract. The conferees are in agreement that the Committees will respond to such a report within thirty days after submittal of this report.

The Conferees agree that the $69,900,000 proposed for transfer to the 1986 program by the Senate may be used for the 1985 Copperhead program as requested by the Army.

MODULAR MINE PACK SYSTEM (MOPMS)

The conferees agree that no procurement funding for MOPMS in fiscal year 1986 is necessary because of program delays. Unobligated funds available in fiscal year 1985 ($16,500,000) may be used to initiate procurement in fiscal year 1986 when testing is complete, the item is type-classified, and the required report is submitted to the Committees. Additionally, a portion of the unallocated add-on may be used for MOPMS procurement if necessary. The conference action is taken without prejudice to the program.

LIGHTWEIGHT MULTIPURPOSE SYSTEM

The conference agreement provides sufficient funds in this program for the Army to exercise the second year production option for the AT-4 at the most economic production rate. The conferees agree that the DT/OT testing of the M72E4 be completed and the item be type-classified using available funds, with the understanding that this is done without expectation of subsequent procurement by the Department of Defense.

105MM TRAINING AMMUNITION

The conferees note that contracts for funds appropriated last year for the initial procurement of the XM-901 105mm tank training round have not yet been issued contract. This round has many advantages over the current round, including ballistic match.

In order to verify these advantages, the conferees direct that the Army procure at least 55,000 XM-901 105mm tank training rounds using available unobligated funds in fiscal years 1984 and 1985. The Army is further directed to report to the Committee on the results of operational experience and plans for procurement in the future.

PROVISION OF INDUSTRIAL FACILITIES

The conference agreement provides the following amounts for items in conference:

	House	Senate	Conference
Binary chemical facilities		$93,900	$93,900
Explosive stockpiling-related project		3,200	
General reduction	-$15,900		
Holston RDX/HMX projects	7,600		6,300
RDX facility at Louisiana AAP		15,000	

BINARY CHEMICAL FACILITIES

The binary chemical munitions program is discussed at the beginning of the procurement section of this statement of managers.

RDX MODERNIZATION

The conferees are dissatisfied with the Army's response to previous direction to decide expeditiously on the number and location of additional RDX manufacturing facilities and to present a budget and program plan to accomplish this objective. The recently completed cost-benefit analysis explored alternatives, but the Army still has not submitted a plan which is responsive to Congressional requirements and direction. In order to expedite this effort, and get site specific work started at the first location (Louisiana Army Ammunition Plant), the conferees have agreed to bill language restricting the use of all production base projects funded in the bill. The language follows:

Provided, That none of the funds provided herein may be obligated or expended for production base projects until the Secretary of the Army has submitted to the Committees on Appropriations of the House and Senate a specific funding and program plan for RDX modernization which responds to Congressional requirements on program phasing and direction concerning full funding, and which provides for initiation of site specific work at Louisiana Army Ammunition Plant not later than June 30, 1986.

OTHER PROCUREMENT, ARMY

The conferees agree to the following amounts for Other Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
Other Procurement, Army				
Tactical and Support Vehicles				
Tactical vehicles:				
Chassis trailer gen 2½ ton 2W, M200A1	7,600	7,600	7,600	7,600
Dolly set, trans shelter, 7½ t, M1022 2	5,500	5,500	5,500	5,500
Motorcycle, GED, 2W, rough terrain	5,600	2,000		2,000
Semitrailer, BB/cont 34T M872 C/S	3,400	3,400	3,400	3,400
Semitrailer, LB, 12T M270A1-M269A1	9,300	9,300	9,300	9,300
Semitrailer, low bed, 40T M870 (C/S)	12,200	12,200	12,200	12,200
Semitrailer, low bed HET, XM1000	11,200	11,200	200	
Semitrailer, tank, 5000G	19,800	19,800	19,800	19,800
Trailer, cargo 3/4T, 2W, M101A2 W/E	5,300	5,300	5,300	5,300
Trailer, cargo, 1½ T, 2W, M105A2	11,100	11,100	11,100	11,100
Trailer tank water 400G 1½T 2W M149A1	4,000	4,000	4,000	4,000
HI mob multi-purpwhld veh (hmmwv) (myp)	326,000	313,914	326,000	313,914
Fast attack vehicle	3,100			
PY transfer reduction		-7,400		
(PY transfer)		(7,400)		
Small unit support vehicle (susv)	14,800	13,800	14,800	13,800
Truck, 5t, 6x6, abt (myp)	225,300	217,186	252,300	217,186
Truck, 10t, 8x8, abt (myp)	128,700	116,397	128,700	116,397
Truck, tractor, yard type, M878 (C/S)	3,100	3,100	3,100	3,100
Modification of in-service equipment	100	100	100	100
Shop equipment, auto maint & rep	900	900	900	900
Items less than $900,000 (tac veh)	1,700	1,700	1,700	1,700
Non-tactical vehicles:				
Passenger carrying vehicles	30,000	30,000	30,000	30,000
General purpose vehicles	39,900	39,900	39,900	39,900
Special purpose vehicles	13,000	13,000	13,000	13,000
Support equipment and facilities:				
Spares and repair parts	135,200	135,200	135,200	135,200
Total, tactical and support vehicles	1,016,800	969,197	1,024,100	965,397
Communications and Electronics Equipment				
Telecomm equip—read comd comm:				
JCSE equipment (USREDCOM)	300	300	300	300
Classified project 9ww	14,200	14,200	14,200	14,200
Telcomm equip—joint tactical comm prog:				
Mod rcrd tfc term (mrtt)	39,900	8,500	36,200	36,200
DIG group multiplexer (DGM)	20,400	20,400	20,400	20,400
RPTR/term assmblgs	15,700	15,700	15,700	15,700
Radio terminals an/trc-170	29,200	29,200	29,200	29,200
Unit level switches	31,400		10,800	10,600
Com sys con el an/tyq-16	15,900	15,900	15,900	15,900
DIG nsec vter ta-954	4,000	4,000	4,000	4,000
ANDVT-tac term, cv-3591	4,000	4,000	4,000	4,000
Lightweight digital facsimile	7,400			
MOB subscriber eqp	335,300	335,300		335,300
(PY transfer)			(238,000)	
MOD of in-svc eq (tri-tac)	22,500	22,500	22,500	22,500
Telecomm equip-combat support comm:				
Comm sys (htld)	8,500		8,500	8,500
SINCGARS (roll)	231,300	172,951	102,300	102,300
SINCGARS (roll) (py transfer)		(22,100)		
Snap		15,400		15,400
Communications central, AN/TSC-99	11,700		11,700	
IMP hf radio family	26,600	20,100	26,600	26,600
PWR supply PP-6148/U	900	900	900	900
Radio set an/prc-70	11,600	11,600	11,600	11,600
Antenna group OE-254	2,500	2,500	2,500	2,500
Small unit trans an/prc-68	1,000	1,000	1,000	1,000
Teletypewriter terminal an/ugc-74	4,200		4,200	2,100

[In thousands of dollars]

	Budget	House	Senate	Conference
MOD of in-svc equip (csc)	26,000	11,800	26,000	18,900
RDF comm (s.w. Asia)	19,500	19,500	19,500	19,500
Items less than $900,000 (CSC-C-E)	10,100	7,100	10,100	7,100
Spec ops comm sup elmt	7,300	6,341	11,330	11,330
Telecomm Equip—NMCS Wide Support, Army				
Telecomm Equip—Starcom Non-DCS:				
Ar Telecom auto pr (atcap)	9,200	9,200	9,200	9,200
C-E facilities/projects	20,500	17,100	20,500	18,800
Southcom C3 upgrade	26,900	26,900	13,800	13,800
Electromag comp prog (emcp)	600	600	600	600
Long-haul com (DCS):				
Autodin (DCS)	4,800	4,800	4,800	4,800
Defense data network (DDN)	6,500	6,500	6,500	6,500
Transmission media (eucom)	16,200	16,200	16,200	16,200
Transmission media (pacom)	30,900	30,900	30,900	30,900
WW tech con imp pr (WWTCIP)	5,300	5,300	5,300	5,300
Telecomm equip—satcom-grd environ:				
Digital equipment (dscs)	40,000	40,000	40,000	40,000
Interconnect facility (dscs)	7,900	7,900	7,900	7,900
Jam resistant secure com (jrsc)	22,900	19,585	22,900	19,585
Med sat term an/gsc	62,100	62,100	62,100	62,100
Sprd spec mul acc (dscs)	23,000	17,970	23,000	17,970
Dscs operations control sys (docs)	40,400	22,281	40,400	31,300
Mod in-svc equip (dscs)	8,500	8,500	8,500	8,500
Mpk sat uhf term, an/psc-3	3,900	3,900	3,900	3,900
Veh sat uhf term, an/vsc-7	1,400	1,400	1,400	1,400
Single channel object tact term (scott)	83,400			
Mod in-svc equip (tac sat)	53,400	53,400	53,400	53,400
Telecomm equip-eucom C3 system:				
Eucom C3 (nws)	98,600	65,700	98,600	98,600
Eucom alternate spt hq (ash)	11,500	7,700	11,500	7,700
Telecomm equip-comsec equipment:				
Auto key dc kgx-93/tsec	4,300	4,300	4,300	4,300
Sec. vo imprv prg (comsec)	8,400	8,400	18,400	12,000
Loop key gen tsec/kg-82	2,100	2,100	2,100	2,100
Key var gen tsec/kg-83	400	400	400	400
Ded loop encryp dev kg-84	21,800	21,800	39,800	31,800
Tnk encrp dev tsec/kg-93	2,200	2,200	2,200	2,200
Tsec/kg-94	7,800	7,800	7,800	7,800
Int lev t set tsec/st-34	800	800	800	800
Dig sub voice tsec/ky-68	2,000	2,000	2,000	2,000
Tsec/ky-90	5,400	5,400	5,400	5,400
Key generator, tsec/kg-87	2,000	2,000	2,000	2,000
Comsec module, tsec/kgv-13	5,100		5,100	3,800
Freq module, kgv-10/tsec	18,200	13,900	1,000	13,900
Elec tran dev kyk-13/tsec	1,500	1,500	1,500	1,500
Net con dev kyx-15/tsec	1,800	1,800	1,800	1,800
Speech secur eq tsec/ky-57	31,500	31,500	56,200	35,000
Tsec/kyv-5 (vactor) secure equip	900	900	900	900
Tempest (comsec)	1,100	1,100	1,100	1,100
Tsec/kgv-11/secure module	1,300	1,300	1,300	1,300
Umstead CC (ci-11-1)	3,000	3,000	3,000	3,000
Umstead RT (ci-11-2)	6,800	6,800	6,800	6,800
Batson II. tsec/ci-14	8,400	8,400	8,400	8,400
Items less than $900,000 (comsec)	4,500	4,500	4,500	4,500
Telecomm equip—base comm:				
Base comm (conus)	34,600	34,600	34,600	34,600
Base comm (eucom)	6,800	6,800	6,800	6,800
Base comm (pacom)	4,000	4,000	4,000	4,000
Da comd+con sys (daccs)	10,300	10,300	10,300	10,300
Army opns ctr	5,000	5,000	5,000	5,000
Pentagon telecom ctr (ptc)	9,800	9,800	9,800	9,800
Tmde for telecomm:				
Tmde modernization	27,000	27,000	27,000	27,000
Other elect sys/equip—intelligence support:				
Trailblazer	38,400	19,200	19,200	19,200
Tac elec surv sys	15,800	15,800	15,800	15,800
Manpack radio df system (mrdfs)	7,000	7,000	7,000	7,000
Team pack	6,000	6,000	6,000	6,000
Mod in ser eq (int spt)	20,200	20,200	20,200	20,200
Reserve tactical intel enhancement	900	900	900	900
Items less than $900,000 (int spt-c-E)	4,700	4,700	4,700	4,700
Ft Devens training support	400	400	400	400
Trojan	5,300	5,300	5,300	5,300
Intelligence data handling system (idhs)	24,300	24,300	24,300	24,300
Tech recon and surv sys (tecras)	7,900	7,900	7,900	7,900
Items less than $900,000 (gdip-C-E)	4,600	4,600	4,600	4,600
Other Elect Sys Equip—Gen Def Intel Prog				
Other Elect Sys/Equip—AUTO DATA PROCESS SYS:				
VERT INSTL AUTO BASELINE (VIABLE-BASOPS)	18,700	18,700	18,700	18,700
VERTICAL FORCE DEVELOP. MIS	6,300	6,300	6,300	6,300
BATTERY COMPUTER SYSTEM	17,700	17,000	17,700	17,700
ARMY DATA DISTRIBUTION SYSTEM-ADDS	21,600	21,600	21,600	21,600
USAREUR TACTICAL AUTOMATION	2,200	2,200	2,200	2,200
LIFE CYCLE SOFTWARE SUP. (ICSS)	3,500	3,500	3,500	3,500
ADPE FOR NON TAC MGT INFO SYS	9,400	22,700	33,000	32,900
ADPE FOR NON TAC MGT INFO SYS (PY TRANSFER)		(10,200)		
DIGITAL MESSAGE DEVICE	13,200			

[In thousands of dollars]

	Budget	House	Senate	Conference
FIRE SUPPORT TEAM DIGITAL MESSAGE	17,200	17,200	17,200	17,200
MANUEVER CONTROL SYS	72,300	10,687	72,300	60,000
MOD IN-SVC CMD/CONTROL (C2)	2,900	2,900	2,900	2,900
CORPS/THEATER ADP SVC CTR (CTASC)	8,900		8,900	
TACT ARMY CMBT COMPT SY (TACCS)	44,700	44,700	44,700	44,700
COMPUTER BALLISTICS: MORTAR XM-23	6,000	6,000	6,000	6,000
CSS LOG APPLC AUTO MARK/READ SYMBS(LOG MA)	10,600	10,600	10,600	10,600
WW MIL COM & CONT SYS ADPE	7,100	7,100	7,100	7,100
UNIT LEVEL COMPUTER (ULC)	5,500	5,500	5,500	5,500
ADV FA TACTICAL DATA SYSTEM		25,574		25,574
AUDIO VISUAL:				
AFRTS (AUDIO VISUAL)	4,300	4,300	7,800	7,800
DIG STRG & RTRVL ENGRG DATA SYS (DSREDS)	25,300	25,300	24,300	24,300
ITEMS LESS THAN $900,000 (A/V-C-E)	14,300	11,300	14,300	11,300
OTHER ELECT SYS/EQUP—ELECTRONIC WARFARE:				
COUNTERMEASURES SET AN/TLQ-17A	5,700	5,700	5,700	5,700
TACJAM, AN/MLQ-34	19,000	19,000	19,000	19,000
EW (HTLD)	5,200	5,200	5,200	5,200
MOD IN-SVC EQUIP (EW)	2,100	2,100	2,100	2,100
ITEMS LESS THAN $900,000 (EW-C-E)	2,900	2,900	2,900	2,900
OTHER ELECT SYS/EQUP—TACTICAL ELECTRONIC:				
CHARGER, RADIAC DETECTOR PP-4370/PD	3,800			
BATTERY CHARGER PP-7286/U	3,500	3,500	3,500	3,500
POWER SUPPLY, PP-6224	1,900	1,900	1,900	1,900
COMPUTER/INDICATOR CP-696/PD	4,000	4,000	4,000	4,000
METEOROLOGICAL DATA SYS (FAMAS)	33,100	33,100	33,100	33,100
GROUND LASER LOCATOR DESIGNATOR (GLLD)	45,100	45,100	45,100	45,100
INTRUSION DETECTION DEVICES	16,600	16,600	16,600	16,600
NAVSTAR GLOBAL POSITIONING SYSTEM	9,700	2,400		9,700
NAVSTAR GLOBAL POSITIONING SYSTEM(PY TRANSFER)		(7,300)		
POSITION/AZIMUTH DETERMINING SYS (PADS)	36,400		36,400	20,000
TAM-6 NIGHT SIGHT MAINTENANCE FACILITY	4,200	4,200	4,200	4,200
AN/TAM-3 TEST SET, NIGHT VISION SIGHT	2,300	2,300	2,300	2,300
NIGHT VISION GOGGLES	65,000	65,000	65,000	65,000
NIGHT VISION SIGHT INDIV WPN AN/PVS-4	9,900	9,900	9,900	9,900
POSITION LOCATION REPORTING SYS (PLRS)	45,100	45,100	45,100	45,100
RADIAC SET AN/VDR-2	2,000	2,000	2,000	2,000
REMBASS	22,000	22,000	22,000	22,000
RPV TA/DESIGN AERIAL RECON SYS (TADARS)	134,600	66,000	66,000	66,000
TACTICAL DOSIMETER, IM-185	2,400			
MODIFICATION OF IN-SERVICE EQ (TAC EL)	3,500	3,500	3,500	3,500
ITEMS LESS THAN $900,000 (TACT ELEC-C-E)	14,500	9,500	14,500	9,500
TMDE FOR TACTICAL ELECTRONICS:				
TEST STA, ELECTRONIC EQUIP, AN/USM-410	8,900	8,900	8,900	8,900
TMDE FOR STE/ICE	5,600	5,600	5,600	5,600
CORE ELECTRONIC AUTO TEST (STE-X)	8,500	8,500	8,500	8,500
OTHER ELECT SYS/EQUIP—SUP EQUIP AND FAC:				
SPARES AND REPAIR PARTS (TELECOM)	215,400	189,400	200,300	189,400
SPARES AND REPAIR PARTS(COMESC)	14,600	14,600	14,600	14,600
SPARES AND REPAIR PARTS (OTHER)	218,000	196,400	210,700	196,400
WAR RESERVE SPARES	32,800	18,000	32,800	18,000
SPECIAL PROGRAMS	95,000	95,000	95,000	95,000
QUICK RETURN ON INVESTMENT (QRIP) PGM	500	500	500	500
PRODUCTIVITY INVESTMENT FUNDING	40,700	40,700	40,700	40,700
PROD ENHANCING CAP INVESTMENT PROG (PECIP)	1,000	1,000	1,000	1,000
PRODUCTION BASE SUPPORT (C-E)	5,500	5,500	5,000	5,000
TOTAL, COMMUNICATIONS AND ELECTRONIC EQUIPMENT	3,306,300	2,731,789	2,639,630	2,868,859
Other Support Equipment				
CHEMICAL DEFENSIVE EQUIPMENT:				
SIM DET CHEM AGENT AUTO ALARM XM81	4,700	4,700	4,700	4,700
DECONTAMINATE APP PWR DR LT WT XM17	6,400	6,400	6,400	6,400
MASK, PROTECTIVE NBC	30,300	30,300	30,300	30,300
CHEMICAL AGENT MONITOR	19,400	19,400	19,400	19,400
SIMP COLL PROT EQUIP XM20	3,900	3,900	3,900	3,900
MODULAR/COLL PROT EQUIP FOR VV AND S	3,100	3,100	3,100	3,100
GEN SET, SMOKE, MECH: PUL JET, XM157	4,200	4,200	4,200	4,200
BRIDGING EQUIPMENT:				
BOAT, BRIDGE ERECTION, DE, 27 FT	25,400	25,400	25,400	25,400
BRIDGE, FLOAT-RIBBON, INTERIOR BAY	7,100	7,100	7,100	7,100
BRIDGE, FLAT-RIBBON, RAMP	3,800	3,800	3,800	3,800
BRIDGE, FLOAT-RIBBON, TRANSPORTER	18,000	18,000	18,000	18,000
ITEMS LESS THAN $900,000 (BRIDGING)	900	900	900	900
ENGINEER (NON-CONSTRUCTION) EQUIPMENT:				
GEMSS AUX MINE DISPNSR XM138 (FLIPPER)	2,000	2,000	2,000	2,000
DISPENSER MINE XM139	2,500		2,500	
LAUCHER, MINE CLEARING LINE CHARGE	1,400	1,400	1,400	1,400
MARKING SYCS, CLEAR LANE	3,000	3,000	3,000	3,000
E DET SET, MINE, MET/NON-MET, AN/PRS-8	8,100	8,100	8,100	8,100
MINE CLEARING ROLLER	3,500	3,500	3,500	3,500
REMOTE CONTROL UNIT (MOPMS)	4,600	4,600	4,600	4,600
M-9 ARMORED COMBAT EARTHMOVER (ACE)	65,000	30,000	42,400	42,400
M-9 ARMORED COMBAT EARTHMOVER (ACE) (PY TRANSFER)		(12,400)		
ITEMS LESS THAN $900,000 (ENG NON COSTR)	1,900	1,900	1,900	1,900
COMBAT SERVICE SUPPORT EQUIPMENT:				
AIR CONDITIONERS VARIOUS SIZE/CAPACITIES	19,100	19,100	19,100	19,100
FIELD KITCHENS, MOBILE, TRL MTD	5,300	5,300	5,300	5,300
DIVING EQUIPMENT	400	400	400	400
FIRETRUCKS	8,600	8,600	8,600	8,600

(In thousands of dollars)

	Budget	House	Senate	Conference
TAG PRINTING AND BINDING EQUIPMENT	5,400	5,400	5,400	5,400
HALON RECHARGE SERVICE KIT	2,100	2,100	2,100	2,100
ITEMS LESS THAN $900,000 (CCS–EQ)	10,000	10,000	10,000	10,000
MODIFICATIONS OF IN SERVICE EQUIP (CSE)	3,800	3,800	3,800	3,800
PETROLEUM EQUIPMENT:				
TANK ASSEMBLY FAB COLL POL 50000 G	5,100	5,100	5,100	5,100
TANK ASSEMBLY FAB COLLAPSIBLE POL 10000G	5,800	5,800	5,800	5,800
TANK UNIT TRLR MTD 600 GAL	1,900	1,900	1,900	1,900
PUMP ASSY LIQ GAS WHL 4 IN OUT 350 GPM	5,800	5,800	5,800	5,800
SWA PETROLEUM DISTRIBUTION SYSTEM	38,900	38,900	38,900	38,900
ITEMS LESS THAN $900,000 (POL)	1,600	1,600	1,600	1,600
LOG UNIT PRODUCTIVITY SYS (LUPS)			53,700	
WATER EQUIPMENT:				
WTR PUR UNIT REV OS 200/3000 GPM TK MTD	14,000	14,000	14,000	14,000
WATER PUR UNIT, REV OSMOSIS, 600GH	24,000	24,000	24,000	24,000
TACTICAL WATER DISTR SYS	8,300	8,300	8,300	8,300
TANK, FABRIC, COLL, WTR, SEMI-TRLR MTD	1,600	1,600	1,600	1,600
SMALL MOBILE WATER CHILLER (SMWC)	2,200	2,200	2,200	2,200
PUMP CENTRIFUGAL 65GPM	3,400	3,400	3,400	3,400
ITEMS LESS THAN $900,000 (WATER EQ)	1,900	1,900	1,900	1,900
MEDICAL EQUIPMENT:				
DEPOYABLE MEDICAL SYSTEM (DMS)	84,400	84,400	132,100	96,700
CBT SOP EQUIP MEDICAL	77,500	77,500	104,600	98,700
MEDICAL SUPPORT EQUIPMENT	83,900	83,900	83,900	83,900
MAINTENANCE EQUIPMENT:				
SHOP EQ CONTACT MAINTENANCE TK MTD (MP)	27,000	27,000	27,000	27,000
WELDING SHOP, TRAILER MTD	9,800	9,800	9,800	9,800
SHOP EQ ELECTRRICAL RPR SEMI-TRL MTD	13,500	13,500	13,500	13,500
CALIBRATION SET SUPPORT	7,700	7,700	7,700	7,700
ITEMS LESS THAN $900,000 (MAIN EQUIP)	9,500	9,500	9,500	9,500
CONSTRUCTION EQUIPMENT:				
TRACTOR FULL TRACKED LOW SPEED DO MED	26,400	26,400	26,400	26,400
SMALL EMPLACEMENT EXCAVATOR (SEE)	25,300	25,300	25,300	25,300
ITEMS LESS THAN $900,000 (CONSTRUCTION)	7,700	7,700	7,700	7,700
RAIL FLOAT CONTAINERIZATION EQUIPMENT:				
LANDING, CRAFT, UTILITY	22,900	22,900	22,900	22,900
RO/RO DISCHARGE PLATFORM	11,800	11,800	11,800	11,800
CAUSEWAY SYSTEMS	13,400	13,400	13,400	14,400
MODIFICATIONS OF IN-SERV EQ (FLOAT/RAIL)	1,000	1,000	1,000	1,000
ITEMS LESS THAN $900,000 (FLOAT & RAIL)	4,200	4,200	4,200	4,200
GENERATORS:				
GEN AND ASSOCIATED EQUIP	99,400	99,400	99,400	99,400
MATERIEL HANDLING EQUIPMENT:				
TRUCK, FORK LIFT, GE, PT, 6000 LB	13,500	13,500	13,500	13,500
TRUCK, FORK LIFT, GE, SRT, 2000 LB	2,900	2,900	2,900	2,900
TRUCK, FORK, DE, PT, RT, 6000 LB	26,300	18,000		
TRUCK, FORK LIFT, ELEC, SRT, 6000 LB	4,600	4,600	4,600	4,600
TRUCK, FORK LFT, ELC, SRT, FRT/SIDE LDR	2,000	2,000	2,000	2,000
TRUCK, FORK LIFT, ELEC, SRT, 4000 LB	12,900	12,900	12,900	12,900
65 TON CRANE	6,200	6,200	6,200	6,200
ITEMS LESS THAN $900,000 (MHE)	6,000	6,000	6,000	6,000
SPARES AND REPAIR PARTS	37,700	37,700	37,700	37,700
AREA ORIENTED DEPOT UPGRADE	73,800	63,800	63,800	63,800
VALUE ENGINEERING(VE)	600	600	600	600
PROJECT RESHAPE (HQ DARCOM)	14,600	6,000	6,000	6,000
PRODUCTION BASE SUPPORT (OTH)	7,900	7,900	7,900	7,900
SPECIAL EQUIPMENT FOR USER TESTING	11,200	11,200	11,200	11,200
HOST NATION SUPPORT—EUROPE	58,200		58,200	41,000
NATIONAL TRAINING CTR SUP	13,300	13,300	13,300	13,300
SWA STAGING BASES	6,400	6,400	6,400	6,400
TRAINING DEVICES, NONSYSTEM	177,800	177,800	177,800	177,800
ARAPHO		5,000		5,000
TOTAL OTHER SUPPORT EQUIPMENT	1,389,700	1,272,100	1,450,700	1,341,000
NON-CENTRALLY MANAGED ITEMS		105,300	105,300	105,300
INFLATION REESTIMATES FOR FY86		−5,000	−5,000	−5,000
PRIOR YEAR INFLATION SAVINGS		−174,000		
(PY TRANSFER)		(174,000)		
PRIOR YEAR PROGRAM SAVINGS		−89,400		
(PY TRANSFER)		(64,000)		
TOTAL, OTHER PROCUREMENT, ARMY	5,712,800	4,809,986	5,214,730	5,275,556
TRANSFER FROM OTHER ACCOUNTS		(297,400)	(238,000)	
TOTAL FUNDING AVAILABLE	5,712,800	5,107,386	5,452,730	5,275,556

PRIOR YEAR SAVINGS

The conferees recognize $257,500,000 in prior year savings in Army Other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

FIVE TON TRUCKS

The conferees agree to the House allowance for procurement of five ton trucks and further agree that additional five ton trucks may be procured for the Army National Guard with funds appropriated under "National Guard and Reserve Equipment."

XM-1000 SEMITRAILER

The conferees deny without prejudice the budgeted procurement funding for the XM-1000 in recognition of program delays. If procurement can be justified in fiscal year 1986, after successful completion of testing, a reprogramming will be considered.

FREQUENCY MODULE, KGV-10/TSEC

The conferees agree to provide $13,900,000 as proposed by the House instead of the $1,000,000 proposed by the Senate. The conferees direct the Army to apply excess funds available from these funds due to schedule slippages in the SINCGARS program to the purchase of KY-57 (Vinson) devices to provide additional communications security capability for the existing VRC-12 series radios which will now be retained longer.

MODULAR RECORD TERMINAL

The conferees recommend $36,200,000 for a more cost effective alternative to the Single Subscriber Terminal, with the understanding that the Army already is evaluating such alternatives. The conferees direct that none of the recommended funds be obligated until the Army submits a report to the Defense Appropriations Subcommittees of each House including the results of the evaluation, a recommendation for a more cost effective program, and the rationale for such recommendation. The conferees agree that no funding is provided for modular tactical communications centers as proposed by the Senate.

MOBILE SUBSCRIBER EQUIPMENT

The conferees recommend $335,000,000 for Mobile Subscriber Equipment as proposed by the House.

The conferees are concerned about the capability of the Army to manage the frequency and power management problems associated with the equipment of a mobile, cellular phone system in rapidly changing tactical situations where large numbers of other critical electronic emitter and receivers are used. The conferees therefore direct the Army to report by May 1, 1986 to the Defense Appropriations Subcommittees of the House and Senate on its plans to develop, demonstrate, and employ a frequency management capability for its mobile subscriber equipment.

TELETYPEWRITER TERMINAL AN/UGC-74

The conferees recommend $2,100,000 for the Teletypewriter Terminal AN/UGC-74 Program and direct that none of these terminal be utilized in a program that proivides for their operation solely as a printer.

AN/USC-28 SATELLITE COMMUNICATIONS SET

The conferees agree to provide $19,585,000 for Jam Resistant Secure Communications and $17,970,000 for Spread Spectrum Multiple Access modems (AN/USC-28) as proposed by the House. The conferees understand that the 1986 program requirements have already been purchased using excess fiscal year 1985 funds.

The conferees are concerned about the Department's long term plans for the development of a universal modem, and therefore direct the Department to submit a report to the Defense Appropriations Subcommittees of the House and Senate by April 1, 1986, including its plan for procurement and fielding of a universal modem, which fully considers the sizable sunk costs in existing hardware and software.

COMSEC MODULE, TSEC/KGV-13

The conferees recommend $3,800,000 for COMSEC module, TSEC/KGV-13 with the understanding that a revised schedule will permit obligation of these funds in fiscal year 1986. The reduction from the budget request is based on an estimated downward revision in unit costs and is made without prejudice.

MANEUVER CONTROL SYSTEM

The conferees recommend $60,000,000 for the Maneuver Control System (MCS). The conferees are concerned about the relatively high cost of military standard equipment and direct that provision of military standard equipment be limited to the training base and to the forward deployed and early deploying active component forces for the European, Korean, and Southwestern Asian Theaters. The conferees intend that (1) military standard equipment for these forces will be supplemented with nondevelopmental (NDI) equipment, (2) other active forces will be equipped entirely with NDI equipment, and (3) military standard equipment will be redistributed to the reserve component forces when the active forces are re-equipped under the Army Command and Control System (ACCS) program. The conferees direct that, to achieve greatest economy, priority should be given to acquiring the remaining military standard equipment in fiscal year 1986. For the remainder of the program equipment, procedures should be established to ensure that procurement and the ability to field this equipment is synchronized.

The conferees direct the Army to report to the Defense Appropriations Subcommittees of the House and Senate prior to obligation, but no later than March 1, 1986, on its proposed procurement and distribution plans of both military standard and NDI equipment for this program.

The conferees are aware that the MCS program has been developed and tested on an evolutionary basis and intend that the continuing development of the MCS will provide critical learning experience for the follow-on ACCS program. The conferees therefore direct that procurement be planned for completion in fiscal year 1987 and that fielding of this equipment be done expeditiously. An aggressive test and evaluation program should be established to ensure maximum transfer of MCS experience to the follow-on ACCS program. The success of this program is of interest to the conferees. Reports on its status should therefore be made from time to time to the Defense Appropriations Subcommittees of the House and Senate.

FIRE SUPPORT SYSTEM MODERNIZATION

The conferees agree to provide $25,574,000 for maximizing the near fire support command and control fielded capabilities in accordance with a Congressionally-approved plan which will culminate in the ultimate system for the 1990's. However, the Army's Light Divisions are of primary and immediate concern. These Divisions have the unique mission requirement to deploy on short notice by air transport, fully prepared to carry out a variety of missions in low to high intensity conflicts. Since the Light Divisions currently have no automated fire support system, the conferees agree that these procurement funds are provided solely for the Light Divisions.

In response to repeated requests by Light Division Commanders for a Lightweight Fire Support System, the Army equipped the 9th Division with a system specifically designed for this mission in October 1985. This system will undergo Operational Testing between February and April 1986.

The Conferees direct the Army to report on the test results of the lightweight system test program, and submit a proposed overall transition plan for achieving near-term improvements to the fielded systems of both the Light and Heavy Divisions. Obligation of these funds is contingent on Congressional review of test results and approval of the transition plan.

POSITIONING/AZIMUTH DETERMINING SYSTEM

The conferees recommend $20,000,000 for the Positioning/Azimuth Determining System (PADS) with the intention that a mimimum production level for PADS be maintained for one year.

The conferees are concerned that the Army has no definite plan for the use of the various positioning/azimuth determining systems both currently in the inventory and in development. The conferees therefore direct the Army by March 1, 1986, to submit to the Defense Appropriations Subcommittees of the House and Senate a detailed and comprehensive report including a definition of the current and future roles of all positioning/azimuth determining systems in the inventory or underdevelopment, the procurement plans for each system by fiscal year, a cost-benefit analysis of life cycle costs suppporting the planned use of each system, and a description and justification of plans for transition from one system to its successor system.

HOST NATION SUPPORT

The conferees recommend $41,000,000 for Host Nation Support-Europe. This recommondation reflects the conferees' continued support of the Host Nation Support program, revised activation schedules, the offer of the German government to prefinance construction of facilities for activated units, and the availability of unobligated balances for this program appropriated in fiscal years 1984 and 1985.

The conferees agree with the Senate direction to restrict the use of funds only for the Host Nation Support program, and the House direction for the Army to submit a report on its plans to synchronize future estimates of requirements with activation schedules, and to include details in future budget requests on the relationship of requirements to activation and operational schedules.

AIRCRAFT PROCUREMENT, NAVY

The conferees agree to the following amounts for Aircraft Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
BA-1 COMBAT AIRCRAFT:				
A-6E (ATTACK) INTRUDER	202,582	293,282		293,282
(PY TRANSFER)			(202,582)	
A-6E (ATTACK) INTRUDER (AP-CY)	11,600	20,900		20,900
(PY TRANSFER)			(11,600)	
EA-6B (ELECTRONIC WARFARE) PROWLER	446,298	436,098	436,098	436,098
EA-6B (ELECTRONIC WARFARE) PROWLER (PY TRANSFER)		(3,400)		
EA-6B (ELECTRONIC WARFARE) PROWLER (AP-CY)	33,000	33,000	24,800	24,800

[In thousands of dollars]

	Budget	House	Senate	Conference
AV-8B (V/STOL)	892,459	637,259	821,459	821,459
AV-8B (V/STOL) (PY TRANSFER)		(139,200)		
AV-8B (V/STOL) (AP-CY)	86,569	86,569	86,569	86,569
F-14A (FIGHTER) TOMCAT	653,615	553,615	649,090	649,090
F-14A (FIGHTER) TOMCAT (AP-CY)	148,200	124,200	124,200	124,200
F/A-18 (FIGHTER) HORNET	2,493,741	2,153,741	2,267,900	2,267,900
F/A-18 (FIGHTER) HORNET (PY TRANSFER)		(118,000)		
F/A-18 (FIGHTER) HORNET (AP-CY)	268,130	210,130	210,130	210,130
CH/MH-53E (HELICOPTER) SUPER STALLION (MYP)	260,053	235,053	235,053	235,053
CH/MH-53E (HELICOPTER) SUPER STALLION (MYP) (AP-CY)	33,300	33,300	33,300	33,300
AH-1T (HELICOPTER) SEA COBRA	201,982	201,982	198,500	198,500
SH-60B (ASW HELO) SEAHAWK	315,580	202,980	250,080	249,980
SH-60B (ASW HELO) SEAHAWK (PY TRANSFER)		(47,000)		
SH-60B (ASW HELO) SEAHWAK (AP-CY)	54,900	54,900	54,900	54,900
CV ASW HELO (AP-CY)	30,000	30,000	30,000	30,000
P-3C (PATROL) ORION (MYP)	329,871	322,871		322,871
P-3C (PATROL) ORION (MYP) (AP-CY)	156,600	106,600		106,600
E-2C (EARLY WARNING) HAWKEYE	328,360	316,460		320,900
E-2C (EARLY WARNING) HAWKEYE (PY TRANSFER)		(6,000)	(320,900)	
E-2C (EARLY WARNING) HAWKEYE (AP-CY) (PY TRANSFER)	31,300	31,300		31,300
			(31,300)	
SH-2F (ASW HELO) SEASPRITE	69,900	60,900	60,900	60,900
TOTAL, BA-1 COMBAT AIRCRAFT	7,048,040	6,145,140	5,482,979	6,578,732
BA-2 AIRLIFT AIRCRAFT:				
UC-12B/CX	26,867	26,867	26,867	26,867
C-20A		40,000	40,000	40,000
C-2 (MYP)	134,936	134,936	134,936	134,936
C-2 (MYP) (AP-CY)	35,200	35,200	35,200	35,300
TOTAL, BA-2 AIRLIFT AIRCRAFT	197,003	237,003	237,003	237,003
BA-3 TRAINER AIRCRAFT:				
T-34C	49,431	24,731	24,731	24,731
ADVERSARY (F-16)	115,673	115,673	115,673	115,673
TOTAL, BA-3 TRAINER AIRCRAFT	165,104	140,404	140,404	140,404
BA-4 OTHER AIRCRAFT:				
E-6A	297,300	297,300		297,300
E-6A (AP-CY)	58,300	58,300		58,300
VH-60	102,800	102,800	102,800	102,800
TOTAL, BA-4 OTHER AIRCRAFT	458,400	458,400	102,800	458,400
BA-5 MODIFICATION OF AIRCRAFT:				
A-3 SERIES	5,359	5,359	5,359	5,359
A-4 SERIES	16,972	10,272	10,272	10,272
A-6 SERIES	240,536	230,936	224,115	230,936
EA-6 SERIES	45,394	38,594	45,394	38,594
A-7 SERIES	29,983	10,783	7,569	7,569
AV-8 SERIES	8,123	8,123	8,123	8,123
F-4 SERIES	5,012	3,712	3,712	3,712
RF-4 SERIES	2,469	2,469	2,469	2,469
F-14 SERIES	158,752	158,752	158,752	158,752
F-8 SERIES	100	100	100	100
F-5 SERIES	1,682	1,682	1,682	1,682
OV-10 SERIES	51,506	51,506	51,506	51,506
F-18 SERIES	17,814	17,814	17,814	17,814
H-46 SERIES	136,995	134,995	134,995	134,995
H-53 SERIES	40,255	40,255	40,255	40,255
SH-60 SERIES	1,635	1,635	1,635	1,635
H-1 SERIES	75,419	75,419	75,419	75,419
H-2 SERIES	33,851	33,851	33,851	33,851
H-3 SERIES	97,990	96,690	96,690	96,690
EP-3 SERIES	38,531	38,531	38,531	38,531
P-3 SERIES	152,889	152,889	396,089	396,089
S-3 SERIES	284,291	293,591	284,291	293,591
E-2 SERIES	72,062	65,662	65,662	65,662
TRAINER A/C SERIES	5,283	4,983	4,983	4,983
EC-130 SERIES	6,471	6,471	6,471	6,471
C-130 SERIES	12,485	12,485	12,485	12,485
KC-TANKER CONVERSION			110,000	110,000
FEWSG	22,673	22,673	22,673	22,673
CARGO/TRANSPORT A/C SERIES	6,939	6,939	6,939	6,939
VARIOUS	15,625	15,625	4,625	4,625
POWER PLANT CHANGES	8,339	8,339	8,339	8,339
MISC FLT SAFETY/OPER NECESSITY CHANGES	4,334	4,334	4,334	4,334
COMMON ECM EQUIPMENT	242,021	242,021	165,368	192,021
COMMON AVIONICS CHANGES	23,927	23,927	23,927	23,927
UNDISTRIBUTED REDUCTION		−30,000		
TOTAL, BA-5 MODIFICATION OF AIRCRAFT	1,865,717	1,791,417	2,074,429	2,110,403
BA-6 AIRCRAFT SPARES:				
SPARES AND REPAIR PARTS	1,463,662	1,325,162	1,425,162	1,325,162
SPARES AND REPAIR PARTS (PY TRANSFER)		(100,000)		
BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FACIS:				
COMMON GROUND EQUIPMENT	684,820	684,820	668,520	668,520
AIRCRAFT INDUSTRIAL FACILITIES	57,132	57,132	57,132	57,132
WAR CONSUMABLES	65,042	65,042	60,242	60,242

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PRODUCTION CHARGES	57,680	55,980	55,980	55,980
UNDISTRIBUTED REDUCTION		−64,800		−67,000
TOTAL, BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FACIS	864,674	798,174	841,874	774,874
INFLATION REESTIMATES FOR FY86		−15,000	−15,000	−15,000
INFLATION PREMIUM, FY86		−253,300		−253,300
FY85 INFLATION FAIRNESS ADJUSTMENT		−181,000		−181,000
(PY TRANSFER)		(181,000)		
TOTAL, AIRCRAFT PROCUREMENT, NAVY	12,062,600	10,446,400	10,289,651	11,175,678
TRANSFER FROM OTHER ACCOUNTS		(594,600)	(566,382)	
TOTAL FUNDING AVAILABLE	12,062,600	11,041,000	10,856,033	11,175,678

PRIOR YEAR SAVINGS

The conferees recognize $551,300,000 in prior year savings in Navy Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

CH-53E HEAVY LIFT HELICOPTER

The conferees agree that the CH-53E engines be procured under a multiyear contract as proposed by the House.

P-3C ANTISUBMARINE WARFARE AIRCRAFT

The conferees agree to an allowance of $322,871,000 to procure nine P-3C aircraft and $106,600,000 for P-3C advance procurement. The conferees direct that six of the nine P-3C aircraft shall be for the Naval Reserve.

NAVY TANKER AIRCRAFT

The conferees agree with the Senate allowance of $110,000,000 for tanker aircraft modifications to support deployed carrier based fighter aircraft. The conferees believe the conversion of used commercial aircraft into tankers is substantially less costly than the procurement of new tanker aircraft. Accordingly, the conferees direct the Navy to request bids for used commercial aircraft that can be converted into aerial refueling tankers.

P-3C AIRCRAFT MODIFICATIONS

The conferees agree to the allowance of $396,089,000 for P-3C modifications. With respect to the P-3C modification program, the conferees direct the Department, with the available funds, to procure 33 additional update III modifications kits for a total of 48 aircrafts; to allot $27,500,000 to procure AN/AQA-7 systems with expanded channel capacity and compatibility with the planned advanced acoustic sensors. The conferees direct the Navy to procure sufficient test models of both the AN/AQA-7 improved processor system and improved display system in order to determine fleet operability and suitability. Upon completion of this evaluation, the Navy should obtain the technical data package and compete future procurements. Additionally, the conferees direct that $3,000,000 be made available to modify P-3A aircraft to be turned over to the Customs Service for drug interdiction.

WEAPONS PROCUREMENT, NAVY

The conferees agree to the following amounts to Weapons Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
BA-1 BALLISTIC MISSILES:				
BALLISTIC MISSILES:				
UGM-73A (C-3) POSEIDON	5,001	5,001	5,001	5,001
UGM-96A (C-4) TRIDENT I	66,226	36,226	36,226	36,226
TRIDENT II	312,686	312,686	312,686	312,686
TRIDENT II (AP-CY)	269,300	269,300	269,300	269,300
MODIFICATION OF MISSILES:				
UGM-73A (C-3) POSEIDON MODS	15,006			
SUPPORT EQUIPMENT AND FACILITIES:				
MISSILE INDUSTRIAL FACILITIES	4,501	4,501	4,501	4,501
ASTRONAUTICS	12,606	12,606	12,606	12,606
TOTAL, BA-1 BALLISTIC MISSILES	685,326	640,320	640,320	640,320
BA-2 OTHER MISSILES:				
STRATEGIC MISSILES:				
BGM-109 TOMAHAWK	670,204	670,204	670,204	670,204
BGM-109 TOMAHAWK (AP-CY)	64,600	54,600	54,600	54,600
TACTICAL MISSILES:				
AIM/RIM-7 F/M SPARROW	359,200	345,379	359,200	359,200
AIM/RIM-7 F/M SPARROW (AP-CY)	9,500			
AIM-9L/M SIDEWINDER	85,800	125,800	125,800	125,800
AIM-9L/M SIDEWINDER (AP-CY)	8,000			
AIM-54A/C (PHOENIX)	343,600	250,700	343,600	343,600
AIM-54A/C (PHOENIX) (AP-CY)	38,300	24,800	24,800	24,800
AGM-84A HARPOON	314,873	314,873	314,873	314,873
AGM-88A HARM	258,000	236,000	242,214	236,000
SM-1 MR	26,438	17,738	20,300	20,300
SM-1 MR (AP-CY)	9,500			
SM-2 MR	509,719	509,719	509,719	509,719
SM-2 ER	312,235	312,235	303,200	303,200
RAM	44,713	15,000		
SIDEARM	20,500	20,500	30,500	30,500
HELLFIRE	55,068	55,068	51,768	51,768
LASER MAVERICK	194,258	173,458	173,458	173,458
IIR MAVERICK	27,809	27,809	27,809	27,809
AERIAL TARGETS	105,600	105,600	105,600	105,600
DRONES AND DECOYS	29,400	29,400	29,400	29,400
OTHER MISSILE SUPPORT	12,309	12,309	12,309	12,309
MODIFICATION OF MISSILES:				
TOMAHAWK MODS	2,500	2,500	2,500	2,500
AIM/RIM-7E/F SPARROW MOD	2,302	2,302	2,302	2,302
AIM-9 SIDEWINDER MOD	30,317	20,317	25,271	20,317
AIM-54A/C PHOENIX MOD	13,205	13,205	13,205	13,205

[In thousands of dollars]

	Budget	House	Senate	Conference
AGM-84A HARPOON MOD	9,507	9,507	9,507	9,507
STANDARD MISSILES MOD	17,102	17,102	21,802	17,102
SUPPORT EQUIPMENT AND FACILITIES				
WEAPONS INDUSTRIAL FACILITIES	18,908	18,908	24,908	24,908
FLEET SATELLITE COMMUNICATIONS	56,300	56,300	56,300	56,300
DEFENSE METEOROLOGICAL SATELLITE PROGRAM	8,802	5,002	5,002	5,002
ORDNANCE SUPPORT EQUIPMENT				
ORDNANCE SUPPORT EQUIPMENT	71,889	16,289	16,289	16,289
TOTAL, BA-2 OTHER MISSILES	3,730,458	3,462,624	3,576,440	3,560,572
BA-3 TORPEDOES AND RELATED EQUIPMENT				
TORPEDOES AND RELATED EQUIPMENT				
TORPEDO MK-48 ADCAP	417,437	417,437	417,437	417,437
TORPEDO MK-46 (MYP)	105,515	101,515	101,515	101,515
TORPEDO MK-46 (MYP) (AP-CY)	23,600	23,600	23,600	23,600
MK-60 CAPTOR		59,600		59,600
MOBILE TARGET MK-30 (MYP)	20,600	16,600	18,600	18,600
MK-38 MINI MOBILE TARGET	3,499	3,499	3,499	3,499
ASROC	15,551	15,551	15,551	15,551
MOD OF TORPEDOES AND RELATED EQUIP				
MOBILE MINE MK-67	23,727		3,714	3,714
MOBILE MINE MK-67 (PY TRANSFER)		(22,600)		
TORPEDO MK-46 MODS (MYP)	91,935	85,735	85,735	85,735
TORPEDO MK-46 MODS (MYP) (AP-CY)	8,400	8,400	8,400	8,400
CAPTOR MODS	15,705	15,705	15,705	15,705
SWIMMER WEAPONS SYSTEM	1,501	1,501	1,501	1,501
SUPPORT EQUIPMENT				
TORPEDO SUPPORT EQUIPMENT	47,417	47,417	47,417	47,417
ASW RANGE SUPPORT	23,158	23,158	23,158	23,158
TOTAL, BA-3 TORPEDOES AND RELATED EQUIPMENT	798,045	819,718	765,832	825,432
BA-4 OTHER WEAPONS				
GUNS AND GUN MOUNTS				
MK-15 CLOSE IN WEAPONS SYSTEM	150,146	150,146	150,146	150,146
MK-75 76MM GUN MOUNT	20,005	15,005	17,905	17,905
MK-19/40MM MACHINE GUN	1,196	1,196	1,196	1,196
25MM GUN MOUNT	5,501	5,501	5,501	5,501
SMALL ARMS AND WEAPONS	11,305	11,305	11,305	11,305
MODIFICATION OF GUNS AND GUN MOUNTS				
CIWS MODS	37,111	37,111	37,111	37,111
5"/54 GUN MOUNT MODS	14,104	14,104	14,104	14,104
3"/50 GUN MOUNT MODS	700	700	700	700
MK 75 76MM GUN MOUNT MODS	4,201	4,201	4,201	4,201
MODS UNDER $900,000	2,001	2,001	2,001	2,001
SUPPORT EQUIPMENT				
GUN SUPPORT EQUIPMENT	1,200	1,200	1,200	1,200
TOTAL, BA-4 OTHER WEAPONS	247,470	242,470	245,370	245,370
BA-5 SPARES & REPAIR PARTS				
SPARES AND REPAIR PARTS	166,601	166,601	166,601	166,601
UNDISTRIBUTED REDUCTION		−25,000		−12,500
INFLATION REESTIMATES FOR FY86		−7,000	−7,000	−7,000
INFLATION PREMIUM, FY86		−119,000		−119,000
PRIOR YEAR PROGRAM SAVINGS		−15,000	−15,000	
(PY TRANSFER)		(15,000)	(15,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−72,000		−72,000
(PY TRANSFER)		(72,000)		
TOTAL, WEAPONS PROCUREMENT, NAVY	5,627,900	5,093,733	5,372,563	5,227,795
TRANSFER FROM OTHER ACCOUNTS		(109,600)	(15,000)	
TOTAL FUNDING AVAILABLE	5,627,900	5,203,333	5,387,563	5,227,795

PRIOR YEAR SAVINGS

The conferees recognize $15,000,000 in prior year savings in Navy Weapons Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

PHOENIX

The conferees agree to provide $343,600,000 for Phoenix missiles as proposed by the Senate, instead of $250,700,000 as proposed by the House.

The House had deleted $92,900,000 requested in the budget for establishing a second source to produce Phoenix missiles. The Senate had included those funds. The conferees agree with the Senate position with the following provisos:

1. The results of the Phase II analysis of Phoenix second sourcing now being conducted by the Navy are to be submitted to the Committees on Appropriations of the House and Senate, supported by an OSD GAIG review of the analysis, and by written proposals from prospective second source suppliers.

2. The Secretary of Defense is to provide certification that the underlying procurement program for Phoenix is supportable in the current five-year defense plan.

3. No more than $60,000,000 of the $92,900,000 may be obligated or expended for long lead materials and test equipment associated with second sourcing. The remaining $32,900,000 may not be obligated or expended until pending reprogramming action FY 85-65PA has been approved by the Congress. Consideration of that reprogramming will be made following receipt of the documentation cited in points 1 and 2, above.

4. If the Phase II analysis does not clearly support the establishment of a second source, all materials purchased with the $60,000,000 hereby released shall be applied to fiscal year 1988 procurement, with corresponding reductions in the fiscal year 1987 request.

The conferees emphasize their agreement with, and commitment to, competition in defense procurements. On the other hand, it is reasonable to require study and analysis which firmly show that the considerable expense of establishing a second source will be more than offset by reductions in future prices.

STANDARD MISSILE

The conferees agree to provide $20,300,000 for Standard Missile-1, Medium Range as proposed by the Senate instead of $17,738,000 as proposed by the House. This includes funds for the final year of the SM-1 motor multiyear procurement. These motors will be used for the SM-1 modification program.

ROLLING AIRFRAME MISSILE

The conferees agree to provide no funds for Rolling Airframe Missile (RAM) as proposed by the Senate, instead of $15,000,000 as proposed by the House. The conferees note the availability of unobligated prior year funds in the RAM program which can be used for production preparation. As an indication of support for RAM, the conferees have agreed to provide the full budgeted amount for RAM development in the RDT&E, Navy, appropriation. The conferees also deleted, without prejudice, the initial production funding for RAM launchers and fire controls as proposed by the Senate.

MK-67 SUBMARINE LAUNCHED MOBILE MINE

The conferees agree to provide $3,714,000 for the MK-67 Submarine Launched Mobile Mine as proposed by the Senate. The conferees are concerned about the slippage in deliveries and the technical problems associated with this important program. The conferees are hopeful that the Navy will get this program back on track in the near future. Once this is accomplished, the conferees would consider a reprogramming action to maintain program continuity during the fiscal year 1986 delivery period.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to the following amounts for Shipbuilding and Conversion, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIPBUILDING AND CONVERSION, NAVY				
BA-1 FLEET BALLISTIC MISSILE SHIPS:				
TRIDENT (NUCLEAR)	1,283,600	816,700	1,196,600	1,196,600
TRIDENT (NUCLEAR) (PY TRANSFER)		(373,900)		
TRIDENT (NUCLEAR) (AP-CY)	248,200	248,200	158,100	158,100
TOTAL, BA-1 FLEET BALLISTIC MISSILE SHIPS	1,531,800	1,064,900	1,354,700	1,354,700
BA-2 OTHER WARSHIPS:				
SSN-688 CLASS SUBMARINE (NUCLEAR)	2,123,200	1,954,000	2,123,200	2,123,200
SSN-688 CLASS SUBMARINE (NUCLEAR) (PY TRANSFER)		(159,200)		
SSN-688 CLASS SUBMARINE (NUCLEAR) (AP-CY)	585,200	585,200	486,400	486,400
BATTLESHIP REACTIVATION				469,000
BATTLESHIP REACTIVATION (PY TRANSFER)		(469,000)		
BATTLESHIP REACT (AP-CY)	53,500			
BATTLESHIP REACT (AP-CY) (PY TRANSFER)			(53,500)	
CV SLEP (AP-CY)	133,400	133,400	52,000	52,000
CG-47 AEGIS CRUSIER (MYP)	133,400	133,400	52,000	52,000
CG-47 AEGIS CRUSIER (MYP) (PY TRANSFER)		(585,200)		
CG-47 AEGIS CRUSIER (MYP) (AP-CY)	14,600	14,600	14,600	14,600
DDG-51 (AP-CY)	164,300		14,700	74,000
DDG-51 (AP-CY) (PY TRANSFER)		(124,000)		
TOTAL, BA-2 OTHER WARSHIPS	5,825,800	4,745,400	5,328,800	5,857,100
BA-3 AMPHIBIOUS SHIPS:				
LSD-41 LANDING SHIP DOCK	414,400	384,500		403,400
LSD-41 LANDING SHIP DOCK (PY TRANSFER)		(18,900)	(404,600)	
LHD-1 AMPHIBIOUS ASSAULT SHIP	1,148,600	1,110,100	1,148,600	1,148,000
LHD-1 AMPHIBIOUS ASSAULT SHIP (PY TRANSFER)		(37,900)		
LHD-1 AMPHIBIOUS ASSAULT SHIP (AP-CY)	358,600	165,600	165,600	165,600
TOTAL, BA-3 AMPHIBIOUS SHIPS	1,921,600	1,660,200	1,314,200	1,717,000
BA-4 MINE WARFARE + PATROL SHIPS:				
MCM MINE COUNTERMEASURES SHIP	334,100		197,200	197,200
(PY TRANSFER)			(80,600)	
MCM MINE COUNTERMEASURES SHIP (AP-CY)		15,000		
MSH-1 COASTAL MINE HUNTER	184,500	184,500	184,500	185,500
TOTAL, BA-4 MINE WARFARE + PATROLS SHIPS	518,600	199,500	381,700	381,700
BA-5 AUXILIARIES, CRAFT + PY PROG COSTS:				
TAO FLEET OILER	328,500	197,900	263,300	278,500
TAO FLEET OILER (PY TRANSFER)		(80,600)		
TAGOS SURTASS SHIP	113,900	60,900	113,900	113,900
TAGOS SURTASS SHIP (PY TRANSFER)		(28,700)		
TAGOS SURTASS SHIP (AP-CY)	1,200		1,200	1,200
TAG ACOUSTIC RESEARCH SHIP	68,900		40,000	57,000
TAG ACOUSTIC RESEARCH SHIP (PY TRANSFER)		(40,000)		
ARTB NUCLEAR REACTOR TRAINING SHIP CONV	26,500	26,500	190,000	175,400
TACS CRANE SHIP (CONV)	82,500	74,000	74,000	82,500
TACS CRANE SHIP (CONV) (PY TRANSFER)		(8,500)	(8,500)	
TAVB (CONV)	26,900	26,900	26,900	26,900
LCAC LANDING CRAFT	276,200	276,200		276,200
(PY TRANSFER)			(276,200)	
LCAC LANDING CRAFT (AP-CY)	30,800	30,800		30,800
(PY TRANSFER)			(30,800)	
STRATEGIC SEALIFT	203,400	173,100		228,400
STRATEGIC SEALIFT	203,400	173,100		228,400
STRATEGIC SEALIFT (PY TRANSFER)		(55,300)	(203,400)	
SERVICE CRAFT	79,500	41,800	37,700	62,700
SERVICE CRAFT (PY TRANSFER)		(37,700)		
LANDING CRAFT	34,400		34,400	
LANDING CRAFT (PY TRANSFER)		(11,000)		
OUTFITTING	228,500	228,500	228,500	228,500
POST DELIVERY	112,600	84,000	112,600	112,600
POST DELIVERY (PY TRANSFER)		(28,600)		
COST GROWTH			97,000	97,000
TOTAL, BA-5 AUXILARIES, CRAFT + PY PROG COSTS	1,613,800	1,220,600	1,219,500	1,771,600

[In thousands of dollars]

	Budget	House	Senate	Conference
INFLATION PREMIUM, FY86		−241,700		−241,700
TOTAL, SHIPBUILDING AND CONVERSION, NAVY	11,411,600	8,648,900	9,598,900	10,840,400
TRANSFER FROM OTHER ACCOUNTS		(2,058,500)	(1,057,600)	
TOTAL FUNDING AVAILABLE	11,411,600	10,707,400	10,656,500	10,840,400

PRIOR YEAR SAVINGS

The conferees recognize $1,999,300,000 in prior year savings in Navy Shipbuilding & Conversion. The sources and uses of these savings are identified in this Statement of the Managers under the hearing "Availability of Unobligated Balances."

CG–47 AEGIS CRUISER

The conferees agree to an allowance of $2,637,900,000 to procure three CG–47 AEGIS Cruisers.

The conferees also include bill language which directs the Navy to select a second source, by the most expeditious means available, for the SPY–1 radar, AEGIS combat system components, shipyard/shipboard and production test center integration, AEGIS color graphic display systems, solid state frequency converters and propellors.

It is the conferees' intention that the necessary funds be made available for the second source selection to be fully established in order to begin competition between the current sole source contractors and the second source contractors in fiscal year 1988 provided that any such selection shall not adversely affect the CG–47 and DDG–51 shipbuilding program schedule and costs.

It is also the conferees intention that this second source procurement direction include the DDG–51 destroyer program.

DDG–51 DESTROYER

The conferees agree to an allowance of $74,000,000 for DDG–51 advance procurement. The advance procurement funds shall be available only for acquisition of components which require excessive production lead times to support early delivery of the fiscal year 1987 DDG–51 ships. The Navy is optimistic that DDG–51 construction time will be shortened compared to the CG–47 ships. Consequently the outyear budget plan should be realigned to assure compliance with the full funding policy. To the extent that future advance funding estimates exceed the amount of this allowance, the Navy should revise its budget plan to reflect full funding instead of major component incremental financing. Adoption of this financial benchmark will demonstrate the validity of estimated construction schedule improvements.

In its review of prior year funds, the conferees learned that significant cost growth could be incurred on the DDG–51 lead ship due to propulsion system price increases. As a result of testing delays on the Rankine Cycle Energy Recovery System (RACER), the ship construction schedule could slip more than a year and cost increases may be incurred in excess of 15 percent of basic construction cost. In view of the cost and schedule impact, Navy should discontinue plans for RACER installation on the lead ship. Concurrent with the ongoing RACER test program, the Navy should continue development of RACER installation plans for future Navy ship construction programs.

MCM MINE COUNTERMEASURES SHIPS

The conferees agree to the allowance of $197,200,000 for the construction of two MCM mine countermeasures ships. The conferees, in accord with the Navy's revised program, direct the Department to utilize fiscal year 1985 MCM funds to permit a three ship acquisition progam in fiscal year 1986.

T-AGOS OCEAN SURVEILLANCE SHIPS

The conferees agree to the Senate position which approves the construction of one monohull vessel and one SWATH hull vessel provided that the contract obligation for engines will be deferred until the Navy has determined which ship type has been selected for the fiscal year 1986 and 1987 construction plans.

SERVICE CRAFT

The conferees agree to the allowance of $62,700,000 for service craft programs. The conferees also agree that $25,000,000 of the allotted service craft funds is intended to be the ceiling price for the torpedo range tender which is to be designed to commercial standards. The conferees also agree that the obligation of these funds is subject to authorization approval.

STRATEGIC SEALIFT

The conferees agree to the allowance of $228,400,000 for the Strategic Sealift program. Of the amounts avilable, the Navy may use funds to reengine and modernize vessels procured. Upon enactment of legislation authorizing a "Mariner Fund" for the construction and charter of commercial vessels, the conferees agree that the Navy may charter any vessels modernized through these strategic sealift funds, provided such authority is granted. It is the conferees intent to begin the charter program as soon as possible after authorization is enacted thereby generating early revenues to the Marine Fund. Approval for modernization of vessels procured under this section should be considered an exception, not a precedent.

COST GROWTH

The conferees agree to an allowance of $97,000,000 to cover the cost overruns associated with the MCM mine countermeasures ship program as proposed by the Senate.

FFG–7 GUIDED MISSILE FRIGATE

The conferees agree to the bill language proposed by the Senate which formally completes the funding transfer of $40,000,000 to the FFG–61 program and removes the legislative restriction.

OTHER PROCUREMENT, NAVY

The Conferees agree to the following amounts for Other Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, NAVY				
BA-1 SHIP SUPPORT EQUIPMENT:				
SHIP PROPULSION EQUIPMENT:				
LM-2500 GAS TURBINE	13,335	13,335	13,335	13,335
ALLISON 501K GAS TURBINE	15,534	15,534	15,534	15,534
LM2500 SPECIAL SUPPORT EQUIPMENT	940	940	940	940
STEAM PROPULSION IMPROVEMENT PROGRAM	6,830	6,830	6,830	6,830
OTHER PROPULSION EQUIPMENT	19,903	19,903	19,903	19,903
OTHER PROPULSION EQUIPMENT (PY TRANSFER)		(391)		
GENERATORS:				
OTHER GENERATORS	15,997	15,997	15,997	15,997
PUMPS:				
OTHER PUMPS	11,573	11,573	11,573	11,573
AIR COMPRESSORS:				
HIGH PRESSURE AIR COMPRESSOR	3,336	3,336	3,336	3,336
PROPELLERS:				
SUBMARINE PROPELLERS	3,018	3,018	3,018	3,018
OTHER PROPELLERS AND SHAFTS	11,492	11,492	10,492	10,492
NAVIGATION EQUIPMENT:				
ELECTRICALLY SUSPENDED GYRO NAVIGATOR	36,818	36,818	36,818	36,818
CARRIER NAVIGATION SYSTEM	9,499			6,296
CARRIER NAVIGATION SYSTEM (PY TRANSFER)		(6,296)		
OTHER NAVIGATION EQUIPMENT	16,070	16,070	16,070	16,070

[In thousands of dollars]

	Budget	House	Senate	Conference
UNDERWAY REPLENISH EQUIP:				
UNDERWAY REPLENISHMENT EQUIPMENT	8,457	8,457	8,457	8,457
PERISCOPES:				
TYPE 18 PERISCOPE	16,200	16,200	16,200	16,200
TYPE 8 PERISCOPES	143	143	143	143
PERISCOPES AND ACCESSORIES	5,399	5,399	5,399	5,399
OTHER SHIPBOARD EQUIPMENT:				
FIREFIGHTING EQUIPMENT	5,093	5,093	5,093	5,093
COMMAND AND CONTROL SWITCHBOARDS	10,585	10,585	10,585	10,585
POLLUTION CONTROL EQUIPMENT	9,286	9,286	9,286	9,286
SUBMARINE SILENCING EQUIPMENT	18,032	18,032	18,032	18,032
SURFACE SHIP SILENCING EQUIPMENT	3,379	3,379	3,379	3,379
SUBMARINE BATTERIES	8,267	8,267	8,267	8,267
STRATEGIC PLATFORM SUPPORT EQUIPMENT	56,455	56,455	56,455	56,455
DSSP EQUIPMENT	11,262	11,262	11,262	11,262
SEALIFT SUPPORT EQUIPMENT	58,972	70,972	58,972	70,972
MINESWEEPING CABLE	5,669	5,669	5,669	5,669
HM+E ITEMS UNDER 900K	10,752	10,752	10,752	10,752
SURFACE IMA	6,986	6,986	6,986	6,986
RADIOLOGICAL CONTROLS	2,317	2,317	2,317	2,317
MINI/MICROMINI ELECTRONIC REPAIR	1,028	1,028	1,028	1,028
CHEMICAL WARFARE DETECTORS	15,386	15,386	15,386	15,386
SUBMARINE LIFE SUPPORT SYSTEM	13,429			6,500
SUBMARINE LIFE SUPPORT (PY TRANSFER)		(6,500)		
HM&E ENGINEERED MAINTENANCE	8,407	8,407	8,407	8,407
REACTOR PLANT EQUIPMENT:				
REACTOR POWER UNITS	163,368	163,368	163,368	163,368
REACTOR COMPONENTS	227,754	227,754	227,754	227,754
OCEAN ENGINEERING:				
MAN IN THE SEA	868	868	868	868
DIVING AND SALVAGE EQUIPMENT	8,250	8,250	8,250	8,250
DIVING AND SALVAGE EQUIPMENT (PY TRANSFER)		(779)		
NAVAL SPECIAL WARFARE EQUIPMENT	30,797	30,797	30,797	30,797
SMALL BOATS:				
SMALL BOATS	14,777	14,777	14,777	14,777
TRAINING EQUIPMENT				
NEW SHIPS TRAINING EQUIP	19,572	19,572	19,572	19,572
OTHER SHIPS TRAINING EQUIPMENT	10,876	10,876	10,876	10,876
PRODUCTION FACILITIES EQUIPMENT				
CALIBRATION EQUIPMENT	1,052	1,052	1,052	1,052
PRODUCTION SUPPORT FACILITIES	5,794	5,794	5,794	5,794
TOTAL, BA-1 SHIP SUPPORT EQUIPMENT	922,957	910,840	898,619	923,806
BA-2 COMMUNICATIONS + ELECTRONICS EQUIPMENT				
SHIP RADARS:				
AN/SPS-67	9,207	6,138	9,207	9,207
AN/SPS-40	14,776	14,776	14,776	14,776
AN/SPS-48	67,484	67,484	67,484	67,484
AN/SPS-49	14,127	14,127	14,127	14,127
AN/SYS-()	13,073	10,648	10,648	12,256
AN/SYS-() (PY TRANSFER)		(1,608)		
MK 23 TARGET ACQUISITION SYSTEM	19,934	19,934	19,934	19,934
RADAR SUPPORT	24,989	24,989	24,989	24,989
SHIP SONARS:				
AN/SQS-26/53/53a	7,872	7,872	7,872	7,872
AN/SQS-53B	30,876	30,876	30,876	30,876
AN/BQQ-5	100,976	99,257	99,257	99,257
TB-16 TOWED ARRAY (MYP)	1,515	1,515	1,515	1,515
SURF SONAR WINDOWS AND DOMES	8,535	8,535	8,535	8,535
SONAR SUPPORT EQUIPMENT	11,843	11,843	11,843	11,843
SONAR SWITCHES AND TRANSDUCERS	40,320	38,994	38,994	40,320
SONAR SWITCHES AND TRANSDUCERS (PY TRANSFER)		(1,326)		
FBM SYSTEM SONARS	13,352	13,352	13,352	13,352
ASW ELECTRONIC EQUIPMENT:				
SUBMARINE ACOUSTIC WARFARE SYSTEMS	10,434	10,434	10,434	10,434
AN/SLQ-25 (NIXIE)	11,525	11,525	11,525	11,525
ACOUSTIC COMMUNICATIONS	411	411	411	411
SSUBMARINE ADVANCED COMBAT SYSTEM	2,849			
SOSUS	85,824	85,824	85,824	85,824
AN/SQR-17 ACOUSTIC PROCESSOR	15,249	22,049	15,249	22,049
AN/SQR-18 TOWED ARRAY SONAR	41,692	41,692	30,892	41,692
AN/SQR-15 TOWED ARRAY SONAR	1,918	1,918	1,918	1,918
AN/SQR-19 TOWED ARRAY SONAR	146,507	146,507	146,507	146,507
SURTASS	19,417	19,417	19,417	19,417
ASW OPERATIONS CENTER	30,008	27,408	27,408	27,608
ASW OPERATIONS CENTER (PY TRANSFER)		(200)		
CARRIER ASW MODULE	31,483	31,085	31,085	31,483
CARRIER ASW MODULE (PY TRANSFER)		(398)		
ELECTRONIC WARFARE EQUIPMENT:				
AN/SLQ-32	102,377	97,337	97,337	97,337
AN/SLQ-17	14,229	14,229	14,229	14,229
AN/WLR-1	3,533	3,533	3,533	3,533
AN/WLR-8	3,011	3,011	3,011	3,011
ICAD SYSTEMS	4,822			4,822
ICAD SYSTEMS (PY TRANSFER)		(4,822)		
OFFBOARD DECEPTION DEVICES	22,163	22,163	22,163	22,163
EW SUPPORT EQUIPMENT	21,502	21,502	21,502	21,502
FLEET EW SUPPORT GROUP	1,716	1,716	1,716	1,716
C3 COUNTERMEASURES	8,458	8,458	8,458	8,458

[In thousands of dollars]

	Budget	House	Senate	Conference
RECONNAISSANCE EQUIPMENT:				
COMBAT CRYPTOLOGIC SUPPORT CONSOLE	4,012	4,012	4,012	4,012
COMBAT DF	25,071	25,071	25,071	25,071
OUTBOARD	36,381	36,381	36,381	36,381
NAVAL INTELLIGENCE PROCESSING SYSTEM	15,624	15,624	15,624	15,624
SUBMARINE SURVEILLANCE EQUIPMENT:				
AN/WLQ-4 DEPOT	5,441	5,441	5,441	5,441
AN/WLQ-4 IMPROVEMENTS	2,452	2,452	2,452	2,452
AN/BRD-7/8/9	12,774	12,774	12,774	12,774
AN/BLD-1 (INTERFEROMETER)		11,800	11,800	11,800
SUBMARINE SUPPORT EQUIPMENT PROGRAM	4,481	4,481	4,481	4,481
OTHER SHIP ELECTRONIC EQUIPMENT:				
NAVY TACTICAL DATA SYSTEM	130,869	130,869	130,869	130,869
TACTICAL FLAG COMMAND CENTER	20,768	20,768	20,768	20,768
MINESWEEPING SYSTEM REPLACEMENT	3,494	3,494	3,494	3,494
OMEGA SHIPBOARD EQUIPMENT	1,619	1,619	1,619	1,619
NAVSTAR GPS RECEIVERS	24,763	16,525	20,763	20,763
NAVSTAR GPS RECEIVERS (PY TRANSFER)		(4,238)		
HF LINK-11 DATA TERMINALS	3,862	3,862	3,862	3,862
ARMED FORCES RADIO AND TV	6,943	6,943	6,943	6,943
STRATEGIC PLATFORM SUPPORT EQUIPMENT	193,814	193,814	193,814	193,814
TRAINING EQUIPMENT:				
OTHER NAVELEX TRAINING EQUIPMENT	132	132	132	132
OTHER NAVSEA TRAINING EQUIPMENT	4,639	4,568	4,568	4,639
OTHER NAVSEA TRAINING EQUIPMENT (PY TRANSFER)		(71)		
AVIATION ELECTRONIC EQUIPMENT:				
MATCALS	16,320	16,320	16,320	16,320
SHIPBOARD AIR TRAFFIC CONTROL	13,330	13,330	13,330	13,330
AUTOMATIC CARRIER LANDING SYSTEMS	9,176			
TACAN	4,831	4,831	4,831	4,831
ARI STATION SUPPORT EQUIPMENT	12,179	10,481	10,481	11,477
AIR STATION SUPPORT EQUIPMENT (PY TRANSFER)		(996)		
MICROWAVE LANDING SYSTEM	7,355			
FACSFAC	49,325	16,865	16,865	16,865
RADAR AIR TRAFFIC CONTROL	1,494	1,494	1,494	1,494
MK XII AIMS IFF	2,737	2,737	2,737	2,737
OTHER SHORE ELECTRONIC EQUIPMENT:				
NAVAL SPACE SURVIELLANCE SYSTEM	3,060	3,060		
SPACE SYSTEM PROCESSING	2,133	2,133	2,133	2,133
MULTOTS	565	565	565	565
NCCS ASHORE	34,978	34,978	34,978	34,978
RADIAC	8,624	8,624	8,624	8,624
REMOTE SENSORS	1,578	1,578	1,578	1,578
GPETE	28,640	28,640	28,640	28,640
INTEG COMBAT SYS TEST FACILITY	5,260	5,260	5,260	5,260
CALIBRATION STANDARDS	6,965	6,965	6,965	6,965
EMI CONTROL INSTRUMENTATION	9,972	9,972	9,972	9,972
SHORE ELECTRONIC ITEMS UNDER 900K	5,142	5,142	5,142	5,142
SHIPBOARD COMMUNICATIONS:				
SHIPBOARD HF COMMUNICATIONS	13,582	5,000	5,000	5,000
SHIPBOARD UHF COMMUNICATIONS	7,283	7,283	7,283	7,283
FLIGHT DECK COMMUNICATIONS	6,227	6,227	6,227	6,227
PORTABLE RADIOS	3,693	3,693	3,693	3,693
SHIPBORAD COMMUNICATIONS AUTOMATION	15,967	11,367	15,967	15,967
SHIP BOARD COMMUNICATIONS AUTOMATION (PY TRANSFER)		(4,600)		
SHIP COMM ITEMS UNDER $900K	7,693	7,693	7,693	7,693
SEALIFT SHIP COMMUNICATIONS	4,828	4,828	4,828	4,828
SUBMARINE COMMUNICATIONS:				
ELF COMMUNICATIONS	13,223	13,223	13,223	13,223
SHORE LF/VLF COMMUNICATIONS	19,330	19,330	19,330	19,330
VERDIN	16,096	16,096	16,096	16,096
SSN INTEGRATED COMMUNICATIONS	1,695	1,695	1,695	1,695
SUBMARINE COMMUNICATIONS ANTENNAS	15,455	15,455	15,455	15,455
DATA COLLECTION AND RECORD SYSTEM	979	979	979	979
CIRCUIT MAYFLOWER	254	254	254	254
SATELLITE COMMUNICATIONS:				
SATCOM SHIP TERMINALS	46,175	42,747	42,747	46,041
SATCOM SHIP TERMINALS (PY TRANSFER)		(3,294)		
SATCOM SHORE TERMINALS	22,902	22,902	22,902	22,902
SHORE COMMUNICATIONS:				
JCS COMMUNICATIONS EQUIPMENT	1,405	1,405	1,405	1,405
ELECTRICAL POWER SYSTEMS	132	132	132	132
SHORE HF COMMUNICATIONS	29,995	29,995	29,995	29,995
JOINT TACTICAL COMMUNICATIONS (TRI-TAC)	26,713	26,713	26,713	26,713
ASHORE MOBILE COMMUNICATIONS VANS	6,031	6,031	6,031	6,031
WORLDWIDE WIDEBAND COMMUNICATIONS	2,088	2,088	2,088	2,088
DEFENSE DATA NETWORK	2,783	2,783	2,783	2,783
WWMCCS COMMUNICATIONS EQUIPMENT	1,099	1,099	1,099	1,099
SHORE COMMUNICATIONS AUTOMATION	9,892	9,892	9,892	9,892
SHORE COMM ITEMS UNDER 900K	3,146	3,146	3,146	3,146
CRYPTOGRAPHIC EQUIPMENT:				
SINGLE AUDIO SYSTEM	18,153	18,153	18,153	18,153
TSEC/KY-71/72 (STU-II/STU-IIM)	15,760	222	3,100	15,760
TSEC/KY-71/72 (STU-IIM) (PY TRANSFER)				
TSEC/KG-84	27,080	27,080	37,080	27,080
TSEC/KY-57/58 (VINSON)	25,017	25,017	25,017	25,017
TSEC/KYV-5 (ANDVT)	4,629	4,629	4,629	4,629
TSEC/KW-46	14,283	14,283	14,283	14,283
TSEC/KG-72/KGV-14 (FDCS)	1,363	1,363	1,363	1,363
TSEC/KG-81 (WALBURN)	5,251	5,251	5,251	5,251

[In thousands of dollars]

	Budget	House	Senate	Conference
TSEC/KG-44 (DMSP)	7,893	7,893	7,893	7,893
TSEC/KG-58/KGV-6 (PLRS)	9,483	9,483	9,483	9,483
TRI-TAC CRYPTO (TENLEY)	11,928	11,928	11,928	11,928
TSEC/KY-67 (BANCROFT)	13,474	13,474	13,474	13,474
TSEC/KGV-11	4,455	4,455	4,455	4,455
COMMON FILL DEVICES	1,997	1,997	1,997	1,997
SIGNAL SECURITY	1,891	1,891	1,891	1,891
CRYPTOGRAPHIC ITEMS UNDER 900K	5,500	5,500	5,500	5,500
CRYPTOLOGIC EQUIPMENT:				
CRYPTOLOGIC COMMUNICATIONS EQUIPMENT	4,871	4,871	4,871	4,871
SHIPS SIGNAL EXPLOITATION SPACE	4,771	4,771	4,771	4,771
CRYPTOLOGIC ITEMS UNDER 900K	6,016	6,016	6,016	6,016
CRYPTOLOGIC RESERVES EQUIPMENT	824	824	824	824
CRYPTOLOGIC FIELD TRAINING EQUIPMENT	2,065	2,065	2,065	2,065
SHORE CRYPTOLOGIC SUPPORT SYSTEM	2,273	2,273	2,273	2,273
OTHER ELECTRONIC SUPPORT:				
ADVANCE BASE FUNCTIONAL COMPONENTS	76	76	76	76
ELEC ENGINEERED MAINTENANCE (NAVSEA)	5,339	5,339	5,339	5,339
ELEC ENGINEERED MAINTENANCE (NAVELEX)	2,128	2,128	2,128	1,128
9TH BATTALION C&E EGYPT			2,000	2,000
TOTAL, BA-2 COMMUNICATIONS + ELECTRONICS EQUIPMENT	2,153,996	2,057,202	2,063,327	2,096,302
BA-3 AVIATION SUPPORT EQUIPMENT				
SONOBUOYS:				
AN/SSQ-36 (BT)	2,384	2,384	2,384	2,384
AN/SSQ-53 (DIFAR)	142,954	129,154	142,954	142,954
AN/SSQ-57 (SPECIAL PURPOSE)	3,137	3,137	3,137	3,137
AN/SSQ-62 (DICASS)	27,005	27,005	27,005	27,005
AN/SSQ-77 (VLAD)	82,104	59,404	82,104	82,104
AN/SSQ-86 (DLC)	3,036	3,036	3,036	3,036
SIGNAL UNDERWATER SOUND (SUS)	1,351	1,351	1,351	1,351
LOW COST SONOBUOY	11,080	46,080	46,080	46,080
AIR LAUNCHED ORDNANCE:				
SKIPPER	27,616	27,616	27,616	27,616
GENERAL PURPOSE BOMBS	148,560	148,560	148,560	148,560
LASER GUIDED BOMB KITS	22,150		22,150	22,150
WALLEYE	37,595	37,595	37,595	37,595
ROCKEYE	8,829	8,829	8,829	8,829
ZUNI ROCKET	20,669	20,669	20,669	20,669
2.75 INCH ROCKET	27,997	27,997	27,997	27,997
PARACHUTE FLARES	2,052	2,052	2,052	2,052
MACHINE GUN AMMUNITION	27,042	21,042	13,800	13,800
PRACTICE BOMBS	76,527	60,027	60,027	60,027
CARTRIDGES + CARTRIDGE ACTUATED DEVICES	29,937	29,937	29,937	29,937
AIRCRAFT ESCAPE ROCKETS	8,055	8,055	8,055	8,055
AIRBORNE EXPENDABLE COUNTERMEASURES	91,688	91,688	82,588	82,588
MARINE LOCATION MARKERS	7,788	7,788	7,788	7,788
DEFENSE NUCLEAR AGENCY MATERIAL	2,186	2,186	2,186	2,186
BIGEYE CHEMICAL WEAPON	21,531		21,531	
JATOS	15,550	14,550	11,900	14,550
GATOR	44,662			
MISC AIR LAUNCHED ORDNANCE	186	186	186	186
WAR RESERVE MUNITIONS			75,000	50,000
AIRCRAFT SUPPORT EQUIPMENT:				
WEAPONS RANGE SUPPORT EQUIPMENT	85,858	85,858	85,858	85,858
EXPEDITIONARY AIRFIELDS	2,876	2,876	2,876	2,876
AIRCRAFT REARMING EQUIPMENT	78,995	46,995	78,995	46,995
CATAPULTS AND ARRESTING GEAR	27,463	26,087	26,087	26,087
METEOROLOGICAL EQUIPMENT	2,364	2,364	2,364	2,364
OTHER PHOTOGRAPOHIC EQUIPMENT	1,698	1,698	1,698	1,698
MISC SURVIVAL EQUIPMENT	17,705	16,817	16,817	16,817
AIRBORNE MINE COUNTERMEASURES	22,967	22,967	22,967	22,967
LAMPS MK III SHIPBOARD EQUIPMENT	42,683	42,683	42,683	42,683
REWSON PHOTOGRAPHIC EQUIPMENT	2,393	2,393	2,393	2,393
STOCK SURVEILLANCE EQUIPMENT	2,256	2,256	2,256	2,256
OTHER AVIATION SUPPORT EQUIPMENT	3,089	3,089	3,089	3,089
MOBILE VAN AMLM SPT. UNIT		4,300		4,300
TOTAL, BA-3 AVIATION SUPPORT EQUIPMENT	1,184,018	1,040,711	1,204,600	1,133,019
BA-4 ORDNANCE SUPPORT EQUIPMENT				
SHIP GUN AMMUNITION:				
5 /38 GUN AMMUNITION	4,490	4,490	4,490	4,490
5 /54 GUN AMMUNITION	67,018	67,018	67,018	67,018
5 INCH GUIDED PROJECTILE	104,294	104,294	104,294	104,294
16 INCH GUN AMMUNITION	7,940	2,940	2,940	2,940
CIWS AMMUNITION	35,247	35,247	35,247	35,247
76MM GUN AMMUNITION	17,343	17,343		
OTHER SHIP GUN AMMUNITION	18,445	17,745	17,745	17,745
SHIP GUN SYSTEM EQUIPMENT:				
GUN FIRE CONTROL EQUIPMENT	34,799	34,799	34,799	34,799
COAST GUARD GUN SYSTEM	28,801	28,801	28,801	28,801
SHIP MISSILE SYSTEMS EQUIPMENT:				
MK 92 FIRE CONTROL SYSTEM	2,856	2,856	2,856	2,856
HARPOON SUPPORT EQUIPMENT	12,999	12,999	12,999	12,999
TERRIER SUPPORT EQUIPMENT	112,060	112,060	112,060	112,060
TARTAR SUPPORT EQUIPMENT	106,833	106,833	106,833	106,833
POINT DEFENSE SUPPORT EQUIPMENT (MYP)	43,842	43,842	11,842	11,842
AIRBORNE ECM/ECCM	1,044	1,044	1,044	1,044
AEGIS SUPPORT EQUIPMENT	61,785	61,785	61,785	61,785

[In thousands of dollars]

	Budget	House	Senate	Conference
SURFACE TOMAHAWK SUPPORT EQUIPMENT	86,572	86,572	86,572	86,572
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT	19,021	19,021	19,021	19,021
VERTICAL LAUNCH SYSTEM	127,372	127,372	127,372	127,372
FBM SUPPORT EQUIPMENT:				
STRATEGIC PLATFORM SUPPORT EQUIPMENT	168,885	168,885	168,885	168,885
ASW SUPPORT EQUIPMENT:				
MK 117 FIRE CONTROL SYSTEM	59,965	59,965	59,965	59,965
SUBMARINE ASW SUPPORT EQUIPMENT	25,724	25,724	25,724	25,724
SURFACE ASW SUPPORT EQUIPMENT	20,810	20,810	20,810	20,810
MK 116 FIRE CONTROL SYSTEM	25,652	25,652	25,652	25,652
ASW RANGE SUPPORT EQUIPMENT	7,035	7,035	7,035	7,035
OTHER ORDNANCE SUPPORT EQUIPMENT:				
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	11,043	8,436	8,436	10,125
EXPLOSIVE ORDNANCE DISPOSAL EQUIP (PY TRANSFER)		(1,689)		
SWIMMER WEAPONS SYSTEMS	1,151	1,151	1,151	1,151
UNMANNED SEABORNE TARGET	7,786	7,786	7,786	7,786
ANTI-SHIP MISSILE DECOY SYSTEMS	4,606	4,606	4,606	4,606
CALIBRATION EQUIPMENT	3,276	3,276	3,276	3,276
STOCK SURVEILLANCE EQUIPMENT	2,109	2,109	2,109	2,109
OTHER ORDNANCE TRAINING EQUIPMENT	1,492	1,492	1,492	1,492
OTHER EXPENDABLE ORDNANCE:				
SMALL ARMS AND LANDING PARTY AMMO	18,768	18,768	18,768	18,768
PYROTECHNIC AND DEMOLITION MATERIAL	25,491	25,491	25,491	25,491
QUICKSTRIKE	50,482		35,679	39,679
(PY TRANSFER)		(35,679)		
FLEET MINE SUPPORT EQUIPMENT	25,184	25,184	25,184	25,184
MINE NEUTRALIZATION DEVICES	3,208	3,208	3,208	3,208
DEFENSE NUCLEAR AGENCY MATERIAL	7,892	7,892	7,892	7,892
SHIPBOARD EXPENDABLE COUNTERMEASURES	33,191	33,191	33,191	33,191
WAR RESERVE MUNITIONS			25,000	20,000
TOTAL, BA-4 ORDNANCE SUPPORT EQUIPMENT	1,396,511	1,337,722	1,349,058	1,349,747
BA-5 CIVIL ENGINEERING SUP EQUIPMENT:				
CIVIL ENGINEERING SUPPORT EQUIPMENT:				
PASSENGER CARRYING VEHICLES	10,059	10,059	10,059	10,059
ARMORED SEDANS	95	95	95	95
TRUCKS	38,126	38,126	38,126	38,126
TRAILERS	4,043	4,043	4,043	4,043
CRUSH, MIX, BATCH, PAVE EQUIPMENT	4,673	4,673	4,673	4,673
DRILLING AND BLASTING EQUIPMENT	2,654	2,654	2,654	2,654
EARTH MOVING EQUIPMENT	11,430	11,430	11,430	11,430
LIGHTING AND POWER GENERATING EQUIP	3,513	3,513	3,513	3,513
MISC CONSTRUCTION AND MAINTENANCE EQUIP	3,541	3,541	3,541	3,541
FIRE FIGHTING EQUIPMENT	7,093	7,093	7,093	7,093
WEIGHT HANDLING EQUIPMENT	13,241	13,241	13,241	13,241
AMPHIBIOUS EQUIPMENT	72,998	72,998	72,998	72,998
COMBAT CONSTRUCTION SUPPORT EQUIPMENT	9,521	9,521	9,521	9,521
MOBILE UTILITIES SUPPORT EQUIPMENT	2,928	2,928	2,928	2,928
FLEET MOORINGS	7,336	7,336	7,336	7,336
POLLUTION CONTROL EQUIPMENT	2,653	2,653	2,653	2,653
FLEET HOSPITALS	27,654	27,654	27,654	27,654
9TH BATTALION EGYPT			11,000	11,000
TOTAL, BA-5 CIVIL ENGINEERING SUP EQUIPMENT	221,558	221,558	232,558	232,558
BA-6 SUPPLY SUPPORT EQUIPMENT:				
SUPPLY SUPPORT EQUIPMENT:				
FORKLIFT TRUCKS	9,064	9,064	9,064	9,064
OTHER MATERIALS HANDLING EQUIPMENT	3,326	3,326	3,326	3,326
AUTOMATED MATERIALS HANDLING SYSTEMS	12,917	12,917	12,917	12,917
POLLUTION CONTROL EQUIPMENT	2,288	2,288	2,288	2,288
SPECIAL PURPOSE SUPPLY SYSTEMS	34,900	31,322	31,322	31,322
TOTAL, BA-6 SUPPLY SUPPORT EQUIPMENT	62,495	58,917	58,917	58,917
BA-7 PERSONNEL AND COMM SUPPORT EQUIPMENT:				
TRAINING DEVICES:				
SURFACE SONAR TRAINERS	40,492	40,492	40,492	40,492
SUBMARINE SONAR TRAINERS	6,923	6,923	6,923	6,923
SURFACE COMBAT SYSTEM TRAINERS	23,694	23,694	23,694	23,694
SUBMARINE COMBAT SYSTEM TRAINERS	11,916	11,916	11,916	11,916
SHIP SYSTEM TRAINERS	15,268	15,268	15,268	15,268
TRAINING SUPPORT EQUIP	2,353	2,353	2,353	2,353
TRAINING DEVICE MODIFICATIONS	6,666	6,666	6,666	6,666
COMMAND SUPPORT EQUIPMENT:				
MEDICAL SUPPORT EQUIPMENT	17,223	17,223	105,623	61,423
INTELLIGENCE SUPPORT EQUIPMENT	56,905	53,021	53,021	53,021
ITEMS UNDER 900K	1,218	1,218	1,218	1,218
OCEANOGRAPHIC SUPPORT EQUIPMENT			14,000	14,000
PHYSICAL SECURITY EQUIPMENT	17,226	17,226	17,226	17,226
COMPUTER ACQUISITION PROGRAM:				
COMPUTER ACQUISITION PROGRAM	176,523	176,523	176,523	176,523
PRODUCTIVITY PROGRAMS:				
PRODUCTIVITY INVESTMENT FUND (PIF)	3,420	3,420	3,420	3,420
TOTAL, BA-7 PERSONNEL AND COMM SUPPORT EQUIPMENT	379,827	375,943	478,343	434,143
BA-8 SPARES & REPAIR PARTS:				
SPARES AND REPAIR PARTS	279,838	279,838	279,838	279,838

[In thousands of dollars]

	Budget	House	Senate	Conference
UNDISTRIBUTED REDUCTION		−495,000		−250,000
NON-CENTRALLY MANAGED ITEMS		125,300	125,300	125,300
INFLATION REESTIMATES FOR FY86		−6,000	−6,000	−6,000
PRIOR YEAR INFLATION SAVINGS		−168,000	−168,000	
(PY TRANSFER)		(168,000)	(168,000)	
PRIOR YEAR PROGRAM SAVINGS		−56,337	−53,000	
(PY TRANSFER)		(56,337)	(53,000)	
TOTAL, OTHER PROCUREMENT NAVY	6,601,200	5,682,694	6,463,560	6,377,630
TRANSFER FROM OTHER ACCOUNTS		(312,762)	(221,000)	
TOTAL FUNDING AVAILABLE	6,601,200	5,995,456	6,684,560	6,377,630

PRIOR YEAR SAVINGS

The conferees recognize $276,483,000 in prior year savings in Navy other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

AN/SPS-67

The conferees direct the Navy to maximize savings in this program by beginning competitive procurement in fiscal year 1987.

AN/SQR-19 TOWED ARRAY SONAR

The conferees direct the Navy to conclude its testing of both versions of AN/SQR-19 systems currently being designed or produced to determine the acceptability of these towed array systems as soon as possible. Based on these determinations, the Navy should then proceed with its competitive procurement of the fiscal year 1986 AN/SQR-19 program.

NAVAL RESERVE ON-BOARD TRAINER

The conferees agree to the House position which provides $6,800,000 to procure three shipboard antisubmarine warfare training systems service test models of a modification to the AN/SQR-17A to provide onboard training capability for Naval Reserve Force ships. This procurement action should include the development of a technical data package in order that follow-on production can be competitively procured.

SQQ-89 ACOUSTIC VIDEO GENERATORS

The conferees are totally dissatisfied with the egregiously inadequate progress toward establishing competition for this equipment. The conferees expect full and immediate compliance with the December 11, 1985 Assistant Secretary of the Navy (Shipbuilding and Logistics) memorandum to the Commander, Naval Sea Systems Command which directs that an industry brief be made no later than the week of January 27, 1986; that Draft specifications be issued to industry for review prior to the aforementioned industry briefing; that contract award be made no later than September 1, 1986 and the procurement strategy include development of a second source.

The conferees agree in principle with the above mentioned memorandum direction. However, based upon the Department's failure to comply with the conferees' direction of fiscal year 1985, the conferees remain skeptical. Accordingly, the conferees additionally direct that the specifications for this program be reviewed simultaneously by both industry and the Specification Advocate General. Additionally, the conferees direct the contract award scheduled for September 1, 1986, include both the leader and the follower (second source).

Although the conferees agree not to place restrictions on the procurement of the SQQ-89, the conferees intend to closely monitor this program during the course of fiscal year 1986. Hopefully, this issue will be resolved and not have to be resurrected as it was during this year's appropriations process.

MK-92 UPGRADE (CORT)

The conferees agree that the Navy should proceed with MK-92 CORT upgrade production for the FFG-7 class frigate. Concurrent with the FFG-61 procurement, the Navy should proceed with both its test and evaluation plan and the contract option for six backfit alterations valued at a warranted fixed price of $9,000,000 per unit excluding spares and Navy support costs. Funds appropriated for this section are adequate to fund this program in fiscal year 1986.

SONOBUOYS

The conferees agree to the AN/SSQ-53 and AN/SSQ-77 sonobuoy funding as proposed by the Senate which includes $36,500,000 in "industrial surge" capability.

The conferees agree to the use of industrial surge for this program as an exception to their general belief that industrial surge should be used sparingly and only in special situations. The limited shelf life of these sonobuoys persuades the conferees that establishing the surge capability is a reasonable alternative to building war reserve inventories.

QUICKSTRIKE MINE

The conferees agree to an allowance of $39,679,000 for the Quickstrike mine program. The conferees commend the Navy's efforts to substantially reduce Quickstrike program costs through competition. In an effort to capitalize on these savings, the conferees agree to an appropriation of funds which will provide for the procurement of Quickstrike mines above the fiscal year 1986 budget request. In that regard, the conferees direct the Department to procure, with the funding provided, as many Quickstrike mines as possible by either renegotiating and exercising current contract options, since larger quantities are involved, or revising the current procurement strategy to obtain the most efficient and cost effective procurement.

COASTAL DEFENSE AUGMENTATION

The conferees agree to an allowance of $375,000,000 consisting of $235,000,000 in new obligational authority and $140,000,000 in unobligated fiscal year 1985 CG-47 AEGIS cruiser program funds, for procurement of vessels, aircraft, and equipment to be acquired by the Navy to augment the Coast Guard inventory. Authority for obligation of the $140,000,000 prior year funding is contained in Section 8103 of this Act. Funds shall be available for such procurements as determined by the Coast Guard, but shall include the following items:

Program	Quantity	Amount
Medium range recovery helicopter	3	$41,000,000
Bouy tender service life extension	5	70,000,000
C-130 aircraft	4	72,000,000
140 foot icebreaking tug	1	20,000,000
Forward looking airborne radar/C-130 modification	27	60,000,000
110 foot patrol boats to replace 95 foot PB's	16	112,000,000
Total Coastal Defense Augmentation		$375,000,000

The Navy should consider the procedure outlined in the Senate report pertaining to the use of this account in the future for the budgeting of alterations to Coast Guard aircraft, vessels, and equipment rather than the Navy other procurement account.

As reflected in the Navy Operation and Maintenance section, the conferees agree to $100,000,000, for Coast Guard Operating Expenses as recommended by the House. However such sums shall be paid by the Navy for expenses related to training of the Coast Guard and maintenance by the Coast Guard of equipment which would be available to carry out missions determined by the Navy to be necessary in the event of hostilities.

PROCUREMENT, MARINE CORPS

The Conferees agree to the following amounts for Procurement, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
Ammunition				
LINEAR CHARGES:				
LINEAR CHARGE HE C4/TRLR	3,194	3,194	3,194	3,194

[In thousands of dollars]

	Budget	House	Senate	Conference
SMALL ARMS AMMUNITION:				
CTG 5.56MM BALL M855	9,648	9,648	9,648	9,648
CTG 5.56MM TRACER M856	741	741	741	741
CTG 9MM BALL XM882	643	643	643	643
MACHINE GUN AMMO:				
CTG 5.56MM LINKED M855	5,958	5,958	5,958	5,958
CTG 25MM APDS-T M791	3,049	3,049	3,049	3,049
CTG 25MM HEI-T M792	6,053	6,053	6,053	6,053
CTG 40MM LINKED M430	15,320	15,320	15,320	15,320
CTG 7.62MM LINKED M80	4,552	4,552	4,552	4,552
MORTAR AMMUNITION:				
CTG 60MM HE M888	11,662	11,662	11,662	11,662
CTG 60MM SMOKE WP M302	1,321	1,321	1,321	1,321
CTG 81MM HE M374	20,306	20,306	20,306	20,306
GRENADES:				
GRENADE SMOKE SCREEN L8A3	1,160	1,160	1,160	1,160
SIGNAL ILLUM WSP M127	1,042	1,042	1,042	1,042
ROCKETS:				
ROCKET SMAW	52,431	52,431	52,431	52,431
ROCKET 5 INCH MOTOR	4,075	4,075	4,075	4,075
LIGHT ANTI ARMOR WEAPON XM	733	733	733	733
TRAINING AMMUNITION:				
CTG 25MM TP-T M793	4,835	4,835	4,835	4,835
ROCKET 83MM PRACTICE	13,405	13,405	13,405	13,405
CTG 5.56MM BLANK LKD (F/SAW) M200	3,258	3,258	3,258	3,258
CTG 5.56MM BLANK M200	3,052	3,052	3,052	3,052
CTG 7.62MM BLANK LINKED	1,993	1,993	1,993	1,993
CTG 105MM TPDS-T M724	2,423	2,423	2,423	2,423
155MM AMMUNITION:				
PROJ 155MM ADAM-L M692	38,872	38,872	38,872	38,872
PROJ 155MM ADAM-S M731	41,835	41,835	41,835	41,835
PROJ 155MM RAAMS-L M718	13,960	13,960	13,960	13,960
PROJ 155MM RAAMS-S M741	15,645	15,645	15,645	15,645
PROJ 155MM SMK WP SCREENING	9,324	9,324	9,324	9,324
CHARGE PROP 155MM WHITE BAG M4A2	25,830	25,830	25,830	25,830
PROJ 155MM HE ICM (DP)M483	55,218	55,218	55,218	55,218
CHARGE PROP 155MM GREEN BAG M3A1	5,277	5,277	5,277	5,277
CHARGE PROP 155MM RED BAG M119A2	8,664	8,664	8,664	8,664
GENERAL INCREASE		25,000	25,000	25,000
ANTI-ARMOR AMMUNITION:				
COPPERHEAD, 155MM PROJ	52,100	45,400	52,100	52,100
8 INCH AMMUNITION:				
PROJ 8 INCH ICM	11,238	11,238	11,238	11,238
FUZES:				
FUZE MECHANICAL TIME M577	19,615	19,615	19,615	19,615
FUZE MECHANICAL TIME M582	1,770	1,770	1,770	1,770
PRIMER PERCUSSION M82	1,569	1,569	1,569	1,569
FUZE PD M739A1	8,306	8,306	8,306	8,306
AMMO MODERNIZATION	5,718	5,718	5,718	5,718
OTHER SUPPORT:				
ITEMS LESS THAN $900,000	3,123	3,123	3,123	3,123
TOTAL, AMMUNITION	488,918	507,218	513,918	513,918
Weapons and Tracked Combat Vehicles				
TRACKED COMBAT VEHICLES:				
MODIFICATION KITS	1,093	1,093	1,093	1,093
M60 MINE PLOW	4,430		4,430	
GENERAL REDUCTION		−4,900		
(PY TRANSFER)		(4,900)		
RECOVERY VEHICLE	4,544	4,544	4,544	4,544
ARMORED VEHICLE LAUNCHED BRIDGE	8,640	8,640	8,640	8,640
ITEMS LESS THAN $900,000	1,479	1,479	1,479	1,479
ARTILLERY AND OTHER WEAPONS:				
BATTERY COMPUTER SYSTEM AN/GYK-29	32,345	32,345	32,345	32,345
M198 HOWITZER, MEDIUM, TOWED 155MM	21,001	28,001	28,001	28,001
ITEMS LESS THAN $900,000	1,869	1,869	1,869	1,869
WEAPONS:				
PERSONAL DEFENSE WEAPON (9MM)	2,970	2,970	2,970	2,970
MACHINE GUN, LIGHT, SQUAD, AUTO (SAW)	3,292			
GENERAL REDUCTION		−3,056	−3,056	
(PY TRANSFER)		(3,056)	(3,056)	
M16A2 RIFLE 5.56MM	14,093	14,093	14,093	14,093
MK-19 MACHINE GUN, 40MM	1,000	1,000	1,000	1,000
EOD EQUIPMENT	717	717	717	717
83MM LAUNCHER ASSAULT ROCKET (SMAW)	4,676	4,676	4,676	4,676
TOTAL, WEAPONS AND TRACKED COMBAT VEHICLES	102,149	93,471	102,801	101,427
Guided Missiles and Equipment				
GUIDED MISSILES:				
HAWK	139,976	139,976	139,976	139,976
HAWK MOD	39,078	39,078	39,078	39,078
STINGER	59,397	59,397	59,397	59,397
TOW	44,505	44,505	34,505	39,505
OTHER SUPPORT:				
MODIFICATION KITS	712	712	712	712
TOTAL GUIDED MISSILES AND EQUIPMENT	283,668	283,668	273,668	278,668

[In thousands of dollars]

	Budget	House	Senate	Conference
Communications and Electronics				
MANPACK RADIOS:				
MANPACK RADIOS AND EQUIPMENT	12,656	12,656	12,656	12,656
VEHICLE MOUNTED RADIOS AND EQUIPMENT:				
VEHICLE MTD RADIOS AND EQUIP	10,592	10,592	10,592	10,592
TELEPHONE AND TELETYPE EQUIPMENT:				
UNIT LEVEL CIRCUIT SWITCH (UCLS)	18,600	12,600	11,950	12,600
UNIT LEVEL CIRCUIT SWITCH (ULCS) (PY TRANSFER)		(7,000)		
ULCS LIFE CYCLE SUPPORT	17,053		7,453	15,361
ULCS LIFE CYCLE SUPPORT (PY TRANSFER)		(11,761)		
AN/TGC-() TACTICAL COMM CENTER	3,970	3,970	3,970	3,970
REPAIR AND TEST EQUIPMENT:				
AN/USM-323 ELECTRONIC GENERATOR SIGNAL	5,580	5,580	5,580	5,580
SHOP SETS ELECTRONIC	5,306	5,306	5,306	5,306
AUTOMATIC TEST EQUIPMENT SYSTEM	5,186	5,186	5,186	5,186
ELECTRONIC TEST EQUIPMENT	1,000	1,000	1,000	1,000
OTHER COMM/ELEC EQUIPMENT:				
PP-7333 POWER SUPPLY	3,813	3,813	3,813	3,813
AN/GXC-7A FACSIMILE SET	6,725	6,725	6,725	6,725
ANDVT/TACTERM	1,513	1,513	1,513	1,513
OTHER SUPPORT (TEL):				
TEST CALIBRATION AND MAINT SUPPORT	1,000	1,000	1,000	
MODIFICATION KITS	3,600	3,600	3,600	3,600
ITEMS LESS THAN $900,000	927	927	927	927
COMMAND AND CONTROL SYSTEMS (NON-TEL):				
POSITION LOCATION REPORTING SYS (PLRS)	59,084	59,084	59,084	59,084
TACTICAL AIR OPS MODULE (TAOM)	86,300	75,300	75,300	75,300
RADAR AND EQUIPMENT (NON-TEL):				
AN/TPS-59 DECOY	9,109	9,109	9,109	9,109
AN/PPN-19 RADAR TRANSPONDER BEACON	13,192	13,192	13,192	13,192
INTELL/COMM EQUIPMENT (NON-TEL):				
REMOTE SENSOR EQUIPMENT	691	691	691	691
AN/TMQ-31 METEROLOGICAL DATA SYSTEM (MDS)	13,338	13,338	13,338	13,338
REPAIR AND TEST EQUIPMENT (NON-TEL):				
ELECTRONIC TEST EQUIPMENT	1,000	1,000	1,000	1,000
OTHER COMM/ELEC EQUIPMENT (NON-TEL):				
AN/TAS-4 NIGHT VISION SIGHT (TOW)	10,473	10,473	10,473	10,473
PRODUCTIVITY INVESTMENT	516	516	516	516
AUTOMATED DATA PROCESSING EQUIPMENT	15,016	15,016	15,016	15,016
OTHER SUPPORT (NON-TEL):				
TEST CALIBRATION AND MAINT SUPPORT	1,582	1,582	1,582	1,582
MODIFICATION KITS	8,433	8,433	8,433	8,433
ITEMS LESS THAN $900,000	388	388	388	388
TOTAL, COMMUNICATIONS AND ELECTRONICS	316,643	282,590	282,393	297,951
Support Vehicles				
ADMINISTRATIVE VEHICLES:				
COMMERCIAL PASSENGER VEHICLES	2,702	2,702	2,702	2,702
COMMERCIAL CARGO VEHICLES	21,121	20,121	21,121	20,121
TACTICAL VEHICLES:				
HIGH MOB MULTI-WHEELED VEH (HMMWV) (MYP)	121,666	121,666	121,666	121,666
AIR-CRASH FIRE & RESCUE VEH	1,006	1,006	1,006	1,006
TRUCKS 5-TON (ALL TYPES)	39,689	39,689	39,689	39,689
5 TON RETROFIT	17,878	17,878	17,878	17,878
LOGISTICAL VEHICLE SYSTEM (LVS)	71,440	69,520	69,520	69,520
TRAILERS (ALL TYPES)	10,544	10,544	10,544	10,544
LUBRICATING AND SERVICING UNIT POWER	2,018	2,018	2,018	2,018
OTHER SUPPORT				
MODIFICATION KITS	4,339	4,339	4,339	4,339
ITEMS LESS THAN $900,000	1,410	1,410	1,410	1,410
TOTAL, SUPPORT VEHICLES	293,813	290,893	291,893	290,893
Engineer and Other Equipment				
ENGINEER AND EQUIPMENT:				
ENVIRONMENTAL CONTROL EQUIP	2,653	2,653	2,653	2,653
MOTORIZED ROAD GRADER	8,370	8,370	8,370	8,370
TRACTORS (ALL TYPES)	20,560	20,560	17,560	17,560
RUNAWAY SWEEPER, VACUUM	2,268	2,268	2,268	2,268
SHOP EQUIP, GEN PUR, REPAIR, SEMI-TRLR	1,729	1,729	1,729	1,729
CONTAINER HANDLER, RT 50,0000LB	7,729	7,729	7,729	7,729
CH-53E HELICOPTER SLING	953	953	953	953
FORKLIFTS (ALL TYPES)	11,090	11,090	11,090	11,090
BATH SHOWER UNIT EXPEDITIONARY FIELD	2,349	2,349	2,349	2,349
REFRIGERATION UNIT, F/RIGID BOX	1,212	1,212	1,212	1,212
REFRIGERATOR, RIGID BOX	1,364	1,364	1,364	1,364
WATER PURIFICATION UNIT - REV OSMOSIS	20,612	20,612	20,612	20,612
FUEL, WATER, PUMP AND STORAGE MODULE	4,168	4,168	4,168	4,168
FUEL SYS AMPHB ASSAULT 60,000 GAL	5,882	5,882	5,882	5,882
HELICOPTER EXPEDIENT REFUELING SYSTEM	652	652	652	652
BOAT, BRIDGE ERECTION	5,220	5,220	5,220	5,220
MEDIUM GIRDER BRIDGE	11,122	11,122	11,122	11,122
POWER EQUIPMENT ASSORTED	8,526	8,526	8,526	8,526
ELECTRICAL POWER DISTRIBUTION SYSTEM	9,022	9,022	9,022	9,022
MATERIALS HANDLING EQUIPMENT:				
COMMAND SUPPORT EQUIPMENT	788	788	788	788
GARRISON MOBILE ENGINEER EQUIP	6,331	6,331	6,331	6,331
TELEPHONE SYSTEM	4,300	4,300	4,300	4,300

[In thousands of dollars]

	Budget	House	Senate	Conference
MATERIEL HANDLING EQUIPMENT	1,509	1,509	1,509	1,509
GENERAL PROPERTY:				
TRN DEVICES (AUDIO VISUAL)	1,635	1,635	1,635	1,635
TRN DEVICES (SIMULATORS)	10,408	10,408	10,408	10,408
SHELTER FAMILY	17,575	17,575	17,575	17,575
CONTAINER FAMILY	6,969	6,969	6,969	6,969
CHEMICAL ALARM SYSTEM	1,872	1,872	1,872	1,872
DECONTAMINATING APPARATUS	1,201	1,201	1,201	1,201
SANITATION SET, FIELD KITCHEN	1,166	1,166	1,166	1,166
OTHER SUPPORT:				
MODIFICATION KITS	2,764	2,764	2,764	2,764
ITEMS LESS THAN 900,000	3,477	3,477	3,477	3,477
TOTAL, ENGINEER + OTHER EQUIPMENT	185,476	185,476	182,476	182,476
SPARES AND REPAIR PARTS	56,133	56,133	56,133	56,133
NON-CENTRALLY MANAGED ITEMS		9,700	9,700	9,700
INFLATION REESTIMATES FOR FY86		−2,000	−2,000	−2,000
INFLATION PREMIUM, FY 86		−37,400	−	−37,400
PRIOR YEAR PROGRAM SAVINGS		−28,000	−28,000	
(PY TRANSFER)		(28,000)	(28,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−31,000		−31,000
(PY TRANSFER)		(31,000)		
TOTAL, PROCUREMENT, MARINE CORPS	1,726,800	1,610,749	1,689,982	1,660,766
TRANSFER FROM OTHER ACCOUNTS		(85,717)	(31,056)	
TOTAL FUNDING AVAILABLE	1,726,800	1,696,466	1,721,038	1,660,766

PRIOR YEAR SAVINGS

The conferees recognize $47,717,000 in prior year savings in Marine Corps Procement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

UNIT LEVEL CIRCUIT SWITCHES (ULCS)

The conference agreement provides $15,361,000 in Procuremnt, Marine Corps, and $6,200,000 in Other Procurement, Air Force for only 4 baseline first article AN/TTC-42 switches and associated first article production and test costs. The conferees direct that no other TTC-42's be funded in fiscal year 1986, and that further procurement of this stitch should await successful completion of first article testing. The conference agreement also provides for procurement of the SB-3865 for the Army, Air Force, and Marine Corps as budgeted.

The conferees direct the Department of Defense to report to the Defense Appropriations Subcommittees on the systems competitively selected for procurement as the unit level circuit switches. This report, on the basis of contract award, should also outline the outyear procurement program and reationalize any differences from the Department's switch architecture report as requested by the House.

81MM MORTAR AMMUNITION

The conferees are in agreement with Senate report language allowing procurement of both the Improved 81mm high explosive mortar ammunition and the older version.

AIRCRAFT PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Aircraft Procurement, Air Force.

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
Combat Aircraft				
ACM INTEGRATION	122,800	100,000	100,000	100,000
B-1B (MVP)	5,461,800	4,861,800	5,261,800	5,161,800
(PY TRANSFER)		(300,000)		
TACTICAL FORCES:				
F-15 C/D/ E	1,902,900	1,757,300	1,757,300	1,757,300
F-15 C/D/E (PY TRANSFER)		(2,300)		
F-15 C/D/E (AP-CY)	236,000	210,000	210,000	210,000
F-16 C/D/ (MYP)	2,386,700	2,485,100	2,583,500	2,596,400
F-16 (MYP) (PY TRANSFER)		(66,300)		
F-16 C/D/ (MYP) (AP-CY)	553,100	553,100	535,700	535,700
AIR DEFENSE COMPETITION		200,000	200,000	200,000
OTHER COMBAT AIRCRAFT:				
KC-10A (ATCA) (MYP))	238,800	191,300	198,800	204,800
KC-10A (ATCA) (MYP) (PY TRANSFER)		(18,600)		
KC-10A (ATCA) (MYP) (AP-CY)	208,200	184,500	208,200	226,800
(PY TRANSFER)			(18,600)	
MC-130H	73,600	55,000	55,000	55,000
MC-130H (AP-CY)	5,900	5,900	5,900	5,900
TOTAL, COMBAT AIRCRAFT	11,639,800	10,604,000	11,116,200	11,053,700
Airlift/Tanker Aircraft				
STRATEGIC AIRLIFT:				
C-5B	1,942,100	1,587,900	1,840,100	1,809,300
C-5B (PY TRANSFER)		(85,600)		
3C-58 (AP-CY)	326,000	311,900	326,000	326,000
Tactical Airlift				
OTHER AIRLIFT:				
C-20A	168,800	154,000		154,000
(PY TRANSFER)			(160,800)	
TOTAL, AIRLIFT/TANKER AIRCRAFT	2,436,900	2,053,800	2,166,100	2,289,300

	Budget	House	Senate	Conference
Trainer Aircraft				
UPT TRAINERS:				
T-46A (NGT)	142,800	125,300		130,600
T-46A (GT) (PY TRANSFER)		(5,300)	(125,300)	
T-46A (NGT) (AP-CY)	63,300	63,300		63,300
(PY TRANSFER)			(63,300)	
TOTAL, TRAINER AIRCRAFT	206,100	188,600		193,900
Other Aircraft				
HELICOPTERS:				
HH-60	94,000	93,400	23,000	55,000
HH-60 (AP-CY)	22,000	12,000	12,000	12,000
MISSION SUPPORT AIRCRAFT:				
AIR FORCE ONE REPLACEMENT				280,000
AF ONE REPLACEMENT (PY TRANSFER)			(280,000)	
AC-130H DRUG INTERDICTION AIRCRAFT				35,000
AEROSTAT REPLACEMENT			4,500	
AURORA	80,100			
TR-1/U-2	343,900	300,200	290,656	300,200
TR-1/U-2 (AP-CY)		9,000	9,000	9,000
Total, OTHER AIRCRAFT	540,000	414,600	339,156	691,200
Modification on In-Service Aircraft				
SATRATEGIC AIRCRAFT:				
B-52	463,600	416,500	459,500	451,200
B-52 (PY TRANSFER)		(8,000)		
Fb-111	13,200	13,200	13,200	13,200
B-1b	5,100			31,400
TACTICAL AIRCRAFT				
A-7	3,400	3,400	81,400	60,000
A-10	87,800	74,200	72,000	72,000
A-10 (PY TRANSFER)		(3,500)		
F/RF-4	174,200	168,200	194,300	190,100
F/RF-4 (PY TRANSFER)		(3,700)		
F-5	25,732	25,732	25,732	25,732
F-15	141,800	141,800	141,000	141,000
F-16	73,700	54,900	52,300	52,300
F-16 (PY TRANSFER)		(9,400)		
F-111	294,500	294,500	294,50	295,500
TR-1A	11,700	11,700	11,700	11,700
AIRLIFT AIRCRAFT:				
C-5	9,800	9,800	9,800	9,800
C-141	2,100	2,100	2,100	2,100
TRAINER AIRCRAFT:				
T-38	40,100	26,400	36,200	36,200
OTHER AIRCRAFT:				
KC-10A (ATCA)	4,300	1,000	1,000	1,000
C-12	5,000	5,000	5,000	5,000
C-130	201,000	201,300	191,000	200,700
C-130 (PY TRANSFER)		(8,800)		
C-135	868,100	852,500	852,500	852,500
E-3	33,400	33,400	33,400	33,400
E-4	20,400	20,100	20,100	20,100
HH-53 AIRCRAFT	26,400	76,400	51,400	76,400
OTHER AIRCRAFT	133,200	133,200	133,200	133,200
ACP COMM. UPGRADE			50,000	50,000
OTHER MODIFICATIONS:				
CLASSIFIED PROJECTS	144,385	112,385	112,385	112,385
CIVIL RESERVE AIRLIFT FLEET (CRAF):				
CIVIL RESERVE AIRLIFT FLEET (CRAF)	164,900	164,000	158,800	158,800
DRUG INTERDICTION AIRCRAFT			47,900	
UNDISTRIBUTED REDUCTION		150,000		
TOTAL, MODIFICATON OF IN-SERVICE AIRCRAFT	2,917,817	2,692,617	3,050,417	3,034,717
SPARES AND REPAIR PARTS	4,934,581	3,412,281	4,560,181	3,975,000
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES:				
COMMON GROUND EQUIPMENT	630,997	506,297	630,997	556,297
COMMON GROUND EQUIPMENT (PY TRANSFER)		(50,000)		
INDUSTRIAL RESPONSIVENESS	89,200	40,800	74,200	54,200
WAR CONSUMABLES	86,400	86,400	86,400	86,400
OTHER PRODUCTION CHARGES	2,683,705	2,354,205	2,161,600	2,235,410
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	3,490,302	2,987,702	2,953,197	2,932,307
ALR-74 RWR		-320,800		
ALR-74 RWR (PY TRANSFER)		(167,800)		
ENVIRONMENTAL FUND TRANSFER			-10,600	-10,600
INFLATION REESTIMATES FOR FY86		-32,000	-32,000	-32,000
INFLATION PREMIUM, FY86		-549,100		-549,100
PRIOR YEAR PROGRAM SAVINGS		-406,000		
(PY TRANSFER)		(406,000)		
FY85 INFLATION FAIRNESS ADJUSTMENT		-323,000		-323,000
(PY TRANSFER)		(323,000)		
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	26,165,500	20,722,700	24,142,651	23,255,424
TRANSFER FROM OTHER ACCOUNTS		(1,458,300)	(648,000)	
TOTAL FUNDING AVAILABLE	26,165,500	22,181,000	24,790,651	23,255,424

PRIOR YEAR SAVINGS

The conferees recognize $1,110,400,000 in prior year savings in Air Force Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

B-1B

The conferees agree to provide $5,161,800,000, a reduction of $300,000,000. No B-1B production funds in any fiscal year are to be used for retrofit modifications. Instead the conferees have provided a separate allowance of $31,400,000 in the modification program. The conferees further agree to the reprogramming and reporting requirements in the Senate report.

F-16

The conferees agree to provide $2,596,400,000, a reduction of $240,300,000. The conferees have included bill language which allows award of the F-16 multiyear contract and directs that it contain priced contract options which can accommodate the results of the air defense competition.

AIR DEFENSE COMPETITION

The conferees agree to both the House and Senate report language on the air defense competition for approximately 300 air defense fighters competitively selected from among the F-16, F-20, and any other candidate deemed suitable by the Air Force. The Air Force must follow the acquisition strategy required in the Senate report, using a common cost base for bids as required by the House. The conferees expect this competition to be expedited, and have included bill language which requires the Air Force to make a source selection by July 1, 1986, with contract award to follow within sixty days. The bill appropriates $200,000,000 for this purpose in fiscal year 1986. As mentioned in the F-16 section of this report, the conferees have also approved the F-16 multiyear initiative because of the expedited air defense aircraft competition. The Air Force is encouraged to consider innovative pricing approaches for any aircraft in the competition.

KC-10

The conferees agree to provide $204,800,000, a budget reduction of $34,000,000, and $226,800,000 for advance procurement. The Air Force should notify Congress if it proposes to extend the KC-10 production line for additional tankers to meet strategic bomber refueling requirements.

C-5B

The conferees agree to provide $1,809,300,000, a budget reduction of $132,800,000. This is $30,800,000 below the Senate allowance to reduce excessive engineering change order funding. The conferees also agree to the provision of $326,000,000 for advance procurement of 21 C-5B aircraft in fiscal year 1987. The conferees believe that $177,100,000 of C-5B contract reserves for inflation as documented by the Congressional Budget Office is excess to current cost projections. Due to the possible adverse impact on program execution if a reduction were made at this time, the conferees recommend that such reserves be retained in the C-5B program. The Director of the Office of Management and Budget should formally propose rescission of all excess budget authority in amounts equal to contract adjustments under the current C-5B economic price adjustment contract clause once such adjustments are made in any fiscal year.

T-46 AIRCRAFT

The Air Force has testified on the need to replace obsolete training aircraft operated by the Air Force Air Training Command. The Congress has responded to this need and ratified this requirement by providing over $600,000,000 in T-46A research and development and procurement funds to date. The conferees have agreed to provide not only full funding for the fiscal year 1986 T-46 procurement, except for a minor inflation adjustment, but have also fully funded the advance procurement needed to procure T-46 aircraft in fiscal year 1987. The conferees expect the Air Force to budget for and procure T-46 aircraft in fiscal year 1987, where firm fixed price contract options are available, and in subsequent years to meet this critical and well justified requirement.

HH-60 SEARCH AND RESCUE HELICOPTER

The conferees agree to an appropriation of $55,000,000 for production start-up costs and procurement of three helicopters to fill the combat search and rescue mission, instead of $93,400,000 recommended by the House or $23,000,000 recommended by the Senate. The amounts agreed to are sufficient to begin an austere version HH-60A production program to provide minimum capability with approximately 63 helicopters and a total cost of not more than $500,000,000. The Air Force should consider this to be a design-to-cost objective.

The initial funding level is intended for costs related to the airframe, engines, and navigation systems costs as well as nonrecurring engineering expenses. All production tooling expenses are to be assumed by the airframe prime contractor. The conferees expect the Navy to coordinate its search and rescue program with the Air Force to optimize commonality.

AIR FORCE ONE

The conferees agree to the Senate funding level and its conditions for Air Force One replacement aircraft and reiterate the procurement design-to-cost objective, which excludes future R&D expense. While also excluded from the design-to-cost objective, initial spares requirements should be accommodated from within appropriated spares funding levels. The Air Force should obtain approval from the House and Senate Armed Services Committees for this procurement program. The conferees also expect advance written notification to Congress prior to contract award.

B-1B MODIFICATIONS

The current Air Force plan would fund $186,200,000 for B-1B retrofit modifications within the B-1B production program. The conferees feel that such costs are more appropriately funded from the allowances for modification of in-service aircraft. Consequently, $31,400,000 is recommended for B-1B retrofit modifications based on analysis of the aircraft modification installation schedule.

OTHER MODIFICATIONS

The conferees agree to the following adjustments in various Air Force modification line items that were in conference:

[dollars in millions]

B-52 ALCM	−$4.1
B-52 Strategic Radar	−8.3
A-7 Guard/Reserve	+56.6
A-10 GAO Savings	−13.6
A-10 TEMS	−2.2
F-4 GAO Savings	−6.0
F-4 INS/HUD	+92.0
F-4E ALR-74	−10.9
RF-4E ALR-74	−55.0
F-4 Simulator, ALR-74	−4.2
F-15 Mark XII IFF	−.8
F-16 GAO Savings	−18.8
F-16 ALR-74	−2.6
T-38 GAO Savings	−3.9
C-130 GAO Savings	−10.6
MC-130H Remodification	+10.3
HH-53 SOF	+50.0
ACP Upgrade	+50.0

SPARES AND REPAIR PARTS

The conferees agree to provide $3,975,000,000, a budget reduction of $959,581,000 of which $158,700,000 relates to initial spares and $800,881,000 relates to replenishment spares. The conferees agree to the language in both the House and Senate reports. Future budgets to Congress should clearly identify valid unfunded requirements that would be satisfied if surplus spares funds became available after the budget was submitted. Such unfunded requirements should be reviewed and validated by the Office of the Secretary of Defense during the annual budget review process.

The primary deficiency of the Air Force centrally managed spares requirements determination system is the excessive budget lead time required for future program cost projections. Over the past several years, requirements and cost projections have varied significantly from the actual spares consumption data. Adoption of the financial technique of stock funding repairables would assign financial and requirements resonsibility to the spares consumer and significantly shorten budget lead time for cost estimates. Consequently, the conferees encourage the Air Force to consider stock funding of repairables to be managed at least at the major command level.

OTHER PRODUCTION CHARGES

The conferees agree to provide $2,235,410,000, a budget reduction of $448,295,000. The reduction includes $39,800,000 in the fiscal year 1986 ALQ-131 program, $59,000,000 related to production slip of the ALQ-184 ECM pod, $1,000,000 related to ALR-74, $43,000,000 related to PLSS, $44,000,000 related to ECM power management, and $261,495,000 related to classified programs.

ALR-74 RADAR WARNING RECEIVER

The conferees agree to the following reductions related to the ALR-74 production slip, which have been applied to the line items indicated:

FISCAL YEAR 1986

[dollars in millions]

F-16 Advance Procurement	$17.4
F-4E Modification	10.9
RF-4E Modification	55.0
F-4 Simulator Modification	4.2
F-16 Modification	2.6
Other Production Charges	1.0
Initial Spares	12.1
Total	103.2

The conferees recognize that approimately $56,900,000 in fiscal year 1984 appropriations will be used to repackage the ALR-56 radar warning receiver so that a competition between ALR-56M and ALR-74 may be conducted in the future.

ELECTRONIC COUNTER MEASURE (ECM) EQUIPMENT

The conferees have agreed to substantial funding reductions in the Airborne Self Protection Jammer (ASPJ), ALQ-119/184 pod, ALQ-131 pod, and ALR-74 radar warning reciever requipment due to inability to

achieve production objectives. The budgets for these items were based on overly optimistic assessments of production capability in order to capitalize on emerging technologies. The conferees understand the need to counter the emerging threat, but future support for ECM programs will be contingent upon production feasibility. Consequently, the Air Force should realign its planning to achieve realistic production schedules for this equipment.

MISSILE PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Missile Procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES				
STRATEGIC: PEACEKEEPER (M–X)	3,037,280	1,746,000	1,746,000	1,746,000
FORCE MODERNIZATION: MISSILE REPLACEMENT EQUIPMENT-STRAT	86,701	66,701	66,701	66,701
TOTAL, BALLISTIC MISSILES	3,123,981	1,812,701	1,812,701	1,812,701
OTHER MISSILES				
STRATEGIC: AIR LAUNCH CRUISE MISSILE	33,440	33,440	33,440	33,440
TACTICAL:				
AIM–7F/M SPARROW	82,300	70,400	82,300	82,300
AIM–9L/M SIDEWINDER	43,300	81,300	81,300	81,300
AGM–130 POWERED GBU–15	48,500	20,000	20,000	20,000
AGM–65D MAVERICK	488,989	430,889	393,989	430,889
AGM–88A HARM	470,107	438,107	448,407	438,107
RAPIER	7,581	3,581	7,581	7,581
AMRAAM	366,489		149,989	149,989
AMRAAM (AP–CY)	65,900		30,000	59,400
(PY TRANSFER)			(29,400)	
GRD LAUNCH CRUISE MISSILE	544,093	534,093	534,093	534,093
GRD LAUNCH CRUISE MISSILE (AP–CY)	9,772	9,772	9,772	9,772
TARGET DRONES: TARGET DRONES	35,898	35,898	35,898	35,898
TACTICAL DRONES:				
INDUSTRIAL FACILITIES	12,926	12,926	12,926	12,926
MISSILE REPLACEMENT EQUIPMENT-TACT	14,451	14,451	14,451	14,451
CLASSIFIED PROGRAM	663,000	533,000	633,000	505,900
TOTAL, OTHER MISSILES	2,895,746	2,218,857	2,488,146	2,417,046
MODIFICATION OF IN-SERVICE MISSILES				
CLASS IV: CLASS IV	92,749	92,749	90,800	90,800
CLASS V: LGM–30F/G MINUTEMAN II/III	13,540	8,440	83,540	43,440
UPDATE:				
AGM–88A HARM	3,000	3,000	3,000	3,000
UPDATED ALCM	16,498	16,498	16,498	16,498
GRD LAUNCH CRUISE MISSILE UPDATE	8,707	8,707	8,707	8,707
TOTAL, MODIFICATION OF IN-SERVICE MISSILES	134,494	129,394	202,545	162,445
MISSILE SPARES PLUS REPAIR PARTS: SPARES AND REPAIR PARTS	539,258	461,170	465,258	461,170
OTHER SUPPORT				
SPACE PROGRAMS:				
SPACEBORNE EQUIP (COMSEC)	36,346	36,346	36,346	36,346
GLOBAL POSITIONING (MYP)	197,398	197,398	197,398	197,398
SPACE LAUNCH SUPPORT	295,999	260,999	260,999	260,999
DEF METEOROLOGICAL SAT PROG (MYP)	53,979	53,979	43,379	43,379
DEFENSE SUPPORT PROGRAM	131,282	131,282	131,282	131,282
DEFENSE SATELLITE COMM SYSTEM (MYP)	135,506	135,506	135,506	135,506
DEFENSE SATELLITE COMM SYSTEM (MYP) (AP–CY)	13,660	13,660	13,660	13,660
AF SATELLITE COMM SYSTEM	34,384	34,384	34,384	34,384
SPACE DEFENSE SYSTEM	83,016			
SPACE DEFENSE SYSTEM (AP–CY)	14,900			
SPACE BOOSTERS	126,894	6,894	80,000	80,000
SPACE BOOSTERS (AP–CY)		114,000	46,894	46,894
SPACE SHUTTLE	22,073	22,073	22,073	22,073
SPECIAL PROGRAMS:				
OTHER PROGRAMS	170,024	170,024		
FOREST GREEN	4,749	4,749	4,749	4,749
IONDS (MYP)	45,835	45,835	45,835	45,835
SPECIAL PROGRAMS	1,915,800	1,661,600	1,885,200	1,834,900
SPECIAL PROGRAMS (PY TRANSFER)		(1,000)		
SPECIAL UPDATE PROGRAMS	887,376	927,476	927,476	927,476
TOTAL, OTHER SUPPORT	4,169,221	3,816,205	3,850,181	3,814,881
GENERAL REDUCTION, PY TRANSFER		−4,000		
(PY TRANSFER		(−4,000)		
INFLATION REESTIMATES FOR FY86		−13,000	−13,000	−13,000
INFLATION PREMIUM, FY86		−227,800		−227,801
PRIOR YEAR PROGRAM SAVINGS		−35,000	−35,000	
(PY TRANSFER)		(35,000)	(35,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−115,000		−115,000
(PY TRANSFER)		(115,000)		
TOTAL, MISSILE PROCUREMENT, AIR FORCE	10,862,700	8,043,527	8,770,831	8,312,442
TRANSFER FROM OTHER ACCOUNTS		(155,000)	(64,400)	
TOTAL FUNDING AVAILABLE	10,862,700	8,198,527	8,835,231	8,312,442

PRIOR YEAR SAVINGS

The conferees recognize $82,800,000 in prior year savings in Air Force Missile Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE

The conferees agree to provide $149,989,000 for Advanced Medium Range Air-to-Air Missile (AMRAAM) and $59,400,000 for AMRAAM Advance Procurement as proposed by the Senate.

MINUTEMAN II/III

The conferees agree to provide $43,400,000 for Minuteman II/III modifications. This is an increase of $35,000,000 over the House allowance to extend the Minuteman Extended Survivable Power (MESP) program starting in 1986. No funds are provided for lead acid batteries.

COMPLEMENTARY EXPENDABLE LAUNCH VEHICLES

The conferees agree to funding levels and distributions proposed by the Senate. This includes $80,000,000 for procurement of 1 fully funded Complementary Expendable Launch Vehicle and $46,894,000 in advance procurement for 1987.

The conferees agree that the CELV program of no more than 10 Titan 34D7s shall be fully funded but may be executed as a multi-year procurement if proposed to and approved by Congress.

The conferees further agree that the Air Force should include a program profile and description with its multi-year justification to both the House and Senate Defense Appropriations Subcommittees and that it should incorporate the policy guidance provided in the House report to this bill to include holding four CELV's in reserve, and the Senate language in the report accompanying the Continuing Resolution (S. Rpt. 99-210). Contract restructuring should explicitly accommodate, using priced contract options, the requirement of holding four CELV's in reserve.

OTHER PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Other Procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
MUNITIONS AND ASSOCIATED EQUIPMENT				
ROCKETS AND LAUNCHERS:				
2.75 INCH ROCKET MOTOR	22,276	22,276	22,276	22,276
GTR-18 MISSILE SIMULATOR	1,987	1,987	1,987	1,987
ROCKET TRAINING 35MM	1,692	1,692	1,692	1,692
ITEMS LESS THAN $900,000	4,601	4,601	4,601	4,601
CARTRIDGES (THOUSANDS):				
9 MM PARABELLUM	1,178	1,178	1,178	1,178
5.56 MM	4,522	4,522	4,522	4,522
20 MM TRAINING	1,530	1,530	1,530	1,530
30 MM TRAINING	100,425	88,625	91,625	88,625
30 MM API	30,613	19,813	30,613	30,613
30 MM API (PY TRANSFER)		(10,800)		
40 MM TP GRENADES	3,533	3,533	3,533	3,533
40 MM HE GRENADES	16,613	16,613	16,613	16,613
CART CHAFF RR-170	17,823	17,823	17,823	17,823
CART CHAFF, RR-136	546	546	546	546
SIGNAL MK-4 MOD 3	1,681	1,681	1,681	1,681
MXU-4A/A ENGINE STARTER	4,972	4,972	4,972	4,972
CART IMP 3000 FT/LBS	4,281	3,181	3,181	3,181
ITEMS LESS THAN $900,000	8,650	8,650	8,650	8,650
BOMBS:				
MK-82 INERT/BDU-50	13,386	13,386	13,386	13,386
DURANDAL	94,502	86,602	68,000	80,600
TIMER ACTUATOR FIN FUZE	1,963			
BSU-49 INFLATABLE RETARDER	34,703	31,233	34,703	31,233
BSU-50 INFLATABLE RETARDER	10,231	10,231	10,231	10,231
BOMB 2000 LB HIGH EXPLOSIVE	34,056	31,856	31,856	31,856
CLUSTER BOMB, MK-20 (ROCKEYE)	4,397	4,397	4,397	4,397
LASER BOMB GUIDANCE KIT	103,677			
GBU-15	127,894	37,902	106,700	85,000
BOMB PRACTICE 25 POUND	20,892	20,892	20,892	20,892
BOMB PRACTICE BDU-38	5,421	5,421	5,421	5,421
BOMB, PRACTICE MK-106	1,303	1,303	1,303	1,303
MK-84 BOMB—EMPTY	6,810	6,810	6,810	6,810
CBU-89 (TMD/GATOR)	202,015	172,015	172,015	172,015
CBU-87 (COMBINED EFFECTS MUNITION)	552,934	330,534	552,934	400,000
BIGEYE	22,115		22,115	
ITEMS LESS THAN $900,000	1,531	1,531	1,531	1,531
TARGETS:				
AERIAL TOW TARGET	8,398	6,798	6,798	6,798
ITEMS LESS THAN $900,000	292	292	292	292
OTHER ITEMS:				
FLARE, IR MJU-7B	13,346	13,346	13,346	13,346
FLARE, PARA, LUU-4B	1,401	1,401	1,401	1,401
FLARE, IR MJU-2	3,109	3,109	3,109	3,109
M-206 CARTRIDGE FLARE	1,445	1,445	1,445	1,445
SIGNAL, SMOKE/ILLUM MK-6	1,959	1,959	1,959	1,959
SIGNAL, SMOKE AND ILLUMINATING	2,450	2,450	2,450	2,450
MC-3468, RETARD DEVICE	1,878	1,878	1,878	1,878
RAPID MUNITIONS ASSEMBLY	3,925	2,825	2,825	2,825
SPARES AND REPAIR PARTS	9,547	7,147	7,147	7,147
MODIFICATIONS	687	687	687	687
ITEMS LESS THAN $900,000	21,334	19,034	19,034	19,034
FUZES:				
FMU-130	8,427			
FMU-112/FMU-139	61,725	41,725	41,725	41,725
ITEMS LESS THAN $900,000	184	184	184	184
OTHER WEAPONS:				
M-203 GRENADE LAUNCHER	771	771	771	771
MACHINE GUN, 7.62MM, M-60	3,764	3,764	3,764	3,764
GAU-5 MACHINE GUN	1,367	1,367	1,367	1,367
40MM MACHINE GUN, MK-19	4,221	4,221	4,221	4,221
9MM HANDGUN	6,776	6,776	6,776	6,776
WAR RESERVE MUNITIONS			50,000	40,000

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, MUNITIONS AND ASSOCIATED EQUIPMENT	1,621,759	1,078,515	1,440,496	1,239,877
VEHICULAR EQUIPMENT				
PASSENGER CARRYING VEHICLES:				
SEDAN, 4 DR 4×2	1,938	1,938	1,938	1,938
STATION WAGON, 4×2	2,183	2,183	2,183	2,183
BUS, 28 PASSENGER	4,818	4,818	4,818	4,818
BUS, INTERCITY	1,754	1,754	1,754	1,754
BUS, 44 PASSENGER	2,779	2,779	2,779	2,779
AMBULANCE, BUS	2,150	2,150	2,150	2,150
CARGO + UTILITY VEHICLES:				
TRUCK, STAKE/PLATFORM	6,758	6,758	6,758	6,758
TRUCK, CARGO-UTILITY, ¾T, 4×4	4,503	4,503	4,503	4,503
TRUCK, CARGO-UTILITY, ½T, 4×2	4,446	4,446	4,446	4,446
TRUCK, PICKUP, ½T, 4×2	6,463	6,463	6,463	6,463
TRUCK, PICKUP, COMPACT	6,417	6,417	6,417	6,417
TRUCK, MULTI-STOP 1 TON 4×2	11,737	11,737	11,737	11,737
TRUCK, PANEL, 4×2	3,541	3,541	3,541	3,541
SHOP VAN 4×4	869	869	869	869
TRUCK, CARRYALL	7,541	7,541	7,541	7,541
COMMERCIAL UTILITY CARGO VEHICLE	3,610	3,610	3,610	3,610
TRUCK, CARGO, 2½T, 6×6, M-35	15,588	15,588	15,588	15,588
TRUCK, CARGO 5T M-923, M-925	17,088	17,088	17,088	17,088
SEMI-TRAILER, 20T	352	352	352	352
HIGH MOBILITY VEHICLE (MYP)	15,300	15,300	15,300	15,300
TRUCK, TRACTOR 5T M-932 (MYP)	978	978	978	978
TRUCK, TRACTOR, OVER 5T	4,382	4,382	4,382	4,382
TRUCK, WRECKER	369	369	369	369
TRUCK, WRECKER 5T M936 (MYP)	3,903	3,903	3,903	3,903
TRUCK, DUMP 5 TON	8,149	8,149	8,149	8,149
TRUCK, UTILITY	2,238	2,238	2,238	2,238
ITEMS LESS THAN $900,000	8,358	8,358	8,358	8,358
SPECIAL PURPOSE VEHICLES:				
TRUCK, MAINT, 4×2	2,552	2,552	2,552	2,552
TRUCK, MAINT, 4×4	1,222	1,222	1,222	1,222
TRUCK, MAINT, HI-REACH	2,066	2,066	2,066	2,066
TRUCK, TELEPHONE MAINTENANCE	3,778	3,778	3,778	3,778
TRUCK, TANK, 1200 GAL	1,992	1,992	1,992	1,992
TRUCK, TANK FUEL R-9	23,645	23,645	23,645	23,645
TRUCK, TANK, FUEL, M-49	1,786	1,786	1,786	1,786
TRUCK, TANK, LIQ NIT, C-5	467	467	467	467
TRACTOR, A/C TOW, MB-4	2,854	2,854	2,854	2,854
TRACTOR, TOW, FLIGHTLINE	3,853	3,853	3,853	3,853
TRACTOR, WHEELED, INDUSTRIAL	1,915	1,915	1,915	1,915
TRACTOR, DOZER	2,443	2,443	2,443	2,443
VEHICLE, LAW ENFORCEMENT	2,342	2,342	2,342	2,342
TRUCK, DEMINERAL WATER, 2600 GAL	942	942	942	942
TRUCK, HI LIFT C5	119	119	119	119
TRUCK, HI LIFT 3T	186	186	186	186
TRUCK, HI LIFT, 9T	162	162	162	162
TRUCK, REFUSE	1,793	1,793	1,793	1,793
TRUCK, HYDRANT FUEL	3,877	3,877	3,877	3,877
TRAILER, WATER M149	153	153	153	153
TRAILER, FUEL A1B	201	201	201	201
SEMI TRAILER, COMPRESSED GAS	2,725	2,725	2,725	2,725
SEMI TRAILER, TANK UDMH	137	137	137	137
DOLLY M832	427	427	427	427
TRACTOR, WHEELED W DOZER	360	360	360	360
ITEMS LESS THAN $900,000	7,530	7,530	7,530	7,530
FIRE FIGHTING EQUIPMENT:				
TRUCK, CRASH P-4/P-19	23,807	23,807	23,807	23,807
TRUCK, CRASH P-15	3,494	3,494	3,494	3,494
TRUCK, CRASH P-2	8,201	8,201	8,201	8,201
TRUCK, WATER P-18	3,866	3,866	3,866	3,866
TRUCK, PUMPER, P-8	1,852	1,852	1,852	1,852
TRUCK, PUMPER, P-12	205	205	205	205
TRUCK, CRASH P-10	406	406	406	406
TRUCK, CRASH P-13/P-20	494	494	494	494
ITEMS LESS THAN $900,000	839	839	839	839
MATERIALS HANDLING EQUIPMENT:				
TRUCK, F/L 4,000 LB GED/DED 144"	2,188	2,188	2,188	2,188
TRUCK, F/L 6000 LB	4,934	4,934	4,934	4,934
TRUCK, F/L 10,000 LB	10,941	10,941	10,941	10,941
TRUCK, F/L LARGE CAPACITY AT	627	627	627	627
TRUCK, F/L 15000 LB	760	760	760	760
LARGE CAPACITY LOADER	4,250	4,250	4,250	4,250
25K A/C LOADER	6,279	6,279	6,279	6,279
TRACTOR, WHSE, 4,000 LB	849	849	849	849
CONTAINER, LIFT, TRUCK	4,453	4,453	4,453	4,453
ITEMS LESS THAN $900,000	2,658	2,658	2,658	2,658
BASE MAINTENANCE SUPPORT:				
LOADER, SCOOP	3,601	3,601	3,601	3,601
LOADER, SCOOP, W/BACKHOE	699	699	699	699
DISTRIBUTOR, WATER 1500 GALLON	3,460	3,460	3,460	3,460
CLEANER, RUNWAY/STREET	6,032	6,032	6,032	6,032
ROLLER, VIBRATING	650	650	650	650
TRUCK, DUMP 22T	860	860	860	860
GRADER, ROAD, MOTORIZED	3,110	3,110	3,110	3,110
CRANE, 7-50 TON	3,133	3,133	3,133	3,133
EXCAVATOR, DED, PT	4,305	4,305	4,305	4,305

[In thousands of dollars]

	Budget	House	Senate	Conference
WATERCRAFT	4,295	4,295	4,295	4,295
SPARES AND REPAIR PARTS	4,512	4,512	4,512	4,512
MODIFICATIONS	197	197	197	197
ITEMS LESS THAN $900,000	7,173	7,173	7,173	7,173
UNDISTRIBUTED REDUCTION		−20,000		
TOTAL, VEHICULAR EQUIPMENT	340,869	340,869	320,869	340,869
ELECTRONICS AND TELECOMMUNICATIONS EQUIPMENT				
COMM SECURITY EQUIPMENT (COMSEC):				
SPACE SYSTEMS (COMSEC)	33,497	33,497	33,497	33,497
TEMPEST EQUIPMENT	546	546	546	546
TAC SECURE VOICE	13,201	13,201	13,201	13,201
DCS SECURE VOICE (COMSEC)	27,685	27,685	27,685	27,685
SECURE DATA	40,990	40,990	40,990	40,990
TRI-TAC (COMSEC)	28,633	28,633	28,633	28,633
SPARES AND REPAIR PARTS	7,563	7,563	7,563	7,563
MODIFICATIONS (COMSEC)	282	282	282	282
INTELLIGENCE PROGRAMS:				
INTELLIGENCE DATA HANDLING SYS	29,427	29,427	29,427	29,427
INTELLIGENCE TRAINING EQUIPMENT	9,101	9,101	9,101	9,101
INTELLIGENCE COMM EQUIP	4,585	4,585	4,585	4,585
COBRA SHOE	2,973	2,973	2,973	2,973
ITEMS LESS THAN $900,000	6,375	6,375	6,375	6,375
ELECTRONICS PROGRAMS:				
TRAFFIC CONTROL/LANDING	4,981	4,981	4,981	4,981
TACTICAL AIR CONTROL SYS IMPROVE	95,408	84,408	84,408	84,408
TACAN		8,000	8,000	8,000
WEATHER OBSERV/FORCAST	31,639	31,639	31,639	31,639
DEFENSE SUPPORT PROGRAM	117,825	117,825	117,825	117,825
OTH-B RADAR	237,036	167,036	167,036	167,036
SACDIN	1,129	1,129	1,129	1,129
SAC COMMAND AND CONTROL	11,123	11,123	11,123	11,123
CHEYENNE MOUNTAIN COMPLEX	61,039	54,136	54,136	54,136
PAVE PAWS/SLBM WARNING SYSTEMS	9,025	9,025	9,025	9,025
BMEWS MODERNIZATION	70,754	38,250	70,754	70,754
SPACETRACK	10,067	10,067	10,067	10,067
NAVSTAR GPS	7,351	7,351	7,351	7,351
USAFE COMMAND/CONTROL SYSTEM	12,076	12,076	8,700	8,700
PACAF COMMAND/CONTROL	9,897	9,897	9,897	9,897
DEFENSE METEOROLOGICAL SAT PROG	9,998	9,998	9,998	9,998
CARIBBEAN BASIN RADAR NETWORK	4,400	4,400	4,400	4,400
MARS/USAF-FAA RADAR UPGRADE	16,598	2,798	16,598	2,798
TAC SIGINT SUPPORT	34,671	34,671	34,671	34,671
DIST ERLY WARNING RDR/NORTH WARNING	8,858		8,858	8,858
DIST ERLY WARNING RDR/NORTH WARNING (PY TRANSFER)		(8,858)		
TRANSPORT GROUND INTERCEPT FACIL	17,464	17,464	17,464	17,464
TR-1 GROUND STATIONS	74,605	64,605	64,605	64,605
AIR BASE SURVIVABILITY	1,567	1,567	1,567	1,567
TEREC GROUND PROCESSOR	4,056	4,056	4,056	4,056
IMAGERY TRANS	37,460	20,000	20,000	20,000
TACTICAL WARNING SYSTEMS SUPPORT	390	390	390	390
NORTH ATLANTIC DEFENSE C3	22,362	22,362	22,362	22,362
SPECIAL COMM-ELECTRONICS PROJECTS:				
AUTOMATIC DATA PROCESSING EQUIP	170,528	148,028	170,528	163,128
WWMCCS ADPE	36,361	36,361	36,361	36,361
MAC COMMAND AND CONTROL SUPPORT	13,320	13,320	13,320	13,320
GLCM COMMUNICATIONS	14,471	14,471	14,471	14,471
AIR BASE DEFENSE/AF PHYS SECURITY	52,508	52,508	52,508	52,508
WEAPONS STORAGE/SECURITY	2,944	2,944	2,944	2,944
RANGE IMPROVEMENTS	105,173	90,173	90,173	90,173
HF RADIO CONSOLIDATION	9,768	9,768	9,768	9,768
RADAR BOMB SCORER	9,100	9,100	9,100	9,100
PLSS	25,123	25,123	25,123	25,123
C3 COUNTERMEASURES	21,388	21,388	21,388	21,388
SPACE SHUTTLE	4,978	4,978	4,978	4,978
BASE LEVEL DATA AUTO PROGRAM	64,904	47,904	47,904	47,904
SATELLITE CONTROL FACILITY	66,262	66,262	66,262	66,262
CONSTANT WATCH	15,924	15,924	15,924	15,924
CONSOLIDATED SPACE OPS CENTER	17,613	17,613	17,613	17,613
CMD CENTER PROCESSING/DISPLAY SYS	2,552	2,552	2,552	2,552
HAMMER ACE	831	831	831	831
SAMTO TEST RANGES I&M	32,144	22,144	22,144	22,144
EMP HARDENING	12,685	12,685	12,685	12,685
AIR FORCE COMMUNICATIONS:				
PROGRAM 698AJ	1,965	1,965	1,965	1,965
INFORMATION TRANSMISSION SYSTEMS	5,748	5,748	5,748	5,748
TELEPHONE EXCHANGE	52,926	52,926	52,926	52,926
JOINT TACTICAL COMM PROGRAM	161,927	160,227	160,227	160,227
USREDCOM	2,971	2,971	2,971	2,971
USCENTCOM	26,063	26,063	26,063	26,063
AUTOMATED TELECOMMUNICATIONS PRG	19,114	19,114	19,114	19,114
TELETYPEWRITER EQUIPMENT	11,724	11,724	11,724	11,724
SATELLITE TERMINALS	65,071	65,071	65,071	65,071
DCA PROGRAMS:				
WIDEBAND SYSTEMS UPGRADE	45,708	45,708	45,708	45,708
MINIMUM ESSENTIAL EMER COMM NET	14,385	14,385	14,385	14,385
DCS SECURE VOICE EQUIPMENT	18,380	18,380	18,380	18,380
ORGANIZATION AND BASE:				
TACTICAL C-E EQUIPMENT	17,946	17,946	17,946	17,946

[In thousands of dollars]

	Budget	House	Senate	Conference
PRODUCTIVITY INV TELECOM	16,431	16,431	16,431	16,431
RADIO EQUIPMENT	38,609	38,609	38,609	38,609
FIBER OPTICS	1,430	1,430	1,430	1,430
TV EQUIPMENT (AFRTV)	4,493	4,493	4,493	4,493
CCTV/AUDIOVISUAL EQUIPMENT	4,657	4,657	4,657	4,657
E AND I REQUIREMENTS	10,795	10,795	10,795	10,795
SPARES AND REPAIR PARTS	398,494	364,644	383,494	370,000
ITEMS LESS THAN $900,000	15,468	15,468	15,468	15,468
MODIFICATIONS:				
COMM-ELECTRONICS CLASS IV	39,446	39,446	39,446	39,446
TRAFFIC CONTROL/LANDING	3,418	3,418	3,418	3,418
TACTICAL EQUIPMENT	25,393	25,393	25,393	25,393
ANTIJAM VOICE	19,007	19,007	19,007	19,007
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIPMENT	2,816,783	2,544,608	2,648,344	2,608,650
OTHER BASE MAINTENANCE AND SUPPORT EQUIPMENT				
TEST EQUIPMENT:				
BASE/ALC CALIBRATION PACKAGE	52,827	45,027	10,000	45,027
NEWARK AFS CALIBRATION PACKAGE	3,359	3,359	3,359	3,359
TEST EQUIPMENT—GEN PURP	39,744	34,544	34,544	34,544
ITEMS LESS THAN $900,000	42,008	35,008	35,008	35,008
PERSONAL SAFETY AND RESCUE EQUIP:				
LIFE RAFT, 20 MAN	989	989	989	989
AUTOMATIC LIFE PRESERVER	3,681	3,681	3,681	3,681
NIGHT VISION GOGGLES	8,355	8,355	8,355	8,355
CHEMICAL/BIOLOGICAL DEF PROG	81,233	81,233	81,233	81,233
ITEMS LESS THAN $900,000	6,966	6,966	6,966	6,966
DEPOT PLANT AND MATERIALS HANDLING EQ:				
BASE MECHANIZATION EQUIPMENT	37,499	37,499	37,499	37,499
AIR TERMINAL MECHANIZATION EQUIP	1,215	1,215	1,215	1,215
ITEMS LESS THAN $900,000	18,476	13,476	13,476	13,476
ELECTRICAL EQUIPMENT:				
GENERATORS—MOBILE ELECTRIC	30,098	30,098	30,098	30,098
FLOOD LIGHTS	10,691	7,745	10,691	7,745
ITEMS LESS THAN $900,000	479	479	479	479
BASE SUPPORT EQUIPMENT:				
MEDICAL/DENTAL EQUIPMENT	132,339	120,039	136,639	135,739
AIR BASE SURVIVABILITY	36,747	36,747	21,900	21,900
COB ESSENTIAL FACILITIES	11,642	11,642	11,642	11,642
BARRIER, AIRCRAFT ARRESTING SYSTEM	185	185	185	185
PALLET, AIR CARGO, 108" × 88"	2,730	2,730	2,730	2,730
NET ASSEMBLY, 108" × 88"	3,306	3,306	3,306	3,306
PUMPS AND COMPRESSORS	1,282	1,282	1,282	1,282
MOBILITY CONTAINERS	2,058	2,058	2,058	2,058
BLADDERS FUEL	2,710	2,710	2,710	2,710
TACTICAL SHELTER	17,822	17,822	17,822	17,822
PHOTOGRAPHIC EQUIPMENT	6,486	6,486	6,486	6,486
PRODUCTIVITY INVESTMENTS	928	928	928	928
MOBILITY EQUIPMENT	43,068	43,068	43,068	43,068
WARTIME HOST NATION SUPPORT	5,069	5,069	5,069	5,069
SPARES AND REPAIR PARTS	14,297	14,297	14,297	14,297
ITEMS LESS THAN $900,000	17,832	15,032	15,032	15,032
SPECIAL SUPPORT PROJECTS:				
INTELLIGENCE PRODUCTION ACTIVITY	18,889	18,889	18,889	18,889
SCIENTIFIC/TECHNICAL INTELLIGENCE	4,588	4,588	4,588	4,588
TECH SURV COUNTERMEASURES EQ	4,939	4,939	4,939	4,939
DEFENSE DISSEMINATION SYSTEM	21,357	15,467	12,457	12,457
AF TECHNICAL APPLICATION CENTER	15,878	15,878	15,878	15,878
PHOTO PROC/INTERPRET SYS	11,301	10,001	10,001	10,001
SELECTED ACTIVITIES	3,933,131	3,702,651	3,896,381	3,865,051
SPECIAL UPDATE PROGRAM	86,482	86,482	86,482	86,482
INDUSTRIAL PREPAREDNESS	14,326	2,497	14,326	2,497
MISC EQUIPMENT	6,508	6,508	6,508	6,508
MODIFICATIONS	5,069	5,069	5,069	5,069
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIPMENT	4,758,589	4,466,044	4,638,265	4,626,287
UNDISTRIBUTED REDUCTION		−237,000		−290,000
NON-CENTRALLY MANAGED ITEMS		54,700	54,700	54,700
INFLATION REESTIMATES FOR FY86		−9,000	−9,000	−9,000
PRIOR YEAR INFLATION SAVINGS		−242,000	−242,000	
(PY TRANSFER)		(242,000)	(242,000)	
PRIOR YEAR PROGRAM SAVINGS		−85,818	−40,000	
(PY TRANSFER)		(85,818)	(40,000)	
TOTAL, OTHER PROCUREMENT, AIR FORCE	9,538,000	7,890,918	8,831,674	8,571,383
TRANSFER FROM OTHER ACCOUNTS		(347,476)	(282,000)	
TOTAL FUNDING AVAILABLE	9,538,000	8,238,394	9,113,674	8,571,383

PRIOR YEAR SAVINGS

The conferees recognize $347,476,000 in prior year savings in Air Force Other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

30MM API

The conferees agree to House bill language requiring component breakout of the depleted uranium penetrator for 30mm armor piercing ammunition.

COMBINED EFFECTS MUNITION

The conferees are in agreement that competition for CEM procurement shall be continued in fiscal year 1986 with the funding provided.

MAR USAF/FAA RADAR UPGRADE

The conferees agree to the House allowance of $2,798,000 for the joint USAF/FAA minimally attended radar upgrade due to contract award schedule delay beyond the current fiscal year. The Air Force is requested to report to the Appropriations Committees by March 1, 1986, on the requirements for the upgrade, revised acquisition plans, and an assessment of future program growth potential. The report should include an estimate of total program cost and a comparison of the life cycle of unattended versus minimally attended radar sites.

AUTOMATIC DATA PROCESSING EQUIPMENT

The conferees agree to provide $163,128,000, which includes reductions of $1,400,000 in the "MAJCOM Link" and $6,000,000 in the Air Staff "Improved Service Program". No funds in any Air Force appropriation should be obligated on the Improved Service Program or other Air Staff office automation until the Secretary of the Air Force has approved an Air Staff automation master plan which addresses requirements and funding for each major Air Staff organization.

NORTHEAST REGIONAL COMMUNICATIONS CENTER

The conferees agree that no funds are provided in this bill for construction at Hawley, Massachusetts, or other locations on privately owned land, of the Northeast Regional Communications Center. The conferees also agree that if further consideration is given to construct such a facility only land presently owned by the Federal Government should be considered as sites.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to the following amounts for Reserve and National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
NATIONAL GUARD AND RESERVE EQUIPMENT, DEFENSE				
RESERVE, ARMY:				
MISCELLANEOUS EQUIPMENT			575,400	350,000
TRUCK SLEP			15,000	15,000
PY PROGRAM SAVINGS		−150,400		
(PY TRANSFER) (DIVAD)			(150,400)	
TOTAL, RESERVE ARMY			440,000	365,000
RESERVE, NAVY:				
MISCELLANEOUS EQUIPMENT		20,000	230,000	75,000
UH–60 HELICOPTER		25,000	25,000	25,000
TOTAL, RESERVE NAVY		45,000	255,000	100,000
RESERVE, MARINE CORPS:				
MISCELLANEOUS EQUIPMENT		20,000	100,000	30,000
TANKER AIRCRAFT		40,000	40,000	40,000
TOTAL, RESERVE MARINE CORPS		60,000	140,000	70,000
RESERVE, AIR FORCE:				
MISCELLANEOUS EQUIPMENT			100,000	30,000
C–130H AIRCRAFT		120,000	130,000	150,000
(PY TRANSFER)			(20,000)	
TOTAL, RESERVE AIR FORCE		120,000	230,000	180,000
ARMY NATIONAL GUARD:				
MISCELLANEOUS EQUIPMENT		100,000	500,000	350,000
CHAPARRAL MISSILE			58,400	58,400
IMPROVED TOW (MOD)		15,000	28,200	28,200
M198 HOWITZER, TOWED			30,000	30,000
TRAINING DEVICES, NONSYSTEM		50,000	50,000	50,000
TRUCK SLEP			32,000	32,000
UNDISTRIBUTED REDUCTION				−17,000
TOTAL, ARMY NATIONAL GUARD		165,000	698,000	531,800
AIR NATIONAL GUARD:				
Miscellaneous Equipment		30,000	150,000	75,000
C–130 AIRCRAFT		150,000	150,000	150,000
C–12J AIRCRAFT		18,000		18,000
C–131 AIRCRAFT MODIFICATIONS		2,000		12,000
GENERAL REDUCTION (C–131 MODS)		−8,000		
C–131 MOD (PY TRANSFER)		(8,000)	(8,000)	
TOTAL, AIR NATIONAL GUARD		192,000	300,000	255,000
TOTAL, NATIONAL GUARD AND RESERVE EQUIPMENT DEFENSE		582,000	2,063,800	1,501,800
TRANSFER FROM OTHER ACCOUNTS		(8,000)	(178,400)	
TOTAL FUNDING AVAILABLE		590,000	2,242,200	1,501,800

ARMY NATIONAL GUARD

The conferees agree to provide language in the bill enabling the use of $40,000,000 provided to the Army National Guard for minor projects to facilitate delivery, storage, training and maintenance of National Guard equipment as proposed by the Senate. The conferees added bill language providing that the proposed projects are subject to authorization.

AIR NATIONAL GUARD

The conferees agree to provide $75,000,000 for procurement of miscellaneous equipment for the Air National Guard. Of the amount authorized and appropriated for the Air National Guard, $25,000,000 shall be used for an Air Combat Maneuvering System as identified in the Senate report.

C–131 MODIFICATIONS

The conferees agree to provide $12,000,000 to modify 3 C–131 aircraft in fiscal year 1986. The fiscal year 1985 funds are now available for transfer, as indicated elsewhere in this report. The conferees also agree to the Senate conditions for modification of C–131 aircraft for the Air National Guard. These three aircraft are to be assigned to units in the states of South Carolina, Indiana, and Oregon.

PROCUREMENT, DEFENSE AGENCIES

The conferees agree to the following amounts for Procurement, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE AGENCIES				
MAJOR EQUIPMENT, OSD: MAJOR EQUIPMENT, OSD/WHS	59,439	59,439	59,439	59,439
MAJOR EQUIPMENT, DNA:				
VEHICLES	220	220	220	220
OTHER CAPITAL EQUIPMENT	5,580	5,580	5,580	5,580
MAJOR EQUIPMENT, DCA:				
WWMCCS ADP SYSTEMS	14,828	14,828	14,828	14,828
DEFENSE SWITCHING NETWORK	10,831	10,831	10,831	10,831
ITEMS LESS THAN $900,000 EACH	43,676	43,676	35,776	43,676
MAJOR EQUIPMENT, DLA:				
MATERIALS HANDLING EQUIPMENT	13,634	10,634	10,634	10,634
VEHICLES	1,870	1,870	1,870	1,870
MECHANIZED MATERIALS HANDLING SYS	16,431	16,431	16,431	16,431
ADP EQUIPMENT	74,602	74,602	54,602	54,602
TELECOMMUNICATIONS EQUIPMENT	11,014	11,014	11,014	11,014
OTHER MAJOR EQUIPMENT	6,780	6,780	6,780	6,780
MAJOR EQUIPMENT, DMA:				
ADP EQUIPMENT	16,767	16,767	16,767	16,767
VEHICLES	342	342	342	342
OTHER CAPITAL EQUIPMENT	26,639	26,639	26,639	26,639
AF PHASE IV COMPUTER	4,164	4,164	4,164	4,164
PASS REPLACEMENT	2,663	2,663	2,663	2,663
MAJOR EQUIPMENT, DIS:				
VEHICLES	1,686	1,686	1,686	1,686
OTHER DIS EQUIPMENT		5,000	5,000	5,000
MAJOR EQUIPMENT, USUHS: ITEMS LESS THAN $900,000 EACH	743	743	743	743
MAJOR EQUIPMENT, DCAA: ITEMS LESS THAN $900,000 EACH	7,588	7,588	7,588	7,588
MAJOR EQUIPMENT, DAVA: ITEMS LESS THAN $900,000 EACH	481	481	481	481
MAJOR EQUIPMENT, DIG: ITEMS LESS THAN $900,000 EACH	45	45	45	45
CLASSIFIED PROGRAMS	1,071,877	886,846	1,159,791	991,717
NON-CENTRALLY MANAGED ITEMS		10,000	10,000	10,000
INFLATION REESTIMATES FOR FY86		−1,000	−1,000	−1,000
PRIOR YEAR INFLATION SAVINGS		−36,000	−36,000	
(PY TRANSFER)		(36,000)	(36,000)	
TOTAL, PROCUREMENT, DEFENSE AGENCIES	1,391,900	1,181,869	1,426,914	1,302,740
TRANSFER FROM OTHER ACCOUNTS		(36,000)	(36,000)	
TOTAL FUNDING AVAILABLE	1,391,900	1,217,869	1,462,914	1,302,740

PRIOR YEAR SAVINGS

The conferees recognize $36,000,000 in prior year savings in Defense Agencies Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

DCA CINC INITIATIVES

The conferees agree to restore the Senate reduction of $7,900,000 for the Defense Communications Agency CINC Initiatives program. The conferees understand there are a number of critical requirements that necessitate funding in fiscal year 1986. The conferees direct the Department of Defense to budget for these procurement and operations requirements in the appropriate service requests in fiscal year 1987 rather than budget for them in this account and as a contingency fund.

DEFENSE PRODUCTION ACT PURCHASES

The conference agreement provides $31,000,000 as proposed by the Senate.

NATO COOPERATIVE DEFENSE PROGRAMS

The conferees agree to provide $15,000,000 for the acquisition of point air defense of United States air bases and other critical United States military facilities in Italy as proposed by the Senate in the Continuing Resolution (H.J. Res. 465). Enabling bill language has been added.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to the following amounts for the Research, Development, Test and Evaluation accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECAPITULATION				
TOTAL, RDTE, ARMY	5,279,900	4,436,475	4,841,169	4,798,172
TRANSFER FROM OTHER ACCOUNTS		(110,530)	(265,000)	
TOTAL, RDTE, NAVY	11,264,300	9,462,631	10,104,594	10,065,239
TRANSFER FROM OTHER ACCOUNTS		(271,496)	(183,000)	
TOTAL, RDTE, AIR FORCE	15,578,500	13,217,177	13,861,113	13,718,208
TRANSFER FROM OTHER ACCOUNTS		(359,000)	(256,000)	
TOTAL, RDTE, DEFENSE AGENCIES	7,053,900	5,943,038	7,033,745	6,637,386
TRANSFER FROM OTHER ACCOUNTS		(179,112)	(51,000)	
TOTAL, RDTE, DIRECTOR OF TEST AND EVALUATION	103,500	93,500	143,500	118,500
TOTAL, RDTE	39,280,100	33,152,821	35,984,121	35,337,505
TRANSFER FROM OTHER ACCOUNTS		(920,138)	(755,000)	
TOTAL FUNDING AVAILABLE	39,280,100	34,072,959	36,739,121	35,337,505

The conferees agree to the following language:

INDEPENDENT RESEARCH AND DEVELOPMENT BID AND PROPOSAL

The conferees agree with the House proposal that the ceiling for fiscal year 1986 for Independent Research and Development (IR&D) and Bid and Proposal (B&P) be set at $5,200,000,000. The conferees agree that an independent review of the IR&D/B&P program is required, as proposed by the House, particularly in light of recent allegations of improper charges to IR&D and B&P accounts by a major contractor.

NATO COOPERATIVE R&D

The conferees agree to provide $125,000,000 for NATO Cooperative R&D and Testing programs, instead of $250,000,000 as proposed by the Senate and no funds as proposed by the House. These funds are to be equally divided among the Army; Navy; Air Force; Defense Agencies;

and Director, Test and Evaluation, Defense, RDT&E accounts.

The conferees note that the fiscal year 1986 Defense Authorization Act provided for a total of $250,000,000 in general authorization for this initiative. The conferees express their support for this important R&D program, and hope that it provides the basis for increased standardization and interoperability between the U.S. and our NATO allies in the field of armaments development and acquisition.

The Department of Defense should report back to the Committees on Appropriations of the House and Senate on the programs and projects initiated with the $125,000,000 fiscal year 1986 appropriation for NATO Cooperative R&D. Should the Department of Defense require additional funds, not to exceed the authorized amount, for this effort in fiscal year 1986, a prior approval reprogramming request must be submitted.

MANAGEMENT OF MEDICAL R&D

The conferees endorse the language of House Report 99-332, page 285, regarding Management of Medical R&D. The conferees direct that management responsibility for Infectious Disease and Combat Casualty Care be returned to USDR&E, effective immediately, with the sole exception that management responsibility for research on acquired immune deficiency syndrome shall lie with the Assistant Secretary for Health Affairs.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL ARMY				
Technology Base				
IN-HOUSE LAB INDEPENDENT RESEARCH	25,280	25,280	25,280	25,280
DEFENSE RESEARCH SCIENCES	236,869	220,180	235,000	234,500
UNIVERSITY RESEARCH INITIATIVES	6,126	6,126	6,126	6,126
MATERIALS	12,380	12,380	12,380	12,380
ATMOSPHERIC INVESTIGATIONS	6,896	5,000	6,396	5,500
NUCLEAR WEAPONS EFFECTS/FLUIDICS	8,461	8,461	8,461	8,461
AIRCRAFT WEAPONS TECHNOLOGY	3,321	3,321	3,321	3,321
AIRCRAFT AVIONICS TECHNOLOGY	9,766	9,000	9,000	9,000
AERONAUTICAL TECHNOLOGY	31,171	26,771	30,000	27,500
AIRDROP TECHNOLOGY	2,061	2,061	2,061	2,061
MISSILE TECHNOLOGY	31,504	26,504	31,504	29,000
LASER WEAPON TECHNOLOGY	21,392	21,392	21,392	21,392
TANK AND AUTOMOTIVE TECHNOLOGY	22,226	22,226	22,226	22,226
SMALL CAL AND FIRE CNTRL TECHNOLOGY	12,794	11,294	12,044	11,500
BALLISTICS TECHNOLOGY	48,424	43,424	47,424	43,424
CHEMICAL AND SMOKE MUNITIONS	14,062	14,062	14,062	14,062
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	6,542	5,542	6,542	5,542
COMMUNICATIONS TECH	21,403	16,403	19,403	17,403
COMBAT SURVEILL TARGET ACQUIS & IDENT	4,407	4,407	4,407	4,407
MIL ENVIRONMENTAL CRITERIA DEV	3,096	3,096	3,096	3,096
ELECTRICAL AND ELECTRONIC DEVICES	22,871	21,371	21,247	21,247
CHEM BIOLOGICAL DEF/GEN INVEST	41,724	39,724	39,724	39,724
MAPPING—GEODESY	10,364	8,864	9,635	8,864
NIGHT VISION INVESTIGATIONS	22,077	20,577	22,077	21,000
HUMAN FACTORS ENG SYS DEV	15,269	14,269	14,000	14,000
HUMAN PERFORMANCE EFFECT/SIMULATION	6,788	5,288	5,323	5,288
MOBILITY AND WEAPONS EFFECTS TECH	13,363	12,300	12,000	12,000
ENVIRONMENTAL QUALITY TECH	8,912	8,912	8,912	8,912
MANPOWER/PERSONNEL/TRAINING	8,016	7,516	8,016	7,516
CLOTHING EQUIP AND SHELTER TECH	10,537	10,537	9,023	9,023
JT SVC FOOD SYS TECH	6,432	5,932	6,432	5,932
COMPUTER AND INFORMATION SCIENCE	2,216	2,216	2,216	2,216
MONSYSTEMS TRAINING DEVICES TECH (NSTD)	5,103	5,103	5,103	5,103
COLD REGIONS ENGINEERING TECHNOLOGY	6,819	6,819	6,819	6,819
MILITARY FACILITIES ENGINEERING TECHNOLOGY	5,253	5,253	5,253	5,253
MOBILITY EQUIPMENT TECHNOLOGY	13,627	13,627	13,627	13,627
MED DEFENSE AGAINST CHEM AGENTS	32,309	30,309	32,309	31,309
TACTICAL ADP TECH	9,066	7,500	6,066	6,500
MILITARY DISEASE HAZARDS TECH	28,990	24,490	26,490	27,490
COMBAT CASUALTY CARE TECH	8,892	8,892	8,892	8,892
COMBAT MAXILLOFACIAL INJURY	2,167	2,167	2,167	2,167
SYSTEMS HEALTH HAZARD PREVENT TECH	19,461	19,461	19,461	19,461
ENERGY TECH APPL FOR MILITARY FACIL	2,230	2,230	2,230	2,230
CLASSIFIED PROGRAMS	45,765	42,265	42,265	42,265
TOTAL, TECHNOLOGY BASE	876,432	812,552	849,412	833,019
Advance Technology Development:				
MATERIALS AND STRUCTURES ADVANCED DEVELOPMENT	14,437	14,437	14,437	14,437
FUELS AND LUBRICANTS ADVANCED DEVELOPMENT	3,384	3,384	3,384	3,384
AIRCRAFT POWER PLANTS AND PROPULSION	21,833	19,833	19,833	19,833
AIRCRAFT WEAPONS	6,946	6,946	6,946	6,946
AIRCRAFT AVIONICS EQUIPMENT	10,970	10,970	10,970	10,970
ROATRY WING CONTROLS/ROTORS/STRUCTURES	31,104	17,104	17,104	17,104
SYNTHETIC FLIGHT SIMULATORS DEVELOPMENT	12,613	12,613	12,613	12,613
AIRDROP ADVANCEMENT	3,854	3,854	3,854	3,854
NOE AVIATION AND NAVIGATION EQUIPMENT	3,089	3,089	3,089	3,089
TERMINALLY GUIDED PROJECTILES	17,409	15,000	11,000	15,000
MSL/ROCKET COMPONENTS	42,836	18,912	34,872	18,912
BATTLEFIELD ENVIRONMENT SIMULATION	2,570	2,570	1,000	1,000
ARMY DEVEL & EMPLOYMENT ACTIVITY-ADEA	9,705	9,705	9,705	9,705
ADVANCED LAND MOB SYSTEMS CONCEPTS	16,474	16,474	16,474	16,474
LANDMINE WARFARE/BARRIER DEV	11,267	11,267	11,267	11,267
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	3,463	3,463	3,463	3,463
COMBAT VEHICLE PROPULSION SYS	14,967	11,697	11,697	11,697
CMBT VEH TURRET AND CHASSIS SYBSYS	17,036	17,036	17,036	17,036
COMBAT VEHICLE ARMOR/ANTI ARMOR	11,363	11,363	11,363	11,363
ADV PROPULSION/LAUNCH SYS FOR MUN	8,233	8,233	8,233	8,233
AMMUNITION LOGISTICS	2,035	2,035	1,000	1,500
NIGHT VISION ADVANCED DEVELOPMENT	33,622	30,622	33,622	31,622

[In thousands of dollars]

	Budget	House	Senate	Conference
TAC CMD COMMO & COMPUTER (C4) INTEGRATN	31,774	29,774	26,529	26,529
MANPOWER AND PERSONNEL	16,938	12,938	15,000	14,000
ENGINEERING SYSTEMS	3,450	3,450	1,950	1,950
HUMAN FACTORS ENGINEERING APPLICATIONS	1,961	1,961		
HUMAN FACTOR IN TNG/OPER EFFECT	11,511	9,011	11,000	9,011
ADV ELECTRONIC DEVICES DEV	9,730	9,730	9,730	9,730
EDUCATION AND TRAINING	11,846	11,846	11,846	11,846
TRAINING SIMULATION	5,494	5,494	5,494	5,494
TEST MEASUREMENT & DIAGNOSTIC EQUIPMENT DEVEL	7,235	7,235	5,411	5,411
TECHNICAL VULNERABILITY REDUCTION	4,305	4,305	4,305	4,305
DEMILITARIZATION CONCEPTS	9,575	9,575	9,575	9,575
DOD SOFTWARE INITIATIVES (STARS)	52,000	42,000	42,000	42,000
TACTICAL ROBOTIC SYSTEMS	26,496	16,496	10,000	12,000
CB DEF/SMK ADV TECHNOLOGY DEMONSTRATIONS	3,045	3,045	3,045	3,045
ELECTRONIC WARFARE FEASIBILITY DEVELOPMENT	8,643	8,643	7,243	7,243
NONSYSTEMS MEDICAL MATERIAL DEVELOPMENT	16,221	16,221	16,221	16,221
MEDICAL CHEM DEFENSE LIFE SUPPORT MAT	22,612	22,612	22,612	22,612
NONTACTICAL ADP TECHNOLOGY	218	218		
CLASSIFIED PROGRAMS	51,084	19,328	19,284	19,328
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	593,348	484,792	484,477	470,072
Strategic Programs:				
WORLDWIDE MILITARY CMD&CNT SYS INF SYS	30,914	30,914	30,914	30,914
CLASSIFIED PROGRAMS	204,743	198,743	198,743	198,743
TOTAL, STRATEGIC PROGRAMS	235,657	229,657	229,657	229,657
Tactical Programs:				
AIR MOBILITY SUPPORT	15,472	11,472	8,379	3,379
JOINT SURVIVABILITY INVESTIGATIONS	900	900	900	900
ADVANCED ROTORCRAFT TECH INTEGRATION/LHX	75,528	15,000	55,528	45,000
AIRDROP EQUIPMENT SYSTEMS	1,877	1,877	1,000	1,000
ANTI-TACTICAL MISSILE (ATM)	62,760	62,760	62,760	62,760
SURF-TO-SURF MSL ROCKET SYS	30,622	30,622	30,622	30,622
WEAPONS AND AMMUNITION	798	798	798	798
ADVANCED ANTI TANK WEAPON	81,077	61,077	61,077	61,077
LETHAL CHEMICAL MUNITIONS CONCEPTS	20,387		20,387	20,387
LANDMINE/BARRIER SYS	28,424	25,424	23,000	23,000
SMOKE MUNITIONS AND MATERIEL CONCEPTS	12,672	11,672	8,672	8,672
ARTILLERY/MORTAR AMMO DEVELOPMENT	10,157	10,157	10,157	10,157
TANK/FIGHTING VEHICLE AMMO DEVELOPMENT	5,734	5,734	5,734	5,734
MOBILE PROTECTED GUN PROGRAM	9,802			
ELECTRIC POWER SOURCES	11,258	11,258	11,258	11,258
PHYSICAL SECURITY	4,416	4,416	4,416	4,416
IDENTIFICATION FRIEND OR FOE EQUIP DEVEL	20,693	18,693	18,693	18,693
AIRCRAFT SURVIVABILITY EQUIPMENT	8,611	8,611	8,611	8,611
ARMY DATA DISTRIBUTION SYSTEM (ADDS)	38,016	38,016	38,016	38,016
ELECT WRFR VULNERABILITY/SUCEPTIBILITY	23,791	23,791	22,791	22,791
CHEMICAL/BIO DETECTION WARM/SAMP MAT CONCEPTS	15,192	15,192	15,192	15,192
CML BIO PROTECTIVE MATERIEL CONCEPTS	9,341	9,341	9,341	9,341
REMOTELY PILOTED VEHICLES/DRONES	20,977	16,000	16,000	16,000
COMBAT SUPPORT EQUIPMENT	28,363	28,363	25,363	25,363
COMBAT MEDICAL MATERIAL	9,379	9,379	9,379	9,379
SINGLE CHANNEL GRD/ABN RADIO SUB-SYS	2,265	2,265	2,265	2,265
SOLDIER SUPPORT/SURVIVABILITY	6,657	5,000	6,000	5,000
DRUG AND VACCINE DEVELOPMENT	16,932	16,932	16,932	16,932
MEDICAL DEFENSE AGAINST CHEM WARFARE	31,019	31,019	31,019	31,019
COMBAT SERVICE SUPPORT CONTROL SYS	980	980	980	980
AIRCRAFT WEAPONS	12,672	12,672	12,672	12,672
AIR MOBILITY SUPPORT EQUIPMENT	2,600	2,600	2,600	2,600
ADVANCED ATTACK HELICOPTER (AH–64)	17,506		17,506	10,000
AIRCRAFT PROPULSION SYSTEMS	70,791	70,791	50,791	70,791
SYNTHETIC FLIGHT TRAINING SYSTEMS	7,863	7,863	7,863	7,863
AIRDROP EQUIP DEVELOPMENT	3,141	3,141	3,141	3,141
ARMY HELICOPTER IMPROVEMENT PROG	6,802	6,802	6,802	6,802
AIRCRAFT COMPONENT IMPROVEMENT PROGRAM	16,158	16,158	16,158	16,158
STINGER	18,583	23,583	18,583	23,583
PATRIOT (SAM–D)	53,070	53,070	53,070	53,070
HELIBORNE MISSILE-HELLFIRE	6,213	6,213	3,392	5,000
HELLFIRE ON BLACKHAWK		20,000		17,000
GRASS BLADE	10,878	10,878	10,878	10,878
DIVISION AIR DEFENSE GUN	43,176			
JOINT TACTICAL MISSILE SYSTEM-ARMY (JTACMS–A)	154,805	130,000	130,000	130,000
INFANTRY SUPPORT WEAPONS	24,003	18,603	24,003	24,003
INFANTRY SUPPORT WEAPONS (PY TRANSFER)		(5,400)		
MOBILITY	15,486	5,486	1,000	1,000
SMOKE MUNITIONS & MATERIEL	6,024	6,024	6,024	6,024
COUNTERMINE AND BARRIERS	10,417	6,870	5,617	8,000
COUNTERMINE AND BARRIERS (PY TRANSFER)		(1,130)		
FIGHTING VEHICLE SYS	2,228	2,228		
LANDMINE WARFARE	7,954	7,954	7,954	7,954
M1 E1 DEVELOPMENT PROGRAM	3,898	3,898	18,898	18,898
FIELD ARTILLERY AMMUNITION	62,590	27,722	52,790	27,722
105MM TANK AMMUNITION	1,543	1,543	1,543	1,543
COMM ENGINEERING DEV	10,716	10,716	10,716	10,716
JT TAC INFO DIST SYS (JTIDS)	12,243	12,243	12,243	12,243
UNATTENDED GROUND SENSORS	2,940	1,000		500
MODULAR INTEGRATED COMM AND NAVIGATION SYS	5,007	5,007	5,007	5,007
RADIOLOGICAL DEFENSE EQUIPMENT	664	664	664	664
NIGHT VISION DEVICES	14,567	14,567	14,567	14,567

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT SURVIVABILITY EQUIPMENT	24,777	22,500	22,000	22,500
ARMY CMD AND CONTROL SYSTEM (ACCS) SYS ENGR	9,896	9,896	9,896	9,896
COMBAT FEEDING, CLOTHING AND EQUIPMENT	6,461	3,461	5,000	4,000
TACTICAL ELECTRIC POWER SOURCES	10,122	10,122	10,122	10,122
GENERAL COMBAT SUPPORT	14,822	14,822	14,298	14,298
PHYSICAL SECURITY	6,496	6,496	6,496	6,496
EDUCATION AND TRAINING	6,611	6,611	6,611	6,611
SPECIAL PURPOSE DETECTORS	3,256	3,256	3,256	3,256
CMC BIO DETECTION WARNING & TRG MATERIAL	23,081	23,081	23,081	23,081
CHEM BIO PROTECTIVE MATERIEL	15,585	15,585	15,585	15,585
COMMAND AND CONTROL	5,799	5,799	5,799	5,799
REMOTELY PILOTED VEHICLES	30,014	23,114	23,114	23,114
DIVISION AIR DEFENSE COMMAND AND CONTROL	33,040	33,040	33,040	33,040
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	21,310	21,310	16,310	18,310
SINGLE CHANNEL GRD/ABN RADIO SUB ENG	12,874	12,874	12,874	12,874
MEDICAL CHEMICAL DEFENSE LIFE SPT MAT	7,680	7,680	7,680	7,680
DRUG AND VACCINE DEVELOPMENT	10,497	10,497	10,497	10,497
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	43,818	33,818	43,818	43,818
JT INTEROP OF TAC CMD & CONT SYS (JINTACCS)	8,381	8,381	6,481	7,000
JT CB CONTACT POINT TEST AND ASSESSMENT	2,402	2,402	2,402	2,402
HV ANTI-TANK ASSAULT WPN SYS (TOW)	11,836	11,836	11,836	11,836
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	35,574	10,000	35,574	20,000
MED ANTI-TANK ASSAULT WPN (H)	3,842	3,000	2,000	2,500
CHAPARRAL	17,666	17,666	17,666	17,666
SAM HAWK/HAWK IMP PROG	5,212	5,212	5,212	5,212
COMBAT VEHICLE IMPROVEMENT PROGRAM	72,743	65,000	65,000	65,000
MANEUVER CONTROL SYSTEM (MCS)	8,636	8,636	8,636	8,636
155MM SELF-PROPELLED HOWITZER IMPROVEMENTS	26,105	26,105	26,105	26,105
EQUIPMENT UPGRADE	30,805	30,805	30,805	30,805
JOINT TACTICAL COMMO PROGRAM (TRI-TAC)	30,560	30,560	30,560	30,560
EUCOM C3 SYSTEMS	1,961	1,961	1,961	1,961
CLASSIFIED PROGRAMS	377,967	228,650	322,737	296,137
CLASSIFIED PROGRAMS	237,899	201,291	217,319	209,305
DIVAD ALTERNATIVES				41,000
DIVAD ALTERNATIVES (TRANSFER)			(176,000)	
ADV COMPOSITE AIRFRAME PROG			2,500	
TOTAL, TACTICAL PROGRAMS	2,366,366	1,880,512	2,076,023	2,069,243
TRANSFER FROM OTHER ACCOUNTS		(6,530)	(176,000)	
Intelligence & Communications:				
MAPPING AND GEODESY	4,205	4,205	3,225	3,225
AIRCRAFT AVIONICS	2,238	2,238	2,238	2,238
MAPPING AND GEODESY	3,430	3,430	2,254	2,254
NAVSTAR GLOBAL POS SYS (USER EQ)	11,271	11,271	11,271	11,271
LONG-HAUL COMMUNICATIONS (DCS)	4,312	4,312	4,312	4,312
SATCOM GROUND ENVIRONMENT	26,755	26,755	59,555	59,555
CLASSIFIED PROGRAMS	16,280	16,280	16,280	16,280
TOTAL, INTELLIGENCE AND COMMUNICATIONS	68,491	68,491	99,135	99,135
Defensewide Mission Support:				
TARGET MISSILES	6,051	5,000	4,000	4,000
NONSYSTEMS TRAINING DEVICES (NSTD) DEV	5,863	5,863	4,901	4,901
NON-SYSTEM TNG DEVICES ENGR	43,636	43,636	40,636	42,636
METEOROLOGICAL EQUIPMENT SYSTEMS	6,447	6,447	4,859	4,859
AVIATION ENGINEERING FLIGHT ACTIVITY	11,720	9,720	9,720	9,720
KWAJALEIN MISSILE RANGE	161,624	154,024	154,024	154,024
SUPPORT OF DEVELOPMENT TESTING	58,671	56,671	56,671	56,671
MATERIEL SYSTEMS ANALYSIS	15,930	15,930	15,930	15,930
EXPLOITATION OF FOREIGN ITEMS	3,569	3,569	3,569	3,569
SUPPORT OF OPERATIONAL TESTING	54,855	54,855	52,000	52,000
THREAT SIMULATORS FOR TESTING	36,149	33,000	30,149	33,000
PROGRAM-WIDE ACTIVITIES	183,766	173,766	165,000	170,000
INTL COOPERATIVE RESEARCH AND DEV	947	947	947	947
TECHNICAL INFO ACTIVITIES	6,265	6,265	6,265	6,265
DARCOM MAJOR RANGE/TEST FACIL	373,054	357,054	350,000	354,000
MUNITIONS-NATO STDZN DOD EFFEC SAFETY STDS	11,626	11,626	11,626	11,626
DOD HIGH ENERGY LASTER SYSTEMS TEST FAC	20,184	20,184	20,184	20,184
PRODUCTIVITY INVESTMENTS	23,335	21,000	21,000	21,000
MTG HQ (RESEARCH/DEVELOPMENT)	11,852	11,852	11,852	11,852
INDUSTRIAL PREPAREDNESS	104,062	92,062	92,062	92,062
TOTAL, DEFENSEWIDE MISSION SUPPORT	1,139,606	1,083,471	1,055,395	1,069,246
CERAMIC ROTARY VALVES			870	
CONSULTANTS, STUDIES & ANALYSES		−10,000	−2,000	−10,000
RESTORATION OF CIVILIAN PAY REDUCTION			33,600	16,800
MEDICAL RESEARCH/AIDS			52,600	40,000
GUARD/RESERVE UNIQUE R&D		5,000	5,000	5,000
GENERAL REDUCTION		−10,000		−45,000
PRIOR YEAR INFLATION SAVINGS		−40,000	−40,000	
(PY TRANSFER)		(40,000)	(40,000)	
INFLATION ESTIMATES FOR FY 1986		−4,000	−4,000	−4,000
PRIOR YEAR PROGRAM SAVINGS		−45,000	−49,000	
(PY TRANSFER)		(45,000)	(49,000)	
REPROGRAMMING DENIALS		−19,000		
(PY TRANSFER)		(19,000)		
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
TOTAL, RESEARCH DEVELOPMENT TEST AND EVAL, ARMY	5,279,900	4,436,475	4,841,169	4,798,172

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(110,530)	(265,000)	
TOTAL FUNDING AVAILABLE	5,279,900	4,547,005	5,106,169	4,798,172

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $234,500,000 for Defense Research Sciences, of which $5,000,000 shall be used only for aviation research at Wichita State University, and $3,500,000 shall be used only for computer research and related purposes at the University of Nevada, Las Vegas.

MILITARY DISEASE HAZARDS TECHNOLOGY

The conferees agree to provide $27,490,000 for Military Disease Hazards Technology, of which $2,000,000 shall be used only for neurotoxin research at the University of Kansas.

TERMINALLY GUIDED PROJECTILES

The conferees agree to provide $15,000,000 for Terminally Guided Projectiles as proposed by the House, instead of $11,000,000 as proposed by the Senate. The funds provided are to be used solely for the SADARM project; requests for funds for the CGSP and Guidance & Control Production projects are denied.

The conferees also agree to provide $21,000,000 in the Field Artillery Ammunition program for SADARM, for a total of $36,000,000. The conferees share the reservations expressed by the House concerning SADARM's technical maturity and readiness to enter full-scale engineering development (ED). It is noted that the issuance of a Request for Proposals (RFP) for ED of SADARM has been delayed, and the program schedule has slipped accordingly. Consequently, the conferees direct the Army to fashion the forthcoming RFP to provide for an ED program which is augmented in the early phases by concurrent gun firings of modified advance development (AD) hardware. Said modifications are to be those related to improvement of reliability and to refinement of algorithms for improvement of single shot probability of kill. Simultaneously with conduct of these gun firings, ED may proceed through component and subsystem development and qualification, and demonstration of the full-up ED system. Completion of a program of well instrumented gun firings of modified AD hardware before the end of ED subsystem qualification will significantly reduce the risks associated with the remainder of development, as will full consideration of the results and implications of the current Air Force testing program known as Chicken Little. The conferees direct that no funds be obligated or expended for materials required for the final phase of ED, system qualification in DT/OT II, until approved by the Committees on Appropriations of the House and Senate. Such approval will be contingent upon a satisfactory Critical Design Review (CDR) conducted by the Army at the end of demonstration of the full-up ED system. A satisfactory CDR will have addressed, among other issues, reliability, single shot probability of kill, resistance to countermeasures, accuracy of delivery methods, and lethality at required ranges. Transition to DT/OT II shall be made on the basis of specific technical accomplishment and risk reduction, rather than on an arbitrary calendar date.

The conferees direct that at least two prime competing contractors shall be involved in the two phase process described above, and that the Army plan for eventual production by at least two prime contractors.

The conferees agree that integration of SADARM with both the MLRS and the 155mm howitzer may be pursued with fiscal year 1986 funds.

The conferees recognize that the foregoing directives may add to the cost, and lengthen the duration, of the ED program currently planned by the Army. By the same token, continuing to support at least two competing prime contractors through development and into production may increase funding needs. On the other hand, these increased costs are viewed as a prudent investment which will be recouped through lower procurement costs and lower technical and financial risks. Further, the conferees insist that the program schedule be structured realistically and prudently managed.

MISSILE/ROCKET COMPONENTS

The conferees agree to provide $18,912,000 for Missile/Rocket Components as proposed by the House, instead of $34,872,000 as proposed by the Senate. The funds are specified for projects within the program as follows:

D085—Demonstration of Advanced Radar Techniques	$1,412,000
D087—Missile Rocket Components	192,000
D261—Fiber Optics Guidance	6,450,000
D263—Kinetic Energy Missile	5,858,000
D271—Multirole Survivable Missile	5,000,000

Funds for D272, Joint Service Imaging Infrared Seeker, are specifically denied.

ADVANCED ROTORCRAFT TECHNOLOGY INTEGRATION/LHX

The conferees agree to provide $45,000,000 for Advanced Rotorcraft Technology Integration (ARTI)/LHX, instead of $15,000,000 as proposed by the House or $55,528,000 as proposed by the Senate. The conferees emphasize that the funds provided are for advanced development only, and that no funds will be provided in the future for full scale development until the Army has better justified the LHX program. The funds are provided with the understanding that the program will be continued in fiscal year 1986 as presently structured by the Army with a reasonable level of competition being maintained in both elements of the program.

The conferees are concerned that the program is not well defined and that its cost could be significantly underestimated. For these reasons, the Army is directed to prepare for submission to the Committees on Appropriations of the House and Senate by August 1, 1986, a complete report on the program, describing the concept of operation, procurement strategy, quantities of aircraft to be procured, schedule, and program cost.

The Secretary of Defense, for his part, is to submit a separate report to the Committees on Appropriations of the House and Senate by August 1, 1986, certifying the accuracy of the Army's cost estimates. That report should be based on an independent assessment of Army cost estimates for the LHX helicopter as well as for potential alternative programs and should be conducted by the Cost Analysis Improvement Group within the Office of the Secretary of Defense. This analysis should verify whether the LHX can be procured for an average unit flyaway cost of $5,300,000 in fiscal year 1984 dollars as currently projected by the Army.

The Army should also reexamine its plan to retain two airframe design teams for 18 months during the full scale development phase, should that phase be funded. The conferees agree that steps should be taken to determine the most efficient and cost effective means to design the competitive airframes in less time and to include this plan in the August 1, 1986 report.

Further Congressional approval of this program may be contingent on the establishment of a cost ceiling for the LHX to be derived from the data provided by August 1, 1986. If the Army fails to present a cost estimate that is attainable, the Committees will consider terminating the program in acting on the fiscal year 1987 request.

AIRCRAFT PROPULSION SYSTEMS

The conferees agree to provide $70,791,000 for Aircraft Propulsion Systems, as proposed by the House instead of $50,791,000 as proposed by the Senate.

The funds provided are for continued development of the T-800 engine. Army plans envision funding two contractor teams through the preliminary flight rating stage of LHX full-scale development. The Senate report directed that the down selection to one team should be made in fiscal year 1986. While sympathetic to the Senate view that this will reduce development costs, the conferees agree that insufficient data will be available for the Army to make an informed decision. The potential for far larger savings in the production phase will be increased by continuing competition for as long as possible in the development phase. Therefore, the conferees agree that the Senate directive is rescinded, and that down selection will not be required to take place in fiscal year 1986.

HELLFIRE ON BLACKHAWK

The conferees agree to provide $17,000,000 for Hellfire on Blackhawk, instead of $20,000,000 as proposed by the House or no funds as proposed by the Senate. The funds provided are to be used to complete remaining development tasks for arming Blackhawk helicopters with Hellfire missiles, to transition into low-rate initial production, and to procure the first lot of shipsets. Subsequent funding for procurement is to be included in the Aircraft Procurement, Army account.

Language has been provided in the bill specifying that $17,000,000 of Army RDT&E funds are available only for the purposes stated above.

FIELD ARTILLERY AMMUNITION

The conferees agree to provide $27,722,000 for Field Artillery Ammunition as proposed by the House, instead of $52,790,000 as proposed by the Senate. The funds are specified for projects within the program as follows:

D175—Field Artillery Fuzes	$6,501,000
D286—Field Artillery Ammunition (NATO)	221,000
D644—Generic SADARM	21,000,000

Funds for D652, Light Artillery Guided Projectile, are specifically denied.

Language concerning SADARM is provided above under Terminally Guided Projectiles.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM

The Army has requested $35,574,000 for the continued development of the Advanced Field Artillery Tactical Data System (AFATDS). The conferees are fully supportive of the effort to upgrade Army's fire support command and control posture. However, improvements in the fielded systesm are of more immediate and primary concern.

As specified in the Defense Department-approved Mission Element Needs Statement (MENS), such improvements are to be accomplished in gradual step progression with proven technology toward the ultimate aim of achieving the advanced capabilities of the ultimate system. Plans to accomplish these goals must maximize the near-term capabilities of the Light Divisions in parallel with block improvements in the fielded systems of the Heavy Divisions. The current program therefore, must be returned to a more equitable balance between near term and long term objectives.

Accordingly, the conferees agree to provide $20,000,000 in RDT&E for the continued development of AFATDS, and $25,574,000 in procurement to maximize the fielded capability of the Light Divisions. The conferees support the on-going AFATDS software program through completion of the Concept Evaluation Phase (CEP) within the $49,500,000 contract ceiling established by the Army. The Army is directed to submit for approval of the Committees on Appropriations of the House and Senate a comprehensive program status report, detailed plans for achieving the objective system requirements, and a schedule for bringing AFATDS under the required ASARC/DSARC review process by August 1, 1986.

DIVAD ALTERNATIVES

The conferees agree to provide $41,000,000 for examination of alternatives for DIVAD instead of no funds as proposed by the House or the transfer of $176,000,000 of prior year funds as proposed by the Senate. Information provided by the Army indicated that evaluation of off-the-shelf alternatives would require $41,000,000. The conferees agree that such evaluation should take place as rapidly as possible, and direct the Army to complete that evaluation expeditiously.

ADVANCED COMPOSITE AIRFRAME PROGRAM

The conferees agree to provide no additional funds for the Advanced composite Airframe Program (ACAP) as proposed by the House, instead of $2,500,000 as proposed by the Senate. The conferees believe that ACAP is adequately funded under the Advanced Structures project, and note that ACAP funding will receive a considerable increase in FY 1987.

Should the Army desire to accelerate ACAP static and fatigue testing as proposed by the Senate during fiscal year 1986, it should submit a prior approval reprogramming.

CERAMIC ROTARY VALVES

The conferees agree to provide no funds for Ceramic Rotary Valves, but agree that the Army may use $870,000 of available RDT&E funds to initiate in fiscal year 1986 a follow-on test of a multi-cylinder engine using ceramic elements for rotating valves, provided that evaluation of the single-cylinder engine is favorable.

PRIOR YEAR SAVINGS

The conferees recognize $96,130,000 in prior year savings in Research, Development, Test and Evaluation, Army. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL. NAVY				
TECHNOLOGY BASE:				
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250
IN-HOUSE INDEPEND LAB RES	26,277	26,277	26,277	26,277
DEFENSE RESEARCH SCIENCES	339,176	329,071	333,208	333,208
TACT DIRECTED ENERGY TECH	10,834	7,000	7,000	7,000
AIRCRAFT TECHNOLOGY	23,102	23,102	23,102	23,102
MISSILE PROPULSION TECH	10,503	10,503	10,503	10,503
SURF/AEROSPACE WPNRY TECH	27,218	27,218	27,218	27,218
NUCLEAR PROPULSION TECH	49,018	49,018	49,018	49,018
SHIP AND SUBMARINE TECH	25,272	25,272	25,272	25,272
UNDERSEA WARFAR WPNRY TECH	44,181	44,181	37,000	44,181
U/S TARGET SURV TECH	44,495	44,495	44,495	44,495
SURF/AEROSP TGT SURV TECH	32,240	32,240	32,240	32,240
COMMAND AND CONTROL TECH	28,943	24,443	24,443	24,443
COUNTERMEASURES TECH	27,005	27,005	25,000	25,000
M C AIR-GROUND TECHNOLOGY	18,499	14,499	14,499	14,499
HUMAN FACTORS&SIM TECH	7,652	7,652	7,652	7,652
BIOMEDICAL TECH	8,906	8,906	8,906	8,906
OCEAN AND ATMOS SUPT TECH	27,095	27,095	27,095	27,095
LOGISTICS TECH	13,311	13,311	13,311	13,311
MATERIALS TECH	33,004	33,004	33,004	33,004
ELEX DEVICE TECH	24,898	24,898	24,898	24,898
PERSONNEL & TRNG TECH	5,062	5,062	5,062	5,062
CHEM/BIOL/&RADIOL DEF TECH	4,765	4,765	4,765	4,765
LAB INDEP EXPLORATORY DEV	15,463	15,463	14,500	14,500
TOTAL, TECHNOLOGY BASE	853,169	830,730	824,718	831,899
ADVANCE TECHONOLGY DEVELOPMENT:				
AVIONICS	4,909		3,500	1,750
AIR/OCEAN TACT APPLIC	8,946	5,819	8,946	6,750
ADV A/C PROPUL SYS	8,841	3,000	3,000	3,000
AVIATION LIFE SUPT SYS	1,377	860	1,377	1,377
ADV A/C SUBSYSTEMS	4,684	4,684	4,684	4,684
ERASE	10,149	10,149	10,149	10,149
ASM TECH	8,973	1,973		
SHIP PROP SYS (ADV)	30,664	30,664	27,664	30,664
ADV COMPUTER TECH	14,555	12,055	10,547	10,547
ELECTRIC DRIVE	9,762	9,762	9,762	9,762
CONVENTIONAL MUNITIONS	30,334	20,168	25,334	22,000
JOINT SERV EOD DEV (ADV)	10,898	7,898	10,898	9,398
HUMAN FACTORS ENG DEVEL	2,116	2,116	2,116	2,116
ASW OCEANOGRAPHY	6,376	6,376	6,376	6,376
MEDICAL DEVELOPMENT (ADV)	14,653	12,719	14,653	12,719

[In thousands of dollars]

	Budget	House	Senate	Conference
MNPWR CONTROL SYST DEV	4,099	4,099	3,599	3,599
ADV MARINE BIOLOGICAL SYS	5,477	5,477	5,477	5,477
GENERIC LOGISTICS R&D	8,886	5,000	.....	5,000
OCEAN ENG TECH DEVELOP	13,083	13,083	13,083	13,083
EDUCATION & TRAINING	4,667	2,800	3,667	3,000
ENVIRONMENTAL PROTECTION	8,347	8,347	8,347	8,347
NAVAL SPECIAL WARFARE	11,862	9,554	9,862	9,554
ADV MANPOWER TRAINING SYS	6,144	2,933	6,144	2,933
TRAINING DEVICE TECH	8,679	7,567	8,679	8,000
NAV LOGISTICS PRODUCTIVITY	968	968	468	800
TOTAL, ADVANCE TECHNOLOLGY DEVELOPMENT	239,449	188,071	198,332	191,085
STRATEGIC PROGRAMS:				
SPACE TECHNOLOGY	14,002	14,002	14,002	14,002
TRIDENT II	2,165,615	2,103,597	2,130,615	2,117,106
STRATEGIC TECH SUPPORT	3,882	3,882	3,882	3,882
FBM SYSTEM	33,550	33,550	33,550	33,550
SSBN SECURITY PROGRAM	38,591	38,591	38,591	38,591
TRIDENT I	47,195	38,195	38,195	38,195
ELF COMMUNICATIONS	28,283	28,283	28,283	28,283
NAVY STRATEGIC COMM	125,839	119,161	125,839	125,839
NAV SPASUR	954	954	954	954
MEECN	1,615	1,615	1,615	1,615
WIS MODERNIZATION	22,504	.....	15,000	15,000
TOTAL, STRATEGIC PROGRAMS	2,482,030	2,381,830	2,430,526	2,417,017
TACTICAL PROGRAMS:				
ABN ELECTRONIC WARFARE EQ	61,587	61,587	61,587	61,587
T45-TS	114,128	114,128	114,128	114,128
CV ASW MODULE	5,022	4,259	4,259	4,259
A/C SYSTEMS (ADV)	5,894	5,894	5,894	5,894
AIR ASW	6,778	4,778	4,778	4,778
JVX	603,743	569,543	583,743	580,000
A-6E IMPROV	237,952	232,052	187,952	232,052
ABN MINE COUNTERMEASURES	14,148	14,148	14,148	14,148
TAC AIR RECON	6,906	6,906	2,317	2,377
A/C SURVIV & VULNER	14,825	14,825	14,825	14,825
RETRACT YELLOW	25,728	5,000	5,000	5,000
ADV SUR/AIR MSSLE(ASAM)	41,510	25,000	25,000	25,000
LOW COST ANTI-RADIATION SEEKER	16,523	17,523	16,523	17,523
SUBMARINE ASW STDOFF WPN	75,328	75,328	75,328	75,328
BGAAWC	11,183	5,000	11,183	8,000
SURFACE MCM	24,908	24,908	24,908	24,908
SUB SONAR DEVEL (ADV)	22,414	12,506	12,506	12,506
SURFACE SHIP TORP DEF	45,199	40,199	40,199	40,199
CATAPULTS	3,418	.....	.....	.....
SHIPBD SYS COMP DEV	21,427	15,427	15,427	15,427
SHIPBOARD DAMAGE CONTROL	32,320	23,606	25,000	23,606
ADV COMMAND DATA SYS	2,595	.....	.....	.....
SUB ARCTIC WF/SPT EQUIP PR	9,748	9,748	9,748	9,748
PILOT FISH	93,964	93,964	93,964	93,964
NON ACOUSTIC ASW	22,104	22,104	22,104	22,104
ADV ASW TARGET	12,646	7,550	12,646	9,400
SHIP SYS ENGR STDS	4,673	.....	2,000	2,000
RETRACT JUNIPER	25,368	25,368	25,368	25,368
RADIOLOGICAL CONTROL	3,585	2,196	2,196	2,196
LINK DOGWOOD	26,247	26,247	26,247	26,247
SURFACE ASW	17,649	17,649	17,649	17,649
SUB HULL ARRAY DEV (ADV)	13,206	8,211	8,211	8,211
ADV SUB SYS DEVEL	180,586	163,000	180,586	170,000
SUB TAC W/F SYS (ADV)	23,171	23,171	23,171	23,171
SHIP DEVELOPMENT (ADV)	14,639	13,657	13,657	13,657
SURF SHIP NAVIG SYS	2,841	.....	2,000	1,000
ATTACK SUBMARINE DEV	33,139	33,139	33,139	33,139
ADV NUC REACT COMP SYS DEV	120,175	120,175	120,175	120,175
SHIBD PHYSICAL SECURITY	3,703	3,703	3,703	3,703
CHALK EAGLE	68,783	68,783	68,783	68,783
A4W/A1G NUC PROP PLNT	3,327	3,327	3,327	3,327
COMBAT SYSTEM INTEGRATION	22,383	22,383	22,383	22,383
DDG-51	100,836	89,000	89,000	89,000
JOINT ADV SYS	132,348	.....	.....	.....
MINE DEVELOPMENT	1,964	4,464	4,464	4,464
ALWT (ADV)	10,113	.....	7,000	.....
MC ASSAULT VEHICLES	10,407	10,407	10,407	10,407
TAC NUC DEVELOPMENT	9,721	7,846	9,721	8,300
GRD COMBAT/SUPP ARMS SYS	17,129	16,129	13,129	13,129
OCEAN ENGR SYS DEV	1,380	1,380	1,380	1,380
ANTI SUB W/F SIGN PROC	15,535	15,535	15,535	15,535
FLEET TAC D&E PROGRAM	3,880	2,000	2,000	2,000
COMMAND & CONTROL SYS (ADV)	42,973	30,473	30,473	30,473
CONTAINER OFFLOAD & TRNSFR SYS	1,515	1,515	1,515	1,515
NAVY ENERGY PROGRAM (ADV)	18,576	18,576	18,576	18,576
FACILITIES IMPROV	7,279	7,279	7,279	7,279
MERSHIP NAV AUX PROG	6,031	6,031	6,031	6,031
COMBAT SERVICES SUP (ADV)	9,356	9,356	9,356	9,356
MC INTELL/ELEC WARFARE SYS	70	70	70	70
CHALK CORAL	3,039	3,039	3,039	3,039
LINK HAZEL	23,564	23,564	23,564	23,564
LINK LAUREL	35,345	35,345	35,345	35,345

[In thousands of dollars]

	Budget	House	Senate	Conference
ARIADNE	2,185	2,185	2,185	2,185
LINK SPRUCE	67,352		35,000	35,000
RETRACT MAPLE	8,247	8,247	9,747	9,747
NCCS SE&I	7,181	7,181	7,181	7,181
ASW SURVEILLANCE	19,458	17,458	17,458	17,458
LRAP	15,678	15,678	15,678	15,678
SPECIAL PROCESSES	49,532	49,532	49,532	49,532
RDSS	15,380			
AVIONICS DEV	14,965	14,965	14,965	14,965
IFF SYS DEV	17,477	17,477	17,477	17,477
LAMPS III	16,006	14,100	1,906	14,100
HELICOPTER DEVELOPMENT	7,902	7,902	7,902	7,902
AV8B (ENG)	72,078	55,178	72,078	66,000
SUPPORT EQUIPMENT	16,428	13,128	14,494	16,428
SUPPORT EQUIPMENT (PY TRANSFER)		(3,300)		
S-3 WPN SYS IMP S-3( )	15,955	15,955	15,955	15,955
AIR OCEAN EQUIP ENG	2,468	2,468	2,468	2,468
ABN ASW DEVELOPMENTS	6,136	6,136	6,136	6,136
A/C IR SIGN SUPPRESSION	3,945	2,000	2,000	2,000
P-3 MODERNIZATION PROG	48,725	48,725	31,295	37,000
ABN EW ENG	62,198	62,298	60,000	62,198
ASPJ	24,985	19,169	24,985	21,000
CV IZ ASW HELO	12,722	12,722	12,722	12,722
A/C PROPULSION (ENG)	44,866	44,866	44,866	44,866
EW SIMULATOR DEV	40,275	36,000	36,000	36,000
C/MH-53E	2,300	1,500	2,300	2,300
C/MH-53E (PY TRANSFER)		(800)		
ACOUSTIC SRCH SENSRS (ENG)	42,630	30,630	30,630	30,630
AVIATION LIFE SUPRT SYS	32,809	20,000	30,000	27,500
A/C ENGINES COMP IMP PROG	65,843	64,943	65,843	65,843
A/C ENGINES COMP IMP PROG (PY TRANSFER)		(900)		
MK92 PCS UPGRADE	13,326	13,326	13,326	13,326
AEGIS AREA AIR DEF	11,081	9,927	11,081	11,081
AEGIS AREA AIR DEF (PY TRANSFER)		(1,154)		
CG-47 PRODUCT IMPROVEMENT	48,506	29,006	44,506	35,000
LINK ASH	13,636	13,636	13,636	13,636
AMRAAM	17,051	5,000	5,000	5,000
VERTICAL LAUNCHING SYS	29,566	29,566	29,566	29,566
AAM SYSTEMS ENGINEERING	13,589	13,589	10,000	13,589
VLS ASROC	37,444	37,444	37,444	37,444
CIWS (PHALANX)	7,612	7,612	4,771	4,771
NATO SEA SPARROW	8,047	3,047	3,047	3,047
SM-2 (N)	9,756		7,256	3,000
STANDARD MSL IMPROVEMENTS	47,185	47,185	47,185	47,185
TOMAHAWK	68,798	63,000	63,000	63,000
5" ROLLING AIR FRAME MSLE	10,948	10,948	3,948	10,948
SSN-688 VLS	25,699	25,699	25,699	25,699
NEW THREAT UPGRADE	54,034	54,034	54,034	54,034
SUBMARINE COMM	4,426	4,426	4,426	4,426
SUB SONAR DEVELOP (ENG)	40,299	40,299	40,299	40,299
AIR CONTROL ENG	20,335	20,335	20,335	20,335
BR/CW COUNTERMEASURES	6,079	6,079	6,079	6,079
EMSP	99,277	91,912	99,277	95,500
RADAR SURVEILLANCE EQUIP	6,330	6,330	6,330	6,330
ADV TACT RAD	2,909			
INTELLIGENCE SYSTEMS	901	901	901	901
SUB SURV EQUIP PROG (ENG)	19,429	13,747	15,429	13,747
SHIP SURVIVABILITY	5,904	5,904	5,904	5,904
CIC CONVERSION	29,204	29,204	29,204	29,204
SUB HULL ARRAY DEV (ENG)	25,974		25,974	13,000
SUBACS (ENG)	205,205			
SSN-21 COMBAT SYSTEMS (A-E)		60,000	200,000	200,000
SUB TAC W/F SYSTS (ENG)	49,798	37,798	37,798	37,798
SHPBD PHYS SECURITY (ENG)	4,617	4,617	3,617	3,617
SHIP SYBSYS DEV/LBTS	89,418	80,000	120,000	109,000
NATO SEA GNAT	2,284	2,284	2,284	2,284
SHPBD EW IMPROV	63,776	63,776	63,776	63,776
TACT EMBEDDED COMP PROG	19,169	9,169	9,169	9,169
AN/SQS-53C	37,713	37,713	37,713	37,713
LINK BIRCH	4,078	4,078	4,078	4,078
MINE DEVEL (ENG)	9,367	9,367	9,367	9,367
NAVAL GUNNERY IMPROVEMENT	15,870	9,870	9,870	9,870
UNGUIDED CONVENT A/L WPNS	4,678	4,678	4,678	4,678
SAL GP/EOI SENS DEVEL	48,717	44,717	44,717	44,717
BOMB-FUZE IMPR	5,672	5,672	5,672	5,672
MK 50 TORP (ALWT)	158,290	158,290	158,290	158,290
JOINT SERV EOD DEV (ENG)	4,405	4,405	4,405	4,405
MC ASSAULT VEHICLES	45,653	16,802	16,802	16,802
GRD COMBAT/SUP ARMS SYS	8,686	8,686	7,186	7,186
MK 48 ADCAP (ENG)	63,470	63,470	63,470	63,470
ASW OCEANOGRAPHIC EQUIP	506	506	506	506
CHALK BANYAN	5,826	5,826	5,826	5,826
NAVY ENERGY PROGRAM (ENG)	9,799	9,799	9,799	9,799
COMMAND & CONTROL SYS (ENG)	66,173	49,173	49,173	49,173
TACTAS (AN-SQR-19)	16,200	10,000	10,000	10,000
SURFACE W/F TRAINING DEV	25,821	23,410	23,274	23,274
SURFACE W/F TRAINING DEV (PY TRANSFER)		(2,142)		
COMBAT SERVICES SUPP	3,638	3,638	3,638	3,638
INTELL/ELECT W/F SYS	14,159	14,159	14,159	14,159
COMMAND/CONT/COMM SYS	18,906	18,906	18,906	18,906

[In thousands of dollars]

	Budget	House	Senate	Conference
REGIONAL TACTICAL SURV	56,225	56,225	56,225	56,225
INTELLIGENCE (ENG)	12,421	12,421	9,921	9,921
MEDICAL DEV (ENG)	1,380	1,380	1,380	1,380
JINTACCS	5,622	2,480	5,622	2,480
JINTACCS MC	2,945	1,668	2,945	1,668
FLT TACT D&E	17,197	14,197	14,197	14,197
EMI AND SPECTRUM CONTROL	3,870	2,297	3,870	2,800
MANAG & TECH SUPPORT	11,063	8,063	8,063	8,063
C2 SURV/RECONN SPT	3,979	3,979	3,979	3,979
MC TAC EXPLOIT NAT CAP	415	415	415	415
A6 SQUADRONS	19,205	18,500	12,196	18,500
F/A-18 SQUADRONS	58,314	58,314	65,000	58,314
EARLY WARNING ACFT SQDNS	23,666	23,666	23,666	23,666
AVIATION SUPPORT CVW	1,785	1,785	1,785	1,785
FLT TELECOM (TAC)	72,697	41,000	41,000	41,000
SUBMARINES	3,756		3,756	
UNDERSEAS SURVEILLANCE SYS	25,217	25,217	25,217	25,217
SURTASS	2,186	2,186	2,186	2,186
SPECIAL PROJECTS	20,513	14,002	20,513	17,000
NAVY COVER & DECEPT PROG	25,585	25,584	25,584	25,584
ELECTRONIC WARFARE SPT	8,573	8,573	8,573	8,573
COUNTER C3 DEV	22,563	22,563	22,563	22,563
HARM IMPROVEMENT	2,636	2,636	2,636	2,636
JTIDS	184,646			
ASW COMBAT SYS INTEG	12,271	12,271	12,271	12,271
ACFT EQ REL/MAINT PROG	7,852	7,852	7,852	7,852
SUBMARINE SILENCING	31,638	31,638	31,638	31,638
MODULAR GUIDED WPN IMPR	7,682			
LAB FLEET SUPPORT	6,158	6,158	6,158	6,158
F-14 D	348,065	348,065	345,000	348,065
TACTICAL INTELL PROC SUP	1,456	1,456	1,456	1,456
EW COUNTER RESPONSE	80,168	80,168	78,204	78,204
OPERATIONAL REACTOR DEV	12,719	12,719	12,719	12,719
MARINE CORPS TELECOM	3,587	3,587	3,587	3,587
GRD COMBAT/SUP ARMS SYS	43,600	41,800	41,800	41,800
COMBAT SERVICES SUP	1,449	1,449	1,449	1,449
INTELL/ELECT WARFARE SYS	1,163	1,163	1,163	1,163
COMMAND/CONT/COMM SYS	39,064	39,064	39,064	39,064
M/C TECH SUPT C/C SYS	4,094	4,094	4,094	4,094
TRI-TAC-MC	11,939	11,939	6,057	9,000
HY130 STEEL			5,000	
NAVAL OCEANOGRAPHY			5,900	5,900
WHITEHALL QUICK REACTION SURV SYS		20,000		20,000
WALLOPS ISLAND TEST RANGE		4,000		4,000
SKIPPER/PRACTICE BOMB		10,000		10,000
GENERAL REDUCTION, EW PROGRAMS		-30,000		-15,000
TAIL CONTROL SPARROW		5,000		5,000
CLASSIFIED PROGRAM		1,500		
GUIDED PROJECTILE		2,500		2,500
TOTAL, TACTICAL PROGRAMS	6,160,962	5,109,983	5,385,043	5,389,900
INTELLIGENCE AND COMMUNICATIONS:				
ADV NAVIG DEVELOPMENT	1,941	1,941	1,541	1,541
NAVIGATION SYSTEMS	920	920	920	920
EHF SATCOM	45,437	39,700	39,700	39,700
NAVSTAR GPS	70,079	62,079	62,079	62,079
C2 SYSTS PLAN/ENG SUPP	5,466	5,466	5,466	5,466
SATELLITE COMMUNICATIONS	17,973	17,973	17,973	17,973
MILSTAR JOINT PROJ OFFICE	4,418	4,418	4,418	4,418
CLASSIFIED PROGRAMS	557,773	380,973	517,773	450,973
(PY TRANSFER)		(27,200)		
TOTAL, INTELLIGENCE & COMMUNICATIONS	704,007	513,470	649,870	583,070
DEFENSEWIDE MISSION SUPPORT:				
RANGE INST & SYS DEV	8,382	8,382	8,382	8,382
TARGET SYSTEMS DEV	109,012	99,012	99,012	99,012
TRNG & PERS SYS DEV	3,086	2,000	3,086	2,000
STUDIES & ANAL SUP/MC	1,785	1,785	1,785	1,785
STUDIES & ANAL SUP/NAVY	3,977	3,689	3,977	3,689
MCOAG	3,714	3,078	3,714	3,714
CENTER FOR NAVAL ANAL/NAVY	21,813	15,563	19,813	17,500
MC OPERATIONAL T&E	2,317	2,317	2,317	2,317
TECH INFO SERVICES	2,744	2,244	2,244	2,244
AUTEC	51,914	43,197	43,197	43,197
DEVELOPMENT CENTER SUPPORT	3,958	3,958	3,958	3,958
INTERNATIONAL RDT&E	2,436	1,836	1,836	1,836
MOBILE SEA RANGE	5,268	5,268	5,268	5,268
RDT&E LAB & FAC MGMT SPT	66,278	58,000	57,978	57,978
RDT&E INSTRUM & MATL SPT	20,321	19,321	19,321	19,321
RDT&E SHIP & AIRCRAFT SPT	84,293	78,293	78,293	78,293
TEST AND EVAL SPT	294,480	294,480	292,000	292,000
OT&E CAPABILITY	6,503	6,503	6,503	6,503
PRODUCTIVITY IMPROVEMENT	2,855			
WEATHER SERVICE	1,146	1,146	1,146	1,146
DEF METEOROLOG SATELL PROG	55,975	40,975	55,975	45,975
MANUFACTURING TECH	72,426	52,000	52,000	52,000
TOTAL, DEFENSEWIDE MISSION SUPPORT	824,683	743,047	761,805	748,118

[In thousands of dollars]

	Budget	House	Senate	Conference
GENERAL REDUCTION		−37,500		−97,500
RESTORATION OF CIVILIAN PAY REDUCTION			3,300	1,650
GENERAL REDUCTION CONSULTANTS/STUDIES ANALYSIS		−20,000	−5,000	−20,000
PRIOR YEAR INFLATION SAVINGS		−60,000	−60,000	
(PY TRANSFER)		(60,000)	(60,000)	
INFLATION ESTIMATES FOR FY 1986		−11,000	−11,000	−11,000
PRIOR YEAR PROGRAM SAVINGS		−176,000	−123,000	
(PY TRANSFER)		(176,000)	(123,000)	
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
BIGEYE OPERATIONAL TESTING				6,000
TOTAL, RESEARCH DEVELOPMENT AND EVAL, NAVY	11,264,300	9,462,631	10,104,594	10,065,239
TRANSFER FROM OTHER ACCOUNTS		(271,496)	(183,000)	
TOTAL FUNDING AVAILABLE	11,264,300	9,734,127	10,287,594	10,065,239

MEDICAL DEVELOPMENT (ADVANCED)

The conferees agree to provide $12,719,000 for Medical Development (Advanced) as proposed by the House instead of $14,653,000 as proposed by the Senate. The conferees note that Project M0097, Air Crew Impact Injury Prevention, continues to be of special interest to the Congress, and therefore the Navy is directed to allocate no less than $2,350,000 of this appropriation to this project in fiscal year 1986.

ORGANOTIN ANTI-FOULING PAINT

The conferees agree that no less than the budgeted amount of $1,695,000 be allocated by the Navy in fiscal year 1986 for continued research into the environmental and public health effects of organotin anti-fouling paint, as proposed by the House. The conferees believe that the effects of organotin on marine life have not been adequately determined, and consequently agree to a provision in the bill, as proposed by the Senate, which prohibits the navy from using such paints until the Environmental Protection Agency certifies that the environmental and public health risks are at an acceptable level.

TRIDENT II

The conferees agree to provide $2,117,106,000 for the Trident II/D-5 Weapon System program instead of $2,103,597,000 as proposed by the House and $2,130,615,000 as proposed by the Senate. The Navy is directed to allocate the reduction in such a way as to maintain the current schedule for missile flight testing. If this cannot be accomplished with available funds, the Navy should submit a reprogramming request.

The conferees endorse the proposal by the Senate to consolidate Navy and Air Force penetration aids research into a single, joint program. The conferees direct OSD to re-examine the feasibility of a joint Navy/Air Force penetration aids research program, and report to the Appropriations Committees of the House and Senate no later than June 1, 1986.

NAVY STRATEGIC COMMUNICATIONS

The conferees agree to provide $125,839,000 for Navy Strategic Communications as proposed by the Senate, instead of $119,161,000 as proposed by the House. The Navy is to allocate no less than $12,678,000 of this amount for the Strategic Survivable and Enduring Communications (STRATSEC) project.

WIS MODERNIZATION

The conferees agree to provide $15,000,000 for Navy participation in modernization of the Worldwide Military Command and Control System Information System (WIS) as proposed by the Senate instead of no funds as proposed by the House. The conferees also grant approval to Reprogramming No. 85-62PA, which proposed to use $14,000,000 from fiscal year 1985 apapropriated funds to initiate Navy participation in the program.

V-22 OSPREY

The conferees agree to provide $580,000,000 for the V-22 Osprey program, instead of $569,543,000 as proposed by the House and $583,743,000 as proposed by the Senate. Furthermore, the conferees understand that the Navy is considering the use of a fixed-price type contract for this work. The conferees endorse House language which concludes that significant technical risk remains in the V-22 program, and therefore urge the Navy to weigh carefully the risks involved in using a fixed-price contract in this case.

LOW COST ANTI-RADIATION SEEKER

The conferees agree to provide $17,523,000 as proposed by the House, instead of $16,523,000 as proposed by the Senate, for Low Cost Anti-Radiation Seeker (LCS) in Navy RDT&E, and $17,613,000 for Low Cost Seeker in Air Force RDT&E. The combined sum shall be applied only to the LCS development now being pursued by the Naval Weapons Center (NWC), China Lake, California. Language to this effect has been provided in the bill.

The conferees specifically endorse the language of House Report 99-332, page 308, pertaining to the LCS program. In addition, the conferees note with approval that the original program plan required the involvement of two competing contractors. It is clear that rapid technical progress and lower future costs demand continued competition. Accordingly, the conferees direct that NWC continue to execute a program involving two competing contractors.

AAAM/ASAM

The conferees agree to provide $25,000,000 for the Advanced Air-to-Air Missile/Advanced Surface-to-Air Missile program. The conferees also agree that the allocation of these funds should be as directed in the Senate report.

ADVANCED ASW TARGET

The conferees agree to provide $9,400,000 for Advanced ASW Target instead of $7,550,000 as proposed by the House and $12,646,000 as proposed by the Senate. The conferees endorse House language which emphasizes the need to accelerate development of an advanced torpedo testing target, and therefore direct that $3,000,000 of these funds be applied to accelerate development of the Advanced Stored Chemical Energy Propulsion System (AD-SCEPS).

SHIPBOARD DAMAGE CONTROL

The conferees recommend $23,606,000 for Shipboard Damage Control as proposed by the House, rather than $25,000,000 as proposed by the Senate. Further, the conferees endorse the Senate position on the EMPRESS II project (electromagnetic pulse radiation environment simulator for ships). The conference recommendation will fund EMPRESS II at the fiscal year 1985 level of effort.

SSN-21 BUDGETING

The conferees agree to House language directing the consolidation of program elements for the SSN-21 attack submarine, with the proviso that reactor development work may be excepted from the consolidation.

SHIP DEVELOPMENT (ADVANCED)

The conferees agree to provide $13,657,000 for Ship Development (Advanced), as proposed by both the House and the Senate. This amount involves a reduction of $982,000 as directed by the Department of Defense Authorization Act, 1986. However, the conferees do not agree to Senate languge directing that the reduction be applied specifically toward termination of the EMSEDE project, but instead allow the Navy flexibility to allocate the reduction.

ADVANCED LIGHTWEIGHT TORPEDO (ADVANCED)

The conferees agree to provide no funds for Advanced Lightweight Torpedo (Advanced) as proposed by the House, instead of $7,000,000 as proposed by the Senate. The ALWT (Advanced) program was proposed in fiscal year 1986 to initiate certain classified improvements to the ALWT warhead.

While the conferees are not opposed to incremental improvements to the ALWT, they are not inclined to start them in fiscal year 1986. The Navy should resubmit this program for funding in future years, and clearly define why ALWT warhead improvement is required for advanced threats.

TOMAHAWK THEATER MISSION PLANNING CENTER

The conferees agree to House language directing that the Tomahawk Theatre Mission Planning Center by fully funded at the budget level of $14,967,000, and that programming changes as described in the House report be instituted in the fiscal year 1987 budget.

AV-8B

The conferees agree to provide $66,000,000 for AV-8B instead of $55,178,000 as proposed by the House and $72,078,00 as proposed by the Senate. This reduction should be applied solely against the night attack

project and not against the TAV-8B or other efforts. Should the Navy require additional funds to execute this project during fiscal year 1986, the conferees would consider a reprogramming request.

CG-47 PRODUCT IMPROVEMENT

The conferees agree to provide $35,000,000 for CG-47 Product Improvement instead of $29,006,000 as proposed by the House and $44,506,000 as proposed by the Senate. The conferees also support House language which expresses concern over increase in cost and scope in the program. It appears that this expansion of effort is due to the Navy's desire to transition a number of improvements in the DDG-51 AEGIS Combat System to the CG-47. The conferees support the introduction of VLS, the SPY-1B radar, UYQ-21 consoles, and UYK-43B computers to the CG-47 class, and direct the Navy to allocate the reduction so that these programs are unaffected.

SUBMARINE HULL ARRAY DEVELOPMENT (ENGINEERING)

The conferees agree to provide $13,000,000 for Submarine Hull Array Development (Engineering) instead of no funds as proposed by the House and $25,974,000 as proposed by the Senate. The Navy is directed to apply the majority of these funds to continue advanced development; however, some funds may be used for full scale development (FSD) preparation. The conferees share the concerns expressed by the House that commitment to FSD should not occur prior to approval by the Defense Acquisition Review Council at Milestone II.

SSN-21 COMBAT SYSTEM

The conferees agree to provide $200,000,000 for the SSN-21 Combat System as proposed by the Senate instead of $60,000,000 as proposed by the House. This level of funding is proposed for the authorized program due to Navy concerns that funding reductions might cause shipbuilding delays.

The conferees strongly criticize both the Navy and the Office of the Secretary of Defense for the weak management evidenced in this program, and insist that the Department of Defense incorporate whatever changes are necessary to ensure that these problems do not recur in the future. The conferees expect stronger performance particularly in the areas of financial management and technical risk management.

SHIP SUBSYSTEMS DEVELOPMENT/LBTS

The conferees agree to provide $109,000,000 for Ship Subsystems Development/LBTS, instead of $80,000,000 as proposed by the House or $120,000,000 as proposed by the Senate. The Senate added $40,000,000 to continue competitive contract design for the SSN-21 New Design Attack Submarine program. The additional $29,000,000 provided for this program element above the authorization is solely for continuation of competitive contract design for the SSN-21 through the first three quarters of fiscal year 1986.

The Navy should submit a reprogramming during fiscal year 1986 to cover the balance of the funding requirement for this effort. Funds budgeted for other ship contract design programs are to be used solely for those programs, and not diverted to support SSN-21 competitive contract design, unless those ships are not included in the fiscal year 1987 budget submission.

The conferees agree to the Senate language directing that at least $5,000,000 be provided for an AO oiler design project. This will provide five AO-177 class oilers with a design enlargement from a 120,000-barrel capacity to a 180,000-barrel capacity.

SURFACE WARFARE TRAINING DEVICES

The conferees agree to provide $23,274,000 for Surface Warfare Training Devices as proposed by the Senate instead of $23,410,000 as proposed by the House. However, the conferees do not endorse Senate language specifically directing the deletion of funding for the Surface Tomahawk Trainer project. The Navy is provided the flexibility to allocate the reduction.

MARINE CORPS LIGHTWEIGHT BATTLEFIELD SURVEILLANCE RADAR

With regard to the Lightweight Battlefield Surveillance Radar (LBSR), the conferees direct that the Marine Corps review the suitability of the Air Force's in-development PPS-22 Intruder Detection System and report to the House and Senate Committees on Appropriations by June 15, 1986. The PPS-22 development is being managed by the Army and it appears that the PPS-22 modified would provide the Marine Corps with an earlier capability plus providing interservice interoperability and hardware commonality.

HY-130 STEEL

The conferees agree to provide no funds for HY-130 Steel as proposed by the House instead of $5,000,000 as proposed by the Senate. The conferees will consider a reprogramming if the Navy determines that acceleration would be desirable.

WALLOPS ISLAND TEST RANGE

The conferees agree to provide $4,000,000 for the Wallops Island Test Range as proposed by the House, instead of no funds as proposed by the Senate. However, the conferees believe that the Wallops Island Test Range could be more efficiently utilized to support Navy test and evaluation activities. Prior to the obligation or expenditure of these additional funds, the Navy and NASA should submit to the Committees on Appropriations of the House and Senate a utilization plan for this expansion in Navy test and evaluation activity.

TAIL CONTROL SPARROW

The conferees agree to provide $5,000,000 for the Tail Control Sparrow as proposed by the House, instead of no funds as proposed by the Senate. These funds are to be used for guidance and ECCM improvements to the Sparrow missile.

The conferees acknowledge the potential application of generic low cost radiation seeker technology to the Sparrow airframe, for use of Sparrow as a dual-role anti-radiation missile. The conferees are willing to entertain a fiscal year 1986 reprogramming action to initiate such a program.

WHITEHALL QUICK REACTION SURVEILLANCE SYSTEM

The conferees agree to provide $20,000,000 for Whitehall Quick Reaction Surveillance System as proposed by the House instead of no funds as proposed by the Senate. These funds are for the first year of a three year lease, on a turnkey basis, of four systems together with vessels and crews. The conferees direct the Navy to enter into a lease arrangement not later than February 28, 1986, instead of December 31, 1985 as originally directed by the House.

CENTER FOR NAVAL ANALYSES

The conferees agree to provide $17,500,000 for the Center for Naval Analyses, instead of $15,563,000 as proposed by the House or $19,813,000 as proposed by the Senate. The conferees also agree that the Navy should submit a prior approval reprogramming to Congress should this level of funding prove inadequate.

ADVANCED CHEMICAL WEAPONS RESEARCH

The conferees direct the Navy and Air Force to report to the House and Senate Committees on Appropriations on their plans for undertaking research into future binary chemical munitions delivery mechanisms by March 15, 1986. After that date, the Committees would entertain a reprogramming request to implement such a plan.

PRIOR YEAR SAVINGS

The conferees recognize $188,000,000 in prior year savings in Research, Development, Test and Evaluation, Navy. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

MANUFACTURING TECHNOLOGY

LASER ARTICULATING ROBOTIC SYSTEM

The conferees agree with the House directives concerning the Laser Articulating Robotic System (LARS), and agree that of the funds provided for P.E. 7.80.11N, Manufacturing Technology, a total of $5,500,000 be provided for the LARS program. Language has been provided in the bill to this effect.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL, AF				
TECHNOLOGY BASE:				
IN-HOUSE LAB INDEPENDENT RESEARCH	17,444	16,000	17,000	16,000
DEFENSE RESEARCH SCIENCES	206,334	198,000	201,334	206,000
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250
GEOPHYSICS	38,614	38,614	38,614	38,614
MATERIALS	54,769	52,269	53,000	52,600
AEROSPACE FLIGHT DYNAMICS	67,545	67,545	67,545	67,545
AEROSPACE BIOTECHNOLOGY	50,840	47,340	48,000	47,500

[In thousands of dollars]

	Budget	House	Senate	Conference
AEROSPACE PROPULSION	62,609	62,609	62,609	62,609
AEROSPACE AVIONICS/VHSI CIRCUITS	74,806	60,000	60,000	60,000
TRAINING/SIMULATION TECH	25,236	25,236	25,236	25,236
CIVIL ENGINEERING & ENVIRONMENTAL QA	7,125	7,125	7,125	7,125
ROCKET PROPULSION	41,661	39,661	39,661	39,661
ADVANCED WEAPONS	37,020	35,500	35,500	35,500
CONVENTIONAL MUNITIONS	44,819	40,819	44,819	40,819
COMMAND/CONTROL/COMMUNICATION	80,720	76,720	76,720	76,720
PERS UTILIZATION TECH	9,421	8,421	9,421	8,421
TOTAL TECHNOLOGY BASE	825,213	782,109	792,834	790,600
ADVANCE TECHNOLOGY DEVELOPMENT:				
LOGISTICS RESEARCH & DEV RQMTS	12,736	9,736	9,736	9,736
AUTOMATION OF TECHNICAL INFORMATION	5,382			
ACFT PROPULSION SUBSYS INTEGRATION	27,493	27,493	27,493	27,493
ADV AVIONICS FOR ACFT	22,651	22,651	21,651	21,651
FLT VEHICLE TECHNOLOGY	22,884	16,884	22,334	20,000
RECON SENSORS/PROCESSING TECHNOLOGY	9,182	6,000	6,000	6,000
AEROSPACE STRUCTURES/MATERIALS	23,596	18,596	18,596	18,596
AVIATION TURBINE FUEL TECHNOLOGY	4,671	3,671	4,671	3,671
ADV TURBINE ENGINE GAS GENERATOR	29,656	27,656	27,656	27,656
WEAPON SYSTEM POWER	1,947	1,947	1,267	1,267
DOD COMMON PROG LANGUAGE (ADA) ADV DEV	7,460	7,460	7,460	7,460
ADVANCED SIMULATOR TECHNOLOGY	4,410	4,410	4,410	4,410
CREW SYSTEMS TECHNOLOGY	12,754	11,000	12,054	11,500
ACFT NON-NUCLEAR SURVIVABILITY	3,278	3,278	3,278	3,278
ADV FIGHTER TECH INTEGRATION	22,276	19,776	19,776	19,776
LINCOLN LABORATORY	26,363	22,000	25,000	23,000
ADVANCED SYSTEM INTEGRATION DEMO	36,327			
INEWS/ICNIA		60,000	32,767	45,000
CARTOG APPLICATIONS-TAC & STRAT SYS	1,409	1,409	1,409	1,409
SPACE & MSL ROCKET PROPULSION	8,381	3,381	3,381	3,381
ADV MSL SUBSYSTEM DEMONSTRATION	1,209			
ADVANCED TECHNOLOGY CRUISE MISSILE	7,677	7,677	7,677	7,677
HYPERVELOCITY MISSILE	10,763	10,763	10,763	10,763
ADVANCED SPACECRAFT TECH	9,700	7,000	7,000	7,000
ADV MILITARY SPACEFLIGHT TECHNOLOGY	916			
APACE SYS ENVIRON INTERACTIONS TECH	4,954	3,954	3,954	3,954
MSL SURVEILLANCE TECH	11,550	11,550	11,550	11,550
VERY HIGH SPEED INTEGRATED CIRCUITS	193,776	211,276	175,500	207,276
NON-DESTRUCTIVE INSPECTION AD DEV	980			
CONVENTIONAL WEAPONS	28,590	26,590	25,590	25,590
ADVANCED RADIATION TECH	19,749	9,749	19,749	14,749
MANPOWER & PERSONNEL SYS TECH	2,199	2,199	2,199	2,199
WEATHER SYSTEMS	3,963	3,963	3,463	3,463
ELECTRONIC WARFARE TECHNOLOGY	29,436	29,436	29,436	29,436
CIVIL/ENVIRONMENTAL ENGR TECH	11,488	11,488	11,485	11,485
FIBER OPTICS DEVELOPMENT	3,861	3,861	3,461	3,461
ADVANCED COMMUNICATIONS TECHNOLOGY	4,895	4,895	4,895	4,895
ADVANCED COMPUTER TECHNOLOGY	8,643	7,500	7,500	7,500
ELECTRO/OPTICAL WARFARE	15,818	15,818	15,818	15,818
CHEMICAL WARFARE DEFENSE	6,165	6,165	5,000	5,000
COUNTER/COUNTERMEASURES /ADV DEV	14,444	13,444	13,444	13,444
TRAINING SYSTEMS TECHNOLOGY	2,324	2,324	2,324	2,324
DOD SOFTWARE ENGINEERING INSTITUTE	11,742	11,742	11,742	11,742
COMD/CNTRL/COMM ADV DEV	26,273	16,273	16,273	16,273
TOTAL ADVANCE TECHNOLOGY DEVELOPMENT	713,971	685,015	637,762	670,883
STRATEGIC PROGRAMS:				
ADVANCED STRATEGIC MISSILE SYSTEMS	173,934	163,934	163,934	163,934
SRAM II	78,958	35,000	35,000	35,000
ATMOSPHERIC SURVEILANCE TECH	4,978	4,978	4,978	4,978
WWMCCS ARCHITECTURE	8,036	8,036	8,036	8,036
B-1B	367,438	280,438	280,438	280,438
COMMON STRATEGIC ROTARY LAUNCHER	72,629	72,629	72,629	72,629
ICBM MODERNIZATION	1,580,824	1,483,600	1,274,824	1,480,800
(PY TRANSFER) TO SMALL ICBM			(256,000)	
STRAT CONV STANDOFF CAPA (SCSC)	71,787	36,000	36,000	36,000
AIR LAUNCHED CRUISE MISSILE	14,179	11,179	11,179	11,179
SPACE DEFENSE SYS	149,934	149,934	182,834	165,000
SYSTEMS SURVIVABILITY (NUC AFFECTS)	7,927	7,927	7,927	7,1927
B-52 SQUADRONS	16,047	14,347	13,207	13,207
KC-135 SQUADRONS	968	968	968	968
MINUTEMAN SQUADRONS	31,203	6,003	6,000	6,000
PACCS/WWABNCP SYS EC-135 CL V MODS	5,163	4,163	4,163	4,163
SAC COMMUNICATIONS	10,625	10,625	7,589	7,589
NCMC - TW/AA SYSTEMS	57,445	52,445	52,445	52,445
NCMC - SPACE DEFENSE SYSTEMS	72,996	57,996	62,996	57,996
BALLISTIC MSL TAC WNG/ATK ASSES SYS	2,655	2,155	2,155	2,155
TW/AA INTERFACE NETWORK	1,468	1,468	1,468	1,468
JOINT SURVEILLANCE SYSTEM	3,069	3,069	2,069	2,069
SURVEILL RADAR STATIONS/SITES	20,215	20,215	20,215	20,215
DEW RADAR STATIONS	40,914	40,914	40,914	40,914
CONUS OVER-THE-HORIZON RADAR	67,457	67,457	67,457	67,457
BALLISTIC MSL EARLY WNG SYSTEM	12,966	12,966	12,966	12,966
SPACETRACK	9,613	9,613	9,613	9,613
DEFENSE SUPPORT PROGRAM	79,592	79,592	79,568	79,568
SLBM RADAR WARNING SYSTEMS	8,235	8,235	8,235	8,235
INTEGRATED OPER NUDETS DETECT SYS	20,538	20,538	20,538	20,538

[In thousands of dollars]

	Budget	House	Senate	Conference
COMD CTR PROCESS/DISPLAY SYS	14,807	14,807	14,807	14,807
MINIMUM ESSENTIAL EMER COMM NETWORK	97,199	87,199	187,199	102,199
WWMCCS INFORMATION SYSTEM	8,100	5,000	5,000	5,000
WWMCCS INFORMATION SYSTEM - JPMO	88,721	78,721	63,721	63,721
MILSTAR SAT COMM SYS (AF TERMINALS)	132,095	132,095	128,095	130,000
MILSTAR COMM SAT SYSTEM	345,696	345,696	345,696	345,696
THEATER NUC WPN STORAGE&SEC SYS	1,045	1,045	1,045	1,045
AIR FORCE ONE			20,000	20,000
CLASSIFFIED PROGRAMS	2,049,652	2,049,652	2,049,652	2,049,652
CLASSIFIED PROGRAMS	14,677	14,677	14,677	14,677
TOTAL, STRATEGIC PROGRAMS	5,743,785	5,395,316	5,320,237	5,420,284
Tactical Programs:				
ADVANCED TACTICAL FIGHTER	242,852	169,852	140,000	169,852
ADV TACTICAL AIR RECONNAISSANCE SYS	20,339	10,000	10,000	10,000
JNT SERVICE ADV VERT LIFT ACFT (JVX)	4,901	2,500	2,500	2,500
AIR BASE SURVIVABILITY & RECOVERY	6,178	6,178	5,011	5,011
LOW COST SEEKER	17,613	17,613	17,613	17,613
ADV ATTACK WEAPONS	19,113	19,113	19,113	19,113
DOD PHYSICAL SECURITY EQ-EXTERIOR	1,010	1,010	1,010	1,010
COMBAT IDENTIFICATION TECHNOLOGY	8,763	8,763	8,763	8,763
C3CM ADVANCED SYSTEMS	3,463	3,463	2,000	2,000
JT SURV. TGT ATK RADAR SYS (JSTARS)	3,200	3,200	3,200	3,200
ACFT AVIONICS EQUIPMENT DEVELOPMENT	29,397	29,397	29,397	29,397
F-100 DURABILITY	2,899	2,899	2,899	2,899
AIRCRAFT EQUIPMENT DEV	8,779	8,779	8,799	8,779
ENGINE MODEL DERIVATIVE PROG	122,854	62,854	62,854	62,854
INTEGRATED DIGITAL AVIONICS	11,763	8,000	8,000	8,000
EW COUNTER RESPONSE	37,193	30,000	30,000	30,000
NUCLEAR WEAPONS SUPPORT	2,035	2,035	2,035	2,035
ALTERNATE FIGHTER ENGINE	33,353	33,353	33,353	33,353
C-17 PROGRAM	453,681	383,681	383,681	383,681
INFRARED SEARCH & TRACK SYS	23,657	23,657	23,657	23,657
MODULAR AUTOMATIC TEST EQUIPMENT	9,962	9,962	9,962	9,962
NIGHT PRECISION ATTACK	40,849	40,849	40,849	40,849
ACFT ENGINE COMPONENT IMPROVE PROG	138,574	110,144	138,574	125,000
T-46A	54,287	54,287	54,287	54,287
ADV MED RANGE AIR-TO-AIR MSL	101,382	101,382	101,382	101,382
JOINT TACTICAL FUSION PROGRAM	26,920	20,520	26,920	23,720
GRD LAUNCHED CRUISE MSL	685	685	685	685
C/B DEFENSE EQUIPMENT	22,488	22,488	22,488	22,488
ARMAMENT ORDNANCE DEVELOPMENT	17,563	17,563	17,563	17,563
SUBMUNITIONS	43,910	38,910	38,910	38,910
WIDE-AREA ANTI-ARMOR MUNITION	15,811	12,558	12,558	12,558
AIR BASE SURVIVABILITY & RECOVERY	21,900	21,900	19,900	19,900
AEROMEDICAL SYSTEMS DEVELOPMENT	8,049	8,049	8,049	8,049
LIFE SUPPORT SYSTEM	16,779	16,779	15,672	15,672
OTHER OPERATIONAL EQUIPMENT	17,087	17,087	16,939	16,939
RECONNAISSANCE EQUIPMENT	7,820	7,820	7,820	7,820
DOD PHYSICAL SECURITY EQ-EXTERIOR	15,733	15,733	15,733	15,733
TAC C3 COUNTER-MEASURES	17,441	17,441	16,462	16,462
COMBAT IDENTIFICATIONS SYSTEMS	13,164	13,164	13,164	13,164
SURFACE DEF SUPPRESSION	54,980	30,000	30,000	30,000
AIRBORNE SELF-PROTECTION JAMMER	11,220	5,000	5,000	5,000
PROTECTIVE SYSTEMS	65,792	50,792	65,792	65,792
TACTICAL PROTECTIVE SYSTEMS	75,709	55,709	55,709	55,709
COMPUTER RESOURCES MGT TECH	14,011	14,011	12,011	12,011
PRECISION LOCATION STRIKE SYSTEM	63,081	53,081	63,081	63,081
INTELLIGENCE EQUIPMENT	13,481	13,481	13,481	13,481
COMBAT HELICOPTER MODERNIZATION	14,100	14,100		10,000
JT TAC INFO DIST SYS	91,675			
SIDE LOOKING AIRBORNE RADAR (SLAR)	20,667	20,667	20,667	20,667
JSTARS	260,221			
JT INTEROPERABILITY TAC COMB/CNTRL	9,141	9,141	9,141	9,141
F-111 SQUADRONS	54,535	48,500	48,500	48,500
F-15 SQUADRONS	252,142	237,142	237,142	237,142
A-10 SQUADRONS	3,102	3,102	2,000	3,102
F-16 SQUADRONS	94,859	84,000	68,459	68,459
F-4G WILD WEASEL SQUADRONS	36,707	28,707	36,707	36,707
F-4G WILD WEASEL SQUADRONS (PY TRANSFER)		(8,000)		
TACTICAL AGM MISSILES	3,926	2,000	2,000	2,000
AIR FORCE TENCAP	250	250	250	250
OVERSEAS AIR WEAPON CONT SYS	3,068	3,068	3,068	3,068
TACTICAL AIR CONTROL SYSTEM	20,075	20,075	15,075	15,075
AIR BORNE WARNING & CONTROL SYS	137,302	122,000	122,000	122,000
TACTICAL AIRBORNE CMD & CONTROL SYS	8,151	8,151	5,000	8,151
ADV COMM SYS	123,785	113,785	113,785	113,785
TAC AIR INTELL SYS ACTYS	2,191	2,191	2,191	2,191
TACTICAL RECON IMAGERY EXPLOITATION	7,691	7,691	7,691	7,691
BASE COMM—TACTICAL AIR FORCES	899	899	899	899
JT TACTICAL COMM PROG (TRI-TAC)	4,947	4,947	4,947	4,947
SATELLITE COMMUNICATIONS TERMINALS	7,569	7,569	5,000	5,000
ELECTRIC COMBAT INTEL SPT	1,593	1,593	1,593	1,593
MAC COMMAND/CONTROL SYS	11,441	11,441	8,000	8,000
SPECIAL OEPRATIONS FORCES	13,993	10,000	10,000	10,000
F-4 AIR DEFENSE		22,000		15,000
CLASSIFIED PROGRAMS	666,386	339,755	402,700	411,555
LIQUID SYNTHETIC FUEL			4,500	4,500
PAVE TIGER (RPV)		15,000		15,000

[In thousands of dollars]

	Budget	House	Senate	Conference
GENERAL REDUCTION, EW PROGRAMS		−30,000		−30,000
TOTAL, TACTICAL PROGRAMS	3,792,137	2,703,516	2,748,171	2,784,357
INTELLIGENCE AND COMMUNICATIONS:				
SPACE COMMUNICATIONS	45,012	43,012	43,012	43,012
DEF SATELLITE COMM SYS	6,930	6,930	6,930	6,930
AIR FORCE COMMUNICATIONS	978			
LONG-HAUL COMMUNICATIONS (DCS)	11,543	11,543	11,543	11,543
ELECTROMAG COMPATIBILITY ANAL CTR	7,191	7,191	7,191	7,191
TRAFFIC CNTRL/APPROACH/LANDING SYS	29,517	21,714	21,714	21,714
PRECISION TACTICAL APPROACH GUIDANCE (PTAG)			3,000	3,000
NAVSTAR GLOBAL POS SYS (USER EQ)	28,691	28,691	28,691	28,691
NAVSTAR GPS (SPACE/GRD SEGMENTS)	48,527	45,527	45,527	45,527
GEN INTELLIGENCE SKILL TNG	5,300	5,300	5,300	5,300
CLASSIFIED PROGRAMS	2,091,755	1,772,955	2,085,171	1,972,155
(PY TRANSFER)		(5,000)		
CLASSIFED PROGRAMS	107,388	107,388	107,388	107,388
I-S/A AMPE DEVELOPMENT		31,400		31,400
TOTAL, INTELLIGENCE & COMMUNICATIONS	2,382,832	2,081,651	2,365,467	2,283,851
DEFENSEWIDE MISSION SUPPORT:				
CONCEPT DEVELOPMENT	3,028	3,028	2,000	2,000
SPACE TEST PROGRAM	70,434	68,434	68,434	68,434
SATELLITE SYS SURVIVABILITY	4,273	4,273	4,273	4,273
ADV AERIAL TARGETS DEV	13,505	13,505	13,505	13,505
FLIGHT SIMULATOR DEVELOPMENT	155,315	132,000	132,000	132,000
VARIABLE IN-FLT TEST ACFT (VISTA)	391	391		391
SPACE SHUTTLE	132,007	132,007	132,007	132,007
LOGISTICS TECH FOR WEAPONS SYSTEMS	6,750	6,750	6,750	6,750
WEATHER SYSTEMS	13,078	10,578	8,078	8,078
RANGE IMPROVEMENT	62,166	54,000	54,000	54,000
ELECTROMAC RADIATION TEST FACIL	3,376	3,376	3,376	3,376
IMPROVED CAPABILITY FOR RDT + E	46,417	46,417	46,417	46,417
PROJECT AIR FORCE	17,445	17,445	18,245	18,245
SCQ/COMD SPT—TELECOM	6,550	6,550	6,550	6,550
RANCH HAND II EPIDEMIOLOGY STUDY	4,695	4,695	4,695	4,695
NAV/RADAR/SLED TRACK TEST SPT	28,319	20,319	20,319	20,319
ACQUISITION AND COMMAND SUPPORT	366,620	346,620	346,620	346,620
TEST AND EVALUATION SPT	431,594	421,594	421,594	421,594
ADV SYS ENGINEERING/PLAN	3,895	2,000	2,000	2,000
RDT&E AIRCRAFT SUPPORT	59,820	57,000	57,000	57,000
PRODUCTIVITY INVESTMENTS	7,009	3,009	3,009	3,009
PRODUCT PERFORMANCE AGMT CNTR (PPAC)	975	975		
SATELLITE CONTROL FACILITY	83,122	73,122	73,122	73,122
SPACE BOOSTERS	221,393	214,193	221,393	221,393
CONSOLIDATED SPACE OPERATORS CENTER	87,415	87,415	87,415	87,415
DEF METEOROLOGICAL SATELLIE PROG	71,309	56,309	61,309	56,309
SPACE LAUNCH SUPPORT	79,232	79,232	79,232	79,232
INVENTORY CONTROL POINT OPERATIONS	4,034	4,034	3,000	3,000
DEPOT MAINTENANCE (NON-IF)	489			
INDUSTRIAL PREPAREDNESS	104,540	64,540	64,540	64,540
PRODUCT/RELIABLE/AVAIL/MAINTAIN PROG	17,365	14,365	14,365	14,365
LOGISTICS C3I SYSTEM	9,933	8,500	8,500	8,500
SERVICE-WIDE SUPPORT	196			
PRODUCTIVITY INVESTMENTS	978			
INTERNATIONAL ACTIVITIES	2,894	2,894	2,894	2,894
TOTAL, DEFENSEWIDE MISSION SUPPORT	2,120,562	1,959,570	1,966,642	1,962,033
CONSULTANTS, STUDIES & ANALYSES		−25,000	−25,000	−25,000
UNDISTRIBUTED REDUCTION "ASSESSMENTS"		−25,000		−10,000
ENVIRONMENT RESTORATION FUND TRANSFER			−5,400	
RESTORATION OF CIVILIAN PAY REDUCTION			24,400	12,200
GENERAL REDUCTION		−70,000		−182,000
PRIOR YEAR INFLATION SAVINGS		−100,000		
(PY TRANSFER)		(100,000)		
INFLATION ESTIMATES FOR FY 1986		−14,000	−14,000	−14,000
PRIOR YEAR PROGRAM SAVINGS		−156,000		
(PY TRANSFER)		(246,000)		
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
TOTAL, RESEARCH DEVELOPMENT TEST AND EVAL, AF	15,578,500	13,217,177	13,861,113	13,718,208
TRANSFER FROM OTHER ACCOUNTS		(359,000)	(256,000)	
TOTAL FUNDING AVAILABLE	15,578,500	13,576,177	14,117,113	13,718,208

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $206,000,000 for Defense Research Sciences, of which $6,500,000 shall be used only for research and related purposes at Iowa State University.

VERY HIGH SPEED INTEGRATED CIRCUITS

The conferees agree to provide $207,276,000 for Very High Speed Integrated Circuits, of which $13,500,000 shall be used only for engineering research and related purposes at Northeastern University in Massachusetts.

ICBM MODERNIZATION

The conferees agree to provide $1,480,800,000 for ICBM Modernization, instead of $1,483,600,000 as proposed by the House and $1,274,824,000 as proposed by the Senate. The approved distribution of ICBM modernization funds is provided below:

Peacekeeper	$734,100,000
Small ICMB	624,500,000
Hard Silo Technology	102,200,000
Deep Basing	20,000,000

The conferees direct the Air Force to submit to the Appropriations Committees of the House and Senate a full accounting of all small ICBM guidance funds and contracts, and also the report requested by the Senate on the requirement for maintenance

of three alternative guidance contracts during FY 1986. Senate language prohibiting the obligation or expenditure of funds on one of the three alternate guidance systems is modified to permit obligation, but not expenditure, of such funds until this report is submitted.

The conferees agree to provide $102,200,000 for Hard Silo Technology, as proposed by the Senate, instead of $70,000,000 as proposed by the House. Of the additional $32,200,000 provided for Hard Silo Technology above the House allotment, $17,200,000 is for additional risk reduction and test bed restoration tasks described in the Senate report. A total of $15,000,000 is solely for construction, test and evaluation of a double-walled cofferdam constructed of reinforced slipform concrete, as described in the House report. The evaluation effort should be conducted in accordance with the direction provided in the House report, except that the Air Force shall be the planing and management agent for the program. No funds for this project are to be drawn from the Defense Nuclear Agency appropriation.

NCMC/SPACE DEFENSE SYSTEMS

The conferees agree to provide $57,996,000 for NCMC/Space Defense Systems as proposed by the House, instead of $62,996,000 as proposed by the Senate. This program funds both the Mission Control Center (MCC) for the U.S. Anti-Satellite (ASAT) system and also the operation of the Prototype Mission Operations Center (PMOC) which supports the U.S. ASAT test program.

The conferees agree that this reduction shall be applied against the mission control center, and that the MCC should not be funded at this time.

ASAT TESTING

The conferees agree to the House position that no fiscal year 1986 funds are to be used for testing of anti-satellite weapons against objects in space. Bill language has been provided which further prohibits obligation or expenditure of funds provided by this or any other Act for such testing until the President certifies to Congress that the Soviet Union has conducted after October 3, 1985, a test against an object in space of a dedicated anti-satellite weapon.

ADVANCED TACTICAL FIGHTER

INEWS/ICNIA PROGRAM

The conferees agree to provide $169,852,000 for the Advanced Tactical Fighter (ATF) as proposed by the House, instead of $140,000,000 as proposed by the Senate. The confereees agree to provide $140,000,000 for the Joint Advanced Fighter Engine (JAFE) program, $16,852,000 for the airframe demonstration/validation effort and $13,000,000 for avionics development, to include PAVE PILLAR and VHSIC technology insertion.

The conferees endorse the position of the Senate that cost, as well as technology, must be given priority attention in the development of the ATF. The conferees support the decision of the Air Force to adopt a unit flyaway cost goal of $35,000,000 for ATF, expressed in 1985 dollars, and admonish the Air Force to hold to that goal. The conferees agree to the Senate position directing the submission of an annual report on ATF developmental and total acquisition costs, beginning with the FY 1987 budget submission.

Following completion of the defense authorization, the Air Force informed the appropriations committees that it intended to fund ATF avionics devleopment (including Pave Pillar and VHSIC technology insertion) out of the newly created INEWS/ICNI program, rather than from the ATF program. Further, it was learned that the Air Force proposed funding two new projects within the ATF authorization not previously identified as requirements in the FY 1986 budget submission—AMRAAM Compressed Carriage Demonstration (ACCD) and radar/EO sensor, at $4,000,000 each.

The conferees object to the Air Force's funding ATF avionics development outside the ATF line item. The conferees direct that $13,000,000 for ATF avionics development be funded out of the ATF line item, and that no funds be provided for the ACCD and radar/EO projects.

The conferees have funded INEWS/ICNIA at $45,000,000 instead of $60,000,000 as proposed by the House and $32,767,000 as proposed by the Senate. The change from the authorized level of funding reflects the transfer of ATF avionics development funds back to the ATF line item.

The conferees agree to a general reduction of $30,000,000 against Air Force electronic warfare programs, as authorized, and a general reduction of $15,000,000 against Navy electronic warfare programs. The conferees note that the authorization made no provision for a Navy portion of INEWS/ICNIA funds. In light of that oversight, the conferees recommend a smaller general reduction against Navy electronic warfare programs of $15,000,000.

F-4 AIR DEFENSE

The conferees agree to provide $15,000,000 for F-4 Air Defense, instead of $22,000,000 as proposed by the House or no funds as proposed by the Senate. These funds are to be used only for developing F-4 avionics upgrades. The conferees direct the Air Force to study and report on the cost effectiveness of reengining the F-4. Should the results be favorable, the Committees on Appropriations will entertain a reprogramming request.

DEFENSE METEOROLOGICAL SATELLITE PROGRAM

The conferees agree to provide $56,309,000 for the Defense Meteorological Satellite Program (DMSP) as proposed by the House, instead of $61,309,000 as proposed by the Senate. The conferees understand that the full authorization for the program is required to deliver DMSP satellite S-15 in FY 1990, the prototype Block 5D-3 satellite.

Should the Air Force insist that the survivability upgrades proposed for DMSP are essential, and that its outyear space launch program will include the transition of the DMSP from the Atlas E to the Titan II launch vehicle, the conferees would be willing to entertain a reprogramming to keep the S-15 available for launch in FY 1990 on a Titan II.

"ASSESSMENTS" IN RDT&E

DEVELOPMENT PLANNING ACTIVITIES

The conferees agree to a general reduction of $10,000,000 against "assessments" made by the Air Force against RDT&E programs to fund development planning activities, instead of $25,000,000 as proposed by the House. The conferees direct the Air Force to place the balance of $15,000,000 which would have been "assessed" into a new separate program element for development planning activities. These activities must be budgeted and justified on their merits in future years. The conferees concur in the House directive which requires a report on the distribution of pro rata reductions.

I-S/A AMPE

The conferees agree with the House funding level of $31,400,000 for Inter-Service/Agency Automated Message Processing Equipment (I-S/A AMPE), and the transfer of the program from Operation and Maintenance to RDT&E, Air Force. The Senate report expressed concern with the Air Force decision to award only one contract for this program. Therefore, the conferees direct the Department of Defense Inspector General to conduct a thorough review of the propriety of the Air Force's action, and the feasibility and life-cycle cost effectiveness of awarding a second contract. The findings of this study should be reported to the Committees on Appropriations of the House and the Senate no later than March 15, 1986. The conferees further direct the Secretary of Defense to develop a firm I-S/A AMPE 8-year funding profile to be submitted by March 15, 1986. The conferees agree that these directives shall not impact upon the ongoing contract efforts.

PRIOR YEAR SAVINGS

The conferees recognize $264,000,000 in prior year savings in Research, Development, Test and Evaluation, Air Force. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

ADVANCED CHEMICAL WEAPONS RESEARCH

The conferees direct the Navy and Air Force to report to the House and Senate Committees on Appropriations on their plans for undertaking research into future binary chemical munitions delivery mechanisms by March 15, 1986. After that date, the Committees would entertain a reprogramming request to implement such a plan.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL. DEF AGENCIES				
TECHNOLOGY BASE:				
DEFENSE RESEARCH SCIENCES	92,600	84,000	86,600	92,000
IN-HOUSE LAB INDEPENDENT RESEARCH	1,981	1,791	1,981	1,850
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250

[In thousands of dollars]

	Budget	House	Senate	Conference
UNIVERSITY RESEARCH INITIATIVES			75,000	75,000
TECHNICAL STUDIES	1,800	1,500	1,500	1,500
STRATEGIC TECHNOLOGY	254,400	247,900	259,900	259,900
TACTICAL TECHNOLOGY	102,000	102,000	102,000	102,000
PARTICLE BEAM TECHNOLOGY	21,500	21,500	21,500	21,500
INTEGRATED COMD/CONTROL TECH	53,000	53,000	53,000	53,000
MATERIALS PROCESSING TECH	33,000	33,000	31,000	31,000
NUCLEAR MONITORING	19,400	19,400	22,400	20,900
DEFENSE NUCLEAR AGENCY	384,361	325,214	374,361	373,550
POLYGRAPH		590	590	590
TOTAL, TECHNOLOGY BASE	970,292	896,145	1,036,082	1,039,040
ADVANCE TECHNOLOGY DEVELOPMENT:				
SURVEILLANCE, ACQSM, TRACK & KILL ASSESSMENT	1,386,344	1,386,344	1,386,344	1,386,344
DIRECTED ENERGY WEAPONS	965,441	965,441	965,441	965,441
KINETIC ENERGY WEAPONS	859,724	859,724	859,724	859,724
SYSTEMS CONCEPTS AND BATTLE MANAGEMENT	243,300	243,300	243,300	243,300
SURVIVABILITY, LETHALITY & KEY SPT TECHNOLOGY	258,153	258,153	258,153	258,153
SDI—GENERAL REDUCTION		−1,212,962	−750,000	−962,962
JOIN DOD–DOE MUNITIONS TECH DEV	8,413	5,000	10,000	8,287
EXP EVAL OF MAJOR INNOVATIVE TECH	175,249	161,349	203,249	183,249
SPECIAL TECHNOLOGY OFFICE/USDR&E	4,177	4,177	4,177	4,177
COUNTER INSURGENCY & SPECIAL TECHNOLOGY	11,421	11,421	11,421	11,421
COMMAND AND CONTROL RESEARCH	2,313	2,313	2,313	2,313
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	3,914,535	2,684,260	3,194,122	2,959,447
STRATEGIC PROGRAMS:				
ISLAND SUN	17,000	17,000	14,500	14,500
NMCS–WIDE SUPPORT	43,498	38,498	38,498	38,498
WWMCCS SYSTEM ENGINEER	21,254	21,254	21,254	21,254
MINIMUM ESSENTIAL EMER COMM NETWORK	12,398	12,398	12,398	12,398
TOTAL, STRATEGIC PROGRAMS	94,150	89,150	86,650	86,650
TACTICAL PROGRAMS:				
CINC C2 INITIATIVES	2,083	2,083	2,083	2,083
C3 INTEROPERABILITY (JOINT TACTICAL C3 AGCY)	72,152	62,152	62,152	62,152
MANAGEMENT HEADQUARTERS (JTC3A)	1,472	1,472	772	772
JOINT ADVANCED SYSTEMS		300,000	300,000	300,000
COMMON JTIDS		200,000	200,000	200,000
JSTARS		60,000	240,221	200,221
TOTAL, TACTICAL PROGRAMS	75,707	625,707	805,228	765,228
INTELLIGENCE & COMMUNICATIONS:				
MAP/CHART/GEODESY	975	975	975	975
MAP/CHART/GEODESY INV/PROTOTYPE DEV	20,197	18,197	18,197	18,197
MAP/CHART/GEODESY ENGR DEV/TEST	3,092	3,092	3,092	3,092
SUPPORT OF THE NCS	5,686	5,686	5,686	5,686
LONG-HAUL COMMUNICATION (DCS)	18,935	16,935	16,935	16,935
CLASSIFIED PROGRAMS	1,089,730	933,054	1,042,098	1,039,227
CLASSIFIED PROGRAMS	737,118	695,318	719,718	735,318
(PY TRANSFER)		(101,112)		
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,875,733	1,673,257	1,806,701	1,819,430
DEFENSEWIDE MISSION SUPPORT:				
TECHNICAL SUPPORT TO USDR/E	23,593	23,093	23,093	23,093
GENERAL SUPPORT FOR PA/E	3,489	2,989	2,489	2,489
SUPPORT TO POLICY	6,445	6,300	6,000	6,000
GENERAL SUPPORT FOR NET ASSESSMENT	4,032	4,032	4,032	4,032
GENERAL SUPPORT FOR MRA/L	3,117	3,117	3,000	3,000
CRITICAL TECHNOLOGY	2,792	2,792	2,792	2,792
TECHNICAL ANALYTICAL SUPPORT	16,001	15,001	15,001	15,001
TAPISTRY	2,793		2,793	
BLACKLITE	4,000	4,000	4,000	4,000
DEFENSE TECHNICAL INFO CENTER	21,656	20,000	19,056	19,056
INFORMATION ANALYSIS CENTERS	6,550	4,500	6,300	4,500
MANAGEMENT HEADQUARTERS SDI	9,222	9,222	9,222	9,222
MGT HQ (RESEARCH/DEVELOPMENT)	13,148	12,148	12,148	12,148
INDUSTRIAL PREPAREDNESS	5,000	2,080	5,000	5,000
TECHNOLOGY TRANSFER FUNCTIONS	1,645	1,645	1,645	1,645
TOTAL, DEFENSEWIDE MISSION SUPPORT	123,483	110,919	116,349	111,978
CONSULTANTS, STUDIES & ANALYSES		−10,000	−10,000	−10,000
GENERAL REDUCTION		−42,000	−1,587	−153,587
RESTORATION OF CIVILIAN PAY REDUCTION			1,200	600
FY–1986 INFLATION SAVINGS		−6,400		−6,400
PRIOR YEAR PROGRAM SAVINGS		−47,000	−51,000	
(PY TRANSFER)		(47,000)	(51,000)	
PRIOR YEAR INFLATION SAVINGS		−31,000		
(PY TRANSFER)		(31,000)		
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
TOTAL, RESEARCH DEVELOPMENT TEST + EVAL, DEF AGENCIES	7,953,900	5,943,038	7,033,745	6,637,386
TRANSFER FROM OTHER ACCOUNTS		(179,112)	(51,000)	
TOTAL FUNDING AVAILABLE	7,053,900	6,122,150	7,084,745	6,637,386

[In thousands of dollars]

	Budget	House	Senate	Conference
DIRECTOR OF TEST AND EVALUATION, DEFENSE FOREIGN WEAPONS EVALUATION	17,010	17,010	17,010	17,010
NATO COOPERATIVE R&D TESTING			50,000	25,000
TEST AND EVALUATION	86,490	76,490	76,490	76,490
TOTAL, DIRECTOR OF TEST & EVALUATION, DEFENSE	103,500	93,500	143,500	118,500

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $92,000,000 for Defense Research Sciences, of which $1,000,000 shall be used only for advanced semiconductor research at the Oregon Graduate Center, $1,000,000 shall be used only for research at Oklahoma State University, and $5,000,000 shall be used only for development and acquisition, and related activities, of a supercomputer with capabilities equal to or better than those of the Tesseract model parallel supercomputer, being developed by Floating Point Systems for use in basic research at Cornell University.

DEFENSE NUCLEAR AGENCY

The conferees agree to provide $373,550,000 for Defense Nuclear Agency, of which $5,000,000 is to be used for development and acquisition, and related activities, of a supercomputer with capabilities equal or better than those of the Tesseract model parallel supercomputer, being developed by Floating Point Systems for use in basic research at Cornell University; and of which $11,100,000 shall be used only for microelectronic engineering and imaging sciences, and related purposes, at the Rochester Institute of Technology, Rochester, New York.

STRATEGIC AND TACTICAL TECHNOLOGY

The conferees believe strategic air and cruise missile (SACM) defense and integrated ASW are important to a balanced strategic defense. Requested resources for these efforts outlined in DARPA descriptive summaries for program elements 62301E and 62702E are to be used only for those purposes and should not be shifted to any competing SDI priorities. The conferees believe as much as $10,000 additional could be effectively utilized for SACM and integrated ASW should resources be available and should be continued at the level in fiscal year 1987.

STRATEGIC DEFENSE INITIATIVE

The conferees agree to provide $2,750,000,000 for the Strategic Defense Initiative (SDI) instead of $2,500,000,000 as proposed by the House and $2,962,962,000 as proposed by the Senate. The conferees also agree to provide, separate from these amounts, $9,222,000 for SDI Headquarters Management as proposed by the House instead of $9,000,000 as proposed by the Senate.

In addition, the conferees agree that the Department of Defense should not establish quotas, goals, or allocations as funding set-asides for offshore vendors concerning SDI research, and that whenever possible, SDI contracts should be awarded to U.S. contractors, subcontractors, and vendors, subject to the merit of these proposals. However, it is the sense of the Congress to encourage Allied participation in the SDI program on a competitive basis. These provisions, as proposed by the Senate, have been included in the bill.

SDI STUDIES AND ANALYSIS

The conferees note that the Office of Technology assessment (OTA) has been conducting studies and analysis on the Strategic Defense Initiative at the request of the Congress. OTA has conducted reviews of the SDI research program, and issued reports on their findings pursuant to Congressional direction.

OTA will continue to study and review the SDI program, and is funded to do so under legislative branch appropriations. The conferees encourage OTA to continue the valuable work they are providing the Congress on the SDI research program.

The conferees agree to amend the House requirement for a study on SDI to be conducted by the National Academy of Sciences, and instead direct OTA to conduct this study. The study shall include an analysis of the feasibility of meeting SDI computer software requirements. Language has been provided in the bill specifying that $700,000 for this study shall be made available from funds provided for RDT&E, Defense Agencies.

MANAGEMENT SAVINGS BY SECRETARY OF DEFENSE

On May 14, 1985 the Secretary of Defense recommended a reduction of $100,000,000 to the Research, Development, Test and Evaluation, Defense Agencies funding already available in fiscal year 1985 as an offset against his fiscal year 1986 request. The Secretary stated that "savings of this nature are usually identified in the normal course of consideration of the Department's budget by the Congress and are reflected as legitimate financing adjustments in the appropriation bill."

The Secretary has since indicated that the allocation of this reduction to the National Security Agency by the House is incorrect. The conferees therefore agree that the reduction is not to be applied to NSA funding. Rather, it is reflected temporarily as a general reduction to the Research, Development, Test and Evaluation, Defense Agencies account with the understanding that the Secretary must submit a prior approval reprogramming specifying the source of the appropriations and management savings which will offset this unallocated cut to the Research, Development, Test and Evaluation, Defense Agencies account.

PRIOR YEAR SAVINGS

The conferees recognize $82,000,000 in prior year savings in Research, Development, Test and Evaluation, Defense Agencies. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

TITLE VI—REVOLVING AND MANAGEMENT FUNDS

The conferees agree to the following amounts for the revolving and management fund accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Revolving and Management Funds:				
ARMY STOCK FUND	442,000	393,000	393,000	393,000
NAVY STOCK FUND	716,500	616,500	638,500	638,500
MARINE CORPS STOCK FUND	42,700	37,700	37,700	37,700
AIR FORCE STOCK FUND	464,900	415,900	415,900	415,900
DEFENSE STOCK FUND	193,500	149,700	174,500	149,700
MARINER FUND			(852,100)	
ADP EQUIPMENT MANAGEMENT FUND			150,000	100,000
TOTAL, REVOLVING AND MANAGEMENT FUNDS	1,859,600	1,612,800	1,809,600	1,734,800
TRANSFER FROM OTHER ACCOUNTS			(852,100)	
TOTAL FUNDING AVAILABLE	1,859,600	1,612,800	2,661,700	1,734,800

The following items represent language as agreed to by the conferees:

ARMY STOCK FUND

The conferees agree to provide $393,000,000 as recommended by the House and the Senate.

NAVY STOCK FUND

The conferees agree to provide $638,500,000 as recommended by the Senate instead of $616,500,000 as recommended by the House.

The conferees agree with the Senate recommendation to make available $59,000,000 from within Navy Stock Fund peacetime inventory build funds to procure supplies for the Reserve Naval Construction Force.

MARINE CORPS STOCK FUND

The conferees agree to provide $37,700,000 as recommended by the House and the Senate.

DEFENSE STOCK FUND

The conferees agree to provide $149,700,000 as recommended by the House instead of $174,500,000 as recommended by the Senate.

AIR FORCE STOCK FUND

The conferees agree to provide $415,900,000 as recommended by the House and the Senate.

MARINER FUND

The conferees agree to delete the Mariner Fund account proposed by the Senate. Instead, Section 8103 dedicates $852,100,000 as a portion of the prior year unobligated balances, and makes obligations contingent upon enactment of authorizing legislation and subsequent review by the Appropriations Committees. This matter is further explored under the heading "Availability of Unobligated Balances" in the General Provisions section of this statement.

ADP EQUIPMENT MANAGEMENT FUND

The conferees agree to provide $100,000,000 instead of the $150,000,000 as recommended by the Senate. Details of the adjustments are as follows:

MANAGEMENT OF GENERAL PURPOSE AUTOMATIC DATA PROCESSING RESOURCES

The conferees agree that the House and Senate have identified persisting problems with the Defense Department's management of ADP resources. They stem from deficiencies of both a management and fiscal nature.

Management Reforms.—The conferees agree that management of general purpose automatic data processing resources, including those covered by the Warner amendment, should be immediately consolidated under the policy oversight of the Comptroller of the Defense Department. The Comptroller must demonstrate during the fiscal year 1987 appropriation hearings that aggressive action is being taken to address concerns raised by the Appropriations Committees related to the management of these resources. The conferees recognize that Department-wide participation is necessary, but the Comptroller should enforce standards and policies through the Major Automated Information System Review Council. The House agrees to waive the following Defense Department reporting requirements to the Congress since the Comptroller is expected to develop the necessary internal management tools to accomplish the objectives of the House report: delegation of oversight authority, new starts of major automated information systems, logistics systems, lease/purchase criteria, buyout of uneconomical ADP leases funded in operating appropriations, buyout of uneconomically leased office automation equipment, Pentagon automation, ADP acquisition training, local area networks, and software obsolescence. The Secretary of Defense should report by April 15, 1986 on the Defense Department's implementation of the management system to achieve these objectives.

The conferees agree to the House reporting requirements pertaining to automated logistics systems, collocation of ADP and telecommunications centers, and supercomputers. The conferees expect the Comptroller to make a good faith effort to improve ADP budget justification material submitted with the fiscal year 1987 budget, and to work with the Appropriations Committee staffs to achieve complete and standard justification for the fiscal year 1988 budget. The conferees also agree to the House language on TRIMIS, DEERS, ADPER, CAMIS, NALCOMIS, NICADMM, Phase IV, and AFLC Modernization.

Fiscal Reforms.—The Senate proposed establishment of a DoD ADP management fund in an attempt to redress financial disincentives which currently adversely affect cost effective acquisition of DoD ADP equipment. The conferees agree both to establishment of an ADP management fund, to be initially capitalized at $100,000,000, and to a general provision allowing DoD to move funds between appropriations in order to achieve the Congressional mandate that DoD general purpose ADP equipment be acquired in the most cost-effective manner. This DoD fund and attendant transfer authority in the general provision must be managed by the Office of the Secretary of Defense as envisioned by the Senate report. It cannot be delegated. The Department must ensure that a properly documented audit trail exists for all resources consumed using these authorities, to ensure strict internal control of resources and to facilitate future Congressional evaluation of the effectiveness of these initiatives. The Secretary of Defense should include a recommendation for continuation or termination of the management fund and its attendant transfer authority to accompany submission of the fiscal year 1989 budget to Congress.

The conferees direct that each service apply the necessary amount of procurement funds in fiscal year 1986 to meet programmed requirements of the Congressionally directed buyout of uneconomically leased ADP equipment funded in the Operation and Maintenance appropriations. Further, the conferees direct that no funds will be diverted from the buyout of uneconomical leases for other purposes or programs. The Department should also use the newly created ADP management fund and attendant transfer authority to ensure that uneconomical ADP leasing in any DoD appropriation or fund ceases.

TITLE VII—RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

The conferees agree to provide $22,083,000 for the Intelligence Community Staff as proposed by the House instead of $22,283,000 as proposed by the Senate.

TITLE VIII—GENERAL PROVISIONS

The conferees agree to the following language in the General Provisions:

RESTRICTIONS ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

The House bill contained a provision (Sec. 8050) prohibiting material assistance to the Nicaraguan democratic resistance by the Central Intelligence Agency, the Department of Defense, or any other entity of the United States government involved in intelligence activities. The House provision also stated that this prohibition did not impair or effect the authority of the Nicaraguan Humanitarian Assistance Office to administer humanitarian assistance to the Nicaraguan democratic resistance under the terms and conditions specified in the Supplemental Appropriations Act, 1985 (P.L. 99-88). The Senate bill did not include any type of prohibition concerning funds for Nicaragua, relying on restrictions in the authorizing Act.

The conferees have included new language (Sec. 8050) which prohibits the expenditure of any funds or the providing of any assistance to the Nicaraguan democratic resistance other than to the extent provided for and under the terms and conditions specified by Section 105 of the Intelligence Authorization Act (P.L. 99-169) for fiscal year 1986. This provision permits the exchange of information with the Nicaraguan democratic resistance and permits a specified classified amount of funds for communications equipment and related training for the Nicaraguan democratic resistance. The conferees also note that this section will not impair or affect the authority of the Nicaraguan Humanitarian Assistance Office to administer humanitarian assistance to the Nicaraguan democratic resistance.

FORT DERUSSY

The House included a provision prohibiting the sale, lease, rental or excessing of any portion of Fort DeRussy, Honolulu, Hawaii. The Senate included a provision permitting the sale of up to 45 acres of land on Fort DeRussy to the city or county of Honolulu or the state of Hawaii. The conferees agreed with the House provision (Sec. 8055).

However, the conferees agree that the Department of Defense should study the availability of excess land on Fort DeRussy and the possible civic (non-commercial) uses the property could support. The Department should report to the cognizant congressional committees by April 15, 1986, after which those committees are urged to take action on the sale of the property.

UNEMPLOYMENT COMPENSATION

The conferees agree to a general provision (Sec. 8057) that limits payments to the Department of Labor for unemployment compensation costs to $166,766,000, instead of the House limitation of $189,300,000 and the Senate limitation of $171,300,000.

DISTRICT HEATING

The conferees agree to the Senate provision on district heating (Sec. 8070). This provision provides an exception to allow the conversion or consolidation of heating facilities to district heating distribution systems at Bad Kissingen, Hessen, in the Federal Republic of Germany. The conferees reached the decision only with the understanding that the Department would immediately initiate the conversion of coal of steam plants in the CONUS, as discussed elsewhere in this report.

LOCAL HIRE

The conferees agree to the Senate general provision (Sec. 8078) with an amendment stating the provision should be in effect only in fiscal year 1986. Further, the conferees agree that on union contract jobs a worker released by the union should be considered a resident of Alaska.

CHAMPUS HOME HEALTH CARE

The conferees agree to the general provision (Sec. 8084) included in the House bill with clarifying language which stipulates this program will cover home health care when CHAMPUS determines it is more cost effective than care which would otherwise be covered by CHAMPUS in medical facilities.

The conferees want it to be clear the intent of the provision is to save funds by identifying the most cost effective means for health care coverage to be provided by the government. Further, the conferees agree this will be a two year test and should not be considered a permanent change in CHAMPUS benefits.

READY RESERVE TUITION ASSISTANCE

The conferees agree to the Senate provision (Sec. 8086) on tuition assistance for the Ready Reserve. The conferees agree that the purpose of this tuition assistance is to provide for part-time education and degree programs, and should not be used for full-time degree programs which are provided by the Veterans Administration through GI Bill benefits.

ARMY LANDS CONVEYANCE

The conferees agree to Senate bill language (Sec. 8092) which directs that a sanitary landfill site on Fort Richardson in Alaska be conveyed to the Municipality of Anchorage if the site is declared excess to the needs of the Army. The language agreed to by the conferees is intended only to ensure that the landfill site, if excessed, is conveyed to the Municipality of Anchorage as public interest land. It has no bearing on any dispute over the legal effect of other provisions of the public interest lands section of the North Anchorage Land Agreement (NALA)—including the allocation of subsurface revenues among various native corporations.

DEBRIS REMOVAL

The Senate included a general provision which allows the removal of unsafe and unsightly buildings and debris from sites formerly used by the Department of Defense. The House did not address this issue. The conferees agree to a general provision (Sec. 8096) that allows the removal of unsafe buildings or debris, provided that it is done before the property leaves federal government control, unless the property is owned by a state or local government or native corporations.

SALE OF ALCOHOLIC BEVERAGES

The conferees agree to the Senate provision (Sec. 8099) which requires the Department to procure alcoholic beverages from the states in which Defense installations are located.

DEPENDENT STUDENTS TRAVEL

The Senate included a general provision (Sec. 8101) which places a limitation on the amount of funds available for Dependent Student Travel, and also denies travel under this program in the continental United States. The House removed this provision from its bill. The Conferees agree to continue the limitation at $4,700,000, but have deleted the CONUS travel restrictions.

AVAILABILITY OF UNOBLIGATED BALANCES

The conferees agree to set aside prior year unobligated balances of appropriations and to designate them for known and anticipated requirements of the Department of Defense. Under prescribed procedures, these unobligated balances totaling $6,306,906,000 may be transferred by the Secretary of Defense to the major appropriation accounts and obligated only upon 15-day prior notification to the House and Senate Appropriations Committees only for the following purposes:

1. Payment of the October 1, 1985, military pay raise.

2. Payments to the military retirement trust fund as may be required, based on anticipated legislative changes, in excess of appropriations contained in the Military Personnel accounts.

3. Such obligations as may be authorized by Congress from the Mariner Fund program.

4. Obligations to supplement the Coastal Defense Augmentation account for which $235,000,000 is additionally appropriated elsewhere in the bill.

5. Additional obligations in support of conventional forces readiness in the military Operation and Maintenance accounts.

Section 8103 of the bill also provides that the availability of these unobligated balances is not extended beyond the time period specified when they were appropriated.

In notifying the Appropriations Committees of intent to transfer and obligate any prior year balances under this authority, the conferees instruct the Secretary to adhere to established reprogramming procedures. In this respect, full budget justifications should be submitted and, when required, additional time granted if needed by the Committees to permit adequate review and analysis and, if necessary, hearings on requirements and both programmatic and budgetary impacts.

The estimated costs of the October 1, 1985, military pay raise will be a clear requirement covered by the unobligated balances setaside. Estimated costs are $1,887,000,000, but the conferees will expect the Department of Defense to absorb as much of this cost as possible with the reduced budget resources available to it for fiscal year 1986—resources that will be reduced further under deficit reduction legislation just enacted by Congress.

The conferees recognize there may be substantial funding adjustments established by retirement reform legislation that may be enacted in the 99th Congress. Savings were anticipated by Congress in its passage of the fiscal year 1986 Defense Authorization Act based on proposals for these military retirement changes. That Act established ceilings on the military personnel accounts reflecting estimated cost savings, and funding in the accompanying Defense Appropriations Bill conforms to those limitations. It is not possible at this juncture to determine the cost effects of the eventual retirement reform legislation.

Accordingly, the conferees have included a provision as proposed by the Senate that requires a reduction in military personnel account obligations after May 1, 1985, to achieve a spending rate that will not exceed the obligation ceilings of the authorization act. Such reductions would require substantial personnel cuts in the absence of the anticipated legislation affecting retirement payment savings.

The conferees agree that none of the unobligated balances should be used in any manner to offset reductions applied to appropriations in compliance with the Balanced Budget and Emergency Deficit Reduction Act of 1985, and have included language in Section 8103 to accomplish that purpose.

The following table details the program sources of prior year unobligated balances:

Appropriation and Line Item	*Amount*
Aircraft Procurement, Army, 1985/1987:	
EH-60	$64,300,000
AH-1S	20,000,000
CH-47	17,500,000
GPS	16,100,000
Total	117,900,000
Missile Procurement, Army, 1984/1986:	
MLRS	10,100,000
Missile Procurement, Army, 1985/1987:	
MLRS	31,400,000
Prior Year Savings	25,000,000
Total	56,400,000
Procurement of Weapons and Tracked Combat Vehicles, 1984/1986:	
DIVAD	256,600,000
DIVAD DMPE	20,800,000
DIVAD Spares	2,100,000
DIVAD Adv. Proc.	4,400,000
M-1	52,600,000
Total	336,500,000
Procurement of Weapons and Tracked Combat Vehicles, 1985/1987:	
DIVAD Adv. Proc.	100,000,000
DIVAD Spares	46,500,000
DIVAD DMPE	36,000,000
M-1	25,300,000
SAW	12,900,000
BFV-ISU	21,700,000
M-88	2,800,000
M-60 PBS	8,600,000
Total	253,800,000
Procurement of Ammunition, Army, 1984/1986:	
Prior Year Inflation	30,000,000
DIVAD	400,000
Total	30,400,000
Procurement of Ammunition, Army, 1985/1987:	
DIVAD	37,700,000
Prior Year Inflation	48,000,000
120mm	28,100,000
Prior Year Savings	33,900,000
Total	147,700,000
Other Procurement, Army, 1984/1986:	
FAV	2,000,000
Prior Year Inflation	79,000,000
Total	81,000,000
Other Procurement, Army, 1985/1987:	
FAV	5,400,000
ADPE (CAMIS)	10,200,000
NAVSTAR GPS	7,300,000
M-9 ACE	12,400,000
Prior Year Inflation	95,000,000
Prior Year Savings	46,200,000
Total	176,500,000
Aircraft Procurement, Navy, 1984/1986:	
EA-6B	1,000,000
AV-8B	16,500,000
F/A-18	10,900,000
SH-2F	6,400,000
Mods	20,300,000
Aircraft Support Fac	1,500,000
Uncommitted	4,200,000
Total	60,800,000
Aircraft Procurement, Navy, 1985/1987:	
A-6E	4,700,000
EA-6B	4,200,000
AV-8B	139,200,000
F/A-18	176,200,000
CH-53E	6,500,000

	Amount
SH-60	49,300,000
E-2C	7,300,000
SH-2F	6,700,000
Mods	92,900,000
Aircraft Support Fac	3,500,000
Total	490,500,000
Weapons Procurement, Navy, 1985/1987: Prior Year Savings	15,000,000
Shipbuilding and Conversion, Navy, 1982/1986:	
SSN-688	66,300,000
CG-47	125,000,000
FFG	40,100,000
T-AO	19,000,000
Outfitting	3,800,000
Post Delivery	700,000
Escalation	136,700,000
Total	391,600,000
Shipbuilding and Conversion, Navy 1983/1987:	
Trident	134,900,000
Battleship	5,000,000
CVN	304,000,000
CG-47	163,200,000
FFG	20,100,000
T-AO	11,000,000
T-AH	5,800,000
Service Craft	3,900,000
Outfitting	5,600,000
Post Delivery	9,500,000
Escalation	28,300,000
Total	691,300,000
Shipbuilding and Conversion, Navy, 1984/1988:	
Trident	151,900,000
CG-47	94,600,000
LSD-41	6,000,000
LHD-1	37,900,000
T-AO	26,400,000
T-AH	2,200,000
T-AKR	12,600,000
Service Craft	44,000,000
Landing Craft	11,000,000
Post Delivery	12,000,000
Total	398,600,000
Shipbulding and Conversion, Navy, 1985/1989:	
Trident	133,400,000
CG-47	157,500,000
DDG-1	74,000,000
LSD-41	2,900,000
LPD SLEP	15,000,000
T-AO	53,100,000
T-AGOS	28,700,000
T-AGS	28,300,000
T-ACS	8,500,000
Post Delivery	6,400,000
Total	517,800,000
Other Procurement, Navy, 1984/1986:	
AN/SYS ( )	940,000
NAVSEA Tng Equip	71,000
Air Station Support	165,000
SATCOM Ship Terminals	3,294,000
Explosive Ord Disposal	1,320,000
Prior Year Inflation	70,000,000
Total	75,790,000
Other Procurement, Navy, 1985/1987:	
Other Propulsion Equip	391,000
Carrier Nav System	6,296,000
Sub Life Support	6,500,000
Diving/Salvage Equip	779,000
AN-SYS ( )	668,000
Sonar Switches	1,326,000
ASW Ops Center	200,000
Carrier ASW Module	398,000
ICAD Systems	8,159,000
NAVSTAR GPS	4,238,000
Air Station Spt Equip	831,000
TSEC/KY-71/72	15,538,000
Explosive Ord Disposal	369,000
Quickstrike	4,000,000
Prior Year Inflation	98,000,000
Prior Year Savings	53,000,000
Total	200,693,000
Procurement, Marine Corps, 1985/1987:	
PLOW	4,900,000
SAW	3,056,000
ULCS-LCS	11,761,000
Prior Year Savings	28,000,000
Total	47,717,000
Aircraft Procurement, Air Force, 1984/1986:	
B-1 Overtarget Res	100,000,000
Engine Costs	29,800,000
ALR-74	27,100,000
EPA Savings	14,500,000
DoD Revision	49,000,000
KC-10 EPA	6,000,000
C-130H	20,000,000
Total	246,400,000
Aircraft Procurement, Air Force, 1985/1987:	
B-1 Overtarget Res	200,000,000
F-15 DoD Revision	9,100,000
F-16 ASPJ	237,800,000
Engine Costs	30,000,000
ALR-74	34,100,000
EPA Savings	51,800,000
DoD Revision	53,000,000
KC-10 EPA	18,600,000
T-46 EPA	5,300,000
B-52 Mod DoD Rev	8,000,000
KC-135 Mod DoD Rev	36,400,000
Common Ground Equip	50,000,000
ALQ-131 ECM Pod	103,900,000
C-130H	18,000,000
C-131 Mod	8,000,000
Total	864,000,000
Missile Procurement, Air Force, 1984/1986: AMRAAM	29,400,000
Missile Procurement, Air Force, 1985/1987:	
Prior Year Savings	35,000,000
Reprogramming Denial	18,400,000
Total	53,400,000
Other Procurement, Air Force, 1984/1986:	
MARS Radar	8,127,000
Prior Year Inflation	86,000,000
Total	94,127,000
Other Procurement, Air Force, 1985/1987:	
30mm API	10,800,000
DEW Radar	30,758,000
MARS Radar	15,791,000
Prior Year Inflation	156,000,000
Prior Year Savings	40,000,000
Total	253,349,000
Procurement, Defense Agencies, 1984/1986: Prior Year Inflation	15,000,000
Procurement, Defense Agencies, 1985/1987: Prior Year Inflation	21,000,000
Research, Development, Test and Evaluation, Army, 1985/1986:	
Infantry Supt Wpns	5,400,000
Countermines & Barriers	1,130,000
Prior Year Savings	49,000,000
Prior Year Inflation	40,000,000
Reprogramming Denial	600,000
Total	96,130,000
Research, Development, Test and Evaluation, Navy, 1985/1986:	
Support Equipment	3,300,000
C/MH-53E	800,000
A/C Engines Comp Impr Pro	900,000
Prior Year Savings	123,000,000
Prior Year Inflation	60,000,000
Total	188,000,000
Research, Development, Test and Evaluation, Air Force, 1985/1986:	
F-4G Wild Weasel Squad	8,000,000
Prior Year Inflation	100,000,000
Prior Year Savings	156,000,000
Total	264,000,000
Research, Development, Test and Evaluation, Defense Agencies, 1985/1986:	
Prior Year Savings	51,000,000
Prior Year Inflation	31,000,000
Total	82,000,000

MARINER FUND

The conferees agree to designate within the set-aside for unobligated balances that $852,100,000 shall be available for a revolving Mariner Fund for the construction and lease of cargo vessels configured for the military sealift mission. No funds could be transferred to the Mariner Fund nor obligated for any purpose without enactment by Congress of legislation establishing the Mariner fund program. Further, no funds could be obligated without notice to the House and Senate Appropriations Committees and after a 60-day review period following that notification.

It is the conferees' intent that, in the event of enabling legislation, the Appropriations Committees will have ample time to conduct hearings and otherwise review and approve any obligations for ship construction under the Mariner Fund mechanism.

The conferees endorse the goal of establishing a modern sealift fleet, operating under revenue-producing charters and immediately available for military use in event of emergencies. However, full Congressional review at both the authorization and appropriations level is essential to assure the most cost-effective use of any funds made available to the Mariner Fund.

The concept of this build and charter program is patterned after President Eisenhower's Mariner program to construct ships for commercial operation which may be used for military sealift. This is a cost effective alternative to the construction of ships which are placed in an inactive status with the Ready Reserve Fleet. The Navy has been procuring used commercial vessels for retention in the inactive fleet, but the supply of militarily useful ships is dwindling. Although there is an excess of commercial tonnage on the world economy today, there is a severe shortage of vessels which are of the size, capacity and speed requirements for military sealift needs. Consequently, the Navy would be responsible for administering the Fund and selecting the types of vessels to be built under the Mariner Fund which maximize military utility while retaining commercial cost effectiveness features. Subsequent to the enactment of the authorizing legislation, but prior to obligation of funds, the Navy is required to provide a report to the Appropriations Committees on the types of vessels selected.

In addition to the $852,100,000 which may be made available, the authorizing legislation should identify the source of other revenues to maintain the program. Specifically, the legislation should provide for the lease of vessels constructed to the bidder of the highest competitive lease payment to the Fund. Similarly, construction contracts should be competitively awarded to the lowest bidder. In addition, such revenues as may accrue from repayment of construction differential subsidies should be permitted by the authorizing legislation to revert to the Mariner Fund. Consideration should also be given to the use of funds from the sale of such vessels constructed under the Mariner Fund, provided that the ships are at least five years old prior to sale.

After authorization is enacted, no funds shall be obligated until 60 days after notification to the House and Senate Appropriations Committees of the Navy's intent to incur contract obligations. The conferees direct that the following shipbuilding funds are not to be obligated without such approval. Although previously identified as a portion of the unobligated balances earlier in this statement, these funds are specifically earmarked for the Mariner Fund.

Shipbuilding and conversion, Navy

Fiscal Year 1983:	
Trident Submarine	$134,900,000
CVN Aircraft Carrier	304,000,000
CG-47 Cruiser	163,200,000
FFG-7 Frigate	20,100,000
Service Craft	4,000,000
Fiscal Year 1984: Trident Submarine	151,900,000
Fiscal Year 1985: DDG-51 Destroyer	74,000,000
Total	852,100,000

COASTAL DEFENSE AUGMENTATION

The conferees agree to designate $140,000,000 of the unobligated balances for the Coastal Defense Augmentation account, supplementing the $235,000,000 appropriated in that account. The total funding of $375,000,000 shall be applied as discussed in the Coastal Defense Augmentation section of the Statement of the Managers.

INTERPORT DIFFERENTIAL

The Senate continued the provision (Sec. 8104) first included in the fiscal year 1985 Supplemental which prohibits the Navy from considering charges for interport differentials as an evaluation factor for ship repair contract awards. The House did not include this provision. The conferees believe there is insufficient data available to determine whether the use of the differential is appropriate. The conferees direct the Department to initiate a test through fiscal year 1986 to determine the effects of the differential on competition and the cost of ship repair. To that end the conferees have agreed to apply the prohibition against use of the interport differential to the West coast only. This action will allow the Navy to compare results on the West coast, without the differential, against those of the East and Gulf coasts with the differential.

GUNTER AIR FORCE BASE PRINTING PRESS

The conferees agree with the Senate position and include a provision (Sec. 8105) prohibiting funding for the installation, maintenance and operation of the printing press recently purchased for the Guner Air Force Base. The conferees direct that the Air Force report to the House and Senate Appropriations Committees by February 1, 1986, on how it will dispose of the printing press.

COMMAND STRUCTURE

The conferees are concerned with recent decisions to reorganize headquarters commands without full congressional consultation prior to approval. This is especially disconcerting when it results in additional bureaucratic layers. However, the conferees agree to delete that portion of the Senate general provisions which restricts funding of the reorganized Atlantic Command because of the danger of disrupting operations of the Command. The conferees agree to prohibit the alteration of the present structure of U.S. military forces in Alaska as proposed by the Senate (Sec. 8107).

CONVERSION OF DOMESTIC MILITARY FACILITIES TO COAL-BURNING FACILITIES

The conferees agree to a new general provision (Sec. 8110) on the use of coal in the United States. Specifically, in order to fully promote greater reliance on domestic energy resources, the conferees direct the Department of Defense to implement immediately its proposal to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities. This is directed in order to achieve a coal consumption target of 1,600,000 short tons of coal per year above current consumption levels at DoD facilities in the United States by fiscal year 1994. Further, the conferees direct that anthracite or bituminous coal shall be the source of energy at such installations.

During the implementation of this proposal, the amount of anthracite coal purchased by the Department shall remain at least at the current annual purchase level, 302,000 short tons. In order to maintain this level, the Department shall begin immediate stockpiling within the continental United States, and it shall vigorously pursue those rehabilitation projects which can convert to anthracite coal usage.

The Conferees direct that $25,000,000 in the Army Industrial Fund shall be available to initiate this conversion proposal. Moreover, the Department shall have the authority to fund from within this amount any expenses incurred in the administrative support of this effort. The Conferees further direct the department to present a comprehensive plan for this coal conversion proposal and to include appropriate funding in future budget submissions.

TITAN II EXPENDABLE LAUNCH VEHICLES

The conferees agrees that the joint DOD-NASA determination of which Department of Defense payloads will be launched on Titan II expendable launch vehicles will be made and reported to the Congress within 180 days of enactment. (Sec. 8111)

PROCUREMENT REFORM

The House bill contained general provisions for procurement reforms in the areas of allowable costs, cost and price management ("should cost"), revolving door, and dual sourcing. The provisions were intended to expand upon and strengthen the legislation dealing with these issues that was passed by Congress in the fiscal year 1986 Department of Defense Authorization Act. The conferees agree with the goals of procurement reform legislation, which are to increase competition and lower the costs of defense acquisition. However, neither Committee conducted hearings on these issues during the year. While recognizing that there may be ways to improve the Authorization legislation as it was enacted this year, the conferees could not agree on specific approaches during the limited time that was available in the appropriations conference, except in the area of allowable costs.

The conferees agree with the Armed Services Committees that the Department of Defense needs to improve its management of allowable costs charged to defense contracts. The conferees further understand the Department's need for flexibility as it implements regulations to comply with the authorization legislation. The conferees have included bill language which strengthens the authorization legislation in two key areas. First, the conferees now require by law that the Department inform certain congressional committees on its definitions, exclusions, limitations, and qualifications pertaining to allowable costs prior to their publication in defense policy regulations. This allows the Congress to participate with the Department as it implements the new authorization legislation. Second, the conferees have directed the Comptroller General to actively evaluate on a recurring basis the effectiveness of the Department's policies in actually eliminating unallowable costs charged to defense contracts.

The conferees expect that the Defense Department, with Comptroller General participation, will be able to eliminate unfair and unallowable costs in defense procurements in the near term. The conferees strongly urge the Armed Services Committees at the earliest practical date to consider means for further strengthening the existing procurement reform legislation in the Authorization Act in light of the concerns addressed in the House passed appropriation bill.

The conferees stress that the acceptance of this legislative provision that had already been considered and dealt with in the normal authorization process shall not be considered a precedent. Appropriation bills should never be resorted to as a means of reconsidering matters that are the proper jurisdiction of other committees, particularly when such matters have already been acted on by those committees.

TITLE IX—COUNTER-TERRORISM CONTINGENCY FUND

In his Annual Report to the Congress, the Secretary of Defense stated that "the United States will continue to seek a more active defense against terrorist attacks throughout the world." The conferees fully support maintaining an active defense against terrorism and believe that counter-terrorism programs should be given a top priority since the terrorist threat is most likely one to be faced by the U.S. in the near term. Since the Secretary of Defense specifically requested that the $100,000,000 provided by the Senate not be appropriated, the conferees reluctantly agree to delete Title IX from the bill. However, in order to ensure that these critical programs are adquately financed, by March 31, 1986, the Secretary of Defense is directed to submit a report to the House and Senate Committees on Appropriations identifying what funds are included in the fiscal year 1987 budget request for contingency operations against the threat of or use of violence against United States personnel or property.

Amendment No. 5: Deletes Senate language which deleted sections 8097, 8098, 8099, and 8100 of the Department of Defense Appropriation Act, 1986 as passed the House on October 30, 1985 and section 8090 of the Act as reported to the Senate on November 6, 1985. These provisions pertain to the several procurement reform issues which were deleted from the Act.

DISTRICT OF COLUMBIA

Amendment No. 6: Changes subsection designation from "(d)" to "(c)" and provides that programs, projects, or activities provided for in the District of Columbia Appropriations Act for fiscal year 1986 (H.R. 3067) shall be available to the extent and in the manner provided for in the conference report and joint explanatory statement of the managers (H. Rept. 99-419), as filed in the House of Representatives on December 5, 1985, as if such Act had been enacted into law and provides that the appropriation for the Federal contribution to the District of Columbia for the "Criminal Justice Initiative" under Amendment No. 2 of H.R. 3067 shall be "$13,860,000" instead of "$14,010,000" as proposed by the Senate. The House bill provided for a rate of operations based on the House-passed bill.

APPROPRIATIONS FOR THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

Amendment No. 7: Section 101(e) of House Joint Resolution 465 provides appropriations for programs, projects and activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1986. The House version of the joint resolution provides appropriations for programs, projects, or activities at a rate for operations and to the extent and in the manner provided for in H.R. 3011 as passed the House of Representatives on July 31, 1985. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at a rate for operations and to the extent and in the manner provided for in H.R. 3011 as reported to the Senate on September 24, 1985.

The conference agreement on House Joint Resolution 465 incorporates some of the provisions of both the House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1986, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-205 and Senate Report 99-141 shall be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers. The Department of the Interior and Related Agencies Appropriations Act, 1986, put in place by this joint resolution, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Appropriates $398,566,000 instead of $378,556,000 as proposed by the House and $403,998,000 as proposed by the Senate.

The net decrease from the amount proposed by the Senate includes: decreases of $600,000 in oil and gas leasing; $220,000 in oil shale and tar sands leasing; $348,000 in withdrawal processing and review; $4,748,000 in wild horse and burro management; $841,000 in grazing management; $1,000,000 in noxious weed control; $300,000 to restore FTE's to the fiscal year 1985 level in wildlife habitat management; $350,000 for the automated land and mineral record system in Alaska; $500,000 for building maintenance and $500,000 for transportation maintenance; and increases of $100,000 in the amount reduced by the Senate to complete cost recovery regulations; $1,000,000 to provide better protection of rare cultural resources; $750,000 to protect designated wilderness areas as well as wilderness study areas; $925,000 for recreation management and $1,200,000 for the lower 48 states cadastral survey.

The managers agree that the desert land entry activity is to continue at the fiscal year 1985 level. The increase over the budget request for additional FTE's in wildlife habitat management is for priority wildlife management projects.

There is $330,000 within available funds to support the President's Commission on Americans Outdoors.

Within available funds there is $50,000 for the Barstow Way Station; $25,000 for the Calico Early Man Site and $100,000 for Soda Springs. There is also $925,000 within available funds to implement resource management plans for Steese NCA and the White Mountains NRA.

Bill language relating to the proposed Bureau of Land Management/Forest Service interchange has been moved to title III.

The managers agree that an increase of $500,000 is provided within available funds for hazardous waste control activities.

CONSTRUCTION AND ACCESS

Appropriates $1,403,000 for construction and access as proposed by the Senate instead of $1,203,000 as proposed by the House.

PAYMENTS IN LIEU OF TAXES

Appropriates $105,000,000 for Payments in Lieu of Taxes as proposed by the Senate instead of $102,900,000 as proposed by the House.

LAND ACQUISITION

Appropriates $2,300,000 for land acquisition instead of $2,800,000 as proposed by the House and nothing as proposed by the Senate. The amount made available includes $1,000,000 for the Steens Mountain Recreation Area, $300,000 for acquisition management, $500,000 for the King Range Conservation Area and $500,000 for wilderness inholdings.

OREGON AND CALIFORNIA GRANT LANDS

Appropriates $56,114,000 for the Oregon and California Grant Lands instead of $66,140,000 as proposed by the House and $54,443,000 as proposed by the Senate. The changes from the House amount include a decrease of $8,355,000 related to Forest Service activities which are included under the Forest Service and a decrease of $1,671,000 from the amount included by the House to maintain the 1985 program level in all activities. Included in the appropriation is $500,000 for anadromous fish initiatives and $150,000 for restoring recreation projects in Western Oregon.

RANGE IMPROVEMENTS

The managers agree to provide $10,000,000 as proposed by the Senate.

The managers have agreed to retain House bill language concerning grazing subleasing. New regulations have been promulgated and the managers want to ensure that they provide adequate control. To that end, the managers have agreed to ask the GAO to review subleasing and advise the Committees on the extent of the practice and the adequacy of the regulations.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

The managers have agreed to delete bill language proposed by the House regarding recovery of costs associated with preparation of environmental impact statements. The managers encourage the authorizing committees to review this matter and propose an appropriate resolution.

ADMINISTRATIVE PROVISIONS

The managers have agreed to bill language that will allow the Secretary of the Interior to resell timber within the Medford, Oregon BLM District, without further judicial review, that has been returned pursuant to the Federal Timber Contract Payment Modification Act if, as a result of administrative appeal or judicial review, there is a delay in the sale or award of timber, and only to the extent necessary to achieve sale of the allowable cut.

The language directs that the Secretary consider the environmental consequences of each sale and categorize each sale's environmental impact as minimal, moderate, or serious. Sales made pursuant to this section shall be made according to their relative environmental impacts. Once reoffered sales are defined and their degree of environmental impact assigned, they shall be available for public review for a period of 30 days before being reoffered.

The managers believe this is an appropriate resolution of last resort but want to emphasize the importance of resolving, at the local level, the many complicated and controversial issues involving competing and best use. Therefore, the BLM is directed to continue the consensus-building process it has pursued with local environmental and industry organizations. Specifically, the BLM should consider continuing the citizen participation committee, or other similar forum, by which management, planning and analysis information might be shared in order to lay a foundation for the next planning cycle. The Bureau shall report the results of its community participation efforts to the House and Senate Committees on Appropriations prior to their fiscal year 1987 budget hearings.

U.S. FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Appropriates $301,222,000 for resource management instead of $317,202,000 as proposed by the House and $303,522,000 as proposed by the Senate. The above amount includes decreases from the Senate of

$500,000 to expand public use programs on refuges, $1,500,000 from the accelerated refuge maintenance management program, $1,000,000 from hatchery maintenance, $250,000 for fishery management activities, $250,000 from operational and maintenance needs of the fishery research program, $750,000 for refuge operation and maintenance, $50,000 for law enforcement activities in the Caribbean, $50,000 for the CITES permitting process, $1,000,000 from administrative costs, $410,000 for endangered species recovery, and $110,000 from endangered species research; increases of $1,000,000 to study the relationship between avian disease outbreaks and environmental contaminants, $500,000 for Great Lakes Laboratory research as stated in the House report, $150,000 for additional staff at the Gainesville Research Laboratory, $70,000 for acid rain monitoring equipment at the Wellsboro National Fishery Research and Development Laboratory, $1,100,000 for a forensics laboratory, $500,000 for endangered species grants for the states, and $250,000 for endangered species listing.

The Wellsboro acid rain monitoring program is to be closely coordinated with those of other federal agencies such as the Forest Service. The managers agree that the Fish and Wildlife Service should submit to the House and Senate Committees on Appropriations its plans for the forensics laboratory prior to implementation so that the Committees may review the site plans and schedules.

Within the $6,926,000 provided for endangered species recovery there is $300,000 for the peregrine falcon, $50,000 for the grizzly bear, $150,000 for Hawaiian forest birds, $100,000 for the whooping crane, $20,000 for the California brown pelican and $200,000 for Upper Colorado River fish studies. The managers agree that within endangered species research there is $110,000 for the Puerto Rico aviary, $150,000 for black footed ferret research, $100,000 for whooping crane research, and $80,000 for Florida panther research.

The managers agree that the Fish and Wildlife Service should review the condition of the Nashua NH hatchery and make repairs as necessary. There is within available hatchery maintenance and operations funds $480,000 for Norfork NFH and $200,000 for Greers Ferry NFH. The managers agree that there is $120,000 within available funds for the Upper Colorado River Federal-State working group.

Although administrative savings cannot be accumulated to offset future year budget needs, the managers agree that the Fish and Wildlife Service should document its administrative savings and report to the Committees no later than May 15, 1986 its anticipated administrative savings for fiscal year 1986.

There is $330,000 with available funds to support the Presidential Commission on American Outdoors.

The managers agree that not less than $3,300,000 for high priority projects within the scope of the approved budget shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The funds provided for Great Lakes research are for research only and are not to be available for the Great Lakes Indian Treaty settlement.

The managers agree to provide no funding for the Animal Damage Control program. Instead, funds are provided to the Department of Agriculture. The managers anticipate that such a transfer will result in a more cost-effective program.

The managers agree with the Senate proposal for research on alternative non-toxic shot, including cost-sharing if feasible.

CONSTRUCTION AND ANADROMOUS FISH

Appropriates $21,296,000 instead of $18,209,000 as proposed by the House and $15,033,000 as proposed by the Senate. The net increase of $3,087,000 above the House position includes increases of $600,000 for construction at Cape Charles NWR, Va and $3,097,000 for high priority construction on Alaskan wildlife refuges; and a decrease of $610,000 for the Northeast Fishery Center laboratory.

Language is included to earmark $2,000,000 for Anadromous Fish Grants.

MIGRATORY BIRD CONSERVATION ACCOUNT

Appropriates $15,000,000 as an advance to this account instead of $10,000,000 as proposed by the House and $20,000,000 as proposed by the Senate. The Migratory Bird Conservation Commission (MBCC) should consider acquisitions in the Anderson-Tully, Cache, and White River areas.

LAND ACQUISITION

Appropriates $40,670,000 instead of $45,970,000 as proposed by the House and $32,570,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers.

Acquisition management	$1,600,000
American crocodile, FL	1,500,000
Bon Secour NWR, AL	1,000,000
Cape Charles NWR, VA	2,640,000
Coachella Valley/fringe-toed lizard, CA	5,000,000
Connecticut Coastal NWR, CN	1,030,000
Florida panther, Fakahatchee Strand NWR, FL	3,000,000
Great Swamp NWR, NJ	1,000,000
Hawaii forest birds, HI	6,000,000
Lower Rio Grande, TX	5,000,000
Lower Suwanee, FL	2,500,000
Minnesota Valley NWR, MN	2,000,000
Minnesota Elk Wildlife Refuge, WY	1,400,000
National Key Deer, FL	2,000,000
Steigerwald Lake Wetlands (Kerr Estate), OR	600,000
Willapa NWR, WA	3,400,000
Inholdings	1,000,000
Total	40,670,000

Language proposed by the House to make the land acquisition at Cape Charles NWR, VA subject to authorization is deleted. The managers request that the Fish and Wildlife Service provide the House and Senate Committees on Appropriations assurance that the wildlife resource values of proposed land acquisitions in Puerto Rico at Cartegena and Tortuguero Lagoons will not be impaired if the Service does not proceed with the acquisition. The managers agree that within funds available for acquisition management there is $100,000 to undertake a survey of the exterior boundary of the Tensas River NWR.

ADMINISTRATIVE PROVISIONS

The managers have agreed to delete House proposed bill language mandating repayment of funds advanced to or spent by the Fish and Wildlife Service for costs of the Fish and Wildlife Foundation.

The managers understand that the Foundation and the Service are establishing an agreement as to what the Foundation may do with funds advanced by the Service. The managers request that that agreement be submitted to the Committees with the fiscal year 1987 budget together with an evaluation of the legal requirement for the Foundation to repay all funds transferred to the Foundation, such as land acquisition funds that may pass through the Foundation.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Appropriates $627,763,000 for Operation of the National Park System instead of $628,996,000 as proposed by the House and $619,548,000 as proposed by the Senate.

The change from the Senate includes increases of $500,000 for the Student Conservation Association; $320,000 for Illinois and Michigan Canal Corridor; $260,000 for interpretation and visitor services for Lowell National Historic Park; $200,000 so that a new Park Police rookie class may be conducted; $290,000 for Route 209 maintenance; $4,626,000 for maintenance to restore the fiscal year 1985 level; $1,088,000 to add nine parks to those where air quality monitoring is being conducted; $150,000 for an airplane and pilot in Alaska; $11,000 for U.S. ICOMOS; $175,000 for Folger Theater; $175,000 for Corcoran Gallery; $175,000 for Phillips Gallery; $175,000 for Arena Stage; $175,000 for the National Building Museum; $175,000 for the National Capital Children's Museum and $450,000 for repairs and rehabilitation of William McKinley's tomb; and decreases of $80,000 for restoration of bighorn sheep at Yosemite NP; $400,000 for Yosemite NP, Mariposa Grove and building removal; and $250,000 for Grand Canyon NP trail maintenance.

The managers agree that within available funds there is $46,000 for Allegheny Portage NHS; $250,000 for trail maintenance at Grand Canyon NP; $400,000 for Yosemite NP for Mariposa Grove and for building removal; and $100,000 to remove non-salvageable structures at Delaware Water Gap.

There is $330,000 within available funds to support the Presidential Commission on Americans Outdoors.

The managers agree that improvements can be made in the allocation of cyclic maintenance and other funds appropriated to regional offices for distribution to various park units. The Park Service has acknowledged this in a letter to the Chairmen of the Interior and Related Agencies appropriations subcommittees. In part, the letter reads as follows:

I would like to take the opportunity to comment on language included in the Senate Report on the Department of the Interior and Related Agencies Appropriation Bill for fiscal 1986 relating to the Cyclic Maintenance Program of the National Park Service.

Specifically, the Committee expressed its view that the Service has used cyclic maintenance funds for work that is inconsistent with the criteria established for the program. In addition, the Committee concluded that part of this problem stemmed from management of the program by the Regional Offices. The Committee recommended that $40 million from Regionally managed programs be allocated to park base budgets.

These are serious concerns, and I have taken steps to determine to what extent they represent the exception rather than the rule. Our examination of the cyclic maintenance projects programmed in fiscal 1985 shows that the Service did redirect cyclic funds to construct several small maintenance structures in two parks, and in

other instances used funds for work which would be more appropriately categorized as repair and rehabilitation. Although this work was accomplished within available authorities and did represent high priority needs, I acknowledge that improvements are needed in the definition and management of the Cyclic Maintenance Program.

To this end, I am directing that several steps be taken by field managers. Currently, the budget formulation process for the Cyclic Maintenance Program varies from Region to Region. In the near future, we will update guidelines and instructions for developing and executing the Cyclic Maintenance Program that will ensure consistency among Regions. Project requirements, based on strict program criteria, will be projected over a 10-year cycle and form the basis for annual funding allocations. Execution of the program will be closely monitored and appropriate reports submitted to the Appropriations Committees. Finally, we will more clearly differentiate the amounts budgeted for those projects which are cyclic in nature and those projects which are intended to repair and rehabiliate structures. The fiscal 1987 budget will reflect these improvements.

The Committee will monitor the Service's progress in improving the distribution of funds to the individual units.

The managers agree to the addition of an airplane and pilot for Alaska with the understanding that they will not be used to interfere with legal subsistence users.

The managers agree to a continuation of the Youth Conservation Corps program from within available funds at a level of $3,300,000.

The managers agree within available park operating funds there are increases of $157,000 for Jean Lafitte NP; $150,000 for Saguaro NM; $600,000 for Glen Canyon NRA; and $150,000 for New River Gorge NR. Further, not to exceed $150,000 shall be available to study the feasibility of several management alternatives to protect and interpret resources near Almo, Idaho, and $150,000 shall be available for the completion of a historic structures report for the New River Gorge NR.

NATIONAL RECREATION AND PRESERVATION

Appropriates $11,096,000 instead of $11,467,000 as proposed by the House and $10,828,000 as proposed by the Senate. The managers agree that in addition to the amount proposed by the Senate there is $168,000 for the recreation programs and $100,000 for a national inventory of trails. The Park Service is encouraged to seek private sources of funds to assist in developing the national inventory of trails.

HISTORIC PRESERVATION FUND

The managers have agreed to provide $20,535,000 for state historic preservation grants and $4,410,000 for the National Trust for Historic Preservation.

VISITOR FACILITIES FUND

The managers have agreed to transfer the Visitor Facilities Fund amounts to the National Park Service, to be managed as part of the normal construction program. Despite the best efforts of all involved, the managers have concluded that the projects can be managed more effectively through the Service. The National Park Foundation is invited to continue to participate in the project selection process.

CONSTRUCTION

Appropriates $114,121,000 instead of $104,069,000 as proposed by the House and $86,220,000 as proposed by the Senate.

The managers agree on the following increases to the budget request:

Boston NHP, MA (Bldg. 28)	$1,333,000
Cuyahoga Valley NRA ($1,287,000):	
Erosion control	500,000
Everett road covered bridge	15,000
Coonrad ranger station and communications center	87,000
Everett village structures stabilization	235,000
Construction of three bridges	450,000
Delaware Water Gap NRA	1,700,000
Faneuil Hall, Boston NHP (planning)	600,000
Gateway NRA, NY—Great Kills seawall repairs and new bath house	5,100,000
Golden Gate NRA, CA—Phil Burton Memorial	750,000
Gulf Islands NS, FL—visitor center	2,800,000
Hot Springs NP, AR—Fordyce bath house	2,100,000
Johnstown Flood NM, PA—visitor center planning	429,000
Lowell NHS, MA—Boott Mill complex, bldg. No. 6	3,360,000
Lowell Historic Preservation Commission	3,168,000
Mammoth Cave NP, KY—(water project)	2,000,000
Voyageurs NP, MN—Kettle Falls Hotel, phase II, utilities for new units	1,065,000
William Howard Taft home, restoration	850,000
Yellowstone National Park—rehabilitation of visitor facilities	6,540,000
Grand Canyon, AZ, power system—North Rim	3,900,000
Apostle Islands NL, WI	458,000
Burr Trail Scenic Road—Glen Canyon NRA and Capitol Reef NP, UT	8,100,000
Kenai Fjords, AK, visitor facility and storage/maintenance facility	750,000
Sitka NP, Russian Bishop's House	742,000
Klondike Gold Rush NHP—buildings restoration	820,000
Federal Hall National Memorial, NY	1,000,000
Jean Lafitte NP, LA:	
Eunice cooperative unit—A&E	250,000
Chalmette and Barataria—Interpretive exhibits and A/V programs	561,000
Natchez Trace Parkway—Palmetto crossing ($1,180,000) and the Bay Springs area access ($300,000)	1,480,000
Buffalo National River	900,000
Fort Larned NHS, KS—Blockhouse reconstruction	262,000
Project planning	3,850,000
Advance planning	1,900,000
Visitor facilities fund	8,500,000

Within available planning funds there is $350,000 for Women's Rights NHP and $988,000 for Fort Union Trading Post in North Dakota. No funds are provided for the Arctic NP, AK. The funds for the Burr Trail are provided subject to authorization. The managers are confident that the authorizing committees will consider and resolve the authorization issue in a timely manner.

The Visitor Facility Fund projects provided for by transfer are as printed in the Senate Report.

The managers have agreed to continue development at Buffalo National River next year.

LAND ACQUISITION AND STATE ASSISTANCE

Appropriates $98,400,000 instead of $115,762,000 as proposed by the House and $75,400,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Assistance to States:	
Matching grants	$48,350,000
Administrative expenses	1,650,000
Total, assistance to States	50,000,000
National Park Service:	
Acquisition management	5,000,000
Appalachian Trail	7,000,000
Big Cypress NP	2,000,000
Big Thicket NP	2,000,000
Cuyahoga Valley NRA	4,500,000
Delaware Water Gap NRA	3,500,000
Golden Gate NRA (Marin County)	2,000,000
Lake Clark NPP, AK	1,500,000
New River Gorge NP, WV	300,000
North Cascades, WA	1,000,000
Olympic NP	1,000,000
Point Reyes NS	1,000,000
Salinas NM, NM	600,000
San Antonio Missions NHS	2,000,000
Santa Monica Mountains NRA	8,000,000
Sleeping Bears Dunes NL	1,500,000
Inholdings	3,000,000
Emergencies, hardships, deficiencies, and relocations	2,500,000
Subtotal NPS	48,400,000
Total, National Park Service	98,400,000

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Appropriates $4,800,000 for the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $4,529,000 as proposed by the House.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

Appropriates $75,000 for the Jefferson National Expansion Memorial Commission as proposed by the House instead of nothing as proposed by the Senate.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Appropriates $431,961,000 for surveys, investigations, and research instead of $428,098,000 as proposed by the House and $437,655,000 as proposed by the Senate. The decrease below the amount proposed by the Senate consists of increases of $500,000 for Geographic Information Systems (GIS); $600,000 for the geothermal program; and $2,500,000 for beginning a National water quality assessment; and decreases of $2,000,000 for SLAR; $1,500,000 for earthquake hazards investigations; $1,800,000 for mineral resource surveys in Alaska; $1,500,000 for study of erosion of coastal barriers in Louisiana; and $2,494,000 for research and technical development grants under the Water Resources Research Act of 1984.

The managers agree that $600,000 provided for mineral resource surveys in the

Steese and White Mountain areas of Alaska is to be used for State of Alaska assistance to the Geological Survey and that the Geological Survey will complete the studies within available funds and in time for the Bureau of Land Management to meet the 1988 deadline for land-use decisions for these areas.

The managers agree that the Survey is to proceed within available funds to prepare a new estimate of offshore oil and gas resources in cooperation with the Minerals Management Service.

The managers agree that $750,000 included for the core hydrologic program is for ground water research at the Oregon Graduate Center.

The managers agree to provide $2,500,000 to begin a National water quality assessment program with the understanding that the Survey, and the Department, will endeavor to redirect existing water programs, strengthen existing programs that support water quality assessment, and obtain significant funding from other Federal agencies with water quality interests and responsibilities so that incremental increased funding for this important program can be kept to the lowest possible levels.

Bill language is included establishing a special fund in the Treasury for replacement and expansion of telecommunications facilities, as proposed by the Senate.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

Appropriates $168,018,000 for leasing and royalty management instead of $165,118,000 as proposed by the House and $170,267,000 as proposed by the Senate. The decreases under the amount proposed by the Senate consist of $2,014,000 for geological and geophysical data acquisition and $235,000 for the Royalty Management Advisory Committee. The managers agree that if the Secretary of the Interior determines the need for an advisory committee it should be funded from within available resources. The managers expect MMS to be the lead agency and to cooperate fully with the Geological Survey in the estimating of offshore oil and gas resources. Further, the managers expect the MMS to use Geological Survey expertise to the maximum extent feasible on issues involving OCS research, including allowing the Survey to bid on proposed work. Available "in-house" expertise should be considered before outside contractors are used.

Bill language is also included which requires permittees to supply geological and geophysical data to the Secretary of the Interior as a condition of the permit. The managers have agreed to delete bill language proposed by the House requiring the deduction of the cost of production, collection and distribution of revenues from Federal onshore mineral leasing operations before they are distributed to the States.

No additional funds are provided for late interest payments to States as proposed by the House. The managers agree that within available funds the Minerals Management Service should pay the penalties for late payments to States and Indian allottees. If the new Minerals Management computer system and upgrades outlined in the reprogramming request in 1984 do not result in timely payments of royalties to States and Indian allottees, consideration will be given to a supplemental request for such funds. Due to this action the bill language providing the authority for late interest payments to States has been revised and is included under Leasing and Royalty Management.

Bill language is included under Administrative Provisions which prohibits the use of funds for leasing in the North Atlantic-Georges Bank planning area as proposed by the House.

The managers have agreed that negotiations should continue between the Secretary and members of the California delegation and members from the appropriate committees of jurisdiction. The managers hope that these negotiations provide the appropriate range of advice to the Secretary as he strives to seek consensus. The outgoing negotiations process must continue so this longstanding dispute can be resolved.

If after a reasonable period there is no agreement between the parties, Congress may reconsider this matter. During negotiations and for the balance of fiscal year 1986, the Department of the Interior may proceed with preliminary sales steps including a Call for Information, and Nominations for OCS lease sales in the Southern, Central and Northern California Planning Areas.

BUREAU OF MINES

Appropriates $134,255,000 for mines and minerals instead of $122,298,000 as proposed by the House and $131,445,000 as proposed by the Senate.

The change from the amount proposed by the Senate in health and safety technology consists of increases of $600,000 for respirable dust research resulting in a total increase of $2,200,000 over the budget request for respirable dust research to be conducted at Pennsylvania State University, West Virginia University, University of Minnesota, and the Massachusetts Institute of Technology ; $1,250,000 for work in ground control to accelerate mountain bump research and accelerate work in tomography; $1,000,000 for post-disaster research; $1,000,000 for industrial hazards for research in robotics; and $1,000,000 for methane control. The managers agree that within available funds $300,000 is to be used for a Coal Mine Injury Analysis Study at Pennsylvania State University.

In mining technology the change from the Senate recommendation consists of an increase of $1,000,000 for proof-of-concept validation and a decrease of $500,000 for research in in-situ leaching.

In minerals and materials the change from the Senate recommendation consists of decreases of $1,000,000 for research at the Idaho National Engineering Laboratory and $500,000 for additional minerals and materials research.

In minerals information and analysis the change from the Senate recommendation consists of decreases of $500,000 for the Alaska Field Operations Center; $500,000 for data analysis; and a $40,000 technical adjustment. The managers agree that within the funds available to the Alaska Field Operations Center, $185,000 will be used for field testing of a Bureau-developed polymer-screen-dewatering technique at placer mining sites in Alaska.

The managers agree that the Bureau of Mines should continue to fund the 31 Mineral Institutes. The $8,000,000 provided includes $4,650,000 to be divided equally among the 31 Mineral Institutes; $350,000 for administration and $3,000,000 for a competitive research program among the institutes. In respect to the competitive research program, it is the managers' expectation that there will be open competition among all 31 Mineral Institutes for these funds with the focus being on the highest priority research problems.

Language is included which earmarks $79,537,000 to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Appropriates $85,153,000 for regulation and technology instead of $85,538,000 as proposed by the House and $85,038,000 as proposed by the Senate. The change from the amount proposed by the Senate is for an increase of $115,000 for 2 additional FTE's, resulting in a total of 10 additional FTE's, to be used to assist States when their programs falter. Of the 10 FTE's, no more than 6 are to be stationed in Oklahoma to ensure a smooth transition for Federal primacy to State primacy. The remaining FTE's are to be divided between the Eastern and Western field centers. The managers expect OSM to utilize some of these individuals to conduct special studies and to notify the Congress on a quarterly basis on the location of the 10 FTE's and the tasks for which they are responsible.

The managers agree that in respect to the development of the applicant/violator computer system, OSM is to report to the appropriate Committees of the House and Senate on the milestones established for computer development and the progress made in meeting these milestones. OSM is to utilize the guidelines for computer development printed in the House report to the maximum extent feasible.

Bill language is included which prohibits OSM from using funds to finalize or implement any proposed rule or regulation which would require operators to reimburse the Interior Department for the cost of processing applications. The managers agree that study of this area is necessary and request that OSM report to Congress on its findings from the planning, development, and review of such rule or regulation.

ABANDONED MINE RECLAMATION FUND

Appropriates $207,385,000 for the Abandoned Mine Reclamation Fund instead of $233,585,000 as proposed by the House and $191,295,000 as proposed by the Senate. The change from the amount proposed by the Senate consists of increases of $10,000,000 for State Reclamation Program Grants; $6,000,000 for the Rural Abandoned Mine Program; $94,000 to restore the 5 percent pay reduction for General Administration; and a decrease of $4,000 for the undistributed reduction in the budget request.

The managers agree that within available funds in Federal Reclamation Projects $330,000 is to be used to maintain 40 FTE's in Wilkes-Barre, PA. The Office of Surface Mining is to focus attention on processes which have demonstrated possible long-term or permanent control of bacterial action and acid formation on lands to be reclaimed under the AML program. In this regard, OSM is to report to the Committees on its findings as they relate to the administration of these bacterial control processes.

The managers have deleted bill language which would have stipulated that no State would receive a reclamation grant if its prior year unobligated balances of the amount granted was not less than the amount of the grant obligated in the immediately preceding year. Due to the reduced amount for State Reclamation Grants, the managers agree that OSM should use State obligation rates as one of the criteria for determining the fiscal year 1986 grants to the States. OSM is to keep updated obligation

records of the States and report to the Committees on a quarterly basis on the progress made by States in obligating prior year unobligated balances. In order to accurately reflect State obligation rates, this report should contain information on date of request for such funds by the State and date of issuance of such funds by OSM. The managers agree that if the States can demonstrate a capability to use additional funds, the Committees will consider providing these funds in the next relevant appropriations bill.

Bill language is included which restricts the use of funds for a reclamation grant to any State if it does not agree to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement. This language is in no way contrary to the decision in *Save Our Cumberland Mountain Inc., et al. v. Hodel, et al.*, Civil Action No. 81-2134 (D.D.C.) (Parker, J.), or otherwise affects the substance and scope of action required under Section 510(c) of the Act of August 3, 1977. The bill also provides that the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation Fund grant to a State when it is inadequately enforcing the Surface Mining Act or its approved State regulatory program. States are provided the opportunity of entering into an agreement with the Office of Surface Mining to correct these deficiencies with the understanding that entering into such agreement is not an admission of culpability and the Secretary will not take action pursuant to section 521(b).

The bill does not include language which would require the Secretary's discretionary fund to be apportioned based on the Abandoned Mine Lands Inventory. The managers direct the Office of Surface Mining to submit an analysis of the merits of all allocation formulas which have been generally discussed to date or which it wishes to propose prior to hearings on the fiscal year 1987 OSM budget. During this review, OSM should consider a formula which would give priority to States that have good obligation rates.

Bureau of Indian Affairs

operation of indian programs

Appropriates $897,312,000 for operation of Indian programs instead of $857,303,000 as proposed by the House and $877,780,000 as proposed by the Senate. The changes from the amount proposed by the Senate include: increases of $400,000 for weighted student unit enhancement, $540,000 for school program expansions, $450,000 for institutionalized handicapped ($300,000 in education and $150,000 in social services), $500,000 for student transportation, $3,183,000 for Johnson-O'Malley educational assistance, $100,000 for special higher education, $100,000 for upgrading equipment at Southwestern Indian Polytechnic Institute, $122,000 for tribal courts, $500,000 for general assistance payments, $500,000 for training and technical assistance, $500,000 for Navajo and Hopi relocation, $236,000 for reforestation, $449,000 for forest inventories and plans, $400,000 for timber sales administration, $1,600,000 for high priority water resource studies (including $364,000 for the Flathead Tribe), an additional $390,000 for U.S.-Canada Pacific Salmon Treaty (for a total of $1,400,000), $347,000 for tribal hatchery operations, including $17,000 for the Mescalero hatchery, $48,000 for the Quinault NFH, $145,000 for the Klamath conservation program, $1,000,000 for Phase II mineral assessments, $100,000 for the Hopi Tribe's renegotiation of a coal lease, $1,340,000 for litigation support, $500,000 for Area Office facilities management staffing (to maintain the twenty positions proposed to be cut), $2,000,000 related to quarters rentals, and $247,000 for facilities operation and maintenance; and decreases of $746,000 for school board expenses, $100,000 for declining enrollment adjustment, $100,000 for education base adjustment, $500,000 for other social services, $400,000 for Choctaw land acquisition (transferred to the land acquisition account), $200,000 to the one-time grant to the Crownpoint Institute of Technology, $17,000 for the Mescalero hatchery, and $102,000 to management and administration.

With regard to the Klamath conservation program, the Bureau is directed to submit to the House and Senate Appropriations Committees within 30 days a report detailing what the required program is for the existing treaty rights program, not including the 700,000 acres of ceded land in dispute.

The managers agree the within available trust responsibility funds, $315,000 is to be used to conduct a survey of hazardous waste sites.

Bill and report language are included under the Office of Construction Management regarding the BIA facilities program.

Bill language is included providing that Johnson-O'Malley funds shall be used for supplementary educational services only. The managers expect the regulations to be revised accordingly, and the Bureau to report on any savings incurred as a result, after the initial year of operation under such revised regulations.

The managers expect the National Ironworker Training Program to be funded at $440,000, and the program to continue to be operated as it has in the past. The Alchesay/Williams Creek complex should be maintained at the 1985 level. The facilities management area office staffing is to be removed from the priority system.

The Bureau is directed to provide the amount required for tribal contractor employee pay raises from available funds.

The Bureau is requested to review the proposed distribution of school board expenses. The managers direct that other education funds shall not be used to pay school board legal fees. The Bureau should ensure that all school boards are aware of and abide by 18 U.S.C. 1913.

All contract support costs associated with pass-through funds from the Department of Education should be supported from Department of Education resources.

Once the Pinon, AZ public school expansion is completed, and assuming it then has adequate space for all local students, the managers agree that the Bureau shall operate the Pinon Boarding School only as a peripheral dormitory.

The managers agree that $500,000 of central office law enforcement funds shall be redistributed as directed in the Senate report. Within employment development, $1,238,200 is provided to continue the United States Educational Technical Center, and $100,000 for the United Sioux Tribes' employment assistance contract.

Within general administration funds, $270,000 is provided for the Congressional and Legislative Affairs office.

The managers disagree with the Bureau's directive grandfathering all contract support funds on an individual contract basis, and expect the Bureau and Inspector General's office to review these costs, determine new rates, recover overpayments from prior years, and carry out any other requirements with respect to contract support.

Bill language is included providing a cap on ADP expenditures. The managers repeat their direction, which evidently was not understood by the Bureau, that no other funds or "assessments" are to be made for ADPL expenditures.

Bill language is included mandating closure of the Snowflake dormitory in Arizona.

Bill language proposed by the Senate regarding a limitation on general assistance funds has not been included. However, the managers agree that this is not an entitlement program and the Bureau is directed to take every reasonable step to ensure that general assistance payments do not exceed the budgeted amount.

Bill language is included, as proposed by the Senate, providing $6,000,000 for obligation before January 18, 1986, for the emergency provision of hay in Montana, North Dakota, and South Dakota.

No further contract for law enforcement shall be made by the Bureau with the Navajo Tribe unless the tribe agrees to provide required law enforcement services on the new lands taken into trust for the Navajo Tribe under the Navajo and Hopi Indian Relocation Act.

construction

Appropriates $101,054,000 for construction instead of $45,195,000 as proposed by the House and $141,254,000 as proposed by the Senate. The net decrease below the Senate consists of increases of $400,000 for advance planning and design for the St. Francis School and $2,400,000 for land acquisition, and a decrease of $43,000,000 for housing associated with the Navajo and Hopi Indian Relocation program.

The managers have included bill language and report language under the Office of Construction Management with respect to reorganization of the Bureau's construction program.

For all new school construction projects, the managers direct that the Bureau provide cost estimates based on modular as well as conventional construction. The Bureau should expedite redesign of the Two Eagle River and Rocky Boys high schools, assuming at least partial use of modular facilities. The managers agree that a modular multipurpose room is provided for the Bullhead school from available facility improvement and repair funds. The Bureau shall submit a report to the Committees on Appropriations on the Oglala community school. Such report shall include a full discussion of the current facility, repairs made to date, the feasibility of further repairs to standard, and the disposition of the current facility should new construction be proposed rather than renovation.

Due to the late release of funds appropriated in fiscal year 1985 for continued construction of the Navajo Indian Irrigation project, the managers have not provided additional funds for this year. The managers remain committed to completion of this project and urge the Department to request funds in fiscal year 1987 so that the project may proceed without interruption. The managers agree with the statements in the Senate report with respect to the Milk River irrigation project and the Miner Flat Dam and Canyon Day irrigation project.

The allocation for housing includes the reduction in contract support proposed by the Senate. The managers agree that overhead costs directly associated with housing construction or repair are allowable charges to

the contract, but that other items allowed in general contract support are not permissible.

Language is included which provides $22,000,000 for use by the Secretary of the Interior to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission. This language ensures that a priority for the use of these funds is given to Navajo families who are actual, physical residents of the Hopi Partitioned Land. In addition, with respect to lands acquired pursuant to section 11(a) of the Act of December 22, 1974, the Secretary shall not be required to enter into contracts under section 102 of the Indian Self-Determination Act and the Secretary's authority under section 106 of said Act also shall apply. The language provides that the Secretary is not constrained in carrying out construction, lease approvals, or executions by the Commission's regulations. The managers expect that the Secretary will use the plans developed by the Commission for the new lands and work with the Commission to ensure swift execution of the development of the new lands. The bill language also states that any action under this proviso is not a major action with respect to the National Environmental Policy Act of 1969, as amended, in order to facilitate an orderly development of the new lands. Authority is provided for the Secretary to issue leases and rights-of-way for housing and related facilities to be constructed on the new lands only. Language has also been included in this Act requiring a report by February 15, 1986 from the Navajo and Hopi Indian Relocation Commission, with the review and comment of the Secretary of the Interior, on how the BIA construction monies will be spent in respect to lands acquired pursuant to section 11(a) of the Act of December 22, 1974. The requirement for this report will not delay relocation to the new lands because it is a document that the Commission has been developing for some time and the managers understand that it can be submitted within the time requirement.

The BIA shall ensure that the Blackfeet Housing Improvement Program, within its regular allocation, builds at least three houses this year and two next year for the victims of the 1974 flood.

With respect to the Covelo Indian Community land acquisition, bill language has been included requiring that the tribe obtain sufficient funds from non-Federal sources to meet the remainder of the cost before the Federal funds are committed. An amount of $400,000 is included for land acquisition for the Mississippi Band of Choctaw Indians.

ROAD CONSTRUCTION

Appropriates no funds as proposed by the Senate instead of $785,000 proposed by the House.

The managers have included bill language earmarking $3,200,000 of the funds available to the Navajo area under the Federal Lands Highway Program for use on the new lands.

The managers do not agree to reprogramming funds provided for construction of a road from AZ Route 264 toward Hard Rocks via Rocky Ridge. Neither do the managers agree to any use of the funds for other than the specified route.

ALASKA NATIVE ESCROW ACCOUNT

Appropriates $7,877,000 for the Alaska Native Escrow Account as proposed by the Senate instead of no funds as proposed by the House.

The managers expect that in accordance with the policy of making the Native corporations whole as proposed by the 1980 amendment to the Alaska Native Claims Settlement Act, the Department of the Interior will calculate interest on the principal owed under the amendment as if the principal had been invested in short-term public debt obligations of the United States in accordance with the established practices of the Bureau of Indian Affairs pursuant to the Act of June 24, 1938. The BIA approach includes the periodic addition of accrued interest to principal. The Secretary is directed to report on the progress toward resolving the interest issue by May 31, 1986.

REVOLVING FUND FOR LOANS

Permits the award of $1,470,000 for a loan to the Zuni Pueblo instead of no funds as proposed by the House and an unspecified amount as proposed by the Senate.

The managers agree that the Zuni Pueblo must be able to demonstrate to the satisfaction of the Secretary the ability to repay the loan prior to any loan approval.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

Appropriates $80,376,000 for administration of territories instead of $74,752,000 as proposed by the House and $80,366,000 as proposed by the Senate. The changes from the amount proposed by the Senate include an increase of $500,000 for hospital equipment for the Northern Marianas hospital, and a decrease of $490,000 for a grant to the Eastern Caribbean Center, College of the Virgin Islands.

Bill language is included directing the Secretary to release immediately the remaining fiscal year 1985 grant funds for the Eastern Caribbean Center, College of the Virgin Islands.

The managers agree that within technical assistance funds, up to $500,000 may be used for maintenance of the existing power plant in Palau. The $1,500,000 provided for the American Samoa administration building will be the final contribution from the Federal government for this purpose.

With regard to the loan to the Virgin Islands government for construction of the extension of the Alexander Hamilton airport runway on St. Croix, the managers expect the terms of the loan to be negotiated by the Department of the Interior and the government of the Virgin Islands. The managers do not expect to fund the entire cost of this project, and expect the government of the Virgin Islands to continue to seek other funding, including FAA funds.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Appropriates $80,372,000 instead of $107,972,000 as proposed by the House and $78,172,000 as proposed by the Senate.

The net increase from the amount proposed by the Senate includes: increases of an additional $300,000 for the College of Micronesia; $250,000 for Trust Territory general administration; $142,000 for prior service benefits; $408,000 for the Federated States of Micronesia operations; $3,000,000 for Phase I of the Palau hospital; $1,500,000 for the Bikini Atoll Rehabilitation Committee; $250,000 for design and planning of the base camp for the clean up of Bikini Atoll; and decreases of $250,000 for contract management, operation and training of the Palau hospital, $400,000 for the operation, maintenance, and purchase of a temporary generator for Palau, $2,500,000 for a prior service benefit trust fund, and $500,000 from the funds provided for the FSM power upgrade project. The managers agree that $250,000 for contract management, operation and training for the Palau hospital are included within available funds. The funds for maintenance of the existing powerplant in Palau shall be provided from technical assistance funds.

The total cost for the Palau hospital will be $10,000,000 with the remaining $5,000,000 for Phase II to be provided in subsequent appropriations Acts.

The managers remain committed to providing funds for capitol relocation for the Federated States of Micronesia, the Marshall Islands and Palau. The Federated States of Micronesia is ready to proceed with construction of its capitol and the managers expect budget requests for the capitols to be submitted pursuant to implementation of the Compact of Free Association.

The sum of $1,500,000 is provided for the Bikini Atoll Rehabilitation Committee. The managers expect the Committee to complete its work and make a final recommendation so cleanup plans can proceed. $250,000 is provided for the Secretary to contract for initial planning for a base camp on Eneu Island for the eventual cleanup of Bikini. No funds have been provided for the Enjebi Trust Fund or the Prior Service Benefit Trust Fund. The managers remain committed to the eventual resettlement of Enjebi Islands, and to providing for future costs of the prior service benefits program, and will address these items again when the Compact is implemented.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

Appropriates $43,411,000 instead of $40,856,000 as proposed by the House and $44,673,000 as proposed by the Senate.

The managers have agreed to the following distribution of funds:

Secretary's office	$1,435,000
Executive Secretary	211,000
Congressional and Legislative Affairs	1,100,000
Equal opportunity	1,300,000
Public Affairs	700,000
Small and Disadvantaged Business Utilization	400,000
A/S Water and Science	750,000
A/S Lands and Minerals	790,000
A/S Fish and Wildlife and Parks	771,000
A/S Indian Affairs	743,000
A/S Territorial and International Affairs	551,000
A/S Policy, Budget and Administration	795,000
Environmental Project Review	1,500,000
Acquisition and property management	1,350,000
Office of Personnel	1,620,000
Administrative Services	3,250,000
Information resources management	4,700,000
Policy analysis	2,300,000
Office of Budget	1,525,000
Financial management	1,020,000
Hearings and Appeals	5,800,000
Aircraft Services	1,900,000
Central Services	8,900,000
Total	43,411,000

Bill language is included to permit up to $300,000 to be used to pay or repay the costs of development of alternative winter stock water supplies by water users who have been deprived of winter stock water from the main channel of Willow Creek, Idaho.

The managers are concerned about the billing practices of the Office of the Secre-

tary for central administrative services provided to small independent agencies. The managers agree these charges must reflect actual cost of the services provided, and not be arbitrarily established.

OFFICE OF THE SOLICITOR

Appropriates $20,378,000 for the Office of Solicitor as proposed by the Senate instead of $20,266,000 as proposed by the House.

OFFICE OF THE INSPECTOR GENERAL

Appropriates $16,214,000 instead of $15,117,000 as proposed by the House and $16,908,000 as proposed by the Senate.

CONSTRUCTION MANAGEMENT

Appropriates $780,000 for the Office of Construction Management instead of $87,890,000 as proposed by the House and $660,000 as proposed by the Senate.

Bill language has been included directing the Secretary of the Interior to submit a new memorandum of agreement (MOA) between the Bureau of Indian Affairs (BIA) and the Office of Construction Management (OCM) to the House and Senate Appropriations Subcommittees on Interior for their approval. The MOA should state that OCM shall have complete control over the BIA facilities management and construction programs, as specified in the 1978 memorandum of agreement between OCM and BIA. This control shall include approval over the apportionment and allocation of funds and FTE's for the BIA facilities programs, including the Albuquerque and Area office staffs as well as facilities operations and maintenance and facilities improvement and repair programs. The MOA shall also state that OCM shall have the primary responsibility for planning and directing the necessary reorganization of the BIA facilities programs to permit implementation of management improvements developed to date. Along with the MOA, the Secretary shall submit for the Subcommittees' approval a detailed plan for completing the facilities program reorganization, and for turning control of the program back to BIA, with specific dates for accomplishment of all goals. The Secretary shall also submit quarterly written status reports on implementation of the plan and the MOA to the Subcommittees, within ten calendar days of the end of each quarter. The MOA and plan shall be submitted to the Subcommittees no later than 60 days after enactment of this Act.

If the Secretary, BIA or OCM fail to meet any of these requirements, the Committees will take action at the earliest possible opportunity to eliminate funding for the appropriate Secretarial staff, BIA facilities staff and OCM staff, establish a new office to carry out the Committees' directives, and transfer all BIA facilities funding to that office until the Committees' directives are accomplished.

OFFICE OF THE SECRETARY

(SPECIAL FOREIGN CURRENCY PROGRAM)

Provides $1,000,000 for payment in foreign currencies for the U.S. Fish and Wildlife Service and the National Park Service as proposed by the Senate.

DEPARTMENT-WIDE PROVISIONS

Language proposed by the House prohibiting exchanges of National Park System or United States Fish and Wildlife Refuge System lands has been stricken.

The managers agree that the required consultation process regarding land exchanges in units of the National Wildlife Refuge and Park systems agreed to last year should be done in a satisfactory manner. It is the intent of the consultation requirement that the appropriate Committees have a meaningful opportunity to review and oversee land exchange proposals involving these two systems. Notification of the Committees at an early stage of a land exchange proposal is required to achieve this intent.

The managers have agreed to maintain the House proposed language relating to Mount McKinley. Section 112 is included to prevent final regulations concerning paleontological research on Federal lands until the Secretary has received a National Academy of Sciences report on regulations concerning paleontological research.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST RESEARCH

Appropriates $126,283,000 for forest research instead of $124,989,000 as proposed by the House and $125,420,000 as proposed by the Senate. The changes from the amount proposed by the House are: an increase of $2,840,000 for competitive grants; and decreases of $488,000 to renewable resource economics, $1,000,000 to acid rain research, and $58,000 to recreation research.

The managers agree the following specific amounts are included within the available funds: within trees and timber management, an additional $150,000 for the FIR project, $250,000 for the Institute of Tropical Forestry, Puerto Rico, $98,000 for Sewanee, TN, and $75,000 for Moscow, ID; within watershed management and rehabilitation, $250,000 for the Institute of Tropical Forestry, P.R.; within recreation research, a $100,000 increase for urban forestry; and within forest products and harvesting, $250,000 for tropical harvest and utilization research, Madison, WI. The managers also agree that within the amount provided for forest inventory and analysis, there is an increase of $209,000 for Anchorage, AK, and in the wildlife, range, and fish habitat research program, the range evaluation project is restored to $590,000; there is $75,000 for the Skagit River Bald Eagle Natural Area; and the anadromous fish research program at Juneau, AK will remain intact.

The Forest Service is directed to develop a program plan to shift funding from the FIR program when it is completed to the COPE program.

In the acid rain research program, the managers expect the Forest Service to ensure that high altitude, western and midwestern areas receive adequate attention.

The authority to administer the $6,840,000 Competitive Research Grants program included in this Appropriations Act for fiscal year 1986 shall be carried out by the Office of Competitive Grants which currently is part of the Office of Grants and Program Systems. The $6,840,000 for conducting this program will be available until expended. Forest Service employees are to be eligible to compete for these funds. There are over 60 forestry schools and all of the land grant universities in the United States that can also compete for these grants.

The Committee recommends that these grants be targeted to mission oriented basic research in the following areas: (1) improved harvesting, processing, and utilization of the timber resource, with special emphasis on the chemical, mechanical, and engineering properties of wood and wood materials; and (2) forestry biology including biotechnology. Funds are to be divided equally between these two areas.

STATE AND PRIVATE FORESTRY

Appropriates $57,986,000 instead of $56,193,000 as proposed by the House and $55,786,000 as proposed by the Senate. The increases over the amount proposed by the Senate are $2,000,000 for urban forestry, and $200,000 for the Gifford Pinchot Institute.

Within the total of $495,000 provided for the Gifford Pinchot Institute, the Forest Service is expected to accomplish $30,000 in required scheduled maintenance.

NATIONAL FOREST SYSTEM

Appropriates $1,054,629,000 for the National forest system instead of $1,035,433,000 as proposed by the House and $1,070,146,000 as proposed by the Senate. The changes from the amount proposed by the House are as follows: increases of $237,000 for minerals, $574,000 for real estate management, $3,165,000 for land line location, $4,948,000 for fire protection, $7,000,000 for cooperative law enforcement, $2,619,000 for road maintenance, $500,000 for trail maintenance, $21,053,000 for timber sales (including $250,000 for Helistat, $6,640,000 for pay, $21,000 for the Alaska Land Use Council, $9,275,000 for the Oregon and California lands, and $4,867,000 for timber sales preparation), $7,375,000 for reforestation, $5,803,000 for timber stand improvement, $348,000 for nurseries, $1,142,000 for recreation use, $1,807,000 for wildlife and fish habitat improvement, $1,648,000 for range management, and $6,000,000 for forest level information processing; and decreases of $1,041,000 to soil, water and air management, $4,018,000 to general administration, $10,000,000 pay adjustment, and $30,000,000 for reforestation trust fund offset.

Within available funds in the soil, water and air management program, $240,000 is included for a National Academy of Sciences study of Mono Lake in California, pursuant to the California Wilderness Act of 1984.

Within National Forest System funds, $330,000 is available to support the Presidential Commission on Americans Outdoors.

The Forest Service is directed to work with groups such as Ducks Unlimited, Rocky Mountain Bighorn Society, Martin Marietta Corp., Bass Anglers Sportsman Society, Trout Unlimited, the Sport Fishing Institute, State fish and wildlife agencies, other Federal agencies such as Bonneville Power Administration and others, to match the $950,000 increase to the habitat improvement program. The funds should be devoted primarily to projects improving habitat on the ground. The Forest Service should report to the Committees no later than June 1, 1986, on the resulting program.

Bill language proposed by the Senate is included, extending indefinitely the authority of the Secretary of Agriculture to spend money from the reforestation trust fund, and merging the fund with the National Forest System account.

The allowance provides funding for a timber sales program of 11.4 bbf, essentially a continuation of the actual sales offerings from fiscal year 1985. For example, region 6 sales will be at a level of 4.9 bbf of net merchantable sawtimber, of which 2.45 bbf will be derived from timber volume returned pursuant to the Federal Timber Contract Payment Modification Act (FTCPMA), and regions 1 and 4 will continue at the approximate 1985 levels. The managers have been able to reduce program costs by providing for a higher level of reoffered volume (3.2 bbf nationwide) than was assumed in the

budget and by providing for additional salvage volume. The remainder of the volume is to be distributed nationwide in a balanced manner by the Forest Service.

The managers direct the Forest Service to provide the Committees with detailed information for contracts returned under the FTCPMA, at least at the Forest level. The information should enable the Committees to assess the rate at which additional reoffer volume should continue and the related cost.

The managers agree that the Forest Service has until May 31, 1986, to complete its review of the minimum bid rate system and submit that to the Committees for review.

CONSTRUCTION

Appropriates $223,865,000 for construction instead of $183,785,000 as proposed by the House and $219,608,000 as proposed by the Senate. Changes from the amount proposed by the Senate include: increases of $2,740,000 for recreation facilities and $1,379,000 for recreation roads in the Clear Creek Recreation Area, AL, $561,000 for recreation facilities and $330,000 for recreation trails in the Mount St. Helens National Volcanic Monument, $600,000 for recreation facilities in the Mount Hood NF, OR, $3,427,000 for other high priority recreation facilities, and $3,270,000 for trail construction; and decreases of $350,000 for the Cradle of Forestry, NC, $100,000 for the Tonto NF, AZ sheep crossing bridge, and $7,600,000 related to the proposed timber sales program.

The amount provided for trail construction is for the highest priority projects and is not limited to foot trails only.

The three projects included in the budget in the Tongass NF, AK are included in the recommended amount.

Bill language is included providing that $9,915,000 for road construction in the Mount St. Helens National Volcanic Monument shall be derived from the Federal Highway Trust Fund.

The managers have provided Forest Service road construction and reconstruction funding to support the timber program level of 11.4, bbf sales offerings. The managers have been able to reduce the road budget by substituting additional reoffer volume for new sales volume and by directing the Forest Service to achieve a 5 percent reduction in the average cost per road mile as compared to fiscal year 1985. These anticipated savings are included in the managers' allowance.

LAND ACQUISITION

Appropriates $28,300,000 instead of $29,500,000 as proposed by the House and $18,025,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Acquisition management	$3,500,000
Forest Service acquisitions:	
Appalachian Trail	700,000
Columbia Gorge (Gifford Pinchot and Mount Hood NF)	1,200,000
Green Mountain NF, VT	6,700,000
Huron NF, MI-Au Sable River (Wakeley tract)	800,000
Lake Tahoe	3,000,000
Nantahala NF, NC	1,000,000
Sawtooth NRA, ID	2,000,000
Wayne NF	2,000,000
Wilderness inholdings	2,500,000
Endangered species habitat	1,000,000
Edwards Investments	3,900,000
Total	28,300,000

No funds are provided for "Weeks Act" acquisition in the Wayne NF. Within the amount available for wilderness inholdings, $350,000 is for the Strawberry Mountain Wilderness Area.

Bill language is included providing $3,900,000 in payment to Edwards Investments for its interest in a former railroad right-of-way, including all improvements thereon.

YOUTH CONSERVATION CORPS

Appropriates no funds for Youth Conservation Corps, as proposed by the Senate, instead of $10,000,000 as proposed by the House.

The managers have agreed to a $10,000,000 YCC program, to be provided from available funds in the Fish and Wildlife Service ($3,300,000), National Park Service ($3,300,000), and the Forest Service ($3,400,000).

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

Appropriates $782,000 for acquisition of lands, as proposed by the Senate, instead of $780,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

A provision limiting increases in recreational residence fees has been included, as proposed by the Senate. However, the managers understand the Forest Service and the permit holders are close to agreeing on a new fee system. The managers expect both sides to cooperate fully in reaching an early agreement, and based on this expectation, the managers agree that this language will not be carried in next year's Act. However, if an agreement is not reached by that time, the managers will address this issue in order to resolve it as quickly as possible.

Language is included, as proposed by the Senate, requiring the Chief of the Forest Service to sign personally certain documents relating to land transactions.

Language is included, as proposed by the Senate, providing authority for $24,000,000 to be provided for the timber sales program from the timber salvage sale fund.

Language is included, providing authority for the Forest Service to use $3,400,000 in funds available to it to carry out a Youth Conservation Corps program as if authorized by law.

Language is included giving the Secretary of Agriculture authority to transfer $1,500,000 from no-year funds available to him in this Act for emergency flood repairs in the Monongahela NF and the Parsons, WV, Forest Research Laboratory. The managers expect a supplemental request to be forthcoming to replenish the amount extended pursuant to this authority.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

(INCLUDING RESCISSION)

The managers agree to rescind all funds appropriated to the Energy Security Reserve except $400,000,000 for a clean coal technology program to be administered by the Secretary of Energy in the Department of Energy, and $10,000,000 for expenses incidental to the closing of the Synthetic Fuels Corporation (SFC). Of the $400,000,000, $100,000,000 will be immediately available, $150,000,000 will be available beginning on October 1, 1986, and $150,000,000 will be available beginning on October 1, 1987. The remaining funds in the "Clean Coal Technology Reserve" are reduced to $350,000,000.

With regard to the Synthetic Fuels Corporation, the managers agree to bill language that:

(1) rescinds all unobligated funds except those noted above for clean coal technology and SFC close-out costs, as of the date of enactment of this Act,

(2) the Board of Directors may not make any legally binding awards or commitments for financial assistance as of the date of enactment of this Act,

(3) the Directors must terminate their duties and be discharged within 60 days of enactment,

(4) the Corporation terminates within 60 days of enactment,

(5) within 60 days, the Secretary of the Treasury assumes the duties of Chairman,

(6) the Director of Office of Personnel Management shall determine compensation rights of each Director, officer, and employee by February 1, 1986,

(7) effective on enactment, no pay levels shall be above level IV of the Executive Schedule and no existing pension or termination benefits or personnel policies may be changed, and

(8) a final report is due to Congress within 60 days.

Language is also included as proposed by the Senate providing for a loan of up to $3,000,000 to an existing ethanol plant for odor abatement equipment. The facility has a current government loan guarantee under title II of the Energy Security Act, and funds would be provided from a loan guarantee reserve already available to the Secretary of Energy. The loan is for the purpose of protecting the government from a possible default payment of approximately $127 million if the plant cannot operate.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The managers have agreed to a $400,000,000 Clean Coal Technology program as described under the Department of the Treasury, Energy Security Reserve. Bill language is included which provides for the selection of projects no later than August 1, 1986. Within that period, a general request for proposals must be issued within 60 days and proposals must be submitted to the Department within 60 days after issuance of the general request for proposals. Language is also included allowing the Secretary of Energy to vest title in interests acquired under agreements in any entity, including the United States, and delineating cost-sharing requirements. Funds for these activities and projects are made available to the Clean Coal Technology program in the Energy Security program.

It is the intent of the managers that contributions in the form of facilities and equipment be considered only to the extent that they would be amortized, depreciated or expensed in normal business practice. Normal business practice shall be determined by the Secretary and is not necessarily the practice of any single proposer. Property which has been fully depreciated would not receive any cost-sharing value except to the extent that it has been in continuous use by the proposer during the calendar year immediately preceding the enactment of this Act. For this property, a fair use value for the life of the project may be assigned. Property offered as a cost-share by the proposer that is currently being depreciated would be limited in its cost-share value to the depreciation claimed during the life of the demonstration project. Furthermore, in determining normal business practice, the Secretary should not accept valuation for property sold, transferred, exchanged, or otherwise manipulated to acquire a new

basis for depreciation purposes or to establish a rental value in circumstances which would amount to a transaction for the mere purpose of participating in this program.

The managers agree that, with respect to cost-sharing, tax implications of proposals and tax advantages available to individual proposers should not be considered in determining the percentage of Federal cost-sharing. This is consistent with current and historical practices in Department of Energy procurements.

It is the intent of the managers that there be full and open competition and that the solicitation be open to all markets utilizing the entire coal resource base. However, projects should be limited to the use of United States mined coal as the feedstock and demonstration sites should be located within the United States.

The managers agree that no more than $1,500,000 shall be available in FY 1986 and $2,000,000 each year thereafter for contracting, travel, and ancillary costs of the program, and that manpower costs are to be funded under the fossil energy research and development program.

The managers direct the Department, after projects are selected, to provide a comprehensive report to the Congress on proposals received.

The managers also expect the request for proposals to be for the full $400,000,000 program, and not only for the first $100,000,000 available in fiscal year 1986.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

Appropriates $312,848,000 for fossil energy research and development instead of $299,534,000 as proposed by the House and $292,228,000 as proposed by the Senate. In addition to the new appropriations, $8,230,000 is transferred from fossil energy construction as proposed by the Senate instead of $12,760,000 as proposed by the House, and $2,010,000 is transferred from alternative fuels production as proposed by Senate instead of $2,137,000 as proposed by the House. The increase in the new appropriation amount above the Senate amount consists of increases of $1,500,000 for Carbondale Coal Technology Laboratory; $620,000 for Ames Laboratory (for a total of $1,240,000 for Ames); $1,000,000 for advanced combustors in advanced combustion technology; $11,000,000 for the 7.5 megawatt phosphoric acid fuel cell technology; $1,000,000 for solid oxide fuel cells; $9,000,000 for testing of gas clean-up systems at the Waltz Mill, PA, gasifier; $1,000,000 for eastern oil shale; and $6,000,000 for deletion of management initiative savings; and decreases of $3,000,000 for on-site fuel cell technology; $1,500,000 for turbine technology in heat engines; $3,000,000 for the ash agglomerating gasifier PDU; $2,000,000 for eastern Devonian shales gas recovery; and $1,000,000 for general plant construction projects.

The managers agree not to earmark additional funds from within available funds for Ames laboratory, the consortium for fossil fuel liquefaction, or for liquefaction by pyrolysis, as originally proposed by the Senate.

The managers agree that an addition $4,000,000 is to be provided from available funds for the University of North Dakota Energy Research Center (UNDERC) for a total funding levels of $6,165,000 and that none of these additional funds should be from coal preparation technology.

Further, the managers agree that new cooperative agreements for UNDERC and Western Research Institute (WRI) should be negotiated to extend through the end of fiscal year 1992 as proposed by the Senate at the levels indicated in the Senate report (Senate Report 99-141). These levels are in addition to any funds provided by the Department in competitive processes.

The managers agree that $2,000,000, in addition to currently unobligated fiscal year 1985 funds, should be provided for the 11 megawatt fuel cell program to continue inverter and stack technology work through the development of stack configuration "B". This funding is a continuation of existing efforts to develop the system and the Department should promptly modify the existing contract with International Fuel Cells (IFC) to include FY 1985 funds already appropriated and FY 1986 funds provided in this Act.

The managers agree that of the $3,000,000 added above the budget for the oil shale program, $2,000,000 is to augment the eastern oil shale technology base and $1,000,000 is for oil shale extraction research to be administered by the Idaho Operations Office. The Department, through the Morgantown Energy Technology Center, is directed, within available funds, to study and report to the Committees on the feasibility of establishing and operating a generic oil shale test facility.

Language is included in the bill deriving $200,000 of transferred funds from a wood pellet gasifier facility as proposed by the Senate.

Language is also included in the bill providing that funds made available for demonstration of the Kilngas coal gasification process be repaid up to double the amount appropriated. The Department should move promptly to provide funds necessary to continue the Kilngas project.

Bill language is included providing for implementation of the multiyear plan for magnetohydrodynamics (MHD) which includes cost-sharing by private industry. The managers agree that if the Department's multiyear plan is significantly delayed because of failure to provide adequate and timely funding at a level approximately the same as that in this Act, modifications will be made in cost-sharing requirements. The managers also agree that the costs of fabricating equipment to be tested in government-owned facilities and not intended to be installed as a permanent part of the facility are to be included in amounts that require cost-sharing and that the costs of installing and testing such equipment shall be costs of the government-owned facility and not subject to cost-sharing.

ENERGY CONSERVATION

Appropriates $449,418,000 for energy conservation instead of $468,326,000 as proposed by the House and $436,587,000 as proposed by the Senate. The increase above the amount proposed by the Senate consists of increases of $200,000 for windows and daylighting in building systems; $2,000,000 for the Urban Consortium; $500,000 for heat pumps in tehnology and consumer products; $900,000 for mercury isotope separation; $7,500,000 for a cost-shared steel industry initiative; $250,000 for nickel-cadmium battery research; $500,000 for the electric vehicle users group; $500,000 for territories energy projects; $750,000 for tribology research at Argonne National Laboratory; $10,319,000 for the basic industries research facility at Northwestern University; $4,000,000 for deletion of management initiative savings; and $3,639,000 to restore funding for employment floors; and decreases of $350,000 for the Rural Housing Act study; $250,000 for outside contractor support in waste energy reduction in industrial conservation; $8,000,000 for the Stirling engine; $630,000 for technology transfer in vehicle propulsion R&D; $100,000 for electric vehicle battery research; $250,000 for technology transfer in transportation systems utilization; $3,182,000 for State energy policy and conservation grants; $1,159,000 for the Energy Extension Service; $250,000 for program direction travel in State and local programs; $500,000 for biocatalysis; and $3,556,000 for increased use of prior year unobligated balances.

The managers have not agreed to include $8,000,000 proposed by the Senate for fiscal year 1987 requirements for the Stirling engine. That amount and $4,000,000 to come from private contributions would complete the project and the managers defer such funds without prejudice, to be reconsidered in the fiscal year 1987 budget process.

The managers agree that the increase of $1,500,000 over the budget for electric vehicle batteries should be for research on lead-acid, zinc-bromine, nickel-zinc, and iron-air battery concepts.

The managers also agree with the position stated in the House report (House Report 99-205) with regard to recognition of the Government's support for nickel-cadmium battery development in contracts using the technology.

The managers agree that $2,500,000 becoming available from the electric vehicle loan program and other unobligated electric vehicle research funds is to be used to develop an advanced vehicle propulsion system, the ETX-II.

Language is included in the bill specifying the amount for the basic industrial research facilities as proposed by the House.

Language is also included, as proposed by the House, providing that a weatherization "performance fund" not be implemented unless funding levels are at least 5 percent above fiscal year 1985 levels.

Bill language is included providing $7,500,000 in Federal funding for a steel initiative to develop new technologies which will increase the energy efficency of steel production processes will be cost-shared by the U.S. steel industry in cooperative R&D efforts, starting with 30 percent cash and/or in-kind contributions for Federal government obligations made in fiscal year 1986. This initiative should be modeled after, but not exclusively follow, the April 1985 Field Task Proposal prepared by the Argonne National Laboratory.

EMERGENCY PREPAREDNESS

Appropriates $6,044,000 for emergency preparedness instead of $6,754,000 as proposed by the Senate and $3,989,000 as proposed by the House. The decrease from the Senate proposal is $710,000. The managers agree that analysis of risks to energy supplies and meeting defense energy requirements are higher priority activities than general energy awareness activity.

STRATEGIC PETROLEUM RESERVE

Appropriates $113,043,000 for the Strategic Petroleum Reserve as proposed by the Senate instead of $199,017,000 as proposed by the House. The appropriated amount, is the net budget authority required based on a reestimate by the Department of requirements for continuing construction of storage capacity as directed by the fiscal year 1985 Supplemental appropriations Act (P.L. 99-88). Total funds expected to be required are summarized in the following table:

Fiscal year 1986 requirements

Planning	$4,552,000
Phase III construction	156,691,000
Non-phase specific construction	210,737,000
Program direction	11,747,000
Total	383,727,000
Less: carry-over funds available	270,684,000
New budget authority for FY 1986	113,043,000

The managers agree that carry-over funds may be used to support stated FY 1986 requirements instead of those areas for which they were originally provided.

Bill language proposed by the House specifying minimum required fill rates for the Reserve has been deleted.

SPR PETROLEUM ACCOUNT

Provides for no rescission of SPR petroleum funds as proposed by the House instead of $160,000,000 as proposed by the Senate. The Department of Energy has adequate funds available to fill the reserve to 500 million barrels. Bill language is included to authorize the Secretary of Energy, in cooperation with the Secretary of Agriculture, to barter surplus Commodity Credit Corporation commodities for crude oil.

ENERGY INFORMATION ADMINISTRATION

Appropriates $60,682,000 for the Energy Information Administration as proposed by the Senate instead of $60,782,000 as proposed by the House. The managers agree that within available funds $100,000 is to be available for the State energy data system/energy price and expenditure data system and $200,000 is to be available for State heating oil price and inventory grants.

ADMINISTRATIVE PROVISIONS

Language is included which deletes the reporting requirements for the completed Alternative Fuels Production program, as proposed by the Senate.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH RESOURCES ADMINISTRATION

INDIAN HEALTH SERVICES

Appropriates $823,133,000 for Indian health services instead of $836,483,000 as proposed by the House and $802,684,000 as proposed by the Senate.

The decrease below the amount proposed by the House consists of: $3,000,000 for mandatory cost increases, $500,000 for emergency medical services, $2,000,000 for indirect costs, $1,000,000 for alcoholism, $4,800,000 for contract care, $412,000 for sanitation, $372,000 for public health nursing, $116,000 for health education, $200,000 for urban health programs, $450,000 for tribal management, and $500,000 for program management.

The managers agree that $1,900,000 is provided for the model diabetes program and $100,000 is provided for fetal alcohol syndrome research at the University of Washington.

The increase of $3,000,000 included for tribal contract indirect costs is for all tribal contracts, existing as well as new.

INDIAN HEALTH FACILITIES

Appropriates $46,947,000 for Indian health facilities instead of $61,483,000 as proposed by the House and $35,888,000 as proposed by the Senate.

The net decrease below the amount proposed by the House consists of an increase of $650,000 for repairs at Ft. Defiance, AZ and decreases of $1,000,000 for sitework for the Pine Ridge, SD hospital, $1,740,000 for planning and design of the Shiprock, NM hospital, and $12,446,000 for construction of the Sacaton, AZ hospital.

Bill language has been included directing that the Rosebud, SD hospital be designed and built with a capacity of 35 beds. The managers believe that there is a need for a surgical suite at either Rosebud or Pine Ridge to provide improved health care in that area. The Indian Health Service shall submit a report to the House and Senate Committees on Appropriations with recommendations as to the better location for a surgical unit within 90 days of enactment of this Act.

The managers must again express their dissatisfication with the slow progress made by HHS, PHS, HRSA and IHS in moving ahead with construction projects for which funds have been provided. Initial planning funds were provided for the Sacaton, AZ hospital in fiscal year 1982 and the design for this project has yet to be completed despite continued funding and support from the Congress. IHS is directed to expedite this project and to notify the Committees on Appropriations as soon as the design is complete and the project is read for bid.

The managers have not provided funds for sitework at Pine Ridge, SD, and design of the major modernization of the Shiprock, NM hospital only because of delays in schedules and the need to complete other projects already under construction before proceeding with additional projects. However, the managers are committed to proceeding with these projects at the earliest possible opportunity.

At the request of the subcommittees, the Office of Technology Assessment conducted a limited survey of the methodology employed by the Indian Health Service to determine if surgical capacity should be provided in new and replacement facilities. The survey identified several shortcomings in the current IHS application of the planning procedure. The Indian Health Service shall submit a report to the Interior appropriations subcommittees detailing the present system and any proposed changes to the system by March 31, 1986. Further, IHS is directed to employ the methodology uniformly with respect to all hospital construction projects.

The managers agree that within the amount provided for sanitation, $5,000,000 is available for construction of water and sewer facilities on the new lands acquired pursuant to the Navajo and Hopi Indian Relocation Act.

The managers agree that the IHS shall report to the Committees any unobligated balances remaining available at the completion of a construction project before using such balances for other projects.

ADMINISTRATIVE PROVISIONS

Earmarks $180,000 of prior year funds to settle a claim against the Seattle Indian Health Board as proposed by the Senate instead of $270,000 plus interest as proposed by the House.

The managers agree that the bill language limitation on the initial leasing of facilities does not apply to newly recognized tribes who contract with IHS and who require facilities in which to begin a health delivery program. Such lease costs shall be paid from funds otherwise available for such contract.

DEPARTMENT OF EDUCATION

OFFICE OF SECONDARY AND ELEMENTARY EDUCATION

INDIAN EDUCATION

Apppropriates $67,476,000 for Indian Education instead of $67,656,000 as proposed by the House and $67,356,000 as proposed by the Senate.

Within this amount $14,820,000 is for parts B and C instead of $15,000,000 as proposed by the House and $14,700,000 as proposed by the Senate. The change from the amount proposed by the Senate is for an increase of $120,000 for part B for educational personnel development to provide additional training for student teachers and educational personnel.

The managers agree that administrative actions to remedy problems in the part C program must be taken.

Language is included to allow funding for section 423 of the part B program to remain available until September 30, 1987 as proposed by the Senate.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Appropriates $22,491,000 for salaries and expenses instead of $20,442,000 as proposed by the House and $22,241,000 as proposed by the Senate. The increase over the Senate recommendation is $250,000 for post-move counseling services.

Language is included which states that the Commission shall notify the Secretary of the Interior by January 1, 1986 of those eligible relocatees who as of November 30, 1985 were still physically domiciled on the Hopi Partitioned Land who had applied for relocation to the new lands as well as those who were physically domiciled on the lands partitioned to the Hopi Tribe who had not selected a site for relocation. The Commission shall designate these individuals for relocation to the lands selected in accordance with section 11(a) of the Act of December 22, 1974 after the Secretary has granted a homesite lease for the "new lands". Neither the Secretary of the Interior nor the Bureau of Indian Affairs shall grant homesite leases on behalf of relocatees onto the existing Navajo reservation. The bill also contains language prohibiting evictions of Navajo households which were physically domiciled on the lands partitioned to the Hopi Tribe as of November 30, 1985 until such time as a new or replacement dwelling is available for such household.

Approximately $48,000,000 will be available in fiscal year 1986 for the provision of housing and related facilities for relocatees. The reduction below the amount proposed by the Senate for the entire program does not reflect a desire to delay relocation, but is merely recognition of the fact that the full amount provided by the Senate could not be spent in a single year.

It is the managers' expectation that the Navajo and Hopi Tribal Chairmen will continue to meet and seek to negotiate a comprehensive settlement as suggested in the Clark/Morris report.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Appropriates $178,063,000 for salaries and expenses instead of $182,599,000 as proposed by the House and $176,218,000 as proposed by the Senate.

The net increase over the Senate consists of increases of: $165,000 to the National Museum of American Art for the Bicenten-

nial of the Constitution, $31,000 for asbestos removal at Silver Hill, $98,000 for storage and conservation for the National Portrait Gallery, $120,000 to the Archives of American Art for collections management and conservation, $360,000 for the inaugural exhibit of the Center for Asian Art, $250,000 for the Museum of African Art, $45,000 for the Conservation Analytic Laboratory, $350,000 for grants to the National Symphony Orchestra and the Washington Opera, and $676,000 for an inflation adjustment; and a decrease of $250,000 for Plant Services.

$777,000 is provided for the National Museum Act as proposed by the Senate rather than $793,000 as proposed by the House.

$175,000 each is earmarked for grants to the National Symphony Orchestra and the Washington Opera instead of $350,000 each as proposed by the House and no funds as proposed by the Senate.

Bill language is included, as proposed by the Senate, allowing the Secretary to support American overseas research centers.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

Appropriates $5,551,000 as proposed by the Senate instead of $4,851,000 as proposed by the House.

RESTORATION AND RENOVATION OF BUILDINGS

Appropriates $11,075,000 as proposed by the House instead of $12,375,000 as proposed by the Senate.

Bill language is included, as proposed by the Senate, restoring language carried in prior years providing for funds to remain available until expended, and providing that the Secretary may negotiate and award contracts on the basis of qualifications as well as price.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

Appropriates $33,754,000 for salaries and expenses, instead of $34,379,000 as proposed by the House and $33,934,000 as proposed by the Senate. The decrease from the amount proposed by the House includes $225,000 for conservation positions and related equipment, and $400,000 from operation and maintenance of buildings, for transfer to the repair, restoration and renovation account.

REPAIR, RESTORATION, AND RENOVATION OF BUILDINGS

Appropriates $3,300,000 instead of $2,900,000 as proposed by the House and $4,000,000 as proposed by the Senate.

Language is included, as proposed by the Senate, adding the words "grounds and facilities".

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Appropriates $3,392,000 for salaries and expenses instead of $2,902,000 as proposed by the Senate and $3,342,000 as proposed by the House. The increase over that amount proposed by the Senate is $490,000 for conference planning.

ENDOWMENT CHALLENGE FUND

Bill language is provided which establishes an endowment challenge fund for the Woodrow Wilson International Center for Scholars, to remain available until September 30, 1988. The managers agree to appropriate $1,000,000 for this endowment challenge with the stipulation that the Federal funds are to be matched on a 3:1 basis with new and increased sources of private support.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

Appropriates $137,260,000 as proposed by the House instead of $132,900,000 as proposed by the Senate. This includes $121,678,000 for program and state grants as proposed by the House instead of $116,900,000 as proposed by the Senate; and $15,582,000 for administrative programs as proposed by the House instead of $16,000,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Artists-in-Schools	5,341,000
Educational program	98,000
Dance	8,900,000
Design Arts	4,312,000
Expansion Arts	6,713,000
Folk Arts	3,000,000
Inter Arts	4,000,000
Literature	5,145,000
Media Arts	12,065,000
Museums	11,370,000
Music	12,310,000
Opera/Musical Theatre	4,267,000
Locals Test	2,200,000
Theatre	10,880,000
Visual Arts	6,272,000
Advancement	200,000
Subtotal, program grants	97,073,000
State Programs	24,605,000
Subtotal, grants	121,678,000
Administration area:	
Policy Planning and Research	980,000
Administration	14,602,000
Subtotal, administrative area	15,582,000
Total, grants and administration	137,260,000

The managers agree that the increase over fiscal year 1985 for the media program includes $2,000,000 for the purpose of television programming in the arts and the sum of $1,000,000 for programming on National Public Radio.

MATCHING GRANTS

Appropriates $29,400,000 as proposed by the House instead of $30,000,000 as proposed by the Senate. This includes $8,820,000 for Treasury funds and $20,508,000 for challenge grants.

ARTS AND ARTIFACTS INDEMNITY FUND

Appropriates $300,000 for the Arts and Artifacts Indemnity Fund as proposed by the Senate.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Appropriates $110,818,000 instead of $111,549,000 as proposed by the House and $108,978,000 as proposed by the Senate. This includes $96,618,000 for program and state grants instead of $98,429,000 as proposed by the House and $94,650,000 as proposed by the Senate; and $14,200,000 for administrative programs instead of $13,120,000 as proposed by the House and $14,328,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Media Grants	$8,918,000
Museums and Historical Organizations	8,820,000
Humanities programs for youth	750,000
Humanities programs for adults	1,900,000
Humanities projects in libraries	2,940,000
Education programs	16,500,000
Fellowships and seminars	15,077,000
Research grants	16,500,000
Subtotal, program grants	71,405,000
State programs	21,213,000
Office of Preservation	4,000,000
Subtotal, grants	96,618,000
Administrative area: Administration	14,200,000
Total, grants and administration	110,818,000

MATCHING GRANTS

Appropriates $28,660,000 instead of $27,929,000 as proposed by the House and $30,500,000 as proposed by the Senate. This includes $11,660,000 for Treasury funds and $17,000,000 for challenge grants.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Appropriates $2,000,000 for grants.

The managers have included bill language authorizing a grant program for artistic and cultural organizations of national repute which are located in the District of Columbia. For fiscal year 1986, the managers agree that the amounts provided to eligible organizations through the National Park Service and the Smithsonian Institution shall be counted against the $500,000 annual limit on grants contained in this section.

INSTITUTE OF MUSEUM SERVICES

Appropriates $21,523,000 for the Institute of Museum Services instead of $21,560,000 as proposed by the House and $15,870,000 as proposed by the Senate. The reduction below the amount proposed by the House consists of a decrease of $33,000 in administration and a decrease of $4,000 for the Museum Services board.

The managers agree that the Institute should clarify application packets with respect to the financial information which should accompany grant applications.

COMMISSION OF FINE ARTS

Appropriates $382,000 for salaries and expenses as proposed by the Senate instead of $377,000 as proposed by the House.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

The managers agree that the Council's administration of section 106 with principal reliance on consultation to accommodate historic preservation objectives with Federal project needs is sound and consistent with the intent of Congress underlying section 106. The managers further endorse the active role conferred upon the State Historic Preservation Officer in the consultation process.

NATIONAL CAPITAL PLANNING COMMISSION

Appropriates $2,712,000 for salaries and expenses instead of $2,721,000 as proposed by the House and $2,703,000 as proposed by the Senate. The increase of $9,000 from the amount proposed by the Senate is to restore funding for salaries and expenses reduced by the pay reduction proposed by the Administration.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Appropriates $2,329,000 for salaries and expenses as proposed by the Senate instead of $2,316,000 as proposed by the House.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Appropriates $2,125,000 for the Holocaust Memorial Council as proposed by the Senate instead of $2,119,000 as proposed by the House.

Language is included which provides the authority for the Chairman of the United States Holocaust Memorial Council to appoint persons who are not members of the Council to committees associated with the Council. If expenses are incurred by these designees they are to be paid out of the private funds of the Council.

Bill language is also included which clarifies that the Holocaust Memorial Council is an independent Federal establishment, in addition to amending 36 U.S.C. 1407 to make it clear that the Congress regards the funds donated to the Council for the construction of the Holocaust Memorial Museum as nonappropriated funds notwithstanding other provisions of law which treat such funds as trust funds permanently appropriated for Government purposes. The managers agree that it is important that the Council be free to invest the donations in interest-bearing securities so as to provide an adequate endowment for operation and maintenance needs once the Museum is constructed. The Council may expend its donations in accordance with its statutory purpose but without regard to procurement-related statutes and regulations or other restrictions or requirements applicable to the expenditure of appropriated funds.

So as to ensure sufficient congressional oversight over the Council's nonappropriated fund activities and expenditures, two new sections are added to the end of 36 U.S.C. 1408 requiring an annual report to the Congress on the use of the funds donated for museum construction, and authorizing the Comptroller General of the United States to audit the Council's financial transactions using donated funds by granting access to all Council records required to facilitate such audit.

TITLE III—GENERAL PROVISIONS

SEC. 307. Continues unchanged the existing prohibition on the use of funds to process or issue leases for coal, oil, gas, oil shale, phosphate, potassium, sulfur, gilsonite, or geothermal resources on wilderness lands and Forest Service RARE II further planning and Bureau of Land Management study areas rather than providing new language as proposed by the House.

SEC. 312. Provides no dear hunting on Loxahatchee NWR as proposed by the House.

The managers agree that the refuge will support the current deer population and that at this time there is no biological or ecological basis to support a deer hunt.

SEC. 314. Provides certain restrictions on the use of funds for the management or enhancement of grizzly bear habitat on National Park System or National Forest System lands.

SEC. 315. Provides a five year extension of the deadline for benefits to certain nonpreference employees of the Indian Health Service and the Bureau of Indian Affairs.

SEC. 316. Provides an indefinite waiver of the requirement for Alaskan utilities to provide environmental information when requesting exemptions under the Fuel Use Act.

SEC. 317. Provides that the Department of the Interior and the Forest Service, when contracting for private air services, must use FAA certified aircraft unless the Secretary determines such aircraft are not available.

SEC. 318. Provides that no funds available to the Department of the Interior or to the Forest Service may be used to implement a jurisdictional interchange program until enactment of authorizing legislation.

SEC. 319. Provides temporary exceptions for certain acreage limitations for leaseholders on Federal lands within the Gallatin and Flathead National Forests.

SEC. 320. Provides an extension of the date on which certain provisions of the Mineral Lands Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments, become effective. The managers agree that this is a one-time extension.

SEC. 321. Provides a requirement that the Navajo and Hopi Indian Relocation Commission submit a report to Congress by February 15, 1986, on plans for development of the new lands and requires review and comment on the plan by the Secretary of the Interior.

SEC. 322. Provides clarification that the current prohibition on geothermal leasing in the area of Yellowstone National Park is effective until action by Congress to the contrary.

SEC. 323. Provides for a coordinated program of health promotion and disease prevention in schools operated by the Bureau of Indian Affairs.

SEC. 324. Provides clarification in respect to donations utilized for the Holocaust Museum. This language requires an annual report to the Congress on the use of such funds and authorizes the Comptroller General of the United States to audit the Council's financial transactions involving donated funds.

A new section 325 is included which provides a 0.6 percent reduction for budget authority included in the bill for payments not required by law, and for amounts available for the Clean Coal Technology Program in the Energy Security Reserve. The reduction must be taken ratably for each program, activity, and project provided for in the Act.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION ACT

Amendment No. 8: Deletes language proposed by the House and Senate and inserts new language relating to the rate for operations for projects or activities provided for in the Department of Transportation and Related Agencies Appropriation Act, 1986.

The House version of H.J. Res. 465 provides appropriations for activities of the Department of Transportation and related agencies at a rate for operations and to the extent and in the manner provided for in H.R. 3244 as passed by the House of Representatives on September 12, 1985. The Senate version of the joint resolution provides appropriations for these activities at a rate for operations and to the extent and in the manner provided for in H.R. 3244 as passed by the Senate on October 23, 1985, amended to provide $1,752,000,000, including transfers, for Coast Guard, operating expenses and $2,714,400,000 for Federal Aviation Administration, operations. The conference agreement incorporates some of the provisions of both the House and Senate versions of the Joint Resolution and has the effect of enacting the Department of Transportation and Related Agencies Appropriation Act, 1986, into law. The conferees agree that the language and allocations set forth in House Reports 99-256 and 99-403 or Senate Reports 99-152 and 99-210 shall be complied with unless specifically addressed to the contrary in the statement of the managers.

The conferees agree that for the purpose of section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 (H.J. Res 372,) with respect to appropriations contained in the Department of Transportation and Related Agencies Appropriation Act, 1986 (H.R. 3244) the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. The conferees agree that this definition shall apply to all programs for which new budget (obligational) authority is provided, as well as to Discretionary grants, Urban Mass Transportation Administration and Interstate transfer grants-highways, Federal Highway Administration. In addition, the percentage reductions made pursuant to section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 to funds appropriated for Facilities and equipment, Federal Aviation Administration and for Acquisition, construction, and improvements, Coast Guard, shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference.

The conference agreement incorporates the provisions of H.R. 3244 in accordance with the following agreements:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Appropriates $51,300,000 together with $500,000 from prior year unobligated balances as proposed by the Senate instead of $50,500,000 together with $330,000 derived by transfer as proposed by the House. The conference agreement distributes these funds as follows:

	Allocation
Immediate Office of the Secretary	$980,000
Immediate Office of the Deputy Secretary	490,000
General Counsel	5,560,000
Policy and International Affairs	7,800,000
Budget and Programs	2,180,000
Governmental Affairs	2,600,000
Administration	20,930,000
Public Affairs	1,490,000
Executive Secretariat	780,000
Contract Appeals Board	400,000
Office of Civil Rights	1,300,000
Office of Commerical Space Transportation	500,000
Office of Small and Disadvantaged Business Utilization	[1] 4,400,000
Office of Essential Air Service	1,800,000
Regional Representatives	590,000

[1] Includes $500,000 in carryover funds.

Any deviation from the above allocation shall be requested through the normal reprogramming process.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Appropriates $3,500,000 instead of $3,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

PAYMENTS TO AIR CARRIERS

Appropriates $28,000,000 as proposed by the Senate instead of $36,000,000 as proposed by the House.

COAST GUARD

OPERATING EXPENSES

Appropriates $1,652,000,000 including $10,000,000 to be derived by transfer instead of $1,752,000,000 including $25,000,000 to be derived by transfer as proposed by the Senate and $1,785,200,000 including $23,000,000 to be derived by transfer as proposed by the House.

In addition, $100,000,000 has been made available by transfer from the Defense Appropriation Act, 1986, to be used in support of the Coast Guard's military readiness missions, and $15,000,000 has been appropriated to the Navy for the support of Coast Guard drug interdiction activities.

The conference agreement provides that $789,800,000 shall be available for compensation and benefits of military personnel instead of $786,800,000 as proposed by the House and $792,800,000 as proposed by the Senate.

The conference agreement delates position levels proposed by the Senate.

The conference agreement also provides that not less than $328,000,000 shall be available for drug enforcement activities as proposed by the Senate instead of $325,000,000 as proposed by the House.

The conferees direct the Coast Guard to construct a harbor office at Morro Bay, California, and to continue to operate the Great Lakes search and rescue facilities proposed for consolidation in the budget.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Appropriates $217,300,000 instead of $267,300,000 as proposed by the House instead of $276,300,000 as proposed by the Senate. The Coast Guard is directed to submit within 30 days after enactment a spending plan for all acquisition, construction, and improvements projects to be funded with fiscal year 1986 funds (including those funded in the Defense Appropriation Act). Such plan shall be formulated using the guidance provided in House Report 99-256 and Senate Reports 99-152 and 99-176.

The conferees also direct the Coast Guard to proceed with completion of Phase III of the Boston Shore Support Facility, for which $6,850,000 was appropriated in fiscal year 1985. Phase III shall include construction of office and related support facilities, as originally proposed to and approved by the Congress.

ALTERATION OF BRIDGES

Appropriates $5,200,000 as proposed by the Senate instead of $7,195,000 as proposed by the House. Funds provided in the conference agreement together with available unolbligated funds should be sufficient to provide for the fiscal year 1986 costs of altering the Willamette River Bridge in Portland, Oregon and the Trent River Railroad Bridge in New Bern, North Carolina.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Appropriates $21,000,000 as proposed by the Senate instead of $23,000,000 as proposed by the House.

BOAT SAFETY

Limits obligations for recreational boating safety assistance to $30,000,000 in fiscal year 1986 and provides a liquidating cash appropriation of $30,000,000 as proposed by the Senate instead of appropriating $13,625,000 as proposed by the House.

The conferees have approved a funding level of $30,000,000 for state recreational boating safety assistance programs, the authorized amount. The conferees have also continued a restriction on these funds so that no obligations may be incurred for the improvement of recreational boating facilities. However, the conferees note that acquiring, constructing, or repairing public access sites used primarily by recreational boaters, and establishing and maintaining facilities for and providing emergency search and rescue assistance, are specific purposes for which the states may use these funds pursuant to Public Law 92-75, as amended. The conferees expect the Coast Guard to promulgate complete and adequate guidelines so that the public access and search and rescue purposes of Public Law 92-75, as amended, may be fully implemented subject to the restriction noted above.

The conferees intend to fully review during the fiscal year 1987 hearings the use of recreational boating safety funds by the states, and will expect the Coast Guard to be prepared to discuss in detail the effectiveness of the Coast Guard's boating safety program.

The conference agreement deletes language proposed by the House exempting Coast Guard training travel expenses from section 2901(a)(1) of the Deficit Reduction Act of 1984.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

Provides transfer authority of up to two percent between the appropriations for Headquarters Administration and Operations as proposed by the Senate.

OPERATIONS

Appropriates $2,694,600,000 as proposed by the House instead of $2,714,400,000 as proposed by the Senate. The conferees direct the Federal Aviation Administration to submit a report to the House and Senate Committees on Appropriations within 15 days after enactment describing the adjustments to the fiscal year 1986 operations funding plan presented in its detailed budget justifications needed to meet the funding level provided in the conference agreement. Such report shall include dollar and position breakdowns by activity. In making this revised distribution, the conferees expect the FAA to use the House and Senate Committee reports as guidance and to include funding for an additional 300 aviation safety inspection positions above the original budget request. The additional inspection positions shall include additional support personnel as well as field inspectors. The conferees also assume that this funding level will support 14,306 air traffic control positions, the level reached in February 1985, plus an additional 500 positions announced by the Department on September 19, 1985. Any deviation from these staffing levels is to be reported promptly to the House and Senate Committees on Appropriations. The conferees expect the FAA to make special efforts to reach these staffing levels by July 31, 1986. The conferees also expect that any potential shortfalls in safey programs resulting from this distribution will be promptly reported to the House and Senate Committees on Appropriations.

The conferees object to restrictive Canadian policies toward aerial survey operations by U.S. affiliated companies in Canada. Canadian operators have established U.S. subsidiaries and obtained Federal Aviation Administration licenses that allow aerial survey aircraft to be used in the United States, and such subsidiary companies compete against U.S.-based corporations for United States government geological survey work. Although this side-looking airborne radar (SLAR) work is bid competitively by the geological survey, no reciprocity is practiced in Canada for U.S. firms.

The conferees expect the FAA to consider changes to 14 CFR Part 375 previously proposed by the Civil Aeronautics Board and published in the Federal Register of October 25, 1984, which would help assure reciprocity for foreign aircraft operating in U.S. airspace. Within 60 days after enactment of this Act the conferees expect the FAA to report to the House and Senate Committees on Appropriations on the status of the previously proposed rule changes and any plans to make other regulatory changes to assure reciprocity. The conferees urge the FAA to adopt rule changes that assure consideration of reciprocity or define foreign and U.S. ownership or control more precisely.

The conference agreement also provides that $446,000,000 of the amount provided for operations shall be derived from the Airport and Airway Trust Fund as proposed by the Senate instead of $548,000,000 as proposed by the House.

The conferees note with concern the two recent aircraft accidents involving air cargo planes at the Tri-State Airport serving West Virginia, Kentucky, and Ohio. One of those accidents involved the loss of life, and both occurred this year during the hours that the air traffic control tower was closed. It is the conferees' understanding that commercial flights carrying over 100 passengers arrive at this airport after the tower has been closed. In view of safety considerations, the Federal Aviation Administration is directed to operate this tower on a 24-hour basis.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $993,000,000 as proposed by the Senate instead of $1,044,000,000 as proposed by the House. The conference agreement includes the following amounts:

Air route traffic control centers	$231,720,600
Airport traffic control towers and terminal equipment	452,412,400
Flight service stations	−10,000,000
Air navigation facilities	158,079,300
Housing, utilities and miscellaneous facilities	174,871,700
Aircraft and related equipment	2,775,000
Development, test, and evaluation	10,141,000

The conferees expect the FAA to comply with the project distribution outlined in House Report 99-256 as modified by Senate Report 99-152. The conferees recognize that delays in some projects might necessitate adjustments to the above allocations and expect these adjustments, if required, to be accomplished through the normal repro-

gramming process. Within the amount provided for airport traffic control towers and terminal equipment, the conference agreement includes up to $40,000 to initiate design work for an air traffic control tower at Obyan, Saipan. In addition to the instrument landing systems identified in the House and Senate Committee reports, the conferees direct the FAA to install an instrument landing system for Runway 11 at Minneapolis-St. Paul International Airport.

The conferees continue to be concerned about both the adequacy and cost effectiveness of automated equipment for consolidated flight service station facilities. House Report 99-256 contains language requiring FAA to report on the relative cost, performance, availability, and eligibility for airport grant funds of commercial and government direct user access terminal (DUAT) systems. Until both the House and Senate Appropriations Committees have evaluated and approved FAA's reported DUAT comparison and selection process, the conferees direct that funding for development of the Model 2 automated flight service station be suspended.

In addition, Senate Report 99-152 required certification of Model 1 equipment and a revised facility consolidation plan to be submitted by December 1, 1985. Until the Committees have received and reviewed these reports, the conferees continue to disapprove fiscal year 1986 consolidations.

The conference agreement also provides that $10,000,000 shall be available to continue the airway science curriculum program as proposed by the Senate instead of $5,000,000 as proposed by the House. The conference agreement includes the following amounts:

University of North Dakota	$4,000,000
Florida Memorial College	3,000,000
Delta State University	2,300,000

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $190,000,000 together with $15,000,000 to be derived by transfer, instead of $190,000,000 as proposed by the House and $192,000,000 together with $15,000,000 to be derived by transfer as proposed by the Senate. The conference agreement provides that $3,036,412 shall be available for icing and related next generation weather radar atmospheric research to be conducted by the University of North Dakota, $2,000,000 shall be available for the Center for Research and Training in Information-based Aviation and Transportation Management at Barry University, and $2,000,000 shall be available for the Institute for Aviation Safety Research at Wichita State University.

The FAA should perform a thorough, objective, and well documented, benefit-cost analysis to support its Advanced Automation System (AAS) acquisition phase appropriation request. This analysis should include a clear definition of the objective of each element of the AAS program, an identification of all feasible ways of achieving each objective, and a detailed analysis of the costs and benefits expected from each alternative. The analysis should (1) be based on a sound and credible methodology, (2) use as a baseline for comparison an analytical evaluation of the level of effectiveness provided in the ATC system with Host and other pre-AAS enhancements, (3) identify all significant assumptions and models and include an analysis of the sensitivity of results to changes in significant assumptions or variables such as air traffic growth, and (4) be fully documented to facilitate an independent evaluation. FAA should also conduct a full assessment of the technical risks associated with its current acquisition strategy and with alternative strategies. This assessment should clearly identify the technical risks associated with the AAS and each subsystem (including all major software components) and the potential cost, schedule, and performance impacts associated with these risks. Finally, FAA should validate its AAS cost estimates with an independent cost analysis.

The conferees believe these studies are necessary to support this multi-billion dollar investment decision and allocate up to $4,000,000 of this appropriation for FAA to complete them. If additional funding is needed, a supplemental request will be considered. All of these studies should use inputs as necessary from the program office, but should be conducted independent of the program management.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to the specific projects identified in the House and Senate Committee reports, the conferees direct that priority consideration also be accorded to Mahlon Sweet Airport, Eugene, Oregon.

OPERATION AND MAINTENANCE,

METROPOLITAN WASHINGTON AIRPORTS

Appropriates $34,100,000 as proposed by the Senate instead of $35,400,000 as proposed by the House.

CONSTRUCTION,

METROPOLITAN WASHINGTON AIRPORTS

Appropriates $7,000,000 as proposed by the Senate instead of $12,000,000 as proposed by the House.

AIRCRAFT PURCHASE LOAN GURARANTEE PROGRAM

Limits the total amount that can be borrowed from the Secretary of the Treasury during fiscal year 1986 to pay off defaulted loans to $75,000,000 instead of $10,000,000 as proposed by the House and $125,000,000 as proposed by the Senate.

FEDERAL HIGHWAY ADMINISTRATION

(LIMITATION ON GENERAL OPERATING EXPENSES)

Limits operating expenses tc $203,761,000 as proposed by the Senate instead of $204,500,000 as proposed by the House.

Provides that $48,415,000 of the amount provided for general operating expenses shall remain available until expended as propsed by the Senate instead of $48,589,000 as proposed by the House.

The conference agreement inserts language providing that all unobligated amounts made available under this head in prior fiscal years for the establishment and implementation of a demonstration bonding program for economically and socially disadvantaged businesses shall remain available for such purposes until expended.

The conference agreement does not include the additional fiscal year 1986 funding for the minority business demonstration bonding program proposed by the House. Funds carried over from fiscal year 1985 should be adequate to implement this program in fiscal year 1986. The conferees remain fully supportive of this particular effort, and are concerned about the Department's lack of progress in implementing this program. Bonding capacity for disadvantaged firms has been and continues to be a major impediment to their full participation in contract opportunities. The conferees fully expect the fiscal year 1985 funds made available for this program to be obligated promptly for bonding and bonding assistance programs in Florida, New York, and Pennsylvania. The Department is directed to report to the House and Senate Committees on Appropriations by Feburay 15, 1986, regarding its progress in implementing this program and obligating these funds.

The conference agreement also includes bill language proposed by the House prohibiting the use of the funds in the bill to approve projects to construct a landfill in the Hudson River as part of the Interstate highway system.

RAILROAD-HIGHWAY CROSSING DEMONSTRATION PROJECTS

Appropriates $16,000,000 instead of $38,700,000 as proposed by the House. The Senate bill contained no funds for this program.

The conference agreement includes the following amounts:

Lincoln, Nebraska	$3,000,000
Pine Bluff, Arkansas	1,000,000
Augusta, Georgia	1,000,000
Carbondale, Illinois	3,000,000
Brownsville, Texas	2,500,000
Lafayette, Indiana	5,500,000

Includes language proposed by the Senate providing that the funds made available under this heading for Wheeling, West Virginia highway projects be available at full federal expense.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

Limits obligations for the federal-aid highways and highway safety construction programs to $12,750,000,000 as proposed by the Senate instead of $13,250,000,000 as proposed by the House.

The conference agreement includes the following allocations of interstate transfer-highways discretionary funds:

Arizona	$1,128,228
Colorado	25,500,000
Illinois	48,646,772
Indiana	2,500,000
Iowa	6,125,000
Maryland	31,600,000
Minnesota	8,000,000
Duluth	(6,000,000)
Minn.-St. Paul	(2,000,000)
New Jersey	10,000,000
New York	6,050,000
Ohio	16,500,000
Oregon	11,350,000
Pennsylvania	7,050,000
Virginia	6,800,000

The conferees are aware of the recent severe flooding that has caused extensive damage to roads and bridges in West Virginia, Virginia, and Pennsylvania. Initial reports indicated that 47 bridges have been destroyed in West Virginia alone and extensive road damage has occurred isolating many communities from essential food supplies, health care, employment centers and markets. Recognizing the urgent need for assistance, the conferees direct the Secretary to give priority consideration to those states for monies from the emergency relief fund for road and bridge repair and reconstruction. These funds are to be used only in those counties declared federal disaster areas.

In addition to those projects identified in the Senate Report 99-152 to receive priority consideration for discretionary bridge funding, the conferees direct that the Denver,

Colorado 23rd Street Viaduct project also receive the same consideration.

MOTOR CARRIER SAFETY

Appropriates $13,900,000 as proposed by the House instead of $13,902,000 as proposed by the Senate.

MOTOR CARRIER SAFETY GRANTS

Appropriates $17,000,000 instead of $14,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Appropriates $10,000,000 of which $5,000,000 shall be derived by transfer instead of $10,000,000 proposed by the Senate. The House bill contained no funds for this program.

BALTIMORE-WASHINGTON PARKWAY

Appropriates $3,000,000 instead of $6,500,000 as proposed by the House.

WASTE ISOLATION PILOT PROJECT ROADS

Appropriates $7,000,000 for the waste isolation pilot project roads in New Mexico instead of $16,260,000 proposed by the Senate. The House bill contained no funds for this program.

RAIL LINE CONSOLIDATION PROJECT

Provides $4,000,000 by transfer instead of $5,000,000 by transfer as proposed by the House.

AIRPORT-HIGHWAY DEMONSTRATION PROJECT

Provides $1,350,000 by transfer instead of $2,700,000 by transfer as proposed by the House.

EXPRESSWAY GAP CLOSING DEMONSTRATION PROJECT

Inserts language authorizing an expressway gap closing project and appropriates $9,000,000 for such project.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Appropriates $88,851,000, of which $5,000,000 shall be derived by transfer instead of $78,851,000 as proposed by the Senate and $89,365,000 as proposed by the House. The conference agreement includes the following distribution:

Rulemaking	$7,040,000
Enforcement	11,400,000
Highway safety	13,200,000
Research and analysis	48,261,000
General administration	6,600,000
Office of the administrator	2,350,000

Provides that $29,894,000 shall be derived from the Highway Trust Fund instead of $25,120,000 as proposed by the House and $25,455,000 as proposed by the Senate.

Provides that $36,296,000 shall remain available until expended instead of $36,624,000 as proposed by the Senate and $42,174,000 as proposed by the House.

Provides that $14,833,000 of the amount available until expended shall be derived from the Highway Trust Fund instead of $10,180,000 as proposed by the House and $13,729,000 as proposed by the Senate.

Inserts language proposed by the House requiring that $10,000,000 of the amount provided under this head be available only for the purpose of implementing the recommendations of the 1985 National Academy of Sciences report on trauma research.

Inserts language proposed by the Senate providing $500,000 by transfer for a national program to encourage the use of automobile passive restraints.

Deletes language proposed by the Senate prohibiting any manufacturer from earning credits for exceeding the corporate average fuel economy standard for any model year in which the Secretary has reduced the standard below that originally established by Congress, unless the manufacturer also exceeds the original standard.

FEDERAL RAILROAD ADMINISTRATION

RAILROAD SAFETY

Appropriates $27,764,000 as proposed by the Senate instead of $28,000,000 as proposed by the House.

The conference agreement includes the following amounts:

Federal enforcement	$22,564,000
(Positions)	(379)
Automated track inspection	100,000
Safety regulations/administration	3,600,000
(Positions)	(64)
State grants	1,500,000

In addition, the conferees expect an additional $1,000,000 in unobligated funds to be made available for state safety grants.

Provides that $1,500,000 shall remain available until expended as proposed by the Senate instead of $1,300,000 as proposed by the House.

RAILROAD RESEARCH AND DEVELOPMENT

Appropriates $10,600,000 instead of $10,384,000 as proposed by the Senate and $11,200,000 as proposed by the House.

The conference agreement includes $200,000 to support the development of cooperative efforts between the states, railroads, community groups, and other public service groups to reduce accidents at grade crossings, and up to $100,000 for research into corrosion and surge problems associated with tank car rupture disks that have recently experienced an increased incidence of uncontrolled release of hazardous materials.

The conference agreement also includes $320,000 for the Oregon Graduate Center's research into maintenance and repair of railroad-related components.

RAIL SERVICE ASSISTANCE

Appropriates $20,200,000 as proposed by the House instead of $20,200,000 as proposed by the Senate.

In addition to the Chaplene Tunnel project on the Wheeling Terminal Industrial line identified in the Senate Report to receive priority consideration for local rail service assistance, the conferees urge that priority consideration also be given to a railroad rehabilitation project in Massachusetts and Vermont.

CONRAIL LABOR PROTECTION

Deletes rescission of $8,000,000 proposed by the House.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Of the $12,500,000 provided in the bill for the northeast corridor improvement program, the conferees direct that such funds be allocated according to the distribution in House Report 99-256. The conferees expect Amtrak to submit a reprogramming request to the House and Senate Committees on Appropriations in accordance with standard procedures, if any revisions to this distribution are contemplated.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Provides a total of $616,000,000 for Amtrak operations, capital improvements, and labor protection costs as proposed by the Senate instead of $603,500,000 as proposed by the House.

The conference agreement also provides that, of the total amount available for Amtrak grants, $23,000,000 shall be derived by transfer as proposed by the Senate instead of $15,000,000 by transfer as proposed by the House. These funds are to be derived from the Conrail labor protection account. The conferees have made this recommendation in light of recent reports of the United States Railway Association concluding that "Conrail credibly and reasonably projects that it can weather future economic cycles even while paying 'normalized' expenses such as wage rates, state taxes, and job protection benefits". The United States Railway Association has also endorsed Conrail's five-year outlook that projects healthy net income for the years 1985 to 1989. Therefore to ensure an adequate and necessary employee protection plan, the conferees direct the Secretary to conduct discussions with Conrail's Board of Directors and management to make all necessary arrangements for Conrail to assume full financial responsibility for payments due its employees under sections 701 and 702 of the Regional Rail Reorganization Act of 1973, as amended. The Secretary shall report on the progress of such discussions to the House and Senate Committees on Appropriations no later than March 1, 1986.

Inserts language proposcd by the Senate providing $5,500,000 by transfer from unobligated balances of "Rail labor assistance".

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Limits new loan guarantee commitments under sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 to $4,000,000 during fiscal year 1986 as proposeed by the Senate. The Senate amendment also deletes House language providing that no new loan guarantee commitments shall be made during fiscal year 1986.

REDEEMABLE PREFERENCE SHARES

Authorizes the expenditure of $33,500,000 as proposed by the Senate instead of $35,500,000 as proposed by the House.

The conference agreement includes the following amounts:

Columbus and Greenville Railroad	$1,900,000
Gulf and Mississippi Railroad	8,000,000
Miami commuter rail	12,500,000
Ann Arbor Railroad	2,600,000
Bangor and Aroostook Railroad	3,000,000
Chicago North Western Railroad	5,500,000

An appropriation of $5,500,000 of section 505 funds is earmarked for the Chicago North Western Railroad only for use in upgrading of trackage in North Dakota and South Dakota. The most pressing need is for the lines between Pierre and Rapid City and Aberdeen in South Dakota to Oakes in North Dakota. Both lines have previously been subjects of abandonment proceedings but provide important service to local shippers and it is therefore in the public interest that rail service continue.

A significant amount of this trackage is in need of work in excess of typical maintenance, including tie renewal, relay rail, surfacing, and bridge rehabilitation. Such work would enhance safe operations and improve service to shippers. The major beneficiaries of this upgrading would be the agricultural communities of North Dakota and South Dakota.

The conferees expect that under this program the Secretary, after complying with the above listed allocations, will give priority consideration to a rail rehabilitation project in Massachusetts and Vermont. It is

also the intent of the conferees that priority consideration will be given to the additional needs of the Tri-County Commuter Rail project for a station connection with the Dade County metrorail for not to exceed $4,000,000, and for the Delaware-Otsego system for rehabilitation of a line between Warwick, New York and Butler, New Jersey. Furthermore, it is the intent of the conferees that Federal Highway Administration "maintenance of traffic" funding shall be available for the operation of the Tri-County commuter rail project.

Deletes the language proposed by the House providing that $5,500,000 shall be derived from unobligated balances of "Rail labor assistance".

Deletes the language proposed by the Senate providing that $17,000,000 shall be derived from unobligated balances of "Redeemable preference shares" as of September 30, 1985.

CONRAIL COMMUTER TRANSITION ASSISTANCE

Provides $5,000,000 by transfer instead of an appropriation of $10,000,000 as proposed by the House.

The conferees are aware of the unusual bridge repair funding needs of the Philadelphia-area commuter rail system that have been brought about by the federally-mandated transfer of ownership of Conrail commuter rail property. In addition to the $5,000,000 provided in the conference agreement to make such repairs, the conferees direct that UMTA make available to the Southeastern Pennsylvania Transportation Authority (SEPTA) an additional sum of $5,000,000 from Discretionary Grant program rail modernization funds for such commuter rail bridge repairs. The conferees expect these funds to be made available in addition to funds SEPTA could otherwise expect to receive from the rail modernization program based on its historical percentage share of program funds for the fiscal year 1981 to fiscal year 1985 period. In addition, to the maximum extent feasible, it is expected that minority businesses will be given every opportunity to perform the work resulting from this appropriation. However, the Department, in implementing such a plan, should not reduce its quality assurance criteria or lessen its standards of contract responsibility.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

Appropriates $30,000,000 as proposed by the Senate instead of $31,000,000 as proposed by the House.

Limits funding for the Office of the Administrator to $650,000 instead of $350,000 as proposed by the House. The conferees expect all salaries and expenses associated with the immediate offices of the administrator, deputy administrator, and executive director to be financed from this account.

The conferees agree that the extent of private sector involvement in the provision of public transit is best decided at the local level. The federal policy under the existing Urban Mass Transportation Act relating to the choice of service providers is one of neutrality. The conferees expect that explicit policy on privatization in the transit industry should be explored by Congress and decided only after appropriate rulemaking with the opportunity for public comment. While such rulemaking is underway, it is the conferees' view that conditioning the release, allocation, or level of federal transit grant funding on a showing by applicants of a certain level of involvement of private sector providers in the provision of mass transportation services is not consistent with the Urban Mass Transportation Act of 1964, as amended.

RESEARCH, TRAINING, AND HUMAN RESOURCES

Appropriates $17,400,000 as proposed by the Senate instead of $28,103,000 as proposed by the House.

The conference agreement includes $7,700,000 for the integrated transportation center, $250,000 for the Michigan state assistance model, and $2,500,000 to continue the existing cold weather transit technology program. The conferees direct the Department's Transportation Systems Center to evaluate the cold weather transit technology program and to report to the House and Senate Committee on Appropriations regarding the applicability of this technology to transit operations that are affected by severe cold weather.

FORMULA GRANTS

Appropriates $2,150,000,000 instead of $2,100,000,000 as proposed by the Senate and $2,210,000,000 as proposed by the House.

DISCRETIONARY GRANTS

Limits obligations to $1,045,000,000 instead of $1,010,000,000 as proposed by the House and $1,100,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Bus and bus facilities	$145,000,000
Rail modernization and extensions	430,000,000
New systems and new extensions	385,000,000
Portland	(8,950,000)
Seattle	(24,650,000)
Miami	(38,000,000)
Santa Clara	(65,000,000)
Atlanta	(69,000,000)
Los Angeles	(101,000,000)
Houston	(54,750,000)
St. Louis	(13,500,000)
Buffalo	(850,000)
San Diego	(9,300,000)
Planning	50,000,000
Elderly and handicapped	30,500,000
Innovative techniques and technology introduction	5,000,000

The conferees intend that the $850,000 included under new systems for Buffalo shall be used only for light rail construction on the Naval Park Station.

The conferees expect UMTA to be fully responsive to report language in the Senate Report 99-152 directing UMTA to credit certain funds beyond the local contribution, provided by local governments and downtown business towards the local match for additional federal monies on the Banfield project in Portland, Oregon.

LIQUIDATION OF CONTRACT AUTHORIZATION

Appropriates $775,000,000 as proposed by the Senate instead of $720,000,000 as proposed by the House.

INTERSTATE TRANSFER GRANTS-TRANSIT

Appropriates $218,750,000, of which $18,750,000 shall be derived by transfer, instead of $200,000,000 as proposed by the Senate and $237,500,000 as proposed by the House.

The conference agreement includes the following discretionary allocations:

Sacramento	$10,855,500
Chicago	67,187,779
Boston	11,875,000
Duluth	237,500
New Jersey	4,201,721
Cleveland	14,125,000
Indianapolis	892,500

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

WASHINGTON METRO

Appropriations $227,000,000 instead of $187,500,000 as proposed by the Senate and $237,500,000 as proposed by the House.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Limits administrative expenses to $1,916,000 instead of $1,890,000 as proposed by the House and $1,942,000 as proposed by the Senate.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

Appropriates $19,300,000 instead of $19,200,000 as proposed by the Senate and $19,400,000 as proposed by the House.

The conference agreement includes three positions for a new special hazardous materials enforcement team and four positions to continue the essential air service information program. The conferees direct the Secretary to submit a report to the House and Senate Committee on Appropriations by March 1, 1986, describing the Research and Special Programs Administration's implementation plan for the new special enforcement team.

The conference agreement also deletes language proposed by the Senate allowing the research and special programs appropriation to be credited for training fees received from non-federal entities.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

Appropriates $27,600,000 instead of $27,250,000 as proposed by the Senate and $27,950,000 as proposed by the House. The conference agreement provides funding for an additional 10 positions over the budget request to continue essential air service audits.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

Appropriates $1,975,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

Appropriates $22,300,000 instead of $22,200,000 as proposed by the Senate and $22,000,000 as proposed by the House.

Limits funds for official reception and representation expenses to $500 as proposed by the Senate instead of $300 as proposed by the House.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

Provides a total of $50,480,000 of which $2,300,000 shall be derived by transfer as proposed by the House instead of a total of $49,300,000 including $2,300,000 by transfer as proposed by the Senate.

The conference agreement includes the following amounts:

Chairman	$500,000

(Staff years)	(7)
Commissioners	1,825,000
(Staff years)	(27)
Satellite offices	1,050,000
(Staff years)	(22)
Secretary	3,100,000
(Staff years)	(85)
General Counsel	1,800,000
(Staff years)	(27)
Proceedings	8,600,000
(Staff years)	(150)
Hearings	570,000
(Staff years)	(8)
Special Counsel	525,000
(Staff years)	(7)
Transportation analysis	2,400,000
(Staff years)	(30)
Accounts	6,910,000
(Staff years)	(100)
Traffic	3,800,000
(Staff years)	(81)
Compliance and Consumer Affairs	14,400,000
(Staff years)	(257)
Managing Director	5,000,000
(Staff years)	(88)

The conferees expect the Interstate Commerce Commission to use normal reprogramming procedures should it propose to deviate in any way from the staffing allocations or by more than five percent from the funding allocations listed above.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

Limits funds for official reception and representation expenses of the Secretary to $1,000 instead of $5,000 as proposed by the House.

Appropriates $400,284,000 as proposed by the Senate instead of $401,284,000 as proposed by the House.

The conference agreement also deletes language proposed by the Senate requiring transfer of capital investment interest to the General fund.

CAPITAL OUTLAY

Provides for the purchase of 44 passenger motor vehicles as proposed by the Senate instead of 47 passenger motor vehicles as proposed by the House.

Appropriates $25,500,000 as proposed by the Senate instead of $26,500,000 as proposed by the House.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

Appropriates $33,500,000 as proposed by the Senate instead of $35,500,000 as proposed by the House.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

Appropriates $2,400,000 as proposed by the Senate instead of $2,100,000 as proposed by the House.

TITLE III—GENERAL PROVISIONS

Restores House language prohibiting the use of funds for the planning or implementation of any change in the current federal status of the Transportation Systems Center.

Prohibits funds for salaries and expenses of more than 138 political appointees in The Department of Transportation instead of 105 political appointees as proposed by the House.

Limits funds for the Department of Transportation for expenses of advisory committees to $1,700,000 instead of $1,000,000 as proposed by the House.

The conferees have deleted the statutory requirement for letters of intent for Seattle, Los Angeles and Miami. However, the conference agreement includes languages requiring the Secretary to commence negotiations with appropriate local authorities to execute full funding contracts for Seattle, Los Angeles and Miami based upon past-years' funding and the available fiscal year 1986 funding identified elsewhere in the statement of the managers. Future years' funding will be considered in subsequent appropriation Acts. Such contracts shall provide for completion of these projects according to the following distribution:

Total Federal funding

Project	*Amount*
Los Angeles, MOS 1	$429,000,000
Miami, DCM (north and south legs)	180,000,000
Seattle, bus tunnel	175,000,000

In directing the Secretary to enter into negotiations of full funding contracts, the conferees expect that at least the following conditions will be included in such contracts. Each contract shall provide for a stable and reliable financial plan, agreed upon by both parties. The financial plan required should also identify actions to be taken if revenue forecasts prove to be inadequate with reference to capital and operating costs.

In setting a limit in UMTA's financial participation in these projects, the conferees do not intend to include cost overruns in excess of agreed upon extraordinary costs under the full funding contracts. The contracts shall contain language to provide that such cost overruns will be paid for from non-federal sources of funds. Also, assurances should be provided for adequate bus operations to support each system and other transit needs.

The conferees fully expect the Secretary and the designated cities to reach agreement within the 90-day time limit. This deadline may only be extended upon agreement by both parties. If the deadline is not met, the conferees expect the parties to report to the House and Senate Committees on Appropriations on the reason for any delays and to continue reporting on the status of the negotiations at regular intervals until each contract is executed.

In the absence of good faith negotiations by either party, the conferees intend to revisit the necessity for further legislative action regarding full funding contracts for these three projects.

Restores House language requiring the Urban Mass Transportation Administration to enter into a contract with the Southern California Rapid Transit District to conduct a study of the potential methane gas risks relating to the proposed alignment of the Metro Rail Project beyond the Minimum Operable Segment, MOS-1. An environmental impact statement (EIS) must be prepared in accordance with the National Environmental Policy Act and UMTA procedures. In addition to the already completed EIS, the Southern California Rapid Transit District must assess the geological risks of the project and methods for mitigating them. Such assessment must be conducted according to the language outlined in the resolution.

Restores House language providing that tolls collected for motor vehicles on any bridge connecting the borough of Brooklyn, New York, and Staten Island, New York, shall only be collected for those vehicles exiting for such bridge in Staten Island.

Inserts language proposed by the Senate allowing the State of Wyoming to conduct a 2-year demonstration project to determine the effects on the Interstate system of trucks that exceed the 80,000 pounds gross vehicle weight limit.

The conferees expect that after the completion of the demonstration project, the State of Wyoming will transmit to the Secretary of Transportation any study which the State of Wyoming conducts regarding such demonstration project. Within 30 months after the date of enactment of the accompanying resolution, the Secretary of Transportation shall submit to the Congress an evaluation of such demonstration project. Such evaluation shall include an assessment of the safety performance of such vehicles, and the effects of such vehicles on the condition of the highways over which they were operated.

Inserts language proposed by the Senate exempting funds received by a recipient of funds under section 18 pursuant to a service agreement with a State or local social service agency or a private social service organization from the definition of the term "Federal funds or revenues".

Deletes language proposed by the Senate requiring the Secretary to release all funds made available for fiscal year 1986 and prior years for grants under the contract authority authorized by section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, within 90 days.

Inserts language proposed by the Senate categorizing the proposed Belle Vernon Bypass as an open-to-traffic segment rather than an essential gap and enabling Pennsylvania to transfer an amount equivalent to the cost to complete the segment from its Interstate construction apportionment to Interstate 4R.

Inserts language proposed by the Senate requiring the United States government to indemnify any person who publishes aeronautical charts or maps under certain circumstances.

The conference agreement requires the United States to enter into agreements to indemnify the publishers of aeronautical charts or maps who incur liability for accurately depicting defective or deficient flight procedures promulgated by the Federal Aviation Administration, except where the defect or deficiency is obvious.

This section is not intended to impose a general duty on the publishers to verify independently the accuracy or safety of Federal Aviation Administration flight procedures or airways, or to imply that the publishers have the means to do so, except where there are obvious defects or deficiencies in such flight procedures or airways. It is not the conferees' intention to impose an unreasonable burden on the publisher.

The conferees have agreed to the Senate language because of the unusual conditions involved in the publication of such charts. It is therefore the intention of the conferees that this indemnification provision is not to be treated as a precedent for any other situation involving potential federal tort liability.

Inserts language proposed by the Senate permitting New York State to obligate interstate construction funds apportioned during fiscal year 1986 for both interstate construction projects and interstate substitute highway projects.

The conference agreement also includes language prohibiting the use of certain mass transportation section 9 grant funds to cover cost overruns of the Detroit central automated transit (peoplemover) system.

Inserts language proposed by the Senate disapproving the proposed deferral (D86-21) of $223,600,000 in UMTA section 3 funds for new start projects in five cities which would be distributed as follows:

Los Angeles	$129,000,000
Miami	71,500,000
San Diego	11,300,000
Jacksonville	10,000,000

Inserts language proposed by the Senate extending the term of the current United States Railway Association Chairman from 1985 to 1987 and requiring that the Chairman not have any financial relationship with any freight railroad.

Inserts language proposed by the Senate authorizing a transfer of the authority of the Maine-New Hampshire interstate bridge authority to the States of Maine and New Hampshire.

Deletes language proposed by the Senate providing a 1.6 percent reduction in "each dollar amount contained in this Act which is provided for non-defense discretionary programs and activities", excluding Panama Canal appropriations, and a reduction in transit operating assistance to $856,000,000.

Includes language increasing the State limitation for receipt of federal-aid highway emergency relief funds from $30,000,000 to $55,000,000 for grants associated with disasters that occurred in calendar year 1985.

Inserts language requiring the Secretary of Transportation to issue in the Federal Register a notice of intent to prepare an environmental impact statement (EIS) for the construction of the north and south legs of the downtown component of Metrorail in Dade County, Florida. The conferees expect the EIS for the construction of the north and south legs of the downtown component of metrorail to consider appropriate alignment options and the cost-effectiveness of each leg. In addition the conferees reiterate the language contained in House Report 99-403.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

RATE FOR OPERATIONS

Amendment No. 9: Inserts language proposed by the Senate changing the rate for operations for the Departments of Labor, Health and Human Services and Education and Related Agencies to the rate provided in the conference report on H.R. 3424 as adopted by the House of Representatives on December 5, 1985. The House bill provided for the rate as filed in the House of Representatives on November 21, 1985.

DEFINITION OF PROGRAM AND PROJECT, AND ACTIVITY

Amendment No. 10: Inserts a provision which identifies the part of the statement of the managers entitled "Definition of Program, Project, and Activity as provided for by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985" as the report filed by the House and Senate Committees on Appropriations defining "program, project and activity" pursuant to section 252(a)(6)(D)(i)(II) of Public Law 99-177.

The House language, which was stricken by the Senate, provided for the Military Construction Appropriations Act, 1986, (H.R. 3327) at the rate specified in the conference report. The President signed H.R. 3327 into law on December 10, 1985. Therefore, the language specifying funding levels has been delated.

The following section provides the definition of "program, project, and activity" as provided for in the Balanced Budget Act and is arranged in appropriations bill order.

DEFINITION OF "PROGRAM, PROJECT, AND ACTIVITY" AS PROVIDED FOR BY PUBLIC LAW 99-177, THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

The balanced budget act provides that when funds provided in annual appropriations Acts are sequestered, it shall be done from each affected program, project, and activity as set forth in the most recently enacted applicable appropriations Acts and accompanying committee reports including joint resolutions providing continuing appropriations and accompanying reports for the program, project, or activity in question.

Since most appropriations Acts were already reported by the time the balanced budget legislation was considered, a special provision was included in Public Law 99-177 to allow the Appropriations Committees to define for fiscal year 1986 "programs, projects, and activities." The provision is as follows:

"The Committees on Appropriations of the House of Representatives and the Senate may, after consultation with each other, define the term program, project, and activity, and report to their respective Houses, with respect to matters within their jurisdiction, and the order issued by the President shall sequester funds in accordance with such definition."

The following report is submitted by the managers on behalf of the Committees on Appropriations to their respective Houses for the purposes of Sec. 252 (a)(1)(B)(i) and Sec. 252 (a)(6)(D)(i)(II) of Public Law 99-177:

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for departments and agencies under the jurisdiction of the Agriculture, Rural Development and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986 (H.R. 3037), the House and Senate Committee reports (H. Rept. 99-211 and S. Rept. 99-137), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-439).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to all items specified in the explanatory notes submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies, as modified by Congressional action, and in addition:

For the Agricultural Research Service the definition shall include specific research locations as identified in the explanatory notes and lines of research specifically identified in the reports of the House and Senate Appropriations Committees.

For the Soil Conservation Service the definition shall include individual flood prevention projects as identified in the explanatory notes and individual operational watershed projects as summarized in the notes.

For the Farmers Home Administration the definition shall include individual State, district and county offices.

For the Agricultural Stabilization and Conservation Service the definition shall include individual State and county offices.

DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES

During the fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, projects, and activity" for departments and agencies under the jurisdiction of the Commerce, Justice, State, the Judiciary and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1986 (P.L. 99-180), the House and Senate Committee reports (H. Rept. 99-197 and S. Rept. 99-150), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-414).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to each program, project, activity and subactivity specific in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies, as modified by Congressional action. In addition, the departments and agencies in implementing the Presidential order, shall not (1) eliminate any program, project or activity; (2) reorder priorities or funds; or (3) initiate any program, project or activity that was not funded in P.L. 99-180. However, for purposes of program extention these departments and agencies may propose reprogrammings between programs, projects, and activities pursuant to the provisions of P.L. 99-180 after they implement the reductions required under the Balanced Budget Act.

DEPARTMENT OF DEFENSE

For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for appropriations contained in the Department of Defense Appropriations Act. The term "program, project, and activity" shall include the most specific level of budget items identified in the Department of Defense Appropriations Act, 1986 (H.R. 3629), as passed the House on October 30, 1985 and as reported by the Senate on November 6, 1985, the House and Senate Appropriations Committee reports (H. Rept. 99-332 and S. Rept. 99-176 and the related classified annexes), the conference report and the accompanying joint explanatory statement of the managers of the committee of conference on the Further Continuing Resolution, 1986 (H.J. Res. 465, including the related classified annexes), and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action.

In carrying out the Presidential sequestration order, the Department and agencies shall conform to the definition for "program, project, and activity" as set forth above, and in addition:

For the Military Personnel accounts, the definition shall include the appropriation accounts identified in the Department of Defense Appropriations Act, 1986, the Further Continuing Resolution, 1986 (H.J. Res. 465), and the accompanying House, Senate, and conference reports and accompanying statements of the managers, and further delineated in the program and financing schedules set forth in the Appendix to the Budget of the United States Government for fiscal year 1986, as modified by subsequent Congressional action.

For the Operation and Maintenance accounts, the definition shall include the appropriations accounts identified in the Department of Defense Appropriation Act, 1986, the Further Continuing Resolution, 1986 (H.J. Res. 465), and the accompanying House, Senate, and conference reports and the accompanying statements of the managers and further delineated in the program and financing schedules set forth in the Appendix to the Budget of the United States Government for fiscal year 1986, as modified by subsequent Congressional action.

For the National Foreign Intelligence Program, the definition shall further include the expenditure centers identified in the Congressional budget justification documents for fiscal year 1986, as modified by subsequent Congressional action.

The Department and agencies should carry forth the Presidential sequestration order in a manner that would not adversely affect or alter Congressional policies and priorities established for the Department of Defense and related agencies.

DISTRICT OF COLUMBIA

For purposes of sequestering new budget authority for Federal funds provided in the District of Columbia Appropriations Act, 1986 (H.R. 3067) under the terms prescribed in the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, the term "program, project and activity" shall be defined as any items specifically identified in written material set forth in enacted appropriations Acts and accompanying committee reports, including joint resolutions providing continuing appropriations and committee reports accompanying Acts referred to in such resolutions.

ENERGY AND WATER DEVELOPMENT

During fiscal year 1986, for purposes of section 252 of Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985, "program, project and activity" as related to the Energy and Water Development Appropriation Act, 1986 (P.L. 99-141) and subsequent continuing resolutions for fiscal year 1986 affecting Energy and Water Development program, shall be defined for the purposes of deficit reduction and sequestration to include items in the fiscal year 1986 budget submission of the President as subsequently altered, modified or changed by Congressional action and identified in the Energy and Water Development Appropriations Act, 1986, House and Senate committee reports (H. Rept. 99-195 and S. Rept. 99-110), the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-307).

It is the intention that, for purposes of the Balanced Budget Act, each of the programs, projects and activities, as defined above, shall be appropriately funded and subsequently all reductions shall be made proportionately by applying the same reduction percentage as the percentage by which the account is reduced overall. For the purpose of program execution, it is not intended that normal reprogramming between programs, projects and activities necessitated by unforeseen circumstances beyond the control of the agency or required flexibility for normal operation and maintenance, or needed for the efficient prosecution and completion of scheduled work, or for other programmatic needs be precluded. In carrying out the Presidential Order, the agencies shall apply this definition and shall include additionally any and all individual items or line items listed, discussed, described, included in or in any way identified or referred to in narrative or tabular documentation or references including the supporting justification material submitted by the agencies. It is not intended that this be used (1) to eliminate programs, projects or activities, (2) to disproportionately reduce personnel, (3) to otherwise reorder funds or priorities, or (4) to initiate unfunded new programs, projects or activities. It is also the intention that reductions apply to budget authority after the normal application of general reductions and savings and slippage.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

For the purpose of the Foreign Assistance and Related Programs Appropriations Act, (H.R. 3228) "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations Act earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and, Foreign Military Credit Sales; "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account, for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the Executive Branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of a Foreign Assistance and Related Programs Appropriations Act or of enactment of a continuing resolution containing funding for these programs for the balance of the fiscal year, as required by Sec. 653(a) of the Foreign Assistance Act of 1961, as amended, whichever is the more recent action. In addition, no "program, project, or activity", which has been justified to the Congress may be eliminated through the sequestering process.

HUD-INDEPENDENT AGENCIES

During the fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of HUD-Independent Agencies Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in the Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Public Law 99-160), the House and Senate Committee reports (H. Rept. 99-212 and S. Rept. 99-129), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-363).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to each program, project, activity and subactivity contained in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies as have been subsequently altered, modified or changed by Congressional action identified by the aforementioned acts, resolutions and reports. Further, it is intended that in implementing the Presidential Order, (1) no program, project or activity should be eliminated, (2) no re-ordering of funds or priorities occur, and (3) no unfunded program, project or activity be initiated. However, for the purposes of program execution, it is not intended that normal reprogramming between programs, projects and activities be precluded *after* reductions required under the Balanced Budget Act are implemented.

INTERIOR AND RELATED AGENCIES

As provided for by Section 252(a)(6)(D)(i)(II) of Public Law 99-177 and for the purposes of a President Order issued pursuant to section 252 of said Act, the term "program, project, and activity" for items under the jurisdiction of the Appropriations Subcommittees on Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, 1986 (H.R. 3011) and accompanying committee reports (H. Rept. 99-205 and S. Rept. 99-141), and the joint resolution providing continuing appropriations (H.J. Res. 465) and the conference report and accompanying joint explanatory statement of the managers of the committees of conference; (2) any Government-owned or Government-operated facility, and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges and the like, for which funds are provided in fiscal year 1986.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of the Labor, Health and Human Services, and Education and Related Agencies Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (Public Law 99-178), the House and Senate Committee reports (H. Rept. 99-289 and S. Rept. 99-151), the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-402) and the table inserted on pages H10915 through H10940 of the Congressional Record of December 5, 1985.

LEGISLATIVE BRANCH

For purposes of sequestering new budget authority and reducing obligation limitations for funds provided in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), under the terms prescribed in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the term "program, project, and activity" shall be synonomous with each appropriation account in the Act. Thus, the base which each

sequestration or reduction is taken shall be the appropriation account specified in the Act. The sequestration and reduction so ordered will be administered by each Congressional operation or agency as follows: in the case of items for the House of Representatives and Joint Items disbursed by the House of Representatives, the Clerk of the House; in each case of items for the Senate and Joint Items disbursed by the Senate, by the Secretary of the Senate; in the case of the Library of Congress, including the Congressional Research Service, by the Librarian of Congress; and the heads of each of the following: Architect of the Capitol; Office of Technology Assessment; Congressional Budget Office; Government Printing Office; Botanical Garden; Copyright Royalty Tribunal; General Accounting Office; and the Railroad Accounting Principles Board. In administering such sequestrations and reductions, the normal reprogramming procedures of the House and Senate Committees on Appropriations shall apply.

MILITARY CONSTRUCTION

For the purposes of the Military Construction Appropriations for fiscal year 1986 the term "program, project and activity" is defined as any item identified as a project activity or line item listed in the conference report and joint explanatory statement of the managers (H. Rept. 99-380) and reflected in the table inserted on pages H10336 through H10380 of the CONGRESSIONAL RECORD of November 20, 1985. It is also the intention that sequestration apply to budget authority after the application of the general reductions shown in the tables accompanying the Military Construction Appropriations conference report.

TRANSPORTATION AND RELATED AGENCIES

For purposes of section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), with respect to appropriations contained in the Department of Transportation and Related Agencies Appropriation Act, 1986 (H.R. 3244) the term "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations), accompanying reports of the House and Senate Committee on Appropriations (H. Rept. 99-256 and S. Rept. 99-152, and accompanying conference reports and joint explanatory statements of the committee of conference. This definition shall apply to all programs for which new budget (obligational) authority is provided, as well as to Discretionary grants, Urban Mass Transportation Administration and Interstate transfer grants-highways, Federal Highway Administration. In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to funds appropriated for facilities and equipment, Federal Aviation Administration and for Acquisition, construction, and improvements, Coast Guard, equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of the Treasury, Postal Service and General Government Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in the Treasury, Postal Service and General Government Appropriations Act, 1986 (H.R. 3036), the House and Senate committee reports (H. Rept. 99-210 and S. Rept. 99-133), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-349). (Under the above definition, the Federal Buildings Fund, the Bureau of Engraving and Printing Fund and other intragovernmental funds are exempt under section 255(g)(1) of Public Law 99-177.)

WITHHOLDING OF FUNDS

The question frequently arises as to when and under what conditions Federal funds may be withheld.

Various federal statutes govern the obligation of federal funds after they have been appropriated by Congress. After the President has signed an appropriations measure, these laws require the funds be made available for obligation for the purpose for which they were appropriated. In a limited number of circumstances funds may be withheld pursuant to provisions enacted into law. The conferees stress that funds made available under this resolution should be obligated pursuant to law. When any law is used to withhold funds, the funds are to be available for obligation until the message proposing withholding is transmitted to the Congress. This applies additionally to projects that have been planned and are ongoing in nature and involve commitments made over a period of time to assure continuation through completion of such projects.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

Amendment No. 11: Restores subsection letter (i) as proposed by the House.

Amendment No. 12: Inserts language proposed by the Senate which makes a technical change by inserting the words "and the Senate". The Senate passed the Conference Report on H.R. 3036 on November 7, the same day the Conference Report passed the House.

Amendment No. 13: Inserts a provision proposed by the Senate amended to appropriate $1,065,000,000 for processing tax returns by the Internal Revenue Service of $1,019,391,000 as proposed by the Senate and $1,103,041,000 as proposed by the House. This provision also appropriates $1,419,451,000 for the examinations and appeals activity of the Internal Revenue Service and $748,000,000 for Payment to the Postal Service Fund as proposed by the Senate. The conferees understand that the Administration will not request a supplemental for the revenue forgone subsidy. The conferees direct the Postal Service to meet the liabilities of the former Post Office Department to the Employees' Compensation Fund.

The conferees direct the Secretary of the Treasury to study the feasibility of transfering jurisdiction over Customs Bonded Warehouses used exclusively for the storage of imported alcohol beverages to ATF, and to report its findings to the Committees by March 1, 1986.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Amendment No. 14: Provides for funding for foreign assistance programs for fiscal year 1986. The amendment inserts the conference agreement for Foreign Assistance and Related Programs for fiscal year 1986. House language would have provided for foreign assistance programs at the level and terms and conditions of H.R. 3228 as reported to the House of Representatives on August 1, 1985 and modified by H.J. Resolution 465. Senate language would have provided for similar programs contained in S. 1816 as reported to the Senate on October 31, 1985 and modified by H.J. Resolution 465.

A summary of the title totals of the bill follows:

	FY 1986 estimates	House	Senate	Conference
Title I—MULTILATERAL ECONOMIC ASSISTANCE				
Contributions to International Financial Institutions	1,347,623,934	1,293,409,287	816,973,886	1,193,847,240
International organizations and programs	196,211,000	298,364,800	287,360,000	277,922,475
Total, contribution for Multilateral Economic Assistance	1,543,834,934	1,591,774,087	1,104,333,886	1,471,769,715
TITLE II—BILATERAL ECONOMIC ASSISTANCE				
Bilateral Development Assistance	2,7867,407,000	2,662,342,530	2,818,136,000	2,717,060,730
Economic support fund	4,024,000,000	3,689,386,666	3,745,000,000	3,700,000,000
Total, Bilateral Economic Assistance	6,791,407,000	6,351,629,196	6,563,136,000	6,417,060,730
TITLE III—MILITARY ASSISTANCE				
Military Assistance	976,350,000	764,648,000	805,100,000	782,000,000
Foreign Military Credit Sales	5,655,000,000	5,058,983,333	5,371,000,000	5,190,000,000
Other	65,650,000	54,489,500	106,221,000	54,489,500
Total, Military Assistance Programs	6,697,000,000	5,878,120,833	6,282,321,000	6,026,489,500

	FY 1986 estimates	House	Senate	Conference
TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES				
Budget authority effect of Ex-Im limitations		783,879,167	1,800,000,000	1,110,000,000
Total NBOA (including Ex-Im)	15,032,241,934	14,605,403,283	15,749,790,886	15,025,319,945

TITLE I
MULTILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title I, Multilateral Economic Assistance:

	FY 1986 estimates	House	Senate	Conference
TITLE I—MULTILATERAL ECONOMIC ASSISTANCE				
FUNDS APPROPRIATED TO THE PRESIDENT				
International Financial Institutions				
Contribution to the International Bank for Reconstruction and Development:				
Paid-in capital	182,870,597	151,782,596	109,720,549	109,720,549
Contribution to the International Development Association (IBA VI)	750,000,000	750,000,000	375,000,000	700,000,000
International Finance Corporation	35,033,000	29,077,390	35,033,000	29,077,390
Contribution to the Special Facility for Sub Saharan Africa				75,000,000
Centribution to the Inter-American Development Bank:				
Fund for special operations	72,500,000	72,500,000	40,000,000	40,000,000
Inter—regional paid-capital	58,000,983	58,000,983	38,000,983	38,000,983
Inter—American Investment Corporation	13,000,000	11,700,000	13,000,000	11,700,000
Contribution to the Asian Development Bank:				
Paid-in capital	13,232,676	11,989,408	13,232,676	11,909,408
Development fund	130,000,000	130,000,000	100,000,000	100,000,000
Contribution to the African Development Fund	75,000,000	62,250,000	75,000,000	62,250,000
Contribution to the African Development Bank:				
Paid-in capital	17,986,678	16,188,910	17,986,678	16,188,910
Total: Contributions to International Financial Institution	11,347,623,934	1,293,409,287	816,973,886	1,193,847,240
Department of State				
International organizations and programs	196,211,000	298,364,000	287,360,000	277,922,475
Totals: Contribution for Multilateral Economic Assistance	1,543,834,934	1,591,774,087	1,104,333,886	1,471,769,715

SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

The Conferees agree to provide $75,000,000 for the Special Facility for Sub-Saharan Africa under Title I, Multilateral Economic Assistance. The House had originally funded the contribution to this facility under the Economic Support Fund in Title II. The Senate had provided no funding for the facility.

ASIAN DEVELOPMENT BANK

The Conferees agree that support of the Asian Development Bank will be discontinued if the Republic of China (Taiwan) is prevented from remaining as a full member of the Bank. Its status and designation within the Asian Development Bank must remain unaltered notwithstanding how the issue of the People's Republic of China's application for membership is finally determined.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

The following table shows the conference agreement for the International Organizations and Programs account.

Organization	*Conference Agreement*
UNDP	$148,500,000
UNICEF	48,150,000
World Food Program	1,900,000
U.N. Capital Development Fund	900,000
U.N. Decade for Women	250,000
International Convention and Scientific Organization Contributions	1,282,500
World Meteorological Organization Voluntary cooperation	1,800,000
International Atomic Energy Agency	17,715,000
U.N. Environment Program	9,000,000
U.N. Education and Training Program for South Africa	900,000
UNDP Trust Fund to Combat Poverty and Hunger in Africa	1,429,975
Institute for Namibia	225,000
U.N. Trust Fund for South Africa	0
Convention on International Trade in Endangered Species	180,000
UNIDO Investment Promotion Service	0
U.N. Fellowship Program	225,000
World Heritage Fund	250,000
U.N. Voluntary Fund for Victims of Torture	90,000
Center on Human Settlements	400,000
International Fund for Agricultural Development	30,000,000
Organization of American States	14,725,000
	$277,922,475

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

The House and Senate versions of the Continuing Resolution each provided $50 million in FY 1986 for the International Fund for Agricultural Development (IFAD). This amount was for a U.S. contribution to IFAD's Second Replenishment and, in the House version, to IFAD's Special Program for Africa as well.

The Conferees agree to provide $30 million for an FY 1986 contribution to IFAD's Second Replenishment, without prejudice to a contribution to IFAD's Special Program for Africa. It is noted that since U.S. participation in IFAD is authorized under Section 103 of the Foreign Assistance Act, funds may be made available, under established procedures, from the Agriculture, rural development and nutrition account.

TITLE II
BILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title II, Bilateral Economic Assistance:

	FY 1986 estimates	House	Senate	Conference
TITLE II—BILATERAL ECONOMIC ASSISTANCE				
FUNDS APPROPRIATED TO THE PRESIDENT				
Agency for International Development				
Agriculture, rural development, and nutrition, Development Assistance	792,352,000	679,995,000	760,000,000	699,995,900
Population, Development Assistance	250,017,000	261,000,000	250,000,000	250,000,000
Health, Development Assistance	146,427,000	200,824,200	205,000,000	200,824,200

	FY 1986 estimates	House	Senate	Conference
Child Survival Fund		22,500,000	25,000,000	25,000,000
Education and human resources development, Development Assistance	183,533,000	169,949,700	180,000,000	169,949,700
Energy and selected development activities, Development Assistance	210,071,000	174,358,930	190,000,000	174,358,930
Science and technology, Development Assistance	13,000,000	10,790,000	13,000,000	10,790,000
Private sector revolving fund (by transfer)	(20,000,000)	(18,000,000)	(18,000,000)	(18,000,000)
Subtotal, functional development assistance	1,595,400,000	1,519,418,730	1,623,000,000	1,530,918,730
American schools and hospitals abroad	10,000,000	27,000,000	35,000,000	35,000,000
International disaster assistance	25,000,000	22,500,000	25,000,000	22,500,000
Sahel development program	80,500,000	87,750,000	80,500,000	80,500,000
Overseas training and special development activities (foreign currency program)				
Payment to the Foreign Service Retirement and Disability Fund	43,122,000	43,122,000	43,122,000	43,122,000
AID deobligate/reobligate reappropriation		5,000,000	5,000,000	5,000,000
Deobligate and rescind Surian termination account		−26,200,000		
Operating expenses of the Agency for International Development	393,700,000	387,000,000	372,200,000	376,350,000
Operating expenses of the Office of the Inspector General			25,200,000	21,050,000
Trade credit insurance program	(200,000,000)	(200,000,000)	(300,000,000)	(250,000,000)
Trade and development	20,034,000	18,900,000	20,034,000	18,900,000
Housing and other credit guaranty programs:				
Loan reserve				
(Limitation on guaranteed loans)	(45,000,000)	(144,000,000)	(160,000,000)	(152,000,000)
Subtotal, Agency for International Development	2,167,756,000	2,084,490,730	2,229,056,000	2,133,340,730
Economic support fund	4,024,000,000	3,689,286,666	3,745,000,000	3,700,000,000
Total, Agency for International Development	6,191,756,000	5,773,777,396	5,974,056,000	5,833,340,730
African Development Foundation				
Appropriations [1]	1,012,000	4,000,000	1,012,000	3,872,000
Inter-American Foundation				
Appropriations	8,800,000	10,792,800	11,969,000	11,969,000
Overseas Private Investment Corporation				
(Limitation on direct loans)	(15,000,000)	(13,500,000)	(15,000,000)	(14,250,000
(Limitation on guaranteed loans)	(150,000,000)	(135,000,000)	(150,000,000)	(142,500,000)
Total: Funds appropriated to the President	6,201,568,000	5,788,570,196	5,987,037,000	5,849,181,730
Independent Agency				
Peace Corps	125,200,000	128,600,000	130,000,000	130,000,000
Department of State				
International narcotics control	57,709,000	57,529,000	57,529,000	57,529,000
Migration and refugee assistance	337,930,000	337,930,000	344,730,000	338,930,000
Anti-terrorism assistance	32,000,000	5,000,000	9,840,000	7,420,000
Peacekeeping operations	37,000,000	34,000,000	34,000,000	34,000,000
Total, Department of State	464,639,000	434,459,000	446,099,000	434,879,000
Total, Bilateral Economic Assistance	6,791,407,000	6,351,629,196	6,563,136,000	6,417,060,730

[1] African Development Foundation had additional funds available to be obligated in FY 1985 due to carry over provisions in the FY Continuing Resolution and no year Sahel programs funds.

HEALTH, DEVELOPMENT ASSISTANCE AND CHILD SURVIVAL FUND

The Conferees agree to fund Health, Development Assistance at the House proposed level of $200,824,200 instead of the Senate level of $205,000,000. The Conferees agree to earmark $12,500,000 within the Health, Development Assistance account for child survival programs and activities instead of the original Senate earmark of $25,000,000.

The Conferees also agree to fund the Child Survival Fund at the Senate proposed level of $25,000,000 instead of the House proposed level of $22,500,000. The Conferees further agree to transfer $12,500,000 in prior year unobligated funds from the amount for Lebanon in the Economic Support Fund to the Child Survival Fund.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

The Conferees have been favorably impressed by the programs of the American University of Beirut and Project ORBIS. The American University of Beirut, particularly, has played an important role in an area of the world which has been constantly torn by strife over the last ten years. The Conferees are concerned that these two programs be sufficiently funded and strongly urge the Agency for International Development to fully fund their requests for assistance.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

IDCA

The Conferees agree to the Senate provision prohibiting the use of AID operating expenses to pay for the operating expenses of the International Development Cooperation Agency. This provision recognizes that relevant IDCA functions can continue to be carried out by the AID Administrator pursuant to existing delegations of authority. This provision does not repeal or otherwise affect existing authorization legislation relating to IDCA.

ACCOUNT CHANGES

The Conferees agree that for the purpose of funds made available by this act for FY 1986, the Agency for International Development may charge program-related overseas in-country travel to the relevant program (as opposed to the operating expenses) account. Similarly, for FY 1986, the cost of foreign service nationals who carry out program-related functions may also be charged against the relevant program account.

AID INSPECTOR GENERAL

The Conferees agree to provide a new account for the Inspector General of the Agency for International Development. The Conferees agree to include a provision allowing for the transfer of some funds from AID operating expenses to the Inspector General's office if necessary. Additionally, within the amount provided for the Inspector General, the Conferees agree to provide $1,600,000 for security purposes.

AID BUREAU OF EXTERNAL AFFAIRS

The Conferees agree to drop Senate language which would have limited the number of personnel assigned to AID's Bureau of External Affairs office, to nineteen. The Conferees direct that the Agency for International Development reduce personnel in that office to a level of thirty-four.

NATIONAL UNIVERSITY IN COSTA RICA

The Conferees agree to drop the Senate language under the Education and Human Resources Development account, which would have earmarked $340,000 to support a scholarship program at the National University in Costa Rica. The Conferees also have agreed to drop a provision under the Economic Support Fund account which would have earmarked $840,000 equivalent in Costa Rican currency for the same project. The Conferees agree however, that this program deserves to be closely considered for funding by AID. This program would support the very worthwhile goal of providing scholarships for young Costa Ricans in the United States as called for by the Kissinger Commission.

LIMITATION ON DEVELOPMENT ASSISTANCE IN CENTRAL AMERICA

The Conferees have set a limitation on development assistance activities in Central America at a total of not more than $250,000,000. Additional funds, if required, may be requested through the notification process of the Committees on Appropriations.

The Conferees strongly support development assistance programs in Sub-Saharan Africa, a region which is relatively worse off by most demographic and economic measures than several other regions. The Conferees strongly encourage the Administration to fund these programs at their full 1986 budget request levels.

PRIVATE AND VOLUNTARY ORGANIZATIONS

The Conferees agree that it is appropriate to require that private and voluntary organizations obtain a minimum of twenty percent of their funding from private, non-governmental sources in order to be eligible for participation in programs funded under the Agency for International Development. Further, the Conferees agree that, in implementing this twenty percent rule for the private and voluntary agencies, AID shall not include in the determination of the amount of Government support for an organization the value of commodities (including related transportation) made available to that organization for overseas distribution. It is also the intent of the Conferees that the value of contracts for services and grants for AID-initiated activities shall not be included in determining Government support for such an organization. Lastly, it is further the intent of the Conferees that any application of this rule not interrupt fiscal year 1986 support for ongoing PVO programs of assistance for which Congress has been notified.

ECONOMIC SUPPORT FUND

COMMODITY IMPORT PROGRAM

The Conferees agree to earmark not less than $200 million for Commodity Import Program activities in Egypt during FY 1986 as proposed by the Senate. This proposal can include the activities being financed under the ongoing Commodity Import Program as well as those financed by the newly proposed Private Enterprise Commodity Import Program.

GUATEMALA

In agreeing to remove the ceiling on the amount of Economic Support Fund assistance which can be made available for Guatemala, the Conferees are acting in light of the continuing progress Guatemala is making toward democracy and respect for human rights. The selection of a Congress and a civilian president in free and fair elections is a significant step forward in constitutional government in Guatemala. The Conferees will continue to watch closely the human rights situation in Guatemala. However, at this time, the Conferees believe that the United States should move quickly to support Guatemala's decisive steps toward democracy and to support the efforts of the newly elected president to address the serious economic difficulties confronting that nation.

PHILIPPINES

The Conferees agree to provide FY 1986 assistance to the Philippines, as follows:

	House	Senate	Conference agreement
ESF	(1)	$110,000,000	$125,000,000
MAP	$25,000,000	50,000,000	40,000,000
FMS	0	20,000,000	15,000,000

[1] No amount specified.

TIED AID CREDIT PROGRAM

The FY 1986 International Security and Development Cooperation Act (P. L. (99-83) contains an earmark of $50,000,000 in Economic Support Fund monies to carry out a tied aid credit program for U.S. exports, Since the passage of this Act, the Administration has proposed a $300 million "war chest" to combat unfair trade practices. Therefore, in order to consider both issues, the Conferees agree that obligation of funds for the tied aid credit program be subject to the normal notification process.

SOUTHERN AFRICA REGIONAL PROGRAM

Under existing law, $30 million of the funds made available under the Economic Support Fund are earmarked for Southern Africa regional programs. That same law also provides that 50 percent of this earmark shall be allocated for sector projects supported by the Southern Africa Development Coordination Conference (SADCC). SADCC is a regional organization comprised of the nine so-called "front line" states. The Conferees support development assistance and Economic Support Fund projects in Southern Africa, but are concerned that this particular provision of the law may result in U.S. foreign assistance financing of projects in Angola and Mozambique which would otherwise be prohibited by law. The Conferees agree that this particular program will be examined carefully.

LEBANON

The Conferees have included a provision which redistributes funds previously appropriated but currently unobligated for Lebanon. This provision transfers $5,350,000 to UNICEF, $12,500,000 to the Child Survival Fund, and $5,000,000 to International Narcotics Control. Following this transfer, approximate $20,000,000 remains in this fund. The Conferees have included language which tightly restricts the use of these remaining funds solely for Lebanon as proposed by the Senate.

SYRIA

The Conferees agree to deobligate and rescind $11,200,000 from the Syria Termination Account instead of the $26,200,000 proposed by the House. The Conferees agree that the $15,000,000 remaining in the account be used only to pay costs associated with the termination of the Syrian economic assistance program in accordance with the original Senate proposal.

TITLE III—MILITARY ASSISTANCE

The following table shows the conference agreement for Title III, Military Assistance:

	FY 1986 Estimates	House	Senate	Conference
TITLE III—MILITARY ASSISTANCE				
Funds appropriated to the President				
Military Assistance	976,350,00	764,648,000	805,100,000	782,000,000
International Military Education and Training	65,650,000	54,489,500	56,221,000	54,489,500
Foreign Military Credit Sales:				
Direct credits and forgiven loans	5,655,000,000	5,058,983,333	5,371,000,000	5,190,000,000
Special Defense Acquisition Fund (limitation on obligations)	(345,000,000)	(325,000,000)	(345,000,000	(325,000,000)
Guarantee Reserve Fund				
Total Military Assistance Programs	6,697,000,000	5,878,120,833	6,282,321,000	6,026,489,500

GREECE AND TURKEY

The Conferees direct that military assistance for Greece and Turkey be provided only in accordance with a seven to ten ratio. The Conferees have earmarked military assistance to Greece and Turkey at a level which reflects both the seven to ten ratio and a ten percent reduction from the levels provided in the Senate bill as follows: $450,000,000; Turkey $427,852,000; Military Assistance programs—$215,000,000.

	FMS	MAP	Total
Greece	$450,000,000	0	$450,000,000
Turkey	427,852,000	215,000,000	642,852,000

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The following table shows the conference agreement for Title IV, Export-Import Bank:

TITLE IV—EXPORT BANK OF THE UNITED STATES				
Limitation of Program Activity:				
(Limitation on direct loans)		(783,879,167)	(1,800,000,000)	(1,110,000,000)
(Limitation on guaranteed loans)	(12,000,000,000)	(12,000,000,000)	(12,000,000,000)	(12,000,000,000)

TITLE IV—EXPORT BANK OF THE UNITED STATES—Continued

Limitation on administrative expenses	(18,357,000)	(18,000,000)	(18,000,000)	(18,357,000)
Total Export-Import Bank of the United States (limitations on use of corporate funds	(12,018,357,000)	(12,801,879,167)	(13,818,000,000)	(13,128,357,000)

TITLE V—GENERAL PROVISIONS

DRUG CONTROL

The Conferees agree to include a modified version of a House provision relating to drug control. The House provision was modified by deleting Colombia from the General Provision, section 537, which required that 50 percent of the funds (excluding International Narcotics Control funds) for Colombia, Jamaica and Peru be withheld from obligation unless the President determines and reports to Congress, that these Governments are "sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States".

The Conferees removed Colombia from the restriction because of the progress that country has made during the past year in its drug control program. The Conferees believe that these efforts should be accelerated in order to avoid U.S. foreign assistance restrictions in the future.

The Conferees agree to retain the second section of this provision which placed additional requirements on the release of funds to Bolivia.

DEOBLIGATION-REOBLIGATION AUTHORITY

The Conferees agree to provide deob-reob authority to the Agency for International Development. Funds which are deobligated remain available for reobligation for one calendar year from the date of deobligation.

CESSATION OF ASSISTANCE FOLLOWING MILITARY COUPS

The Conferees agree to Senate language which provides that funds made available under this Act may not be obligated or expended for assistance to any country whose duly elected head of government is deposed by military coup or decree. This provision is in lieu of two separate House provisions which applied this restriction to El Salvador and Guatemala. The provision agreed to covers El Salvador, Guatemala, and any other country whose duly elected head of government is deposed by military coup or decree.

Amendment No. 15: Restores subsection letter proposed by the House.

TRADE ACT—ADMINISTRATIVE COSTS

Amendment No. 16: Deletes appropriation of $4,588,000 proposed by the Senate for State administrative costs related to the Trade Act. The House resolution contained no funds for this purpose.

The conferees are concerned that some States will not have sufficient unexpended carryover funds from prior allotments under the Dislocated Workers Assistance Program to maintain ongoing levels of job retraining and support services in program year 1986. Therefore, the conferees direct that in reviewing applications submitted by States for discretionary funds the Secretary of Labor shall give first priority to those applications submitted by States with insufficient unexpended carryover funds from prior year obligations to maintain ongoing expenditure levels throughout program year 1986. This should provide the desired assistance to those States which have utilized funds provided in prior years while also maintaining the Secretary's responsibility under the Job Training Partnership Act to consider throughout the year proposals submitted by States for special projects that could otherwise not be financed. The Secretary shall report to the House and Senate Appropriations Committees on the amount of carryover funds which are available to each State under section 301(b) of the Act and if additional appropriations are necessary to maintain current program levels in all States.

FOSTER CARE—RATE OF OPERATIONS

Amendment No. 17: Inserts language propsoed by the Senate which has the effect of providing the current rate of spending for certain expired sections of Title IV-E of the Social Security Act relating to foster care and adoption assistance. The House resolution contained no similar provision.

PUBLIC BROADCASTING

Amendment No. 18: Deletes reference to Corporation for Public Broadcasting proposed by the House. An appropriation of $214,000,000 for the Corporation is included in the regular apropriation Act.

Amendment No. 19: Deletes House language as proposed by the Senate. The House language reads as follows:

SEC. 105. In view of the financial crisis facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

The House provisions directed the Secretary to carry our existing law. The House receded to Senate position since the authority to the Secretary continues to exist.

Amendemnt No. 20: Deletes House language as proposed by the Senate. The House language reads as follows:

SEC. 106. Public Law 99-88 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultural products during the last decade as a result of embargoes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy of foreclosure, all as authorized by existing law.

Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.

The House provision directed the Secretary to take action authorized by existing law. The House receded to the Senate position, since authority to do as the language directs continues to exist.

RUIDOSO AIRPORT

Amendment No. 21: Makes a technical correction to the authority included in Public Law 99-98 for the relocation of the Fort Stanton Experiment Station in order to make room for a new Ruidoso airport as proposed by the Senate.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

EMERGENCY WATERSHED PROTECTION MEASURES

Amendment No. 22: Appropriates $40,000,000 for emergency assistance to repair watersheds that were damaged by Hurricane Juan and torrential rains this fall, as proposed by the Senate. The conference agreement also amends a U.S. Code citation to clarify that rehabilitation measures are funded.

The conferees agree that there is an urgent need for supplemental funds and that these funds should be used to (a) continue to remove debris from drains, streams, and structure openings to prevent further devastating floods and the resulting hazards to life and property; (b) restore the $5,000,000 emergency contingency fund; and (c) restore the $10,000,000 operating funds that have been redirected to provide immediate emergency assistance.

FARM CREDIT ADMINISTRATION

Amendment No. 23: Provides an increase in the limitation on administrative expenses of $9,549,000 (from assessments collected from farm credit system banks) for fiscal year 1986 as proposed by the Senate. The conference agreement also provides that the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

EDA BALANCES NOT DISBURSED

Amendment No. 24: Inserts language proposed by the Senate concerning the use of obligated and undisbursed funds in New York, New York, amended to include the following: similar provisions for funds for

New Jersey, California, Alabama and Illinois; clarifying language concerning Red Rock Dam and Lake, Iowa; two grants totalling $8,500,000 for the Economic Development Administration; and $2,500,000 for the United States Information Agency to reimburse organizations for expenses related to international games for the handicapped. The House bill contained none of these provisions.

The conference agreement provides that obligated but undisbursed balances from the appropriations pursuant to the Local Public Works Capital Development and Investment Act of 1976 be made available to the locations and for the purposes designated in the Joint Resolution in the following amounts: (1) New York, New York, $14,100,000; (2) New Jersey, $1,069,861; (3) California, $431,012; in addition, the conferees intend that his contribution toward the South Gate project is in addition to, and not in any way in lieu of, other fiscal year 1986 EDA funds to be applied to this important project; (4) Alabama, $470,224; (5) Illinois, $819,650; the conferees intend that $400,000 will be for a grant to the Will County Local Development Company and the balance of these funds will be allocated to the Illinois and Michigan Canal Commission for the purpose of achieving the objectives set forth in establishing the Corridor, for improving economic conditions in the area, engendering long-term, sustainable economic development for the creation of permanent jobs, and to meet additional administrative demands created through the provision of these funds.

The conference agreement also includes language to facilitate activities related to an existing flood control project at Red Rock Dam and Lake, Iowa. When the Red Rock Project was established, some owners were forced to sell flowage easements and not given the opportunity to sell the land instead. This was not the policy on projects since that time. Flooding has been more frequent than anticipated and caused great loss to some owners. Selling land subject to such an easement is very difficult and it would be in the interest of both the government and the owners to purchase the remaining interest where owners desire to sell it. The appraisal of the interests in the real estate involved shall be in accordance with usual appraisal principles, recognizing the percentage of the total fair market value paid for the flowage easement rights presently owned by the United States.

The conference agreement also provides two grants for economic development assistance purposes: (1) Lexington County, South Carolina, and (2) Fort Worth Stockyards. In addition, the conferees direct that, within available funds, the Secretary of Commerce make payment as expeditiously as possible to the City of East Grand Forks, Minnesota, in connection with the City's application for assistance under title I of the Public Works and Economic Development Act as approved by the Economic Development Administration in September, 1983. This is a unique case in that the project qualifies under recently revised regulations concerning the relocation of grantees.

The conference agreement provides $2,500,000 to the United States Information Agency for reimbursement of expenses associated with the exchange of athletes, coaches and officials for international games for the handicapped held in the United States as authorized by Public Law 99-93. The agreement also provides that reimbursement for each organization conducting such games shall not exceed the total amount of necessary and reasonable expenses incurred by the organization in excess of donations and government services furnished. The organizations which are expected to apply for reimbursement and the anticipated amounts of their claims are: The XV International Games for the Deaf (not to exceed $1,977,600); the Fifth National Amputee Championships (not to exceed $250,000); the 1985 National Cerebral Palsy/Les Autres Games (not to exceed $330,000); the Ninth Annual National Championship for Blind Athletes (not to exceed $50,000); the National Wheelchair Athletic Association (not to exceed $40,000); National Handicapped Sports and Recreation Association (not to exceed $75,000); and the International Summer Special Olympic Games (not to exceed $25,000).

The conferees are agreed that the United States Information Agency shall carefully review each claim submitted under this program and provide reimbursement directly to claimants in accordance with the provisions of Public Law 99-93 and this conference agreement. Disbursements to the qualified claimants shall be made within 30 days after claims are submitted to the United States Information Agency. The conferees are further agreed that the United States Information Agency will submit a report to the House and Senate Appropriations Committees by April 1, 1986 concerning reimbursements made under this program and quarterly thereafter to the extent that any unobligated funds remain.

INTEGRATED FLOOD OBSERVING AND WARNING SYSTEM

Amendment No. 25: Appropriates $3,000,000 for the Integrated Flood Observing and Warning System (IFLOWS) as proposed by the Senate.

DEPARTMENT OF JUSTICE—"INSIDER TRADING"

Amendment No. 26: Inserts language which prohibits the Department of Justice, for a period of six months, from implementing or adopting as a permanent rule, New Offense Example 363, providing for "insider trading" offenses with the proviso that this language shall not apply to any case pending before the U.S. Parole Commission as of the effective date of this joint resolution. This language is the same as the Senate proposal except for the addition of the proviso. The House bill did not contain any provision on this matter.

The conference agreement is not intended to change the result in any case pending before the United States Parole Commission in which an initial hearing has been held.

COMPREHENSIVE CRIME COUNTER ACT

Amendment No. 27: Deletes Sec. 111 proposed by the Senate which would have amended the Comprehensive Crime Control Act of 1984 to permit the deputizing of local law enforcement officers for Federal investigations. This provision, along with the provision in Amendment No. 28, are part of a technical corrections legislative package to the Comprehensive Crime Control Act that the authorizing committees are expected to consider in the second session of the 99th Congress.

Amendment No. 28: Deletes Sec. 112 proposed by the Senate which would have amended the Comprehensive Crime Control Act of 1984 to impose a minimum mandatory five-year prison sentence for a conviction for carrying a firearm during the commission of a serious drug offense.

COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Amendment No. 29: Appropriates $12,000,000 for the Commission on the Bicentennial of the Constitution, removes the limitations in current law on the number of staff and details to the Commission, and provides that the salary of the director of the Commission shall not exceed 95 percent of level I of the Executive Schedule. The Senate had proposed an appropriation of $20,000,000 and language to remove the limitations on the number of staff and details to the Commission. The House bill did not contain any provision on this matter.

LEGAL SERVICES CORPORATION

Amendment No. 30: Inserts language which prohibits unobligated balances for the Legal Services Corporation which are carried over into fiscal year 1986 either by the Corporation or by any of its recipients from being expended unless such funds are expended pursuant to the restrictions and provisions of P.L. 99-180, except that such funds may be expended for continued representation of aliens commenced prior to January 1, 1983, or as approved by the Corporation. The Senate had proposed language which would have prohibited funds appropriated to the Legal Services Corporation and made available to grantees from being expended until such grantees had expended all funds carried over from previous fiscal years unless the failure to expend such funds had been approved by the Legal Services Corporation. The House bill contained no provision on this matter.

The conferees are agreed that attorneys in local legal services programs should not be put in the position of violating a judicial decree or the Code of Professional Responsibility because of the restrictions in the conference agreement. Therefore, the conferees have included a provision in the agreement which would permit the Corporation to waive these restrictions in order to preclude either of these situations.

SMALL BUSINESS ADMINISTRATION

Amendment No. 31: Inserts language as proposed by the Senate, with a section number change, which transfers $10,000,000 from the Disaster Loan Fund to the Salaries and Expenses account of the Small Business Administration for disaster loan making activities, including loan servicing.

NUCLEAR TRANSFERS TO CHINA

Amendment No. 32: Deletes language proposed by the Senate which would have prohibited the availability of funds for the issuance of any license for export to, or for any approval for the transfer or retransfer to, the People's Republic of China of any nuclear equipment, materials, or technology subject to the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, until the President certifies that standard methods of accounting and inspection have been established for verification.

DEPARTMENT OF DEFENSE—MISCELLANEOUS PROVISIONS

Amendment No. 33: Deletes Senate language requiring the Secretary of Defense, beginning on May 1, 1986, to reduce the rate of obligations from the individual military personnel accounts to insure that none will exceed the appropriation ceiling for fiscal year 1986. This provision is included in the

Department of Defense Appropriation Act, 1986 set forth in amendment number 4.

Amendment No. 34: Deletes Senate language limiting Department of Defense obligations and expenditures for consultants and related services for fiscal year 1986 to $1,277,793,000. The conferees agreed to remove this provision and it is not included in amendment number 4.

Amendment No. 35: Deletes Senate language raising the limitation for emergencies and extraordinary expenses by $708,000. This issue was agreed to and is addressed in amendment number 4.

Amendment No. 36: Deletes Senate language preventing the Department of Defense from using any paint containing the chemical compound tributyltin to paint naval vessels until the Environmental Protection Agency makes a certification to the Department. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 37: Deletes Senate language appropriating an additional $400,000 to the Operation and Maintenance, Army National Guard account for the environmental projects program. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 38: Deletes Senate language appropriating an additional $42,400,000 to the Other Procurement, Army account for the procurement of the M-9 Armored Combat Earthmover. This issue is addressed in amendment number 4 under the Other Procurement, Army account.

Amendment No. 39: Deletes Senate language appropriating an additional $126,894,000 to the Missile Procurement, Air Force account for Titan 3407 missile procurement. This issue is addressed in amendment number 4 under the Missile Procurement, Air Force account.

Amendment No. 40: Deletes Senate language prohibiting the earmarking of Strategic Defense Initiative funds for contracts with non-U.S. contractors prior to source selection in order to meet a specific allocation of funds to any allied nation. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 41: Deletes Senate language earmarking $5,000,000 for a research program to develop new and improved verification techniques to monitor compliance with a possible anti-satellite weapons agreement from the RDT&E, Air Force account. This issue was agreed to and is addressed in amendment number 4.

Amendment No. 42: Deletes Senate language earmarking $10,000,000 for the Department of Defense/Department of Energy Conventional Munitions Technology Development Program for the RDT&E, Defense Agencies account. The earmarking was adjusted and is addressed in amendment number 4.

Amendment No. 43: Deletes Senate language earmarking $10,000,000 out of the Research, Development, Test and Evaluation, Defense Agencies account for research, devlopment and acquisition of an advanced super computer. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 44: Deletes Senate language requiring that funds appropriated to or for the use of the Defense Department may not be obligated or expended until they have been authorized by law but exempting the Coastal Defense Augmentation appropriation form this requirement. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 45: Deletes Senate language appropriating $15,000,000 for acquisition of point air defense in Italy. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 46: Deletes Senate sense of the Congress provision regarding competition for ship maintenance and repair contracts. This issue is addressed in amendment number 4 under the Operation and Maintenance, Navy account.

Amendment No. 47: Amends the section inserted by the Senate to change the language making it a sense of the Congress provision instead of a sense of the Senate provision. The provision addresses fraudulent defense contractor billing and other practices and encourages increased United States Government efforts to expose such practices and to punish offenders.

Amendment No. 48: Deletes Senate language adding the words "authorizing such expenditures and". This language concerns the need to enact authorizing legislation to establish a Mariner Fund and is addressed in amendment number 4.

ENERGY AND WATER DEVELOPMENT PROVISIONS

Amendment No. 49: Inserts language proposed by the Senate which amends Section 1302 of Public Law 98-181 to substitute in the first sentence "period of two years" with "period ending January 1, 1989" and conforms section number.

Amendment No. 50: Inserts language proposed by the Senate which directs the Secretary of the Army to accomplish emergency bank stabilization work at Bethel, Dillingham, and Galena, Alaska, and conforms section number.

Amendment No. 51: Inserts language proposed by the Senate which provides that the Secretary of the Army shall include as part of the non-Federal contribution for the Fairfield Vicinity Streams, California, project the cost of any work carried out by non-Federal interests on the project after December 31, 1973, and conforms section number.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS MISCELLANEOUS PROVISIONS

Amendment No. 52: Deletes a Senate provision concerning refugee situations. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 53: Deletes Senate provision concerning Jordan Arms Sales notification. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 54: Deletes a Senate provision concerning child immunization. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 55: Deletes a Senate provision concerning Foreign Military Sales concessional loans. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 56: Adds Senate language, with a new section number, concerning the denial of most-favored-nation treatment to the products of Afghanistan.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 57: Inserts language proposed by the Senate appropriating $2,400,000,000 for construction grants, and amends the section number accordingly. To prevent serious disruption and delays to construction projects, $600,000,000 is made available immediately. These funds are to be made available and expended only under the formula and other statutory provisions in effect during fiscal year 1985, without earmarkings or set-asides for specific projects. In addition, these funds are to be made available for all eligible projects and categories and shall not be limited to existing phased or segmented projects through the apportionment process or other means. The conferees expect to make the remaining $1,800,000,000 available in a subsequent appropriations Act at the earliest opportunity *after* enactment of the Clean Water Act amendments.

VETERANS ADMINISTRATION

Amendment No. 58: Inserts language proposed by the Senate transferring up to $8,000,000 to the general operating expenses appropriation from the medical care account, amended to change the section number and to delegate the authority to administer certain major construction projects to hospital directors. In providing that up to $8,000,000 of the 1986 medical care appropriation may be transferred to and merged with the 1986 general operating expenses appropriation, the conferees have received assurance from the Administrator of Veterans Affairs that the VA would reprogram to personnel compensation and benefits from other object classifications, such as equipment or maintenance and repair projects, such funds as may be necessary to support 193,941 full-time equivalent employees (FTEEs). This FTEE level does not include an estimated 589 in common services employment which must also be funded from the medical care account. Further, the VA has agreed that any funds reprogrammed would not reduce the number of patients treated, either in-house or by contract.

DELEGATION OF CERTAIN MAJOR CONSTRUCTION PROJECTS

In the conference report accompanying the 1982 HUD-Independent Agencies Appropriation Act (House Report 97-222), the Committee of Conference agreed that the nursing home care construction projects at Ann Arbor, Fresno, and Tampa would be administered by the hospital directors. The hospital directors were delegated authority to select the architect/engineer to design and/or supervise the construction of the projects. It was hoped that the experiment involving the three nursing home care units would result in more effectively and efficiently managed construction projects.

Pursuant to the conference report, the authority to administer nursing home care construction projects was delegated to the hospital directors. The projects were completed on or ahead of schedule and under budget. Further, there were very positive comments made by the hospital directors involved concerning the benefits derived from delegation during the construction process.

In fiscal year 1985, the Congress further expanded the delegation process to 21 construction projects. It was also understood that the VA had begun a modified delegation process with most other 1985 and 1986 projects. Recently, however, the conferees learned that the VA central office acted to withdraw the delegation program. The conferees do not agree with this decision. Therefore, the Committee of Conference has included language in the joint resolution to continue the delegation of selected projects.

It is the intent of the conferees that the Administrator of Veterans Affairs, in consultation with the Committees on Appropriations, choose 15 fiscal year 1985 and 10 fiscal year 1986 major construction projects to be delegated to the respective hospital directors. The terms and conditions of the delegation are to be those granted to the hospital directors for the nursing home care construction projects at Ann Arbor, Fresno, and Tampa. Those conditions are delineated as follows:

1. The hospital directors are authorized to delegate the authority further as appropriate.

2. The authority delegated includes, but is not limited to, full responsibility for supervising the site selection, design, and construction of the respective projects, and the making of monthly and final payments to contractors. The Office of Construction and the Department of Medicine and Surgery will provide advice to hospital directors regarding these projects when so requested by the hospital directors or their staffs.

3. The administration of these projects will be in compliance with all applicable statutes and regulations, including the National Fire Protection Code (which includes the National Electric Code), State codes where appropriate, and VA construction criteria. The projects should make an effort to comply with seismic standards.

4. The design will conform to the standards set out in VA handbook H 08-3, VA Construction Standards. The hospital directors may authorize deviations from such construction standards, but must advise the Administrator in writing prior to authorizing such actions.

Further, the VA is urged to delegate planning and design of all future major construction projects to the hospital directors. Delegation of the construction phase is to be determined by the Administrator. This process will insure that hospital construction projects will benefit from the views of the employees who must utilize the projects when completed. Above all, this process will be beneficial to veteran patients and provide for a more effective and efficient construction program.

Amendment No. 59: Deletes language proposed by the Senate appropriating $55,000,000 for a veterans job training program.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

MISCELLANEOUS PROVISIONS

Amendment No. 60: Provides that no funds shall be expended by the Secretary of the Interior to implement any Westlands settlement agreement prior to April 15, 1986 and until Congress has had 30 calendar days to review the proposed settlement agreement instead of no action until enactment of authorizing legislation as proposed by the House and a 120 day period for Congressional review as proposed by the Senate.

Amendment No. 61: Strikes House proposed Section 108, as proposed by the Senate. Section 108 would have provided $2,500,000 for renovation of the Freer Gallery of Art.

Amendment No. 62: Provides that persons appointed to committees of the Holocaust Memorial Council shall serve without cost to the Federal Government. This matter is addressed in Amendment No. 7.

Amendment No. 63: Reduces land acquisition in the Forest Service by $600,000 and increases land acquisition in the U.S. Fish and Wildlife Service by $600,000. This matter is addressed in Amendment No. 7.

Amendment No. 64: Provides that funds for the United States Fish and Wildlife Service shall be available for environmental work necessary to translocate a portion of the existing Southern sea otter population, as proposed by the Senate. The amendment also provides for emergency flood control work near Lake Michigan.

Amendment No. 65: Provides $1,700,000 for construction of a fish hatchery on the Nisqually River in Washington. This matter is addressed in Amendment No. 7.

REMOVAL OF THE "A. REGINA"

Amendment No. 66: Deletes language proposed by the Senate providing for the removal of the wreck of the "A. Regina."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

MISCELLANEOUS PROVISIONS

Amendment No. 67: Provides $80,000 for a study of the Florida panther. This matter is addressed in Amendment No. 7.

Amendment No. 68: Deletes provision in H.R. 3011 relating to costs of the National Fish and Wildlife Foundation. This matter is addressed in Amendment No. 7.

Amendment No. 69: Provides $80,700,000 for the Burr Trail National Rural Scenic Road. This matter is addressed in Amendment No. 7.

Amendment No. 70: Designates the educational center at Lowell National Historical Park the "Paul E. Tsongas Industrial History Center". This matter is addressed in Amendment No. 7.

Amendment No. 71: Increases the loan ceiling for Wolf Trap Farm Park for the Performing Arts in National Park Service, Administrative Provisions, and provides $150,000 for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas. These matters are addressed in Amendment No. 7.

Amendment No. 72: Provides that $2,000,000 be available to protect Mammoth Cave National Park. This matter is addressed in Amendment No. 7.

Amendment No. 73: Prohibits use of funds for establishing grizzly bear populations in the National Park System and the National Forest System where none currently exist. This matter is addressed in Amendment No. 7.

Amendment No. 74: Prohibits the Secretary of the Interior from promulgating final regulations concerning paleontological research on Federal lands pending a National Academy of Science report. This matter is addressed in Amendment No. 7.

Amendment No. 75: Provides $850,000 for restoration of the William H. Taft home. This matter is addressed in Amendment No. 7.

Amendment No. 76: Establishes a special fund in the Treasury for deposit of telecommunications fees received by the U.S. Geological Survey. This matter is addressed in Amendment No. 7.

Amendment No. 77: Deletes language in H.R. 3011 relating to the Abandoned Mine Reclamation Fund. This matter is addressed in Amendment No. 7.

Amendment No. 78: Revises language in H.R. 3011 to limit application of Johnson-O'Malley funds. This matter is addressed in Amendment No. 7.

Amendment No. 79: Provides for the no-cost transfer of supplies and equipment to the Saint Labre Indian School, Montana. This matter is addressed in Amendment No. 7.

Amendment No. 80: Requires the Secretary of the Interior to begin a program in BIA schools. This matter is addressed in Amendment No. 7.

Amendment No. 81: Strikes language in H.R. 3011 relating to terms of a loan for an airport in the Virgin Islands. This matter is addressed in Amendment No. 7.

Amendment No. 82: Provides $6,000,000 in emergency hay relief. This matter is addressed in Amendment No. 7.

Amendment No. 83: Provides for payment of up to $300,000 from the Office of the Secretary of the Interior, to certain water users for development of water supplies in Willow Creek, Idaho. This matter is addressed in Amendment No. 7.

Amendment No. 84: Allows the Secretary of the Interior to expend funds for emergency activities related to floods. This matter is addressed in Amendment No. 7.

Amendment No. 85: Provides language merging the Reforestation Trust Fund with the National Forest System account. This matter is addressed in Amendment No. 7.

Amendment No. 86: Provides $24,000,000 from the Timber Salvage Sale Fund instead of the National Forest System account. This matter is addressed in Amendment No. 7.

Amendment No. 87: Earmarks funds for emergency flood repairs in the Monongahela National Forest and Parsons, WV, Forest Research Laboratory. This matter is addressed in Amendment No. 7.

Amendment No. 88: Increases to $186,433,000 the amount for Forest Service reforestation, timber stand improvement, cooperative law enforcement and maintenance of forest development roads and trails. This matter is addressed in Amendment No. 7.

Amendment No. 89: Permits resale of timber in the Medford, Oregon district of the Bureau of Land Management under certain conditions. This matter is addressed in Amendment No. 7.

Amendment No. 90: Provides that road construction and related facilities of the Mt. St. Helens National Volcanic Monument, Washington, be derived from the Federal Highway Trust Fund. This matter is addressed in Amendment No. 7.

Amendment No. 91: Provides for certain exceptions related to mineral leasing on the Flathead and Gallatin National Forests. This matter is addressed in Amendment No. 7.

Amendment No. 92: Rescinds $3,000,000,000 of Synthetic Fuels Corporation funds and terminates the Corporation by 1992. This matter is addressed in Amendment No. 7.

Amendment No. 93: Provides a loan of up to $3,000,000 from an existing reserve to be used for odor abatement at an operating ethanol plant. This matter is addressed in Amendment No. 7.

Amendment No. 94: Rescinds $160,000,000 of Strategic Petroleum Reserve oil acquisition funds and provides for the exchange of agricultural products for crude oil. This matter is addressed in Amendment No. 7.

Amendment No. 95: Provides $180,000 from unobligated balances available to Indian Health Service to satisfy an outstanding judgment against the Seattle Indian Health Board. This matter is addressed in Amendment No. 7.

Amendment No. 96: Provides for funds under the Smithsonian Institution for American overseas research centers. This matter is addressed in Amendment No. 7.

Amendment No. 97: Provides that certain provisions of the Mineral Leasing Act shall not take effect until December 31, 1986.

This matter is addressed in Amendment No. 7.

Amendment No. 98: Deletes language proposed by the Senate extending the termination date for conditional loan guarantees under the Biomass Energy and Alcohol Fuels Act of 1980. A similar provision is contained in Amendment No. 1.

Amendment No. 99: Requires the Navajo and Hopi Indian Relocation Commission to submit a report to Congress no later than January 15, 1986, on how relocation housing funds are to be used. This matter is addressed in Amendment No. 7.

Amendment No. 100: Prohibits geothermal leasing in the area of Yellowstone National Park. This matter is addressed in Amendment No. 7.

DISADVANTAGED ASSISTANCE

Amendment No. 101: Deletes language proposed by the Senate which would have appropriated $500,000 for activities under section 787 of the Public Health Service Act. The House resolution contained no similar provision.

HEALTH PLANNING

Amendment No. 102: The conference agreement changes section number and includes language proposed by the Senate to prohibit penalties under sections 1512, 1515, or 1521 of the Public Health Service Act and to allow awards to State agencies authorized to receive grants under section 935(b) of the Omnibus Budget Reconciliation Act of 1981. Similar language has been included in prior continuing resolutions for fiscal years 1983, 1984 and 1985. The conference agreement modifies language inserted by the Senate which prohibits actions in anticipation of the closure of health planning agencies due to a failure to reauthorize the program. The conference agreement prohibits such actions prior to August 15, 1986 instead of July 1, 1986 as proposed by the Senate. The House resolution included no similar provisions.

HEALTH EDUCATION ASSISTANCE LOANS (HEAL)

Amendment No. 103: Changes section number and inserts language proposed by the Senate making loan guarantees under the Health Education Assistance Loan program (HEAL) available without regard to any apportionments or other administrative limitations not specifically authorized under title VII. The House resolution included no similar provision of the Public Health Service Act.

MEDICARE DEMONSTRATIONS

Amendment No. 104: The conference agreement changes section number and modifies language proposed by the Senate to direct the Secretary of the Department of Health and Human Services to extend *for one year only* four municipal health service demonstration projects under Medicare. The Senate language directed that these grants be extended for three years. The House resolution included no similar provision. This agreement provides additional time for the authorizing committees to complete action on legislation currently in conference regarding the future of these projects.

CHILD CARE AND CHILD ABUSE PREVENTION

Amendment No. 105: Changes section number, deletes appropriations of $25,000,000 and modifies language proposed by the Senate relating to allocations to States for child care and child abuse prevention training. The House resolution contained no similar provision. The conferees view such training as a high priority and expect the States to use a portion of their 1986 allocation under Title XX of the Social Security Act for the training and retraining (including training in the prevention of child abuse in child care settings) of: providers of licensed or registered child care services; operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided; State licensing and enforcement officials; and, parents.

MEDICARE HOSPITAL DEDUCTIBLE

Amendment No. 106: Deletes language proposed by the Senate. This language expressed the sense of the Senate regarding Medicare hospital deductible charges. The House resolution contained no similar provision.

SCIENCE AND MATHEMATICS EDUCATION

Amendment No. 107: Changes section number and inserts language proposed by the Senate making the 1986 appropriation for the Secretary of Education's discretionary fund under Title II of the Education for Economic Security Act immediately available upon enactment of the 1986 education appropriation bill, rather than July 1, 1986 as now provided in that bill. The House resolution contained no similar provision.

ELIGIBILITY FOR PELL GRANTS

Amendment No. 108: Changes section number and modifies language proposed by the Senate designed to assure that college students residing in areas designated as natural disaster areas may qualify for a Pell Grant for academic year 1985-86 without regard to the current 10 week limitation on the loss of income in determining expected family income. The conferees have modified the Senate language simply for the purpose of clarification.

The House resolution contained no similar provision.

Amendment No. 109: Changes section number.

LEGISLATIVE BRANCH MISCELLANEOUS PROVISIONS

Amendment No. 110: Conforms the section number and provides that the Federal Law Enforcement Training Center in the Treasury Department continue to provide basic training within available funds for the Capitol Police, as proposed by the Senate.

Amendment No. 111: Conforms the section number and appropriates $150,000 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, instead of $1,000,000 as proposed by the Senate. In providing these funds the conferees expect that the only activities that can be accomplished over the next several months will be the development of a work program together with budget estimates in sufficient detail to be examined by the Committees on Appropriations during the next appropriations hearings. Further, during those hearings the Committees on Appropriations will also explore the availability of options in carrying out the import objectives set out for the Board and Committee in the Public Health Services Act.

Amendment No. 112: Conforms the section number and amends the Legislative Reorganization Act to provide that the budget estimates of the Congressional Research Service will be submitted to the Librarian of Congress, as proposed by the Senate.

Amendment No. 113: Conforms section number and amends the authorization for the Commission on Security and Cooperation in Europe to allow printing and binding costs of the Commission to be charged to the Congressional printing and binding appropriation, as proposed by the Senate.

Amendment No. 114: Conforms the section number and amends the Federal Salary Act in accordance with the findings of the Department of Justice and the recommendations of the Quadrennial Commission, as proposed by the Senate.

BACK TAX LIABILITY—NAVY

Amendment No. 115: Inserts language as proposed by the Senate with an amendment which authorizes the Navy to enter into direct settlement with the State of Washington on back tax liabilities arising out of Federal construction and procurement projects in Washington State. Amendment also changes the Section number to 135.

BRIGADE ACTIVITY CENTER—NAVAL ACADEMY

Amendment No. 116: Deletes language added by the Senate which appropriates $16,600,000 for a Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland. The Conferees agreed to deny funding of the Brigade Activity Center at the U.S. Naval Academy because of budget constraints. However, the Department is urged to submit a reprogramming request for this project using available savings.

Amendment No. 117: Provides that honorarium income shall be limited to 40 percent of salary, instead of adjusting rules regarding compensation for professional services and affiliations with business entities as proposed by the Senate. The increase from 30 percent to 40 percent only affects Members of the Senate since rule XLVII of the Rules of the House of Representatives, which imposes a 30 percent cap, will continue to be in effect for Members of the House.

DADE COUNTY, FLORIDA METRORAIL

Amendment No. 118: Deletes language proposed by the House and stricken by the Senate requiring the Secretary of Transportation to issue in the Federal Register a notice of intent to prepare an environmental impact statement for the construction of the north and south legs of the downtown component of metrorail in Dade County, Florida. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

EXPRESSWAY GAP CLOSING PROJECT

Amendment No. 119: Deletes language proposed by the House and stricken by the Senate appropriating $23,500,000 for a highway construction project to close an expressway gap on California Route 113. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

DETROIT TRANSIT SYSTEM

Amendment No. 120: Deletes language proposed by the House and stricken by the Senate prohibiting the use of certain mass transportation section 9 grant funds to cover cost overruns of the Detroit Central Automated Transit (peoplemover) system. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

EMERGENCY RELIEF HIGHWAY FUNDS

Amendment No. 121: Deletes language proposed by the Senate increasing the state limitation for receipt of Federal-aid highway emergency relief funds from $30,000,000 to $55,000,000 for grants associated with disasters that occurred in calendar year 1985. The conferees have deleted

the Senate language because it is addressed in connection with the amendment numbered 8.

MINIMUM DRINKING AGE

Amendment No. 122: Deletes language proposed by the Senate making permanent the withholding provisions contained in Public Law 98-363. The House resolution contained no similar provision.

Amendment No. 123: Inserts Sec. 138 instead of Sec. 114 as proposed by the House and Sec. 203 as proposed by the Senate.

Amendment No. 124: Inserts Sec. 139 instead of Sec. 115 as proposed by the House and Sec. 204 as proposed by the Senate.

Amendment No. 125: Inserts Sec. 140 instead of Sec. 116 as proposed by the House and Sec. 205 as proposed by the Senate.

TREASURY POSTAL SERVICE MISCELLANEOUS PROVISIONS

Amendment No. 126: Changes section number and inserts a provision proposed by the Senate which would permit the Secretary of the Treasury to continue to have two Under Secretaries, but it would not require that one of those Under Secretaries be for Monetary Affairs. This provision permits the Secretary to have more flexibility in the assignment of duties to Under Secretaries in Treasury.

Amendment No. 127: Changes section number and inserts a provision proposed by the Senate which increases from 4 to 20 the number of airports at which reimbursable Customs Services may be provided. Small airports throughout the country are being provided with Customs Service on a reimbursable basis and this provides for an expansion of that program.

Amendment No. 128: Changes section number and inserts a provision proposed by the Senate which would permit the U.S. Secret Service to expend up to $75,000 for installation of security devices and construction related to the providing of security on certain residences of protectees. The current limitation is $10,000.

Amendment No. 129: Changes section number and inserts a provision proposed by the Senate which permits the Board of Governors of the U.S. Postal Service to meet for 42 days per year instead of 30 days as is provided for in current law.

Amendment No. 130: Changes section number and inserts a provision proposed by the Senate which prohibits the Office of Management and Budget from amending the administrative or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with the Federal Alcohol Administration Act. This prohibits OMB from eliminating the form by which labels are approved for use on alcoholic beverages.

Amendment No. 131: Changes section number and inserts a provision proposed by the Senate amended to authorize the relocation of the International Trade Administration in Boston, MA. The Conferees direct that the General Services Administration take into account all the cost and other factors involved in this proposed relocation and take whatever action is most advantageous to the government and report back to the Committees on Appropriations by February 1, 1986.

Amendment No. 132: Changes section number and inserts a provision proposed by the Senate which temporarily extends the Current law regarding the retirement contributions which new federal employees are required to make the Civil Service retirement fund. The federal retirement program for new federal employees has not yet been enacted into law. Pending the enactment of that law, temporary adjustments have been made in employee contributions. That temporary legislation expires January 1, 1986. This provision extends that temporary legislation.

Amendment No. 133: Changes section number and inserts a provision proposed by the Senate which modifies the Ethics in Government Act of 1978. It inserts a new provision of permanent law which authorizes the President to require certain federal employees to file a confidential financial disclosure report.

Amendment No. 134: Deletes language proposed by the Senate which would have increased the limit on certain distilled spirit plants exempt from bond requirements when producing alcohol fuels.

Amendment No. 135: Inserts Sec. 149 instead of Sec. 117 as proposed by the House and Sec. 215 as proposed by the Senate.

For the entire resolution and Senate amendments:

JAMIE L. WHITTEN
(except for amendment No. 4 only in regard to chemical weapons, strategic defense initiative, and unobligated balances setaside; and amendment No. 5),
EDWARD P. BOLAND
(except for amendment No. 4 and amendment No. 117),
WILLIAM H. NATCHER
(except for amendment No. 4 only in regard to chemical weapons),
NEAL SMITH,
JOSEPH P. ADDABBO,
SIDNEY R. YATES
(except for amendment No. 4),
DAVID R. OBEY
(except for amendment No. 4 and amendment No. 117),
EDWARD R. ROYBAL
(except for amendment No. 4),
TOM BEVILL,
BILL CHAPPELL, Jr.,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. HEFNER,
SILVIO O. CONTE
(except for amendment No. 4 and amendment No. 117),
JOSEPH M. McDADE,
LAWRENCE COUGHLIN,
RALPH REGULA,
VIRGINIA SMITH,
JOE SKEEN,
Managers on the part of the House.

MARK O. HATFIELD
(except for amendment No. 4),
TED STEVENS,
LOWELL WEICKER, Jr.,
JAMES A. McCLURE,
TAD COCHRAN,
MARK ANDREWS,
JOHN C. STENNIS,
ROBERT C. BYRD,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
FRANK R. LAUTENBERG,
Managers on the part of the Senate.

COMMUNICATION FROM TOMMY LEE WINEBRENNER

The SPEAKER laid before the House the following communication from Mr. Tommy Lee Winebrenner, floor assistant to the minority, which was read:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 10, 1985.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Please accept my resignation as Floor Assistant to the Minority to be effective at the close of business December 31, 1985.

As I leave this great and unique institution, I will take with me many fond memories of history being made.

It has been an honor and a privilege for me to work for the House of Representatives for over thirty two years. I shall greatly miss the many friends I have come to know and trust.

Thank you for your kindnesses.

With every good wish, I am,

Sincerely,

TOMMY LEE WINEBRENNER.

The SPEAKER. Under the rules, the letter will be printed in the Journal.

TOMMY LEE WINEBRENNER

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker and my colleagues, this House of Representatives could not function as an institution if it were not for some of the wonderful, great people that help us make it what it is.

For the last 32 years, one of those individuals has been Tommy Winebrenner, who came to this body sponsored by one Charlie Halleck, who some of you older Members knew very well from that great State of Indiana.

Tommy's resignation was just laid down and without my even saying a word, we have witnessed an outward manifestation from this House of the love and affection we have for you Tommy. The standing ovation and applause speak much better than any words I might say.

Tommy Winebrenner, we wish you well. You have served this institution with distinction. We are all proud of your service and we wish you all the best in the future.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 348 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 348

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read if it has been available to Members for at least one hour before it is called up for consideration.

The SPEAKER. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

□ 1130

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR] for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 348 provides for the consideration of the conference report on House Joint Resolution 465, the continuing appropriations bill for fiscal year 1986. The rule waives all points of order against the conference report and against its consideration. The rule further provides that the reading of the conference report is dispensed with if it has been available to Members at least 1 hour prior to its consideration.

As my colleagues are aware, earlier this week the House rejected a conference report on the continuing resolution, necessitating another conference with the other body. This rule provides for the expeditious consideration of the second conference report on House Joint Resolution 465. Mr. Speaker, this conference report is similar to the conference report rejected earlier this week. But there are some major differences as follows: the conference report contains an overall reduction of $300 million in domestic programs; new budget authority for defense is reduced by $1.3 billion below the previous level of $282.5 billion; there is no provision relating to minimum drinking age and Federal aid highway funds; and, the conference report clarifies that the honorarium language included in the conference report applies only to the Senate—House rules remain the same.

Mr. Speaker, this further conference agreement addresses the concerns expressed by the House last Monday. The bill provides full year funding for seven appropriation bills, four of them in their entirety: Defense, foreign aid, Interior, and Transportation. Three bills are covered by reference: Agriculture, District of Columbia and Treasury-Postal Service. The other six appropriations bills have been signed into law.

Mr. Speaker, it is imperative that the House move to the consideration of this conference report. Funding for the programs whose appropriations have not been provided through the normal appropriations process is set to expire, as Members know, at midnight tonight.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the rule by which the Committee on Rules hopes to make this a merry Christmas for all of us and for the rest of the Government.

This rule provides for the consideration of the new conference report on House Joint Resolution 465, making continuing appropriations for the rest of the year 1986.

The rule is the vehicle by which the Appropriations Committee comes to the floor, and in accord with the spirit of the season the rule should be adopted.

Mr. Speaker, when the House failed to agree to the first conference report on Monday night, many of us worried that the Congress would be forced to remain in session until Christmas Eve or even Christmas Day in order to finance the operations of Government that have not received their appropriations.

The adoption of this rule will not guarantee that today will be our last day, but it will move us one step closer to adjournment.

Mr. Speaker, the gentleman from California [Mr. BEILENSON] has explained that this rule waives all points of order against the conference report and against its consideration.

These provision of the rule make it possible for the House to proceed with timely consideration of the conference report. Some of the provisions of rule XXVIII relating to conference reports could well delay consideration of this conference report, and the Committee on Rules felt these waivers were necessary.

Mr. Speaker, the primary aspect of rule XXVIII that is waived by this rule is the 3-day layover requirement. The rule provides that the reading of the conference report shall be dispensed with if it has been available to Members for at least 1 hour before it is called up for consideration.

When the Committee on Rules met last night, the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Massachusetts [Mr. CONTE], the ranking Republican member of the committee, indicated that they had reached a new agreement with their counterparts in the other body, and that they would be prepared to file their report this morning.

According to the two gentleman, the conferees have addressed the concerns voiced by the Members of the House last Tuesday by making further reductions of $300 million in domestic spending and by making further reductions of $1.3 billion in defense spending.

Mr. Speaker, the two gentleman also told us that the conferees also removed two nongermane Senate amendments from the report. Members will recall that the other body insisted on language regarding the withholding of Federal-aid highway funds from States that have not adopted the age of 21 as a minimum drinking age. In addition, the other body's conferees tried to change the rules of the House regarding honorariums.

The conference report that will be brought to the House under this rule leaves out these two nongermane amendments, according to the committee chairman and the ranking member of the Appropriations Committee.

Mr. Speaker, enactment of this conference report is needed to continue funding for several major Government agencies that will run out without the budget authority at midnight tonight.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER], a member of the Committee on Appropriations.

Mr. PORTER. Mr. Speaker, let me first commend our conferees on the House side. I think they fought the good fight yesterday, and the fact that the other body largely prevailed does not reflect adversely on them. Time, of course, at this point in the process is a weapon. We are at the end, everyone is tired, we want to go home, and certainly our conferees did their very best to have the House provisions prevail.

Largely, however, they did not prevail. They did not prevail on something that has been of great concern to me since I was elected to Congress 6 years ago and on which I have worked very hard, and that is the issue of funding for the production of chemical weapons.

Members of the House will recall that while we authorized chemical weapons production earlier in the year, it was fenced. It was fenced in such a way that our NATO allies would have had to agree to accept and deploy these weapons on their soil, something they would never do, and it was further fenced for a period of 2 years. On the funding side, the House appropriated not 1 cent for chemical weapons production. The Senate, of course, authorized and appropriated the entire $163.5 million for facilities construction and production. When the conferees first met, Mr. Speaker, the agreement was that there would be production at $21.7 million of the 155mm chemical weapons projectile only, there would be no production for the Bigeye bomb, and the 155mm production money would be fenced in any case until October 1, 1986 so that there would be no production funding in this fiscal year.

This provision, which was in the fourth continuing resolution that was defeated, is exactly the same in this fifth continuing resolution. I do not agree with it, and I hope the Members will vote against this continuing resolution. The fact is that with this continuing resolution the foot is in the door and the historic commitment that the United States made to not produce these terrible weapons 16 years ago will in fact be broken.

Mr. Speaker, the fight on chemical weapons will continue. I, for one, am not going to stand idly by while the United States wastes $20 billion or more on new weapons we do not need.

Mr. Speaker, let me address one other subject. Seeing this process up close as I have, there is something that this House and the other body must do. The thing that we must do is to terminate the use of the continuing resolution. It is a terrible, unconscionable, irresponsible way to legislate, and it is something that none of us should have any part of.

This is the fifth continuing resolution, Mr. Speaker. It is the sixth if we count the one that failed. Our deadline of September 30 has long since passed. It has been pushed back five times, and here we are on December 19 with our work still not finished.

And here we are, lumping $370 billion worth of spending into one bill on one vote, and while we can largely blame the other body for its failure to move the appropriations process forward in a responsible manner, the fact is that this is no way to do business.

I will be working in the second session of this Congress to see that we do not have these kinds of continuing resolutions in the future. We should be handling each of the 13 appropriation bills one at a time, letting them stand on their own, letting them be amended and discussed, letting the conference reports be considered separately, and getting them out and on the President's desk on time. This is my commitment and I invite all my colleagues who care about fairness and fiscal responsibility to join my next year in this effort.

□ 1140

Mr. Speaker, it is high time that responsibility worked its way into this process and that we act in an up-front and equitable manner.

I will not support this CR. I am not satisfied with the provisions. I imagine that other Members, anxious to go home, will. But, Mr. Speaker, the fact is we did not prevail in the conference, the report is substantially the same as the one we defeated on Monday and still deserves a "no" vote.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in strong support of this rule and the conference report.

I think on one major arms control issue, the banning of testing of antisatellite weapons, this conference report sticks very strongly with the House position.

I want to say to my friend, the gentleman from Illinois [Mr. PORTER] who has fought this valiant fight on chemical weapons, that the money in this bill for the 155mm shell is fenced until 1987. I hope during this next 9 months that we will get meaningful negotiations between the United States and the Soviet Union on chemical weapons and then this Appropriations Committee can take another look at this issue, because the money is in fact fenced until fiscal year 1987 for production.

I want to compliment the conferees for a very valiant job.

I want to say to my friend, the gentleman from Massachusetts, Mr. BARNEY FRANK, that I think the fact this bill went down once did strengthen the conferees' hands. They were able to reduce $1.3 billion from defense. They were able to tie down the use of the $6.3 billion transfer fund.

They also have achieved a procurement reform, all the things that were desired by the majority in the House of Representatives.

I want to say to the distinguished chairman of the Appropriations Committee, the gentleman from Mississippi [Mr. WHITTEN], that on behalf of the younger members of the full committee, we appreciate our ability to participate in the continuing resolution. I want to compliment the gentleman for his leadership on this important legislation as chairman of our conferees. I think all our conferees did a good job.

Mr. Speaker, I urge the House to support this rule and to support this conference report.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, this continuing resolution contains the only arms control of this decade.

It cuts $25 billion in military spending off the President's request, it cuts $1.3 billion off the bill we rejected Monday, it fences the $6.3 billion in previously obligated funds to help keep it from being used as a Gramm-Rudman cushion. It adds some meaningful procurement reform and some restrictions on nerve gas. Not as much as I'd like, and not as much as we've going to get next year, but a good start.

All that's terrific. But what I'm going to talk about now is the arms control we can create here today.

Not arms control negotiations. Arms control. Period.

In 60 minutes, we here can make more progress in preventing nuclear war than anybody has made in 6 years.

We can stop Asat testing on both sides. That's what this resolution does. No "ifs," "ands," or "buts." No hokey escape clauses that let the President test if he certifies he's thinking about attempting to consider negotiating about when to have the next arms control talks.

Just clear, cold turkey no testing. We block not just two tests, but all tests of this weapon in any fiscal year.

But we have to pass this resolution. We're not likely to get another chance. Right now there are two Asat targets up there. If we don't block the tests, now, they'll happen and they'll provoke the Russians to do their first test since 1982. Then there won't be any Asat control.

For America's sake, let's do it now. Let's control arms by voting "yes."

Mr TAYLOR. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I thank my friend for yielding.

I am pleased to learn that this continuing resolution and its arms control provisions will have extraterritorial application and will prevent the Soviets from further testing. And, if you believe that, I have some costume jewelry I'd like to sell you.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes. to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I rise just to thank the gentleman from Mississippi, the chairman of the Appropriations Committee, and the gentleman from Massachusetts [Mr. CONTE] for taking out of the continuing resolution the provision which would have made permanent the law regarding the enforcement of a 21-year-old drinking law around the country. It is out of here, but I also want to raise the awareness of this body that it somehow has worked its way into the reconciliation package. Those of us who voted against the continuing resolution because it was in there will continue our fight against the reconciliation package, unless we are afforded at least an opportunity to vote on that issue and to debate that issue.

I will not reiterate what I said before, but this is no way to legislate such an important and such a critical issue to the young people of this country. Not only with respect to the young people and their privileges of adulthood, but also there is strong evidence that the number of alcohol-related accidents for young people in States that have raised their drinking ages is increasing, not decreasing. We ought to get these facts before this body and be on record how we feel about this critical issue. I do not need to say again how this issue runs a

huge fast track truck over States rights and the 21st amendment.

Again, I thank the two members of the Appropriations Committee for taking the issue out of the continuing resolution.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, let me say at the outset that I rise in support of the continuing resolution and the rule which is being offered today. Although I voted against it several days ago, I will vote for it today.

I am disappointed with the disposition of the Synthetic Fuels Corporation, but I understand that die has been cast.

I salute Chairman WHITTEN and his Republican counterparts for the fine job they have done in resolving very many difficult issues.

I would like to speak to one issue today which has been addressed by the gentleman from the other side of the aisle.

Members should be advised that when they return to their districts and speak to the issue of drunk driving that the compromise reached on the continuing resolution removes language offered by the gentleman from New Jersey in the other body. In 1984 we established a national uniform drinking age. The amendment offered by the gentleman in the other body would have prevented States from lowering their minimum drinking age when the current Federal withholding of highway funds ends.

Unless and until we adopt that language, we are inviting a patchwork quilt of minimum drinking ages across our Nation; nightly treks by our children across State borders to get drunk and the carnage and suffering which necessarily follow.

Mr. Speaker, let me refer to a study in my own home State of Illinois. According to the Illinois Secretary of State, in the first 3 years after Illinois increased its drinking age, total statewide alcohol-related fatalities decreased 7.4 percent—decreased 7.4 percent. In the counties which border Wisconsin, which has a lower drinking age, where our children would go in the evening to drink and come back drunk to Illinois, alcohol-related fatalities increased—increased 25 percent.

A study by the Wisconsin Department of Transportation concluded that Wisconsin is an island that causes disproportionate alcohol-related accidents by out-of-State youthful drivers in their border counties.

I do not mean to isolate any criticism to the State of Wisconsin. What we have found in Illinois, unfortunately, can be found to be true across the country where States have different drinking ages and border one another.

Mr. Speaker, our refusal to set and enforce a national standard for a minimum drinking age betrays our pledges at home to take the issue of drunk driving seriously. Those Members who choose to lurk in the shadows of States rights must accept the responsibility for their positions. A continuing resolution may be no place to fight this battle, but I pledge my support to continue this battle to end this needless slaughter of our children.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The rule, of course, does make in order the approval of the continuing resolution. When the previous continuing resolution passed the House, it was characterized in the Washington Post as having a provision for amendment No. 114, which did "pave the way for possible congressional pay increase by making it more difficult for Congress to block proposed pay hikes."

That provision remains in the continuing resolution.

The bill also had amendment No. 117 in it, that previously failed in the House. That particular provision was characterized by Common Cause as "a proposal on raising the honoraria limit, which was a Christmas bonus for Members of Congress."

That has not changed substantively. It has, in fact, been narrowed to some degree and made clear that the Members of the other body will be those who will receive this Christmas bonus, however, it does seem to me that it is one of those cases where it is an amendment that should be brought back in disagreement. I think there is a good deal of disagreement with passing that Christmas bonus on to the other body. At the very least, the membership in this body should have a chance to vote on that matter before it is sent out of this House and given to the other body.

So on those two issues, it seems to me we still have some cause for opposing the continuing resolution that will come to us as a result of this rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise at this point to address some concerns of Members on the defense portion, particularly related to the bill as it came to us the first time in the conference report relating to the $6.3 billion and the concern that this could be used as a way to avoid the impact of Gramm-Rudman.

There were several concerns; one, that the $6.3 billion was taken out of unobligated balances and handed as a pot to the Secretary to be able to disburse to various areas in the reprogramming process. The concern was that it would be used as a way to pad certain accounts when it came to sequestration.

Second, that it provided a great deal of flexibility to the Secretary in terms of the areas that he wanted to focus on.

Third, we were concerned generally about the level of budget authority contained in the bill.

Last, the fact that there were no procurement reforms that were included in the final package.

I must say that with the cooperation of the gentleman from Florida [Mr. CHAPPELL] and the gentleman from New York [Mr. ADDABBO], chairman of the subcommittee, and some very difficult negotiations with the other body, that we achieved, I think, some important modifications on those provisions.

Let me just list those for the benefit of the Members.

The first point is that we were able to reduce overall budget authority by $1.3 billion to $281.2 billion.

Second, that the $6.3 billion that was in a general unobligated balance account is now specifically targeted at areas so that there is no flexibility. It will be targeted to military pay, to retirement savings, to the mariners fund, to coastal defense account, and to readiness in defined numbers.

□ 1155

In addition to that, we were able to add language that none of these balances may be transferrred, reprogrammed or otherwise applied to offset the impact of sequestration under the Gramm-Rudman bill.

Fourth, we were able to obtain general language in the conference report that says that the conferees agree that none of the funds appropriated by this act shall be applied in a manner that would offset the impact of sequestration under the Balanced Budget and Emergency Deficit Control Act.

Last, we were able to obtain one of the procurement reforms on allowable costs.

Obviously, it is not what everyone would desire, but I think it is a significant improvement over the conference as it came here, and I am prepared to support the conference on that basis.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the chairman of the Committee on Armed Services, the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Speaker, there is one part of this package that the gentleman in the well has presented, and I would compliment the members of the committee for their work on this bill and on this package and what has happened here.

But I think it is very important, since we are establishing legislative history and dealing with this amazing thing called Gramm-Rudman and the sequestration process, that we nail down one thing very, very specifically. In this bill we have some appropriations that were not authorized. They have occurred mostly in the Senate, and the conference has cut down some of those. The conference does include language that says that none of these moneys that have been appropriated but not authorized can be spent until they are authorized.

My question to the gentleman in the well is: For the purposes of Gramm-Rudman, is money that has been appropriated but not authorized, is that in the base for the Gramm-Rudman sequestration or not? I ask the gentleman because, obviously, if it is in the base, that is a way to pad the base and to prevent Gramm-Rudman from biting so heavily on defense, by appropriating things, bringing it back in a continuing resolution and not allowing it to be authorized or anybody to vote on it, and padding and protecting against the effects of Gramm-Rudman.

Mr. PANETTA. I share the gentleman's concern on that. We discussed this during the negotiations. It is my understanding on Gramm-Rudman that sequestration would apply only to budget authority and unobligated balances. Accordingly, therefore, it is my belief that funds that are not authorized do not count for purposes of sequestration.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I want to express my appreciation for the work done by the gentleman from California, the gentleman from Florida, and others who came together to try and work this out.

I intend now to vote for this continuing resolution, although it clearly has a long way to go. What we were confronted with Monday was a situation where, partly by some intent in the other body, partly by some other practices, we had a situation where every department of Government was going to get a haircut, so they bought a wig for the Pentagon so not a hair on its head would have been touched. I think we have substantially diminished the wig, but I want to make sure that we have done the maximum possible.

The $1.3 billion is clearly a savings. This is $1.3 less in defense, and there are some savings elsewhere. The procurement reform is an important improvement. Nailing down the $6.3 billion, as I understand it now, if those moneys cannot be spent or need not be spent for appropriated purposes, they will not be spent. They will stay there.

I also understand from the chairman of the subcommittee, the acting chairman, who is here and who I understand will speak, that this will probably mean that we will not need a supplemental which we might otherwise have needed.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I would be pleased to yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct. It was our intention to handle these moneys in this fashion, because we knew there would be expenditures necessary not only for retirement but on the pay increase and on certain other items which we specified, If we went ahead and put them in in this fashion, we anticipate that we would not need a supplemental. We do not know what could happen, but barring unknown circumstances, that is our intent.

The SPEAKER. The time of the gentleman from California [Mr. PANETTA] has expired.

Mr. BEILENSON. Mr. Speaker, I yield 2 additional minutes to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding this additional time to me.

Mr. FRANK. If the gentleman will yield further to me, I will be very brief.

The key point was that raised by the gentleman from Wisconsin. There is some money in here that was appropriated which cannot be legally spent without an authorization. Some may get an authorization. That remains for the legislative process. But the key point that the gentleman from California stressed, and I realize it is not yet nailed down one way or the other, but I thank him for his expression.

I gather his intent, on behalf of the leadership, is to say that if that money that is appropriated is ultimately unspent because there is not an authorization, we will endeavor to take the necessary steps to see that it is not counted as part of the money sequestered under Gramm-Rudman, and I gather the gentleman from Florida also had some views on that.

Mr. PANETTA. I would yield to the gentleman from Florida [Mr. CHAPPELL] on that point.

Mr. CHAPPELL. The gentleman is correct, we have stated time and time again, both from the standpoint of the Senate conferees and the standpoint of the House conferees that there is no intent to permit under any circumstances, by any method, the building of any kind of a pot which would be used to offset Gramm-Rudman.

Mr. FRANK. I thank the gentleman from California and the gentleman from Florida.

Mr. TAYLOR. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is the first appropriation bill that comes before us since the passage of Gramm-Rudman, so it takes on an added importance because it will establish the base for both defense and domestic spending with which we must live for these coming years. So let us be careful about what we are doing here today.

This bill is improved from the one that we sent back to conference and many Members wish to vote for it, but do it understanding this: Last year in defense we spent, as a nation, $275.4 billion for those defense items that are in this bill; $275 billion. Under this bill we will spend $281 billion, an increase of $5.8 billion, or 2.1 percent.

What about the domestic side? Last year for those domestic programs that are covered under this bill, this Nation spent $94.4 billion. Under this bill that is not being increased but reduced from $94 billion to $87 billion, a cut of $6.7 billion in the domestic programs covered by this bill.

So while defense is being increased almost $6 billion, domestic programs are being decreased—decreased—almost $7 billion. Other appropriation bills already passed the Congress, and although I was unable to get the totals from CBO, I can tell my colleagues that in the very important areas of education, health, and human services, the Congress has already accepted cuts of $500 million.

So let us be clear with the American people. This year this Congress, in preparation for the cuts in Gramm-Rudman, have increased defense spending, increased dollars for the Pentagon, by many billions. We have decreased dollars to be spent here at home on the education, the health and the services that the American people demand, and we have decreased them by many billions of dollars. This bill does not prepare us, as I would like to be prepared, for facing the dramatic cuts that will come off of this base under this thing called Gramm-Rudman.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I intend to support this continuing resolution, and I want to particularly commend the House conferees on both sides of the aisle for

the decision they have made within that continuing resolution to terminate one of the most wasteful and mismanaged programs in the entire Federal Government. I am referring, of course, to the Synthetic Fuels Corporation.

That decision to terminate the Synthetic Fuels Corporation was not an easy one to make for many Members of this body and of the other body. We make cuts in programs all the time, but it is quite another matter to terminate an entire bureaucracy. But that decision is indeed a beautiful Christmas present for the American taxpayer. It represents, in combination with the decision that we took in the last session of Congress, a cumulative savings to American taxpayers of some $12 billion.

Let me say that there is no bureaucracy more deserving of termination. There is no bureaucracy in the Federal Government that has been more consistently arrogant in the conduct of its business. Even today, as we are debating this continuing resolution, the Synthetic Fuels Corporation is trying to find a means of pushing out the door another half billion dollars in subsidies, absolutely wasteful subsidies, trying to take advantage of the time gap that they claim will exist between the termination of the short continuing resolution and the one we are now discussing.

□ 1205

I hope the SFC will reconsider that effort. I doubt that it will. This most recent initiative on the part of the arrogant bureaucrats over at the Corporation highlights the importance of the decision we are making today to terminate once and for all the Synthetic Fuels Corporation.

I urge adoption of the continuing resolution.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I thank the gentleman for yielding me this time and I take the time only to engage the gentleman from Florida [Mr. CHAPPELL] in a brief colloquy with regard to the procurement reforms.

First, I want to express my thanks to the committee members for reincluding these provisions in the bill, and second, to ask with regard to one of the reforms a question.

Originally when we asked the committee to include language requiring the Defense Department to consult with congressional committees in establishing their definitions with regard to exclusions, limitations, and qualifications on what they can spend and buy, that is allowable costs, that was agreed to, but only with the provision that that be kept secret, that that not be public prior to its publication.

My understanding is that that provision with regard to secrecy is now out of the bill and it was not contemplated by those who drafted this provision that it be secret. Is that correct?

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Florida.

Mr. CHAPPELL. The gentleman is correct.

Mr. BRYANT. I thank the gentleman and I yield back the remainder of my time.

Mr. TAYLOR. Mr. Speaker, I yield 4 minutes to my moderate friend, the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, one of the things that Government requires for consumers of this country is that we have a Truth-in-Lending Act. One of the things that we should follow ourselves is a truth-in-legislating act.

This bill that is before us, it is about an inch thick, is called joint resolution making further continuing appropriations for the fiscal year 1986 and for other purposes. The problem with its title is that it is really not being honest with all of us. What we should call this tome is an act to deny the Chief Executive the ability to exercise the power given to that person by the Constitution; namely, the veto.

When we send to the White House roughly a third of the Federal spending in 1 year in one document, virtually on the eve of Christmas, we are severely limiting the options of our President with respect to controlling runaway spending. We should not lose sight of the fact that the resort to the CR is not an accident. It is a deliberate result from the political processes of this country, whereby one of the three institutions of Government, the White House, can be controlled by one party, the Republicans in this instance, and one or both Houses of Congress can be controlled by another party, the Democrats. The Democrats control this House and have continuously for the last 30 years.

Their remedy for the ills of America is to increase social spending anytime they get the chance, and the means by which they have asserted their leverage is to combine in this continuing resolution tempting morsels for defense along with sensitive increases for domestic program spending. And then to give to the President the uneviable choice of whether or not to criticize the increases in social spending that are out of control in this country, and in so doing, limit the ability that he, as our Chief Executive, believes we need in the area of increased defense spending.

That is the game that is being played.

I do not choose to give this Member's vote from California in the way of approval of this subterfuge undermining the use of the Chief Executive asserting a veto. In the last 4 years since President Reagan was elected, the CR, has been too often used. In fact, it has become commonplace.

I think we should just reject this as an unreasonable attempt to undermine the ability of a Chief Executive to exercise a veto should he choose to do so.

Another element of the CR that I find particularly reprehensible relates to the ability of any of us to offer any amendments to any of the measures that are contained in it. None are made in order. It is said that if we had the ability to amend any of the provisions, if this Member had the ability, other Members would want that, and so we do not allow any.

This is a subversion of the legislative process, and I think we should give it the fate it justly deserves and reject it.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I think we should support this continuing resolution. It is all that we can get. I think it is a major step forward from the resolution that we had before.

I would like to commend my colleague, the gentleman from Oregon [Mr. AUCOIN] for the efforts that he made on behalf of getting the restrictions of Asat testing. I would like to commend my colleagues, the gentleman from Texas [Mr. BRYANT] and the gentlewoman from California [Mrs. BOXER], for the efforts they made that led to the successful inclusion of at least one of the procurement reforms that this House has spoken on now several times overwhelmingly to see that we change the manner in which the Pentagon procures and lets contracts so that we will not have the wasteful system that we have today, and I think that that single reform is an important step forward in that effort.

I would, however, say that I think that those people who do not work with the Pentagon on a day-to-day basis ought to understand what we are doing here today, because I think this is the first effort in starting to pad the books to try and insulate the Pentagon from the full force of the effects of Gramm-Rudman, and I would hope that those who are concerned with the domestic side of the ledger will understand what is going on here when we meet sequestration in the months ahead.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from New York [Mr. ADDABBO].

Mr. ADDABBO. Mr. Speaker, I rise in support of the rule and the continuing resolution.

Mr. Speaker, the conferees on the Department of Defense Appropriations Act portion of the continuing resolution bring back a very delicately balanced agreement on the defense issues. This further conference agreement is even more fragile. We were faced with some extremely difficult issues which had to be weighed against each other and a final agreement crafted. These issues included the total funds provided for the defense programs, the funds allowed and the restrictions imposed on these funds for chemical weapons and facilities, the restriction on antisatellite weapons testing, the amounts approved for the strategic defense initiative [SDI], and many other important issues. Not all Members are satisfied with the conference agreement. I have difficulty with portions of the agreement myself, but this is a compromise and I think basically a good bill.

The conference agreement appropriates $281.2 billion in new budget authority some $1.3 billion below the original conference settlement and we include a procurement reform provision relating to allowable costs which involved extremely difficult negotiations. This provision is a compromise, but it is the best your conferees could extract from the Senate. We negotiated for days on this one issue and you can rest assured we got the best compromise that was possible under the circumstances.

We can all claim a victory on this compromise language because it puts Congress in the process of reviewing DOD's policy of allowable costs allowance which is a first.

There was some concern regarding the treatment of unobligated balances of $6.3 billion in the original conference agreement. While the conferees did not give the Defense Department a great deal of flexibility on the use of the funds in the first instance, we have specifically set forth in the law the allocations of these set-asides. These funds can be used only to finance the military pay raise, the payments to the retirement trust fund, the mariner fund, the coastal defense augmentation account, and increased readiness of conventional forces. The conferees also included bill language that would prohibit the funds set aside in this provision from being used to offset any Gramm-Rudman reductions. The original conference agreement subjected these same funds to the reprogramming process and we continue this requirement.

There was not much flexibility before on the use of these funds, but there is none whatsoever now.

The conference agreement provides $126 million for binary chemical weapons and facilities. This includes $98.3 million for the Bigeye bomb production facilities, $6 million for Bigeye operation testing, and $21.7 million for the production of the 15mm chemical projectile. Of course, there are a number of restrictions on the use of these funds.

First, obligation of all funds is made subject to an additional requirement that the President certify to the Congress that a force goal stating the requirement for modernization of the United States share of NATO chemical deterrent has been submitted to NATO and formally adopted by the North Atlantic Alliance.

Second, obligation of funds for Bigeye components is subject to the requirement that the Secretary of Defense submit a report describing the operational requirements for Bigeye, actual performance of bigeye during operational testing with respect to the requirements, and any exceptions deemed acceptable. Obligation for Bigeye components may occur no sooner than 60 days after submission of the report.

Third, none of the funds included for procurement of the GB-2 artillery projectile may be obligated before October 1, 1986, and then only when the provisions on NATO consultation are satisfied. Final assembly of the GB-2 may not occur before October 1, 1987, and then only when the provisions on conditions for final assembly are satisfied.

The conference agreement includes a prohibition on the use of funds in this act or any other act to carry out a test of an antisatellite weapon against an object in space until the President certifies that the Soviet Union has conducted, after October 3, 1985, such a test against an object in space of a dedicated antisatellite weapon. This was a difficult position to hold but your House conferees worked hard on this matter. Let me point out that if this conference agreement is not approved, Asat testing can go forward now.

The conference agreement provides $2.750 billion for strategic defense initiatives some $250 million above the House but $213 million below the Senate and roughly $1 billion below the budget request.

This conference report appropriates over $146 billion for the military personnel and operation and maintenance account which includes many billions of dollars to improve the quality of life of our troops and to improve the readiness of our forces.

The conference agreement provides approximately $20 billion for the Guard and Reserve Forces including over $1.5 billion above the budget request for a separate Guard and Reserve equipment account.

This is a good agreement and I urge its adoption.

Insert a table in the RECORD setting forth the Defense conference agreement:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	Fiscal year 1985 enacted [1]	Fiscal year 1986 estimates [2]	House	Senate [3]	Conference	Conference compared with—			
						Enacted	Estimates	House	Senate
TITLE I—MILITARY PERSONNEL									
Military Personnel, Army	21,437,593,000	22,712,000,000	21,761,423,000	21,109,765,000	21,078,169,000	−359,424,000	−1,633,831,000	−683,254,000	−31,596,000
(Transfer from other accounts)	(25,000,000)					(−25,000,000)			
Military Personnel, Navy	15,660,246,000	17,221,400,000	16,472,073,000	15,838,363,000	15,917,144,000	+256,898,000	−1,304,256,000	−554,929,000	+78,781,000
(Transfer from other accounts)	(339,633,000)					(−339,633,000)			
Military Personnel, Marine Corps	4,910,206,000	5,217,400,000	5,041,377,000	4,835,456,000	4,870,016,000	−40,190,000	−347,384,000	−171,361,000	+34,560,000
(Transfer from other accounts)	(10,000,000)					(−10,000,000)			
Military Personnel, Air Force	17,826,830,000	19,187,900,000	18,341,185,000	17,688,587,000	17,744,770,000	−82,060,000	−1,443,130,000	−596,415,000	+56,183,000
(Transfer from other accounts)	(112,854,000)					(−112,854,000)			
Reserve Personnel, Army	2,084,100,000	2,394,400,000	2,159,254,000	2,203,014,000	2,178,564,000	+94,464,000	−215,836,000	+19,310,000	−24,450,000
Reserve Personnel, Navy	1,132,319,000	1,353,600,000	1,297,123,000	1,264,334,000	1,267,734,000	+135,415,000	−85,866,000	−29,389,000	+3,400,000
(Transfer from other accounts)	(22,000,000)					(−22,000,000)			
Reserve Personnel, Marine Corps	271,778,000	290,000,000	278,842,000	272,200,000	272,250,000	+472,000	−17,750,000	−6,592,000	+50,000
Reserve Personnel, Air Force	567,476,000	622,500,000	597,153,000	583,330,000	584,430,000	+16,954,000	−38,070,000	−12,723,000	+1,100,000
National Guard Personnel, Army	2,926,100,000	3,430,800,000	3,238,217,000	3,062,098,000	3,066,568,000	+140,468,000	−364,232,000	−171,649,000	+4,470,000
National Guard Personnel, Air Force	886,110,000	995,100,000	953,204,000	926,516,000	926,716,000	+40,606,000	−68,384,000	−26,488,000	+200,000
Total, title I, Military Personnel:									
New budget (obligational) authority	67,702,758,000	73,425,100,000	70,139,851,000	67,783,663,000	67,906,361,000	+203,603,000	−5,518,739,000	−2,233,490,000	+122,698,000
(Transfer from other accounts)	(509,487,000)					(−509,487,000)			
TITLE II—OPERATION AND MAINTENANCE									
Operation and Maintenance, Army	18,421,544,000	20,190,630,000	18,659,638,000	19,043,039,000	18,975,507,000	+553,963,000	−1,215,123,000	+315,869,000	−67,532,000
(Transfer from other accounts)	(119,300,000)					(−119,300,000)			
Operation and Maintenance, Navy	25,123,360,000	25,797,700,000	[4] 23,862,002,000	[4] 24,528,310,000	24,477,071,000	−646,289,000	−1,320,629,000	+615,069,000	−51,239,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	Fiscal year 1985 enacted [1]	Fiscal year 1986 estimates [2]	House	Senate [3]	Conference	Conference compared with— Enacted	Estimates	House	Senate
(Transfer from other accounts)	(180,829,000)					(−180,829,000)			
Operation and Maintenance, Marine Corps	1,640,294,000	1,667,400,000	1,615,128,000	1,609,000,000	1,612,050,000	−28,244,000	−53,350,000	−3,078,000	+3,050,000
(Transfer from other accounts)	(8,488,000)					(−8,488,000)			
Operation and Maintenance, Air Force	19,093,265,000	20,924,400,000	19,507,672,000	19,468,901,000	19,536,813,000	+443,548,000	−1,387,587,000	+29,141,000	+67,912,000
(Transfer from other accounts)	(90,346,000)					(−90,346,000)			
Operation and Maintenance, Defense Agencies	7,148,699,000	7,568,900,000	7,340,076	7,479,956,000	7,432,569,000	+283,870,000	−136,331,000	+92,493,000	−47,387,000
(Transfer from other accounts)	(8,000,000)					(8,000,000)			
Operation and Maintenance, Army Reserve	731,736,000	779,600,000	774,980,000	793,100,000	780,100,000	+48,364,000	+500,000	+5,120,000	−13,000,000
Operation and Maintenance, Navy Reserve	828,581,000	954,500,000	896,415,000	896,700,000	894,950,000	+66,369,000	−59,550,000	−1,465,000	−1,750,000
Operation and Maintenance, Marine Corps Reserve	58,792,000	61,600,000	57,120,000	57,200,000	57,200,000	−1,592,000	−4,400,000	+80,000	
Operation and Maintenance, Air Force Reserve	879,761,000	907,700,000	896,844,000	910,200,000	902,700,000	+22,939,000	−5,000,000	+5,856,000	−7,500,000
Operation and Maintenance, Army National Guard	1,437,487,000	1,605,200,000	1,646,305,000	1,656,500,000	1,652,800,000	+215,313,000	+47,600,000	+6,495,000	−3,700,000
Operation and Maintenance, Air National Guard	1,825,439,000	1,830,100,000	1,803,862,000	1,806,200,000	1,806,200,000	−19,239,000	−23,900,000	+2,338,000	
National Board for the Promotion of Rifle Practice, Army	926,000	920,000	820,000	920,000	920,000	−6,000		+100,000	
Claims, Defense	157,900,000	158,300,000	148,300,000	143,300,000	143,300,000	−14,600,000	−15,000,000	−5,000,000	
Court of Military Appeals, Defense	2,870,000	3,200,000	3,200,000	3,200,000	3,200,000	+330,000			
Tenth International Pan American Games			10,000,000	10,000,000	10,000,000	+10,000,000	+10,000,000		
Environmental Restoration, Defense	314,000,000			429,100,000	379,100,000	+65,100,000	+379,100,000	+379,100,000	−50,000,000
(Internal D&M transfer account)			[5] (329,100,000)					(−329,100,000)	
Total, title II, Operations and Maintenance:									
New budget (obligational) authority	77,664,654,000	82,450,150,000	77,222,362,000	78,835,626,000	78,664,480,000	+999,826,000	−3,785,670,000	+1,442,118,000	−171,146,000
(Transfer from other accounts)	(406,963,000)					(−406,963,000)			
TITLE III—PROCUREMENT									
Aircraft Procurement, Army	3,940,900,000	3,892,500,000	3,337,300,000	3,504,200,000	3,524,200,000	−416,700,000	−368,300,000	+186,900,000	+20,000,000
(Transfer from other accounts)			(217,600,000)	(101,800,000)				(−217,600,000)	(−101,800,000)
Missile Procurement, Army	3,167,000,000	3,386,700,000	2,939,232,000	3,056,050,000	2,904,332,000	−262,668,000	−482,368,000	−34,900,000	−151,718,000
(Transfer from other accounts)			(124,500,000)	(49,700,000)				(−124,500,000)	(−49,700,000)
Procurement of Weapons and Tracked Combat Vehicles, Army	4,548,100,000	5,739,100,000	3,749,004,000	4,629,900,000	4,684,800,000	+136,700,000	−1,054,300,000	+935,796,000	+54,900,000
(Transfer from other accounts)			(806,896,000)	(240,800,000)				(−806,896,000)	(−240,800,000)
Procurement of Ammunition, Army	2,646,300,000	2,635,000,000	1,858,200,000	2,588,213,000	2,497,200,000	−149,100,000	−137,800,000	+639,000,000	−91,013,000
(Transfer from other accounts)			(215,200,000)	(209,900,000)				(−215,200,000)	(−209,900,000)
Other Procurement, Army	5,122,450,000	5,712,800,000	4,809,986,000	5,214,730,000	5,275,556,000	+153,106,000	−437,244,000	+465,570,000	+60,826,000
(Transfer from other accounts)			(297,400,000)	(238,000,000)				(−297,400,000)	(−238,000,000)
Aircraft Procurement, Navy	10,903,798,000	12,062,600,000	10,446,400,000	10,289,651,000	11,175,678,000	+271,880,000	−886,922,000	+729,278,000	+886,027,000
(Transfer from other accounts)			(594,600,000)	(566,382,000)				(−594,600,000)	(−566,382,000)
Weapons Procurement, Navy	4,353,611,000	5,627,900,000	5,093,733,000	5,372,563,000	5,227,795,000	+874,184,000	−400,105,000	+134,062,000	−144,768,000
(Transfer from other accounts)			(109,600,000)	(15,000,000)				(−109,600,000)	(−15,000,000)
Shipbuilding and Conversion, Navy	11,736,000,000	11,411,600,000	8,648,900,000	9,598,900,000	10,840,400,000	−895,600,000	−571,200,000	+2,191,500,000	+1,241,500,000
(Transfer from other accounts)	(36,300,000)		(2,058,500,000)	(1,057,600,000)		(−36,300,000)		(−2,058,500,000)	(−1,057,600,000)
Other Procurement, Navy	5,341,614,000	6,601,200,000	5,682,694,000	6,463,560,000	6,377,630,000	+1,036,016,000	−223,570,000	+694,936,000	−85,930,000
(Transfer from other accounts)			(312,762,000)	(221,000,000)				(−312,762,000)	(−221,000,000)
Coastal Defense Augmentation				375,000,000	235,000,000	+235,000,000	+235,000,000	+235,000,000	−140,000,000
Procurement, Marine Corps	1,836,722,000	1,726,800,000	1,610,749,000	1,689,982,000	1,660,766,000	−175,956,000	−66,034,000	+50,017,000	−29,216,000
(Transfer from other accounts)			(85,717,000)	(31,056,000)				(−85,717,000)	(−31,056,000)
Aircraft Procurement, Air Force	26,188,266,000	26,165,500,000	20,722,700,000	24,142,651,000	23,255,424,000	−2,932,842,000	−2,910,076,000	+2,532,724,000	−887,227,000
(Transfer from other accounts)			(1,458,300,000)	(648,000,000)				(−1,458,300,000)	(−648,000,000)
Missile Procurement, Air Force	6,909,245,000	10,862,700,000	8,043,527,000	8,770,831,000	8,312,442,000	+1,403,197,000	−2,550,258,000	+268,915,000	−458,389,000
(Transfer from other accounts)	(1,500,000,000)		(155,000,000)	(64,400,000)		(−1,500,000,000)		(−155,000,000)	(−64,400,000)
Other Procurement, Air Force	8,861,697,000	9,538,000,000	7,890,918,000	8,831,674,000	8,571,383,000	−290,314,000	−966,617,000	+680,465,000	−260,291,000
(Transfer from other accounts)			(347,476,000)	(282,000,000)				(−347,476,000)	(−282,000,000)
National Guard and Reserve Equipment	380,000,000		582,000,000	2,063,800,000	1,501,800,000	+1,121,800,000	+1,501,800,000	+919,800,000	−562,000,000
(Transfer from other accounts)			(8,000,000)	(178,400,000)				(−8,000,000)	(−178,400,000)
Procurement, Defense Agencies	1,165,701,000	1,391,900,000	1,181,869,000	1,426,914,000	1,302,740,000	+137,039,000	−89,160,000	+120,871,000	−124,174,000
(Transfer from other accounts)			(36,000,000)	(36,000,000)				(−36,000,000)	(−36,000,000)
Defense Production Act Purchases	10,000,000	59,000,000		31,000,000	31,000,000	+21,000,000	−28,000,000	+31,000,000	
NATO Cooperative Defense Programs				15,000,000	15,000,000	+15,000,000	+15,000,000	+15,000,000	
Total, title III, Procurement:									
New budget (obligational) authority	97,111,404,000	106,813,300,000	86,597,212,000	98,064,619,000	97,393,146,000	+281,742,000	−9,420,154,000	+10,795,934,000	−671,473,000
(Transfer from other accounts)	(1,536,300,000)		(6,827,551,000)	(3,940,038,000)		(−1,536,300,000)		(−6,827,551,000)	(−3,940,038,000)
TITLE IV—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research Development, Test, and Evaluation, Army	4,349,015,000	5,279,900,000	4,436,475,000	4,841,169,000	4,798,172,000	+449,157,000	−481,728,000	+361,697,000	42,997,000
(Transfer from other accounts)			(110,530,000)	(265,000,000)				(−110,530,000)	(−265,000,000)
Research, Development, Test, and Evaluation, Navy	9,172,622,000	11,264,300,000	9,462,631,000	10,104,594,000	10,065,239,000	+892,617,000	−1,199,061,000	+602,608,000	−39,355,000
(Transfer from other accounts)			(271,496,000)	(183,000,000)				(−271,496,000)	(183,000,000)
Research, Development, Test, and Evaluation, Air Force	13,424,147,000	15,578,500,000	13,217,177,000	13,861,113,000	13,718,208,000	+294,061,000	−1,860,292,000	+501,031,000	−142,905,000
(Transfer from other accounts)			(359,000,000)	(256,000,000)				(−359,000,000)	(−256,000,000)
Research, Development, Test, and Evaluation, Defense Agencies	4,182,287,000	7,053,900,000	5,943,038,000	7,033,745,000	6,637,386,000	+2,455,099,000	−416,514,000	+694,348,000	−396,359,000
(Transfer from other accounts)			(179,112,000)	(51,000,000)				(−179,112,000)	(−51,000,000)
Director of Test and Evaluation, Defense	59,000,000	103,500,000	93,500,000	143,500,000	118,500,000	+59,500,000	+15,000,000	+25,000,000	−25,000,000
Total, title IV, Research, Development, Test, and Evaluation:									
New budget (obligation) authority	31,187,071,000	39,280,100,000	33,152,821,000	35,984,121,000	35,337,505,000	+4,150,434,000	−3,942,595,000	+2,184,684,000	−646,616,000
(Transfer from other accounts)			(920,138,000)	(755,000,000)				(−920,138,000)	(−755,000,000)
TITLE V—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	8,650,000	2,100,000	2,100,000	2,100,000	2,100,000	−6,550,000			
TITLE VI—REVOLVING AND MANAGEMENT FUNDS									
Army Stock Fund	366,448,000	442,000,000	393,000,000	393,000,000	393,000,000	+26,552,000	−49,000,000		
Navy Stock Fund	473,307,000	716,500,000	616,500,000	638,500,000	638,500,000	+165,193,000	−78,000,000	+22,000,000	
Marine Corps Stock Fund	34,908,000	42,700,000	37,700,000	37,700,000	37,700,000	+2,792,000	−5,000,000		
Air Force Stock Fund	548,593,000	464,900,000	415,900,000	415,900,000	415,900,000	−132,693,000	−49,000,000		
Defense Stock Fund	130,700,000	193,500,000	149,700,000	174,500,000	149,700,000	+19,000,000	−43,800,000		−24,800,000
Marine Fund (Transfer from other accounts)				(852,100,000)					(−852,100,000)
ADP Management fund				150,000,000	100,000,000	+100,000,000	+100,000,000	+100,000,000	−50,000,000
Total, title VI, Revolving and Management Funds:									
New budget (obligational) authority	1,553,956,000	1,859,600,000	1,612,800,000	1,809,600,000	1,734,800,000	+180,844,000	−124,800,000	+122,000,000	−74,800,000
(Transfer from other accounts)				(852,100,000)					(−852,100,000)
TITLE VII—RELATED AGENCIES									
Intelligence Community Staff	20,971,000	22,283,000	22,083,000	22,283,000	22,083,000	+1,112,000	−200,000		−200,000
Central Intelligence Agency Retirement and Disability System Fund	99,300,000	101,400,000	101,400,000	101,400,000	101,400,000	+2,100,000			

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	Fiscal year 1985 enacted [1]	Fiscal year 1986 estimates [2]	House	Senate [3]	Conference	Conference compared with—			
						Enacted	Estimates	House	Senate
Enhanced security countermeasures capabilities	35,000,000					−35,000,000			
Total, title VII, Related Agencies: New budget (obligational) authority	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	−31,788,000	−200,000		−200,000
TITLE VIII—GENERAL PROVISIONS									
(Additional transfer authority, sec. 8020)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	
TITLE IX									
Counter-terrorisa Contingency fund				100,000,000					−100,000,000
Title I—Military Personnel	67,702,758,000	73,425,100,000	70,139,851,000	67,783,663,000	67,906,361,000	+203,603,000	−5,518,739,000	−2,233,490,000	+122,698,000
(Transfer from other accounts)	(509,487,000)					(−509,487,000)			
Title II—Operation and Maintenance	77,664,654,000	82,450,150,000	77,222,362,000	78,835,626,000	78,664,480,000	+999,826,000	−3,785,670,000	+1,442,118,000	−171,146,000
(Transfer from other accounts)	(406,963,000)					(−406,963,000)			
Title III—Procurement	97,111,404,000	106,813,300,000	86,597,212,000	98,064,619,000	97,393,146,000	+281,742,000	−9,420,154,000	+10,795,934,000	−671,473,000
(Transfer from other accounts)	(1,536,300,000)		(6,827,551,000)	(3,940,038,000)		(−1,536,300,000)		(−6,827,551,000)	(−3,940,038,000)
Title IV—Research, Development, Test, and Evaluation	31,187,071,000	39,280,100,000	33,152,821,000	35,984,121,000	35,337,505,000	+4,150,434,000	−3,942,595,000	+2,184,684,000	−646,616,000
(Transfer from other accounts)			(920,138,000)	(755,000,000)				(−920,138,000)	(−755,000,000)
Title V—Special foreign currency program	8,650,000	2,100,000	2,100,000	2,100,000	2,100,000	−6,550,000			
Title VI—Revolving and management funds	1,553,956,000	1,859,600,000	1,612,800,000	1,809,600,000	1,734,800,000	+180,844,000	−124,800,000	+122,000,000	−74,800,000
(Transfer from other accounts)				(852,100,000)					(−852,100,000)
Title VII—Related agencies	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	−31,788,000	−200,000		−200,000
Title VIII—General provisions (additional) transfer authority, sec. 8020)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	
Title IX—Counter-terrorism Contingency fund				100,000,000					−100,000,000
Total, Department of Defense (NOA)	275,383,764,000	303,954,033,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	−22,792,158,000	+12,311,246,000	−1,541,537,000
(Transfer from other accounts)	(2,452,750,000)		(7,747,689,000)	(5,547,138,000)		(−2,452,750,000)		(−7,747,689,000)	(−5,547,138,000)
Total funding available	277,836,514,000	303,954,033,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	−22,792,158,000	+4,563,557,000	−7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	
Distribution by organizational component:									
Army	71,179,699,000	78,201,550,000	69,763,834,000	72,095,698,000	71,809,888,000	+630,189,000	−6,391,662,000	+2,046,054,000	−285,810,000
(Transfer from other accounts)	(144,300,000)		(1,772,126,000)	(1,105,200,000)		(144,300,000)		(−1,772,126,000)	(−1,105,200,000)
Navy	93,478,158,000	102,017,200,000	91,119,387,000	93,872,013,000	95,627,123,000	+2,148,965,000	−6,390,077,000	+4,507,736,000	+1,755,110,000
(Transfer from other accounts)	(597,250,000)		(3,432,675,000)	(2,074,038,000)		(−597,250,000)		(−3,432,675,000)	(−2,074,038,000)
Air Force	97,010,829,000	107,077,300,000	92,390,142,000	97,405,903,000	95,774,986,000	−1,235,843,000	−11,302,314,000	+3,384,844,000	−1,630,917,000
(Transfer from other accounts)	(1,703,200,000)		(2,319,776,000)	(1,250,400,000)		(−1,703,200,000)		(−2,319,776,000)	(−1,250,400,000)
Defense Agencies/OSD	13,179,807,000	16,534,300,000	14,871,783,000	17,142,315,000	16,324,595,000	+3,144,788,000	−209,705,000	+1,452,812,000	−817,720,000
(Transfer from other accounts)	(8,000,000)		(215,112,000)	(939,100,000)		(−8,000,000)		(−215,112,000)	(−939,100,000)
Reserve and National Guard (procurement)	380,000,000		582,000,000	2,063,800,000	1,501,800,000	+1,121,800,000	+1,501,800,000	+919,800,000	−562,000,000
(Transfer from other accounts)			(8,000,000)	(178,400,000)				(−8,000,000)	(−178,400,000)
Related agencies	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	−31,788,000	−200,000		−200,000
Total, Department of Defense (NOA)	275,383,764,000	303,954,033,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	−22,792,158,000	+12,311,246,000	−1,541,537,000
(Transfer from other accounts)	(2,452,750,000)		(7,747,689,000)	(5,547,138,000)		(−2,452,750,000)		(−7,747,689,000)	(−5,547,138,000)
Total funding available	277,836,514,000	303,954,033,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	−22,792,158,000	+4,563,557,000	−7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	

[1] Includes amounts in Supplemental Appropriation Act, 1985.
[2] Includes $383,000 for the Intelligence Community Staff (H. Doc. 99–89).
[3] As amended on the Senate Floor during consideration of H.J. Res. 465.
[4] Includes $100 million for Coast Guard (House section 8101).
[5] Funds are included in individual appropriaton accounts.

SCORING AGAINST THE BUDGET RESOLUTION NATIONAL DEFENSE FUNCTION 050 NEW BUDGET AUTHORITY

[In billions of dollars]

	Fiscal year 1986 budget request	Budget resolution	Conference I	Conference II
DOD appropriation bill	304.0	NA	282.5	281.2
Military Construction and Nuclear Warhead Program, Department of Energy	18.7	NA	16.3	16.3
National defense function (050)	322.7	302.5	298.8	297.5
Below budget request	−25.2			
Below budget resolution		−5.0		
Below conference I			−1.3	

Mr. BEILENSON. Mr. Speaker, I have no further requests for time.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. STRANG].

Mr. STRANG. Mr. Speaker, I thank the gentleman for yielding me this time.

My colleagues, I have a very brief statement to make to put your fears at rest about some of the charges made about the proposed uses for synfuels in Colorado, and I think it is time that you knew some facts.

The facts are these: The combination of the current loan guarantees and the additional moneys proposed, bonus payments or payments for fuel can never exceed $500 million, never exceed $500 million. Any statement to the contrary is false.

I think you should understand that we all need that production, that kind of protection from this program becoming a boondoggle. The product goes to the Department of Defense. When the program has been proven, it is over. It is not a national oil shale production program and was never intended to be, as most of the Members in this House realize.

Additionally, Mr. Speaker, in order to qualify for payments, Union Oil Corp. has to produce at a sustained rate of 6,000 barrels a day for 30 days or they do not get a check.

Those facts have to be kept in mind as we attempt a small-scale effort to know that the Defense Department and this country can have one additional source of commercial oil production when we need it.

When that experiment is over, however, Mr. Speaker, it is over. Any statements to the contrary are misstatements of fact, and I thank the gentleman for yielding.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Pursuant to House Resolution 348, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report to accompany House Joint Resolution 465, making further continuing appropriations for fiscal year 1986, and that I be allowed to include extraneous and tabular matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1220

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset I wish to thank the Committee on Rules today, and particularly the gentleman from California [Mr. BEILENSON] and the gentleman from Missouri [Mr. TAYLOR]. I appreciate their cooperation and giving time to our colleagues with whom we had arranged to give time in case we did not have the time to use.

Mr. Speaker, it is a pleasure for me to come to you today and bring before you the continuing resolution, on which our committee has been working for some time.

May I also add that I do not believe we could handle our job here like we do, except for the very fine staff that we have. I do not know whether you realize just how much of a job our committee faced.

There were 29 conferees from the Senate, 22 full-time conferees on the part of the House. We bring you a bill in which I take great pride because we have not a single amendment in controversy, not even a technical amendment.

Now when I say that, I am proud that you have trusted us to do the very best we could. I have in all candor to say that the fact that everybody wants to go home may have contributed somewhat to that and enabled us to be granted a rule which made this possible.

In the interests of time let me tell you, and I repeat, your Committee on Appropriations through the years has held appropriation bills below the budget. It is those things that go around our review which causes our problem.

May I say when I talk about how proud we are to have the overall support that is shown here, I have had delivered to me a statement of administration policy, December 19, 1985:

H.J. Res. 465, making continuing appropriations for fiscal year 1986, Whitten, Democrat of Mississippi: The Administration supports House passage of the conference report to accompany H.J. Res. 465.

So, to have the support that has been shown here and the support in the committee, at least it gives me great confidence that they have believed that we have done the very best we could; and we have.

We have considered every viewpoint, we have listened to all those that wish to testify, we have tried to include all branches, and we brought you the results.

For your information and most folks that know it but have not paid attention to it, in 1981, your Committee on Appropriations authorized and directed an investigation of procurement policies and practices. Policies is what they say they do; practices is what they do.

These results have been made available to the public for quite a long time, and I hope we are on the road to cleaning up some of the things that seem to be going on.

Again, the Senate conferees, House conferees, and the executive branch have gone along to where we bring you a bill without a single amendment in disagreement, not even a technical amendment. In all candor, I have to admit perhaps it is because we are ready to go home.

We have a good resolution; I hope we may enjoy your support, and its passage.

Mr. Speaker, after some very difficult negotiations with the Senate and the administration, we have now been able to develop a further continuing resolution conference report which I believe should receive your approval.

Our original resolution was $18.5 billion below the budget requests and $2.9 billion below the fiscal year 1985 level. Basically two broad changes have been made here. First, some $300 million of additional reductions were made in domestic spending to help solve OMB's problems which are mainly related to scorekeeping issues.

Second, $1.3 billion was reduced in defense and other changes made such as procurement reform to meet objections of House Members. The specifics are as follows:

DOMESTIC REDUCTIONS

Agriculture: Six-tenths of 1 percent reduction—approximately $200 million from all accounts in the bill excluding child nutrition and special milk.

Transportation: $50 million reduction in U.S. Coast Guard.

Interior: Six-tenths of 1 percent reduction—approximately $50 million from all accounts in the bill.

MILITARY SPENDING

Reduces new budget authority by $1.3 billion below the previous level of $282.5 billion.

Unobligated balances set aside would be for specific purposes only:

Military retired pay.

Active duty pay.

The mariner fund, subject to authorization.

Coastal defense augmentation account.

Readiness accounts subject to reprogramming practices.

Provides for procurement reform on allowable costs.

Language dealing with defense contractor issues was agreed to.

Mr. Speaker, we need a strong defense, and no one has supported sufficient funds for defense longer than I. But what we are engaged in now is military spending.

In fact, I personally made exception to parts of amendments—in defense amendment No. 4 in regard to chemical weapons, the Strategic Defense Initiative, and unobligated balances set aside; amendment No. 5.

In addition, the Senate receded from its insistence on amendment No. 122 holding up Federal Aid Highway Funds from a number of States until their legislatures passed laws on minimum drinking age.

We also made clear amendment No. 117 dealing with honorarium language applies only to the Senate and not the House.

The provisions in the resolution passed by the House directing the Secretary of Agriculture to use existing law on basic commodities and to suspend for 12 months and foreclosure by the Farmers Home Administration were objected to by the Senate. The law remains and I repeat there is no requirement that supports be reduced in order to sell competitively in world trade. Any statements that supports must be reduced in order to sell are absolutely incorrect.

Such provisions are:

SEC. 105. In review of the financial risks facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

SEC. 106. Public Law 99-98 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultureal products during the last decade as a result of embar-

goes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy or foreclosure, all as authorized by existing law.

Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.

We take note again that these actions can be taken under existing law. What we lost was the directive to use this law. It is to be hoped that the Secretary of Agriculture will use such law to require the purchaser to pay the cost of a fair price instead of having to depend upon appropriations; that he will suspend foreclosures for 12 months—and determine the damage to the farmers by the restrictive and partial embargoes in 1973, 1974, 1975, and 1980—and the virtual embargo since—by a failure to sell competitively.

WITHHOLDING OF FUNDS

The question frequently arises as to when and under what conditions Federal funds may be withheld. The daily press regularly carries stories of various departments and agencies holding up funds, in most cases without legal authority.

After the President has signed an appropriations measure, the law requires the funds be made available for obligation for the purpose for which they were appropriated. In a limited number of circumstances, funds may be withheld if done in strict compliance with the provisions authorizing such action. The conferees stress that funds made available under this resolution should be obligated pursuant to law. When any law is used to withhold funds, the funds are to be available for obligation until the message proposing withholding is transmitted to the Congress. This applies additionally to projects that have been planned and are ongoing in nature and involve commitments made over a period of time to assure continuation through completion of such projects.

Many questions have been asked about Gramm-Rudman. May I point out that it includes language that prevents programs, projects, or activities from being eliminated,

Mr. Speaker, it is essential that this bill be enacted. It is a bill that can be supported, and importantly, can be signed.

I have here a letter from OMB which indicates it supports enactment of the resolution.

As was the case with the other conference report, it is below the budget request and below the fiscal year 1985 level.

Compared to the President's requests, the continuing resolution is $18,377 million below in new budget authority, and compared to the fiscal year 1985 level it is $2,929 million below.

It provides full year funding for seven appropriations bills, four in their entirety: Defense, foreign aid, Interior, and Transportation. Three bills are covered by reference: Agriculture, District of Columbia, and Treasury-Postal Service with modification.

Mr. Speaker, before I close let me express my appreciation to all the conferees on both this bill and on the other conference report, and particularly the ranking minority member, SIL CONTE for his help and hard work.

Mr. Speaker, for the first conference, in addition to the subcommittee chairmen and appropriate ranking members, we had as conferees all the members of each subcommittee that had not been to conference on their bills, as follows:

Members for the entire resolution and Senate amendments: Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. MYERS, Mr. COUGHLIN, Mr. KEMP, Mrs. SMITH, and Mr. SKEEN.

As additional conferees in addition to the above:

For the Agriculture appropriations bill: Mr. TRAXLER, Mr. MCHUGH, Mr. AKAKA, Mr. WATKINS, Mr. DURBIN, and Mr. ROGERS.

For the Defense appropriations bill: Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. AUCOIN, Mr. YOUNG, Mr. MILLER, and Mr. LIVINGSTON.

For the Interior appropriations bill: Mr. MURTHA, Mr. DICKS, Mr. AUCOIN, and Mr. LOEFFLER.

For the Transportation bill: Mr. SABO, Mr. GRAY, Mr. CARR, Mr. DURBIN, Mr. MRAZEK, Mr. PURSELL, and Mr. WOLF.

For the foreign assistance appropriation bill: Mr. MCHUGH, Mr. WILSON, Mr. GRAY, Mr. MRAZEK, Mr. EDWARDS, Mr. LEWIS, and Mr. PORTER.

After that conference was concluded and all bills had been through the conference process, and the conference report was defeated, it was necessary to appoint conferees on the further conference. To work out the hitches that had developed, much like a supplemental, the subcommittee chairmen and appropriate minority members were appointed, as follows:

Further continuing appropriations, fiscal year 1986: Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. MYERS, Mr. COUGHLIN, Mr. KEMP, Mr. REGULA, Mrs. SMITH, and Mr. SKEEN.

Mr. Speaker, I urge adoption of the conference report and also wish everyone a happy holiday.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

The SPEAKER. The Chair recognizes the gentleman from Massachusetts, and desires that he would take the well so everybody can have a look at him.

Mr. CONTE. I will later on, Mr. Speaker.

The SPEAKER. He looks like Christmas Eve in Pittsfield.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, if the continuing resolution we defeated earlier this week was a poor one, then this one is also a poor one and should be defeated.

I do not blame our conferees for this; they worked very hard. I blame the process through which they had to work.

If you look at the work product on chemical weapons it is unchanged from Monday's continuing resolution. Production is authorized, although it is fenced until fiscal year 1987. Our conferees fought for the House position. The Senate simply overwhelmed us. I commend our House conferees for doing their best and particularly those seven who excepted the chemical weapons funding section from their approval of the conference report.

If you look at the amount of spending on defense, the conference brought it down less than 1 percent.

It is almost the same figure as the earlier continuing resolution. I said previously this year what we ought to do to address our Nation's severe deficit problem is to freeze every appropriations including defense. Unfortunately, while almost all other appropriations have held the line, this certainly is not a freeze in the defense account.

If you look at procurement reforms, largely unchanged, one small token change is made. Otherwise it is the same as Monday's continuing resolution. If you look at outside earned income for the Senate, which upset so many members, it is exactly the same as it left the House in the other continuing resolution.

If you look at Federal aid for highway funds to ensure that we have a

uniform minimum drinking age of 21 in the United States, no change there, either.

All in all, this continuing resolution is almost as bad as the one that we defeated. I will vote "no." I urge my colleagues to vote no. Seven of the thirteen appropriation bills are in this one vote, yes or no up or down, on $370 billion of spending, Mr. Speaker, this is a lousy way to do business.

Mr. FASCELL. Will the gentleman yield?

Mr. PORTER. I yield to the distinguished Chairman.

Mr. FASCELL. Mr. Speaker, I want to express my appreciation for the hard work he did on the chemical warfare issue, and I am as disappointed as he is that it was not resolved the way we felt it should be.

I want to join him in expressing our appreciation to the House conferees for fighting long and hard to sustain the House position on that issue, and not withstanding the fact that it was not resolved entirely the way we thought it should be, I intend to support this conference report.

The conference report upholds the House ban on Asat testing.

The prohibition on Asat testing extends for as long as the Soviets refrain from similar Asat testing. Such a mutual moratorium represents a major step toward averting an arms race in space and demonstrates congressional support toward improving the climate of negotiation between the United States and the Soviet Union in the space area.

For the past several years, the Committee on Foreign Affairs has monitored and evaluated the President's antisatellite [Asat] weapons policy. Under my chairmanship, the Subcommittee on Arms Control, International Security and Science has conducted an extensive series of hearings to investigate the arms control implications of the Asat testing program. The subcommittee, 2 years ago, issued an interim report which included an evaluation of the administration's Asat policy. It was evident to us at that time and remains so today, that Asat's, which are specifically designed to destroy satellites, would seriously inhibit our ability to verify current and prospective arms control agreements.

Specifically, the conference language provides that no funds can be expended for testing an Asat against an object in space unless the President certifies to the Congress that the Soviets have conducted a similar Asat test. The fact that the conferees retained the House position banning Asat testing marks a congressional commitment to strengthen the President's hand at the Geneva arms control negotiations. By making the suspension of United States Asat testing contingent upon the continued suspension of Soviet Asat testing, we foster an environment in Geneva conducive to averting an extension of the arms race into space.

Regarding the issue of binary nerve gas weapons, the conferees agreed not to approve funds for the production and procurement of these weapons during fiscal year 1986.

The original House appropriations position not only eliminated funds from being spent on binary weapons production but also eliminated funds from being spent on military construction of chemical weapons production facilities. However, the conference compromise allows funds to be spent for military construction of facilities related to the chemical weapons program.

The conferees eliminated funding for the production of the Bigeye bomb because of persistent failures in the testing program resulting in the GAO, as recently as last week, recommending again that Congress not fund the Bigeye binary production program.

The conference compromise also prohibits all funds for the production of the 155-millimeter binary nerve gas artillery shell during fiscal year 1986. The compromise, however, allows $21.7 million for production of this artillery shell after fiscal year 1986 with the condition that our NATO allies formally approve the need for the production of such a weapon. This means that binary production after fiscal year 1986 is not final or automatic. Ultimately, actual binary production is dependent upon:

NATO agreement to base binary weapons on the soil;

Independent assessment by GAO that binary weapons are technically ready for production and operationally safe; and

Assurances that chemical weapons nonproliferation and arms control objectives are not undermined.

This last point takes on added significance in view of the joint pledge made at the summit last month by President Reagan and Secretary-General Gorbachev to actively seek an agreement on the nonproliferation and elimination of chemical weapons.

While not as conclusive as many of us would like, the conference position on chemical weapons reaffirms Congress position that we should not be funding a weapons system that does not work, is not proven safe for our troops, needlessly adds billions of dollars to the deficit, disrupts the NATO alliance, and undermines joint efforts of the superpowers to eliminate chemical weapons.

Mr. PORTER. I thank the gentleman for his remarks. Our House conferees took a vote in the conference. By 15 to 6, they sent a message to the Senate that they insisted on the House position against funding of chemical weapons production. It is the intransigence of the other body that is the cause of this problem, and prevailed over the responsible House position, refusing to spend for a new weapon that clearly is not needed.

Mr. CONTE. Will the gentleman yield?

Mr. PORTER. I yield to my good friend and ranking member.

□ 1230

Mr. CONTE. Mr. Speaker, I want to take this opportunity also to commend the gentleman from Illinois.

I was 1 of the 15 who voted that way. As you will notice in the conference, I excepted on that provision. Unfortunately, we did not prevail, but tomorrow is another day.

Mr. PORTER. I thank the gentleman for his fight on that issue. He certainly did a marvelous job, as all our House conferees did in behalf of the House position.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. LEHMAN], a member of the committee.

Mr. LEHMAN of Florida. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in support of the conference report. The transportation section of this conference report would provide a total spending level of $25.483 billion for transportation programs for fiscal year 1986. This is comprised of $10.456 billion in new budget authority and $15.027 billion in contract authority obligation limitations.

Mr. Speaker, this total spending level is $1.778 billion, or about 6.5 percent, below the fiscal year 1985 level. It is a reduction that I wish we did not have to make, but I think is necessary given the fiscal realities of our budget. And let me add that unlike the transportation budget submitted by the President, the "pain" is distributed as fairly and evenly as possible—aviation, maritime, and highway programs have all shared the burden with mass transit, Amtrak, and Federal workers.

I know the Members are interested to know about the minimum drinking age amendment added by the Senate. The conferees agreed to strike that provision—it is not in this conference report.

Mr. Speaker, the transportation section of the conference report also is substantially under the committee's section 302(b) allocation made pursuant to the budget resolution. We have gone the extra mile to continue our vital transportation programs and still contribute toward overall fiscal restraint. It deserves your support.

I insert at this point in the RECORD a table giving the conference figures in detail:

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
TITLE I - DEPARTMENT OF TRANSPORTATION									
Office of the Secretary									
Salaries and expenses	50,000,000	51,995,000	50,500,000	51,300,000	51,300,000	+1,300,000	-695,000	+800,000	---
(By transfer)	(65,000)	---	(330,000)	---	---	(-65,000)	---	(-330,000)	---
Transportation planning, research, and development	5,700,000	5,558,000	3,000,000	4,000,000	3,500,000	-2,200,000	-2,058,000	+500,000	-500,000
(Limitation on working capital fund)	(64,500,000)	(67,033,000)	(64,500,000)	(64,500,000)	(64,500,000)	---	(-2,533,000)	---	---
Payments to air carriers	---	---	36,000,000	28,000,000	28,000,000	+28,000,000	+28,000,000	-8,000,000	---
Total, Office of the Secretary	55,700,000	57,553,000	89,500,000	83,300,000	82,800,000	+27,100,000	+25,247,000	-6,700,000	-500,000
Coast Guard									
Operating expenses	1,755,000,000	1,788,608,000	1,777,200,000	1,742,000,000	1,642,000,000	-113,000,000	-146,608,000	-135,200,000	-100,000,000
Appropriation for debt reduction	-202,861	---	---	---	---	+202,861	---	---	---
(By transfer)	(13,775,000)	---	(8,000,000)	(10,000,000)	(10,000,000)	(-3,775,000)	(+10,000,000)	(+2,000,000)	---
Total, operating expenses	1,754,797,139	1,788,608,000	1,777,200,000	1,742,000,000	1,642,000,000	-112,797,139	-146,608,000	-135,200,000	-100,000,000
Acquisition, construction, and improvements	374,200,000	383,058,000	267,300,000	276,300,000	217,300,000	-156,900,000	-85,758,000	-50,000,000	-59,000,000
(By transfer)	(6,240,000)	---	---	---	---	(-6,240,000)	---	---	---
Alteration of bridges	13,600,000	5,200,000	7,195,000	5,200,000	5,200,000	-8,400,000	---	-1,995,000	---
Retired pay	330,000,000	351,000,000	351,000,000	351,000,000	351,000,000	+21,000,000	---	---	---
Reserve training	58,833,000	61,502,000	61,502,000	61,502,000	61,502,000	+2,669,000	---	---	---
(By transfer)	(1,025,000)	---	---	---	---	(-1,025,000)	---	---	---
Research, development, test, and evaluation	23,000,000	23,000,000	23,000,000	21,000,000	21,000,000	-2,000,000	-2,000,000	-2,000,000	---
Offshore oil pollution compensation fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	---	---
(Limitation on obligations)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	---	---	---	---
Deepwater port liability fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	---	---
(Limitation on obligations)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
Boat safety	13,625,000	13,625,000	13,625,000	---	---	-13,625,000	-13,625,000	-13,625,000	---
(Limitation on obligations)	(13,750,000)	---	---	(30,000,000)	(30,000,000)	(+16,250,000)	(+30,000,000)	(+30,000,000)	---
Total, Coast Guard	2,570,855,139	2,548,793,000	2,503,622,000	2,459,802,000	2,300,802,000	-270,053,139	-247,991,000	-202,820,000	-159,000,000
Federal Aviation Administration									
Headquarters administration	66,900,000	66,578,000	64,400,000	64,400,000	64,400,000	-2,500,000	-2,178,000	---	---
Operations	2,624,680,000	2,749,870,000	2,694,600,000	2,714,400,000	2,694,680,000	+70,000,000	-55,270,000	---	-19,800,000
(By transfer)	(18,112,000)	---	---	---	---	(-18,112,000)	---	---	---
Subtotal, Operations and headquarters administration	2,691,580,000	2,816,448,000	2,759,000,000	2,778,800,000	2,759,000,000	+67,500,000	-57,448,000	---	-19,800,000
Facilities and equipment (Airport and Airway Trust Fund)	1,358,000,000	1,146,500,000	1,044,000,000	993,000,000	993,000,000	-365,000,000	-153,500,000	-51,000,000	---
Research, engineering and development (Airport and Airway Trust Fund)	265,000,000	197,925,000	190,000,000	192,000,000	190,000,000	-75,000,000	-7,925,000	---	-2,000,000
(By transfer)	---	---	---	(15,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)	(+15,000,000)	---
Grants-in-aid for airports:									
(Liquidation of contract authorization) (Airport and Airway Trust Fund)	(810,000,000)	(893,000,000)	(893,000,000)	(893,000,000)	(893,000,000)	(-117,000,000)	---	---	---
(Limitation on obligations)	(925,000,000)	(1,017,000,000)	(925,000,000)	(925,000,000)	(925,000,000)	---	(-92,000,000)	---	---
Operation and maintenance, Metropolitan Washington Airports	35,931,500	36,175,000	35,400,000	34,100,000	34,100,000	-1,831,500	-2,075,000	-1,300,000	---
(By transfer)	(505,000)	---	---	---	---	(-505,000)	---	---	---
Construction, Metropolitan Washington Airports	13,000,000	13,000,000	12,000,000	7,000,000	7,000,000	-6,000,000	-6,000,000	-5,000,000	---
Aircraft purchase loan guarantee program (borrowing authority)	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)
Total, Federal Aviation Administration	4,363,431,500	4,210,048,000	4,040,400,000	4,004,900,000	3,983,100,000	-380,331,500	-226,948,000	-57,300,000	-21,800,000
Federal Highway Administration									
(Limitation on general operating expenses)	(204,452,000)	(203,761,000)	(204,500,000)	(203,761,000)	(203,761,000)	(-691,000)	---	(-739,000)	---
Highway safety research and development	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	---	---	---	---
Highway-related safety grants:									
(Liquidation of contract authorization) (Trust Fund)	(5,000,000)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)	(+4,000,000)	---	---	---
(Limitation on obligations)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---	---	---	---
Railroad-highway crossings demonstration projects	29,640,000	---	38,700,000	---	16,000,000	-13,640,000	+16,000,000	-22,700,000	+16,000,000
Intermodal Urban Demonstration Project	2,750,000	---	---	---	---	-2,750,000	---	---	---
Highway safety separations demonstration project	12,000,000	---	---	---	---	-12,000,000	---	---	---
Auto-Pedestrian separation demonstration project	1,750,000	---	---	---	---	-1,750,000	---	---	---
Federal-aid highways:									
(Liquidation of contract authorization) (Trust Fund)	(12,800,000,000)	(13,836,000,000)	(13,836,000,000)	(13,836,000,000)	(13,836,000,000)	(+1,036,000,000)	---	---	---
(Limitation on obligations)	(13,250,000,000)	(13,250,000,000)	(13,250,000,000)	(12,750,000,000)	(12,750,000,000)	(-500,000,000)	(-500,000,000)	(-500,000,000)	---
Right-of-way Revolving Fund (limitation on direct loans) (Trust Fund)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
Motor carrier safety	13,902,000	13,993,000	13,900,000	13,902,000	13,900,000	-2,000	-93,000	---	-2,000
Motor carrier safety grants	14,000,000	14,000,000	14,000,000	20,000,000	17,000,000	+3,000,000	+3,000,000	+3,000,000	-3,000,000
Access highways to public recreation areas on certain lakes	5,000,000	---	---	10,000,000	5,000,000	---	+5,000,000	+5,000,000	-5,000,000
(By transfer)	---	---	---	---	(5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)
Waste isolation pilot project roads	16,400,000	---	---	16,260,000	7,000,000	-9,400,000	+7,000,000	+7,000,000	-9,260,000
Baltimore-Washington Parkway	---	---	6,500,000	---	3,000,000	+3,000,000	+3,000,000	-3,500,000	+3,000,000
Rail Line Consolidation project (by transfer)	---	---	(5,000,000)	---	(4,000,000)	(+4,000,000)	(+4,000,000)	(-1,000,000)	(+4,000,000)
Airport Highway Demonstration project (by transfer)	---	---	(2,700,000)	---	(1,350,000)	(+1,350,000)	(+1,350,000)	(-1,350,000)	(+1,350,000)
Expressway bar closing project	---	---	23,500,000	---	9,000,000	+9,000,000	+9,000,000	-14,500,000	+9,000,000
Total, Federal Highway Administration	103,942,000	36,493,000	105,100,000	68,662,000	79,400,000	-24,542,000	+42,907,000	-25,700,000	+10,738,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
National Highway Traffic Safety Administration									
Operations and research	81,542,000	81,101,000	89,365,000	78,851,000	83,851,000	+2,309,000	+2,750,000	-5,514,000	+5,000,000
(By transfer)	---	(17,000,000)	---	(500,000)	(5,500,000)	(+5,500,000)	(-11,500,000)	(+5,500,000)	(+5,000,000)
Highway traffic safety grants:									
Rescission	-250,000	---	---	---	---	+250,000	---	---	---
(Liquidation of contract authorization) (Trust Fund)	(125,000,000)	(140,000,000)	(140,000,000)	(140,000,000)	(140,000,000)	(+30,000,000)	---	---	---
State and community highway safety (limitation on obligations)	(126,500,000)	(126,500,000)	(126,500,000)	(126,500,000)	(126,500,000)	---	---	---	---
Alcohol safety incentive grants (limitation on obligations)	(50,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(-23,268,000)	---	---	---
Total, National Highway Traffic Safety Administration	81,292,000	81,101,000	89,365,000	78,851,000	83,851,000	+2,559,000	+2,750,000	-5,514,000	+5,000,000
Federal Railroad Administration									
Office of the Administrator	19,700,000	20,860,000	18,120,000	18,420,000	18,420,000	-280,000	-440,000	---	---
Railroad safety	26,061,000	27,975,000	28,000,000	27,764,000	27,764,000	+1,703,000	-211,000	-236,000	---
Railroad research and development	15,355,000	20,418,000	19,200,000	20,304,000	20,600,000	+5,245,000	+182,000	+400,000	+296,000
Rail service assistance	92,042,000	5,762,000	20,200,000	20,220,000	20,200,000	-71,842,000	+14,438,000	---	-20,000
Appropriation for debt reduction	-60,281,000	---	---	---	---	+60,281,000	---	---	---
Settlements of railroad litigation	4,320,000	---	---	---	---	-4,320,000	---	---	---
Appropriation for debt reduction	-4,223,000	---	---	---	---	+4,223,000	---	---	---
Conrail labor protection	15,000,000	---	---	---	---	-15,000,000	---	---	---
Conrail labor protection (rescission)	---	---	-8,000,000	---	---	---	---	+8,000,000	---
Northeast corridor improvement program	27,600,000	---	12,500,000	12,500,000	12,500,000	-15,100,000	+12,500,000	---	---
Grants to the National Railroad Passenger Corporation	604,000,000	---	380,500,000	380,500,000	380,500,000	-96,500,000	+587,500,000	-1,000,000	---
(By transfer)	---	---	(15,000,000)	(20,500,000)	(20,500,000)	(+20,500,000)	(+20,500,000)	(+13,500,000)	---
Railroad Rehabilitation and Improvement Financing Funds (limitation on new loan guarantees)	(6,500,000)	---	---	(4,000,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	---
Redeemable preference shares	---	---	30,000,000	16,500,000	33,500,000	+33,500,000	+33,500,000	+3,500,000	+17,000,000
(By transfer)	---	---	(5,500,000)	---	---	---	---	(-5,500,000)	---
Conrail commuter transition assistance	---	---	10,000,000	---	---	---	---	-10,000,000	---
(By transfer)	---	---	---	---	(5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)
Total, Federal Railroad Administration (net)	810,582,000	54,715,000	702,520,000	684,908,000	702,184,000	-108,398,000	+647,469,000	-336,000	+17,196,000
Urban Mass Transportation Administration									
Administrative expenses	31,000,000	27,405,000	31,000,000	30,000,000	30,000,000	-1,000,000	+2,595,000	-1,000,000	---
Research, training, and human resources	36,000,000	---	28,103,000	17,400,000	17,400,000	-33,600,000	+17,400,000	-10,703,000	---
Formula grants	2,449,500,000	---	2,210,000,000	2,100,000,000	2,150,000,000	-299,500,000	+2,150,000,000	-60,000,000	+50,000,000
Formula capital assets:									
(Limitation on obligations)	---	(1,100,000,000)	---	---	---	---	(-1,100,000,000)	---	---
(Liquidation of contract authorization)	---	(55,000,000)	---	---	---	---	(-55,000,000)	---	---
Discretionary grants:									
(Limitation on obligations)	(1,120,000,000)	---	(1,010,000,000)	(1,100,000,000)	(1,045,500,000)	(-74,500,000)	(+1,045,500,000)	(+35,500,000)	(-54,500,000)
(Liquidation of contract authorization)	(450,000,000)	(720,000,000)	(720,000,000)	(775,000,000)	(775,000,000)	(+325,000,000)	(+55,000,000)	(+55,000,000)	---
Interstate transfer grants-transit	250,000,000	---	237,500,000	200,000,000	200,000,000	-50,000,000	+200,000,000	-37,500,000	---
(By transfer)	---	---	---	---	(18,750,000)	(+18,750,000)	(+18,750,000)	(+18,750,000)	(+18,750,000)
Washington Metro	250,000,000	250,000,000	237,500,000	187,500,000	227,000,000	-23,000,000	-23,000,000	-10,500,000	+39,500,000
Total, Urban Mass Transportation Administration	3,031,500,000	277,405,000	2,704,103,000	2,534,900,000	2,624,400,000	-407,100,000	+2,346,995,000	-119,703,000	+89,500,000
Saint Lawrence Seaway Development Corporation									
(Limitation on administrative expenses)	(1,792,000)	(1,942,000)	(1,890,000)	(1,942,000)	(1,916,000)	(+124,000)	(-26,000)	(+26,000)	(-26,000)
Research and Special Programs Administration									
Research and special programs	18,900,000	19,353,000	19,400,000	19,200,000	19,300,000	+400,000	-53,000	-100,000	+100,000
(By transfer)	(950,000)	---	---	---	---	(-950,000)	---	---	---
Office of the Inspector General									
Salaries and expenses	27,900,000	27,692,000	27,950,000	27,250,000	27,600,000	-300,000	-92,000	-350,000	+350,000
Total, title I, Department of Transportation:									
New budget (obligational) authority (net)	11,064,102,639	7,313,153,000	10,321,960,000	9,961,853,000	9,903,437,000	-1,160,665,639	+2,590,284,000	-418,523,000	-58,416,000
Appropriations	(11,128,809,500)	(7,313,153,000)	(10,329,960,000)	(9,961,853,000)	(9,903,437,000)	(-1,225,372,500)	(+2,590,284,000)	(-426,523,000)	(-58,416,000)
Appropriations for debt reduction	(-64,706,861)	---	---	---	---	(+64,706,861)	---	---	---
Rescission	---	---	(-8,000,000)	---	---	---	---	(+8,000,000)	---
(By transfer)	(40,672,000)	(17,000,000)	(36,530,000)	(54,000,000)	(93,100,000)	(+52,428,000)	(+76,100,000)	(+56,570,000)	(+39,100,000)
(Limitations on general operating and administrative expenses)	(206,244,000)	(205,703,000)	(206,390,000)	(205,703,000)	(205,677,000)	(-567,000)	(-26,000)	(-713,000)	(-26,000)
(Limitations on obligations)	(15,405,250,000)	(15,642,380,000)	(15,460,300,000)	(15,080,300,000)	(15,025,800,000)	(-379,450,000)	(-616,580,000)	(-434,500,000)	(-54,500,000)
(Limitations on direct loans)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
(Limitations on new loan guarantees)	(6,500,000)	---	---	(4,000,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	---
(Limitation on working capital fund)	(64,500,000)	(67,033,000)	(64,500,000)	(64,500,000)	(64,500,000)	---	(-2,533,000)	---	---
(Liquidation of contract authorization)	(14,190,000,000)	(15,462,000,000)	(15,407,000,000)	(15,462,000,000)	(15,462,000,000)	(+1,272,000,000)	---	(+55,000,000)	---
(Appropriation for debt reduction)	(64,706,861)	---	---	---	---	(-64,706,861)	---	---	---
(Borrowing authority)	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)

TITLE II - RELATED AGENCIES									
Architectural and Transportation Barriers Compliance Board									
Salaries and expenses	2,000,000	1,975,000	2,000,000	1,975,000	1,975,000	-25,000	---	-25,000	---
National Transportation Safety Board									
Salaries and expenses	21,899,000	22,087,000	22,488,000	22,288,000	22,388,000	+401,000	+213,000	-100,000	+100,000
Civil Aeronautics Board									
Salaries and expenses	5,600,000	---	---	---	---	-5,600,000	---	---	---
Payments to air carriers	52,000,000	---	---	---	---	-52,000,000	---	---	---
Total, Civil Aeronautics Board	57,600,000	---	---	---	---	-57,600,000	---	---	---
Interstate Commerce Commission									
Salaries and expenses	51,180,000	52,557,000	48,180,000	47,880,000	48,180,000	-2,920,000	-4,377,000	---	+1,180,000
(By transfer)	---	---	(2,300,000)	(2,300,000)	(2,300,000)	(+2,300,000)	(+2,300,000)	---	---
Payments for directed rail service (limitation on obligations)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	---	---	---	---
Panama Canal Commission									
Operating expenses	406,344,000	420,284,000	401,284,000	400,284,000	400,284,000	-6,062,000	-20,000,000	-1,000,000	---
Capital outlay	23,500,000	26,500,000	26,500,000	25,500,000	25,500,000	+2,000,000	-1,000,000	-1,000,000	---
(By transfer)	(1,700,000)	---	---	---	---	(-1,700,000)	---	---	---
Payments to the Republic of Panama (by transfer)	(2,705,000)	---	---	---	---	(-2,705,000)	---	---	---
Total, Panama Canal Commission	429,844,000	446,784,000	427,784,000	425,784,000	425,784,000	-4,062,000	-21,000,000	-2,000,000	---
United States Railway Association									
Administrative expenses	2,100,000	---	2,100,000	2,400,000	2,400,000	+300,000	+2,400,000	+300,000	---
Washington Metropolitan Area Transit Authority									
Interest payments	46,175,945	51,663,569	51,663,569	51,663,569	51,663,569	+5,487,624	---	---	---
Total, title II, related agencies:									
New budget (obligational) authority	610,720,945	575,066,569	554,127,569	551,022,569	552,302,569	-58,418,376	-22,764,000	-1,825,000	+1,280,000
(Limitation on obligations)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	---	---	---	---
General Provision									
General reduction	---	---	---	-147,606,281	---	---	---	---	+147,606,281
(By transfer)	---	---	---	(-1,140,800)	---	---	---	---	(+1,140,800)
(Limitations on general operating and administrative expenses)	---	---	---	(-3,291,248)	---	---	---	---	(+3,291,248)
(Limitations on obligations)	---	---	---	(-241,300,800)	---	---	---	---	(+241,300,800)
(Limitations on direct loans)	---	---	---	(-800,000)	---	---	---	---	(+800,000)
(Limitations on new loan guarantees)	---	---	---	(-64,000)	---	---	---	---	(+64,000)
(Limitation on working capital fund)	---	---	---	(-1,032,000)	---	---	---	---	(+1,032,000)
(Appropriations to liquidate contract authorizations)	---	---	---	(-247,392,000)	---	---	---	---	(+247,392,000)
RECAPITULATION									
Grand total:									
New budget (obligational) authority (net)	11,674,823,584	7,888,219,569	10,876,087,569	10,365,269,288	10,455,739,569	-1,219,084,015	+2,567,520,000	-420,348,000	+90,470,281
Appropriations	(11,739,530,445)	(7,888,219,569)	(10,884,087,569)	(10,365,269,288)	(10,455,739,569)	(-1,283,790,876)	(+2,567,520,000)	(-420,348,000)	(+90,470,281)
Appropriations for debt reduction	(-64,706,861)	---	---	---	---	(+64,706,861)	---	---	---
Rescission	---	---	(-8,000,000)	---	---	---	---	(+8,000,000)	---
(By transfer)	(45,077,000)	(17,000,000)	(38,830,000)	(55,159,200)	(95,400,000)	(+50,323,000)	(+78,400,000)	(+56,570,000)	(+40,240,800)
(Limitations on general operating and administrative expenses)	(204,244,000)	(205,703,000)	(206,390,000)	(202,411,752)	(205,677,000)	(-567,000)	(-26,000)	(-713,000)	(+3,265,248)
(Limitations on obligations)	(15,604,250,000)	(15,643,300,000)	(15,461,380,000)	(14,839,999,200)	(15,026,800,000)	(-579,450,000)	(-616,500,000)	(-434,500,000)	(+186,800,800)
(Limitations on direct loans)	(50,000,000)	(50,000,000)	(50,000,000)	(49,200,000)	(50,000,000)	---	---	---	(+800,000)
(Limitations on new loan guarantees)	(6,500,000)	---	---	(3,936,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	(+64,000)
(Limitation on working capital fund)	(64,500,000)	(67,033,000)	(64,500,000)	(63,468,000)	(64,500,000)	---	(-2,533,000)	---	(+1,032,000)
(Borrowing authority)	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)
Memoranda:									
(Appropriations to liquidate contract authorizations)	(14,190,000,000)	(15,462,000,000)	(15,407,000,000)	(15,214,608,000)	(15,462,000,000)	(+1,272,000,000)	---	(+55,000,000)	(+247,392,000)
(Appropriation for debt reduction)	(64,706,861)	---	---	---	---	(-64,706,861)	---	---	---
Total, appropriations including appropriations to liquidate contract authorization and appropriations for debt reduction	(25,929,530,445)	(23,350,219,569)	(26,283,087,569)	(25,579,877,288)	(25,917,739,569)	(-11,790,876)	(+2,567,520,000)	(-365,348,000)	(+337,862,281)
Total, New budget (obligational) authority and limitation on obligations	27,281,073,584	23,531,519,569	26,337,387,569	25,205,268,488	25,482,539,569	-1,798,534,015	+1,951,020,000	-854,848,000	+277,271,081

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN of Florida. I yield to the gentleman from California.

Mr. DIXON. I thank the gentleman for yielding.

Mr. Speaker, on December 16 the gentleman from Florida [Mr. LEHMAN] and I engaged in a colloquy concerning Metrorail. I wonder if the interpretation of the gentleman of those remarks is still the same.

Mr. LEHMAN of Florida. Yes, they certainly are.

Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the gentleman for yielding.

Mr. Speaker, I would like to just address the defense issue alone in the CR. First of all, I would like to pay tribute to Chairman ADDABBO, acting Chairman CHAPPELL who did an outstanding job in Mr. ADDABBO's absence, ranking member JOE MCDADE, and all the members of the subcommittee who participated in the conference in its initial stages. Of course some of us were left off in the later part. But actually I felt that we had brought together a magnificently crafted compromise on Monday night. I was very disappointed when the House voted it down overwhelmingly and sent it back to conference. I tried to get those who believed in the compromise we had crafted, tried to inform the Members that it was indeed a very delicate compromise, and for those people truly concerned about defense we tried to tell them that it was not going to get any better when it went back to the new conference. In fact, it did not. The whole issue for the people who believe in a strong national defense can be disappointed that the bill that we have now is not as good as it was Monday night. But unfortunately we were defeated. The process worked its will. The conference went back in without some of us as members of the conference, and we come back with a new compromise. It is not as good as it was. There is no Asat prohibition on the moratorium, and the provison is not any more improved than it was Monday night. Some of us warned, as I said, that the bill would not get any better. It has not because the budget authority is now $1.3 billion less than it was Monday night. The Pentagon reserves of $6.3 billion are now fenced whereas they were not before. There is a defense procurement provision in the bill where none existed. I happen to believe that is an unwise provision.

Again there is still no Asat change in what the bill provided on Monday night.

On the positive side, however, and this is the reason why I support the bill today, there is still $4 billoin more than the 1985 levels. That represents almost a complete zero growth, actually it is 1 percent less than zero real growth when you count inflation. This is $2.75 billion for SDI; $126 million for facilities for starting up the production of chemical weaponry even though production is fenced until 1987. There is $20 billion for increased National Guard and Reserve strength and $475 million extra for Coast Guard and drug interdiction facilities. The administration has signed off on this compromise even though it is not as good as we had on Monday.

Mr. Speaker, I would urge Members on the conservative side of the aisle to go ahead and adopt this bill because if we do not, if it goes back to conference, sure as heck it is going to be worse than it is from our perspective.

I urge adoption of this CR.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH], a member of the committee.

Mr. SMITH of Iowa. Mr. Speaker, here we are at the end of another year and there is criticism about a great big continuing resolution, and there should be. Perhaps this is a good time to examine why we are here. Most of the criticism is centered on the defense part of this continuing resolution. That was the main criticism Monday night when the resolution failed to pass.

Well, why do we come here at the end of the year with the defense bill in this continuing resolution? To start with, the authorizing committee of the Congress did not start working on an authorization for fiscal year 1986 until the beginning of this year. The authorization should have been adopted before October 1, 1984. The Department of Defense, therefore, was permitted to submit an appropriation request that was based on their idea of what an authorization ought to be. They were not required to abide by guidelines that had been established by the Congress.

They do not yet have an authorization for fiscal year 1987. Therefore, the Department of Defense is preparing a budget request for fiscal year 1987 based on their own ideas, with no guidelines in an authorization developed and passed by Congress.

The Congress was supposed to have adopted a budget resolution by last May 15. There was no agreement with the Senate on a budget resolution by that date so instead of going ahead with the House-passed resolution, the House waited for a month with the idea that such a delay was going to help get a joint budget resolution agreed to when an agreement with the Senate was not accomplished by July, we finally proceeded on the basis of the House-passed resolution, and that was working pretty well with appropriation bills advancing on a basis of a freeze overall, including defense. However, on August 1 we were presented with a budget resolution from the conference committee that was not based upon the House-passed budget resolution. Instead, it increased the military function by $10 billion over the level in the House-passed resolution and over last year's level. At that time 50 or 60 Members supported that joint resolution to increase the military $10 billion, who came in here Monday night and complained and voted against the continuing resolution because the Appropriations Committee had only been able to cut the increase they had voted for to a $5 billion increase. That is inconsistent.

Let us learn a lesson from what happened this year.

The authorization committee for the Department of Defense should start their hearings as soon as possible for the fiscal year starting next October. They are already a year late for fiscal year 1987. They should have a bill on the floor by May 1. If it is not passed by May 1, how can they expect the Appropriations Committee to do its job and have a bill on the floor in June? It cannot be done. The authorization should be the first thing. Then in May and June we should finish the appropriation bills in the House. If we will follow the procedures that are laid down in the Budget Act and in the House rules instead of delaying and delaying and delaying, waiting on authorization bills, we can avoid a big continuing resolution, including defense next year. If we do not meet the prescribed procedures, we will be back here again a year from now in the same kind of situation.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding.

My colleagues, I just want to say to you that while there may be things in this continuing resolution that each of us can find fault with, on balance it is a good compromise. It represents a balanced approach to our responsibilities.

It is about $4 billion under 1985 levels. This is, I think, a substantial achievement to reduce spending levels under 1985 and certainly is going in the right direction.

On the Interior section, I would point out that the House prevailed in the sense that on the clean coal provision we have provided for a $400 million 3-year program to develop clean-coal technologies. In the original bill the House supported this by a vote of 3 to 1. So we are pleased that we could retain it.

I think it is a good provision. Coal is the greatest energy resource this Nation has.

Under this provision, those that want to participate with the Federal Government in programs have to put up a 50-percent match. That means that of course they will have to commit a lot of their own resources to address this problem. But it will help us in burning coal to avoid the acid rain problem that confronts many areas of the country, and confronts our relationship with Canada. I think that is a very important element in the bill. Many will be thankful in the years to come that we have taken the initiative to make our resource of coal available as a primary energy source in an environmentally safe way. This bill provides

The other thing I would mention is that there is $7.5 million in here for a cost-shared steel initiative, and it will again motivate research to allow steel to be produced in a more energy-efficient way. Again, this is one of the great areas of potential progress in our industrial economy, in terms of conserving energy to develop ways to use it more efficiently.

We have dealt with the problem of parks, public lands, and the national forests in a very responsible way.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. YATES], a member of the committee.

Mr. YATES. Mr. Speaker, this is a good conference report. I urge the House to accept it.

Mr. Speaker, I am pleased to bring to the floor the conference report on the Interior and Related Agencies Appropriations bill for fiscal year 1986 as contained in House Joint Resolution 465. As you know, when the conference committee reconvened on December 18, 1985, we were informed of the administration objections to the Interior bill. As a result of these objections, and in order to maintain operation of the Government, I reluctantly agreed to an across-the-board reduction of $51,000,000 or 0.6 percent of the total bill.

The total of the bill, when reflecting this reduction, is $8,097,121,000. This is $140,976,000 less than the House passed version of this bill and $22,013,000 lower than the bill as reported by the Senate Appropriations Committee. This bill is approximately $400,000,000 below the 302(b) allocation.

I know an issue of importance to many of you is the disposition of the Synthetic Fuels Corporation. Although changes to the original conference agreement with respect to the Synthetic Fuels Corporation were discussed, absolutely no changes were made.

This means that with the exception of funds for clean coal technology and SFC closeout costs, all SFC funds are rescinded. The Board of Directors may not make any additional legally binding awards or commitments for financial assistance as of the date of enactment of this act. The Directors must terminate their duties and be discharged within 60 days of enactment.

It should be noted that the managers have included $500,000 for planning for the Playalinda Beach Road at Canaveral National Seashore. The funds are to be derived from the Federal Highway Lands Program.

Mr. Speaker, this conference report continues important programs necessary for the protection and enhancement of our unsurpassed natural resources to pass along to our children and the coming generations, while maintaining fiscal responsibility and providing substantial return to the Treasury. I urge the adoption of this conference report presented to you today. I am inserting a table which reflects the across-the-board reduction on the programs contained in the Interior bill.

51-059 O-87-17 (Pt. 27)

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
TITLE I - DEPARTMENT OF THE INTERIOR							
BUREAU OF LAND MANAGEMENT							
Management of Lands and Resources							
Onshore Energy and Minerals Management							
Energy Resources							
Coal Leasing	18,432	19,455	19,455	19,455	19,455	19,338	-117
Oil & Gas Leasing	42,363	45,414	44,814	45,414	44,814	44,545	-269
Geothermal leasing	3,327	2,775	2,775	2,775	2,775	2,758	-17
Oil Shale and Tar Sands leasing	2,307	2,331	2,111	2,331	2,111	2,098	-13
Subtotal, Energy onshore	66,329	69,975	69,155	69,975	69,155	68,739	-416
Non-Energy Minerals							
Mineral Material Sales	2,327	2,197	2,197	2,197	2,197	2,184	-13
Mining Law Administration	7,920	8,200	8,200	8,200	8,200	8,151	-49
Mineral Leasing	4,141	4,233	4,233	4,233	4,233	4,208	-25
Uranium operations	617	625	625	625	625	621	-4
Subtotal, Non-Energy Minerals	15,005	15,255	15,255	15,255	15,255	15,164	-91
Subtotal, Energy and Minerals Management	81,334	85,230	84,410	85,230	84,410	83,903	-507
Lands and Realty Management							
Realty Operations							
Energy Realty	6,715	5,188	5,188	7,823	7,823	7,776	-47
Non-Energy Realty	17,913	17,885	17,885	16,800	16,900	16,799	-101
Alaska Lands program	13,172	12,479	12,422	13,479	13,479	13,398	-81
Subtotal, Realty operations	37,800	35,552	35,495	38,102	38,202	37,973	-229
Withdrawal Processing and Review	4,034	3,767	3,767	4,115	3,767	3,744	-23
Subtotal, Lands and Realty Management	41,834	39,319	39,262	42,217	41,969	41,717	-252
Renewable Resources Management							
Forest Management							
Public Domain	6,710	6,455	6,455	6,855	6,855	6,814	-41
Western Oregon	920	---	920	920	920	914	-6
Subtotal, Forest Management	7,630	6,455	7,375	7,775	7,775	7,728	-47
Range Management							
Wild Horse & Burro Management	17,239	6,167	7,547	21,814	17,066	16,964	-102
Grazing Management	31,594	29,980	29,980	32,662	30,821	30,636	-185
Subtotal, Range Management	48,833	36,147	37,527	54,476	47,887	47,600	-287
Soil, Water, & Air Management	16,544	13,959	14,709	16,490	16,490	16,391	-99
Wildlife Habitat Management	15,783	13,801	15,551	16,451	16,151	16,054	-97
Recreation Management							
Cultural Resources Management	5,083	5,078	6,078	5,078	6,078	6,043	-35
Wilderness Management	6,519	6,574	7,074	6,574	7,324	7,280	-44
Recreation Resources Management	6,750	7,198	7,373	7,198	8,123	8,074	-49
Subtotal, Recreation Management	18,352	18,850	20,525	18,850	21,525	21,397	-128
Fire Management	7,340	8,877	8,877	8,877	8,877	8,824	-53
Subtotal, Renewable Resources Management	114,482	98,089	104,564	122,919	118,705	117,994	-711
Planning and Data Management							
Planning	9,282	9,510	9,510	9,510	9,510	9,453	-57
Data Management	13,463	13,428	13,428	14,128	13,778	13,695	-83
Subtotal, Planning and Data Management	22,745	22,938	22,938	23,638	23,288	23,148	-140
Cadastral Survey							
Alaska	13,630	11,674	11,674	15,174	15,174	15,083	-91
Other States	11,196	10,542	11,742	10,542	11,742	11,673	-69
Subtotal, Cadastral Survey	24,826	22,216	23,416	25,716	26,916	26,756	-160

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 85	Recommended Less 0.6%	Difference
	21	27	23	24	25	26	
Fire control							
Firefighting & Presuppression	118,513	3,513	3,513	3,513	3,513	3,492	-21
Rehabilitation	588	588	588	588	588	584	-4
Subtotal, Fire Control	119,101	4,101	4,101	4,101	4,101	4,076	-25
Technical Services							
Resource Protection	2,320	3,340	3,340	3,340	3,340	3,320	-20
Maintenance and engineering service							
Buildings	3,100	3,442	3,442	3,942	3,442	3,421	-21
Recreation	4,049	3,621	4,121	4,121	4,121	4,096	-25
Transportation	3,454	3,504	3,504	4,004	3,504	3,483	-21
Engineering services	1,138	1,167	1,167	1,167	1,167	1,160	-7
Subtotal, Maintenance and engineering services	11,741	11,734	12,234	13,234	12,234	12,160	-74
Subtotal, Technical Services	14,069	15,074	15,574	16,574	15,574	15,480	-94
General Administration							
Executive and managerial direction	5,785	5,601	5,601	5,601	5,601	5,567	-34
Equal employment opportunity	2,089	2,076	2,076	2,076	2,076	2,064	-12
Administrative services support	33,262	32,087	32,087	32,087	32,087	31,894	-193
Bureauwide fixed costs	41,945	44,527	44,527	43,839	43,839	43,576	-263
BLM/Forest Service Adjustments	---	1,820	---	---	---	---	---
Subtotal, General Administration	83,081	86,111	84,291	83,603	83,603	83,101	-502
Pay restoration	---	---	(8,554)	---	---	---	---
Pay supplemental	2,000	---	---	---	---	---	---
Section 2901 Rescission	-2,900	---	---	---	---	---	---
Total, Management of Lands and Resources 1/	500,572	373,078	378,556	403,998	398,566	396,175	-2,391
Construction and Access							
Access	1,203	1,203	1,203	1,403	1,403	1,395	-8
Construction	825	---	---	---	---	---	---
Payments in Lieu of Taxes							
Payments to Local Governments	102,900	105,000	102,900	105,000	105,000	104,370	-630
Land Acquisition							
Bureau of Land Management:							
Acquisitions	2,401	---	2,500	---	2,000	1,988	-12
Acquisition Management	294	---	300	---	300	298	-2
Total, Land Acquisition	2,695	---	2,800	---	2,300	2,286	-14
Oregon & California Grant Lands							
Construction and Acquisition	514	---	1,238	531	531	528	-3
Maintenance	4,005	---	3,919	4,005	4,005	3,981	-24
Renewable Resource Management	49,510	---	60,233	49,510	51,101	50,873	-308
Planning and Data Management	260	---	750	397	397	395	-2
Section 2901 Rescission	-350	---	---	---	---	---	---
Total, Oregon & California Grant Lands	53,939	---	66,140	54,443	56,114	55,777	-337
Special Acquisition of Lands and Minerals							
Cranberry wilderness area	14,700	---	---	---	---	---	---
Range Improvement Fund							
Improvement to Public Lands	8,000	8,000	7,407	8,000	8,000	8,000	---
Farm Tenant Act Lands	1,400	1,400	1,400	1,400	1,400	1,400	---
Administrative expenses	600	600	600	600	600	600	---
Total, Range Improvements	10,000	10,000	9,407	10,000	10,000	10,000	---

1, Reflects transfer in FY 1985 of $119,000 to Office of the Solicitor.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Service Charges, Deposits, and Forfeitures							
Rights-of-way Processing	1,700	3,550	3,550	1,700	1,700	1,690	-10
Adopt-a-horse program	870	870	870	870	870	865	-5
Repair of Damaged Lands	1,350	1,150	1,150	1,350	1,350	1,342	-8
Cost recoverable realty cases	150	350	350	150	150	149	-1
Total, Service Charges, Deposits, and Forfeitures	4,070	5,920	5,920	4,070	4,070	4,046	-24
Miscellaneous Trust Funds							
Base Program	100	100	100	100	100	100	---
Working Capital Fund							
Section 2901 Rescission	-2,951	---	---	---	---	---	---
Total, Bureau of Land Management	688,053	495,301	567,026	579,014	577,553	574,149	-3,404
U.S. FISH AND WILDLIFE SERVICE							
Resource Management							
Habitat Resources							
Field Operations	23,767	21,770	22,450	22,450	22,450	22,315	-135
National Wetlands Inventory	5,393	5,388	5,388	5,388	5,388	5,355	-33
Research and Development	15,409	15,570	15,570	15,570	15,570	15,477	-93
Cooperative units	4,679	4,693	4,693	4,693	4,693	4,665	-28
Subtotal	49,248	47,421	48,101	48,101	48,101	47,812	-289
Wildlife Resources							
Refuge operations and maintenance	100,741	101,198	103,646	110,131	107,381	106,737	-644
Law enforcement and protection	10,045	10,064	10,064	10,064	10,064	10,004	-60
Population management	22,527	22,693	23,193	7,281	7,281	7,237	-44
Research and Development	12,291	13,505	14,700	9,217	10,217	10,156	-61
Alaska subsistance	980	980	980	980	980	974	-6
Subtotal	146,584	148,440	152,583	137,673	135,923	135,108	-815
Fishery Resources							
Hatcheries operations and maintenance	24,532	24,532	26,282	27,532	26,532	26,373	-159
Lower Snake River Compensation Fund	4,499	5,665	5,665	5,665	5,665	5,631	-34
Refuge operations and maintenance	2,173	2,177	2,177	2,427	2,177	2,164	-13
Law enforcement and protection	2,143	2,166	2,166	2,166	2,166	2,153	-13
Population management	1,723	1,762	1,762	2,162	2,162	2,149	-13
Research and Development	11,119	11,230	12,100	11,730	12,200	12,127	-73
Subtotal	46,189	47,532	50,152	51,682	50,902	50,597	-305
Endangered Species							
Listing	2,967	2,994	3,494	2,994	3,244	3,225	-19
Law enforcment and protection	7,363	7,500	8,600	7,700	8,700	8,648	-52
Consultation	2,593	2,630	2,630	2,630	2,630	2,614	-16
Recovery	5,985	5,966	6,516	7,336	6,926	6,884	-42
Research and Development	4,237	4,322	4,322	4,682	4,572	4,545	-27
Cooperation with states	3,920	3,920	5,000	3,920	4,420	4,393	-27
Subtotal	27,065	27,332	30,562	29,262	30,492	30,309	-183
General Administration							
Executive Direction	7,214	7,350	7,350	7,350	7,350	7,306	-44
Administrative services	11,762	10,313	10,313	11,313	10,313	10,251	-62
Related support services	17,076	16,941	16,941	16,941	16,941	16,839	-102
Pay Restoration	---	---	(6,594)	---	---	---	---
Unemployment Compensation	1,200	---	1,200	1,200	1,200	1,193	-7
Subtotal	37,252	34,604	35,804	36,804	35,804	35,589	-215
Youth Conservation Corps	(3,300)	---	---	---	---	---	---
Pay supplemental	4,000	---	---	---	---	---	---
Section 2901 Rescission	-1,900	---	---	---	---	---	---
Total, Resource Management	308,438	305,329	317,202	303,522	301,222	299,415	-1,807

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Construction and Anadromous Fish							
Construction and rehabilitation	14,180	1,359	1,959	6,656	5,656	5,622	-34
Refuges	167	1,156	10,416	1,156	10,416	10,354	-62
Hatcheries	1,421	---	736	123	126	125	-1
Fishery research facilities	3,532	2,029	2,029	2,029	2,029	2,017	-12
Dam safety	---	75	75	75	75	75	---
Wildlife research facility	4,016	---	2,000	4,000	2,000	1,988	-12
Anadromous fish grants	980	994	994	994	994	987	-7
Capital development & maintenance management	-40	---	---	---	---	---	---
Section 2901 Rescission							
Total, Construction and Anadromous Fish	24,258	5,613	18,209	15,033	21,296	21,168	-128
Migratory Bird Conservation Account							
Advance Appropriation	21,266	---	10,000	20,000	15,000	14,910	-90
Land Acquisition							
Fish and Wildlife Service:	62,748	---	44,470	30,570	39,070	38,836	-234
Acquisitions - Federal refuge lands	1,470	1,500	1,500	2,000	1,600	1,590	-10
Acquisition Management							
Total, Land Acquisition	64,218	1,500	45,970	32,570	40,670	40,426	-244
National Wildlife Refuge Fund							
Payments in Lieu of Taxes	5,645	5,645	5,645	5,645	5,645	5,611	-34
Sport Fish Restoration Account							
Payments to States	---	41,389	---	---	---	---	---
Administration	---	2,611	---	---	---	---	---
Total, Sport Fish Restoration Account	---	44,000	---	---	---	---	---
Total, Fish and Wildlife Service	423,825	362,087	397,026	376,770	383,833	381,530	-2,303
NATIONAL PARK SERVICE							
Operation of the National Park System							
Park Management	62,470	61,427	61,886	61,175	61,915	61,544	-371
Management of park areas	3,489	3,569	3,569	3,569	3,569	3,548	-21
Concessions management	63,625	65,252	65,517	65,252	65,512	65,119	-393
Interpretation and Visitor Services	78,717	81,510	81,960	81,510	81,710	81,220	-490
Visitor protection and safety	235,064	218,223	240,613	236,247	240,513	239,070	-1,443
Maintenance	95,712	94,056	96,382	94,980	96,218	95,641	-577
Resources management	2,886	2,909	2,909	2,909	2,909	2,890	-19
Information publications	518	406	526	765	776	771	-5
International Park Affairs	490	490	490	490	490	487	-3
Volunteers-in-parks							
Subtotal	542,971	527,842	553,852	546,897	553,612	550,290	-3,322
Forest Fire Suppression and Presuppression	5,076	1,176	1,176	1,176	1,176	1,169	-7
Park Recreation and Wilderness Planning	1,908	1,921	1,921	1,921	1,921	1,909	-12
Water resources	2,358	2,346	2,346	2,346	2,346	2,332	-14
General management plans							
Subtotal	4,266	4,267	4,267	4,267	4,267	4,241	-26

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Statutory or Contractual Aid for Other Activities							
Roosevelt Campobello International Park Commission..	410	410	410	410	410	408	-2
Ice Age National Scientific Reserve	526	576	576	576	576	573	-3
Lowell Historic Preservation Canal Commission	526	540	540	540	540	537	-3
Folger Theater	343	343	350	---	175	174	-1
Corcoran Gallery	343	343	350	---	175	174	-1
Mary McLeod Bethune NHS	98	---	100	100	100	99	-1
Martin Luther King, Jr. Center	198	98	200	200	200	199	-1
Phillips Gallery	343	---	350	---	175	174	-1
Arena Stage	343	---	350	---	175	174	-1
National Building Museum	343	---	350	---	175	174	-1
National Capital Children's Museum	343	---	350	---	175	174	-1
William McKinley Tomb	---	---	450	---	450	447	-3
Fisk University, Jubilee Hall	---	---	169	169	169	168	-1
Subtotal	3,866	2,310	4,545	1,995	3,495	3,475	-20
General administration:							
Central office	6,426	5,855	5,855	5,855	5,855	5,820	-35
Regional offices	16,389	15,084	15,084	15,084	15,084	14,993	-91
Automatic data processing	4,789	4,856	4,856	4,856	4,856	4,827	-29
Service wide administrative support	6,601	6,601	6,601	6,601	6,601	6,561	-40
General services	392	392	392	392	392	390	-2
Employee compensation payment	3,871	4,371	4,371	4,371	4,371	4,345	-26
Unemployment compensation for federal employees	8,500	7,940	7,940	7,940	7,940	7,892	-48
GSA space rental	11,101	11,767	11,767	11,767	11,757	11,696	-71
Executive direction	6,448	6,583	6,583	6,583	6,583	6,544	-39
Public Affairs	1,722	1,764	1,764	1,764	1,764	1,753	-11
Alaska Land Use Council	---	---	-57	---	---	---	---
Subtotal, General Administration	66,239	65,213	65,156	65,213	65,213	64,821	-392
Youth Conservation Corps	(3,400)	---	---	---	(3,300)	(3,300)	---
Pay restoration	---	---	(15,123)	---	---	---	---
Pay supplemental	8,700	---	---	---	---	---	---
Section 2901 Rescission	-4,300	---	---	---	---	---	---
Total, Operation of the National Park System	626,818	600,808	628,996	619,548	627,763	623,996	-3,767
NATIONAL RECREATION AND PRESERVATION							
Recreation Programs	625	231	631	463	631	627	-4
Natural Programs	1,712	541	1,991	1,563	1,663	1,653	-10
National Register	6,667	6,885	6,885	6,885	6,885	6,843	-42
Environmental and Compliance Review	392	402	402	402	402	400	-2
Grant administration	1,715	1,488	1,558	1,515	1,515	1,506	-9
Pay Restoration	---	---	(288)	---	---	---	---
Total, National Recreation and Preservation	11,111	9,547	11,467	10,828	11,096	11,029	-67
Historic Preservation Fund							
Grants-in-aid	21,070	---	20,000	21,070	20,535	20,411	-124
National Trust for Historic Preservation	4,410	---	4,410	4,410	4,410	4,384	-26
Total, Historic Preservation Fund	25,480	---	24,410	25,480	24,945	24,795	-150
Visitor Facilities Fund							
Visitor facilities fund	5,880	8,500	7,070	---	---	---	---
Construction							
Buildings and Utilities							
Emergency and Unscheduled (Lump Sum) Projects	2,940	3,000	3,000	3,000	3,000	2,981	-19
Advance Planning	5,390	3,500	5,400	3,500	5,400	5,368	-32
Project Planning	8,954	5,500	9,350	6,838	9,350	9,294	-56
Line Item Construction Projects	94,158	37,456	86,319	72,882	96,371	95,793	-578
Total, Construction	111,442	49,456	104,069	86,220	114,121	113,436	-685
Federal Highway Administration							
Federal-aid highways (liquidation of contract authorization) (trust fund)	(28,000)	---	(10,300)	(10,300)	(10,300)	(10,300)	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	28	
Land Acquisition and State Assistance							
Assistance to States							
Matching grants	71,853	---	48,350	48,350	48,350	48,060	-290
Administrative expenses	1,647	1,275	1,650	1,650	1,650	1,640	-10
National Park Service							
Acquisitions	88,797	5,000	60,762	20,400	43,400	43,140	-260
Acquisition management	6,919	5,000	5,000	5,000	5,000	4,970	-30
Section 2901 Rescission	-52	---	---	---	---	---	---
Total, Land acquisition and state assistance	169,164	11,275	115,762	75,400	98,400	97,810	-590
John F. Kennedy Center for the Performing Arts							
Base program	4,529	4,600	4,529	4,800	4,800	4,771	-29
National Capital Region Arts and Cultural Affairs Prog							
Base program (1986 funding) 1/	(4,900)	---	---	---	---	---	---
Illinois and Michigan Canal National Heritage Corridor							
Base program	245	---	250	250	250	248	-2
Jefferson National Expansion Memorial Commission							
Base program	73	---	75	---	75	75	---
Total, National Park Service	954,742	684,186	896,628	822,526	881,450	876,160	-5,290
GEOLOGICAL SURVEY							
Surveys, Investigations, and Research							
National Mapping, Geography and Surveys							
Primary mapping and revision	37,595	37,863	37,863	37,863	37,863	37,642	-221
Digital cartography	11,101	13,530	13,530	13,530	13,530	13,449	-81
Receipts for printing and distribution	9,000	9,500	9,500	9,500	9,500	9,443	-57
Small intermediate and special mapping	16,230	14,116	15,116	14,116	14,616	14,532	-84
Advanced cartographic systems	4,700	7,451	7,451	7,451	7,451	7,406	-45
Earth resources observation system	9,537	9,425	9,425	9,425	9,425	9,371	-54
Cartographic and geographic information	3,517	3,543	3,543	3,543	3,543	3,522	-21
Side looking airborne radar	1,960	---	2,000	4,000	2,000	1,988	-12
Subtotal	93,640	95,428	98,428	99,428	97,928	97,353	-575
Geologic and Mineral Resource Surveys and Mapping							
Earthquake hazards reduction	36,554	35,092	36,092	37,592	36,092	35,880	-212
Volcano Hazards	11,396	10,682	10,682	10,682	10,682	10,618	-64
Landslide hazards	3,069	2,049	3,049	3,000	3,000	2,982	-18
Geologic framework	17,109	19,089	19,589	19,589	19,589	19,475	-114
Geomagnetism	2,173	2,159	2,159	2,159	2,159	2,146	-13
Climate change	1,004	994	994	994	994	988	-6
Mineral resource surveys	45,416	46,259	46,259	48,659	46,859	46,585	-274
Energy geologic surveys	30,024	27,494	28,744	27,494	28,094	27,930	-164
Offshore geolpgic surveys	21,129	25,089	26,089	28,089	26,589	26,432	-157
Subtotal	167,874	168,907	173,657	178,258	174,058	173,036	-1,022
Water Resources Investigations							
Federal Program	71,779	72,759	72,759	74,109	74,109	73,675	-434
Water resources research institutes	8,820	7,664	7,664	15,270	12,776	12,699	-77
Federal-State program	51,025	52,324	52,324	52,324	52,324	52,018	-306
National water quality assessment	---	---	5,000	---	2,500	2,485	-15
Subtotal	131,624	132,747	137,747	141,703	141,709	140,877	-832

1/ $4,900,000 proposed for transfer to BIA Construction in FY 1986.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimate F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
General Administration	15,089	13,503	13,503	13,503	13,503	13,426	-77
Facilities	13,084	14,263	14,263	14,263	14,263	14,177	-86
Map sales receipts	-9,000	-9,500	-9,500	-9,500	-9,500	-9,500	---
Transfer from Minerals Management Service	922	---	---	---	---	---	---
Pay restoration	---	---	(8,678)	---	---	---	---
Pay supplemental	4,464	---	---	---	---	---	---
Section 2901 Rescission	-1,269	---	---	---	---	---	---
Total, Surveys, Investigations & Research	416,360	415,348	428,098	437,655	431,961	429,369	-2,592
Total, Geological Survey	416,360	415,348	428,098	437,655	431,961	429,369	-2,592
MINERALS MANAGEMENT SERVICE							
Minerals and Royalty Management							
Leasing Outer Continental Shelf Lands and environmental program	43,583	42,644	43,924	43,924	43,924	43,660	-264
Resource evaluation	26,139	21,249	21,249	26,163	26,163	24,000	-145
Regulatory program	30,519	32,095	32,095	32,095	32,095	31,902	-193
Subtotal, Minerals and Royalty Management	100,241	95,988	97,268	102,182	100,168	99,566	-602
Mineral Revenue Collection (onshore royalty)	12,294	13,850	15,170	15,170	15,170	15,079	-91
Mineral Revenue Compliance (offshore royalty)	10,089	10,526	10,526	10,526	10,526	10,463	-63
Systems development and maintenance	16,708	18,164	19,564	19,799	19,964	19,400	-116
Subtotal, royalty management	39,092	42,540	45,260	45,495	45,260	44,990	-270
Executive direction	3,293	3,279	3,279	3,279	3,279	3,259	-20
Administration operations	10,045	9,465	9,465	9,465	9,465	9,408	-57
General support services	9,889	9,846	9,846	9,846	9,846	9,787	-59
Section 2901 Rescission	-1,764	---	---	---	---	---	---
Subtotal, general administration	21,463	22,590	22,590	22,590	22,590	22,454	-136
Pay restoration	---	---	(2,677)	---	---	---	---
Total, leasing and royalty management 1/	160,796	161,118	165,118	170,267	168,018	167,010	-1,008
Payments to States from receipts under Mineral Leasing	800	800	---	800	---	---	---
Total, Minerals Management Service	161,596	161,918	165,118	171,067	168,018	167,010	-1,008
BUREAU OF MINES							
Mines and Minerals							
Minerals Research:							
Health and Safety Technology	33,931	25,219	36,819	28,819	33,669	33,470	-199
Mining Technology:							
Advanced Mining Technology	11,552	8,112	11,612	8,112	10,112	10,052	-60
Resource Conservation Technology	1,974	1,548	1,548	4,548	3,048	3,030	-18
Subtotal, Mining Technology	13,526	9,660	13,160	12,660	13,160	13,082	-78
Minerals and Materials Research	32,761	25,508	27,001	34,208	32,708	32,515	-193
Subtotal, Minerals Research	80,218	60,387	76,980	75,687	79,537	79,067	-470
Minerals Information and Analysis:							
Minerals Information	10,856	10,617	10,617	10,617	10,617	10,554	-63
Mineral Data Analysis	18,550	17,141	17,141	19,581	18,541	18,431	-110
Subtotal	29,406	27,758	27,758	30,198	29,158	28,985	-173

1/ Reflects transfer of 15 FTEs, $922,000 to U.S.G.S.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Mineral Institutes	7,842	---	---	8,000	8,000	7,950	-50
General Administration	20,160	18,915	18,915	18,915	18,915	18,802	-113
Bruceton facility/Construction and rehabilitation	-1,667	---	---	---	---	---	---
Pay restoration	---	---	(2,747)	---	---	---	---
Program offset	---	---	-1,355	-1,355	-1,355	-1,355	---
Total, Bureau of Mines	136,959	107,060	122,298	131,445	134,255	133,449	-806
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT							
Regulation and Technology							
State Regulatory Program Grants	36,734	38,100	37,200	37,200	37,200	36,977	-223
Federal Regulatory Programs							
Program operations and inspections	23,678	23,030	27,630	27,130	27,245	27,082	-163
Technical services and research	12,833	12,318	13,018	13,018	13,018	12,940	-78
Subtotal	36,411	35,348	40,648	40,148	40,263	40,022	-241
General Administration	6,747	7,340	7,690	7,690	7,690	7,643	-47
Pay supplemental	455	---	---	---	---	---	---
Pay restoration	---	---	(867)	---	---	---	---
Total, Regulation and Technology	80,347	80,788	85,538	85,038	85,153	84,642	-511
Abandoned Mine Reclamation Fund							
State Reclamation Program Grants	257,740	211,200	186,200	150,000	160,000	159,056	-944
Federal Reclamation Programs							
Fund management	6,599	6,979	6,979	6,979	6,979	6,938	-41
Federal reclamation projects	18,426	21,513	26,513	26,513	26,513	26,357	-156
Rural lands reclamation program	9,800	3,480	9,480	3,480	9,480	9,424	-56
Subtotal	34,825	31,972	42,972	36,972	42,972	42,719	-253
Small Operator Assistance	---	3,100	3,100	3,100	3,100	3,082	-18
General Administration	4,376	4,550	4,550	4,456	4,550	4,521	-29
Undistributed reduction	---	-4	-4	---	-4	-4	---
Pay restoration	---	---	(498)	---	---	---	---
Program offset	---	---	-3,233	-3,233	-3,233	-3,233	---
Total, Abandoned Mine Reclamation Fund	296,941	250,818	233,585	191,295	207,385	206,141	-1,244
Total, Office of Surface Mining Reclamation and Enforcement	377,288	331,606	319,123	276,333	292,538	290,783	-1,755
BUREAU OF INDIAN AFFAIRS							
Operation of Indian Programs							
Education							
School Operations	177,265	194,093	192,820	189,726	190,520	189,378	-1,142
Johnson O'Malley Educational Assistance	25,674	---	23,183	20,000	23,183	23,044	-139
Continuing Education	53,256	56,279	57,229	56,579	56,779	56,438	-341
Contract support	13,073	---	---	---	---	---	---
Subtotal, Education	269,268	250,372	273,232	266,305	270,482	268,860	-1,622
Indian Services							
Tribal Government Services	25,936	32,306	32,428	32,306	32,428	32,233	-195
Social Services	104,984	114,332	114,332	113,732	113,882	113,199	-683
Law Enforcement	44,354	48,863	48,863	48,863	48,863	48,570	-293
Self-Determination Services	24,162	21,607	21,607	20,966	21,466	21,337	-129
Navajo-Hopi Settlement Program	2,773	2,949	2,949	2,449	2,949	2,931	-18
Contract support	14,935	---	---	---	---	---	---
ADP transfer	(-3,435)	---	---	---	---	---	---
Subtotal, Indian Services	217,144	220,057	220,179	218,316	219,588	218,270	-1,318

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.4%	Difference
	21	22	23	24	25	26	
Economic Development and Employment Programs							
Employment Development	25,414	26,359	26,359	27,059	26,859	26,698	-161
Business Enterprise Development	24,388	15,658	14,933	14,258	13,858	13,775	-83
Road Maintenance	21,890	23,208	23,208	23,208	23,208	23,069	-139
Contract support	2,675	---	---	---	---	---	---
Subtotal, Economic Development and Employment Programs	74,367	65,225	64,500	64,525	63,925	63,542	-383
Natural Resources Development							
Natural Resources, General	1,858	2,422	2,422	2,422	2,422	2,407	-15
Agriculture	23,516	23,399	23,859	23,399	23,399	23,259	-140
Forestry	32,315	32,199	33,884	32,499	33,584	33,382	-202
Water Resources	7,705	9,248	11,512	9,248	10,848	10,783	-65
Wildlife & Parks	19,672	23,804	26,569	25,026	25,939	25,783	-156
Fire Suppression	13,277	422	422	422	422	419	-3
(By transfer)	(4,980)	---	---	---	---	---	---
Minerals and Mining	12,601	8,547	10,747	8,547	9,647	9,589	-58
Irrigation and Power	7,957	7,988	7,988	7,988	7,988	7,940	-48
Contract support	4,460	---	---	---	---	---	---
ADP transfer	(-275)	---	---	---	---	---	---
Subtotal, Natural Resources Development	123,550	108,029	117,403	109,551	114,249	113,562	-687
Trust Responsibilities							
Rights Protection	20,550	19,447	23,192	20,197	21,537	21,408	-129
Real Estate and Financial Trust Services	28,301	31,870	31,032	30,032	30,032	29,852	-180
Contract support	797	---	---	---	---	---	---
ADP transfer	(-600)	---	---	---	---	---	---
Subtotal, Trust Responsibilities	49,648	51,317	54,224	50,229	51,569	51,260	-309
Facilities Management	88,368	91,699	47,449	89,102	91,849	91,298	-551
General Administration							
Management and Administration	48,260	50,306	50,204	49,640	49,538	49,240	-298
ADP Services	17,748	18,042	18,042	18,042	18,042	17,934	-108
Program management	4,805	4,547	4,547	4,547	4,547	4,520	-27
Employee compensation payments	6,858	7,523	7,523	7,523	7,523	7,478	-45
Subtotal, General Administration	77,671	80,418	80,316	79,752	79,650	79,172	-478
Pay supplemental	5,000	---	---	---	---	---	---
Section 2901 Rescission	-2,800	---	---	---	---	---	---
Pay restoration	---	---	(11,430)	---	---	---	---
Emergency hay relief	---	---	---	6,000	6,000	5,964	-36
Total, Operation of Indian Programs	902,216	867,117	857,303	883,780	897,312	891,928	-5,384
Construction							
Buildings and Utilities	56,509	37,490	---	38,190	38,590	38,365	-225
Irrigation Systems	25,853	15,828	23,459	18,328	18,328	18,221	-107
Housing	22,736	17,092	22,736	87,736	44,736	44,476	-260
Land acquisition	2,394	---	2,000	---	2,400	2,386	-14
Program offset	---	---	-3,000	-3,000	-3,000	-3,000	---
Proposed transfer 1/	---	(4,900)	---	---	---	---	---
Total, Construction	107,492	70,410	45,195	141,254	101,054	100,448	-606
Road Construction							
Base Program	5,880	---	785	---	---	---	---
Utah Paiute Trust Fund							
Trust fund	2,500	---	---	---	---	---	---
Alaska Native Escrow Account	---	7,877	---	7,877	7,877	7,830	-47
Trust Funds							
Definite	4,000	4,000	4,000	4,000	4,000	4,000	---
Indefinite	60,000	---	---	---	---	---	---
Total	64,000	4,000	4,000	4,000	4,000	4,000	---

1/ Proposed for transfer from National Capital Region Arts and Cultural Affairs program.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Revolving Fund for Loans							
Limitation on direct loans	(18,600)	(16,300)	(16,300)	(16,300)	(16,300)	(16,300)	---
Indian Loan Guaranty and Insurance Fund							
Base program	---	1,485	2,210	2,210	2,210	2,197	-13
Limitation on guaranteed loans	---	(20,000)	---	---	---	---	---
Total, Bureau of Indian Affairs	1,082,888	950,889	909,493	1,039,121	1,012,453	1,006,403	-6,050
TERRITORIAL AFFAIRS							
Administration of Territories							
Guam							
Construction grants	5,610	1,650	5,393	4,583	4,583	4,556	-27
American Samoa							
Operations grants	20,776	20,776	20,776	20,776	20,776	20,651	-125
Construction grants	6,069	3,746	6,722	5,922	5,922	5,886	-36
Subtotal, American Samoa	26,828	24,522	27,498	26,698	26,698	26,537	-161
Northern Marianas							
Covenant grants	28,723	27,726	27,726	27,726	27,726	27,560	-166
Construction grants, other	8,330	2,850	4,850	2,850	3,350	3,330	-20
Subtotal, Northern Marianas	37,053	30,576	32,576	30,576	31,076	30,890	-186
Virgin Islands							
College of the Virgin Islands Development Grant	490	---	---	490	---	---	---
Loan	---	---	2,000	2,000	2,000	1,988	-12
Subtotal, Virgin Islands	490	---	2,000	2,490	2,000	1,988	-12
Territorial Administration							
Office of Territorial Affairs	2,473	2,473	2,385	2,473	2,473	2,458	-15
Technical Assistance	4,900	2,200	4,900	4,900	4,900	4,871	-29
Guam Power Authority Loan Assistance	---	8,646	---	8,646	8,646	8,594	-52
Section 2901 Rescission	-107	---	---	---	---	---	---
Subtotal, Territorial Administration	7,466	13,319	7,285	16,019	16,019	15,923	-96
Total, Administration of Territories	77,444	70,067	74,752	80,366	80,376	79,894	-482
Trust Territory of the Pacific Islands							
Trust Territory operations	12,722	2,900	7,672	4,730	5,422	5,389	-33
Federated States of Micronesia	40,342	---	40,750	40,342	40,750	40,505	-245
Republic of the Marshall Islands	11,402	---	11,500	11,500	11,500	11,432	-68
Republic of Palau Operations	10,501	10,600	10,600	10,600	10,600	10,537	-63
Prior service benefit trust fund	---	---	---	2,500	---	---	---
Subtotal, Operations	74,967	13,500	70,522	69,672	68,272	67,863	-409
Construction							
Capital Improvements	17,150	---	10,950	7,600	9,450	9,393	-57
Capitol Relocations	3,920	---	12,000	---	---	---	---
Subtotal, Construction	21,070	---	22,950	7,600	9,450	9,393	-57
Enewetak support	882	---	900	900	900	895	-5
Enjebi Trust Fund	---	---	2,500	---	---	---	---
Bikini resettlement	1,876	---	11,100	---	1,750	1,739	-11
Total, Trust Territory of the Pacific Islands	98,795	13,500	107,972	78,172	80,372	79,890	-482
Total, Territorial Affairs	176,239	83,567	182,724	158,538	160,748	159,784	-964

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
DEPARTMENTAL OFFICES							
Office of the Secretary							
Departmental Direction							
Secretary's immediate Office	1,439	1,470	1,415	1,470	1,435	1,426	-9
Executive Secretariat	203	211	211	211	211	210	-1
Cong. & Legis. Affairs	1,155	1,102	1,052	1,155	1,100	1,093	-7
Equal Opportunity	1,414	1,229	1,229	1,414	1,300	1,292	-8
Public Affairs	709	687	687	709	700	696	-4
Small & Disadvantaged Business Utilization	431	396	396	431	400	398	-2
Subtotal, Departmental Direction	5,351	5,095	4,990	5,390	5,146	5,115	-31
Program Direction and Coordination							
A/S Water and Science	766	699	699	766	750	745	-5
A/S Land and Minerals Management	808	732	732	808	790	785	-5
A/S Fish and Wildlife and Parks	789	713	713	789	771	766	-5
A/S Indian Affairs	754	707	707	754	743	739	-4
A/S Territorial and International Affairs	581	520	466	581	551	548	-3
A/S Policy, Budget & Administration	809	744	744	810	795	790	-5
Subtotal, Program Direction and Coordination	4,507	4,115	4,061	4,508	4,400	4,373	-27
Administration							
Environmental Project Review	1,534	1,394	1,394	1,534	1,500	1,491	-9
Acquisition & Property Management	1,401	1,333	1,333	1,401	1,350	1,342	-8
Office of personnel	1,624	1,616	1,616	1,624	1,620	1,610	-10
Administrative Services	3,291	3,302	3,222	3,291	3,250	3,230	-20
Information Resources Management	4,786	4,455	4,455	4,786	4,700	4,672	-28
Policy Analysis	2,365	1,914	2,014	2,365	2,300	2,286	-14
Office of Budget	1,546	1,446	1,446	1,546	1,525	1,516	-9
Financial management	1,032	1,013	1,013	1,032	1,020	1,014	-6
Subtotal, Administration	17,579	16,473	16,493	17,579	17,265	17,161	-104
Hearings and Appeals	6,178	5,323	5,323	6,178	5,800	5,766	-34
Aircraft Services	1,982	1,833	1,833	1,982	1,900	1,889	-11
Central Services	9,036	8,156	8,156	9,036	8,900	8,847	-53
Pay restoration	---	---	(1,056)	---	---	---	---
Total, Office of the Secretary	44,633	40,995	40,856	44,673	43,411	43,151	-260
Office of the Solicitor							
Legal Services	17,562	15,968	17,368	17,314	17,314	17,210	-104
General Administration	2,575	3,010	2,898	3,064	3,064	3,046	-18
Pay Restoration	---	---	(561)	---	---	---	---
Pay supplemental	306	---	---	---	---	---	---
Total, Office of the Solicitor	20,443	18,978	20,266	20,378	20,378	20,256	-122
Office of the Inspector General							
Audit	13,478	12,350	12,050	13,368	13,000	12,922	-78
Investigations	2,536	2,287	2,217	2,557	2,273	2,260	-13
Administration	894	941	850	983	941	935	-6
Total, Office of the Inspector General	16,908	15,578	15,117	16,908	16,214	16,117	-97
Construction Management							
Salaries and Expenses	785	678	900	660	780	775	-5
Facilities Operations and Maintenance							
Base Program	---	---	45,000	---	---	---	---
Construction							
Buildings and utilities	---	---	41,990	---	---	---	---
Total, Construction Management	735	678	87,890	660	780	775	-5

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Special Foreign Currency Program							
Salaries and Expenses	1,960	---	---	1,000	1,000	994	-6
Total, Secretarial Offices	84,679	76,229	164,129	83,619	81,783	81,293	-490
Grand Total, Department of the Interior	4,500,837	3,668,191	4,151,663	4,076,088	4,124,592	4,099,930	-24,662
TITLE II - RELATED AGENCIES							
DEPARTMENT OF AGRICULTURE							
FOREST SERVICE							
Forest Research							
Fire and atmospheric science	7,926	7,514	8,112	8,112	8,112	8,063	-49
Forest insect and disease	21,086	19,922	21,220	21,220	21,220	21,093	-127
Forest inventory and analysis	17,079	13,230	17,152	17,152	17,152	17,049	-103
Renewable resource economics	4,482	4,594	5,082	4,594	4,594	4,566	-28
Trees and timber management	22,061	21,206	22,603	23,229	22,603	22,467	-136
Forest watershed managment and rehabilitation	11,195	11,094	16,611	12,394	15,611	15,517	-94
Wildlife, range and fish habitat	8,876	8,869	9,537	9,537	9,537	9,480	-57
Forest recreation	2,071	2,054	2,212	2,054	2,154	2,141	-13
Forest products and harvesting	18,378	18,488	18,460	19,288	18,460	18,349	-111
Competitive grants	7,840	---	4,000	7,840	6,840	6,800	-40
Pay supplemental	1,164	---	---	---	---	---	---
Section 2901 Rescission	-662	---	---	---	---	---	---
Total, Forest Research	121,666	106,971	124,989	125,420	126,283	125,525	-758
State and Private Forestry							
Forest Pest Management							
Federal lands	20,125	18,385	20,501	20,835	20,835	20,710	-125
Cooperative lands	8,746	676	8,776	8,776	8,776	8,723	-53
Subtotal, Forest pest management	28,871	19,061	29,277	29,611	29,611	29,433	-178
Fire protection	13,720	3,263	13,700	13,700	13,700	13,618	-82
Forest Management and Utilization							
Forest resource management	5,130	3,636	5,150	5,236	5,236	5,205	-31
Wood utilization	951	1,022	996	960	960	954	-6
Seedlings, nursery and tree improvement	1,730	409	400	1,809	1,809	1,798	-11
Urban forestry	1,960	---	2,000	---	2,000	1,988	-12
Management improvement	980	---	---	---	---	---	---
Subtotal	10,751	5,067	8,546	8,005	10,005	9,945	-60
Special projects							
Boundary Waters Canoe Area	2,940	3,000	3,000	3,000	3,000	2,982	-18
Gifford Pinchot Institute	245	---	200	---	200	199	-1
Lake Tahoe	1,470	---	1,470	1,470	1,470	1,461	-9
Disabled veterans recreation	318	---	---	---	---	---	---
Subtotal	4,973	3,000	4,670	4,470	4,670	4,642	-28
Pay supplemantal	209	---	---	---	---	---	---
Section 2901 Rescission	-232	---	---	---	---	---	---
Total, State and Private Forestry	58,292	30,391	56,193	55,786	57,986	57,638	-348
National Forest System							
Minerals and General Land Activities							
Minerals	26,465	29,379	28,373	29,379	28,610	28,443	-167
Real estate management	20,797	21,009	20,435	21,009	21,009	20,887	-122
Land Line Location	28,954	29,120	25,655	28,820	28,820	28,652	-168
Maintenance of Facilities	14,754	14,857	14,498	14,857	14,857	14,771	-86
Subtotal	90,970	94,365	88,961	94,065	93,296	92,753	-543

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimate F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Resource Protection and Maintenance							
Fire protection	156,270	147,507	154,612	160,291	159,560	158,632	-928
Fighting forest fires	62,227	1,000	1,000	1,000	1,000	994	-6
Cooperative law enforcement	7,161	---	---	7,000	7,000	6,959	-41
Road maintenance	54,942	65,125	62,406	65,025	65,025	64,647	-378
Trail maintenance	9,189	9,416	9,526	10,416	10,026	9,968	-58
Subtotal	299,789	223,048	227,544	243,732	242,611	241,200	-1,411
Timber Sales							
Timber resource inventory	10,787	13,321	12,955	13,321	13,321	13,243	-78
Silvicultural examination	23,566	20,564	19,757	20,564	20,564	20,445	-119
Sales preparation and harvest administration	159,814	155,368	129,546	158,430	149,426	148,556	-870
Subtotal	194,087	189,253	162,258	192,315	183,311	182,244	-1,067
Reforestation and Stand improvement							
Reforestation	30,792	48,192	46,817	58,192	54,192	53,877	-315
(Reforestation trust fund)	(22,308)	---	---	---	---	---	---
Stand improvement	22,414	25,518	24,715	30,518	30,518	30,340	-178
(Reforestation trust fund)	(8,675)	---	---	---	---	---	---
Nurseries	13,575	16,292	14,944	15,292	15,292	15,203	-89
Subtotal	66,781	90,002	86,476	104,002	100,002	99,420	-582
Recreation use							
Recreation management	84,432	82,476	85,776	82,576	86,559	86,056	-503
Wilderness	7,717	8,030	7,891	8,030	7,891	7,845	-46
Cultural resources	9,535	10,034	9,739	10,034	9,739	9,683	-56
Subtotal	101,684	100,540	103,406	100,640	104,189	103,584	-605
Wildlife and fish habitat management							
Wildlife and fisheries support	22,297	24,556	23,070	24,556	23,927	23,787	-140
Habitat improvement	14,310	12,453	14,150	16,453	15,100	15,012	-88
Subtotal	36,607	37,009	37,220	41,009	39,027	38,799	-228
Range management							
Grazing	24,606	26,227	24,606	25,227	24,467	24,324	-143
Range improvements	2,312	1,195	1,127	2,195	2,195	2,182	-13
Wild horse and burro management	175	276	271	276	276	274	-2
Noxious weed control	980	653	624	1,153	1,374	1,366	-8
Subtotal	28,073	28,351	26,628	28,851	28,312	28,146	-166
Soil, water and air management							
Soil, water and air administration	21,467	23,773	23,418	22,673	22,377	22,247	-130
Soil and water resource improvements	3,025	2,016	3,135	3,116	3,135	3,117	-18
Soil and water resource inventories	6,486	5,485	6,611	5,485	6,611	6,572	-39
Subtotal	30,978	31,274	33,164	31,274	32,123	31,936	-187
General Administration	257,958	276,277	268,276	264,258	264,258	262,719	-1,539
Forest level information processing system	(-2,500)	---	-8,500	---	-2,500	-2,500	---
FS/BLM Interchange	---	14,400	---	---	---	---	---
Oregon and California grant lands	---	51,160	---	---	---	---	---
Pay Restoration	---	---	10,000	---	---	---	---
Youth Conservation Corps	(3,300)	---	---	---	---	---	---
Restoration trust fund transfer	---	---	---	-30,000	-30,000	-30,000	---
Pay supplemental	10,688	---	---	---	---	---	---
Section 2901 Rescission	-6,067	---	---	---	---	---	---
Total, National Forest System	1,111,548	1,135,679	1,035,433	1,070,146	1,054,629	1,048,301	-6,328
Construction							
Facilities	27,952	15,871	25,649	20,571	27,449	27,284	-165
Roads and trails							
Direct road construction	229,759	195,562	151,293	195,562	189,341	188,205	-1,136
Trail construction	7,119	3,475	8,343	3,475	7,075	7,033	-42
Subtotal, Construction	364,830	214,908	185,285	219,608	223,865	222,522	-1,343

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Timber Receipts Transfer (transfer to General Fund)...	(-52,604)	(-102,765)	(-102,765)	---	(-102,765)	(-102,765)	---
Timber Purchaser Credits...	(193,301)	(190,300)	---	(190,300)	---	---	---
Purchaser credit transfer...	-226,290	---	---	---	---	---	---
Forest level information processing systems...	---	---	-1,500	---	---	---	---
Section 2901 Rescission...	-961	---	---	---	---	---	---
Total, Construction...	37,579	214,908	183,785	219,608	223,065	222,522	-1,343
Land Acquisition							
Forest Service:							
Acquisitions...	67,109	---	26,000	15,025	28,800	28,681	-149
Acquisition Management...	3,494	2,382	3,500	3,000	3,500	3,479	-21
Section 2901 Rescission...	-68	---	---	---	---	---	---
Total...	80,535	2,382	29,500	18,025	28,300	28,130	-170
Youth Conservation Corps							
Base program...	---	---	10,000	---	---	---	---
Acquisition of Lands for National Forests, Special Acts							
Base Program...	766	782	780	782	782	777	-5
Acquisition of Lands to Complete Land Exchanges							
Base Program...	20	20	20	20	20	20	---
Range Betterment							
Base program...	3,966	3,992	3,908	3,992	3,992	3,968	-24
Miscellaneous Trust Funds							
Miscellaneous trust fund...	88	90	90	90	90	89	-1
Total, Forest Service...	1,384,460	1,495,215	1,444,698	1,493,869	1,495,947	1,486,970	-8,977
DEPARTMENT OF THE TREASURY							
Energy Security Reserve (rescission) 1/...	(-5,375,000)	---	(-6,900,000)	---	(-6,900,000)	(-6,900,000)	---
DEPARTMENT OF ENERGY							
Clean Coal Technology Reserve							
Base program FY 1986...	---	---	---	100,000	---	---	---
1/...	---	---	(100,000)	---	(100,000)	(99,400)	(-600)
Base program FY 1987...	---	---	---	(175,000)	---	---	---
1/...	---	---	(200,000)	---	(150,000)	(149,100)	(-900)
Base program FY 1988...	---	---	---	(300,000)	---	---	---
1/...	---	---	(200,000)	---	(150,000)	(149,100)	(-900)
Base program FY 1989...	---	---	---	(175,000)	---	---	---
Total, Clean Coal Technology Reserve...	---	---	---	100,000	---	---	---
1/...	---	---	(500,000)	---	(400,000)	(397,600)	(-2,400)
Fossil Energy Research and Development							
Coal							
Control technology and coal preparation							
Coal preparation and analysis...	10,965	10,333	13,203	11,083	13,203	13,135	-68
Flue gas cleanup...	14,800	10,155	12,355	11,355	11,355	11,296	-59
Gas stream cleanup...	7,351	5,641	7,341	7,341	7,341	7,303	-38
Waste management technology...	1,967	1,216	1,216	1,216	1,216	1,209	-7
Subtotal...	35,083	27,345	34,115	30,995	33,115	32,943	-172

1/ FY86 amount is an est. of an indefinite rescission.
2/ Proposed in Energy Security Reserve (Synthetic Fuels Corporation).

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
Advanced Research & Technology Development	40,011	32,946	32,946	35,146	35,146	34,971	-175
Coal Liquefaction							
Advanced research	---	5,097	5,097	5,097	5,097	5,070	-27
Advanced process development	12,932	5,659	12,159	13,159	13,159	13,092	-67
Indirect liquefaction	7,179	4,428	9,528	9,528	9,528	9,478	-50
Support studies and engineering evaluations	5,704	4,302	4,302	4,302	4,302	4,280	-22
Subtotal	25,815	19,486	31,086	32,086	32,086	31,920	-166
Combustion systems							
Atmospheric fluidized beds	18,737	17,326	17,326	17,326	17,326	17,235	-91
Pressurized fluidized beds	2,458	5,259	5,259	5,259	5,259	5,231	-28
Advanced combustion technology	1,967	2,539	3,539	2,539	3,539	3,518	-21
Alternate fuel utilization	7,056	4,182	5,182	4,182	4,182	4,162	-20
Subtotal	30,218	29,306	31,306	29,306	30,306	30,146	-160
Fuel cells							
Phosphoric acid systems	28,912	---	25,300	13,300	21,300	21,187	-113
Molten carbonate systems	8,851	6,400	10,900	10,400	10,400	10,338	-62
Advanced concepts	3,048	2,942	3,942	2,942	3,942	3,924	-18
Subtotal	40,811	9,342	40,142	26,642	35,642	35,449	-193
Heat engines	11,948	11,386	11,386	14,386	12,886	12,817	-69
Underground coal gasification	5,753	4,260	4,260	4,260	4,260	4,238	-22
Magnetohydrodynamics	30,977	---	32,000	29,000	29,000	28,850	-150
Surface Coal Gasification							
Advanced research	---	3,505	3,505	3,505	3,505	3,487	-18
Advanced Process Development	4,376	3,345	5,345	5,345	5,345	5,317	-28
Systems engineering concepts	21,119	3,243	13,743	23,243	29,243	29,091	-152
Environmental and engineering analyses	3,516	2,212	2,212	2,212	2,212	2,199	-13
Great Plains gasification project	3,000	2,775	2,775	2,775	2,775	2,761	-14
Subtotal	32,011	15,080	27,580	37,080	43,080	42,855	-225
Subtotal, Coal	252,627	149,151	244,821	238,901	255,521	254,189	-1,332
Petroleum							
Advanced Process Technology							
Advanced exploratory research	4,425	4,692	4,692	4,692	4,692	4,669	-23
Arctic and offshore research	984	1,086	1,086	1,086	1,086	1,079	-7
Subtotal	5,409	5,778	5,778	5,778	5,778	5,748	-30
Enhanced Oil Recovery							
Heavy oil	2,557	2,886	2,886	2,886	2,886	2,869	-17
Light oil	8,064	7,721	7,721	7,721	7,721	7,683	-38
Tar sands	1,180	1,379	1,379	1,379	1,379	1,371	-8
Subtotal	11,801	11,986	11,986	11,986	11,986	11,923	-63
Oil shale	14,751	9,699	11,699	11,699	12,699	12,632	-67
Subtotal, Petroleum	31,961	27,463	29,463	29,463	30,463	30,303	-160
Gas							
Unconventional gas recovery	10,227	8,896	10,896	10,896	8,896	8,850	-46
Equipment not related to construction	4,425	3,000	3,000	3,000	3,000	2,982	-18
Fossil Energy Construction							
Wastewater treatment facility, Morgantown, W. Va.	2,458	---	---	---	---	---	---
General plant projects	2,458	3,985	2,485	4,485	3,485	3,469	-16
Subtotal, Fossil Energy Construction	4,916	3,985	2,485	4,485	3,485	3,469	-16

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimate F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	-21-	-22-	-23-	-24-	-25-	-26-	
Headquarters program direction	8,273	13,478	13,478	13,478	13,478	13,407	-71
Energy Technology Center program direction	37,907	38,198	38,198	38,198	38,198	37,995	-203
Use of prior year deferrals - OE	-9,493	-52,240	-15,972	-18,015	-18,015	-18,015	---
Advance appropriation made in FY 1984	-15,000	-15,000	-15,000	-15,000	-15,000	-15,000	---
By transfer	-47,496	-6,165	-14,897	-10,240	-10,240	-10,240	---
Program offset	-400	---	---	---	---	---	---
Transfer from Energy Security Reserve	-3,000	-2,775	-2,775	-2,775	-2,775	-2,775	---
Savings from Management Initiatives	---	-6,000	---	-6,000	---	---	---
Employment floors	---	---	5,302	5,302	5,302	5,274	-28
Pay restoration	---	---	(1,500)	(1,500)	(1,500)	(1,500)	---
Federal Inspector for the Alaska Gas Pipeline	---	---	535	535	535	532	-3
Total, Fossil Energy Research and Development	274,947	161,991	299,534	292,228	312,848	310,971	-1,877
Naval Petroleum and Oil Shale Reserves							
Naval petroleum reserves Nos. 1 & 2	171,188	130,800	130,800	130,800	130,800	130,736	-64
Naval petroleum reserve No. 3	17,869	29,184	29,184	29,184	29,184	29,170	-14
Program direction (headquarters)	5,539	5,668	5,668	5,668	5,668	5,665	-3
Subtotal	194,596	165,652	165,652	165,652	165,652	165,571	-81
Shale oil development program							
Shale reserves development	1,328	3,864	3,864	3,864	3,864	3,863	-1
Use of prior year balance	-39,050	-155,667	-155,848	-155,848	-155,848	-155,848	---
Pay restoration	---	---	(200)	---	---	---	---
Total, Naval Petroleum and Oil Shale Reserves	156,874	13,849	13,668	13,668	13,668	13,586	-82
Energy Conservation							
Buildings & community systems							
Building systems	14,897	12,900	13,300	12,800	13,000	12,922	-78
Community systems	5,390	2,000	4,000	2,000	4,000	3,980	-20
Urban waste	980	---	---	---	---	---	---
Technology and consumer products	9,997	9,400	11,300	9,400	10,800	10,737	-63
Analysis & technology transfer	980	3,400	2,750	3,100	2,750	2,733	-17
Appliance standards	2,450	2,000	2,000	2,000	2,000	1,990	-10
Federal energy management program	1,274	1,500	1,275	400	1,275	1,267	-8
Residential conservation service	1,274	400	400	1,275	400	398	-2
Capital equipment	1,225	2,200	2,200	2,000	2,000	1,990	-10
Program direction	2,895	3,639	3,389	3,200	3,200	3,181	-19
Subtotal, Buildings & community systems	41,362	37,439	40,614	36,175	39,425	39,198	-227
Industrial							
Waste energy reduction	11,859	12,256	11,756	12,256	12,006	11,934	-72
Process efficiency	9,556	13,500	23,500	13,500	21,000	20,881	-119
Cogeneration	4,116	4,700	4,700	4,700	4,700	4,675	-25
Implementation and deployment	2,450	3,200	3,200	3,200	3,200	3,181	-19
Program direction	1,807	1,927	1,927	1,927	1,927	1,915	-12
Capital equipment	2,156	---	---	---	---	---	---
Subtotal	31,944	35,583	45,083	35,583	42,833	42,586	-247
Transportation							
Vehicle Propulsion R&D	31,852	20,100	34,470	43,100	34,470	34,268	-202
Alternative fuels utilization	2,450	1,600	1,600	1,600	1,600	1,590	-10
Electric/hybrid vehicle program	8,429	6,075	9,425	8,575	9,225	9,170	-55
Transportation systems utilization	1,666	1,200	1,200	1,200	950	947	-3
Advanced materials development	6,076	9,290	9,290	9,290	9,290	9,234	-56
High temperature materials lab	6,469	3,010	3,010	3,010	3,010	2,995	-15
Program direction	1,913	1,775	1,775	1,775	1,775	1,765	-10
Capital equipment	2,940	---	---	---	---	---	---
Subtotal	61,795	43,050	60,770	68,550	60,320	59,969	-351
State/Local programs							
Energy policy and conservation grants (EPCA)	23,522	18,818	18,818	22,000	18,818	18,689	-129
Energy extension service	9,801	7,841	7,841	9,000	7,841	7,794	-47
Schools & hospitals	47,043	37,634	47,134	47,134	47,134	46,859	-275
Weatherization	191,113	152,890	200,000	191,200	191,200	190,080	-1,120
Evaluation of state/local energy savings	1,960	---	---	---	---	---	---
Territories assistance	---	---	1,500	---	500	497	-3
Program Direction	9,961	8,744	8,494	8,744	8,494	8,443	-51
Subtotal	283,400	225,927	283,787	278,078	273,987	272,362	-1,625

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	28	
Multi Sector							
Energy Conversion Technology	15,608	19,190	19,690	19,190	19,440	19,328	-112
Inventors program	4,900	5,000	5,000	5,000	5,000	4,970	-30
Program direction	292	535	535	535	535	532	-3
National Appropriate Technology Assistance Service	1,470	1,000	1,500	1,500	1,500	1,491	-9
Capital equipment	1,666	1,000	1,000	1,000	1,000	994	-6
Subtotal, Multi Sector	23,936	26,725	27,725	27,225	27,475	27,315	-160
Policy and Management							
Policy analysis	245	---	---	---	---	---	---
Program direction	1,747	2,633	1,333	1,300	1,300	1,292	-8
Subtotal	1,992	2,633	1,333	1,300	1,300	1,292	-8
Facilities	15,681	---	10,319	---	10,319	10,262	-57
(Use of prior year deferrals)	-1,500	-4,000	-5,772	-6,324	-9,880	-9,880	---
Savings from management initiatives	---	---	---	-4,000	---	---	---
Employment floors	---	---	4,467	---	3,639	3,617	-22
Pay restoration	---	---	(703)	---	---	---	---
Total, Energy Conservation	458,610	367,357	468,326	436,587	449,418	446,721	-2,697
Economic Regulation							
Compliance	15,010	15,012	15,012	15,012	15,012	14,922	-90
Fuels Conversion	1,308	---	1,200	1,200	1,200	1,193	-7
Natural gas and electricity operations	2,041	2,186	2,186	2,186	2,186	2,173	-13
Program administration	1,141	1,080	680	680	680	675	-5
Office of Hearings and Appeals	5,242	5,545	5,545	5,545	5,545	5,512	-33
Pay restoration	---	---	(731)	---	---	---	---
Section 2901 Rescission	-102	---	---	---	---	---	---
Total Economic Regulation	24,640	23,823	24,623	24,623	24,623	24,475	-148
Emergency Preparedness							
Emergency preparedness	6,096	6,044	3,989	6,754	6,044	6,008	-36
Pay restoration	---	---	(171)	---	---	---	---
Section 2901 Rescission	-51	---	---	---	---	---	---
Total, Emergency Preparedness	6,045	6,044	3,989	6,754	6,044	6,008	-36
Strategic Petroleum Reserve							
Planning	5,600	3,000	6,450	4,413	4,552	4,544	-8
Storage facilities development	441,300	160,736	257,151	112,707	367,428	366,779	-649
Program Administration	12,290	11,663	13,008	9,897	11,747	11,726	-21
Use of prior year funds	-459,190	-175,136	-77,592	-13,974	-270,684	-270,684	---
Pay restoration	---	---	(263)	---	---	---	---
Subtotal, Strategic Petroleum Reserve	---	263	199,017	113,043	113,043	112,365	-678
SPR Petroleum Account							
Petroleum acquisition and transportation	(2,049,550)	---	---	---	---	---	---
Energy Information Administration							
Collection, production and analysis	40,813	37,920	38,520	38,420	38,420	38,190	-230
Program services	10,793	14,143	14,143	14,143	14,143	14,058	-85
Policy and management	8,818	8,119	8,119	8,119	8,119	8,070	-49
Pay restoration	---	---	(1,282)	---	---	---	---
Pay supplemental	495	---	---	---	---	---	---
Total, Energy Information Administration	60,919	60,182	60,782	60,682	60,682	60,318	-364
Total, Department of Energy	982,035	633,509	1,069,939	1,047,585	980,326	974,444	-5,882

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
HEALTH SERVICES ADMINISTRATION							
Indian Health Services							
Clinical services							
IHS and tribal health delivery							
Hospital and health clinic programs	417,016	422,216	441,716	428,716	436,216	433,598	-2,618
Dental health program	24,923	26,035	26,035	25,215	26,035	25,879	-156
Mental health program	11,179	11,518	11,518	11,304	11,518	11,449	-69
Alcoholism program	24,482	24,776	25,776	24,776	24,776	24,627	-149
Maintenance and repair	8,570	8,673	8,673	8,673	8,673	8,621	-52
Contract care	163,956	165,866	175,866	165,866	171,066	170,040	-1,026
Subtotal, Clinical services	650,126	659,084	689,584	664,550	678,284	674,214	-4,070
Preventive health							
Sanitation	20,275	20,930	21,342	20,684	20,930	20,804	-126
Public health nursing	12,212	12,516	12,888	12,516	12,516	12,441	-75
Health education	3,576	3,636	3,752	3,636	3,636	3,614	-22
Community health representative program	25,480	---	26,000	20,000	26,000	25,844	-156
Immunization	3,626	2,721	2,721	2,721	2,721	2,705	-16
Subtotal, Preventative health	65,169	39,803	66,703	59,557	65,803	65,408	-395
Urban health projects	9,800	---	10,000	9,800	9,800	9,741	-59
Indian health manpower	6,499	6,499	6,499	6,499	6,499	6,460	-39
Tribal management	2,450	---	2,450	2,000	2,000	1,988	-12
Direct operations	59,684	58,747	61,247	60,278	60,747	60,383	-364
Indian health facilities	---	2,450	---	---	---	---	---
Medicare/Medicaid Reimbursements							
Hospital and clinic accreditation	(44,100)	(54,100)	(44,100)	(44,100)	(44,100)	(44,100)	---
Pay restoration	---	---	(13,040)	---	---	---	---
Pay supplemental	7,000	---	---	---	---	---	---
Section 2901 Rescission	-161	---	---	---	---	---	---
Total, Indian Health Services	800,567	766,583	836,483	802,684	823,133	818,194	-4,939
Indian Health Facilities							
Hospitals							
New and Replacement	19,843	---	25,907	1,990	12,461	12,386	-75
Modernization and repair	2,086	---	4,190	3,100	3,100	3,081	-19
Subtotal, Hospitals	21,929	---	30,097	5,090	15,561	15,467	-94
Outpatient Care Facilities	9,712	---	726	726	726	722	-4
Sanitation Facilities	24,500	---	25,000	28,000	25,000	24,850	-150
Hospital and health clinic programs							
Personnel Quarters	5,493	---	5,660	5,660	5,660	5,626	-34
Program offset	---	---	---	-3,588	---	---	---
Total, Indian Health Facilities	61,634	---	61,483	35,888	46,947	46,665	-282
Total, Indian Health	862,201	766,583	897,966	838,572	870,080	864,859	-5,221
DEPARTMENT OF EDUCATION							
Indian Education							
Part A-Payments to School Districts	50,323	50,323	50,323	50,323	50,323	50,021	-302
Part B-Special Projects for Indian Students	11,760	11,760	12,000	11,760	11,880	11,809	-71
Part C-Special Projects for Indian Adults	2,940	2,940	3,000	2,940	2,940	2,922	-18
Administration	2,381	2,333	2,333	2,333	2,333	2,319	-14
Pay restoration	---	---	(64)	---	---	---	---
Total, Indian Education	67,404	67,356	67,656	67,356	67,476	67,071	-405

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	28	
DEPARTMENT OF STATE							
Compact of Free Association	---	178,750	---	---	---	---	---
OTHER RELATED AGENCIES							
NAVAJO/HOPI INDIAN RELOCATION COMMISSION							
Salaries and Expenses							
Operation of the Commission	20,321	20,241	20,442	22,241	22,491	22,356	-135
SMITHSONIAN INSTITUTION							
Salaries and Expenses							
Science							
Assistant Secretary for Science	556	606	606	591	593	589	-4
National Museum of Natural History	20,050	21,890	21,890	21,337	21,417	21,289	-128
Astrophysical Observatory	8,387	8,966	8,966	8,701	8,777	8,724	-53
Tropical Research Institute	3,503	3,960	3,960	3,863	3,880	3,857	-23
Environmental Research Center	3,370	3,725	3,725	3,624	3,647	3,625	-22
National Air and Space Museum	8,133	8,779	8,779	8,552	8,589	8,538	-51
National Zoological Park	11,024	11,869	11,869	11,573	11,609	11,539	-70
Equipment	---	---	---	-250	-250	-250	---
Subtotal, Science	55,023	59,795	59,795	57,991	58,262	57,911	-351
History and Art							
Assistant Secretary for History and Art	420	457	457	446	446	443	-3
National Museum of American History	10,943	12,151	12,347	11,741	11,981	11,910	-71
National Museum of American Art	4,555	4,970	5,095	4,840	4,864	4,835	-29
National Portrait Gallery	3,300	3,620	3,718	3,523	3,643	3,621	-22
Hirshhorn Museum and Sculpture Garden	2,950	3,229	3,229	3,142	3,161	3,142	-19
Center for Asian Art	1,555	3,368	3,368	2,743	3,115	3,096	-19
Archives of American Art	726	819	939	800	922	917	-5
Cooper-Hewitt Museum	874	995	995	971	974	968	-6
Museum of African Art	1,216	2,945	2,945	2,410	2,667	2,651	-16
Anacostia Neighborhood Museum	846	914	914	889	895	890	-5
Automation	---	---	---	-217	-217	-217	---
Subtotal, History and Art	27,385	33,468	34,007	31,288	32,451	32,256	-195
Public Service							
Assistant Secretary for Public Service	610	1,278	1,278	1,245	1,250	1,243	-7
Smithsonian Institution Press	1,063	1,158	1,158	1,127	1,133	1,126	-7
Subtotal, Public Service	1,673	2,436	2,436	2,372	2,383	2,369	-14
Museum Programs							
Assistant Secretary for Museum Programs	886	755	755	733	739	735	-4
Office of the Registrar	97	102	102	99	100	99	-1
Conservation-Analytical Laboratory	978	2,197	2,197	1,988	2,045	2,033	-12
Smithsonian Institution Libraries	4,169	4,813	4,913	4,650	4,683	4,655	-28
Office of Exhibits Central	1,491	1,707	1,707	1,619	1,623	1,613	-10
Traveling Exhibition Service	304	446	446	379	381	379	-2
Smithsonian Archives	513	556	556	544	544	541	-3
National Museum Act	773	793	793	777	777	772	-5
Subtotal, Museum Programs	9,211	11,369	11,469	10,789	10,892	10,827	-65
Directorate of International Activities	---	605	605	462	464	461	-3
Special Programs							
American and Folklife Studies	675	731	731	709	716	712	-4
International Environmental Science Program	698	747	747	722	732	728	-4
Academic and Educational Programs	730	2,793	793	773	776	771	-5
Collections Management Inventory	840	1,147	1,147	1,122	1,128	1,121	-7
Museum Support Center	7,768	5,060	5,060	4,914	4,920	4,891	-29
JFK Center Trustee Grant	686	---	700	---	350	348	-2
Subtotal, Special Programs	11,397	10,478	9,178	8,240	8,622	8,571	-51
Administration	11,553	12,285	12,285	11,973	12,021	11,949	-72

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	-21-	-22-	-23-	-24-	-25-	-28-	
Support Activities							
Office of Design and Construction	1,995	2,159	2,159	2,104	2,112	2,099	-13
Office of Protection Services	16,134	18,896	18,896	18,191	18,254	18,145	-109
Office of Plant Services	28,044	34,099	33,432	32,808	32,602	32,407	-195
Subtotal, Support Activities	46,173	55,154	54,487	53,103	52,968	52,651	-317
Restoration of 2% reduction	---	---	-1,250	---	---	---	---
Reduction for extra work day	---	---	-413	---	---	---	---
Pay supplemental	1,906	---	---	---	---	---	---
Total, Salaries and Expenses	164,321	185,590	182,599	176,218	178,063	176,995	-1,068
Museum Programs and Related Research (SFCP)							
Grant Program	8,820	2,500	2,500	2,500	2,500	2,485	-15
Construction and Improvements National Zoological Park							
Base Program	4,851	4,851	4,851	5,551	5,551	5,518	-33
Restoration and Renovation of Buildings							
Base Program	13,475	14,875	11,075	12,376	11,075	11,009	-66
Construction							
South Quadrangle Development	---	4,000	4,000	4,000	4,000	3,976	-24
Total, Smithsonian	191,467	211,816	205,025	200,644	201,189	199,983	-1,206
NATIONAL GALLERY OF ART							
Salaries and Expenses							
Care and Utilization of Art Collections	12,664	11,383	11,833	11,513	11,608	11,538	-70
Operation and Maintenance of Buildings and Grounds	14,191	14,263	11,488	11,363	11,088	11,021	-67
Protection of Buildings, Grounds, and Contents	5,982	6,871	6,871	6,871	6,871	6,830	-41
General Administration	3,648	4,187	4 187	4,187	4,187	4,162	-25
Pay supplemental	363	---	---	---	---	---	---
Total, Salaries and expenses	36,848	36,704	34,379	33,934	33,754	33,551	-203
Repair, Restoration and Renovation of Buildings							
Base program	---	---	2,900	4,000	3,300	3,280	-20
Total, National Gallery of Art	36,848	36,704	37,279	37,934	37,054	36,831	-223
Woodrow Wilson International Center for Scholars							
Salaries and Expenses							
Fellowship Program	1,199	1,271	1,271	1,271	1,271	1,263	-8
Scholar Support	234	239	239	239	239	238	-1
Public Services	600	628	628	628	628	624	-4
General Administration	552	639	639	639	639	635	-4
Building Requirements	73	75	75	125	125	125	---
Conference Planning	---	---	490	---	490	487	-3
Pay supplemental	16	---	---	---	---	---	---
Total, Salaries and expenses	2,674	2,852	3,342	2,902	3,392	3,372	-20
Endowment Challenge Fund							
Base program	---	---	---	1,000	1,000	994	-6
Total, Woodrow Wilson Center	2,674	2,852	3,342	3,902	4,392	4,366	-26

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	28	
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES							
National Endowment for the Arts							
Grants and Administration							
Program grants:							
Artists-in-Schools	5,341	5,100	5,341	5,400	5,341	5,309	-32
Educational program	98	100	98	100	98	97	-1
Dance	8,820	7,400	8,900	9,000	8,900	8,847	-53
Design Arts	4,312	3,900	4,312	3,900	4,312	4,286	-26
Expansion Arts	6,713	5,350	6,773	5,350	6,713	6,673	-40
Folk Arts	3,136	2,800	3,136	3,000	3,000	2,982	-18
Inter Arts	4,165	3,600	4,165	4,000	4,000	3,976	-24
Literature	5,145	4,500	5,145	4,600	5,145	5,114	-31
Media Arts	9,065	8,400	12,065	11,500	12,065	11,993	-72
Museums	11,270	9,100	11,370	10,600	11,370	11,302	-68
Music	12,201	9,750	12,310	11,750	12,310	12,236	-74
Opera / Musical Theatre	4,116	3,100	4,153	4,200	4,267	4,241	-26
Locals Test	2,254	2,200	2,254	2,200	2,200	2,187	-13
Theatre	10,780	9,300	10,880	11,000	10,880	10,815	-65
Visual Arts	6,272	5,500	6,272	5,500	6,272	6,234	-38
Advancement	686	200	200	200	200	199	-1
Subtotal, Program grants	94,374	80,300	97,374	92,300	97,073	96,491	-582
State Programs	24,304	21,350	24,304	24,600	24,605	24,457	-148
Subtotal, Grants	118,678	101,650	121,678	116,900	121,678	120,948	-730
Administrative area:							
Policy Planning & Research	980	1,000	980	1,000	980	975	-5
Regional Representatives	686	---	---	---	---	---	---
Administration	13,916	14,650	14,602	15,000	14,602	14,514	-88
Subtotal, Administrative areas	15,582	15,650	15,582	16,000	15,582	15,489	-93
Total, Grants and administration	134,260	117,300	137,260	132,900	137,260	136,437	-823
Matching Grants							
Matching Grants	8,820	9,000	8,820	9,000	8,820	8,767	-53
Challenge Grants	20,580	18,500	20,580	21,000	20,580	20,457	-123
Total, Matching Grants	29,400	27,500	29,400	30,000	29,400	29,224	-176
Total, Arts	163,660	144,800	166,660	162,900	166,660	165,661	-999
Arts and Artifacts Indemnity Fund							
Base program	---	---	---	300	300	298	-2
National Endowment for the Humanities							
Grants and Administration							
Program grants:							
Public Programs							
Media Grants	8,918	7,600	8,918	9,100	8,918	8,864	-54
Museums and Historical Organizations	8,820	5,420	8,820	8,000	8,820	8,767	-53
Humanities programs for youth	735	750	735	750	750	745	-5
Humanities programs for adults	1,421	1,750	1,421	2,000	1,900	1,889	-11
Humanities projects in libraries	2,940	1,200	2,940	1,200	2,940	2,922	-18
Subtotal, Public programs	22,834	16,720	22,834	21,050	23,328	23,187	-141
Education Programs							
Education programs	18,130	15,100	18,130	16,300	16,500	16,401	-99
Fellowships							
Fellowships and seminars	14,210	15,050	14,210	16,100	15,077	14,987	-90
Research Grants	18,620	15,400	18,620	16,700	16,500	16,401	-99
Subtotal, Program grants	73,794	62,270	73,794	70,150	71,405	70,976	-429

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
State Programs	21,413	16,820	21,413	19,500	21,213	21,086	-127
Office of Preservation	---	5,000	3,222	5,000	4,000	3,976	-24
Subtotal, Grants	95,207	84,090	98,429	94,650	96,618	96,038	-580
Administrative area:							
Administration	13,205	14,240	13,120	14,328	14,200	14,115	-85
Planning and assessment	686	---	---	---	---	---	---
Subtotal, Administrative areas	13,891	14,240	13,120	14,328	14,200	14,115	-85
Total, Grants and administration	109,098	98,330	111,549	108,978	110,818	110,153	-665
Matching Grants							
Matching Grants	10,780	11,500	9,286	14,000	11,660	11,590	-70
Challenge Grants	19,600	16,500	18,643	16,500	17,000	16,898	-102
Total, Matching Grants	30,380	28,000	27,929	30,500	28,660	28,488	-172
Total, Humanities	139,478	126,330	139,478	139,478	139,478	138,641	-837
National Capital Arts and Cultural Affairs							
Grants	---	---	---	---	2,000	1,988	-12
Institute of Museum Services							
Grants to Museums:							
Operating Support Grants	17,223	---	17,223	12,000	17,223	17,120	-103
Conservation Grants	3,430	---	3,430	3,000	3,430	3,409	-21
Museum Services Board	74	---	74	70	70	70	---
Subtotal	20,727	---	20,727	15,070	20,723	20,599	-124
Program Administration	833	294	833	800	800	795	-5
Total, Institute of Museum Services	21,560	294	21,560	15,870	21,523	21,394	-129
Total, National Foundation on the Arts and Humanities	324,698	271,424	327,698	318,548	329,961	327,982	-1,979
COMMISSION OF FINE ARTS							
Salaries and Expenses							
Base Programs	372	374	377	382	382	380	-2
Pay supplemental	2	---	---	---	---	---	---
Total, Salaries and expenses	374	374	377	382	382	380	-2
ADVISORY COUNCIL ON HISTORIC PRESERVATION							
Salaries and Expenses							
Advisory Services	1,546	1,239	1,585	1,585	1,585	1,575	-10
NATIONAL CAPITAL PLANNING COMMISSION							
Salaries and Expenses							
Base Program	2,670	2,703	2,721	2,703	2,712	2,696	-16
Pay supplemental	22	---	---	---	---	---	---
Total, Salaries and expenses	2,692	2,703	2,721	2,703	2,712	2,696	-16

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.6%	Difference
	21	22	23	24	25	26	
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION							
Salaries and Expenses							
Base Program	21	21	21	21	21	21	---
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION							
Salaries and Expenses							
Salaries and Expenses	2,254	2,221	2,316	2,329	2,329	2,315	-14
Pay supplemental	18	---	---	---	---	---	---
Total, Salaries and expenses	2,272	2,221	2,316	2,329	2,329	2,315	-14
Public Development							
Public Improvements	4,410	3,250	3,250	3,250	3,250	3,230	-20
Total, Pennsylvania Avenue Development Corporation	6,682	5,471	5,566	5,579	5,579	5,545	-34
FEDERAL INSPECTOR FOR ALASKA GAS PIPELINE							
Permitting and Enforcement							
Base program	1,401	882	---	---	---	---	---
UNITED STATES HOLOCAUST MEMORIAL COUNCIL							
Holocaust Memorial Council	1,990	1,990	2,119	2,125	2,125	2,112	-13
Pay supplemental	13	---	---	---	---	---	---
Total, United States Holocaust Memorial Council	2,003	1,990	2,119	2,125	2,125	2,112	-13
Total, Title II, Related Agencies	3,886,827	3,697,130	4,086,434	4,043,046	4,021,320	3,997,191	-24,129
TITLE I - DEPARTMENT OF THE INTERIOR							
Bureau of Land Management	688,053	495,301	567,026	579,014	577,553	574,149	-3,404
Fish and Wildlife Service	423,825	362,087	397,026	376,770	383,833	381,530	-2,303
National Park Service	954,742	684,186	896,628	822,526	881,450	876,160	-5,290
Geological Survey	416,368	415,348	428,098	437,655	431,961	429,369	-2,592
Minerals Management Service	161,596	161,918	165,118	171,067	168,018	167,010	-1,008
Bureau of Mines	135,959	107,060	122,298	131,445	134,255	133,449	-806
Office of Surface Mining Reclamation and Enforcement	377,288	331,606	319,123	276,333	292,538	290,783	-1,755
Bureau of Indian Affairs	1,082,088	950,889	909,493	1,039,121	1,012,453	1,006,403	-6,050
Territorial Affairs	176,239	83,567	182,724	158,538	160,748	159,784	-964
Secretarial Offices	84,679	76,229	164,129	83,619	81,783	81,293	-490
Total, Title I - Department of the Interior	4,500,837	3,668,191	4,151,663	4,076,088	4,124,592	4,099,930	-24,662
TITLE II - RELATED AGENCIES							
Forest Service	1,384,460	1,495,215	1,444,698	1,493,869	1,495,947	1,486,970	-8,977
Department of the Treasury	(-5,375,000)	---	(-6,900,000)	---	---	---	---
Department of Energy	(982,035)	(633,509)	(1,069,939)	(1,047,585)	(980,326)	(974,444)	(-5,882)
Clean Coal Technology	---	---	---	100,000	---	---	---
(By transfer)	---	---	(500,000)	---	(400,000)	(298,200)	(-101,800)
Fossil Energy	274,947	161,991	299,534	292,228	312,848	310,971	-1,877
Naval Petroleum and Oil Shale Reserves	156,874	13,849	13,668	13,668	13,668	13,586	-82
Energy Conservation	458,610	367,357	468,326	436,587	449,418	446,721	-2,697
Economic Regulation	24,640	23,823	24,623	24,623	24,623	24,475	-148
Emergency Preparedness	6,045	6,044	3,989	6,754	6,044	6,008	-36
Strategic Petroleum Reserve	---	263	199,017	113,043	113,043	112,365	-678
SPR Petroleum Account	(2,049,550)	---	---	---	---	---	---
Energy Information Administration	60,919	60,182	60,782	60,682	60,682	60,318	-364
Indian Health	862,201	766,583	897,966	838,572	870,080	864,859	-5,221
Indian Education	67,404	67,356	67,656	67,356	67,476	67,071	-405
Department of State	---	178,750	---	---	---	---	---
Navajo and Hopi Indian Relocation Commission	20,321	20,241	20,442	22,241	22,491	22,356	-135

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85	New BA Estimates F.Y. 86	New BA House F.Y. 86	New BA Senate F.Y. 86	New BA Enacted F.Y. 86	Recommended Less 0.4%	Difference
	21	22	23	24	25	26	
TITLE I - DEPARTMENT OF THE INTERIOR —Cont.							
Smithsonian	191,467	211,816	205,025	200,644	201,189	199,983	-1,206
National Gallery of Art	36,848	36,704	37,279	37,934	37,054	36,831	-223
Woodrow Wilson International Center for Scholars	2,674	2,852	3,342	3,902	4,392	4,366	-26
National Endowment for the Arts	163,660	144,800	166,660	162,900	166,660	165,661	-999
Arts and Artifacts Indemnity Fund	---	---	---	300	300	298	-2
National Endowment for the Humanities	139,478	126,330	139,478	139,478	139,478	138,641	-837
National Capital Arts and Cultural Affairs	---	---	---	---	2,000	1,988	-12
Institute of Museum Services	21,560	294	21,560	15,870	21,523	21,394	-129
Commission of Fine Arts	374	374	377	382	382	380	-2
Advisory Council on Historic Preservation	1,546	1,239	1,585	1,585	1,585	1,575	-10
National Capital Planning Commission	2,692	2,703	2,721	2,703	2,712	2,696	-16
Franklin Delano Roosevelt Memorial Commission	21	21	21	21	21	21	---
Pennsylvania Avenue Development Corporation	6,602	5,471	5,566	5,579	5,579	5,545	-34
Federal Inspector for the Alaska Pipeline	1,401	882	---	---	---	---	---
Holocaust Memorial Council	2,003	1,990	2,119	2,125	2,125	2,112	-13
Total, Title II - Related Agencies	3,686,827	3,697,130	4,086,434	4,043,046	4,021,320	3,997,191	-24,129
Grand total	8,387,664	7,365,321	8,230,097	8,119,134	8,145,912	8,097,121	-48,791
							-3,400
							-51,191

Mr. Speaker, the gentleman from Ohio [Mr. SEIBERLING] has asked me to engage in a colloquy with him, and I yield to the gentleman for that purpose.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, I rise to speak on what I think is an unwise provision hidden in this legislation, and to engage my friend and colleague Mr. YATES in a brief colloquy about it.

I am speaking of the provision in this continuing resolution which was inserted by the other body and which would transfer the Animal Damage Control [ADC] Program from the U.S. Fish and Wildlife Service of the Department of the Interior to the Department of Agriculture.

This is clearly legislation in an appropriations bill. It has not had a hearing of any sort in the House. It was not considered by the relevant House legislative committees and subcommitees. When the other body tried to add it to authorizing legislation—the farm bill—the House conferees rejected it.

To the basic concern about failure to adhere to the normal legislative process must be added concern over this proposal's far-reaching substantive implications.

Over the years, the Congress has built a considerable body of law governing the management and control of a wide variety of wildlife, including occasionally depradating species. In 1939, the U.S. Fish and Wildlife Service of the Department of the Interior was made responsible for controlling depradating species through the ADC Program.

Though often beset with funding problems, the Fish and Wildlife Service has developed extensive programs, qualified personnel, special expertise, and appropriate policy on this subject matter. All of that will be put in jeopardy if the program is transferred.

We are unable to learn of any thought having been given to the legal or operational ramifications of this transfer, or to the impact it will have on wildlife. The mammals and birds that sometimes conflict with agriculture—the control of which is the purpose of the ADC program—are important components of natural ecosystems. Many of them are classified as game species and protected by the laws of various States. They include the bobcat and mountain lion, geese and ducks, and many others.

If done improperly, control of these animals endangers other species, including eagles, hawks, and many other species—including many that are rare and endangered, and migratory species that the Secretary of Interior is obligated to protect by international treaties with Canada and Mexico.

The sole agency in the Federal Government qualified by law, experience, and tradition to manage the ADC Program is the Fish and Wildlife Service. they are the only Federal agency that is immersed in the whole body of law affecting Federal management of wildlife. The Department of Agriculture has neither the personnel, experience, or the orientation to do this job and do it right.

Furthermore, the Fish and Wildlife Service has cooperative management agreements with State wildlife agencies to secure the assistance of the States in the ADC Program. Most States contribute funds as well as personnel. Does transferring the ADC Program abrogate those agreements? It's quite possible.

At this time, I would like to ask the distinguished gentleman from Illinois, Mr. YATES, if he can assure me—on behalf of the Appropriations Committee—that transfer of this program is not intended to result in short-cutting of environmental standards or wildlife management professionalism in the ADC Program:

Mr. YATES. Mr. Speaker, the answer to that question is "yes."

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield further, I thank the gentleman, and I will ask this question:

And can the gentleman assure me that the agency, as transferred, will be held strictly accountable for compliance with the Endangered Species Act, the Migratory Bird Treaty Acts, and the laws and regulations pertaining to the use of poisons?

Mr. YATES. The answer to that is "yes."

Mr. SEIBERLING. And will the gentleman give us his help in monitoring the agency, to make sure we do know what effect this transfer turns out to have, so that if it turns out to have reduced the professionalism, efficiency, or compliance with the law of this program, he can help see that it is transferred back to where it came?

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Mr. YATES. The gentleman has my complete assurance about that.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman very much for that assurance.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, may I say to my friend, the gentleman from Ohio, that on this matter that we have before us, we have two distinct types of areas. I would be the first to say that Interior and Agriculture should get together for a division of responsibility. Certainly we have no desire whatever to interfere with what my friends are for. By the same token, we have areas where it is entirely destructive to those engaged in agriculture. Certainly there should be a division of responsibility so that both ends may meet. I do not know what we can do about that, but I assure you I will cooperate.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question on that?

Mr. WHITTEN. I yield to the gentleman from Illinois.

Mr. YATES. I thank the chairman for his clarification of the purpose. I think it would be well to split up the responsibilities and to maintain in the Department of the Interior certain of the responsibilities respecting these programs.

Mr. WHITTEN. The gentleman and I will work together.

Mr. YATES. We will work it out.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN Mr. Speaker, I would like to join with the chairman, the gentleman from Mississippi [Mr. WHITTEN], and the gentleman from Illinois [Mr. YATES], and the gentleman from Ohio [Mr. SEIBERLING]. In also having a great interest in this particular issue, I assure you that I also would like to lend my good office, or whatever, and interest, in seeing that those objectives that you have outlined are reached and maintained in this change of administrative function. I would assure you that you certainly have my support in that regard, even though I was very much for it.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. It is my understanding that all of the funding for this program, that this resolution transfers it all from Interior to Agriculture; is that correct?

Mr. SKEEN. That is correct, in my understanding.

Mr. SEIBERLING. So what happens to the personnel who have been experienced in this field? Will they also be transferred?

Mr. SKEEN. I am assured that there will be a smooth transition. What that means I cannot tell you at this point.

Mr. SEIBERLING. How will they work together if they have no funds in the Interior Department for this purpose?

Mr. SKEEN. I would say to the gentleman that the best source of information for that would be the Department of the Interior and the Department of Agriculture.

Mr. SEIBERLING. I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the concerns raised by the gentleman from Ohio, I want to tell him that I tried to raise the issue of the Animal Damage Control Program once again with my fellow conferees. Unfortunately, I was unable to get agreement to reopen the debate on the issue of the program transfer.

As the gentleman knows, the transfer from Fish and Wildlife over to the Animal and Plant Health Inspection Service was requested by Secretary Hodel of Interior and Secretary Block of Agriculture. The Office of Management and Budget urged our conferees to accept the Senate language which provided $20 million and the transfer.

Our committees have heard from a number of organizations including the National Association of State Departments of Agriculture also in support of the move.

May I say to the gentleman that the U.S. Fish and Wildlife Service has no greater support than this Member, and the gentlemen who serve on the Interior Subcommittee overseeing its operations—Chairman SID YATES and ranking member, RALPH REGULA. We have been fighting for years to secure funds for this agency to enable it to continue its important work for the preservation, protection and cultivation of our precious natural resources,

The Service has done an outstanding job with the ADC Program—in fact they have been of invaluable assistance to the New England Farm Center in my own district, where work has been underway to protect livestock from predators like coyotes and the eastern timber wolf. This work will continue, let me assure the gentleman. The Department of Agriculture will continue this and all important animal damage control work. And I will work with the gentleman to ensure that they do so.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, here we are again, with a bill that is designed to resolve major differences between this body and the other body and the Chief Executive. That bill is called a continuing resolution. It is necessary every year. Of course, it is a compromise. That is what a continuing resolution is all about.

But I want to congratulate the gentleman from Mississippi, the chairman, and the distinguished ranking minority member, the gentleman from Massachusetts [Mr. CONTE], for the long hours that they worked and that all of the conferees worked to craft this compromise. It is a good compromise and it is a good bill. It has things in it that are important to every single congressional district in this country and every single Member of this body.

In the transportation section, I want to say to the distinguished chairman, Mr. LEHMAN, we have crafted a good compromise. The funding is there for mass transit and to keep Amtrak running, to keep the Coast Guard Drug Interdiction Program going, for aviation safety, programs that are important to everyone in this country.

The defense section was particularly difficult, and I congratulate Chairman ADDABBO, Acting Chairman CHAPPELL, and my colleague, JOE MCDADE, for the work that they did in this area.

I am pleased that it includes a ban on the testing of antisatellite weapons against an object in space that was originally cosponsored by my colleague from California, Mr. BROWN, and I, and passed this body and is included in this bill. I thank Messrs. AUCOIN and DICKS for their labors in this area.

It is a good bill, Mr. Speaker, it is one that I hope all of you sitting here and that those of you who are watching this out there will support, because it is necessary to conclude the business of this body. It is a good bill because it is important to each and every one of your congressional districts and important to each and every person in this land.

The committee has done an outstanding job, in my belief, and I hope the bill will receive the hearty support of the House.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to my distinguished colleague, the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, the gentleman mentioned the Coast Guard. I fought very strenuously in the conference against cutting the Coast Guard another $50 million in procurement. But I want the House to know that

the Coast Guard made out well out of that because we were able to put $140 million more into the Coast Guard procurement account in the defense bill, making that about $375 million in the defense bill for procurement for the Coast Guard. So even though they took $50 million out, we put another $140 million in defense.

Mr. COUGHLIN. I think we all owe a debt of gratitude to the gentleman from Massachusetts for making sure that our Coast Guard and our drug-interdiction program and that those programs that are so very necessary do continue on, as is true with aviation safety and so many other programs which are critical.

Mr. CONTE. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. CHAPPELL], and at this time I would like to compliment him on the fine job he has done, and also to say how proud we are to have our good friend, the gentleman from New York, JOE ADDABBO, back in action.

Mr. CHAPPELL. Mr. Speaker, I want to compliment the distinguished chairman and ranking minority member of the full committee and all of the subcommittee chairmen and their counterparts and all of the members of the conference for the tremendous support which they have given to the defense portion involved in this resolution. I also want to say, too, that we appreciate so much the excellent work of a tremendous staff in our endeavors. I especially want to commend our chairman, Mr. ADDABBO, for his participation under rather trying circumstances, and Mr. MCDADE, especially, my counterpart in this endeavor, for all of his help.

I want to say, Mr. Speaker, this is a good bill, an outstanding bill. It is one of the most delicately balanced bills I have ever had the opportunity to work with. We brought this bill down to the point where if one major item fell out the whole resolution would fall. We put together a package on Asat where we have maintained the House position prohibiting the test of any weapon against an object in space. We fully funded the authorized level for SDI of $2.750 billion. We compromised at a funding level of $281.2 billion, and we included restricted provisions which I think everyone can live with regarding binary chemicals.

I want to take just a moment, if I might, on the binary chemical issue.

The conference agreement includes $126 million for production of binary chemical weapons and related production facilities. Of this amount: $21.7 million is for production of the GB-2 155mm artillery projectile; $6 million is appropriated in research, development, test, and evaluation for procurement of components for additional Bigeye bomb operational testing; $98.3 million is for Bigeye production facilities and components for prove out.

However, all of these funds are subject to legislative restrictions contained in section 8093 of the conference agreement.

None of the funds may be obligated until certain requirements are satisfied concerning NATO consultation, such as submission of a force goal to NATO and adoption of it by the North Atlantic Council; a deployment plan, developed in consultation with the Supreme Allied Commander, Europe; consultation with NATO allies on the deployment plan; and the President must certify to Congress that the above three requirements have been met.

Even after the above conditions have been met, none of the funds included for Bigeye testing components may be obligated until the Secretary of Defense submits a report to Congress describing Bigeye operational requirements; Bigeye performance with respect to these requirements; and any exceptions to the requirements which are deemed acceptable by the Department of Defense.

Report language will make it clear that GAO will review and certify this report and that the Department shall cooperate with GAO in reviewing and monitoring the Bigeye program.

None of the funds for GB-2 artillery projectile procurement may be obligated before October 1, 1986.

Final assembly of the GB-2 may not take place until October 1, 1987, and then only if the following conditions are met:

A mutually verifiable international agreement has not been entered into.

The President must certify that: Final assembly is necessitated by national security and NATO interests; handling and storage safety specifications of the Department will be met or exceeded; Federal safety requirements for handling storage and other use of the munition will be met or exceeded; and a plan for destroying the existing stockpile is ready for implementation.

The Secretary must have a plan for storing of the components in separate States.

The Secretary must have a plan for separate transportation of the components.

I must emphasize that the purpose of these restrictions is twofold:

To try to give every incentive and opportunity for serious negotiations on banning these weapons; and

To assure that if production is necessary it is done safely.

What we are trying to do here is to get the Soviets to the bargaining table where we can do something regarding chemical warfare. We must understand we are not talking about an issue of whether or not we favor chemical warfare. That is not the issue. All of us, of course, despise chemical warfare, as we do every other kind of war. But what we are trying to do in this resolution is to give us an opportunity to get the Soviets to the table and to give us a reasonably safe weapon system, when it does come, if we do get to that point.

Procurement reform was another issue we addressed.

After much debate, the conferees included a provision concerning allowable costs. The fiscal year 1986 Authorization Act substantially tightening the criteria under which costs are charged to DOD contracts. The act eliminated items like country club dues, alcoholic beverages, souvenirs, dog kennels, et cetera.

The appropriation conference strengthens the authorization in two key areas:

DOD is now required by law to have Armed Services and Government Operations Committees review its policy regulations prior to publication. The provision allows Congress to participate in the process. It ensures strict compliance with congressional intent.

GAO is required to evaluate DOD policies on a recurring basis to ensure total elimination of unallowable costs in DOD procurement. Reports are required to be submitted to Congress on effectiveness of DOD policies, actual elimination of unallowable costs, and recommendations for future policy or legislative changes. The provision keeps the heat on until the problem is solved.

The conferees considered, but did not adopt, a proposal to make the costs disallowed under one cost principle unallowable under all cost principles because DOD is already implementing this GAO policy recommendation.

Mr. Speaker, I urge the passage of this resolution.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. I thank my distinguished colleague from Massachusetts for yielding.

Mr. Speaker, I want to join with my distinguished colleague from Florida in urging the House to pass this bill. As we all know, it contains all the funding for the Department of Defense for the next fiscal year.

In my opinion, as my colleague from Florida has said, it is highly and delicately balanced. I have been a Member of the body for 12 terms now, and in all that time I have never been in a more arduous conference. I want to pay tribute to my friend from Florida for his stewardship of this committee as we tried to deal with those various interests. I want to pay tribute to my friend, JOE ADDABBO, and, of course, the senior member of the committee, the ranking chairman, JAMIE WHIT-

TEN, and my friend, the gentleman from Massachusetts. All of us worked together to bring back a bill that is eminently supportable.

How supportable is it? The administration supports this bill and has gone on record as doing so. Our colleagues on both sides of the aisle support this. All of the Members who are conferees support the bill and ask you to pass it.

Let me say to you if we are forced to go back to meet with the Senate, things are only going to get worse. From any aspect, things are only going to deteriorate. Those issues, delicate, difficult issues, Asat, SDI, chemical warfare, the level of funding for the next fiscal year, the impact of the transfers, all of them stand to come unraveled and may not once again be put back together. Let me remind you, those of you who were interested in Asat, that the Senate was that close to receding, which would have made funds available for testing in our fiscal year 1985 dollars.

Let me remind you that we had a one-vote margin, at one point, on the agreement that was reached on binary weapons. That could go back and fall apart without any difficulty. In my opinion, if we had not worked together as a committee, if we had not worked together as a group, this bill would not be here.

This is the last chance for all of us to coalesce and be around a bill that is supported broadly by both sides of the aisle. We have made reductions in numbers, we have nailed down the transfer acccount for you, and late last night my friend from Florida and I went up to the Senate gallery and met with Senator GOLDWATER and my dear friend from Indiana, Senator QUAYLE, and we persuaded them, finally, to give something to our colleagues on the other side of the aisle who were so interested in procurement reform. We accomplished all of that.

Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, last night we completed the most difficult conference I have been involved with in my 12 terms in the House. This was not only because of the sheer volume of differences between the House and the other body on defense, which had taken days to work out, last week; but also, by the necessity of having to reopen the defense portion of the conference as a result of the House's action Monday night.

As we went back into the continuing resolution conference it was apparent that many Members, mostly from the majority, were not pleased with the conference agreement primarily due to several misunderstandings about our negotiations and our conference agreements.

It was clear that we had to address these misunderstandings, which concerned three issues: Our treatment of $6.3 billion worth of unobilgated balances, which incorrectly had been portrayed as some kind of a Gramm-Rudman slush fund, or cushion; second, our overall dollar figure; and finally, procurement reform.

We felt obliged to bring back a defense bill which addressed these problems, but by attempting to bring them up, we threatened to unravel the entire defense bill, as well as the entire conference, since our original package was very delicately crafted and negotiated.

Mr. Speaker, we nearly lost the entire defense agreement several times yesterday—but because of the strong voice of our chairman, JOE ADDABBO, and my good friend from Florida, BILL CHAPPELL, we kept the conference from falling apart and in doing so, brought a defense bill which more than addresses the concerns heard here Monday night.

The report before you contains $281.2 billion in new budget authority for the Defense Department. This is $4.3 billion below both the budget resolution and the defense authorization bill, and is a total of $1.3 billion less than the bill we brought to the floor on Monday. For those of you used to thinking of defense in terms of the 050 function, this equates to a total of $297.5 billion.

With respect to the transfer accounts—what has been unfairly and incorrectly called a honeypot, a slush fund, and heaven knows what else—I fully concur with the explanation given by my chairman. Let me just go on record as saying there was no subterfuge here, no games being played, despite all the accusations that we were building in a Gramm-Rudman hedge.

We had provided these moneys in order to provide for several important issues which in all likelihood would need funding early next year such as military pay and retirement. These funds were fenced—subject to subsequent congressional action. However, to address the concerns of the House we have, in essence, raised the fence and made it stronger—these funds are now even more specifically earmarked, in the bill, and cannot be used for Gramm-Rudman purposes.

Finally, a few words on procurement reform, my colleagues, our counterparts from the other body were not even authorized to negotiate on the subject, as they viewed it as an issue for the armed services committees. It was only after a direct appeal late yesterday to the chairman of the Senate Armed Services Committee, Senator GOLDWATER, that we were able to address this issue that the House feels so strongly about, as a result, our conference report contains the so-called allowable cost reform advocated by the House.

Mr. Speaker, like all conference reports there are some issues in this bill that did not turn out the way I would like. However, this is a good bill, which makes a strong contribution to our Nation's defense.

I strongly urge a yes vote on the conference report.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], a member of the committee.

Mr. OBEY. I thank the chairman for the time.

Mr. Speaker, I simply rise to inform the Members of the foreign assistance levels in the bill. The Senate bill was $1.1 billion above the House bill. It was $700 million above the President. The conference held foreign operations spending to a figure $7 million below the President's budget and $3.4 billion below last year, which nets out at a 15-percent reduction below last year's overall level in the foreign aid section of the bill.

I think the reductions are fairly balanced.

I wish to briefly summarize the foreign assistance portion of the continuing resolution before us.

I believe that the House position has done very well in the final conference agreements.

The Senate position was $1.1 billion above the House and exceeded the President's request by over $700 million.

We have been successful in significantly decreasing those amounts.

The conference agreement now provides $724.5 million less than the Senate level and is below the President's request by $7 million.

This final total is $3,401.8 million below the 1985 levels—not including the one-time emergency assistance supplementals to Africa and the Middle East.

We have provided $1,110 billion for the Ex-Im Bank while still staying under the President's total for the entire foreign operators section.

The House has also prevailed in striking Senate section 523 which removed all authorization committee earmarks, ceilings, and unconditional prohibitions.

CONFERENCE COMPARED TO HOUSE AND SENATE LEVELS

In the area of military assistance, the conference added $148.4 million to the House level while cutting the Senate level $255.8 million. This result is $670.5 million below the President's request, while still providing full funding for Israel, Egypt, and Pakistan.

In the area of the economic support fund, the conference provided $10.7 million above the House level and $45 million below the Senate level. This result is $324 million below the President's request and is $126 million below 1985 levels.

In the area of the international financial institutions, the conference included the banking authorization provisions as they passed the House and we provided $75 million for the special facility for sub-Saharan Africa. In total, for the development banks, the conference provided $376.8 million above the Senate position and $99.6 million below the House position.

In the nonbank development assistance accounts, the conference provided $34.3 million above the House position and $110.5 million below the Senate level including full funding for the Peace Corps and the Inter-American Foundation.

ISRAEL AND EGYPT

The conferees have earmarked funds for Israel and Egypt at the fiscal year 1986 administration request level. Under the conference report, Israel will receive $1.8 billion in FMS and $1.2 billion in ESF for a total security assistance program of $3 billion. Egypt will receive $1.3 billion in FMS and $815 million in ESF for a total security assistance program of $2.15 billion.

PAKISTAN

The conferees have earmarked assistance to Pakistan at the fiscal year 1986 administration request level. Pakistan will receive $250 million in ESF and $325 million in FMS for a total security assistance program of $575 million in fiscal year 1986.

PHILIPPINES

The conferees have agreed, due to recent developments in the Philippines, to provide for military assistance program and foreign military credit sales assistance below the administration's request and below the amount proposed by the Senate. For economic support funds, we have provided more than requested by the administration and proposed by the Senate. I ask that a chart be placed in the record at this point indicating the funding included for the Philippines.

	Administration request	House	Senate	Conference agreement
ESF	$95,000,000	(1)	$110,000,000	$125,000,000
MAP	50,000,000	$25,000,000	50,000,000	40,000,000
FMS	50,000,000	0	20,000,000	15,000,000

[1] No amount specified.

GREECE/TURKEY

The conferees have stated in report language that military assistance for Greece and Turkey shall be provided only in accordance with a 7-to-10 ratio. The conference agreement earmarks military assistance to Greece and Turkey at a level which reflects both the 7-to-10 ratio and 10-percent reduction from the ceilings set by the Senate. The reduction was made to reflect overall reductions made to the FMS and military assistance accounts. FMS funding for Greece is limited to $450,000,000 and for Turkey to $427,852,000. MAP funding for Turkey is $215,000,000. This will provide a total of $450,000,000 in FMS for Greece and $642,852,000 in FMS and MAP for Turkey.

GUATEMALA

The conferees reviewed several issues concerning United States foreign assistance for Guatemala.

First, the conferees agreed to remove the $12.5 million ceiling on economic support fund activities that had been proposed by the House.

Second, the conferees have agreed to follow the House approach in regard to foreign military sales credits for Guatemala. FMS Guatemala, therefore, will only be provided to Guatemala if: First, the President certifies to Congress that an elected civilian government is in power and has submitted a written request for FMS; and second, the Government of Guatemala has demonstrated progress in the control over military and security forces, in the elimination of kidnaping and disappearances and in the respecting of internationally recognized human rights of its indigenous Indian population. This conference action is consistent with action taken earlier on the Foreign Assistance Authorization Act for fiscal year 1986.

Finally, the conferees have agreed that there shall be no funding for the Rural Resettlement Program in Guatemala except as provided through the notification process of the Committees on Appropriations.

UNICEF

The conferees have provided a total of $53,500,000 to the United Nations Children's Fund [UNICEF], $48,150,000 from the international organizations and programs account and $5,350,000 in unobligated moneys from the economic support fund Lebanon account.

IFAD

The conferees have provided $30 million for a first-year contribution to the second replenishment for the international fund for agricultural development.

CHILD SURVIVAL ACTIVITIES

The conferees have provided a total of $50 million for child survival activities during fiscal year 1986, $25 million in the child survival fund, $12.5 million earmarked in the health, development assistance account and $12.5 million in unobligated moneys for the child survival fund from the economic support fund Lebanon account.

POPULATION

The conferees have provided $250 million for family planning activities overseas. In addition, the conferees directed that these funds be available only to voluntary family planning projects which follow the practice of "informed consent."

MIGRATION AND REFUGEE ASSISTANCE

The conferees have provided migration and refugee assistance at $1 million above the fiscal year 1986 administration request level, or $338,930,000.

LIMITATION ON DEVELOPMENT ASSISTANCE TO CENTRAL AMERICA

The conferees limited development assistance to Central America to $250 million in fiscal year 1986. This is a $25 million increase over the fiscal year 1985 limitation and is $18.5 million below the administration's request for Central America. Additional funds may be made available above this limit if approved through the notification process of the Committees on Appropriations.

This limitation was continued because of concern by the conferees that with a reduction in development assistance this year, Central America, because of security concerns, would receive a disproportionate share of development assistance at the expense of Africa.

JORDAN

The conferees reviewed the Senate amendments concerning Jordan. In the first, the conferees have removed the $95 million ceiling proposed by the Senate on FMS funds for Jordan.

Second, the conferees have agreed to a Senate amendment which states that any joint resolution introduced on or after February 1, 1986, which states that Congress objects to the proposed arms sale to Jordan shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

CAMBODIAN NON-COMMUNIST ASSISTANCE

The conferees have provided up to $5 million in economic support or military assistance funds for the Cambodian non-Communist resistance forces. Of the $5 million, the conferees agreed to an earmark of $1.5 million in funds that must be used for this purpose. The Senate had earmarked $2.5 million and the House had provided for no earmark.

Finally, Mr. Speaker, I ask that a chart listing the conference agreement be placed in the RECORD at this point.

CHANGE IN FUNDING LEVELS

	Final conference report	Compared with—		Percent		H.R. 1555 conference	
		Fiscal year 1985 level		Fiscal year 1986 request		Actual	Percent
		Actual	Percent	Actual	Percent		
Military Assistance Program	$6,026.5	+$116.7	+.2	−$670.5	−10.0	−$205.8	−3.3
Economic support fund	3,700.0	−126.0	−3.3	−324.0	−8.1	−100.0	−2.6
Development assistance	4,188.8	−637.5	−13.2	−122.4	−2.8		
Subtotal	13,915.3	−646.8	−4.4	−1,116.9	−7.4		
Export-Import Bank	1,110.0	−2,754.0	−71.3	+1,110.0	NA		
Total	15,025.3	−3,401.8	−18.5	−6.9	−.0		

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	Fiscal year 1985 level	Fiscal year 1985—				Senate compared with House	Conference compared with—		
		Request	House	Senate	Conference		House	Senate	Estimates
Military assistance programs:									
Military assistance	805,100,000	976,350,000	764,648,000	805,100,000	782,000,000	+40,452,000	+17,352,000	−23,100,000	−194,350,000
International military education and training	56,221,000	65,650,000	54,489,500	56,221,000	54,489,500	+1,731,500		−1,731,500	−11,160,500
Foreign military credit sales:									
Direct credits and forgiven loans	4,939,500,000	5,655,000,000	5,058,983,333	5,371,000,000	5,190,000,000	+312,016,667	+131,016,667	−181,000,000	−465,000,000
Debt service reform									
Guarantee reserve fund	109,000,000			50,000,000		+50,000,000		−50,000,000	
Total, military assistance programs	5,909,821,000	6,697,000,000	5,878,120,833	6,282,321,000	6,026,489,500	+404,200,167	+148,368,667	−255,831,500	−670,510,500
Economic support fund	3,826,000,000	4,024,000,000	3,689,286,666	3,745,000,000	3,700,000,000	+55,713,334	+10,713,334	−45,000,000	−324,000,000
Development assistance:									
International organizations and programs	358,676,500	196,211,000	298,364,800	287,360,000	277,922,475	−11,004,800	−20,442,325	−9,437,525	+81,711,475
Bilateral development assistance	2,919,426,250	2,767,407,000	2,662,342,530	2,818,136,000	2,717,060,730	+155,793,470	+54,718,200	−101,075,270	−50,346,270
Subtotal, nonbank development assistance	3,278,102,750	2,963,618,000	2,960,707,330	3,105,496,000	2,994,983,205	+144,788,670	+34,275,875	−110,512,795	+31,365,205
International financial institutions	1,548,177,322	1,347,623,934	1,293,409,287	816,973,886	1,193,847,240	−476,435,401	−99,562,047	+376,873,354	−153,776,694
Total, development assistance	4,826,280,072	4,311,241,934	4,254,116,617	3,922,469,886	4,188,830,445	−331,646,731	−65,286,172	+266,360,559	−122,411,489
Total, budget authority, titles I, II, and III	14,562,101,072	15,032,241,934	13,821,524,116	13,949,790,886	13,915,319,945	+128,266,770	+93,795,829	−34,470,941	−1,116,921,989
Budget authority effect of Ex-In limitations	3,865,000,000		783,879,167	1,800,000,000	1,110,000,000	+1,016,120,833	+326,120,833	−690,000,000	+1,110,000,000
Total, budget authority (including Ex-In)	18,427,101,072	15,032,241,934	14,605,403,283	15,749,790,886	15,025,319,945	+1,144,387,603	+419,916,662	−724,470,941	−6,921,989

Mr. Speaker, on another subject, I would simply like to reaffirm what others have said. I, for one, for instance, think that the Senate honoraria provision is outrageous, and I think that the military spending in this bill is too high, but I want to assure the Members especially on this side of the aisle that we got virtually everything we could have gotten out of that conference. We have tied down every dollar that we could tie down, and we did reduce spending in that portion of the bill by $1.3 billion.

On another subject, I do want to simply make the point on the issue of the 21-drinking-age mandate. Poor highways do not save lives; you do not save lives by denying the States the ability to improve their highways through Federal highway construction money. I would point out that there are five States in this Union who have a 21 drinking age, but they have absolutely no minimum mandatory penalties for drunk driving. Many of these States that do not have a 21 drinking age have far tougher driving laws than do the States which have a 21 drinking age. And I would urge the Members that if you are going to evaluate a State's performance in the area of highway safety, go across the board, take a look at everything that a State does to try to deal with that problem—do not just take a look at one small, irrelevant piece of the problem; namely, the age at which people can begin to drink.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding.

Mr. Speaker, in view of the assaults that have been made on the Synthetic Fuels Corporation in general and the Seep Ridge project in particular, I feel that it is necessary to say a little bit about that project.

First of all, let me say, regard to this continuing resolution, I object to putting $6.3 billion in defense and leaving it beyond the control of Gramm-Rudman-Hollings. I object to the foreign aid provisions being $450 million more than the House approved, and also the preferential treatment given to Isreal and also the Jordan arms restrictions.

□ 1300

Most importantly, I object to the treatment of the Synthetic Fuels Corporation. I supported the move 2 years ago to cut $5.5 billion out of that project, and I admit some of the projects early on have been very expensive.

I would like to mention the Seep Ridge project, however. This $184 million project is in direct relationship with what the original intent of that bill was. The sponsors have spent several million dollars prosecuting its proposal before the Synthetic Fuels Corporation, and the Synthetic Fuels Corporation issued a letter of intent in June 1984 and had intended to award this early this year but, because of Indian jurisdiction programs, postponed that.

On December 11, they announced that they would give the intent to approve the Seep Ridge project at that time. This project is environmentally sound, and it is endorsed by several environmental groups. There is no need to dispose of spent shale because it encloses the shale below the surface and burns it, and oil is being produced. It is not an experimental program. Oil is now being produced. All they want to do is to have a production plan of 1,000 to 1,100 barrels per day.

The project does work. It can be applied to enough shale in the country to provide the United States with its total oil needs for 10 years.

Also, as a side issue, if we are talking about economic development, it does help in that area. My district, as I have mentioned, has lost the largest copper mine in the country, it is about to lose the largest western steel company, it has lost uranium business, and it has had serious accidents in the coal industry.

Mr. Speaker, for all these reasons, I support keeping that money in.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. BOLAND], the ranking member of the committee.

Mr. BOLAND. Mr. Speaker, the 1986 HUD-Independent Agencies Act was signed into law on November 25. We deferred action on one significant item

in that bill—EPA's sewer construction grants—because the program was not authorized.

And the program is still not authorized. However, in order to protect essential projects from construction delays, this resolution provides funding for construction grants. The appropriation is $2.4 billion, $600 million of which is to be made available immediately under the current formula. After the Clean Water Act amendments are enacted, we will release the remaining $1.8 billion in a subsequent appropriations bill.

The bill language also directs that these funds be made available to the States immediately for all projects eligible under the law. This will protect the program from tinkering by OMB.

So, Mr. Speaker, this resolution does meet the critical funding needs of the construction grants program.

Mr. Speaker, I would like to engage the gentleman from Illinois [Mr. YATES], the chairman of the Interior Appropriations Subcommittee, in a colloquy. I strongly support the funds for clean coal and want to assure that these activities will be coordinated with the Environmental Protection Agency's work in Limestone Injection Multistage Burner [LIMB] technology. The 1986 HUD bill provided $5 million for EPA to demonstrate LIMB in a tangential boiler—which is about half the Federal cost of a 200-megawatt project. Because of the potential for overlap and duplication, I believe that close coordination is needed between EPA and DOE on any LIMB-related work.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the subcommittee chairman.

Mr. YATES. LIMB technology is one concept which would be eligible under the Clean Coal Program, and I would agree that coordination is essential. In fact, I understand that DOE has already requested EPA consultation in the clean coal technology selection process.

Mr. BOLAND. Are there any restrictions on the clean coal funds in this resolution which would prohibit joint DOE-EPA projects in the LIMB area, including co-funding of demonstrations?

Mr. YATES. No; such joint activities are not precluded. In fact, if a joint demonstration is cost-effective and technically feasible, it should be encouraged.

Mr. BOLAND. I am concerned that independent EPA and DOE solicitations for a LIMB demonstration could establish different criteria, create confusion for industry proposals, and result in duplicated effort. Is there anything that would inhibit a coordinated solicitation or a joint solicitation?

Mr. YATES. No, that approach should be considered if it is appropriate.

Mr. BOLAND. I thank the gentleman and look forward to working with him through the 1987 hearing process to assure effective coordination between EPA and DOE in this area.

Mr. CONTE. Mr. Speaker, how much time do we have left on our side?

The SPEAKER. pro tempore. The gentleman from Massachusetts [Mr. CONTE] has 12½ minutes remaining and the gentleman from Mississippi [Mr. WHITTEN] has 6 minutes remaining.

Mr. CONTE. Mr. Speaker, I yield myself 10 minutes.

Mr. MAVROULES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend, the gentleman from Massachusetts.

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding.

Being one of the Members the other evening who was critical of the conference report, I want to commend the gentleman from Massachusetts [Mr. CONTE], along with the gentleman from Massachusetts [Mr. BOLAND], and certainly the gentleman from Florida [Mr. CHAPPELL], for listening very carefully to the request that we had made relative to procurement reform and as it relates to the total numbers. The gentleman from Massachusetts [Mr. CONTE], listened to us very carefully. I want to thank him, I congratulate him, and I am going to vote in support of this conference report.

Mr. CONTE. Mr. Speaker, I want to thank my good friend, the gentleman from Massachusetts [Mr. MAVROULES].

Mr. Speaker, I rise in support of the conference agreement on the continuing resolution for fiscal year 1986. I predicted a while ago that we would be hearing "Jingle Bells" before this bill became law, and when the House defeated our first conference report the night before last, I couldn't help thinking about the "Night Before Chirstmas." But I believe that we have brought back a bill that all of my colleagues can support, and at this point, I only wish for a "Silent Night," a quick vote, and a rapid adjournment.

Mr. Speaker, we faced a number of difficult issues as we tried to hammer out a conference agreement yesterday. It was clear from the vote of the House on Monday that we needed to make some changes in the Defense section of the bill. In addition, it was clear that if we changed the Defense section, we would also need to make some reductions in the non-Defense sections of the bill in order to obtain the President's signature.

But I have to ask myself: What for? This agreement isn't worth the paper it is printed on. And do you know why that is? Because of that piece of work called Gramm-Rudman. As soon as the Members have digested their eggnog, we will be back here to cut the living day lights out of this agreement. And it is not going to be SILVIO CONTE or JAMIE WHITTEN or others running the show—it is going to be R2D2. I don't know if you saw that picture in the paper this morning, with GRAMM, RUDMAN, and HOLLINGS holding up T-shirts which said, "In Texas, they call it Gramm-Rudman", "In New Hampshire, they call it Rudman-Gramm", and "In South Carolina, they call it Hollings-Gramm-Rudman." Well, Mr. Speaker, come February, the rest of the country, including Washington, DC, is going to be wearing T-shirts saying, "Who the hell got us into this mess?"

For all the work that is going into this CR, and all the battles over compromises, the end result, now that we have Gramm-Rudman, is that this CR is nothing more than computer fodder for a process that's going to shred this agreement to pieces, and tear up everything anyone thinks they've accomplished.

People think it is bad policy not to have the 1986 appropriations in place 3 months into the fiscal year. Well, now, with Gramm-Rudman, it's going to be March, halfway through the fiscal year, before these issues are settled. And that's the kind of "Good Government" that people are self-congratulating themselves on.

For what it's worth, let me describe the further accommodations in the second conference report: Christmas almost came early last Tuesday night when the Synfuels Board tried to shower gifts on their oil company friends—paid for by the American taxpayer. And in the spirit of Christmas, they tried to be as generous as possible and dole out almost $700 million in new subsidies for two projects.

One project—sponsored by the Union Oil Co. in Colorado—is a $900 million boondoggle that would put most water projects to shame. Even after $400 million in Government commitments, the project is a technological disaster. It hasn't worked in 2 years, and even when it was operational, the project couldn't run continuously for more than 30 hours. It's a multimillion "White Elephant," and the Synfuels Board wants to bail out Union Oil with another $500 million in subsidies. This is not energy security; it's corporate welfare at the expense of the taxpayer.

In an arrogant display of contempt for the will of Congress and the law, these bandits plotted to commit hundreds of millions of dollars before the President signed the short CR containing the Conte prohibition on future spending. Even more incredible is that this action had the approval of the Chief of Staff down at the White House. At a time when he was asking

us to cut Coast Guard funding, low-income weatherization, and other important programs down to the bone, he was willing to give $700 million in Government subsidies to oil companies. This closed door dealmaking stinks, and it ruins the credibility of the White House to get spending under control. In my 27 years in this House, I've never seen such arrogance and disrespect on the part of a Federal agency and the White House. It's an insult to this Congress and the American people.

Fortunately, the spending moratorium is now in place, and this continuing resolution would prohibit any new commitments immediately upon enactment. I hope Don Regan has no ideas to delay the signing of the CR to allow the Synfuels Board to act on these projects. It would be morally and ethically wrong, and it would come close to breaking the law.

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Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend, the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I want to commend the gentleman for his speech. I want to talk to the gentleman a few minutes about the meaning of some language that was in the Conte prohibition, which says that there shall be no contracts until 12 post meridian tonight. Now, there may be some that feel that 12 post meridian means noon, but all the legislative history that was made in that colloquy refers to midnight. All references in both bodies refer to midnight. Would the gentlemen agree with that?

Mr. CONTE. That is absolutely right. As long as we have been making these continuing resolutions, and I think Chairman WHITTEN will agree, they mean always mean midnight.

Mr. BROYHILL. I also refer to the Government Printing Office Style Manual which was used by our legislative counsel in drafting, and on page 143 it says that 12 post meridian means midnight.

Mr. CONTE. The gentleman is absolutely right.

Mr. BROYHILL. I will insert that in the RECORD at this point, as follows:

Excerpt from the U.S. Government Printing Office Style Manual, March 1984, p. 143:

9.54. References to meridian in statements of time are abbreviated as follows:

10 a.m.	12 m. (noon)
2.30 p.m.	12 p.m. (midnight)

9.55. The word *o'clock* is not used with abbreviations of time. (See rule 12.9b.)

This Manual is used by House Legislative Counsel in drafting legislation. If the purpose of the Conte Motion to Recommit had been to ban Synfuel spending until noon, the language would have been written as "12 meridian."

Mr. CONTE. Let me say also to the gentleman from North Carolina, those waiting at the Synfuels Corporation and if they are listening, and I hope they are, will take this advice. If the corporation is to make awards this afternoon while the Conte prohibition is in effect, they had better be prepared to answer some questions in court. If awards are made today, we will send the marshals down to K Street because they will be breaking the law. It is my clear intention and the clear intention of this body that the Conte provision on the continuing resolution does not expire until midnight tonight.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to compliment the gentleman from Massachusetts and the gentleman from Mississippi for their work on this bill.

While I am at it, I also want to compliment the gentleman from Massachusetts and say how much we thank him for visible and important help.

Mr. CONTE. Well, let me tell the gentleman, my good friend from Iowa, my classmate, that I thought maybe the folks downtown could not hear me down there. I wanted to make sure they could see me.

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Oklahoma.

Mr. SYNAR. Is it the gentleman's understanding that projects with legally binding contracts for financial aid from the U.S. Synfuels Corporation would not be affected by this legislation?

Mr. CONTE. Yes; that is my understanding of the conferees' intent.

Mr. SYNAR. What about a project for which the SFC had approved a package of loan guarantees and price supports, but for which no loan guarantee contract had yet been executed. Is it correct that under this legislation, such a project would not be deemed to have a legally binding contract.

Mr. CONTE. Yes; that is correct.

Mr. SYNAR. Finally, what about a project for which the SFC has approved a package of loan and price guarantees, but the sponsors of that project now wish to change the terms of the package previously approved by the SFC. My understanding is that no such changes could be made after the date of enactment of this legislation. Is that correct?

Mr. CONTE. Yes; that is correct.

Mr. SYNAR. I thank the gentleman for these clarifications.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank my dear friend, the gentleman from Massachusetts, for yielding to me.

First of all, I want to reinforce what was said. In colloquys on the House floor, the gentleman from Mississippi [Mr. LOTT] who serves on the Rules Committee and who was one of the drafters of the amendment referred to, discussed 12 p.m. as meaning midnight.

Mr. CONTE. The gentleman is absolutely right.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. CONTE] has expired.

Mr. CONTE. Mr. Speaker, I yield myself one additional minute and I yield to the gentleman from Michigan.

Mr. DINGELL. It is also true that Senator HATFIELD, the chairman of the Appropriations Committee in the Senate, had a similar colloquy in which he referred to the period of 12 p.m. as midnight. Is that not correct?

Mr. CONTE. I am not familiar with the Hatfield colloquy, but I am sure, knowing Senator HATFIELD and knowing that he is familiar with CR's, that he agrees that we always mean midnight.

Mr. DINGELL. I will reinforce the gentleman's statement, because it is a fact that Senator HATFIELD did so refer.

Now, if the gentleman will continue to yield, I would like simply to advise that I have sent a lengthy letter to the Synthetic Fuels Corporation, to the chairman, Mr. Noble, in which I said this, which I think is important:

In this connection, we would remind you that the fiduciary responsibility of the directors is to the U.S. taxpayer and not to the stockholders of companies desirous of 11-hour contract.

I asked them later in the same paragraph:

Please provide the Subcommittee with a legal opinion on the potential civil or criminal liabilities which would be assumed by the Corporation's Directors, if the Board were to award a contract arbitrarily, with little or no basis for the decision.

I would simply observe that if that spending of public moneys occurs, it occasions the strong possibility of the assumption of liability under the law on the part of the persons so doing.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. CONTE] has again expired.

Mr. CONTE. Mr. Speaker, I yield myself 1 additional minute and I yield to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman in the well for his statement just now and I want to associate myself with his remarks with respect to the absolute arrogance that is being exemplified by the conduct of the Corporation.

One of the points that Members of the body should be alerted to is that the Corporation is absolutely exempt from even Gramm-Rudman, so that if we have any hope of any kind of equality in the treatment of the waste that is going on over there, it is going to be lost the moment those dollars are out the door.

Let me also just say that the Wall Street Journal today is indicating that the President himself is privately urging funding for these programs, at the same time that he is publicly supporting its termination. I hope that report is inaccurate. I think it is unconscionable that the President on the one hand is talking about the need for domestic cuts across the board in the Federal budget, and on the other hand urging privately support for these projects.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to insert into the RECORD the correspondence between myself and Mr. Noble relative to this matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The correspondence follows:

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 10, 1985.

Hon. EDWARD E. NOBLE,
Chairman, Synthetic Fuels Corporation, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your multiple and delayed responses to the August 26 request of the Subcommittee on Oversight and Investigations. This letter is to express our concern about the incomplete nature of your responses and the present course of business of the U.S. Synthetic Fuels Corporation.

The Subcommittee's request for specific project files was based upon our suspicion that the Corporation was planning to move quickly to make substantial financial commitments by finalizing contracts with several applicants. The speed appeared deliberate, so that contracts could be signed and financial commitments made—despite an overwhelming House vote to terminate the Corporation and a request by the Department of Energy that the Corporation hold off on further awards.

The Corporation fully confirmed that suspicion with its approval on September 24th of a $60 million contract for the Forest Hills Project, and preliminary approval of $184 million for the Seep Ridge Project and $500 million for the Union Oil Shale Project—over and above $400 million already committed. Moreover, those decisions strongly suggest that the Board intends to go right on issuing contracts, again despite stated objections from the Secretary of Energy and the House of Representatives—not to mention unprecedented budget deficits.

Documents which the Corporation did submit to the Subcommittee raise several serious questions about the basis upon which the Board is continuing to make contract decisions. The Corporation's file on the Seep Ridge Project, for example, indicates that in June, 1984 the Corporation awarded a letter of intent to the project's sponsors for a maximum of $45 million in Federal assistance. Less than a year later, in May, 1985, the sponsors had requested $129.55 million, a threefold increase, and "evidenced no willingness to negotiate or compromise on the $129.55 [million] figure." By August, a mere three months later, a draft Corporation assistance agreement specified an increase to $147.83 million, with no supporting documentation. Worse yet, and again with no supporting documentation, the Board approved a resolution enabling the Chairman to enter into a contract for $184.34 million. The rise from $45 million to $129 million to $147 million to $184 million amounts to a 300% increase in a scant 15 months! It is disturbing, but not surprising, that the Board would agree to these enormous increases of taxpayer exposure without the benefit of any evaluation or analysis.

The Union Oil Shale project is even more disturbing because of decisions based on a complete lack of credible analysis—at least according to the paucity of information provided to the Subcommittee so far. The Board resolved to amend the existing Union I contract to provide the sponsors an additional $500 million, for a total of $900 million in Federal assistance, and did so relying on 16 pages of staff documents. Nowhere in those few pages is there any evaluation or analysis of the project's technical or financial viability, nor is there any stated justification for a $900 million taxpayer exposure.

Other information provided to the Subcommittee indicates that other projects the directors have been considering for awards would receive subsidies three times greater than estimated project costs while guaranteeing product prices in excess of $150 per barrel! To date the Subcommittee has received no analysis of why such subsidies would be appropriate.

We understand that the Board intends to finalize the Seep Ridge and Union contracts on October 16. It appears that the Corporation is either planning to make commitments of funds with no information on which to base them or else that the Corporation is withholding from the Congress the information it may have.

Therefore, we request that you ensure the Subcommittee that its August 26 request has been fully met. Should additional staff documents "surface," please provide them to the Subcommittee for review prior to any action by the Board or its Chairman to finalize contracts. Please provide the Subcommittee with copies of all notes, memoranda, papers, and documents, including drafts prepared by or for the Corporation's board members with respect to projects for which the Board expects to award assistance during the next three months.

In this connection, we would remind you that the fiduciary responsibility of the directors is to the U.S. taxpayer and not to the stockholders of companies desirous of 11th hour contracts.

The lack of analysis supporting preliminary board decisions on such projects as Union and Seep Ridge, as well as proposed actions on other projects, raise serious questions about the propriety of these decisions. Please provide the Subcommittee with a legal opinion on the potential civil or criminal liabilities which would be assumed by the Corporation's Board Members Directors, if the Board were to award a contract arbitrarily, with little or no basis for the decision. Would such an action constitute a willful misapplication of taxpayer funds? Because of the billions of dollars involved in the potential awards, we request that the legal analysis be submitted to the Subcommittee prior to any action by the Board or its Chairman to finalize contracts.

Furthermore, one legislative proposal under consideration in Congress contains a provision which would result in the abrogation of any contracts the Corporation executes. Although not legally necessary to the workings of the provision, it is only fair to notify potential project sponsors that any contracts they execute with the Corporation could be abrogated without compensation. The attached memorandum outlines the legal basis for such action. We request that you immediately notify all private parties presently involved in negotiations with the Corporation of the possibility of such action and provide them copies of memorandum.

Finally, regardless of the decision of the Congress as to the fate of the Corporation, it is quite possible that the sponsors of individual synfuels projects will abandon those projects prematurely. (An example is the Great Plains project.) We request that before the Board or its Chairman finalizes any countracts, you provide the Subcommittee with information on the exposure of the Federal government in the event of a default by a project sponsor. In addition, we request that you provide a description of the provisions in the proposed contracts which would minimize the loss to the taxpayers in such an event.

If any questions arise, please contact Michael T. Woo at 225-2927.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations.

To: Honorable Philip R. Sharp, Chairman, Subcommittee on Fossil and Synthetic Fuels.

From: Subcommittee Staff.

Subject: Constitutionality of Synthetic Fuels Fiscal Responsibility Act of 1985.

Question presented: Is Section 111 of the Synthetic Fuels Fiscal Responsibility Act of 1985, as reported by the Committee on Energy and Commerce on September 18, 1985, constitutional?

Section at issue: The section prohibits the payment of any contract awards made by the Synthetic Fuels Corporation after July 31, 1985, and before enactment, and withdraws the consent of the United States to be sued on any claim arising out of such an award. One such award, to the Forest Hills project, has been made.

The language of the section is as follows:

"SEC. 111. RESTRICTIONS

"(a) USE OF FUNDS.—None of the funds appropriated by section 110 or any other provision of law may be used by the United States Synthetic Fuels Corporation, the Secretary of Energy, or any other agent or officer of the United States for making pay-

ments with respect to obligations entered into by the United States Synthetic Fuels Corporation after July 31, 1985, and before the date of enactment of this Act.

"(b) IMMUNITY FROM SUIT.—The United States hereby withdraws any stated or implied consent for the United States, any officer or agent of the United States, or the United States Synthetic Fuels Corporation to be sued by any person with respect to any claim arising out of obligations described in subsection (a)."

Precedents: Among the leading precedents for the proposition that section 111 is constitutional, are *Lynch* v. *U.S.*, 292 U.S. 571 (1934), and *Maricopa County* v. *Valley National Bank of Phoenix*, 318 U.S. 357 (1943).

Equal authority lies in legislation enacted after the ruling in *Perry* v. *U.S.*, 294 U.S. 330 (1935), one of the so-called "gold clause" cases, which involved the retroactive breach by the United States of its "gold bond" contracts.

Following the decision in *Perry*, Congress withdrew the consent of the United States to be sued on any claim related to gold clause securities of the U.S. that had been issued in previous years. Despite numerous attacks on that legislation by gold bond holders, it was never held unconstitutional. *See, generally,* the cases and articles cited in Kauper, *Constitutional Law*, 1980 ed., pps. 818-819; and Freund, Sutherland, Howe, and Brown, *Constitutional Law, Cases and Problems*, 4th ed., 1977, pps. 128 et seq., and pps. 317-324, discussing *Perry* and subsequent cases brought by gold bond holders.

This memorandum reviews these decisions, as well as earlier and later rulings by the Federal courts on the same issue.

Conclusion: Under these rulings, a clear legislative assertion of sovereign immunity is constitutional—even in the face of claims that the assertion leaves a plaintiff with no remedy for a claimed violation of his constitutional rights. These precedents extend to claimed violations of the Fourth, Fifth, Seventh, and Tenth Amendments. I can find no contrary decisions holding unconstitutional a clear withdrawal of "consent to be sued."

Because Section 111 is a clear and unmistakeable assertion of sovereign immunity, and an indisputable withdrawal of the sovereign's previously-granted consent to be sued, it therefore is entirely constitutional, and will be upheld by the courts with respect to contracts such as the SFC's Forest Hills award.

A. Lynch: The Court's opinion, by Justice Brandeis, states:

"The rule that the United States may not be sued without its consent *is all embracing* . . .

"Although consent to sue was thus given when the policy [of insurance coverage that is the subject of this suit] issued, *Congress retained power to withdraw the consent at any time.* For consent to sue the United States is a privilege accorded; *not the grant of a property right protected by the Fifth Amendment.* The consent may be withdrawn, although given after much deliberation *and for pecuniary consideration.* The sovereign's immunity from suit exists *whatever the character of the proceeding or the source of the right sought to be enforced.* It applies alike to causes of action arising under acts of Congress, . . . *and to those arising from some violation of rights conferred upon the citizen by the Constitution* . . . The character of the cause of action—the fact that it is in contract as distinguished from tort—may be important in determining (as under the Tucker Act) whether consent to sue was given. Otherwise, it is of no significance. For immunity from suit is an attribute of sovereignty which may not be bartered away." (Citations omitted.)

B. Maricopa County: In his opinion for the Court (which favorably cites *Lynch*), Justice Douglas employs equally broad language in rejecting a claimed violation of the Fifth Amendment. The Court notes an earlier ruling that allowed the states to tax RFC shares, which:

". . . was rendered on February 3, 1936. *On March 20, 1936,* Congress enacted a statute providing that shares of preferred stock of national banks 'heretofore or hereafter acquired by' the Reconstruction Finance Corporation *shall not,* so long as Reconstruction Finance Corporation shall continue to own the same, *be subject to any taxation by* the United States, by any Territory, dependency, or possession thereof, or the District of Columbia, or by *any State, county, municipality, or local taxing authority, whether now, heretofore, or hereafter imposed, levied, or assessed and whether for a past, present, or future taxing period.*'. . . On the authority of that Act, the District Court, issued a permanent injunction against the collection [of taxes on the U.S.' shares of RFC stock.]

"Petitioners contend that the Act of March 20, 1936, violates the Fifth and the Tenth Amendments. [The Court rejects the latter claim.]

"The argument that the Act of March 20, 1936, violates the Fifth Amendment is based on its retrospective feature. Petitioners contend that since the liens of the taxes were impressed *before the effective date of the Act, they were property rights which Congress could not destroy.* We need not consider the case where prior to the withdrawal of the privilege the tax had been collected or the tax lien foreclosed and the property reduced to the possession of the taxing authority.

"In the instant case the state taxing authorities are asserting rights which if recognized can be enforced by the maintenance of a suit to establish and foreclose a lien on property of a federal instrumentality, the Reconstruction Finance Corporation. . . . But even a 'proceeding against property in which the United States has an interest is a suit against the United States.'. . . *No such suit may be maintained without the consent of the United States. Such consent, though previously granted, has now been withdrawn. And the power to withdraw the privilege of suing the United States or its instrumentalities knows no limitations. Lynch v. United States,* 292 U.S. 571, 581-582, and cases cited." (Other citations omitted.)

C. Perry: "When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference . . . *except that the United States cannot be sued without its consent."*

D. Additional Rulings:

1. *Laycoek v. United States,* 9th Cir., 230 F. 2d 848 (1956). Suit against the U.S. for unconstitutional taking of property in violation of the Fifth Amendment, dismissed in view of the Congressional withdrawal of consent to be sued that was enacted after the ruling in the *Perry* case:

"Upon dismissing appellant's action for want of jurisdiction, the District Court expressed the view that the complaint did not present a case of a taking of property within the purview of the Fifth Amendment.

"We do not reach that question, being of the opinion that consent previously given in the Tucker Act or otherwise to sue the Government on a claim such as asserted by appellant here was expressly withdrawn by the Act of August 27, 1935. . . . This Act provides that: 'Any consent which the United States may have given to the assertion against it of any right . . . in any proceeding of any nature whatsoever . . . upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any . . . gold . . . and involving the effect or validity of any . . . regulation of the value of money is withdrawn . . .'

"It appears to us beyond question that in the complaint at bar appellant asserts a claim or cause of action arising out of an alleged 'surrender, requisition, seizure, or acquisition' by the Government of appellant's gold, and 'involving the effect or validity of . . . regulation[s] of the value money'."

"It is axiomatic that: 'Consent alone gives jurisdiction to adjudge against a sovereign.' *United States* v. *United States Fidelity & Guaranty Co.* This is so, *even in cases grounded upon alleged violations by the Government of Federal Constitutional rights.* . . . And it is equally well settled that 'the power to withdraw the privilege of suing the United States or its instrumentalities *knows no limitations.' Maricopa County* v. *Valley National Bank."* (Other citations omitted.)

2. *Wells* v. *United States,* 5th Cir., 214 F. 2d 380 (1954).

"The United States, in an exhaustive and excellent brief marshalling some of the many authorities uniformly supporting the principle that the United States may be sued only when, as, and in, the court in which it has expressly consented to be used, urges upon us that, absent such express consent, arguments from implications, from convenience and necessity, from considerations of reasonableness and justice, indeed arguments *of any kind,* except those based on pointing to an express consenting, will not do, that, indeed the very resort to them confesses away the jurisdiction contended for.

"We agree that this is so and that whatever may be said for or against the persistence of the idea of the absolute immunity of the sovereign from suit except on its own terms, the fact, of its persistence may not be questioned nor may its results be escaped." (Citations omitted.)

3. *Matya* v. *United States,* 8th Cir., 478 F. 2d 330 (1973), rejecting claimed violation of Fifth Amendment:

"The fundamental difficulty with the plaintiff's case is that she has sued the wrong party. The United States, as sovereign, is immune from suit without its consent . . . . No statute, regulation or order has been cited which shows that the United States has consented to being sued in the situation presented here. In *Buck* v. *United States,* 466 F.2d 481, 483 (10 Cir. 1972), the Tenth Circuit dismissed a similar cause of action for lack of jurisdiction saying:

'The United States, as sovereign, may not be sued without its consent and the terms of its consent define the court's jurisdiction. . . . Taxpayers present no claim that any assessment has been paid or that any application for refund has been filed.

'Taxpayers argue that if relief is not granted they will be unable to contest the validity of the penalties and will suffer irreparable harm in violation of their Fifth Amendment rights. *We need not explore what remedies the taxpayers might have had*

or now have because we are concerned with sovereign immunity.'" (Citations omitted.)

4. *Pass.* v. *McGrath*, D.C. Cir., 192 F.2d 415 (1951), rejecting claim that taking of property was in violation of thie Fifth Amendment:

"In our opinion there is no merit in appellant's contentions that the statute does not mean what it says and that if it does it is unconstitutional. It is 'well established that suit may not be maintained against the United States in any case not clearly within the terms of the statute by which the terms of the statute by which it consents to be sued.' . . . 'And the power to withdraw the privilege of suing the United States or its instrumentalities knows no limitations, *Lynch*, and cases cited. *Maricopa County* v. *Valley National Bank of Phoenix*. . . . Affirmed."

(Other citations omitted.)

5. *Bryan* v. *United States*, 10th Cir., 99 F. 2d 549 (1938), citing *Lynch* and twenty-one other cases:

"Immunity from suit is an attribute of sovereignty. The United States can only be sued by its own consent clearly given by legislative act. When Congress gives its consent to be sued it does not grant a right, but merely accords a privilege. Statutes granting the right to sue the United States are to be strictly construed. Congress may impose such conditions and restrictions on the right to sue the United States as it deems proper. A suit may not be maintained against the United States in any case not clearly within the terms of the statute by which it consents to be sued. The courts cannot go beyond the letter of such consent.

"The provision of Section 1103, supra, that 'No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax . . . until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard,' imposes a condition precedent to the right to maintain such a suit or proceeding. Such provision is not merely a statute of limitation, but a condition attached to the right to sue." (Citations omitted.)

6. *Pflueger* v. *United States*, D.C. Cir., 121 F. 2d 732 (1943), rejecting claim of Fifth Amendment violation:

"Even if we concluded that the Congressional limitation of remedy to the amount of 'net proceeds', instead of just compensation, was unconstitutional, the effect would be to invalidate the entire statute and to remove all of the provision for remedy under which appellant seeks to proceed. . . . But we need not pass on the point, for the immunity of the sovereign from suit *is paramount, even over rights founded on the Constitution.*

" 'For consent to sue the United States is a privilege accorded, not the grant of a property right protected by the Fifth Amendment. The consent may be withdrawn, although given after much deliberation and for a pecuniary consideration. . . . The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress, . . . and to those arising from some violation of rights conferred upon the citizen by the Constitution. . . . immunity from suit is an attribute of sovereignty which may not be bartered away.' *Lynch* . . .

"We are of opinion, therefore, that Congress having in express and unambiguous language declared that both relief and remedy should be limited to the property coming into the hands of the custodian or if disposed of by him, to its net proceeds and it appearing here that appellant has already received all that Congress said he might sue for and recover, his suit for more cannot be maintained *and the argument on constitutionality is beside the point. The Fifth Amendment to the Constitution does not, as appellant assumes in his complaint, of itself confer jurisdiction in the court below to entertain a suit against the sovereign.* See *Lynch* v. *United States, supra.*" (Other citations omitted.)

7. *Lichter* v. *United States*, 334 U.S. 742 (1948), rejecting claims that the U.S. could not unilaterally, by statute, rewrite contracts entered into *before* the enactment of the act which rewrote them. The chief holding:

"The Renegotiation Act is constitutional on its face as authority for the recovery by the United States of 'excessive profits" (less tax credits) realized by private parties in the circumstances of these cases on subcontracts for war goods in time of war with contractors who were also private parties—*even in the absence of contractual provisions for the renegotiation of such profits and even as applied to contracts entered into prior to the enactment of the Act*, provided final payments had not been made pursuant to such contracts prior to the date of enactment of the original Act. . . .

"The collection of renegotiated excessive profits on a war subcontract is not in the nature of a penalty and is not a deprivation of a subcontractor of his property without due process of law in violation of the Fifth Amendment. . . .

"The Government was entitled to recover excessive profits (less tax credits) from each of the subcontractors in these cases, whether they arose from contracts made before or after the passage of the Act, provided final payments had not been made pursuant to such contracts prior to the date of the original Act. . . .

8. *Mine Safety Appliances Co.* v. *Forrestal*, 326 U.S. 371 (1945), dismissing a government contract suit—based upon an "unconstitutional taking" argument—because the sovereign had not consented to the suit:

". . . we assume, as we must for the purpose of disposing of the jurisdictional issue, that appellant's allegations including the one that the Renegotiation Act is unconstitutional are true. . . . The sole purpose of this proceeding is to prevent the Secretary from taking certain action which would stop payment by the government of money lawfully in the United States Treasury to satisfy the government's and not the Secretary's debt to the appellant. The assumption underlying this action is that if the relief prayed for is granted, the government will pay and thus relinquish ownership and possession of the money. In effect, therefore this is an indirect effort to collect a debt allegedly owed by the government *in a proceeding to which the government has not consented.* The underlying basis for the relief asked is the alleged unconstitutionality of the Renegotiation Act and the sole purpose of the proceeding is to fix the government's and not the Secretary's liability. Thus, though appellant denies it, the conclusion is inescapable that the suit is essentially one designed to reach money which the government owns. Under these circumstances the government is an indispensable party, . . . even though the Renegotiation Act under which the Secretary proposed to act might be held unconstitutional. In short the government's liability cannot be tried 'behind its back.' "

9. *Haskins Bros. & Co.* v. *Morgenthau*, D.C. Cir. 85 F. 2d 677 (1936), terming the Fifth Amendment argument "of no consequence" in view of Congress' lack of consent to the suit:

"The bill prays that the court declare section 602½ unconstitutional and grant an injunction forbidding payment to the government of the Philippines and that the $26,000,000 be declared a trust fund and be ordered by the court to be paid to appellant and others similarly situated.

"The case for the appellant has been argued with great skill and ability, and we have given it careful consideration. But we think the conclusion is inescapable that the decree of the lower court dismissing the bill must be affirmed on either of two grounds.

"First. We think the suit is in effect one against the United States. It is brought against the Secretary of the Treasury, the Treasurer, and the Comptroller General in their official capacities. It seeks to compel the payment of money now deposited in the United States Treasury. In this view the United States are necessary parties and, *since they have not consented to be sued, the suit against the officers of the United States cannot be maintained. We know of no power in this or any other court to compel the Secretary of the Treasury or the Treasurer of the United States, in a suit brought against them in their official capacities, to pay out money in the treasury in a manner contrary to that directed by Congress.* We hold these general principles to be *axiomatic*:

"First, that an act of Congress is necessary for the withdrawal of money from the public treasury;

"Second, that no suit can be brought to enforce the making of an appropriation;

"Third, that the Secretary of the Treasury and the Treasurer are officers of the United States holding offices established by law; that their duties are to receive and preserve the public money and not to disburse it except conformably to law; . . .

"Fourth, that where an obligation is cast upon a principal and not upon his agent, a court cannot enforce it against the agent as long as he is acting wholly as agent.

"In the instant case it is therefore *of no consequence* whether the act under which the tax was collected be constitutional or unconstitutional. The fact that the tax has been collected and deposited in the treasury by the collecting officials of the government renders the custodian of the fund impotent to withdraw the money and disburse it unless and until directed to do so by an act of Congress or until the United States shall submit to be sued to determine its disposition."

10. *Robinson* v. *Deal*, D.C. Cir., 145 F. 2d 382 (1944), rejecting on the basis of sovereign immunity claims to funds paid by plaintiff cotton farmers under a concededly unconstitutional statute:

"In the facts properly found by the District Court in the trial on the merits it is obvious the suit is one against the United States and, that being true, the correct rule to apply is that stated by us in *Haskins Bros. & Co.* v. *Morgenthau*, . . . as follows:

" 'In the instant case it is therefore of no consequence whether the act under which the tax was collected be constitutional or unconstitutional. The fact that the tax has been collected and deposited in the treasury by the collecting officials of the government renders the custodian of the fund impotent to withdraw the money and disburse it unless and until directed to do so by act of

Congress, or until the United States shall submit to be sued to determine its disposition.'

"The fact that the fund in the Haskins Bros. case was derived from the imposition of a tax, while here it was from the imposition by Act of Congress of a condition to the sale of cotton produced in excess of allotment, is of no consequence. The controlling principle is based upon the presence of the fund at the time of suit in the Treasury. The fact, found by the District Court, that 'there is no congressional authority for withdrawal of money from the Treasury under the pool appropriation account for paymnent to plaintiffs and intervenors,' *leaves the courts without power to interfere.*

"In reaching this conclusion, which we think is required by the facts to which we have referred, we are not unmindful of the hardship thus imposed on intervenors and others of their class. The record shows without denial that some hundred thousand or more cotton farmers paid into the Treasury of the United States approximately $22,000,000 *under an unconstitutional Act of Congress* and that, after a finding of unconstitutionality and a demand for return of the money, the Government denied return and continued to distribute it to other farmers who, in view of the invalidity of the law, had no legal claim to it."

11. *U.S.*, v. *Transocean Airlines, Inc., 5th Cir., 386 F. 2d 79 (1967):* "The right to participate in a judgement *res* is altogether different from a cause of action directly against the judgment debtor, We are told that the law of Florida authorizes such a judgment, predicated upon a charging lien, directly against a private debtor. As against the United States, however, we are of the opinion that such a procedure *is precluded by the doctrine of sovereign immunity . . .*

"Transocean's claim against the United States was brought under the limited consent granted in the Tucker Act. Appellees' claim, on the other hand stems solely from their contract with Transocean, and is dependent upon the law of Florida which allows the transmutation of a lien against a judgment into a judgment against the debtor. The right to sue the United States cannot be granted by State law nor acquired through contractual relationships with third parties. The right can be acquired *only by the specific consent of Congress,* which is not present here."

12. *Young* v. *Anderson,* D.C. Cir. 160 F. 2d 225 (1947), in which the plaintiff unsuccessfully asserted the unconstitutionality of the 1911 Weeks Act, related to timber rights on watersheds of navigable rivers:

". . . we are in agreement with the court below that since the action is clearly one against the United States, it was properly dismissed. Appellant, however, insists that the charge that the Weeks Act is unconstitutional *goes to the very marrow of the case and should be decided before we reach the question* whether the United States are indispensable parties. But we think the rule is definitely established otherwise. . . ."

13. *Commers* v. *United States,* 66 F. Supp. 943 (1946), rejecting a Fith Amendment attack on the draft on the basis of sovereign immunity, *Lynch,* and the doctrine of the limited jurisdiction of Federal courts:

"In view of the unbroken line of decisions of the Supreme Court and of the Circuit Courts of Appeal from the inception of our government, *it does not appear how, at this date, it could be earnestly contended that consent on the part of the United States to be sued is not necessarily to the maintenance of this action.* In *Lynch,* . . . the Supreme Court said: 'The rule that the United States may not be sued without its consent is all-embracing . . . The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress, . . . and to those arising from some violation of rights conferred upon the citizen by the Constitution, . . . "The United States cannot be sued in their courts without their consent, and in granting such consent Congress has an absolute discretion to specify the cases and contingencies in which the liability of the government is submitted to the courts for judicial determination. . . . *Schillinger*

"It is too well settled to be the subject of argument that the Federal District Courts have only such jurisdiction as the Congress may give them. All federal courts, other than the Supreme Court, derive their jurisdiction wholly from the exercise of the authority to 'ordain and establish' inferior courts, conferred on Congress by Article III, section 1 of the Constitution. Article III left Congress free to establish inferior federal courts or not as it thought appropriate . . .'"

14. *Best Bearings Co.* by *United States,* 7th Cir., 463 F. 2d 1177 (1972):

"*It is axiomatic* that the United States can be sued only with its consent and that Congress may specify the terms and conditions of such suits as it authorizes."

15. *Bailey* v. *United States,* D. Alaska, 201 F. Supp. 604 (1962), rejecting a breach of contract claim against the United States even though the dismissal left the plaintiff without a remedy:

"It is settled that obligations arising out of a contract with a Post Exchange are not liabilities of the United States upon which suit could be instituted. . . .

"These decisions are based upon the case of *Standard Oil Co. of California* v. *Johnson* (1942) . . . in which the Supreme Court held that Exchange contracts are solely the obligation of the Exchange, that they are not Government contracts, and that the Government assumes none of the financial obligations of the Exchange. Unfortunately it is also held that there is no right of action upon such contracts against the Exchange, for the reason that the United States has not waived its sovereign immunity as to contract obligations of the Exchange. For this anomaly there appears to be no present remedy."

16. *Swiff-Train Company* v. *United States,* 5th Cir., 443 F. 2d 1140 (1971), suit on a contract against a U.S. Army base "guest house", dismissed under the sovereign immunity doctrine, even though it did not involve "appropriated fund" activities:

"Legislative history of this action in the 91st Congress makes it plain that other non-appropriated funds, such as open messes and the guest house here involved, were *not* to be included along with the exchanges as to withdrawal of sovereign immunity.

". . . the House Judiciary Committee amended this bill to limit the waiver of sovereign immunity to only those contracts made by post exchanges, because as stated in its report, 'the complete removal of sovereign immunity for *all* (emphasis in original) non-appropriated fund activities would be undesirable . . .' One of the reasons given for the committee's report that the complete removal of sovereign immunity for *all* non-appropriated fund activities was that, whereas post exchanges are so operated as to have funds available to discharge all liabilities, 'since not every non-appropriated fund activities has sufficient assets to reimburse the United States, the cost of the judgment in some cases would be imposed on the tax payer—a result which is inconsistent with the very concept of non-appropriated fund activities.'. . .

"The statute just referred to, *and the clearly expressed Congressional intent,* were not available to the trial court at the time of its decision, because the amendment was passed later. We are satisfied that had this congressional expression been available to the trial court it would have decided differently with respect to the claim in issue."

17. *Stewart Sand* v. *Southeast State Bank,* W.D. Missouri, 318 F. Supp. 870 (1970), rejecting suit on a contract with the U.S. "implied in law":

". . . it must be concluded that the obligation of the United States on the endorsement of a check or money order, in cases like that at bar, is an implied-in-law contract of the type which is excluded from jurisdiction under the provisions of the Tucker Act. Express contracts and implied-in-fact contracts are agreements of a type wherein the assent of the Government to be sued is indirectly manifested. But a contract implied in law is not the same, and imports a contractual obligation in the absence of intention to be bound. To permit suit on such contracts detracts from the principles that the United States cannot be sued without its consent and that the consent must be express and not implied."

18. *Ponderendolph v. Derry Township,* 330 F. Supp. 1346 (1971), in which the alleged negligence of the United States assertedly caused the wrongful death of the plaintiff's husband; but plaintiff's action is dismissed:

"Thus, we have a case relating to the sovereign itself, which from early times was immune from any action or claim by an individual, except where the sovereign expressly consented to entertain such suit. The United States has evidently consented to many forms of actions and claims against it, but virtue of the Federal Tort Claims Act, 28 U.S.C. section 2671 et seq. Which broadly consented to persons instituting actions against the United States government as though it was an individual. But this consent to be sued is not absolute and irrevocable, *and the Government may as of any time withdraw or limit its consent in whole or in part.*

"In support of their motion [to dismiss], the movants [the U.S.] now rely on the Flood Control Act, and in particular to the immunity provided in section 3 thereof, 33 U.S.C. section 702c which provides 'No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place . . .'

"Thus, the determination to be made here is one of law. Where Congress has not consented to entertain suit against the United States, *the intent of the legislature must be followed.* In construing section 702c, the Court in National Mfg. Co., supra, 210 F.2d at page 271 stated:

'The language used shows Congressional anticipation that it will be claimed after the happening of floods that negligence of government employees was a proximate cause of damages where floods or flood waters have destroyed or damaged goods. But the section prohibits government liability of 'any kind' and at 'any place'. So that uniformly and throughout the country at any place where there is damage 'from' or 'by' a

flood or flood waters in spite of and notwithstanding federal flood control works no liability of any kind may attach to or rest upon the United States therefor.'

"Suits against the United States to recover for flood damages have been rejected by the courts. [. . . and require dismissal of this suit.]" (Citations omitted.)

19. *Affiliated Ute Citizens v. United States,* 406 U.S. 128 (1972), finding no consent to be sued:

"The United States, of course, may not be sued without its consent. *United States v. Sherwood,* 312 U.S. 584, 586 (1941). This long-established principle has been applied in actions for the possession or conveyance of real estate. . . . It has been applied to Indian lands the title to which the United States holds in trust. . . . It has been applied, specifically, in a suit by an Indian who has a beneficial interest in land [and] therefore, controls the distribution aspect of the AUC case *unless the United States has consented to be sued.*

"The consent, it is claimed, exists in 25 U.S.C. section 345. This, however, is an allotment statute. Allotment is a term of art in Indian law. . . . It means a selection of specific land awarded to an individual allottee from a common holding. . . . Section 345 authorizes, and provides governmental consent for, only actions for allotment. . . .

"Although the interest in the mineral estate that AUC seeks to have conveyed pro rata to the individual mixed-bloods perhaps could be made the subject of an allotment, it has never been so subjected. Neither is it appurtenant to an allotment. The interest relates to the tribal land of the reservation. It remains tribal property. Further, section 10 of the 1954 Act . . . itself contemplates and provides specifically for the non-allocation of that interest.

"We therefore readily conclude that section 345 has no application here. Neither do 28 U.S.C. sections 1399 and 2409 afford a basis for jurisdiction; they have application only to partition suits where the United States is a tenant in common or a joint tenant. That is not this situation.

"The AUC action, therefore, was properly dismissed for want of jurisdiction." (Citations omitted.) 20. *Bruner v. United States,* 343 U.S. 112 (1952), upholding legislative repeal of the right to sue for compensation even *after* certiorari had been granted by the Supreme Court:

"In 1941, petitioner was appointed a civilian fire chief at Camp Wheeler, Georgia, by a local army commander acting under authority delegated by the Secretary of War. In 1948, petitioner brought this action in the District Court to recover overtime compensation allegedly due for his services as fire chief. . . .

"At the time this action was commenced, Congress had provided that nothing in the Tucker Act shall be construed as giving the District Court—

'jurisdiction of cases brought to recover fees, salary, or compensation for official services of *officers* of the United States or brought for such purpose by persons claiming as such officers or as assignees or legal representatives thereof; but no suit pending on the 27th day of June 1898 shall abate or be affected by this provision.'

"The District Court, holding that petitioner was an *'officer* of the United States,' entered judgment dismissing petitioner's complaint for want of jurisdiction. The Court of Appeals for the Fifth Circuit affirmed.

"In *Beal v. United States,* the Court of Appeals for the Sixth Circuit sustained jurisdiction of the District Court over a suit brought by another civilian fire fighter appointed by the War Department on the ground that he was only an *'employee'* and not an 'officer of the United States.' We granted certiorari in the case at bar to resolve the conflict of decisions. . . .

"After certiorari had been granted in this case, the Act of October 31, 1951, Pub. L. No. 248, became effective. Section 50(b) of that Act amended the applicable clause of the Judicial Code by inserting, immediately after 'officers' in such clause, the words *'or employees'. . . ." As a result of this amendment we are confronted at the threshold of this case with the question whether the Act of October 31, 1951, withdrawing the jurisdiction of the District Court over actions for compensation brought by 'employees,' applies to an action pending on the effective date of the Act. The power of Congress to withhold jurisdiction from the District Court* 'in the exact degrees and character which to Congress may seem proper for the public good' *is not challenged. . . .*

"In *Ritchie,* a case arising under the internal revenue laws, jurisdiction was based upon an Act of 1833 granting the circuit courts jurisdiction over all cases arising under the revenue laws. After decision in the Circuit Court and while an appeal to this Court was pending, an Act of 1866 withdrew the jurisdiction of the circuit courts over cases arising under the internal revenue laws without any reservation saving cases such as Ritchie's. This Court held:

'It is clear, that when the jurisdiction of a cause depends upon a statute the repeal of the statute takes away the jurisdiction. And it is equally clear, that where a jurisdiction, conferred by statute, is prohibited by a subsequent statute, the prohibition is, so far, a repeal of the statute conferring the jurisdiction.

"In another case arising under the same jurisdictional statutes, the Court, in following *Ritchie,* stated the applicable rule as follows:

'Jurisdiction in such cases was conferred by an act of Congress, and when that act of Congress was repealed the power to exercise such jurisdiction was withdrawn, and inasmuch as the repealing act contained no saving clause, all pending actions fell, as the jurisdiction depended entirely upon the act of Congress.' *The Assessors v. Osbornes,* 9 Wall. 567, 575 (1870h).

"This rule—that, when a law conferring jurisdiction is repealed without any reservation as to pending cases, all cases fall with the law—*has been adhered to consistently by this Court.*•

"This case is not affected by the so-called general savings statute which provided that 'repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute.' Congress has not altered the nature or validity of petitioner's rights or the Government's liability but has simply reduced the number of tribunals authorized to hear and determine such rights and liabilities . . . *Lynch v. United States,* 292 U.S. 571 (1934)." (Other citations omitted.)

21. *Monolith v. Reconstruction Finance Corp.,* 9th Cir., 282 F.2d 439 (1960), rejecting a Fifth Amendment due process claim:

"Monolith contends in effect that the nature of this action is for just compensation for a taking under the Fifth Amendment. But this contention was in effect determined adversely to Monolith on the prior appeal. . . .

"Moreover, *even if the principle of just compensation is involved, it still must be established that the United States has consented to be sued for the recovery of such compensation.* The United States may withhold, withdraw, or condition that consent any way it chooses. *Laycock v. United States,* 9 Cir., 230 F.2d 848, 850. Here the United States had conditioned such consent upon compliance with the procedure prescribed in section 105. That procedure has not been followed.

"There has been no lack of due process." (Citations omitted.)

22. *Imhoff-Berg Silk Dyeing Co. v. United States,* 43 F. (2d) 836, D.C., N.J. (1930):

"This present action was begun prior to the enactment of the Revenue Act of 1928, but said act made no specific exception of pending suits, and in such case the withdrawal by the United States of its consent to be sued deprives the courts of jurisdiction to enter judgments, *even though such suits have been commenced before such withdrawal. United States v. Heinszen,* . . . (Other citations omitted.)

23. *Clark v. United States,* 6th Cir., 461 F.2d 781 (1972), rejecting claims of a Fifth Amendment taking of property and breach of contract by the U.S.:

"There is no necessity for us to transfer this case to a District Court because the Tort Claims Act, 28 U.S.C. section 2680, *expressly prohibits suits against the United States on:*

Section 2680. Exceptions.

The provisions of this chapter and section 1346(b) of this title shall *not* apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, . . .

"It is fundamental that the government has sovereign immunity from suits unless such immunity has been waived by an Act of Congress. It cannot be sued without its consent. See *United States v. Shaw,* 309 U.S. 495, (1940) and *United States v. Sherwood,* 312 U.S. 584, (1941). There is no such consent with respect to plaintiffs' claims in the case before us.

"There is no merit to plaintiffs' claims that the government has deprived them of their property in violation of their rights under the Fifth Amendment to the Constitution. They have not shown that the government has taken any of their property within the meaning of the Fifth Amendment."

24. *Elmer G. Abbott, et al,* 125 Ct. of Claims 330 (1954): "Congress has, of course, the power to withdraw its consent that the United States be sued, *Christoffer Hannevig v. United States,* 114 C. Cls. 410,414 and cases there cited, and to withdraw jurisdiction from a court of its creation, even as to pending cases, *Bruner v. United States,* 343 U.S. 112."

25. *Thompson v. Whittier,* D.D.C., 185 F. Supp 306 (1960). The three-judge district court upholds a U.S. withdrawal of consent to sue, in the face of a constitutional attack, on the basis of *Lynch:*

"It is well settled that the Government may not be sued without its consent and that, therefore, it is under no obligation to accord a judicial remedy in respect to claims against itself. Therefore, *statutes either denying or withdrawing judicial remedies against the United States in respect to claims against it are constitutional. Lynch v. United States.*

• Ex parte McCardle, 7 Wall, 506, 514 (1869).

26. *Louisiana v. McAdoo,* 234 U.S. 627 (1913), dismisses a suit against Treasury Secretary McAdoo:

"The State of Louisiana had appeared at the bar of this court, through its Attorney Genereal, for the purpose of obtaining permission to file this petition against the Honorable William Gibbs McAdoo, Secretary of the Treasury of the United States, and the Honorable C.S. Hamlin, Assistant Secretary of the Treasury of the United States. The United States, by its Solicitor General, has appeared in opposition contending that the suit is one against the United States and cannot, therefore be brought without its consent.

"*No principle is better established than that the United States may not be used in the courts of this country without its consent.* If, therefore, this be a suit against the United States, the State, though entitled as a State to appeal to the original jurisdiction of this court, *must show some authority from Congress* under which such a suit may be brought, or leave to file must be denied.

"That the United States is not named on the record as a party is true. But the question whether it is in legal effect a party to the controversy is not always determined by the fact that it is not named as a party on the record, but by the effect of the judgment or decree which can here be rendered. . . ."

[The court concludes the case is in reality against the United States; and accordingly, denies leave to file.]

27. *Gnotta v. United States,* 8th Cir., 415 F. 2d 1271 (1969). The opinion, by Circuit Judge Blackmun, states that:

"1. One cannot sue the United States without its consent and a court has no jurisdiction of a suit against the United States to which it has not consented . . .

"2. 'Congress has not constituted the [United States Civil Service] Commission a body corporate or authorized it to be sued *eo nominee;*' 'a suit involving the action of the Commission generally must be brought against the individual Commissioners as members;' and the Administrative Procedure Act is *not* 'to be deemed an implied waiver of all governmental immunity from suit.' . . ." (Citations omitted.)

28. *Buck v. United States,* 10th Cir., 466 F. 2d 481 (1972), upholding sovereign immunity in the face of a constitutional attack:

"The United States as sovereign, may not be sued without its consent and the terms of its consent define the court's jurisdiction. . . . To establish consent and jurisdiction, taxpayers and the trial court relied on 28 U.S.C. section 1346(a)(1). This section, as limited by 26 U.S.C. section 7422(a), gives consent *only* when the assessment has been paid. . . . and a claim for refund has been filed. . . . Taxpayers present no claim that any assessment has been paid or that any application for refund has been filed.

"Taxpayers argue that if relief is not granted they will be unable to contest the validity of the penalties and will suffer irreparable harm *in violation of their Fifth Amendment rights. We need not explore what remedies the taxpayers might have had or now have because we are concerned with sovereign immunity.* Whatever actions the taxpayers might have maintained against the Collector of Internal Revenue, . . . are unimportant because we have a suit against the United States, not against a collector."

29. *Minnesota v. United States,* 305 U.S. 382 (1938). The opinion by Justice Brandeis reaffirms his earlier conclusions in *Lynch:*

"First. The United States is an indispensable party defendant to the condemnation proceedings. A proceeding against property in which the United States has an interest is a suit against the United States. . . . It is confessedly the owner of the fee of the Indian allotted lands and holds the same in trust for the allottees. As the United States owns the fee of these parcels, the right of way cannot be condemned without making it a party.

"The exemption of the United States from being sued without its consent extends to a suit by a State. . . . Hence Minnesota cannot maintain this suit against the United States *unless authorized by some act of Congress.*

"Minnesota contends that the United States is not an indispensible party. [This contention is rejected.] . . .

"Second. Minnesota contends that Congress has authorized suit against the United States. [This contention is rejected] . . .

"Third. Minnesota contends that Congress authorized suit in a court of the State by providing in the second paragraph of section 3 of the Act of March 3, 1901, quoted above, for 'condemnation of' lands allotted in severalty to Indians 'in the same manner as land owned in fee.' But the paragraph contains no permission to sue. . . [And this final contention is rejected.]

30. *Schillinger v. United States,* 155 U.S. 163 (1894), which dismisses constitutional claims:

"The United States cannot be sued in their courts without their consent, and *in granting such consent Congress has an absolute discretion* to specify the case and contingencies in which the liability of the Government is submitted to the courts for judicial determination. *Beyond the letter of such consent, the courts may not go,* no matter how beneficial they may deem, or in fact might be, their possession of a larger jurisdiction over the liabilities of the Government.

"*It is said that the Constitution forbids the taking of private property for public uses without just compensation;* that therefore every appropriation of private property by any official to the uses of the government, no matter however wrongfully made, creates a claim founded upon the Constitution of the United States and within the letter of the grant in the act of 1887 of jurisdiction to the Court of Claims. If that argument be good, it is equally good applied to every other provision of the constitution as well as to every law of Congress. This prohibition of the taking of private property for public use without compensation *is no more sacred than that other constitutional provision that no person shall be deprived of life, liberty, or property without due process of law.* Can it be that Congress intended that every wrongful arrest and detention of an individual, or seizure of his property by an officer of the government, should expose it to an action for damages in the Court of Claims? *If any such breadth of jurisdiction was contemplated, language which had already been given a restrictive meaning would have been carefully avoided.*

31. *United States v. Sherwood,* 312 U.S. 584 (1941), rejecting a breach of contract claim against the U.S. because of sovereign immunity:

"The United States, as sovereign, is immune from suit save as it consents to be sued . . .; *Keifer & Keifer v. Reconstruction Finance Corp.,* 306 U.S. 381, 388, . . . and the terms of its consent to be sued in any court define that court's jurisdiction to entertain the suit . . ."

The Court of Claims is a legislative, not a constitutional, court. Its judicial power is derived not from the Judiciary Article of the Constitution, but from the Congressional power "to pay the debts . . . of the United States," which it is free to exercise through judicial as well as non-judicial agencies. It is for this reason, *and because of the power of the sovereign to attach conditions to its consent to be sued, that Congress despite the Seventh Amendment, may dispense with a jury trial* in suits brought in the Court of Claims.

Except as Congress has consented there is no jurisdiction in the Court of Claims more than in any other court to entertain suits against the United States, or for the review of its decisions by appellate courts.

[The Court then holds that the Congress has not consented to plaintiff's breach of contract claim; and in addition rejects the conclusion that "implied" consent is found in the new Federal Rules of Civil Procedure:]

"This conclusion presupposes that the United States, either by the rules of practice or by the Tucker Act or both, has given its consent to be used in litigations in which issues between the plaintiff and third persons are to be adjudicated. *But we think that nothing in the new rules of civil practice* so far as they may be applicable in suits brought in district courts under the Tucker Act *authorizes the maintenance of any suit against the United States to which it has not otherwise consented.* An authority conferred upon a court to make rules of procedure for the exercise of its jurisdiction *is not an authority to enlarge that jurisdiction;* and the Act of June 19, 1934, 48 Stat. 1064, 28 U.S.C. 723b, authorizing this Court to prescribe rules of procedure in civil actions gave it no authority to modify, abridge or enlarge the substantive rights of litigants or to enlarge or diminish the jurisdiction of federal courts. . . .

"*The matter is not one of procedure but of jurisdiction* whose limits are marked by the Government's consent to be sued."

32. *United States v. Shaw,* 309 U.S. 495 (1939).

"Whether that jurisdiction [over a cross-claim against the U.S.] exists depends upon the effect of the voluntary submission to the Michigan court by the United States of its claim against the estate. As a foundation for the examination of that question *we may lay the postulate that without specific statutory consent, no suit may be brought against the United States.* No officer by his action can confer jurisdiction. Even when suits are authorized they must be brought only in designated courts. The reasons for this immunity are imbedded in our legal philosophy. They partake somewhat of dignity and decorum, somewhat of practical administration, somewhat of the political desirability of an impregnable legal citadel where government as distinct from its functionaries may operate undisturbed by the demands of litigants."

33. *U.S. v. U.S. Fidelity Co.,* 309 U.S. 506 (1940).

"We are of the view, however, that the Missouri judgment is void in so far as it undertakes to fix a credit against the Indian Nations. . . . No statutory authority granted jurisdiction to the Missouri Court to adjudicate a cross-claim against the United States. The public policy which exempted the dependent as well as the dominant sovereignties from suit without consent continues this immunity even after dissolution of the tribal government. These Indian Nations are exempt from suit without Congressional authorization. It is as though the immunity

which was theirs as sovereigns passed to the United States for their benefit, as their tribal properties did. . . .

"But, it is said that there was a waiver of immunity by a failure to object to the jurisdiction of the Missouri District Court over the cross-claim. It is a corollary to immunity from suit on the part of the United States and the Indian Nations in tutelage that *this immunity cannot be waived by officials.* If the contrary were true, it would subject the Government to suit in any court in the discretion of its responsible officers. This is not permissible. . . .

"The reasons for the conclusion that this immunity may not be waived govern likewise the question of res judicata. As no appeal was taken from this Missouri judgment, it is subject to collateral attack only if void. It has heretofore been shown that the suability of the United States and the Indian Nations, whether directly or by cross-action, *depends upon affirmative statutory authority. Consent alone gives jurisdiction to adjudge against a sovereign. Absent that consent, the attempted exercise of judicial power is void.* The failure of officials to seek review cannot give force to this exercise of judicial power. Public policy forbids the suit unless consent is given, as clearly as public policy makes jurisdiction exclusive by declaration of the legislative body. [The Court therefore rules that the res judicata doctrine] is inapplicable where the issue is the waiver of immunity."

34. *Kawananakoa v. Polyblank*, 205 U.S. 349 (1907): "Whatever the origin of the doctrine of sovereign immunity, the accepted rationalization of its continued existence is that 'there can be no legal right as against the authority that makes the law on which the right depends.'" Holmes, J., as quoted in Note, Sovereign Immunity in Suits to Enjoin the Enforcement of Unconstitutional Legislation, 50 Harv. L. Rev. 956 (1937).

F. Corpus Juris Secundum: These thirty-seven decisions, and several hundred more, are all briefly reviewed in the Corpus Juris Secundum treatise. See 91 C. J. S., "United States," sections 175-182, especially section 176 (consent of U.S. to be sued), and section 182 (withdrawal of consent). The treatise concludes that the U.S. "by reason of its sovereignty is immune from suit and can only be sued by its own consent," and that "consent to be sued may be withdrawn even though the suit was commenced before the withdrawal."

Mr. CONTE. Mr. Speaker, I yield myself the rest of the time.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES AND INTERIOR

In the Agriculture chapter, as in Interior, we had a dispute with OMB over what is called basic math. Using the same numbers—1, 2, 3 and so on—we arrived at different totals. The House, Senate, and CBO determined our $33 billion bill to be several billions below our House 302(b) allocation. OMB's scorekeeping put us at $251 million out of the ballpark and over our own congressional budget resolution.

I'm not going to argue the fine points of addition and subtraction. But our conferees, led by the distinguished chairman of our committee, JAMIE WHITTEN, and the chairman of the Interior Subcommittee, my good friend SID YATES, who have been working so hard to get this bill to the President and signed into law, took out their calculators once again. After hours upon hours of negotiation with our able ranking members—RALPH REGULA and VIRGINIA SMITH—and with the other body, they agreed to make across-the-board cuts in order to reach levels that will be acceptable to the administration.

For Agriculture and Interior, we have cut all discretionary programs by six-tenths of 1 percent. Six-tenths of 1 percent for all the items in these two sections. This has reduced the totals in Interior from $8.145 billion to $8.094 billion. In Agriculture, we have gone from $33.26 billion to $33.06 billion. Total cuts in these two chapters made by our conferees last night are $250 million.

I have never believed in across-the-board cuts. While I support the conference report before us, I deeply regret the fact that we have been forced to agree to these inequitable programmatic cuts in order to reach a moving numerical target.

The distinguished chairman himself presided over more than 30 days of hearings in the Agriculture Subcommittee; 150 hours of oral and written testimony documented in eight volumes and 7,000 pages of hearing record. Our committee reported a bill to this House last July which contained our best recommendations for fiscal year 1986, based upon that testimony.

That bill, which passed by the overwhelming margin of 354 to 71, was $5 billion below fiscal year 1985 enacted levels and some $4 billion below our 302(b) allocation. Despite the effort that went into both the House- and Senate-passed bills, and the conference agreement which we filed less than a week ago, we've taken out the ax. And what have we done? What every across-the-board cut taken in this Congress has done—subsidize the bad programs with funds for the good ones.

We have taken money from low-income weatherization to protect clean coal. We have taken money from schools and hospitals to subsidize timber sales for some of the biggest corporations in this country. We have taken $9 million out of the WIC Program, $71 million out of food stamps, $4 million out of our title II Food for Peace Program, $24 million out of rural development assistance programs.

My friends, in an effort to get this bill signed into law, we have completed the first of many exercises with our President.

This is no Jane Fonda workout. This is the Gramm-Rudman exercise class, and we are already sweating and aching. These marathon sessions on the ropes are not going to put this country into shape—they are only going to turn whatever muscle we have into flab.

The sequestrations haven't even begun yet, and I can already hear the moaning and gnashing of teeth. We've got programs down to bare-bones levels, and the White House cuts are just ghosts of Christmases to come. Two months down the road, I don't want to hear a peep out of my 271 Gramm-Rudman colleagues. Two months from now, when they're sharpening the knives down on Pennsylvania Avenue, I don't want to hear about what is happening to your UDAG projects, your EDA projects, our housing for the elderly and handicapped. We've got $10 million in this CR for AIDS research, $193 million for the needy family and elderly feeding programs, and none of it is protected from the Gramm-Rudman cuts.

DEFENSE

In the Defense portion of the resolution, there are three significant changes to the resolution considered earlier this week.

First, the number has changed. The document before you today is $1.3 billion below the first resolution. Reductions were made to procurement and research accounts and the bill now is $281.2 billion, just $4 billion above the 1985 level, almost $23 billion below the request, $4.6 billion above the House-passed bill, and $6.9 billion below the Senate version.

Second, the Senate finally agreed to accept one of the procurement reforms too important to many of us in the House. We didn't get all we wanted, but it is a start. The language agreed to last night strengthened the current authorization language regarding costs allowed to be charged against a contract in two significant areas. The Department of Defense will now be required by law to inform Congress of the definitions, exclusions, limitations, and qualifications regarding allowable costs prior to the publication of the regulations. Congress now will be a participant in the process of tightening up on such costs allowed in order to stop country club dues, vacations, dog kennel charges, and other ridiculous charges from being passed on to the taxpayers by defense contractors.

The conferees also direct the Comptroller General to evaluate on a recurring basis the effectiveness of the Department's policies in eliminating unallowable costs to be charged against defense contracts.

The third major change has to do with what many members saw as a potential slush fund for use by defense as a hedge against Gramm-Rudman cuts.

That was never the intent of the conferees at the time we first fenced $6.3 billion in prior year unobligated balances. But, because of a combination of misinformation and misunderstanding, many Members weren't convinced the fence around the money was strong enough or high enough to keep the Department from playing games with us.

And so, the fence is stronger in the resolution now before you. The $6.3 billion remains, but the law is more specific.

That money may be used only to pay retirement costs which are required by current law but for which funding was reduced in anticipation of future legislation which may or may not be enacted by next summer.

The money may also be used, as spelled out in the bill, to cover the military pay raise which went into effect last October.

Money is fenced for the Mariner Fund—the build and charter proposal, should it ever be authorized.

The Coast Guard receives an additional $140 million to bring that service closer to meeting the requirements of its wartime

mission. In all, $475 million is in the bill for that Coast Guard purpose.

And finally, the money is fenced to provided additional funds for conventional force readiness—training, flying hours, steaming hours, and the like, as we attempt to make conventional forces stronger reducing our reliance on nuclear forces to address a crisis.

In each category, the funds are subject to the usual reprogramming procedures of the Appropriations Committee.

Justification documents and supporting data must accompany each request for use of these moneys. In many cases, hearings will be held.

But in no case, as is spelled out in the bill, may the Department use any of the funds in this account, or any other funds made available in the bill, to offset the impact of sequester orders brought about by Gramm-Rudman.

Defense will take its share of the hits, and there is no cushion in this bill to soften the blow.

Mr. Speaker, the conferees on the Defense portion did a magnificent job in not only winning additional concessions from the Senate on three major points, they also somehow managed to keep the fragile agreements reached earlier this week, from coming completely apart although at times the conference showed signs of coming unstuck.

I repeat what I said with regard to the earlier agreement: It isn't all I would like it to be.

But the Defense sections are a little lower in dollars, a little tougher on contractors, and a little more restrictive on expenditures than the earlier version.

We made progress without having to give up a single point in other ways.

It isn't perfect, but conferences don't produce perfection. They produce compromise.

That is what we have before us as regards Defense. It is the best we could do, and far more than I would have thought we would get when we began the second round with the Senate.

It merits our support.

LEGISLATIVE

Mr. Speaker, first of all let me address the items in the legislative section of the bill. There was a great deal of concern expressed on the floor last Monday, and unfortunately a great deal of misinformation, about what we did on congressional salaries and honoraria.

In regard to honoraria, the Senate added language to the bill which, on the face of it, would deny to an elected Member of Congress the right to continue his or her profession or professional relationships after being elected to Congress. That language raised serious constitutional and practical questions about the ability or willingness of individuals to serve in this body, especially to serve only one or two terms.

The House allows its Members to continue such relationships with full disclosure required to the Ethics Committee, and the House conferees strongly objected to the Senate language. Not only do we require full disclosure, any income earned by such activities is limited, along with honoraria, to a total of 30 percent of our congressional salary.

But let us look at the real reason for this Senate amendment. I submit that this was but the latest spasm of Senate frenzy against any restraints on what they regard as an unlimited right to honoraria income earned because of their position as U.S. Senators.

This is not a new objective, only a new tactic. It is aimed at an amendment which I offered, along with 122 cosponsors, in 1983, limiting House and Senate income from honoraria for speeches, appearances, and articles to 30 percent of congressional salary. That amendment was enacted as part of the fiscal year 1983 supplemental, Public Law 98–63.

Using a perverted sense of compromise, the Senate hoped that the House conferees would eliminate the honoraria limit in current law, in exchange for knocking out the new total restriction on income from your profession or professional relationships. The House conferees refused, and rightly so.

The Senate amendment was poorly conceived and poorly drafted. Necessary definitions as to its provisions would presumably have been determined by the Attorney General of the United States. A notoriously political office in most of the administrations since I have been around here.

But the Senate adamantly refused, after 2 days of wrangling, to give up on relaxing the honoraria limitation. In one of the last agreements in the conference last night, the Senate conferees voted 7 to 5 to insist on raising the limitation from 30 percent of salary to 40 percent. House conferees refused to allow this provision to apply to the House, and that is what we have brought back.

While the Senate will be taking a 10-percent increase in their honoraria limitation, amounting to $7,510 per year, language in the statement of the managers stipulates that this only affects the Senate. House Members will continue to be bound by House Rule 47, which limits outside income from honoraria and other sources to 30 percent of salary.

The other body may be greedy, but we refuse to take this increase. I hope our friends in the press gallery are paying better attention than they did when this issue came up a couple of days ago.

Turning to the pay issue, even more misinformation is being spread about what is in this resolution than on the honoraria issue. The 6:30 newscast this morning on national public radio stated flatly that the continuing resolution included a pay increase for Members of Congress. By 7:30, this had been corrected, but many of your constituents may have left for work by that time.

Nothing in this resolution provides a pay raise for Members of Congress.

Are you listening up there?

Read my lips.

Nothing in this resolution provides a pay raise for Members of Congress.

That is what the resolution does not do. What does the resolution do?

The Senate amendment agreed to by the House conferees amends title II of the United States Code in regard to the procedures to be used in response to recommendations of the Commission on Executive, Legislative and Judicial Salaries. This Commission was established in 1967 to review the rates of pay of senior officials in all three branches of the Government. The Commission is composed of three members appointed by the President, two by the President of the Senate—in other words, the Vice President—two by the Speaker of the House, and two by the Chief Justice of the Supreme Court.

After reviewing pay rates, the Commission reports to the President any recommendations for changes. The President then reports such recommendations, along with his own recommendations as to exact rates of pay, to the Congress.

Under current law, such Presidential recommendations can be vetoed by a vote by either House. As you are all aware, this is now in violation of the Supreme Court's Chadha decision against one-House vetoes.

The changes proposed in this resolution to avoid the problem with the Chadha decision were proposed by the Commission itself. The major effect of the changes is the requirement that any Commission recommendations sent up by the President would be subject to disapproval by a joint resolution agreed to by the Congress—that is both Houses—and signed by the President.

That is all this amendment does. It meets the requirements of the Chadha decision. It is a technical but necessary change.

The next recommendations of the Commission are expected at the end of next year. Congress would consider any recommended changes sent up by President Reagan early in 1987. Given the current budgetary circumstances and the record of this President, it is at best uncertain whether any changes would be sent up—at least any changes of an upward nature.

In any event, Congress can vote to disapprove any such changes. That is the vote for or against a pay raise. The vote today is not a vote on that issue.

I hope that with these reassurances that nothing in this conference agreement affects salaries or honoraria for Members of the House of Representatives, that all Members of this body will be able to support this agreement in good conscience.

TRANSPORTATION

In the Transportation section of the CR, we made two changes. First of all, we dropped the Senate provision making permanent the temporary requirement that States adopt a drinking age of 21 years old, or face a percentage cut in their highway funds. As a Representative whose district includes a "blood border" with Vermont, I think we may have erred in dropping this provision. But because it was a matter of controversy, and obviously of great concern to a number of Members last Monday night, it was deleted.

In addition, we needed to cut approximately $50 million from the Transportation section of the bill. That cut came from the Coast Guard's procurement account. I opposed that cut, because I thought it should have been spread between the Coast Guard and other, larger, procurement programs with significant unexpended balance carryovers.

Fortunately, we were able to make up for this cut in the Defense section of the bill, where $140 million of the Defense Department's unobligated balances were earmarked for the Navy/Coast Guard Coastal Defense Augmentation effort.

This brings the Coastal Defense Augmentation Program up to the Senate's original level of $375 million, to be used for patrol boats, C-130's, advanced radar, medium-range helicopters, tugs, and related equipment. When added to the $217 million in the Coast Guard's regular procurement account, it amounts to a significant level of resources to give the Coast Guard the tools it needs to perform its many critical missions.

Although there was no change, I do want to stress for my colleagues who were concerned about Coast Guard operating expenses that we have provided a total of $1.752 billion—$1.652 billion in the Transportation section and $100 million resulting from my amendment to the Defense bill. That amount should be adequate to permit the continuation of all ongoing Coast Guard missions, as well as to prevent the closure of the Great Lakes stations that were slated for consolidation under the original Coast Guard budget.

Again, maybe I got carried away, but I want to get back to the focal point. I hope you will all vote for the CR. It is a good CR. We worked hard on it. There are a lot of things in here maybe you do not like and a lot of things that I do not like, but taken as a whole, it is a good CR. I hope we can pass it and you can all go home with your families and enjoy yourselves. Have a Merry Christmas and a Happy New Year.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise to express concern over one provision in the CR. We have cleaned up some of the problems dealing with government procurement, but unfortunately, congressional procurement did not get reformed. So there is language in here that would permit the honoraria for the Senate Members to increase to 40 percent of income. I think that is pretty hard to swallow at a time when so many of our people are having trouble.

Then we get to another provision which says that the Quadrennial Commission that will meet next year to approve pay raises for Members of the Congress, in order for their recommendations to be disapproved, that is, not to go into effect, it will be necessary for a vote of both Houses of Congress in opposition and the President must sign that bill making in opposition. There is as much chance of that as me flying safely off the Capitol.

Finally, Mr. Speaker, I would just like to say that in this day of Gramm-Rudman, the theory has been that if you cannot agree on spending cuts, there will be automatic cuts. This goes the other way. Apparently if you cannot agree on pay increases, there will be automatic pay increases, and that concerns me greatly.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I just want to make one observation. In regard to the pay commission, that will not apply in the 99th Congress. It will be in the 100th Congress, a new Congress. There will be a new Congress coming in.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO], a member of the committee.

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman yielding me this time.

I simply would like to reiterate the point that the gentleman from Massachusetts was making. This is not a foolproof process. The Quadrennial Commission law needs reform. It violates the Constitution in the sense that we no longer can use the legislative veto after the Chadha decision was rendered by the Supreme Court. Consequently, there is the possibility that a new commission, which will be appointed sometime in 1986, may make recommendations covering the 3,150 top level personnel in the Government. Those recommendations, or alternative ones, may be forwarded to the Congress by the President early in the 100th Congress in 1987 and, depending on how the process works, they may go into effect.

But, there is no pay raise in this bill and the increase in honoraria will only affect the Senate.

Mr. Speaker, in general, let me simply say that we do not find ourselves here today in a state of anarchy that confronted us the other night when we defeated the conference report. We have worked on the bill and, I think, calmed down and realized that it is time that we go about the business of celebrating the holidays with our families, leaving these matters behind us here.

We are not proud of every item in this product, but most of them are worthy of our support. It is the best we can do and we need to pass it.

I would like to tell my colleagues that the difficulty of dealing with these omnibus measures is only going to be exacerbated by the Gramm-Rudman process. We are going to be here in this situation many times during the next several years unitl the plague leaves us.

I hope we will be able to work out our differences, because they are vast and wide, with the spirit of comity that the Appropriations Committee provides the House. There are many fine people in both parties who work together to resolve the problems that the whole Congress faces. We are not getting the help from the executive branch that we would like to have, but the committee serves this body well with its ability to reconcile differences and compromise what seem to be impossible issues.

I hope that we can continue to work together. I know we are going to come under even more pressure as we face Gramm-Rudman, but we do provide, I think, some hope for the Congress. I hope we come back in January, tackle the budget process, as the gentleman from Iowa urged earlier, with speed and diligence and let the Appropriations Committee do its work. As always we will serve you well if you will let us.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I urge support for this continuing resolution.

Amazingly, we have a procurement reform, and I say amazingly because the other body was adamant that we would have none. It was only because of the tenacity of our House colleagues, Congressmen ADDABBO, CHAPPELL, MURTHA, MCDADE, FRANK, MILLER, FAZIO, AUCOIN, and DICKS, that we have prevailed.

Now, what have we won? We have won our allowable cost law. There will now be clarification of the definitions of the vast gray areas between allowable and unallowable cost. It is such gray areas that have contractors charging off on the taxpayers fancy parties and fancy lifestyles that should be prohibited.

For 25 years, the Pentagon has resisted requests to tighten up cost principles. The legacy of their neglect of those notorious revelations of boarding fees, for, first, the dogs, memberships, country clubs, and customized mattresses, all for contractor bigwigs.

Now, we did not win 75 percent of the reforms that we should have won, but we have prevailed in our efforts to win concessions of procurement reform from the other body. This is major. We have shown that we have the guts and the commitment to get the job done and we have walked tall. Even those of us who are 5 feet tall, we have walked tall, because we have made that other body come to grips with us.

We will continue our important work of procurement reform with the American people behind us.

Again, Mr. Speaker, I thank my colleagues for their incredible legislative skills. I go home to my family feeling that we have done a very good job.

Mr. WHITTEN. Mr. Speaker, to wind up the debate, may I express the hope that everyone will support us today. I wish everybody a merry Christmas and a happy holiday.

Mr. Speaker, I yield the remaining time to the gentleman from Florida [Mr. BENNETT], an outstanding member of the authorizing Committee on Armed Services.

Mr. BENNETT. Mr. Speaker, I thank the gentleman very much.

I congratulate the gentleman from Mississippi and the gentleman from Florida and the gentleman from New York and all the others that brought this forward.

I plan to vote for the passage of this bill, as I did before when it was before us, because there has to come an end eventually to legislation and we are at the end of the session.

Like the gentlewoman from California, I feel that great advances were made in the field of procurement reform. I think that was a difficult problem for the Appropriations Committee to have to handle. It is not logical that they have to handle it, but they did handle it, and I congratulate them upon it.

Of course, there are things we ought to do in the future. There are more procurement reforms that ought to be enacted, but I am sure that will happen in the next session, in the months to follow.

So to conclude my remarks, I want to say, I think I express on behalf of all Members of Congress that we congratulate this committee on the fine work that it did under very difficult circumstances. They brought forth, I think, a very good bill.

I would like to see more money for defense than was there, but I still feel it is the best we can do under the circumstances.

I congratulate the committee and hope we can all have a Merry Christmas.

Mr. BROWN of California. Mr. Speaker, I'd like to take this opportunity to extend my special appreciation for those members of the appropriations conference who worked so hard to obtain a bilateral antisatellite [Asat] test moratorium in the continuing resolution. This issue has been of particular concern to me for several years, but the need for such a moratorium has never been more important. On the eve of the conference agreement on the Asat moratorium language, the administration launched two new Asat target vehicles. Without this moratorium, additional Asat tests were imminent. With two more successful tests, the Air Force could have declared the system operational, and begun the process of full deployment.

This administration continues to flaunt the will of the Congress. Last year, the House and Senate agreed on a compromise in which the administration was required to submit a certification report to Congress prior to conducting a test. The President was required to certify four basic elements: First, that the United States is negotiating, in good faith, an Asat treaty with the Soviet Union; second, that the Asat test is necessary to our national security; third, that such a test would not impair prospects for negotiating on Asat's; and fourth, that the test is not a violation of the Anti-Ballistic Missile Treaty of 1972. In August, a report was submitted which was so flawed, and such a pious fraud, that it was indefensible. It seems clear to many in the Congress that this administration will undertake no arms control measures until the Congress mandates it by language such as we now have in the continuing resolution, or possibly takes even more forceful steps.

Today's action on the moratorium meets those four basic criteria set out in previous law in a simple, yet direct way, without damaging our national security. It states simply—and without complex diplomatic maneuverings—that the United States will not test an Asat system against objects in space as long as the Soviets refrain from doing so. No loopholes, no questionable language. It sends a clear and unequivocable message to the administration that the Congress intends to act in a responsible manner with regard to arms control, even if it refuses to do so.

The moratorium costs us nothing. There's no increase in Pentagon expenditures. Yet it insures that both the U.S. and the U.S.S.R. will be able to maintain survivable satellites systems—a key security element. The Soviet's present system, which has failed most of its tests, is probably less effective than the system which the United States dismantled 10 years ago. The moratorium will insure that neither superpower will have a modern effective Asat.

There's never been a plausible scenario for the use of Asat's, except as part of a first strike attack in an all-out nuclear war. In that scenario, all space assets on both sides will probably be destroyed by nuclear explosions in space anyway. Thus the United States, which has far more and far superior satellites, will be able to maintain its key intelligence gathering capability during peacetime without fear of attack. And the danger of nuclear war through accidental satellite malfunction will be substantially reduced.

The Asat test ban is true arms control at its best. It is unquestionably bilateral—we won't test if you don't. It is verifiable through the very technology—satellites—that Asat's are intended to destroy. And it not only saves billions of dollars for the weapon, it also protects our substantial investments in space.

Again, I express my deepest appreciation for all of those who have worked hard on this endeavor both in and out of the conference, and for that matter in and out of Congress. I have no grand illusion that this moratorium will insure anything more than what it states—a bilateral ban on Asat testing for the next year. Yet, as John Kennedy noted:

Peace is a daily, a weekly, a monthly process, gradually changing opinion, slowly eroding old barriers, quietly building new structures. And however undramatic the pursuit of peace, the pursuit must go on.

The Asat ban is by no means the end—it is not even the beginning—but merely one of a series of those undramatic pursuits which of necessity must go on. Today, Congress has the opportunity to deliver a small package of hope to the American and Soviet people in this season of peace. Then it has an obligation to continue the pursuit of peace, and the end of the nuclear arms race, throughout the next year.

Mr. MONTGOMERY. Mr. Speaker, I just want to congratulate the conferees on their hard work.

In particular, I want to thank the conferees on the defense portion for retaining the language prohibiting the expenditure of funds unless they are authorized. The House and the Congress reviewed each of the defense programs carefully during the authorization process and this language will ensure that funds for every defense program will receive the necessary review before the money can be spent.

Mr. FORD of Michigan. Mr. Speaker, there has been some confusion over a Senate amendment to the continuing resolution. That amendment would revise the statute which provides for the so-called Quadrennial Commission so that the procedures under which recommendations made by that Commission are considered would meet the constitutional requirements enunciated in the Supreme Court's Chadha decision concerning legislative vetoes. The existing Quadrennial Commission legislation contains a legislative veto provision, a process declared unconstitutional in Chadha.

Mr. Speaker, some Members have expressed concern that the Senate amendment will result in an automatic pay increase for Members, and one Member even has gone so far as to say the increase would be to a rate close to $100,000. As chairman of the Committee on Post Office and Civil Service, the committee with jurisdiction over the Quadrennial Commission Act, I want to assure my colleagues that nothing could be further from the truth.

The act requires the appointment of a Commission of private citizens every 4 years to review the rates of pay for Members and other top Government officials and to recommend to the President appropriate changes in those rates. It then requires the President, after considering the Commission's recommendations, to submit his own recommendations to the Congress. Finally, it provides that these recommendations will go into effect only if approved by both Houses of Congress. There is no requirement that the congressional action be presented to the President for his signature.

The most recent Commission was appointed early this year. Recognizing that the procedure required by the act might be

unconstitutional under the Chadha decision, the Commission asked the Department of Justice for its opinion on the matter. On March 29, 1985, the Assistant Attorney General, Office of Legal Counsel, responded that the existing procedure was unconstitutional. According to the Assistant Attorney General:

We believe that [the Act] contains a legislative veto device that is unconstitutional under the Court's rationale in Chadha. Approval by Congress of revised salary levels is clearly "legislative action" that has "the purpose and effect of altering the legal rights, duties and relations of persons * * * outside the legislative branch," 103 S. Ct. at 2784. Congress can therefore act only in accordance with the "single finely wrought and exhaustively considered, procedure" set forth in the Constitution for legislative action—passage by both Houses and submission of the legislation to the President. *Id.* Because [the Act] purports to authorize Congress to enact salary levels without presentment to the President, it falls squarely within the Court's reasoning in Chadha.

The Assistant Attorney General then addressed the question of the constitutionality of "a statute that delegates to the President the authority to establish new salary levels for the covered individuals, based on certain criteria, but that would also give Congress a certain time period before those salaries take effect to enact legislation disapproving the new levels." He concluded:

Provided that such disapproval legislation would then be presented to the President for his signature or veto, in accordance with Art. 1, sec. 7 of the Constitution, such a scheme would satisfy the requirements of Chadha.

Mr. Speaker, because of the constitutional defect in existing law, last year's Commission was impotent to put into motion the machinery for a review of the pay rates for top level Government officials which would have any possiblity of resulting in appropriate changes in those rates. It did, however, recommend legislation which would cure the constitutional defect and which would mandate the appointment of an interim commission to make appropriate recommendations to the President—recommendations which then would be before the Congress in 1987. This recommended legislation was added to the continuing resolution by the Senate. It cures the constitutional defect in existing law. It does not preclude the Congress from working its will on any recommendations which may be forthcoming in the future.

Mr. Speaker, I again emphasize that the Senate amendment is not an "automatic pay raise." It does not specify or even suggest that changes in congressional pay are necessary or desirable. To characterize it as doing these things is wrong. What it does do is cure an unconstitutional statute by providing a mechanism for careful, constitutional reviews of pay rates for top Government officials in the future.

Mr. RICHARDSON. Mr. Speaker, the Appropriations Conference Committee adopted several amendments to the Department of the Interior appropriations bill provisions pertaining to the Navajo and Hopi relocation program. One of the amendments provides as follows:

Provided further, That none of the funds contained in this or any other Act may be used to evict any Navajo household who, as of November 30, 1985, is physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household.

It is my understanding of this amendment that it is intended to permit Navajo families to continue to reside on lands partitioned to the Hopi Tribe without fear of eviction after the July 7, 1986, deadline for completion of the relocation program. The conference committee has accurately recognized the fact that hundreds of Navajo families will not be relocated from Hopi lands by the July 7, 1986, the replacement homes and related facilities which are required to be provided to them by the mandate of Public Law 93–531, the Navajo and Hopi Settlement Act of 1974.

It is my understanding that the committee, by adopting this amendment, intends to ensure that all Navajo relocatees will receive the full measure of the benefits provided by Public Law 93–531 prior to their removal from Hopi lands. The benefits to be provided include compensation for their dwellings, replacement homes and "related community facilities such as water, sewer, roads, schools, and health facilities." Finally, I would like to note that the amendment in no way alters the duty of the Navajo and Hopi Indian Relocation Commission to minimize the adverse "social, economic, cultural and other impacts" of relocation of these Navajo families.

Mr. BEDELL. Mr. Speaker, I must reluctantly oppose this conference report on House Joint Resolution 465, the continuing appropriations resolution to fund the operations of several Government agencies through the end of this fiscal year. Last week, we entered a new budget era by passing the Gramm-Rudman balanced budget law. That law is intended to force hard budget choices and is based on the principle of sharing equally the pain of deficit reduction. This bill before us avoids the hard choices for the military and protects the military budget from its fair share of cuts. It is business as usual.

Those of us who oppose this bill today are told to wait until next year. We cannot wait until next year. Next year the Gramm-Rudman balanced budget law will require cuts elsewhere to make up for any increases in the deficit due to increased defense spending. The bigger the deficit next year, the bigger the required cuts. The mandatory cuts will come out of agriculture, education, community development and almost every other Federal program.

I appreciate the heroic efforts of the House conferees to obtain the best bill possible in the face of adamant intransigence on the part of the Senate conferees right up to what will probably be the last day of this year's session. But here we are, presented with a huge package bill appropriating hundreds of billions of dollars and allowed one yes-or-no vote on whether or not to keep the Government running. Some will say that there is nothing unusual about this, and that we do this every year. Unfortunately, this is true. This year, much of the fault lies with the Senate, since we in the House had acted on 12 of the 13 regular appropriations bills over 1 month ago, but they languished while the Senate failed to act.

Ultimately, however, I cannot accept the Senate's delay and intransigence up to the last minute as a reason to support a bill which must be judged on its own merits. Iowans of all political beliefs have told me again and again that they support an across-the-board budget freeze which applies to the military and does not allow any increases for inflation. They have also told me that they strongly support tough provisions to end defense contractor ripoffs.

The House affirmed these positions early this year. First, the House voted a budget resolution that would have frozen the total 1986 defense budget at the fiscal 1985 level of $292 billion. Second, the House upheld this position when it voted 301 to 115 to reduce the defense authorization bill by $10 billion in order to bring it in line with the House budget resolution figure of $302. This defense authorization bill also contained four strong provisions to end defense contract ripoffs and reform our procurement system. Third, the House voted October 30 for a defense appropriations bill that would have frozen total defense spending at $292 billion.

Ever since, we have been under constant pressure from the Senate to cave in, increase defense spending and throw out defense contractor procurement reforms.

First, House negotiators brought back to us the House-Senate compromise on the budget resolution. It allowed a maximum of $302 billion for defense, a $10 billion increase. But, we were told, that number was just a maximum planning number and, when we considered the actual defense spending bills, we could spend less. I voted against that budget resolution because I didn't believe we would spend a dime less.

Second, we considered the House-Senate compromise version of the defense authorization bill, which sets defense policy and spending levels. As the Senate insisted, the bill allowed a $10 billion increase for defense, which pushed total defense spending to $302 billion. Furthermore, all defense contract procurement reforms were thrown out. Those of us who protested were told that our concerns would be addressed in the defense appropriations bill, which actually lays out dollars.

Finally, here we are on the last day of the session considering a huge spending bill that includes the House-Senate compromise version of the defense appropriations bill. It obligates total defense spending of $303.9 billion, which is $11 billion more than originally approved by the House. In addition, it includes only one of the four defense contract procurement reforms we sought, and in a watered-down form. Those of us who protest are told to "wait until next year."

We cannot wait until next year to reduce the budget deficit, control defense spending or end defense contract ripoffs. I will vote against this bill today.

I would, however, like to again commend the negotiators for the House for obtaining the prohibition on flight testing of antisatellite weapons unless the President certifies that the Soviet Union has conducted a test of such a weapon. This effort toward mutual arms control is a crucial attempt to avoid a qualitative escalation of the arms race in space. In addition, although many important procurement reforms voted by the House were omitted from the final bill, I commend the conferees for obtaining a compromise version of the allowable cost procurement reform supported overwhelmingly by the House. This provision moves in the direction of ending the outrageous practice of certain defense contractors of charging the Government for costs such as that of boarding dogs.

Mr. LEVINE of California. Mr. Speaker, I rise in support of House Joint Resolution 465.

While I support House Joint Resolution 465, I have serious reservations about the Defense portions of this bill, even though I am pleased to see that the moratorium on Asat testing passed by the House has been retained in the conference report.

From a budgetary standpoint, the conference report on the continuing resolution provides the Department of Defense with additional billions of dollars over the house-passed appropriations level of $292.6 billion. This is the second time during the fiscal year 1986 spending cycle that a conference agreement has leaned toward the higher Defense spending levels of the other body. Certainly I applaud the conferees' actions yesterday to cut $1.3 billion from Defense and to fence in the $6.3 billion of previously unobligated funds.

Nonetheless, the spending level still exceeds that passed twice by the House. At a time of ever-increasing budget deficits, at a time when Congress has passed the Gramm/Rudman/Hollings balanced budget amendment—which will mandate across-the-board cuts in many vital domestic programs—and at a time when studies have shown that billions of dollars worth of waste can be cut out of the defense budget without harming national security, I find the conference action especially disturbing.

From a substantive and perhaps more important standpoint, this conference report practically ignores the House will on military procurement reform. This body has voted by overwhelming margins on several occasions to put into law reforms which would fundamentally change the way the Pentagon does business. Amendments on multiple sourcing, revolving door, allowable cost, and should cost would all help impose some fiscal discipline on the Pentagon, and would show the public that we in Congress are taking serious steps to combat waste, fraud, and abuse.

Sadly certain Members in the other body do not see these procurement reforms in such a positive light. Indeed, during the authorization conference, all four reforms were weakened to the point where they would have little, if any effect. During the continuing resolution conference, the other body did not even bother to weaken the reforms; they chose instead to throw them out. Mr. Speaker, this action calls into question the validity of a process in which the will of one body of Congress can be so blatantly ignored. I certainly applaud the diligent efforts of my colleagues Mr. CHAPPELL and Mr. ADDABBO to ensure that certain provisions of allowable cost made it into this continuing resolution, however, that alone is not enough.

Mr. Speaker, I did not choose to vote against the continuing resolution on Monday night, and I will not vote against it this time either. I do not believe that the wheels of government should come to a grinding halt because of procurement reforms or any other single issue with which I disagree, however important it may be. And certainly there is much that I support in this continuing resolution. However, this should not be taken as an indication that I, along with my reform colleagues who also voted for the continuing resolution, do not take procurement reforms seriously.

Mr. Speaker, let there be no mistake—we will be back next year.

Mr. KRAMER. Mr. Speaker, again we find ourselves debating important legislation which contains a provision portraying the Synthetic Fuels Corporation as a drain on our Federal Treasury.

If I agreed with that prognosis—that our synthetic fuels program was harming our Nation and that it was an obstacle in our struggle to balance the budget—I would be first in line calling for its abolition. But I am as committed as anyone here to cutting the deficit. I'm not afraid to make difficult choices, and my record will bear out my claim.

But in the case of synthetic fuels, we're not just talking about dollars and cents. We're talking about energy security. About the vulnerability of our country to the whims of a foreign government. And we're also talking about fairness, and the ability of our Government to keep its word.

The specifics are Cathedral Bluffs, an oil shale project which this resolution would destroy, and Parachute Creek, which would be severely harmed. These projects were part of the vision of an energy independent America—one which would never again be under the thumb of the OPEC cartel.

While I certainly do not condone mismanagement and the abuses that have taken place with the SFC, I believe that to abandon this protective shield against a future energy crisis—just because energy is plentiful today—would seem extremely shortsighted. Passage of this resolution would shatter any chance we might have had of developing a viable, and totally American fuel supply.

And to those of you claiming that a synthetic fuels program is unnecessary because oil is cheap, I would like to remind you of long lines at the gas stations just a few short years ago, of the factories shutdown because there was not enough energy to run them and of the farmers without sufficient fuel to plant and harvest their crops. The good times we're having today—plentiful, moderately priced fuel, sufficient energy to keep the fires of industry burning—will not last forever without vision.

Based on this vision and the word of the Federal Government, western Coloradans began to prepare for the development of the vast oil shale resources which stretch for miles across that part of the country. Private companies have invested an estimated $1 billion in the two Colorado projects. These same companies and local governmental units have invested an estimated $330 million on new housing, roads, schools, sewers, and water projects to meet the needs of the expected population growth.

But here we stand again, as Congress one more time tries to pull the rug out from under the citizens of western Colorado who have so faithfully taken their Government at its word. Abandoning them now will not only cause them great personal and community harm, but in the process harm the credibility and the reliability of our Government as well.

Again, I ask you, do not be shortsighted in the matter of synthetic fuels. I urge you to vote against the resolution.

Mr. ASPIN. Mr. Speaker, the status of unauthorized appropriations is an issue that has received substantial attention in both bodies in conjunction with the continuing resolution. This year, in particular, the problem was especially acute as a result of the inclusion by the other body of $7.2 billion of appropriations for defense programs that were not authorized.

Current law (section 138 of title 10, United States Code) requires that no funds be appropriated, obligated or expended unless previously authorized. The bill before us now does provide appropriations in excess of authorizations for some programs. I am disappointed that the conferees could not agree to eliminate all such instances; but I understand, as well, that information received subsequent to the consideration of the Defense Authorization Act could support requirements to fund certain programs that may be of higher priority than those authorized earlier in the year.

I am pleased, however, to note that the conferees adopted the amendment contained in the Senate bill that specifically prohibits the obligation and expenditure of funds for any purpose unless the funds have been otherwise authorized for that purpose. The floor debate in the other body suggested that the language of the provision referred to the account totals contained in the authorizing and appropriating legislation. However, as implied by the language regarding amendment 4 in the statement of managers, in order to determine the programs for which funds have been authorized and appropriated, reliance must be placed on the reports accompanying the authorization and appropriation bills, respectively.

This provision will permit the Committees on Armed Services to review those programs early next year and to provide au-

thorization should the justification be sufficient to demonstrate that these programs merit a higher priority than others previously authorized. Until these programs are authorized, no funds may be obligated or expended on them.

I believe that the provision in the resolution before us affords an excellent procedural solution for addressing the problems caused by the period of time that elapses between the consideration of authorization and appropriation bills.

Mr. Speaker, I want to take this opportunity to express my sincere thanks to the members of the Defense Subcommittee on Appropriations for their invaluable assistance prior to and during the conference on the continuing resolution. In particular, I appreciate the time and energy devoted to this issue by the chairman, the gentleman from New York [Mr. ADDABBO]; the acting chairman, the gentleman from Florida [Mr. CHAPPELL]; and the ranking member, the gentleman from Pennsylvania [Mr. MCDADE]. They could not have been more supportive of our requests. I look forward to working closely with them in the future, not only on substantive matters, but to further promote our joint efforts to ensure the viability of the authorization-appropriation process.

Mr. WEISS. Mr. Speaker, I would like to take this opportunity to explain my support of the conference report on House Joint Resolution 465, making further continuing appropriations for fiscal year 1986.

Many of my colleagues voted against this legislation when it was considered on December 16 because they strongly objected to certain of its provisions relating to defense spending. Specifically, many Members expressed strong concern about the excessive defense spending levels provided for in the legislation, the approval of chemical weapons production, and the lack of procurement reform provisions that had been passed by the House of Representatives.

I strongly share these concerns and feel that they are justified. However, I believe that those who opposed the legislation for these reasons have underestimated the value of another provision that is contained in the conference report. This is the total ban on the testing of antisatellite [Asat] weapons approved by the conferees.

The issues of overall defense spending levels, chemical weapons, and procurement reform are highly important ones. However, if action in these areas is postponed for the next few months, the resulting delay is not likely to dramatically alter United States-Soviet relations or significantly detract from current arms control efforts.

The issue of Asat testing is quite different. The United States proceeded with an Asat test in September of this year, despite a Soviet moratorium on such tests and previously enacted restraints on these tests imposed by the Congress. We have already made significant preparations for two further tests next year.

If Asat testing is permitted to continue, it is likely that Soviet testing of Asats will resume in the near future. The early warning systems of both superpowers will become vulnerable to a surprise first-strike attack, and the danger of nuclear war will increase. We will have contributed to the initiation of an entirely new arms race in space and threatened the prospects for achieving an arms agreement with the Soviets.

On the other hand, if we act to ensure that the stiff new prohibition on Asat tests contained in the continuing resolution is preserved , it is likely that such an arms race can be successfully avoided. The conference committee language denies appropriations for Asat testing under "this or any act," meaing that Asat testing will not be allowed to resume unless specific language repealing the ban is enacted in the future.

This ban on Asat tests will help guarantee the survivability of our early warning and communication satellites, thus reducing the likelihood of a surprise first strike. It will prevent the expenditure of large sums for weaponry that will reduce the security of our Nation. It will aid us in negotiating comprehensive arms agreements with the Soviet Uinon.

Defense spending levels and procurement reforms are important matters that will be debated in the coming months, But the Asat test ban achieved by the conferees represents a golden opportunity to stop an entire arms race before it begins. We cannot let this opportunity slip away. It is for this reason that I voted in favor of the conference report on House Joint Resolution 465 when it was considered and defeated on December 16, and am doing so again today when its passage is likely.

Mr. HORTON. Mr. Speaker, I rise in strong support of the provision in the Defense chapter of the continuing resolution that provides $11.1 million for construction and all related development costs, including costs already incurred in conceptual design, architecture, engineering and other facility and site development activities, for the Microelectronic Engineering and Imaging Sciences Center at Rochester Institute of Technology. The conference agreement recognizes that RIT was forced to begin construction and development activities in order to retain a number of substantial financial pledges made toward construction of the center by private contributors. I commend the conferees for their efforts. The advances made by this facility will make significant contributions to our national security.

The SPEAKER pro tempore. All time has expired.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 137, answered "present" 1, not voting 35, as follows:

[Roll No. 476]

YEAS—261

Ackerman	Foley	Moore
Addabbo	Ford (TN)	Morrison (WA)
Akaka	Fowler	Mrazek
Alexander	Frank	Murphy
Andrews	Frost	Murtha
Annunzio	Gallo	Myers
Anthony	Gaydos	Natcher
Applegate	Gejdenson	Nowak
Aspin	Gephardt	O'Brien
Atkins	Gibbons	Oakar
AuCoin	Gilman	Oberstar
Badham	Gingrich	Obey
Barnard	Gonzalez	Olin
Barnes	Goodling	Ortiz
Bateman	Gradison	Oxley
Beilenson	Gray (PA)	Packard
Bennett	Green	Panetta
Bereuter	Guarini	Parris
Berman	Hall (OH)	Pashayan
Bevill	Hammerschmidt	Pease
Bliley	Hatcher	Pepper
Boehlert	Hawkins	Perkins
Boggs	Hefner	Petri
Boland	Hiler	Pickle
Boner (TN)	Hillis	Pursell
Bonior (MI)	Holt	Quillen
Bonker	Horton	Rahall
Borski	Howard	Rangel
Bosco	Hoyer	Regula
Boucher	Huckaby	Reid
Boxer	Hutto	Rinaldo
Breaux	Ireland	Robinson
Brooks	Jeffords	Rodino
Brown (CA)	Jenkins	Roe
Bryant	Johnson	Roemer
Burton (CA)	Jones (NC)	Rogers
Bustamante	Jones (TN)	Rostenkowski
Byron	Kanjorski	Roukema
Callahan	Kastenmeier	Rowland (CT)
Carney	Kennelly	Rowland (GA)
Carper	Kildee	Roybal
Carr	Kleczka	Rudd
Chandler	Kolter	Sabo
Chappell	Kostmayer	Saxton
Cheney	Leath (TX)	Schaefer
Clay	Lehman (FL)	Schneider
Clinger	Leland	Schulze
Coelho	Lent	Schumer
Coleman (MO)	Levin (MI)	Shaw
Coleman (TX)	Levine (CA)	Shelby
Collins	Lewis (CA)	Sikorski
Conte	Livingston	Sisisky
Conyers	Long	Skeen
Cooper	Lott	Skelton
Coughlin	Lowery (CA)	Slaughter
Courter	Lowry (WA)	Smith (FL)
Coyne	Lujan	Smith (IA)
Darden	Luken	Smith (NE)
Daub	Lundine	Smith, Robert (OR)
Davis	MacKay	Snowe
de la Garza	Madigan	Solarz
Derrick	Manton	Spratt
Dickinson	Markey	Stangeland
Dicks	Martin (NY)	Stenholm
Dingell	Matsui	Stokes
DioGuardi	Mavroules	Stratton
Dixon	Mazzoli	Studds
Donnelly	McCloskey	Sundquist
Downey	McCollum	Swift
Duncan	McDade	Tauzin
Durbin	McHugh	Taylor
Dwyer	McKernan	Thomas (CA)
Eckert (NY)	Mica	Thomas (GA)
Edwards (CA)	Michel	Torres
Emerson	Mikulski	Torricelli
Erdreich	Miller (CA)	Traxler
Evans (IL)	Miller (OH)	Udall
Fascell	Mineta	Valentine
Fazio	Moakley	Vander Jagt
Fish	Molinari	Vento
Flippo	Mollohan	Volkmer
Foglietta	Montgomery	

Walgren	Whitten	Wyden
Waxman	Wilson	Wylie
Weiss	Wolf	Yates
Wheat	Wolpe	Young (AK)
Whitehurst	Wortley	
Whitley	Wright	

NAYS—137

Anderson	Hall, Ralph	Ridge
Archer	Hamilton	Ritter
Armey	Hansen	Roberts
Bartlett	Hartnett	Rose
Barton	Hayes	Roth
Bates	Hendon	Savage
Bedell	Henry	Scheuer
Bentley	Hertel	Schroeder
Bilirakis	Hopkins	Schuette
Boulter	Hubbard	Seiberling
Brown (CO)	Hughes	Sensenbrenner
Broyhill	Hunter	Shuster
Bruce	Hyde	Siljander
Burton (IN)	Jacobs	Slattery
Campbell	Jones (OK)	Smith (NJ)
Chappie	Kasich	Smith, Denny (OR)
Coats	Kemp	Smith, Robert (NH)
Cobey	Kolbe	Snyder
Coble	Kramer	Solomon
Combest	Lagomarsino	Spence
Craig	Lantos	St Germain
Crane	Latta	Staggers
Dannemeyer	Leach (IA)	Stallings
Daschle	Lewis (FL)	Stark
DeLay	Lightfoot	Strang
Dellums	Lloyd	Stump
DeWine	Loeffler	Sweeney
Dorgan (ND)	Lungren	Swindall
Dornan (CA)	Mack	Synar
Dreier	Martin (IL)	Tallon
Dymally	McCain	Tauke
Dyson	McCandless	Towns
Eckart (OH)	McCurdy	Traficant
Edgar	McEwen	Visclosky
Edwards (OK)	McMillan	Vucanovich
English	Meyers	Walker
Evans (IA)	Miller (WA)	Weber
Fawell	Mitchell	Whittaker
Feighan	Moody	Williams
Fiedler	Moorhead	Wise
Fields	Morrison (CT)	Yatron
Franklin	Neal	Young (FL)
Frenzel	Nielson	Zschau
Gekas	Owens	
Glickman	Penny	
Grotberg	Porter	
Gunderson	Ray	

ANSWERED "PRESENT"—1

Crockett

NOT VOTING—35

Biaggi	Gregg	Nelson
Broomfield	Heftel	Nichols
Chapman	Kaptur	Price
Daniel	Kindness	Richardson
Dowdy	LaFalce	Russo
Early	Lehman (CA)	Sharp
Florio	Lipinski	Shumway
Ford (MI)	Marlenee	Watkins
Fuqua	Martinez	Weaver
Garcia	McGrath	Wirth
Gordon	McKinney	Young (MO)
Gray (IL)	Monson	

□ 1335

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Russo against.

Ms. Kaptur for, with Mr. Nichols against.

Mr. Gray of Illinois for, with Mr. LaFalce against.

Messrs. ROSE, GLICKMAN, McMILLAN, SWINDALL, CAMPBELL, WHITTAKER, GEKAS, KOLBE, ZSCHAU, TOWNS, DYMALLY, SCHEUER, NEAL, and GROTBERG changed their votes from "yea" to "nay."

Mr. STOKES and Mr. SCHEUER changed their votes from "nay" to "yea".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SHUMWAY. Mr. Speaker, when the legislative bells rang indicating the vote today at 1:26 p.m., on rollcall No. 476, on the conference report on the continuing resolution, there was evidently a malfunction in my congressional office. Thus, I was unaware of the pending vote and not present on the floor. Had I been present and voting, I would have voted "nay."

DESIGNATION OF HON. JIM WRIGHT TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL DECEMBER 31, 1985

The SPEAKER laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 19, 1985.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore to sign enrolled bills and joint resolutions until December 31, 1985.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

Without objection, the designation is agreed to.

There was no objection.

APPOINTMENT AS MEMBERS OF U.S. DELEGATION OF THE CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276d, the Chair appoints as members of the U.S. delegation of the Canada-United States Interparliamentary Group the following Members on the part of the House:

Mr. BARNES of Maryland, chairman;
Mr. BOLAND of Massachusetts, vice chairman;
Mr. FASCELL of Florida;
Mr. GIBBONS of Florida;
Mr. HAMILTON of Indiana;
Mr. OBERSTAR of Minnesota;
Mr. DONNELLY of Massachusetts;
Mr. BROOMFIELD of Michigan;
Mr. HORTON of New York;
Mr. STANGELAND of Minnesota;
Mr. MARTIN of New York; and
Mr. MILLER of Washington.

APPOINTMENT AS MEMBERS OF THE COMMISSION ON THE UKRAINE FAMINE

The SPEAKER. Pursuant to title V, Public Law 99-180, the Chair appoints as members of the Commission on the Ukraine Famine the following Members on the part of the House:

Mr. MICA of Florida, chairman;
Mr. HERTEL of Michigan;
Mr. BROOMFIELD of Michigan; and
Mr. GILMAN of New York.

DEATH GRATUITY TO SURVIVORS OF MEMBERS OF ARMED FORCES

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 month' housing allowances, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

That section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

(l)(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 90 days.

"(2) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date, or whose dependents vacate such housing sooner than 90 days after the date of the member's death.

The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate 90 days after the date of the member's death.".

SEC. 2. The amendments made by section 1 of this Act shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.

SEC. 3. SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.—Section 401 (c) of Public Law 99-166 is amended to read as follows:

"(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on Janaury 1, 1986.

"(2) The amendment made by subsection (a)(1)(A) shall be deemed to have taken effect on December 12, 1985, with respect to membes who—

"(A) died after December 11, 1985, and before January 1, 1986; and

"(B) were, on the date of death, insured in the amount of $35,000 under subchapter III of chapter 19 of title 38, United States Code.".

Amend the title so as to read: "An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes.".

Mrs. SCHROEDER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentlewoman from Colorado?

Mr. DICKINSON. Mr. Speaker, reserving the right to object, under my reservation I would request the gentlewoman from Colorado [Mrs. SCHROEDER] to explain the resolution. I know it has come back from the other body, and I would ask the gentlewoman to explain the import of what she is offering at the present time.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from Colorado.

□ 1350

Mrs. SCHROEDER. I thank the gentleman from Alabama for yielding.

Mr. Speaker, yesterday morning we passed H.R. 3974 to help the surviving family members of the victims of the Gander crash by supplementing the death gratuity paid to survivors of deceased service members with 2 months' worth of housing allowances. Shortly after we acted, the other body passed legislation on the same subject. Their bill, however, made payments discretionary, not an entitlement.

After some discussions yesterday, we arrived at a compromise. Last evening, the other body took the House-passed bill, struck the text, and inserted the text of the compromise. That is what is before us now.

The compromise authorizes the Secretary of Defense—or the Secretary of Transportation for purposes of the Coast Guard—to permit dependents to remain in family housing for 90 days after the death of the member and to pay the basic allowance for quarters [BAQ] and variable housing allowance [VHA] to those who live off base. The House-passed measure only provided for 60 days worth of benefits.

To avoid creating an undesirable incentive for people to remain in free family housing for the full 3 months, the compromise tells the Secretary to pay the BAQ and VHA to survivors for the remaining time between the time they move out of family housing and the end of the 90 days. While we do not want to create a false incentive to have survivors remain in family housing longer than they otherwise would, we do not want commanding officers to push survivors out before the end of the 90 days. The intent is to be neutral: Let them stay as long as they want, up to 90 days, but don't encourage them, by financial incentives, to remain longer than they otherwise would.

The compromise does not provide for an entitlement. It permits the Secretary to deny those benefits only in the exceptional case where the death does not occur in the line of duty. This "line of duty" language has been in the United States Code since the Revolutionary War and has been interpreted very broadly. Clearly, the people on the flight that crashed in Gander died in the line of duty. An off-duty soldier killed by police while robbing a 7-Eleven would not be killed in the line of duty. The discretion of the Secretary to deny benefits under this compromise is very limited. I would be surprised if there was one denial every 10 years.

Moreover, once benefits are provided, they must be provided for the full 90 days. There is no discretion to provide them for a shorter period.

Under the compromise, people in family housing would continue to live there free. Those off base or in Government housing for which there is a rental charge would continue to pay rent but would continue to receive the BAQ and VHA to pay the rent for 90 days. Essentially, the compromise tries to preserve the status quo for the survivors. So, in the case of a service member who had no dependents and who was living in barracks or aboard ship at the time of death, there would be no additional payment to the estate.

Under the House-passed bill, the benefits were all payable promptly at the time of the service member's death because they were part of the death gratuity. Under the compromise, the benefits are payable just like the BAQ and VHA are now. However, I think it would be appropriate to permit advance payments in cases of special need.

The amendment offered by the gentleman from Mississippi [Mr. MONTGOMERY] was retained in the compromise with a technical correction. The new language specifies that the increased life insurance benefit applies only to those who had previously elected the maximum benefit and only to the Serviceman's Group Life Insurance Program. The Veterans' Affairs Committee agrees to those changes.

I think the compromise is reasonable. We strengthened the bill by extending the benefits from 60 days to 90 days but we weakened the bill by turning it from an entitlement into a discretionary program. I still think this bill is worthy of our strong support.

Mr. DICKINSON. I thank the gentlewoman, and if I might reiterate what I understood to be the answer, yesterday what we authorized was that when anyone is killed on active duty; instead of his housing allowance being immediately terminated, we authorize the Secretary of Defense to extend the housing allowance for his dependents for 2 months.

The Senate amended that, as I understand, by extending it from 2 months to 3 months; but that is the only substantive change within the bill. We are simply saying that if the Senate wants 3 months we will give them 3 months, and it is still discretionary.

Mrs. SCHROEDER. If the gentleman will yield further, there is one other technical provision which I think also makes sense. That is, the Senate says that it can be a payment even if they move out. They do not want to create a false incentive to fill up housing, with people feeling they should live there the entire 3 months, because we know how precious family housing is; and I think all of us would agree that that 3-month transition period is very critical.

So they did that also, and we wanted it to be an absolute entitlement; they made it a tad bit more discretionary, but I think it is so important that it get done that we move on it.

In essence, it is where we were.

Mr. DICKINSON. Well, this only covers the period from December 11 to 31 of this month anyway. A very nominal amount is involved. I think it is not only humanitarian, but it is common sense, and I would certainly urge support of it.

Mrs. SCHROEDER. I thank the gentleman.

Mr. GONZALEZ. Will the gentleman yield?

Mr. DICKINSON. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. GONZALEZ. I really appreciate that, because really I should refer a mixture of a question and a statement to both Members.

As generous as this may sound, I think it is a heinous perversion of priorities. The Arrow private charter airline is still in business with the Defense Department.

The 248 who died were a battalion-size group. We are continuing to do what we did all during Vietnam—that is, we would ship the live soldier on a charter craft over to the receiving point at the scene of battle, and the

only way we would use military craft would be to bring the ashes or the body of that dead soldier back. We continue to do that.

Mr. DICKINSON. All right——

Mr. GONZALEZ. Also——

Mr. DICKINSON. If I might reclaim my time, I think the gentleman might like to hear some facts.

Mr. GONZALEZ. Certainly.

Mr. DICKINSON. This was a peacekeeping group that was sent to the Sinai. It was part of the U.N. team. The U.N. made the contract; the United Nations. They chose from a list of certified, FAA-approved carriers, furnish by the Air Force. The State Department signed the contract.

Now, I have been in touch with the Secretary of Defense. This day I have sent him a letter, and I have assurances from him that not only is the FAA reviewing its certification procedures, but I have urged on him that no more American personnel, regardless of the contract by the United Nations, be allowed to be transported under contract by Arrow until the investigation is completed.

We cannot do more than that, and we have done that. Now, the gentleman can get up here and berate what has happened in the past, but I am telling the gentleman that is how it happened, that is where we are now; there is nothing else we can do about it.

Mr. GONZALEZ. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. GONZALEZ. Let me say this, though. This is just this one case, this one contract.

Mr. DICKINSON. Well, that is all we are dealing with, this one case.

Mr. GONZALEZ. No, but it may be——

Mr. DICKINSON. I am talking about the policy. The United Nations chartered this aircraft; the United Nations. We do not do it.

Mr. GONZALEZ. I know.

Mr. DICKINSON. Well, all right, we are making the FAA reexamine the certification——

Mr. GONZALEZ. I am addressing——

Mr. DICKINSON. And the State Department issued the contract. They are reexamining the whole thing.

Now we can sit here and beat the drum all day, without doing any good; we might make a little press, but that is it.

Mr. GONZALEZ. Well, if the gentleman will kindly yield again.

Mr. DICKINSON. Yes, briefly.

Mr. GONZALEZ. I think the gentleman has not caught the thrust of my inquiry. It has nothing to do with anything but American military; whether they are on the——

Mr. DICKINSON. Would you like them to fly in the belly of a C130 with no chairs in it, or a C5A with no chairs in it? They have to charter commercial aircraft in order to transport people. We do not have enough military aircraft within the Air Force to transport troops without using charter. It has to be.

Now, what else does the gentleman want?

Mr. GONZALEZ. What I want is a change in that policy so that the military will transport the military.

Mr. DICKINSON. I am telling the gentleman that it will—change in the policies; what else can I tell you?

Mr. GONZALEZ. Well, let us get the money in there.

Mrs. SCHROEDER. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman.

Mrs. SCHROEDER. I thank the gentleman from Alabama for yielding. I think what we are doing is missing the point.

Yesterday, Mr. Speaker, when this came up, we talked to the distinguished chairman of the Investigations Subcommittee; he said they are doing everything they can. The distinguished gentleman from Alabama [Mr. DICKINSON] is pointing out what he is doing and basically what we are trying to do is correct this in the law so the families will not suffer anymore; and I think all the other things are on the burner, too, but this is the main thing that we have in front of us today, and it is very important.

Mr. DICKINSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Colorado?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3974, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. There is one remaining bill which must be passed; that being the reconciliation bill, which contains savings to which the Congress has committed itself, and the budget, and also extends certain programs which otherwise will expire.

I understand from the conferees that they are on the verge of an agreement, and that we can expect that bill back and a rule to accompany it by perhaps 4 o'clock this afternoon, and then it would be my purpose, therefore, to ask unanimous consent that, at the option of the Chair, a recess may be declared until 4 o'clock this afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object. At least as far as this gentleman understands, Mr. Speaker, it is our duty to originate the sine die adjournment resolution; that that is to be originated on this side of the Capitol.

Before granting recess authority, I am wondering if we could get some agreement that we will put that resolution for adjournment, sine die adjournment, on the floor at this point; get that business taken care of, so that the only remaining business that we have is the reconciliation bill?

Mr. WRIGHT. If the gentleman will yield.

Mr. WALKER. Be glad to yield under my reservation.

Mr. WRIGHT. It was the wish of the leadership, and I think perhaps it is agreeable to the leadership on your side as well, that we handle that after we have handled the vote upon the reconciliation. We would like for Members to understand that this is an important part of the agenda of the Congress, and rather than passing an adjournment resolution at this time which might convey the mistaken encouragement that Members should expect to go home without an action on the reconciliation bill, we think that it would be more appropriate to offer the reconciliation bill first and then act on our adjournment resolution, which I take it will not be controversial.

□ 1400

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield to me under his reservation?

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Speaker, I would like to point out that the Banking Committee is trying to get something resolved in the housing area, and until such time we still have pending a very important piece of legislation which has to be disposed of, which is an FHA extender.

So I would ask that we not forget the fact that we have to dispose of or

take care of an FHA extender before we leave.

Mr. WALKER. That is exactly my point.

Mr. Speaker, all of a sudden we have not one bill but at least one more bill, and we are going to end up, it seems to me, getting several more unless we get on the record that we intend to adjourn sine die here. It seems to me this may be the appropriate time to bring that resolution to the floor, to adjourn the House sine die upon adjournment of the House today, and begin to move that process forward right now before we get a series of bills out here on the floor.

Mr. FRENZEL. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

If the House recesses, we are likely to be in recess for an extended period of time. All we will do is give the conference committee longer to do all of the wonderful things that it wants to do to put together some kind of a package. If the House stays in session, it will put some pressure on that committee to bring us something in a timely fashion, providing we have passed the adjournment resolution. The gentleman from the Banking Committee, the distinguished chairman, has a bill, Ways and Means Committee has some tax extensions, I am told, and other things.

I think it would be a real mistake to allow this committee to recess because we will run another one of these midnight routes.

Mr. WRIGHT. Mr. Speaker, I withdraw my unanimous-consent request.

SUPPORTING DONATION OF THE FORMER PRESIDENTIAL YACHT "SEQUOIA" TO THE U.S. NAVY

Mr. SISISKY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 98) to recognize the historical significance of the former Presidential yacht *Sequoia*, and express support for her donation to the U.S. Navy by the Presidential Yacht Trust and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. LOWERY of California. Mr. Speaker, reserving the right to object, I shall not object, but I yield to the gentleman from Virginia so that he might explain to the House the details of this legislation.

Mr. Speaker, I yield to the gentleman from Virginia for that purpose.

Mr. SISISKY. I thank the gentleman for yielding.

Mr. Speaker, the former Presidential yacht *Sequoia* is not of great historical significance, but takes on its extraordinary uniqueness in that she is to be returned to service without expense to the American taxpayer.

Sequoia served eight Presidents of the United States over a period of 44 years, from Herbert Hoover to Gerald R. Ford, and a review of her role during that period is much like a synopsis of major world events—from President Roosevelt's shipboard planning of both war and domestic strategy, to President Truman's hosting of the first conference on nuclear controls, to President Nixon's meetings with Soviet President Brezhnev during the 1973 summit.

Following her disposal in 1977 by President Carter, *Sequoia* passed through several private owners before being acquired by the bipartisan, nonprofit Presidential Yacht Trust for historical preservation in 1981. Over the ensuing years, the Presidential Yacht Trust has undertaken informational and public service programs with *Sequoia*, including significant support for other charities and its much acclaimed 1984 national tour which took the *Sequoia* to over 100 cities in 16 States. Through these and other programs, tens of thousands of Americans have had the unique, personal opportunity to visit and demonstrate support for *Sequoia*'s preservation and return to service.

In recent months, the Presidential Yacht Trust, in consultation with the Naval Historical Society, has determined that the proper future and role for the *Sequoia* is her return to service as the Presidential yacht. The trust has undertaken steps that would accomplish such a remarkable comeback of this truly historic vessel under the very best of circumstances.

First, the trust will donate *Sequoia* to the U.S. Navy no later than November 15, 1988, as a gift from the trust and American people.

Second, prior to her donation, *Sequoia* will be totally restored by the trust in preparation for her future service.

Third, at the time of donation, the trust will provide an endowment sufficient for *Sequoia*'s future operations and maintenance.

The *Sequoia* project is first and foremost an effort of significant historical preservation—with the added benefit of her future service at no cost to American taxpayers.

We believe this resolution, endorsing the return of *Sequoia* to Government service, is an important step in assuring continued private financial support of the endowment fund and public awareness of this important project.

Under plans developed by the Presidential Yacht Trust and the Naval Historical Society, the former Presidential yacht *Sequoia* would be returned to service in the U.S. Navy as the Presidential yacht by November 15, 1988, under the following conditions:

First, *Sequoia*'s return to service would be by donation from the Presidential Yacht Trust to the U.S. Navy.

Second, prior to her donation, *Sequoia* would be fully restored—at no cost to the Government—and in first-class operating condition suitable for her new use.

Third, prior to her donation, legislation would be sought to recognize *Sequoia*'s historical importance and to protect her from future disposal.

Fourth, at the time of donation, the Presidential Yacht Trust would provide an endowment sufficient to cover costs of *Sequoia*'s operations and maintenance in perpetuity.

These plans provide for *Sequoia's* return to active service under the very best of circumstances. This historical vessel, which served eight Presidents of the United States would be: First, restored; second, donated by the bipartisan, nonprofit Presidential Yacht Trust as a gift of the American people; and third, available for future service at no cost to the taxpayer.

Mr. LOWERY of California. Further reserving the right to object, as the gentleman from Virginia pointed out, the *Sequoia* is a national treasure. It has been the location of numerous summits. It is very important to our heritage. The Presidential Yacht Trust will turn over the U.S. Navy fully endowed so there will be no further costs to the American taxpayer, no further appropriations.

Mr. Speaker, this measure has been cleared with the minority on the Committee on Armed Services and likewise has been cleared by the Republican leadership, and the U.S. Navy has no objection to its adoption.

Mr. Speaker, I urge approval of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 98

Whereas the former Presidential yacht Sequoia served eight Presidents of the United States, from Herbert Hoover to Gerald R. Ford, over a period of forty-four years;

Whereas the Sequoia was the setting for Presidential meetings, negotiations and decisions of extraordinary significance for and effect on the history of the United States and the course of world events;

Whereas the Sequoia was disposed of in 1977 to reduce Federal expenditures;

Whereas in recognition of Sequoia's unique historical significance, the private, bipartisan, and nonprofit Presidential Yacht Trust was established in 1981 for the purpose of restoring and preserving Sequoia;

Whereas since 1981 many Americans have visited the Sequoia and demonstrated support for her preservation and return to service;

Whereas in response to this support, the Presidential Yacht Trust, in consultation with the United States Navy, has determined that the proper future of the Sequoia is her return to Government service in the United States Navy as the Presidential yacht; and

Whereas the Presidential Yacht Trust has taken steps to fully restore the Sequoia by November 15, 1988, to donate her to the Navy as a gift of the Presidential Yacht Trust and the American people, and to establish an endowment sufficient for her future operation and maintenance: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), that Congress—

(1) recognizes the unique significance of the former Presidential yacht Sequoia which has made her a symbol of American political heritage and the Office of the President;

(2) supports the plans of the Presidential Yacht Trust to donate the Sequoia, with an endowment sufficient for her operations and maintenance, to the United States Navy for service once again as the presidential yacht.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISISKY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 98, the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2451

Mr. SHAW. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 2451.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

RESCINDING APPROVAL OF HOUSE CONCURRENT RESOLUTION 262, CORRECTING ENROLLMENT OF HOUSE JOINT RESOLUTION 187, DIRECTING THE CLERK TO MAKE CORRECTION IN ENROLLMENT OF HOUSE JOINT RESOLUTION 187

Mr. SEIBERLING. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 263), and I ask unanimous consent for its immediate consideration in the House.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 263

Resolved by the House of Representatives (the Senate concurring), That the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, is hereby rescinded and in lieu thereof the Clerk of the House of Representatives shall make the following correction in the enrollment of said H.J. Res. 187, to approve the "Compact of Free Association", and for other purposes:

In the second sentence of subsection (1) of section 105, after the words "Fish and Wildlife Service," insert "the National Marine Fisheries Service,".

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, do I understand this is the legislation that makes a correction in the correction that was made yesterday to the correction that was made several days before that?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield under his reservation?

Mr. WALKER. Mr. Speaker, under my reservation I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

No, this is a correction of the correcting resolution of yesterday which corrected the original bill, the Compact of Free Association.

Yesterday's resolution had a typographical error in it which we did not catch.

Mr. WALKER. Further reserving the right to object, may I inquire of the gentleman, the bill goes no further than that, making that correction?

Mr. SEIBERLING. If the gentleman will yield further, that is absolutely all that it does.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

The concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just acted upon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROVIDING FOR CONSIDERATION OF RESOLUTION REPORTED BY COMMITTEE ON RULES PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3128, DEFICIT REDUCTION AMENDMENTS OF 1985

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 342 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 342

Resolved, That during the remainder of the first session of the Ninety-ninth Congress, the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day reported is hereby waived against any resolution reported from that committee providing for the consideration of a conference report, or any amendment reported from conference in disagreement, on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress).

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 342 is a very simple and straightforward rule. It waives the rule of the House, clause 4(b) of rule XI, which requires that no resolution reported from the Committee on Rules can be considered in the House on the same day it is reported from the Committee on Rules unless the House by a two-thirds vote agrees to consider such resolution. This rule is waived solely for any resolution subsequently reported by the Committee on Rules providing for the consideration of a conference report, or any amendment reported from the conference in disagreement, on the bill H.R. 3128, the Deficit Reduction Amendments of 1985.

Under the provisions of clause 4(b) of rule XI, a two-thirds vote for consideration of a rule in the House on the same day it is reported from the Committee on Rules is not applicable during the last 3 days of the session of Congress. However, since we have not

as of this date adopted an adjournment resolution for the 1st session of the 99th Congress, this provision of clause 4(b) had not become operative to negate the need for a two-thirds vote to consider a rule on the floor on the same day it is reported from the Committee on Rules.

Mr. Speaker, as my colleagues are aware, the conferees on H.R. 3128 are close to reaching agreement on a conference report. Disposition of the Deficit Reduction Amendments of 1985 should be completed before the 1st session of the 99th Congress adjourns. While it is unfortunate that the conference report must be brought forth for this 11th-hour consideration, failure to act would be a grave mistake. The conference report represents the commitment of the Congress to take positive action to implement the fiscal goals we set forth with adoption of the Budget Resolution on August 1. Failure to act will demonstrate that, in fact, we do not have the will to reduce the deficit.

The Rules Committee reported House Resolution 342 earlier this week in anticipation of a late agreement and filing on H.R. 3128. Later today, our committee will hold an emergency meeting and consider a rule waiving points of order against the conference report. Adoption by the House of the rule currently under consideration will permit the consideration of the rule on the conference report today without the requirement that two-thirds of Members present and voting agree to its consideration. The rule reported today would still need the concurrence of a majority of the House to make the conference report in order. Adoption of the resolution now under considering will serve to clear the way for the House to dispose of H.R. 3128 and finally allow the session to come to a close.

Mr. Speaker, I urge adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, very briefly, this rule provides that you can bring up the reconciliation on the same day that the Rules Committee reports it out. The gentleman has indicated we will probably be going into the Rules Committee, if this rule is agreed to, about a quarter of 3. But there are some controversial matters in that conference report on reconciliation. I think that certainly if we are going to pass that conference report on reconciliation today the Rules Committee is going to have to take this under advisement and to make a couple of amendments to that conference report. I have reference to the value-added tax that this House voted on. They voted that they did not want to come up with a new system of taxation that could be added to every time you turn around or every time they needed money.

The chairman of the Committee on Ways and Means was unalterably opposed to it, but, unfortunately, he was rolled in committee.

We now have back, or will have back, before this House a matter that the House has expressed its will on, namely, the value-added tax.

Second, there is an item dealing with teenage pregnancies that the gentleman from Illinois [Mr. HYDE] is very much interested in.

Mr. Speaker, for that purpose I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman.

Mr. Speaker and ladies and gentlemen of the House, this reconciliation bill is going to be very controversial. In addition to the value-added tax and other issues, the bill has within its confines a new program, a Teenage Pregnancy Program, which passed the House with an amendment which said none of the funds in this new program may be used to counsel for abortion or to refer teenage pregnant girls for abortion.

With that proviso, it passed. That was stripped in the conference by the gentlemen in the other body, and they have been intransigent in our efforts to get it back in.

So now we are going to have a new program that provides Federal funds for teenage girls who are pregnant, to counsel them and refer them for abortions.

That is something that I cannot stand idly by and let happen. I am going to resist it as much as I can. I think a defeat of this resolution will go a long way toward perhaps a reconsideration by the conferees at the unwisdom of their injecting this new program with this new proabortion dimension into this important legislation at this late hour.

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, does the gentleman from Ohio have any other requests for time?

Mr. LATTA. If the gentleman will yield, yes, I have three requests for time.

Mr. FROST. Mr. Speaker, I yield 5 minutes, for purposes of debate only, to the majority leader, the gentleman from Texas [Mr. WRIGHT].

□ 1415

Mr. WRIGHT. Mr. Speaker, we are deciding right now whether we can consider the reconciliation bill today or not. If this resolution is voted down, it means one of two things. Either we leave without considering the reconciliation bill and, in so doing, betray the promise we made to make certain deficit reductions, or, on the other hand, it means that we have to be in session tomorrow.

I think everyone has operated upon the clear assumption that this was the last day of the session. We intend to adjourn at the end of the day. I think it would just doom any effort to have a reconciliation bill of any kind if we were to reject this amendment at this time. For that reason, I would plead with Members of all types and political persuasions, whatever their individual objection to any measure contained in the reconciliation bill may be, to weigh that alongside the importance of the House as an institution being able to fulfill its commitment to deficit reduction.

We boldly, and I think honestly and earnestly, made the commitment that we would make the specific reductions in the deficit. If we do not pass this bill, we will have betrayed that commitment. Therefore, it seems to me important that we at least grant the privilege to the Rules Committee of letting us have an opportunity to vote on whatever the conferees agree to, so that a judgment may be made at that time.

If the gentleman from Illinois or others have objections at that time, depending upon what is contained in the conference committee report, they certainly would be within their rights to vote against the conference committee report. But it seems plausible to me that if we were to reject this request, we would either be dooming the Congress to having to be in session tomorrow, which I do not think likely, or even possible, because I do not think we would be able to retain a quorum, or, on the other hand, dooming us to fail to make our commitment to deficit reduction.

Therefore, I would urge the gentlemen to reconsider and not to oppose this rule, but to let us at least consider the conference committee report in a timely way so that whatever happens, then we can adjourn this evening and go home.

Mr. LATTA. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, in response to the majority leader, I am the last person in the world who wants to cause discomfort or slow down the exodus from this city at this time of the year. But sometimes you run into a brick wall and people are, in my characterization, unreasonable. They inject controversial issues into otherwise important bills at the 11th hour, when you have no opportunity to debate them in a deliberative fashion. And so one uses what limited little tools one has. And this happens to be one limited little tool.

So being truthful to myself in what I believe in, I have to do what I can to get some reason to penetrate Mount Olympus where these gentleman reside, and I intend to do so.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, I understand and respect the views of my colleagues on this issue. While I think generally I have stood with my colleague on this issue, and plan to today in committee if this issue is brought up, I will tell him, I do not know where the votes will be in committee, quite frankly. I do not know who is left here this afternoon to vote. But I would hope we would be able to go through with this resolution and pass it and then take it as it comes within the next hour, I suspect, up in the Rules Committee. If we have the votes to sustain the position that both you and I hold to bring it to the floor, then so be it. I cannot assure you that we do, I cannot assure you that we do not. But I hope we would not delay the proceedings here.

Mr. HYDE. Would the gentleman give me some assurances that I would have an opportunity, then, as a result of the rule that is going to be issued shortly, to offer an amendment on the floor to restore the House language to this section?

Mr. BONIOR of Michigan. I would suggest to the gentleman that I will be helpful in trying to get that accomplished upstairs. I cannot guarantee you, though, that we are going to have the votes to do that.

Mr. HYDE. Have you any influence over Mr. FROST, who is sitting there?

Mr. BONIOR of Michigan. Well, he sits in front of me, so——

Mr. LATTA. Mr. Speaker, I yield myself 15 seconds.

Let me assure the gentleman from Illinois that I will do everything I possibly can to see that the House has an opportunity to vote on this matter.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, may I inquire of either of the gentlemen on the Rules Committee if it is possible that this particular request be withdrawn at this time for the purpose of a Rules Committee meeting to, in fact, issue the rule, after which time I think all of us would then be comfortable waiving the two-thirds requirement but up until the time that we are aware of what that rule will contain, not only the concern of the gentleman from Illinois, but let me say this gentleman is most concerned about having to take the VAT, for the purpose of funding Superfund, out of a rule granted for the purpose of reconciliation.

I recognize that is not this body's wish that that particular predicament is posed to us by the other body; but, nonetheless, it is the problem.

So it seems to me we could solve all of this dilemma by knowing what the rule itself would contain and avoid the need for this rule to waive the two-thirds requirement, which is the only protection we have at this point.

I yield to a Rules Committee member for an answer.

Mr. FROST. In answer to the gentleman, the committee will not withdraw the request. The committee intends to proceed with the rule at this point.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. DAUB. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, let me just appeal to the gentleman's broader sense of responsibility.

I respect the view of the gentleman from Illinois with regard to the question of teenage pregnancies and abortion. I respect the view of the gentleman now in the well.

It is impossible to get total agreement on the part of all of our colleagues with regard to the content of a conference committee report. That is what we have conferees for. And I just ask anybody in this House to put against the overriding question his individual objection to something that may or may not be in the rule. If we do not adopt this rule at this time, we are not going to have a reconciliation bill.

Now, if we do not have a reconciliation bill, here is what it will cost the taxpayers of the United States every day of the year to come: It is going to cost $200 million a day.

Now, if you are willing to take that responsibility on your shoulders, vote against this rule. If you are willing to allow us to have the opportunity to adopt a rule when it comes and have a chance to vote in a majority fashion on the conference report, then vote for this rule.

Mr. DAUB. Let me say—and this may not be a direct enough response to the distinguished majority leader—if indeed we waive the two-thirds requirement now, get a rule that includes some of the things that are objectionable, pass that particular reconciliation bill with those matters contained therein, send it to the other body and their intransigence continues, we are still without reconciliation.

I say to the distinguished majority leader and to all of my colleagues that while I would wish reconciliation, I would not wish it at the expense of this body being pushed around on the last day of the session.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, let us make it very clear: We can bring reconciliation to the floor even if we do not have this rule, because the rules of the House allow another rule to be brought out here that would commend a two-thirds vote.

What we are trying to do is get by the rules of the House which demand that if you are going to bring a rule on an emergency basis to the floor, that you get a two-thirds vote.

Well, what will that do? That will put some pressure on the Rules Committee to come up with a rule and make in order a reconciliation bill that has a chance of getting a two-thirds vote on the rule.

What does that mean? Well, it means that they are going to have to deal with the value-added tax issue, it means they are going to have to deal with the abortion issue.

It seems to me that is what we want to force at the present time; we want to have them deal with those two issues in a way that at least gives the Members of this House a chance to speak to those very important issues.

If we pass this rule and confine ourselves to a majority vote, what the majority leader seems to be telling us is, he will not bring reconciliation forward. Then it is his fault. It is not the fault of this House. It will be the fault of the Democratic leadership for not bringing reconciliation forward.

I say we ought to reject this rule and give ourselves the rights for the Members to take up the legislation under the order of the House. The order of the House would command that if we bring a rule to the floor today on this matter, it be passed by two-thirds of the membership. That is what we ought to operate under. There is no reason why the Rules Committee cannot craft a rule on this matter that will get a two-thirds vote here later this afternoon. That is what we ought to do. We ought to reject this rule, we ought to bring forward a rule later on which takes the two-thirds vote, and then we ought to move from there to the reconciliation bill which then would have the support obviously of a majority of the Members of this House.

That is the pattern that is going to get us reconciliation, that is the pattern that is going to save us the $200 million a day. We certainly are not going to get it if we go along with this particular process.

This particular process only assures that those people in the House who want to force down the throats of the American people unacceptable abortion language, and want to force down the throats of the American people a value-added tax, get their way. This particular rule should be rejected.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, if we pass this rule, the House will be conceding any leverage it has on the reconciliation bill.

It has already been pointed out that there are two issues which are drip-

ping with controversy. One of them is the VAT tax which this House rejected very recently. Unless the Rules Committee exercises heroic measures, which I hope it will do, that VAT tax, the national sales tax, will be visited on the United States of America. A majority of this House has said by vote that it does not want that to happen.

Even though we believe that the Rules Committee will do its darndest to take care of the problem in its rules, we have no assurance that it will be able to do so. Without a guarantee, I, and many others, are going to vote against this rule because we don't know the shape of the rule that the Rules Committee will bring to us.

The other item in dispute deals with abortion counseling. I am a little surprised to find myself agreeing with my friend from Illinois [Mr. HYDE] on this subject, but I have no choice. He is dead right. He would be crazy if he gave up the leverage he has, because his uncertainty over abortion must be as great as mine with the VAT. He must protect his position against Senate language not in the House version. I agree with, and will support, that position.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman. from Vermont.

Mr. JEFFORDS. Mr. Speaker, I just want to point out that there is a third issue here about which I raised the awareness of the body before.

Mr. FRENZEL. Be my guest.

Mr. JEFFORDS. Also contained herein, somehow sneaking in, is that we should continue indefinitely the club over the States to raise the drinking age. I intend to vote against the rule for that reason.

Mr. FRENZEL. I thank the gentleman for his contribution. There are at least three highly controversial items, and perhaps more, in the reconciliation bill.

Mr. Speaker, the body ought to be able to see very readily that we have got a big problem here. Members are not going to give up their rights until we see the rule in question.

The problem, Mr. Speaker, is that this House and its leadership has been dilatory in bringing this bill to the floor. In 1981, we had reconciliation in August.

We are obligated by law to pass a budget resolution in May. We should be reconciled before the August recess. Instead, we have sat around and diddled, and picked our nose, and made pious statements, for 6 months. And still the bill was not brought to the floor.

After both Houses passed reconciliation bills we still sat and fiddled for 3 weeks before we went into conference. It is utterly ridiculous that we should sit around here for 6 months for political reasons, and then at the last moment have all of these controversial items dumped on us.

We are being asked to surrender whatever principles we have for the greater glory of saving a few bucks for the majority leader each day. For the record, after subtracting the effect of other bills, there is but $12 billion in savings over 3 years in the bill.

□ 1430

As far as I am concerned, the reconciliation bill was a cream puff to begin with. It is not going to do a great deal of good for our budget distress. It would be better if we went back and started over again.

Mr. Speaker, I urge a no vote on the rule.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, let me just point out one thing that we seem to be overlooking here. All this rule does is to provide that we will not have to have a two-thirds vote to bring up the rule that might come out in the Rules Committee, and as the majority leader has pointed out, we could be in session tomorrow, so we would not have to have a two-thirds vote if this goes down.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, the gentleman is absolutely correct. I agree 100 percent with the position taken by the gentleman from Minnesota [Mr. FRENZEL]. I agree 100 percent with the position on the issue here as advocated by the gentleman from Illinois [Mr. HYDE]. If Members would work as hard on sustaining the majorities that they have sustained on a bad issue or on the abortion issue as the gentleman from Minnesota [Mr. FRENZEL] has challenged the leadership of this House to work, there would not be any problem.

If Members want to get out of here tomorrow, we have got to pass this resolution today, and we will bring a rule here to the floor which will give them, I believe, an opportunity to express themselves on both of these issues.

Mrs. SCHNEIDER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentlewoman from Rhode Island.

Mrs. SCHNEIDER. Mr. Speaker, I must take issue with the whole procedure of acting expediently in order for us to move out of here. There is very little question of what we are doing insofar as working to assure that we not have a value-added tax, that we not have a consumer tax. The members of this party have worked exceedingly hard and members of the gentleman's own party have worked exceedingly diligently in assuring that.

It seems to me that this is a procedural opportunity we are entitled to. For the gentleman to say we ought to hurry up and get out of here because of Christmas, I think, is irresponsible when we are talking about the levying of a value-added tax that will assure us of an increased weight on the consumer for not only today but for years to come. I think this is the kind of a move that citizens should be up in arms about.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I am being led to believe from the majority side, especially by the members of the Rules Committee, that they will be agreeable to a rule, if this particular resolution we now have under consideration is agreed to, and that we will have a rule out of the Rules Committee that will provide an opportunity to vote on these two matters. Am I correct in that?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Texas to answer the question.

Mr. FROST. Mr. Speaker, let me say to the gentleman from Ohio [Mr. LATTA] that I will respond to his question in this way:

There can be no assurance that there will be individual amendments made in order. There may well be, given the past voting patterns in the Rules Committee, as the gentleman knows, but until those votes are taken in the Rules Committee there can be no assurance.

However, if the gentleman is not successful in getting separate votes on these issues, then he obviously has a remedy; he can vote against the rule when it comes back and he may be able to defeat the rule if we do not take those matters in consideration.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, I think the gentleman from Texas [Mr. FROST] has stated it well, given the past voting histories of members of the Rules Committee, and on the question the gentleman from Illinois [Mr. HYDE] raises and on the value-added tax we will be sustained.

The reason I cannot give the gentleman assurances is that I frankly do not know who is going to be around when we meet in an hour or so. But my position is very clear on this, as I believe is that of the gentleman from Ohio and other members of the committee. We will try to do the best we can to sustain the House with regard to the value-added tax.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I would just like to ask the gentleman from Michigan or the gentleman from Texas, is there anything to prevent postponing action on this rule following on with what the gentleman from Nebraska [Mr. DAUB] was suggesting, and then rolling this resolution into another rule that would be offered later on today with a VAT amendment in order and with language permitting the consideration of the Campbell amendment?

By way of background, let me advise Members that as approved by the House, section 302 of H.R. 3128 established a new $150 million teenage pregnancy program under title IV of the Social Security Act. That program passed the House without substantial debate only because it included a provision on abortion introduced by Representative CARROLL CAMPBELL and approved by the House Ways and Means Committee. The Campbell amendment forbids any part of this program from becoming involved in the performance of abortions, and forbids all counseling for abortions except where the life of the mother would be endangered if the fetus were carried to term.

Both parts of the Campbell amendment were vitally important. Certainly a program designed to help teenage mothers and their children to achieve self-sufficiency should not be engaged in the destruction of those children prior to birth. Certainly programs subsidized by Federal funds should not be advocating abortions for teenagers, particularly in circumstances where Congress so strongly opposes abortion that it forbids the use of Federal funds to support it through the Hyde amendment.

On December 12, the House-Senate conference dealing with this program suddenly deleted the Campbell amendment. This amounts to a blatant effort to force upon this body a policy which it would never approve on its merits: a policy of allowing federally funded programs to perform and promote abortions among young people. I urge my colleagues not to be forced into this intolerable situation by the pressure to complete consideration of this bill.

So, Mr. Speaker, I think it behooves the Rules Committee to give us our shot at it, as well as those including myself who oppose the VAT.

Mr. FROST. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question, it cannot be rolled into one rule. There has to be a separate vote on the question of the two-thirds. They are two separate items.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I would just ask the gentleman from Texas [Mr. FROST], what then prevents us from withdrawing the resolution right now and coming back at a later time?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The point is, though, that what we could have is to have the Rules Committee come up with a rule and then bring down a separate rule waiving the two-thirds requirement, and then we could have a vote on the rule itself making in order the question of reconciliation, so that we would be operating from a real base of knowledge here, knowing what the rule is that we are waiving the two-thirds requirement on.

That was specifically refused as a procedure. It would have been a far better procedure, particularly since it is admitted that we do not even know what Rules Committee members are in town. We do not have any idea what they may be able to do and what they cannot do. It would be a far better procedure to proceed in that way than the way in which we are proceeding right now.

Mr. SMITH of New Jersey. Mr. Speaker, if the gentleman will yield, it is my understanding that the Rules Committee is going into session at 2:45. Why not hold this up now and go on and see what the Rules Committee produces?

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has expired.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in response to the gentleman from Pennsylvania [Mr. WALKER], let me say that we cannot do what he has suggested because that would be a new rule coming out of the Rules Committee which in and of itself would have to lay over for 24 hours. The only procedure that we can follow is the procedure we are pursuing at this moment.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I am somewhat confused by the last exchange. Is the gentleman telling us that the Rules Committee cannot withdraw this present rule and bring it back a little bit later, after we know what the rule is?

Mr. FROST. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question and the question of the gentleman from Pennsylvania, under the rules of the House, any rule that comes out of the Rules Committee must lay over for 24 hours. If we withdrew this and brought back a new rule at a later time, we would then have to get a two-thirds vote for that.

Mr. LATTA. Mr. Speaker, let me clarify that. What the gentleman is saying is absolutely true, but that is not answering the question of the gentleman from California.

Mr. LUNGREN. My question is, why not withdraw this rule and then bring this rule back later? That is my question.

Mr. LATTA. There is not any question that they could do that, but the leadership does not want to do that.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I am happy to yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I have heard the expression of concern from the majority leader suggesting that we ought to act now and give up our principles here in the cause of the greater good, and it just seems to me that if we can hurl that argument one way, we can hurl it back and suggest that "you've got a problem here, folks."

It seems to me that if you are concerned about it, you can withdraw this rule until you show us what kind of a rule you are going to come up with, because you have said to us that you cannot give us a commitment that will cover the things people are concerned about, and at such time as you bring it back you can probably pass it and we can get this mess over with.

But right now you are telling us we should get rid of our leverage that we have about important issues, issues that we consider of the highest concern, because we are going to rush to get away for Christmas. We should have been out of here on October 3, and we are here now late in December.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mrs. SCHNEIDER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentlewoman from Rhode Island.

Mrs. SCHNEIDER. Mr. Speaker, I would just like to add briefly that if we are talking about the Christmas rush, I would like to remind my colleagues that the President has made it very clear in conference, in letters, and in various sectors that he will veto rec-

onciliation if it contains the value-added tax. So we are going to be back where we are right now today unless we keep that in mind. There is no point in our rushing ahead with a faulty bill that includes the value-added tax.

Mr. FROST. Mr. Speaker, if the gentleman will yield, in response to the question just posed, the committee will not withdraw the rule. We will proceed on this rule at this time.

Mr. LATTA. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, has the gentleman yielded back all of his time?

Mr. LATTA. I have reserved my time.

Mr. FROST. Mr. Speaker, the issue is very clear. The issue is whether we want to vote on reconciliation or not today. Those Members who do not want to vote on reconciliation today or who are not happy with the rule that is granted by the Rules Committee will have the opportunity to vote "no" on that rule when it is reported out later this day. They clearly have their remedy. All this does is to permit us to consider a rule on reconciliation today, and if that rule is passed, then we will vote on reconciliation today.

Mr. Speaker, I urge adoption of this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 136, answered "present" 1, not voting 58, as follows:

[Roll No. 477]

YEAS—239

Akaka	Bosco	Coyne
Alexander	Boucher	Darden
Anderson	Boxer	Daschle
Andrews	Breaux	Daub
Annunzio	Brooks	Davis
Anthony	Brown (CA)	de la Garza
Aspin	Bruce	Dellums
Atkins	Bryant	Derrick
AuCoin	Burton (CA)	Dickinson
Barnes	Bustamante	Dicks
Barton	Campbell	Dingell
Bates	Carper	DioGuardi
Bedell	Carr	Donnelly
Beilenson	Chappell	Dorgan (ND)
Bennett	Clay	Duncan
Berman	Clinger	Durbin
Bevill	Coelho	Dwyer
Boggs	Coleman (TX)	Dymally
Boner (TN)	Collins	Eckart (OH)
Bonior (MI)	Conte	English
Bonker	Cooper	Erdreich
Borski	Courter	Evans (IL)
Fascell	Lloyd	Rose
Fawell	Long	Rostenkowski
Fazio	Lowery (CA)	Rowland (GA)
Feighan	Lujan	Rudd
Fields	Luken	Sabo
Foglietta	Lundine	Savage
Foley	Lungren	Scheuer
Fowler	MacKay	Schroeder
Frank	Madigan	Schumer
Frost	Manton	Seiberling
Garcia	Markey	Shelby
Gaydos	Matsui	Sikorski
Gejdenson	Mavroules	Sisisky
Gephardt	Mazzoli	Skeen
Gibbons	McCloskey	Slattery
Glickman	McCurdy	Smith (FL)
Gradison	McDade	Smith (NE)
Gray (PA)	McHugh	Smith (NJ)
Green	Meyers	Snyder
Grotberg	Mica	Solarz
Guarini	Mikulski	Spratt
Hall (OH)	Miller (CA)	St Germain
Hall, Ralph	Mineta	Staggers
Hamilton	Mitchell	Stark
Hatcher	Moakley	Stenholm
Hawkins	Mollohan	Stokes
Hayes	Moody	Stratton
Hefner	Moore	Studds
Holt	Morrison (CT)	Stump
Hopkins	Mrazek	Swift
Hoyer	Murphy	Synar
Hubbard	Murtha	Tallon
Huckaby	Natcher	Tauzin
Hughes	Neal	Thomas (CA)
Hunter	Nelson	Thomas (GA)
Hutto	Nowak	Torres
Hyde	O'Brien	Torricelli
Jacobs	Oakar	Towns
Jenkins	Oberstar	Udall
Johnson	Olin	Valentine
Jones (NC)	Ortiz	Vander Jagt
Jones (OK)	Owens	Vento
Jones (TN)	Panetta	Visclosky
Kanjorski	Pease	Waxman
Kennelly	Pepper	Weiss
Kildee	Perkins	Wheat
Kolbe	Pickle	Whitley
Kolter	Rahall	Whittaker
Kostmayer	Rangel	Williams
Lagomarsino	Ray	Wilson
Lantos	Ridge	Wise
Latta	Rinaldo	Wortley
Leath (TX)	Ritter	Wright
Leland	Robinson	Wyden
Levin (MI)	Rodino	Yates
Levine (CA)	Roe	Yatron
Lewis (FL)	Roemer	Young (AK)
Livingston	Rogers	

NAYS—136

Applegate	Eckert (NY)	Martin (IL)
Archer	Edgar	Martin (NY)
Armey	Emerson	McCain
Badham	Evans (IA)	McCandless
Bartlett	Fiedler	McCollum
Bateman	Fish	McKernan
Bentley	Franklin	McMillan
Bereuter	Frenzel	Michel
Bilirakis	Gallo	Miller (OH)
Bliley	Gekas	Miller (WA)
Boehlert	Gilman	Molinari
Boulter	Gingrich	Moorhead
Brown (CO)	Goodling	Morrison (WA)
Broyhill	Gunderson	Myers
Burton (IN)	Hammerschmidt	Nielson
Callahan	Hansen	Obey
Carney	Hartnett	Oxley
Chandler	Hendon	Packard
Chappie	Henry	Parris
Cheney	Hertel	Pashayan
Coats	Hiler	Penny
Cobey	Ireland	Petri
Coble	Jeffords	Porter
Coleman (MO)	Kasich	Pursell
Combest	Kemp	Regula
Coughlin	Kleczka	Reid
Craig	Kramer	Roth
Crane	Leach (IA)	Roukema
Dannemeyer	Lent	Rowland (CT)
DeLay	Lewis (CA)	Saxton
DeWine	Lightfoot	Schaefer
Dornan (CA)	Loeffler	Schneider
Downey	Lott	Schuette
Dreier	Lowry (WA)	Schulze
Dyson	Mack	Shaw
Shumway	Snowe	Volkmer
Shuster	Solomon	Vucanovich
Siljander	Spence	Walgren
Skelton	Stallings	Walker
Slaughter	Stangeland	Weber
Smith (IA)	Strang	Wolf
Smith, Denny (OR)	Sundquist	Wolpe
	Sweeney	Wylie
Smith, Robert (NH)	Swindall	Young (FL)
	Tauke	Zschau
Smith, Robert (OR)	Taylor	
	Traficant	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—58

Ackerman	Fuqua	Monson
Addabbo	Gordon	Montgomery
Barnard	Gray (IL)	Nichols
Biaggi	Gregg	Price
Boland	Heftel	Quillen
Broomfield	Hillis	Richardson
Byron	Horton	Roberts
Chapman	Howard	Roybal
Conyers	Kaptur	Russo
Crockett	Kastenmeier	Sensenbrenner
Daniel	Kindness	Sharp
Dixon	LaFalce	Traxler
Dowdy	Lehman (CA)	Watkins
Early	Lehman (FL)	Weaver
Edwards (CA)	Lipinski	Whitehurst
Edwards (OK)	Marlenee	Whitten
Flippo	Martinez	Wirth
Florio	McEwen	Young (MO)
Ford (MI)	McGrath	
Ford (TN)	McKinney	

□ 1455

Messrs. PASHAYAN, MILLER of Washington, KEMP, WOLPE, and PENNY changed their votes from "yea" to "nay."

Messrs. LATTA, MOLLOHAN, SMITH of New Jersey, MILLER of California, DAUB, LEWIS of Florida, HOPKINS, STUMP, GEJDENSON, and MADIGAN changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SHUTDOWN OF SHUTTLE FLIGHT TODAY

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker and my colleagues, I want you to know how much I appreciate your encouragement, your prayers.

We counted down all the way to "T" minus 14 seconds this morning. That is 7 seconds away from main ignition. At that point the automatic sequencer shut down the countdown because of a failure of one of the hydraulic pressure units in one of the solid rocket boosters, which are the big boosters that produce 2.9 million pounds of thrust, each one of them.

NASA made the decision that they have to change this out and replace it because of the failure of that unit, so they are going to give all of those folks who have been processing this so hard for the last several weeks Christmas

off and they are going to recycle and we are going to launch on January 4.

I want to assure you that I have heeded the advice of my colleague, the gentleman from Florida, DANTE FASCELL when I get up there that I will not touch any buttons.

I want all my colleagues to know how grateful I am for your encouragement. It is an honor for me to represent this House and I will try to do you proud.

Merry Christmas.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., TUESDAY, DECEMBER 31, 1985, TO FILE LEGISLATIVE REPORT AND OVERSIGHT REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m., December 31, 1985, to file one legislative report and four oversight reports, as follows:

Legislative report:

H.R. 3291, Federal Civilian Employee and Contractor Travel Expenses Act (per diem).

Oversight reports:

1. Human Food Safety and the Regulation of Animal Drugs.
2. Investigation of Civil Rights Enforcement by the Office for Civil Rights at the Department of Education.
3. Federal and State Roles in Economic Stabilization.
4. Opportunities for Self-Sufficiency for Women in Poverty.

This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRAY FOR CAPTIVES IN BEIRUT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I ask my colleagues for their attention for just one brief moment.

From the launch pad at Kennedy to a small dungeon somewhere in Beirut, I ask for your thoughts for just 1 second. We are about to adjourn.

As many of you did at Thanksgiving time, over these holidays when you join with your families to pray, please remember our Americans and some fellow Europeans who are held in captivity in Beirut.

At this moment, Terry Waite, for all of us and for his Archbishop of Canterbury, is taking letters and some messages from this House back to the captors in Beirut. I ask all of you to join our Chaplain to pray for the success of Terry Waite so that our Americans in Beirut and the others know that we are thinking of them and praying for them during these blessed days and these happy holidays.

□ 1505

PERSONAL EXPLANATION

Mr. FORD of Tennessee. Mr. Speaker, I would ask that the RECORD reflect that on House Resolution 342, the resolution we have just previously voted on, I inadvertently missed the vote. I was here on the House floor explaining to some of the Members on the other side of the aisle what was in the conference report on reconciliation and missed the vote myself.

I was present and I intended to vote "aye" on House Resolution 342.

PERLE PLEDGES FULL U.S. COMPLIANCE WITH THE ABM TREATY

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, on December 10, 1985, the Subcommittees on Arms Control, International Security and Science, on Europe and the Middle East and on International Economic Policy and Trade, conducted an important hearing on "Technology Transfer and the SDI Research Agreements."

The purpose of the hearing was to examine the arms control implications of transferring SDI technology to our allies. Of particular note were the comments made by Richard Perle, Assistant Secretary of Defense for International Security Policy at the Defense Department, concerning the ABM Treaty.

Mr. Perle assured the subcommittees that "The United States is conducting the SDI Research Program in full compliance with the ABM Treaty * * * and that cooperative SDI research efforts undertaken with allied government institutions, industry and universities will be subject to continuing review for compliance with U.S. international obligations, including the ABM Treaty."

In response to a series of questions I asked of Mr. Perle during the hearing, he made it very clear that allied willingness to participate in SDI research was in no way indicative of allied commitment to deployment.

On this point, the ABM Treaty contains specific provisions relevant to the transfer of ABM technology to other states. Article 9 of the ABM Treaty states that "To assure the viability and effectiveness of this Treaty, each party undertakes not to transfer to other states, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty." When asked how the United States was going to comply with this provision, Mr. Perle responded that "The provisions to which you refer, the noncircumvention provision, was negotiated in 1972 for a very specific purpose, and that is so that neither side could, by simply transferring to its allies capabilities that it was prohibited from having itself, circumvent the intent of that Treaty."

Agreed statement G clarifies this point further. It states that: "The parties understand that article IX of the treaty includes the obligation of the United States and the U.S.S.R. not to provide to other states technical descriptions or blueprints specifically worked out for the construction of ABM systems and their components limited by the treaty." In response to questioning on this point, Mr. Perle explained that this "phrase * * * is used in the context of a scenario in which one side—and I think the Soviets have the United States in mind and we had them in mind—might give to its allies the blueprints of technical data necessary to fabricate a prohibited system, and that we would not do."

According to the longstanding interpretation of the ABM Treaty, neither the United States nor the Soviet Union is permitted to develop, test, or deploy ABM systems or components of ABM systems prohibited by the ABM Treaty. Nor could such ABM systems or components of ABM systems legally be transferred to our allies. It therefore, remains to be clarified just what research will be conducted by our allies and how that complies with ABM Treaty requirements.

The subcommittees were reassured by Mr. Perle's comments and his reaffirmation of the ABM Treaty. However, despite this reaffirmation, several questions remain as to how in fact the administration will meet its requirements under the ABM Treaty in regard to technology transfer to our allies.

During his testimony, Mr. Perle did explain that the administration has "developed a set of guidelines and procedures to ensure that all exchanges of data and allied cooperative research efforts are in compliance with our obligations under the ABM Treaty." The committee looks forward to reviewing these guidelines which will help us to understand how the administration plans to meet its requirements under the ABM Treaty.

CONGRESSIONAL CREDIT UNION REDUCES CREDIT CARD RATES

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute.)

Mr. ANNUNZIO. Mr. Speaker, in recent weeks there has been a great deal said about the high interest rates charged consumers on credit cards. The national average on credit card interest rates is nearly 19 percent, even though the prime rate is only 9.5 percent, and the discount rate, the rate

the Federal Reserve charges banks for loans, is only 7.5 percent.

As a member of the Wright Patman Congressional Federal Credit Union, the credit union which serves Members and employees of the House of Representatives, I am proud to report that the credit union has cut the rate it charges on credit card balances to 14.80 percent. This is the second time in the last 2 months that the credit union has reduced its rate, and it now has one of the lowest rates in the country.

I should also point out, Mr. Speaker, that the credit union does not charge an annual fee for its credit card as do most other financial institutions.

The new credit card interest rate will take effect on January 15, and will apply to old as well as new credit card balances. The credit union was prepared to put the rate into effect immediately, but because of a heavy workload on the part of the credit union's card processor, the changes could not be made until after the end of the year.

Mr. Speaker, I applaud the actions of the Wright Patman Congressional Federal Credit Union, and I think that its willingness to keep rates down is a credit not only to the officers of the credit union, but to the entire House of Representatives.

CONTRACTING FOR OUTSIDE LEGAL SERVICES BY U.S. POSTAL SERVICE

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, this year, the U.S. Postal Service is staring straight in the face of a $500 million deficit. Similar deficits have been seen in past years as well, in spite of nearly $1 billion in annual Federal subsidies; in spite of two postal rate hikes in 1981 worth more than $4 billion; in spite of an additional rate hike in February of this year worth $1.8 billion.

In the past 5 years, particularly, we have continuously heard from the post office that times are tough, that they need this or that rate increase, that they are doing everything in their power to make the Postal Service a smooth, efficient, and financially conservative business. They continue to stand by this contention while the costs of running the Postal Service are rising at a rate three times that being experienced in other areas of the public and private sectors.

Now, however, we learn that in the last 5 years the Postal Service has paid Washington attorney Joseph Califano $2,634,514.90 in legal fees, and over two-thirds of a million dollars in this year alone—all for outside legal advice. This, on the face of it, is very hard to understand in view of the fact that the Postal Service already has 113 full-time in-house attorneys who are specialists in the area of postal law.

I would suggest in these times of fiscal responsibility, deficits, and shrinking budgets, that the Board should review its policy of contracting for services such as this and see if it can't get by with somewhat less outside legal advice in the future.

GRAMM/RUDMAN

(Mr. BRYANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT. Mr. Speaker, as one who has worked since coming to Congress to bring our Federal budget into balance, I voted for passage of the Balanced Budget and Emergency Deficit Control Act, or as we have come to refer to it, "Gramm-Rudman-Hollings." By passing this measure we have put the Federal Government on course for a balanced budget in 1991, have set specific deficit reduction targets for each year between now and then, and have provided for a system of automatic mandatory cuts to make up any shortfall in the efforts of Congress and the President to reach those targets.

This bill does not balance the budget; it sets out a mandatory schedule for balancing the budget by 1991. It is no substitute for political courage, nor is it a method of budgeting which the framers of our Constitution had envisioned would be followed. In fact it is regrettable that we have come to the point that only a mandatory system of forced automatic cuts can accomplish what the President and the Congress should have accomplished alone. But nothing else has worked. This bill will force Congress and the President to get our budget back in the black and on a pay as you go basis. And because the cuts begin this year, no one can take political credit for the plan who doesn't have the courage to use it.

The final version of Gramm-Rudman-Hollings improves on the original Senate version by requiring that the actual budget cutting begins this year. The Senate version supported by the sponsors of the bill, would have made no cuts at all in this year's budget—in fact it would have led to a deficit increase by $10 billion over current limits. That's not my idea of budget balancing.

These Senate sponsors said, "it was "unrealistic" to make cuts this year. That attitude is why our Government finances are in this fix to begin with. It's not hard to support the idea of a balanced budget to be achieved at some future time, the hard part is making the choices necessary to get there. Some would apparently prefer to campaign on their votes for a hypothetical balanced budget, and leave the actual decisions until after the election. I for one am glad we didn't let them get away with it. It is time to put up or shut up.

The final version of this measure also improves on the original Senate version by requiring the Pentagon to take part in the across-the-board automatic cuts. The original Senate version subjected only domestic programs to serious across-the-board cuts leaving the defense budget—which has doubled in the past 5 years and is riddled with waste—with only minor cuts. Under this new provision the entire Government, with the exception of social security, veterans pensions, and a few other areas, would share equally in the across-the-board automatic cuts.

Mr. Speaker, I supported Gramm-Rudman-Hollings even though I know that another means of balancing the budget would be better. But nothing else has worked. We cannot allow our budget to plunge further and further into the red simply because Congress and the President refuse to agree on our national priorities, or soon we will not be able to pay for anything. Viewed responsibly, I believe that the Gramm-Rudman-Hollings bill can be a major factor in getting the Congress and the President to start making some choices; otherwise the choices will be made for us.

I will be working to see that the right choices are made.

CONSIDERATION OF CONFERENCE REPORT ON BUDGET RECONCILIATION

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I think the record should show what finally happened on the last vote. As the House will remember, a number of us raised objections to the last rule because it would have an impact on some abortion language that we felt was in the bill, and also on the value-added tax.

As it turned out, in the course of the vote on the rule, there were agreements made by the majority leadership that those provisions would be stricken from the conference report before a rule is brought to the floor in the future, and it is my understanding that the Rules Committee is now meeting, that we will, in fact, have a rule, and we will have a process which will have neither the language on abortion nor the language with regard to a value-added tax come to the floor today.

For that reason, many who had said they were going to vote no on the rule ended up voting yes.

I still think it is a bad process to use, to strip the House of its rights using a

rules procedure like that. But the fact is the vote turned around largely on the fact that certain guarantees were made about the rule that we will have up before us in the near future.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I would like to say I understand the gentleman's recitation of the facts to be accurate.

I also would say that the gentleman indicated the Rules Committee is now in session. I understand that is not true. They may not be until 4 or 4:30.

So I do not want any Members to think that somehow right away we are going to be dealing with this. It will be some passage of time, as I understand it.

ILL TRADE WINDS

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, on Friday, the Chrysler Corp. is going to idle about 3,000 workers, and this is part of an effort of the corporation and the workers to modernize the facilities.

But these efforts are not going to be very effective, or certainly not fully effective if unfair foreign competition is allowed to swamp American products.

It was announced a few days ago that the U.S. trade deficit will be $30.5 billion in the last quarter. This economy of ours is being blown by ill trade winds and a Presidential veto, like that of the textile bill, is not a trade policy.

The U.S. continues to slip in many basic industries, and it is time for this administration to get its act together on trade policy.

ANNOUNCMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain unanimous-consent requests for special orders, but we will come back to regular business later.

TRIBUTE TO JAMES F. DRING, ATTORNEY, JOINT COMMITTEE ON TAXATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to pay tribute today to James F. Dring, deceased staff member of the Joint Committee on Taxation, of which I am chairman.

James Dring served with distinction as an attorney on the joint committee staff from September 1980, to his death on June 16, 1985, at age 63. As you know, the joint committee staff provides valuable technical assistance in the development of tax legislation.

James Dring was an academically and intellecutally able attorney. His areas of responsibility included some of the most difficult provisions of the Tax Code. He was an acknowledged expert on the taxation of corporate reorganizations and possessed a vast technical ability in the taxation of corporations, partnerships, consolidated returns, and most recently, commodity straddles and bond discount. During the pressure filled and sometimes difficult times during the development of tax legislation, Jim Dring's professionalism and patience was legend and earned him the respect of his colleagues and coworkers.

James Dring will be missed by members of the tax committee, congressional staff colleagues and associates from other committee staffs, as well as Treasury Department tax staff and others that Jim worked with during his years with the joint committee staff.

Before joining the joint committee staff, Jim Dring worked with the law firm of Cohen and Uretz from 1976 to 1980. Prior to that, he worked for the Chief Counsel's Office in the Internal Revenue Service as director of its Refund Litigation Division and later served as director of its Legislation and Regulations Division. Jim received his bachelor's degree from Providence College in 1946, his law degree from Catholic University in 1949, and a masters in law from Georgetown University in 1952. Jim Dring was also a Latin scholar and an avid runner.

Jim Dring was born on August 25, 1921, in Newport, R.I., and served 3 years in the U.S. Army during World War II.

Our sincere condolences and prayers go to his wife, Barbara, and his two children, James and Kathleen.

USE OF GOVERNMENT VEHICLES RESTRICTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today the Committee on Government Operations reported the bill H.R. 3614, to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes. I introduced that bill, with Congressmen HORTON, SAXTON, and DIOGUARDI as cosponsors on Thursday, October 24, 1985. Congressman CLINGER has since been added as a cosponsor.

Legislation is needed now because the use of Government vehicles for home-to-work transportation of Government officers and employees has greatly expanded outside the scope of the law since it was passed in 1946. A 1982 survey indicated that at least 176 employees were receiving home-to-work transportation at Government expense, most of them illegally. A more recent survey, conducted just this year found that at least 78 employees are still using Government vehicles for home-to-work transportation outside the scope of the law.

In 1983, upon learning of what appeared to be an inordinate number of State Department officials who were receiving transportation between their homes and work, I requested the Comptroller General of the United States to review legal memoranda prepared by that Department and by the Department of Defense and to advise me whether they were consistent with the law. On June 3, 1983, the Comptroller General issued a decision refuting the arguments used in these memoranda to justify such transportation, and clarifying earlier decisions of the Comptroller General concerning the law. According to the Comptroller General, these earlier decisions may have, in fact, contributed to agency confusion as to the meaning of the law. Further, the Comptroller General suggested that since the general law governing use of Government vehicles for home-to-work transportation had not been updated since it was passed in 1946, it probably should be amended to reflect current needs of the Government.

In clarifying previous Comptroller General decisions concerning the use of Government vehicles for home-to-work transportation, the Comptroller General stated that they "only authorize the exercise of administrative discretion to provide home-to-work transportation for Government officials and employees on a temporary basis when (1) there is a clear and present danger to Government employees or an emergency threatens the performance of vital Government functions, or (2) such transportation is incident to otherwise authorized use of the vehicles involved."

Following receipt of the Comptroller General's decision, I wrote to the Director of the Office of Management and Budget on June 6, 1983, enclosing a copy of that decision and indicating that the administration might want to survey the current needs of the Government, and if necessary, recommend an amendment to the law. The Director forwarded to me the administration's proposed amendment 2 years later—on August 31, 1985.

H.R. 3614 is a bipartisan bill. It complies with the administration request for legislation in this area, but it is somewhat more restrictive than the administration proposal. Moreover, this bill would correct the confusion that surrounds current law. It spells out specifically who is authorized home-to-work transportation and establishes appropriate procedures for emergency conditions.

H.R. 3614 would specifically authorize home-to-work transportation for the President and Vice President, those officials compensated pursuant to 5 U.S.C. 5312 at level I of the Executive Schedule—the heads of the executive departments and the U.S. Trade Representative—and their deputies, when appropriate; the deputy and under secretaries of Defense, the Secretar-

ies of the Air Force, Army, and Navy, the Joint Chiefs of Staff and the Commandant of the Coast Guard; the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency; the heads of U.S. diplomatic missions abroad and the U.S. Ambassador to the United Nations; and officers or employees performing field work requiring such transportation. Further the President would be authorized to name up to 16 additional officers and employees of the Government as needed, and, if a clear and present danger, an emergency, or similarly compelling considerations made such transportation essential, the head of an agency would be authorized to determine the need for such use up to 15 calendar days, which would be renewed for 90 days, if the need persisted. Any discretionary use of Government vehicles for home-to-work transportation would have to be reported promptly to the Congress each time it is authorized.

H.R. 3614 reduces the number of Government employees who are currently, though often illegally, using Government vehicles for home-to-work transportation. Moreover, in an effort to be both fair and consistent, it eliminates authorization for some officers and employees who are now authorized by law to receive this transportation; and, it provides the necessary flexibility to meet unforeseen, but compelling, situations so that artificial and ill-conceived restrictions will not hamper the efficient and effective operations of the Government.

This bill is needed to provide clear guidance to the agencies to eliminate misunderstandings and confusion under which some of them are currently operating, which has led to a proliferation in the number of Government employees receiving home-to-work transportation at Government expense.

I urge all Members to support this legislation.

□ 1520

TRADE, INVESTMENT, AND ECONOMIC JUSTICE FOR ALL WORKERS

Mr. SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 60 minutes.

Mr. PEASE. Mr. Speaker, predictably, the scope of the current trade policy debate in Washington asks us to throw in with either the "free traders" or the "protectionists." We seemingly must choose between rejoicing as bargain-hunting consumers unleashed in a global department store or take to the barricades in defense of American jobs out of fear for our own.

But there is another dimension to the current dilemma. First, we need to understand how our country's competitive position has changed in relation to those of other trading nations. Then, we should move beyond abstract discussions about free trade and critically ask who is benefiting materially from our our rapid integration into the global economy and to what degree? Finally, we need to recall our heritage and work for specific changes in the international trading system that will promote economic justice abroad and at home, while helping to restore U.S. competitiveness in the world marketplace.

From 1945 to 1965, the American economy was largely self-reliant. Most Americans saw their standards of living go up as part of the general prosperity. American industries and manufacturing workers—producing primarily for the domestic marketplace—were not threatened by imports. Free trade was a high-sounding principle of academic interest, irrelevant to the day-to-day concerns of most Americans.

In the last 20 years, the American position in the global economy has changed dramatically. U.S. exports have not kept pace with the flood of imports pouring into the American marketplace. By 1980, 70 percent of all the goods produced in the United States were competing with foreign-made goods. America has gone from being acknowledged economic superpower in the world to being one of a pack of economic powerhouses engaged in very hard-nosed global competition to retain old markets and to open new ones.

We were not prepared for the onslaught of foreign goods given easy access to American markets in recent years by the administration's doctrinaire adherence to free trade principles. All across America, scores of communities, hundreds of plants, and millions of workers have been ravaged. Coming to terms with the new dynamics of international trade is proving to be very painful and costly for thousands of Americans who have lost their jobs to imports and have been denied means to retrain themselves for new jobs. Not only has the United States lost its economic preeminence, but it is apparent that many American consumers now prefer foreign-made products.

What those Americans who are hurt by what now passes as free trade often don't realize is that 20 percent of all U.S. goods now produced are exported. Growth in the American economy, as never before, depends upon further increases in exports made possible by open access to foreign markets.

At the same time, what currently passes as free trade among nations does not redound equally to everyone's benefit. Multinational corporations get the most from the development of "the global factory," as the capacity to market finished products from parts manufactured in several different countries is often called. Advances in transportation, communications, and information systems have greatly enhanced the ability of these corporate giants to take advantage of international wage, productivity, and unit labor cost differentials. As capital and technology move around the world with little regard for national boundaries, workers will continue to remain stationary and bound by national laws. This economic fact of life allows American-based multinational corporations to transfer production from the United States to countries lacking basic labor rights. The workings of global production in the 1980's undercut the rights of all workers. They contribute to lowering the conditions of American workers in the direction of the lowest common international denominator.

Put another way: Is it possible for American workers to compete with South Koreans working under the thumb of an authoritarian regime and receiving 10 percent of United States manufacturing wages? More importantly, is it right?

We have entered a new era in which America ought to use its far-reaching economic leverage to insist upon changes in the International trading system, for example, that will spread the benefits of free trade within nations as well as among them. Many U.S. industries and unions rightly protest unfair traded subsidies and the "dumping" of low-priced foreign goods on our shores. The same outcry would be heard and acted upon in protest of "social dumping"—unfair competition from corporations which pay low wages to foreign workers denied the free exercise of basic labor rights.

The rights of American workers will be more secure and U.S. competitiveness will be improved by a forward-looking, aggressive, coordinated strategy to extend basic labor rights, such as freedom of association, to workers in all countries. The threat by American-based multinational corporations to transfer domestic production and jobs to foreign countries in which there are no labor rights becomes an ever more common ploy to force American workers to relinquish legitimate rights and material benefits won through more than 200 years of personal hardship and struggle.

A first important step that Congress took in 1984 was to grant certain trade preferences only to countries that respect internationally recognized labor rights. This year a second important step is about to be taken with the passage in this House last week of the OPIC Amendments of 1985 which prohibit the overseas private investment corporation from asking American taxpayers to underwrite the investments of American-based multinational corporations in any foreign country that does not respect basic labor rights. Still, too many trade policymakers do not understand that while our Government turns a deaf ear to the exploitation of foreign workers, it does so at

the expense of a growing number of American jobs and declining standards of living for many American workers.

One hundred years ago, the Knights of Labor spoke out for American workers in the belief that "an injury to one is of concern to all." In the era of the global factory, we should reaffirm this belief and act upon it for all working people.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, new provisions in the 1984 trade law that link participation in the Generalized System of Preferences to protection for the rights of workers are of enormous importance. After a century of struggle to win basic rights in the workplace, American workers and communities today are increasingly subject to corporate threats to transfer production to places without strong labor unions or regulation of the work environment. Millions of jobs have been moved to countries where labor is cheaper, unions are weaker, and regulation is nonexistent. Highly mobile transnational corporations no longer are rooted in or responsible to individual communities or nations.

By the same token, workers in Third World countries which are anxious to attract foreign investment are being deprived of the most basic elements of human dignity, as the price of development. The rapid growth of export-oriented industrialization has been accompanied by an increased level of authoritarianism and suppression of human rights among some of the countries which are the most successful exporters, and the chief beneficiaries of the Generalized System of Preferences.

In short, American workers have been pitted against workers from Third World countries, and both have lost.

It is significant, therefore, that the U.S. Congress has recognized in the new trade law that there are basic international standards for protecting the rights of workers and has taken steps to strengthen respect for those standards by incorporating compliance with them as a condition for participation in the Generalized System of Preferences. While many ambiguities remain in the law, the significance of the principle that has been introduced ought not be overlooked: That protection for the American worker is inextricably linked to protection for all workers.

South Korea, which, in 1984, was the second largest beneficiary of the GSP Program, has prospered by its export-oriented development plan, and has already joined the ranks of the newly industrialized countries [NIC's]. Between 1962 and 1981, the economy grew in real terms at an average rate of 10 percent a year, one of the highest growth rates in the world. The number of mining and manufacturing jobs has risen dramatically. Since the instigation of the United States GSP Program, Korean gross national product per capita has more than tripled, jumping from $591 to $1,998 in 1984.

South Korea is also one of the top beneficiaries of the GSP Program, having exported $1.5 billion to the United States under the program in 1984, 13.5 percent of the world total. Such extraordinary economic success should contribute to the continued trend toward more open democracy in Korea, including an expansion of workers' rights.

Unfortunately, South Korean workers have experienced a steady deterioration in protection of their rights, almost in inverse production to the growth in the country's prosperity. Far from "taking steps to afford workers the internationally recognized rights of workers," as our trade law provides, the South Korean Government has, since 1971, been taking steps to limit rights of workers and curtail those rights earlier won.

Under an emergency decree promulgated by former President Park Chung Hee in 1971, collective bargaining was effectively suspended, while industrial actions such as strikes and demonstrations were prohibited. In 1981, this decree was lifted, but replaced by a new and equally restrictive labor law. In 1980, all labor unions were purged, many were dissolved, and the remainder reorganized under much more restrictive laws. What had been a growing Federation of Korean Trade Unions lost one-third of its members subsequent to these new laws.

Mr. Speaker, we were all encouraged to see some positive steps toward a more open society taken in Korea, particularly earlier this year. I regret that that trend appears to have changed. The restriction of labor unions, and the denial of essential workers' rights are but one aspect of a human rights record in South Korea that is troubling in the extreme.

Testimony presented to the United States Trade Representative's Office earlier this year by a coalition of groups working for greater human rights in Korea makes a compelling argument for suspending Korea's participation in the Generalized System of Preferences until the Korean Government restores the internationally recognized rights of workers in both law and practice. I ask that this testimony be included as a part of my statement at this point.

I would like to close by commending the initiative of my friend and colleague from Ohio, Mr. PEASE, for scheduling this special order, and especially for his earnest and vigilant leadership on the issue of workers' rights both in the United States and abroad.

LABOR RIGHTS VIOLATIONS IN THE REPUBLIC OF KOREA

(Submitted by the North American Coalition for Human Rights in Korea, the Department of Social and Economic Justice, Board of Church and Society, United Methodist Church, the Korea Support Committee, San Francisco, CA)

"Internationally recognized rights of workers" has been defined in Section 502(a) of the 1984 Trade Law to include:

1. the right to association;
2. the right to organize and bargain collectively;
3. a prohibition on the use of any form of forced or compulsory labor;
4. a minimum age for the employment of children; and
5. acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

For the purpose of this testimony, South Korean law and government practice will be examined in connection with each of these rights as defined by United Nations International Labor Organization (ILO) conventions.

Applying these international labor standards to South Korea is admittedly problematic, since it is not a member of the ILO and has therefore not ratified any of the ILO Conventions nor been the subject of any ILO investigation. However, for more than a decade South Korea has sought admittance into the ILO, and has been prevented from membership only by the political actions of allies of North Korea. It would seem fair therefore to judge South Korea's labor practices against the most commonly and broadly ratified standards of the organization it has sought to join, namely Conventions 87 on freedom of association and 98 on the right to organize and bargain collectively. Other conventions relating to forced labor, child labor, minimum wage-setting mechanisms and worker health and safety regulations may also be useful, if less authoritative as guides.

The fact that many countries at lower levels of development than South Korea have ratified these basic conventions of the ILO lends weight to the argument that they are genuinely international standards.

The forms of government infringement against labor rights in the Republic of Korea include: (1) laws which are not in keeping with ILO standards, that restrict freedom of association, organization or collective action; (2) failure to enforce laws which protect workers or provide for grievance procedures; and (3) interference in labor-management relations or labor union affairs by intelligence or police agents. These violations are outlined below according to each of the five categories of labor rights specified in the amended GSP legislation.

1. THE RIGHT OF ASSOCIATION

The ILO Convention on the Right of Association (No. 87) is clear and unequivocal:

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

The 1980 Korean Constitution is not quite so clear. Article 31 states:

"To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action. However, the right to collective action shall be exercised in accordance with

the provisions of law. . . . The right to collective action of workers employed by the central government, local governments, state-run enterprises, defense industries, public utilities or enterprises which have a serious impact on the national economy may be either restricted or denied in accordance with the provisions of law."

Article 35 adds that "the freedoms and rights of citizens may be restricted by law only when necessary for national security, the maintenance of public order or public welfare."

The "Provisions of Law" relating to the right of association refer primarily to the Labor Union Law, which was amended on December 31, 1980 in ways that considerably hamper the ability of workers to organize freely. The following restrictions of the right of association are presently incorporated in the amended labor statutes:

A. Labor unions can only be formed in individual workplaces where 30 or more workers, at least 20% of the work force, sign a petition which is submitted to the government for approval. This means that workers in all companies with less than 30 employees, approximately 80% of Korea's businesses, are excluded from union membership altogether.

It also means that because unions cannot now be formed beyond the level of a single company, some of Korea's most effective labor unions were forced to dissolve in 1981, on the grounds that multi-company unions were illegal. In January that year, the City of Seoul declared that the Chonggye Garment Workers Union was illegal and must disband. The Chonggye Garment Workers' Union had since 1971 represented the workers in one of Korea's most exploited industries, in downtown Seoul's crowded garment district where hundreds of tiny shops with from 5 to 10 workers, mostly underage girls, eked out an existence meager for owner and worker alike, under conditions of rampant tuberculosis and other occupational diseases. During the 1970s, with aid from the Asian-American Free Labor Institute (AAFLI) of AFL-CIO, the Chonggye workers had built a labor school on the rooftop of the factory building where the girls studied, operated a consumer cooperative and carried on union business. Incidence of tuberculosis declined and by the mid-70s, the union had succeeded in negotiating district-wide wage contracts and agreements that lowered working hours from 14 to 10 hours per day and established the right to one day off each week.

All this progress was reversed in 1981, when the city revoked the legal status of the Chonggye Union and closed the labor school. For the workers in Seoul's garment district, there was no more "right of association."

B. Another restriction on the right of association is the provision in the Labor Union Law forbidding political activities by unions. The amended law prohibits unions from any act in relation to election to any public office, in support of a specific political party or candidate, or in collecting or disbursing funds for political use. Employers are under no such restriction.

C. The right of association is further hampered by Article 12-2 of the labor union law which prohibits "intervention by a third party":

No person except for employees who have a direct employment relationship with the employer, the labor union concerned, or other persons duly authorized by laws or regulations shall manipulate, instigate, obstruct or intervene with the intent to influence the concerned parties in the establishment of dissolution of a labor union, joining or leaving a labor union, or in collective bargaining with the employer." (newly inserted on December 31, 1980.)

While this provision was reportedly written to prevent religious organizations such as the Young Catholic Workers or the Protestant Urban Industrial Mission from exercising any influence on workers, it also prevents national, provincial and city labor union officials from any involvement with local union organization.

Early in 1985 the South Korean government announced that it had approved certain changes in the implementation decrees of the Labor Union Law. These alterations include easing the ban on third-party intervention in the affairs of local unions (although the ban on third-party assistance to unorganized workers trying to organize a union remains in effect); allowing miners, deep-sea fishermen, and taxi drivers to form multi-enterprise unions; and easing the requirement that a percentage of union dues be used for welfare activities.

As AAFLI News noted, however, "despite these moderate reforms, the fact remains that unions are still prohibited from organizing unorganized workers."

D. In addition to provisions of the law, procedural difficulties serve to hamper greatly the right of association. For a union to be recognized, applications containing the names and addresses of thirty charter members must be submitted to the appropriate labor committee, which has absolute authority to act or delay indefinitely. In case after case, when workers have attempted to organize unions and filed their papers, company managers have either fired the workers prior to the recognition of the union or have organized a separate union which gained government recognition while the application of the workers languished on a bureaucrat's desk.

Once an application with signatures and by-laws attached is submitted, the law states with great ambiguity:

"If the by-laws of any labor union conflict with laws or regulations, or it is likely to become detrimental to the public interest, the administrative authority may, upon a resolution of the labor committee, order the cancellation of, or change to the by-laws." (Art. 16) Likewise, under identical conditions, "it may . . . order the dissolution of the labor union or order reelection of its officers." (Art. 32.)

During the summer of 1980, the martial law government of Gen. Chun Doo Hwan decimated the labor movement under the guise of "purification." The August 20, 1980 "martial law order for purification of labor unions and promotion of labor union purification movement and other supplementary measures" (Doc. 1354-21208) forced the resignation of 11 of the 17 national industrial union presidents, 106 province and regional labor union officers and 191 local union officers. All national, provincial and city level labor councils were closed down, the industrial unions downgraded to "associations."

Any union officers who refused to resign on August 20 were sent to Army purification camps where they were subjected to brutal punishment for periods of from several weeks to several months. Most were then blacklisted by the ROK Government to prevent their re-employment in other firms. It is estimated by human rights organizations in Korea that as many as 1,000 former labor union officers and activists remain blacklisted today, five years later.

When the amended labor union law was put into effect on December 31, 1980, the following provision was included: "all dissolved labor unions and dismissed or expelled union officers from the date of August 20, 1980, until the present shall be considered to have been dissolved or subject to reelection orders in terms of article 32 of this law." (Addenda, Law No. 3350, Dec. 31, 1980) This ex post facto provision made it impossible for any dismissed worker or union official to appeal the actions of the martial law command. Other provisions in the labor union law barred these same workers from union office for a period of three years.

One immediate effect of these purges and changes in the law was a drastic and rapid decrease in the membership of the Federation of Korean Trade Unions. From a peak of 1,194,000 members in 1979, the FKTU declined to 834,000 in 1981 and continued to decline at slower rates until 1984.

2. THE RIGHT TO BARGAIN COLLECTIVELY

Two aspects of ILO Convention No. 98 are matters of particularly grave abuse in the Republic of Korea. Article 1 declares that:

"Workers shall enjoy adequate protection against acts of anti-union discrimination . . . more particularly in respect of acts calculated to (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership; (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours."

Article 2 states:

"Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. . . . In particular, acts which are designed to promote the establishment of workers' organizations, . . . shall be deemed to constitute acts of interference within the meaning of this article."

Changes in the labor law in 1980, coupled with direct police intervention in labor affairs at the factory level, have destroyed the autonomy of labor unions in their bargaining with management. The transformation from industrial unionism to so-called "enterprise unionism", carried out by the legal reforms that isolated each company union from other unions or from "third parties", has been well characterized by the Far Eastern Economic Review:

"Although the new system theoretically allows more autonomy and democracy at the bottom, it has fragmented the whole union movement. 'The whole idea (of changing the system) is to break down the FKTU into many small, independent units so that it cannot function as a pressure group,' one activist claimed." (July 19, 1984.)

At the company level a full panoply of pressures is exerted to co-opt labor leadership where possible, and where that fails, to get rid of it. Cases of sexual harassment or physical abuse of female labor leaders by company officials or hired thugs are almost too numerous to mention, but some of the most memorable incidents involve the Dong-Il Textile Co (1978), the YH Wig Co. (1979) The Haitai Confectionery Co. (1978, 1983, 1985), The Control Data Co. (1982), Iu Bookbinding Co. (1984) Daewoo Apparel (1984), Korea Light Electric Co. (1985) Wuonpoong Textile Co. (1982), the Chong-

gye Garment Workers Union (1972-85) Hyup Jin Electronics (1984-5). (See Appendix II for summaries of these incidents.)

In South Korea, however, the threat to labor union autonomy comes not as much from management as from the direct intervention at the company level by police and intelligence officials, in the name of national security and political stability. "Many different levels of intervention can be considered," according to Ronald Rodgers of the University of Wisconsin. "Presently within the powerful Agency for National Security Planning [formerly the KCIA] there is a Committee to Counteract Labor Insurgency with agents throughtout the country. Local governmental units are also anxious to avoid labor disturbances in their districts, and so the police often play a role in monitoring union activities and union organizing. One practical effect that most union members are careful to choose as leaders only those persons who are acceptable to the government. Another effect is that, according to informed observers police and security agents play a greater role in the resolution of labor disputes than the official labor authorities do. However, the primary objective of the security agents is to suppress anything that would contribute to political instability, and not to simply facilitate the most appropriate resolution of the dispute. That was demonstrated in the much publicized Control Data (Korea) Corporation and Wuonpoong Textiles disputes, where security agents prohibited resolutions that would have included the reinstatement of dismissed union activists." ("Labor Relations Law and Labor Control in the Republic of Korea", 1983, p. 19)

While the right to take collective action is not specifically listed among the "internationally recognized rights of workers" in the GSP law, it is presumed by the ILO Freedom of Association Committee to be an extension of the rights to associate and to organize. The Committee's findings consistently cite limitations on the right to strike as violations of Convention No. 87.

The right to strike was prohibited by special security law from 1971 to 1981, when this law was replaced by amendments to the Labor Dispute Adjustment Law. The operative terms of this statute restrict "acts of dispute';" (defined as acts "including strikes, sabotage, lockouts, and other disruptive tactics through which the parties to labor relations intend to accomplish their aims, and the acts against such tactics, both of which hamper the normal operation of a business.") to "the pertinent workplace," following a majority vote of the members of the union and a thirty-day "cooling-off period." As in labor organizing and collective bargaining, no "third party" may intervene with intent to influence the dispute. Acts of dispute are prohibited for employees engaged in the State, local governments, the state-or-local government-run corporations, and defense industries.

Since the limit of location for a dispute was written into the law, all disputes have taken the form of sit-in strikes in which employees take over the factory or company facilities, rather than pickets or other more traditional forms of peaceful protest. This is reportedly due to the fact that the law has been interpreted as outlawing acts of dispute outside the factory, even at its gate. It is also, and perhaps more directly, due to the immediate use of riot police to break up any outdoor labor protest.

The most recent instance of the overriding of labor and management by police action was the Daewoo Motor Company strike in April, 1985, at the company's automobile plant in Pupyong, near Inchon. For more than a week, several hundred of the company's 3,000 workers occupied the factory, while some 8,000 police surrounded the plant preventing any food from reaching them. Only the workers' threats to set fire to the company computer delayed a police raid long enough to negotiate a compromise settlement with the company officials. When a contract had been signed, however, the police intervened to arrest the leaders of the strike. Seven workers now face criminal charges for leading the labor action.

3. PROHIBITION OF FORCED OR COMPULSORY LABOR

ILO Convention No. 29 concerning Forced or Compulsory Labor, ratified by 128 countries, defines "forced or compulsory labor" as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself volunarily."

Workers in South Korea, according to ILO statitstics, worked an average of 54.4 hours per week in 1984, the world's longest work week. This record which has been maintained for some years and has actually grown longer, has been pointed to with pride by Korean managers as evidence of the zeal of the Korean worker. However, with the advent of somewhat bolder labor unions (mostly unrecognized) this year, one of the most frequent demands is shorter work weeks. One of the forms of labor strike this spring was refusal by workers at the Chinro distillery of Inchon to work overtime. These stirring of protest suggest that Korean workers may in fact be victims of forced compulsory labor on a fairly broad scale. The evidence, to be sure, is sketchy, but the issue bears study at the least.

Apart from this, forced labor does not appear as a major problem in Korea today.

4. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

South Korea's laws protecting children from labor exploitation are consistent with ILO guidelines. Until recently, however, those laws were widely violated, particularly in the garment and textile industry. Such violations, to judge from the literature from the human rights movement and from the trade unions, appear to have greatly lessened in recent years.

5. ACCEPTABLE CONDITIONS OF WORK WITH RESPECT TO MINIMUM WAGES, HOURS OF WORK AND OCCUPATIONAL SAFETY AND HEALTH

ILO Conventions 26, 99 and 131 require states to establish and maintain machinery for fixing minimum wage rates, but considerable latitude is given to each state to determine that machinery, with only the proviso that "workers' and employers' organizations are to be consulted before wage-fixing machinery is established." (26, art.3(2))

The Republic of Korea has no law governing minimum wages, although the government has been proclaiming its intent to establish such a law soon for the past ten years. An informal guideline, based on estimated cost of living for single persons or for families, however, has been published for a number of years, with an infrequent government campaign to persuade companies to come closer to the line. For example, in 1980, it was estimated that a family of five required 270,000 won per month to live in Seoul. A survey in 1985 showed that the cost to have risen to 450,000 ($523). In 1980 69% of workers earned less than 100,000 won per month. The equivalent percentage of workers significantly under the poverty line in 1985 is not available, but aggregate statistics on wage increases suggest that the situation has not improved. Whereas real wages increased from an index of 100.0 in 1975 to 194.7 in 1983, labor productivity increased during that same period from 100.0 to 235.1 and consumer prices rose from 100.0 to 297.0 (Source: Bank of Korea, Economic Statistics Yearbook, cited by Moo Ki Bai, "Economic Growth, Export Expansion, and Wages and Labor Conditions in Korea," Seoul National University, January 1985.)

In one labor conflict after another this year, workers are protesting daily wages of 2,100 to 3,400 won. (2,100 won = $2.44) At this rate, a family would have to have eight breadwinners to reach the poverty line!

It can be inferred from these references that South Korea is badly in need for a minimum wage. Instead, the government publishes maximum wage increase guidelines each year that are enforced by the withholding of credit to companies that increase wages too much.

South Korea does have legislation setting industrial safety standards, but without any enforcement mechanism. As a result, the industrial death and accident rates in Korea are among the world's highest. During the period of 1980 to 1983, for example, the ROK suffered a 0.358% industrial death rate. This compared to 0.172 in the Philippines and ranked significantly higher than any other Asian country except Malaysia (Sarawak).

These statistics point to the need for internal freedoms for Korean workers to organize to protect themselves through collective bargaining, political action and if necessary collective actions. They should be understood as barometer of the need for adequate labor relations and protection, rather than as rights that can be guaranteed in the absence of other organizational rights.

PROPOSED REMEDIES

The pattern of abuse of labor rights in the Republic of Korea is sufficiently intense, broadly experienced and rooted in unjust law and government practice to require remedies, which are in fact available to the Korean government. It is not an exaggerate to state that South Korea, by the exploitative labor control through which it maintains cheap export prices, is subsidizing exports unfairly. This practice should not be rewarded by tariff-free access to U.S. markets through the GSP program.

We firmly believe that the Republic of Korea should be suspended from the GSP program until such time as it has restored by law and government practice the basic rights of its workers to organize freely, to bargain collectively and to be free from forced labor, sub-minimum wages and dangerous and unhealthy working conditions. Compliance with these standards should be monitored closely, so that whenever these conditions improve sufficiently, the Republic of Korea can be readmitted to beneficiary status, within the financial and competitive need guidelines established elsewhere in the law.

As an agency without economic interest in Korea, but with a deep and abiding concern for the protection of basic rights for the Korean people, we will be happy to assist the Trade Representative's office in any way possible to monitor Korea's progress.

□ 1530

Mr. PEASE. Mr. Speaker, I thank the gentleman very much for his con-

tribution and for his generous remarks.

Mr. Speaker, last summer a representative of the AFL-CIO made a precedent-setting appearance before the U.S. Trade Representative to request that several countries be denied duty-free access to the American marketplace because the governments of those countries have well-documented records of denying basic labor rights. I want to read excerpts from that testimony by the AFL-CIO to underscore the extent to which many countries to which we extend special trade preferences and other assistance exploit their workers in order to gain a competitive advantage in world commerce. After listening to this information, I hope more of my colleagues will agree that the United Trade Representative ought to make this a major focus of negotiations with these countries in seeking to level the playing field for America to compete in international trade.

The AFL-CIO welcomes the opportunity to testify before the U.S. Trade Representative at these public hearings concerning the recently renewed and amended Generalized System of Preferences. As you know, the Federation is critical of certain aspects of the renewed GSP. We also have testified in the past against the inclusion of countries such as the Republic of Korea, Taiwan and Hong Kong in the list of GSP Beneficiary Countries, primarily on the grounds that their economies were well developed and did not need such support.

Yet, despite our opposition to certain provisions in the GSP, we have welcomed the inclusion of labor rights provisions in Title 5 of the Trade and Tariff Act of 1984 and are particularly gratified that the observance of labor rights and standards outlined in the legislation is now strictly required for a country to be designated by the President as a beneficiary developing country.

Today the AFL-CIO is requesting that GSP beneficiary status be removed from a series of countries whose violation of labor rights are outlined in our full submission, pursuant to Section 502(b), which according to the Federal Register of 14 February 1985 allows for making such a request "at any time."

The amended law states that in extending preferences the President shall not designate any country a beneficiary developing country "if such country has not or is not taking steps to afford internationally recognized workers rights to workers in that country (including designated zones in that country)." The law, moreover, defines such rights in the following way: "For purposes of this title the term 'internationally recognized worker rights' includes: (a) the right of association; (b) the right to organize and bargin collectively; (c) a prohibition on the use of any form of forced or compulsory labor; (d) a minimum age for the employment of children; and (e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health."

In a letter to Ambassador Brock on February 12, 1985, AFL-CIO President Lane Kirkland urged that: "In order for the concept of 'internationally recognized workers rights' to be applied in a meaningful fashion, . . ." regulations now being developed by the USTR should "specifically reference appropriate International Labor Organization Conventions as a means of defining these most important criteria."

The AFL-CIO regards the inclusion in a trade act of such internationally recognized rights as freedom of association, the right to organize and bargain collectively, and the prohibition on forced and compulsory labor, as a potentially powerful instrument for the promotion of human rights.

The AFL-CIO believes that the fundamental rights of freedom of association, protection from forced labor and the guarantee of the right to organize and bargain collectively are universal and indivisible. We believe, consistent with the interpretations of the International Labor Organization, that such basic rights are not contingent upon the level of development or social system in particular countries.

The AFL-CIO disagrees with the view that fundamental human rights, associated with the democratic form of government, are somehow dependent upon the level of development of a particular society. We specifically reject the notion recently proposed by the Soviet bloc at the ILO that: "supervision of the application of international labor standards must be carried out in such a way that account is taken of the level of development and the social and economic realities of the member states."

We agree with the recent assertion of the U.S. Department of State that: "A fallacy about the democratic form of government is that it can only take hold in wealthy societies. Yet when Switzerland and the United States established democratic governments, both were poor agrarian countries. Today, while many democracies are advanced industrial states, some are not. That democracy issues from great wealth would surprise Indians or Barbadians or Botswanans! By freeing untapped social energies and providing opportunities for their exercise, democracy often facilitates the creation of wealth. Nothing indicates, however, that a wealthy society is an absolute precondition for the establishment of democracy."

This statement applies equally to basic worker rights. And it is about the violation of these fundamental worker rights that we are here to testify, today.

The AFL-CIO also welcomes the inclusion in the GSP of standards concerning workplace safety and health, minimum age for the employment of children, minimum wages, and hours of work. We regard these standards as being of paramount importance in providing basic protection to workers from exploitation. But we recognize that some of these important standards can be judged in accordance with the level of development of particular countries, and that such standards can be said to be relative.

We will be presenting a list of countries which are among the world's greatest offenders of the fundamental worker rights of freedom of association, including the right to strike or withhold labor; the right to organize and bargain collectively through free and independent worker associations; and the right to protection from forced or compulsory labor. We seek to use this forum to draw attention to some of the most blatant offenders of worker rights and to test the strength of the new GSP legislation which mandates the exclusion of countries from the list of GSP beneficiaries for such violations.

We know that there are real teeth in the new GSP trade union rights provisions. We very much hope that the President and your office will apply them forcefully. While there are a number of other GSP beneficiary states which violate worker rights, we are here to urge the USTR and the President to strike from the list of GSP countries the following states, which in recent years have been among the worst and most flagrant violators of fundamental principles of worker rights: Chile, Guatemala, Haiti, Republic of Korea, Nicaragua, Paraguay, the Philippines (case material to follow shortly), Romania, and Suriname. In the words of the law, these countries have not or are not "taking steps to afford internationally recognized workers rights . . ."

Indeed, these countries—from different continents and possessing different social, economic and political systems—are guilty of many or all of the following violations: a. the suppression of independent unions; b. legal restrictions on the freedom of association and collective bargaining; c. punishment of striking workers; d. denial of the right to strike; e. intimidation, arrest or the murder of union activists; f. the use of forced or compulsory labor; g. the torture and beating of imprisoned trade unionists.

On the basis of: 1) reports from our own extensive network of AFL-CIO international affairs specialists; 2) first-hand field reports by staffs of various AFL-CIO international institutes; 3) reports from the International Confederation of Free Trade Unions; 4) the investigations of the International Labor Organization; 5) reports in the news media; 6) studies by reputable human rights organizations; 7) the testimony of exiled trade unionists; 8) eyewitness testimony of victims of repression; and 9) our own government's State Department and Labor Department reports, we are submitting detailed, country-by-country case histories along with this testimony.

These case histories clearly indicate that Chile, Guatemala, Haiti, the Republic of Korea, Nicaragua, Paraguay, the Philippines, Romania, and Suriname are massive violators of the worker rights included in Title 5 of the Trade and Tariff Act of 1984 and as such by law should be denied the designation of GSP Beneficiaries.

Our nation's commitment to help spur the economic growth of less developed and underdeveloped countries has been strongly supported by the AFL-CIO. Indeed, in the long term, political freedom and such fundamental rights as freedom of association and the right to organize and bargain collectively, are a necessary prerequisite for economic development.

The existence of free and independent organizations of working men and women seeking improved wages and working conditions and participating in the political process creates the basis for a stable workforce and a solid middle class of consumers as well as an internal democratic base. Such a stable workforce helps produce the internal demand necessary for economic growth and self-sufficiency.

Thus the inclusion of worker rights provisions in legislation which seeks to promote economic development in less developed countries is particularly appropriate.

We attach great importance to this review of the eligibility of GSP Beneficiary countries and expect to continue to provide information concerning individual countries and products, throughout the process.

The law is explicit in its requirement that GSP Beneficiary Countries respect fundamental worker rights. We therefore call on the President and the U.S. Trade Representative to live up to the spirit and letter

of Title 5 of the Trade and Tariff Act of 1984 and to send a message to the tyrants and dictators, authoritarians and totalitarians of this world; that the U.S. government and the American people will not subsidize the violation of the fundamental rights of working people.

We are well aware that there are other GSP beneficiaries that violate worker rights and we reserve the right to challenge their status as GSP beneficiaries pursuant to the mandatory provisions in Section 502 (b) of the law.

CHILE

Eleven years of Pinochet's dictatorship have seen the severe deterioration of trade union freedoms. His regime has used every means available to beat down the worker. The ICFTU report Trade Union Rights: Survey of Violation 1983-84, shows how labor legislation has been structured to weaken workers' rights.

"The Chilean labor legislation of 1979 was introduced with the clear aim of fragmenting and weakening the trade union movement and several of its provisions are contrary to the ILO standards on freedom of association and trade union rights. The ILO Committee on Freedom of Association noted in particular, the following infringements.

a) the requirement of too high a minimum of workers for setting up a trade union;

b) extensive powers without legal remedies for the Labour Inspectorate to deny a legal personality to a union;

c) restrictive rules concerning the number of trade union officers, the requirements for eligibility and electoral procedures;

d) excessive powers for the authorities to inspect trade union finances and to investigate internal trade union affairs at any time;

e) prohibition of trade union's participation in political activities;

f) exclusion of civil servants from the right to organize in trade unions;

g) restrictions on the establishment of federations and confederations of trade unions, these federations and confederations being forbidden to participate in collective bargaining, to sign collective agreements or call a strike;

h) prohibition of collective bargaining in state administrations, in companies or institutions whose budgets have been financed in the course of the past two years by the state to an extent exceeding 50% and in certain public utility services managed by private companies;

i) important restrictions on the right to strike in respect of the requirements for deciding to hold a strike, the duration of a strike, the exclusion of several enterprises and the power of the authorities to decree the resumption of work."

There are scores of examples of State interference in the unions, raids on their offices, harassments, arrests, torture, internal banishment, exile, and assasinations. One victim of this heinous system was Tucapel Jimenez, President of the National Federation of Government Employees and a true supporter of democracy. Days after calling for trade union unity he was murdered and left lying along the roadside next to the taxi he drove to supplement his living. His throat was cut to near decapitation and he was shot twice in the head. To date, there has been no progress by the government to locate and prosecute his murderers.

More recently, trade unionist Manuel Gerrero, President of the Metropolitan Council of Chile's National Association of Teachers, was kidnapped and found murdered in the same manner and close to the spot where Tucapel Jimenez was found. On March 28, 1985, eight armed men in civilian clothing burst into Chile's National Association of Teachers' headquarters and proceeded to destroy files and equipment and beat some of the teachers who were present. Five persons were taken who were later released. The next day, March 29, Manuel Guerrero and two other persons were abducted and the bodies with their throats cut were found on March 30.

For years, the AFL-CIO has called for the U.S. Government to withdraw support from Pinochet to put more pressure on him to recognize the trade union and human rights of the Chilean people.

GUATEMALA

Guatemala is flagrantly violating ILO Convention 87 concerning the Freedom of Association and Protection of the Right to Organize. Government workers do not have the right to organize or participate in politics. Unions are prohibited from participating in politics or party politics and are threatened with dissolution if they do so. (Sec. 207, Sec. 226(a) of the Labor Code and Sec. 51(12)(1) of Legislative Decree No. 24-82 of 1982.) Union activities come under strict supervision by the government. (Sec. 211(a) and (b) Labor Code).

The right of trade unions to further and defend the interests of workers has been severely limited in area of strikes:

Two thirds of the workers must vote in favor of a strike (Secs. 241(c); 222(f) and (m) Labor Code);

Prohibition of strikes and work stoppages by agricultural workers during the harvest with a few exceptions (Sec. 243(a) and 249);

Prohibition of strikes and work stoppages by those workers in sectors which the government deems as vital to the national economy (Sec. 243(d) and 249);

Intervention of the national police in illegal strikes (Sec. 255);

Imprisonment and trial of offenders (Sec. 257);

(Information for the two prior paragraphs comes from the ILO, Report of the Committee of Experts on the Application of Conventions and Recommendations, Convention 87, Guatemala, 1985.)

The Mejia government has reiterated on numerous occasions that there will be complete "freedom of association" and full guarantees of trade union rights in Guatemala. At the same time, government spokesmen have emphasized the point that their support is dependent on trade unions working "within the framework of the law". Union leaders have asserted that there are not sufficient government guarantees of trade union freedom for the reactivation of trade unionism in Guatemala. The absence of trade union liberty and freedom to organize workers is illustrated in management threats to dismiss workers and close plants when workers try to organize unions; in assasinations and abduction of trade union leaders; in the absence of many new unions and the dismantling of many of the old unions; and in military and civil defense opposition to trade union activities in the areas of conflict where the Marxist-Leninist insurgency operates. (Labor Trends in Guatemala—1984, prepared by American Embassy, Guatemala, Pg. 12, 13.)

According to our sources, it is a regular practice that from time to time a trade union leader is killed prior to signing a collective bargaining agreement. The purpose of those persons who perpetrate these heinous crimes is to intimidate and weaken the new leadership rather than thwart the negotiating process. Appended to this report is a list of names and brief details of disappearances and murders, some of whom are examples of the above practice.

In collected confidential testimony the AFL-CIO has learned that, at least twice in 1985, trade unionists have been abducted, tortured and questioned about their trade union activities and their unions' plans concerning the upcoming political elections and were then released. With the State's strict prohibition of union participation in politics, one can't help but wonder who is perpetuating these acts and why.

One good example of the danger trade unionists face occured in 1980. On June 21, 1980, 25 leaders of the Confederation Nacional de Trabajadores (CNT National Workers' Confederation), were arrested by plainclothed and uniformed members of the National police. They were meeting at the CNT headquarters in Guatemala City to plan the funeral of a fellow trade unionist. This individual had been arrested the previous day and his body was found the next day bearing marks of torture and gunshot wounds. None of the 25 has been heard from since then. Guatemalan authorities subsequently claimed both that the unionists were never detained and that they were released. Cars belonging to some of them were later seen in National Police garages. (Amnesty International Urgent Action, AMR 34/03/85, Jan. 25, 1985.)

Appendix

(This information comes from "Disappearances" in Guatemala Under the Government of General Oscar Humberto Mejia Victores, August 1983—January 1985, by Amnesty International, AMR 34/01/85, March 1985. The following list is condensed from "Partial List of "Disappearances" Reported to Amnesty International since General Oscar Humberto Mejia Assumed Power in August 1983" to include trade unionists only.)

1. Cecilio TEJAX COJ, Age 36, Profession: Day Laborer and trade unionist; Date and Place of Disappearance: 11/6/83 in Santa Lucia Cotzumalguapa, Escuintla; Details: He was taken from a bus in front of his wife and children by armed men who drove him away in a car with the number plates back to front. He was secretary of the union at the Finca Santa Rosa, Sutaman, Chimaltenango, where he also worked.

2. Jose Julio CERMENO, Age 38, Profession: Trade union leader; Date and Place of Disappearance: 11/12/83 in Guatemala City; Details: Precise circumstances not known but believed to have been abducted by members of the security forces. He is legal adviser of the trade union at the Pantaleon Sugar Mill. Dragged out of his home by seven armed men.

3. Jose Luis LOPEZ BRAN, Age 37, Profession: Electrician and trade unionist; Date and Place of Disappearance: 11/27/83 near Pantaleon Sugan Mill, Escuintla; Details: Set off for Guatemala City to do Christmas shopping but was stopped on the main road near the Pantaleon Sugar Mill where he worked, by plain clothed members of the security forces. He was a leader of the trade union at the sugar mill.

4. Miguel Angel GOMEZ, Profession: Trade unionist; the date, place and details of the disappearance in this case are exactly as No. 3, since they were both together at that particular time.

5. Alejandro DEL CID HERNANDEZ, Profession: Trade unionist; Date and Place

of Disappearance: 01/26/84 in Escuintla; Details: A trade union leader at the Mirandilla Sugar Mill in Escuintla, was taken by armed men from his home.

6. Jose Guillermo GARCIA, Profession: Trade unionist; the date, place and details are the same as above.

7. Amancio Samuel VILLATORO, Age 47, Profession: Trade unionist; Date and Place of Disappearance: 01/30/84 in Guatemala City; Details: Abducted as he was leaving his place of work in Zone 19 of the capital. The same day armed men went to his home and took away money and belongings. He was reportedly seen alive in a secret detention centre in the third week of March 1984 by escaped prisoner Alvaro Rene Sosa Ramos. Villatoro is ex-Secretary General of the union at the Adams' Products factory.

8. Alfonso ALVARADO PALENCIA, Profession: Trade unionist and trade union adviser; Date and Place of Disappearance: 01/31/84 in Guatemala City; Details: Abducted by armed men near Roosevelt Hospital after attending meeting with union at CAVISA glass factory. The Department of Technical Investigations of the police is believed to be responsible. Some reports indicated he was found dead four days later but these turned out to be untrue.

9. Edgar Fernando GARCIA, Age 25, Profession: Worker and trade union leader at the CAVISA glass factory; Date and Place of Disappearance: 02/18/84 in Guatemala City; Details: Abducted in Zone 11 of the capital by members of the Special Operations Brigade and the National Police, and taken away in a white and light blue mibrobus. Unconfirmed reports indicate that he is alive and being held in a secret detention centre.

10. Alejandro HERNANDEZ GONZALEZ, Age 27, Profession: Trade unionist and office worker; Date and Place of Disappearance: 05/13/84 in Guatemala

NICARAGUA

As soon as the Sandinistas gained power in 1979 they formed a new labor confederation, the Sandinista Center of Workers (Central Sandinista de Trabajadores, CST) and insisted that all trade unions s.ould belong to one labor center. This is a blatant violation of the freedom of association free from government control.

The Sandinistas proceeded to interfere with union elections, holding elections time and again until the results were to their liking. Unions which refused to affiliate, or once affiliated to disaffiliate from the CST, had their leaders arrested and jailed indefinitely, their members harassed and beaten and their offices attacked and destroyed.

Prior to the November, 1984 elections, Government officials informed certain union members that in return for their collaboration the Government would alleviate some of their financial problems. All they had to do was to convince the CUS (Confederacion de Unificacion Sindical—Confederation of Labor Unity) to leave the Democratic Coordinator, the democratic opposition within Nicaragua. The Democratic Coordinator refused to participate in the elections because of unfair campaign conditions. This subsequently led to the takeover of the CUS headquarters detailed below. For further information, we refer you to a complete report entitled "Sandinista Repression of Nicaraguan Trade Unions."

HAITI

Haiti's history of trade union rights has been a very poor one. The country suffers from corruption and extreme poverty, and the government-sponsored militia has suppressed the opposition. The system is characterized by political murders, imprisonment without trials, exiles and torture.

Article 43 of the Haitian Constitution states that workers have the right to organize trade unions. But other sections of the law limit the exercise of the freedom of association as follows:

Obligation to obtain the approval of the government on such conditions as may please the public authority, before establishing an association of more than 20 persons (Section 236 of the Penal Code);

Wide powers of supervision by the authorities over the trade unions (Section 34 of the Decree of 4 November 1983);

Imposition of compulsory arbitration by the Arbitration Board, automatically or at the demand of the Secretary of State for Labor or of only one of the parties to a dispute with view to ending a strike (Sections 185, 190, 199 and 200 of Amended Labor Code).

ILO Convention 87, in response to the above, requires:

The formation of unions, federations and confederations without prior authorization (Art. 2 & 5);

Public authorities should refrain from any interference that would restrict the rights of trade union organizations (Art. 3);

Compulsory arbitration is confined to cases of strikes in essential services in the strict sense of the term, those whose interruption would endanger the life, personal safety or health of the whole or part of the population and arbitration should be used when both parties call for it (Art. 3 & 10). (Report of the Commission of Experts in the Application of Conventions and Recommenations; Convention 87, Haiti, 1985.)

During the 1982-83 sugar harvest the Government of Haiti received $2,225,000 in recruitment fees for 19,000 Haitian workers from the State Sugar Board of the Dominican Republic. The ILO recommends that the Government of Haiti receives money for actual recruitment costs, and accounts for it in the public accounts of the Government of Haiti. (Ibid, Convention 105, Abolition of Forced Labour, Dominican Republic, and Haiti, 1985.

The Government has been very successful in eliminating any strong union leadership. In 1979-1980 there was a series of crackdowns aimed at eliminating the independent trade union movement. One telling example of this is the arrest of Ives Richard, Secretary General of the Centrale autonome des travailleurs haitiennes (Autonomous Confederation of Haitian Workers) and the murder of trade unionist Siméon Jean Baptiste as described by Ives Richard.

"I was arrested without warrant at 10:00 a.m. during a meeting I was holding at the office of the Salesian Fathers with 35 workers from the textile company NEDSAN. Without warning a group of tontons macoutes burst in, and without much ado, started beating up the workers. Fellow trade unionist Siméon Jean Baptiste was killed by a bullet from the guns of the tontons macoutes of Jean-Claude Duvalier. I was taken with the other workers to the Casernes Dessalines where we were interrogated under torture and for the first time accused of being arsonists and communists agitators. From that moment I was kept completely separate from the other workers and transferred to the underground cells hidden below the National Palace." (Amnesty International, Haiti Briefing, March 1985, Pg. 8)

Since this purge of 1979-80 Haiti now has a docile labor movement fearful of government repraisals if it steps out of line. One evidence of this is that few collective bargaining agreements have been signed because the unions' back has been broken.

REPUBLIC OF KOREA

Korean labor law revisions enacted after the 1980 coup have imposed severe constraints on workers' rights to organize, and to engage in collective bargaining and collective action. Although specifically guaranteed by the Constitution, these rights are systematically denied through enforcement of laws designed to keep workers unorganized and unions ineffectual. Enforcement combined with the assurance of a blacklisted name and intimidation tactics condoned by government officials have prevented all but the most desperate workers from seeking to exercise their constitutionally guaranteed worker rights.

With the promulgation of revised labor law, Korean President Chun arrested or took into custody several hundred officers of labor unions and coerced them into "retirement." Union membership plummeted by 140,000, due primarily to the expulsion of experienced leaders and to the forced dissolution of labor unions that failed to meet the criteria in the new law.

Provisions in the labor law narrowed greatly the latitude of unions in relating to workers and of workers in selecting unions.

The restructuring of labor law in 1980 effectively dissolved interaction between national unions and their local and regional sections and seriously undermined worker freedom of association.

The law severely impinged on the rights of workers by allowing unions to operate only in establishments of more than 30 workers. With 80 percent of Korean workplaces operating with fewer than 30 workers, the vast majority of Koreans are prohibited by legal statute from joining a union. A worker not affiliated with a particular business or worksite is denied his right of association.

Notwithstanding certain political liberalizations within Korea, the practice of industrial relations has seen no improvement and continues to subject workers to the systematic denial of the rights of association and organizing. Even when unions adhere to the spirit and letter of the law the government frequently does not apply the law. A successful effort on the part of the Metalworkers' Union to organize thousands of workers at Dongil Steel was thwarted when, after delivering all necessary registration papers, the Government refused to certify the union as the workers' representative. Mass protests by the local president of the Metalworkers' Union and by the headquarters' staff of the Federation of Korean Trade Unions drew public attention to the government's refusal to adhere to its own laws. The Dongil Steel case is merely the latest of more than ten similar cases of the government's refusal to certify duly organized unions. In one case the government has claimed that the union did not have properly elected leadership. In fact, the elected leaders had been dismissed by the company precisely for their organizing activities.

Despite the erratic and unjust application of labor law, workers continue to organize themselves. The demand for representation among garment workers erupted recently in the two cases of Chongkye and Daiwoo Apparel. Barred from legal recognition because their individual workplaces employ fewer than 30 employees, workers in the Chongkye garment district banded together to

protest poor working conditions and inadequate wages and to demand recognition of their independent union, the Chongkye Garment Workers' Union. Organized outside the government-condoned Federation of Korean Trade Unions, the Chongkye Union represents to the government an uncontrollable and therefore hostile force. The Chongkye Employers' Association advocates the legal recognition of the union, but the government has officially managed to ignore the clamor.

Recently, while demonstrating their dissatisfaction with the FKTU's meager support in combatting the company's anti-union drive, 80 Daiwoo Apparel Union members locked themselves inside the FKTU headquarters building. Demands included reinstatement of six workers dismissed from union activities, a wage increase, and the signing of a collective bargaining agreement. An agreement with the company was reached the following day, but on their return to work after the demonstration, workers were ambushed and beaten by company goons. a subsequent sit-in at the Democratic Korean Party headquarters yielded no concrete results. Through all the attendant publicity, the Korean government response was to side with the employer, take no action and see to it that no FKTU or Textile Workers Union official visited the hospitalized Daiwoo unionists. Ultimately, the company reneged on its agreement, and the union activists were placed on trial.

The failure of the government to enforce the labor law and to hold employers responsible for their actions confounds the industrial peace that the government demands. In the process of dictating the industrial relations system and violating basic worker rights of collective bargaining and association, the government makes no provision for serious input from workers.

The sharp increase in the number of unfair labor practices failed by unions is directly attributable to the balance of legal superiority held by the employer. The strengthening of the employers' superiority as well as the impunity enjoyed by employers form an institutionalized barrier as effective as the official labor code in preventing workers from exercising their rights.

Registration of complaints or requests for action to the FKTU headquarters seldom result in affirmative action for workers' organizations. The autonomy of the FKTU is undermined at all levels by government interference which includes a large network of informers who are promised personal material gain in exchange for cooperation and information. Interference in the form of physical intimidation, such as at Daiwoo Apparel, has discouraged the emergence of local level, independent trade union activism.

Even the government of the Republic of Korea has admitted its denial of workers' rights and the inconsistency between the Constitution and the labor code. Even the censored Korean press regularly remarks on the need to revise the labor laws and improve working conditions: "Admitting that Korean economic conditions are different, . . . we cannot deny that there is a discontent among the people concerned because there have not been sufficient guarantees to protect workers' rights in terms of organizing unions, collective bargaining and collection action since revisions of the labor laws in 1980." The delay in Korea's application for membership in the International Labor Organization lends credence to the conjecture that the government is unwilling to subject its laws to the scrutiny of that international body. According to the U.S. Department of State Country Reports on Human Rights Practices for 1984, "The single national labor federation, the Federation of Korean Trade Unions (FKTU), and its national affiliate unions are not controlled by the government. Their freedom of action, however, is severely circumscribed by law . . . All local unions must be organized within individual enterprises, creating a structure of thousands of individual unions, most of them small and weak . . . Collective actions and strikes, though technically legal, are to all intents and purposes forbidden. Religious labor ministries such as the Catholic Young Christian Workers and the Protestant Urban Industrial Mission are also severely limited in the assistance, which they can provide the unions. Under these circumstances, government and employer influence has greatly exceeded that of unions in setting wages and resolving other major labor issues."

PARAGUAY

The Stroessner regime of Paraguay is the longest running dictatorship in this Hemisphere and has been in power since 1954.

A predominant characteristic of the dictatorship is constant interference in union affairs. The Confederation of Paraguayan workers is the only legally recognized union and is widely known to be at the service of the Stroessner government.

There are dozens of unions affiliated to the CPT, but most of them have only a few members. When they rarely try to deviate from party line and government policy, there is quick and harsh reprisal.

According to the U.S. State Department's Country Reports on Human Rights for 1984 the right to free association is particularly curtailed in the case of the Paraguayan labor force. Paraguayan workers are not permitted to organize freely, as demonstrated by the case described below. Strikes are not permitted by the Government, and efforts at collective bargaining by the few independent labor unions which are permitted to exist are sometimes frustrated, with the tacit backing of the Government.

The National Construction Workers Union (SINATRAC) replaced its government-stooge Secretary General with another who truly represents the rank and file. All attempts to get the new Executive Board recognized by the government failed. In spite of this, the dissidents conducts a successful organizing campaign of the Yacyreta Dam and proceeded to organize the construction site of a steel mill close to Asuncion. In retaliation for their action, the Army arrested the five organizers before a membership meeting outside the steel mill construction site. They were held for 18 days, August 18 to Sept. 4, 1984, without being charged with any crime.

Subsequent to their release, the five union officers were threatened with arrest and imprisonment if they were seen again in the vicinity of the steel mill. When SINATRAC planned union elections for October 14, 1984, as required by law, police informed them to either cancel the meeting for that day or be arrested again. Nevertheless, elections were held a week later, and the democractic slate won. To date the government has not recognized the legitimately and freely elected officers of SINATRAC.

This is just one of many examples of the blatant violations of ILO Conventions 87 and 98 by the Stroessner government.

□ 1600

Mr. LEVIN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I am pleased to yield to my distinguished colleague, the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman very much.

I am so pleased to join the distinguished gentleman from Ohio [Mr. PEASE] in his special order and to congratulate him for taking it, although I am sure he would not wish any congratulations at all to speak about the rights to organize freely,

I have listened with interest to the discussion regarding a number of countries, and I just wanted to say a few words about a situation that is often commented on, that of Solidarity in Poland. It just seemed that it was not appropriate for there to be a discussion of the rights to organize with trade unionism without having some reference to Solidarity.

A few days ago I saw a program on the MacNeil-Lehrer show. It was a documentary of about a half-hour, and it was a remarkable piece of journalism. It included interviews with Lech Walesa and others who are trying to keep the flame of Solidarity alive.

Poland has had a checkered history. It has had many proud moments, and it has had some moments of which, I think, one would be less proud. But today the Solidarity movement struggles to survive against the most formidable odds.

I sat there, I am sure, as did millions of other Americans, admiring the courage of people like Lech Walesa and others as they attempt to keep that flame still flickering. They are being prosecuted and they are being persecuted, and here we are in the comfortable environs of this country facing, we hope soon, another holiday season. But others are in the winter of that season, attempting to maintain just the basic human rights—not "maintain" them because they do not have them, but they are trying to win them.

I met with a representative of Solidarity at a human rights meeting in Ottawa some months ago, and there in Ottawa he described the efforts of their office in Paris to get across their methods, as well as the valiant efforts of people who remain in Poland and who are not going to leave their homeland while it is not free.

So today I would like to join my good friend, the gentleman from Ohio. I would like to stand with him, if I might, and I would, knowing his own feelings, like to add this moment of statement of continued commitment on our part to do whatever we can to help those who are trying to bring about freedom of trade unions through all these efforts in Poland today.

Mr. Speaker, I thank the gentleman very much.

Mr. PEASE. Mr. Speaker, I thank my colleague for his contribution.

I would note that, having been as interested in labor rights as I have been for a number of years, certainly I would have no greater ally in that endeavor than the gentleman from Michigan. I am grateful to him for his assistance in the past, for his solid support, and for his participation in this special order today.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman very much.

Mr. PEASE. Mr. Speaker, now I would like to talk about Suriname. Suriname is a very small place, a very small place indeed. One would wonder why we should be concerned in this House or in this country about labor rights in Suriname. Yet if a number of women, especially those who would be shopping in stores during this Christmas season, would look at the labels on their blouses and dresses, they would find more often than they might think the label, "Made in Suriname."

What that means, of course, is that those products on the shelves in the stores are there competing with American-made products, products made by garment workers in South Carolina or Georgia, in North Carolina or Alabama, in New York or wherever. So I think it is worthwhile for us to realize what kind of working conditions the workers in Suriname face as they are making products which may well tend to put our own American workers out of a job.

□ 1610

Again, Mr. Speaker, this comes from AFL-CIO testimony last December:

SURINAME

In December 1982, Cyril Daal, President of De Moederbond (Suriname's Labor Federation) was killed, along with 14 other prominent leaders. One important event leading up to the murder was Cyril Daal's call for democratic elections. When Desi Bouterse came to power through a coup d'etat on February 25, 1980, he promised elections in 1982. When it became apparent he was not going to follow through on his promise, Cyril Daal and De Moederbond began to put pressure on him to do so. He lead protests against Bouterse's visit to Cuba and during Maurice Bishop's visit to Suriname, something that greatly embarrassed Bouterse.

On December 8, 1982, Cyril Daal was picked-up and taken to military headquarters called Fort Zeelandia, along with 14 others. The next day, Lt. Col. Bouterse claimed they were shot trying to escape, all 15. The real story which came out later was they were beaten, tortured and shot at close range. One eye-witness saw Bouterse personally castrate and then shoot Daal to death. So much for the treatment in Suriname of those who seek decent working conditions and decent wages for the working people.

Since the brutal murder of Cyril Daal, the labor movement has been very subdued in its activities. One must conclude that the Government has so intimidated trade unionists that they are fearful of demanding and exercising their rights as provided under ILO Conventions.

According to the International Confederation of Free Trade Unions' [ICFTU] report, "though legally speaking no limitation on the fundamental trade union rights has been imposed, the fact remains that trade union activities are close to paralyzed. No strike could therefore be organized since 8 December and the trade union leaders are extremely cautious. During a meeting with leaders of the unions belonging to the labor federation, *De Moederbond*, clear indications were made of the atmosphere of repression in which the trade union movement is developing its activities."

There is such fear of the Bourterse Government that unions are trying to find a middle ground to tread between not collaborating with the Government and not posing as a threat to it either.

Mr. RITTER. Mr. Speaker, will the gentleman yield on that point?

Mr. PEASE. I am happy to yield to my friend.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding. I think he makes an interesting point with the example of Suriname of what happens in a country like Suriname and what happened in Grenada, what is happening putting the final touches on the situation in Nicaragua. In these Marxist-Leninist regimes there is at the beginning some vestige of free labor movement, but as the regime consolidates its power, it either co-ops all of the existing vestiges of free labor, or as in the case of Suriname, totally destroys that vestige.

I think we are seeing this today in Nicaragua with the recent changes brought about by the Sandinista regime. Labor unions, as we know them in this country, labor unions as they continue to struggle and exist in Guatemala, in Chile and other right wing dictatorships, have ceased to exist. If you take then the final stage of this consolidation, which is the Communist government, you find that all over the world there are still labor unions, that in no way, shape or form, do they have any resemblance to the kind of labor unions that we are familiar with and the kind of labor unions that the ILO is seeking to support worldwide.

In the Communist governments of Eastern Europe, outside of Poland, in the Soviet Union, in Cuba, in Vietnam, in North Korea, there are government-controlled labor unions, that these labor unions are strictly voices of the communist regime.

It is interesting that in the gentleman's presentation on the Western Hemisphere and the state of labor unions, the gentleman did not mention Cuba. Now, I am not criticizing the gentleman. The reason, and we both understand the reason, that Cuba was not mentioned is that there are no labor unions there in any way that we would understand the meaning of unions left in Cuba. They have been totally wiped out.

I just wanted to add that in addition to the countries that the gentleman is characterizing in the way they treat their labor unions, there are a number of countries around the world, they are Communist countries, that have totally destroyed any and all vestiges of labor unions as we know them. It is not possible even to get up and stand on the floor and describe the conditions of labor unions in these countries, like Cuba, like the Soviet Union, like Vietnam, like North Korea, like Bulgaria.

There is no ability to do that because there is absolutely no information on what is happening to workers in those countries. The only information we have is an occasional bit of intelligence about an illegal manifestation of union activity that somehow took place far off, far away somewhere, and we never hear about it again. So it does not make our newspapers. It does not make the ILO report. It does not make a special order on the floor because we have absolutely no information on the state of labor unions in these countries, because labor unions have ceased to exist.

I thought it was important to point that out and I think the gentleman is doing an excellant job in characterizing the state of affairs of labor movements in countries around the world. We should just for a moment consider the totally anti-union conditions, anti-labor conditions, that exist in the so-called workers paradise.

Mr. Speaker, I thank the gentleman for yielding.

Mr. PEASE. Mr. Speaker, I would like to thank the gentleman very much for his contribution.

Mr. Speaker, I would like to make the point that the gentleman from Pennsylvania has a long and distinguished record in this House of leadership in matters of concern about human rights. I value his participation in this special order. I think he makes a very, very valuable point. Labor unions are friends of workers. Labor unions try to help workers get better working conditions, better wages.

In country after country around the world, they are more than that. They are also friends of democracy and enemies of dictatorships, and the dictatorships understand that it is not possible to have a successful dictatorship and to allow freedom in any manifestation, including in the work place. That is why it is both right wing and dictatorships and Marxist-Leninist dictatorships alike repress labor unions whenever they appear.

Mr. RITTER. Mr. Speaker, if the gentleman will yield further on that point, it is an important one and I think we should all pay tribute to the work that the AFL-CIO has done

around the world in this regard. They are not simply out to organize workers. They do have at heart the principles of democracy and freedom.

In particular, the AFL-CIO AFILD, has been very effective in Central America. Indeed, if you read William Doherty's recent report on conditions in Nicaragua, you realize that the Nicaraguans have gone the last step, have fully made their country into a totalitarian Communist state and have just about entirely destroyed those vestiges that up until very recently still existed, although very narrowly, in Nicaragua. They have virtually disappeared as of today.

Mr. Doherty and AFILD and the AFL-CIO have been very strong in pointing that out to us in the Congress and to their colleagues in the United States.

Again, I thank the gentleman for yielding.

Mr. PEASE. Mr. Speaker, I thank the gentleman.

Mr. Speaker, finally I would like to turn to the Philippines and I would emphasize that I do not pick on the Philippines. I am not selecting them because of the elections that are coming up soon. Indeed, labor rights violations have been going on for a long, long time. The Philippines, and I have been concerned about them for a long time. I would like to just cite a couple of case studies of individuals in the Philippines which I think my colleagues will find interesting.

LABOR CONDITIONS IN THE PHILIPPINES

Twenty three-year-old Tess sewed Barbie Doll clothes on the night shift for Mattel Corporation for five years. Each hour, she had to complete a quota of 300 tennis suits, or receive a disciplinary warning. Often, Tess and her co-workers were forced to work four or more hours overtime and many suffered breathing problems or anemia from exposure to cotton dust or other poor working conditions. Last April, Mattel suddenly closed down operations in the industrial zone, an area where labor unrest has grown dramatically in recent years. The company moved to nearby Manila, next door to a military encampment.

Bernie is a worker on a sugar plantation in southern island of Negros. His 28 peso daily wage is lower than the legal minimum, but his employer, like most, doesn't pay attention to minimum wage laws. Bernie's family lives in a bamboo hut without electricity or running water. Now the prospect of unemployment looms large for Bernie, his family and 200,000 other sugar workers as the sugar industry faces imminent collapse. He and his fellow workers asked the landowner for the use of land to grow subsistence crops, hoping to stave off hunger. Instead, the landowner, who fears an effort at land reform, responded by hiring military-trained security guards who often spy on, abuse and even kill workers, especially union leaders.

Tess and Bernie are typical Filipino workers. As members of the country's poor majority, they are being deeply affected by the current political, economic and military crisis. In the last two years, the human rights and economic situation has gone from bad for the country's 21 million workers. Nevertheless, many workers are playing an important role in the popular movement for justice and democracy in the country. What exactly are the key issues confronting Philippine workers today?

Trade union repression

Philippine workers risk imprisonment, torture, abduction and murder for engaging in legitimate union activities. The labor repression that became a hallmark of government rule during the martial law period in the 1970s has continued unabated since martial law ended in 1981. Selected statistics tell the grim story of labor repression: nine workers were killed in picketlines during three first three months of 1985; 42 workers and labor leaders have been killed since 1982; 77 workers or labor leaders participating in strikes or protests were arrested between 1983 and early 1985; and 31 workers and union leaders remain in jail as of August 1985, either without charges and with charges related to their union activity. Workers and unionists report that it is common for employers to hire "private armies"—security guards trained by the military who harass, intimidate, spy on and even violently attach workers and union leaders.

During the past several years, the government has also unleashed a series of attacks on the opposition union federation Kilusang Mayo Uno (KMU). The most serious crackdown was the September 1982 arrest of 69 KMU unionists on charges of "subversion," including most of the organization's top leadership. The military confiscated materials, files and equipment from KMU offices and the offices of four union affilates. The incident provoked a strong condemnation from the International Labor Organization Freedom of Association Committee, in response to a formal complaint filed by the KMU. However, the Philippine government ignored the ILO's recommendations for immediate remedial actions.

Anti-labor laws

Philippine workers get tangled in a myriad of legal restrictions when they attempt to exercize their rights to associate, organize and strike.

For example, most public employees, such as government workers, teachers, public hospital personnel and transportation workers, are not allowed to unionize at all. Among organized workers, those in a wide range of "essential" industries—e.g. public utilities, banks and companies producing for export—are prohibited from going on strike. Workers participating in such an "illegal" strike face a risk of six months imprisonment. Then, other strikes are not considered legal unless two-thirds of workers in a workplace elect to strike and file a notice of strike with the government 15 days in advance.

On top of these laws, the Minister of Labor and President Marcos can order striking workers back to work and enforce compulsory arbitration in labor disputes "adversely affecting the national interest." And most recently, President Marcos issued a order in May authorizing the use of police and military forces in enforcing back-to-work orders.

For many years, these and other legal measures have been strongly and repeatedly criticized by the International Labor Organization Committee of Experts in its annual reports and reviews. In addition, the International Confederation of Free Trade Unions (ICFTU) recently filed its own complaint with the ILD regarding public employees' lack of right to organize. The complaint followed a fairly critical report on legal restrictions and labor relations practices by a 1984 ICFTU fact-finding mission to the Philippines. (see ILO and ICFTU reports attached). However, the Philippine government has taken no steps toward reforming its labor legislation.

Economic crisis

The severe downturn of the Philippine economy, brought on by worldwide economic recession and exacerbated by austerity measures recommended by the International Monetary Fund, has taken its toll on workers jobs and income. The last few years have seen a pronounced trend of plant closings, a fall in real wages and growing unemployment. According to Philippine government figures, more than 86,000 workers were laid off in 1984, and other analyses suggest that the figure may actually be much higher. At least 200,000 sugar workers are out of work so far this year as the sugar industry, hit hard by the oversupply in world market and internal inefficiencies, has plunged headlong into an economic downspin. Unemployment and underemployment together approach 45 percent of the Philippine workforce, with two-thirds of the entire population living below the poverty threshold.

While average wages are rising steadily, the wage hikes are far outstripped by the rate of inflation. Thus while Philippine workers had 36 percent more money in their pockets at the end of 1984 than at the beginning of the year, they had to pay 55 percent more for basic food items, clothing and housing and transportation. The great majority of Philippine workers today earn only the minimum wage of $3.17 per day, less that normal food costs for an average family of six. However, the government exempts many companies from paying minimum wage, while others simply ignore the standard, pushing workers to strike for the wages legally owed them. And Philippine workers enjoy no retirement benefits, no unemployment compensation, and minimal medical benefits—a situation which understandably heightens workers' concern for job security.

How are Philippine workers responding to this crisis?

All these conditions combine to produce a rapidly polarizing conflict between workers, management and the government. Labor unrest stepped up dramatically last year, often leading to an open defiance of government labor laws and regulations. In 1984, lockouts and strikes, even in those industries where strikes are banned, happened more frequently, lasted twice as long and involved nearly twice as many workers on the average over the previous year, and these numbers increased again during early 1985. Tens of thousands of workers in major cities regularly turn out into the streets for protests and rallies. And more and more workers are participating in a new protest action known as the "people's strike," in which workers along with shopkeepers, housewives, students, teachers, farmers and others cease their normal activity, bringing local economies to a halt.

Union activity is also taking on a more openly political stance. In negotiations with management or government officials as well as in political rallies, workers not only press for economic demands, but raise political issues such as IMF austerity program, government plans economic development and

the dominant role of foreign corporations in the economy.

Of course, the upsurge in labor activities has set off a new spate of clashes between workers and police and military forces at picketlines and protest rallies.

Why should U.S. unionists be concerned about the Philippines?

One link between U.S. workers and Philippine workers is that many share the same employers. At the same time, other U.S. workers have lost their jobs when U.S. companies shifted their plants to the Philippines in search of cheap, non-union labor—a trend set by U.S. electronics, apparel, toy and consumer appliance firms during the last decade. With its rich natural resources and low-cost and largely English-speaking workforce, Philippines has been one of the most attractive overseas investment sites for U.S. corporations. Before the recent economic crisis, which has cooled investors toward the country, Business International described Philippine labor as "one of the cheapest (employers prefer to call it competitive) in the world."

Some of the largest U.S. corporations in the Philippines include Mobil Oil, Pepsico, Colgate Palmolive, R.J. Reynolds, Procter and Gamble, Castle and Cook, Carnation International, Union Carbide, Advanced Micro Devices, Texas Instruments, Good Year Tire and Rubber, Firestone Tire and Rubber, Johnson and Johnson, General Foods, Kimberly Clark, IBM, Bank of America, Manufacturers Hanover Trust, Chemical Bank and Chase Manhattan.

What do Philippine workers gain when they get jobs taken away from U.S. workers? Along with jobs that offer no security, meager wages and sometimes dangerous working conditions, Philippine workers often face union-busting and labor repression under American employers. Following are several recent examples of labor repression at U.S. companies in the Philippines:

Two workers were killed and five family members wounded early last January when a jeepload of armed men fired on a picketline at Franklin Baker Company, a subsidiary of General Foods Corporation which processes dried coconut. The workers, who had been on strike for a week to protest the dismissal of several hundred union leaders and the company's failure to pay the minimum wage, have evidence suggesting that company managers instigated the attack.

Workers at Baxter Travenol Co., a U.S.-owned manufacturer of dextrose solution used for intravenous feeding, have picketed since February after they were locked out by American management, who claimed that economic difficulties forced them to close. Two months earlier, the workers had won a Supreme Court case arguing for legal recognition of their union, despite management's efforts to buy them off and threats to close the plant if the case succeeded. The workers suspect that the plant will reopen under a different name.

Job applicants at the Texas Instrument plant must submit to a battery of tests and interviews prior to hiring that are partially aimed at disclosing attitudes toward unions and history of union involvement. Applicants are told that Texas Instruments does not intend to have a unionized plant and those with union experience or union sympathies are not hired. The management reportedly keeps computerized records of test results and shares the information with other companies in the same industrial zone.

In pursuit of maximum profit, multinationals do pit workers against one another in a competition for jobs. But workers in the U.S. and the Philippines can only overcome this strategy and begin to wield control over these multinationals if they join together to address their common problems.

EXCERPTS FROM: THE PHILIPPINES: HUMAN RIGHTS AFTER MARTIAL LAW, REPORT OF A FACT-FINDING MISSION BY THE INTERNATIONAL COMMISSION OF JURISTS, GENEVA, SWITZERLAND, 1984

"The limitations on civil liberties referred to elsewhere in this report constitute serious limitations on the rights of workers. . . . Since significant infringements on (civil) rights exist in the Philippines, the right to freedom of association for trade union purposes is not satisfactorily guaranteed."

"The ILO Committee of Experts . . . has found the right to strike in Philippine legislation to be unduly restricted . . . the limitations on strikes in export industries, despite workers allegations of inadequate labor conditions, appears to result in workers becoming victims of the government's industrial policy."

"The comments of the respected Committee of Experts indicate that Philippine legislation, even following the lifting of martial law, contains serious violations of the fundamental principles of freedom of association and trade union rights."

"Arrests by Presidential orders and harassment of union leaders and members have been common since the termination of martial law. . . . The evidence is strong that the arrests of KMU leaders were intended to curb the militant labor activities of this union. The Economist reported in December 1983, that the KMU had been hobbled by the continued imprisonment of the leaders of subversion charges."

"The militant actions of the relatively small KMU are to be contrasted with the inaction of the large government sponsored union, the Trade Union Congress of the Philippines, which has generally maintained silence about the problems of workers."

"The present labor unrest in the Philippines appears to be caused by the legitimate demands of the workers."

"It is apparent . . . that labor conditions are unsatisfactory in the (Bataan Export Processing) Zone and that remedial measures are urgently needed. Harassment and suppression of labor activities are not the solution . . . conditions in the Zone require a change in the labor laws which would permit collective strike action over inadequate working conditions even in export-related industries."

"The appalling living and labor conditions on the sugar plantations in Negros should be a major concern of the government, (and) the planters. . . . Ultimately, however, it will only be by according sugar workers the right to organize freely without harassment and the right to protest against their conditions that improvement will take place. . . . Concerted efforts should also be made to provide alternative work for the numbers of sugar workers likely to be displaced by mechanization."

REPORT TO ICFTU MISSION TO THE PHILIPPINES

In August and September 1982, 69 trade unionists of the labor organization Kilusang Mayo Uno (KMU) were arrested. The International Confederation of Trade Unions (ICFTU) protested against the arrest, while the Trade Union Congress of the Philippines (TUCP), the ICFTU affiliate in the country, defended the government's action. As a result, the TUCP invited a fact-finding mission to the Philippines to investigate the labor union situation. The following are excerpts from the report of the fact-finding mission submitted to the ICFTU Executive Board in May 1984. Members of fact-finding team included:

J. Vanderveken, ICFTU General Secretary; Irving Brown, AFL-CIO; Cliff Dolan, Australian Council of Trade Unions; Moss Evans, Chairman of International Committee, British Trade Union Congress; Wim Kok, FNV Netherlands; Hans Fogestrom, LO Sweden; Toyojiro Noda, Zendentsu, Japan; Masao Aihara, Domei, Japan; V.S. Mathur, ARO General Secretary; and P.H. de Jonge, ICFTU Secretariat.

"The increasing unemployment, noticeable especially in industrial areas and therefore in the towns, and more particularly in the shanty towns and slums of the large urban centers, is adding substantially to the already widspread proverty."

"(The) Labour Code does not cover the public service, so that in this sector unions enjoying the protection of the Code cannot be formed. This . . . is of course a situation which, apart from it being contradictory to ILO established standards, is unacceptable to trade unions."

"The Labour Code as such is on the whole consonant with the ILO conventions . . . but the practice can be different . . . the majority of strikes have been declared illegal . . . the conclusion is that the right to strike is not observed as a matter of course, and thus from the trade union point of view constitutes a serious infringement of workers' rights."

"The mission heard of cases of workers (imprisoned) in Mindanao and Negros, as well as other parts of Luzon . . . The ICFTU should continue to demand their release."

"It is already clear that the general human rights situation causes grave concern, and the ICFTU would so well to watch developments very closely indeed and to take up appropriate cases and occurrences in a vigorous manner."

"In . . . reaction to the oft-heard assertion that the TUCP is pro-Marcos government . . . the TUCP should be judged on its record as a functioning trade union. It has constantly fought for increased wages and better conditions, and lest the relationship with the Ministry of Labour and Employment was deemed too cozy, (the TUCP president) reminded the mission of his fight with Labour Minister Blas Ople to remove the Assistant Minister Inciong, whom he thought inimical to workers' interests."

"It is to be expected that the Marcos regime will give way to a more democratic one, and that those who have been close to the previous regime will be reproached for their too docile attitude. Such a reproach is directed against some people in the leadership of the ICFTU affiliate, the TUCP. . . . The mission hopes and trusts that the TUCP will plainly show its distances from the regime, and work for the restoration of political democracy and show itself to be an active force within the democracy, which is going to be badly needed in the reconstruction after the Marcos period. . . The ability of the TUCP to act in this manner will largely determine its position and representativeness in the new era that is opening for the Philippines."

"Whenever there was a strike, employers often hired 'goons' (scabs) and/or called in the police and even the military, who very willingly cooperated. Thus violence erupted at strikes. . . . Police violence was an every-

day occurrence, and this was very often caused by employers simply not implementing the wages as laid down in the Collective Agreements."

"It was often said that strikes were not necessary, as arbitration was available. However, arbitration before the labour courts took an interminable time—quite usual is a three-year period. . . . There was even a case that had dragged on for twelve years without a decision being reached. Is it to be wondered at that strikes were preferred!"

"The mission also met the special section of the Ministry of Defense charged with combating subversion. . . . What in general struck the mission was the virtual admission of the close involvement of the military, and that on an organized basis, in public affairs or at least in pursuance of the policies and actions of the Marcos government and its attempts to suppress opposition. The mission still wonders why such an activity on the part of the Ministry of Defence is at all permissible."

"Renewed attempts at the cooperation of all democratic trade unions should be pursued and trade union rights in their full extent guaranteed; we particularly refer to the right to strike which is far too hemmed in; the right to form unions in the public sector, and an end to the harassment unionists often face, especially in rural areas, when engaging in normal trade union action."

INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS,
Brussels, Belgium, March 7, 1985.

COMPLAINT OF THE ICFTU AGAINST THE GOVERNMENT OF THE PHILIPPINES FOR VIOLATIONS OF TRADE UNION RIGHTS

MR. FRANCIS BLANCHARD,
Director General, International Labour Office, Geneva, Switzerland.

MR. DIRECTOR GENERAL, The ICFTU is greatly concerned about the trade union rights situation in the philippines, in particular the restrictions relating to the right to strike, the requirements for the registration of trade unions, the powers of inquiry conferred on the Department of Labour in respect of the financial management of trade unions and the harassment, arrest and detention of trade unionists, as reflected in the observations of the Committee of Experts and the reports of the Committee on Freedom of Association concerning Cases Nos. 1157 and 1192.

However, an important infringement of trade union rights by the Government of the Philippines has so far gone unnoticed, namely the denial of the right to organise in the public sector. While Article 244 of the Labour Code of the Republic of the Philippines guarantees the right to "self-organisation" to workers in commercial, industrial and agricultural enterprises, the workers in government and local government services, as well as workers in government-owned or controlled corporations, which are covered by the Civil Service Law and Rules, are excluded from the right to organise in trade unions. This constitutes a fundamental violation of one of the basic trade union rights recognised by Convention No. 87, viz. the right of workers, whoever their employer is, to establish and join organisations of their own choosing. It leaves a substantial proportion of the workers of the Philippines without the protection and furtherance of their interests by trade union organisations.

The ICFTU requests you to consider this communication as a formal complaint against the Government of the Philippines for violation of trade union rights and to transmit this complaint to the Committee on Freedom of Association of the ILO Governing Body.

Yours sincerely,

JOHN VANDEROEKEU,
General Secretary.

LABOR RIGHTS VIOLATIONS IN THE PHILIPPINES

(Submitted by the Institute for Policy Studies, Philippine Workers Support Group, Philippine Resource Center, Clergy and Laity Concerned)

THE GSP

In 1974, the United States enacted a piece of trade legislation of considerable significance for the Third World: the Generalized System of Preferences. The legislation permits billions of dollars worth of goods from developing countries duty free access to the U.S. market.

When the U.S. Congress renewed the GSP in late 1984, it enacted important new guidelines to help ensure that the legislation does not adversely affect the welfare of workers in the U.S. and in the Third World. Specifically, before the U.S. president declares a country eligible for GSP benefits, he must certify that it abides by the following internationally recognized rights of workers:

1. The right to association:
2. The right to organize and bargain collectively:
3. a prohibition on the use of any form of forced or compulsory labor:
4. A minimum age for the employment of children: and
5. acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

This new piece of legislation is of historic importance for trade deliberations in this country and indeed for the world. For the first time, the U.S. government is going to the heart of the factors that are undermining the well-being of workers everywhere. How?

We live in a world where large corporations are able to shift plants and resources around the globe with ease. A central factor involved in corporate decisions over where to locate factories is the cost of labor. If developing country governments exploit labor at below subsistence wages, U.S. corporations will gladly close down a U.S. plant and shift production overseas. The U.S. government has encouraged labor repression overseas by granting duty free treatment to imports produced under these gruelling conditions, imports which erode U.S. jobs and push down wages and living standards for U.S. workers.

The new GSP legislation offers, for the first time, an opportunity to remove a major incentive for labor repression overseas. It sends a loud signal that the U.S. will not reward the brutal suppression of labor rights with free access to our market.

THE PHILIPPINES AND THE GSP

The Philippines is one of the top 15 beneficiaries of the GSP, supplying 1.6 percent of the total goods imported by the U.S. under the trade agreement in 1982. The country has received these benefits despite longstanding government policies and practices that severely restrict workers rights. This testimony presents evidence that the Philippine government violates several of the labor standards specified in the 1984 legislation and argues that it therefore should be suspended from eligibility for GSP benefits.

Major Philippine products that receive duty free access to the U.S. under the GSP include sugar, furniture, and electronic products. (See Appendix) The general trend of labor repression in the Philippines affects these export industries as well as all others. Because of the government's desire to attract foreign investment with the promise of a docile, low-wage workforce, certain export industries suffer even greater labor union repression than most non-export industries. This fact will be explored in more detail in the following pages.

For the purposes of this testimony, the labor standards shall be defined and interpreted according to conventions adopted by the United Nations International Labor Organization (ILO). The Philippines is a member of the ILO and has signed more than 20 ILO conventions.

The Philippine government violates the abovementioned labor standards in essentially two ways: 1.) by promulgating laws that fail to conform with ILO conventions and 2.) by pursuing labor relations practices that conform neither to ILO conventions nor to its own laws. Some documentation for these charges is found in the form of official reviews of Philippine labor policies and practices by the ILO or other international bodies. Other evidence exists only in the form of personal testimony, media reports, or reports by unofficial organizations. We have provided as much documentation as possible for the following charges.

The Philippines' violations of the basic rights of workers are outlined below according to the five categories of labor rights specified in the amended GSP legislation.

1. THE RIGHT TO ASSOCIATION

A. Legal restrictions.—In 1953, the Philippines ratified ILO Convention No. 87, the Freedom of Association and Protection of the Right to Organize. This convention states that "workers and employers . . . have the right to establish and join organizations of their own choosing without previous authorization." Nevertheless, the Philippine government has a long history of placing legal restrictions on the right to association. Over the past decade, this has been done primarily through a series of presidential decrees and legislative amendments to the 1973 Philippine Labor Code, which originally protected the right to association. The labor code is now the operative body of labor law in the Philippines.

Although Philippine President Ferdinand Marcos formally ended martial law in 1981, government policies and practices have not changed substantially since then. Present day labor rights violations grow out of an atmosphere of intense labor repression that marked the martial law period from 1972 to 1981. During that time, Marcos declared a virtual ban on strikes, followed by tight restrictions on labor organizing. Some of the worst repression was directed at workers in export-oriented industries. Marcos's plan to steer the economy toward export-oriented industrialization depended largely on suppressing workers' economic and political demands. (Walden Bello et al., "Development Debacle: The World Bank in the Philippines," San Francisco, Institute for Food and Development Policy, 1982, pp. 142-144.)

The Philippine government's legal restrictions on workers' right to associate and right to organize have been the subject of review by the ILO Committee of Experts on the Application of Conventions and Recommendations in each of its yearly reports since 1978. In its 1984 report, the Committee cited the following sections of the Philippine Labor Code as incompatible with

Convention No. 87. (Note: The right to strike is not expressly included in the amended GSP legislation. However, the ILO Freedom of Association Committee and Committee of Experts clearly considers the right to strike an extension of the rights to associate and to organize.)

(1) Section 237, which requires approval by 30 percent of workers before a union can be recognized. This high quota, the Committee says, "may constitute an obstacle to the rights of workers to establish organizations of their own choosing."

(2) Section 264, as amended in 1982, which authorizes compulsory arbitration in labor disputes adversely affecting the national interest.

(3) Another article of the same section, as amended by national law 130 in 1982, which lists the industries that affect the national interest and are therefore non-strikeable. These include "but (are) not limited to public utilities, companies engaged in the generation or distribution of energy, banks, hospitals, and export-oriented industries including those within export processing zones." This amendment was adopted after the total ban on strikes was suspended with the lifting of martial law. As a result, most strikes are still declared illegal.

(4) The same section, which also requires that two-thirds of a union's members vote in favor of a strike in order for that strike to be valid. This requirement, according to the Committee, "hinders the normal exercise of the right to strike." Another article in this section not mentioned by the ILO demands that unions file a notice of strike with the government 15 to 30 days in advance.

(5) Section 270 of the Labor, Code, which prohibits foreigners from participating either directly or indirectly in any form of trade union activity.

(6) Section 273 of the Labor Code, as amended in 1982, which imposes six months imprisonment on workers who participate in strikes that are considered illegal.

(7) Presidential Decrees 1834 and 1835 of 1981, which state that any person participating in picketing or in similar group action who is deemed to be acting for propaganda purposes against the government shall be punished with life imprisonment.

For several years, the ILO Committee of Exports has reiterated essentially the same criticisms of labor legislation in the Philippines. Nevertheless, the Philippine government has made no efforts toward reform. As the International Commission of Jurists notes in its 1984 report, "The comments of the respected Committee of Experts indicate that Philippine legislation . . . contains serious violations of the fundamental principles of freedom of association and trade union rights." (The Philippines: Human Rights After Martial Law. The International Commission of Jurists, Geneva, Switzerland, 1984) The Committee's finding consistently cite bans or limitations on the right to strike as violations of Convention No. 87. The U.S. State Department also acknowledges the ILO's criticisms in its most recent country report on human rights. (Country Report on Human Rights, U.S. Department of State, 1984)

In addition to the legal restrictions cited by the ILO, there are at least two other legislative measures that infringe on the right of association. First, national law no. 227 permits employers to transport materials and products in and out of a workplace during a strike. This law renders ineffective workers right to strike. Second, public service workers such as teachers, government employees, and public hospital personnel are denied any right to associate or organize. This is a much broader restriction than exists in most other countries, which limit bans on unionization to truly essential public employees, such as military, police and top-ranking policy makers. A high-level mission from the International Confederation of Free Trade Unions which visited the Philippines in 1984 called this blanket prohibition "contradictory to established standards . . . (and) unacceptable to trade unions." (Report of ICFTU mission to Asia, presented before the Executive Board, May 24 and 25, 1984, Brussels, Belgium.)

B. Labor relations practice.—Legal restrictions aside, the Philippine government repeatedly engages in, or knowingly permits, practices that deny workers the right to association. As the ICFTU mission noted in its summary report, "the Labour Code as such is on the whole consonant with ILO conventions . . . but the practice can be quite different."

The general trend of repression in the Philippines directly infringes on workers' labor rights, the most fundamental of which is the right of association. Data compiled by the Task Force Detainees of the Philippines, a human rights organization, and the KMU, one of three national union organizations in the country, give a sense of the repression directed against workers and union leaders:

Seventy-seven workers were arrested between 1983 and early 1985 while engaging in such activities as protesting human rights abuses, participating in rallies, or waging a strike. Many have been tortured while in prison.

Thirty-one workers and union leaders remain in jail as of March 1985, either without charges or with charges related to their union activity.

Twelve workers or union leaders have been missing since 1977 after being arrested or abducted.

Eight workers were killed while on picketlines between April 1984 and March 1985.

Forty-two workers or labor leaders are confirmed killed since 1982 for reasons believed to be related to their union activity.

(Repression of Philippine Workers: A Dossier, II, KMU External Affairs Committee, 1985; Human Rights Situation and Militarization in the Philippines, Trends and Analysis 1984, Task Force Detainees et al.)

This repression occurs at the hands of the police, military and paramilitary units, sometimes in cooperation with employers. After raising the issue of human rights abuses with Ministry of Defense officials, the ICFTU mission made the following comment in its 1984 report: "What in general struck the mission was the virtual admission of the close involvement of the military . . . in public affairs, or at least in pursuance of the policies and actions of the Marcos government and its attempt to suppress opposition."

The military and the government justify their actions as necessary to counter "subversion." But rarely are workers afforded a fair and speedy trial to judge the truth of the subversion charges. Instead, the miitary often resorts to extra-judicial measures, such as torture, rape and murder. There are no known cases in which military officers have been prosecuted for these offenses.

In August and September 1982, 69 trade unionists were arrested on subversion charges, including much of the top leadership of the KMU, an opposition union organization. The offices of the KMU and those of four union affiliates were raided and materials, files, and office equipment were confiscated. In April 1983, the KMU filed a formal complaint against the Philippine government with the ILO Committee on Freedom of Association. The Philippine government delayed for more than a year in replying to the complaint, ignoring normal ILO procedure. In its final judgment issued June 1984, the Committee expressed "deep concern at (the) seriousness" of the charges and recommended that the Philippine government take immediate actions, including carrying out prompt and independent trials for the arrested unionists, restoring the confiscated property to the unions, investigating allegations of torture, and reforming its legislation. The Philippine government failed to act on these recommendations. ("Complaint presented by the Kilusang Mayo Uno against the Government of the Philippines, 234th Report of the Committee on Freedom of Association, ILO Governing Body, May 31–June 2, 1984).

The U.S. State Department notes in the Philippine section of its 1984 report on human rights that a dialogue between the government and opposition labor groups on the right to strike did not bring about changes in the law, although the government did issue stricter guidelines. It also notes the incidence of violent clashes between the military and strikers in 1984. Specific accounts of police brutality against striking workers are presented in the following section.

II. THE RIGHT TO ORGANIZE AND COLLECTIVELY BARGAIN

A. Legal restrictions.—ILO Convention 87, as mentioned earlier, establishes the broad principles of the right to organize, including "the right to join federations and to affiliate with international organizations of workers and employees." The Philippines has also ratified ILO Convention 98, the Right to Organize and Collective Bargaining, which extends workers "i) protection against having their employment conditioned on not joining or relinquishing trade union membership, and ii) protection against dismissal or other prejudice because of union membership or participation in union activities."

Because there is no sharp distinction between the right to associate and the right to organize, many of the legal restrictions on the latter have been discussed in the previous section. However, the ILO Committee of Exports has criticized certain provisions of the Philippine Labor Code that specifically relate to the right to organize. In its 1984 report, the Committee of Exports cited section 237(a) as incompatible with ILO standards on the right to organize. Section 237(a) restricts the establishment of federations or national unions to groupings of at least ten unions in the same industry. As Philippine economic professor E.M. Villegas has noted, the intent of this provision is "to insure a more effective overseeing by the government of the labor movement . . . and to control its direction." ("Notes on the Labor Code" by Edberto M. Villegas, The Philippines in the Third World, Paper Series No. 23, June 1980, University of the Philippines.)

Again, the Philippine government has ignored the Committee's judgment and has taken no steps toward legislative reform.

B. Labor relations practice.—Legal protections of the right to organize and bargain collectively have little meaning for Philippine workers since they are rarely enforced.

There exist numerous cases of workers denied employment because of their union sympathies, or dismissed or discriminately treated because of their union activity. According to statistics compiled by the Philippine Ministry of Labor and Employment, 54 percent of strikes in 1984 involved unfair labor practices such as illegal suspension, dismissal, or other punitive actions. In such cases, workers have little or no legal recourse.

The following is just a small sample of incidents in which workers have suffered discrimination due to their union activity. The cases selected refer to industries producing goods imported to the U.S. under the GSP. While official documentation exists for several of the examples, others rely on observations and interviews by visitors to the Philippines.

(1) In May 1984, the workers of InterAsia Container Industries, a corporation located in the Bataan Export Processing Zone which produces cloth sacks for export went on strike over the illegal termination of 11 union officials, and other issues. The picketline was twice brutally attacked by the military. The third time, about a hundred military and zone police forces attacked the picketline manned only by some twenty workers. This led to the first zone-wide strike in the Bataan Export Processing Zone when some 2,000 workers from nearby factories picketed in support of the InterAsia workers. (Philippine Trade Unionism: A Situationer by the Institute for Labor Research and Documentation, Manila, 1985; Philippine Labor Monitor, June 1984, pp. 10-12).

(2) In September 1983, workers at the British-owned Astec Electronics Company, a components manufacturer also in the export zone, won a certification election for a union. Two weeks later, the management laid off several hundred workers. Regarding the layoffs as a form of union-busting, the workers went on strike in early October. The zone police harassed and molested women on the picketline and used tear gas and truncheons to disperse them. In December, Astec management laid off all workers and closed the plant. Many of the strikers were blacklisted and unable to obtain work elsewhere in the zone. (International Commission of Jurists, 1984).

(3) In May 1984, workers at Lotus Corporation, a Korean manufacturer of NIKE shoes, went on strike to protest, among other things, the illegal termination of union leaders, the reshuffling of workers and other union-busting tactics. The workers eventually won many of their demands, but not before two workers were seriously injured when zone police attempted to break their picketline.

(4) In January 1985, nearly a third of the 1,500 workforce at Triumph International were dismissed, including most of the active union supporters. The workers considered the layoff retaliation for their active role in labor alliances and workers rallies and decided to strike. The German-owned company assembles women's underwear for sale to Germany, Japan and the U.S. On strike since January, the workers expect their strike to be declared illegal because the company is an "export-oriented industry." (KMU International Bulletin, March 1985; workers testimony relayed to a U.S. investigator, February 1985.)

(5) Workers at Franklin Baker Corporation, a U.S. subsidiary of General Foods Corporation which processes coconut for export, went on strike on January 1, 1985 to protest the dismissal of several hundred union supporters and the company's failure to pay the minimum wage. The workers experienced increasing harassment by military men and private security guards hired by management. On January 10, 1985, two workers were killed and seven injured when armed men fired at their picketline. Though the Ministry of Labor ordered the company to rehire all workers and pay back wages, the company ignored the order. It now continues operation through the use of scab labor. (Fact-finding Mission on Labor Repression and Militarization, February 21-23, 1985, report).

(6) Job applicants at Texas Instruments, Inc., the U.S.-owned electronics and semiconductor firm which produces for export, must submit to a battery of tests and interviews prior to hiring. The procedure is partially aimed at disclosing the applicant's attitude toward unions and history of union involvement. Applicants are told that Texas Instruments has no unionized plants and does not intend to have unionized plants in the future. Any applicant with union sympathies or union experience is not hired. Texas Instruments reportedly keeps computerized records of test results and shares this information with other companies in the Baguio Export Processing Zone, where the plant is located. (Workers testimony conveyed to a U.S. investigator, March 1985).

IV. A MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

A. Legal restrictions.—Under the Philippine Child and Youth Welfare code, children under age 16 may perform light work which is not harmful to them and does not disrupt their education. This age restriction is basically consistent with ILO Convention 138, which sets workers' minimum age at 15 years or completion of compulsory schooling. (Most Filipino children complete compulsory elementary schooling by age 12 or 13.) However, the convention sets at 18 years the minimum age for work "likely to jeopardize the health, safety, and morals of young persons." Thus, on this score, there is a two year discrepancy between Philippine law and the ILO standard.

B. Labor practice.—Philippine government enforcement of child labor laws are at best lax, a fact that the government itself acknowledges. According to a recent study by the Philippine Council for the Welfare of Children, an agency of the Ministry of Social Services and Development, more than 2.8 million, or 18.7 percent of Filipino workers are between ages 10 and 19. The Council claims that young workers are often made to perform the most dangerous tasks, as their age makes them vulnerable to exploitation. The Council also notes the dangers faced by street children engaged as vendors, scavengers, and beggars. (Asia Labor Monitor, May 1984, p. 25). And, with the worsening economic crises, increasing numbers of children are drawn into prostitution.

One industry well known to employ 8- and 10-year-old children as full or part time plantation workers is the sugar industry. (Sugar, incidentally, ranks first in sales among Philippine products imported under the GSP.) These children quit school in order to contribute to the family income. However, they usually receive only several pesos per day, a fraction of the wages received by adult workers. (Personal observation and workers' testimony relayed to a U.S. investigator, March 1985: "Sugar: Honey for a Few" by the National Federation of Sugar Workers, 1984: International Commission of Jurists, 1984.)

V. ACCEPTABLE CONDITIONS OF WORK WITH RESPECT TO MINIMUM WAGES, HOURS OF WORK, AND OCCUPATIONAL SAFETY AND HEALTH

MINIMUM WAGE

A. Legal restrictions.—The most comprehensive of the several ILO conventions regarding minimum wage policies requires that countries consider the "needs of workers and their families, taking into account the general level of wages . . . the cost of living" and "economic factors, including . . . the desirability of attaining and maintaining a high level of employment." The Philippines has ratified only two of the half dozen minimum wage conventions: ILO convention 95, the Protection of Wages, and convention 99, which applies only to agricultural workers. However, Philippine minimum wage laws and policies do not begin to measure up to international standards set by these or other conventions.

The President of the Philippines sets the minimum wage level by means of executive order. During 1984, President Marcos issued three successive wage orders, raising minimum wages 36 percent over the course of the year. However, the cost of living far outstripped workers' earnings. Inflation averaged 55 percent during that same period. The government has not proven responsive to demands from a broad range of opposition groups that workers' wages keep pace with the rate of inflation.

The minimum wage for industrial workers currently stands at 57 pesos per day. But by the government's own estimates, the cost of basic necessities for an average family of six comes to 108 pesos per day. Food costs alone account for 65 pesos. And, with unemployment and underemployment together reaching 42 percent, a Filipino family rarely has more than one minimum wage earning member. Analyses of government income statistics estimate that 59 out of 100 Philippine households live below the poverty threshold. (IBON Facts and Figures, 153, December 31, 1984 and 161, April 30, 1985.) These are far from acceptable wage conditions.

The government's policy of holding wages at levels below inflation is a feature of the economic recovery program agreed to by the International Monetary Fund and the government. For workers and their families, the program means hunger and impoverishment.

B. Labor practice.—Notwithstanding the already substandard minimum wage levels, many workers do not receive even the legal minimum. The government grants exemption from minimum wage orders in a broad range of cases, including "financially distressed" firms, those with less than ten workers and export-oriented firms. Furthermore, many firms that cannot claim such exemptions nevertheless choose to ignore minimum wage laws. Failing enforcement by the government, workers often are pushed to strike for the wages legally owed them.

The government itself has found rampant violations of minimum wage and benefit laws. A 1981 government inspection revealed that 27.7 percent violated minimum wage laws and even greater percentages violated benefit laws. (The Philippine Labor Situation, Selected Statistics 1984 by the Center for Labor Statistics, p. 47) Other estimates range as high as 70 or 90 percent. (IBON Facts and Figures, 161, April 30, 1985; ICFTU Mission Report, 1984.) It appears

that while the government recognizes the problem, it lacks either the will or the capability to make its minimum wage laws effective.

The following are several examples of wage violations in export-oriented industries:

(1) In April 1984, the 2,000 workers at Artex Corp. plant went on strike to demand their wages be raised by 19 pesos per day to bring them up to the legal minimum wage. Artex is a Chinese-Philippine company which manufactures plastic shoes for export. Soon after it began, the strike sparked widespread violence when the military attacked not only the striking workers but also the nearby slum community. As of February, 1985, the strike continues and the violence against the strikers has not been investigated. (WHO Magazine, July 25, 1984; Business Day, February 27, 1985).

(2) As mentioned earlier, the 1,400 workers of Franklin Baker Corporation, a U.S.-owned company which processes coconut for export, struck on January 1, 1985 after management refused to implement three separate wage orders at the time they were issued. Though two workers were killed and seven injured on the picketline, management still refuses to meet the workers' demands. (Report of fact-finding mission to Franklin Baker, March 1985)

(3) Although the legal minimum wage for agricultural plantation workers stands at 32 pesos per day, almost no sugar worker receives more than 28 pesos per day. (Far Eastern Economic Review, 18 April 1985) These exploitative conditions are made even worse by plantation owners' practice of hiring laborers at a "piece-rate" of 10 to 15 pesos per day. Efforts by workers to demand their rights are met with military harassment and violence. The present collapse of the Philippine sugar industry means unemployment for 200,000 to 300,000 sugar workers, who have no safety net to protect them. (International Commission on Jurists, 1984)

HOURS OF WORK

A. Legal restrictions.—The Philippine labor code specifies that, in accordance with ILO standards, workers are required to work only eight hours a day or 48 hours a week.

B. Labor relations practice.—There are occasional cases in which employers force their workers to work unreasonable numbers of hours overtime. This appears to occur primarily in export-oriented firms, where employers accumulate excess stock of finished goods through forced overtime, then lay off workers for short durations of time. This way, an employer avoids paying certain fixed daily benefits on those days employees do not work.

A recent survey conducted by the government Institute of Labor and Manpower Studies shows that 27 percent of businesses polled failed to pay the legally required premium for overtime work. ("Most Metro firms breaking labor laws—MOLE survey" Malaya, January 23, 1985.)

An investigator from the American Friends Service Committee discovered in 1976 that forced overtime was common among firms in the Bataan Export Processing Zone. A worker told her that "textile workers at Intercon (a Taiwanese-Filipino oufit) were worked overtime so much that a lot of them simply collapsed. Some of them also vomited . . . This is partly because they were not getting enough sleep, they had to work overtime." ("Rough Notes on a Visit to the Philippines, Feb. 20-Mar. 6, 1976" by Le Anh Tu).

In a comprehensive study of the Bataan Export Processing Zone in 1982, the Ministry of Labor found that forced overtime remained a chronic problem for zone workers. The study recommended dialogue between management and unions on this and other issues. But forced overtime continues today. Zone workers told a recent visitor to the Philippines that certain companies regularly force workers to work two to four hours overtime each day, and occasionally up to six or eight hours. Pregnant women or sick workers receive no special exemptions. (The Bataan Export Processing Zone, Ministry of Labor and Employment, 1982; workers' testimony relayed to a U.S. investigator, February 1985; Asia Labour Monitor, May 1984, p. 24).

OCCUPATIONAL SAFETY AND HEALTH

A. Legal restrictions.—ILO Standards on occupational safety and health are fragmented and noncomprehensive. Philippine law is even more so. Few legal measures protect workers from hazardous working conditions. The Philippine Labor Minister himself said that the Philippine labor code should be expanded to allow strikes over health and safety conditions on the job. Under the present code, workers can only legally strike over deadlocked collective bargaining negotiations and unfair labor practice. The minister was also quoted saying that the enforcement of labor standards is "an area of gross neglect." (Asia Labour Monitor, May 1984, pp. 24-25).

B. Labor relations practice.—The 1982 Philippine government study on the Bataan Export Processing Zone documents poor safety and health conditions in companies throughout the zone. It notes that work-related illnesses are "fairly common" in the zone: eye-irriation and hypertension in the electronics industry; conjunctivitis in plastics and metal fabrication; upper respiratory throat infections in garments and food industries; and sinusitis in footwear and leather industries. More recently, zone workers complained to a U.S. investigator of inadequate toilet facilities, insufficient safety devices or protective clothing, and a lack of the on-site medical personnel guaranteed by law. Aside from the illnesses already mentioned, many zone workers suffer from regular bouts of influenza and anemia and a few have contracted serious illnesses such as tuberculosis.

The following passage, excerpted from testimony by a former Filipino worker and union leader before the Permanent People's Tribunal Session on the Philippines, give a personal account of health conditions inside Philippine factories:

"Many of us were not paid our rightful sick leave benefit and we were even charged with being awol because we couldn't present such a certificate. But we couldn't present such a certificate for the simple reason that we couldn't afford to have ourselves examined by a doctor. Besides, those who did have such a certificate were still not accepted by the company doctor who wanted us to go exclusively to his clinic. But that would have meant additional expenses in exchange for superficial treatment, often just aspirin, no matter how serious our illness was.

Oftentime the doctor wouldn't authorize our going home even if we suffered from fever or over-fatigue in the middle of our shift. We had to finish the shift . . .

In labor-intensive companies the conditions are worse. Most garment workers complain of heat exhaustion. Fainting and dizziness are common among workers in Triumph International, a foreign-owned firm making brassieres. At Gelmart, a dress and glove firm owned by an American, a worker said: "The factory is very hot. Because of the suddent change in temperature when we go out, our bodies are prone to sickness." It was also in this factory that fire broke out and killed 11 workers, with 53 other injured."

(Testimony of Antonio de la Cruz in "Philippines: Repression and Resistance," Komite ng Sambayanang Pilipino, London, 1981).

CONCLUSIONS

In conclusion, the Philippine government is found in blatant violation of four of the five labor standards enumerated in the new GSP law. Indeed, conditions in each of these four areas are getting worse, not better.

The first three of these conditions: the right to association, the right to organize, and minimum age, are agreed to by the U.S. government to be among the inalienable rights of workers everywhere, no matter the level of development. The final condition, that in relation to conditions of work, is obviously related to the level of development of a country. In this realm, however, there can be no defense of Philippine conditions, which in many cases approach subhuman levels.

In the face of these conditions, what action should the U.S. government take? The U.S. government often complains of unfair trade subsidies by foreign governments that give their goods unfair advantages in world markets. Labor repression of the magnitude practiced in the Philippines can only be judged as the most blatant form of unfair trade subsidy available. They are an affront to the rights and dignity of working people in the Philippines and in all other countries.

Therefore, in accordance with U.S. law, we recommend that GSP benefits be discontinued for the Philippines until there is a fundamental improvement in labor conditions.

Mr. PEASE. Mr. Speaker, whatever time I have remaining, I yield to my good friend, the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I think the gentleman has done a real service to the country and the Congress by laying this all out.

One of the things that impressed me as I was listening to this tragic litany was that the Third World countries are going through all the throes that the now advanced countries went through in the early days of the industrial revolution in the late 18th and early 19th centuries. They are being exploited in the very same manner and because they have not yet developed strong unions and laws to protect labor, we in this country are being brought down and have had our enlightenment and reforms reversed because of competition from these preenlightened era industrial conditions.

I would remind our colleagues that it was those very conditions that gave rise to Karl Marx and the Communist manifesto which ultimately produced communism.

I think we all would agree that the conditions in Communist countries are

just as bad as some of those that were described here; but the point is that we have an obligation to insist that either foreign manufacturers conform to minimal standards, minimal decent standards of labor and wages, or else they should not be permitted to enter this country. I think that is the way to accelerate the experience that we as an advanced country went through and bring enlightened practices to the Third World countries, so we all can compete on the same level as the gentleman has suggested.

Mr. Speaker, I commend the gentleman for this exercise in laying out these facts for all to see.

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Mr. PEASE. I thank the gentleman from Ohio [Mr. SEIBERLING] for his support on this matter and so many others that involve enlightened governmental policy. He is a very valuable Member of Congress and I am delighted to have him in the neighboring district to my own.

Mr. HALL of Ohio. Mr. Speaker, I commend the gentleman from Ohio [Mr. PEASE] for taking out this special order today on the subject of international labor rights. I am pleased to join with him in calling attention to the status of laboring men and women around the world, and the urgent need for international action against those countries that engage in labor rights violations.

As many of my colleagues know, I have joined with the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. WOLF] to sponsor H.R. 3599, a bill to suspend temporarily for 6 months the most-favored-nation treatment accorded to Romania. Our bill is a response to that nation's abusive internal practices, particularly its repression of religion. During the 6-month suspension of most-favored-nation status, the President would be directed to assess the status of civil liberties and human rights in Romania.

In the course of my study of human rights in Romania, it has come to my attention that labor rights are denied to Romanian workers. In testimony submitted to the U.S. Trade Representative, AFL-CIO stated:

Fundamental worker rights are denied and those who seek to exercise such rights are brutally suppressed. Free trade union advocates languish in jails. Labor is compulsory, as statutes provide for punishment of those who choose not to work or are unemployed. Prisoners of conscience, including advocates of free trade unions are sentenced to forced labor.

This report went on to conclude:

Recent years have seen no improvement in the status of workers rights in Romania. there is no evidence that the country has, in the words of the law, taken steps to afford internationally recognized workers rights to workers in that country.

Mr. Speaker, for the benefit of my colleagues, the full text of the statement prepared for the U.S. Trade Representative on June 24, 1985, by Eugenia Kemble of AFL-CIO follows:

ROMANIA

By any standard—be it existing legislation, the public utterances of government and Communist Party authorities, or government actions—Romania qualifies as among the worst offenders of the fundamental worker rights of freedom of association and the right to organize (ILO Convention No. 87), the right to bargain collectively (ILO Convention No. 98), and protection from compulsory and forced labor (ILO Conventions No. 29 and No. 105).

Although Article 27 of the Romanian Constitution provides for the right to associate in trade unions, Article 7 of the Constitution restricts the independence of such associations by establishing that the "leading political force in society is the Romanian Communist Party." Moreover, the Labor Code of Romania states in Section 164 that "unions are occupational organizations set up in virtue of the right of association laid down in the Constitution and operating on the basis of the bylaws of the General Trade of the Union Confederation, the federations for the different branches of activity, and the trade union organizations in the [economic] units." This section of the Labor Code, therefore, asserts that the officially enshrined General Trade Union Confederation's bylaws are the sole legitimate basis for all trade union activity.

A 1981 Report of the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations concluded that the Romanian Labor Code and Constitution restrict the right of workers to form organizations of their own choosing. In the view of the ILO, Romanian law establishes such a close link between the union and the Communist Party, that it is impossible for labor organizations to form or operate independently. During its 1984 deliberations, the ILO Committee of Experts once again criticized the restrictions on the freedom of Romanian unions to determine their constitution, activities or programs. It asserted that official Romanian unions are used mainly to "mobilize the masses for the accomplishment of the party program and policy."

Perhaps the best practical test of the right to freedom of association and organizing occurred in 1979 when the Free Trade Union of Workers in Romania, SLOMR, was launched by 20 workers and intellectuals.

A legitimate trade union grouping, SLOMR, based its activities on the Convenant on Economic, Social and Cultural Rights, signed by the Romanian government in 1974. The union's support grew to at least 2,000 workers.

But the Romanian authorities moved rapidly to suppress the fledgling free labor movement:

By April 1979, 15 SLOMR workers were given prison sentences of three to six months under Decree No. 153 prohibiting "parasitism".

Eugen Onescu and several other workers were interned in psychiatric hospitals.

Founder Dr. Ionel Cana, a physician, was sentenced to 5½ years of prison for "conspiracy and anti-government propaganda". Cana was eventually amnestied, but his request to emigrate has not been granted.

Co-founder Gheorge Brasoveanu, an economist, was arrested in March 1979, first confined to a psychiatric hospital, then imprisoned until November 1980. His request to emigrate has not been granted.

Nicolae Dascalu, another co-founder, was sentenced to 18 months of prison (reduced to 10 upon appeal) for violating a press law prohibiting the dissemination of information abroad without legal authorization. Dascalu was allowed to emigrate to the United States in 1981.

G. Grigoras was imprisoned for six months for "inciting an anarchic and parasitic group".

Vasile Paraschiv, a chemical worker from Ploesti, was detained and beaten in Bucharest in February 1979 for his support of SLOMR. Paraschiv had previously been interned three times in psychiatric hospitals for political reasons. In 1978 he had spent six months in France, where he held press conferences about his experiences of psychiatric abuse. After the break-up of SLOMR, Paraschiv disappeared for some time, and when he was seen in 1982, he appeared to have been the victim of police brutality. He and his wife are seeking an exit visa.

Carmen Popescu, 40, mother of a teenaged daughter and another co-founder of SLOMR, was imprisoned and released, then re-arrested in 1981 and sentenced to six years of imprisonment. She is still in prison and is in bad health.

Virgil Chender, a worker from Sighisoara, went to Bucharest in March 1979 to submit a collective statement of support for SLOMR from 1,487 workers in Tirgu-Mures. He was apprehended and is still missing.

The U.S. Department of State's *Country Reports on Human Rights Practices for 1984* provides a concise description of freedom of association in Romania:

"Free trade unions are not permitted. Membership in government-controlled unions is mandatory for workers in every economic sector . . . New government laws and regulations are read to the membership [at union meetings] generally without discussion, and highlights or recent political happenings are brought up. Topics such as wages, reduction of the workweek, and additional holidays are not discussed."

Provisions concerning compulsory or forced labor also are part of Romania's everyday reality. Article 5 of the Constitution, which describes work not simply as a right but as a "duty of honor," contains within it a clear element of compulsion. "Parasitism" laws make it a crime for Romanians to be idle or unemployed. Article 18 of the Constitution, which guarantees the right to work, says nothing about the workers' right to choice of work. In addition, the Constitution does not provide for freedom of movement or choice of residence. According to the State Department *Country Reports on Human Rights Practices for 1984* in Romania "the right of a citizen to change place of residence is extremely restricted."

Furthermore, Romanian law violates forced labor conventions. In 1973, for example, Law 3 for the Penal Code provided for "corrective labor without loss of liberty" as an alternative to imprisonment.

In conclusion, Romania is a closed society organized according to the tenets of totalitarianism, with every institution dominated by the party-state apparatus. Fundamental worker rights are denied and those who seek to exercise such rights are brutally suppressed. Free trade union advocates languish in jails. Labor is compulsory, as statutes provide for punishment of those who choose not to work or are unemployed. Prisoners of conscience, including advocates of free trade unions are sentenced to forced labor.

Recent years have seen no improvement in the status of workers rights in Romania. There is no evidence that the country has, in the words of the law, taken steps to afford internationally recognized workers rights to workers in that country.

GENERAL LEAVE

Mr. PEASE. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.R. Res. 465) "Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes."

The message also announced, that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 3384) "An act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes."

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. ST GERMAIN. I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the joint resolution, (H.J. Res. 495) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object—and I do not intend to object—I yield to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs to explain the procedure.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Speaker, House Joint Resolution 495 would extend the following programs to March 17, 1986: The Federal Housing Administration's mortgage insurance programs; the section 312 rehabilitation loan program; the Farmers Home rural housing authorities; the flood and crime insurance programs; the community development block grant entitlements; the section 202 interest rate limitation; and the Home Mortgage Disclosure Act.

Mr. Speaker, the conferees have been unable to resolve the housing authorization issues in the context of the reconciliation bill and this temporary extender is needed to keep these important programs alive until we have an opportunity to review them early in the next session.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, what this does, as the chairman suggested, is simply extend the FHA authority, which expired last Sunday night, along with the Crime Insurance and the Flood Insurance Program, to March 17 of next year.

The exact same language is contained in the budget reconciliation bill which will be considered here later on, but in an abundance of precaution we felt we needed to pass House Joint Resolution 495 now. Of primary importance in the resolution, it does not contain any changes at all in the Housing Program. This is not H.R. 1. The housing bill will be considered next year under regular order. I regret that we were not able to put an FHA adjustable rate mortgage cap higher than the 10 percent, but what it is now is, it is a simple extension. We do need to extend it at this point in time. I would point out that it is a temporary extension. I respectfully agree with the chairman that we need it, and I urge adoption of the resolution.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. Under my reservation of objection, Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I appreciate the gentleman's explanation.

If I understand correctly, none of the language of H.R. 1 is contained in this particular bill, and am I also to understand that this is not a bill now that will become a vehicle for the advancement of H.R. 1?

Mr. WYLIE. The gentleman's understanding is absolutely correct. There is no language from H.R. 1 in here. It will not become a vehicle. It is a simple extender. We really will not need to pass this if the budget reconciliation bill is passed.

Mr. WALKER. If the gentleman will yield further, am I correct, though, that the H.R. 1 language has been dropped out of the reconciliation bill, as well?

Mr. WYLIE. That is correct.

Mr. WALKER. So what we are going to have, whether we pass reconciliation or if we go the route of this resolution, is a simple extension of those programs presently in place under the current policy rules.

Mr. WYLIE. That is correct. The gentleman could not be more correct.

Mr. WALKER. I thank the gentleman.

Mr. WYLIE. I thank the gentleman for his contribution.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding. I just have a colloquy to engage in with the distinguished chairman of the committee, the gentleman from Rhode Island [Mr. ST GERMAIN].

The bill extends the Federal Crime Insurance Program through March 17, 1986. Am I right that this extension operates to suspend the effective date of the paragraph of Public Law No. 99-160 (fiscal year 1986 HUD and Independent Agencies appropriations act) concerning a one-time payment from the National Insurance Development Fund to States participating in the Federal Crime Insurance Program?

Mr. ST GERMAIN. If the gentleman will yield, the gentleman from New York is absolutely correct.

Mr. SCHUMER. I thank the gentleman.

Mr. WYLIE. Mr. Speaker, I urge adoption of the resolution, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 495

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking out "prior to December 16, 1985" in the first sentence and inserting in lieu thereof "not later than March 17, 1986".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "March 17, 1986".

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by

striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(e) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking out "on or after December 16, 1985" in the last sentence and inserting in lieu thereof "after March 17, 1986".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(h) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(i) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(j) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

SEC. 2. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986"; and

(2) by striking out "prior to December 16, 1985" and inserting in lieu thereof "on or before such date".

SEC. 3. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

SEC. 4. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) FLOOD INSURANCE.—

(1) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) CRIME INSURANCE.—Section 1201(b)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the matter preceding subparagraph (A) and inserting in lieu thereof "March 17, 1986".

SEC. 5. MISCELLANEOUS EXTENSIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT CLASSIFICATIONS.—

(1) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu therefo "March 17, 1986".

(2) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(b) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "prior to December 16, 1985" and inserting in lieu thereof "not later than March 17, 1986".

(c) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "December 16, 1985" and inserting in lieu thereof "March 17, 1986".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

SALUTE TO THE FIGHTIN' TEXAS AGGIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BARTON] is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, we have been considering several very serious subjects on this floor today and this week. We have considered tax reform, we have considered budget reconciliation, we have considered the farm bill, and a continuing resolution to keep the Government in operation. There is a subject down in my State of Texas that many people consider to be just as serious. That subject is football, and in particular Southwest Conference football.

The Southwest Conference is a conference that has a long and storied tradition, a long and storied history of providing excellent teams at the collegiate level of athletic competition. This year the champion of the Southwest Conference happens to be the Fightin' Texas Aggies, a school that I attended from 1968 to 1972, and a school that is in my congressional district.

This championship team, coached by head coach Jackie Sherrill, is the 13th Southwest Conference championship team from Texas A&M. It is their first championship team since 1975, when they shared the championship with the University of Texas and the University of Arkansas.

The 1985 Fightin' Texas Aggies won the championship in many ways. Obviously, they won it in the standings by winning seven games and losing only one game in conference play, that game to the Baylor Bears, coached by head coach Grant Taft. Their overall record was an outstanding nine wins and two losses. They also won it in many of the categories that the Southwest Conference keeps statistics in.

The 1985 Fightin' Texas Aggies were first in offense, averaging over 400 yards per game. They were first in defense, holding opponents under 285 yards per game. They were first in scoring offense as they scored over 30 points a game. They were led by several All-Southwest Conference players, on offense by their All-Southwest Conference quarterback, Kevin Murray; on defense by their All-American linebacker, Johnny Holland. Johnny Holland, is Texas A&M's 24th All-American since the school began playing intercollegiate athletics.

There are many other players, I think, worthy of mention on this team. On offense, they have All-Southwest Conference tackle Doug Williams; All-Southwest Conference center Randy Dausin; All-Southwest Conference running back Anthony Toney, All-Southwest Conference Jeff Nelson, who set a new career reception record for Texas A&M by catching 92 passes in his career; and fullback Roger Vick.

On defense they have such stalwarts as Jay Mueller, defensive tackle, who is from Conroe, TX; Rod Saddler from Georgia; Todd Howard, All-Southwest Conference defensive back Domingo Bryant, Darrel Austin, Kip Corrington, and nose guard Sammy O'Brient.

It is a very good team. They are going to be in the 50th annual Cotton Bowl. This will be the fourth time that Texas A&M has played in the Cotton Bowl. The last time was in 1968 when a team coached by Gene Stallings beat a Bear Bryant team

from Alabama 20 to 16. That team back in 1968 had such players as All-American Edd Hargett; All-American Bob Long, Tommy Maxwell, Rolf Krueger, Bill Hobbs, Grady Allen, who was a captain, Larry Stegent, Steve O'Neil who later played for the New York Jets, Dan Schneider, who was a captain, and Robert Cortez, who was also a captain.

I would hope that as the current edition of the A&M team prepares for the Cotton Bowl on January 1, 1986, where they are going to play the Auburn Tigers, another fine team from Alabama headed by Heisman Trophy winner Bo Jackson, that the people in the country would focus on that game and hopefully many of the people in this Chamber will find the time to come to Dallas, TX, and participate with me and thousands of other Aggies in the festivities. I am sure it will be a good game. I am planning to be there. I hope that the result on January 1 turns out like it did back in 1968 where A&M beat another fine Alabama team; that this year we will defeat the Auburn Tigers in a contest of good, clean sportsmanship and athletic ability.

Mr. FIELDS. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I would be happy to yield to the gentleman from Texas.

Mr. FIELDS. I thank the gentleman for yielding.

Mr. Speaker, first of all, as a trustee of Baylor University, of the Fighting Baylor Bears, I would like to congratulate the gentleman's alma mater, Texas A&M.

I was present when the Texas Aggies played the Texas Longhorns, and not only saw the famed 12th man, but saw the 13th, 14th, and 15th man in the stadium in way of the fans, and I want to congratulate the gentleman. I know he mentioned the Baylor Bears a while ago. We were honored that we had the opportunity to play Texas A&M this year and were successful on the field, and now we say congratulations and good luck.

Mr. BARTON of Texas. I thank the gentleman for his comments.

The 1985 Texas A&M roster follows:

Name	Position	Height	Weight	Cl-Exp.	Hometown High School
Adair Chad	LB	6–1	200	So	Friendswood (High)
Alford, Brad	OT	6–4	248	Jr	Waco (High)
Anthony, Rodney	DB	6–4	190	Fr-HS	San Angelo (Central)
Ariens, Todd	DE	6–5	235	Fr-HS	Austin (Westlake)
Armer, Gary	C	6–1	235	Sr	Baytown (Lee)
Asberry, Wayne	DB	5–9	187	Sr-3L	Palestine (High)
Austin, Darrell	DB	5–9	175	Sr-3L	Fort Worth (Wyatt)
Batiste, Dana	LB	6–1	220	Fr-Sq	Spring (High)
Bernstine, Rod	TE	6–2	232	Jr-2L	Bryan (High)
Blahitka, Mike	LB	6–2	210	Jr	Richardson (High)
Bob, Adam	LB	6–2	210	Fr-HS	Lafayette, La. (Northside)
Boutwell, Jeff	LB	6–1	201	Sr	Cameron (Yoe)
Bowie, Junior	LB	6–1	220	Fr-Sq	Borger (High)
Brooks, Terrance	DB	5–11	187	So-1L	Dallas (Carter)
Broom, Guy	DL	6–5	267	So-1L	Galveston (O'Connell)
Brown, Tim	QB	6–0	189	Fr-Sq	LaPorte (High)
Bryant, Domingo	DB	6–3	178	Sr-3L	Garrison (High)
Bullitt, Steve	LB	6–2	222	Jr-2L	El Paso (Andress)
Burleson, Jerry	LB	6–1	190	So	Odessa (Permian)
Burman, Jon	OL	6–7	277	Fr-Sq	Carmel, Ind. (High)
Burnett, John	LB	6–3	215	So	Rockwall (High)
Campbell, Tom	OL	6–5	245	Fr-Sq	Baker, La. (High)
Carr, David	OL	6–6	260	Fr-HS	Aldine, (Nimitz)
Case, Frank	OL	6–3	260	So-1L	North Mesquite (High)
Cheek, Louis	OL	6–6	280	So-1L	Fairfield (High)
Chriestmon, Mark	RB	6–2	199	So	Houston (Yates)
Collins, Melvin	RB	6–0	218	Fr-Sq	Temple (High)
Coolidge, David	DB	5–11	175	Jr	Houston (Westberry)
Corrington, Kip	DB	5–11	175	So-1L	College Station (A&M Con.)
Crowe, Norman	TE	6–5	225	So	LaMarque (High)
Drausin, Randy	OL	6–4	258	Sr-2L	San Antonio (Roosevelt)
Dillon, Greg	WR	6–2	194	So-1L	Houston (Klein)
Dotson, James	NG	6–2	270	Fr-HS	Vicksburg, Miss. (Warren Cen)
Dowell, David	DL	6–4	234	Sr-3L	Bryan (High)
Eddington, Ashley	DB	5–9	170	Jr	San Antonio (East Central)
Elam, John	C	6–2	230	Fr-HS	Pasadena (Dobie)
Flowers, James	DB	6–1	179	Jr-2L	Bryan (High)
Fontenot, Jerry	OL	6–3	246	Fr-Sq	LaFayette, La. (High)
Ford, Chris	DB	6–0	191	Fr-Sq	Angleton (High)
Franklin, Eric	K	5–8	160	Jr-1L	Levelland (High)
Gasper, Paul	QB	5–11	192	So-Sq	Houston (Lamar)
Gilbert, O'Neill	DL	6–2	241	Fr-Sq	Monroe, La. (Wossman)
Glenn, Ronnie	DB	6–0	185	So	Houston (Scarborough)
Graham, B.J.	DL	6–4	225	Fr-HS	Cameron (High)
Greene, Steve	RB	6–1	195	Fr-HS	Littlefield (High)
Gurley, Matt	LB	5–11	203	Fr-Sq	Arlington (Lamar)
Hanks, Chris	DL	6–5	250	Fr-HS	Lafayette, La. (High)
Hargett, Kyle	WR	6–1	178	So	Louisville, Colo. (Centaurus)
Harris, Rod	FL	6–0	180	Fr-HS	Dallas (Carter)
Hartley, Wally	TE	6–5	215	Fr-HS	Baton Rouge, La. (Broadmoor)
Harvey, Karl	OL	6–2	264	Jr-1L	Plano (High)
Haverda, Lance	DB	6–1	180	Jr-2L	Marble Falls (High)
Hawkins, Jimmie	DB	5–10	192	Sr-3L	San Antonio (Holmes)
Hendrickson, Glen	OL	6–4	248	Sr-1L	Houston (Memorial)
Holland, Johnny	LB	6–2	219	Jr-2L	Hempstead (High)
Holley, Jeff	WR	6–0	185	Jr-2L	McKinney (High)
Holmes, Mike	OL	6–5	268	Fr-HS	Klein (Oak)
Howard, Todd	LB	6–2	226	Jr-2L	Bryan (High)
Howse, James	RB	6–0	185	Fr-HS	Murfreesboro, Tenn. (Oakland)
Jackson, Basil	LB	6–2	215	Fr-HS	Hammond, La. (High)
Jackson, James	DL	6–3	239	So-Sq	Houston (Yates)
Jackson, Lance	DB	5–10	184	Sr-2L	Temple (High)
Johnson, Harry	RB	6–0	188	Fr-Sq	Pasadena, Calif. (Blair)
Jones, Tony	RB	6–1	175	Fr-Sq	Houston (Sam Houston)
Jones, Troy	RB	5–11	185	Fr-HS	Lafayette, La. (Acadiana)
Jordan, Jeff	NG	6–0	225	So	Amarillo (High)
Kelm, Larry	LB	6–4	223	Jr-2L	Corpus Christi (King)
Land, Marshall	OL	6–6	365	Jr-TR	Baytown (Sacramento, Ca.)
Landrum, Tim	DB	6–0	212	Fr-Sq	Plano (High)
Lark, Scott	G	6–3	240	Fr-HS	Bay City (High)
Lanscombe, Corey	LB	6–0	203	Jr	Converse (Judson)
Luedtke, Paul	LB	6–1	195	So	Pflugerville (High)
Maham, Scott	OL	6–4	264	Fr-Sq	Austin (Anderson)
Marks, Jared	DB	6–0	196	Jr-1L	Houston (Dulles)
McGuire, Trace	OL	6–4	260	Fr-Sq	Nederland (High)
Middleton, Bobby	LB	6–1	212	Jr	Hillsboro (Bowling Green, Mo.)
Miskovsky, Greg	C	6–2	230	So	Tulsa (Jenks)

Name	Position	Height	Weight	Cl-Exp.	Hometown High School
Mitchell, Lawrence	RB	5-9	171	So-Sq	Pasadena (High)
Moon, L.B.	OL	6-6	257	Fr-Sq	Tulsa, Okla. (Jenks)
Morgan, Sylvester	TE	6-3	235	So-1L	Houston (Yates)
Morris, Alex	DB	6-2	180	Fr-Sq	Arlington (Sam Houston)
Motley, Mark	QB	6-3	205	Fr-Sq	Ore City (High)
Mudd, Dennis	RB	6-0	198	Sr	Yoakum (High)
Muller, Jay	DB	6-3	256	Jr-1L	Conroe (High)
Murray, Kevin	QB	6-2	198	So-2L	Dallas (North Dallas)
Neel, Troy	LB	6-3	220	Fr-Sq	Brazoswood (High)
Nelson, Jeff	WR	5-9	159	Sr-3L	Beaumont (Charlton-Pollard)
O'Brient, Sammy	NG	6-3	235	So-1L	Alief (Elsik)
Ogden, Joe	LB	6-3	210	So	College Station (A&M Cons)
Polochek, Layne	LB	6-3	233	Fr-Sq	Houston (St. Thomas)
Roper, John	LB	6-1	206	Fr-Sq	Houston (Yates)
Ross, Brian	TE	6-4	220	Fr-HS	San Angelo (Central)
Saddler, Rod	DL	6-5	273	Jr-2L	Columbia, Ga. (High)
Scott, Chris	TE	6-3	225	Fr-HS	Houston (Smiley)
Sellers, Greg	NG	6-2	245	Jr	Santa Ana, CA (Foothill)
Siler, Rich	TE	6-3	242	Sr-2L	Miami, Fla. (Fr. Lopez)
Smith, Darrell	LB	6-2	212	Sr-3L	Pasadena (Rayburn)
Slaton, Tony	DB	5-11	187	Sr-3L	Decatur, Ga. (Columbia)
Smith, Brent	RB	6-1	200	Fr-Sq	LaPorte (High)
Stump, Craig	QB	5-11	182	So-1L	Port Arthur (Jefferson)
Taylor, Anthony	DB	6-1	180	Fr-HS	Kilgore (High)
Thompson, Tony	WR	6-0	172	Fr-Sq	Houston (Lamar)
Tolleson, Mike	LB	5-9	205	Jr	Celina (High)
Toney, Anthony	RB	6-0	230	Sr-1L	Salinas, Cal. (North Salinas)
Tschantz, Todd	P	5-11	182	So-1L	Richardson (Lake Highlands)
Turner, Lafayette	DB	6-2	195	Fr-HS	Dallas (Carter)
Valentine, Ira	RB	6-0	205	Sr-3L	Marshall (High)
Vick, Roger	RB	6-3	221	Jr-2L	Tomball (High)
Walker, Shea	WR	5-11	186	Jr-2L	Port Arthur (Jefferson)
Wallace, Aaron	LB	6-4	210	Fr-HS	Dallas (Roosevelt)
Webb, Duncan	TE	6-3	247	Jr-2L	Nacogdoches (High)
Webb, Richmond	DE	6-6	245	Fr-HS	Dallas (Roosevelt)
Whitfield, Calvin	DL	6-1	267	So-1L	Dickinson (High)
Williams, Doug	OL	6-6	290	Sr-1L	Cincinnati (Moeller)
Wilson, Matt	C	6-4	246	So-1L	Spring (High)
Wohlschlaeger, Steve	OL	6-3	232	So-Sq	Mesquite (North)
Woodside, Keith	RB	5-11	198	So-1L	Vidalia, La. (High)
Wurzbach, Mark	DB	6-1	195	Jr	Byron (High)
Wylie, Randy	OL	6-1	243	Sr-2L	Richardson (High)
Zachry, Ben	LB	6-2	206	Jr-1L	San Antonio (Alamo Heights)

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, it has been my understanding that as of last year the ruling of the Chair is that while we are proceeding on special orders that the entire Chamber of the House is to be shown at intervals while we are in the process of proceeding with those special orders.

It is my understanding that during the special orders that have taken place both yesterday and today, that particular ruling of the Chair has not been followed.

Can the Chair inform us whether or not this is another instance where we have changed the rules without informing the membership of the change, or just why it is that under these circumstances the special orders evidently have not followed the procedures of the Chair with regard to the television cameras?

The SPEAKER pro tempore (Mr. KILDEE). The Chair is not aware of any change in the Speaker's guidelines. I suppose the gentleman could address his comments to those who originally made that decision, but the Chair is not aware of any change in the application of the guidelines.

The Chair did announce that the House has not yet completed legislative business for the day and would return to legislative business.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker.

It is my understanding that the ruling of the Chair related to the time spent on special orders. I am not aware that it had any provision in it that if those special orders come before legislative business has been completed that at that point the cameras would not sweep the Chamber. My understanding was that once we go onto special orders that the cameras are supposed to be sweeping the entire House. That has not been happening.

The only thing I can assume is that we have had a change in policy that has taken place. If I understand the Chair correctly, there has been no change in policy, so then my question is: Why are the rules not being followed?

The SPEAKER pro tempore. The Clerk's interpretation of that change was that that was to be done after legislative business had been completed. The cameras have never panned the House until that time. The Speaker's guidelines provide that until such time as all legislative business has been completed with a crawl on the screen so indicating the cameras will not pan the House, and legislative business has not yet been completed today.

Mr. WALKER. A further parliamentary inquiry. It seems to me that that is a different interpretation from anything that the Members have ever been informed of, and that indeed, then, it sounds to me as though we are making another one of these changes that takes place without any information coming to the minority.

The SPEAKER pro tempore. The Chair will respond again.

This has been the practice, and the last 2 days have not been different than prior practice. Prior practice has been that at the end of legislative business when the House proceeds on special orders, the camera will pan the entire House.

The House has not completed legislative business today, nor had it yesterday.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker.

Then why, last Wednesday, when we had a similar circumstance on a special order that was taking place prior to legislative business being completed, that the Chamber was being swept? Am I to understand at that point, then, that the rules were not being obeyed?

The SPEAKER pro tempore. If there has been inconsistency, it has not been intentional and the Chair will look into that.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker.

Can we now, then, have a definitive statement of just what the policy is with regard to panning the Chamber during the time that special orders are under way?

The SPEAKER pro tempore. The Chair will refer the response to that question that the gentleman just asked again to the Speaker and not the Speaker pro tempore.

□ 1635

Mr. WALKER. A further parliamentary inquiry: Are we going to have a definitive statement made on that prior to the close of business today?

The SPEAKER pro tempore. The Chair will look into the matter and raise the gentleman's question with the Speaker.

Mr. WALKER. I thank the Chair.

CORRECTING ENROLLMENT OF H.R. 2100, FOOD SECURITY ACT OF 1985

Mr. DE LA GARZA. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 264), to correct the enrollment of H.R. 2100, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 264

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H.R. 2100, to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food stamp assistance to low income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, the Clerk of the House shall make the following corrections:

In title XIII, after section 1304 insert the following section:

INTEREST RATES—WATER AND WASTE DISPOSAL FACILITY AND COMMUNITY FACILITY LOANS

SEC. 1304A. Section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) is amended by—

(1) striking out "where the median family income of the persons to be served by such facility is below the poverty line prescribed by the Office of Management and Budget, as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d)" and inserting in lieu thereof "where the median household income of the persons to be served by such facility is below the higher of 80 per centum of the statewide nonmetropolitan median household income or the poverty line established by the Office of Management and Budget, as revised under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))"; and

(2) inserting before the period at the end thereof the following: "; and not in excess of 7 per centum per annum on loans for such facilities that do not qualify for the 5 per centum per annum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income".

Amend the table of contents in section 2 of bill accordingly.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would ask the gentleman from Texas if he would explain to the House what it is we are doing in this legislation?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I would be very happy to explain to the gentleman.

When the conference report on the farm bill was finalized, inadvertently two sections were left out by the staff, and this is to allow the enrolling clerk to insert the two sections that had been left out.

Mr. WALKER. If I understand the gentleman, we had a bill out earlier today to correct legislation that had been incorrectly enrolled. This is another bill to simply correct legislation that was previously incorrectly enrolled; is that my understanding?

Mr. DE LA GARZA. Technically, no. It was not incorrectly enrolled, but the mistake was ours. The copy that we gave to the Speaker had two sections that had been left out, and this is to allow them to insert them.

There are two sections in the credit section that were identical in the House bill and the Senate bill. The staff left them out, one thinking that the other had taken care of that.

Mr. WALKER. But we are making no substantive changes of legislation beyond which the House approved?

Mr. DE LA GARZA. None whatsoever. And it has been cleared with the minority. As always, my ranking member and I work closely together, and there is never any activity that is not in concurrence with both sides.

Mr. WALKER. I know the gentleman is very good about that, and I appreciate his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

MILITARY AIRCRAFT CHARTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, in the spirit of Christmas, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I would like to remind the gentleman, because he has fought so hard for all of his constituents, to please add to his family's prayers over the holidays our four Americans, one of them a Catholic priest, one of them a newspaperman, and two of them educators, administrators in the hospital and agricultural sections of the American University of Beirut. These four Americans, unless we get a big change in luck here, will be in Beirut during these holidays while we all enjoy our loved ones. So I hope they have your prayers. I know they do.

Mr. GONZALEZ. I want to thank the gentleman from California and to accede to that request and certainly join him in my prayers as I have been ever since I have raised the issue of captives, not only in Lebanon, but elsewhere. And I do think that this is the time to certainly, of course, never to forget that we have Americans that are in captivity, and particularly these the gentleman refers to.

Mr. DORNAN of California. And quite possibly alive in Southeast Asia. I believe they are. I cannot state it definitively.

Mr. GONZALEZ. Every bit of information that has been adducible, including the Anglican ministerial messenger of the Archbishop of Canterbury——

Mr. DORNAN of California. Terry Waite.

Mr. GONZALEZ. Yes, indicates that they are still alive.

Mr. DORNAN of California. I thank you, sir.

Mr. GONZALEZ. All of us, of course, are anxious to finish the business of this session. I certainly realize that. I am sure everybody else does.

I also realize that the House earlier this week rejected a conference agreement on the continuing resolution which has since been accepted.

I would have offered, if the rule under which the conference on the continuing resolution on appropriations had afforded it, a motion to recommit so that we would not go home without definitely changing the policy that directly needs change, that is accountable and directly, on the cause of, the result of 248 of our soldiers, plus a number of civilian pilots and aircraft attendants in Gander, Newfoundland.

Also, last night, I sent a telegram to the White House, to the President. That telegram reads as follows:

[Mailgram]

WASHINGTON, DC,
December 18, 1985.

This is a confirmation copy of the following message:

President RONALD REAGAN,
White House.

HON. RONALD REAGAN: Know you mourn loss of 248 soldiers but not enough to mourn. Can honor them by long last taking commercial profit out of military functions. Urge you mandate DOD utilize military aircraft transport troops platoon size up.

Transfer $450 million from executive discretionary funds to DOD insures implementation of mandate. Am seeking congressional appropriation reimburse executive fund.

HENRY GONZALEZ,
Member of Congress,
20th District, Texas.

That was why I intended to ask for a recommittal motion with instructions to the conferees, to place that sum in the telegram, to reimburse the President in case he should mandate, or in the event he would not but the Congress mandate such a sum. I believe we need to take action in order to protect the lives of servicemen who are today flying on commercially chartered aircraft, including, notwithstanding the distinguished gentleman and neighbor of mine from the great State of Alabama, the ranking minority member of the Committee on Armed Services, who earlier in a dialog with me stated that he had personally called to make sure the Arrow Transportation Co., based in Florida, would not be. But he was talking about what the commander of these forces known as the multinational peacekeeping forces in the Sinai ordered as of day before yesterday, and that was that no further movement of his contingent would be made by means of Arrow.

But the Arrow Airline has at least three other military contracts because that is what its whole life is, contracts with the military for transportation of troops. So I do not understand, and there is no information to confirm that Arrow has been deprived of transporting other troops in other areas from one point to the other. And even if that were done, the basic issue is changing the policy which, incidentally, remained true all during Vietnam, and also aroused my protest that I directed to then-President Johnson and subsequently to President Nixon, and in both instances, I was replied to just like the gentleman from Alabama replied, that there was no money, what did I want. Did I want these men to be lying down in the empty, chairless bottoms of C-130's?

Well, I had rather have them alive, even lying down in a C-130 than brought back in a coffin, because that is the only time we use military transportation, that is to bring our dead on military aircraft.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Speaker, I appreciate the gentleman yielding. I was in my office and, on hearing the gentleman on his special order, I wanted to come over and commend him for the extraordinary effort he is making in focusing on this question.

Mr. GONZALEZ. I thank the gentleman.

Mr. HENRY. I wanted to advise Members of the House that it got only very minimal attention on the wires, but in my district in Grand Rapids, MI, the very craft that was involved in this very serious tragedy was chartered by the military from the Kent County International Airport ferrying troops, reserve troops in this case, and had to abort takeoff because of mechanical difficulties in the plane.

After aborting the takeoff, it did the rather unusual thing of ferrying all of the troops to the front rows of the airplane so that the airplane was physically able to lift off.

Mr. GONZALEZ. That is incredible.

Mr. HENRY. And at this point, we have questions as to whether or not appropriate reports were filed or not, either in terms of the military or in terms of the proper Federal civilian agencies. I just wanted to advise the gentleman and my fellow Members that I have forwarded this information to the Department of Defense, to the Armed Services Committee, the Energy and Commerce Committee, and any other committee that may have appropriate jurisdiction.

Clearly, not only has this particular charter airline had problems in the past, but the particular craft involved in this incident has a rather suspicious record.

I commend the gentleman and thank him for yielding.

Mr. GONZALEZ. I thank the gentleman very much and wish to say that I place myself at his disposal in any way that I can be helpful to him in his efforts to bring these things to the attention of the Defense Department and others. I do not know that I can add much to the gentleman, but certainly he can call on me anytime. I thank him because this is a very fundamental issue that should have been addressed years and years ago. I am sorry that I was not formidable enough to succeed. I tried; the record will so show. But now I think it is inescapable that we address it.

The idea that we would transport battalion-sized troop movements in nameless commercial aircraft that have no real viable standards of safety, upkeep, or maintenance, an aircraft company, for instance, that could not retain pilots because the pilots have refused to stay once they were hired, once they saw the faculty aircraft they were compelled to try to man. I believe that when troop units are being moved for any military purpose, that they should be moved on Government military aircraft, not noname charter lines.

My motion simply would have instructed the conferees to reprogram the $450 million that today is used to pay for such charters. The Defense Department told me this week that they were using $450 million a year for this purpose.

The ranking minority member of the Armed Services Committee said earlier in the dialog I had with him that there was no money. It seems to me inconceivable that they would be passing this resolution, which it itself, I think, is almost perverse in its priority, where we are going to give 3 months of additional housing allowance to the dead; that is, the relatives of the dead.

□ 1650

Well, now, what great generosity. I introduced a bill before, and I reintroduced it after the death of the 241 marines in Beirut, which would have provided $50,000, like an insurance, such as we had in World War II, except that the figure then was $10,000, and I am allowing for inflation; $50,000, and I was denounced by some and was criticized by others, and I could never even get a committee hearing on that proposal.

But here we are thinking we are generous on Christmas Eve by saying to the poor surviving dependents of these 248 soldiers, "Well, we're going to give you 3 months of housing allowance over and above the period that it should have expired."

Now, if one of us dies, in the Congress, our spouses are entitled to 1 year's full pay, right off the bat. I just think that we have got to come back to basics. We have got to come back to fundamentals. And that is what? Looking out for the interests of our own first and foremost, and not indulge in these terrible splurges of false economy.

After all, we have MAC, the Military Airlift Command. There is no reason why MAC cannot perform this job; and we have every reason why it should do so.

Arrow Air Lines and others take it apparently that their sole business for existing is to exclusively acquire military transportation contracts. I know that these so-called supplemental carriers; that is the sophisticated word officialdom gives them, have for decades been used to ferry around military freight of all kinds, so that if the soldier comes back in the form of ashes in a coffin or a body in a coffin, then it is military freight, and he is allowed to be transported back to our country in a military craft.

But if he is alive and kicking, then we transport him in these flimsy, dangerous craft to some zone or mission area that we have mandated our military to participate in, at great danger, and yet in missions that are vaguely defined if defined at all.

For instance, the basic question here, I think should be—two basic questions. One, this method of transportation and the other, and I think just as important corollary question is, what was the mission of these 248? That represents about 25 percent; a little bit, perhaps a little bit more of

the total American contingent in the Sinai.

Now, another misconception was revealed by the statement made by my distinguished colleague from Alabama earlier when he said that this was a U.N. matter. That is certainly really exaggerating the situation.

The whole peacekeeping unit in the Sinai was an initiation first brought forth in a letter from President Carter to the Egyptian leader then and the Israeli leader then after the Camp David agreement.

Now, the Camp David agreement has as party signatories Israel and Egypt, not the United States. President Carter wrote that letter in order to try to ensure that there would be some attempt to help both countries ensure the peace; but it called for military, armed.

So that the Congress, on December 12th or thereabouts, 1981; at least that is when the debate took place here, if such it was a debate, mandated for the first time in its history, the deployment of a military unit, not to exceed 2,000.

Never has that been done before. This is why I am taking the floor, because this is not a Presidential command. The Commander-in-Chief did not do this; he requested it, it is true, but it was the Congress that for the first time in its history since 1789, mandated the deployment of American soldiers.

Now, what is their mission? Well, the United States cannot win under any circumstances, because the mission is to be peacekeepers between whom? Two up to now friendly allies that we have. So that if ever that mission is called upon to be carried out, we will be offending one of the two allies.

But if they are military, they are not diplomats, they are not politicians, they are warriors; they are battle-equipped, but not fully. So that if they come under attack by anybody, they are not in a position to militarily defend themselves. They have no cannon, no artillery, they have no aircraft; so what are they going to do? What are we going to do?

So for several months, I have pleaded with the Members of the Congress that have leadership responsibilities to conduct reviews of these forces which, incidentally, would have included everything: Who was handling what in the transportation area; under what circumstances were soldiers being transported? But never has the Congress wanted to do that since the unit was formed sometime after December 1981.

What does the force consist of? We never have persuaded our major allies. For instance, West Germany does not have any; France and England have a handful, maybe a dozen or so; we have 500 Colombians, we have 500 Figi Islanders, and that is about it.

So we have about some 1,500 to 1,800, depending on when you take the count, of American soldiers in an increasingly hostile environment, because ever since the terrible crimes of the hijacking of the Italian ship, our diverting the Egyptian airliner, tensions have arisen among the Egyptian population that tend to be very severely anti-American.

So, what concerned me was what I addressed this House, will not repeat it now, in September. When I did, I was surprised at the number of my colleagues who said, "I did not even know we had troops in the Sinai." So that today it seems to me that we should not quit.

The 75 to 80 percent of the remainder of Americans are still out in that desert, as we break, hurry off to a nice and I hope joyful and I hope healthy and I hope very happy Christmas, dinners and all, we must never forget that these Americans are there, and they are under the shadow of death. And further than that, should anything happen in the way of violence there, we, that is the lawmaking as well as the executive branch, will have immediate questions to address.

How far are we willing to go to defend those men, if they are imperiled, or any component? Suppose the Figi component is attacked; are we going to leave them there or are we going to go to their rescue? And how far will we go?

Suppose that Egypt accuses Israel for breaching Camp David or otherwise Israel accuses Egypt, Egypt accuses Israel. Or, that through intelligence, this group discovers that there is a buildup on either side. If either side moves, what do we do? What does this group do? Well, we know that the U.N. peacekeeping troops, a similar group in Lebanon, once Israel moved in militarily, had to step aside. It could not confront the Israel armor; it was not equipped and it could not have, anyway.

What I am saying is, Mr. Speaker, we cannot depart here, I hope, and I hope that if we do that the President will take cognizance of this and show how we can honor these dead by seeing to it that the reason for their death is removed in any future undertaking that will risk the lives of our military.

□ 1700

The troop transportation done by these charter carriers is not competitive with scheduled airlines. It is commercial carriage only in the sense that a company can be created to do this kind of business exclusively. And it is a shameful thing we have thus allowed troop transportation to become an enterprise to be carried out by companies formed solely for that purpose and then call this a commercial enterprise. If the national purpose if served by patrols in the Sinai, let that be a Government function, not a commercial enterprise to generate profits for that vast litter feeding at the Pentagon trough. If we have to move troops around the world, let us do it as a Government, not as a largesse for contract carriers.

Why is it Government transportation is fit only for the dead of Gander, Beirut, or Saigon?

Let us say today that enough is enough, let us take the commercial profit out of essential military functions. That is all I propose to do, to have the Government perform the tasks essential to military transportation. It makes no more sense to transport troops by charter carrier than it would to contract the operations of the Navy carriers or to contract operations of Air Force missile silos. Surely the living should be honored as much as the dead. Surely the living should be entrusted to military transportation, not farmed out to no-name charter operators.

Mr. Speaker, I yield back the balance of my time.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting on December 17 and 18, 1985, for certain rollcall votes. Had I been present, I would have voted in the following manner: "aye" on roll No. 462, passage of H.R. 3363, for the relief of Hamilton Jordan; "aye" on roll No. 463, the Conte motion to recommit House Joint Resolution 491, making further continuing appropriations for fiscal year 1986, with instructions; "aye" on roll No. 464, passage of House Joint Resolution 491; "aye" on roll No. 465, to suspend the rules and pass H.R. 3132, Law Officers' Protection Act; "aye" on roll No. 472, motion to approve the Journal; and, "aye" on roll No. 473, passage of House Joint Resolution 345, military plane crash victims.

ZERO TOLERANCE—THE NAVY'S MISGUIDED APPROACH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 10 minutes.

Mr. FISH. Mr. Speaker, it is reported that Secretary of the Navy John Lehman has cracked down on drug abuse by Navy personnel, successfully reducing the incidence of drug abuse from 48 percent to 3 percent. Urinalysis is required of all Navy personnel. Punishment followed positive findings; discharge for repeaters. However, those who admitted drug use before a test

have been offered amnesty and rehabilitation. This tough policy, therefore, has allowed an individual a chance for rehabilitation and continued useful service.

It has come to my attention that Secretary of the Navy Lehman has instituted an additional drug policy known as Zero Tolerance, resulting in court martial and possible dishonorable discharge for a first offense by senior enlisted and officer personnel.

Mr. Speaker, chemical dependence is a disease, recognized as such by the American Medical Association, the American Psychiatric Association, and all State medical associations and licensing boards. Rehabilitation, not punishment, is the accepted, recognized response. The Navy's policy is contrary to good medical practice, self-defeating and unnecessarily costly.

The zero tolerance policy is particularly disturbing as applied to Navy health care professionals. Talented individuals in whom the taxpayers have a substantial investment can be separated from the service in disgrace. This policy is not only costly, but it is not a deterrent to others. The particular vulnerability of physicians to chemical dependence is unquestioned. Those Navy physicians reluctant to seek help because of the harsh consequences, continue to practice to the jeopardy of patients in their care.

The zero tolerance policy is directly contradictory to the expressed goal to the Assistant Secretary of Defense for Health Affairs, Dr. William Mayer. In a publication "Health Matters", volume 1, No. 3, July 1985, entitled "Healt!. Care Providers," Dr. Mayer cites PL-92-129 as requiring that DOD identify, treat and rehabilitate all military personnel who are considered chemically dependent. He supports the claim that physicians are a high risk to develop the disease and argues the folly of separating addicted health care professionals who could be successfully rehabilitated, and in their place recruiting from a population at equal risk. Despite the excellent rehabilitation programs provided by the Navy, current policy opts for court martial rather than rehabilitation.

The Army's program for impaired health care professionals is progressive, realistic, compassionate and provides a method of closely monitored reentry. The Navy would be well-advised to pursue the Army's policy of early intervention, which keeps the chemically dependent within the system.

Mr. Speaker, Dr. Mayer's memorandum entitled "Health Matters" follows in full:

HEALTH MATTERS

IMPAIRED HEALTH CARE PROVIDERS

This is another in a series of reports and commentaries on a wide range of issues in military medicine which concern and affect those of us who serve in DoD Health Affairs. Your own suggestions and input are welcomed in future issues.

The American Medical Association has stated ". . . it is the ethical responsibility of any physician who knows of an apparent problem in a colleague to take affirmative action to seek treatment or rehabilitation for his follow physician." Fifty State medical associations either have developed or are developing an impaired health care provider program. Public Law 92-129 requires that DoD identify, treat and rehabilitate all military personnel who are considered chemically dependent.

Physicians, as a result of their training and professional experience, have been shown to be particularly vulnerable to becoming addicted because of the propensity for self-diagnosis and self-medication. The daily accessibility of prescription drugs creates fertile ground for misuse. In addition, medical professionals are often no better educated about the disease of alcoholism and other addictive disorders than other professionals.

We must do more than simply eliminate people from the Services who become impaired emotionally or chemically. To separate physicians, nurses and other health care professionals who have become addicted but could be successfully rehabilitated, and then recruit from a population that will be at equal risk is shortsighted.

Prevention to reduce the incidence and occurrence of new cases, identification of impairment, and intervention and treatment of providers to eliminate the potentially destructive consequences of chemical dependency and emotional impairment are of the highest priority in our efforts to maintain quality of care. Guidance regarding impaired health care providers should be incorporated into service quality assurance programs.

Impairment can become progressive if ignored. Medical and professional societies across the country recognize that only with coercion and confrontation will treatment be effective. When legal action is not required, a nonpunitive approach with emphasis on confidentiality will help promote effective impaired health care provider programs.

It is important to publicize the legitimacy of prevention, identification and treatment. Impaired physicians, nurses and other health care professionals are sometimes reluctant to seek help on their own accord. Too often, we have failed to accept the ethical responsibility of an affirmative posture. Hesitancy to act fosters denial of the problem and could result in needless tragedy.

A DoD Directive providing further guidance will be developed by a Joint-Service group in the near future regarding incorporation of a health care provider program into MTF quality assurance programs. In the meantime, I am communicating through this medium to alert you to the importance of this issue and to enlist your help.

WILLIAM MAYER, M.D.,
Assistant Secretary of Defense
(Health Affairs).

Mr. Speaker, I urge Secretary Lehman, at the very minimum, in simple fairness, to put a hold on the continued implementation of the zero tolerance policy as it pertains to health professionals until the study alluded to Dr. Mayer is finalized.

HUMANITARIAN AID TO FREEDOM FIGHTERS WORLDWIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 10 minutes.

Mr. DORNAN of California. Mr. Speaker, I had occasion to visit with the President of the United States on Tuesday on matters involving our economy. I took advantage of our time together to ask that the spring of next year or late winter, in February and March, when this House will again turn its attention, as will the other body, to the foreign policy of our country and what we will do following up on the President's State of the Union message, on helping freedom fighter groups across the countries and reminding him of the appreciation by many Members of this House that he brought up the freedom fighter movements in at least 5 countries around the world to Mr. Gorbachev at the summit talks in Geneva last month and so reported to this great legislative body on the evening of November 21 when we and the other body met in joint session to see a President return to us without any signs of wear and tear from the nonending meetings in Geneva, the clamor of a very large, aggressive, and interested world press corps, and the long jet flights that brought the President from Switzerland back to his United States.

President Reagan told me Tuesday that he would appreciate meeting with members of his own party, with long discussions on which direction to take in this House, and that he would also like to meet with members of the majority party in this House, the minority party in the other body, on how we can come to some sort of bipartisan agreement on the extent and the type of aid to fighters, some of them, as I discussed with the President, very young in years, people that we could describe as boys and girls in their midteens, who are willing to die to offer their lives in the struggle for freedom in their countries.

And I told the President that I had right here in North America, on the border of Nicaragua, in very roughhewn infirmaries, in no way could they be called hospitals, talked to freedom fighters, young men and young women, who were healing from wounds received in battle with the forces of the Communist government of Managua, and told them through simultaneous translation that although we had lost the vote on April 24 to give these very young fighters in those infirmaries humanitarian aid, boots, uniforms, hospital care, medical care, and food, that we would return for another vote in this House and attempt to turn that negative vote of April 24 around. I was not so sure as I stood there with Congressman VIN WEBER at my side, also assuring them we would try and win that fight for them here in the House without any threat to our lives, I was not so sure we would be able to follow through on our promises to them. I told the President that when I mentioned his name, this is last Tuesday, I told the President that when I mentioned the name of

President Ronald Reagan to them, that he wanted to help them, that some of them began to cry. The tears rolled down the faces of these combat-hardened young freedom fighters. And when I told the President that, he was visibly moved. I have no witness to verify that because I was alone in the Oval Office with the President. But I give you my word of honor he is well aware that these young people fighting in the hills of Nicaragua, laying their lives down and, for all I know, some of those very people that I discussed with the President, and his intentions to help them in May, died in some of the major offenses against them by Daniel Ortega's forces out of Managua, flying that massive, effective Hind-D Soviet-made helicopter piloted by Cuban officers, maybe some of those very people I spoke to in May died in some of the assaults around Esteli in the month of August while we were all in our districts during our summer break.

And I told the President that we had promised them we would go back and turn the vote around, and we did on June 10. In July there was even a more stunning vote in this House where we won by even a bigger margin, those of us who want to help freedom fighters. That was when we removed the infamous Clark amendments named after a United States Senator long since defeated, that we would remove this last carryover from what I call the Vietnam syndrome that lasted almost 10 years, that the United States no longer had a role of leadership in the world except possibly to try and help people from starving, even if that starvation was caused by communist governments such as the one in Addis Ababa, Ethiopia, that we had no role anywhere in the world to help freedom fighters. And that vote in July that took away the Clark amendment, that although the Clark amendment applied specifically to Angola, had thrown a cloud over Afghanistan, Cambodia, Laos—and I have been meeting recently with Laotian freedom fighters. I met recently, in the last few weeks, with people who would still like to see a return to some form of freedom in South Vietnam. In Mozambique, in the northern provinces of Ethiopia; in these eight countries around the world we have no role at all to help people because of the Vietnam syndrome, although in the last decade we have seen a C change where the insurgent groups around the world are not flying red flags and using Russian Kaloshnikov assault rifles, unless they have been taken from Communist governments. But now, except for the insurgency in the Philippines and the one we do not hear about too much any longer, in El Salvador, because President Duarte has won several elections down there and the forces of freedom are winning, now we see insurgencies around the globe in the 8 aforementioned countries where the freedom fighters are aligning themselves with liberty and democratic pluralistic systems and the expansionism of the Soviet Union and their puppet mercenaries from Cuba are on the defensive.

So I would like to discuss with Angola, which, along with Nicaragua, will be part of what the President will propose to this body in late winter/early spring, February, March, April, some of the myths that surround Angola and the Communist government in Luanda.

Myth 1 is that the Cubans are in Angola to protect the Angolan people from the oppressive South African Government. The fact is, the Cuban forces are in Angola to protect the Communist government in Luanda from the Angolan poeple. There is no threat of invasion into Angola from South Africa from South African-administrated Namibia, and the Communists know it well. It is evident by the deployment of the Soviet-equipped Cuban troops. They are not deployed along the southern Angolan border near Namibia or South Africa; they are deployed in the north around the city of Luanda, and the Cubans are also in the north in the oil-rich enclave of Cabinda which, although separated by some land, is north of the northern border of Angola.

The Cubans in the past have desperately avoided all conflict with the South African forces, but they actively participate in every military action they can against the true representatives of freedom and the people of Angola, Jonas Savimbi's forces. Also, Castro intervened in Angola long before the South African forces came to the support of Savimbi within the country. South African military forces have entered Angola primarily because the Communist government has allowed the SWAPO organization, South West African People's Organization, a Communist front group, to use Angola as a sanctuary to carry out terrorist acts against Namibia which, for good or bad, has been administered by South Africa since the German governments were removed after World War II.

Myth No. 2, that U.S. aid will only make the Communists in Angola more dependent upon the Soviet Union and Cuba. The fact is that it is hard to imagine how the Angolans could become any more dependent on the Soviets and their satraps than they already are.

We have done nothing to help the democratic resistance in Angola for over 10 years since the Senator Clark amendment was enacted into law. Yet the Soviet and the Cuban presence, without any external threat, has continued to grow. There are now more than 35,000 Cuban forces inside this large and embattled African nation.

Soviet commanders are now directing battles while Cuban pilots, just as they do in Nicaragua, fly that large, effective, and dreaded Hind-D helicopter. The helicopters and the Mig-21's flown against the Angolan people are flown by Cuban pilots, North American people killing blacks in the name of communism.

President Reagan has publicly announced that he favors aiding Jonas Savimbi's anti-Communist forces, and there is strong congressional support for renewing aid to UNITA. But the blame America first crowd in determined to prevent the United States from helping Angolan freedom fighters. These myopic fear merchants are spreading myths designed to counteract conservative actions and reintroduce the worst effects of the Vietnam syndrome.

Myth 1: The Cubans are in Angola to protect the Angolan people from the South Africans.

The fact is that the Cuban forces are in Angola to protect the Communist government from the Angolan people. There is no threat of invasion of Angola from South African administered South-West Africa/Namibia and the Communists know it. It is evident by the deployment of Soviet-equipped Cuban forces. They are not deployed along the southern Angolan border, where they would be if there was any fear of invasion. The Cubans are in the north around the capital city of Luanda and in the oil rich Cabinda enclave north of Angola proper. The Cubans in the past have avoided clashes with South Africa; but they actively participate in military action against the true representatives of the Angolan people, Savimbis forces.

Also, Castro intervened in Angola long before South African forces came to the support of Savimbi within the country. South African military forces have entered Angola primarily because the communist government has allowed the South West African People's Organization [SWAPO] to use Angola as sanctuary to carry out terrorist acts against South-West Africa/Namibia.

Myth 2: U.S. aid will only make the communists in Angola more dependent on the Soviet Union and Cuba.

The fact is that it is hard to imagine how the Angolans could become any more dependent on the Soviets and their satraps. We have done nothing to help the democratic resistance in Angola for over 10 years, yet the Soviet and Cuban presence has continued to grow. There are more than 35,000 Cuban forces inside that embattled nation. Soviet commanders are now directing battles, while Cubans pilot the Soviet Hind helicopters and Mig fighters flying against the Angolan people.

While United States-owned Gulf/Chevron Oil has created more than 60 percent of the hard currency that pays for communist control of Angola, the Soviet Union has taken about $2 billion of these petro dollars for military equipment support. The

Soviet Union has given precious little in economic aid, and what little they did give is certainly not free.

Myth 3: Support for UNITA is support for Apartheid.

The fact is South African support for UNITA, like that of other African nations, stems from a common goal—riding Africa of the scourge of Soviet hegemony and of the economic stagnation that always accompanies communism. No one of conscience supports the machinations of apartheid, but why curse the Angolan people with a system that keeps them apart from freedom. Reform within South Africa is far too slow but will come to a stop if communism overwhelms Savimbi and takes over in all of Angola. It is the height of hypocrisy for liberals to denigrate South Africa's relationships with its neighbors. Not only do a number of black African nations support UNITA, and find no conflict, but even the so-called front line states recognize and accept South Africa's economic leadership in the region.

Myth 4: Savimbi is a Marxist.

The fact is Savimbi is not a Marxist. Savimbi stands for negotiated settlement and pluralism, the unification of his country, and the elimination of all foreign troops from Angola. It is true that prior to 1975, Savimbi did receive Chinese support from Mao, and advocated a socialist program along Chinese lines. But even John Stockwell, the former CIA Angolan task force officer, and now unfortunately is an ardent opponent of U.S. involvement anywhere because of frustration over weak policies, stated Savimbi was "neither a Marxist nor capitalist * * * but an Angolan patriot."

What is most interesting about this myth is the people who support it have made careers of endorsing or supporting Marxist governments elsewhere. All of a sudden, these dedicated liberals are now concerned that President Savimbi's political philosophy may be left of center. These same individuals show no such concern over Marxists in Mozambique, in Nicaragua, or in the Soviet Union.

Myth 5: The MPLA is negotiating a Cuban withdrawal.

The fact is that the MPLA is negotiating a permanent Cuban presence. It is the Cuban presence that is actually undermining U.S. efforts to bring peace and stability to the region.

Angola, like other Communist nations, uses negotiations as a tactical tool in support of its parochial interests. Communists do not enter negotiations as a means of compromise or for mutual problem solving.

For nearly 10 years the United States has been attempting to negotiate in good faith with the Luanda government. The U.S. State Department has again expressed hope over negotiations. But it is curious that this renewed dialogue only occurs in the wake of U.S. declarations of possible support for action against the Communist regime in Luanda.

Myth 6: The Democratic Resistance cannot win:

The simple fact is that UNITA forces are winning. This is the reason the Soviet and Cubans have stepped up their activities within Angola. The pro-Western forces today control a substantial portion of the Angolan countryside and enjoy considerable popular support. The area under their control is well managed and free. But these free areas come under regular attack by Soviet and Cuban manned aircraft and tanks.

The UNITA freedom forces have been fortunate in that, even without United States help, they have held their own against superior forces that are Soviet-equipped and Cuban-trained. The Communist forces have launched a major offensive in August against UNITA, with direct Soviet and Cuban assistance, direction and participation. The UNITA forces are managing with substantial loss of life to hold on to their territory, but reports indicate that they may not be able to hold on indefinitely in the face of superior Soviet weapons.

The forces of freedom are on the very edge of turning the struggle to bring down the Communist government in Luanda. We, the United States, can make the difference. As President Reagan correctly said in his speech before the United Nations last month, "America's moral and material support for struggling resistance forces must not and shall not cease." I will try in February and March to support our President resolve to do what is right. Join me.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1083. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes.

□ 1715

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is awaiting the arrival of the Interior and Insular Affairs Committee to make a unanimous-consent request.

The Chair, in the meantime, would entertain any 1-minute requests.

RECESS

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the House stand in recess until 5:45 p.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The House stands in recess until 5:45 p.m.

Accordingly (at 5 o'clock and 20 minutes p.m.), the House stood in recess until 5:45 p.m.

□ 1740

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. KILDEE] at 5 o'clock and 47 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for 1-minute requests or for special orders.

BLESSED ARE THE PEACEKEEPERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, on Thursday, December 12, 248 members of the 101st Airborne died on their way home from a vital peacekeeping mission in the Mideast. They died serving their country in the highest calling possible, keeping the peace.

Too often, when we hear of tragedies that involve many people, we hear only the numbers, we sometimes fail to understand the tragedy on its human level.

These servicemen and the crew of the plane had families and friends in almost every State—the loss is felt nationwide.

Last week, we lost two young service men with families from our district, seven all together from Maryland—the faces of tragedy are known in our neighborhoods.

One of the young men, Alexander Stearn, of Lutherville—my hometown—was aboard that plane. Five others, James Duckworth, David Heidecker, Robert Hoyer, Christopher Thornton, and Michael Whiteman, were from Maryland.

The next day, a young sailor, Seaman William E. Davis, whose grandparents live in Perry Hall, died in the hospital at Norfolk from injuries received in an accident while serving at Guantanamo Bay, Cuba. He was painting his ship and fell onto a barge from a Jacob's ladder.

Both young men were 21 years old. The beginning of their lives—but, like many soldiers and sailors and airmen before them—hopes and dreams will not be fulfilled.

As a memorial to all of these men and women, we should renew, redouble our efforts to achieve a meaningful peace in the Middle East. One that will not require our troops—our loved ones—to be stationed, at risk, in any foreign post; and, one that will not re-

quire them to, possibly, sacrifice their lives.

In the interim, many questions need to be answered about charter services which seem to be regularly used for transport by the military. I am aware that millions of air miles have been safely flown by military charters. However, when we ask our soldiers, sailors and airmen to place themselves in harm's way, it is only fitting that we provide them with the best and safest transportation to return them to their loved ones.

Our sympathy today goes not only to the relatives and friends of these men and women—to the Stearn family and the Davis family—but also to General Burton Patrick and the 101st Airborn Division at Fort Campbell.

Some of my staff visited Fort Campbell in August. They came back with reports of the fine training program being run down there by General "Pat" Patrick—how proud the troops were to be a part of the "Screaming Eagles."

I'm sure the troops lost in Gander felt that same pride. And the men and women at Fort Campbell feel their loss at the deepest level. Comrades have gone down.

We ask a lot of our soldiers and sailors in peace time. The danger many of them face daily is forgotten by the rest of us as we go about our busy lives—until a Gander occurs. Then we must pause and think about them all—the quick and the dead.

We must be grateful to them all for taking our place in some far off corner of the world—at great risk to themselves.

The Beatitudes say, "Blessed are the peacemakers: for they shall be called the children of God." In these days of turmoil in the world—I think Jesus would have also blessed the peacekeepers—so should we all.

□ 1755

RECESS

Mr. COELHO. Mr. Speaker, I move that the House recess until 6:30 p.m.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. COELHO].

The motion was agreed to.

Accordingly (at 5 o'clock and 55 minutes p.m.), the House stood in recess until 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WRIGHT] at 6 o'clock and 32 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2466. An act to make miscellaneous changes in laws affecting the U.S. Coast Guard, and for other purposes; and

H.R. 3718. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1706) entitled "An act to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corporation, to design a building or buildings adjacent to Union Station in Washington, DC."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1298. An act to coordinate and expand services for the prevention, identification, and treatment of alcohol an drug abuse among Indian youth, and for other purposes;

S. 1831. An act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law;

S. 1840. An act title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes.

DISTRICT OF COLUMBIA REVENUE BOND ACT OF 1985

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3718) to waive the period of congressional review the certain District of Columbia acts authorizing the issuance of revenue bonds with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out lines 20 to 23, inclusive.

Page 2, line 24, strike out "(3)" and insert "(2)".

Page 3, strike out lines 3 to 6, inclusive.

Page 3, after line 6, insert:

(3) The American University Revenue Bond Act of 1985 (Series A), District of Columbia act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

(4) The George Washington University Revenue Bond Act of 1985 (Series A).

The provisions of subsections (a) and (b) shall not apply to the District of Columbia act described in clause (4) of this subsection unless such act is passed by the District of Columbia by December 31, 1985. If the District of Columbia act described in clause (4) is passed by the District of Columbia after the date of enactment of this Act but before January 1, 1986, the effective date of such act, notwithstanding subsection (b) of this section, shall be the date of passage by the District of Columbia.

Mr. DELLUMS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BLILEY. Mr. Speaker, reserving the right to object, I do so to ask the gentleman [Mr. DELLUMS] to explain the amendment, and I yield to the gentleman from California [Mr. DELLUMS] for that purpose.

Mr. DELLUMS. I thank my distinguished colleague for yielding.

First, Mr. Speaker and Members of the House, the purpose of the bill H.R. 3781, which passed the House several weeks ago was to waive the 30-day congressional review period required by section 6021(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, euphemistically referred to as the Home Rule Act, for certain acts passed by the District of Columbia which authorized the issuance of revenue bonds.

Further, I would say to my colleague, the District of Columbia acts authorizing the issuance, sale, and delivery of revenue bonds referred to are as follows: the Georgetown University Higher Education Facilities Revenue Bond Act of 1985, the George Washington University Revenue Bond Act of 1985, Sibley Memorial Hospital Revenue Bond Act of 1985, and finally, the Washington Hospital Center Corporation Revenue Bond Act of 1985.

Those were the four issuances that passed the House of Representatives. The Senate amendment took out two of the bond issuances that passed the House that have now already become law as a result of time. They are specifically the George Washington University Revenue Bond Act of 1985, District of Columbia Act 6-76, and also the Washington Hospital Center Corporation Revenue Bond Act of 1985, District of Columbia Act 6-92.

So those two were deleted.

What the Senate included as their amendments were two additional issuances: George Washington University Bond Issuance, 1985, D.C. 6114, and American University Issuance DC6112.

So to summarize, the House of Representatives asked to waive the 30-day congressional review period for the purposes of the issuance of four bonds, two of them have now become law. What the Senate bill simply did was to strike the two that have already become law, leave the two that passed

the House, and added the two that the gentleman just referred to.

The recommendation of this side of the aisle is that we accept the Senate amendments and concur in the Senate amendments.

Mr. BLILEY. Mr. Speaker, further reserving the right to object, the minority fully supports the bill and the Senate amendments, and I withdraw my reservation.

Mr. WALKER. Mr. Speaker, reserving the right to object, do I understand that the unanimous consent is for consideration only and that the question will be put on the bill?

The SPEAKER pro tempore. This is a unanimous-consent request to concur in the Senate amendments.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the original motion of the gentleman, was it for consideration?

The SPEAKER pro tempore. The original request of the gentleman was to concur in the Senate amendments. The request immediately pending is to waive further reading and to consider the Senate amendments as having been read.

Mr. WALKER. Further reserving the right to object, I wonder if the gentleman could revise his motion to allow unanimous consent for consideration so that we do not have to go through a rules process but would do so in a way that the Chair can, in fact, put the question on the legislation.

The SPEAKER pro tempore. The Chair would state that if the reservations are withdrawn, all that is agreed to at this moment is that the Senate amendment be considered as read. Later the Chair will ask if there is objection to the gentleman's request that the Senate amendment be agreed to.

Mr. WALKER. I thank the Chair. I understand the position we are in, and I certainly do not have any objection to the situation of no further reading. What I am seeking to do is to get a vote on the final passage of the resolution, and that would evidently demand a little different kind of motion from the gentleman. I do not want to stand in the way. I intend to vote for the legislation. But I would like to do it with a record vote at this point in the evening.

So if the gentleman [Mr. DELLUMS] could modify his request so that when we get to that point, the Chair puts the question on the legislation.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Under my reservation, I yield to the gentleman from California.

Mr. DELLUMS. This gentleman understands what our unanimous consent request is. The gentleman is not in opposition to it. What the gentleman is attempting to do is simply bringing the Members of the body over here and using the vehicle of a rollcall vote in order to do it. This gentleman has no objection to that.

Mr. WALKER. The gentleman is correct.

Mr. Speaker, I withdraw my reservation to the pending unanimous consent request and then will assume that the gentleman will make a different unanimous consent request to the one which was made in the first instance.

The SPEAKER pro tempore. The gentleman withdraws his reservation of objection?

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

The Chair reads no objection to dispensing with further reading of the Senate amendments.

Now the gentleman from Pennsylvania apparently desires a recorded vote. The Chair would advise that one of two things might occur. The gentleman from California might withdraw his initial request and ask unanimous consent for immediate consideration of the Senate amendment in the House.

Mr. DELLUMS. Mr. Speaker, I would amend my request to reflect the recommendation of the Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Does the gentleman now move to concur in the Senate amendments?

Mr. DELLUMS. I so move, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DELLUMS] to concur in the Senate amendments.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 344, nays 3, answered "present" 2, not voting 85, as follows:

[Roll No. 478]

YEAS—344

Akaka	Barnes	Berman
Anderson	Bartlett	Bilirakis
Andrews	Barton	Billey
Annunzio	Bateman	Boehlert
Anthony	Bates	Boggs
Applegate	Bedell	Boner (TN)
Archer	Bellenson	Bonior (MI)
Armey	Bennett	Bonker
AuCoin	Bentley	Borski
Badham	Bereuter	Bosco
Boucher	Hartnett	Natcher
Boulter	Hatcher	Neal
Breaux	Hawkins	Nelson
Brooks	Hayes	Nielson
Brown (CA)	Henry	Nowak
Brown (CO)	Hertel	O'Brien
Broyhill	Hiler	Oakar
Bruce	Holt	Oberstar
Bryant	Hopkins	Ortiz
Burton (CA)	Horton	Owens
Burton (IN)	Howard	Oxley
Bustamante	Hoyer	Packard
Byron	Hubbard	Parris
Callahan	Huckaby	Pease
Campbell	Hughes	Penny
Carney	Hunter	Pepper
Carper	Hutto	Perkins
Carr	Hyde	Pickle
Chandler	Ireland	Porter
Chappell	Jacobs	Pursell
Chappie	Jeffords	Rahall
Coats	Jenkins	Rangel
Cobey	Johnson	Ray
Coble	Jones (NC)	Regula
Coelho	Jones (OK)	Reid
Coleman (MO)	Jones (TN)	Ridge
Collins	Kanjorski	Rinaldo
Combest	Kasich	Ritter
Conte	Kastenmeier	Roberts
Cooper	Kemp	Robinson
Courter	Kennelly	Rodino
Coyne	Kildee	Roe
Craig	Kleczka	Roemer
Crane	Kolbe	Rogers
Dannemeyer	Kostmayer	Rose
Darden	Kramer	Rostenkowski
Daschle	Lagomarsino	Roth
Daub	Lantos	Roukema
de la Garza	Latta	Rowland (CT)
DeLay	Leach (IA)	Rowland (GA)
Dellums	Leath (TX)	Sabo
Derrick	Leland	Savage
DeWine	Lent	Saxton
Dingell	Levin (MI)	Schaefer
DioGuardi	Levine (CA)	Scheuer
Donnelly	Lewis (CA)	Schneider
Dorgan (ND)	Lewis (FL)	Schroeder
Dornan (CA)	Lightfoot	Schuette
Downey	Livingston	Schulze
Dreier	Lloyd	Schumer
Duncan	Long	Sensenbrenner
Durbin	Lott	Shaw
Dwyer	Lowery (CA)	Shelby
Dymally	Lowry (WA)	Shumway
Dyson	Lujan	Shuster
Eckart (OH)	Luken	Sikorski
Eckert (NY)	Lundine	Siljander
Edgar	Lungren	Sisisky
Edwards (CA)	Mack	Skeen
Edwards (OK)	MacKay	Skelton
Emerson	Madigan	Slattery
English	Manton	Slaughter
Erdreich	Markey	Smith (FL)
Evans (IA)	Martin (IL)	Smith (IA)
Evans (IL)	Martin (NY)	Smith (NE)
Fascell	Matsui	Smith (NJ)
Fawell	Mavroules	Smith, Denny (OR)
Fazio	Mazzoli	
Feighan	McCain	Smith, Robert (NH)
Fiedler	McCandless	
Fields	McCloskey	Smith, Robert (OR)
Fish	McCollum	
Foglietta	McCurdy	Snowe
Foley	McDade	Snyder
Ford (TN)	McEwen	Solarz
Fowler	McHugh	Spence
Frank	McKernan	Spratt
Frenzel	McMillan	St Germain
Gallo	Meyers	Staggers
Gejdenson	Michel	Stallings
Gekas	Mikulski	Stangeland
Gilman	Miller (OH)	Stark
Gingrich	Miller (WA)	Stenholm
Glickman	Mineta	Strang
Gonzalez	Mitchell	Stratton
Goodling	Moakley	Studds
Gradison	Molinari	Sundquist
Gray (PA)	Mollohan	Sweeney
Grotberg	Montgomery	Swift
Guarini	Moody	Swindall
Gunderson	Moore	Synar
Hall (OH)	Moorhead	Tallon
Hall, Ralph	Morrison (WA)	Tauke
Hamilton	Mrazek	Tauzin
Hammerschmidt	Murtha	Taylor
Hansen	Myers	Thomas (CA)

Thomas (GA)	Volkmer	Wilson
Torres	Vucanovich	Wise
Torricelli	Walgren	Wolf
Towns	Walker	Wolpe
Traficant	Waxman	Wortley
Udall	Weber	Wright
Valentine	Weiss	Wyden
Vander Jagt	Wheat	Yatron
Vento	Whitley	Young (AK)
Visclosky	Whittaker	

NAYS—3

Rudd	Solomon	Stump

ANSWERED "PRESENT"—2

Gephardt	Obey

NOT VOTING—85

Ackerman	Franklin	Morrison (CT)
Addabbo	Frost	Murphy
Alexander	Fuqua	Nichols
Aspin	Garcia	Olin
Atkins	Gaydos	Panetta
Barnard	Gibbons	Pashayan
Bevill	Gordon	Petri
Biaggi	Gray (IL)	Price
Boland	Green	Quillen
Boxer	Gregg	Richardson
Broomfield	Hefner	Roybal
Chapman	Heftel	Russo
Cheney	Hendon	Seiberling
Clay	Hillis	Sharp
Clinger	Kaptur	Stokes
Coleman (TX)	Kindness	Traxler
Conyers	Kolter	Watkins
Coughlin	LaFalce	Weaver
Crockett	Lehman (CA)	Whitehurst
Daniel	Lehman (FL)	Whitten
Davis	Lipinski	Williams
Dickinson	Loeffler	Wirth
Dicks	Marlenee	Wylie
Dixon	Martinez	Yates
Dowdy	McGrath	Young (FL)
Early	McKinney	Young (MO)
Flippo	Mica	Zschau
Florio	Miller (CA)	
Ford (MI)	Monson	

□ 1900

Mr. STUMP and Mr. RUDD changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from California?

There was no objection.

LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1083) to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes with Senate amendments thereto, concur in the Senate amendment to the title, and concur in the Senate amendment to the text with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments as follows:

(Senate amendments appear in the Senate proceedings in Part III.)

House amendment to Senate amendments: Page 33, strike line 15 and all that follows through "actions"; on page 36, line 13.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker, I take this time simply to ask the chairman of the Committee on Interior and Insular Affairs to give us an explanation as to what is in this bill and what differences there might be between us and the Senate.

Mr. DINGELL. Mr. Speaker, I also reserve the right to object.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the chairman of the committee.

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Senate has been involved in internal negotiations on the low-level radioactive waste compact legislation for a number of weeks. The bill they sent to us today is a tenuous settlement which we understand is acceptable both to States with low-level waste disposal capacity, and to those States needing disposal capacity until new sites can be developed. It is tough on the States that have to develop this capacity over the next 7 years, but there is a consensus that we should settle this legislation and approve the compacts this year so that the regional groups can move forward to build their new management capability.

We have agreed to accept the Senate proposal, with its substantially tougher milestones and tighter emergency exemption provision. Most significant, we have agreed to the Senate's requirement that the States take title to low-level waste generated in their territory in 1996. We believe all States will have developed management ability by that time. Although States are also liable for damages consequential to taking title to the waste, we intend this a very narrow liability limited to situations in which State actions are directly involved.

We believe the States will act responsibly to take care of low-level waste, and that waste obligations under the Atomic Energy Act.

I encourage support of this bill and congratulate my colleagues on their effort. Mr. DINGELL, Mr. MARKEY, Mr. LUJAN, Mr. BROYHILL, and particularly Mr. DERRICK who has so ably represented the interests of both his State and the Nation.

Mr. BONKER Mr. Speaker, I would like to express my support for H.R. 1083, the Low-Level Radioactive Waste Policy Act Amendments of 1985, and trust that in these final moments of this session, Congress will give final approval to this important legislation. If we fail to act on this bill in a timely manner, Congress will have lost an opportunity to avert a potential crisis, and the consensus that has developed in support of the measure could be pulled apart.

Currently, an intolerable situation exists with respect to the disposal of low-level radioactive waste—nuclear garbage which is slightly radioactive and generally decays within a matter of years. Three States, Washington, South Carolina and Nevada, now have the Nation's only commercial low-level disposal sites. My State of Washington took 52 percent of this waste last year.

Understandably, the people of these three States do not want to continue to be the dumping grounds for low-level radioactive waste from other States when those States could dispose of their own waste locally. Inaction has forced the Governors of the three receiving States to threaten to close their disposal sites by January 1 if Congress fails to approve this legislation, which would force other regions to handle their own waste by the end of 1992.

It appeared that Congress had solved the low-level waste problem in 1980 with the enactment of the Low-Level Radioactive Waste Policy Act. The act allows States to form regional disposal compacts and, upon congressional ratification, turn away all waste from outside their regions after January 1, 1986. Seven regional compacts have been sent to Congress for ratification. Unfortunately, delays have prevented the opening of any other commercial disposal sites and Congress has refused to ratify any of the compacts.

The amendments now under consideraton are the result of a delicately crafted compromise which enjoys almost universal support. The House passed its version of the measure unanimously. In brief, the bill would continue nationwide access to the three commercial disposal sites through the end of 1992. In exchange, areas without waste sites would have to meet a series of interim deadlines for opening their own disposal sites. A State or region missing the deadlines would risk losing disposal access.

Without passage of this legislation, the three receiving States could decide to make good on their threat to close their sites to all outside waste. This would cause a low-level radioactive waste disposal crisis that would have an almost immediate impact on hospitals and research facilities, which typically have limited storage facilities. Nuclear powerplants, which produce most of

the Nation's low-level waste, usually have several month's storage capacity onsite. This disposal crisis can be averted by the passage of this vital measure.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and also that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona that the amendments be considered as read and printed in the RECORD?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, the bill we are acting upon tonight does not contain a particular provision which would straighten out some problems we have been having relating to the disposal of substances under the Hazardous Waste and Solid Waste Disposal Act at low-level radioactive disposal sites.

I am particularly concerned about this issue, and I note that the two versions of H.R. 1093 which this body has previously passed and sent to the other body contained a section relating to the disposal of mixed waste. In particular, each of these sections provided that the Administrator of EPA and the Nuclear Regulatory Commission would jointly revise and promulgate regulations relating to mixed waste as those regulations would be involved in the disposal of hazardous waste in a low-level-radiation waste disposal facility.

□ 1910

In addition, these sections would provide for the consolidation of procedures for applications for permits under the Solid Waste Disposal Act and licenses under part 61 of title X, Code of Federal Regulations.

Thus, we are left with a big problem that we had spent weeks and weeks trying to solve. Earlier today, Chairman UDALL and the gentleman from Michigan [Mr. DINGELL] assured us that we would be having hearings on this sensitive issue early next year and that we would visit that issue. All of us have accepted that assurance, and while I am sure we would prefer to see Congress resolve the matter once and for all today, I and others have agreed to support this bill, even though this important section has been deleted.

So with that understanding, Mr. Speaker, I urge my colleagues to support this legislation.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, under my reservation, I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

I merely want to say that congratulations are in order to my colleagues for their willingness to work out this bill. I think this is a good example of where Members can work together on a bipartisan basis to bring out a very complex bill. It took a great deal of hard work and a lot of good will and cooperation to bring the bill this far. I want to thank them for their efforts in bringing it this far.

The gentleman from Michigan, the gentleman from Massachusetts, the gentleman from California, the gentleman from New Mexico, the gentleman from South Carolina [Mr. DERRICK], and others have worked very hard on this bill. I urge my colleagues to vote in favor of it.

It is a fact that the concern the gentleman just brought up is one provision that has been struck from this bill, but as the gentleman knows, there are some differences of opinion on both sides. I think this is something we can resolve later, but we ought to go ahead and pass this bill tonight.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I wish to congratulate my colleagues on both sides of the aisle for the tremendous job they have done in bringing this low-level waste bill to the House tonight in its present form.

Mr. Speaker, I am very happy that we are today accepting the Senate amendment to the House low-level radioactive waste bill. I believe this is a strong bill and I compliment my colleagues on their willingness to adopt the Senate version of H.R. 1083, with one change in order to adopt low-level radioactive waste legislation this year. The Senate version is based on the House version with a few changes. I believe my colleagues have handled a challenging situation quickly and well, and I want to thank them for all their efforts.

This bill responds positively to the needs of the three States in which disposal facilities are located and encourages other States to develop sites. It provides the three sited States with the authority to impose surcharges on generators from States which have failed to meet the milestones for the development of new sites. It also provides for a rebate of 25 percent of the surcharges changed for each of the milestones met.

Additionally, the bill provides emergency access to the existing three sites whenever necessary to address a threat to the public health and safety. Moreover, this bill limits the number of extensions to one, and conditions the emergency access upon a showing of diligence by the States who have failed to meet milestones.

Finally, in the interest of reaching agreement this year on low-level radioactive waste legislation, the House has agreed to address the question of how mixed waste—waste which is both hazardous and slightly radioactive—should be regulated early next year.

In sum, I believe the bill we have before us now is a good bill and should be approved.

Mr. LUJAN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from South Carolina [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, I want to compliment the gentleman and those involved for bringing this to a head here at the 11th hour.

I would urge that all present here support the effort to send this back, to take the amendment and send it back to the Senate, and that we go ahead and pass this measure. I think it is extremely important, not only to the State of South Carolina, but to the entire Nation.

I thank the gentleman for yielding.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a problem that we as a nation have failed to deal with for the last 50 years. This is one of the first steps that we have made as a nation to take care of low-level nuclear wastes.

I want to commend the gentleman from Arizona [Mr. UDALL], Chairman DINGELL, Chairman MARKEY, the gentleman from North Carolina [Mr. BROYHILL], and many others who have spent thousands of hours in bringing this bill to this point.

I ask that you support it tonight. We need to pass it. We need to get it on the books to have a sane, low-level nuclear policy in this country.

Mr. LUJAN. Mr. Speaker, does the gentleman from Michigan [Mr. DINGELL] want me to yield, or does the gentleman want his own time?

Mr. DINGELL. Mr. Speaker, I will seek my own time, but I would certainly commend the gentleman for his contribution.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I support the action today as a reasonable compromise on the low-level waste issue. The Senate amendment is very similar to the House-passed bill. Matters that were dropped, in many cases, can and will

be accomplished through existing laws.

The issue of the regulation of mixed waste, that is the waste in both hazardous waste and low-level waste, has been a highly controversial issue in this bill. There are strongly held views on both sides and, frankly, there is just not enough time to resolve the differences at this point. The Energy and Commerce Committee is committed to holding hearings on this issue early next year, and I understand that Chairman UDALL has agreed to make a similar commitment.

One issue which was addressed in the House bill and not included in the Senate bill concerns the question of class C waste.

The House provision required the NRC to review its disposal requirements for materials whose hazardous life exceeds the period of institutional control and to increase the stringency of such requirements by rule if necessary to protect the public health and safety.

The Senate contained a provision which requires the licensing of above class C waste. Given this provision, a separate provision relating to the regulation of class C waste was not necessary provided that the NRC carry out the mandate of the House provision under its existing authorities as well as its expanded authorities in the Senate bill. It is our intent that the NRC does conduct the review required in the House bill. The proper procedures for handling and disposing of class C waste is a matter of serious concern. As chairman of the Energy Conservation and Power Subcommittee, and as a manager of this legislation, I am committed to ensuring that the NRC carries out the mandate of the House provision.

It is our understanding that when the NRC shall consider waste streams on a case-by-base basis under the below regulatory concern section, they shall also consider the cumulative impact of such exemptions.

Let me make a few remarks about the emergency access provision.

There are several issues concerning the emergency access provision which I would like to clarify at this point.

First, the emergency access provision does not limit the number of grants of emergency access which a generator or Governor may request. While it is clear that a generator may only seek one extension of a grant of access, nothing in this provision would permit a generator from seeking more than one grant of emergency access.

Second, when the NRC is making a determination to grant emergency access on whether an alternative to access exists, the NRC shall consider not only the threat to the public health and safety if activities which lead to the production of waste were curtailed or stopped. For example, if the cessation of operations at a concern which produces medical devices would mitigate the need for access, but would at the same time impact the quality of medical care available to the public, requiring the concern to cease operation would not be an alternative consistent with the public health and safety.

One of the more controversial provisions in the Senate bill relates to States assuming title and liability for waste in 1996 and to require States to reimburse generators for surcharges. I have requested the Congressional Research Service to study the constitutionality of such a requirement. Their findings, in a study dated December 16, 1985, found that these provisions raise constitutional issues under the 10th and 11th amendments. I agree. I cannot recall any statute which has ever sought to impose such a liability on States. The provision may not pass a constitutional challenge and if it should, I would expect the interpretation of liabilities to be construed extremely narrowly, and not broadly as some may contend. It is upon such a narrow interpretation that I have agreed to this provision.

Because the provision comes in only 1996 or 1993, it is intended that the provision be severable from the rest of the act, should it be found unconstitutional. I further note that the provision requiring taking title is applicable to all States, not just those whose compact is conditionally consented. This fact raises further constitutional questions, raised by the Congressional Research Service, since it cannot be said that this requirement is a condition for consent.

In the House bill a clear statement was made that utilities are entitled to 11.9 million cubic feet and nonutility generators are entitled to 7.7 million. Under the Senate bill only mention is made as to the 11.9 million cubic feet allocated to the utilities. It is our understanding that nonutilities are entitled to 7.7 million cubic feet under this bill, that is, the remaining capacity under section 5(b). In addition, the section of this bill which authorizes the sited States to limit the acceptance of low-level radioactive waste to a total amount over the 7-year period requires those State to accept at the very least the aggregate amounts listed in section 5(b).

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Speaker, as the gentleman from Massachusetts was saying, the bill as it came out of the Energy and Commerce Committee included an amendment which would clarify that the Environmental Protection Agency has authority to regulate mixed wastes at facilities zoned by the Department of Energy.

This is very important to my district. I consider it a very important amendment.

Now, it is not my intention to hold this up, since the Senate has stripped it out and has taken the action at this late hour of taking it out. I will not insist upon this amendment and I will not object, but I am glad that the gentleman from Massachusetts has made it clear that there will be a series of hearings and I hope that we can include in those series of hearings the question of Federal facilities and the EPA control of such facilities.

Mr. MARKEY. Mr. Speaker, will the gentleman continue to yield?

Mr. LUJAN. I am happy to yield.

Mr. MARKEY. Mr. Speaker, I give assurances to the gentleman from Ohio that the issue to which he refers will be dealt with comprehensively in hearings before the Energy and Commerce Committee and that his interest in the issue is, in fact, the spurring motivation for those hearings.

Mr. LUKEN. Mr. Speaker, I thank the gentleman.

Mr. MARKEY. Mr. Speaker, I ask the gentleman from New Mexico if he will continue to yield.

Mr. LUJAN. I am happy to yield.

Mr. MARKEY. Mr. Speaker, while this compromise includes some provisions I am highly skeptical of and which may be of dubious constitutionality, such as the requirement relating to taking title by the State or reimbursing generators, it does include many important provisions from the House bill, and I think it will resolve a potential crisis that looms in this area; so I support this compromise.

Mr. Speaker, I would like to ask the indulgence of the gentleman from New Mexico if it would be possible for me to engage in a colloquy with either the gentleman from Arizona or the gentleman from Michigan as to the issue of so-called class "C" wastes.

Mr. Speaker, the House bill contained language, approved by both committees of jurisdiction, which instructs the NRC to undertake a review of its regulations concerning the disposal of so-called class C wastes, and, if necessary to enter a formal rulemaking to ensure that such disposal standards are adequate to minimize the threat to the public health and safety which may arise in connection with materials for which the hazardous life exceeds the period of institutional control established in present regulations.

The Senate bill, to which we are largely receding, does not contain such an explicit study provision. Rather, it is my understanding that it contains language which would establish a new requirement that the NRC license any disposal facility for so-called above class C wastes, for which the Federal Government is explicitly given man-

agement responsibility for the first time.

Am I correct in saying, that our decision to recede to the Senate provision on this point, and not to insist on the class C study provision contained in the House bill, is made in the belief that such a study will be necessary in order for the NRC to execute its responsibility to provide for licensing the entire so-called orphan waste category, which it is now responsible for under this act?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I am glad to yield.

Mr. UDALL. Mr. Speaker, I am glad to concur in the commitment the gentleman from Ohio [Mr. LUKEN] made 1 minute ago.

With regard to the question the gentleman just propounded, I would say yes, the gentleman is correct.

It is my belief that the language in the act, now contained in section 3, which requires the Federal Government to assume responsibility for disposing of all above class C wastes, and which requires that such disposal be accomplished in licensed facilities, gives the NRC all the authority necessary to accomplish the kind of review contemplated in the House language, and further, that such a review will, in my opinion, be found necessary in order for the NRC to discharge its responsibilities under section 3 of the bill now under consideration.

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for his assurances.

I compliment the gentleman from New Mexico and the chairman of the full Committee on Energy and Commerce and the Interior Committee, the ranking minority members of the relative committees, and especially the gentleman from California [Mr. MOORHEAD] who worked with me on our committee in the effort that he has put into this particular bill.

We have worked long and hard, along with the gentleman from Washington [Mr. SMITH] and the gentleman from South Carolina [Mr. DERRICK] and many others to make this bill in fact the success that it has become.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I rise in support of the bill and the amendment and compliment all who have taken part in reaching this compromise.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I have two other requests for time. Under my reservation, I yield to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman from New Mexico for yielding me this time.

Mr. Speaker, Congress made a promise back in 1980 on the subject of low-level wastes. This bill is a partial fulfillment of that promise, and a satisfying fulfillment. It approved seven regional compacts and a compromise plan for the future rquested by the current three host States.

The measure reflects excellent work done by the House, modified slightly by the Senate, and an agreement worked out, as we have heard in the colloquy between the two chairman.

I compliment the chairmen involved, the gentleman from Arizona [Mr. UDALL], the gentleman from Michigan [Mr. DINGELL], and the gentleman from Massachusetts [Mr. MARKEY] and the appropriate ranking Members.

We have this evening by the passage of this measure fulfilled a promise made a number of years ago and we put low-level nuclear waste in the difficult job of the "well done" column for the 99th Congress.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, let me ask the chairman of the Energy Committee, does the gentleman want me to yield?

Mr. DINGELL. Yes; Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the distinguished gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, the gentleman is doing a splendid job of administering the time on this. I want to commend the gentleman for it, not only for his patience, but for the grace with which he does it in this matter.

Mr. Speaker, I commend all the Members who have worked on this, the gentleman from New Mexico [Mr. LUJAN], who has been handling the time so well; our good friend, the gentleman from South Carolina [Mr. DERRICK], to whom this legislation has been a matter of special concern; the gentleman from Washington [Mr. SWIFT] who has worked hard on this matter, as has the gentleman from Massachusetts [Mr. MARKEY] the distinguished chairman of the subcommittee, my old and esteemed friend, the gentleman from Arizona [Mr. UDALL], who has provided such valuable leadership in this matter; and my special friend, the gentleman from North Carolina [Mr. BROYHILL], the senior Republican member of our Committee on Energy and Commerce.

Senator SIMPSON and Senator STAFFORD in the other body deserve special praise, as does Governor Riley of South Carolina, who has worked extremely hard to get this matter to the point where it is, as has my own Governor, Governor Blanchard, to whom this was a matter of special interest.

I also compliment the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee, who was very instrumental in this and deserves the appreciation and commendation of the house for this. In addition, I wish to commend the gentleman from California [Mr. MOORHEAD], the ranking Republican member of the subcommittee, for his constant attention to this matter.

Mr. Speaker, this bill, which was H.R. 1083, a measure passed by both the Committee on Energy and Commerce and the Committee on the Interior and Insular Affairs, chaired by my beloved friend, the gentleman from Arizona [Mr. UDALL], and the bill we act on today is a fundamental compromise worked out by the two committees, that would be the subcommittees in the House, and also by our good friends in the Senate.

The legislative history, I believe, established in these committees is certain to apply. I know one provision adopted by the Senate and passed by the House, the provision states that in 1996 certain circumstances with regard to taking title of nuclear wastes and paying damages to generators. I would expect this provision to be construed narrowly and not in a fashion that would, for example, mean any generator should not have to mitigate damages for his actions.

This is not, as I understand it, a punitive provision. It is part, rather, of the teeth which are in this legislation to encourage the States to accept and to meet their responsibilities.

It is clear that Congress must recognize that the States of governmental bodies should be afforded the respect that is due to institutions of that kind.

Mr. Chairman, In addition, I note that while the "Emergency Access provision of the legislation (section 6) remains essentially as it first was passed by the House, the other body has added a provision specifying that the Nuclear Regulatory Commission (NRC), upon receiving a request for emergency access, also should determine whether the threat can be mitigated by "* * * ceasing activities that generate low-level radioactive waste." This is a matter which caused great debate within the Committee on Energy and Commerce. While the original House bill did not specify in statute that the NRC make such a determination, the committee report discusses how the NRC should act if a reduction in waste generation would lead to a significant curtailment of production activities in an industry. The report notes that in the case of a hospital or medical services company, or other entity affecting the public health, the NRC would not be expected to require such activities to cease if such cessation, in turn, would result in a public health emergency. As I read the bill now before us, such a determination certainly could continue to be made.

Finally, I would like to comment on the subject of "mixed waste"—those wastes which are both radioactive and "hazardous," as defined by the Solid Waste Disposal Act (RCRA). The House amendment to the Senate amendments made as part of the unanimous consent request of the gentle-

man from Arizona, Mr. Udall, would delete from the bill the section on "mixed wastes." I support this amendment. At this point in the session, there is not time for the House and Senate to work out the differences between the provisions passed by each body, and this provision alone should not stand in the way of our acting on this important bill. More importantly, however, I support this amendment because it is essential that the Congress be fully and accurately informed regarding the current disposal options for those who create these "mixed wastes," including the medical generators, and the environmental ramifications of adopting one proposed solution over another.

Over the past few weeks, I have heard a great deal from hospitals and other medical facilities which generate these "mixed wastes" about their concern that failure to include "mixed waste" provisions in this legislation—and specifically a 1-year extension for compliance with RCRA by those who dispose of "mixed wastes"—will leave them with no available disposal option and may force them to cease operation. In this regard, I would like to include in the RECORD a letter I received from a company called "Quadrex Corporation." That company claims to dispose of medical scintillation vials through a combination of decontamination, incineration and landfill disposal—all in a manner which complies with applicable environmental regulations. The letter attempts to correct misinformation regarding the availability of alternative means of disposal, and concludes by noting that even if the existing low level radioactive waste sites stop accepting liquid scintillation vials, "[t]here is every reason to expect that disposal of these vials can and will continue without interruption." On the basis of this and other information, I do not expect the medical facilities which generate these mixed wastes to be without disposal options when we delete the "mixed waste" provisions from this bill.

QUADREX CORPORATION,
Campbell, California, November 15, 1985.
HONORABLE JOHN D. DINGELL,
The U.S. House of Representatives, House Office Building, Washington, D.C.

Re: Low Level Radioactive Waste Policy Act Amendments of 1985

DEAR MR. DINGELL: Quadrex is aware (i.e., RCRA hazardous waste and low level radioactive waste) has been an issue under debate during consideration of the Low Level Radioactive Waste Policy Act Amendments of 1985. Our understanding is that, in the course of that debate, some parties are asserting that disposal of mixed wastes may cease because of interagency jurisdictional and regulatory problems. This assertion has apparently been made with respect to liquid scintillation vials from hospitals, nuclear medicine facilities, research laboratories and the like.

This letter does not address any Quadrex position on how we believe government agencies and the Congress should handle the mixed waste issue in general. However, we believe it is important to know the true facts regarding some of the assertions made in the debate over mixed wastes. Quadrex has a facility in Gainesville, Florida which currently decontaminates and disposes of approximately 70 percent of the liquid scintillation vials in the United States This facility, with minor improvements, has the capability to handle disposal of 100 percent of the liquid scintillation vials. Our disposal process completely decontaminates the plastic or glass vials, which are crushed, rinsed with a proprietary solution, and then disposed of in a convenient landfill. The toluene and xylene from the vials and the solution we use to clean off the toxic and radioactive parts of the liquid scintillation cocktail from the vials, as well as the low level radioactive waste, are burned as waste fuel in an EPA-approved rotary kiln facility. Effluents from the kiln are monitored and are below allowable discharge levels. The whole process is carried out in compliance with all applicable environmental regulations.

Thus, we believe there is a misunderstanding over present ability to handle the mixed waste question as applied to liquid scintillation vials. There is every reason to expect that disposal of these vials can and will continue without interruption. To the extent that any of the existing low level waste disposal sites does not accept liquid scintillation vials, our Gainesville facility has the capacity to decontaminate and dispose of any such vials. There may even be economic incentive to decontaminate, as we do, over burial of these mixed wastes.

I hope this letter may have helped to clarify this issue.

Sincerely yours,

SHERMAN NAYMARK

Another reason we have dropped the "mixed waste" provision is to allow the committees in both bodies to examine the issue in greater detail. In this regard, I hope that the hearings will consider the record of environmental compliance by the operators of those low level radioactive waste disposal facilities which to date have accepted "mixed waste." I am deeply concerned by reports that one or more of these operators, on the basis of alleged regulatory "overlap and inconsistency," has failed to comply with regulations which are neither overlapping nor inconsistent. As we examine the record of the Federal and State agencies in attempting to coordinate their regulatory schemes, let us also examine the record of the licensees and determine whether they were taking all "practicable" steps to come into compliance with the regulations and protect the public health and safety.

It is fashionable in this time of "regulatory reform" to talk about streamlining the regulatory process and making the process more manageable for those subject to regulation by multiple agencies. At the same time, however, we must not lose sight of the reason why there is regulation, and why we established multiple agencies in the first place. With "mixed waste," multiple agencies are involved because multiple agencies have expertise—the NRC has expertise regarding the management of radioactive wastes, and the EPA regarding the management of "hazardous wastes." Any solution we adopt in the future must not remove one of these agencies without assuring the continued availability of the needed expertise to solve the problem at hand. I support streamlining the regulatory process, but not at the price of public health and safety and an avoidably high risk of future harm to the environment.

□ 1925

The legislation is, I believe, desirable and the amendment suggested by my dear friend, the gentleman from Arizona [Mr. UDALL], is one which I believe is of great importance in terms of the legislation. The gentleman from Arizona will, I am sure, construe the amendment further according to its terms and, of course, I will have certain additional comments to make on it at an appropriate time.

Mr. REID. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Nevada.

Mr. REID. I thank the gentleman for yielding.

Mr. Speaker, on behalf of the Governor of the State of Nevada and the people of the State of Nevada, I would like to commend Chairman DINGELL, Chairman UDALL, the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee, and the gentleman from New Mexico [Mr. LUJAN] for the work that has been done.

I think the approach has been reasonable, and this has been exemplified by the work that has been done in the last 24 hours by you gentlemen.

Again, I appreciate very much taking into consideration the serious problems that the States of Washington, Nevada, and South Carolina have.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas.

Mr. BARTON of Texas. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this legislation. The State of Texas is going to be its own depository under the Low-Level Waste Act. There are several amendments in this bill that are very beneficial to our State, and I would commend Chairman DINGELL, Chairman UDALL, and the ranking minority members on my side of the aisle for their excellent efforts in the last 24 hours, and I would urge Members to support this bill.

Mrs. VUCANOVICH. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. I thank the gentleman for yielding.

Mr. Speaker, I support this legislation. The issue of low-level waste is of prime concern to my State of Nevada, as well as the States of Washington and South Carolina.

I would like to commend the chairmen of all of the committees who have been involved, and also our ranking

minority members who have worked very hard in a bipartisan fashion.

Mr. Speaker, at this moment we stand at an important juncture in resolving and defining policy with respect to low-level waste management.

As the only member on the Interior Committee who represents a State with an existing low-level waste site, I am well aware of the vital importance of this legislation for my State. I am anxious that this legislation become law as soon as possible, to avert the health and safety hazards caused by the closing of any existing sites, and the Governors of these States have threatened to do that if this is not resolved.

Beatty, NV, is one of only three sites that remains to accept all the low-level waste being generated commercially in the United States.

The Governors of the three sited States offered a compromise proposal extending the closing date for their sites in return for ratification of the regional compacts and many other guarantees.

There must be volume caps on the amount of waste accepted at Beatty, Hanford, and Barnwell, as well as an enforceable timetable for other States to license and construct new regional low-level waste facilities. Recent experience has shown that milestones must be met and penalties must be enforced against States which fail to comply with those milestones. If this is not made part of the law, another 6 years will pass and new low-level waste sites will still be under debate in State legislatures instead of under construction.

Mr. Speaker, Nevada, South Carolina, and Washington have done their fair share in bearing the full burden for this Nation's low-level nuclear waste, and it is now time for all States to enter into regional compact agreements or construct their own State facilities.

Mr. Speaker, Congress must not neglect its responsibility, and I urge immediate passage of this legislation.

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Further reserving the right to object, and this will be the last time I do so, I would yield to my friend, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding.

Mr. Speaker, I would just add my congratulations to the chairmen and ranking members of all the committees involved, and I would also like to give special commendation to the gentleman from Massachusetts [Mr. MARKEY], the gentleman from California [Mr. MOORHEAD], and the gentleman from Washington [Mr. SWIFT] who fashioned this in the House Committee on Energy and Commerce, and I fully support it.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona [Mr. UDALL]?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona [Mr. UDALL]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members have 5 working days in which to revise and extend their remarks on H.R. 1083, the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader where we are and where we are going and, more importantly, when are we quitting?

Mr. WRIGHT. Mr. Speaker, in response to the question of the minority leader, the situation is this:

As most Members probably know, the conferees have completed their work on the reconciliation bill. As some Members may not know, the other body either is now voting or has just completed voting on the adoption of the conference committee report.

Immediately upon its completion and its receipt in the House, the Committee on Rules is to begin meeting and prepare to report a rule. The rule will come forthwith immediately to the House Chamber and we will vote on the rule and then, presumably, upon the conference report itself.

I suppose, although this may not be completely parliamentary, I should disclose to our colleagues what I expect the rule will contain. In view of the earlier conversations on the House floor at the time we asked for the privilege of reporting the rule and having it considered on the same day, Members will be interested to know I expect that the rule will contain a self-enacting provision by which, upon agreement to the rule, it will be deemed that the conference committee report has excised out that provision with reference the financing of the Superfund. In regard to the other matter which was under discussion, it is my understanding that it is not necessary for the Committee on Rules to include any provision in its rule respecting the question of teenage pregnancies or the collateral question of abortion in that the conferees themselves, hearing of the controversy on the House floor, elected to exclude that provision in its entirety from the conference report.

That is all that I have to tell the Members. I think if we stuck around close, however, we might anticipate that there would be a vote on the House floor.

Looking one step further and anticipating the possible, if the House should agree to the rule as proposed by the Committee on Rules, and further, if the House should agree to the proposal contained in the rule, it would go to the Senate. If the Senate still is in session, as I would hope under those circumstances it would be, then it would be up to the Senate to decide whether to agree to the House position and pass that much of the reconciliation bill.

That is about all I can respond.

Mr. MICHEL. Is it not true that we are headed for a situation where both bodies will be having different versions of reconciliation and there still then will have to be a reconciliation of the two unreconciled bills, and that takes time around here, as I recall.

I would like to yield, if I might, to the gentleman from South Carolina [Mr. CAMPBELL]. There are four provisions which we just have to act upon, and maybe the gentleman from South Carolina would like to take us through those steps, if he will.

Mr. CAMPBELL. I thank the gentleman for yielding.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. If I might, first I would like to make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CAMPBELL. Under the circumstances we find ourselves in, if the Senate in fact does act and sends to us the reconciliation package, are we then subject to a severance in the Committee on Rules of the House, or do we have to take up the package as sent by the Senate?

The SPEAKER pro tempore. The Committee on Rules will meet and decide upon the reconsideration; otherwise, we would have a 3-day layover.

Mr. CAMPBELL. But the question that I pose to the Chair is that under a circumstance where the other body sends to us a conference report that they have agreed upon, do we then take up the conference report as passed by the other body, or do we operate as a separate unit and take it up under our own rule?

The SPEAKER pro tempore. Under the rules of the House, in that instance it would have to lay over 3 days. That is why the Committee on Rules would be meeting.

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Mr. CAMPBELL. The Rules Committee would have to waive the law over the 3 days; is that correct?

The SPEAKER pro tempore. They would contain that in their rule for us to adopt.

Mr. CAMPBELL. Would they then have to take up all of the provisions in the bill or would they only be allowed to take up part?

The SPEAKER pro tempore. The Chair cannot speak for the Rules Committee. That would be up to the Rules Committee.

Mr. CAMPBELL. But it is the decision of the Rules Committee, and it is not a situation that we find ourselves in under regular parliamentary situations where we would have to take up a provision sent to us from the other body?

The SPEAKER pro tempore. The rule itself would have to address that situation. That would be under the jurisdiction of the Rules Committee and their judgment.

Mr. CAMPBELL. Would we ordinarily have to have a rule to take up a conference committee report from the other body?

The SPEAKER pro tempore. The Chair would answer the gentleman that unless the rule is laid over for 3 days, yes.

Mr. CAMPBELL. I thank the Chair very much and appreciate his answer to my inquiry.

Mr. MICHEL. I continue to yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I have a bill here that would address the issues that are expiring. There is no question that there would be a loss of revenue. There is no question but I believe that in this House, we do not wish to have a loss of revenue.

I do think that the reconciliation matter should be addressed. But I do not think that we should take a risk of losing the type of revenue that we are speaking of should there be an expiration of these items.

I do not think we are interested in seeing the tobacco tax expire. I do not think we are interested in seeing people having to pay more for Medicare payments because of our inaction.

For that reason, we do have in hand legislation that we will be prepared to send forward. I am not offering that under any circumstances. I think that we should take up the reconciliation package, but we do stand ready to do that, and I thank the gentleman for yielding.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I would like to suggest that it would be the purpose of the leadership, after we have acted upon the reconciliation bill, to entertain consideration of just those provisions.

Mr. CAMPBELL. But that would be after the consideration of reconciliation?

Mr. WRIGHT. That is the way we have it planned. In fact, we have a rule already recommended by the Rules Committee that will allow that to be done.

Mr. CAMPBELL. If the gentleman would yield, I would ask if I might inquire would that be an extension of current law or would there be an attempt to write new law under that circumstance?

Mr. WRIGHT. Perhaps the gentleman from Illinois, chairman of the Committee on Ways and Means, could respond to that question.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, actually we have two bills, one the extension of the provisions until December 31, 1985, under current law. The other bill is the extension until March 15. I am not sure about the date, but I think it is March 15 under the provisions of the Tax Reform Act that was passed.

Mr. CAMPBELL. That would be, then, under the Tax Reform Act as passed, that would be a straight extension, if I may inquire, of the cigarette tax which would extend at 16 cents with no earmarking, but a straight extension?

Mr. ROSTENKOWSKI. That is correct.

Mr. CAMPBELL. Would the other provisions in that include the extension of the Trade Adjustment Assistance Program, and would the extension of borrowing authority under the Railroad Unemployment Insurance Act as passed be a part of that?

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. CAMPBELL. And an extension of Medicare hospital and physician payments, would that be extended as we have passed that?

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. CAMPBELL. I thank the gentleman for his answers.

Mr. ROSTENKOWSKI. If the gentleman will yield, I want to correct a statement that I just made to the gentleman from South Carolina [Mr. CAMPBELL].

As I understand it, the extension is as agreed under the reconciliation package, the extension on physician reimbursement.

Mr. CAMPBELL. That is not current law under that particular provision?

Mr. ROSTENKOWSKI. That is correct.

Mr. CAMPBELL. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I would like, if I might, before we go any further, to advise the House that the administration has taken a strong position in opposition to enactment of H.R. 3128 on the grounds of the Trade Adjustment Assistance Act tariff, the Offshore Lands Act, section 8(g), and AFDC, Medicaid and food stamps quality control revisions, and the first part of that is part of the amendment which I offered several years ago, and felt very strongly about implementing that particular provision and having it gutted. The expansion of Medicare programs, the elimination of Medicare cost saving regulations, Medicaid programs expansions which will increase State and Federal costs, and the value-added tax.

So those are reasons that the administration would give, if this thing were possibly to pass, for vetoing the legislation. It seems a little bit ridiculous, then, to be spending the time around here spinning our wheels.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished minority whip, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, following up on the gentleman's remarks, I just wonder how many Members really understand what is being said here. Do we realize that we are beginning now to head toward being in session tomorrow? We have a general mess on our hands.

How many of you think it is time to wrap this thing up and go home sine die? I just hope that if we are going to do anything further, we will do it very quickly and wrap this thing up and get out of here.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my distinguished friend from Texas.

Mr. WRIGHT. Mr. Speaker, I think it is obvious that all of the Members are anxious to conclude our labors. I think it is important, however, that we take a stand right now whether we are willing to stay in just an hour or two longer and achieve the honest-to-God savings which are included in the reconciliation bill.

Now the other body has just now passed that conference report by a vote of 78 to 1. Surely the Members of the House, having marched up the hill talking about saving money and reducing deficits, are not now going to adjourn and leave that potential saving dangling without at least trying to pass what we can in the House.

Mr. MOORE. Mr. Speaker, Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. I thank the gentleman for yielding.

A moment ago, the distinguished majority leader said that when the reconciliation conference report comes to the floor it will be under a rule that excises from that the Superfund revenue-raising provisions. I would like to ask the majority leader why that is. I happen to have heard, and the information I have received on what the conferees have agreed on on Superfund funding happens to be something that I strongly favor, and I think makes an awful lot of sense, and I am wondering why we are taking that out and cutting that off.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, in answer to the question, the reason for that is because agreeing to that seemed at the time to be the only way that we could get agreement to allow the consideration today of the conference committee report. Otherwise, Members are opposing the idea of the rule coming to us, and under those circumstances, I made the commitment, and I take the responsibility for having done so, to recommend to the Rules Committee that kind of a rule.

If the gentleman does not like that kind of rule, he is not obliged to vote for it. But that is the kind of rule that I am obliged to ask for. I think under the circumstances, we would be well advised to try as best we can to get some reconciliation bill passed.

Mr. MOORE. If the gentleman will yield further, I would simply say that I strongly support the reconciliation bill, and strongly support the provisions in there for many, many reasons. But I also support those provisions that are in the Senate version, I guess, or the conference report version on the Superfund, and I am really disappointed to see that excised. I do not understand why. I do not know who is that strong in preventing it being brought to the floor.

Mr. WRIGHT. The Rules Committee is meeting right now, and if the gentleman has a recommendation to make to the Rules Committee, I suppose they would be pleased to hear from him. But there are Members on both sides represented in the Rules Committee, and whatever rule they recommend we are going to bring to the floor, and at least give the Members an opportunity to adopt it or reject it.

I am advised that the message, even as we speak, is at the door and ready to be presented officially and formally.

The SPEAKER pro tempore. The Chair would ask the gentleman from Illinois [Mr. MICHEL] to yield at this time so that the Chair may receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendments of the Senate to the bill (H.R. 3128) "An act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process."

LEGISLATIVE PROGRAM

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MICHEL] has some time remaining of his 1 minute.

Mr. MICHEL. I thank the Chair and yield to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, let me say as well, following up on what the gentleman from Texas [Mr. WRIGHT] said a moment ago, I do believe and appreciate the expectation of a rule which, in fact, does excise or remove from reconciliation, which I otherwise would support, the consideration of the question of the method by which Superfund shall be financed, and it is for that reason, as I understand it, that indeed the matter ought to be considered in a conference on Superfund, and not otherwise, and I appreciate the gentleman's time.

Mr. MICHEL. I think the gentleman's comments are very appropriate.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, first of all, I would like to clarify that the conference report that the other body passed by a 78-to-1 margin was totally agreed to. There are no items in disagreement in this conference on the House or the Senate side.

Second, I guess I would like to ask a question to follow on to what the gentleman from South Carolina [Mr. CAMPBELL] asked. Since the other body has passed the conference report, does the Rules Committee have the authority to excise one part of that conference report, or must they give us a rule that allows us to vote on that?

If the answer to that is that they can excise it, I would ask our leadership could the Rules Committee, in the interest of time, report out two rules so that if the first one fails, you do not have to go back to the Rules Committee to have a vote up or down on the conference report?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, the Rules Committee has just reported out a rule a moment ago that does excise the Superfund out automatically when the rule passes.

What I would suggest is that we deal with this rule, and if it becomes necessary to get another rule, we will do it at that time.

Mr. JONES of Oklahoma. Well, how long would that take?

Mr. MICHEL. Right.

Mr. DERRICK. We have been known to produce rules in 5 or 6 minutes sometimes.

Mr. MICHEL. Mr. Speaker, might I also inquire on that second rule, would it not take a two-thirds vote?

Mr. DERRICK. No, I do not think so.

Mr. MICHEL. On what grounds does the gentleman give me that kind of a response?

Mr. DERRICK. Mr. Speaker, we passed a resolution out of the Rules Committee last night that was voted on this morning that allowed us to do it by a majority. Which rule is the gentleman talking about?

Mr. MICHEL. I am happy to yield to the gentleman from Oklahoma [Mr. JONES] for a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. JONES of Oklahoma. Mr. Speaker, as a parliamentary inquiry, I would like to ask the Speaker if the rule reported out of the Rules Committee should fail, can a new rule be brought up immediately and be passed out by only a majority vote, or does it require a two-thirds vote?

Mr. DERRICK. I regret that I do not know the answer to that question right at the moment.

The SPEAKER pro tempore. Will the gentleman from Oklahoma please restate his inquiry.

Mr. JONES of Oklahoma. Mr. Speaker, the inquiry is if the rule is defeated, can you bring a new rule out immediately and pass it requiring only a majority vote?

The SPEAKER pro tempore. House Resolution 342 adopted earlier today provides that "During the remainder of the first session of the 99th Congress, the requirement of clasue 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day reported is hereby waived against any resolution with respect to a conference report on the bill in question, H.R. 3128.

Mr. JONES of Oklahoma. So it just takes a majority vote?

The SPEAKER pro tempore. Absolutely, for another rule on that conference report.

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Mr. MICHEL. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I would simply reflect. however, that there

were a lot of Members on this floor who would have defeated that very rule a little while ago if we did not have a guarantee that no resolution would come to this floor that did not excise that language.

There is going to be a tremendous break of faith with a lot of Members on this floor by the leadership of the other side if in fact a rule comes to the floor that does not excise VAT at any point.

That only reason why the rule that was just mentioned by the Chair was passed is because that agreement was made. If that agreement is not adhered to, I would have to say that it will be a direct break of faith with a lot of Members who were on the floor at the time it was taking place.

Mr. WRIGHT. Will the gentleman from Illinois yield to me?

Mr. MICHEL. Yes, I am happy to yield to the majority leader.

Mr. WRIGHT. In view of the comment just made, I think it ought to be reported; if it is necessary to report, though I should surely hope it would not be necessary, that there be no breach of faith.

The commitment was that I would personally seek that rule. I have sought that rule. The rule has been granted. It is coming to the House in precisely the manner that was agreed upon, so there is no breach of faith.

Now, whatever the House does is another matter. I have kept faith and done exactly what I said I would do, and the Rules Committee has done it as well.

Mr. DAUB. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. DAUB. So I understand the Chair's announcement of the prior vote, the language of the vote that allowed the waiver of the two-thirds requirement was worded in such a way that any subsequent rule out of the Rules Committee to be filed and reported to be acted upon today does not require it? It applies to all rules coming out of the Committee on Rules?

The SPEAKER pro tempore. The gentleman is correct, on the reconciliation conference report under the language of the resolution adopted by the House, the will of the House——

Mr. DAUB. That was not the understanding.

The SPEAKER pro tempore. We are talking of only this conference report, now; any rule on this conference report.

PARLIAMENTARY INQUIRY

Mr. DAUB. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DAUB. Mr. Speaker, if it is only on this conference report, then is the construction of the Chair that a series of rules that have to do with this conference report——

The SPEAKER pro tempore. Any resolution on this conference report was covered under the language adopted by this House.

Mr. DERRICK. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. DERRICK. Mr. Speaker, it is my understanding that that applies to any rule that comes out today dealing with reconciliation only; not any rule that comes out of the Rules Committee.

The SPEAKER pro tempore. That is what the Chair stated, on the conference report.

Mr. MICHEL. Well, there is no question but that that is exactly what we were talking about, was a rule, and that having to do with reconciliation. That was not a blanket——

Mr. DERRICK. Well, that was the answer that I gave you to the first question that the gentleman asked me about 5 minutes ago, which is the same thing; yes, it is covered. Both of the rules, if one rule comes out on reconciliation, it is necessary for another rule. The majority rule applies to both rules.

Mr. MICHEL. Well, I was not on the floor and was watching it on the monitor, having agreed earlier to that proposition, but it certainly was not our understanding that it was for anything other than that particular rule for that reconciliation proposition.

Mr. SOLOMON. Would the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. SOLOMON. With all due respects to the majority leader, I would just like to recall the situation that led to the agreement by the majority leader from Texas.

Mr. HENRY HYDE and I were standing at that door, and we were lobbying for "no" votes and we were being successful with both Democrats and Republicans as they came through.

Myself on the value added tax, and Mr. HYDE on the abortion issue. About that time, the majority leader approached both of us and made the arrangement that he would seek a rule that would remove the value added tax and the abortion language; the abortion language not having been removed yet at that time by the conference.

Consequently, the both of us left the floor; we came down, we talked to our colleagues on this side of the aisle, and they agreed not to vote against the rule, for that very reason, against that piece of legislation.

Now, I do consider it a breach of faith; I am certain that between myself and others that we could have defeated that legislation, and we would not be in this position today.

I would suggest that the majority leader meet with the minority leader and our whip to work this out so that the hard feelings do not exist.

Mr. DAUB. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. DAUB. Mr. Speaker, I must say—I thank the gentleman for yielding, and I must say to my colleagues that I was party to what I thought was an understanding with my friend from Texas, Mr. WRIGHT, the majority leader, and I at the very least must indicate my disappointment, for it was not my understanding that in the other rule that had to do with reconciliation could be used as a method of maneuvering around the agreement which I thought was that no fat would be considered with respect to the financing mechanism of Superfund.

Mr. WRIGHT. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. WRIGHT. I am going to try to answer definitively one time only; I do not want to prolong this conversation, but because our word is very important in this process, I think it is desirable to say one more time, and to be absolutely precise in what was committed and what has been fulfilled; obviously, manifestly, I am powerless to make a commitment with respect to what all the Members of this House are going to do. I have long since discovered that they are not just waiting with bated breath to discover what JIM WRIGHT said they would all do.

Everybody here is an independent agent, and I think the gentleman from New York and the gentleman from Nebraska not only recognize but appreciate that fact.

Now, what I committed to them to do was to seek a rule pursuant to the vote that was then being taken and the proposition already had been presented; the text of the rule on which we were voting already long since had been laid out before the House. I was not seeking to alter that text.

I do not think anybody understood me to be altering the text of that rule.

What I committed to do was to seek and do my best to obtain a rule from the Rules Committee that does precisely what the rule does. I did that, the Rules Committee has granted, or recommended that rule.

If we will conclude this discussion, that rule will be before us, immediately, very quickly. That commitment has been fulfilled in letter and in spirit. That is all I could commit, and I have fulfilled it.

Mr. MICHEL. I yield to the gentleman from Nebraska.

Mr. DAUB. I will say to the distinguished majority leader that indeed, I certainly appreciate his explanation of

what he thought the understanding was to have been.

My understanding of what I thought we were attempting to achieve was that in all matters pertinent to reconciliation and the rule in singular fashion to be granted there would not be a rule allowed to be brought before the House if a VAT were contained in it.

That was my understanding, and based upon it I changed my vote from "no" to "yes."

Mr. FRENZEL. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. FRENZEL. I would like to invite the attention of the assemblage to one of the major reasons why the Rules Committee has granted a rule excising the VAT from the report.

It has been apparent over the last week, and absolutely emphatic today, that a reconciliation bill containing a VAT will be subject to a very quick veto from the President, and those who believe that their useful purpose in staying around here so that we pass a reconciliation ought to be advised that if you pass one with a VAT in it, that is, if you defeat the rule that is pending before us, there will be no reconciliation.

I am as anxious to get out of here as anybody; I believe the Congress has stayed here 30 days too long already.

POINT OF ORDER

Mr. SCHUMER. Point of order, Mr. Speaker.

We have an hour's debate on the rule. All of this debate is relevant to whether there should be a rule or not.

I move that this debate end and we go to regular order and begin debate on the rule, and debate that for the hour so we can get out of here at a reasonable hour.

The SPEAKER pro tempore. That is not necessary.

The gentleman's 1 minute has expired.

CONFERENCE REPORT ON H.R. 3128, CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. GRAY of Pennsylvania submitted the following conference report and statement on the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process:

CONFERENCE REPORT (H. REPT. 99-453)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Consolidated Omnibus Budget Reconciliation Act of 1985".

TABLE OF CONTENTS

Title I. Agriculture programs.
Title II. Armed services and defense-related programs.
Title III. Housing and community development programs.
Title IV. Transportation and related programs.
Title V. Corporation for Public Broadcasting and Federal Communications Commission.
Title VI. Maritime, coastal zone, and related programs.
Title VII. Energy and related programs.
Title VIII. Outer Continental Shelf and related programs.
Title IX. Medicare, Medicaid, and Maternal and Child Health programs.
Title X. Private health insurance coverage.
Title XI. Single-employer plan termination insurance system amendments.
Title XII. Income security and related programs.
Title XIII. Revenues, trade, and related programs.
Title XIV. Revenue sharing.
Title XV. Civil service, postal service, and governmental affairs generally.
Title XVI. Higher education programs.
Title XVII. Graduate Medical Education Council and technical amendments to the Public Health Service Act.
Title XVIII. Small business programs.
Title XIX. Veterans' programs.
Title XX. Miscellaneous provisions.

TITLE I—AGRICULTURE PROGRAMS

Subtitle A—Agricultural Program Savings

SEC. 1001. AGRICULTURAL PROGRAM SAVINGS.

The expenditures and outlays resulting from the provisions of title XI (relating to the export sales of dairy products) and title XIII (relating to emergency disaster loans and loan authorizations under the Agricultural Credit Insurance Fund) of the Food Security Act of 1985 (H.R. 2100, 99th Congress) shall be counted for purposes of determining savings under the Consolidated Omnibus Budget Reconciliation Act of 1985 as having been enacted under this Act.

Subtitle B—Tobacco Program Improvements

SEC. 1101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the maintenance of a viable tobacco price support and production adjustment program is in the interests of tobacco producers, purchasers of tobacco, persons employed directly or indirectly by the tobacco industry, and the localities and States whose economies and tax bases are dependent on the tobacco industry;

(2) the present tobacco price support program is in jeopardy and in need of reform;

(3) under present law, the levels of price support for tobacco have resulted in market prices for tobacco that are not competitive on the world market;

(4) as a consequence, extremely large quantities of domestic tobacco have been put under loan and placed in the inventories of the producer-owned cooperative marketing associations that administer the tobacco price support program;

(5) the increased inventories have led to a significant increase in the assessments producers are required to pay to maintain the tobacco price support program on a "no net cost" basis;

(6) such increasingly large assessments are creating a severe hardship on producers;

(7) the existence of such large inventories poses a threat to the orderly marketing of future crops of tobacco;

(8) inventories of producer associations must be significantly reduced or the tobacco price support program will collapse;

(9) the Commodity Credit Corporation is threatened with substantial losses on disposition of these inventories should the tobacco price support program collapse;

(10) it is imperative that such excess inventories of tobacco be disposed of, under the supervision of the Secretary of Agriculture, in a manner that—

(A) will not disrupt the orderly marketing of new tobacco crops;

(B) will minimize any losses to the Federal Government; and

(C) will be fair and equitable to all tobacco producers and purchasers;

(11) the mutual cooperation of tobacco producers, tobacco purchasers, producer associations, and the Secretary of Agriculture is necessary—

(A) to restore the tobacco price support program to a stable condition; and

(B) to prevent substantial losses to taxpayers that would result from the collapse of the program;

(12) restoration of stability to the tobacco price support program through a sharing of the cost of that program by purchasers of tobacco along with producers of tobacco is necessary to prevent undue burdens on, or obstruction of, interstate and foreign commerce in tobacco; and

(13) the system of grading tobacco should be thoroughly reviewed to ensure that grades are assigned to tobacco that properly state the quality of such tobacco.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to encourage cooperation among tobacco producers, tobacco purchasers, and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, the size of inventories of producer associations, and the exposure of taxpayers to large budget outlays;

(2) to adjust the method by which price support levels and production quotas are calculated to reflect actual market conditions;

(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of producer associations through which producers of Flue-cured and Burley tobacco are provided price support;

(4) to provide that purchasers and producers of domestic tobacco share equally in the cost of maintaining the tobacco price support program at no net cost to the taxpayers; and

(5) to expedite reform of the system of grading tobacco so that grades assigned to tobacco more accurately reflect the quality of such tobacco.

SEC. 1102. PRICE SUPPORT ADJUSTMENTS.

(a) IN GENERAL.—Effective for the 1985 and subsequent crops of tobacco, section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraphs:

"(4) For the 1985 and 1986 crops of Burley tobacco, the support level shall be $1.488 per pound.

"(5) For the 1986 crop of Flue-cured tobacco, the support level shall be $1.438 per pound.

"(6)(A) Except as provided in subparagraph (B), for the 1986 and each subsequent crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which—

"(i) the support level for the crop for which the determination is being made, as determined under subsection (b); is greater or less than

"(ii) the support level for the immediately preceding crop, as determined under subsection (b),

as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (i) is greater than the support level under clause (ii).

"(B) Notwithstanding subparagraph (A) and subsection (d), if requested by the board of directors of an association through which price support for the respective kind of tobacco specified in subparagraph (A) is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco.

"(7)(A) For the 1987 and each subsequent crop of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

"(i) 66.7 percent of the amount by which—

"(I) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

"(II) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

"(ii) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

"(B) For purposes of subparagraph (A)—

"(i) the average market price for Burley tobacco for the 1985 marketing year shall be reduced by $0.039 per pound;

"(ii) the average market price for Burley tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound;

"(iii) the average market price for Flue-cured tobacco for the 1985 marketing year shall be reduced by $0.25 per pound;

"(iv) the average market price for Flue-cured tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound; and

"(v) the index of prices paid by tobacco producers shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, but shall not include the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.".

(b) CERTAIN GRADES OF FLUE-CURED TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is further amended by striking out subsection (g).

SEC. 1103. DETERMINATION OF MARKETING QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) by adding at the end of paragraph (14) the following new subparagraphs:

"(C) 'Reserve stock level', in the case of Flue-cured tobacco, shall be the greater of—

"(i) 100,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

"(D) 'Reserve stock level', in the case of Burley tobacco, shall be the greater of—

"(i) 50,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined."; and

(2) by adding at the end thereof the following new paragraph:

"(17) 'Domestic manufacturer of cigarettes' means a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States.".

(b) FLUE-CURED TOBACCO.—Section 317(a)(1) of such Act (7 U.S.C. 1314c(a)(1)) is amended—

(1) by striking out "'National marketing quota'" in the first sentence and inserting in lieu thereof "(A) Except as provided in subparagraph (B), 'national marketing quota'"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) For the 1986 and each subsequent crop of Flue-cured tobacco, 'national marketing quota' for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

"(C) Notwithstanding any other provision of law—

"(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year.".

(c) BURLEY TOBACCO.—Section 319 of such Act (7 U.S.C. 1314e) is amended—

(1) in subsection (c)—

(A) by striking out "The national marketing quota" in the first sentence and inserting in lieu thereof "(1) Except as provided in paragraph (3), the national marketing quota";

(B) by striking out the second sentence;

(C) by designating the third sentence as paragraph (2); and

(D) by adding at the end thereof the following new paragraphs:

"(3)(A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

"(B) In determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

"(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

"(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

"(I) 35,000,000 pounds; or

"(II) 50 percent of the quantity by which—

"(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into

loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

"(bb) the reserve stock level for Burley tobacco.

"(C) Notwithstanding any other provision of law—

"(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year."; and

(2) by inserting ", except in the case of Burley tobacco," after "Provided, That" in the fourth sentence of subsection (e).

(d) PURCHASE INTENTIONS.—Effective for the 1986 and each subsequent crop of tobacco, such Act is amended by inserting after section 320 (7 U.S.C. 1314f) the following new section:

"SUBMISSION OF PURCHASE INTENTIONS BY CIGARETTE MANUFACTURERS

"SEC. 320A. (a)(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of such Act or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the 'quantity of intended purchases').

"(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

"(b) If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this Act, based on—

"(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

"(2) if such manufacturer did not submit a statement of the quantity of intended purchases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

"(c)(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

"(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

"(A)(i) brought at the direction, or on the request, of the Secretary; or

"(ii) to which the Secretary or any officer of the United States is a party; and

"(B) involving enforcement of this Act.

"(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this Act, together with a statement of the particular provisions of the Act violated by such person.

"(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

"(A) subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or to both; and

"(B) removed from office.

"(d) Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5, United States Code.".

SEC. 1104. MARKETING QUOTA ANNOUNCEMENT DATE; PROCLAMATION OF QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) IN GENERAL.—Section 312 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312) is amended—

(1) by striking out "and February 1 of any marketing year with respect to other kinds of tobacco" in the matter preceding clause (1) of subsection (a) and inserting in lieu thereof "February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco"; and

(2) by striking out "and not later than the first day of February with respect to other kinds of tobacco" in the first sentence of subsection (b) and inserting in lieu thereof ", not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco".

(b) DARK AIR-CURED AND FIRE-CURED TOBACCO.—Section 319(b) of such Act (7 U.S.C. 1313e(b)) is amended by striking out "February 1" each place it appears in the fourth paragraph and inserting in lieu thereof "March 1".

(c) PROCLAMATION OF QUOTA FOR FLUE-CURED TOBACCO.—Section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Flue-cured tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

(d) PROCLAMATION OF QUOTA FOR BURLEY TOBACCO.—Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

SEC. 1105. REDUCTION IN EXCESS TOBACCO NOT SUBJECT TO MARKETING PENALTY.

(a) PENALTY ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 is amended—

(1) by striking out "110" in section 317(g)(1) (7 U.S.C. 1314c(g)(1)) and inserting in lieu thereof "103"; and

(2) by striking out "110" in section 319(i)(1) (7 U.S.C. 1314e(i)(1)) and inserting in lieu thereof "103".

(b) PRICE SUPPORT ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, section 106(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(c)(1)) is amended by striking out "110" and inserting in lieu thereof "103".

SEC. 1106. PURCHASE REQUIREMENTS; PENALTY.

(a) IN GENERAL.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 (as amended by section 1103(d)) is further amended by inserting after section 320A the following new section:

"PURCHASE REQUIREMENTS; PENALTY

"SEC. 320B. (a)(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary, each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

"(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

"(b)(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) a quantity of Flue-cured quota tobacco and a quantity of Burley quota tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c).

"(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in

the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.

"(B) For purposes of this section, the term 'marketed' shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) for a price support advance.

"(c) The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

"(1) twice the per pound assessment (as determined under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1 or 1445–2)) for the kind of tobacco involved; by

"(2) the quantity by which—

"(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

"(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under subsection (b)(2)).

"(d)(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

"(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 106A or 106B of the Agricultural Act of 1949.

"(e) The limitations on disclosure set forth in subsections (c) and (d) of section 320A shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4).

"(f) As used in this section, the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.".

(b) CONFORMING AMENDMENT.—Effective for the 1986 and subsequent crops of tobacco, the last sentence of section 372(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1372(b)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in section 320B, the".

SEC. 1107. LEASE AND TRANSFER OF BURLEY TOBACCO QUOTAS.

Effective with respect to the 1985 and subsequent crops of Burley tobacco, the fourth proviso of section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by inserting after "July 1 of that crop year" the following: "or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer".

SEC. 1108. ASSESSMENTS TO NO NET COST FUNDS OR ACCOUNTS.

(a) NO NET COST FUND.—Effective for the 1986 and subsequent crops of tobacco, section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (5);

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco; and";

(2) by inserting "or paid by or on behalf of purchasers" after "producer-members" in the second sentence of subsection (c);

(3) in subsection (d)—

(A) by striking out "and" at the end of clause (i) of paragraph (1)(A);

(B) by inserting after clause (ii) of paragraph (1)(A) the following new clause:

"(iii) each purchaser of Flue-cured and Burley quota tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount determined from time to time by the association with the approval of the Secretary, with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association); and";

(C) by striking out "The" in the last sentence of paragraph (1) and inserting in lieu thereof the following: "The amount of producer contributions and purchaser assessments shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Fund of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The";

(D) by inserting "and assessments" after "contributions" in the last sentence of paragraph (1);

(E) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) require that any producer contribution or purchaser assessment due under paragraph (1) shall be collected—

"(A) from the person who acquired the tobacco involved from the producer, except that if the tobacco is marketed by sale, an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer;

"(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent, who may—

"(i) deduct an amount equal to the producer contribution from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser; and

"(C) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser;";

(F) by striking out "producers who contribute" in the proviso of paragraph (3) and inserting in lieu thereof "producers and purchasers who contribute or pay";

(G) by striking out "and" at the end of paragraph (5);

(H) by inserting "effective for the 1982 through 1985 crops of quota tobacco," after the paragraph designation in paragraph (6);

(I) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(J) by inserting after paragraph (6) the following new paragraph:

"(7) effective for the 1986 and subsequent crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceeds the amounts necessary for the purposes specified in this section, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under this section on terms and conditions established by the association, with the approval of the Secretary."; and

(4) by adding at the end thereof the following new subsection:

"(h)(1)(A) Each person who fails to collect any contribution or assessment as required by subsection (d)(2) and remit such contribution or assessment to the association, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the appropriate association, for deposit in the Fund of such association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

(b) NO NET COST ACCOUNT.—Effective for the 1986 and subsequent crops of tobacco, section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco.";

(2) by inserting "and purchasers" after "producers" in subsection (c)(1);

(3) in subsection (d)—

(A) by inserting at the end of paragraph (1) the following new sentence: "The Secretary shall also require (in lieu of any requirement under section 106A(d)(1)) that each purchaser of Flue-cured and Burley quota tobacco shall pay to the Corporation, for deposit in the Account of such association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association).";

(B) by striking out "area. Such amount" in paragraph (2)(A) and inserting in lieu thereof "area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment";

(C) by inserting at the end of paragraph (2)(A) the following: "Notwithstanding the foregoing provisions of this paragraph, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco shall be determined without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with such association with respect to the 1983 crop of such tobacco."; and

(D) by amending paragraph (3) to read as follows:

"(3)(A) Except as provided in subparagraphs (B) and (C), any assessment to be paid by a producer or a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer, except that if the tobacco is marketed by sale, an amount equal to the producer assessment may be deducted by the purchaser from the price paid to such producer.

"(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or agent, both the producer and the purchaser assessment shall be collected from such warehouseman or agent, who may—

"(i) deduct an amount equal to the producer assessment from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser.

"(C) If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment shall be collected from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser."; and

(4) by adding at the end thereof the following new subsection:

"(j)(1)(A) Each person who fails to collect any assessment as required by subsection (d)(3) and remit such assessment to the Corporation, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the Corporation, for deposit in the Account of the appropriate association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

(c) IMPLEMENTATION.—The Secretary of Agriculture shall implement sections 1102 through 1109, and the amendments made by such sections, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary.

(d) CONFORMING AMENDMENT.—The section heading of section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended to read as follows:

"PRODUCER CONTRIBUTIONS AND PURCHASER ASSESSMENTS FOR NO NET COST TOBACCO FUND".

SEC. 1109. PURCHASE OF INVENTORY STOCK.

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of new tobacco crops and will minimize any losses to the Federal Government:

(a) SALE OF INVENTORY STOCK.—(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

(3)(A)(i) Not later than 30 days after the date of enactment of this subtitle, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

(b) SALE PRICES.—(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

(i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and

(ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of the date of enactment of this subtitle.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carrying charges that have accrued to such tobacco from the date of enactment of this subtitle to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

(c) TERMS OF AGREEMENTS.—(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after the date of enactment of this subtitle, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pur-

suant to subsection (b)(3)(A), such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B).

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from the date of enactment of this subtitle;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from the date of enactment of this subtitle; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B).

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports ("Manufacturer of Tobacco Products—Monthly Reports") submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) "Net cigarettes manufactured for use" shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 ("Reduction to tobacco"); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form ("Manufactured").

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined—

(I) on the date of enactment of this subtitle; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (the date of enactment of this subtitle and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on the date of enactment of this subtitle;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on the date of enactment of this subtitle; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.

(d) APPROVAL OF AGREEMENTS.—(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle; and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

(e) DISCLOSURE.—The limitations on disclosure set forth in subsections (c) and (d) of section 320A of the Agricultural Adjustment Act of 1938 (as added by section 1103(d)) shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4) of such Act.

SEC. 1110. REVIEW OF TOBACCO GRADING SYSTEM AND DISASTER CROP DESIGNATION.

(a) STUDY.—(1)(A) The Secretary of Agriculture shall conduct a comprehensive study of the methods and procedures for grading tobacco marketed in the United States.

(B) In carrying out such study, the Secretary shall evaluate, among other things—

(i) the extent to which grades assigned to tobacco accurately reflect the quality of such tobacco;

(ii) the extent to which the number of grades of tobacco affects the operation of the grading system; and

(iii) the competence and independence of tobacco graders.

(2) The Secretary shall also study the feasibility and desirability of—

(A) providing for a grade that would be used to designate tobacco that is of such poor quality as a result of a natural disaster as to affect substantially the marketability of such tobacco; and

(B) establishing a price support level, if any, for such tobacco that may be adjusted by the Secretary as necessary to facilitate the sale of such tobacco and protect the no net cost funds or accounts.

(b) REPORT.—(1) Not later than 120 days after the date of enactment of this subtitle, the Secretary of Agriculture shall report the results of the studies required under subsection (a), together with any recommendations for necessary legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) As soon as practicable after submission of the report required under paragraph (1), but not later than the opening of the marketing season for the 1986 crop of Flue-cured tobacco, the Secretary shall implement any recommendations made in such report that may be implemented by the Secretary under existing authority.

SEC. 1111. INVESTMENT OF TOBACCO INSPECTION FEES.

Section 5 of The Tobacco Inspection Act (7 U.S.C. 511d) is amended—

(1) by inserting "late payment penalties, and interest earned from the investment of such funds," after "The fees and charges," in the ninth sentence;

(2) by inserting after the ninth sentence the following new sentences: "Any funds realized from the collection of fees or charges authorized under this section and section 6 and credited to the current appropriation account incurring the cost of services provided under this section and section 6, late payment penalties, and interest earned from the investment of such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity may be used to pay the expenses of the Secretary of Agriculture incident to providing services under this Act or reinvested in the manner authorized in the preceding sentence."; and

(3) by striking out "Such fees and charges" in the tenth sentence (as it existed before the amendment made by clause (2)) and inserting in lieu thereof "The fees and charges authorized in this section".

SEC. 1112. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective on the date of enactment of this subtitle.

TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS

SEC. 2001. COLLECTION BY THE UNITED STATES OF INPATIENT HOSPITAL COSTS INCURRED ON BEHALF OF CERTAIN PERSONS.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents

"(a)(1) In the case of a person who is covered by section 1074(b), 1076(a), or 1076(b) of this title, the United States shall have the right to collect from a third-party payer the reasonable costs of inpatient hospital care incurred by the United States on behalf of such person through a facility of the uniformed services to the extent that the person would be eligible to receive reimbursement or indemnification from the third-party payer if the person were to incur such costs on the person's own behalf. If the insurance, medical service, or health plan of that payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the amount that the United States may collect from the third-party payer is the reasonable cost of the care provided less the appropriate deductible or copayment amount.

"(2) A person covered by section 1074(b), 1076(a), or 1076(b) of this title may not be required to pay an additional amount to the United States for inpatient hospital care by reason of this section.

"(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care if that care is provided through a facility of the uniformed services shall operate to prevent collection by the United States under subsection (a).

"(c) Under regulations prescribed under subsection (f), records of the facility of the uniformed services that provided inpatient hospital care to a beneficiary of an insurance, medical service, or health plan of a third-party payer shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought.

"(d) Notwithstanding subsections (a) and (b), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

"(e)(1) The United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this section.

"(2) The administering Secretary may compromise, settle, or waive a claim of the United States under this section.

"(f) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section. Such regulations shall provide for computation of the reasonable cost of inpatient hospital care. Computation of such reasonable cost may be based on—

"(1) per diem rates; or

"(2) such other method as may be appropriate.

"(g) In this section, 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents.".

(b) EFFECTIVE DATE.—Section 1095 of title 10, United States Code, as added by subsection (a), shall apply with respect to inpatient hospital care provided after September 30, 1986, but only with respect to an insurance, medical service, or health plan agreement entered into, amended, or renewed on or after the date of the enactment of this Act.

SEC. 2002. EXTENSION OF DEADLINE FOR REPORT ON USE BY CHAMPUS SYSTEM OF MEDICARE PROSPECTIVE PAYMENT PROGRAM.

Section 634(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2544), is amended by striking out "February 28, 1985" and inserting in lieu thereof "June 30, 1986".

TITLE III—HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

SEC. 3001. SHORT TITLE AND TABLE OF SECTIONS.

(a) SHORT TITLE.—This title may be cited as the "Housing and Community Development Reconciliation Amendments of 1985".

(b) TABLE OF SECTIONS.—

Sec. 3001. Short title and table of sections.
Sec. 3002. Purchase of CDBG guaranteed obligations by the Federal Financing Bank.
Sec. 3003. Public housing operating subsidies.
Sec. 3004. Public and Indian housing financing reforms.
Sec. 3005. Rural housing authorizations.
Sec. 3006. Management of insured and guaranteed rural housing loans.
Sec. 3007. Extension of Federal Housing Administration mortgage insurance programs.
Sec. 3008. Extension of rehabilitation loan authority.
Sec. 3009. Extension of rural housing authorities.
Sec. 3010. Extension of flood and crime insurance programs.
Sec. 3011. Miscellaneous extensions.

SEC. 3002. PURCHASE OF CDBG GUARANTEED OBLIGATIONS BY THE FEDERAL FINANCING BANK.

(a) PROHIBITION.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(1) Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1986.

(c) ADMINISTRATIVE ACTIONS.—The Secretary of Housing and Urban Development shall take such administrative actions as are necessary to provide by the effective date of subsection (a) private sector financing of loans guaranteed under section 108 of the Housing and Community Development Act of 1974.

SEC. 3003. PUBLIC HOUSING OPERATING SUBSIDIES.

Section 9(c) of such Act is amended by striking out "and by" after "1983," and by inserting after "1984" the following: ", and not to exceed $1,279,000,000 on or after October 1, 1985".

SEC. 3004. PUBLIC AND INDIAN HOUSING FINANCING REFORMS.

Section 4 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

"(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.".

SEC. 3005. RURAL HOUSING AUTHORIZATIONS.

Subsection (a)(1) of section 513 of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may insure and guarantee loans under this title during fiscal year 1986 in an aggregate amount not to exceed $2,146,600,000, of which—

"(A) $1,209,600,000 shall be for loans under section 502;

"(B) $17,000,000 shall be for loans under section 504;

"(C) $19,000,000 shall be for loans under section 514;

"(D) $900,000,000 shall be for loans under section 515; and

"(E) $1,000,000 shall be for loans under section 524.".

SEC. 3006. MANAGEMENT OF INSURED AND GUARANTEED RURAL HOUSING LOANS.

(a) SALE OF INSURED AND GUARANTEED LOANS TO PUBLIC.—Section 517(c) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Any loan made and sold by the Secretary under this section after the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985 (and any loan made by other lenders under this title that is insured or guaranteed in accordance with this section, is purchased by the Secretary, and is sold by the Secretary under this section after such date) shall be sold to the public and may not be sold to the Federal Financing Bank, unless such sale to the Federal Financing Bank is required to service transactions under this title between

the Secretary and the Federal Financing Bank occurring on or before such date.".

(b) INTEREST SUBSIDY ON INSURED AND GUARANTEED LOANS OFFERED FOR SALE TO PUBLIC.—Section 517(d) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (as determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.".

(c) PROTECTION OF BORROWERS UNDER LOANS SOLD TO PUBLIC.—Section 517(d) of the Housing Act of 1949, as amended by subsection (b) of this section, is amended by adding at the end thereof the following new paragraph:

"(3) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by agreements for the benefit of the borrower under the loan that provide that—

"(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this title;

"(B) upon any substantial default of the borrower, but prior to foreclosure, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

"(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this title, including consideration for interest subsidy, moratorium, reamortization, refinancing, and appeal of any adverse decision to an impartial officer.

"(4) From the proceeds of loan sales under paragraph (2), the Secretary shall set aside as a reserve against future losses not less than 5 percent of the outstanding face amount of the loans held by the public at any time.".

(d) USE OF RURAL HOUSING INSURANCE FUND.—Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d).".

(e) ELIGIBILITY FOR GUARANTEED LOANS.—Section 517 of the Housing Act of 1949 is amended by striking out subsection (n).

(f) REGULATIONS.—Section 517(o) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Not later than the expiration of the 90-day period following the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, the Secretary shall issue regulations to facilitate the marketability in the secondary mortgage market of loans insured or guaranteed under this section. Such regulations shall ensure that such loans are competitive with other loans and mortgages insured or guaranteed by the Federal Government.".

SEC. 3007. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking out "prior to December 16, 1985" in the first sentence and inserting in lieu thereof "not later than March 17, 1986".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "March 17, 1986".

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(e) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking out "on or after December 16, 1985" in the last sentence and inserting in lieu thereof "after March 17, 1986".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(h) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(i) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(j) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

SEC. 3008. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986"; and

(2) by striking out "prior to December 16, 1985" and inserting in lieu thereof "on or before such date".

SEC. 3009. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

SEC. 3010. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) FLOOD INSURANCE.—

(1) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) CRIME INSURANCE.—Section 1201(b)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the matter preceding subparagraph (A) and inserting in lieu thereof "March 17, 1986".

SEC. 3011. MISCELLANEOUS EXTENSIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT CLASSIFICATIONS.—

(1) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(2) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(b) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "prior to December 16, 1985" and inserting in lieu thereof "not later than March 17, 1986".

(c) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "December 16, 1985" and inserting in lieu thereof "March 17, 1986".

TITLE IV—TRANSPORTATION AND RELATED PROGRAMS

Subtitle A—Railroads

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Amtrak Reauthorization Act of 1985".

SEC. 4002. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) in subparagraph (A) by striking out "and" after "403(b) of this Act;";

(2) in subparagraph (B) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) not to exceed $600,000,000 for the fiscal year ending September 30, 1986;

"(D) not to exceed $606,100,000 for the fiscal year ending September 30, 1987; and

"(E) not to exceed $630,300,000 for the fiscal year ending September 30, 1988.".

(b) LIMITATION.—Such section 601(b) is further amended by adding at the end a new paragraph as follows:

"(5) Unless sufficient funds are otherwise available to operate the Corporation's rail system at substantially the same level of service, maintenance, and equipment overhauls in effect on the date of the enactment of this paragraph, funds appropriated to or for the benefit of the Corporation under this section before the date of the enactment of this paragraph which the Corporation has designated for nonoperational capital projects shall be used as necessary to maintain the operations of the system at such level.".

SEC. 4003. CAPITAL ASSETS.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date of receipt by the Corporation of the funds for which such stock is issued.".

SEC. 4004. GOVERNMENT TRAVEL.

Section 306(f) of the Rail Passenger Service Act (45 U.S.C. 546(f)) is amended by inserting ", which shall include allowing the Corporation to participate in the contract air program administered by the General Services Administration in markets where service provided by the Corporation is competitive as to rates and total trip times" before the period.

SEC. 4005. REPORT CONSOLIDATION.

Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended to read as follows:

"(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceding fiscal year, data on ridership, passenger miles, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance. Such report shall also specify significant operational problems which have been identified by the Corporation, together with proposals by the Corporation to resolve such problems.".

SEC. 4006. CHARTER TRAINS.

Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended—

(1) by repealing subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 4007. MISCELLANEOUS AMENDMENTS.

(a) AUDITS.—Section 805 of the Rail Passenger Service Act (45 U.S.C. 644) is amended—

(1) in subsection (2)(A) by striking out "shall conduct annually a" in the first sentence and inserting in lieu thereof "may conduct"; and

(2) in subsections (2)(A) and (2)(B) by striking "audit" wherever it appears and inserting in lieu thereof "audits".

(b) REPEAL OF STUDIES AND REPORTS.—Sections 306(k), 806, 810, and 811 of the Rail Passenger Service Act (45 U.S.C. 546(k), 645, 649, and 650) are repealed.

(c) EMERGENCY ASSISTANCE.—Title VII of the Rail Passenger Service Act (45 U.S.C. 621 and 622) is repealed.

(d) NORTHEAST CORRIDOR REPORTS.—Section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(D)) is repealed.

(e) PERFORMANCE EVALUATION CENTER.—(1) Section 305(1) of the Rail Passenger Service Act (45 U.S.C. 545(1)) is repealed.

(2) Section 305(m) of the Rail Passenger Service Act (45 U.S.C. 545(m)) is amended by striking out "Center" each place it appears and inserting in lieu thereof "Corporation".

SEC. 4008. REVENUE-COST RATIO.

Section 404(c)(4)(A) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)(a)) is amended by adding at the end the following new sentence: "Commencing in fiscal year 1986, the Corporation shall set a goal of recovering an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to costs, excluding capital costs, shall be at least 61 percent.".

SEC. 4009. LABOR-RELATED COST SAVINGS.

Amtrak and the representatives of employees of Amtrak shall negotiate changes in existing agreements between such parties that will result in substantial cost savings to Amtrak, and shall report the results of such negotiations to the Congress within six months after the date of enactment of this Act.

SEC. 4010. ROUTE DISCONTINUANCE.

Amtrak shall not, by reason of any provision of this subtitle, including section 4002, reduce the frequency of service on any line on which, as of May 1, 1985, three or fewer trains operated per week.

SEC. 4011. EMPLOYMENT VACANCY FILING.

(a) LIABILITY.—Section 704(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797c(c)) is amended—

(1) by inserting "(1)" after "VACANCY NOTICES.—"; and

(2) by adding at the end a new paragraph as follows:

"(2)(A) As soon as the Board becomes aware of any failure on the part of a railroad to comply with paragraph (1), the Board shall issue a warning to such railroad of its potential liability under subparagraph (B).

"(B) Any railroad failing to comply with paragraph (1) of this subsection after being warned by the Board under subparagraph (A) shall be liable for a civil penalty in the amount of $500 for each subsequent vacancy with respect to which such railroad has so failed to comply.".

(b) EXTENSION.—Section 704(f) of such Act (45 U.S.C. 797c(f)) is amended by striking out "4-year" and inserting in lieu thereof "6-year".

(c) EXEMPTION.—The provisions of section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b), section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), and section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004) shall not apply to the National Railroad Passenger Corporation in the hiring of qualified train and engine employees who hold seniority rights to work in intercity rail passenger service in connection with the assumption by such Corporation of functions previously performed under contract by other carriers.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) shall take effect on the date of enactment of this Act, and the amendment made by subsection (b) shall be effective as of August 1, 1985.

SEC. 4012. TRANSPORTATION OF USED UNOCCUPIED VEHICLES.

Section 103(3) of the Rail Passenger Service Act (45 U.S.C. 502(3)) is amended by inserting ", and, when space is available, of used unoccupied vehicles" after "and their occupants".

SEC. 4013. AMTRAK CORPORATE CITIZENSHIP.

Section 306(m) of the Rail Passenger Service Act (45 U.S.C. 546(m)) is amended by inserting "only" immediately after "citizen".

SEC. 4014. ROUTE AND SERVICE CRITERIA.

(a) ROUTE AND SERVICE CRITERIA AMENDMENTS.—The Rail Passenger Service Act is amended—

(1) in section 403(d) (45 U.S.C. 563(d))—

(A) by striking out "criteria set forth in section 404(d)(2)(B)" and inserting in lieu thereof "criterion set forth in section 404(d)(2)"; and

(B) by inserting after the first sentence thereof the following: "Beginning October 1, 1986, if such service is not projected to meet such criterion, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion will be met.";

(2) in section 404(c)(3)(B) (45 U.S.C. 564(c)(3)(B))—

(A) by striking out "60" and inserting in lieu thereof "120";

(B) by striking out "either the Senate" and all that follows through "that it does" and inserting in lieu thereof "the Senate and the House of Representatives adopt a joint resolution during such period stating that they do"; and

(C) by adding at the end thereof the following: "For purposes of this subparagraph, continuity of session of the Congress is broken only by an adjournment sine die and the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of such 120-day period.";

(3) by amending section 404(c)(4)(B) (45 U.S.C. 564(c)(4)(B)) to read as follows:

"(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criterion appropriate to such route set forth in subsection (d), as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet such criterion, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criterion will be met.";

(4) in the first sentence of section 404(d)(1) (45 U.S.C. 564(d)(1))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period;

(5) in the second sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)) by striking out "and passenger mile per train mile";

(6) by striking out the last sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)); and

(7) in section 404(d)(2) (45 U.S.C. 564(d)(2))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 1986.

SEC. 4015. ICC REGULATION.

Section 306(a)(3) of the Rail Passenger Service Act (45 U.S.C. 546(a)(3)) is amended by striking out ", except as otherwise provided in this Act,".

SEC. 4016. MEANING OF "DISCONTINUANCE" FOR LABOR PROTECTION PURPOSES.

Section 405(a) of the Rail Passenger Service Act (45 U.S.C. 565(a)) is amended by adding at the end thereof the following: "For purposes of subsection (c) of this section and any agreement designed to implement the provisions of such subsection, a 'discontinuance of intercity rail passenger service' shall not include any adjustment in frequency of intercity rail passenger trains the effect of which is a temporary suspension of service unless such suspension causes a reduction of passenger train operations on a particular route to a frequency of less than three round trips per week at any time during any calendar year.".

SEC. 4017. NORTHEAST CORRIDOR COST DISPUTE DECISIONS.

(a) ICC DECISIONS.—(1) Section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) is amended to read as follows:

"(2) The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization between intercity rail passenger service and commuter rail passenger service.".

(2) Any decisions of the Interstate Commerce Commission before the date of enactment of this Act under section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) shall have no force and effect after the date of enactment of this Act.

(b) ASSIGNMENT OF COSTS.—Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting "(2)" immediately before "Notwithstanding";

(3) in the second sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "180" and inserting in lieu thereof "120";

(4) in the last sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter," and inserting in lieu thereof "shall not permit cross subsidization between intercity rail passenger service"; and

(5) by adding at the end of paragraph (2), as so designated by paragraph (2) of this subsection, the following: "The Commission, in making such a determination, shall assign to a freight railroad obtaining services pursuant to this paragraph the costs incurred by the Corporation solely for the benefit of that railroad, plus a proportionate share of all other costs of providing services covered by this paragraph that are incurred for the common benefit of the Corporation and such freight railroad. The proportionate share of such other costs assigned to a freight railroad shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of the rail properties covered by this paragraph. Nothing in this paragraph shall be construed to preclude parties from entering into an agreement under this paragraph either before or after a determination of the Commission under this paragraph.".

(c) EFFECTIVENESS OF STANDARD.—The compensation standard established by the amendment made by subsection (b) of this section shall be effective in any proceeding instituted under section 402(a)(2) of the Rail Passenger Service Act (45 U.S.C. 562(a)(2)) after the date of enactment of this Act.

(d) CONGRESSIONAL POLICY.—Nothing in this section, or any amendment made by this section, shall be construed to alter the Congressional policy against cross subsidization among intercity, commuter, and rail freight services expressed in the last sentence of section 402(a) of the Rail Passenger Service Act, as in effect before the date of enactment of this Act.

SEC. 4018. LOCAL RAIL SERVICE ASSISTANCE.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting after "September 30, 1984." the following: "Of the funds authorized to be appropriated under this subsection, there are authorized to be appropriated not to exceed $12,000,000 for the fiscal year ending September 30, 1986, not to exceed $10,000,000 for the fiscal year ending September 30, 1987, and not to exceed $8,000,000 for the fiscal year ending September 30, 1988."; and

(2) by adding at the end thereof the following: "No funds are authorized to be appropriated under this subsection for any period after September 30, 1988.".

Subtitle B—Highway Programs

SEC. 4101. REDUCTIONS IN HIGHWAY APPORTIONMENTS.

(a) PRIMARY SYSTEM.—The first sentence of section 105(a)(1) of the Highway Improvement Act of 1982 is amended by striking out "$2,450,000,000" and inserting in lieu thereof "$2,375,000,000".

(b) BRIDGE REPLACEMENT AND REHABILITATION.—Section 202(1) of the Highway Safety Act of 1982 is amended by striking out "$2,050,000,000" and inserting in lieu thereof "$1,900,000,000".

(c) INTERSTATE 4R.—The first sentence of section 105 of the Federal-Aid Highway Act of 1978 is amended by striking out "$3,150,000,000" and inserting in lieu thereof "$2,975,000,000".

(d) APPORTIONMENT ADJUSTMENTS.—

(1) DETERMINATION OF ADJUSTMENT AMOUNT.—On the first day following the effective date of this section, the Secretary of Transportation shall determine—

(A) the amount of funds that would have been apportioned to each State on October 1, 1985—

(i) for the Federal-aid primary system program if the amendment made by subsection (a) had been in effect on such date;

(ii) for the highway bridge replacement and rehabilitation program if the amendment made by subsection (b) had been in effect on such date; and

(iii) for the program to resurface, restore, rehabilitate, and reconstruct routes on the National System of Interstate and Defense Highways if the amendment made by subsection (c) had been in effect on such date; and

(B) the amount by which the amount which was apportioned to such State on October 1, 1985, for such program exceeds the amount determined under subparagraph (A) for such program.

(2) ADJUSTMENTS TO CURRENT APPORTIONMENT.—To the extent that any funds—

(A) which were apportioned to a State on October 1, 1985, for any program referred to in paragraph (1)(A); and

(B) which are unobligated on the first day following the effective date of this section;

do not exceed the amount determined under paragraph (1)(B) for such program, such apportioned and unobligated funds shall lapse on such first day.

(3) ADJUSTMENT TO FUTURE APPORTIONMENT.—If the amount determined under paragraph (1)(B) with respect to the apportionment made on October 1, 1985, to any State for any program referred to in paragraph (1)(A) is greater than the amount of funds which lapse from the apportionment to such State for such program under paragraph (2), the Secretary of Transportation shall reduce the amount which, but for this paragraph, would otherwise be apportioned to such State for such program on October 1, 1986, by the amount of such excess.

SEC. 4102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $13,125,000,000 for fiscal year 1986;

(2) $13,525,000,000 for fiscal year 1987; and

(3) $14,100,000,000 for fiscal year 1988.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;

(2) under section 157 of such title;

(3) under section 320 of such title;

(4) under section 147 of the Surface Transportation Assistance Act of 1978;

(5) under section 9 of the Federal-Aid Highway Act of 1981;

(6) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; and

(7) under section 118 of the National Visitor Center Facilities Act of 1968.

(c) DISTRIBUTION OF OBLIGATIONAL AUTHORITY.—For each of the fiscal years 1986, 1987, and 1988, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(d) LIMITATION ON OBLIGATIONAL AUTHORITY.—During the period October 1 through December 31 of each of the fiscal years 1986, 1987, and 1988, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) REDISTRIBUTION OF UNUSED OBLIGATIONAL AUTHORITY.—Notwithstanding subsec-

tions (c) and (d), the Secretary of Transportation shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of the fiscal years 1986, 1987, and 1988, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and Federal lands highways programs.

(f) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "and section 4102(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

SEC. 4103. INCREASE IN THE STATE EMERGENCY REPAIR FUND LIMITATION.

The first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "(and $55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

SEC. 4104. NATIONAL MINIMUM DRINKING AGE AMENDMENTS.

(a) EXTENSION OF PENALTY FOR NON-COMPLIANCE.—Section 158(a)(2) of title 23, United States Code, is amended by striking out "the fiscal year succeeding" and inserting in lieu thereof "each fiscal year after".

(b) COMPLYING STATE LAWS.—Subsection (a) of section 158 of such title is amended by adding at the end thereof the following new paragraph:

"(3) STATE GRANDFATHER LAW AS COMPLYING.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.".

(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—Subsection (b) of section 158 of such title is amended to read as follows:

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1988.—Any funds withheld under this section from apportionment to any State on or before September 30, 1988, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) of this title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under sections 104(b)(1), 104(b)(2), or 104(b)(6) of this title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1988.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to such State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

"(B) Funds apportioned under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.".

(d) CONFORMING AMENDMENTS.—Such section 158 is further amended—

(1) in subsection (a) by inserting "WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—" before "(1) The";

(2) in subsection (a)(1) by inserting "FIRST YEAR.—" before "The Secretary";

(3) by indenting paragraphs (1) and (2) of subsection (a) and aligning them with paragraph (3) of such subsection as inserted by subsection (b) of this section;

(4) in subsection (a)(1) by inserting "first" before "fiscal year" the second place it appears;

(5) in subsection (a)(2) by inserting "AFTER THE FIRST YEAR.—" before "The Secretary"; and

(6) in subsection (c) by inserting "ALCOHOLIC BEVERAGE DEFINED.—" before "As".

SEC. 4105. OHIO RIVER BRIDGE FUND REPROGRAMMING.

Section 147 of the Federal-Aid Highway Act of 1978 is amended by inserting "(a)" after "SEC. 147." and by adding at the end thereof the following new subsection:

"(b)(1) Of the funds which have been set aside previously pursuant to the fourth and fifth sentences of subsection (a) of this section and which are in excess of the amounts needed to complete the projects authorized by such subsection—

"(A) $65,000,000 shall be available to the Secretary of Transportation to carry out the state-of-the-art technology projects described in paragraph (2) of this subsection; and

"(B) the remainder shall be apportioned under subsection (e) of section 144 of title 23, United States Code, for carrying out projects under such section.

"(2) The state-of-the-art technology projects referred to in paragraph (1) of this subsection are the following:

"(A) Construction of a bridge (including approaches thereto) across the Ohio River between Newport, Kentucky, and Cincinnati, Ohio, to replace a bridge on a highway designated as a United States route.

"(B) Construction of a bridge (including approaches thereto) across the Ohio River between Covington, Kentucky, and Cincinnati, Ohio, to replace a bridge on a Kentucky State highway.

"(C) Construction of a bridge (including approaches thereto) across the Ohio River near Maysville, Kentucky, and Aberdeen, Ohio, to replace a bridge on a highway designated as a United States route.

"(3) In order to demonstrate the latest high-type geometric design features (including safety hardware) and new advances in highway bridge construction, the projects authorized by this subsection shall utilize state-of-the-art technology, and all design elements, including the decking, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance and rehabilitation costs.

"(4) The Secretary of Transportation may provide necessary technical assistance in the design and construction of projects under this subsection.

"(5) Not later than one year after the completion of the state-of-the-art technology projects under this subsection, the Secretary of Transportation shall submit a report to Congress, including but not limited to the results of such projects, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other bridge projects, and any changes that may be necessary by law to permit further use of such features.

"(6) In allocating funds made available to carry out the projects described in paragraph (2) of this subsection, the Secretary shall give priority to completing the projects described in subparagraphs (A) and (B) of such paragraph. At such time as the Secretary determines and certifies in writing that sufficient funds have been set aside, from the amount made available under paragraph (1)(A), to complete the projects de-

scribed in subparagraphs (A) and (B) of paragraph (2), any remaining funds shall be used to carry out the project described in subparagraph (C) of paragraph (2).

"(7) Funds made available to carry out the projects described in paragraph (2) of this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended and shall not be subject to any obligation limitation. The Federal share of the projects described in paragraph (2) of this subsection shall be that provided in subsection (a).".

TITLE V—CORPORATION FOR PUBLIC BROADCASTING AND FEDERAL COMMUNICATIONS COMMISSION

SEC. 5001. CORPORATION FOR PUBLIC BROADCASTING.

(a) PUBLIC TELECOMMUNICATIONS FACILITIES.—Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking out "and" after "1983,"; and

(2) by inserting ", $24,000,000 for fiscal year 1986, $28,000,000 for fiscal year 1987, and $32,000,000 for fiscal year 1988," immediately after "1984,".

(b) ALLOCATION OF APPROPRIATIONS.—Section 393 of the Communications Act of 1934 (47 U.S.C. 393) is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) FINANCING OF CORPORATION FOR PUBLIC BROADCASTING.—(1) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(A) by striking out "and 1986" and inserting in lieu thereof "1986, 1987, 1988, 1989, and 1990";

(B) by striking out "and" after "fiscal year 1985,"; and

(C) by inserting ", $200,000,000 for fiscal year 1987, $214,000,000 for fiscal year 1988, $238,000,000 for fiscal year 1989, and $254,000,000 for fiscal year 1990" immediately before the period at the end thereof.

(2) Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by striking out "research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness,".

(3) Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

SEC. 5002. FEDERAL COMMUNICATIONS COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $98,100,000 for fiscal year 1986 and $97,600,000 for fiscal year 1987, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1986 and 1987.".

(2) The amendment made by paragraph (1) of this subsection shall apply with respect to fiscal years beginning after September 30, 1985.

(b) REIMBURSED EXPENSES.—Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)) is amended—

(1) in subparagraph (D), by striking out "1985" and inserting in lieu thereof "1987"; and

(2) by adding at the end thereof the following new subparagraph:

"(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.".

(c) ANNUAL REPORT.—Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is amended by striking out "January 31" and inserting in lieu thereof "March 31".

(d) ADDITIONAL SAVINGS.—For provisions of law which, through relocation of the Fort Lauderdale, Florida, Monitoring Station of the Federal Communications Commission, reduce spending for fiscal year 1986 in satisfaction of the reconciliation requirements imposed by section 2(e) of S. Con. Res. 32 (99th Congress), see the material under the heading "FEDERAL COMMUNICATIONS COMMISSION" in the Supplemental Appropriations Act, 1985 (Public Law 99-88).

(e) CHARGES FOR OPERATIONS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting immediately after section 7 the following new section:

"CHARGES

"SEC. 8. (a) The Commission shall assess and collect charges at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section. The Schedule of Charges established under this subsection shall be implemented not later than 360 days after the date of enactment of this section.

"(b)(1) The Schedule of Charges established under this section shall be reviewed by the Commission every two years after the date of enactment of this section and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least $5.00 in the case of fees under $100.00, or 5 percent in the case of fees of $100.00 or more. All fees which require adjustment will be rounded upward to the next $5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

"(2) Increases or decreases in charges made pursuant to this subsection shall not be subject to judicial review.

"(c)(1) The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of charges required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the charge which was not paid in a timely manner.

"(2) The Commission may dismiss any application or other filing for failure to pay in a timely manner any charge or penalty under this section.

"(d)(1) The charges established under this section shall not be applicable to the following radio services: Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, and Special Emergency Radio, or to governmental entities licensed in other services.

"(2) The Commission may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest.

"(e) Moneys received from charges established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.

"(f) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.".

(f) Until modified pursuant to section 8(b) of the Communications Act of 1934 (as added by subsection (e) of this section), the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to section 8(a) of such Act shall be as follows:

Schedule of Charges

	Service	Fee amount
	PRIVATE RADIO BUREAU	
1.	Marine Coast Stations (New, Modifications, Renewals).	$60.00
2.	Operational Fixed Microwave Stations (New, Modifications, Renewals).	135.00
3.	Aviation (Ground Stations) (New, Modifications, Renewals).	60.00
4.	Land Mobile Radio Licenses (New, Modifications, Renewals).	30.00
	EQUIPMENT APPROVAL SERVICE	
1.	Certification	
	a. Receivers (Except TV & FM Receivers).	250.00
	b. All Other Devices	650.00
2.	Type Acceptance	
	a. Approval of Subscription TV Systems.	2,000.00
	b. All Others	325.00
3.	Type Approval	
	a. Ship (Radio Telegraph) Automatic Alarm Systems.	6,500.00
	b. Ship and Lifeboat (Radio Telegraph) Transmitters.	3,250.00
	c. All Others (With Testing).	1,300.00
	d. All Others (Without Testing).	150.00
4.	Notifications	100.00
	MASS MEDIA BUREAU	
1.	Commercial TV Stations	
	a. New and Major Change Construction Permits Application Fees.	2,250.00
	b. Minor Changes Application Fee.	500.00
	c. Hearing Charge	6,000.00
	d. License Fee	150.00
2.	Commercial Radio Stations	
	a. New and Major Change Construction Permits	
	(1) Application Fee AM Station.	2,000.00
	(2) Application Fee FM Station.	1,800.00
	b. Minor Changes Appl. Fee-AM & FM.	500.00
	c. Hearing Charge	6,000.00
	d. License Fee	
	(1) AM	325.00
	(2) FM	100.00

Schedule of Charges—Continued

Service	Fee amount
e. Directional Antenna License Fee (AM only).	375.00
3. FM/TV Translators and LPTV Stations (New & Major Change Construction Permits)	
a. Application Fee	375.00
b. License Fee	75.00
4. Station Assignment and Transfer Fees	
a. AM, FM and TV Commercial Stations	
(1) Application Fee (Forms 314/315).	500.00
(2) Application Fee (Form 316).	70.00
b. FM/TV Translators & LPTV Stations.	75.00
5. Auxiliary Services Major Actions—Application Fee.	75.00
6. Renewals—All Services	30.00
7. Cable Television Service	
a. Cable Television Relay Service—Construction Permits, Assignments & Transfers, Renewals & Modifications.	135.00
b. Cable Special Relief Petitions—Filing Fee.	700.00
8. Direct Broadcast Satellite New & Major Change CPs	
a. Application for Authorization to Construct a Direct Broadcast Satellite.	1,800.00
b. Issuance of CP & Launch Authority.	17,500.00
c. License to Operate Satellite.	500.00
d. Hearing Charge	6,000.00
COMMON CARRIER BUREAU	
1. Domestic Public Land Mobile Stations (Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility Authorizations, Assignments & Transfers (Per transmitter/per station).	200.00
b. Renewals and Minor Modifications (Per station).	20.00
c. Air-Ground Individual License Renewals & Modifications.	20.00
2. Cellular Systems	
a. Initial Construction Permits & Major Modification Applications (Per cellular systems).	200.00
b. Assignments & Transfers (Per station).	200.00
c. Initial covering license (Per cellular system)	
(1) Wireline carrier	525.00
(2) Nonwireline carrier.	50.00
d. Renewals	20.00
e. Minor modifications and additional licenses.	50.00
3. Rural Radio (Central Office, Interoffice or Relay Facilities)	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter).	90.00
b. Renewals & Modifications (Per station).	20.00
4. Offshore Radio Service	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter).	90.00
b. Renewals & Modifications (Per station).	20.00
5. Local Television or Point To Point Microwave Radio Service	
a. Construction Permits, Modifications of Construction Permits, and Renewals of Licenses.	135.00
b. Assignments & Transfers of Control (Per Station).	45.00
c. Initial License for New Frequency.	135.00
6. International Fixed Public Radio (Public & Control Stations)	
a. Initial Construction Permits, Assignments & Transfers.	450.00
b. Renewals & Modifications.	325.00
7. Satellite Services	
a. Transmit Earth Stations	
(1) Initial Station Authorization.	1,350.00
(2) Assignments & Transfers of Station Authorizations.	450.00
(3) All Other Applications.	90.00
b. Small Transmit/Receive Earth Stations (2 meters or less)	
(1) Lead Authorization.	3,000.00
(2) Routine Authorization.	30.00
(3) All Other Applications.	90.00
c. Receive Only Earth Stations	
(1) Initial Station Authorization.	200.00
(2) All Other Applications.	90.00
d. Applications For Authority To Construct a Space Station.	1,800.00
e. Applications For Authority To Launch & Operate a Space Station.	18,000.00
f. Satellite System Application	
(1) Initial Station Authorization.	5,000.00
(2) Assignments & Transfers of Systems.	1,333.00
(3) All Other Applications.	90.00
8. Multipoint Distribution Service	
a. Construction Permits, Renewals & Modifications of Construction Permits.	135.00
b. Assignments & Transfers of Control (Per Station).	45.00
c. Initial License (per channel).	400.00
9. Section 214 Applications	
a. Applications for Overseas Cable Construction.	8,100.00
b. Applications for Domestic Cable Construction.	540.00
c. All Other 214 Applications.	540.00
10. Tariff Filings	
a. Filing Fee	250.00
b. Special Permission Filings.	200.00
11. Telephone Equipment Registration.	135.00
12. Digital Electronic Message Service	
a. Construction Permits, Renewals & Modifications of Construction Permits.	135.00
b. Assignments & Transfers of Control (Per Station).	45.00
c. Initial License (First License or License Adding a New Frequency).	135.00

TITLE VI—MARITIME, COASTAL ZONE, AND RELATED PROGRAMS

Subtitle A—Boating Safety Fund

SEC. 6001. BOATING SAFETY FUND.

An amount equal to one-third of the amount transferred for fiscal year 1985 to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Section 13106(a) of title 46, United States Code, shall be applied with respect to fiscal year 1985 by substituting "one-third" for "two-thirds" in the first sentence.

Subtitle B—NOAA Nautical and Aeronautical Products

SEC. 6011. SALE AND DISTRIBUTION OF NOAA NAUTICAL AND AERONAUTICAL PRODUCTS.

(a) Section 1307 of title 44, United States Code, is amended to read as follows:

"§1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution

"(a)(1) All nautical and aeronautical products created or published by the National Oceanic and Atmospheric Administration shall be sold at such prices as the Secretary of Commerce shall establish annually, in accordance with the provisions of this subsection. The Secretary shall publish annually the prices at which nautical and aeronautical products are sold to the public.

"(2)(A) Subject to subparagraph (B) of this paragraph, the prices of nautical and aeronautical products may be increased over a period of not less than three years after the date of enactment of this section so as to recover all costs attributable to data base management, compilation, printing, and distribution of such products. The prices of such products may be maintained to recover all such costs thereafter. At the end of such period and every three years thereafter, the Secretary, after consultation with the Secretary of Transportation, shall report to the Congress on the effect of imposing or maintaining such increased prices, including any impact on aviation and marine safety.

"(B) The Secretary, after consultation with the Secretary of Transportation, shall adjust the prices of nautical or aeronautical products in such manner as is necessary to avoid any adverse impact on aviation and marine safety attributable to the prices specified in subparagraph (A) of this paragraph.

"(3) This section shall not be construed to require the establishment of any price for a nautical or aeronautical product where, in the judgment of the Secretary, furnishing of that product to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to a program of the National Oceanic and Atmospheric Administration.

"(4) Prices established under this section may not include costs attributable to the acquisition or processing of nautical or aeronautical data.

"(b) Fees collected from the sale of nautical or aeronautical products under this section and from any licensing of such products which is permitted under any other provision of law shall be deposited in the miscellaneous receipts fund of the United States Treasury.

"(c) The Secretary may distribute nautical and aeronautical products—

"(1) without charge to each foreign government or international organization with which the Secretary or a Federal department or agency has an agreement for exchange of these products without cost; and

"(2) at prices which the Secretary establishes, to the departments and officers of the United States requiring them for official use.

"(d) The fees provided for in this section are for the purpose of reimbursing the United States Government for the costs of creating, publishing or distributing aeronautical and nautical products of the National Oceanic and Atmospheric Administration. The collection of fees authorized by this section shall not alter or expand any duty or liability of the United States under existing law for the performance of functions for which fees are collected, nor shall the collection of fees constitute an express or implied undertaking by the United States to perform any activity in a certain manner.

"(e) For purposes of this section, the term 'nautical and aeronautical products' includes all nautical and aeronautical charts, tide and tidal current tables, tidal current charts, coast pilots, water level products, and associated data bases which are created or published by the National Oceanic and Atmospheric Administration.".

(b) The item relating to section 1307 in the analysis of chapter 13 of title 44, United States Code, is amended to read as follows:

"1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution.".

Subtitle C—Foreign Fishing Permit Fees

SEC. 6021. FOREIGN FISHING PERMIT FEES.

Paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation.

"(B) Unless subparagraph (C) applies, the fees imposed under subparagraph (A) shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year.

"(C) If the Secretary, in consultation with the Secretary of State, finds that any foreign nation receiving an allocation under section 201(e)—

"(i) is harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or

"(ii) is failing to take sufficient action to benefit the conservation and development of United States fisheries;

the fees imposed under subparagraph (A) for the next fiscal year shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during that fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone during such preceding year. If the Secretary, in consultation with the Secretary of State, finds, at any time during a fiscal year in which fees calculated under this subparagraph are in effect with respect to a foreign nation, that the conditions requiring that calculation no longer exist, the fees imposed under this paragraph with respect to that nation for the remainder of the fiscal year shall be calculated under subparagraph (B).

"(D) Before the end of each fiscal year, the Secretary, in consultation with the Secretary of State, shall review, based on the criteria established in subparagraph (C)(i) and (ii), the performance of every nation receiving an allocation under section 201(e) and provide written notice to the Congress of his findings and reasons therefor before the end of the fiscal year.

"(E) For purposes of this paragraph, the total cost of carrying out the provisions of this Act includes, but is not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excludes costs for observers covered by surcharges under section 201(i)(4).

"(F)(i) The amounts collected by the Secretary under this paragraph (except the amounts referred to in clause (ii)) shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.

"(ii) The Secretary shall deposit into the general fund of the United States Treasury the difference between the amounts collected under subparagraph (C) and the amounts that would have been collected from such nations had that subparagraph not been enacted.".

Subtitle D—Ocean and Coastal Resources Management and Development Block Grant Act

SEC. 6031. DEFINITIONS.

For purposes of this subtitle—

(1) The term "block grant" means a National Ocean and Coastal Resources Management and Development Block Grant.

(2) The term "coastal population" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927.

(3)(A) The term "coastal-related energy facilities" means any equipment or facility that—

(i) is or will be used primarily in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource or for the manufacture, production, or assembly of equipment, machinery, products, or devices that are involved in any such energy-resource activity, and

(ii) is, or is likely to be, sited, constructed, expanded, or operated in, or in close proximity to, the coastal zone of any State because of technical requirements.

(B) The term includes—

(i) electric generating plants;

(ii) facilities associated with the transportation, transfer, or storage of coal;

(iii) petroleum refineries and associated facilities;

(iv) gasification plants;

(v) facilities associated with the transportation, conversion, treatment, transfer, or storage of liquefied natural gas;

(vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes;

(vii) facilities, including deepwater ports, for the transfer of petroleum;

(viii) facilities used for alternative ocean energy activities, including those associated with ocean thermal energy conversion; and

(ix) pipelines, transmission facilities, and terminals associated with any of the foregoing.

(C) For the purposes of this subtitle, the siting, construction, expansion, or operation of any coastal-related energy facilities is "in close proximity to the coastal zone of any state" if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(4) The term "coastal state" means the Commonwealth of Puerto Rico and any state of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes.

(5) The term "coastal territory" means the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, or Guam.

(6) The term "Fund" means the Ocean and Coastal Resources Management and Development Fund.

(7) The term "local government" means that term as defined in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincor-

porated communities, including Alaska Native villages.

(8) The term "outer Continental Shelf planning area" means one of the geophysical regions of the outer Continental Shelf which is so designated in the Outer Continental Shelf Leasing Program (43 U.S.C. 1344), dated July 21, 1982, or as so designated in subsequent outer Continental Shelf leasing programs.

(9) The term "proportionately" means in the same ratio as a state's allocation.

(10) The term "Secretary" means the Secretary of Commerce.

(11) The term "shoreline mileage" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927.

(12) The term "state" means any coastal state or coastal territory.

SEC. 6032. OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT FUND.

(a) There is established in the Treasury of the United States a fund to be known as the Ocean and Coastal Resources Management and Development Fund.

(b)(1) Subject to the limitations in paragraph (2), for each fiscal year after fiscal year 1987, the Secretary of the Treasury shall deposit into the Fund, not later than 60 days after the end of the previous fiscal year, an amount equal to 20 per centum of the amount, if any, by which the aggregate of the sums deposited into the Treasury of the United States pursuant to section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) during the previous fiscal year exceeded $5,000,000,000.

(2) The amount in the Fund at any time during a fiscal year may not exceed the following maximum amount:

(A) During fiscal year 1988, $150,000,000.

(B) During fiscal year 1989, $300,000,000.

(C) During fiscal year 1990, an amount equal to 105 percent of the maximum amount specified under subparagraph (B).

(D) During each fiscal year after fiscal year 1990, an amount equal to 105 percent of the maximum amount applicable under this paragraph for the immediately preceding fiscal year.

(c) As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Fund during each fiscal year to carry out the purposes of, and in accordance with, section 6033.

SEC. 6033. NATIONAL OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANTS.

(a) Subject to the provisions of section 6032(c) and this section, for fiscal year 1988 and for each subsequent fiscal year, the Secretary shall provide to each state a national ocean and coastal resources management and development block grant from amounts in the Fund.

(b)(1) No state may receive a block grant for a fiscal year unless such state has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such state of the block grant among coastal zone management activities, coastal energy impact activities, living marine resource activities, and natural resource preservation, enhancement and management activities under section 6034(a); and

(B) describes each proposed activity receiving funds provided by the block grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible to receive a block grant pursuant to this subtitle and before submitting the report required under paragraph (1), each state shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the state convenient for encouraging maximum public participation.

(c) A block grant shall not be paid from the Fund to a state until the state has established a trust fund for the receipt of such grant.

(d) The amount of each block grant provided under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives equal consideration to each of the following criteria:

(1) For each state, the equal combination of—

(A) the amount of actual leasing with respect to oil and gas which is carried out under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) during the previous fiscal year which occurs within the outer Continental Shelf planning area to which such state is adjacent; and

(B) the volume of oil and gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state during the previous fiscal year.

(2) For each state, any proposed oil and gas lease sales specified by the outer Continental Shelf leasing program prepared under section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) and scheduled to occur within the outer Continental Shelf planning area to which such state is adjacent.

(3) The coastal-related energy facilities (including coal facilities) located within each state during the previous fiscal year. For any state for which the Secretary has not approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), this criterion shall be reduced by fifty per centum. The amounts resulting from such reduction shall be reallocated proportionately, under this paragraph, among states for which the Secretary has approved such a management program.

(4) The shoreline mileage of each state for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(5) The coastal population of each state for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) For purposes of paragraphs (4) and (5) of subsection (d)—

(1) the Secretary shall be presumed to have approved the coastal zone management program of any state if the Secretary determines that, in any fiscal year, such state is making satisfactory progress toward the development of a coastal zone management program which will be approvable under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455). Such presumption may be renewed only once and for a period not to exceed one additional fiscal year if the Secretary makes such determination under this subsection for such additional fiscal year; and

(2) a state shall not receive in excess of 30 per centum of the amounts attributable to either criterion.

If any state would receive an allotment greater than 30 per centum, the Secretary shall reduce such allotment to 30 per centum. The amounts resulting from such reduction shall be reallocated proportionately among those states that receive less than 30 per centum of the amounts attributable to such criterion.

(f)(1) For states for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), a coastal state shall receive not less than one and sixty two one-hundredths per centum, and a coastal territory not less than one-half of one per centum, of the total amount available for block grants under section 6032(c) during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal state or coastal territory is to receive a block grant that is less than the respective minimum grant levels established under paragraph (1), the Secretary shall increase such state's block grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the block grant of each state which, as determined under subsection (d), exceeds the respective minimum level under paragraph (1).

(3) For the purposes of the implementation of section 6034(b), block grant levels may fall below the respective minimum levels established under this section.

(g) If, after the calculations required under subsections (d), (e) and (f), any state would receive a block grant which is greater than 15 per centum of the funds appropriated under section 6032(c), the Secretary shall reduce such state's block grant to 15 per centum. The amounts resulting from such reduction shall be reallocated proportionately among states receiving less than 15 per centum of such funds and more than the minimum grant levels under subsection (f).

(h)(1) After determining the amount of a block grant for any State for any fiscal year under subsections (d) through (g), the Secretary shall determine the final amount of that grant by deducting (but not below 0) from the amount determined under those subsections—

(A) an amount equal to 50 percent of the average annual amount of all Federal assistance received by that State under the Coastal Zone Management Act of 1972 during the 3 immediately preceding fiscal years; and

(B) subject to paragraph (2), an amount equal to 50 percent of the average annual amount received by that State under section 8(g) of the Outer Continental Shelf Lands Act during the 3 immediately preceding fiscal years.

(2) In calculating the average annual amount under paragraph (1)(B) for any 3-year period that includes the year in which the state received payment under section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985, the Secretary shall treat the state as having received, under section 8(g) of the Outer Continental Shelf Lands Act, an amount equal to 20 percent of the payment under such section 8004—

(i) for the fiscal year in which the payment under such section 8004 was received; and

(ii) for any fiscal year in the 3-year period that preceded the fiscal year referred to in clause (i).

(3) The Secretary shall deposit moneys equal to the amounts by which block grants are reduced under paragraph (1) into the general fund of the United States Treasury as miscellaneous receipts.

SEC. 6034. REQUIREMENTS ON THE USE OF BLOCK GRANTS.

(a) Block grants provided to a state under section 6033(a) shall be used for the enhancement and management of ocean and coastal resources and for the amelioration of any adverse impacts that result from the siting, construction, expansion, or operation of coastal-related energy facilities. Such block grants shall be used only for each of the following activities:

(1) Activities of such state authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(2) Activities of such state pursuant to the coastal energy impact program administered under section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457).

(3) Activities of such state for the enhancement, management and development of living marine resources.

(4) Activities of such state for the preservation, enhancement and management of its natural resources including coastal habitats.

(b) Nothing in this subtitle shall be construed to repeal or modify, by implication or otherwise, section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C 1461). The Secretary shall reduce any block grant, provided under this subtitle to a state that has an approved program under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455), by no more than 30 per centum of the amount of such state's block grant that is attributable to paragraphs (4) and (5) of section 6033(d), if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act.

SEC. 6035. LOCAL GOVERNMENTS.

(a) Each state receiving a block grant in any fiscal year under section 6033(a) shall—

(1) establish an effective mechanism for consultation and coordination with its local governments with respect to the allocation of such block grant within the state; and

(2) provide to its local governments allocations from such block grant, taking into consideration the responsibilities of the local governments in carrying out activities under section 6034(a).

(b) In carrying out its responsibilities under subsection (a)(2), the state shall give particular emphasis to the activities of local governments in—

(1) providing public services and public facilities required as a result of the siting, construction, expansion, or operation of coastal-related energy facilities; and

(2) preventing, reducing, or ameliorating any unavoidable loss of valuable environmental or recreational resources if such loss results from the siting, construction, expansion, or operation of coastal-related energy facilities.

(c) In carrying out its responsibilities under this section, each state shall provide no less than 33 1/3 per centum of each block grant received under section 6033(a) to its local governments.

SEC. 6036. AUDIT.

(a) Under regulations promulgated by the Secretary, any state receiving a block grant under section 6033(a) shall, for each fiscal year that it receives such grant, provide that amounts received under this subtitle be subject to audit in accordance with chapter 75 of title 31, United States Code, and be submitted to the Secretary. The income derived from such trust fund for each fiscal year shall be included in the audit required by this section.

(b) Each audit submitted by a state under subsection (a) shall—

(1) contain a statement of all funds provided by the block grant received by such state for the fiscal year; and

(2) include a statement of all financial assistance provided to such state's local governments pursuant to section 6035.

(c) After receiving a state's financial audit under this section, the Secretary shall—

(1) make a preliminary evaluation of each audit submitted pursuant to this section. If the Secretary determines, in the preliminary evaluation of a state's audit, that all or any part of the block grant has not been used as required by this subtitle, the Secretary shall publish notice of this finding in the Federal Register. In addition, the Secretary may suspend, and place in escrow, an amount from any future block grant which is equivalent to the amount misused, pending final determination pursuant to paragraph (3);

(2) provide the state with an opportunity for a hearing; and

(3) make a final determination.

(d) If the Secretary makes a final determination under subsection (c)(3) that all or any part of such funds were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the state the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused under subsection (c), including the withholding of such amount from a State's future block grant or the amount which may have been suspended under subsection (c)(1).

(e) If no appeal of the final determination is filed within sixty days following notification to the State of the final determination, any funds withheld or recovered by the Secretary under subsection (d)(2) shall be returned to the Fund.

(f) If an appeal of the final determination is filed within the sixty-day period specified in subsection (e), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

SEC. 6037. RULES AND REGULATIONS.

The Secretary shall promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle E—Amendments to the Coastal Zone Management Act

SEC. 6041. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Management Reauthorization Act of 1985".

SEC. 6042. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment, or repeal, of a section, subsection, paragraph, or other provision, the reference is to be considered to be made to a section, subsection, paragraph, or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) unless otherwise specified.

SEC. 6043. REDUCTION OF ADMINISTRATIVE GRANTS.

(a) Section 312(c) (16 U.S.C. 1458(c)) is amended by striking "if the Secretary determines" and all that follows thereafter and inserting in lieu thereof the following: "if the Secretary determines that the coastal state—

"(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I); or

"(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i) (A) and (B).".

(b)(1) Subsection (a) of section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by striking out "The Secretary may" and all that follows through "if the Secretary—" and substituting in lieu thereof the following: "The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; 1 to 1 for any fiscal year after fiscal year 1988. The Secretary may make the grant only if the Secretary—".

(2) Section 306A is amended by striking section (d)(1) and substituting in lieu thereof the following:

"(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.".

(c) Section 306(g) (16 U.S.C. 1455) is amended by striking out the period at the end of the first sentence and all that follows thereafter and inserting in lieu thereof the following: ", and subject to the following conditions:

"(1) The state shall promptly notify the Secretary of any proposed amendment, modification or other program change and submit it for Secretarial approval. The Secretary may suspend all or part of any grant made under this section pending state submission of the proposed amendment, modification or other program change.

"(2) Within 30 days from the date on which the Secretary receives any proposed amendment, the Secretary shall notify the state whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days from the date the Secretary received the proposed amendment. The Secretary may extend this 120-day period only as necessary to meet the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

"(3) The state may not implement any proposed amendment as part of its approved program pursuant to section 306, until after the proposed amendment has been approved by the Secretary.".

SEC. 6044. NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM.

Section 315 (16 U.S.C. 1461) is amended to read as follows:

"NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM

"SEC. 315. (a) ESTABLISHMENT OF THE SYSTEM.—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the 'System') that consists of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

"(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESERVES.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

"(1) the Governor of the coastal state in which the area is located nominates the area for that designation; and

"(2) The Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

"(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

"(c) ESTUARINE RESEARCH GUIDELINES.—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

"(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

"(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

"(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

"(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

"(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and

"(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

"(e) FINANCIAL ASSISTANCE.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

"(A) to a coastal State—

"(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

"(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

"(iii) for purposes of conducting educational or interpretive activities; and

"(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

"(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

"(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) of subsection (e) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraph (1)(A) (ii) and (iii) and paragraph (1)(B) of subsection (e) may not exceed 50 per centum of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve.

"(f) EVALUATION OF SYSTEM PERFORMANCE.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

"(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

"(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

"(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(g) REPORT.—The Secretary shall include in the report required under section 316 information regarding—

"(1) new designations of national estuarine reserves;

"(2) any expansion of existing national estuarine reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (f).".

SEC. 6045. REPEALS.

The following are repealed:

(1) Section 310 (16 U.S.C. 1456c; relating to research and technical assistance programs and grants).

(2) Section 314 (16 U.S.C. 1460; establishing the Coastal Zone Management Advisory Committee).

(3) Subsection (c) of section 15 of the Coastal Zone Management Act Amendments of 1976, Public Law 94-370 (16 U.S.C. 1451 note; relating to certain additional personnel positions).

SEC. 6046. AUTHORIZATIONS OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) such sums, not to exceed $35,000,000 for the fiscal year ending September 30, 1986, not to exceed $36,600,000 for the fiscal year ending September 30, 1987, $37,900,000 for the fiscal year ending September 30, 1988, $38,800,000 for the fiscal year ending September 30, 1989, and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 306 and 306A, to remain available until expended;".

(2) by striking paragraph (2) and renumbering the succeeding paragraphs; and

(3) by amending paragraphs (3), (4), and (5) (as renumbered by paragraph (2) of this section) to read as follows:

"(3) such sums, not to exceed $1,000,000 for the fiscal year ending September 30, 1986, and not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 309, to remain available until expended;

"(4) such sums, not to exceed $2,500,000 for the fiscal year ending September 30, 1986; not to exceed $3,800,000 for the fiscal year ending September 30, 1987, $4,500,000 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 315, to remain available until expended; and

"(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1986, not to exceed $3,300,000 for the fiscal year ending September 30, 1987, $3,300,000 for the fiscal year ending September 30, 1988, $4,000,000 for the fiscal year ending September 30, 1989, and $4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this title.".

SEC. 6047. TECHNICAL AMENDMENT.

Section 308(h) (16 U.S.C. 1456a(h)) is amended by deleting "subsections (c)(1)" each place it appears and inserting instead "subsections (c)".

Subpart F—National Oceanic and Atmospheric Administration

SEC. 6051. AUTHORIZATION OF APPROPRIATIONS.

(a) For purposes of this section—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Department" means the Department of Commerce.

(b) There are authorized to be appropriated to the Department to enable the Administration to carry out its executive direction and administration functions and duties under law, $47,667,000 for fiscal year 1986 and $49,812,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and

duties relating to executive direction and administration authorized by the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving such functions and duties. Such functions and duties include management, administrative support, retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development.

(c) There are authorized to be appropriated to the Department to enable the Administration to carry out its marine services functions and duties under law, $61,791,000 for fiscal year 1986 and $64,572,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to marine services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include ship operations, maintenance, and support.

(d) There are authorized to be appropriated to the Department to enable the Administration to carry out its aircraft services functions and duties under law, $14,779,000 for fiscal year 1986 and $15,440,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to aircraft services authorized by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other law involving such functions and duties. Such functions and duties include aircraft operations, maintenance, and support.

(e) For the purpose of enabling the Administration to carry out its functions and duties under the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-13 et seq.), there are authorized to be appropriated to the Department $500,000 for fiscal year 1986.

(f)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its nonliving marine resource functions and duties under law, $1,800,000 for fiscal year 1986 and $1,881,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to nonliving marine resources authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include research, development, and licensing responsibilities pertaining to ocean thermal energy conversion and the deep seabed mining of manganese nodules, and polymetallic sulfide analyses and research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 et seq.), and the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), for the purpose of carrying out such functions and duties relating to nonliving marine resources.

(g)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean research functions and duties under law, $33,884,000 for fiscal year 1986 and $35,409,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean research authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include undersea marine resources, air-sea interaction, and ocean and Great Lakes environmental research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to ocean research moneys authorized under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) for the purpose of carrying out such functions and duties relating to ocean research.

(h)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean service functions and duties under law, $17,181,000 for fiscal year 1986 and $17,954,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include coordination of interagency research in ocean dumping and marine pollution, and provision of tide and current data for the safe and efficient use of the oceans and Great Lakes by government, commerce, and the private sector.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), for the purpose of carrying out such functions and duties relating to ocean services.

(i) There are authorized to be appropriated to the Department to enable the Administration to carry out its mapping, charting, and geodesy functions and duties under law, $47,943,000 for fiscal year 1986 and $50,100,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to mapping, charting, and geodesy authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include aeronautical and nautical mapping and charting activities, and geodetic data collection and analysis.

(j) There are authorized to be appropriated to the Department to enable the Administration to carry out its programs at current levels such sums as may be necessary to accommodate salary, pay, and other employee benefits authorized by law for fiscal years 1986 and 1987.

Subtitle G—Marine Protection, Research, and Sanctuaries Act Amendments

SEC. 6061. CONSOLIDATION OF REPORT.

Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

SEC. 6062. MARINE RESEARCH REQUIREMENTS.

Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) The Secretary of Commerce shall ensure that the program under this section complements, when appropriate, the activities undertaken by other Federal agencies pursuant to title I and section 203. That program shall include but not be limited to—

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the capacity of the marine environment to receive materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species;

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 6063. REGIONAL MANAGEMENT PLANS.

Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws and regulations governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

"(d) The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President,

not later than one year after the date of enactment of this provision, a report on sewage sludge disposal in the New York City metropolitan region. The report shall—

"(1) consider the factors listed in subsection (c) as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option;

"(2) include an assessment of the cost of these alternatives; and

"(3) recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 6064. AUTHORIZATION OF APPROPRIATIONS.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981" and by striking out "1982." and inserting in lieu thereof the following: "1982, not to exceed $10,635,000 for fiscal year 1986, and not to exceed $11,114,000 for fiscal year 1987.".

SEC. 6065. CONSOLIDATION OF REPORTS.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"ANNUAL REPORT

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping;

"(2) the results of activities undertaken pursuant to section 202;

"(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203.".

Subtitle H—National Ocean Pollution Planning Act Amendments

SEC. 6071. FINDINGS AND PURPOSES.

(a) Section 2(a) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by adding at the end thereof the following new paragraphs:

"(6) Numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance.

"(7) Various research projects relating to the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, including those conducted at the college and university level and those conducted at the State and local governmental level, can be more effectively coordinated in order to obtain maximum benefits.".

(b) Section 2(b) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) to provide for the effective coordination of research conducted to support the preservation and protection of the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, and to encourage the use of such research in determinations that affect the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance; and".

SEC. 6072. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) is further amended as follows:

(1) Section 3 is amended—

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'Board' means the National Ocean Pollution Policy Board established under section 3A(b).''; and

(C) by adding at the end thereof the following new paragraph:

"(8) The term 'Office' means the National Ocean Pollution Program Office established under section 3A(a).".

(2) The following new section is inserted immediately after section 3:

"SEC. 3A. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

"(a) PROGRAM OFFICE.—(1) The Administrator shall establish within the Administration the National Ocean Pollution Program Office.

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program established under section 4;

"(B) be headed by a director who shall represent the Board and shall be the spokesman for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups; and

"(D) review each department and agency budget request transmitted under section 4(d) and submit an analysis of the requests to the Board for its review.

The analysis described in subparagraph (D) shall include an analysis of how each departmental or agency budget request relates to the priorities and goals of the Plan established under section 4.

"(b) POLICY BOARD.—(1) The Administrator, with the cooperation of the Federal departments and agencies referred to in section 7, shall establish a National Ocean Pollution Policy Board consisting of representatives of those departments and agencies.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program established under section 4;

"(B) review all department and agency budget requests transmitted to it under section 4(d) and submit a report to the Office of Management and Budget and to the Congress concerning those budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of ocean pollution data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such consultations.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same department or agency on the Board served as the Board's Chair for the previous term.".

SEC. 6073. FEDERAL PLANNING TO INCLUDE GREAT LAKES.

Section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703) is amended—

(1) by inserting after "general research on marine ecosystems" in subsection (b)(2)(A) the following: ", including the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance,"; and

(2) in subsection (b)(4)—

(A) by striking out "BUDGET REVIEW.—" and inserting in lieu thereof "PLAN REVIEW.—"; and

(B) by striking out "to coordinate the budget review process"; and

(3) by adding at the end thereof the following new subsection:

"(d) BUDGETING.—Each Federal agency and department included under the Plan shall prepare and submit to the Office of Management and Budget, the Office, and the Board on or before the date of submission of departmental requests for appropriations to the Office of Management and Budget, an annual request for appropriations to carry out the activities of that agency or department under the Plan during the subsequent fiscal year. The Office of Management and Budget shall review the request for appropriations as an integrated, coherent, and multiagency request, taking into account the review by the Board of those requests under section 3A(b).".

SEC. 6074. DISSEMINATION OF INFORMATION ON GREAT LAKES.

Section 8 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1707) is amended by adding "(a)" after "SEC. 8." and by adding at the end thereof the following new subsection:

"(b) The Administrator shall ensure that the findings and information regarding ocean pollution research activities associated with the Great Lakes identified pursuant to section 4(b) be disseminated in a timely manner and in useful forms to relevant departments of the Federal Government, State governments, and other persons with an interest in such information.".

SEC. 6075. AUTHORIZATION OF APPROPRIATION.

Section 10 of the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1709), is amended by striking out "and" after "1981," and by striking out "1982." and inserting in lieu thereof "1982, and not to exceed $3,571,000 for fiscal year 1986, and not to exceed $3,732,000 for fiscal year 1987.".

Subtitle I—Weather Modification

SEC. 6081. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", approved December 18, 1971 (85 Stat. 736; 15 U.S.C. 330e), is amended—

(1) by striking "and"; and

(2) by inserting immediately after "1981," the following: "$100,000 for the fiscal year ending September 30, 1986, $100,000 for the fiscal year ending September 30, 1987,

$100,000 for the fiscal year ending September 30, 1988,".

SEC. 6082. OCEAN SATELLITE DATA.

The Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to in this subtitle as the "Administration") shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community.

SEC. 6083. AWARDING OF CONTRACTS.

The Administration may not award any contract for the performance of any "commercial activity", as defined by paragraph 6.a. of Office of Management and Budget Circular Memorandum A-76, which is performed by Administration employees until at least 30 calendar days after the Administrator of the Administration has presented, in writing, to the President of the Senate, the Speaker of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology of the House of Representatives, a full and complete description of such proposed contract, together with supporting documentation. Such documentation shall include—

(1) a comparison of the cost of such activity as performed by employees of the Administration and the cost of such activity as performed under the proposed contract;

(2) a comparison of the services performed by employees of the Administration and the services to be performed under the proposed contract; and

(3) an assessment of the benefits to the Federal Government of proceeding with the proposed contract.

SEC. 6084. NATIONAL CLIMATE PROGRAM.

(a) Section 4 of the National Climate Program Act (15 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

(b) Section 5(c) of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by designating the third sentence as paragraph (4); and

(3) by striking the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program;

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups;

"(D) review each agency budget request transmitted under subsection (g)(1) and submit an analysis of the requests to the Board for its review;

"(E) be responsible for coordinating interagency participation in international climate-related activities; and

"(F) work with the National Academy of Sciences and other private, academic, State, and local groups in preparing and implementing the 5-year plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grants or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the 5-year plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(c) Section 5(d) of the National Climate Program Act (15 U.S.C. 2904(d)) is amended—

(1) by striking the semicolon at the end of paragraph (7) and inserting in lieu thereof the following: ". Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy; (B) atmospheric data collection and monitoring on a statewide and regional basis; (C) advice to regional, State, and local government agencies regarding climate-related issues; (D) information to users within the State regarding climate and climatic effects; and (E) information to the Secretary regarding the needs of persons within the States for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, which grants shall be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;";

(2) by striking "biennially" in paragraph (9) and inserting in lieu thereof "at least once every four years"; and

(3) by striking "under section 6" in paragraph (9) and inserting in lieu thereof "described in paragraph (7)".

(d) Section 5(e) of the National Climate Program Act (15 U.S.C. 2904(e)) is amended to read as follows:

"(e) CLIMATE PROGRAM POLICY BOARD.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary determines should participate in the Program.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the Program;

"(B) review all agency and department budget requests related to climate transmitted under subsection (g)(1) and submit a report to the Office of Management and Budget concerning such budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of climate data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such contacts.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(e) Section 5(f)(2) of the National Climate Program Act (15 U.S.C. 2904(f)(2)) is amended by inserting "with the Office" immediately after "cooperate".

(f) The first sentence of section 5(g)(1) of the National Climate Program Act (15 U.S.C. 2904(g)(1)) is amended by inserting immediately before the period the following: "and shall transmit a copy of such request to the National Climate Program Office".

(g) Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

(h) There are authorized to be appropriated to the Administration, for purposes of carrying out the provisions of the amendments made by this section, $1,897,000 for fiscal year 1986 and $1,982,000 for fiscal year 1987. Of such funds, at least 25 percent shall be made available for intergovernmental climate-related activities described in section 5(d)(7) of the National Climate Program Act (15 U.S.C. 2904(d)(7)), and at least 20 percent shall be made available during each fiscal year for experimental climate forecast centers described in section 5(d)(8) of the National Climate Program Act (15 U.S.C. 2904(d)(8)).

SEC. 6085. COOPERATIVE AGREEMENTS FOR MAPPING AND CHARTING SURVEYS.

Section 5 of the Act entitled "An Act to define the functions of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (61 Stat. 788, 33 U.S.C. 883e) is amended—

(1) by inserting "(1)" after "SEC. 5.";

(2) by inserting "any Federal agency," after "or subdivision thereof"; and

(3) by adding at the end thereof the following:

"(2) The Secretary of Commerce is authorized to establish the terms of any cooperative agreement entered into under this section, including the amount of funds to be received, and may contribute that portion of the costs incurred by the National Oceanic and Atmospheric Administration, including shiptime and personnel expenses, which the Secretary determines represents the amount of benefits derived by the Administration from the cooperative agreement.".

Subtitle J—Maritime Authorizations

SEC. 6091. MARITIME PROGRAMS.

(a) Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1986 as follows:

(1) for payment of obligations incurred for operating-differential subsidy, not to exceed $335,084,000;

(2) for expenses necessary for research and development activities, not to exceed $9,900,000; and

(3) for expenses necessary for operations and training activities, not to exceed $71,967,000, including not to exceed—

(A) $34,847,000 for maritime education and training expenses, including not to exceed $19,633,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,915,000 for financial assistance to State maritime academies, $3,000,000 for fuel oil assistance to State maritime academy training vessels, and $1,299,000 for expenses necessary for additional training;

(B) $9,277,000 for national security support capabilities, including not to exceed $7,932,000 for reserve fleet expenses, and $1,345,000 for emergency planning/operations; and

(C) $27,843,000 for other operations and training expenses.

(b) Funds are authorized to be appropriated for the use of the Federal Maritime Commission, in the amount of $11,940,000 for fiscal year 1986.

TITLE VII—ENERGY AND RELATED PROGRAMS

Subtitle A—Pipeline Programs

SEC. 7001. NATURAL GAS PIPELINE SAFETY AUTHORIZATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $3,450,000 for the fiscal year ending September 30, 1986.".

SEC. 7002. AUTHORIZATIONS FOR FEDERAL GRANTS-IN-AID.

(a) COMBINED PROGRAM.—Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsections:

"(c) For the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1986.

"(d) Not less than 5 percent of any amounts appropriated for carrying out the Federal grants-in-aid provisions for any fiscal year beginning after September 30, 1985, shall be available only for carrying out the Federal grants-in-aid provisions of section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(d)(2) of such Act (49 U.S.C. App. 1674(d)(2)) is amended—

(A) by striking out "authorized to be appropriated by section 17(b) of this Act" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection"; and

(B) by striking out "(1) of this section" and inserting in lieu thereof "(1) of this subsection".

(2) Section 205(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)(2)) is amended by striking out "authorized to be appropriated by section 214 of this title" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection".

(3) Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended by inserting after "subsection (b)" the following: "or section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c))".

(4) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended by inserting after "subsection (b)" the following: "or (c)".

SEC. 7003. REPORTS.

(a) GRANTS MERGER REPORT.—

(1) MERGER RECOMMENDATIONS.—The Secretary of Transportation shall prepare a report which shall contain details of the Secretary's recommendations with respect to the potential merger and joint administration of the Federal grants-in-aid provisions of section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

(2) CONSULTATION.—In preparing the report required by paragraph (1), the Secretary shall consult with appropriate State authorities. The Secretary shall include in such report a summary of the views and recommendations of such State authorities.

(b) GRANTS ALLOCATION REPORT.—

(1) CONTENTS.—The Secretary of Transportation shall prepare a report which shall contain an explanation of the method by which the Secretary allocates funds to the States under section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

(2) PUBLICATION.—The Secretary shall publish in the Federal Register, as a matter of public information, the explanation contained in the report required by paragraph (1).

(c) REPORT DEADLINE.—The reports required by subsections (a)(1) and (b)(1) shall be submitted to Congress no later than July 1, 1986.

SEC. 7004. HAZARDOUS LIQUID PIPELINE SAFETY AUTHORIZATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $875,000 for the fiscal year ending September 30, 1986.".

SEC. 7005. PIPELINE SAFETY USER FEES.

(a) ESTABLISHMENT.—

(1) SCHEDULE.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") shall establish a schedule of fees based on the usage, in reasonable relationship to volume-miles, miles, revenues, or an appropriate combination thereof, of natural gas and hazardous liquid pipelines. In establishing such schedule, the Secretary shall take into consideration the allocation of departmental resources.

(2) COLLECTION.—The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

(3) LIABILITY.—Fees established under this section shall be assessed to the persons operating—

(A) all pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.); and

(B) all pipeline transmission facilities and all liquefied natural gas facilities subject to the jurisdiction of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.).

(b) TIME OF ASSESSMENT.—The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

(c) USE OF FUNDS.—Funds received under subsection (a) shall be used, to the extent provided for in advance in appropriation Acts, only—

(1) in the case of natural gas pipeline safety fees, for activities authorized under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); and

(2) in the case of hazardous liquid pipeline safety fees, for activities authorized under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.).

(d) FEE SCHEDULE.—Fees established by the Secretary under subsection (a) shall be assessed against all natural gas and hazardous liquids transported by pipelines subject to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 after September 30, 1985, and shall be sufficient to meet the costs of activities described in subsection (c), beginning on October 1, 1985, but at no time shall the aggregate of fees received for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

Subtitle B—Strategic Petroleum Reserve

SEC. 7101. AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS 1986, 1987, AND 1988.

Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Strategic Petroleum Reserve—

(1) to carry out part B of title I of the Energy Policy and Conservation Act (including any drawdown and distribution of the Reserve), except acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve—

(A) for fiscal year 1986, $135,912,000;

(B) for fiscal year 1987, $358,996,000; and

(C) for fiscal year 1988, $156,692,000; and

(2) to carry out part B of title I of the Energy Policy and Conservation Act for the acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve and for any drawdown and distribution of the Reserve—

(A) for fiscal year 1986, $357,548,000;

(B) for fiscal year 1987, $333,695,000; and

(C) for fiscal year 1988, $357,000,000.

SEC. 7102. FILL-RATE OF THE RESERVE; LIMITATION ON UNITED STATES' SHARE OF THE NAVAL PETROLEUM RESERVE.

(a) FILL-RATE OF THE RESERVE.—Section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended by adding the following new paragraph at the end:

"(3) Notwithstanding paragraph (2), beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, the President shall carry out petroleum acquisition, transportation, and injection activities at a level sufficient to assure a minimum average annual fill-rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.".

(b) LIMITATION ON UNITED STATES' SHARE OF THE NAVAL PETROLEUM RESERVE.—Section 160(d)(1) of such Act (42 U.S.C. 6240(d)(1)) is amended—

(1) by striking out "500,000,000 barrels" in subparagraph (A) and inserting in lieu thereof "527,000,000 barrels"; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) acquisition, transportation, and injection activities for the Reserve are being undertaken, beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, at a level sufficient to assure that petroleum products in storage in the Reserve will be increased at a minimum annual average rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace

petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.".

Subtitle C—Federal Energy Conservation Shared Savings

SEC. 7201. SHARED ENERGY SAVINGS.

(a) IN GENERAL.—The National Energy Conservation Policy Act (42 U.S.C. 8201 and following) is amended by adding at the end the following new title:

"TITLE VIII—SHARED ENERGY SAVINGS

"SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.

"The head of a Federal agency may enter into contracts under this title solely for the purpose of achieving energy savings and benefits ancillary to that purpose. Each such contract may, notwithstanding any other provision of law, be for a period not to exceed 25 years. Such contract shall provide that the contractor shall incur costs of implementing energy savings measures, including at least the costs (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a share of any energy savings directly resulting from implementation of such measures during the term of the contract.

"SEC. 802. PAYMENT OF COSTS.

"Any amount paid by a Federal agency pursuant to any contract entered into under this title may be paid only from funds appropriated or otherwise made available to the agency for fiscal year 1986 or any fiscal year thereafter for the payment of energy expenses (and related operation and maintenance expenses).

"SEC. 803. REPORTS.

"Each Federal agency shall periodically furnish the Secretary of Energy with full and complete information on its activities under this title, and the Secretary shall include in the report submitted to Congress under section 550 a description of the progress made by each Federal agency in—

"(1) including the authority provided by this title in its contracting practices; and

"(2) achieving energy savings under contracts entered into under this title.

"SEC. 804. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Federal agency' means an agency defined in section 551(1) of title 5, United States Code, and

"(2) the term 'energy savings' means a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or

"(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.".

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by adding the following at the end:

"TITLE VIII—SHARED ENERGY SAVINGS

"Sec. 801. Authority to enter into contracts.
"Sec. 802. Payment of costs.
"Sec. 803. Reports.
"Sec. 804. Definitions.".

Subtitle D—Biomass Energy and Alcohol Fuels Loan Guarantees

SEC. 7301. BIOMASS ENERGY AND ALCOHOL FUELS LOAN GUARANTEES.

Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by—

(1) striking out "September 30, 1985" and inserting in lieu thereof "June 30, 1986"; and

(2) adding at the end thereof the following: "Notwithstanding any other provision of this subtitle, the Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subtitle made before October 1, 1984, including the amount of the loan guarantee. Nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act.".

Subtitle E—Synthetic Fuels

SEC.7401. SHORT TITLE.

This subtitle may be cited as the "Synthetic Fuels Corporation Act of 1985".

SEC. 7402. CESSATION OF FINANCIAL ASSISTANCE AUTHORITY.

Effective on the date of enactment of this Act, the United States Synthetic Fuels Corporation (hereafter in this subtitle referred to as the "Corporation") may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act for synthetic fuel project proposals, except that nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of this Act.

SEC. 7403. TERMINATION OF THE CORPORATION.

(a) Within 60 days of the date of enactment of this Act, the Directors of the Corporation shall terminate their duties under the Energy Security Act and be discharged.

(b) Within 120 days of the date of enactment of this Act, the Corporation shall terminate, except as otherwise provided in this subtitle, in accordance with subtitle J of part B of title I of the Energy Security Act.

SEC. 7404. DUTIES OF SECRETARY OF THE TREASURY.

(a) Within 60 days of the date of enactment of this Act (or earlier, in the event of absence of a Chairman of the Board of Directors of the Corporation), the Secretary of the Treasury shall assume the duties of the Chairman of the Board of Directors of the Corporation.

(b) Notwithstanding any other provision of law, the duties and responsibilities of the Secretary of the Treasury under subtitle J of part B of title I of the Energy Security Act or this Act may not be transferred to any other Federal department or agency.

(c) Notwithstanding such termination of the Corporation, the Advisory Committee established under section 123 of the Energy Security Act (42 U.S.C 8719) shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of part B of title I of such Act.

(d) To the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act in connection with an award or commitment of financial assistance under such Act, the Secretary shall complete such action within 30 days of the date of enactment of this Act.

SEC. 7405. SALARIES AND COMPENSATION RIGHTS.

(a) The Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation or benefits which each Director, officer, or employee of the Corporation shall be legally entitled to under any contract as of the date of enactment of this Act.

(b) Effective on the date of enactment of this Act, no change in any Director, officer, or employee compensation or benefits shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable.

(c) Effective on the date of enactment of this Act—

(1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code; and

(2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act.

SEC. 7406. REPORT TO THE CONGRESS.

The Corporation shall, within 60 days of the date of enactment of this Act, transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report—

(1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985; and

(2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(b)(3)).

Subtitle F—Uranium Enrichment

SEC. 7501. AUTHORIZATION OF APPROPRIATIONS.

In accordance with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270), there is authorized to be appropriated to the Department of Energy for each of the fiscal years 1986, 1987, and 1988 to carry out uranium enrichment service activities an amount equal to the difference between—

(1) the revenues to be received during each such fiscal year by the Department of Energy in providing uranium enrichment service activities, as estimated in the budget submitted by the President to the Congress for each such fiscal year; and

(2) the amount determined by the Secretary of Energy under section 7502(c)(1) for each such fiscal year.

SEC. 7502. REPAYMENTS TO UNITED STATES TREASURY.

(a) PARTIAL REPAYMENT OF UNRECOVERED COSTS.—

(1) IN GENERAL.—The Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of unrecovered Federal Government costs for uranium enrichment service activities, an amount determined by the Secretary under subsection (c) for each of the fiscal years 1986, 1987, and 1988.

(2) REVENUES IN EXCESS OF EXPENDITURES.—In addition to the payments required under paragraph (1), the Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of amounts identified by the Secretary under

subsection (c)(4)(B), any revenues in excess of expenditures received for the provision of such activities during the 3-year period referred to in paragraph (1).

(b) REPAYMENT SCHEDULE.—The Secretary of Energy may make the repayments required in subsection (a) for any fiscal year on a quarterly basis.

(c) DETERMINATION OF SECRETARY.—

(1) IN GENERAL.—The Secretary of Energy shall determine, in his or her discretion, the amount of partial repayment to be made under subsection (a)(1) for each of the fiscal years 1986, 1987, and 1988, consistent with the financial integrity of the uranium enrichment service activities program during a period of not less than 10 years. The amount of such repayment shall not adversely affect the reliability of the supply of uranium enrichment services at competitive prices for existing and potential customers. The determinations under this paragraph shall be made after notice and opportunity for public comment.

(2) REPAYMENT GOALS.—The Secretary of Energy shall seek to achieve the following repayment amounts under subsection (a)(1):

(A) $110,000,000 for fiscal year 1986;

(B) $150,000,000 for fiscal year 1987; and

(C) $150,000,000 for fiscal year 1988.

(3) SCHEDULE FOR DETERMINATION.—The Secretary of Energy shall make the determination required in paragraph (1) for any fiscal year before the President submits to the Congress the budget for such fiscal year, except that the Secretary may make subsequent revisions in such determination.

(4) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.—The Secretary of Energy shall submit to the Congress any determination made under paragraph (1), together with the reasons underlying such determination.

(B) INITIAL SUBMISSION.—The Secretary shall include in the initial submission under this paragraph an estimate of the amount of prior investment in the uranium enrichment service activities program that remains unrecovered.

SEC. 7503. URANIUM ENRICHMENT REPORT.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and on Interior and Insular Affairs of the House of Representatives a report regarding the effects of the September 19, 1985, decision of the United States District Court for the District of Colorado holding that the utility services uranium enrichment contracts of the Department of Energy are null and void (Western Nuclear Inc. v. F. Clark Huffman, Civil No. 84-C-2315). To the extent that it will not compromise the appeals process or the competitive position of the Department of Energy with regard to uranium enrichment, the report shall identify—

(1) the effects of the decision on—

(A) the operation of the uranium enrichment facilities of the Department of Energy; and

(B) the revenues of the uranium enrichment program; and

(2) how the response of the Department of Energy may mitigate such effects.

Subtitle G—Nuclear Regulatory Commission Annual Charges

SEC. 7601. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

(a) SUBMISSION OF REPORT.—Within 90 days after the date of the enactment of this Act, the Nuclear Regulatory Commission shall submit to the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate a report evaluating the feasibility and necessity of establishing a system for the assessment and collection of annual charges from persons licensed by the Commission pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to fund all or part of the activities conducted by the Commission pursuant to such Act. Such report shall include an analysis of—

(1) the extent to which the Commission's existing statutory or regulatory authority to assess and collect annual charges, including the authority of the Commission to assess and collect fees pursuant to title V of the Independent Offices Appropriation Act of 1952, is adequate to enable the Commission to assess and collect fees commensurate with the value of the benefit rendered to the licensee and the cost to the Commission of rendering such benefit;

(2) the amounts currently assessed and collected by the Commission pursuant to existing statutory or regulatory authority, and the purposes for which such fees are assessed and collected; and

(3) any recommendations of the Commission for expanding the existing statutory authority to assess and collect fees, including the Commission's justification for such expansion.

(b) ASSESSMENT AND COLLECTION.—

(1) IN GENERAL.—Upon the expiration of a period of 45 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) following receipt by the Congress of the report required pursuant to subsection (a), the Nuclear Regulatory Commission shall assess and collect annual charges from its licensees on a fiscal year basis, except that—

(A) the maximum amount of the aggregate charges assessed pursuant to this paragraph in any fiscal year may not exceed an amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 33 percent of the costs incurred by the Commission with respect to such fiscal year; and

(B) any such charge assessed pursuant to this paragraph shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

(2) ESTABLISHMENT OF AMOUNT BY RULE.—The amount of the charges assessed pursuant to this paragraph shall be established by rule.

TITLE VIII—OUTER CONTINENTAL SHELF AND RELATED PROGRAMS

Subtitle A—Amendments to the Outer Continental Shelf Lands Act

SEC. 8001. SHORT TITLE.

This subtitle may be referred to as the "Outer Continental Shelf Lands Act Amendments of 1985".

SEC. 8002. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended in paragraph (4) of section 3 by deleting the word "and" at the end of subparagraph (A); deleting the semicolon at the end of subparagraph (B) and inserting in lieu thereof a period; designating subparagraph (B) as subparagraph (C); and inserting after subparagraph (A) the following new subparagraph (B):

"(B) the distribution of a portion of the receipts from the leasing of mineral resources of the outer Continental Shelf adjacent to State lands, as provided under section 8(g), will provide affected coastal States and localities with funds which may be used for the mitigation of adverse economic and environmental effects related to the development of such resources; and".

SEC. 8003. REVISION OF SECTION 8(g).

Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended to read as follows:

"(g)(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by section 26 of this Act, provide the Governor of such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)-(h) of section 26 of this Act shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)-(h) of section 26 of this Act shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

"(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary of any coastal State. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the United States Treasury.

"(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydro-

carbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

"(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

"(5)(A) When there is a boundary dispute between the United States and a State under section 7 of this Act, the Secretary shall credit to the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 revenues from oil and gas lease sales in the area within three nautical miles of the boundary asserted by the State, if that money has not otherwise been deposited in the separate account established under section 7. Proceeds of the account established under section 7, and the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be distributed as follows:

"(i) If a State is wholly successful in its claim under section 7, such claim shall be satisfied by the money deposited in the escrow account established by section 7. Any excess monies in the section 7 account attributable to such State shall be transferred to the 8(g) account, and any monies due that State, both retrospectively and prospectively, as a result of the 8(g) zone created by the newly established boundary shall be distributed to the State in accordance with the terms of section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985.

"(ii) If the United States is wholly successful in its claim under section 7, the amount of money that is necessary to satisfy the State's share as set forth under section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be distributed from the revenues deposited in the section 7 escrow account. The amounts remaining after the distributions described in this subparagraph shall be paid to the United States pursuant to this section.

"(iii) If the United States or the affected State is partially successful in its claim under section 7, after the distribution under that result, the amount of money that is necessary to satisfy the State as set forth under section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be distributed first from the remaining monies in the section 7 escrow account, and then from the amounts deposited or credited in the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985. For amounts credited, the distribution shall be in accordance with clause (iv). The amounts remaining after the distributions described in this subparagraph shall be paid to the United States pursuant to this section.

"(iv) If there is insufficient money from the applicable oil and gas lease sales deposited in either the account established by section 7 or the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985, the recoupment provisions of section 8006 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be applicable.

"(B) This paragraph applies to all Federal oil and gas lease sales, under this Act, including joint lease sales, occurring after September 18, 1978.

"(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

"(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.".

SEC. 8004. DISTRIBUTION OF 8(g) ACCOUNT.

(a) Prior to January 1, 1986, the Secretary shall distribute to the designated coastal States the sum of:

(1) The amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title, for the period between October 1, 1985, and the date of such distribution, and

(2) The amounts due each such State under subsection (b) of this section for the period prior to October 1, 1985.

(b)(1) The funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title shall be distributed in the following manner as a fair and equitable disposition of such funds derived from bonuses and rents and accrued interest thereon through September 30, 1985:

	($ million)
Louisiana	635
Texas	424
California	375
Alabama	73
Alaska	56
Mississippi	15
Florida	0.03

(2) The Secretary shall distribute to each coastal State 27 percent of the royalties derived from any lease of Federal lands within 3 miles of the seaward boundary of such coastal State and accrued interest thereon which have been deposited through September 30, 1985, in the separate account described in paragraph (1) of this subsection, as a fair and equitable disposition of such royalties.

(3) The amounts derived from bonuses, rents and royalties, and accrued interest thereon through September 30, 1985, remaining in the account after distribution to the States under this subsection shall be transmitted to the miscellaneous receipts account of the United States Treasury.

(4) The acceptance of payment under this section shall satisfy and release any and all claims against the United States arising under, or related to, section 8(g) of the Outer Continental Shelf Lands Act, as it was in effect prior to the date of enactment of section 8003 of this title.

SEC. 8005. IMMOBILIZATION OF BOUNDARIES.

Section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)) is amended by inserting before the semicolon at the end a comma and the following: "except that any boundary between a State and the United States under this Act which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory".

SEC. 8006. RECOUPMENT.

(a) As a fair and equitable disposition of revenues derived between September 18, 1978 and September 30, 1985 from all bonuses, royalties, and other revenues, and accrued interest through September 30, 1985, from any Federal leases within three miles of the seaward boundary of any coastal State, including all such revenues which should have been, but which were not, deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title, such coastal State shall be entitled to an additional amount equal to:

(1) 27 percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under section 8(a)(1) of the Outer Continental Shelf Lands Act), excluding Federal income and windfall profits taxes, and accrued interest through September 30, 1985, derived from any lease of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary of such coastal State, less

(2) the amounts paid to such coastal State under section 8004(b) of this title.

(b) The additional amount due each State under subsection (a) of this section shall be paid from a separate Treasury account which is constituted as set forth in subsection (c) of this section. The total amount contained in such account on the last business day of each month shall be paid to each State in an amount proportional to that State's share of the total additional amounts due to all States under subsection (a) of this section.

(c) Beginning on October 1, 1986, the Secretary shall deposit into the account described in subsection (b) of this section from the separate account described in section 8(g)(2) of the Outer Continental Shelf Lands Act, as amended by this title, 10 percent of all revenues deposited after October 1, 1986, into the account described in such section 8(g)(2) until such time as the amount due to all coastal States under subsection (a) of this section has been paid.

Subtitle B—Coordination and Consultation With Affected States and Local Governments

SEC. 8101. REVISION OF SECTION 19(c).

(a) Section 19(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1345(c)) is amended to read as follows:

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that acceptance of such recommendations would provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. In determining the national interest, the Secretary shall equally weigh the need for exploration, development, and production of oil and gas from the area either proposed to be leased or leased and the need to protect other resources and uses of the coastal zone and the marine environment, in-

cluding living marine resources, affected by such exploration, development and production activities. The Secretary shall inform the Governor in writing of his decision together with supporting reasons and information to accept or reject a recommendation or to implement any alternative means to protect the national interest identified in consultation with the Governor. The Secretary's decision shall address each specific point contained in the Governor's recommendation. Should the Secretary reject a recommendation, he shall, no less than thirty days prior to proceeding with the proposed action, provide the Governor with the findings on which his decision is based. The scope of judicial review of the Secretary's decision shall be that set out in section 706(2)(A) of title 5, United States Code.

(b)(1) Section 19(d) of such Act is repealed.

(2) Subsection (e) of section 19 of such Act is redesignated as subsection (d).

Subtitle C—Use of American-Built Rigs For OCS Drilling

SEC. 8201. USE OF AMERICAN-BUILT RIGS FOR OCS DRILLING.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following new subsection:

"(j)(1) Any vessel, rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

"(A) in the United States; and

"(B) from articles, materials, or supplies at least 50 percent of which, by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

"(2) The requirements of paragraph (1) shall not apply to any vessel, rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, on or before October 1, 1985.

"(3) The Secretary may waive—

"(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a vessel, rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States, and

"(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of vessels, rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

TITLE IX—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH PROGRAMS

SEC. 9100. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

This title may be cited as the "Medicare and Medicaid Budget Reconciliation Amendments of 1985".

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PART 1—PROVISIONS RELATING TO PART A OF MEDICARE

Subpart A—Hospital Reimbursement

SEC. 9101. RATE OF INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

(a) EXTENSION OF CURRENT FREEZE ON PAYMENT RATES THROUGH FEBRUARY 28, 1986.—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended to read as follows:

"(c) EXTENSION PERIOD DEFINED.—

"(1) HOSPITAL PAYMENTS.—For purposes of subsection (a), the term 'extension period' means the period beginning on October 1, 1985, and ending on February 28, 1986.".

(b) APPLICABLE PERCENTAGE INCREASE.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended to read as follows:

"(B)(i) For purposes of subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of subsection (d) for discharges occurring during a fiscal year, the 'applicable percentage increase' shall be—

"(I) for fiscal year 1986, 1 percent,

"(II) for fiscal years 1987 and 1988, a percentage determined by the Secretary pursuant to subsection (e)(4), but not to exceed the market basket percentage increase (as defined in clause (ii)), and

"(III) for fiscal year 1989 and subsequent fiscal years, the percentage determined by the Secretary pursuant to subsection (e)(4).

"(ii) For purposes of clause (i), the term 'market basket percentage increase' means, with respect to cost reporting periods and discharges occurring in a fiscal year, the percentage, estimated by the Secretary before the beginning of the period or fiscal year, by which the cost of the mix of goods and services (including personnel costs but excluding nonoperating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for the period or fiscal year will exceed the cost of such mix of goods and services for the preceding 12-month cost reporting period or fiscal year.".

(c) CONFORMING AMENDMENTS.—(1) Section 1886(d)(3)(A) of such Act (42 U.S.C. 1395ww(d)(3)(A)) is amended by striking out "for fiscal year 1985" and inserting in lieu thereof "for each of fiscal years 1985 and 1986".

(2) Section 1886(e)(3) of such Act is amended by striking out "(instead of the applicable percentage increase described in subsection (b)(3)(B))".

(3) Section 1886(e)(4) of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

(d) EFFECTIVE DATE OF FREEZE EXTENSION.—The amendments made by subsection (a) shall take effect on December 19, 1985, and the amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(e) EFFECTIVE DATE FOR INCREASE.—

(1) PPS HOSPITALS, DRG PORTION OF PAYMENT.—In the case of a subsection (d) hospital (as defined in paragraph (4))—

(A) the amendments made by subsection (b) shall apply to payments made under section 1886(d)(1)(A) of such Act made on the basis of discharges occurring on or after March 1, 1986; and

(B) for discharges occurring on or after October 1, 1986, the applicable percentage increase (described in section 1886(b)(3)(B)) for discharges occurring during fiscal year 1986 shall be deemed to have been 1 percent.

(2) PPS HOSPITALS, HOSPITAL SPECIFIC PORTION OF PAYMENT.—In the case of a subsection (d) hospital—

(A) the amendments made by subsection (b) shall apply to payments under section 1886(d)(1)(A) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the cost reporting period beginning during fiscal year 1986, the applicable percentage increase (as defined in section 1886(b)(3)(B) of such Act) for the—

(i) first 5 months of the cost reporting period shall be 0 percent, and

(ii) for the remaining 7 months of the cost reporting period shall be 1 percent; and

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1936 shall be deemed to have been 1 percent.

(3) PPS-EXEMPT HOSPITALS.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1986, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) were equal to 7/12 of 1 percent; and

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1986 shall be deemed to have been 1 percent.

(4) DEFINITION.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(1)(B) of the Social Security Act.

SEC. 9102. ONE-YEAR EXTENSION OF PPS TRANSITION.

(a) ONE-YEAR DELAY OF FULL IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1886(d)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(A)) is amended by striking out "1986" in clauses (ii) and (iii) and inserting in lieu thereof "1987".

(b) NEW TARGET AND DRG PERCENTAGES FOR REMAINDER OF FISCAL YEAR 1986.—Section 1886(d)(1)(C) of such Act is amended—

(1) by striking out ", or discharges occurring",

(2) by striking out "and" at the end of clause (ii),

(3) by striking out "(iii) on or after October 1, 1985, and before October 1, 1986" in clause (iii) and inserting in lieu thereof "(iv) on or after October 1, 1986, and before October 1, 1987", and

(4) by inserting after clause (ii) the following new clause:

"(iii) on or after October 1, 1985, and before October 1, 1986, the 'target percentage' is 45 percent and the 'DRG percentage' is 55 percent; and".

(c) NEW BLENDED NATIONAL-REGIONAL DRG RATE FOR REMAINDER OF FISCAL YEAR 1986.—Section 1886(d)(1)(D) of such Act is amended—

(1) by striking out "cost reporting periods beginning, or", and

(2) by striking out "1985" and "1986" and inserting in lieu thereof "1986" and "1987", respectively, each place it appears.

(d) EFFECTIVE DATES.—

(1) DELAY IN FINAL TRANSITION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) CHANGE IN HOSPITAL SPECIFIC PERCENTAGE.—The amendments made by subsection (b) shall apply—

(A) to cost reporting periods beginning on or after October 1, 1985, but

(B) notwithstanding subparagraph (A), for a hospital's cost reporting period beginning during fiscal year 1986, for purposes of section 1886(d)(1)(A) of the Social Security Act—

(i) during the first 5 months of the period the "target percentage" is 50 percent and the "DRG percentage" is 50 percent, and

(ii) during the remaining 7 months of the period the "target percentage" is 45 percent and the "DRG percentage" is 55 percent.

(3) CHANGE IN BLENDED RATE.—The amendments made by subsection (c) shall apply to discharges occurring on or after March 1, 1986.

SEC. 9103. APPLICATION OF REVISED HOSPITAL WAGE INDEX.

(a) APPLICATION OF REVISED INDEX PROSPECTIVELY.—(1) Section 2316(b) of the Deficit Reduction Act of 1984 (98 Stat. 1081) is amended to read as follows:

"(b) The Secretary shall adjust the payment amounts for hospitals for discharges occurring after March 1, 1986, to reflect the changes the Secretary has promulgated in final regulations (on September 3, 1985) relating to the hospital wage index under section 1886(d)(3)(E) of the Social Security Act. For discharges occurring after September 30, 1986, the Secretary shall provide for such

periodic adjustments in the appropriate wage index used under that section as may be necessary, taking into account changes in the wage levels and relative proportions of full-time and part-time workers.".

(2) The amendment made by paragraph (1) shall be effective as if it had been included in the Deficit Reduction Act of 1984.

(b) STUDY OF METHODOLOGY FOR AREA WAGE ADJUSTMENT FOR CENTRAL CITIES.—(1) The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, shall collect information and shall develop one or more methodologies to permit the adjustment of the wage indices used for purposes of sections 1886(d)(2)(C)(ii), 1886(d)(2)(H), and 1886(d)(3)(E) of the Social Security Act, in order to more accurately reflect hospital labor markets, by taking into account variations in wages and wage-related costs between the central city portion of urban areas and other parts of urban areas.

(2) The Secretary shall report to Congress on the information collected and the methodologies developed under paragraph (1) not later than March 1, 1987. The report shall include a recommendation as to the feasibility and desirability of implementing such methodologies.

SEC. 9104. PAYMENTS TO HOSPITALS FOR INDIRECT COSTS OF MEDICAL EDUCATION.

(a) PAYMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended to read as follows:

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except as follows:

"(i) The amount of such additional payment shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A), by (II) the indirect teaching adjustment factor described in clause (ii).

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor for discharges occurring—

"(I) on or after March 1, 1986, and before October 1, 1988, is equal to $2x((1+r)^{.405}-1)$, or

"(II) on or after October 1, 1988, is equal to $1.5x((1+r)^{.5795}-1)$,

where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds.

"(iii) In determining such adjustment the Secretary shall not distinguish between those interns and residents who are employees of a hospital and those interns and residents who furnish services to a hospital but are not employees of such hospital.

"(iv) In determining such adjustment, the Secretary shall continue to count interns and residents assigned to outpatient services of the hospital as part of the calculation of the full-time-equivalent number of interns and residents.".

(b) ADJUSTMENT OF PAYMENT AMOUNTS.—

(1) RESTANDARDIZING DRG PAYMENT AMOUNTS TO REFLECT CHANGE IN FORMULA.—Section 1886(d)(2)(C)(i) of such Act is amended by inserting "(taking into account, for discharges occurring after September 30, 1986, the amendments made by section 9104(a) of the Medicare and Medicaid Budget Reconciliation Amendments of 1985)" after "medical education costs".

(2) PROVIDING FOR SYSTEM SAVINGS FROM CHANGE IN FORMULA.—Subparagraph (C) of section 1886(d)(3) of such Act is amended—

(A) by inserting "(i)" after "(C)",

(B) by inserting "FOR FISCAL YEAR 1985" after "NEUTRALITY",

(C) by striking out "The Secretary" and inserting in lieu thereof "For discharges occurring in fiscal year 1985, the Secretary", and

(D) by adding at the end the following new clause:

"(ii) REDUCING FOR SAVINGS FROM AMENDMENT TO INDIRECT TEACHING ADJUSTMENT FOR DISCHARGES AFTER SEPTEMBER 30, 1986.—For discharges occurring after September 30, 1986, the Secretary shall further reduce each of the average standardized amounts (in a proportion which takes into account the differing effects of the standardization effected under paragraph (2)(C)(i)) so as to provide for a reduction in the total of the payments (attributable to this paragraph) made for discharges occurring—

"(I) on or after October 1, 1986, and before October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) that would have resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 if the factor described in clause (ii)(II) of paragraph (5)(B) were applied for discharges occurring during such period instead of the factor described in clause (ii)(I) of that paragraph, and

"(II) on or after October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) for those discharges that has resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985.".

(3) CONFORMING AMENDMENT.—Clauses (i)(I) and (ii)(I) of section 1886(d)(3)(D) of such Act are each amended by inserting "or reduced" after "(B), and adjusted".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to discharges occurring on or after March 1, 1986.

(2) The amendments made by this section shall not first be applied to discharges occurring as of a date unless, for discharges occurring on that date, the amendments made by section 9105 are also being applied.

SEC. 9105. PAYMENTS FOR HOSPITALS WHICH SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.

(a) PAYMENT FOR HOSPITALS WHICH SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(F)(i) For discharges occurring on or after March 1, 1986, and before October 1, 1988, the Secretary shall provide, in accordance with this subparagraph, for an additional payment amount for each subsection (d) hospital which—

"(I) serves a significantly disproportionate number of low-income patients (as defined in clause (v)), or

"(II) is located in an urban area, has 100 or more beds, and can demonstrate that its net inpatient care revenues (excluding any of such revenues attributable to this title or State plans approved under title XIX), during the cost reporting period in which the discharges occur, for indigent care from State and local government sources exceed 30 percent of its total of such revenues during the period.

"(ii) The amount of such payment for each discharge shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A) for that discharge, by (II) the disproportionate share adjustment percentage established under clause (iii) or (iv) for the cost reporting period in which the discharge occurs.

"(iii) The disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (i)(II) is equal to 15 percent.

"(iv) The disproportionate share adjustment percentage for a cost reporting period for a hospital that is not described in clause (i)(II) and that—

"(I) is located in an urban area and has 100 or more beds, is equal to the lesser of 15 percent, or the percent determined in accordance with the following formula: (P-15)(.5) + 2.5, where 'P' is the hospital's disproportionate patent percentage (as defined in clause (vi));

"(II) is located in an urban area and has less than 100 beds, is equal to 5 percent; or

"(III) is located in a rural area, is equal to 4 percent.

"(v) In this subparagraph, a hospital 'serves a significantly disproportionate number of low income patients' for a cost reporting period if the hospital has a disproportionate patient percentage (as defined in clause (vi)) for that period which equals, or exceeds—

"(I) 15 percent, if the hospital is located in an urban area and has 100 or more beds,

"(II) 40 percent, if the hospital is located in an urban area and has less than 100 beds, or

"(III) 45 percent, if the hospital is located in a rural area.

"(vi) In this subparagraph, the term 'disproportionate patient percentage' means, with respect to a cost reporting period of a hospital, the sum of—

"(I) the fraction (expressed as a percentage), the numerator of which is the number of such hospital's patient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of this title and were entitled to supplementary security income benefits (excluding any State supplementation) under title XVI of this Act, and the denominator of which is the number of such hospital's patient days for such fiscal year which were made up of patients who (for such days) were entitled to benefits under part A of this title, and

"(II) the fraction (expressed as a percentage), the numerator of which is the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, but who were not entitled to benefits under part A of this title, and the denominator of which is the total number of the hospital's patient days for such period.".

(b) RESTANDARDIZING DRG PAYMENT AMOUNTS TO REFLECT DISPROPORTIONATE SHARE PAYMENTS.—Section 1886(d)(2)(C) of such Act is amended—

(1) by striking out "and" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(iv) for discharges occurring on or after October 1, 1986, and before October 1, 1988, excluding an estimate of the additional payments to certain hospitals to be made under paragraph (5)(F).".

(c) CONFORMING AMENDMENT.—Section 1886(d)(5)(C)(i) of such Act is amended by striking out ", and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title".

(d) CBO REPORT.—The Congressional Budget Office shall study, and report to Congress not later than January 1, 1987, on the impact of the implementation of this section on hospitals, including the appropriateness of the factors used in determining which hospitals are eligible for additional payments under section 1886(d)(5)(F) of the Social Security Act and the amount of the additional payments made to those hospitals.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after March 1, 1986.

SEC. 9106. TREATMENT OF CERTAIN RURAL OSTEOPATHIC HOSPITALS AS RURAL REFERRAL CENTERS.

(a) IN GENERAL.—Section 1886(d)(5)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by inserting before the period at the end of the second sentence the following: "and which shall not require a rural osteopathic hospital to have more than 3,000 discharges in a year in order to be classified as a rural referral center".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after January 1, 1986.

SEC. 9107. RETURN ON EQUITY CAPITAL FOR INPATIENT HOSPITAL SERVICES AND OTHER SERVICES.

(a) INPATIENT HOSPITAL SERVICES.—

(1) PHASE-DOWN IN PAYMENT FOR RETURN ON EQUITY CAPITAL.—Section 1886(g)(2) of the Social Security Act (42 U.S.C. 1395ww(g)(2)) is amended—

(A) by inserting "the applicable percentage (described in subparagraph (B)) of" before "the average of the rates of interest",

(B) by inserting "(A)" after "(2)", and

(C) by adding at the end the following new subparagraph:

"(B) In this paragraph, the 'applicable percentage' is—

"(i) 75 percent, for cost reporting periods beginning during fiscal year 1987,

"(ii) 50 percent, for cost reporting periods beginning during fiscal year 1988,

"(iii) 25 percent, for cost reporting periods beginning during fiscal year 1989, and

"(iv) 0 percent, for cost reporting periods beginning on or after October 1, 1989.".

(2) EXCLUSION FROM PROSPECTIVE PAYMENT.—The second sentence of section 1886(a)(4) of such Act is amended—

(A) by inserting "a return on equity capital," after "anesthetist,", and

(B) by inserting "other" before "capital-related costs".

(b) OTHER SERVICES.—

(1) LIMITATION ON RATE.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(P) If such regulations provide for the payment for a return on equity capital (other than with respect to costs of inpatient hospital services), the rate of return to be recognized, for determining the reasonable cost of services furnished in a cost reporting period, shall be equal to the average of the rates of interest, for each of the months any part of which is included in the period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.".

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(B) of such Act is amended—

(A) by striking out "any fiscal period" and "such fiscal period" and inserting in lieu thereof "any cost reporting period" and "the period", respectively, and

(B) by striking out "not exceed one and one-half times" in the second sentence and inserting in lieu thereof "be equal to".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1986.

(2) The amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985.

SEC. 9108. CONTINUATION OF MEDICARE REIMBURSEMENT WAIVERS FOR CERTAIN HOSPITALS PARTICIPATING IN REGIONAL HOSPITAL REIMBURSEMENT DEMONSTRATIONS.

(a) CONTINUATION OF WAIVERS.—A hospital reimbursement control system which, on January 1, 1985, was carrying out a demonstration under a contract which had been approved by the Secretary of Health and Human Services pursuant to section 222(a) of the Social Security Amendments of 1972, or under section 402 of the Social Security Amendments of 1967 (as amended by section 222(b) of the Social Security Amendments of 1972), shall be deemed to meet the requirements of section 1886(c)(1)(A) of the Social Security Act if such system applies—

(1) to substantially all non-Federal acute care hospitals (as defined by the Secretary) in the geographic area served by such system on January 1, 1985, and

(2) to the review of at least 75 percent of—

(A) all revenues or expenses in such geographic area for inpatient hospital services, and

(B) revenues or expenses in such geographic area for inpatient hospital services provided under the State's plan approved under title XIX.

(b) APPROVAL.—In the case of a hospital cost control system described in subsection (a), the requirements of section 1886(c) of the Social Security Act which apply to States shall instead apply to such system and, for such purposes, any reference to a State is deemed a reference to such system.

(c) EFFECTIVE DATE.—This section shall become effective on the date of the enactment of this Act.

SEC. 9109. FOUR-YEAR TEST FOR STATE WAIVERS FOR CERTAIN STATES.

(a) IN GENERAL.—Section 1886(c) of the Social Security Act (42 U.S.C 1395ww(c)) is amended by adding at the end the following new paragraph:

"(7) In the case of a State which made a request under paragraph (5) before December 31, 1984, for the approval of a State hospital reimbursement control system and which request was approved—

"(A) in applying paragraphs (1)(C) and (6), a reference to a '36-month period' is deemed a reference to a '48-month period', and

"(B) in order to allow the State the opportunity to provide the assurances described in paragraph (1)(C) for a 48-month period, the Secretary may not discontinue payments under the system, under the authority of paragraph (3)(A) because the Secretary has reason to believe that such assurances are not being (or will not be) met, before July 1, 1986.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 9110. ASSET VALUATION FOR DONATIONS OF STATE PROPERTY TO NONPROFIT CORPORATIONS.

(a) GENERAL RULE.—Section 1861(v)(1)(O) of the Social Security Act (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) by inserting ", except as provided in clause (iv)," in clause (i) after "such regulations shall provide", and

(2) by adding at the end the following new clause:

"(iv) In the case of the transfer of a hospital from ownership by a State to ownership by a nonprofit corporation without monetary consideration, the basis for capital allowances to the new owner shall be the book value of the hospital to the State at the time of the transfer.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applied as though they were originally included in the Deficit Reduction Act of 1984.

SEC. 9111. PAYMENTS TO SOLE COMMUNITY HOSPITALS.

(a) ADJUSTMENT TO PAYMENT AMOUNT.—Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended by inserting after the second sentence thereof the following: "In the case of a sole community hospital which experiences, in any cost reporting period after the cost reporting period which was used as the base for determining the target amount for payments to such hospital under paragraph (1)(A)(i)(I), a significant increase in operating costs attributable to the addition of new inpatient facilities or services at such hospital (including the opening of a special care unit), the Secretary shall provide for such adjustment to the payment amounts under this subsection for such cost reporting period and subsequent cost reporting periods as may be necessary to reasonably compensate such hospital for such increased costs.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1989.

(c) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of the amendment made by subsection (a). The Secretary shall report the results of such study, including recommendations for a permanent mechanism to take into account needed expansions of services by sole community hospitals and the hospital-specific medicare payment rates thereof, to the Congress prior to January 1, 1987.

SEC. 9112. INDIRECT TEACHING ADJUSTMENT FOR CERTAIN CLINICS.

(a) IN GENERAL—Section 602(k) of the Social Security Amendments of 1983 (97 Stat. 165) is amended by inserting "(1)" after "(k)" and by adding at the end the following new paragraphs:

"(2) In the case of a hospital which is receiving payments pursuant to a waiver under paragraph (1), payment of the adjustment for indirect costs of approved educational activities shall be made as if the hospital were receiving under part A of title XVIII of the Social Security Act all the payments which are made under part B of such title solely by reason of such waiver.

"(3) Any waiver granted under paragraph (1) shall provide that, with respect to those items and services billed under part B of title XVIII of the Social Security Act solely by reason of such waiver—

"(A) payment under such part shall be equal to 100 percent of the reasonable charge or other applicable payment base for the items and services; and

"(B) the entity furnishing the items and services must agree to accept the amount paid pursuant to subparagraph (A) as the full charge for the items and services.".

(b) EFFECTIVE DATES.—(1) Section 602(k)(2) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to cost reporting periods beginning on or after January 1, 1986.

(2) Section 602(k)(3) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to items and services furnished after the end of the 10-day period beginning on the date of the enactment of this Act.

SEC. 9113. REPORT ON IMPACT OF OUTLIER AND TRANSFER POLICY ON RURAL HOSPITALS.

(a) REVIEW.—The Secretary of Health and Human Services shall review the impact of policies respecting outliers and patient transfers on payments under section 1886(d) of the Social Security Act to rural hospitals (particularly on rural hospitals with less than 100 beds).

(b) REPORT.—The Secretary shall report to Congress on the findings of the review not later than January 1, 1987, and shall include in the report recommendations on changes in policies respecting outliers and patient transfers to the extent they adversely affect rural hospitals.

SEC. 9114. INFORMATION ON IMPACT OF PPS PAYMENTS ON HOSPITALS.

(a) DISCLOSURE OF INFORMATION.—The Secretary of Health and Human Services shall make available to the Prospective Payment Assessment Commission, the Congressional Budget Office, the Comptroller General, and the Congressional Research Service the most current information on the payments being made under section 1886 of the Social Security Act to individual hospitals. Such information shall be made available in a manner that permits examination of the impact of such section on hospitals.

(b) CONFIDENTIALITY.—Information disclosed under subsection (a) shall be treated as confidential and shall not be subject to further disclosure in a manner that permits the identification of individual hospitals.

SEC. 9115. SPECIAL RULES FOR IMPLEMENTATION OF SUBPART.

(a) WAIVER OF PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this subpart and implementing the amendments made by this subpart.

(b) USE OF INTERIM FINAL REGULATIONS.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subpart and the amendments made by this subpart.

Subpart B—Miscellaneous Provisions

SEC. 9121. RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.

(a) REQUIREMENT OF MEDICARE HOSPITAL PROVIDER AGREEMENTS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of a hospital, to comply with the requirements of section 1867 to the extent applicable.".

(b) REQUIREMENTS.—Title XVIII of such Act is amended by inserting after section 1866 the following new section:

"EXAMINATION AND TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND WOMEN IN ACTIVE LABOR

"SEC. 1867. (a) MEDICAL SCREENING REQUIREMENT.—In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this title) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1)) exists or to determine if the individual is in active labor (within the meaning of subsection (e)(2)).

"(b) NECESSARY STABILIZING TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND ACTIVE LABOR.—

"(1) IN GENERAL.—If any individual (whether or not eligible for benefits under this title) comes to a hospital and the hospital determines that the individual has an emergency medical condition or is in active labor, the hospital must provide either—

"(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition or to provide for treatment of the labor, or

"(B) for transfer of the individual to another medical facility in accordance with subsection (c).

"(2) REFUSAL TO CONSENT TO TREATMENT.—A hospital is deemed to meet the requirement of paragraph (1)(A) with respect to an individual if the hospital offers the individual the further medical examination and treatment described in that paragraph but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the examination or treatment.

"(3) REFUSAL TO CONSENT TO TRANSFER.—A hospital is deemed to meet the requirement of paragraph (1) with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with subsection (c) but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the transfer.

"(c) RESTRICTING TRANSFERS UNTIL PATIENT STABILIZED.—

"(1) RULE.—If a patient at a hospital has an emergency medical condition which has not been stabilized (within the meaning of subsection (e)(4)(B)) or is in active labor, the hospital may not transfer the patient unless—

"(A)(i) the patient (or a legally responsible person acting on the patient's behalf) requests that the transfer be effected, or

"(ii) a physician (within the meaning of section 1861(r)(1)), or other qualified medical personnel when a physician is not readily available in the emergency department, has signed a certification that, based upon the reasonable risks and benefits to the patient, and based upon the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer; and

"(B) the transfer is an appropriate transfer (within the meaning of paragraph (2)) to that facility.

"(2) APPROPRIATE TRANSFER.—An appropriate transfer to a medical facility is a transfer—

"(A) in which the receiving facility—

"(i) has available space and qualified personnel for the treatment of the patient, and

"(ii) has agreed to accept transfer of the patient and to provide appropriate medical treatment;

"(B) in which the transferring hospital provides the receiving facility with appropriate medical records (or copies thereof) of the examination and treatment effected at the transferring hospital;

"(C) in which the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and

"(D) which meets such other requirements as the Secretary may find necessary in the interest of the health and safety of patients transferred.

"(d) ENFORCEMENT.—

"(1) AS REQUIREMENT OF MEDICARE PROVIDER AGREEMENT.—If a hospital knowingly and willfully, or negligently, fails to meet the requirements of this section, such hospital is subject to—

"(A) termination of its provider agreement under this title in accordance with section 1866(b), or

"(B) at the option of the Secretary, suspension of such agreement for such period of time as the Secretary determines to be appropriate, upon reasonable notice to the hospital and to the public.

"(2) CIVIL MONETARY PENALTIES.—In addition to the other grounds for imposition of a civil money penalty under section 1128A(a), a participating hospital that knowingly violates a requirement of this section and the responsible physician in the hospital with respect to such a violation are each subject, under that section, to a civil money penalty of not more than $25,000 for each such violation. As used in the previous sentence, the term 'responsible physician' means, with respect to a hospital's violation of a requirement of this section, a physician who—

"(A) is employed by, or under contract with, the participating hospital, and

"(B) acting as such an employee or under such a contract, has professional responsibility for the provision of examinations or treatments for the individual, or transfers of the individual, with respect to which the violation occurred.

"(3) CIVIL ENFORCEMENT.—

"(A) PERSONAL HARM.—Any individual who suffers personal harm as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for personal injury under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

"(B) FINANCIAL LOSS TO OTHER MEDICAL FACILITY.—Any medical facility that suffers a financial loss as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for financial loss, under

the law of the State in which the hospital is located, and such equitable relief as is appropriate.

"(C) LIMITATIONS ON ACTIONS.—No action may be brought under this paragraph more than two years after the date of the violation with respect to which the action is brought.

"(e) DEFINITIONS.—In this section:

"(1) The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(2) The term 'active labor' means labor at a time at which—

"(A) delivery is imminent,

"(B) there is inadequate time to effect safe transfer to another hospital prior to delivery, or

"(C) a transfer may pose a threat of the health and safety of the patient or the unborn child.

"(3) The term 'participating hospital' means hospital that has entered into a provider agreement under section 1866 and has, under the agreement, obligated itself to comply with the requirements of this section.

"(4)(A) The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

"(B) The term 'stabilized' means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from the transfer of the individual from a facility.

"(5) The term 'transfer' means the movement (including the discharge) of a patient outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of a patient who (A) has been declared dead, or (B) leaves the facility without the permission of any such person.

"(f) PREEMPTION.—The provisions of this section do not preempt any State or local law requirement, except to the extent that the requirement directly conflicts with a requirement of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins at least 90 days after the date of the enactment of this Act.

(d) REPORT.—The Secretary of Health and Human Services shall, not later than 6 months after the effective date described in subsection (c), report to Congress on the methods to be used for monitoring and enforcing compliance with section 1867 of the Social Security Act.

SEC. 9122. REQUIREMENT FOR MEDICARE HOSPITALS TO PARTICIPATE IN CHAMPUS AND CHAMPVA PROGRAMS.

(a) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under any health plan contracted for under section 1079 or 1086 of title 10, or under section 613 of title 38, United States Code, in accordance with admission practices, payment methodology, and amounts as prescribed under joint regulations issued by the Secretary and by the Secretaries of Defense and Transportation, in implementation of sections 1079 and 1086 of title 10, United States Code.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to agreements entered into or renewed on or after the date of the enactment of this Act, but shall apply only to inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987.

(c) REFERENCE TO STUDY REQUIRED.—For a study of the use by CHAMPUS of the medicare prospective payment system, see section 634 of the Department of Defense Authorization Act, 1985 (Public Law 98-525), the deadline for which is extended under section 2002 of this Act.

(d) REPORT.—The Secretary of Health and Human Services shall report to Congress periodically on the number of hospitals that have terminated or failed to renew an agreement under section 1866 of the Social Security Act as a result of the additional conditions imposed under the amendments made by subsection (a).

SEC. 9123. EXTENSION AND PAYMENT FOR HOSPICE CARE.

(a) ELIMINATION OF SUNSET.—Section 122(h)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248, 96 Stat. 362), relating to the end of the effective date for hospice care, is amended—

(1) in subparagraph (A)—

(A) by striking out "(h)(1)(A) Subject to subparagraph (B), the" and inserting in lieu thereof "(h)(1) The", and

(B) by striking out ", and before October 1, 1986", and

(2) by striking out subparagraph (B).

(b) INCREASE IN PAYMENT OF DAILY RATES FOR HOSPICE CARE.—(1) Subparagraph (B) of section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended to read as follows:

"(B) Notwithstanding subparagraph (A), for hospice care furnished on or after January 1, 1986, the daily rate of payment per day for routine home care shall be $63.17 and the daily rate of payment for other services included in hospice care shall be the daily rate of payment recognized under subparagraph (A) as of July 1, 1985, increased by $10.".

(2) Subparagraph (C) of such section is amended by striking out "1985" and inserting in lieu thereof "1986".

SEC. 9124. LIMITING THE PENALTY FOR LATE ENROLLMENT IN PART A.

(a) LIMITING PENALTY TO 10 PERCENT AND TWICE THE PERIOD DURING WHICH NOT ENROLLED.—Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(7) any percent increase effected under section 1839(b) in an individual's monthly premium may not exceed 10 percent and shall only apply to premiums paid during a period equal to twice the number of months in the full 12-month periods described in that section.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(3) shall apply to premiums paid for months beginning with April 1986.

(2) In applying that amendment, months (before, during, or after April 1986) in which an individual was required to pay a premium increased under the section that was so amended shall be taken into account in determining the month in which the premium will no longer be subject to an increase under that section as so amended.

SEC. 9125. PROMULGATION OF INPATIENT HOSPITAL DEDUCTIBLE.

(a) CHANGE IN DEADLINE.—Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)) is amended by striking out "October 1" and inserting in lieu thereof "September 15".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 1985.

SEC. 9126. ACCESS TO SKILLED NURSING FACILITIES.

(a) OPTIONAL PROSPECTIVE RATES FOR CERTAIN SKILLED NURSING FACILITIES.—Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(d)(1) Any skilled nursing facility may choose to be paid under this subsection on the basis of a prospective payment for all routine service costs (and capital-related costs) of extended care services provided in a fiscal year if such facility had, in the preceding fiscal year, fewer than 1,500 patient days with respect to which payments were made under this title. Such prospective payment shall be in lieu of payments which would otherwise be made for routine service costs pursuant to section 1861(v) and subsections (a) through (c) of this section and capital-related costs pursuant to section 1861(v). This subsection shall not apply to a facility for any fiscal year immediately following a fiscal year in which such facility had 1,500 or more patient days with respect to which payments were made under this title, without regard to whether payments were made under this subsection during such preceding fiscal year.

"(2)(A) The amount of the payment under this section shall be determined on a per diem basis.

"(B) Subject to the limitations of subparagraph (C), for skilled nursing facilities located—

"(i) in an urban area, the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in urban areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels, and

"(ii) in a rural area the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in rural areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels.

"(C) The per diem amounts determined under subparagraph (B) shall not exceed the limit on routine service costs determined

under subsection (a) with respect to the facility, adjusted to take into account average capital-related costs with respect to the type and location of the facility.

"(3) For purposes of this subsection, urban and rural areas shall be determined in the same manner as for purposes of subsection (a), and the term 'region' shall have the same meaning as under section 1886(d)(2)(D).

"(4) The Secretary shall establish the prospective payment amounts for each fiscal year at least 90 days prior to the beginning of such fiscal year, on the basis of the most recent data available for a 12-month period. A skilled nursing facility must notify the Secretary of its intention to be paid pursuant to this subsection for a fiscal year within 60 days after the Secretary establishes the final prospective payment amounts for such fiscal year.

"(5) The Secretary shall provide for a simplified cost report to be filed by facilities being paid pursuant to this subsection, which shall require only the cost information necessary for determining prospective payment amounts pursuant to paragraph (2) and reasonable costs of ancillary services.

"(6) In lieu of payment on a cost basis for ancillary services provided by a facility which is being paid pursuant to this subsection, the Secretary may pay for such ancillary services on a reasonable charge basis if the Secretary determines that such payment basis will provide an equitable level of reimbursement and will ease the reporting burden of the facility.".

(b) PUBLICATION OF DATA RELATING TO ADJUSTMENTS TO SNF LIMITS.—Section 1888(c) of such Act is amended by adding at the end thereof the following: "The Secretary shall publish the data and criteria to be used for purposes of this subsection on an annual basis.".

(c) REINSTATEMENT OF WAIVER OF LIABILITY PRESUMPTION.—The Secretary of Health and Human Services shall, for purposes of determining whether payments to a skilled nursing facility should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply the same presumption of compliance (5 percent) as in effect under regulations as of July 1, 1985. Such presumption shall apply for the 30-month period beginning with the first month beginning after the date of the enactment of this Act.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to fiscal years beginning on or after October 1, 1986.

(2) The amendment made by subsection (b) shall become effective on the date of the enactment of this Act.

SEC. 9127. ADDITIONAL MEMBERS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

(a) EXPANSION OF MEMBERSHIP.—Section 1886(e)(6)(A) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(A)) is amended by striking out "15 individuals" and inserting in lieu thereof "17 individuals".

(b) APPOINTMENTS.—The Director of the Congressional Office of Technology Assessment shall appoint the two additional members of the Prospective Payment Assessment Commission, as required by the amendment made by subsection (a), no later than 60 days after the date of the enactment of this Act, for terms of three years.

SEC. 9128. SENSE OF THE SENATE WITH RESPECT TO INPATIENT HOSPITAL DEDUCTIBLE.

In view of the $92 Medicare hospital deductible increase that will go into effect January 1, 1986, it is the sense of the Senate that the Committee on Finance should report legislation which will reform calculation of the annual increase in such deductible so that it is more consistent with annual increases in Medicare payments to hospitals.

SEC. 9129. MEDICARE COVERAGE OF STATE AND LOCAL EMPLOYEES.

For provision providing for medicare coverage of certain State and local employees, see section 13205 of this Act.

PART 2—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

Subpart A—Payment-related Provisions

SEC. 9201. EXTENSION OF WORKING AGED PROVISION.

(a) EXTENSION OF SECONDARY PAYOR STATUS BEYOND AGE 69.—Section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)) is amended—

(1) in clause (i), by striking out "who is under 70 years of age during any part of such month" and ", if the spouse is under 70 years of age during any part of such month", and

(2) in clause (iii), by striking out "and ending with the month before the month in which such individual attains the age of 70".

(b) EXTENSION OF AGE DISCRIMINATION PROVISIONS.—

(1) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)) is amended by striking out "through 69" and inserting in lieu thereof "or older" each place it appears.

(2) Section 12(a) of such Act (29 U.S.C. 631(a)) is amended by inserting "(except the provisions of section 4(g))" after "Act".

(3) Section 4 of such Act (29 U.S.C. 623) is amended by redesignating the second subsection (g), added by section 802 of the Older Americans Act Amendments of 1984, as subsection (h).

(c) CONFORMING AMENDMENTS.—

(1) SPECIAL ENROLLMENT PERIOD.—Paragraph (3) of section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)(3)) is amended to read as follows:

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later.".

(2) EFFECTIVE DATE OF ENROLLMENT.—Subsection (e) of section 1838 of the Social Security Act (42 U.S.C. 1395q) is amended to read as follows:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(i)(3)—

"(1) in the first month of the special enrollment period, the coverage period shall begin on the first day of that month, or

"(2) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls."

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply with respect to items and services furnished on or after March 1, 1986.

(2) The amendments made by subsections (b) and (c) shall become effective on March 1, 1986.

SEC. 9202. PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF MEDICAL EDUCATION.

(a) MEDICARE PAYMENT METHODOLOGY.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(h) PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.—

"(1) SUBSTITUTION OF SPECIAL PAYMENT RULES.—Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of hospitals for direct graduate medical education costs, the Secretary shall provide for payments for such costs in accordance with paragraph (3) of this subsection. In providing for such payments, the Secretary shall provide for an allocation of such payments between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(2) DETERMINATION OF HOSPITAL-SPECIFIC APPROVED FTE RESIDENT AMOUNTS.—The Secretary shall determine, for each hospital with an approved medical residency training program, an approved FTE resident amount for each cost reporting period beginning on or after July 1, 1985, as follows:

"(A) DETERMINING ALLOWABLE AVERAGE COST PER FTE RESIDENT IN A HOSPITAL'S BASE PERIOD.—The Secretary shall determine, for the hospital's cost reporting period that began during fiscal year 1984, the average amount recognized as reasonable under this title for direct graduate medical education costs of the hospital for each full-time-equivalent resident.

"(B) UPDATING TO THE FIRST COST REPORTING PERIOD.—

"(i) IN GENERAL.—The Secretary shall update each average amount determined under subparagraph (A) by the percentage increase in the consumer price index during the 12-month cost reporting period described in such subparagraph.

"(ii) EXCEPTION.—The Secretary shall not perform an update under clause (i) in the case of a hospital if the hospital's reporting period, described in subparagraph (A), began on or after July 1, 1984, and before October 1, 1984.

"(C) AMOUNT FOR FIRST COST REPORTING PERIOD.—For the first cost reporting period of the hospital beginning on or after July 1, 1985, the approved FTE resident amount for the hospital is equal to the amount determined under paragraph (B) increased by 1 percent.

"(D) AMOUNT FOR SUBSEQUENT COST REPORTING PERIODS.—For each subsequent cost reporting period, the approved FTE resident amount for the hospital is equal to the amount determined under this paragraph for the previous cost reporting period updated, through the midpoint of the period, by projecting the estimated percentage change in the consumer price index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous under- or over-estimations under this subparagraph in the projected percentage change in the consumer price index.

"(E) TREATMENT OF CERTAIN HOSPITALS.—In the case of a hospital that did not have an approved medical residency training program or was not participating in the program under this title for a cost reporting period beginning during fiscal year 1984, the Secretary shall, for the first such period for which it has such a residency training program and is participating under this title, provide for such approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.

"(3) HOSPITAL PAYMENT AMOUNT PER RESIDENT.—

"(A) IN GENERAL.—The payment amount, for a hospital cost reporting period beginning on or after July 1, 1985, is equal to the product of—

"(i) the aggregate approved amount (as defined in subparagraph (B)) for that period, and

"(ii) the hospital's medicare patient load (as defined in subparagraph (C)) for that period.

"(B) AGGREGATE APPROVED AMOUNT.—As used in subparagraph (A), the term 'aggregate approved amount' means, for a hospital cost reporting period, the product of—

"(i) the hospital's approved FTE resident amount (determined under paragraph (2)) for that period, and

"(ii) the weighted average number of full-time-equivalent residents (as determined under paragraph (4)) in the hospital's approved medical residency training programs in that period.

"(C) MEDICARE PATIENT LOAD.—As used in subparagraph (A), the term 'medicare patient load' means, with respect to a hospital's cost reporting period, the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to patients with respect to whom payment may be made under part A.

"(4) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

"(A) RULES.—The Secretary shall establish rules consistent with this paragraph for the computation of the number of full-time-equivalent residents in an approved medical residency training program.

"(B) ADJUSTMENT FOR PART-YEAR OR PART-TIME RESIDENTS.—Such rules shall take into account individuals who serve as residents for only a portion of a period with a hospital or simultaneously with more than one hospital.

"(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (E), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) before July 1, 1986, for each resident the weighting factor is 1.00,

"(ii) on or after July 1, 1986, for a resident who is in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is 1.00,

"(iii) on or after July 1, 1986, and before July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .75, and

"(iv) on or after July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .50.

"(E) FOREIGN MEDICAL GRADUATES REQUIRED TO PASS FMGEMS EXAMINATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident on or after July 1, 1986, unless—

"(I) the individual has passed the FMGEMS examination (as defined in paragraph (5)(E)) before July 1, 1986, or

"(II) the individual is unable to take that examination because the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

"(ii) TRANSITION FOR CURRENT FMGS.—On or after July 1, 1986, in the case of a foreign medical graduate who—

"(I) has served as a resident before July 1, 1986, and is serving as a resident after that date, but

"(II) has not passed the FMGEMS examination before July 1, 1986,

the individual shall be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted.

"(5) DEFINITIONS AND SPECIAL RULES.—As used in this subsection:

"(A) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary.

"(B) CONSUMER PRICE INDEX.—As used in this paragraph, the term 'consumer price index' refers to the Consumer Price Index for All Urban Consumers (United States city average), as published by the Secretary of Commerce.

"(C) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term 'direct graduate medical education costs' means direct costs of approved educational activities for approved medical residency training programs.

"(D) FOREIGN MEDICAL GRADUATE.—The term 'foreign medical graduate' means a resident who is not a graduate of—

"(i) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such Committee as meeting the standards necessary for such accreditation),

"(ii) a school of osteopathy accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation, or

"(iii) a school of dentistry or podiatry which is accredited (or meets the standards for accreditation) by an organization recognized by the Secretary for such purpose.

"(E) FMGEMS EXAMINATION.—The term 'FMGEMS examination' means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences recognized by the Secretary for this purpose.

"(F) INITIAL RESIDENCY PERIOD.—The term 'initial residency period' means the period of board eligibility plus one year, except that—

"(i) except as provided in clause (ii), in no case shall the initial period of residency exceed an aggregate period of formal training of more than five years for any individual, and

"(ii) a period, of not more than two years, during which an individual is in a geriatric residency or fellowship program which meets such criteria as the Secretary may establish, shall be treated as part of the initial residency period, but shall not be counted against any limitation on the initial residency period.

The initial residency period shall be determined, with respect to a resident, as of the time the resident enters the residency training program.

"(G) PERIOD OF BOARD ELIGIBILITY.—

"(i) GENERAL RULE.—Subject to clauses (ii) and (iii), the term 'period of board eligibility' means, for a resident, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the resident is training.

"(ii) APPLICATION OF 1985-1986 DIRECTORY.—Except as provided in clause (iii), the period of board eligibility shall be such period specified in the 1985-1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education.

"(iii) CHANGES IN PERIOD OF BOARD ELIGIBILITY.—On or after July 1, 1989, if the Accreditation Council on Graduate Medical Education, in its Directory of Residency Training Programs—

"(I) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985-1986 Directory, the Secretary may increase the period of board eligibility for that specialty, but not to exceed the period of board eligibility specified in that later Directory, or

"(II) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985-1986 Directory, the Secretary may decrease the period of board eligibility for that specialty, but not below the period of board eligibility specified in that later Directory.

"(H) RESIDENT.—The term 'resident' includes an intern or other participant in an approved medical residency training program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after July 1, 1985.

(c) STUDIES BY SECRETARY.—(1) The Secretary of Health and Human Services shall conduct a study with respect to approved educational activities relating to nursing and other health professions for which reimbursement is made to hospitals under title XVIII of the Social Security Act. The study shall address—

(A) the types and numbers of such programs, and number of students supported or trained under each program;

(B) the fiscal and administrative relationships between the hospitals involved and the schools with which the programs and students are affiliated; and

(C) the types and amounts of expenses of such programs for which reimbursement is made, and the financial and other contributions which accrue to the hospital as a consequence of having such programs.

The Secretary shall report the results of such study to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives prior to December 31, 1987.

(2) The Secretary shall conduct a separate study of the advisability of continuing or terminating the exception under section 1886(h)(5)(F)(ii) of the Social Security Act for geriatric residencies and fellowships, and of expanding such exception to cover other educational activities, particularly those which are necessary to meet the projected health care needs of Medicare beneficiaries. Such study shall also examine the adequacy of the supply of faculty in the field of geriatrics. The Secretary shall report the results of such study to the committees described in paragraph (1) prior to July 1, 1990.

(d) GAO STUDY.—(1) The Comptroller General shall conduct a study of the variation in the amounts of payments made under

title XVIII of the Social Security Act with respect to patients in different teaching hospital settings and in the amounts of such payments which are made with respect to patients who are treated in teaching and nonteaching hospital settings. Such study shall identify the components of such payments (including payments with respect to inpatient hospital services, physicians' services, and capital costs, and, in the case of teaching hospital patients, payments with respect to direct and indirect teaching costs) and shall account, to the extent feasible, for any variations in the amounts of the payment components between teaching and nonteaching settings and among different teaching settings.

(2) In carrying out such study, the Comptroller General may utilize a sample of hospital patients and any other data sources which he deems appropriate, and shall, to the extent feasible, control for differences in severity of illness levels, area wage levels, levels of physician reasonable charges for like services and procedures, and for other factors which could affect the comparability of patients and of payments between teaching and nonteaching settings and among teaching settings. The information obtained in the study shall be coordinated with the information obtained in conducting the study of teaching physicians' services under section 2307(c) of the Deficit Reduction Act of 1984.

(3) The Comptroller General shall report the results of the study to the committees described in subsection (c)(1) prior to December 31, 1987.

(e) REPORT ON UNIFORMITY OF APPROVED FTE RESIDENT AMOUNTS.—The Secretary of Health and Human Services shall report to the committees described in subsection (c)(1), not later than December 31, 1987, on whether section 1886(h) of the Social Security Act should be revised to provide for greater uniformity in the approved FTE resident amounts established under paragraph (2) of that section, and, if so, how such revisions should be implemented.

(f) STUDY ON FOREIGN MEDICAL GRADUATES.—The Secretary of Health and Human Services shall study, and report to the committees described in subsection (c)(1), not later than December 31, 1987, respecting the use of physicians who are foreign medical graduates (within the meaning of section 1886(h)(5)(D) of the Social Security Act) in the provision of health care services (particularly inpatient and outpatient hospital services) to medicare beneficiaries. Such study shall evaluate—

(1) the types of services provided;

(2) the cost of providing such services, relative to the cost of other physicians providing the services or other approaches to providing the services;

(3) any deficiencies in the quality of the services provided, and methods of assuring the quality of such services; and

(4) the impact on costs of and access to services if medicare payment for hospitals' costs of graduate medical education of foreign medical graduates were phased out.

(g) ESTABLISHING PHYSICIAN IDENTIFIER SYSTEM.—The Secretary of Health and Human Services shall establish a system, for implementation not later than July 1, 1987, which provides for a unique identifier for each physician who furnishes services for which payment may be made under title XVIII of the Social Security Act.

(h) PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this section and the amendments made by this section.

(i) PROHIBITING A LIMIT ON INCREASES ON DIRECT MEDICAL EDUCATION COSTS.—(1) Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)), as amended by section 9107(b) of this title, is further amended by adding at the end the following new subparagraph:

"(Q) Except as otherwise explicitly authorized, the Secretary is not authorized to limit the rate of increase on allowable costs of approved medical educational activities.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1985.

(j) SPECIAL TREATMENT OF STATES FORMERLY UNDER WAIVER.—In the case of a hospital in a State that has had a waiver approved under section 1886(c) of the Social Security Act, for cost reporting periods beginning on or after January 1, 1986, if the waiver is terminated—

(1) the Secretary of Health and Human Services shall permit the hospital to change the method by which it allocates administrative and general costs to the direct medical education cost centers to the method specified in the medicare cost report;

(2) the Secretary may make appropriate adjustments in the regional adjusted DRG prospective payment rate (for the region in which the State is located), based on the assumption that all teaching hospitals in the State use the medicare cost report; and

(3) the Secretary shall adjust the hospital-specific portion of payment under section 1886(d) of such Act for any such hospital that actually chooses to use the medicare cost report.

The Secretary shall implement this subsection based on the best available data.

SEC. 9203. PAYMENT FOR HOME HEALTH SERVICES.

(a) LIMITATIONS ON PAYMENT FOR HOME HEALTH SERVICES.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended by striking out "the 75th percentile" and all that follows through "as the Secretary may determine." and inserting in lieu thereof "for cost reporting periods beginning on or after—

"(i) July 1, 1985, and before July 1, 1986, 120 percent,

"(ii) July 1, 1986, and before July 1, 1987, 115 percent, or

"(iii) July 1, 1987, 112 percent, of the mean of the labor-related and nonlabor per visit costs for free standing home health agencies. Such limitations shall be applied on an aggregate basis for the agency, rather than on a discipline-specific basis, with appropriate adjustment for administrative and general costs of hospital-based agencies.".

(b) GAO REPORT.—The Comptroller General shall study and report to Congress, not later than September 1, 1986, on the appropriateness of applying the per visit cost limits for home health services under the medicare program on a discipline-specific basis, rather than on an aggregate basis for all home health services furnished by an agency.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after July 1, 1985.

SEC. 9204. MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.

(a) MORATORIUM.—Prior to January 1, 1987, the Secretary of Health and Human Services shall not conduct any demonstration projects relating to competitive bidding as a method of purchasing laboratory services under title XVIII of the Social Security Act. The Secretary may contract for the design of, and site selection for, such demonstration projects.

(b) COOPERATION IN STUDY.—The Secretary of Health and Human Services and the Comptroller General shall assist representatives of clinical laboratories in the industry's conduct of a study to determine whether methods exist which are better than competitive bidding for purposes of utilizing competitive market forces in setting payment levels for laboratory services under title XVIII of the Social Security Act. If such a study is conducted by the clinical laboratory industry, the Secretary and the Comptroller General shall comment on such study and submit such comments and the study to the Senate Committee on Finance and the House Committees on Ways and Means and Energy and Commerce.

SEC. 9205. HOME HEALTH WAIVER OF LIABILITY.

The Secretary of Health and Human Services shall, for purposes of determining whether payments to a home health agency should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply a presumption of compliance (2.5 percent) in the same manner as under the regulations in effect as of July 1, 1985. Such presumption shall apply until 12 months after the date on which ten regional intermediaries have commenced operations to service home health agencies, as required under section 1816(e)(4) of the Social Security Act.

Subpart B—Other Provisions

SEC. 9211. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) FINANCIAL RESPONSIBILITY FOR PATIENTS HOSPITALIZED ON THE EFFECTIVE DATE OF AN ENROLLMENT OR DISENROLLMENT.—(1) Subsection (c) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new paragraph:

"(7) A risk-sharing contract under this section shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(A) enrollment with an eligible organization under this section—

"(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

"(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this section; or

"(B) termination of enrollment with an eligible organization under this section—

"(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(ii) payment for such services during the stay shall not be made under section 1886(d), and

"(iii) the organization shall not receive any payment with respect to the individual under this section during the period the individual is not enrolled.".

(2) Subsection (a)(3) of such section is amended by striking out "Payments" and inserting in lieu thereof "Subject to subsection (c)(7), payments".

(3) Subsection (a)(6) of such section is amended by striking out "If" and inserting

in lieu thereof "Subject to subsection (c)(7), if".

(b) DISENROLLMENTS.—

(1) EFFECTIVE DATE.—Subsection (c)(3)(B) of such section is amended by striking out "a full calendar month after" and inserting in lieu thereof "the date on which".

(2) INFORMATION.—Such subsection is further amended by adding at the end the following: "In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.".

(c) REVIEW OF MARKETING MATERIAL.—Subsection (c)(3)(C) of such section is amended by adding at the end the following: "No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this section unless (i) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review and (ii) the Secretary has not disapproved the distribution of the material. The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.".

(d) PROMPT PUBLICATION OF AAPCC.—Subsection (a)(1)(A) of such section is amended by inserting after "The Secretary shall annually determine" the following: ", and shall publish not later than September 7 before the calendar year concerned".

(e) EFFECTIVE DATES.—

(1) FINANCIAL RESPONSIBILITY.—The amendments made by subsection (a) shall apply to enrollments and disenrollments that become effective on or after the date of the enactment of this Act.

(2) DISENROLLMENTS.—The amendments made by subsection (b) shall apply to requests for termination of enrollment submitted on or after February 1, 1986.

(3) MATERIAL REVIEW.—(A) The amendment made by subsection (c) shall not apply to material which has been distributed before April 1, 1986.

(B) Such amendment also shall not apply so as to require the submission of material which is distributed before April 1, 1986.

(C) Such amendment shall also not apply to material which the Secretary determines has been prepared before the date of the enactment of this Act and for which a commitment for distribution has been made, if the application of such amendment would constitute a hardship for the organization involved.

(4) PUBLICATION.—The amendment made by subsection (d) shall apply to determinations of per capita rates of payment for 1987 and subsequent years.

(5) NECESSARY MODIFICATION OF CONTRACTS.—The Secretary of Health and Human Services shall provide for such changes in the risk-sharing contracts which have been entered into under section 1876 of the Social Security Act as may be necessary to conform to the requirements imposed by the amendments made by this section on a timely basis.

SEC. 9212. CHANGING MEDICARE APPEAL RIGHTS.

(a) PERMITTING PROVIDER REPRESENTATION OF BENEFICIARIES.—Section 1869(b)(1) of the Social Security Act (42 U.S.C. 1395ff(b)(1)) is amended by adding at the end the following new sentence: "Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this subsection by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item.".

(b) REVIEW OF PART B DETERMINATIONS.—(1) Section 1869 of such Act (42 U.S.C. 1395ff) is further amended—

(A) by inserting "or part B" in subsection (a) after "amount of benefits under part A",

(B) by inserting "or part B" in subsection (b)(1)(C) after "part A",

(C) by amending paragraph (2) of subsection (b) to read as follows:

"(2) Notwithstanding paragraph (1)(C), in the case of a claim arising—

"(A) under part A, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $100 and judicial review shall not be available to the individual under that paragraph if the amount in controversy is less than $1,000; or

"(B) under part B, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $500 and judicial review shall not be available to the individual under that paragraph if the aggregate amount in controversy is less than $1,000.

In determining the amount in controversy, the Secretary, under regulations, shall allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.", and

(D) by adding at the end the following new paragraph:

"(3) Paragraph (1) shall not be construed as authorizing any administrative law or other judge to review any national coverage determination under section 1862(a)(1) respecting whether or not a particular type or class of items or services is covered under this title.".

(2) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking out "$100 or more" and inserting in lieu thereof "at least $100, but not more than $500".

(3) Section 1879(d) of such Act (42 U.S.C. 1395pp(d)) is amended by striking out "section 1869(b)" and all that follows through "part B)" and inserting in lieu thereof "sections 1869(b) and 1842(b)(3)(C) (as may be applicable)".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply to items and services furnished on or after January 1, 1986.

SEC. 9213. REMOVAL OF PROHIBITION ON COMMENTS BY MEDICARE AND SOCIAL SECURITY ACTUARIES RELATING TO ECONOMIC ASSUMPTIONS.

(a) FEDERAL OLD-AGE AND DISABILITY INSURANCE TRUST FUND.—Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by striking out "; Provided, That the certification shall not refer to economic assumptions underlying the Trustee's report, and shall" and inserting in lieu thereof ". Such report shall".

(b) MEDICARE TRUST FUNDS.—Sections 1817(b) and 1841(b) of such Act (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking out "; Provided, That the certification shall not refer to economic assumptions underlying the Trustee's report".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9214. LIMITATION ON MERGER OF END STAGE RENAL DISEASE NETWORKS.

The Secretary of Health and Human Services shall maintain renal disease network organizations as authorized under section 1881(c) of the Social Security Act, and may not merge the network organizations into other organizations or entities. The Secretary may consolidate such network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

SEC. 9215. EXTENSION OF CERTAIN MEDICARE MUNICIPAL HEALTH SERVICES DEMONSTRATION PROJECTS.

The Secretary of Health and Human Services shall extend, for a period of three additional years, approval of four municipal health services demonstration projects (located in Baltimore, Cincinnati, Milwaukee, and San Jose) authorized under section 402(a) of the Social Security Amendments of 1967.

SEC. 9216. AUDIT AND MEDICAL CLAIMS REVIEW.

(a) INCREASE IN ACTIVITIES FOR FISCAL YEARS 1986, 1987, AND 1988.—Section 118 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 355) is amended—

(1) by striking out "for fiscal years 1983, 1984, and 1985",

(2) by striking out "such fiscal years" and inserting in lieu thereof "fiscal years 1983, 1984, and 1985, and $105,000,000 for each of fiscal years 1986, 1987, and 1988", and

(3) by striking out "the purpose of carrying out provider cost audits and reviews of medical necessity" and inserting in lieu thereof "purposes of carrying out provider cost audits, of reviewing medical necessity, and of recovering third-party liability payments".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning with fiscal year 1986.

SEC. 9217. LIVER TRANSPLANTS.

(a) The Senate finds that:

(1) There have been more than 600 liver transplants since 1963 and the one year survival rate at qualified institutions is now greater than 70 percent.

(2) There are 4,000 to 4,700 potential candidates in the United States each year who require a liver transplant, but only a small percentage would be eligible for Medicare coverage.

(3) There are currently individuals on waiting lists for liver transplants who will die without Medicare coverage.

(4) After extensive review and consideration of all the available data, an National Institutes of Health expert panel concluded liver transplantation is "a therapeutic modality for end-stage liver disease that deserves broader application" in a limited number of centers where they can be carried out under optimal conditions.

(5) National Institutes of Health further recommended that liver transplants be done in individuals under 18 years of age.

(6) The CHAMPUS program, after considering all relevant data, determined that there was no scientific basis for limiting liver transplants to children under 18 years of age.

(7) The Department of Health and Human Services has determined that liver trans-

plantation is no longer an experimental procedure only for children under 18.

(b) Based upon the above findings, it is the sense of the Senate that:

(1) For the purposes of title XVIII of the Social Security Act, the Secretary immediately reconsider the Medicare liver transplant coverage decision and implement a policy under which a liver transplant shall not be considered to be an experimental procedure for Medicare beneficiaries solely because an individual is over 18 years of age.

(2) A liver transplant shall be covered under such title when reasonable and medically necessary.

(3) The Secretary shall place appropriate limiting criteria on coverage, including those relating to the patient's condition, the disease state, and the institution providing the care, so as to ensure the highest quality of medical care demonstrated to be consistent with successful outcomes.

SEC. 9218. STUDIES RELATING TO PHYSICAL THERAPISTS AND OTHER PROFESSIONALS.

(a) SUPERVISION OF HOME HEALTH SERVICES.—The Secretary of Health and Human Services shall conduct a study of the advisability of changing the requirements of title XVIII of the Social Security Act to allow home health services to be provided under the supervision of a physical therapist or other health care professional, rather than requiring the supervision of a physician or registered nurse.

(b) OFFICE REQUIREMENT.—The Secretary of Health and Human Services shall conduct a study on the advisability of deleting the requirement under such title that a physical therapist must have an office equipped with specified equipment, even if such therapist provides all such services in patients' homes.

(c) REPORTS.—The Secretary shall report the results of the studies to the Congress prior to October 1, 1986.

SEC. 9219. TECHNICAL CORRECTIONS.

(a) WORKING AGED TECHNICAL CORRECTIONS.—

(1) PREMIUM PENALTY.—The second sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)), as amended by section 2338(a) of the Deficit Reduction Act of 1984, is amended by striking out "months in which" and all that follows through "clause (iv) of such section" and inserting in lieu thereof "months during which the individual has attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a group health plan described in section 1862(b)(3)(A)(iv)".

(2) SPECIAL ENROLLMENT PERIODS.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p), as added by section 2338(b) of the Deficit Reduction Act of 1984, is amended—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) has attained the age of 65,"; and

(B) in paragraph (2), by redesignating subparagraph (C) as subparagraph (D) and by amending subparagraphs (A) and (B) to read as follows:

"(A) has attained the age of 65;

"(B)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or (ii) is an individual described in paragraph (1)(B);

"(C) has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment; and".

(3) EFFECTIVE DATES.—

(A) The amendment made by paragraph (1) shall apply to months beginning with January 1983 for premiums for months beginning with the first month that begins more than 30 days after the date of the enactment of this Act.

(B)(i) The amendments made by paragraph (2) shall apply to enrollments in months beginning with the first effective month (as defined in clause (ii)), except that in the case of any individual who would have a special enrollment period under section 1837(i) of the Social Security Act that would have begun after November 1984 and before the first effective month, the period shall be deemed to begin with the first day of the first effective month.

(ii) For purposes of clause (i), the term "first effective month" means the first month that begins more than 90 days after the date of the enactment of this Act.

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1)(A) Subclause (III) of section 1842(b)(7)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)(ii)), as added by section 2307(a)(2)(G) of the Deficit Reduction Act of 1984, is amended by indenting it two additionals ems to the right so as to align its left margin with the left margins of subclauses (I) and (II) of that section.

(B) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)), as inserted by section 2321(e)(3) of the Deficit Reduction Act of 1984, is amended by striking out "at his home" and inserting in lieu thereof "as his home".

(C) Section 1888(b) of the Social Security Act (42 U.S.C. 1395yy(b)), as added by section 2319(b) of the Deficit Reduction At of 1984, is amended by striking out "nothwithstanding" and inserting in lieu thereof "notwithstanding".

(D) The amendments made by this paragraph shall be effective as if they had been originally included in the Deficit Reduction Act of 1984.

(2)(A) Clause (iii) of section 1842(b)(7)(B) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)), as added by section 3(b)(6) of Public Law 98-617, is amended by moving its alignment two additionals ems to the left so as to align its left margin with the left margins of clauses (i) and (ii) of that section.

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in Public Law 98-617.

(3)(A) Section 1861(v)(1)(G)(i) of the Social Security Act (42 U.S.C. 1395x(b)(1)(G)(i)), as amended by section 602(d)(1) of the Social Security Amendments of 1983, is amended by inserting, in the matter after subclause (III), "on the basis of" after "(during such period)".

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in the Social Security Amendments of 1983.

SEC. 9220. EXTENSION OF ON LOK WAIVER.

(a) CONTINUED APPROVAL.—

(1) MEDICARE WAIVERS.—Notwithstanding any limitations contained in section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services shall continue approval of the risk-sharing application (described in section 603(c)(1) of Public Law 98-21) for waivers of certain requirements of title XVIII of the Social Security Act after the end of the period described in that section.

(2) MEDICAID WAIVERS.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, the Secretary shall approve any application of the Department of Health Services, State of California, for a waiver of requirements of title XIX of such Act in order to continue carrying out the demonstration project referred to in section 603(c)(2) of Public Law 98-21 after the end of the period described in that section.

(b) TERMS, CONDITIONS, AND PERIOD OF APPROVAL.—The Secretary's approval of an application (or renewal of an application) under this section—

(1) shall be on the same terms and conditions as applied with respect to the corresponding application under section 603(c) of Public Law 98-21 as of July 1, 1985, except that requirements relating to collection and evaluation of information for demonstration purposes (and not for operational purposes) shall not apply; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with the terms and conditions described in paragraph (1).

SEC. 9221. CONTINUATION OF "ACCESS: MEDICARE" DEMONSTRATION PROJECT.

(a) APPROVAL OF APPLICATION.—The Secretary of Health and Human Services shall approve any application for a waiver of any requirement of titles XVIII and XIX of the Social Security Act necessary to provide for the continuation, through September 30, 1986, of the "Access: Medicare" demonstration project carried out pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967 by Monroe County Long Term Care Program, Inc.

(b) TERMS AND CONDITIONS.—The Secretary's approval of an application (or renewal of an application) under subsection (a) shall be on the same terms and conditions as applied to the demonstration project as in effect on August 31, 1985.

PART 3—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart A—Payment-Related Provisions

SEC. 9301. MEDICARE PHYSICIAN PAYMENT PROVISIONS.

(a) EXTENSION OF CURRENT FREEZE ON PAYMENT RATES THROUGH JANUARY 31, 1986.—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107), as amended by section 9101(a) of this title, is further amended by adding at the end the following new paragraph:

"(2) PHYSICIAN PAYMENTS.—For purposes of subsection (b), the term 'extension period' means the period beginning on October 1, 1985, and ending on January 31, 1986."

(b) EXTENSION OF CERTAIN PROVISIONS THROUGH DECEMBER 31, 1986.—

(1) EXTENSION.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(4)(A)", and

(ii) by adding at the end the following new clauses:

"(ii)(I) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 11-month period beginning February 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(II) In determining the prevailing charge levels under the fourth sentence of paragraph (3) for physicians' services furnished

during the 11-month period beginning February 1, 1986, by a physician who is a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall permit an additional one percentage point increase in the increase otherwise permitted under that sentence.

"(iii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during a 12-month period beginning on or after January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for services furnished during the previous calendar year (without regard to clause (ii)(II)) for physicians who were participating physicians during that year.";

(B) in subparagraph (B)—

(i) by inserting "(i)" after "(B)", and

(ii) by adding at the end the following new clause:

"(ii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 11-month period beginning February 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services—

"(I) if the physician was not a participating physician at any time during the 12-month period beginning on October 1, 1984, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983, and

"(II) if the physician was a participating physician at any time during the 12-month period beginning on October 1, 1984, the physician's customary charges shall be determined based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985.";

(C) in subparagraph (C)—

(i) by inserting "(i)" after "(C)",

(ii) by striking out "(A)" and inserting in lieu thereof "(A)(i)" each place it appears, and

(iii) by adding at the end the following new clause:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the periods beginning after December 31, 1986, by a physician who was not a participating physician on that date, the Secretary shall treat the level as set under subparagraph (A)(ii) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A)(ii).''; and

(D) in subparagraph (D)—

(i) by striking out "In determining" and all that follows through "subsection (h)(1))" and insert in lieu thereof "(i) In determining the customary charges for physicians' services furnished during the 11-month period beginning February 1, 1986, or the 12-month period beginning January 1, 1987, by a physician who was not a participating physician (as defined in subsection (h)(1)) on September 30, 1985", and

(ii) by adding at the end the following new clauses:

"(ii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) on January 31, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 4-month period beginning on October 1, 1985, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.

"(iii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, or January 1, 1988, by a physician who is not a participating physician (as defined in subsection (h)(1)) on December 31, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 11-month period beginning on February 1, 1986, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.".

(2) CONTINUED ENFORCEMENT.—The first sentence of section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended to read as follows: "In the case of a physician who is not a participating physician for items and services furnished during a portion of the 30-month period beginning July 1, 1984, the Secretary shall monitor the physician's actual charges to individuals enrolled under this part for physicians' services during that portion of that period.".

(3) PERIOD FOR ENTERING PARTICIPATION AGREEMENTS.—The Secretary of Health and Human Services shall provide, during the month of January 1986, that physicians and suppliers may enter into an agreement under section 1842(h)(1) of the Social Security Act for the 11-month period beginning February 1, 1986, or terminate such an agreement previously entered into for fiscal year 1986. In the case of a physician or supplier who entered into such an agreement for fiscal year 1986, the physician or supplier shall be deemed to have entered into such agreement for such 11-month period and for each succeeding year unless the physician or supplier terminates such agreement before the beginning of the respective period. At the beginning of such 11-month period, the Secretary shall publish a new directory (described in section 1842(h)(4) of that Act, as redesignated by subsection (c)(3)(D) of this section) of participating physicians and suppliers.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after February 1, 1986.

(c) INCENTIVES FOR PARTICIPATING PHYSICIAN PROGRAM.—

(1) 15-MONTH EXTENSION OF TRANSFER OF FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1073) is amended—

(A) by striking out "and 1985" and inserting in lieu thereof ", 1985, and 1986",

(B) by striking out "the amendments made by this section" and inserting in lieu thereof "subsections (b)(4), (h), and (j) of section 1842 of the Social Security Act",

(C) by striking out "and" before "not less",

(D) by inserting before the period at the end the following: ", and not less than $18,000,000 for fiscal year 1986", and

(E) by adding at the end the following new sentences: "A significant proportion of such funds shall be used for the expansion of the participating physician and supplier program and for the development of professional relations staffs dedicated to addressing the billing and other problems of physicians and suppliers participating in that program. Such funds for fiscal year 1986 are available for obligation until December 31, 1986.".

(2) IMPROVEMENT OF PARTICIPATING PHYSICIAN DIRECTORIES.—Section 1842(i) of the Social Security Act (42 U.S.C. 1395u(i)) is amended—

(A) in the first sentence of paragraph (2)—

(i) by striking out "a directory" and inserting in lieu thereof "directories (for appropriate local geographic areas)", and

(ii) by inserting "for that area" before "for that fiscal year";

(B) in the second sentence of paragraph (2), by striking out "The directory" and inserting in lieu thereof "Each directory";

(C) in paragraph (3)—

(i) by striking out "directory" the first place it appears and inserting in lieu thereof "the directories", and

(ii) by striking out "directory" the second place it appears and inserting in lieu thereof "the appropriate area directory or directories"; and

(D) in paragraph (4)—

(i) by striking out "directory" and inserting in lieu thereof "the directories", and

(ii) by adding at the end the following: "The Secretary shall provide that each appropriate area directory is sent to each participating physician located in that area.".

(3) ELIMINATION OF PHYSICIAN ASSIGNMENT RATE LIST.—Section 1842(i) of such Act is further amended—

(A) by striking out "(i)(1)" and all that follows through the end of paragraph (1),

(B) by striking out "subsection (h)(1)" in paragraph (2) and inserting in lieu thereof "paragraph (1)",

(C) by striking out "list and" each place it appears in paragraphs (3) and (4), and

(D) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6) of subsection (h), respectively.

(4) INFORMATION ON THE PARTICIPATING PHYSICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—Section 1842(h) of such Act, as previously amended by this subsection, is further amended by adding at the end the following new paragraphs:

"(7) The Secretary shall provide that each explanation of benefits provided under this part for services furnished in the United States, in conjunction with the payment of claims under section 1833(a)(1) (made other than on an assignment-related basis, described in paragraph (8)), shall include—

"(A) a reminder of the participating physician and supplier program established under this subsection (including the limitation on charges that may be imposed by such physicians and suppliers), and

"(B) the toll-free telephone number or numbers, maintained under paragraph (2), at which an individual enrolled under this part may obtain information on participating physicians and suppliers.

"(8) For purposes of this title, a claim is considered to be paid on an 'assignment-related basis' if the claim is paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1).".

(5) EFFECTIVE DATE.—Section 1842(b)(7) of the Social Security Act, as added by paragraph (4) of this subsection, shall apply to explanations of benefits provided on or after such date (not later than July 1, 1986) as the Secretary of Health and Human Services shall specify.

(d) CHANGING CUSTOMARY AND PREVAILING CHARGE UPDATES FOR PHYSICIAN SERVICES AND OTHER PART B SERVICES FROM OCTOBER TO JANUARY.—

(1) PAYMENT UPDATES.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended—

(A) in subparagraph (F), by striking out "(ending on September 30)";

(B) in the third sentence by striking out "March 31" and all that follows through "of each year)" and inserting in lieu thereof "June 30 last preceding the start of the calendar year"; and

(C) in the eighth sentence, by striking out "the twelve-month period beginning on October 1 in".

(2) PARTICIPATION AGREEMENTS.—Section 1842(h)(1) of such Act is amended—

(A) in the second sentence—

(i) by striking out "before October 1" and inserting in lieu thereof "before the beginning",

(ii) by striking out "on the basis of an assignment" and all that follows through "1870(f)(1)" and inserting in lieu thereof "on an assignment-related basis", and

(iii) by striking out "the 12-month period beginning on October 1 of"; and

(B) in the third sentence—

(i) by striking out "after October 1" and inserting in lieu thereof "after the beginning", and

(ii) by striking out "12-month period beginning on such October 1" and inserting in lieu thereof "year".

(3) DIRECTORIES.—The first sentence of section 1842(i)(2) of such Act, (which is redesignated as section 1842(h)(4) by subsection (c)(3)(D)), is further amended by striking out "fiscal" each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall (2) apply to items and services furnished on or after October 1, 1986.

(5) TRANSITION.—Notwithstanding any other provision of law, for purposes of making payment under part B of title XVIII of the Social Security Act, customary and prevailing charges (and the lowest charges determined under the sixth sentence of section 1842(b)(3) of such Act) for items and services furnished during the period beginning on October 1, 1986, and ending on December 31, 1986, shall be determined on the same basis as for items and services furnished on September 30, 1986.

SEC. 9302. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT, OXYGEN, AND OTHER HEALTH SERVICES.

(a) TEMPORARY PAYMENT FREEZE.—Section 1842(b)(4) of the Social Security Act is amended by adding at the end thereof the following new subparagraphs:

"(E) In the case of medical and other health services (as defined in section 1861(s)) furnished during the period beginning on October 1, 1985, and ending on January 31, 1986, for which payment is based on reasonable charge, other than physicians' services and clinical laboratory services, the customary and prevailing charges under paragraph (3), and the lowest charge referred to in the sixth sentence of such paragraph may not exceed such charges recognized under this section for the 15-month period beginning on July 1, 1984.

"(F) Except as otherwise explicitly authorized under this section, the Secretary is not authorized to limit the rate of increase of charges.".

(b) LIMITATION ON CUSTOMARY AND PREVAILING CHARGES FOR RENTAL DURABLE MEDICAL EQUIPMENT AND OXYGEN.—Section 1842 of such Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(k)(1) In determining the customary and prevailing charge levels under the third and fourth sentences of subsection (b)(3) for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement), and for oxygen furnished during the 11-month period beginning on February 1, 1986, the Secretary shall not set any such level higher than the same level as was set for the 15-month period beginning July 1, 1984.".

(c) REQUIRING ACCEPTING PAYMENT OF REASONABLE CHARGE AS PAYMENT IN FULL FOR DURABLE MEDICAL EQUIPMENT FURNISHED ON A RENTAL BASIS AND FOR OXYGEN.—Section 1842(k) of such Act, as added by subsection (b), is amended by adding at the end the following new paragraph:

"(2) Payment under this part for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement) and for oxygen may only be made on a basis described in subsection (h)(8) or to a provider of services with an agreement in effect under section 1866.".

(d) LIMITING INCREASE IN PREVAILING CHARGES FOR DURABLE MEDICAL EQUIPMENT AND OXYGEN TO CONSUMER PRICE INDEX.—Section 1842(k) of such Act, as previously amended, is further amended by adding at the end the following new paragraph:

"(3) In the case of durable medical equipment and oxygen, the prevailing charge levels determined for purposes of clause (ii) of the third sentence of subsection (b) for any year may not exceed (in the aggregate) the levels determined under such clause (taking into account paragraph (1), if applicable) for the preceding 12-month period by a percentage which exceeds the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average), as published by the Secretary of Labor, for the 12-month period ending in June of the preceding year.".

(e) CLARIFICATION OF PREVIOUS EFFECTIVE DATE.—Section 2306(b)(2) of the Deficit Reduction Act of 1984 is amended by striking out "to items and services furnished on or after October 1, 1985" and inserting in lieu thereof "to medical and other health services, for which payment is made on a reasonable charge basis, furnished on or after July 1, 1985".

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 1985, and before February 1, 1986.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to durable medical equipment and oxygen furnished on or after February 1, 1986.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to durable medical equipment and oxygen furnished on or after April 1, 1986.

(4) SUBSECTION (d).—(A) The amendments made by subsection (d) shall apply to durable medical equipment and oxygen furnished on or after January 1, 1987, except that such amendments shall not apply to durable medical equipment which is furnished on a purchase (or lease-purchase) basis before January 1, 1988.

(B) In applying section 1842(k)(3) of the Social Security Act (as added by subsection (d)) with respect to durable medical equipment and oxygen furnished during 1987—

(i) any reference to "the preceding 12-month period" shall be deemed a reference to "the preceding 11-month period", and

(ii) any reference to "the 12-month period" shall be deemed a reference to "the 15-month period".

(5) SUBSECTION (e).—The amendment made by subsection (e) shall take effect as though it were included in the enactment of the Deficit Reduction Act of 1984.

(f) CROSS REFERENCE.—For provision changing the period of update for certain services from October to January, see section 9301(d) of this part.

SEC. 9303. PAYMENT FOR CLINICAL LABORATORY SERVICES.

(a) CHANGING MONTH OF ANNUAL UPDATE FROM JULY TO JANUARY.—

(1) IN GENERAL.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(A) by striking out "June 30, 1987" and "July 1, 1987" and inserting in lieu thereof "December 31, 1987" and "January 1, 1988", respectively, each place either appears, and

(B) in paragraph (2), by inserting "(to become effective on January 1 of each year)" after "adjusted annually".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to clinical laboratory diagnostic tests performed on or after July 1, 1986.

(3) TRANSITION.—The Secretary of Health and Human Service shall provide that the annual adjustment under section 1833(h) of the Social Security Act for 1986—

(A) shall take effect on January 1, 1987,

(B) shall apply for the 12-month period beginning on that date, and

(C) shall take into account the percentage increase or decrease in the Consumer Price Index for all urban consumers (United States city average) occurring over an 18-month period, rather than over a 12-month period.

(b) PROVIDING CEILING ON RATES.—

(1) CEILING ON PAYMENTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting after "lesser of the amount determined under such fee schedule" the following: ", the limitation amount for that test determined under subsection (h)(4)(B),".

(2) ESTABLISHMENT OF LIMITATION AMOUNT.—Section 1833(h)(4) of such Act is amended by inserting "(A)" after "(4)" and by adding at the end the following new subparagraph:

"(B) For purposes of subsections (a)(1)(D)(i) and (a)(2)(D)(i), the limitation amount for a clinical diagnostic laboratory test performed—

"(i) on or after April 1, 1986, and before January 1, 1987, is equal to 115 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1), or

"(ii) after December 31, 1986, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 110 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) METHOD OF PAYMENT FOR NON-INDEPENDENT LABORATORIES.—Section 1833(h)(5)(C) of such Act is amended by striking out "which is independent of a physician's office or" and inserting in lieu thereof "other than".

(4) EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY.—Section 1123(a) of such Act (42 U.S.C. 1320a-2(a)) is amended by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1987".

(5) EFFECTIVE DATES.—(A) The amendments made by paragraphs (1) and (2) shall apply to clinical diagnostic laboratory tests performed on or after April 1, 1986.

(B) The amendment made by paragraph (3) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1987.

(C) The amendment made by paragraph (4) shall take effect on the date of the enactment of this Act.

(c) REPORT ON MINIMUM STANDARDS FOR CLINICAL LABORATORIES THAT ARE PART OF, OR ASSOCIATED WITH, PHYSICIANS' OFFICES.—The Secretary of Health and Human Services shall report to Congress, not later than 12 months after the date of the enactment of this Act, on the standards that might be established under the medicare program for clinical laboratories which are part of or associated with a physician's office to assure the health and safety of individuals with respect to whom the laboratories perform clinical diagnostic laboratory tests for which payment may be made under the program. In recommending standards, the Secretary shall consider the differences in the scope, type, and complexity of tests performed by such laboratories and such other factors as may indicate a need for different standards for laboratories with different characteristics.

SEC. 9304. DETERMINATIONS OF INHERENT REASONABLENESS OF CHARGES AND CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.

(a) REGULATIONS RELATING TO INHERENT REASONABLENESS OF CHARGES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(8) The Secretary by regulation shall—

"(A) describe the factors to be used in determining the cases (of particular items or services) in which the application of this subsection results in the determination of a reasonable charge that, by reason of its grossly excessive or grossly deficient amount, is not inherently reasonable, and

"(B) provide in those cases for the factors that will be considered in establishing a reasonable charge that is realistic and equitable.".

(b) COMPUTATION OF CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.—(1) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 11-month period beginning February 1, 1986, in the case of a physician who during the period beginning on October 31, 1982, and ending on January 31, 1985, was a hospital-compensated physician (as defined in paragraph (3)) but who, as of February 1, 1985, was no longer a hospital-compensated physician, the physician's customary charges shall—

(A) be based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985, and

(B) in the case of a physician who is not a participating physician (as defined in section 1842(h)(1) of the Social Security Act) either on September 30, 1985, or on February 1, 1986, be deflated (to take into account the legislative freeze on actual charges for nonparticipating physicians' services) by multiplying the physician's customary charges by .85.

(2) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 11-month period beginning February 1, 1986, in the case of a physician who during the period beginning on February 1, 1985, and ending on December 31, 1986, changes from being a hospital-compensated physician to not being a hospital-compensated physician, the physician's customary charges shall be determined in the same manner as if the physician were considered to be a new physician.

(3) In this subsection, the term "hospital-compensated physician" means, with respect to services furnished to patients of a hospital, a physician who is compensated by the hospital for the furnishing of physicians' services for which payment may be made under this part.

SEC. 9305. PHYSICIAN PAYMENT REVIEW COMMISSION AND DEVELOPMENT OF RELATIVE VALUE SCALE.

(a) ESTABLISHMENT OF COMMISSION.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PHYSICIAN PAYMENT REVIEW COMMISSION

"SEC. 1845. (a)(1) The Director of the Congressional Office of Technology Assessment (hereinafter in this section referred to the 'Director' and the 'Office', respectively) shall provide for the appointment of a Physician Payment Review Commission (hereinafter in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of physicians' services appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed no later than May 1, 1986, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than four members expire in any one year.

"(3) The membership of the Commission shall include physicians, other health professionals, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and representatives of consumers and the elderly. The Director shall seek nominations from a wide range of groups, including—

"(A) national organizations representing physicians, including medical specialty organizations,

"(B) organizations representing the elderly and consumers,

"(C) national organizations representing medical schools,

"(D) national organizations representing hospitals, including teaching hospitals, and

"(E) national organizations representing health benefits programs.

"(b)(1) The Commission shall make recommendations to the Congress, not later than March 1 of each year (beginning with 1987), regarding adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and changes in the methodology for determining the rates of payment, and for making payment, for physicians' services under this title and other items and services under this part.

"(2) In making its recommendations, the Commission shall—

"(A) consider, and make recommendations on the feasibility and desirability of reducing, the differences in payment amounts for physicians' services under this part which are based on differences in geographic location or specialty;

"(B) review the input costs (including time, professional skills, and risks) associated with the provision of different physicians' services;

"(C) identify those charges recognized as reasonable under section 1842(b) which are significantly out-of-line, based on the considerations of subparagraphs (A) and (B);

"(D) assess the likely impact of different adjustments in payment rates, particularly their impact on physician participation in the participation program established under section 1842(h) and on beneficiary access to necessary physicians' services;

"(E) make recommendations on ways to increase physician participation in that participation program and the acceptance of payment under this part on an assignment-related basis;

"(F) make recommendations respecting the advisability and feasibility of making changes in the payment system for physicians' services under this part based on (i) the Secretary's study under section 603(b)(2) of the Social Security Amendments of 1983 (relating to payments for physicians' services furnished to hospital inpatients on the basis of diagnosis-related groups) and (ii) the Office's report under section 2309 of the Deficit Reduction Act of 1984 (relating to physician reimbursement under this part);

"(G) identify those procedures, involving the use of assistants at surgery, for which payment for those assistants should not be made under this title without prior approval; and

"(H) identify those procedures for which an opinion of a second physician should be required before payment is made under this title.

"(3) The Commission also shall advise and make recommendations to the Secretary respecting the development of the relative value scale under subsection (e).

"(c)(1) The following provisions of section 1886(e)(6) shall apply to the Commission in the same manner as they apply to the Prospective Payment Assessment Commission:

"(A) Subparagraph (C) (relating to staffing and administration generally).

"(B) Subparagraph (D) (relating to compensation of members).

"(C) Subparagraph (F) (relating to access to information).

"(D) Subparagraph (G) (relating to reports and use of funds).

"(E) Subparagraph (H) (relating to periodic GAO audits).

"(F) Subparagraph (J) (relating to requests for appropriations).

"(2) In order to carry out its functions, the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice. In collecting and assessing information, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate for the development of useful and valid guidelines by the Commission, and

"(C) adopt procedures allowing any interested party to submit information with respect to physicians' services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) DEVELOPMENT OF RELATIVE VALUE SCALE FOR PHYSICIANS' SERVICES.—Section 1845 of the Social Security Act, as added by subsec-

tion (a), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall develop a relative value scale that establishes a numerical relationship among the various physicians' services for which payment may be made under this part or under State plans approved under title XIX.

"(2) In developing the scale, the Secretary shall consider among other items—

"(A) the report of the Office of Technology Assessment under section 2309 of the Deficit Reduction Act of 1984,

"(B) the recommendations of the Physician Payment Review Commission under subsection (b)(3), and

"(C) factors with respect to the input costs for furnishing particular physicians' services, such as—

"(i) the differences in costs of furnishing services in different settings,

"(ii) the differences in skill levels and training required to perform the services, and

"(iii) the time required, and risk involved, in furnishing different services.

"(3) The Secretary shall complete the development of the relative value scale under this section, and report to Congress on the development, not later than July 1, 1987. The report shall include recommendations for the application of the scale to payment for physicians' services furnished under this part on or after January 1, 1988.".

SEC. 9306. LIMITATION ON MEDICARE PAYMENT FOR POST-CATARACT SURGERY PATIENTS.

(a) DETERMINATION OF SEPARATE PAYMENT AMOUNTS FOR PROSTHETIC LENSES AND PROFESSIONAL SERVICES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding after paragraph (8), added by section 9304(a) of this title, the following new paragraph:

"(9) In providing payment for cataract eyeglasses and cataract contact lenses, and professional services relating to them, under this part, each carrier shall—

"(A) provide for separate determinations of the payment amount for the eyeglasses and lenses and of the payment amount for the professional services of a physician (as defined in section 1861(r)), and

"(B) not recognize as reasonable for such eyeglasses and lenses more than such amount as the Secretary establishes in guidelines relating to the inherent reasonableness of charges for such eyeglasses and lenses.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1986.

SEC. 9307. PAYMENT FOR ASSISTANTS AT SURGERY FOR CERTAIN CATARACT OPERATIONS AND OTHER OPERATIONS.

(a) LIMITATION ON PAYMENT.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking out "or" at the end of paragraph (13),

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(15) which are for services of an assistant at surgery in a cataract operation unless, before the surgery is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) or a carrier under section 1842 has approved of the use of such an assistant in the surgical procedure based on the existence of a complicating medical condition.".

(b) ADDITIONAL PRO FUNCTIONS.—Section 1154(a)(8) of such Act (42 U.S.C. 1320c-3(a)(8)) is amended by inserting before the period at the end the following: "or as may be required to carry out section 1862(a)(15)".

(c) PROHIBITION FOR SUBMITTING BILL FOR WHICH PAYMENT MAY NOT BE MADE.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(1) in subsection (j)(2), by inserting "or subsection (l)" after "paragraph (1)", and

(2) by adding after subsection (k), added by section 146(a) of this title, the following new subsection:

"(l)(1) If a physician knowingly and willfully bills an individual enrolled under this part for charges for services as an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(2) If a physician knowingly and willfully bills an individual enrolled under this part for charges that includes a charge for an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

(d) EXTENSION OF PROHIBITION TO OTHER PROCEDURES.—The Secretary of Health and Human Services, after consultation with the Physician Payment Review Commission, shall develop recommendations and guidelines respecting other surgical procedures for which an assistant at surgery is generally not medically necessary and the circumstances under which the use of an assistant at surgery is generally appropriate but should be subject to prior approval of an appropriate entity. The Secretary shall report to Congress, not later than January 1, 1987, on these recommendations and guidelines.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after April 1, 1986.

Subpart B—Benefits and Other Provisions

SEC. 9311. OCCUPATIONAL THERAPY SERVICES.

(a) COVERAGE.—Subparagraph (C) of section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended to read as follows:

"(C) outpatient physical therapy services (other than services to which the second sentence of section 1861(p) applies) and outpatient occupational therapy services (other than services to which such sentence applies through the operation of section 1861(g));".

(b) LIMITATION ON PAYMENTS.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) by striking out "next to last sentence" and inserting in lieu thereof "second sentence", and

(2) by adding at the end thereof the following new sentence: "In the case of outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g), with respect to expenses incurred in any calendar year, no more than $500 shall be considered as incurred expenses for purposes of subsections (a) and (b).".

(c) CERTIFICATION STANDARD.—(1) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended—

(A) by inserting "or outpatient occupational therapy services" after "outpatient physical therapy services",

(B) in clause (i), by inserting "or occupational therapy services, respectively," after "physical therapy services", and

(C) in clause (ii), by inserting "or qualified occupational therapist, respectively," after "qualified physical therapist".

(2) The second sentence of section 1835(a) of such Act and section 1866(e) of such Act (42 U.S.C. 1395n(a), 1395cc(e)) are each amended—

(A) by inserting "(or meets the requirements of such section through the operation of section 1861(g))" after "1861(p)(4)(A)" and after "1861(p)(4)(B)", and

(B) by inserting "or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services" after "(as therein defined)".

(d) DEFINITION AND INCLUSION WITH OTHER PART B SERVICES.—(1) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by inserting after subsection (f) the following new subsection:

"Outpatient Occupational Therapy Services

"(g) The term 'outpatient occupational therapy services' has the meaning given the term 'outpatient physical therapy services' in subsection (p), except that 'occupational' shall be substituted for 'physical' each place it appears therein.".

(2) Section 1861(s)(2)(D) of such Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting "and outpatient occupational therapy services" after "outpatient physical therapy services".

(3) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by inserting "(including through the operation of section 1861(g))" after "section 1861(p)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred for outpatient occupational therapy services furnished on or after July 1, 1986.

SEC. 9312. VISION CARE.

(a) DEFINING SERVICES AN OPTOMETRIST CAN PROVIDE.—Clause (4) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) is amended to read as follows: "(4) a doctor of optometry, but only with respect to the provision of items or services described in subsection (s) which he is legally authorized to perform as a doctor of optometry by the State in which he performs them, or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after July 1, 1986.

SEC. 9313. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking out "1988" and inserting in lieu thereof "1989" each place it appears;

(2) in subsection (f)(1), by striking out "or 1986" and inserting in lieu thereof ", 1986, or 1987"; and

(3) in subsection (f)(2), by striking out "or 1987" and inserting in lieu thereof ", 1987, or 1988".

SEC. 9314. DEMONSTRATION OF PREVENTIVE HEALTH SERVICES UNDER MEDICARE.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a 4-year demonstration program designed to reduce disability and dependency through the provision of preventive health services to individuals entitled to benefits under title XVIII of the Social Security Act (hereinafter in this section referred to as "medicare beneficiaries").

(b) PREVENTIVE HEALTH SERVICES UNDER DEMONSTRATION PROGRAM.—The preventive health services to be made available under the demonstration program shall include—

(1) health screenings,
(2) health risk appraisals,
(3) immunizations, and
(4) counseling on and instruction in—
(A) diet and nutrition,
(B) reduction of stress,
(C) exercise and exercise programs,
(D) sleep regulation,
(E) injury prevention,
(F) prevention of alcohol and drug abuse,
(G) prevention of mental health disorders,
(H) self-care, including use of medication, and
(I) reduction or cessation of smoking.

(c) CONDUCT OF PROGRAM.—The demonstration program shall—

(1) be conducted under the direction of accredited public or private nonprofit schools of public health or preventive medicine departments accredited by the Council on Education for Public Health;

(2) be conducted in no fewer than five sites, which sites shall be chosen so as to be geographically diverse and shall be readily accessible to a significant number of medicare beneficiaries;

(3) involve community outreach efforts at each site to enroll the maximum number of medicare beneficiaries in the program; and

(4) be designed—

(A) to test alternative methods of payment for preventive health services, including payment on a prepayment basis as well as payment on a fee-for-service basis,

(B) to permit a variety of appropriate health care providers to furnish preventive health services, including physicians, health educators, nurses, allied health personnel, dieticians, and clinical psychologists, and

(C) to facilitate evaluation under subsection (d).

(d) EVALUATION.—The Secretary shall evaluate the demonstration project in order to determine—

(1) the short-term and long-term costs and benefits of providing preventive health services for medicare beneficiaries, including any reduction in inpatient services resulting from providing the services, and

(2) what practical mechanisms exist to finance preventive health services under title XVIII of the Social Security Act.

(e) REPORTS TO CONGRESS.—(1) Not later than three years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate on the progress made in the demonstration program, including a description of the sites at which the program is being conducted and the preventive health services being provided at the different sites.

(2) Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report—

(A) the evaluation described in subsection (d), and

(B) recommendations for appropriate legislative changes to incorporate payment for cost-effective preventive health services into the medicare program.

(f) FUNDING.—Expenditures made for the demonstration program shall be made from the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. Funding for the demonstration program shall not exceed $4,000,000 over the duration of the program.

(g) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration program.

SEC. 9315. EXTENSION OF GAO REPORTING DATE.

(a) EXTENSION.—Section 2326(e)(2) of the Deficit Reduction Act of 1984 (98 Stat. 1088) is amended by striking out "12 months after the date of the enactment of this Act" and inserting in lieu thereof "May 1, 1986".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as though it were included in the Deficit Reduction Act of 1984 as originally enacted.

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 9401. 100 PERCENT PEER REVIEW OF CERTAIN SURGICAL PROCEDURES.

(a) REQUIREMENT.—Section 1154(a) of the Social Security Act (42 U.S.C. 1395c-3(a)) is amended by adding at the end thereof the following new paragraph:

"(12) The organization shall perform the review, referral, and other functions required under section 1164.".

(b) ADDITIONAL PEER REVIEW FUNCTIONS.—Part B of title XI of the Social Security Act is amended by adding at the end the following new section:

"100 PERCENT PEER REVIEW FOR CERTAIN SURGICAL PROCEDURES

"SEC. 1164. (a) 100 PERCENT REVIEW FUNCTION.—

"(1) IN GENERAL.—Each utilization and quality control peer review organization shall perform the review described in section 1154(a)(1) for 100 percent of the surgical procedures specified pursuant to subsection (b).

"(2) TIMING OF REVIEW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the review required under paragraph (1) shall be performed—

"(i) before the performance of the procedure, in the case of an outpatient procedure, or

"(ii) before admission to the hospital for the provision of services in connection with the procedure, in the case of a procedure performed on an inpatient basis.

"(B) EXCEPTION.—The review with respect to a procedure need not be performed by the time specified in subparagraph (A) in cases of a medical emergency and under such other circumstances as the Secretary may specify.

"(b) SPECIFICATION OF SURGICAL PROCEDURES AND QUALIFIED REVIEWERS.—

"(1) IN CONTRACT.—The contract with each organization under this part shall specify at least 10 surgical procedures to be covered under this section.

"(2) SELECTION GUIDELINES.—

"(A) IN GENERAL.—The specification of procedures shall be consistent with selection guidelines established by the Secretary under paragraph (3). The procedures specified shall be included among the surgical procedures which the Secretary has identified as reasonably being able to meet such guidelines.

"(B) EXCEPTION.—The Secretary may permit an organization to include among the procedures specified under paragraph (1) procedures not identified by the Secretary under paragraph (2)(A) if to do so would be cost effective and consistent with the criteria described in paragraph (3).

"(3) CRITERIA.—The Secretary shall establish such guidelines and identify such surgical procedures consistent with the following criteria:

"(A) The procedure is one which generally can be postponed without undue risk to the patient.

"(B) The procedure is a high volume procedure among patients who are covered under the programs established under title XVIII or is a high cost procedure.

"(C) The procedure has a comparatively high rate of nonconfirmation upon examination by another qualified physician, there is substantial geographic variation in the rates of performance of the procedure, or there are other reasons why pre-procedure review for 100 percent of the procedures would be cost effective.

"(4) QUALIFICATIONS FOR PHYSICIANS PROVIDING SECOND OPINIONS.—

"(A) IN GENERAL.—The Secretary shall specify, for each procedure identified under paragraphs (2) and (3), the type or types of board certified or board eligible specialists who may conduct a second opinion, required under subsection (c), based upon the nature of the procedure.

"(B) FREEDOM OF CHOICE OF PATIENT TO CHOOSE PHYSICIAN.—Subject to paragraphs (C) and (D), the patient may choose any physician of the proper specialty under subparagraph (A) to provide the second opinion.

"(C) PHYSICIANS PROHIBITED FROM PROVIDING SECOND OPINIONS.—For purposes of this section, a second opinion may not be provided by a physician who is affiliated with, or has a common financial interest with, the physician who rendered the first opinion that the procedure was necessary.

"(D) RESTRICTED LIST.—In accordance with guidelines of the Secretary, an organization may disqualify a physician from providing a second opinion under this section because of the gross unreliability of the second opinions provided.

"(c) REQUIRING A SECOND OPINION IN CERTAIN CASES.—

"(1) DETERMINATIONS BY ORGANIZATION.—In the case of a review performed pursuant to subsection (a), the organization shall determine, based on such review, that the surgical procedure—

"(A) is reasonable and medically necessary,

"(B) is not reasonable and medically necessary, or

"(C) may be considered reasonable and necessary, but, because of questions as to the medical appropriateness of performing the procedure, it is appropriate to require the patient to seek a second opinion as to the necessity and appropriateness of performing the procedure before the performance of the procedure.

The Secretary shall develop appropriate measures to ensure that second opinions are only required in situations where a second opinion is needed to resolve outstanding uncertainties as to the medical necessity of the procedure. The organization shall notify, in accordance with section 1154(a)(3), the physician, patient, and hospital or other entity furnishing the service, in the event of a determination under subparagraph (B) or (C) of this paragraph.

"(2) PROHIBITION OF PAYMENT IF REQUIRED SECOND OPINION NOT PROVIDED.—No payment may be made under part A or part B of title XVIII with respect to items or services furnished in connection with a surgical procedure for which there is a determination described in paragraph (1)(C), unless the indi-

vidual undergoing the procedure obtains the second opinion required under that paragraph. The second opinion need not necessarily agree with the first opinion in order for payment to be made.

"(3) EXCEPTIONS FOR ELECTIVE SECOND OPINIONS.—Paragraphs (1)(C) and (2) shall not apply to a surgical procedure if—

"(A) a delay in providing the procedure would result in a risk to the patient;

"(B) no physician is available (within such reasonable limits as the Secretary shall specify) who is (i) qualified to provide the second opinion, and (ii) a participating physician or a physician who has agreed to accept assignment for the second opinion; or

"(C) the procedure is to be performed on a patient who is a member of a health maintenance organization or competitive medical plan having a risk-sharing contract with the Secretary under section 1876.

"(d) REFERRAL MECHANISM FOR SECOND OPINIONS.—

"(1) ACTING AS REFERRAL CENTER.—Each organization shall serve as a referral center for second opinions required under this section.

"(2) REFERRAL OF PATIENT.—The organization shall maintain a list of physicians qualified to provide a second opinion and shall advise the patient as to which physicians are participating physicians (within the meaning of section 1842(h)) and which physicians have agreed to accept assignment to perform second opinions. The organization shall assist patients in referral to a qualified physician of the appropriate specialty for purposes of providing the opinion.

"(3) FORWARDING OF RELEVANT MEDICAL RECORDS.—Each peer review organization shall, if the patient seeking the second opinion so requests, obtain the relevant medical records from the physician who rendered the first opinion that the procedure was necessary, and provide the relevant information to the physician selected by the patient to render the second opinion.

"(e) NOTICE TO PHYSICIANS, HOSPITALS, AND BENEFICIARIES.—The Secretary shall assure that notice is provided to physicians, hospitals, ambulatory surgical centers, and beneficiaries respecting the activities under this section, including the applicable list of surgical procedures specified under this section.".

(b) WAIVER OF DEDUCTIBLE AND COPAYMENTS.—

(1) DEDUCTIBLE.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by striking out "and" before "(4)", and by inserting before the period at the end of the first sentence the following: ", and (5) such deductible shall not apply with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(2) COPAYMENTS.—(A) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking out "and" before "(F)", and by adding at the end thereof the following: "and (G) with respect to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion), the amounts paid shall be 100 percent of the reasonable charges for such items and services;".

(B) Section 1833(a)(1)(D) of such Act is amended by striking out "or under the procedure described in section 1870(f)(1)" and inserting in lieu thereof ", under the procedure described in section 1870(f)(1), or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(C) Section 1833(a)(2)(A) of such Act is amended by inserting ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)," after "(other than durable medical equipment)".

(D) Section 1833(a)(2)(D) of such Act is amended by striking out "or to a provider having an agreement under section 1866" and inserting in lieu thereof "to a provider having an agreement under section 1866, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(E) Section 1833(a)(3) of such Act is amended by inserting after "1861(s)(10)(A)" the following: "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion".

(F) The last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(c) CONFORMING AMENDMENTS.—

(1) EXCLUSIONS FROM COVERAGE.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395g(a)), as amended by section 9307(a) of this title, is amended—

(A) by striking out "or" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(16) furnished in connection with a surgical procedure for which a second opinion is required under section 1164(c)(2) and has not been obtained.".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 1987. The Secretary of Health and Human Services shall provide for such modification of contracts under part B of title XI of the Social Security Act that are in effect on that date as may be necessary to effect these amendments on a timely basis.

(e) STUDY.—The Secretary of Health and Human Services shall conduct a study of the results of the amendments made by this section, and shall report the results of the study to the Congress within 36 months after the date of the enactment of this Act.

SEC. 9402. PEER REVIEW ORGANIZATION REIMBURSEMENT.

(a) REIMBURSEMENT AMOUNTS.—Section 1866(a)(1)(F) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)) is amended—

(1) by striking out clause (iii),

(2) by inserting "and" at the end of clause (ii),

(3) by redesignating clause (iv) as clause (iii), and

(4) by striking out "1982" in clause (iii) as so redesignated and inserting in lieu thereof "1986".

(b) MONTHLY PAYMENTS.—Section 1153(c)(8) of such Act (42 U.S.C. 1320c-2(c)(8)) is amended to read as follows:

"(8) reimbursement shall be made to the organization on a monthly basis, with payments for any month being made not later than 15 days after the close of such month.".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 9403. DENIAL OF PAYMENT FOR SUBSTANDARD CARE.

(a) DENIAL AUTHORITY FOR PRO.—Section 1154(a)(2) of the Social Security Act (42 U.S.C. 1320c-3(a)(2)) is amended—

(1) by striking out "subparagraphs (A) and (C)" and inserting in lieu thereof "subparagraphs (A), (B), and (C)"; and

(2) by adding at the end thereof (after and below subparagraph (D)) the following:

"Determinations that payment should not be made by reason of subparagraph (B) of paragraph (1) shall be made only on the basis of criteria which are consistent with guidelines established by the Secretary.".

(b) WAIVER OF LIABILITY.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) not to charge any individual or any other person for items or services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B).".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9404. HEALTH MAINTENANCE ORGANIZATION MEMBERSHIP ON PEER REVIEW ORGANIZATION BOARDS.

(a) REMOVAL OF ONE-MEMBER LIMITATION.—Section 1153(b)(2)(A) of the Social Security Act (42 U.S.C. 1320c-2(b)(2)(A)) is amended by striking out "consists only of one individual member of the governing board" and inserting in lieu thereof "consists only of members of the governing board".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of the enactment of this Act.

SEC. 9405. PEER REVIEW ORGANIZATION REVIEW OF HEALTH MAINTENANCE ORGANIZATIONS.

(a) COMPARABLE REVIEW FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by inserting "(including where payment is made for such services to eligible organizations pursuant to contracts under section 1876)" after "title XVIII".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to items and services furnished on or after January 1, 1987.

SEC. 9406. SUBSTITUTE REVIEW PENDING TERMINATION OF A PEER REVIEW ORGANIZATION CONTRACT.

(a) SUBSTITUTE REVIEW.—Section 1153(d) of the Social Security Act (42 U.S.C. 1320c-2(d)) is amended by adding at the end thereof the following new paragraph:

"(4) During the period after the Secretary has given notice of intent to terminate a contract, and prior to the time that the Secretary enters into a contract with another utilization and quality control peer review organization, the Secretary may transfer review responsibilities of the organization under the contract being terminated to another utilization and quality control peer review organization, or to an intermediary or carrier having an agreement under section 1816 or a contract under section 1842.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of the enactment of this Act.

Subtitle B—Medicaid and Maternal and Child Health

SEC. 9501. SERVICES FOR PREGNANT WOMEN.

(a) EXPANDED COVERAGE.—Section 1905(n)(1) of the Social Security Act (42 U.S.C. 1396d(n)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and".

(b) OPTIONAL EXPANSION OF PREGNANCY-RELATED SERVICES.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D) thereof—

(1) by striking out "and" before "(IV)" and inserting in lieu thereof a comma; and

(2) by inserting before the semicolon at the end thereof the following: ", and (V) the making available to pregnant women covered under the plan of services relating to pregnancy (including prenatal, delivery, and postpartum services) or to any other condition which may complicate pregnancy shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any other individuals, provided such services are made available (in the same amount, duration, and scope) to all pregnant women covered under the State plan".

(c) POSTPARTUM ELIGIBILITY FOR PREGNANT WOMEN.—Section 1902(e) of such Act (42 U.S.C. 1396b(e)) is amended by adding at the end the following new paragraph:

"(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, until the end of the 60-day period beginning on the last day of her pregnancy.".

(d) EFFECTIVE DATES.—

(1) EXPANDED COVERAGE.—(A) The amendments made by subsection (a) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the April 1, 1986, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(2) OPTIONAL SERVICES.—The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

(3) CONTINUED COVERAGE.—The amendment made by subsection (c) shall apply to medical assistance furnished to a woman on or after the date of the enactment of this Act.

SEC. 9502. MODIFICATIONS OF WAIVER PROVISIONS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) EXPLICIT INCLUSION OF CERTAIN PREVOCATIONAL AND EDUCATIONAL SERVICES.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of paragraph (4)(B), the term 'habilitation services', with respect to individuals who receive such services after discharge from a skilled nursing facility or intermediate care facility—

"(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

"(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

"(C) does not include—

"(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency; and

"(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).".

(b) PERMITTING HOSPITAL LEVEL OF CARE FOR CERTAIN PARTICIPANTS.—(1) Section 1915(c)(1) of such Act (42 U.S.C. 1396n(c)(1)) is amended by inserting "or but for the provision of such services the individuals would continue to receive inpatient hospital services, skilled nursing facility services, or intermediate care facility services because they are dependent on ventilator support the cost of which is reimbursed under the State plan" before the period at the end thereof.

(2) Section 1915(c)(2)(C) of such Act (42 U.S.C. 1396n(c)(2)(C)) is amended—

(A) by inserting "hospital or" after "provided in a"; and

(B) by inserting "inpatient hospital services or" after "the provision of".

(c) PROHIBITING IMPOSITION OF CERTAIN REGULATORY LIMITS.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)) as amended by subsection (a), is further amended—

(1) in paragraph (2)(D), by inserting "100 percent of" after "does not exceed"; and

(2) by adding at the end thereof the following new paragraph:

"(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.".

(d) COMPUTATION OF EXPENDITURES FOR CERTAIN DISABLED PATIENTS.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)), as amended by subsection (c), is further amended by adding at the end thereof the following new paragraph:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver which applies only to physically disabled individuals who are inpatients in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure which would have been made in a fiscal year for those individuals under the State plan separately from the expenditure for other individuals who are inpatients of those facilities.".

(e) PERMITTING FLEXIBILITY IN ESTABLISHING MAINTENANCE INCOME STANDARDS.—Section 1915(c)(3) of such Act (42 U.S.C. 1396n(c)(3)) is amended by adding at the end the following new sentence: "A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.".

(f) WAIVER EXTENSIONS.—The Secretary of Health and Human Services shall extend, upon request of the State, any waiver under section 1915(c) of the Social Security Act which expires on or after September 30, 1985, and before September 30, 1986. Such extension shall be for a period of not less than one year nor more than five years, subject to section 1915(e)(1) of such Act.

(g) WAIVER RENEWALS.—Section 1915(c)(3) of the Social Security Act (42 U.S.C. 1396n(c)(3)) is amended—

(1) by striking out "additional three-year periods" and inserting in lieu thereof "additional five-year periods"; and

(2) by striking out "previous three-year period" and inserting in lieu thereof "previous waiver period".

(h) COORDINATED SERVICES BETWEEN MCH PROGRAM AND HOME AND COMMUNITY-BASED SERVICE PROGRAMS.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (d) of this section, is further amended by adding at the end thereof the following new paragraph:

"(8) The State agency administering the plan under this title may, whenever appropriate, enter into cooperative arrangements with the State agency responsible for administering the program for children with special health care needs under title V in order to assure improved access to coordinated services to meet the needs of such children.".

(i) SUBSTITUTION OF PARTICIPANTS.—(1) Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new paragraph:

"(9) In the case of any waiver under this subsection which contains a limit on the number of individuals who shall receive home or community-based services, the State may substitute additional individuals to receive such services to replace any individuals who die or become ineligible for services under the State plan.".

(j) EFFECTIVE DATES.—

(1) HABILITATION SERVICES.— The amendment made by subsection (a) shall be effective for services furnished on or after the date of the enactment of this Act.

(2) HOSPITALIZED PATIENTS.—The amendments made by subsection (b) shall be effective for services furnished on or after October 1, 1985.

(3) PROHIBITION OF REGULATORY LIMITS AND TREATMENT OF CERTAIN PHYSICALLY DISABLED INDIVIDUALS.—The amendments made by subsections (c) and (d) shall apply to applications for waivers (or renewals thereof) filed before, on, or after, the date of the enactment of this Act and for services furnished on or after August 13, 1981.

(4) INCOME STANDARDS.—The amendment made by subsection (e) shall apply to waivers (or renewals thereof) approved on or after the date of the enactment of this Act.

(5) WAIVER EXTENSIONS.—Subsection (f) shall apply to waivers expiring on or after September 30, 1985, and before September 30, 1986.

(6) WAIVER RENEWALS.—The amendments made by subsection (g) shall become effective on September 30, 1986.

(7) COORDINATED SERVICES AND SUBSTITUTION OF PARTICIPANTS.—The amendments made by subsections (h) and (i) shall become effective on the date of the enactment of this Act.

SEC. 9503. THIRD-PARTY LIABILITY.

(a) AMENDMENTS TO STATE PLAN REQUIREMENTS.—(1) Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended to read as follows:

"(25) provide—

"(A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties (including health insurers) to pay for care and services available under the plan, including—

"(i) the collection of sufficient information (as specified by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance, and

"(ii) the submission to the Secretary of a plan (subject to approval by the Secretary) for pursuing claims against such third parties, which plan shall—

"(I) be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r), and

"(II) be subject to the provisions of section 1903(r)(4) relating to reductions in Federal payments for failure to meet conditions of approval, but shall not be subject to any other financial penalty as a result of any other monitoring, quality control, or auditing requirements;

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

"(C) that in the case of an individual who is entitled to medical assistance under the State plan with respect to a service for which a third party is liable for payment, the person furnishing the service may not seek to collect from the individual (or any financially responsible relative or representative of that individual) payment of an amount for that service (i) if the total of the amount of the liabilities of third parties for that service is at least equal to the amount payable for that service under the plan (disregarding section 1916), or (ii) in an amount which exceeds the lesser of (I) the amount which may be collected under section 1916, or (II) the amount by which the amount payable for that service under the plan (disregarding section 1916) exceeds the total of the amount of the liabilities of third parties for that service;

"(D) that a person who furnishes services and is participating under the plan may not refuse to furnish services to an individual (who is entitled to have payment made under the plan for the services the person furnishes) because of a third party's potential liability for payment for the service;

"(E) that in the case of prenatal or preventive pediatric care (including early and periodic screening and diagnosis services under section 1905(a)(4)(B)) covered under the State plan, the State shall—

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to the liability of a third party for payment for such services; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B); and

"(F) that in the case of any services covered under such plan which are provided to an individual on whose behalf child support enforcement is being carried out by the State agency under part D of title IV of this Act, the State shall—

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to any third-party liability for payment for such services, if such third-party liability is derived (through insurance or otherwise) from the parent whose obligation to pay support is being enforced by such agency, if payment has not been made by such third party within 30 days after such services are furnished; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B);".

(2) Section 1902 of such Act (42 U.S.C. 1396a) is amended by inserting after subsection (f) the following new subsection:

"(g) In addition to any other sanction available to a State, a State may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to three times the amount of any payment sought to be collected by that person in violation of subsection (a)(25)(C).".

(b) PERFORMANCE STANDARDS AND REVIEW FOR MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS.—(1) Section 1903(r)(6)(J) of such Act (42 U.S.C. 1396b(r)(6)(J)) is amended to read as follows:

"(J) develop and disseminate performance standards for assessing the State's third party collection efforts in accordance with section 1902(a)(25)(A)(ii).".

(2) Section 1903(r)(4)(A) of such Act (42 U.S.C. 1396b(r)(4)(A)) is amended—

(A) by striking out "once each fiscal year" and inserting in lieu thereof "once every three years"; and

(B) by adding at the end thereof the following: "Reviews may, at the Secretary's discretion, constitute reviews of the entire system or of only those standards, systems requirements, and other conditions which have demonstrated weakness in previous reviews.".

(c) REGULATIONS.—The Secretary of Health and Human Services shall promulgate final regulations necessary to carry out sections 1902(a)(25) and 1903(r)(6)(J) of the Social Security Act within 6 months after the date of the enactment of this Act.

(d) ERISA AMENDMENT.—(1) Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end thereof the following new paragraph:

"(8) Subsection (a) of this section shall not apply to any State law mandating that an employee benefit plan not include any provision which has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan, because that individual is provided, or is eligible for, benefits or services pursuant to a plan under title XIX of the Social Security Act, to the extent such law is necessary for the State to be eligible to receive reimbursement under title XIX of that Act.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on October 1, 1986.

(B) In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before the date of the enactment of this Act, the amendment made by paragraph (1) shall become effective on the later of—

(i) October 1, 1986; or

(ii) the earlier of—

(I) the date on which the last of the collective bargaining agreements under which the plan is maintained, which were in effect on the date of the enactment of this Act, terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(II) three years after the date of the enactment of this Act.

(e) CONDITION OF ELIGIBILITY.—Section 1912(a)(1) of the Social Security Act (42 U.S.C. 1396k(a)(1)) is amended by striking out "and" at the end of subparagraph (A), and by adding at the end thereof the following new subparagraph:

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and".

(f) DISREGARD FROM ERRONEOUS PAYMENTS.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end thereof the following new clause:

"(iv) In determining the amount of erroneous excess payments, there shall not be included any error resulting from a failure of an individual to cooperate or give correct information with respect to third-party liability as required under section 1912(a)(1)(C) or 402(a)(26)(C).".

(g) EFFECTIVE DATES.—(1) Except as otherwise provided, the amendments made by this section shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State

legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State Legislature that begins after the date of the enactment of this Act.

(3) No penalty may be applied against any State for a violation of section 1902(a)(25) of the Social Security Act occurring prior to the effective date of the amendments made by this section.

(4) The amendment made by subsection (c) shall become effective on the date of the enactment of this Act.

SEC. 9504. RESPIRATORY CARE SERVICES FOR VENTILATOR-DEPENDENT INDIVIDUALS.

(a) OPTIONAL SERVICES.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396b(e)), as amended by section 9501 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6)(A) At the option of the State, the plan may include as medical assistance respiratory care services for any individual who—

"(i) is medically dependent on a ventilator for life support at least six hours per day;

"(ii) has been so dependent for at least 30 consecutive days or the maximum number of days authorized under the State plan, whichever is less, as an inpatient in one or more hospitals, skilled nursing facilities, or intermediate care facilities;

"(iii) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, skilled nursing facility, or intermediate care facility, and would be eligible to have payment made for such inpatient care under the State plan;

"(iv) has adequate social support services to be cared for at home; and

"(v) wishes to be cared for at home.

"(B) For purposes of this paragraph, respiratory care services means services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State), payment for which is not otherwise included within other items and services furnished to such individual as medical assistance under the plan.".

(b) WAIVER OF COMPARABILITY.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by section 9701 of this Act, is further amended, in the matter following subparagraph (D)—

(1) by striking out "and" before "(V)" and inserting in lieu thereof a comma; and

(2) by inserting before the semicolon at the end thereof the following: ", and (VI) the making available of respiratory care services in accordance with subsection (e)(6) shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any individuals not included under subsection (e)(6)(A), provided such services are made available (in the same amount, duration, and scope) to all individuals described in such subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 1986.

SEC. 9505. OPTIONAL HOSPICE BENEFITS.

(a) COVERAGE OF HOSPICE CARE AS AN OPTIONAL MEDICAID BENEFIT.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (17);

(B) by redesignating paragraph (18) as paragraph (19); and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) hospice care (as defined in subsection (o)); and"; and

(2) by adding at the end thereof the following new subsection:

"(o)(1) The term 'hospice care' means the care described in section 1861(dd)(1) furnished by a hospice program (as defined in section 1861(dd)(2)) to a terminally ill individual who has voluntarily elected (in accordance with paragraph (2)) to have payment made for hospice care instead of having payment made for certain benefits described in section 1812(d)(2)(A) and intermediate care facility services under the plan. For purposes of such election, hospice care may be provided to an individual while such individual is a resident of a skilled nursing facility or intermediate care facility, but the only payment made under the State plan shall be for the hospice care.

"(2) An individual's voluntary election under this subsection—

"(A) shall be made in accordance with procedures that are established by the State and that are consistent with the procedures established under section 1812(d)(2);

"(B) shall be for such a period or periods (which need not be the same periods described in section 1812(d)(1)) as the State may establish; and

"(C) may be revoked at any time without a showing of cause and may be modified so as to change the hospice program with respect to which a previous election was made.".

(b) ELIGIBILITY.—

(1) LIMITATION TO TERMINALLY ILL INDIVIDUALS.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by sections 9501 and 9504 of this Act, is further amended, in the matter following subparagraph (D), by striking out "and" before "(VI)" and by inserting before the semicolon at the end thereof the following: ", and (VII) with respect to the making available of medical assistance for hospice care to terminally ill individuals who have made a voluntary election described in section 1905(o) to receive hospice care instead of medical assistance for certain other services, such assistance may not be made available in an amount, duration, or scope less than that provided under title XVIII, and the making available of such assistance shall not, by reason of this paragraph (10), require the making available of medical assistance for hospice care to other individuals or the making available of medical assistance for services waived by such terminally ill individuals".

(2) HIGHER INCOME STANDARD PERMITTED.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) by striking out "or" at the end of subclause (V);

(B) by striking out the semicolon at the end of subclause (VI) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subclause:

"(VII) who would be eligible under the State plan under this title if they were in a medical institution, who are terminally ill, and who will receive hospice care pursuant to a voluntary election described in section 1905(o);".

(c) PAYMENT FOR HOSPICE CARE.—

(1) USE OF MEDICARE RATES.—Section 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) for payment for hospice care in the same amounts, and using the same methodology, as used under part A of title XVIII; except that a separate rate may be paid for hospice care which is furnished to an individual who is a resident of a skilled nursing facility or intermediate care facility, and who would be eligible under the plan for skilled nursing facility services or intermediate care facility services if he had not elected to receive hospice care, to take into account the room and board furnished by such facility; and".

(2) LIMITATION ON COPAYMENTS.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(A) by striking out "or" at the end of subparagraph (C);

(B) by striking out "; and" at the end of subparagraph (D) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subparagraph:

"(E) services furnished to an individual who is receiving hospice care (as defined in section 1905(o)); and".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking out "(18)" and inserting in lieu thereof "(19)".

(2) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking out "through (17)" and inserting in lieu thereof "through (18)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance provided for hospice care furnished on or after the date of the enactment of this Act.

SEC. 9506. TREATMENT OF POTENTIAL PAYMENTS FROM MEDICAID QUALIFYING TRUSTS.

(a) AMOUNTS TREATED AS BEING AVAILABLE FROM GRANTOR TRUSTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end thereof the following new subsection:

"(k)(1) In the case of a medicaid qualifying trust (described in paragraph (2)), the amounts from the trust deemed available to a grantor, for purposes of subsection (a)(17), is the maximum amount of payments that may be permitted under the terms of the trust to be distributed to the grantor, assuming the full exercise of discretion by the trustee or trustees for the distribution of the maximum amount to the grantor. For purposes of the previous sentence, the term 'grantor' means the individual referred to in paragraph (2).

"(2) For purposes of this subsection, a 'medicaid qualifying trust' is a trust, or similar legal device, established by an individual (or an individual's spouse) under which the individual may be the beneficiary of all or part of the payments from the trust and the distribution of such payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the individual.

"(3) This subsection shall apply without regard to—

"(A) whether or not the medicaid qualifying trust is irrevocable or is established for

purposes other than to enable a grantor to qualify for medical assistance under this title; or

"(B) whether or not the discretion described in paragraph (2) is actually exercised.

"(4) The State may waive the application of this subsection with respect to an individual where the State determines that such application would work an undue hardship.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance furnished on or after the first day of the second month beginning after the date of the enactment of this Act.

SEC. 9507. WRITTEN STANDARDS FOR PROVISION OF ORGAN TRANSPLANTS.

(a) DENIAL OF FEDERAL PAYMENTS FOR ORGAN TRANSPLANTS UNLESS PROVIDED UNDER WRITTEN STANDARDS.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) for organ transplant procedures unless the State plan provides for written standards respecting the coverage of such procedures and unless such standards provide that—

"(A) similarly situated individuals are treated alike; and

"(B) any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished on or after January 1, 1987.

SEC. 9508. OPTIONAL TARGETED CASE MANAGEMENT SERVICES.

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end thereof the following new subsection:

"(g)(1) A State may provide, as medical assistance, case management services under the plan without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B). The provision of case management services under this subsection shall not restrict the choice of the individual to receive medical assistance in violation of section 1902(a)(23).

"(2) For purposes of this subsection, the term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(2) Section 1915(b) of such Act (42 U.S.C. 1396n(b)) is amended by adding at the end thereof (after and below paragraph (4)) the following: "No waiver under this subsection may restrict the choice of the individual in receiving services under section 1905(a)(4)(C).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 9509. REVALUATION OF ASSETS.

(a) REVALUATION OF ASSETS.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)), as amended by section 9505 of this Act, is further amended—

(1) in subparagraph (B), by striking out "hospitals, skilled nursing facilities, and intermediate care facilities" and inserting in lieu thereof "hospitals";

(2) by striking out "and" at the end of subparagraph (C);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) that the State shall provide assurances satisfactory to the Secretary that the valuation of capital assets, for purposes of determining payment rates for skilled nursing facilities and intermediate care facilities, will not be increased (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

"(i) one-half of the percentage increase (as measured over the same period of time, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes, applied in the aggregate with respect to those facilities which have undergone a change of ownership during the fiscal year, or

"(ii) one-half of the percentage increase (as measured over the same period of time) in the Consumer Price Index for All Urban Consumers (United States city average);".

(b) EFFECTIVE DATES.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to medical assistance furnished on or after October 1, 1985, but only with respect to changes of ownership occurring on or after such date.

(2) The amendments made by this section shall not apply with respect to a change of ownership pursuant to an enforceable agreement entered into prior to October 1, 1985.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the requirements imposed by the amendments made by this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(c) GAO STUDY.—The Comptroller General shall conduct a study of the effects of the amendments made by this section, and shall report the results of such study to the Congress two years after the date of the enactment of this Act.

SEC. 9510. BEGINNING DATE OF OPTIONAL COVERAGE FOR INDIVIDUALS IN MEDICAL INSTITUTIONS.

(a) COVERAGE. — Section 1902(a)(10)(A)(ii)(V) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(V)) is amended by inserting "for a period of not less than 30 consecutive days (with eligibility by reason of this subclause beginning on the first day of such period)" after "are in a medical institution".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payment for services furnished on or after October 1, 1985.

SEC. 9511. OPTIONAL COVERAGE OF CHILDREN.

(a) STATE OPTION.—Section 1905(n)(2) of the Social Security Act (42 U.S.C. 1396d(h)(2)) is amended by inserting "(or such earlier date as the State may designate)" after "September 30, 1983".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services furnished on or after January 1, 1986.

SEC. 9512. OVERPAYMENT RECOVERY RULES.

(a) OVERPAYMENT RECOVERY.—Section 1903(d)(2) of the Social Security Act (42 U.S.C. 1396b(d)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by designating the second sentence as subparagraph (B), properly indented and aligned below subparagraph (A); and

(3) by adding at the end thereof the following new subparagraphs:

"(C) For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).".

(b) EFFECTIVE DATE.— The amendments made by this section shall apply to overpayments identified for quarters beginning on or after October 1, 1985.

SEC. 9513. HOME AND COMMUNITY-BASED SERVICES DEMONSTRATIONS.

(a) DEMONSTRATION PROJECTS.—(1) The Secretary of Health and Human Services shall allow four States (to be selected by the Secretary) to conduct demonstration projects to determine whether, and to what extent, State controlled home and community-based service programs for elderly, disabled, and developmentally disabled individuals, who are eligible under the State's plan approved under title XIX of the Social Security Act, can reduce expenditures for the society as a whole, for the Federal Government, and for the States.

(2) At least one of such demonstration projects shall include the provision of home and community-based services for a significant number of individuals with Alzheimer's disease or related disorders, and at least one of such demonstration projects shall include the provision of home and community-based services for a significant number of individuals who are mentally retarded or developmentally disabled.

(3) The Secretary shall approve any application for a project under this section only after determining that the conduct of such project will not lower, restrict, or delay the medical assistance available under the State plan approved under title XIX of the Social Security Act to the individuals participating in the demonstration project, and will not lower or restrict the income or resource standards or methodologies used under such State plan.

(b) DURATION.—Each demonstration project shall be for a period of three years.

(c) MEDICAID EXPENDITURE LEVELS.—Federal expenditures under the demonstration projects shall exceed the amounts which would otherwise be expended under title XIX of the Social Security Act for services provided to the same individuals by not less than $85,000,000 nor more than $88,000,000 for all four projects over the 3-year period of the projects. Such additional amounts may be used to provide additional services such

as habilitative services not otherwise covered under the State plan, or care provided in small facilities not otherwise eligible for payments under such plan, but all standards for quality of care otherwise applicable under the State plan shall apply.

(d) STATES SELECTED.—In selecting the four States to carry out the demonstration projects, the Secretary shall select programmatically and demographically disparate States.

(e) EVALUATION.—The Secretary shall evaluate the demonstration projects and submit a preliminary report during the third year of the projects. There are authorized to be appropriated not less than $1,500,000 nor more than $2,000,000 for purposes of such evaluation.

SEC. 9514. REGULATIONS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

The Secretary of Health and Human Services shall promulgate proposed regulations revising standards for intermediate care facilities for the mentally retarded under title XIX of the Social Security Act within 60 days after the date of the enactment of this Act.

SEC. 9515. LIFE SAFETY CODE RECOGNITION.

For purposes of section 1905(c) of the Social Security Act, an intermediate care facility for the mentally retarded (as defined in section 1905(d) of such Act) which meets the requirements of the relevant sections of the 1985 edition of the Life Safety Code of the National Fire Protection Association shall be deemed to meet the fire safety requirements for intermediate care facilities for the mentally retarded until such time as the Secretary specifies a later edition of the Life Safety Code for purposes of such section, or the Secretary determines that more stringent standards are necessary to protect the safety of residents of such facilities.

SEC. 9516. CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

(a) CORRECTION AND REDUCTION PLANS.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

"SEC. 1919. (a) If the Secretary finds that an intermediate care facility for the mentally retarded has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State may elect, subject to the limitations in this section, to—

"(1) submit, within the number of days specified by the Secretary in regulations which apply to submission of compliance plans with respect to deficiencies of such type, a written plan of correction which details the extent of the facility's current compliance with the standards promulgated by the Secretary, including all deficiencies identified during a validation survey, and which provides for a timetable for completion of necessary steps to correct all staffing deficiencies within 6 months, and a timetable for rectifying all physical plant deficiencies within 6 months; or

"(2) submit, within a time period consisting of the number of days specified for submissions under paragraph (1) plus 35 days, a written plan for permanently reducing the number of certified beds, within a maximum of 36 months, in order to permit any noncomplying buildings (or distinct parts thereof) to be vacated and any staffing deficiencies to be corrected (hereafter in this section referred to as a 'reduction plan').

"(b) As conditions of approval of any reduction plan submitted pursuant to subsection (a)(2), the State must—

"(1) provide for a hearing to be held at the affected facility at least 35 days prior to submission of the reduction plan, with reasonable notice thereof to the staff and residents of the facility, responsible members of the residents' families, and the general public;

"(2) demonstrate that the State has successfully provided home and community services similar to the services proposed to be provided under the reduction plan for similar individuals eligible for medical assistance; and

"(3) provide assurances that the requirements of subsection (c) shall be met with respect to the reduction plan.

"(c) The reduction plan must—

"(1) identify the number and service needs of existing facility residents to be provided home or community services and the timetable for providing such services, in 6 month intervals, within the 36-month period;

"(2) describe the methods to be used to select such residents for home and community services and to develop the alternative home and community services to meet their needs effectively;

"(3) describe the necessary safeguards that will be applied to protect the health and welfare of the former residents of the facility who are to receive home or community services, including adequate standards for consumer and provider participation and assurances that applicable State licensure and applicable State and Federal certification requirements will be met in providing such home or community services;

"(4) provide that residents of the affected facility who are eligible for medical assistance while in the facility shall, at their option, be placed in another setting (or another part of the affected facility) so as to retain their eligibility for medical assistance;

"(5) specify the actions which will be taken to protect the health and safety of the residents who remain in the affected facility while the reduction plan is in effect;

"(6) provide that the ratio of qualified staff to residents at the affected facility (or the part thereof) which is subject to the reduction plan will be the higher of—

"(A) the ratio which the Secretary determines is necessary in order to assure the health and safety of the residents of such facility (or part thereof); or

"(B) the ratio which was in effect at the time that the finding of substantial deficiencies (referred to in subsection (a)) was made; and

"(7) provide for the protection of the interests of employees affected by actions under the reduction plan, including—

"(A) arrangements to preserve employee rights and benefits;

"(B) training and retraining of such employees where necessary;

"(C) redeployment of such employees to community settings under the reduction plan; and

"(D) making maximum efforts to guarantee the employment of such employees (but this requirement shall not be construed to guarantee the employment of any employee).

"(d)(1) The Secretary must provide for a period of not less than 30 days after the submission of a reduction plan by a State, during which comments on such reduction plan may be submitted to the Secretary, before the Secretary approves or disapproves such reduction plan.

"(2) If the Secretary approves more than 15 reduction plans under this section in any fiscal year, any reduction plans approved in addition to the first 15 such plans approved, must be for a facility (or part thereof) for which the costs of correcting the substantial deficiencies (referred to in subsection (a)) are $2,000,000 or greater (as demonstrated by the State to the satisfaction of the Secretary).

"(e)(1) If the Secretary, at the conclusion of the 6-month plan of correction described in subsection (a)(1), determines that the State has substantially failed to correct the deficiencies described in subsection (a), the Secretary may terminate the facility's provider agreement in accordance with the provisions of section 1910(c).

"(2) In the case of a reduction plan described in subsection (a)(2), if the Secretary determines, at the conclusion of the initial 6-month period or any 6-month interval thereafter, that the State has substantially failed to meet the requirements of subsection (c), the Secretary shall—

"(A) terminate the facility's provider agreement in accordance with the provisions of section 1910(c); or

"(B) if the State has failed to meet such requirements despite good faith efforts, disallow, for purposes of Federal financial participation, an amount equal to 5 percent of the cost of care for all eligible individuals in the facility for each month for which the State fails to meet such requirements.

"(f) The provisions of this section shall apply only to plans of correction and reduction plans approved by the Secretary within 3 years after the effective date of final regulations implementing this section.".

(b) EFFECTIVE DATE.—(1) The amendment made by this section shall become effective on the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to section 1919 of the Social Security Act within 60 days after the date of the enactment of this Act, and shall allow a period of 30 days for comment thereon prior to promulgating final regulations implementing such section.

(c) REPORT.—The Secretary of Health and Human Services shall submit a report to the Congress on the implementation and results of section 1919 of the Social Security Act. Such report shall be submitted not later than 30 months after the effective date of final regulations promulgated to implement such section.

SEC. 9517. MODIFYING APPLICATION OF MEDICAID HMO PROVISIONS FOR CERTAIN HEALTH CENTERS.

(a) WAIVING APPLICATION OF 75 PERCENT RULE AND CERTAIN ORGANIZATIONAL REQUIREMENTS.—Section 1903(m)(2) of the Social Security Act (42 U.S.C. 1396b(m)(2)) is amended—

(1) in subparagraph (A), by striking out "(B) and (C)" and inserting in lieu thereof "(B), (C), and (G)";

(2) in subparagraph (F)—

(A) by striking out "(F)(i) In the case of a contract with a health maintenance organization described in clause (ii)" and inserting in lieu thereof "(F) in the case of a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii)";

(B) by striking out "such organization" and inserting in lieu thereof "such entity or organization"; and

(C) by striking out clause (ii); and

(3) by adding at the end thereof the following new subparagraph:

"(G) In the case of an entity which is receiving (and has received during the previous two years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, clauses (i) and (ii) of subparagraph (A) shall not apply.".

(b) PERMITTING 6-MONTH CONTINUATION OF BENEFITS.—Section 1902(e)(2) of such Act (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting "or with an entity described in section 1903(m)(2)(G)" after "Public Health Service Act)"; and

(B) by inserting "or entity" before the period; and

(2) in subparagraph (B)—

(A) by striking out "a health maintenance organization" and inserting in lieu thereof "an organization or entity"; and

(B) by inserting "or entity" after "the organization".

(c) HEALTH INSURING ORGANIZATIONS.—(1) Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended, in the matter before clause (i)—

(1) by inserting "(including a health insuring organization)" after "any entity"; and

(2) by inserting "(directly or through arrangements with providers of services)" after "responsible for the provision".

(2) The amendments made by paragraph (1) shall apply to expenditures incurred for health insuring organizations which first become operational on or after January 1, 1986.

SEC. 9518. EXTENSION OF MMIS DEADLINE.

(a) NEW DEADLINE.—Section 1903(r)(1)(B) of the Social Security Act (42 U.S.C. 1396b(r)(1)(B)) is amended by striking out "the earlier of" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "September 30, 1985.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment under section 1903(a) of the Social Security Act for calendar quarters beginning on or after October 1, 1982.

SEC. 9519. REPORT ON ADJUSTMENT IN MEDICAID PAYMENTS FOR HOSPITALS SERVING DISPROPORTIONATE NUMBERS OF LOW INCOME PATIENTS.

The Secretary of Health and Human shall transmit to Congress, not later than October 1, 1986, a report that—

(1) describes the methodology used by States under section 1902(a)(13)(A) of the Social Security Act, in their making payments to hospitals, in taking into account the situation of hospitals that serve a disproportionate number of low income patients with special needs;

(2) identifies each of those hospitals that have had the amount of their payments under that title adjusted under that section; and

(3) for each of those hospitals, describes the proportion of total inpatient-days attributable to low income patients and the proportion of total inpatient-days attributable to patients entitled to medical assistance under that title.

SEC. 9520. TASK FORCE ON TECHNOLOGY-DEPENDENT CHILDREN.

(a) APPOINTMENT OF TASK FORCE.—The Secretary of Health and Human Services, within six months after the date of the enactment of this Act, shall establish a task force concerning alternatives to institutional care for technology-dependent children (as defined in subsection (e)).

(b) MEMBERSHIP.—The task force shall include representatives of Federal and State agencies with responsibilities relating to child health, health insurers, large employers (including those that self-insure for health care costs), providers of health care to technology-dependent children, and parents of technology-dependent children.

(c) FUNCTIONS OF TASK FORCE.—The task force shall—

(1) identify barriers that prevent the provision of appropriate care in a home or community setting to meet the special needs of technology-dependent children; and

(2) recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology-dependent children.

(d) REPORT.—The task force shall make a final report to the Secretary and to the Congress on its activities not later than two years after the date of the enactment of this Act.

(e) DEFINITION.—In this section, the term "technology-dependent child" means a child who has a chronic illness which makes the child dependent upon the continuing use of medical care technology (such as a ventilator).

SEC. 9521. CLARIFICATION OF MEDICAID MORATORIUM PROVISIONS OF DEFICIT REDUCTION ACT OF 1984.

(a) CLARIFICATION.—Section 2373(c) of the Deficit Reduction Act of 1984 is amended—

(1) in paragraph (1)—

(A) by inserting "(whether or not approved)" after "such State's plan",

(B) by inserting "(including any part of the plan operating pursuant to section 1902(f) of that Act), or the operation thereunder," after "Social Security Act", and

(C) by inserting "(or its operation's)" after "such plan's"; and

(2) by adding at the end thereof the following new paragraph:

"(5) In this subsection, a State plan is considered to include any amendment or other change in the plan which is submitted by a State, or for which the Secretary otherwise has notice, whether before or after the date of enactment of the Deficit Reduction Act of 1984 and whether or not the amendment or change was approved, disapproved, acted upon, or not acted upon by the Secretary.".

(b) SALE OF HOME.—Section 2373(c) of the Deficit Reduction Act of 1984 is further amended by adding at the end thereof the following new paragraph:

"(6) During the moratorium period, the Secretary shall implement (and shall not change by any administrative action) the policy in effect at the beginning of such moratorium period with respect to—

"(A) the point in time at which an institutionalized individual must sell his home (in order that it not be counted as a resource); and

"(B) the time period allowed for sale of a home of any such individual,

who is an applicant for or recipient of medical assistance under the State plan as a medically needy individual (described in section 1902(a)(10)(C) of the Social Security Act) or as an optional categorically needy individual (described in section 1902(a)(10)(A)(ii) of such Act).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as though they were included in the Deficit Reduction Act of 1984 as originally enacted.

SEC. 9522. EXPANSION OF SERVICES UNDER DEMONSTRATION WAIVERS.

In the case of waivers granted to the State of Oregon under section 1915(b) of the Social Security Act, the Secretary of Health and Human Services may waive the requirements of section 1903(m)(2)(A) of such Act with respect to any entity providing services under any such waiver if such entity does not provide more than 5 of the services listed in section 1903(m)(2)(A) of such Act, and does not provide inpatient hospital services.

SEC. 9523. EXTENSION OF TEXAS WAIVER PROJECT.

(a) CONTINUED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act but subject to subsection (b) of this section, the Secretary of Health and Human Services, upon application, shall continue approval of demonstration project number 11-P-97473/6-06 ("Modifications under the Texas System of Care for the Elderly: Alternatives to the Institutionalized Aged"), previously approved under that section, until January 1, 1989.

(b) TERMS AND CONDITIONS.—The Secretary's continued approval of the project under subsection (a)—

(1) shall be on the same terms and conditions as applied to the project as of the date of the enactment of this Act; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with such terms and conditions.

SEC. 9524. WISCONSIN HEALTH MAINTENANCE ORGANIZATION WAIVER.

The waiver granted to the State of Wisconsin pursuant to section 1915(b) of the Social Security Act relating to the requirements of section 1903(m) of such Act in conjunction with a waiver of the requirements of section 1902(a)(23) of such Act shall, upon request by the State, be reinstated, and shall be renewable for terms of 2 years, subject to the showings required generally under section 1915(b) of such Act.

SEC. 9525. NEW JERSEY DEMONSTRATION PROJECT RELATING TO TRAINING OF AFDC RECIPIENTS AS HOME HEALTH AIDES.

The Secretary of Health and Human Services shall continue for one additional year the demonstration project conducted by the State of New Jersey pursuant to section 966 of the Omnibus Reconciliation Act of 1980. Federal matching for such demonstration project shall be 50 percent.

SEC. 9526. REFERENCE TO PROVISIONS OF LAW PROVIDING COVERAGE UNDER, OR DIRECTLY AFFECTING, THE MEDICAID PROGRAM.

Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

"SEC. 1920. (a) AUTHORITY OR REQUIREMENTS TO COVER ADDITIONAL INDIVIDUALS.—For provisions of law which make additional individuals eligible for medical assistance under this title, see the following:

"(1) AFDC.—(A) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

"(B) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

"(C) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

"(2) SSI.—Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

"(3) FOSTER CARE AND ADOPTION ASSISTANCE.— Section 473(b) of this Act (relating to medical assistance for children in foster care and for adopted children).

"(4) REFUGEE ASSISTANCE.—Section 412(e)(5) of the Immigration and Nationality Act (relating to medical assistance for certain refugees).

"(5) MISCELLANEOUS.—(A) Section 230 of Public Law 93-66 (relating to deeming eligible for medical assistance certain essential persons).

"(B) Section 231 of Public Law 93-66 (relating to deeming eligible for medical assistance certain persons in medical institutions).

"(C) Section 232 of Public Law 93-66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons).

"(D) Section 13(c) of Public Law 93-233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments).

"(E) Section 503 of Public Law 94-566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits).

"(b) ADDITIONAL STATE PLAN REQUIREMENTS.—For other provisions of law that establish additional requirements for State plans to be approved under this title, see the following:

"(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs).

"(2) Section 212(a) of Public Law 93-66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).".

SEC. 9527. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) Section 501(a)(4) of the Social Security Act (42 U.S.C. 701(a)(4)) is amended by striking out "children who are crippled or who are suffering from conditions leading to crippling" and inserting in lieu thereof "children who are 'children with special health care needs' or who are suffering from conditions leading to such status".

(b) Section 501(a) of such Act is amended by striking out "crippled children" in the matter following paragraph (4) and inserting in lieu thereof "children with special health care needs".

(c) Section 501(b)(1)(A) of such Act is amended by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(d) Section 502(a)(2)(B) of such Act is amended—

(1) by striking out "crippled children's programs" and inserting in lieu thereof "programs for children with special health care needs"; and

(2) by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(e) Sections 504(b)(1) and 509(b) of such Act are each amended by striking out "crippled children" and inserting in lieu thereof "children with special health care needs".

Subtitle C—Task Force on Long-Term Health Care Policies

SEC. 9601. RECOMMENDATIONS FOR LONG-TERM HEALTH CARE POLICIES.

(a) ESTABLISHMENT OF TASK FORCE.—(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a Task Force on Long-Term Health Care Policies (hereinafter in this section referred to as the "Task Force"). The Task Force shall be established not later than 60 days after the date of the enactment of this Act and in consultation with the National Association of Insurance Commissioners.

(B) COMPOSITION OF TASK FORCE.—The Task Force shall be composed of 18 members, which shall include—

(1) two members representing the National Association of Insurance Commissioners,

(2) three members representing Federal and State agencies with responsibilities relating to health or the elderly,

(3) three members representing private insurers,

(4) three members from organizations representing consumers or the elderly, and

(5) three members from organizations representing providers of long-term health care services.

The Secretary shall designate a member of the Task Force as chair.

(c) DEVELOPMENT OF RECOMMENDATIONS.—The Task Force shall develop recommendations for long-term health care policies, including recommendations designed—

(1) to limit marketing and agent abuse for those policies,

(2) to assure the dissemination of such information to consumers as is necessary to permit informed choice in purchasing the policies and to reduce the purchase of unnecessary or duplicative coverage,

(3) to assure that benefits provided under the policies are reasonable in relationship to premiums charged, and

(4) to promote the development and availability of long-term health care policies which meet these recommendations.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall report to the Secretary, to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate respecting—

(1) the recommendations developed under subsection (c), including an explanation of the reasons for their selection, and

(2) such recommendations for additional activities respecting long-term health care policies as the Task Force finds appropriate. The Secretary, in cooperation with the National Association of Insurance Commissioners, shall provide for the dissemination of the report to each of the States.

(e) TERMINATION OF TASK FORCE.—The Task Force shall terminate 90 days after the date of submission of the report required under subsection (d).

(f) REPORTS OF SECRETARY.—The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate two reports on—

(1) actions taken by the States to implement the recommendations developed under this section and to recommend additional action; and

(2) recommendations for legislative and administrative action, if any, needed to respond to issues raised by the Task Force or to improve consumer protection with respect to long-term health care policies.

The first report shall be transmitted 18 months after the date the report is made under subsection (d), and the second report shall be transmitted 18 months later.

(g) LONG-TERM HEALTH CARE POLICY DEFINED.—In this section, the term "long-term health care policy" means an insurance policy, or similar health benefits plan, which is designed for or marketed as providing (or making payments for) health care services (such as nursing home care and home health care) or related services (which may include home and community-based services), or both, over an extended period of time.

(h) ASSURANCE OF STATES' JURISDICTION.—Nothing in this section shall be construed as recommending Federal preemption of the States in overseeing the operation and regulation of insurance carriers in their respective jurisdictions.

SEC. 9528. ANNUAL CALCULATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) ANNUAL CALCULATION.—Section 1101(a)(8)(P) of the Social Security Act is amended—

(1) by striking out "even-numbered"; and

(2) by striking out "eight quarters" and inserting in lieu thereof "four quarters".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the Federal percentage (and Federal medical assistance percentage) for fiscal years 1987 and thereafter. Such amendments shall apply without regard to the requirement of section 1101(a)(8)(B) of the Social Security Act relating to the promulgation of the Federal percentage prior to November 30 of the year preceding the year in which the new Federal percentage becomes applicable. The Secretary of Health and Human Services shall promulgate such new percentage for fiscal year 1987 as soon as practicable after the date of the enactment of this Act.

SEC. 9529. MEDICAID COVERAGE RELATING TO ADOPTION ASSISTANCE AND FOSTER CARE.

(a) STATE OF RESIDENCE.—(1) Section 1902(b) of the Social Security Act (42 U.S.C. 1396a(b)) is amended by adding at the end thereof the following:

"For purposes of this title, any individual receiving aid or assistance under any plan of a State approved under part E of title IV shall be deemed to be receiving such aid or assistance from the State in which the individual actually resides.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

(b) ELIGIBILITY OF CERTAIN ADOPTED CHILDREN.—(1) Section 1902(a)(10)(A)(ii) of the Social Security Act, as amended by section 9505 of this Act, is amended—

(A) by striking out "or" at the end of subclause (VI);

(B) by striking out the semicolon at the end of subclause (VII) and inserting in lieu thereof ", or"; and

(C) by adding after subclause (VII) the following new subclause:

"(VIII) who is a child described in section 1905(a)(i)—

"(aa) for whom there is in effect an adoption assistance agreement (other than an agreement under part I of title IV) between the State and an adoptive parent or parents,

"(bb) who the State agency responsible for adoption assistance has determined cannot be placed with adoptive parents without medical assistance because such child has

special needs for medical or rehabilitative care, and

"(cc) who was eligible for medical assistance under the State plan prior to the adoption assistance agreement being entered into, or who would have been eligible for medical assistance at such time if the eligibility standards and methodologies of the State's foster care program under part E of title IV were applied rather than the eligibility standards and methodologies of the State's aid to families with dependent children program under part A of title IV;".

(2) In the case of an adoption assistance agreement (other than an agreement under part E of title IV of the Social Security Act) entered into before the date of the enactment of this Act—

(A) the requirements of subdivisions (aa) and (bb) of section 1902(a)(10)(A)(ii)(VIII) of the Social Security Act shall be deemed to be met if the State agency responsible for adoption assistance agreements determines that—

(i) at the time of adoptive placement the child had special needs for medical or rehabilitative care that made the child difficult to place; and

(ii) there is in effect with respect to such child an adoption assistance agreement between the State and an adoptive parent or parents; and

(B) the requirement of subdivision (cc) of such section shall be deemed to be met if the child was found by the State to be eligible for medical assistance prior to such agreement being entered into.

(3) This subsection, and the amendments made by this subsection, shall apply to adoption assistance agreements entered into before, on, or after the date of the enactment of this Act.

TITLE X—PRIVATE HEALTH INSURANCE COVERAGE

SEC. 10001. EMPLOYERS REQUIRED TO PROVIDE CERTAIN EMPLOYEES AND FAMILY MEMBERS WITH CONTINUED HEALTH INSURANCE COVERAGE AT GROUP RATES (INTERNAL REVENUE CODE AMENDMENTS).

(a) DENIAL OF DEDUCTION FOR EMPLOYER CONTRIBUTION TO PLAN.—Subsection (i) of section 162 of the Internal Revenue Code of 1954 (relating to deduction for trade or business expenses with respect to group health plans) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.—

"(A) IN GENERAL.—No deduction shall be allowed under this section for expenses paid or incurred by an employer for any group health plan maintained by such employer unless all such plans maintained by such employer meet the continuing coverage requirements of subsection (k).

"(B) EXCEPTION FOR CERTAIN SMALL EMPLOYERS, ETC.—Subparagraph (A) shall not apply to any plan described in section 106(b)(2).".

(b) DENIAL OF EXCLUSION FOR HIGHLY COMPENSATED INDIVIDUALS.—Section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) is amended by inserting "(a) IN GENERAL.—" before "Gross" and by inserting at the end thereof the following new subsection:

"(b) EXCEPTION FOR HIGHLY COMPENSATED INDIVIDUALS WHERE PLAN FAILS TO PROVIDE CERTAIN CONTINUATION COVERAGE.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any amount contributed by an employer on behalf of a highly compensated individual (within the meaning of section 105(h)(5)) to a group health plan maintained by such employer unless all such plans maintained by such employer meet the continuing coverage requirements of section 162(k).

"(2) EXCEPTION FOR CERTAIN PLANS.—Paragraph (1) shall not apply to any—

"(A) group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(B) governmental plan (within the meaning of section 414(d)), or

"(C) church plan (within the meaning of section 414(e)).

Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 (relating to employers under common control) shall apply for purposes of subparagraph (A).

"(3) GROUP HEALTH PLAN.—For purposes of this subsection, the term 'group health plan' has the meaning given such term by section 162(i)(3).".

(c) CONTINUATION COVERAGE REQUIREMENTS.—Section 162 of the Internal Revenue Code of 1954 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—For purposes of subsection (i)(2) and section 106(b)(1), a group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) CONTINUATION COVERAGE.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(B) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) MAXIMUM PERIOD.—In the case of—

"(I) a qualifying event described in paragraph (3)(B) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(II) any qualifying event not described in subclause (I), the date which is 36 months after the date of the qualifying event.

"(ii) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(iv) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(I) a covered employee under any other group health plan, or

"(II) entitled to benefits under title XVIII of the Social Security Act.

"(v) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(C) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) QUALIFYING EVENT.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary:

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(4) APPLICABLE PREMIUM.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) CLAUSE (ii) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) ELECTION.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in clause (i)(I) or (ii) of paragraph (7)(B) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"(6) NOTICE REQUIREMENTS.—In accordance with regulations prescribed by the Secretary—

"(A) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(B) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event,

"(C) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3), and

"(D) the plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(B) QUALIFIED BENEFICIARY.—

"(i) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(I) as the spouse of the covered employee, or

"(II) as the dependent child of the employee.

"(ii) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in paragraph (3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.".

(d) CONFORMING AMENDMENT.—Paragraph (1) of section 162(i) is amended by striking out "GENERAL RULE" in the heading thereof and inserting in lieu thereof "COVERAGE RELATING TO END STAGE RENAL DISEASE".

(e) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 10002. TEMPORARY EXTENSION OF COVERAGE AT GROUP RATES FOR CERTAIN EMPLOYEES AND FAMILY MEMBERS (ERISA AMENDMENTS).

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new part:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"SEC. 601. PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.

"(a) IN GENERAL.—The plan sponsor of each group health plan shall provide, in accordance with this part, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year. Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of this subsection.

"SEC. 602. CONTINUATION COVERAGE.

"For purposes of section 601, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 603(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph

(2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"SEC. 603. QUALIFYING EVENT.

"For purposes of this part, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this part, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"SEC. 604. APPLICABLE PREMIUM.

"For purposes of this part—

"(1) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) DETERMINATION ON BASIS OF PAST COST.—If an administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

"(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(C) SUBPARAGRAPH (B) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—An administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

"(3) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"SEC. 605. ELECTION.

"For purposes of this part—

"(1) ELECTION PERIOD.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 606(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 607(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"SEC. 606. NOTICE REQUIREMENTS.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the administrator of a qualifying event described in paragraph (1), (2), or (4) of section 603 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 603, and

"(4) the administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 603, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 603 where the covered employee notifies the administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"SEC. 607. DEFINITIONS.

"For purposes of this part—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means an employee welfare benefit plan that is a group health plan (within the meaning of section 162(i)(3) of the Internal Revenue Code of 1954).

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in section 603(2), the term 'qualified beneficiary' includes the covered employee.".

"SEC. 609. REGULATIONS.

"The Secretary may prescribe regulations to carry out the provisions of this part.".

(b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by inserting after "Any administrator" the following: "(1) who fails to meet the requirements of paragraph (1) or (4) of section 606 with respect to a participant or beneficiary, or (2)".

(c) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"Sec. 601. Plans must provide continuation coverage to certain individuals.
"Sec. 602. Continuation coverage.
"Sec. 603. Qualifying event.
"Sec. 604. Applicable premium.
"Sec. 605. Election.
"Sec. 606. Notice requirements.
"Sec. 607. Definitions.
"Sec. 608. Regulations.".

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(e) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under part 6 of subtitle B of title I of such Act. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 606(1) of such Act with respect to such individuals.

SEC. 10003. CONTINUATION OF HEALTH INSURANCE FOR STATE AND LOCAL EMPLOYEES WHO LOST EMPLOYMENT-RELATED COVERAGE (PUBLIC HEALTH SERVICE ACT AMENDMENTS).

(a) IN GENERAL.—The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXII—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES

"SEC. 2201. STATE AND LOCAL GOVERNMENTAL GROUP HEALTH PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.

"(a) IN GENERAL.—In accordance with regulations which the Secretary shall prescribe, each group health plan that is maintained by any State that receives funds under this Act, by any political subdivision of such a State, or by any agency or instrumentality of such a State or political subdivision, shall provide, in accordance with this title, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to—

"(1) any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year, or

"(2) any group health plan maintained for employees by the government of the District of Columbia or any territory or possession of the United States or any agency or instrumentality.

Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of paragraph (1).

"SEC. 2202. CONTINUATION COVERAGE.

"For purposes of section 2201, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 2203(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"SEC. 2203. QUALIFYING EVENT.

"For purposes of this title, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this title, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"SEC. 2204. APPLICABLE PREMIUM.

"For purposes of this title—

"(1) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

"(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(C) SUBPARAGRAPH (B) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

"(3) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"SEC. 2205. ELECTION.

"For purposes of this title—

"(1) ELECTION PERIOD.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 2206(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 2208(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"SEC. 2206. NOTICE REQUIREMENTS.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in paragraph (1), (2), or (4) of section 2203 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 2203, and

"(4) the plan administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 2203, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 2203 where the covered employee notifies the plan administrator under paragraph (3),

any qualified beneficiary with respect to such event,
of such beneficiary's rights under this subsection.
For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the plan administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"SEC. 2207. ENFORCEMENT.

"Any individual who is aggrieved by the failure of a State, political subdivision, or agency or instrumentality thereof, to comply with the requirements of this title may bring an action for appropriate equitable relief.

"SEC. 2208. DEFINITIONS.

"For purposes of this title—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 162(i)(3) of the Internal Revenue Code of 1954.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in section 2203(2), the term 'qualified beneficiary' includes the covered employee.

"(4) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974."

(b) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(c) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan (covered under section 2201 of the Public Health Service Act), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under title XXII of such Act. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 2206(1) of such Act with respect to such individuals.

TITLE XI—SINGLE-EMPLOYER PLAN TERMINATION INSURANCE SYSTEM AMENDMENTS

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

This title may be cited as "Single-Employer Pension Plan Amendments Act of 1985".

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SEC. 11002. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) single-employer defined benefit pension plans have a substantial impact on interstate commerce and are affected with a national interest;

(2) the continued well-being and retirement income security of millions of workers, retirees, and their dependents are directly affected by such plans;

(3) the existence of a sound termination insurance system is fundamental to the retirement income security of participants and beneficiaries of such plans; and

(4) the current termination insurance system in some instances encourages employers to terminate pension plans, evade their obligations to pay benefits, and shift unfunded pension liabilities onto the termination insurance system and the other premium-payers.

(b) ADDITIONAL FINDINGS.—The Congress further finds that modification of the current termination insurance system and an increase in the insurance premium for single-employer defined benefit pension plans—

(1) is desirable to increase the likelihood that full benefits will be paid to participants and beneficiaries of such plans;

(2) is desirable to provide for the transfer of liabilities to the termination insurance system only in cases of severe hardship;

(3) is necessary to maintain the premium costs of such system at a reasonable level; and

(4) is necessary to finance properly current funding deficiencies and future obligations of the single-employer pension plan termination insurance system.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to encourage the maintenance and growth of single-employer defined benefit pension plans,

(3) to increase the likelihood that participants and beneficiaries under single-employer defined benefit pension plans will receive their full benefits,

(4) to provide for the transfer of unfunded pension liabilities onto the single-employer pension plan termination insurance system only in cases of severe hardship,

(5) to maintain the premium costs of such system at a reasonable level; and

(6) to assure the prudent financing of current funding deficiencies and future obligations of the single-employer pension plan termination insurance system by increasing termination insurance premiums.

SEC. 11003. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974, unless otherwise specified.

SEC. 11004. DEFINITIONS.

(a) IN GENERAL.—Section 4001(a) (29 U.S.C. 1301(a)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) 'substantial employer', for any plan year of a single-employer plan, means one or more persons—

"(A) who are contributing sponsors of the plan in such plan year,

"(B) who, at any time during such plan year, are members of the same affiliated group (within the meaning of subsection (a) of section 1563 of the Internal Revenue Code of 1954, determined without regard to subsections (a)(4) and (e)(3)(C) of such section), and

"(C) whose required contributions to the plan for each plan year constituting one of—

"(i) the two immediately preceding plan years, or

"(ii) the first two of the three immediately preceding plan years,

total an amount greater than or equal to 10 percent of all contributions required to be paid to or under the plan for such plan year;";

(2) in paragraph (11), by striking out "and";

(3) in paragraph (12), by striking out "corporation." and inserting in lieu thereof "corporation;" and

(4) by adding after paragraph (12) the following new paragraphs:

"(13) 'contributing sponsor', of a single-employer plan, means a person—

"(A) who is responsible for meeting the funding requirements under section 302 of this Act or section 412 of the Internal Revenue Code of 1954, or

"(B) who is a member of the controlled group of a person described in subparagraph (A), has been responsible for meeting such funding requirements, and has employed a significant number (as may be defined in regulations of the corporation) of participants under such plan while such person was so responsible;

"(14) in the case of a single-employer plan—

"(A) 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person; and

"(B) the determination of whether two or more persons are under 'common control' shall be made under regulations of the corporation which are consistent and coextensive with regulations prescribed for similar purposes by the Secretary of the Treasury under section 414(c) of the Internal Revenue Code of 1954;

"(15) 'single-employer plan' means, except as otherwise specifically provided in this title, any defined benefit plan (as defined in section 3(35)) which is not a multiemployer plan;

"(16) 'benefit commitments', to a participant or beneficiary as of any date under a single-employer plan, means all benefits provided by the plan with respect to the participant or beneficiary which—

"(A) are guaranteed under section 4022,

"(B) would be guaranteed under section 4022, but for the operation of subsection 4022(b), or

"(C) constitute—

"(i) early retirement supplements or subsidies, or

"(ii) plant closing benefits,

irrespective of whether any such supplements, subsidies, or benefits are benefits guaranteed under section 4022, if the participant or beneficiary has satisfied, as of such date, all of the conditions required of him or her under the provisions of the plan to establish entitlement to the benefits, except for the submission of a formal application, retirement, completion of a required waiting period subsequent to application for benefits, or designation of a beneficiary;

"(17) 'amount of unfunded guaranteed benefits', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of the participant or beneficiary under the plan which are guaranteed under section 4022, over

"(B) the current value as of such date of the assets of the plan which are required to be allocated to those benefits under section 4044;

"(18) 'amount of unfunded benefit commitments', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments of the participant or beneficiary under the plan, over

"(B) the current value as of such date of the assets of the plan which are required to be allocated to those benefit commitments under section 4044;

"(19) 'outstanding amount of benefit commitments', of a participant or beneficiary under a terminated single-employer plan, means the excess of—

"(A) the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments of such participant or beneficiary under the plan, over

"(B) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of such participant or beneficiary which are guaranteed under section 4022 or to which assets of the plan are allocated under section 4044;

"(20) 'person' has the meaning set forth in section 3(9);

"(21) 'affected party' means, with respect to a plan—

"(A) each participant in the plan,

"(B) each beneficiary under the plan who is a beneficiary of a deceased participant or who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)),

"(C) each employee organization representing participants in the plan, and

"(D) the corporation,

except that, in connection with any notice required to be provided to the affected party, if an affected party has designated, in writing, a person to receive such notice on behalf of the affected party, any reference to the affected party shall be construed to refer to such person.".

(b) TECHNICAL CORRECTION OF ERROR IN MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.—Section 4001 is further amended by striking out the amendments made by section 402(a)(1)(F) of the Multiemployer Pension Plan Amendments Act of 1980 (94 Stat. 1297) (adding new paragraphs after a subsection (c)(1)), and, in lieu thereof, in subsection (b), by inserting "(1)" after "(b)" and by adding at the end of such subsection the following new paragraphs:

"(2) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954 (determined, in the case of a terminated plan, as if the plan had continued beyond the termination date).

"(3) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

SEC. 11005. SINGLE-EMPLOYER PLAN TERMINATION INSURANCE PREMIUMS.

(a) PREMIUM INCREASE.—

(1) GENERAL RULE.—Section 4006(a)(3)(A)(i) (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking out "for plan years beginning after December 31, 1977, an amount equal to $2.60" and inserting in lieu thereof "for plan years beginning after December 31, 1985, an amount equal to $8.50".

(2) CONFORMING AMENDMENT WITH RESPECT TO PLAN YEARS AFTER 1977.—Section 4006(c)(1) (29 U.S.C. 1306(c)(1)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) in the case of each plan which was not a multiemployer plan in a plan year—

"(i) with respect to each plan year beginning before January 1, 1978, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(ii) with respect to each plan year beginning after December 31, 1977, an amount equal to $2.60 for each individual who was a participant in such plan during the plan year, and".

(b) INCORPORATION OF CERTAIN FORMER PROVISIONS IN LIEU OF CROSS REFERENCE THERETO.—Section 4006(a) (29 U.S.C. 1306(a)) is amended—

(1) in paragraph (1), by striking out the last sentence; and

(2) by adding at the end thereof the following new paragraph:

"(6)(A) In carrying out its authority under paragraph (1) to establish premium rates and bases for basic benefits guaranteed under section 4022 with respect to single-employer plans, the corporation shall establish such rates and bases in coverage schedules in accordance with the provisions of this paragraph.

"(B) The corporation may establish annual premiums for single-employer plans composed of the sum of—

"(i) a charge based on a rate applicable to the excess, if any, of the present value of the basic benefits of the plan which are guaranteed over the value of the assets of the plan, not in excess of 0.1 percent, and

"(ii) an additional charge based on a rate applicable to the present value of the basic benefits of the plan which are guaranteed.

The rate for the additional charge referred to in clause (ii) shall be set by the corporation for every year at a level which the corporation estimates will yield total revenue approximately equal to the total revenue to be derived by the corporation from the charges referred to in clause (i) of this subparagraph.

"(C) The corporation may establish annual premiums for single-employer plans based on—

"(i) the number of participants in a plan, but such premium rates shall not exceed the rates described in paragraph (3),

"(ii) unfunded basic benefits guaranteed under this title, but such premium rates shall not exceed the limitations applicable to charges referred to in subparagraph (B)(i), or

"(iii) total guaranteed basic benefits, but such premium rates shall not exceed the rates for additional charges referred to in subparagraph (B)(ii).

If the corporation uses two or more of the rate bases described in this subparagraph, the premium rates shall be designed to produce approximately equal amounts of aggregate premium revenue from each of the rate bases used.

"(D) For purposes of this paragraph, the corporation shall by regulation define the terms 'value of assets' and 'present value of the benefits of the plan which are guaranteed' in a manner consistent with the purposes of this title and the provisions of this section.".

(c) APPROVAL BY JOINT RESOLUTION OF RECOMMENDATIONS OF THE PENSION BENEFIT GUARANTY CORPORATION.—Title IV is amended as follows:

(1) The last sentence of subsection (a)(2) of section 4006 (29 U.S.C. 1306(a)(2)) is amended by striking out "the Congress approves such revised schedule by a concurrent resolution" and inserting in lieu thereof "a joint resolution approving such revised schedule is enacted".

(2) Subsection (a)(4) of section 4006 (29 U.S.C. 1306(a)(4)) is amended by striking

out "approval by the Congress" and inserting in lieu thereof "the enactment of a joint resolution".

(3) Subsection (b)(3) of section 4006 (29 U.S.C. 1306(b)(3)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" before the period preceding the quotation marks.

(4) Subsection (f)(2)(B) of section 4022A (29 U.S.C. 1322a(f)(2)(B)) is amended by striking out "Congress by concurrent resolution" and inserting in lieu thereof "the enactment of a joint resolution".

(5) Subsection (f)(2)(C) of section 4022A (29 U.S.C. 1322a(f)(2)(C)) is amended by striking out "approved" and inserting in lieu thereof "so enacted".

(6) Subsection (f)(3)(B) of section 4022A (29 U.S.C. 1322a(f)(3)(A)) is amended by striking out "Congress by a concurrent resolution" and inserting in lieu thereof "enactment of a joint resolution".

(7) Subsection (f)(4)(A) of section 4022A (29 U.S.C. 1322a(f)(4)(A)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

(8) Subsection (f)(4)(B) of section 4022A (29 U.S.C. 1322a(f)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" immediately before the period preceding the quotation marks.

(9) Subsection (g)(4)(A)(ii) of section 4022A (29 U.S.C. 1322a(g)(4)(A)(ii)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", and by striking out "adopted" and inserting in lieu thereof "enacted".

(10) Subsection (g)(4)(B) of section 4022A (29 U.S.C. 1322a(g)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress disapproves the" and inserting in lieu thereof "The", and by inserting "is hereby disapproved" immediately before the period preceding the quotation marks.

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall be effective for plan years commencing after December 31, 1985.

(2) SPECIAL RULE.—The amendments made by subsection (b) shall be effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

SEC. 11006. NOTICE OF SIGNIFICANT REDUCTION IN BENEFIT ACCRUALS.

(a) IN GENERAL.—Section 204 (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) A single-employer plan may not be amended on or after the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985 so as to provide for a significant reduction in the rate of future benefit accrual, unless, after adoption of the plan amendment and not less than 15 days before the effective date of the plan amendment, the plan administrator provides a written notice, setting forth the plan amendment and its effective date, to—

"(1) each participant in the plan,

"(2) each beneficiary under the plan who is a beneficiary of a deceased participant or who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)), and

"(3) each employee organization representing participants in the plan,

except that such notice shall instead be provided to a person designated, in writing, to receive such notice on behalf of any person referred to in paragraph (1), (2), or (3).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to plan amendments adopted on or after the date described in section 11019(a).

SEC. 11007. GENERAL REQUIREMENTS RELATING TO TERMINATION OF SINGLE-EMPLOYER PLANS BY PLAN ADMINISTRATORS.

(a) IN GENERAL.—Section 4041 (29 U.S.C. 1341) is amended by striking out subsections (a) through (c) and inserting in lieu thereof the following:

"SEC. 4041. (a) GENERAL RULES GOVERNING SINGLE-EMPLOYER PLAN TERMINATIONS.—

"(1) EXCLUSIVE MEANS OF PLAN TERMINATION.—Except in the case of a termination for which proceedings are otherwise instituted by the corporation as provided in section 4042, a single-employer plan may be terminated only in a standard termination under subsection (b) or a distress termination under subsection (c).

"(2) 60-DAY NOTICE OF INTENT TO TERMINATE.—Not less than 60 days before the proposed termination date of a plan termination under subsection (b) or (c), the plan administrator shall provide to each affected party (other than the corporation in the case a standard termination) a written notice of intent to terminate stating that such termination is intended and the proposed termination date. The written notice shall include any related additional information required in regulations of the corporation.

"(3) ADHERENCE TO COLLECTIVE BARGAINING AGREEMENTS.—The corporation shall not proceed with a termination of a plan under this section if the termination would violate the terms and conditions of an existing collective bargaining agreement. Nothing in the preceding sentence shall be construed as limiting the authority of the corporation to institute proceedings to involuntarily terminate a plan under section 4042.".

(b) DEFINITIONS RELATING TO SUFFICIENCY.—Section 4041(d) (29 U.S.C. 1341(d)) is amended to read as follows:

"(d) SUFFICIENCY.—For purposes of this section—

"(1) SUFFICIENCY FOR BENEFIT COMMITMENTS.—A single-employer plan is sufficient for benefit commitments if there is no amount of unfunded benefit commitments under the plan.

"(2) SUFFICIENCY FOR GUARANTEED BENEFITS.—A single-employer plan is sufficient for guaranteed benefits if there is no amount of unfunded guaranteed benefits under the plan.".

SEC. 11008. STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 4041 (as amended by section 11007 of this Act) is further amended by inserting after subsection (a) the following new subsection:

"(b) STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) GENERAL REQUIREMENTS.—A single-employer plan may terminate under a standard termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraphs (A) and (B) of paragraph (2) are met,

"(C) the corporation does not issue a notice of noncompliance under subparagraph (C) of paragraph (2), and

"(D) when the final distribution of assets occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(2) TERMINATION PROCEDURE.—

"(A) NOTICE TO THE CORPORATION.—As soon as practicable after the termination date proposed in the notice provided pursuant to subsection (a)(2), the plan administrator shall send a notice to the corporation setting forth—

"(i) certification by an enrolled actuary—

"(I) of the projected amount of the assets of the plan (as of a proposed date of final distribution of assets),

"(II) of the actuarial present value (as of such date) of the benefit commitments (determined as of the proposed termination date) under the plan, and

"(III) that the plan is projected to be sufficient (as of such proposed date of final distribution) for such benefit commitments,

"(ii) such information as the corporation may prescribe in regulations as necessary to enable the corporation to make determinations under subparagraph (C), and

"(iii) certification by the plan administrator that the information on which the enrolled actuary based the certification under clause (i) and the information provided to the corporation under clause (ii) is accurate and complete.

"(B) NOTICE TO PARTICIPANTS AND BENEFICIARIES OF BENEFIT COMMITMENTS.—At the time a notice is sent by the plan administrator under subparagraph (A), the plan administrator shall send a notice to each person who is a participant or beneficiary under the plan—

"(i) specifying the amount of such person's benefit commitments (if any) as of the proposed termination date, expressed in terms of the normal form of benefits under the plan, and

"(ii) including the following information used in determining such benefit commitments:

"(I) the length of service,

"(II) the age of the participant or beneficiary,

"(III) wages,

"(IV) the assumptions, including the interest rate, and

"(V) such other information as the corporation may require.

Such notice shall be written in such manner as is likely to be understood by the participant or beneficiary and as may be prescribed in regulations of the corporation.

"(C) NOTICE FROM THE CORPORATION OF NONCOMPLIANCE.—

"(i) IN GENERAL.—Within 60 days after receipt of the notice under subparagraph (A), the corporation shall provide the plan administrator with a notice of noncompliance if—

"(I) it has reason to believe that the requirements of subsection (a)(2) and subparagraphs (A) and (B) have not been met, or

"(II) it otherwise determines, on the basis of information provided by affected parties or otherwise obtained by the corporation, that there is reason to believe that the plan is not sufficient for benefit commitments.

"(ii) EXTENSION.—The corporation and the plan administrator may agree to extend the 60-day period referred to in clause (i) by a

written agreement signed by the corporation and the plan administrator before the expiration of the 60-day period. The 60-day period shall be extended as provided in the agreement and may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 60-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

"(D) FINAL DISTRIBUTION OF ASSETS IN ABSENCE OF NOTICE OF NONCOMPLIANCE.—The plan administrator shall commence the final distribution of assets pursuant to the standard termination of the plan as soon as practicable after the expiration of the 60-day (or extended) period referred to in subparagraph (C), but such final distribution may occur only if—

"(i) the plan administrator has not received during such period a notice of noncompliance from the corporation under subparagraph (C), and

"(ii) when such final distribution occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(3) METHODS OF FINAL DISTRIBUTION OF ASSETS.—

"(A) IN GENERAL.—In connection with any final distribution of assets pursuant to the termination of the plan, the plan administrator shall distribute the assets in accordance with section 4044. In distributing such assets, the plan administrator shall—

"(i) purchase irrevocable commitments from an insurer to provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are allocated under section 4044, or

"(ii) in accordance with the provisions of the plan and any applicable regulations of the corporation, otherwise fully provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are allocated under section 4044.

"(B) CERTIFICATION TO THE CORPORATION OF FINAL DISTRIBUTION OF ASSETS.—Within 30 days after the final distribution of assets is completed pursuant to the termination of the plan, the plan administrator shall send a notice to the corporation certifying that the assets of the plan have been distributed in accordance with the provisions of subparagraph (A) so as to pay the benefit commitments under the plan and all other benefits under the plan to which assets are allocated under section 4044.

"(4) CONTINUING AUTHORITY.—Nothing in this section shall be construed to preclude the continued exercise by the corporation, after the termination date of a plan terminated in a standard termination under this subsection, of its authority under section 4003 with respect to matters relating to the termination. A certification under paragraph (3)(B) shall not affect the corporation's obligations under section 4022.".

(b) CONFORMING AMENDMENTS.—Section 4041(f) (29 U.S.C. 1341(f)) is amended—

(1) by inserting after "(f)" the following: "CONVERSION OF A DEFINED BENEFIT PLAN TO A DEFINED CONTRIBUTION PLAN TREATED AS A STANDARD TERMINATION.—";

(2) by striking out "subsection (a)" and inserting in lieu thereof "this section"; and

(3) by inserting "in a standard termination" after "terminated".

(c) AUTHORITY FOR 60-DAY EXTENSION.—In the case of a standard termination of a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this section) with respect to which a notice of intent to terminate is filed before May 1, 1986, the Pension Benefit Guaranty Corporation may, without the consent of the plan administrator, extend the 60-day period under section 4041(b)(2)(C)(i) of such Act (as so amended) for a period not to exceed 60 days.

(d) SPECIAL TEMPORARY RULE.—

(1) REQUIREMENTS TO BE MET BEFORE FINAL DISTRIBUTION OF ASSETS.—In the case of the termination of a single-employer plan described in paragraph (2) with respect to which the amount described in section 4044(d) exceeds $1,000,000, the final distribution of assets pursuant to such termination may not occur until the Pension Benefit Guaranty Corporation—

(A) determines that the assets of the plan are sufficient to provide all benefit commitments (within the meaning of section 4001(a)(16) of such Act (as amended by section 11004)) under the plan,

(B) determines that there is no amount of unfunded guaranteed benefits (within the meaning of section 4001(a)(17) of such Act (as amended by section 11004)) under the plan, and

(C) issues to the plan administrator a written notice setting forth the determinations described in subparagraphs (A) and (B).

(2) PLANS TO WHICH SUBSECTION APPLIES.—A single-employer plan is described in this paragraph if—

(A) the plan has filed a notice of intent to terminate with the Pension Benefit Guaranty Corporation—

(i) before the effective date of the amendments made by this section and for which the Corporation has not issued a notice of sufficiency before such date under section 4041 of such Act (as in effect immediately before such date), or

(ii) in a standard termination under section 4041(b) of such Act (as amended by this section) on or after the effective date of the amendments made by this section and before March 1, 1986, and

(B) the lesser of 200 participants in the plan or 10 percent of the participants in the plan have filed complaints with the Corporation regarding such termination—

(i) in the case of plans described in subparagraph (A)(i), within 15 days after the effective date of the amendments made by this section, or

(ii) in any other case, within 45 days after the date of the filing of such notice.

(3) CONSIDERATION OF COMPLAINTS.—The Corporation shall consider and respond to such complaints not later than 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A). The Corporation may hold informal hearings to expedite consideration of such complaints. Any such hearing shall be exempt from the requirements of chapter 5 of title 5, United States Code.

(4) DELAY ON ISSUANCE OF NOTICE.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the Corporation shall not issue any notice described in paragraph (1)(C) until 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A).

(B) EXCEPTION IN CASES OF SUBSTANTIAL BUSINESS HARDSHIP.—The preceding provisions of this subsection shall not apply (except in the case of an acquisition, takeover, or leveraged buyout) if the contributing sponsor demonstrates to the satisfaction of the Corporation that the contributing sponsor is experiencing substantial business hardship. For purposes of this subparagraph, a contributing sponsor shall be considered as experiencing substantial business hardship if the contributing sponsor has been operating, and can demonstrate that it will continue to operate, at an economic loss.

SEC. 11009. DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 4041 (as amended by sections 11007 and 11008 of this title) is further amended by inserting after subsection (b) the following new subsection:

"(c) DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) IN GENERAL.—A single-employer plan may terminate under a distress termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraph (A) of paragraph (2) are met, and

"(C) the corporation determines that the requirements of subparagraph (B) of paragraph (2) are met.

"(2) TERMINATION REQUIREMENTS.—

"(A) INFORMATION SUBMITTED TO THE CORPORATION.—As soon as practicable after the termination date proposed in the notice of intent to terminate provided pursuant to subsection (a)(2), the plan administrator shall provide the corporation, in such form as may be prescribed by the corporation in regulations, the following information:

"(i) such information as the corporation may prescribe by regulation as necessary to make determinations under subparagraph (B) and paragraph (3);

"(ii) certification by an enrolled actuary of—

"(I) the amount (as of the proposed termination date) of the current value of the assets of the plan,

"(II) the actuarial present value (as of such date) of the benefit commitments under the plan,

"(III) whether the plan is sufficient for benefit commitments as of such date,

"(IV) the actuarial present value (as of such date) of benefits under the plan guaranteed under section 4022, and

"(V) whether the plan is sufficient for guaranteed benefits as of such date;

"(iii) in any case in which the plan is not sufficient for benefit commitments as of such date—

"(I) the name and address of each participant and beneficiary under the plan as of such date, and

"(II) such other information as shall be prescribed by the corporation by regulation as necessary to enable the corporation (or its designee under section 4049(b)) to be able to make payments to participants and beneficiaries as required under section 4049; and

"(iv) certification by the plan administrator that the information on which the enrolled actuary based the certifications under clause (ii) and the information provided to the corporation under clauses (i) and (iii) is accurate and complete.

"(B) DETERMINATION BY THE CORPORATION OF NECESSARY DISTRESS CRITERIA.—Upon receipt of the notice of intent to terminate required under subsection (a)(2) and the information required under subparagraph (A), the corporation shall determine whether the requirements of this subparagraph are met as provided in clause (i), (ii), or (iii). The re-

quirements of this subparagraph are met if each person who is a contributing sponsor of such plan or a substantial member of such sponsor's controlled group meets the requirements of any of the following clauses:

"(i) LIQUIDATION IN BANKRUPTCY OR INSOLVENCY PROCEEDINGS.—The requirements of this clause are met by a person if—

"(I) such person has filed or has had filed against it, as of the termination date, a petition seeking liquidation in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State, and

"(II) such case has not, as of the termination date, been dismissed.

"(ii) REORGANIZATION IN BANKRUPTCY OR INSOLVENCY PROCEEDINGS.—The requirements of this clause are met by a person if—

"(I) such person has filed, or has had filed against it, as of the termination date, a petition seeking reorganization in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or a case described in clause (i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought),

"(II) such case has not, as of the termination date, been dismissed, and

"(III) the bankruptcy court (or other appropriate court in a case under such similar law of a State or political subdivision) approves the termination.

"(iii) TERMINATION REQUIRED TO ENABLE PAYMENT OF DEBTS WHILE STAYING IN BUSINESS OR TO AVOID UNREASONABLY BURDENSOME PENSION COSTS CAUSED BY DECLINING WORKFORCE.—The requirements of this clause are met by a person if such person demonstrates to the satisfaction of the corporation that—

"(I) unless a distress termination occurs, such person will be unable to pay such person's debts when due and will be unable to continue in business, or

"(II) the costs of providing pension coverage have become unreasonably burdensome, solely as a result of a decline of such person's workforce covered as participants under all single-employer plans of which such person is a contributing sponsor.

"(C) SUBSTANTIAL MEMBER.—For purposes of subparagraph (B), the term 'substantial member' of a controlled group means a person whose assets comprise 5 percent or more of the total assets of the controlled group as a whole. For purposes of clauses (i) and (ii) of subparagraph (B), such term includes any member of the controlled group who does not meet the requirements of the preceding sentence but did meet such requirements as of the date of the filing of the petition referred to therein.

"(D) NOTIFICATION OF DETERMINATIONS BY THE CORPORATION.—The corporation shall notify the plan administrator as soon as practicable of its determinations made pursuant to subparagraph (B).

"(3) TERMINATION PROCEDURE.—

"(A) DETERMINATIONS BY THE CORPORATION RELATING TO PLAN SUFFICIENCY FOR GUARANTEED BENEFITS AND FOR BENEFIT COMMITMENTS.—If the corporation determines that the requirements for a distress termination set forth in paragraphs (1) and (2) are met, the corporation shall—

"(i) determine whether the plan is sufficient for guaranteed benefits (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation,

"(ii) determine whether the plan is sufficient for benefit commitments (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation, and

"(iii) notify the plan administrator of the determinations made pursuant to this subparagraph as soon as practicable.

"(B) IMPLEMENTATION OF TERMINATION.—After the corporation notifies the plan administrator of its determinations under subparagraph (A), the termination of the plan shall be carried out as soon as practicable, as provided in clause (i), (ii), or (iii).

"(i) CASES OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for benefit commitments, the plan administrator shall proceed to distribute the plan's assets in the manner described in subsection (b)(3), and take such other actions as may be appropriate to carry out the termination of the plan.

"(ii) CASES OF SUFFICIENCY FOR GUARANTEED BENEFITS WITHOUT A FINDING OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for guaranteed benefits, but further determines that the plan is not sufficient for benefit commitments (or that it is unable to determine whether the plan is sufficient for benefit commitments on the basis of the information made available to it)—

"(I) the plan administrator shall proceed to distribute the plan's assets in the manner described in subsection (b)(3), and

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049.

"(iii) CASES WITHOUT ANY FINDING OF SUFFICIENCY.—In any case in which the corporation determines that the plan is not sufficient for guaranteed benefits (or that it is unable to determine whether the plan is sufficient for guaranteed benefits on the basis of the information made available to it)—

"(I) the corporation shall commence proceedings in accordance with section 4042, and

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049 unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 4022.

"(C) FINDING AFTER AUTHORIZED COMMENCEMENT OF TERMINATION THAT PLAN IS UNABLE TO PAY BENEFITS.—

"(i) FINDING WITH RESPECT TO GUARANTEED BENEFITS ONLY.—If, after the plan administrator has begun to terminate the plan as authorized by subparagraph (B)(i) or (ii), the corporation or the plan administrator finds that the plan is unable, or will be unable, to pay all benefits under the plan which are guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation makes such a finding or concurs with the finding of the plan administrator, it shall institute appropriate proceedings under section 4042.

"(ii) FINDING WITH RESPECT TO BENEFIT COMMITMENTS WHICH ARE NOT GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized under subparagraph (B)(i), the corporation or the plan administrator finds that the plan is unable, or will be unable, to pay benefit commitments which are not benefits guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation makes such a finding or concurs with the finding of the plan administrator, it shall take the actions set forth in subparagraph (B)(ii)(II) relating to the trust established for purposes of section 4049.

"(D) ADMINISTRATION OF THE PLAN DURING INTERIM PERIOD.—During the period commencing on the date on which the plan administrator provides a notice of distress termination to the corporation under subsection (a)(2) and ending on the date on which the plan administrator receives notification from the corporation of its determinations under subparagraph (A), the plan administrator—

"(i) shall refrain from distributing assets or taking any other actions to carry out the proposed termination under this subsection,

"(ii) shall pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity,

"(iii) shall not use plan assets to purchase irrevocable commitments to provide benefits from an insurer, and

"(iv) shall continue to pay all benefit commitments under the plan, except that, commencing on the proposed termination date, the plan administrator shall limit the payment of benefits under the plan to those benefits which are guaranteed by the corporation under section 4022 or to which assets are required to be allocated under section 4044.

In the event the plan is later determined not to have met the requirements for distress termination, any benefits which are not paid solely by reason of clause (iv) shall be due and payable immediately (together with interest).".

(b) CONFORMING AMENDMENTS.—Section 4041 (as amended by the preceding provisions of this Act) is further amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

SEC. 11010. TERMINATION PROCEEDINGS; DUTIES OF THE CORPORATION.

(a) MANDATORY COMMENCEMENT OF PROCEEDINGS UPON INABILITY OF SINGLE-EMPLOYER PLAN TO PAY BENEFITS THAT ARE CURRENTLY DUE.—

(1) IN GENERAL.—Section 4042(a) (29 U.S.C. 1342(a)) is amended—

(A) in paragraph (2), by striking out "is" and inserting in lieu thereof "will be"; and

(B) in the matter following paragraph (4), by striking out in the second sentence "The corporation" and inserting in lieu thereof the following: "The corporation shall as soon as practicable institute court proceedings under this section to terminate a single-employer plan whenever it determines that the plan does not have assets available to pay benefits that are currently due under the terms of the plan. The corporation".

(2) CONFORMING AMENDMENTS.—

(A) Section 4042(b)(1) (29 U.S.C. 1342(b)(1)) is amended, in the first sentence, by inserting "or is required under subsection (a) to institute court proceedings under this section," after "to a plan".

(B) Section 4042(c) (29 U.S.C. 1342(c)) is amended in the first sentence by striking out "If the corporation" and all that follows down through "it may," and inserting in lieu thereof the following: "If the corporation is required under subsection (a) of this section to commence court proceedings under this section with respect to a plan or, after issuing a notice under this section to a plan administrator, has determined (whether or not a trustee has been appointed under

subsection (b)) that the plan should be terminated under this section, it shall,".

(c) CONFORMING AMENDMENT.—The heading for section 4042 is amended to read as follows:

"INSTITUTION OF TERMINATION PROCEEDINGS BY THE CORPORATION".

SEC. 11011. AMENDMENTS TO LIABILITY PROVISIONS; LIABILITIES RELATING TO BENEFIT COMMITMENTS IN EXCESS OF BENEFITS GUARANTEED BY THE CORPORATION.

(a) LIABILITY FOR DISTRESS TERMINATIONS AND TERMINATIONS BY THE CORPORATION.—Section 4062 (29 U.S.C. 1362) is amended by striking out so much as precedes subsection (e) and inserting in lieu thereof the following:

"LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS UNDER A DISTRESS TERMINATION OR A TERMINATION BY THE CORPORATION

"SEC. 4062. (a) IN GENERAL.—In any case in which a single-employer plan is terminated in a distress termination under section 4041(c) or a termination otherwise instituted by the corporation under section 4042, any person who is, on the termination date, a contributing sponsor of the plan or a member of such a contributing sponsor's controlled group shall incur liability under this section. The liability under this section of all such persons shall be joint and several. The liability under this section consists of—

"(1) liability to the corporation to the extent provided in subsection (b),

"(2) liability to the trust established pursuant to section 4041(c)(3)(B) (ii) or (iii) to the extent provided in subsection (c), and

"(3) liability to the trustee referred to in section 4042(d)(1)(B) to the extent provided in subsection (d).

"(b) LIABILITY TO THE CORPORATION.—

"(1) IN GENERAL.—The liability to the corporation of a person described in subsection (a) shall consist of the sum of—

"(A) the lesser of—

"(i) the total amount of unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan, or

"(ii) 30 percent of the collective net worth of all persons described in subsection (a), and

"(B) the excess (if any) of—

"(i) 75 percent of the amount described in subparagraph (A)(i), over

"(ii) the amount described in subparagraph (A)(ii),

together with interest calculated from the termination date. Except as provided in paragraph (2), the liability to the corporation under this subsection shall be due and payable to the corporation as of the termination date, in cash or securities acceptable to the corporation.

"(2) PAYMENT OF LIABILITY.—Payment of the liability under paragraph (1)(B) shall be made under commercially reasonable terms prescribed by the corporation. The parties involved shall make a reasonable effort to reach agreement on such commercially reasonable terms. Any such terms prescribed by the corporation shall provide for deferral of 50 percent of any amount of liability otherwise payable for any year under this paragraph if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year.

"(3) ALTERNATIVE ARRANGEMENTS.—The corporation and any person liable under this section may agree to alternative arrangements for the satisfaction of liability to the corporation under this subsection.

"(c) LIABILITY TO SECTION 4049 TRUST.—

"(1) IN GENERAL.—In any case in which there is an outstanding amount of benefit commitments under a plan terminated under section 4041(c) or 4042, a person described in subsection (a) shall be subject to liability under this subsection to the trust established under section 4041(c)(3)(B)(ii) or (iii) in connection with the terminated plan. The liability of such person under this subsection shall consist of the lesser of—

"(A) 75 percent of the total outstanding amount of benefit commitments under the plan, or

"(B) 15 percent of the total amount of benefit commitments under the plan.

"(2) PAYMENT OF LIABILITY.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, payment of a person's liability under this subsection shall be made for liability payment years under commercially reasonable terms prescribed by the fiduciary designated by the corporation pursuant to section 4049(b). Such fiduciary and the liable persons assessed liability under this subsection shall make a reasonable effort to reach agreement on such commercially reasonable terms.

"(B) SPECIAL RULE FOR PLANS WITH LOW AMOUNTS OF OUTSTANDING BENEFIT COMMITMENTS.—In any case in which the amount described in paragraph (1)(A) is less than $100,000, the requirements of subparagraph (A) may be satisfied by payment of such liability over 10 liability payment years in equal annual installments (with interest at the rate determined under section 6621(b) of the Internal Revenue Code of 1954). The corporation may, by regulation, increase the dollar amount referred to in this subparagraph as it determines appropriate, taking into account reasonable administrative costs of trusts established under section 4041(c)(3)(B)(ii) or (iii).

"(C) DEFERRAL OF PAYMENTS.—The terms for payment provided for under subparagraph (A) or (B) shall also provide for deferral of 75 percent of any amount of liability otherwise payable for any liability payment year if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year. The amount of liability so deferred is payable only after payment in full of any amount of liability under subsection (b) in connection with the termination of the same plan which has been deferred pursuant to terms provided for under subsection (b)(2).

"(d) LIABILITY TO SECTION 4042 TRUSTEE.—A person described in subsection (a) shall be subject to liability under this subsection to the trustee referred to in section 4042(d)(1)(B). The liability of such person under this subsection shall consist of—

"(1) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all pending applications for waivers of the minimum funding standard under section 303 of this Act or section 412(d) of such Code and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year),

"(2) the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 303 of this Act or section 412(d) of such Code (if any), and

"(3) the outstanding balance of the amount of decreases in the minimum funding standard allowed before such date under section 304 of this Act or section 412(e) of such Code (if any),

together with interest. The liability under this subsection shall be due and payable to such trustee as of the termination date, in cash or securities acceptable to such trustee.

"(e) DEFINITIONS.—

"(1) COLLECTIVE NET WORTH OF PERSONS SUBJECT TO LIABILITY.—

"(A) IN GENERAL.—The collective net worth of persons subject to liability in connection with a plan termination consists of the sum of the individual net worths of all persons who—

"(i) have individual net worths which are greater than zero, and

"(ii) are (as of the termination date) contributing sponsors of the terminated plan or members of their controlled groups.

"(B) DETERMINATION OF NET WORTH.—For purposes of this paragraph, the net worth of a person is—

"(i) determined on whatever basis best reflects, in the determination of the corporation, the current status of the person's operations and prospects at the time chosen for determining the net worth of the person, and

"(ii) increased by the amount of any transfers of assets made by the person which are determined by the corporation to be improper under the circumstances, including any such transfers which would be inappropriate under title 11, United States Code, if the person were a debtor in a case under chapter 7 of such title.

"(C) TIMING OF DETERMINATION.—For purposes of this paragraph, determinations of net worth shall be made as of a day chosen by the corporation (during the 120-day period ending with the termination date) and shall be computed without regard to any liability under this section.

"(2) PRE-TAX PROFITS.—The term 'pre-tax profits' means—

"(A) except as provided in subparagraph (B), for any fiscal year of any person, such person's consolidated net income (excluding any extraordinary charges to income and including any extraordinary credits to income) for such fiscal year, as shown on audited financial statements prepared in accordance with generally accepted accounting principles, or

"(B) for any fiscal year of an organization described in section 501(c) of the Internal Revenue Code of 1954, the excess of income over expenses (as such terms are defined for such organizations under generally accepted accounting principles),

before provision for or deduction of Federal or other income tax, any contribution to any single-employer plan of which such person is a contributing sponsor at any time during the period beginning on the termination date and ending with the end of such fiscal year, and any amounts required to be paid for such fiscal year under this section. The corporation may by regulation require such information to be filed on such forms as may be necessary to determine the existence and amount of such pre-tax profits.

"(3) LIABILITY PAYMENT YEARS.—The liability payment years in connection with a terminated plan consist of the consecutive one-year periods following the last plan year preceding the termination date, excluding the first such year in any case in which the first such year begins less than 180 days after the termination date.".

(b) CLERICAL AMENDMENT.—Subsection (e) of section 4062 is amended by inserting "TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS.—" after "(e)".

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

(1) TIME FOR DEDUCTION OF CERTAIN EMPLOYER LIABILITY PAYMENTS.—Paragraph (3) of section 404(g) of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions) is amended to read as follows:

"(3) TIMING OF DEDUCTION OF CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, any payment described in paragraph (1) shall (subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.

"(B) CONTRIBUTIONS UNDER STANDARD TERMINATIONS.—Subparagraph (A) shall not apply (and subsection (a)(1)(A) shall apply) to any payments described in paragraph (1) which are paid to terminate a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 to the extent such payments result in the assets of the plan being in excess of the total amount of benefits under such plan which are guaranteed by the Pension Benefit Guaranty Corporation under section 4022 of such Act.

"(C) CONTRIBUTIONS TO CERTAIN TRUSTS.—Subparagraph (A) shall not apply to any payment described in paragraph (1) which is made under section 4062(c) of such Act and such payment shall be deductible at such time as may be prescribed in regulations which are based on principles similar to the principles of subsection (a)(1)(A).".

(2) REFERENCES TO ERISA.—Subsection (g) of section 404 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(4) REFERENCES TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Any reference to a section of the Employee Retirement Income Security Act of 1974 shall be treated as a reference to such section as in effect on the date described in section 11019(a) of the Single-Employer Pension Plan Amendments Act of 1985.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date described in section 11019(a) in taxable years ending after such date.

SEC. 11012. DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST.

(a) IN GENERAL.—Subtitle C of title IV is amended by adding at the end thereof the following new section:

"DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST

"SEC. 4049. (a) TRUST REQUIREMENTS.—The requirements of this section apply to a trust established by the corporation in connection with a terminated plan pursuant to section 4041(c)(3)(B)(ii) or (iii). The trust shall be used exclusively for—

"(1) receiving liability payments under section 4062(c) from the persons who were (as of the termination date) contributing sponsors of the terminated plan and members of their controlled groups,

"(2) making distributions as provided in this section to the persons who were (as of the termination date) participants and beneficiaries under the terminated plan, and

"(3) defraying the reasonable administrative expenses incurred in carrying out responsibilities under this section.

The corporation, or its designee under subsection (b), shall serve as trustee of the trust and maintain such trust with respect to the terminated plan for such period of time as is necessary to receive all liability payments required to be made to the trust under section 4062(c) with respect to the terminated plan and to make all distributions required to be made to participants and beneficiaries under this section with respect to the terminated plan.

"(b) DESIGNATION OF FIDUCIARY BY THE CORPORATION.—

"(1) IN GENERAL.—The corporation shall designate a fiduciary (within the meaning of section 3(21)) to serve as trustee of the trust—

"(A) to the extent required under section 4062(c), for purposes of conducting negotiations and assessing and collecting liability, and

"(B) to the extent determined by the corporation to be cost-effective, for purposes of administering the trust.

"(2) FIDUCIARY REQUIREMENTS.—A fiduciary designated under paragraph (1) shall be—

"(A) independent of each contributing sponsor of the plan and the members of such sponsor's controlled group, and

"(B) subject to the requirements of part 4 of subtitle B of title I (other than section 406(a)) as if such trust were a plan subject to such part.

"(c) DISTRIBUTIONS FROM TRUST.—

"(1) IN GENERAL.—Not later than 30 days after the end of each liability payment year (described in section 4062(e)(3)) with respect to a terminated single-employer plan, the corporation, or its designee under subsection (b), shall distribute from the trust maintained pursuant to subsection (a) to each person who was (as of the termination date) a participant or beneficiary under the plan—

"(A) in any case not described in subparagraph (B), an amount equal to the outstanding amount of benefit commitments of such person under the plan (including interest calculated from the termination date), to the extent not previously paid under this paragraph, or

"(B) in any case in which the balance in the trust at the end of such year which is in cash or may be prudently converted to cash (after taking into account liability payments received under subsection (a)(1) and administrative expenses paid under subsection (a)(3)) is less than the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan, the product derived by multiplying—

"(i) the amount described in subparagraph (A) in connection with each such person, by

"(ii) a fraction—

"(I) the numerator of which is such balance in the trust, and

"(II) the denominator of which is equal to the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan.

"(2) CARRY-OVER OF MINIMAL PAYMENT AMOUNTS.—The corporation, or its designee under subsection (b), may withhold a payment to any person under this subsection in connection with any liability payment year (other than the last liability payment year with respect to which payments under paragraph (1) are payable) if such payment does not exceed $100. In any case in which such a payment is so withheld, the payment to such person in connection with the next following liability payment year shall be increased by the amount of such withheld payment.

"(c) REGULATIONS.—The corporation may issue such regulations as it considers necessary to carry out the purposes of this section.".

(b) TAX-EXEMPT STATUS FOR TRUSTS DESCRIBED IN SECTION 4049 OF ERISA.—Subsection (c) of section 501 of the Internal Revenue Code of 1954 (relating to list of tax-exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985).".

(c) ROLLOVERS OF PAYMENTS FROM TRUST ALLOWED.—Paragraph (6) of section 402(a) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(G) PAYMENTS FROM CERTAIN PENSION PLAN TERMINATION TRUSTS.—If—

"(i) any amount is paid or distributed to a recipient from a trust described in section 501(c)(24),

"(ii) the recipient transfers any portion of the property received in such distribution to an eligible retirement plan described in subclause (I) or (II) of paragraph (5)(E)(iv), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then the portion of the distribution so transferred shall be treated as a distribution described in paragraph (5)(A).".

(d) SPECIAL DELAYED PAYMENT RULE.—In the case of a distress termination under section 4041(c) of the Employee Retirement Income Security Act of 1974 (as amended by section 11009) pursuant to a notice of intent to terminate filed before January 1, 1987, no payment of liability incurred under section 4062(c)(2)(B) of such Act (as amended by this section) shall be required to be made before January 1, 1989.

SEC. 11013. TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION.

(a) IN GENERAL.—Subtitle D of title IV is amended by adding at the end thereof the following new section:

"TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION

"SEC. 4069. (a) TREATMENT OF TRANSACTIONS TO EVADE LIABILITY.—If a principal purpose of any person in entering into any transaction is to evade liability to which such person would be subject under this subtitle and the transaction becomes effective within five years before the termination date of the termination on which such liability would be based, then such person and the members of such person's controlled group (determined as of the termination date) shall be subject to liability under this subtitle in connection with such termination as if such person were a contributing sponsor of the terminated plan as of the termination date. This subsection shall not cause any person to be liable under this sub-

title in connection with such plan termination for any increases or improvements in the benefits provided under the plan which are adopted after the date on which the transaction referred to in the preceding sentence becomes effective.

"(b) EFFECT OF CORPORATE REORGANIZATION.—For purposes of this subtitle, the following rules apply in the case of certain corporate reorganizations:

"(1) CHANGE OF IDENTITY, FORM, ETC.—If a person ceases to exist by reason of a reorganization which involves a mere change in identity, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the person to whom this subtitle applies.

"(2) LIQUIDATION INTO PARENT CORPORATION.—If a person ceases to exist by reason of liquidation into a parent corporation, the parent corporation shall be treated as the person to whom this subtitle applies.

"(3) MERGER, CONSOLIDATION, OR DIVISION.—If a person ceases to exist by reason of a merger, consolidation, or division, the successor corporation or corporations shall be treated as the person to whom this subtitle applies.".

(b) EFFECTIVE DATE.—Section 4069(a) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)) shall apply with respect to transactions becoming effective on or after the date described in section 11019(a).

SEC. 11014. ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS.

(a) PRIVATE RIGHTS OF ACTION.—Subtitle D of title IV (as amended by section 11013) is further amended by adding at the end thereof the following new section:

"ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS

"SEC. 4070. (a) IN GENERAL.—A person who is with respect to a single-employer plan a fiduciary, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and who is adversely affected by an act or practice of any party (other than the corporation) in violation of any provision of section 4041, 4042, 4049, 4062, 4063, 4064, or 4069, or an employee organization which represents such a participant or beneficiary for purposes of collective bargaining with respect to such plan, may bring an action—

"(1) to enjoin such act or practice, or

"(2) to obtain other appropriate equitable relief (A) to redress such violation or (B) to enforce such provision.

"(b) STATUS OF PLAN AS PARTY TO ACTION AND WITH RESPECT TO LEGAL PROCESS.—A single-employer plan may be sued under this section as an entity. Service of summons, subpoena, or other legal process of a court upon a trustee or an administrator of a single-employer plan in such trustee's or administrator's capacity as such shall constitute service upon the plan. If a plan has not designated in the summary plan description of the plan an individual as agent for the service of legal process, service upon any contributing sponsor of the plan shall constitute such service. Any money judgment under this section against a single-employer plan shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in such person's individual capacity.

"(c) JURISDICTION AND VENUE.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this section. Such actions may be brought in the district where the plan is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) in any action.

"(d) RIGHT OF CORPORATION TO INTERVENE.—A copy of the complaint or notice of appeal in any action under this section shall be served upon the corporation by certified mail. The corporation shall have the right in its discretion to intervene in any action.

"(e) AWARDS OF COSTS AND EXPENSES.—

"(1) GENERAL RULE.—In any action brought under this section, the court in its discretion may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to any party who prevails or substantially prevails in such action.

"(2) EXEMPTION FOR PLANS.—Notwithstanding the preceding provisions of this subsection, no plan shall be required in any action to pay any costs and expenses (including attorney's fees).

"(f) LIMITATION ON ACTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), an action under this section may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose, or

"(B) 3 years after the applicable date specified in paragraph (2).

"(2) APPLICABLE DATE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), the applicable date specified in this paragraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(B) SPECIAL RULE FOR PLAINTIFFS WHO ARE FIDUCIARIES.—In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this paragraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date described in subparagraph (A).

"(3) CASES OF FRAUD OR CONCEALMENT.—In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date specified in paragraph (2).".

(b) CIVIL ACTIONS INVOLVING THE PENSION BENEFIT GUARANTY CORPORATION.—

(1) ACTIONS AGAINST THE CORPORATION.—Section 4003(f) (29 U.S.C. 1303(f)) is amended to read as follows:

"(f)(1) Except with respect to withdrawal liability disputes under part 1 of subtitle E, any person who is a fiduciary, employer, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and who is adversely affected by any action of the corporation with respect to a plan in which such person has an interest and any employee organization which represents such a participant or beneficiary for purposes of collective bargaining with respect to such plan, may bring an action against the corporation for appropriate equitable relief in the appropriate court.

"(2) For purposes of this subsection, the term 'appropriate court' means—

"(A) the United States district court before which proceedings under section 4041 or 4042 are being conducted,

"(B) if no such proceedings are being conducted, the United States district court in which the plan has its principal office, or

"(C) the United States District Court for the District of Columbia.

"(3) In any action brought under this subsection, the court may award all or a portion of the costs and expenses incurred in connection with such action to any party who prevails or substantially prevails in such action.

"(4) This subsection shall be the exclusive means for bringing actions against the corporation under this title, including actions against the corporation in its capacity as a trustee under section 4042 or 4049.

"(5)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this subparagraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date specified in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B).

"(6) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(7) In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the state court to the United States district court for the district or division in which such suit, action, or proceeding is pending by following any procedure for removal now or hereafter in effect.".

(2) LIMITATION ON ACTIONS BY THE CORPORATION.—Section 4003(e) (29 U.S.C. 1303(e)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) If the corporation brings the action as a trustee, the applicable date specified in this subparagraph is the date on which the corporation became a trustee with respect to the plan if such date is later than the date described in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B) if such date is later than the date described in clause (i).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to actions filed after the date of the enactment of this Act.

SEC. 11015. PROVISIONS RELATING TO WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD.

(a) SECURITY FOR WAIVERS.—

(1) ERISA AMENDMENT.—

(A) IN GENERAL.—Part 3 of subtitle B of title I is amended—

(i) by redesignating section 306 (29 U.S.C. 1086) as section 307; and

(ii) by inserting after section 305 (29 U.S.C. 1085) the following new section:

"SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD

"SEC. 306. (a) SECURITY MAY BE REQUIRED.—

"(1) IN GENERAL.—Except as provided in subsection (c), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under section 303 or an extension under section 304.

"(2) SPECIAL RULES.—Any security provided under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

"(b) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subsection (c), the Secretary of the Treasury shall, before granting or modifying a waiver under section 303 or an extension under section 304 with respect to a plan described in subsection (a)(1)—

"(1) provide the Pension Benefit Guaranty Corporation with—

"(A) notice of the completed application for any waiver, extension, or modification, and

"(B) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(2) consider—

"(A) any comments of the Corporation under paragraph (1)(B), and

"(B) any views of any employee organization representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the corporation under this subsection shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p) of the Internal Revenue Code of 1954.

"(c) EXCEPTION FOR CERTAIN WAIVERS AND EXTENSIONS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any plan with respect to which the sum of—

"(A) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan,

"(B) the outstanding balance of the amount of waived funding deficiencies of the plan waived under section 303 of this Act or section 412(d) of such Code, and

"(C) the outstanding balance of the amount of decreases in the minimum funding standard allowed under section 304 of this Act or section 412(e) of such Code,

is less than $2,000,000.

"(2) ACCUMULATED FUNDING DEFICIENCIES.—For purposes of paragraph (1)(A), accumulated funding deficiencies shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under section 303 of this Act or section 412(d) of the Internal Revenue Code of 1954 and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code which are pending with respect to such plan were denied.".

(B) CONFORMING AMENDMENT.—Section 211(c)(1) is amended by striking out "306(c)" and inserting in lieu thereof "307(c)".

(C) CLERICAL AMENDMENT.—The table of sections in section 1 is amended by striking out the item relating to section 306 and inserting in lieu thereof the following new items:

"Sec. 306. Security for waivers of minimum funding standard and extensions of amortization period.

"Sec. 307. Effective dates.".

(2) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

(A) IN GENERAL.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to requirement that benefits may not be increased during waiver or extension period) is amended by adding at the end thereof the following new paragraph:

"(3) SECURITY FOR WAIVERS AND EXTENSIONS; CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under subsection (d) or an extension under subsection (e).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of such Act), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under subsection (d) or an extension under subsection (e) with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver, extension, or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) representing participants in the plan which are submitted in writing to the Secretary in connection with such application.

Information provided to the corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

"(C) EXCEPTION FOR CERTAIN WAIVERS AND EXTENSIONS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the outstanding balance of the accumulated funding deficiencies (within the meaning of subsection (a) and section 302(a) of such Act) of the plan,

"(II) the outstanding balance of the amount of waived funding deficiencies of the plan waived under subsection (d) or section 303 of such Act, and

"(III) the outstanding balance of the amount of decreases in the minimum funding standard allowed under subsection (d) or section 304 of such Act,

is less than $2,000,000.

"(ii) ACCUMULATED FUNDING DEFICIENCIES.—For purposes of clause (i)(I), accumulated funding deficiencies shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under subsection (d) or section 303 of such Act and for extensions of the amortization period under subsection (e) of section 304 of such Act which are pending with respect to such plan were denied.".

(B) CONFORMING AMENDMENTS.—Section 412(f) of the Internal Revenue Code of 1954 is amended—

(i) by striking out the heading thereof and inserting in lieu thereof;

"(f) REQUIREMENTS RELATING TO WAIVERS AND EXTENSIONS.—", and

(ii) by striking out the heading of paragraph (1) thereof and inserting in lieu thereof:

"(1) BENEFITS MAY NOT BE INCREASED DURING WAIVER OR EXTENSION PERIOD.—".

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply with respect to applications for waivers, extensions, and modifications filed on or after the date described in section 11019(a).

(b) APPLICABLE INTEREST RATE UNDER ARRANGEMENTS PROVIDING FOR WAIVERS AND EXTENSIONS.—

(1) AMENDMENTS TO ERISA.—

(A) VARIANCES FROM THE MINIMUM FUNDING STANDARD.—Section 303(a) (29 U.S.C. 1083(a)) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 302(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.".

(B) EXTENSIONS OF THE AMORTIZATION PERIOD.—Section 304(a) (29 U.S.C. 1084(a)) is amended by adding after and below paragraph (2) the following new sentence:

"The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.".

(2) AMENDMENTS TO INTERNAL REVENUE CODE.—

(A) VARIANCES FROM THE MINIMUM FUNDING STANDARD.—Paragraph (1) of section 412(d) of the Internal Revenue Code of 1954 (relating to waivers in case of substantial business hardship) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 412(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b).".

(B) EXTENSIONS OF THE AMORTIZATION PERIOD.—Subsection (e) of section 412 of such Code (relating to extension of amortization period) is amended by adding after and below paragraph (2) the following new sentence:

"The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b).".

SEC. 11016. CONFORMING, CLARIFYING, TECHNICAL, AND MISCELLANEOUS AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO PLAN TERMINATIONS.—

(1) CREDITS TO PENSION BENEFIT GUARANTY FUNDS.—Section 4005(b)(1)(C) (29 U.S.C. 1305(b)(1)(C)) is amended by inserting "terminated under section 4041(c) or" after "a plan".

(2) ESTIMATED BENEFITS FOR CERTAIN SINGLE-EMPLOYER PLANS.—Section 4005(b)(2) (29 U.S.C. 1305(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following:

"(E) to pay to participants and beneficiaries the estimated amount of benefits which are guaranteed by the corporation under this title and the estimated amount of other benefits to which plan assets are allocated under section 4044, under single-employer plans which are unable to pay benefits when due or which are abandoned.".

(3) CREDITS TO REVOLVING FUND.—Section 4005(b)(1) (29 U.S.C. 1305(b)(1)) is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) attorney's fees awarded to the corporation, and".

(4) APPLICABILITY OF ASSET ALLOCATION RULES.—Section 4044(c) (29 U.S.C. 1344(c)) is amended—

(A) in the first sentence, by striking out "Any" and inserting in lieu thereof "In the case of a distress termination under section 4041(c) or a termination by the corporation under section 4042, any", and by striking out "the period beginning" and all that follows down through "is to be allocated" and inserting in lieu thereof the following: "the period beginning on the date a trustee is appointed under section 4042(b) and ending on the termination date is to be allocated"; and

(B) in the second sentence, by inserting "in such a termination under section 4041(c) or 4042" after "terminated".

(5) TERMINATION DATE.—Section 4048(a) (29 U.S.C. 1348(a)) is amended—

(A) by striking out "date of termination" and inserting in lieu thereof "termination date";

(B) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(C) in paragraph (2) (as redesignated), by inserting "in a distress termination" after "terminated" and by striking out "section 4041" and inserting in lieu thereof "section 4041(c)";

(D) by inserting before paragraph (2) (as redesignated) the following new paragraph:

"(1) in the case of a plan terminated in a standard termination in accordance with the provisions of section 4041(b), the termination date proposed in the notice provided under section 4041(a)(2),";

and

(E) in paragraph (4) (as redesignated), by striking out "in accordance with the provisions of either section" and inserting in lieu thereof "under section 4041(c) or 4042".

(6) CONFORMING AMENDMENTS TO SPECIAL LIABILITY RULES RELATING TO CERTAIN SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.—

(A) LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL.—

(i) Section 4063(a) (29 U.S.C. 1363(a)) is amended—

(I) by striking out "plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan which has two or more contributing sponsors at least two of whom are not under common control";

(II) in paragraph (1), by striking out "withdrawal of a substantial employer" and inserting in lieu thereof "withdrawal during a plan year of a substantial employer for such plan year";

(III) in paragraph (2), by striking out "of such employer" and all that follows and inserting in lieu thereof "of all persons with respect to the withdrawal of the substantial employer.";

(IV) by striking out "whether such employer is liable for any amount under this subtitle with respect to the withdrawal" and inserting in lieu thereof "whether there is liability resulting from the withdrawal of the substantial employer"; and

(V) by striking out "notify such employer" and inserting in lieu thereof "notify the liable persons".

(ii) Section 4063(b) (29 U.S.C. 1363(b)) is amended—

(I) by striking out "an employer" and all that follows down through "shall be liable" and inserting in lieu thereof "any one or more contributing sponsors who withdraw, during a plan year for which they constitute a substantial employer, from a single-employer plan, to which section 4021 applies and which has two or more contributing sponsors at least two of whom are not under common control, shall, upon notification of such contributing sponsors by the corporation as provided by subsection (a), be liable, together with the members of their controlled groups,";

(II) by striking out "such employer's";

(III) by striking out "the employer's withdrawal" and inserting in lieu thereof "the withdrawal referred to in subsection (a)(1)";

(IV) in paragraph (1), by striking out "such employer" and inserting in lieu thereof "such contributing sponsors";

(V) in paragraph (2), by striking out "all employers" and inserting in lieu thereof "all contributing sponsors"; and

(VI) by striking out "the liability of each such employer" and inserting in lieu thereof "such liability".

(iii) Section 4063(c) (29 U.S.C. 1363(c)) is amended—

(I) in paragraph (1), by striking out "In lieu of payment of his liability under this section the employer" and inserting in lieu thereof "In lieu of payment of a contributing sponsor's liability under this section the contributing sponsor";

(II) in paragraph (2), by inserting "under section 4041(c) or 4042" after "terminated", by striking out "of such employer", and by striking out "to the employer (or his bond cancelled)" and inserting in lieu thereof "(or the bond cancelled)"; and

(III) in paragraph (3), by inserting "under section 4041(c) or 4042" after "terminates".

(iv) Section 4063(d) (29 U.S.C. 1363(d)) is amended—

(I) by striking out "Upon a showing by the plan administrator of a plan (other than a multiemployer plan) that the withdrawal from the plan by any employer or employers has resulted" and inserted in lieu thereof "Upon a showing by the plan administrator of the plan that the withdrawal from the plan by one or more contributing sponsors has resulted";

(II) by striking out "by employers"; and

(III) in paragraph (1), by striking out "their employer's" and inserting in lieu thereof "the".

(v) Section 4063(e) (29 U.S.C. 1363(e)) is amended—

(I) by striking out "to any employer or plan administrator"; and

(II) by striking out "all other employers" and inserting in lieu thereof "contributing sponsors".

(vi) The heading for section 4063 is amended by adding at the end thereof the following "FROM SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.".

(B) ALLOCATION OF LIABILITY UPON TERMINATION OF CERTAIN SINGLE-EMPLOYER PLANS.—

(i) Section 4064(a) (29 U.S.C. 1364(a)) is amended—

(I) by striking out "all employers who maintain a plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "all contributing sponsors of a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control"; and

(II) by inserting "under section 4041(c) or 4042" after "terminated".

(ii) Section 4064(b) (29 U.S.C. 1364(b)) is amended—

(I) by striking out "liability of each such employer" and inserting in lieu thereof "liability with respect to each contributing sponsor and each member of its controlled group";

(II) by striking out "under section 4062(b)(1)";

(III) by striking out "each employer" the first place it appears and inserting in lieu thereof "each contributing sponsor and member of its controlled group";

(IV) in paragraph (1), by striking out "each employer" and inserting in lieu thereof "members of such controlled group";

(V) in paragraph (2), by striking out "such employers" and inserting in lieu thereof "contributing sponsors";

(VI) by striking out "5 years," in paragraph (2) and all that follows down through "employer." and inserting in lieu thereof "5 years.";

(VII) by striking out "4062(b)(1)" and inserting in lieu thereof "4062(b)(1)(A)(ii)"; and

(VIII) in the last sentence, by striking out "of each such employer" and inserting in lieu thereof "of each such contributing sponsor and member of its controlled group".

(iii) The heading for section 4064 is amended to read as follows:

"LIABILITY ON TERMINATION OF SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS".

(C) ANNUAL NOTIFICATION TO SUBSTANTIAL EMPLOYERS.—Section 4066 (29 U.S.C. 1366) is amended—

(i) by striking out "each plan under which contributions are made by more than one employer (other than a multiemployer

plan)" and inserting in lieu thereof "each single-employer plan which has at least two contributing sponsors at least two of whom are not under common control";

(ii) by striking out "any employer making contributions under that plan" and inserting in lieu thereof "any contributing sponsor of the plan"; and

(iii) by striking out "that he is a substantial employer" and inserting in lieu thereof "that such contributing sponsor comprises with others a substantial employer".

(7) ADDITIONAL AMENDMENTS RELATING TO RECOVERY OF AMOUNTS OF LIABILITY.—

(A) Section 4067 (29 U.S.C. 1367) is amended—

(i) in the heading, by striking out "EMPLOYER";

(ii) by striking out "employer or employers" and inserting in lieu thereof "contributing sponsors and members of their controlled groups"; and

(iii) by inserting "of amounts of liability to the corporation accruing as of the termination date" after "deferred payment".

(B) Section 4068 (29 U.S.C. 1368) is amended—

(i) in the heading, by striking out "OF EMPLOYER";

(ii) in subsection (a), by striking out "employer or employers" the first place it appears and inserting in lieu thereof "person", by striking out "neglect or refuse" and inserting in lieu thereof "neglects or refuses", by inserting "to the extent of an amount equal to the unpaid amount described in section 4062(b)(1)(A)" after "liability" and after "corporation" the second place it appears, and by striking out "employer or employers" and inserting in lieu thereof "person",;

(iii) in subsection (d)(1), by striking out "employer" and inserting in lieu thereof "liable person";

(iv) in subsection (d)(2), by striking out "employer" each place it appears and inserting in lieu thereof "liable person";

(v) in subsection (e), by striking out "employer or employers" and inserting in lieu thereof "liable person"; and

(vi) by striking out subsection (c)(1) (29 U.S.C. 1368(c)(1)) and inserting in lieu thereof the following:

"(c)(1) Except as otherwise provided under this section, the priority of a lien imposed under subsection (a) shall be determined in the same manner as under section 6323 of the Internal Revenue Code of 1954 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985). Such section 6323 shall be applied for purposes of this section by disregarding subsection (g)(4) and by substituting—

"(A) 'lien imposed by section 4068 of the Employee Retirement Income Security Act of 1974' for 'lien imposed by section 6321' each place it appears in subsections (a), (b), (c)(1), (c)(4)(B), (d), (e), and (h)(5);

"(B) 'the corporation' for 'the Secretary' in subsections (a) and (b)(9)(C);

"(C) 'the payment of the amount on which the section 4068(a) lien is based' for 'the collection of any tax under this title' in subsection (b)(3);

"(D) 'a person whose property is subject to the lien' for 'the taxpayer' in subsections (b)(8), (c)(2)(A)(i) (the first place it appears), (c)(2)(A)(ii), (c)(2)(B), (c)(4)(B), and (c)(4)(C) (in the matter preceding clause (i));

"(E) 'such person' for 'the taxpayer' in subsections (c)(2)(A)(i) (the second place it appears) and (c)(4)(C)(ii);

"(F) 'payment of the loan value of the amount on which the lien is based is made to the corporation' for 'satisfaction of a levy pursuant to section 6332(b)' in subsection (b)(9)(C);

"(G) 'section 4068(a) lien' for 'tax lien' each place it appears in subsections (c)(1), (c)(2)(A), (c)(2)(B), (c)(3)(B)(iii), (c)(4)(B), (d), and (h)(5); and

"(H) 'the date on which the lien is first filed' for 'the date of the assessment of the tax' in subsection (g)(3)(A).".

(b) CLARIFICATION OF DESCRIPTION OF CERTAIN INFORMATION REQUIRED TO BE FILED IN ANNUAL REPORT.—

(1) IN GENERAL.—Section 103(d)(6) (29 U.S.C. 1023(d)(6)) is amended to read as follows:

"(6) Information required in regulations of the Pension Benefit Guaranty Corporation with respect to:

"(A) the current value of the assets of the plan,

"(B) the present value of all nonforfeitable benefits for participants and beneficiaries receiving payments under the plan,

"(C) the present value of all nonforfeitable benefits for all other participants and beneficiaries,

"(D) the present value of all accrued benefits which are not nonforfeitable (including a separate accounting of such benefits which are benefit commitments, as defined in section 4001(a)(16)), and

"(E) the actuarial assumptions and techniques used in determining the values described in subparagraphs (A) through (D).".

(2) CONFORMING AMENDMENT.—Section 104(a)(2)(A) (29 U.S.C. 1024(a)(2)(A)) is amended by striking out the second sentence.

(3) TRANSITION RULES.—Any regulations, modifications, or waivers which have been issued by the Secretary of Labor with respect to section 103(d)(6) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the date of the enactment of this Act) shall remain in full force and effect until modified by any regulations with respect to such section 103(d)(6) prescribed by the Pension Benefit Guaranty Corporation.

(c) ADDITIONAL AMENDMENTS.—

(1) DEFINITION FOR TITLE I.—Section 3(37)(A) (29 U.S.C. 1002(37)(A)) is amended by inserting "pension" before "plan".

(2) NOTICE OF REQUEST FOR WAIVERS OF MINIMUM FUNDING STANDARDS AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 303 (29 U.S.C. 1083) is amended by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary of the Treasury shall, before granting a waiver under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each employee organization representing employees covered by such application.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(3) NOTICE OF REQUEST FOR EXTENSIONS OF AMORTIZATION PERIOD AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 304 (29 U.S.C. 1084) is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary of the Treasury shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each employee organization representing employees covered by such application.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(4) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to benefits may not be increased during waiver or extension period), as amended by the preceding provisions of this Act, is further amended by adding at the end thereof the following new paragraph:

"(4) ADDITIONAL REQUIREMENTS.—

"(A) ADVANCE NOTICE.—The Secretary shall, before granting a waiver under subsection (d) or an extension under subsection (e), require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver or extension to each employee organization representing employees covered by such application.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).".

(5) AUDIT OF PLANS TERMINATED IN STANDARD TERMINATION.—Section 4003(a) (29 U.S.C. 1303(a)) is amended by adding at the end thereof the following new sentence: "The corporation shall annually audit a statistically significant number of plans terminating under section 4041(b) to determine whether participants and beneficiaries have received their benefit commitments. Each audit shall include a statistically significant number of participants and beneficiaries.".

(6) REPEAL OF EXPIRED AUTHORITY.—Section 4004 (29 U.S.C. 1304) is repealed.

(7) VOTING BY CORPORATION OF STOCK PAID AS LIABILITY.—Section 4005 (29 U.S.C. 1305) is amended by adding at the end thereof the following new subsection:

"(g) Any stock in a person liable to the corporation under this title which is paid to the corporation by such person or a member of such person's controlled group in satisfaction of such person's liability under this title may be voted only by the custodial trustees or outside money managers of the corporation or fiduciaries with respect to trusts to which the requirements of section 4049 apply.".

(8) EFFECTIVE YEARS.—Section 4022(b)(7) (29 U.S.C. 1322(b)(7)) is amended by striking out "following" and inserting in lieu thereof "beginning with".

(9) TREATMENT OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITIES.—Section 4022 (29 U.S.C. 1322) is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsection (a), a qualified preretirement survivor annuity (as defined in section 205(e)(1)) with respect to a participant under a terminated single-employer plan shall not be treated as forfeitable solely because the participant has not died as of the termination date.".

(10) CLARIFICATION OF POWER TO COLLECT AMOUNTS DUE THE CORPORATION.—Section 4042(d)(1)(B)(ii) (29 U.S.C. 1342(d)(1)(B)(ii)) is amended by inserting after "amounts due the plan" the following: ", including but not limited to the power to collect from the persons obligated to meet the requirements of section 302 or the terms of the plan".

(11) CONFORMING AMENDMENT.—Section 4042(d)(3) (29 U.S.C. 1342(d)(3)) is amended by striking out "same duties as a trustee appointed under section 47 of the Bankruptcy

Act" and inserting in lieu thereof "same duties as those of a trustee under section 704 of title 11, United States Code".

(12) CLERICAL CORRECTIONS.—Section 4044(a)(4) (29 U.S.C. 1344(a)(4)(A)) is amended—

(A) in subparagraph (A), by striking out "section 4022(b)(5)" and inserting in lieu thereof "section 4022B(a)"; and

(B) in subparagraph (B), by striking out "section 4022(b)(6)" and inserting in lieu thereof "section 4022(b)(5)".

(13) RELEASE OF LIEN.—Section 4068(e) (29 U.S.C. 1368(e)) is amended by striking out ", with the consent of the board of directors,".

(d) STUDIES BY COMPTROLLER GENERAL.—

(1) IN GENERAL.—The Comptroller General of the United States may, pursuant to the request of any Member of Congress, study employee benefit plans, including the effects of such plans on employees, participants, and their beneficiaries.

(2) ACCESS TO BOOKS, DOCUMENTS, ETC.—For the purpose of conducting studies under this subsection, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(A) within the possession or control of the administrator, sponsor, or employer of and persons providing services to any employee benefit plan, and

(B) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this subsection available to the public.

(3) DEFINITIONS.—For purposes of this subsection, the terms "employee benefit plan," "participant," "administrator," "beneficiary," "plan sponsor," "employee," and "employer" are defined in section 3 of the Employee Retirement Income Security Act of 1974.

(4) EFFECTIVE DATE.—The preceding provisions of this subsection shall be effective on the date of enactment of this Act.

(e) AMENDMENTS TO THE TABLE OF CONTENTS OF ERISA.—The table of contents in section 1 is amended—

(1) by striking out the item relating to section 4004;

(2) by striking out the item relating to section 4042 and inserting in lieu thereof the following new item:

"Sec. 4042. Institution of termination proceedings by the corporation.";

(3) by inserting after the item relating to section 4048 the following new item:

"Sec. 4049. Distribution to participants and beneficiaries of liability payments to section 4049 trust.";

and

(4) by striking out the items relating to subtitle D of title IV and inserting in lieu thereof the following new items:

"Subtitle D—Liability

"Sec. 4061. Amounts payable by the corporation.

"Sec. 4062. Liability for termination of single-employer plans under a distress termination or a termination by the corporation.

"Sec. 4063. Liability of substantial employer for withdrawal from single-employer plans under multiple controlled groups.

"Sec. 4064. Liability on termination of single-employer plans under multiple controlled groups.

"Sec. 4065. Annual report of plan administrator.

"Sec. 4066. Annual notification of substantial employers.

"Sec. 4067. Recovery of liability for plan termination.

"Sec. 4068. Lien for liability.

"Sec. 4069. Treatment of transactions to evade liability; effect of corporate reorganization.

"Sec. 4070. Enforcement authority relating to terminations of single-employer plans.".

SEC. 11017. STUDIES.

(a) SINGLE-EMPLOYER PENSION PLAN TERMINATION INSURANCE PREMIUM STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall conduct a study of the premiums established under the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974.

(2) MATTERS TO BE STUDIED.—The Corporation shall specifically consider in its study the following matters:

(A) the effect of the amendments made by this Act on the long-term stability of the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974,

(B) alternatives to the current statutory mechanism with respect to proposals for changes in the premium levels under such program,

(C) the methods currently used by the Corporation in projecting future program costs of the single-employer pension plan termination insurance program,

(D) alternative methods of projecting such future program costs and an evaluation of each such alternative method,

(E) the methods currently used by the Corporation in determining premiums needed to allocate and adequately fund such future program costs,

(F) alternative methods of making such premium determinations and an evaluation of each such alternative method, and

(G) alternative premium bases upon which some or all of such projected future program costs would be allocated on a exposure-related or risk-related computation, which may take into account the different exposures or risks imposed on the Corporation by plan sponsors with different histories and under different circumstances.

(3) SUBMISSION OF CORPORATION'S REPORT.—Not later than one year after the date of the enactment of this Act, the Corporation shall report the results of its study, together with any recommendations for statutory changes, to an advisory council, to be appointed by the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate. The advisory council shall be composed of representatives of single-employer plan sponsors, employee organizations representing single-employer plan participants, and members of the general public who are experts in the matters to be considered in the study. The members of the advisory council shall serve without compensation.

(4) SUBMISSION OF COUNCIL'S REPORT TO CONGRESS.—Not later than 180 days after the date of the submission of the Corporation's report to the advisory council under paragraph (3), the advisory council shall submit the results of the Corporation's study and the Corporation's recommendations, together with the recommendations of the council, to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(5) COOPERATION BY THE PENSION BENEFIT GUARANTY CORPORATION AND OTHER FEDERAL AGENCIES.—The Corporation shall cooperate with the advisory council in reviewing the results of the Corporation's study and recommendations. In order to avoid unnecessary expense and duplication, to the extent not otherwise prohibited by law, the Corporation and any other Federal agency shall provide to the advisory council any data, analyses, or other relevant information related to the matters under review.

(b) OVERFUNDED PENSION PLAN STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Labor shall conduct a study of terminations resulting in residual assets under section 4044(d) of the Employee Retirement Income Security Act of 1974.

(2) REPORT.—No later than February 1, 1986, the Secretary of Labor shall submit a report on the study conducted under paragraph (1), together with any recommendations for statutory changes, to the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate.

SEC. 11018. LIMITATION ON REGULATIONS.

(a) REGULATORY TREATMENT OF ASSETS OF REAL ESTATE ENTITIES.—

(1) IN GENERAL.—Except as a defense, no rule or regulation adopted pursuant to the Secretary's proposed regulation defining "plan assets" for purposes of the Employee Retirement Income Security Act of 1974 (50 FR 961, January 8, 1985, as modified by 50 FR 6361, February 15, 1985), or any reproposal thereof prior to the adoption of the regulations required to be issued in accordance with subsection (d), shall apply to any asset of a real estate entity in which a plan, account, or arrangement subject to such Act invests if—

(A) any interest in the entity is first offered to a plan, account, or arrangement subject to such Act investing in the entity (hereinafter in this section referred to as a "plan investor") on or before the date which is 120 days after the date of publication of such rule or regulation as a final rule or regulation;

(B) no plan investor acquires an interest in the entity from an issuer or underwriter at any time on or after the date which is 270 days after the date of publication of such rule or regulation as a final rule or regulation (except pursuant to a contract or subscription binding on the plan investor and entered into, or tendered, before the expiration of such 270-day period, or pursuant to the exercise, on or before December 31, 1990, of a warrant which was the subject of an effective registration under the Securities Act of 1933 (15 U.S.C. 77q et seq.) prior to the date of the enactment of this section); and

(C) every interest in the entity acquired by a plan investor (or contracted for or subscribed to by a plan investor) before the expiration of such 270-day period is a security—

(i) which is part of an issue or class of securities which upon such acquisition or at any time during the offering period is held by 100 or more persons;

(ii) the economic rights of ownership in respect of which are freely transferable;

(iii) which is registered under the Securities Act of 1933; and

(iv) which is part of an issue or class of securities which is registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (or is so registered within three years of the effective date of the registration statement of such securities for purposes of the Securities Act of 1933, provided that the issuer provides plan investors with such reports with respect to the offering period as are required with respect to such period by the Securities and Exchange Commission under such acts and the rules and regulations promulgated thereunder).

In the case of partnerships organized prior to enactment of this section, the requirements of subparagraphs (iii) and (iv) shall not apply to initial limited partnership interests in an entity otherwise described above provided such entity was the subject of an effective registration under the Securities Act of 1933 prior to the date of the enactment of this section, such interests were issued solely for partnership organizational purposes in compliance with State limited partnership laws, and such interest has a value as of the date of issue of less than $20,000 and represents less than one percent of the total interests outstanding as of the completion of the offering period.

(2) MAINTENANCE OF CURRENT REGULATORY TREATMENT.—No asset of any real estate entity described in paragraph (1) shall be treated as an asset of any plan investor for any purpose of the Employee Retirement Income Security Act of 1974 if the assets of such entity would not have been assets of such plan investor under the provisions of—

(A) Interpretive Bulletin 75-2 (29 CFR 2509.750-2); or

(B) the regulations proposed by the Secretary of Labor and published—

(i) on August 28, 1979, at 44 Fed. Reg. 50363;

(ii) on June 6, 1980, at 45 Fed. Reg. 38084;

(iii) on January 8, 1985, at 50 Fed. Reg. 961; or

(iv) on February 15, 1985, at 50 Fed. Reg. 6361,

without regard to any limitation of any effective date proposed therein.

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) The term 'real estate entity' means an entity which, at any time within two years after the closing of its offering period has invested or has contracted to invest at least 75 percent of the value of its net assets available for investment in direct or indirect ownership of 'real estate assets' or 'interests in real property'.

(2) The term 'real estate asset' means real property (including an interest in real property) and any share of stock or beneficial interest, partnership interest, depository receipt, or any other interest in any other real estate entity.

(3) The term 'interest in real property' includes, directly or indirectly, the following:

(A) the ownership or co-ownership of land or improvements thereon;

(B) any mortgage (including an interest in or co-ownership of any mortgage, leasehold mortgage, pool of mortgages, deed of trust, or similar instrument) on land or improvements thereon;

(C) any leasehold of land or improvements thereon; and

(D) any option to acquire any of the foregoing, but does not include any mineral, oil, or gas royalty interest.

(4) Whether the economic rights of ownership with respect to a security are 'freely transferable' shall be determined based upon all the facts and circumstances, but ordinarily none of the following, alone or in any combination, shall cause the economic rights of ownership to be considered not freely transferable—

(A) any requirement that not less than a minimum number of shares or units of such security be transferred or assigned by any investor, provided that such requirement does not prevent transfer of all of the then remaining shares or units held by an investor;

(B) any prohibition against transfer or assignment of such security or rights in respect thereof to an ineligible or unsuitable investor;

(C) any restriction on or prohibition against any transfer or assignment which would either result in a termination or reclassification of the entity for Federal or State tax purposes or which would violate any State or Federal statute, regulation, court order, judicial decree, or rule of law;

(D) any requirement that reasonable transfer or administrative fees be paid in connection with a transfer or assignment;

(E) any requirement that advance notice of a transfer or assignment be given to the entity and any requirement regarding execution of documentation evidencing such transfer or assignment (including documentation setting forth representations from either or both of the transferor or transferee as to compliance with any restriction or requirement described in this section or requiring compliance with the entity's governing instruments);

(F) any restriction on substitution of an assignee as a limited partner of a partnership, including a general partner consent requirement, provided that the economic benefits of ownership of the assignor may be transferred or assigned without regard to such restriction or consent (other than compliance with any other restriction described in this section);

(G) any administrative procedure which establishes an effective date, or an event such as the completion of the offering, prior to which a transfer or assignment will not be effective; and

(H) any limitation or restriction on transfer or assignment which is not created or imposed by the issuer or any person acting for or on behalf of such issuer.

(c) NO EFFECT ON SECRETARY'S AUTHORITY OTHER THAN AS PROVIDED.—Except as provided in subsection (a), nothing in this section shall limit the authority of the Secretary of Labor to issue regulations or otherwise interpret section 3(21) of the Employee Retirement Income Security Act of 1974.

(d) TIME LIMIT FOR FINAL REGULATIONS.—The Secretary of Labor shall adopt final regulations defining "plan assets" by December 31, 1986.

(e) EFFECTIVE DATE.—The preceding provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 11019. EFFECTIVE DATE OF TITLE; TEMPORARY PROCEDURES.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply with respect to terminations pursuant to notices of intent to terminate filed with the Pension Benefit Guaranty Corporation on or after the earlier of—

(1) the date of the enactment of this Act, or

(2) January 1, 1986.

(b) AUTHORITY TO PRESCRIBE TEMPORARY PROCEDURES.—The Pension Benefit Guaranty Corporation may prescribe temporary procedures for purposes of carrying out the amendments made by this title during the 180-day period beginning on the date described in subsection (a).

TITLE XII—INCOME SECURITY AND RELATED PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance Program

SEC. 12101. DEMONSTRATION PROJECTS INVOLVING THE DISABILITY INSURANCE PROGRAM.

(a) EXTENSION OF WAIVER AUTHORITY.—Section 505(a)(3) of the Social Security Disability Amendments of 1980 is amended by inserting "which is initiated before June 10, 1990" after "demonstration project under paragraph (1)".

(b) INTERIM REPORTS.—Section 505(a)(4) of such Amendments is amended to read as follows:

"(4) On or before June 9 in each of the years 1986, 1987, 1988, and 1989, the Secretary shall submit to the Congress an interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials which the Secretary may consider appropriate.".

(c) FINAL REPORT.—Section 505(c) of such Amendments is amended by striking out "under this section no later than five years after the date of the enactment of this Act" and inserting in lieu thereof "under subsection (a) no later than June 9, 1990".

(d) INCORPORATION OF CERTAIN REPORTS INTO SECRETARY'S ANNUAL REPORT TO CONGRESS.—Section 1110(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) All reports of the Secretary with respect to projects carried out under this subsection shall be incorporated into the Secretary's annual report to the Congress required by section 704.".

SEC. 12102. DISABILITY ADVISORY COUNCIL.

(a) APPOINTMENT OF COUNCIL.—Within ninety days after the date of the enactment of this Act, the Secretary of Health and Human Services shall appoint a special Disability Advisory Council.

(b) MEMBERSHIP OF COUNCIL.—The Disability Advisory Council shall consist of a Chairman and not more than twelve other persons, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers, medical and vocational experts from the public or private sector (or from both such sectors), organizations representing disabled people, and the public. The Council shall meet as often as may be necessary for the performance of its duties under this section, but not less often than quarterly.

(c) DUTIES OF COUNCIL.—(1) The Advisory Council shall conduct studies and make recommendations with respect to the medical and vocational aspects of disability under both title II and title XVI of the Social Security Act, including studies and recommendations relating to—

(A) the effectiveness of vocational rehabilitation programs for recipients of disability insurance benefits or supplemental security income benefits;

(B) the question of using specialists for completing medical and vocational evaluations at the State agency level in the disability determination process, including the question of requiring, in cases involving impairments other than mental impairments, that the medical portion of each case review

(as well as any applicable assessment of residual functional capacity) be completed by an appropriate medical specialist employed by the appropriate State agency before any determination can be made with respect to the impairment involved;

(C) alternative approaches to work evaluation in the case of applicants for benefits based on disability and recipients of such benefits undergoing reviews of their cases, including immediate referral of any such applicant or recipient to a vocational rehabilitation agency for services at the same time he or she is referred to the appropriate State agency for a disability determination;

(D) the feasibility and appropriateness of providing work evaluation stipends for applicants for and recipients of benefits based on disability in cases where extended work evaluation is needed prior to the final determination of their eligibility for such benefits or for further rehabilitation and related services;

(E) the standards, policies, and procedures which are applied or used by the Secretary of Health and Human Services with respect to work evaluations in order to determine whether such standards, policies, and procedures will provide appropriate screening criteria for work evaluation referrals in the case of applicants for and recipients of benefits based on disability; and

(F) possible criteria for assessing the probability that an applicant for or recipient of benefits based on disability will benefit from rehabilitation services, taking into consideration not only whether the individual involved will be able after rehabilitation to engage in substantial gainful activity but also whether rehabilitation services can reasonably be expected to improve the individual's functioning so that he or she will be able to live independently or work in a sheltered environment.

(2) For purposes of this subsection, "work evaluation" includes (with respect to any individual) a determination of—

(A) such individual's skills,

(B) the work activities or types of work activity for which such individual's skills are insufficient or inadequate,

(C) the work activities or types of work activity for which such individual might potentially be trained or rehabilitated,

(D) the length of time for which such individual is capable of sustaining work (including, in the case of the mentally impaired, the ability to cope with the stress of competitive work), and

(E) any modifications which may be necessary, in work activities for which such individual might be trained or rehabilitated, in order to enable him or her to perform such activities.

(d) PROVISION OF ASSISTANCE TO COUNCIL; COMPENSATION OF MEMBERS.—(1) The Disability Advisory Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary of Health and Human Services shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health and Human Services as the Council may require to carry out such functions.

(2) Appointed members of the Council, while serving on business of the Council (inclusive of traveltime), shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

(e) REPORTS.—The Disability Advisory Council shall submit a report (including any interim reports the Council may have issued) of its findings and recommendations to the Secretary of Health and Human Services not later than December 31, 1986; and such report and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of the Federal Disability Insurance Trust Fund.

(f) TERMINATION.—After the date of the transmittal to the Congress of the report required by subsection (e), the Disability Advisory Council shall cease to exist.

(g) CONFORMING AMENDMENTS.—(1) Section 706 of the Social Security Act is amended—

(A) by inserting "except as provided in subsection (e)," immediately before "the Secretary shall appoint" in subsection (a); and

(B) by adding at the end thereof the following new subsection:

"(e) No Advisory Council on Social Security shall be appointed under subsection (a) in 1985 (or in any subsequent year prior to 1989).".

(2) Section 12 of the Social Security Disability Benefits Reform Act of 1984 is repealed.

SEC. 12103. TAXATION OF SOCIAL SECURITY BENEFITS RECEIVED BY CERTAIN CITIZENS OF POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Section 932 of the Internal Revenue Code of 1954 (relating to citizens of possessions of the United States) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAXATION OF SOCIAL SECURITY BENEFITS.—If, for purposes of an income tax imposed in the possession, any social security benefit (as defined in section 86(d)) received by an individual described in subsection (a) is treated in a manner equivalent to that provided by section 86, then—

"(1) such benefit shall be exempt from the tax imposed by section 871, and

"(2) no amount shall be deducted and withheld from such benefit under section 1441.

Any income tax imposed in a possession which treats social security benefits (as defined in section 86(d)) in a manner equivalent to section 86, and which first becomes effective within 15 months after the date of the enactment of this subsection, shall, for purposes of this section, be deemed to have been in effect as of January 1, 1984.".

(b) CROSS REFERENCE.—Paragraph (3) of section 871(a) of such Code is amended by adding at the end thereof (after and below subparagraph (B)) the following new sentence:

"For treatment of certain citizens of possessions of the United States, see section 932(c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date.

SEC. 12104. APPLICATION OF DEPENDENCY TEST TO ADOPTED GREAT-GRANDCHILDREN FOR PURPOSES OF CHILD'S INSURANCE BENEFITS.

(a) TREATMENT OF GRANDCHILDREN AND GREAT-GRANDCHILDREN ALIKE.—Section 202(d)(8)(D)(ii)(III) of the Social Security Act is amended by inserting "or great-grandchild" after "grandchild".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for which application is filed after the date of the enactment of this Act.

SEC. 12105. ELIMINATION OF REQUIREMENT FOR PUBLICATION OF REVISIONS IN PRE-1979 BENEFIT TABLE.

Section 215(i)(4) of the Social Security Act is amended by striking out "the Secretary shall publish" and all that follows in the last sentence and inserting in lieu thereof the following: "the Secretary shall revise the table of benefits contained in subsection (a), as in effect in December 1978, in accordance with the requirements of paragraph (2)(D) of this subsection as then in effect, except that the requirement in such paragraph (2)(D) that the Secretary publish such revision of the table of benefits in the Federal Register shall not apply.".

SEC. 12106. FORMULA CLARIFICATION.

Section 709(b)(1) of the Social Security Act is amended to read as follows:

"(1) the balance in such Trust Fund as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l) or 1817(j), to".

SEC. 12107. EXTENSION OF 15-MONTH REENTITLEMENT PERIOD TO CHILDHOOD DISABILITY BENEFICIARIES SUBSEQUENTLY ENTITLED.

(a) IN GENERAL.—Section 202(d)(6)(E) of the Social Security Act is amended by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof "the termination month (as defined in paragraph (1)(G)(i)), subject to section 223(e),".

(b) CONFORMING AMENDMENT.—Section 223(e) of such Act is amended by inserting "(d)(6)(A)(ii), (d)(6)(B)," after "(d)(1)(B)(ii),".

(c) EFFECTIVE DATE.—The amendments made by this section are effective December 1, 1980, and shall apply with respect to any individual who is under a disability (as defined in section 223(d) of the Social Security Act) on or after that date.

SEC. 12108. CHARGING OF WORK DEDUCTIONS AGAINST AUXILIARY BENEFITS IN DISABILITY CASES.

(a) IN GENERAL.—(1) Section 203(a)(4) of the Social Security Act is amended by striking out "preceding" in the first sentence.

(2) Section 203(a)(6) of such Act is amended—

(A) by striking out "and (5)" and inserting in lieu thereof "(4), and (5)"; and

(B) by striking out ", whether or not" and all that follows down through "further reduced" and inserting in lieu thereof "shall be reduced".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after December 1985.

SEC. 12109. PERFECTING AMENDMENTS TO DISABILITY OFFSET PROVISION.

(a) IN GENERAL.—(1) Section 224(a)(2) of the Social Security Act is amended to read as follows:

"(2) such individual is entitled for such month to—

"(A) periodic benefits on account of his or her total or partial disability (whether or not permanent) under a workmen's compensation law or plan of the United States or a State, or

"(B) periodic benefits on account of his or her total or partial disability (whether or

not permanent) under any other law or plan of the United States, a State, a political subdivision (as that term is used in section 218(b)(2)), or an instrumentality of two or more States (as that term is used in section 218(k)), other than (i) benefits payable under title 38, United States Code, (ii) benefits payable under a program of assistance which is based on need, (iii) benefits based on service all or substantially all of which was included under an agreement entered into by a State and the Secretary under section 218, and (iv) benefits under a law or plan of the United States based on service all or part of which is employment as defined in section 210,".

(2) Section 224(a)(2)(B) of such Act (as amended by paragraph (1) of this subsection) is further amended by striking out "all or part of which" in clause (iv) and inserting in lieu thereof "all or substantially all of which".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall be effective as though it had been included or reflected in the amendment made by section 2208(a)(3) of the Omnibus Budget Reconciliation Act of 1981.

(2) The amendment made by subsection (a)(2) shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of individuals who become disabled (within the meaning of section 223(d) of the Social Security Act) after the month in which this Act is enacted.

SEC. 12110. STATE COVERAGE AGREEMENTS.

(a) MAXIMUM PERIOD OF RETROACTIVE COVERAGE.—Section 218(f)(1) of the Social Security Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary".

(b) POSITIONS COMPENSATED SOLELY ON FEE BASIS.—Section 218(u)(3) of such Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements and modifications of agreements which are mailed or delivered to the Secretary of Health and Human Services (under section 218 of the Social Security Act) on or after the date of the enactment of this Act.

SEC. 12111. EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.

(a) FOR OASDI PURPOSES.—Section 708 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) For purposes of computing the 'OASDI trust fund ratio' under section 201(l), the 'OASDI fund ratio' under section 215(i), and the 'balance ratio' under section 709(b), benefit checks delivered before the end of the month for which they are issued by reason of subsection (a) of this section shall be deemed to have been delivered on the regularly designated delivery date.".

(b) FOR INCOME TAX PURPOSES.—Section 86(d) of the Internal Revenue Code of 1954 (relating to taxation of social security and tier 1 railroad retirement benefits) is amended by adding at the end thereof the following new paragraph:

"(5) EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.—For purposes of subsection (a), in any case where section 708 of the Social Security Act causes social security benefit checks to be delivered before the end of the calendar month for which they are issued, the benefits involved shall be deemed to have been received in the succeeding calendar month.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefit checks issued for months ending after the date of the enactment of this Act.

SEC. 12112. EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR RETIRED FEDERAL JUDGES ON ACTIVE DUTY.

(a) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209 of the Social Security Act is amended in the third to the last paragraph thereof (added by section 101(c)(1) of the Social Security Amendments of 1983) by striking out "shall, subject to the provisions of subsection (a) of this section, include" and inserting in lieu thereof "shall not include".

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(i)(5) of the Internal Revenue Code of 1954 is amended by striking out "shall, subject to the provisions of subsection (a)(1) of this section, include" and inserting in lieu thereof "shall not include".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to service performed after December 31, 1983.

SEC. 12113. RECOVERY OF OVERPAYMENTS.

(a) OASDI PAYMENTS.—Section 204(a) of the Social Security Act is amended—

(1) by inserting "(1)" after "204(a)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person was entitled to a monthly benefit on the basis of the same wages and self-employment income as the deceased individual for the month preceding the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

(b) SSI PAYMENTS.—Section 1631(b) of the Social Security Act is amended by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), and by inserting after paragraph (1) the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person is the surviving spouse of the deceased individual, and was eligible for a payment under this title (including any State supplementation payment paid by the Secretary) as an eligible spouse (or as either member of an eligible couple) for the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only in the case of deaths of which the Secretary is first notified on or after the date of the enactment of this Act.

SEC. 12114. COVERAGE OF CONNECTICUT STATE POLICE.

Notwithstanding any provision of section 218 of the Social Security Act, the Secretary of Health and Human Services shall, upon the request of the Governor of Connecticut, modify the agreement under such section between the Secretary and the State of Connecticut to provide that service performed after the date of the enactment of this Act by members of the Division of the State Police within the Connecticut Department of Public Safety, who are hired on or after May 8, 1984, and who are members of the tier II plan of the Connecticut State Employees Retirement System, shall be covered under such agreement.

SEC. 12115. GENERAL EFFECTIVE DATE OF SUBTITLE.

Except as otherwise specifically provided, the preceding provisions of this subtitle, including the amendments made thereby, shall take effect on the first day of the month following the month in which this Act is enacted.

Subtitle B—Supplemental Security Income Program

SEC. 12201. AMENDMENTS RELATING TO STATE SUPPLEMENTATION UNDER SSI.

(a) PASSTHROUGH RELATING TO OPTIONAL STATE SUPPLEMENTATION.—Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall not find that a State has failed to meet the requirements imposed by subsection (a) with respect to the levels of its supplementary payments for the period January 1, 1984, through December 31, 1985, if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels (other than to recipients of benefits determined under section 1611(e)(1)(B)) are not less than those in effect in December 1976, increased by a percentage equal to the percentage by which payments under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66 have been increased as a result of all adjustments under section 1617(a) and (c) which have occurred after December 1976 and before February 1986.".

(b) FEDERAL ADMINISTRATION OF STATE SUPPLEMENTATION.—Section 1616(b) of such Act is amended by adding at the end thereof (after and below paragraph (2)) the following new sentence:

"At the option of the State (but subject to paragraph (2) of this subsection), the agreement between the Secretary and such State entered into under subsection (a) shall be modified to provide that the Secretary will make supplementary payments, on and after an effective date to be specified in the agreement as so modified, to individuals receiving benefits determined under section 1611(e)(1)(B).".

SEC. 12202. PRESERVATION OF BENEFIT STATUS FOR DISABLED WIDOWS AND WIDOWERS WHO LOST SSI BENEFITS BECAUSE OF 1983 CHANGES IN ACTUARIAL REDUCTION FORMULA.

(a) IN GENERAL.—Section 1634 of the Social Security Act is amended—

(1) by inserting "(a)" after "SEC. 1634.", and

(2) by adding at the end the following new subsection:

"(b)(1) An eligible disabled widow or widower (described in paragraph (2)) who is entitled to a widow's or widower's insurance benefit based on a disability for any month under section 202(e) or (f) but is not eligible for benefits under this title in that month, and who applies for the protection of this subsection under paragraph (3), shall be deemed for purposes of title XIX to be an individual with respect to whom benefits under this title are paid in that month if he or she—

"(A) has been continuously entitled to such widow's or widower's insurance benefits from the first month for which the increase described in paragraph (2)(C) was reflected in such benefits through the month involved, and

"(B) would be eligible for benefits under this title in the month involved if the amount of the increase described in paragraph (2)(C) in his or her widow's or widower's insurance benefits, and any subsequent cost-of-living adjustments in such benefits under section 215(i), were disregarded.

"(2) For purposes of paragraph (1), the term 'eligible disabled widow or widower' means an individual who—

"(A) was entitled to a monthly insurance benefit under title II for December 1983,

"(B) was entitled to a widow's or widower's insurance benefit based on a disability under section 202(e) or (f) for January 1984 and with respect to whom a benefit under this title was paid in that month, and

"(C) because of the increase in the amount of his or her widow's or widower's insurance benefits which resulted from the amendments made by section 134 of the Social Security Amendments of 1983 (Public Law 98-21) (eliminating the additional reduction factor for disabled widows and widowers under age 60), was ineligible for benefits under this title in the first month in which such increase was paid to him or her (and in which a retroactive payment of such increase for prior months was not made).

"(3) This subsection shall only apply to an individual who files a written application for protection under this subsection, in such manner and form as the Secretary may prescribe, during the 15-month period beginning with the month in which this subsection is enacted.

"(4) For purposes of this subsection, the term 'benefits under this title' includes payments of the type described in section 1616(a) or of the type described in section 212(a) of Public Law 93-66.".

(b) IDENTIFICATION OF BENEFICIARIES.—(1) As soon as possible after the date of the enactment of this Act, the Secretary of Health and Human Services shall provide each State with the names of all individuals receiving widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act based on a disability who might qualify for medical assistance under the plan of that State approved under title XIX of such Act by reason of the application of section 1634(b) of the Social Security Act.

(2) Each State shall—

(A) using the information so provided and any other information it may have, promptly notify all individuals who may qualify for medical assistance under its plan by reason of such section 1634(b) of their right to make application for such assistance,

(B) solicit their applications for such assistance, and

(C) make the necessary determination of such individuals' eligibility for such assistance under such section and under such title XIX.

(c) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall not have the effect of deeming an individual eligible for medical assistance for any month which begins less than two months after the date of the enactment of this Act.

Subtitle C—AFDC, Adoption Assistance, and Foster Care Programs

SEC. 12301. AFDC QUALITY CONTROL STUDIES AND PENALTY MORATORIUM.

(a) STUDIES.—(1) The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall conduct a study of quality control systems for the Aid to Families with Dependent Children Program under title IV-A of the Social Security Act and for the Medicaid Program under title XIX of such Act. The study shall examine how best to operate such systems in order to obtain information which will allow program managers to improve the quality of administration, and provide reasonable data on the basis of which Federal funding may be withheld for States with excessive levels of erroneous payments.

(2) The Secretary shall also contract with the National Academy of Sciences to conduct a concurrent independent study for the purpose described in paragraph (1). For purposes of such study, the Secretary shall provide to the National Academy of Sciences any relevant data available to the Secretary at the onset of the study and on an ongoing basis.

(3) The Secretary and the National Academy of Sciences shall report the results of their respective studies to the Congress within one year after the date of the enactment of this Act.

(b) MORATORIUM ON PENALTIES.—(1) During the 24-month period beginning with the first calendar quarter which begins after the date of the enactment of this Act (hereafter in this section referred to as the "moratorium period"), the Secretary shall not impose any reductions in payments to States pursuant to section 403(i) or 1903(u) of the Social Security Act (or prior regulations), or pursuant to any comparable provision of law relating to the programs under titles IV-A and XIX of such Act in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

(2) During the moratorium period, the Secretary and the States shall continue to operate the quality control systems in effect under titles IV-A and XIX of the Social Security Act, and to calculate the error rates under the provisions referred to in paragraph (1).

(c) RESTRUCTURED QUALITY CONTROL SYSTEMS.—(1) Not later than 18 months after the date of the enactment of this Act, the Secretary shall publish regulations which shall—

(A) restructure the quality control systems under titles IV-A and XIX of the Social Security Act to the extent the Secretary determines to be appropriate, taking into account the studies conducted under subsection (a); and

(B) establish, taking into account the studies conducted under subsection (a), criteria for adjusting the reductions which shall be made for quarters prior to the implementation of the restructured quality control systems so as to eliminate reductions for those quarters which would not be required if the restructured quality control systems had been in effect during those quarters.

(2) Beginning with the first calendar quarter after the moratorium period, the Secretary shall implement the revised quality control systems, and shall reduce payments to States—

(A) for quarters after the moratorium period in accordance with the restructured quality control systems; and

(B) for quarters in and before the moratorium period, as provided under the regulations described in paragraph (1)(B).

(d) EFFECTIVE DATE.—This section shall become effective on the date of the enactment of this Act.

SEC. 12302. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

(a) REQUIREMENT THAT AID BE PROVIDED.—Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) CONFORMING AMENDMENTS.—(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(40), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) QUARTERS OF WORK BASED ON EDUCATION OR TRAINING.—(1) Section 407(d)(1) of such Act is amended—

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end thereof the following: ", or (B) if the State plan so provides (but subject to the last sentence of this subsection), in which such individual (i) was in regular full-time attendance as a student at an elementary or secondary school, (ii) was in regular full-time attendance in a course of vocational or technical training designed to fit him or her for gainful employment, or (iii) participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act is further amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"No individual shall be credited during his or her lifetime (for purposes of subsection (b)(1)(C)(i)) with more than 4 'quarters of work' based on attendance in a course or courses of vocational or technical training as described in paragraph (1)(B)(ii) of this subsection.".

(3) Section 407(b)(1)(C)(i) of such Act is amended by inserting after "6 or more quarters of work (as defined in subsection (d)(1))" the following: ", including 2 or more quarters of work as defined in subsection (d)(1)(A),".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective January 1, 1988.

SEC. 12303. AFDC AUTOMATION REQUIREMENTS.

(a) IN GENERAL.—Section 402(e)(2) of the Social Security Act is amended by adding at

the end thereof the following new subparagraph:

"(C) If the Secretary determines that such a system has not been implemented by the State by the date specified for implementation in the State's advance automatic data processing planning document, then the Secretary shall reduce payments to such State, in accordance with section 403(b), in an amount equal to 40 percent of the expenditures referred to in section 403(a)(3)(B) with respect to which payments were made to the State under section 403(a)(3)(B). The Secretary may extend the deadline for implementation if the State demonstrates to the satisfaction of the Secretary that the State cannot implement such system by the date specified in such planning document due to circumstances beyond the State's control.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act, but shall apply only with respect to sums expended by the States for the purposes described in section 403(a)(3)(B) of the Social Security Act on or after the date of the enactment of this Act.

SEC. 12304. THIRD-PARTY LIABILITY.

(a) IN GENERAL.—Section 402(a)(26) of the Social Security Act is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon;

(2) by adding "and" after the semicolon at the end of subparagraph (B); and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

SEC. 12305. PROVISIONS RELATING TO MEDICAID COVERAGE UNDER THE ADOPTION ASSISTANCE AND FOSTER CARE PROGRAMS.

(a) IN GENERAL.—Section 473(b) of the Social Security Act is amended to read as follows:

"(b) For purposes of titles XIX and XX, any child—

"(1)(A) who is a child described in subsection (a)(1), and

"(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

"(2) with respect to whom foster care maintenance payments are being made under section 472,

shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title in the State where such child resides.".

(b) CONFORMING AMENDMENTS.—(1) Section 473(c)(2) of such Act is amended—

(A) by striking out "without providing adoption assistance" in clause (A) and inserting in lieu thereof "without providing adoption assistance under this section or medical assistance under title XIX"; and

(B) by inserting "or medical assistance under title XIX" before the period at the end thereof.

(2) Section 475(3) of such Act is amended by striking out "the adoption assistance payments and any additional services and assistance" in clause (A) of the first sentence and inserting in lieu thereof "any adoption assistance payments and any other services and assistance".

(3) Section 1902(a)(10)(A)(i)(I) of such Act is amended by striking out "or 406(h)" and inserting in lieu thereof ", 406(h), or 473(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after the date of the enactment of this Act.

SEC. 12306. EXTENSION OF VOLUNTARY PLACEMENT, AND CEILING AND TRIGGER PROVISIONS, RELATING TO FOSTER CARE.

(a) Section 474(b) of the Social Security Act is amended—

(1) in paragraphs (1), (2)(B), and (4)(B), by striking out "1985" and inserting in lieu thereof "1987";

(2) in paragraph (2)(A)—

(A) by inserting "and" at the end of clause (ii), and

(B) by striking out clauses (iii), (iv), and (v) and inserting in lieu thereof the following:

"(iii) with respect to each of the fiscal years 1983 through 1987, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000."; and

(3) in paragraph (5)(A)—

(A) by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1987", and

(B) in clause (ii), by striking out "1984 and 1985" and inserting in lieu thereof "1984 through 1987".

(b) Paragraphs (1) and (2) of section 474(c) of such Act are each amended by striking out "1985" and inserting in lieu thereof "1987".

(c)(1) Section 102(a)(1) of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) is amended by striking out "1985" and inserting in lieu thereof "1987".

(2) Section 102(c) of such Act is amended by striking out "1985" each place it appears and inserting in lieu thereof "1987".

SEC. 12307. INDEPENDENT LIVING INITIATIVES.

(a) INDEPENDENT LIVING INITIATIVES.—Part E of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"INDEPENDENT LIVING INITIATIVES

"SEC. 477. (a) Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children, with respect to whom foster care maintenance payments are being made by the State under this part and who have attained age 16, in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e). Such payments shall be made only for the fiscal years 1987 and 1988.

"(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.

"(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for fiscal year 1988, such description and assurances must be submitted prior to January 1, 1988.

"(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—

"(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

"(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

"(3) provide for individual and group counseling;

"(4) integrate and coordinate services otherwise available to participants;

"(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

"(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

"(7) provide participants with other services and assistance designed to improve their transition to independent living.

"(e)(1) The amount to which a State shall be entitled under section 474(a)(4) for each of the fiscal years 1987 and 1988 shall be an amount which bears the same ratio to $45,000,000 as such State's average number of children receiving foster care maintenance payments under this part in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

"(2) If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

"(3) Any amounts payable to States under this section shall be in addition to amounts payable to States under subsections (a)(1), (a)(2), and (a)(3) of section 474, and shall

supplement and not replace any other funds which may be available for the same general purposes in the localities involved.

"(f) Payments made to a State under this section for any fiscal year—

"(1) shall be used only for the specific purposes described in this section;

"(2) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

"(3) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

"(g)(1) Not later than March 1, 1988, each State shall submit to the Secretary a report on the programs carried out with the amounts received under this section. Such report—

"(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a); and

"(B) shall specifically contain such information as the Secretary may require in order to carry out the evaluation under paragraph (2).

"(2) Not later than July 1, 1988, the Secretary, on the basis of the reports submitted by States under paragraph (1) for the fiscal year 1987, and on the basis of such additional information as the Secretary may obtain or develop, shall evaluate the use by States of the payments made available under this section for such fiscal year with respect to the purpose of this section, with the objective of appraising the achievements of the programs for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

"(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

"(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section.".

(b) CASE PLANS.—Section 475(1) of such Act is amended by adding at the end thereof the following: "Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.".

(c) PAYMENTS TO STATES.—Section 474(a) of such Act is amended—

(1) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; plus"; and

(2) by adding at the end thereof the following new paragraph:

"(4) an amount for transitional independent living programs as provided in section 477.".

(d) CONFORMING AMENDMENT.—Section 470 of such Act is amended by striking out "foster care and adoption assistance" and inserting in lieu thereof "foster care, adoption assistance, and transitional independent living programs".

Subtitle D—Provisions Relating to Unemployment Compensation

SEC. 12401. RECOVERY OF UNEMPLOYMENT BENEFIT OVERPAYMENTS.

(a) IN GENERAL.—(1) Section 303(a)(5) of the Social Security Act is amended by inserting before "; and" at the end thereof the following: ": Provided further, That amounts may be deducted from unemployment benefits and used to repay overpayments as provided in subsection (g)".

(2) Section 303 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) A State may deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

"(2) Any State may enter into an agreement with the Secretary of Labor under which—

"(A) the State agrees to recover from unemployment benefits otherwise payable to an individual by such State any overpayments made under an unemployment benefit program of the United States to such individual and not previously recovered, in accordance with paragraph (1), and to pay such amounts recovered to the United States for credit to the appropriate account, and

"(B) the United States agrees to allow the State to recover from unemployment benefits otherwise payable to an individual under an unemployment benefit program of the United States any overpayments made by such State to such individual under a State unemployment benefit program and not previously recovered, in accordance with the same procedures as apply under paragraph (1).

"(3) For purposes of this subsection, 'unemployment benefits' means unemployment compensation, trade adjustment allowances, and other unemployment assistance.".

(b) CONFORMING AMENDMENTS.—(1) Section 3304(a)(4) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by adding "and" at the end of subparagraph (C); and

(C) by adding at the end thereof the following new subparagraph:

"(D) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act;".

(2) Section 3306(f) of such Code is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to recoveries made on or after the date of the enactment of this Act and shall apply with respect to overpayments made before, on, or after such date.

SEC. 12402. SUPPLEMENTAL UNEMPLOYMENT COMPENSATION FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—If—

(1) an individual was receiving Federal supplemental compensation for the week which includes March 31, 1985, or a series of consecutive weeks which began with such week, and

(2) such individual did not meet the consecutive-week eligibility requirements of the Federal Supplemental Compensation Act of 1982 during any period of 1 or more subsequent weeks by reason of performing temporary disaster services described in subsection (e),

weeks in such period shall be disregarded for purposes of the consecutive-week requirement of section 602(f)(2)(B) of such Act, and, notwithstanding the requirements of State law relating to the availability for work, the active search for work, or the refusal to accept work, such individual shall be entitled to payment of Federal supplemental compensation for each week of unemployment which is described in subsection (b) and for which a certification of unemployment is made by such individual in accordance with subsection (c).

(b) WEEKS FOR WHICH PAYMENT SHALL BE MADE.—A week of unemployment for which payment shall be made under subsection (a) is a week which occurred during the period which commences with the first week beginning after the close of the period described in subsection (a)(2) and ends with the beginning of the first week in which the individual was employed after the close of such period.

(c) CERTIFICATION.—The certification of unemployment referred to in subsection (a) shall be a certification—

(1) that is made on a form provided by the State agency concerned and signed by the individual; and

(2) that identifies the weeks of unemployment for which the individual is making the certification.

(d) LIMITATION ON AMOUNT OF PAYMENT.—In no case may the total amount paid to an individual under subsection (a) exceed the amount remaining in the account established for such individual under section 602(e) of the Federal Supplemental Compensation Act of 1982 after payments were made from such account for weeks of unemployment beginning before the period described in subsection (a)(2).

(e) DEFINITION.—For purposes of subsection (a), the term "temporary disaster services" means services performed as a member of the National Guard after being called up by the Governor of a State to perform services related to a major disaster that was declared

on June 3, 1985, by the President of the United States under the Disaster Relief Act of 1974.

(f) MODIFICATION OF AGREEMENT.—(1) The Secretary of Labor shall, at the earliest possible date after the date of the enactment of this Act, propose to any State concerned a modification of the agreement that the Secretary has with such State under section 602 of the Federal Supplemental Compensation Act of 1982 in order to carry out this section.

(2) Pending modification of the agreement, the State may make payment in accordance with the provisions of this section and shall be reimbursed in accordance with the provisions of section 604(a) of the Federal Supplemental Compensation Act of 1982. For purposes of carrying out this paragraph, the term "this subtitle" in such section 604(a) shall include this section.

(g) EFFECTIVE DATE.—The provisions of this section shall apply to weeks beginning after March 31, 1985.

Subtitle E—Restoration of Civil Service Retirement and Disability Fund

SEC. 12501. APPROPRIATION TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND OF INTEREST LOST FROM NONINVESTMENT IN SEPTEMBER 1984.

On December 31, 1985, the Secretary of the Treasury shall pay to the Civil Service Retirement and Disability Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary to be equal to the sum of—

(1) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning with September 28, 1984, and ending with December 31, 1984, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period;

(2) interest that would have been earned on the amount described in paragraph (1) during the period beginning with January 1, 1985, and ending with June 30, 1985;

(3) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning on January 1, 1985, and ending on June 30, 1985, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period; and

(4) the interest that would have been earned on the amounts described in paragraphs (1), (2), and (3) during the period beginning with July 1, 1985, and ending with December 31, 1985.

TITLE XIII—REVENUES, TRADE, AND RELATED PROGRAMS

Subtitle A—Trade and Customs Provisions

PART 1—TRADE ADJUSTMENT ASSISTANCE

SEC. 13001. SHORT TITLE.

This part may be cited as the "Trade Adjustment Assistance Reform and Extension Act of 1985".

SEC. 13002. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

(a) WORKERS.—

(1) Sections 221(a) and 222 of the Trade Act of 1974 (19 U.S.C. 2271(a); 2272) are each amended by inserting "(including workers in any agricultural firm or subdivision of an agricultural firm)" after "group of workers".

(2) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272), as amended by paragraph (1) of this subsection, is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) to which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

(b) FIRMS.—

(1) Subsections (a) and (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341) are each amended by inserting "(including any agricultural firm)" after "a firm".

(2) Paragraph (2) of section 251(c) of the Trade Act of 1974 (19 U.S.C. 2341(c)(2)) is amended to read as follows:

"(2) that—

"(A) sales or production, or both, of the firm have decreased absolutely, or

"(B) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and".

(3) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)), as amended by paragraphs (1) and (2) of this subsection, is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) that—

"(i) sales or production, or both, of such firm have decreased absolutely, or

"(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) to which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

SEC. 13003. CASH ASSISTANCE FOR WORKERS.

(a) PARTICIPATION IN TRAINING PROGRAM REQUIRED.—

(1) Subsection (a) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(a)) is amended by adding at the end thereof the following new paragraph:

"(5) Such worker—

"(A) is enrolled in a training program approved by the Secretary under section 236(a),

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

"(C) has received a written statement certified under subsection (c) after the date described in subparagraph (B).".

(2) Subsection (b) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(b)) is amended to read as follows:

"(b) If the Secretary determines that—

"(1) the adversely affected worker—

"(A) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

"(B) has ceased to participate in such training program before completing such training program, and

"(2) there is no justifiable cause for such failure or cessation,

no trade adjustment allowance may be paid to the adversely affected worker under this part on or after the date of such determination until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).".

(3) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended by adding at the end thereof the following new subsection:

"(c)(1) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

"(2) If a State or State agency has entered into an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall—

"(A) submit to such worker a written statement certifying such finding, and

"(B) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

"(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under this subsection during the preceding year.".

(4) Subsection (a) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended by striking out "and (3)" and inserting in lieu thereof "(3) will make any certifications required under section 231(c)(2), and (4)".

(b) QUALIFYING WEEKS OF EMPLOYMENT.—The last sentence of section 231(a)(2) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended by striking out all that follows after subparagraph (C) and inserting in lieu thereof "shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks de-

scribed in paragraph (A) or (C), or both, may be treated as weeks of employment under this sentence.".

(c) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCES.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out "under any Federal law," in subsection (c) and inserting in lieu thereof "under any Federal law other than this Act",

(2) by striking out "under section 236(c)" in subsection (c) and inserting in lieu thereof "under section 231(b)", and

(3) by striking out "If the training allowance" in subsection (c) and inserting in lieu thereof "If such training allowance".

(d) LIMITATIONS.—

(1) Paragraph (1) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(1)) is amended by striking out "52" and inserting in lieu thereof "78".

(2) Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended by striking out "52-week period" and inserting in lieu thereof "104-week period".

(3) Paragraph (3) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(3)) is amended to read as follows:

"(3) If the adversely affected worker has received a written statement certified under section 231(c) after the date the worker became totally separated, or partially separated, from adversely affected employment, paragraph (1) shall be applied with respect to such worker by substituting '52' for '78'.".

(4) Subsection (b) of section 233 of the Trade Act of 1974 (19 U.S.C. 2293(b)) is amended to read as follows:

"(b) No trade readjustment allowance shall be paid to a worker under this part for any week during which the worker is receiving on-the-job training.".

SEC. 13004. JOB TRAINING FOR WORKERS.

(a) IN GENERAL.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out "for a worker" in subsection (a)(1)(A) and inserting in lieu thereof "for an adversely affected worker",

(2) by striking out "is available" in subsection (a)(1)(D) and inserting in lieu thereof "is reasonably available",

(3) by striking out "under paragraph (1)" in subsection (a)(2) and inserting in lieu thereof "under subsection (a)",

(4) by striking out "this subsection" in subsection (a)(3) and inserting in lieu thereof "this section",

(5) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (e) and (f), respectively,

(6) by inserting at the end of subsection (a) the following new paragraphs:

"(2) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

"(3) The training programs that may be approved under paragraph (1) include, but are not limited to—

"(A) on-the-job training,

"(B) any training program provided by a State pursuant to section 303 of the Job Training Partnership Act,

"(C) any training program approved by a private industry council established under section 102 of such Act, and

"(D) any other training program approved by the Secretary.", and

(7) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any provision of subsection (a)(1), the Secretary may pay the costs of on-the-job training of an adversely affected worker under subsection (a)(1) only if—

"(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

"(2) such training does not impair existing contracts for services or collective bargaining agreements,

"(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

"(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

"(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

"(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

"(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222,

"(8) the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment,

"(9) the employer has not received payment under subsection (a)(1) with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1), (2), (3), (4), (5), and (6), and

"(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1).".

(b) APPROVAL REQUIRED; LIMITATION ON COSTS.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296), as amended by subsection (a) of this section, is further amended—

(1) by striking out "may approve" in the first sentence of subsection (a)(1) and inserting in lieu thereof "shall approve",

(2) by inserting "directly or through a voucher system" after "by the Secretary" in the second sentence of subsection (a)(1),

(3) by redesignating paragraphs (2) and (3) of subsection (a) as paragraphs (4) and (5), respectively, of subsection (a),

(4) by inserting after paragraph (1) of subsection (a) the following new paragraphs:

"(2)(A) The aggregate amount of payments that may be made under paragraph (1) for any worker shall not exceed $4,000 for each partial separation or total separation.

"(B) The Secretary may issue more than one voucher under paragraph (1) to a worker with respect to any partial separation or total separation, but the aggregate value of such vouchers shall not exceed the amount of the limitation imposed by subparagraph (A) with respect to such separation.

"(3)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

"(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

"(i) have already been paid under any other provision of Federal law, or

"(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

"(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.",

(5) by striking out subsection (c), and

(6) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(c) ON-THE-JOB TRAINING DEFINED.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended by adding at the end thereof the following new paragraph:

"(16) The term 'on-the-job training' means training provided by an employer to an individual who is employed by the employer.".

(d) AGREEMENTS WITH THE STATES.—

(1) Section 239 of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended—

(A) by inserting "but in accordance with subsection (f)," after "where appropriate," in subsection (a)(2), and

(B) by adding at the end thereof the following new subsections:

"(e) Agreements entered into under this section may be made with one or more State or local agencies including—

"(1) the employment service agency of such State,

"(2) any State agency carrying out title III of the Job Training Partnership Act, or

"(3) any other State or local agency administering job training or related programs.

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances (but failure of the worker to do so may not be treated as cause for denial of those allowances), and

"(2) within 60 days after application for training is made by the worker, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

(2) Subsection (f) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311), as added by paragraph (1) of this subsection, is amended to read as follows:

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances, and

"(2) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

SEC. 13005. JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall reimburse any adversely affected worker for necessary expenses incurred by such worker in participating in a job search program approved by the Secretary.

"(2) For purposes of this subsection—

"(A) The term 'job search program' means a job search workshop or job finding club.

"(B) The term 'job search workshop' means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects are not limited to, but should include, labor market information, résumé writing, interviewing techniques, and techniques for finding job openings.

"(C) The term 'job finding club' means a job search workshop which includes a period (1 to 2 weeks) of structured, supervised application in which participants attempt to obtain jobs.".

SEC. 13006. ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) TECHNICAL ASSISTANCE.—

(1) Paragraph (1) of section 252(b) of the Trade Act of 1974 (19 U.S.C. 2342(b)(1)) is amended to read as follows:

"(1) Adjustment assistance under this chapter consists of technical assistance. The Secretary shall approve a firm's application for adjustment assistance only if the Secretary determines that the firm's adjustment proposal—

"(A) is reasonably calculated to materially contribute to the economic adjustment of the firm,

"(B) gives adequate consideration to the interests of the workers of such firm, and

"(C) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.".

(2) Section 252 of the Trade Act of 1974 (19 U.S.C. 2342) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

(3) Paragraph (2) of section 253(b) of the Trade Act of 1974 (19 U.S.C. 2343(b)(2)) is amended by striking out "such cost" and inserting in lieu thereof "such cost for assistance described in paragraph (2) or (3) of subsection (a)".

(b) NO NEW LOANS OR GUARANTEES.—Section 254 of the Trade Act of 1974 (19 U.S.C. 2344) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this chapter, no direct loans or guarantees of loans may be made under this chapter after the date of enactment of the Trade Adjustment Assistance Reform and Extension Act of 1985.".

SEC. 13007. TERMINATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended—

(1) by striking out the first sentence thereof and inserting in lieu thereof "(a)",

(2) by striking out the section heading and inserting in lieu thereof "SEC. 285. TERMINATION.", and

(3) by adding at the end thereof the following new subsection:

"(b) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, no technical assistance may be provided under chapter 3, and no duty shall be imposed under section 287, after the date that is 6 years after the date of enactment of the Trade Adjustment Assistance Reform and Extension Act of 1985.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 285 and inserting in lieu thereof the following:

"Sec. 285. Termination.".

SEC. 13008. FUNDING OF TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "1982 through 1985" and inserting in lieu thereof "1986, 1987, 1988, and 1989".

(2) Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(A) by inserting "for fiscal years 1986, 1987, 1988, and 1989" after "to the Secretary",

(B) by striking out "from time to time", and

(C) by striking out the last sentence thereof.

(b) ESTABLISHMENT OF TRUST FUND.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.) is amended by inserting after section 285 the following new section:

"SEC. 286. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

"(a) There is hereby established within the Treasury of the United States a trust fund to be known as the Trade Adjustment Assistance Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or otherwise appropriated to the Trust Fund.

"(b)(1) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the duty imposed by section 287.

"(2) The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(c)(1) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(2)(A) The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d) Amounts in the Trust Fund shall only be available—

"(1) for the payment of drawbacks and refunds of the duty imposed by section 287 that are allowable under any provision of Federal law, and

"(2) to the extent and in such amounts as may be provided by appropriation Acts, for making expenditures to carry out the provisions of chapters 2 and 3.

None of the amounts in the Trust Fund shall be available for the payment of loans guaranteed under chapter 3 or for any other expenses relating to financial assistance provided under chapter 3.".

(c) CONFORMING AMENDMENTS.—The table of contents for the Trade Act of 1974 is amended by inserting, after the item relating to section 285, the following new items:

"Sec. 286. Trade Adjustment Trust Fund.

"Sec. 287. Imposition of additional duty.".

SEC. 13009. IMPOSITION OF SMALL UNIFORM DUTY ON ALL IMPORTS.

(a) NEGOTIATIONS.—

(1) The President shall undertake negotiations necessary to achieve changes in the General Agreement on Tariffs and Trade that would allow any country to impose a small uniform duty on all imports to such country for the purpose of using the revenue from such duty to fund any program which assists adjustment to import competition.

(2) On the date that is 6 months after the date of enactment of this Act, the President shall submit to the Congress a report on the progress of negotiations conducted under paragraph (1).

(3) On the first day after the date of enactment of this Act on which the General Agreement on Tariffs and Trade allows any country to impose a duty described in paragraph (1), the President shall submit to the Congress a written statement certifying that the General Agreement on Tariffs and Trade allows such a duty.

(b) IMPOSITION OF DUTY.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.), as amended by section 13008(b) of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 287. IMPOSITION OF ADDITIONAL DUTY.

"(a) In addition to any other duty imposed by law, there is hereby imposed a duty on all articles entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(b)(1) The rate of the duty imposed by subsection (a) shall be a uniform ad valorem rate proclaimed by the President at least 30 days prior to the date such rate takes effect which is equal to the lesser of—

"(A) 1 percent, or

"(B) a percentage that is sufficient to provide the funding necessary to carry out the provisions of chapters 2 and 3.

"(c)(1) Except as otherwise provided in this subsection, duty-free treatment provided with respect to any article under any other provision of law shall not prevent the imposition of duty with respect to such article by subsection (a).

"(2) No duty shall be imposed by subsection (a) with respect to—

"(A) any article (other than an article provided for in item 870.40, 870.45, 870.50, 870.55, or 870.60 of the Tariff Schedules of

the United States) that is treated as duty free under schedule 8 of the Tariff Schedules of the United States, or

"(B) any entry which has a value of less than $1,000.".

SEC. 13010. TAXATION OF TRADE READJUSTMENT ASSISTANCE.

Section 85(c) of the Internal Revenue Code of 1954 is amended by inserting ", but not including payments of training costs, or training vouchers, provided under section 236 of the Trade Act of 1974 (19 U.S.C. 2296)" after "nature of unemployment compensation".

SEC. 13011. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by section 13002(a)(1), by paragraphs (1) and (2) of section 13002(b), by section 13003(d)(2), by subsections (a), (c), and (d)(1) of section 13004, and by sections 13006, 13007, and 13008(a), and the provisions of section 13009(a), shall take effect on the date of enactment of this Act.

(b) ADDITIONAL DUTY AND TRUST FUND.—

(1) The amendment made by section 13009(b) shall apply to any article entered, or withdrawn from warehouse, for consumption after the earlier of—

(A) the date that is 2 years after the date of enactment of this Act, or

(B) the date that is 30 days after the date on which the President submits to the Congress the written statement described in section 13009(a)(3).

(2) The amendments made by subsections (b) and (c) of section 13008 shall take effect on the earlier of—

(A) the date that is 2 years after the date of enactment of this Act, or

(B) the date described in paragraph (1)(B).

(c) OTHER PROGRAM CHANGES.—The amendments made by subsections (a)(2) and (b)(3) of section 13002, by section 13003 (other than section 13003(d)(2)), by subsections (b) and (d)(2) of section 13004, and by section 13005 shall take effect on the earlier of—

(1) the date that is 3 years after the date of enactment of this Act, or

(2) the date that is 1 year after the date described in subsection (b)(1)(B).

(d) INCOME TAX AMENDMENT.—The amendment made by section 13010 shall apply to taxable years ending on or after the earlier of—

(1) the date that is 3 years after the date of enactment of this Act, or

(2) the date that is 1 year after the date described in subsection (b)(1)(B).

PART 2—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AND CUSTOMS AGENCIES

SEC. 13021. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1986 not to exceed $28,901,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 13022. UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $772,141,000 for the salaries and expenses of the United States Customs Service for fiscal year 1986; of which—

"(A) $27,900,000 is for the addition of 500 inspectors, 150 import specialists, 100 customs patrol officers, and 50 special agents;

"(B) $53,500,000 is for the operation and maintenance of the air interdiction program of the Service; and

"(C) not to exceed $14,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1985—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.

"(3)(A) No part of any sum that is appropriated under the authority of paragraph (1) may be used for further research and development or acquisition of F-15 avionics for the P-3 aircraft and related equipment until 60 days after the Committee on Ways and Means and the Committee on Finance have received from the Secretary of the Treasury a written comparative assessment of the suitability of the P-3, E-2, or other appropriate aircraft for use by the Customs Service in its air drug interdiction program. Such assessment, which the Secretary may not submit to the Committees until the General Accounting Office study required under paragraph (7) is completed, shall include life cycle costs.

"(B) Acquisition of additional aircraft for use by the Customs Service for its air drug interdiction program after completion of the assessment required under subparagraph (A) shall be subject to competitive bidding through the use of the normal 'request for proposal' process.

"(4) No part of any sum that is appropriated under the authority of paragraph (1) may be used to consolidate the drawback liquidation centers within the Customs Service to less than 4 such centers. If a consolidation is undertaken, the Commissioner of Customs shall select the location of the centers after taking into account the drawback volume at, and the geographic dispersion of, the respective centers being considered for consolidation.

"(5) In addition to any sum authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Treasury for fiscal year 1986 not to exceed $8,000,000 from the Customs Forfeiture Fund for the making of payments under section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b), of which not to exceed $5,000,000 may be used for the modification of aircraft (whether or not aircraft described in subsection (a)(5) of that section) for drug interdiction.

"(6) In addition to any other amounts authorized to be appropriated for the Customs Service for fiscal years 1987 and 1988, there are authorized to be appropriated $27,900,000 for each of such fiscal years to fund the additional personnel referred to in paragraph (1)(A).

"(7) As soon as possible after the date of the enactment of this paragraph, but not later than 12 months after that date, the General Accounting Office shall complete, and submit to the Committee on Ways and Means and the Committee on Finance, a study that evaluates the air detection and interdiction capability of the Customs Service, including assets, geographic dispersal, costs of operation, procurement practices, and the services and equipment provided by other Federal agencies. Within 6 months after commencing the study, the General Accounting Office shall consult with the Committees on the progress of the study."; and

(2) by adding at the end thereof the following new subsections:

"(f) USE OF SAVINGS RESULTING FROM ADMINISTRATIVE CONSOLIDATIONS.—If savings in salaries and expenses result from the consolidation of administrative functions within the Customs Service, the Commissioner of Customs shall apply those savings, to the extent they are not needed to meet emergency requirements of the Service, to strengthening the commercial operations of the Service by increasing the number of inspector, import specialist, patrol officer, and other line operational positions.

"(g) ALLOCATION OF RESOURCES.—The Commissioner of Customs shall ensure that existing levels of commercial services, including inspection and control, classification, and value, shall continue to be provided by Customs personnel assigned to the headquarters office of any Customs district designated by statute before the date of enactment of this subsection. The number of such personnel assigned to any such district headquarters shall not be reduced through attrition or otherwise, and such personnel shall be afforded the opportunity to maintain their proficiency through training and workshops to the same extent provided to Customs personnel in any other district. Automation and other modernization equipment shall be made available, as needed on a timely basis, to such headquarters to the same extent as such equipment is made available to any other district headquarters.".

(b) ELIMINATION OF SURETIES ON CUSTOMS BONDS.—(1) The Commissioner of Customs may not publish, nor take any other action to give force and effect to, any final rule that would revise any provision in 19 CFR part 113 or section 142.4 (as in effect on March 1, 1984) relating to the requirement for sureties on customs bonds—

(A) unless the Commissioner submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on the same day, a report containing—

(i) the text of the draft final rule;

(ii) an analysis of the revenue impact of the rule;

(iii) a regulatory impact analysis;

(iv) the estimated cost benefit of the rule to the Customs Service and to the importing community, and an explanation in support of those estimates; and

(v) a justification for each revision to be effected by the rule; and

(B) until the close of the first period of 90 calendar days of continuous session of Congress occurring after the date on which the report is submitted under subparagraph (A).

SEC. 13023. UNITED STATES TRADE REPRESENTATIVE.

Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) is amended—

(1) by inserting before the semicolon at the end of subsection (d)(1) the following: ", except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed the rate of pay for level IV of the Executive Schedule in section 5314 of title 5, United States Code"; and

(2) by amending subsection (f)(1) by striking out "$14,179,000 for fiscal year 1985" and inserting in lieu thereof "$13,582,000 for fiscal year 1986".

SEC. 13024. NOTIFICATION OF CERTAIN ACTIONS.

Section 237 of the Trade and Tariff Act of 1984 (98 Stat. 2993) is amended—

(1) by striking out "1985" in subsection (b) and inserting in lieu thereof "1986";

(2) by striking out subsection (c);

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) The notice required under subsection (a) shall include—

"(1) a statement which sets forth in detail the factors taken into account in making the decision to take the action described in subsection (a) and the reasons for such action; and

"(2) an analysis of the impact such action will have on the commerce and community served by each office affected by such action.".

PART 3—CUSTOMS FEES

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, $397.

(2) Subject to the limitation in subsection (b)(2), for the arrival of a commercial truck, $5.

(3) Subject to the limitations in subsection (b)(1)(B) and (3), for the arrival of each railroad car, whether passenger or freight, $5.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, $25.

(5) For the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)), $5.

(6) For each item of dutiable mail for which a document is prepared by a customs officer, $5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, $125 per year.

(b) LIMITATIONS ON FEES.—(1) No fee may be charged under subsection (a) for customs services provided in connection with—

(A) the arrival of any passenger whose journey originated in—

(i) Canada,

(ii) Mexico,

(iii) a territory or possession of the United States, or

(iv) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5)); or

(B) the arrival of any railroad car that is part of a train which originates and terminates in the same country, but only if—

(i) such car is part of such train when such train departs from the United States, and

(ii) no passengers board or disembark from such train, and no cargo is loaded or unloaded from such train, while such train is within any country other than the country in which such train originates and terminates.

(2) No fee may be charged under subsection (a)(2) for the arrival of a commercial truck during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) for the arrival of a railroad car whether passenger or freight during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "vessel" does not include any ferry.

(2) The term "arrival" means arrival at a port of entry in the customs territory of the United States.

(3) The term "customs territory of the United States" has the meaning given to such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States.

(4) The term "customs broker permit" means a permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)).

(d) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall—

(A) collect from that individual the fee charged under subsection (a)(5) at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Secretary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

(e) PROVISION OF CUSTOMS SERVICES.—(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States on scheduled airline flights at customs serviced airports shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers.

(2) This subsection shall not apply with respect to any airport to which section 236(c) of the Trade and Tariff Act of 1984 (19 U.S.C. 58b(c)) applies.

(f) DISPOSITION OF FEES.—(1) Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), all of the fees collected under subsection (a) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the "Customs User Fee Account".

(2)(A) The Secretary of the Treasury shall refund out of the Customs User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Secretary of the Treasury in providing overtime customs inspectional services for which the recipient of such services is not required to reimburse the Secretary of the Treasury.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Secretary of the Treasury of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amounts required to be refunded under subparagraph (A).

(g) REGULATIONS.—The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(h) CONFORMING AMENDMENTS.—(1) Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the last sentence thereof.

(2) Subsection (e) of section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741(e)) is repealed.

(i) EFFECT ON OTHER AUTHORITY.—Except with respect to customs services for which fees are imposed under subsection (a), nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 214(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a).

(j) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after the date of enactment of this Act.

(2) Fees may be charged under subsection (a)(5) only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after such date of enactment.

SEC. 13032. USER FEES FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended—

(1) by striking out "4 airports" in subsection (c) and inserting in lieu thereof "20 airports"; and

(2) by striking out the last sentence in subsection (e) and inserting in lieu thereof the following new sentences: "The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in providing customs services at such airport (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.".

SEC. 13033. ADVISORY COMMITTEE.

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of the Treasury shall establish an advisory committee, whose membership shall consist of representatives from the airline, shipping, and other transportation industries, the general public, and others who may be subject to any fee or charge (1) authorized by law, or (2) proposed by the United States Customs Service for the purpose of covering expenses incurred by the Customs Service. The advisory committee shall meet on a periodic basis and shall advise the Secretary on issues related to the performance of the customs services. This advice shall include, but not be limited to,

such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Secretary shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

Subtitle B—Superfund and Its Revenue Sources

SEC. 13100. SPENDING OF ADDITIONAL REVENUE CONTINGENT ON ENACTMENT OF FURTHER LEGISLATION; AMENDMENT OF 1954 CODE.

(a) IN GENERAL.—Notwithstanding any other provision of law, any amount transferred to any trust fund pursuant to any amendment made by this subtitle may be obligated or expended only pursuant to legislation authorizing such obligation or expenditure hereafter enacted by the Congress.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Part I—Superfund and its Revenue Sources

SEC. 13101. EXTENSION OF ENVIRONMENTAL TAXES.

(a) 5-YEAR EXTENSION; TERMINATION IF FUNDS UNSPENT OR $10,000,000,000 COLLECTED.—Subsection (d) of section 4611 (relating to termination) is amended to read as follows:

"(d) APPLICATION OF TAXES.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the taxes imposed by this section shall apply after December 31, 1985, and before October 1, 1990.

"(2) NO TAX IF UNOBLIGATED BALANCE IN FUND IS MORE THAN CERTAIN AMOUNT.—If, on September 30, 1988, or September 30, 1989—

"(A) the unobligated balance in the Hazardous Substance Superfund exceeds $3,000,000,000 or $4,000,000,000, respectively, and

"(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $3,000,000,000, or $4,000,000,000 on September 30, 1989, or September 30, 1990, respectively, if no tax is imposed under this section at the Hazardous Substance Superfund financing rate under subsection (c) or under section 4661, 4671, or 4681 during calender year 1989 or 1990, respectively,

then no tax shall be imposed under this section during calendar year 1989 or 1990, as the case may be.

"(3) NO TAX IF AMOUNTS COLLECTED EXCEED $10,000,000,000.—

"(A) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of—

"(i) the amount of taxes which will be collected under this section at the Hazardous Substance Superfund financing rate under subsection (c) and sections 4661, 4671, and 4681 and credited to the Hazardous Substance Superfund, and

"(ii) the amount of interest which will be credited to such Fund under section 9602(b)(3),

during the period beginning October 1, 1985, and ending September 30, 1990.

"(B) Termination if $10,000,000,000 credited before September 30, 1990.—If the Secretary estimates under subparagraph (A) that more than $10,000,000,000 will be credited to the Fund before September 30, 1990, no tax shall be imposed under this section at the Superfund financing rate under subsection (c) after the date on which the Secretary estimates $10,000,000,000 will be so credited to the Fund.

"(4) PROCEDURES FOR TERMINATION.—The Secretary shall by regulation provide procedures for the termination under paragraph (2) or (3) of the tax under this section, section 4661, and section 4671.".

(b) CONFORMING AMENDMENT.—Section 303 of the Comprehensive Enivronmental Response, Compensation, and Liability Act of 1980 (relating to expiration of revenue provisions) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 13102. INCREASE IN TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 (relating to environmental tax on petroleum are each amended by striking out "0.79 cent" and inserting in lieu thereof "3.85 cents".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 13103. TAX ON CERTAIN CHEMICALS.

(a) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1985.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemcials as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or, if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent)."

(b) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical, or any taxable substance (as defined in section 4672(a)) derived from such chemical, was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical or taxable substance (as so defined), or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

"(2) Paragraph (1) of section 4662(d) (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section and inserting" in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(d) SPECIAL RULES FOR CERTAIN CHEMICALS.—

(1) REPEAL OF EXEMPTION FOR CHEMICALS DERIVED FROM COAL.—

(A) Section 4662(b) (relating to exemptions; other special rules) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B) Paragraph (3) of section 4662(d) is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (b)(4)".

(2) SPECIAL RULES FOR XYLENE.—

(A) Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene."

(B) The item relating to xylene in the table contained in section 4661(b) is amended by striking out "$4.87" and inserting in lieu thereof "$9.81".

(3) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—The tax imposed under section 4661 on nitric acid used

by the producer of such acid in the production of nitrocellulose shall not exceed $0.24 per ton."

(d) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

"(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal."

(e) EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

which is qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(f) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufacturers, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemcial were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1)."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1986.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE JANUARY 1, 1986.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before January 1, 1986, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (f) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (f) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (f) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (f)) shall apply to exchanges made after December 31, 1985.

(4) EXPORTS OF TAXABLE SUBSTANCES.—Clause (ii) of section 4662(e)(2)(A) of such Code (as added by this section) shall not apply to the export of any taxable substance (as defined in section 4672(a) of such Code) before January 1, 1987.

SEC. 13104. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Reponse Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1983.

SEC. 13105. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 is amended by adding after subchapter B the following new subchapter:

"SUBCHAPTER C—TAX ON CERTAIN IMPORTED SUBSTANCES

"Sec. 4671. Imposition of tax.

"Sec. 4672. Definitions and special rules.

"SEC. 4671. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemcials or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

"(d) TERMINATION.—No tax shall be imposed under this section during any period during which no tax is imposed under section 4611(a) at the Hazardous Substance Superfund financing rate under section 4611(c).

"SEC. 4672. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if—

"(A) the substance is contained in the list under paragraph (3), or

"(B) the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

"(3) INITIAL LIST OF TAXABLE SUBSTANCES.—

Cumene
Styrene
Ammonium nitrate
Nickel oxide
Isopropyl alcohol
Ethylene glycol
Vinyl chloride
Polyethylene resins, total
Polybutadiene
Styrene-butadiene, latex
Styrene-butadiene, snpf
Synthetic rubber, not containing fillers
Urea
Ferronickel
Ferrochromium nov 3 pct
Ferrochrome ov 3 pct carbon
Unwrought nickel
Nickel waste and scrap
Wrought nickel rods and wire
Nickel powders
Phenolic resins
Polyvinylchloride resins
Polystyrene resins and copolymers
Ethyl alcohol for nonbeverage use
Methylene chloride
Polypropylene
Propylene glycol
Formaldehyde
Acetone
Propylene oxide
Polypropylene resins
Ethylene oxide
Ethylene dichloride
Cyclohexane
Isophthalic acid
Maleic anhydride
Phthalic anhydride
Ethyl methyl ketone
Chloroform
Carbon tetrachloride
Chromic acid
Hydrogen peroxide
Polystyrene homopolymer resins
Melamine
Acrylic and methacrylic acid resins
Vinyl resins
Vinyl resins, NSPF.

"(4) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) (including items listed by reason of paragraph (3)) as necessary to carry out the purposes of this subchapter.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a).

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4671."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by adding after the item relating to subchapter B the following new item:

"Subchapter C. Tax on certain imported substances."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 13106. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Chapter 38 is amended by adding after subchapter C the following new subchapter:

"Subchapter D—Superfund Excise Tax

"Part I. Imposition of tax.
"Part II. Taxable transaction.
"Part III. Taxable amount; exempt transactions; credit against tax.
"Part IV. Administration.
"Part V. Definitions; special rules.

"PART I—IMPOSITION OF TAX

"Sec. 4681. Imposition of tax.
"Sec. 4682. Termination.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Except as otherwise provided in this subchapter, the amount of the tax shall be 0.1 percent of the taxable amount.

"SEC. 4682. TERMINATION.

"(a) IN GENERAL.—No tax shall be imposed under section 4681 after March 31, 1991.

"(b) TERMINATION IF FUNDS UNSPENT OR $10,000,000,000 OF SUPERFUND TAXES COLLECTED.—No tax shall be imposed under subsection (a) during any period during which no tax is imposed under section 4611(a) by reason of paragraph (2) or (3) of section 4611(d), except that section 4611(d)(3) shall, for purposes of this subsection, be applied by substituting 'March 31, 1991' for 'September 30, 1990' each place it appears.

"(c) PROCEDURES FOR TERMINATION.—

"(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period during any portion of which the tax imposed by section 4681 does not apply, the tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) (and the credit allowable under section 4687) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax applied for the entire period) as—

"(A) the number of days in such taxable period during which such tax applies, bears to

"(B) the number of days in such taxable period.

"(2) TAX ON IMPORTS.—The tax imposed by section 4681 on taxable transactions described in paragraph (2) of section 4683(a) shall not apply to property imported during the period during which no tax applies under section 4681.

"(3) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

"PART II—TAXABLE TRANSACTION

"Sec. 4683. Taxable transaction.
"Sec. 4684. Taxable person.

"SEC. 4683. TAXABLE TRANSACTION.

"(a) IN GENERAL.—For purposes of this subchapter except as otherwise provided in this subchapter, the term 'taxable transaction' means—

"(1) the sale or leasing of tangible personal property by a taxable person in connection with a trade or business, or

"(2) the importing of tangible personal property into the United States by a taxable person.

"(b) EXEMPT TRANSACTIONS.—

"For exempt transactions, see section 4686.

"SEC. 4684. TAXABLE PERSON.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term 'taxable person' means—

"(1) in the case of a taxable transaction described in paragraph (1) of section 4683(a)—

"(A) the manufacturer of the tangible personal property, or

"(B) any person who included the costs of the tangible personal property in such person's qualified inventory costs, and

"(2) in the case of a taxable transaction described in paragraph (2) of section 4683(a), the importer of the tangible personal property.

"(b) GOVERNMENT ENTITIES AND EXEMPT ORGANIZATIONS NOT TAXABLE PERSONS.—For purposes of this subchapter, the term 'taxable person' shall not include—

"(1) the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of the foregoing, and

"(2) any organization which is exempt from taxation under chapter 1 by reason of section 501(a); except that this paragraph shall not apply with respect to any transaction which is part of an unrelated trade or business (within the meaning of section 513) of such organization.

"PART III—TAXABLE AMOUNT; EXEMPT TRANSACTIONS; CREDIT AGAINST TAX

"Sec. 4685. Taxable amount.
"Sec. 4686. Exempt transactions.
"Sec. 4687. Credit against tax on sales and leases.

"SEC. 4685. TAXABLE AMOUNT.

"(a) SALE.—For purposes of this subchapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

"(1) including items payable to the seller with respect to such transaction, but

"(2) excluding the tax imposed by section 4681 or chapter 32 with respect to such transaction.

"(b) IMPORTS.—For purposes of this subchapter, the taxable amount in the case of any import shall be the sum of—

"(1) the customs value, plus

"(2) customs duties and any other duties which may be imposed.

If there is no such customs value, fair market value (determined in a manner similar to the determination of customs value) shall be substituted for customs value in paragraph (1).

"(c) LEASES.—For purposes of this subchapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

"(d) CONTAINERS, PACKING, AND TRANSPORTAION CHARGES; CONSTRUCTIVE SALES PRICE.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing, and transportation charges, etc., and constructive sales prices) shall apply in computing the taxable amount.

"(e) Special Rule Where Sale or Lease Payments Received in More Than 1 Taxable Period.—

"(1) SALES.—In the case of a sale of any tangible personal property where the consideration is received by the seller in more than 1 taxable period—

"(A) in the case of the seller, the taxable amount for each such taxable period shall be the portion of the taxable amount received during such period, and

"(B) in the case of the buyer, the cost of such property shall be taken into account for purposes of determining qualified inventory costs only when paid.

"(2) LEASES.—In th case of a lease with a term which includes more than 1 taxable period, the taxable amount for each taxable period shall include the gross lease payments received by the taxable person during such taxable period.

"SEC. 4686. EXEMPT TRANSACTIONS.

"(a) IMPORTS OF $10,000 OR LESS.—No tax shall be imposed under section 4681 on any tangible personal property imported into the United States as part of a shipment (within the meaning of section 498(a)(1) of the Tariff Act of 1930; 19 U.S.C. 14989(a)(1)) the aggregate taxable amount of which is $10,000 or less.

"(b) EXPORTS.—Under regulations, no tax shall be imposed under section 4681 on the sale of any property which is to be exported from the United States.

"(c) Certain Exempt Products.—

"(1) IN GENERAL.—In the case of any exempt product—

"(A) no tax shall be imposed by section 4681 with respect to such product, and

"(B) any qualified inventory costs allocable to such product shall not be taken into account under section 4687.

"(2) EXEMPT PRODUCT.—For purposes of this section—

"(A) In general.—The term 'exempt product' means—

"(i) any food product,

"(ii) any unprocessed agricultural or fishery product,

"(iii) any unprocessed timber, and

"(iv) any fertilizer product.

"(B) FOOD PRODUCT.—The term 'food product' means—

"(i) any food or nonalcoholic drink for humans or animals, and

"(ii) any material, component, or packaging of such a food or drink.

"(C) FERTILIZER PRODUCT.—The term 'fertilizer product' means—

"(i) any product to be used as a fertilizer, and

"(ii) any material, component, or packaging of such product.

"SEC. 4687. CREDIT AGAINST TAX ON SALES AND LEASES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 4681 for any taxable period on taxable transactions described in paragraph (1) of section 4683(a) an amount equal to the greater of—

"(1) 0.1 percent of the qualified inventory costs of the taxable person for the taxable period, or

"(2) $10,000.

"(b) Limitation Based on Tax Liability; Carryforward of Excess Credit.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) for such period.

"(2) CARRYFORWARD OF EXCESS CREDIT.—If the credit allowable under subsection (a)(1) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a)(1) for such succeeding taxable period.

"(C) QUALIFIED INVENTORY COSTS.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified inventory costs' means, with respect to any taxable period, the costs of tangible personal property which—

"(A) are allocable to the inventory of a manufacturer under the full absorption method of accounting under section 471, and

"(B) are paid or incurred by the taxable person during such taxable period.

"(2) SPECIAL RULES.—For purposes of this subsection—

"(A) EXPENSING RATHER THAN DEPRECIATION OR AMORTIZATION.—If any portion of an allowance for depreciation or amortization with respect to any property would be allocable to the inventory of a manufacturer under the full absorption method of accounting, a like portion of the cost of such property shall be included in the qualified inventory costs of the taxpayer for the taxable period in which such property is placed in service. Treatment under the preceding sentence shall be in lieu of any allowance for depreciation or amortization.

"(B) PROPERTY MANUFACTURED FOR LEASE BY MANUFACTURER.—For purposes of computing qualified inventory costs, any tangible personal property which is manufactured for lease by the manufacturer shall be treated in the same manner as property which is manufactured for sale by the manufacturer.

"(d) CARRYFORWARD NOT ALLOWED FOR COSTS DURING PERIODS FOR WHICH RETURN NOT FILED.—

"(1) IN GENERAL.—In determining the amount allowable as a carryforward under subsection (b)(2), the qualified inventory costs of the taxable person during any taxable period shall be taken into account only if such person files a timely return (determined with regard to extensions) of the tax imposed by section 4681 for such period.

"(2) BASIS ADJUSTMENT FOR INCOME TAX PURPOSES.—For purposes of subtitle A, if the cost of any property of a character subject to the allowance for depreciation is taken into account in determining the amount of the qualified inventory costs of the taxable person for any taxable period, the adjusted basis of such property shall be reduced by an amount equal to 0.1 percent of the qualified inventory costs of the taxpayer attributable to such property.

"PART IV—ADMINISTRATION

"Sec. 4688. Liability for tax.
"Sec. 4689. Return requirement; taxable period; depositary requirements.
"Sec. 4690. Regulations.

"SEC. 4688. LIABILITY FOR TAX.

"The taxable person shall be liable for the tax imposed by section 4681.

"SEC. 4689. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITORY REQUIREMENTS.

"(a) RETURN REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4681 for any taxable period not later than—

"(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

"(B) if no return of tax is required under chapter 1—

"(i) April 15 is the case of a taxpayer other than a corporation, and

"(ii) March 15 in the case of a corporation,

including extensions granted for purposes of this subchapter.

"(2) EXCEPTION FOR TAXABLE TRANSACTIONS OF $10,000,000 OR LESS.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4683(a) if the aggregate taxable amount for such transactions is $10,000,000 or less. For purposes of the preceding sentence, there shall not be taken into account any transaction exempt from the tax imposed by section 4681 by reason of section 4686(c).

"(3) OTHER EXCEPTIONS.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

"(b) TAXABLE PERIOD.—For purposes of this subchapter, the term 'taxable period' means—

"(1) The taxable person's taxable year for purposes of chapter 1, or

"(2) if there is no taxable year for purposes of chapter 1, the calendar year.

"(c) DEPOSITARY REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any person with respect to whom a tax is imposed under section 4681 for any taxable period on any taxable transaction described in paragraph (1) of section 4683(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

"(2) SPECIAL RULE FOR 1ST TAXABLE PERIOD.—Notwithstanding paragraph (1), a deposit shall be required for the 1st taxable

period of any taxable person to which this subchapter applies if the gross receipts of such person during the 1st taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.

"SEC. 4690. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.

"PART V—DEFINITIONS; SPECIAL RULES

"Sec. 4691. Definitions; special rules.

"SEC. 4691. DEFINITIONS; SPECIAL RULES.

"(a) MANUFACTURER.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'manufacturer' includes any producer of tangible personal property (including raw materials).

"(2) CERTAIN ACTIVITIES NOT TAKEN INTO ACCOUNT.—A person shall not be treated as a manufacturer with respect to any property merely by reason of—

"(A) furnishing services incidental to the storage or transportation of such property, or

"(B) incidental preparation of property by a retailer or wholesaler (including routine assemblage).

"(b) SPECIAL RULE FOR TAXPAYERS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—All persons which are—

"(A) Members of the same controlled group of corporations (within the meaning of section 52(a)), or

"(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of the $10,000 amount specified in section 4687(a)(2), the $10,000,000 amount specified in section 4689(a)(2), and the $50,000,000 amount specified in section 4689(c)(2).

"(2) ALLOCATION OF AMOUNTS.—The amounts specified in paragraph (1) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

"(c) PERSON.—For purposes of this subchapter, the term 'person' includes any governmental entity.

"(d) UNITED STATES.—For purposes of this subchapter, the term 'United States' has the meaning given such term by section 4612(a)(4).

"(e) TANGIBLE PERSONAL PROPERTY.—For purposes of this subchapter, the term 'tangible personal property' includes gases.

"(f) IMPORT.—Except as otherwise provided in regulations, for purposes of this subchapter, the term 'import' means the entering, or withdrawal from warehouse, for consumption.

(g) TAX ON IMPORT IN ADDITION TO DUTY.—The tax imposed by section 4681 on the importing of any tangible personal property shall be in addition to any imposed on such importation.

"(h) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4681.

"(i) SPECIAL RULE FOR SHORT TAXABLE PERIODS.—In the case of a taxable period which is less than 12 months, there shall be substituted for the dollar amounts otherwise applicable under sections 4687(a)(2) and 4689(a)(2) (determined after the application of subsection (b)) an amount which bears the same ratio to such amounts as the number of days in the taxable period bears to 365.

"(j) SALE TO INCLUDE CERTAIN EXCHANGES AND TRANSFERS.—For purposes of this subchapter, except as provided in regulations, the term 'sale' includes any exchange or other transfer, other than a gift (within the meaning of section 102 or section 170)."

(b) APPLICATION OF CERTAIN PENALTIES.—

(1) FAILURE TO FILE RETURN OR PAY TAX.—Paragraph (1) of section 6651(a) (relating to addition to tax) is amended by inserting "section 4689 (relating to Superfund excise tax)," before "subchapter A of chapter 51".

(2) FAILURE TO MAKE DEPOSITS.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended by adding at the end thereof the following new subsection.

"(c) SPECIAL RULE FOR SUPERFUND EXCISE TAX.—For purposes of subsection (a), in the case of the tax imposed by section 4681, the tax required to be deposited shall be equal to the lesser of—

"(1) 90 percent of the tax imposed by section 4681 during the taxable period on taxable transactions described in paragraph (1) of section 4683(a), or

"(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if no tax was imposed during the preceding taxable period.".

(c) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—Paragraph (2) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) Subchapter D of chapter 38 (relating to Superfund excise tax),".

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by inserting after the item relating to subchapter C the following new item:

"SUBCHAPTER D. SUPERFUND EXCISE TAX."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to taxable amounts received in taxable periods ending after March 31, 1986.

(2) SPECIAL RULE FOR IMPORTS.—In the case of imports, the amendments made by this section shall apply to articles imported after March 31, 1986.

(3) SPECIAL RULE FOR TAXABLE PERIOD INCLUDING APRIL 1, 1986.—In the case of any taxable period which begins before April 1, 1986, and ends on or after April 1, 1986, the tax imposed by section 4681 of the Internal Revenue Code of 1954 on taxable transactions described in paragraph (1) of section 4683(a) of such Code (and the credit allowable under section 4687 of such Code) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax and credit had been in effect for the entire taxable period) as—

(A) the number of days in such taxable period after April 1, 1986, bears

(B) the number of days in such taxable period.

SEC. 13107. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(A) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section, and

"(2) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4511, 4661, 4671, or 4681 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—

"(1) In general.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purpose of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Harzardous Substance Response Revenue Act of 1980, or

"(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

"(2) Exception for certain transfers, etc., of hazardous substances.—No amount in the Superfund or derived from the Superfund shall be available or used for the transfer or disposal of hazardous waste carried out pursuant to a cooperative agreement between the Administrator and the State if the following conditions apply—

"(A) the transfer or disposal, if made on December 13, 1985, would not comply with a State or local requirement, and

"(B) the transfer is to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act was issued after January 1, 1983, and before November 1, 1984.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) Repayment of advances.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advnaces shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on out-

standing marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding after the item relating to section 9504 the following new item: "Sec. 9505. Hazardous Substance Superfund."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1986.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

SEC. 13108. INDUSTRIAL DEVELOPMENT BONDS FOR HAZARDOUS WASTE TREATMENT FACILITIES.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(1) by inserting ", facilities subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act for the treatment of hazardous waste," after "solid waste disposal facilities" in subparagraph (E), and

(2) by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the terms 'treatment' and 'hazardous waste' have the meanings given to such terms by section 1004 of the Solid Waste Disposal Act.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 3121. ADDITIONAL TAXES ON GASOLINE, DIESEL FUEL, SPECIAL MOTOR FUELS, FUELS USED IN AVIATION, AND FUELS USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) GENERAL RULE.—

(1) GASOLINE.—Section 4081 (relating to imposition of tax on gasoline) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) TAX TO FUND HIGHWAY PROGRAM.—

(1) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

(2) TERMINATION.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

"(b) ADDITIONAL TAX TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

(1) IN GENERAL.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

(2) TERMINATION.—

(A) IN GENERAL.—The tax imposed by paragraph (1) shall not apply after the earlier of—

(i) September 30, 1990, or

(ii) the last day of the termination month.

(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 950(c)(2) (relating to transfer from leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(2) DIESEL AND SPECIAL MOTOR FUELS; FUELS USED IN AVIATION.—Section 4041 (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL TAXES TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) LIQUIDS OTHER THAN GASOLINE USED IN MOTOR VEHICLES, MOTORBOATS, OR TRAINS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or train for use as a fuel in such motor vehicle, motorboat, or train, or

"(B) used by any person as a fuel in a motor vehicle, motorboat, or train unless there was a taxable sale of such liquid under subparagraph (A).

"(2) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c) and section 4081, there is hereby imposed a tax of 0.2 cents a gallon on any liquid—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

The tax imposed by this paragraph shall not apply to any product taxable under section 4081 which is used as a fuel in an aircraft other than in noncommercial aviation.

"(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b)."

(3) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Subsection (b) of section 4042 (relating to amount of tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) is the sum of—

"(A) the Inland Waterways Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Inland Waterways Trust Fund financing rate is 10 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.2 cents a gallon.

"(3) EXCEPTION FOR FUEL TAXED UNDER SECTION 4041(d).—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax under section 4041(d) was imposed on the sale of such fuel or is imposed on such use.

"(4) TERMINATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply during any period during which no tax is imposed by section 4081(b)."

(b) ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND, AIRPORT, AND AIRWAY TRUST FUND, AND INLAND WATERWAYS TRUST FUND.—

(1) HIGHWAY TRUST FUND.—

(A) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 9503(c)(4) (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(2) AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out "subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081(a)".

(3) INLAND WATERWAYS TRUST FUND.—Paragraph (1) of section 203(b) of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only to so much of such taxes as are

attributable to the Inland Waterways Trust Fund financing rate under section 4042(b)."

(c) REPAYMENTS FOR GASOLINE USED ON FARMS, ETC.—

(1) GASOLINE USED ON FARMS.—Subsection (h) of section 6420 (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(2) GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.—

(A) TERMINATION NOT TO APPLY TO ADDITIONAL 0.2 CENT TAX.—Subsection (h) of section 6421 (relating to effective date) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(B) REPAYMENT OF ADDITIONAL TAX FOR OFF-HIGHWAY BUSINESS USE TO APPLY ONLY TO CERTAIN VESSELS.—Subsection (e) of section 6421 is amended by adding at the end thereof the following new paragraph:

"(4) SECTION NOT TO APPLY TO CERTAIN OFF-HIGHWAY BUSINESS USES WITH RESPECT TO THE TAX IMPOSED BY SECTION 4081(B).—This section shall not apply with respect to the tax imposed by section 4081(b) on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business."

(3) FUELS USED FOR NONTAXABLE PURPOSES.—

(A) Subsection (m) of section 6427 (relating to termination) is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections".

(B) Section 6427 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(C) Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(d) CONTINUATION OF CERTAIN EXEMPTIONS FROM ADDITIONAL TAXES, ETC.—

(1) Subsection (b) of section 4041 (relating to exemption for off-highway business use; exemption for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TAXES IMPOSED BY SUBSECTION (d).—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, rules similar to the rules of paragraphs (1) and (2) shall apply with respect to the taxes imposed by subsection (d).

"(B) LIMITATION ON EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—For purposes of subparaph (A), paragraph (1) shall apply only with respect to off-highway business use in a vessel employed in the fisheries or in the whaling business.

"(C) TERMINATION NOT TO APPLY.—Subparagraph (C) of paragraph (2) shall not apply with respect to the taxes imposed by subsection (d)."

(2) Paragraph (3) of section 4041(f) (relating to exemption for farm use) is amended by striking out "on and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4) The last sentence of section 4221(a) (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081(a)".

(5) Paragraph (2) of section 6416(b) is amended by inserting "or under paragraph (1)(A) or (2)(A) of section 4041(d)" after "section 4041(a)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 13122. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding after section 9505 the following new section:

"SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline),

"(2) taxes received in the Treasury under section 4042 to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b), and

"(3) amounts collected under section 9003(h)(6) of the Solid Waste Disposal Act.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of this section.

"(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34, with respect to the taxes imposed by sections 4041(d) and 4081(b).

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding after the item relating to section 9505 the following new item:

"Sec. 9506. Leaking Underground Storage Tank Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

SEC. 13141. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 (relating to environmental tax on petroleum), as amended by this Act, are each amended by striking out "of 3.85 cents a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) INCREASE IN TAX.—Section 4611 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 3.85 cents a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—Section 4612 (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the oil spill rate for any period the excess of the aggregate amount paid by the taxpayer into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund over the amount of such payments taken into account under this subsection for all prior periods."

(d) CONFORMING AMENDMENTS.—

"(1) Subsection (d) of section 4661 (relating to termination of tax on certain chemicals) is amended to read as follows:

"(d) APPLICATION OF TAXES.—No tax imposed under this section during any period during which no tax is imposed under section 4611(a) at the Hazardous Substance Superfund financing rate under section 4611(c).

"(2) Subsection (b) of section 9505 (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c)."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 3142. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974,

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and

"(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act.

"(c) EXPENDITURES.—

"(1) GENERAL EXPENDITURE PURPOSES.—

"(A) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(i) the payment of removal costs described in section 401(23)(A) of the Comprehensive Oil Pollution Liability and Compensation Act,

"(ii) the payment of claims under the Comprehensive Oil Pollution Liability and Compensation Act for damage which is not otherwise compensated,

"(iii) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in such section),

"(iv) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

"(v) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act, and

"(vi) the payment of contributions to the International Fund under section 464 of such Act.

(B) SPECIAL RULES.—

"(i) PAYMENTS TO GOVERNMENTS ONLY FOR REMOVAL COSTS.—Amounts shall be available under subparagraph (A) for payments to any government only for removal costs and administrative expenses related to removal costs.

"(ii) RESTRICTIONS ON CONTRIBUTIONS TO INTERNATIONAL FUND.—Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (A) with respect to any contribution to the International Fund only in proportion to the portion of such fund used for a purpose for which amounts may be paid from the Oil Spill Liability Trust Fund.

"(iii) REFERENCES TO OTHER ACTS.—Any reference in any clause of subparagraph (A) to any Act shall be treated as a reference to such Act as in effect on the date of the enactment of this section.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

"(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding after the item relating to section 9506 the following new item:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

Subtitle C—General Revenue Provisions

SEC. 13200. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 13201. INCREASE IN TAX ON CIGARETTES MADE PERMANENT.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out all that follows "December 31, 1982" and inserting in lieu thereof a period.

SEC. 13202. TAX ON SMOKELESS TOBACCO.

(a) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SMOKELESS TOBACCO.—On smokeless tobacco, manufactured in or imported into the United States, there shall be imposed the following taxes:

"(1) SNUFF.—On snuff, 24 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

"(2) CHEWING TOBACCO.—On chewing tobacco, 8 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.".

(b) CONFORMING AMENDMENTS.—

(1) The heading of chapter 52 is amended by inserting "SMOKELESS TOBACCO," after "CIGARETTES,".

(2) Section 5702(c) (defining tobacco products) is amended by striking out "and cigarettes" and inserting in lieu thereof ", cigarettes, and smokeless tobacco".

(3) Section 5702(d) (defining manufacturers of tobacco products) is amended by striking out "cigars or cigarettes" each place it appears and inserting in lieu thereof "cigars, cigarettes, or smokeless tobacco".

(4) Section 5702 is amended by adding at the end thereof the following new subsection:

"(n) DEFINITIONS RELATING TO SMOKELESS TOBACCO.—

"(1) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any snuff or chewing tobacco.

"(2) SNUFF.—The term 'snuff' means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

"(3) CHEWING TOBACCO.—The term 'chewing tobacco' means any leaf tobacco that is not intended to be smoked.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to smokeless tobacco removed after March 31, 1986.

SEC. 13203. INCREASE IN EXCISE TAX ON COAL.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4121 (relating to imposition of tax on coal) are amended to read as follows:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on coal from mines located in the United States sold by the producer, a tax equal to the rate per ton determined under subsection (b).

"(2) LIMITATION ON TAX.—The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

"(b) DETERMINATION OF RATES AND LIMITATION ON TAX.—For purposes of subsection (a), in the case of sales during any calendar year beginning after December 31, 1985—

"(1) the rate of tax on coal from underground mines shall be $1.10,

"(2) the rate of tax on coal from surface mines shall be $.55, and

"(3) the applicable percentage shall be 4.4 percent.".

(b) 5-YEAR MORATORIUM ON INTEREST ACCRUALS WITH RESPECT TO THE INDEBTEDNESS

OF THE BLACK LUNG DISABILITY TRUST FUND.—No interest shall accrue for the period beginning on October 1, 1985, and ending on September 30, 1990, with respect to any repayable advance to the Black Lung Disability Trust Fund.

(c) EXISTING TERMINATION RETAINED.—Paragraph (1) of section 4121(e) (relating to temporary increase in amount of tax) is amended—

(1) by striking out "$1" and inserting in lieu thereof "$1.10",

(2) by striking out "$.50" and inserting in lieu thereof ".55", and

(3) by striking out "4 percent" and inserting in lieu thereof "4.4 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1985.

SEC. 13204. ONLY RAILROAD RETIREMENT BENEFITS EQUIVALENT TO SOCIAL SECURITY BENEFITS TREATED AS TIER 1 BENEFITS.

(a) IN GENERAL.—Paragraph (4) of section 86(d) (defining Social Security benefits) is amended to read as follows:

"(4) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term 'tier 1 railroad retirement benefit' means—

"(A) the amount of the annuity under the Railroad Retirement Act of 1974 equal to the amount of the benefit to which the taxpayer would have been entitled under the Social Security Act if all of the service after December 31, 1936, of the employee (on whose employment record the annuity is being pair) had been included in the term 'employment' as defined in the Social Security Act, and

"(B) a monthly annuity amount under section 3(f)(3) of the Railroad Retirement Act of 1974.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any monthly benefit for which the generally applicable payment date is after December 31, 1985.

SEC. 13205. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, NEWLY HIRED STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) APPLICATION OF HOSPITAL INSURANCE TAX TO NEWLY HIRED EMPLOYEES OF STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (u) of section 3121 of the Internal Revenue Code of 1954 (relating to application of hospital insurance tax to Federal employment) is amended to read as follows:

"(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL, STATE, AND LOCAL EMPLOYMENT.—

"(1) FEDERAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.

"(2) STATE AND LOCAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), subsection (b) shall be applied without regard to paragraph (7) thereof.

"(B) EXCEPTION FOR CERTAIN SERVICES.—Service shall not be treated as employment by reason of subparagraph (A) if—

"(i) the service is included under an agreement under section 218 of the Social Security Act, or

"(ii) the service is performed—

"(I) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(II) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(III) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(IV) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this subparagraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b) of the Social Security Act.

"(c) EXCEPTION FOR CURRENT EMPLOYMENT WHICH CONTINUES.—Service performed for an employer shall not be treated as employment by reason of subparagraph (A) if—

"(i) such service would be excluded from the term 'employment' for purposes of this chapter if subparagraph (A) did not apply;

"(ii) such service is performed by an individual—

"(I) who was performing substantial and regular service for remuneration for that employer before January 1, 1986,

"(II) who is a bona fide employee of that employer on December 31, 1985, and

"(III) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(iii) the employment relationship with that employer has not been terminated after December 31, 1985.

"(d) TREATMENT OF AGENCIES AND INSTRUMENTALITIES.—For purposes of subparagraph (C), under regulations—

"(i) All agencies and instrumentalities of a State (as defined in section 218(b) of the Social Security Act) or of the District of Columbia shall be treated as a single employer.

"(ii) All agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in clause (i).

"(3) MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—For purposes of this chapter, the term 'medicare qualified government employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraphs (1) and (2), but

"(B) would not be employment (as so defined) without the application of such paragraphs."

"(2) CONFORMING AMENDMENTS.—

(A)(i) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by redesignated subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) STATES.—Except as otherwise provided in this section, in the case of the taxes imposed by sections 3101(b) and 3111(b) with respect to service performed in the employ of a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby), the return and payment of such taxes may be made by the head of the agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1)."

(ii) The section heading for such section 3125 is amended by inserting "STATES," before "GUAM".

(iii) The item relating to section 3125 in the table of sections for subchapter C of chapter 21 of such Code is amended by inserting "States," before "Guam".

(B) Subsection (b) of section 1402 of such Code is amended by striking out "medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "medicare qualified government employment (as defined in section 3121(u)(3))".

(C) Section 3122 of such Code (relating to Federal service) is amended by striking out "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "including such service which is medicare qualified government employment (as defined in section 3121(u)(3))".

(D) Subsection (a) of 6205 of such Code (relating to special rules applicable to certain employment taxes) is amended by adding at the end thereof the following new paragraph:

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

(E)(1) Section 6413(a) of such Code (relating to adjustment of certain employment taxes) is amended by adding at the end thereof the following new paragraph:

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

(ii) Section 6413(c)(2) of such Code (relating to special refunds of certain employment taxes) is amended—

(I) by striking out "3125(a)", "3125(b)", and "3125(c)" in subparagraphs (D), (E), and (F), respectively, and inserting in lieu thereof "3125(b)", "3125(c)", and "3125(d)", respectively, and

(II) by adding at the end thereof the following new subparagraph:

"(G) EMPLOYEES OF STATES AND POLITICAL SUBDIVISIONS.—In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer."

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) REVISION OF DEFINITION OF MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended to read as follows:

"MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT

"(p)(1) For purposes of sections 226 and 226A, the term 'medicare qualified government employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(A) subsection (a)(5), or

"(B) subsection (a)(7), except as provided in paragraphs (2) and (3).

"(2) Service shall not be treated as employment by reason of paragraph (1)(B) if the service is performed—

"(A) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(B) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(C) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(D) By any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this paragraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b).

"(3) Service performed for an employer shall not be treated as employment by reason of paragraph (1)(B) if—

"(A) such service would be excluded from the term 'employment' for purposes of this section if paragraph (1)(B) did not apply;

"(B) such service is performed by an individual—

"(i) who was performing substantial and regular service for remuneration for that employer before January 1, 1986,

"(ii) who is a bona fide employee of that employer on December 31, 1985, and

"(iii) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(C) the employment relationship with that employer has not been terminated after December 31, 1985.

"(4) For purposes of paragraph (3), under regulations (consistent with regulations established under section 3121(u)(2)(D) of the Internal Revenue Code of 1954)—

"(A) all agencies and instrumentalities of a State (as defined in section 218(b)) or of the District of Columbia shall be treated as a single employer, and

"(B) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in subparagraph (A)."

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER AND FOR DISABLED INDIVIDUALS.—Section 226 of such Act (42 U.S.C. 426) is amended by striking out "medicare qualified Federal employment" in subsections (a)(2)(C)(i) and (b)(2)(C)(ii)(I) and inserting in lieu thereof "medicare qualified government employment".

(B) FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Section 226A(a) of such Act (42 U.S.C. 426(1)(a)) is amended by striking out "medicare qualified Federal employment" in paragraphs (1)(A)(ii) and (1)(B)(iii) and inserting in lieu thereof "medicare qualified government employment".

(C) CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by striking out "Federal employment" in clauses (1) and (2) and inserting in lieu thereof "government employment".

(ii) Section 226(g) of such Act (42 U.S.C. 426(g)) is amended by striking out "medicare qualified Federal employment" and inserting in lieu thereof "medicare qualified government employment by virtue of service described in section 201(a)(5)".

(c) OPTIONAL MEDICARE COVERAGE OF CURRENT EMPLOYEES.—Section 218 of the Social Security Act (42 U.S.C. 418) is amended by adding at the end the following new subsection:

"(v)(1) The Secretary shall, at the request of any State, enter into or modify an agreement with such State under this section for the purpose of extending the provisions of title XVIII, and sections 226 and 226A, to services performed by employees of such State or any political subdivision thereof who are described in paragraph (2).

"(2) This subsection shall apply only with respect to employees—

"(A) whose services are not treated as employment as that term applies under section 210(p) by reason of paragraph (3) of such section; and

"(B) who are not otherwise covered under the State's agreement under this section.

"(3) Payments by the State required under subsection (e) with respect to employees covered under this subsection shall be limited to amounts equivalent to the sum of the taxes which would be imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such services for which wages were paid to such employees constituted 'employment' as defined in section 3121 of such Code.

"(4) For purposes of sections 226 and 226A of this Act, services covered under an agreement pursuant to this subsection shall be treated as 'medicare qualified government employment'.

"(5) Except as otherwise provided in this subsection, the provisions of this section shall apply with respect to services covered under the agreement pursuant to this subsection.

"(w) Notwithstanding sections 3125(a), 6205(a)(5), 6413(a)(5), and 6413(c)(2)(G) of the Internal Revenue Code of 1954, any State shall make payments of the taxes imposed with respect to services of employees of such State and of a political subdivision thereof under sections 3101(b) and 3111(b) of such Code, and reports of such services, under the same procedures as apply to payments and reports under subsection (e) of this section, but only if any employees of such State or of such political subdivision thereof are covered under an agreement pursuant to this section.".

(d) EFFECTIVE DATES.—

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to services performed after December 31, 1985.

(2) MEDICARE COVERAGE.—

(A) IN GENERAL.—The amendments made by subsection (b) shall be effective after December 31, 1985, and the amendments made by paragraph (3) of that subsection shall apply to services performed (for medicare qualified government employment) after that date.

(B) TREATMENT OF CERTAIN DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b), no individual may be considered to be under a disability for any period beginning before January 1, 1986.

(3) OPTIONAL COVERAGE OF CURRENT EMPLOYEES.—The amendment made by subsection (c) shall apply to services performed after December 31, 1985.

SEC. 13206. FULL-TIME STUDENTS NOT ELIGIBLE FOR INCOME AVERAGING.

(a) In General.—Section (d) of section 1303 (defining eligible individuals for income averaging) is amended to read as follows:

"(d) Eligible Individuals Not To Include Full-Time Students.—

"(1) In general.—For purposes of the part, an individual shall not be an eligible individual for the computation year if, at any time during any base period year, such individual was a student.

"(2) Exception for married students providing 25 percent or less of joint income.—Paragraph (1) shall not apply to any individual for any computation year if—

"(A) the individual makes a joint return for the computation year, and

"(B) not more than 25 percent of the aggregate adjusted gross income individual for such computation year is attributable to such individual.

"(3) Student defined.—For purposes of this subsection, the term 'student' means, with respect to a taxable year, an individual who during each of 5 calendar months during such taxable year—

"(A) was a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or

"(B) was pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.".

(b) Repeal of Non-Full-Time Student Support Exception.—Paragraph (2) of section 1303(c) (relating to individuals receiving support from others) is amended—

(1) by striking out subparagraph (A),

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), and

(3) by striking out "subparagraph (C)" in the second sentence and inserting in lieu thereof "subparagraph (B)".

(c) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1985.

SEC. 13207. APPLICATION OF FRINGE BENEFIT RULES TO AIRLINES AND THEIR AFFILIATES.

(a) Parents of Airline Employees Treated as Employees in Applying Fringe Benefit Rules.—

(1) In general.—Section 132(f) (relating to certain individuals treated as employees with respect to certain fringe benefits) is amended by adding at the end thereof the following new paragraph:

"(3) Special rule for parents in the case of air transportation.—Any use of air transportation by a parent of an employee (determined without regard to paragraph (1)(B)) shall be treated as use by the employee.".

(2) Effective date.—The amendment made by this subsection shall take effect on January 1, 1985.

(b) Line of Business Test for Affiliates Providing Airline-Related Services.—

(1) In general.—Section 132(h) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR AFFILIATES OF AIRLINES.—

"(A) IN GENERAL.—If—

"(i) a qualified affiliate is a member of an affiliated group another member of which operates an airline, and

"(ii) employees of the qualified affiliate who are directly engaged in providing airline-related services are entitled to no-additional-cost service with respect to air transportation provided by such other member,

then, for purposes of applying paragraph (1) of subsection (a) to such no-additional-cost service provided to such employees, such qualified affiliate shall be treated as engaged in the same line of business as such other member.

"(B) QUALIFIED AFFILIATE.—For purposes of this paragraph, the term 'qualified affiliate" means any corporation which is predominantly engaged in airline-related services.

"(C) AIRLINE-RELATED SERVICES.—For purposes of this paragraph, the term 'airline-related services' means any of the following services provided in connection with air transportation:

"(i) Catering.

"(ii) Baggage handling.

"(iii) Ticketing and reservations.

"(iv) Flight planning and weather analysis.

"(v) Restaurants and gift shops located at an airport.

"(vi) Such other similar services provided to the airline as the Secretary may prescribe.

"(D) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a).".

(2) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1985.

(c) TRANSITIONAL RULE FOR DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING AIRLINE.—If, as of September 12, 1985—

(1) an individual—

(A) was an employee (within the meaning of section 132 of the Internal Revenue Code of 1954, including subsection (f) thereof) of one member of an affiliated group (as defined in section 1504 of such Code), hereinafter referred to as the "first corporation", and

(B) was eligible for no-additional-cost service in the form of air transportation provided by another member of such affiliates group, hereinafter referred to as the "second corporation",

(2) at least 50 percent of the individuals performing service for the first corporation were or had been employees of, or had previously performed services for, the second corporation, and

(3) the primary business of the affiliated group was air transportation of passengers,

then, for purposes of applying paragraphs (1) and (2) of section 132(a) of the Internal Revenue Code of 1954, with respect to no-additional-cost services and qualified employee discounts provided after December 31, 1984, for such individual by the second corporation, the first corporation shall be treated as engaged in the same air transportation line of business as the second corporation. For purposes of the preceding sentence, an employee of the second corporation who is performing services for the first corporation shall also be treated as an employee of the first corporation.

(d) SPECIAL RULE FOR SERVICES RELATED TO PROVIDING AIR TRANSPORTATION.—Section 531 of the Tax Reform Act of 1984 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN SERVICES RELATED TO AIR TRANSPORTATION.—

"(1) IN GENERAL.—If—

"(A) an individual performed services for a qualified air transportation organization, and

"(B) such services are performed primarily for persons engaged in providing air transportation and are of the kind which (if performed on September 12, 1984) would qualify such individual for no-additional-cost services in the form of air transportation,

then, with respect to such individual, such qualified air transportation organization shall be treated as engaged in the line of business of providing air transportation.

"(2) QUALIFIED AIR TRANSPORTATION ORGANIZATION.—For purposes of paragraph (1), the term 'qualified air transportation organization' means any organization—

"(A) if such organization (or a predecessor) was in existence on September 12, 1984,

"(B) if such organization is described in section 501(c)(6) of the Internal Revenue Code of 1954 and the membership of such organization is limited to entities engaged in the transportation by air of individuals or property for compensation or hire, and

"(C) if such organization is operated in furtherance of the activities of its members or owners.".

SEC. 13208. CERTAIN INSOLVENT TAXPAYERS ALLOWED TO REDUCE CAPITAL GAINS PREFERENCE ITEM FOR PURPOSES OF THE INDIVIDUAL MINIMUM TAX.

(a) IN GENERAL.—Paragraph (9) of section 57(a) (relating to capital gains as items of tax preference) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) REDUCTION LIMITED TO AMOUNT OF INSOLVENCY.—The amount of the reduction determined under clause (i) shall not exceed the amount by which the taxpayer is insolvent immediately before the transaction (reduced by any portion of such amount previously taken into account under this clause).

"(iii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—The term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—The term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers or sales or exchanges made after December 31, 1981, in taxable years ending after such date.

SEC. 13209. TREATMENT OF CERTAIN POLLUTION CONTROL BONDS.

(a) GENERAL RULE.—For purposes of subparagraph (F) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to pollution control facilities), any obligation issued after December 31, 1985, shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve control of pollutants. The provisions of section 103(b)(17) of such Code (relating to prohibition on acquisition of existing property not permitted) shall not apply to any obligation described in the preceding sentence.

(b) $200,000,000 LIMITATION.—The aggregate amount of obligations to which subsection (a) applies shall not exceed $200,000,000, except that the amount of such obligations issued during calendar year 1986 to which subsection (a) applies shall not exceed $100,000,000.

(c) RESTRICTIONS.—Subsection (a) shall apply only if—

(1) the amount paid (directly or indirectly) for the facilities does not exceed their fair market value,

(2) the fees or charges imposed (directly or indirectly) on any seller for the use of any facilities after the sale are not less than the amounts charged for the use of such facilities to persons other than the seller,

(3) the original use of the facilities acquired with the proceeds of such obligations commenced before September 3, 1982, and

(4) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

(d) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.—For purposes of this section, the term "qualified regional pollution control authority" means an authority which—

(1) is a political subdivision created by State law to control air or water pollution,

(2) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdisivion),

(3) operates air or water pollution control facilities, and

(4) was created on September 1, 1969.

(e) REPEAL OF SECTION 103(b)(11).—Paragraph (11) of section 103(b) is hereby repealed.

SEC. 13210. TREATMENT OF THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules applicable to cooperatives) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.—For

purposes of this subchapter, in the case of any organization to which part I of this subchapter applies—

"(1) OPTIONAL NETTING OF PATRONAGE GAINS AND LOSSES PERMITTED.—The net earnings of such organization may, at its option, be determined by offsetting patronage losses (including any patronage loss carried to such year) which are attributable to 1 or more allocation units (whether such units are functional, divisional, departmental, geographic, or otherwise) against patronage earnings of 1 or more other such allocation units.

"(2) CERTAIN NETTING PERMITTED AFTER SECTION 381 TRANSACTIONS.—If such an organization acquires the assets of another such organization in a transaction described in section 381(a), the acquiring organization may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of 1 or more allocation units of the acquiring or acquired organization against earnings of the acquired or acquiring organization, respectively, but only to the extent—

"(A) such earnings are properly allocable to periods after the date of acquisition, and

"(B) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same organization.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any organization which exercises its option under paragraph (1) for any taxable year, such organization shall, on or before the 15th day of the 9th month following the close of such taxable year, provide to its patrons a written notice which—

"(i) states that the organization has offset earnings and losses from 1 or more of its allocation units and that such offset may have affected the amount which is being distributed to its patrons,

"(ii) states generally the identity of the offsetting allocation units, and

"(iii) states briefly what rights, if any, its patrons may have to additional financial information of such organization under terms of its charter, articles of incorporation, or bylaws, or under any provision of law.

"(B) CERTAIN INFORMATION NEED NOT BE PROVIDED.—An organization may exclude from the information required to be provided under clause (ii) of subparagraph (A) any detailed or specific data regarding earnings or losses of such units which such organization determines would disclose commercially sensitive information which—

"(i) could result in a competitive disadvantage to such organization, or

"(ii) could create a competitive advantage to the benefit of a competitor of such organization.

"(C) FAILURE TO PROVIDE SUFFICIENT NOTICE.—If the Secretary determines that an organization failed to provide sufficient notice under this paragraph—

"(i) the Secretary shall notify such organization, and

"(ii) such organization shall, upon receipt of such notification, provide to its patrons a revised notice meeting the requirements of this paragraph.

Any such failure shall not affect the treatment of the organization under any provision of this subchapter or section 521.

"(4) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection, the terms 'patronage earnings' and 'patronage losses' means earnings and losses, respectively, which are derived from business done with or for patrons of the organization."

(b) TAX-EXEMPT STATUS NOT AFFECTED BY NETTING.—Section 521(b) (relating to applicable rules) is amended by adding at the end thereof the following new paragraph:

"(6) NETTING OF LOSSES.—Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1962.

(2) NOTIFICATION REQUIREMENT.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act.

(3) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer that a change in law is intended as to whether any patronage earnings may or not be offset by nonpatronage losses, and any determination of such issue shall be made as if such amendments had not been enacted.

SEC. 13211. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Subsection (c) is amended of section 126 of the Deficit Reduction Act of 1984 is amended—

(1) by striking out "1985" and inserting in lieu thereof "1986"; and

(2) by striking out "3rd" each place it appears and inserting in lieu thereof "4th".

SEC. 13212. LIMITATION ON ISSUANCE OF UNITED STATES BONDS.

Subsection (a) of section 3102 of title 31, United States Code, is amended by striking out "$200,000,000,000" and inserting in lieu thereof "$250,000,000,000".

SEC. 13213. AUTHORIZATION OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE FOR REVENUE ENFORCEMENT AND RELATED PURPOSES, ETC.

(a) AUTHORIZATION.—There is authorized to be appropriated $46,500,000 for each of the fiscal years 1986, 1987, and 1988 for the use of the Internal Revenue Service to employ 1,550 additional agents and examination employees.

(b) RESTORATION OF PROPOSED CUTS.—It is the sense of the Congress that—

(1) the restoration of the cuts in the budget for the Internal Revenue Service for fiscal year 1986, and

(2) the further increase in such budget total,

recommended by the Committee on Appropriations of the House of Representatives are necessary for the efficient operation of the Government and to carry out the purposes of this Act.

Subtitle D.—Provisions Relating to Unemployment Taxes

SEC. 13301. RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) RATE OF TAX.—Subsection (c) of section 3321 of the Internal Revenue Code of 1954 (relating to rate of railroad unemployment repayment tax) is amended to read as follows:

"(c) RATE OF TAX.—For purposes of this section—

"(1) IN GENERAL.—The applicable percentage for any taxable period shall be the sum of—

"(A) the basic rate for such period, and

"(B) the surtax rate (if any) for such period.

"(2) BASIC RATE.—For purposes of paragraph (1)—

"(A) FOR PERIODS BEFORE 1989.—The basic rate shall be—

"(i) 4.3 percent for the taxable period beginning on July 1, 1986, and ending on December 31, 1986,

"(ii) 4.7 percent for the 1987 taxable period, and

"(iii) 6 percent for the 1988 taxable period.

"(B) FOR PERIODS AFTER 1988.—For any taxable period beginning after December 31, 1988, the basic rate shall be the sum of—

"(i) 2.9 percent, plus

"(ii) 0.3 percent for each preceding taxable period after 1988.

In no event shall the basic rate under this subparagraph exceed 5 percent.

"(3) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

"(A) 3.5 percent for any taxable period if, as of September 30 of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(B) zero for any other taxable period.

"(4) BASIC RATE NOT TO APPLY TO RAIL WAGES PAID AFTER SEPTEMBER 30, 1990.—The basic rate under paragraph (1)(A) shall not apply to rail wages paid after September 30, 1990."

(b) BASE OF TAX TO BE COMPENSATION USED FOR RAILROAD RETIREMENT TAX PURPOSES.—Subsection (b) of section 3323 of such Code (defining rail wages) is amended to read as follows:

"(b) RAIL WAGES.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'rail wages' means compensation (as defined in section 3231(e) for purposes of the tax imposed by section 3201(a)) with the modifications specified in paragraph (2).

"(2) MODIFICATIONS.—In applying subsection (e) of section 3231 for purposes of paragraph (1)—

"(A) ONLY EMPLOYMENT COVERED BY RAILROAD UNEMPLOYMENT INSURANCE ACT TAKEN INTO ACCOUNT.—Such subsection (e) shall be applied—

"(i) by substituting 'rail employment' for 'services' each place it appears,

"(ii) by substituting 'rail employer' for 'employer' each place it appears, and

"(iii) by substituting 'rail employee' for 'employee' each place it appears.

"(B) $7,000 WAGE BASE.—Such subsection (e) shall be applied by substituting for 'the applicable base' in paragraph (2)(A)(i) thereof—

"(i) except as provided in clauses (ii) and (iii), '$7,000',

"(ii) '$3,500' for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, and

"(iii) for purposes of applying the basic rate under section 3321(c)(1)(A), '$5,250' for the taxable period beginning on January 1, 1990.

"(C) SUCCESSOR EMPLOYERS.—For purposes of this subsection, rules similar to the rules applicable under section 3231(e)(2)(C) shall apply."

(c) USE OF TAXES.—

(1) IN GENERAL.—Paragraph (2) of section 232(a) of the Railroad Retirement Revenue Act of 1983 (relating to tax used to repay loans made to railroad unemployment insurance account) is amended to read as follows:

"(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

"(A) TAXES ATTRIBUTABLE TO BASIC RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE BEFORE OCTOBER 1, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954 shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

"(B) TAXES ATTRIBUTABLE TO SURTAX RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE AFTER SEPTEMBER 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section 3321(c)(1)(B) of such Code shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985."

(2) TRANSFERS TO RAILROAD UNEMPLOYMENT FUND AFTER LOAN REPAID.—Subsection (c) of section 232 of such Act is amended—

(A) by striking out "the amount" in paragraph (1) and inserting in lieu thereof "the amount described in subparagraph (A) or (B) of subsection (a)(2)", and

(B) by inserting before the comma at the end of paragraph (2) "against which the amount described in such subparagraph may be credited under such subparagraph".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 3322 of such Code (relating to taxable period) is amended—

(A) by adding "and" at the end of paragraph (1), and

(B) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) each calendar year after 1986."

(2) Subsection (b) of section 3322 of such Code (relating to earlier termination if loans to rail unemployment fund repaid) is amended—

(A) by striking out "The tax imposed by this chapter shall not apply" and inserting in lieu thereof "The basic rate under section 3321(c)(1)(A) of the tax imposed by section 3321 shall not apply", and

(B) by inserting "made before October 1, 1985," after "no balance of transfers" in paragraph (1) thereof.

SEC. 13302. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out the last sentence thereof.

SEC. 13303. CERTAIN EXEMPTIONS FROM THE FEDERAL EMPLOYMENT TAX ACT.

(a) CERTAIN AGRICULTURAL LABOR.—Paragraph (1)(B) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "January 1, 1986," and inserting in lieu thereof "January 1, 1988".

(b) FULL-TIME STUDENTS EMPLOYED BY SUMMER CAMPS.—Notwithstanding paragraph (3) of section 276(b) of the Tax Equity and Fiscal Responsibility Act of 1982, the amendments made by paragraphs (1) and (2) of such section 276(b) shall also apply to remuneration paid after September 19, 1985.

(c) Services Performed on Certain Fishing Boats.—

(1) IN GENERAL.—Section 822(b) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1980.".

(2) TECHNICAL AMENDMENT.—Paragraph (20) of section 312(b) of such Code (defining employment for purposes of Federal Insurance Contributions Act) is amended by inserting "(other than service described in paragraph (3)(A))" after "service".

TITLE XIV—REVENUE SHARING

SEC. 14001. TERMINATION OF GENERAL REVENUE SHARING.

(a) IN GENERAL.—(1) Except as otherwise provided in this section, chapter 67 of title 31, United States Code, is hereby repealed.

(2) The Secretary of the Treasury shall continue to be the trustee of the Trust Fund, which shall remain in existence until amounts all entitlement payments which are required to be made under the Revenue Sharing Act are made in accordance with the terms of such Act. Any funds remaining in the Trust Fund after all of such entitlement payments are completely made shall revert to the General Fund of the Treasury of the United States.

(3) The Secretary is authorized to take such necessary or appropriate actions, to carry out the requirements of this Act with respect to funds appropriated to the Trust Fund, as were authorized under the terms of the Revenue Sharing Act, including but not limited to enforcement of the regulatory provisions concerning nondiscrimination, audits, accounting procedures, public hearings, expenditures in accordance with State and local law, and cooperation with reasonable requests for information.

(4) The Secretary may increase or decrease a payment to a unit of general local government under the Revenue Sharing Act for the entitlement period ending September 30, 1986, to account for a prior underpayment or overpayment only if the increase or decrease is demanded by the Secretary or such unit of general local government before March 1, 1986.

(5) Amounts paid to units of general local government from the Trust Fund shall be used, obligated, or appropriated by the units of general local government before October 1, 1987, and shall continue to be subject to the terms of the Revenue Sharing Act.

(6) Subsection (a)(1) of this section shall not have the effect of releasing or extinguishing any fiscal sanction, finding, determination, compliance agreement, or other duly authorized action for the purpose of sustaining any proper action or prosecution for enforcement authorized under the terms of the Revenue Sharing Act.

(7) The Attorney General, and persons adversely affected by a practice of a local government, may bring a civil action in an appropriate district court of the United States against the applicable unit of general local government as authorized under the Revenue Sharing Act. The court is authorized to grant such relief as was authorized under the terms of the Revenue Sharing Act.

(8) The Secretary shall report to Congress on the operation and status of the Trust Fund and the implementation of this section not later than December 1 of each year the Trust Fund remains on the books of the Department of the Treasury.

(b) CONFORMING AMENDMENTS.—(1) The table of chapters for subtitle V of title 31, United States Code, is amended by striking out the item relating to chapter 67.

(2) Paragraph (2) of section 1115(b) of the Social Security Act (42 U.S.C. 1315(b)(2)) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

(3) Section 501(b)(6) of the Housing Act of 1949 (42 U.S.C. 1471(b)(6)) and section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)) are each amended by striking out "or under chapter 67 of title 31, United States Code" and inserting in lieu thereof "or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

(4) Section 302 of the Age Discrimination Act of 1975 (42 U.S.C. 6101) is amended by striking out ", including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)".

(5) Paragraph (3) of section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502(3)) is amended by striking out subparagraph (A) and redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(6) Subparagraph (B) of section 119(n)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(n)(2)(B)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

(7) Paragraph (1) of section 248(h) of the National Housing Act (12 U.S.C. 1715z-13(h)(1)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

(c) DEFINITIONS.—For purposes of this section—

(1) The term "Trust Fund" means the State and Local Government Fiscal Assistance Trust Fund established under the Revenue Sharing Act.

(2) The term "Revenue Sharing Act" means the provisions of chapter 67 of title 31, United States Code, as in effect on the day before the date of enactment of this Act and subject to the terms of any appropriation Act of fiscal year 1986.

(3) The term "Secretary" means the Secretary of the Treasury.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for fiscal year 1987 such sums as may be necessary to administer the provisions of this section.

(e) EFFECTIVE DATES.—(1) Except as otherwise provided in this subsection, the repeal and amendments made by this section, and the provisions of this section, shall take effect on the earlier of—

(A) the date of the adjournment sine die of the 99th Congress, or

(B) December 31, 1986,

unless the provisions of chapter 67 of title 31, United States Code, are amended before the earlier of such dates to apply to any entitlement period beginning after September 30, 1986.

(2) The provisions of subsections (a)(4), (c), and (d) shall take effect on the date of enactment of this Act.

(3) Nothing in this section shall be construed to prevent the payment of any allocation for the entitlement period ending September 30, 1986.

TITLE XV—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

Subtitle A—Postal Service Programs

SEC. 15101. REVENUE FORGONE.

Notwithstanding subsection (c) of section 2401 of title 39, United States Code, the amount authorized to be appropriated pursuant to such subsection for fiscal year 1986 shall be $749,000,000.

SEC. 15102. DELAY OF STEP 16 RATES; ELIMINATION OF PHASING SCHEDULE; TERMINATION OF REDUCTION IN RATES OF POSTAGE FOR CERTAIN MAILERS.

(a) DELAY OF STEP 16 RATES.—The increase in rates of postage for non-profit and certain other mailers announced by the Board of Governors of the United States Postal Service in Resolution No. 85-7 (adopted September 6, 1985) shall not take effect before January 1, 1986.

(b) ELIMINATION OF PHASING SCHEDULE.—(1) Section 3626(a) of title 39, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2) of this subsection, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with applicable provisions of this chapter.

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be.".

(2) The amendment made by this subsection shall apply with respect to rates of postage taking effect after December 31, 1985.

(c) TERMINATION OF REDUCTION IN RATES OF POSTAGE FOR CERTAIN MAILERS.—Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following:

"(f) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.".

SEC. 15103. STUDY AND REPORT.

(a) PERIOD OF STUDY.—The Postal Rate Commission shall study and, within 6 months after the date of the enactment of this Act, transmit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the matters described in subsection (b).

(b) PURPOSE OF STUDY.—The purpose of the study under this section is—

(1) to develop recommendations for legislation which would reduce the amount of revenue forgone with respect to former sections 4355(a), 4355(b), 4358(d), 4452(b), 4452(c), 4554(b) and 4554(c) of title 39, United States Code, by changing the eligibility requirements under which the reduced rates of postage under those sections would apply to mail which advertises or promotes the sale of, recommends the purchase of, or announces the availability of any article, product, service, insurance, or travel arrangements;

(2)(A) to identify the kinds of mailers which are the most frequent users of, or which otherwise significantly benefit from, rates for mail under subsections (a), (b), and (c) of former section 4358 of title 39, United States Code; and

(B) to examine the arguments for and against making the eligibility requirements for the rates referred to in subparagraph (A) more stringent, taking into consideration—

(i) the findings under subparagraph (A);

(ii) costs and benefits to the public; and

(iii) any other factor which may be appropriate; and

(3) to develop one or more alternatives for the method currently used by the United States Postal Service in computing revenue forgone (as determined with respect to the provisions of law referred to in section 2401(c) of title 39, United States Code) and to determine the advantages and disadvantages of each such alternative.

(c) In preparing its report under this section, the Postal Rate Commission shall invite and consider the views of interested parties.

(d) The United States Postal Service shall, upon request of the Postal Rate Commission, cooperate in the conduct of the study and the preparation of the report under this section.

SEC. 15104. RESTRICTION RELATING TO ELIGIBILITY FOR IN-COUNTY SECOND-CLASS RATES OF POSTAGE.

Section 3626 of title 39, United States Code, as amended by section 15102(c) of this Act, is further amended by adding at the end thereof the following:

"(g)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one.

"(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.".

SEC. 15105. CURBING OF SUBSIDIES FOR ADVERTISING-ORIENTED "PLUS ISSUES" MAILED TO SUBSCRIBERS AT IN-COUNTY RATES.

Section 3626 of title 39, United States Code, as amended by sections 15102(c) and 15104 of this Act, is further amended by adding at the end thereof the following:

"(h) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.".

Subtitle B—Civil Service Programs

SEC. 15201. PAY ADJUSTMENTS.

(a) LIMITATION ON PAY ADJUSTMENTS FOR STATUTORY PAY SYSTEMS.—(1) The rates of pay under the General Schedule and the rates of pay under the other statutory pay systems referred to in section 5301(c) of title 5, United States Code, shall not be adjusted under section 5305 of such title during fiscal year 1986.

(2)(A)(i) For fiscal years 1987 and 1988, the President shall provide for the adjustment of rates of pay under section 5305 of title 5, United States Code, as appropriate to reduce outlays, relating to pay of officers and employees of the Federal Government, by at least $746,000,000 in fiscal year 1987 and $1,264,000,000 in fiscal year 1988 (without regard to reductions in outlays which result by reason of subparagraph (B)(ii) of this paragraph, paragraph (1) of this subsection, subsection (b) of this section, and the application of section 1009 of title 37, United States Code), computed using the baseline used for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress), agreed to on August 1, 1985.

(ii) Clause (i) of this subparagraph shall not be construed to suspend the requirements of section 5305 of title 5, United States Code, with respect to fiscal years 1987 and 1988.

(B) Each adjustment in a pay rate or schedule which takes effect pursuant to subparagraph (A) of this paragraph—

(i) shall, to the maximum extent practicable, be of the same percentage; and

(ii) shall be effective with respect to pay periods beginning on or after January 1 of the fiscal year involved.

(b) LIMITATION ON PAY ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES.—(1) Notwithstanding any other provision of law, and except as otherwise provided in this subsection, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of such title, the total adjustment to any wage schedule or rate applicable to such employee which is to become effective (determined without regard to paragraph (2)) during—

(A) fiscal year 1986, shall (except to the extent permitted by section 616(a)(2) of H.R. 5798, incorporated by reference in section 101(j) of Public Law 98-473 (98 Stat. 1963)) be equal to zero;

(B) fiscal year 1987, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year; and

(C) fiscal year 1988, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year.

(2) Notwithstanding any other provision of law, any increase permitted by paragraph (1) which is scheduled to take effect during fiscal year 1987 or 1988 (determined without regard to this paragraph) shall take effect as of the beginning of the first applicable pay period beginning at least 90 days after the date on which such increase is so scheduled to take effect.

(3) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of paragraphs (1) and (2) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before October 1, 1985.

(4) Nothing in this subsection or any provision of law governing the use of appropriated funds for the payment of employees covered by this subsection during the period covered by paragraph (1) (or any part of such period) shall be construed to permit or require the payment to any such employee at a rate in excess of the rate that would be payable were this subsection, or such provision of law governing the use of appropriated funds, not in effect.

(5) The Office may make exceptions from the limitations imposed by paragraph (1) if the Office determines that such exceptions are necessary to ensure the recruitment or retention of well-qualified employees.

SEC. 15202. PROVISIONS RELATING TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) AMOUNTS TO BE REFUNDED FROM CARRIERS' SPECIAL RESERVES.—(1) The Office of Personnel Management—

(A) shall determine the minimum level of financial reserves necessary to be held by a carrier for each health benefits plan under chapter 89 of such title for the purpose of ensuring the stable and efficient operation of such plan; and

(B) shall require the carrier to refund to the Employees Health Benefits Fund (described in section 8909(a) of title 5, United States Code) any such reserves in excess of such minimum level in such amounts and at such times during fiscal years 1986 and 1987 as the Office determines appropriate.

(2) In carrying out its responsibilities under this subsection, the Office shall ensure that the aggregate amount to be refunded to the Employees Health Benefits Fund under this subsection—

(A) during fiscal year 1986 shall be not less than $800,000,000; and

(B) during fiscal year 1987 shall be not less than $300,000,000.

(3) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States as a result of a refund made under this subsection.

(4)(A) Subject to subparagraphs (B) and (C), any amounts refunded to the Employees Health Benefits Fund under this subsection may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants, as defined by section 8901(3) of title 5, United States Code, (including the Government contribution for former employees of the United States Postal Service) enrolled in health benefits plans under such chapter.

(B) This paragraph applies to a refund to the extent that such refund represents amounts attributable to Government contributions which were made under section 8906(b) of title 5, United States Code, (including contributions made by the United States Postal Service) as determined under regulations which the Office of Personnel Management shall prescribe.

(C) Any part of the amount in the Employees Health Benefits Fund as a result of a refund made under this subsection may be transferred—

(i) to the government of the District of Columbia, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the government of the District of Columbia to subscription charges under this chapter (as determined by the Office of Personnel Management); and

(ii) to the United States Postal Service, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the United States Postal Service to subscription charges under this chapter (as determined by the Office).

(5) The provisions of this subsection shall apply notwithstanding any provision of the Federal Employees Benefits Improvement Act of 1985.

(b) REPEAL OF 75 PERCENT MAXIMUM IN GOVERNMENT CONTRIBUTIONS.—(1) Section 8906(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 100 percent of the subscription charge.".

(2) The amendment made by paragraph (1) shall be effective with respect to pay periods commencing on or after March 1, 1986.

(c) GOVERNMENT CONTRIBUTIONS FOR RETIRED FORMER EMPLOYEES OF THE UNITED STATES POSTAL SERVICE.—Section 8906(g) of title 5, United States Code, is amended—

(1) by striking out "(g) The" and inserting in lieu thereof "(g)(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following:

"(2) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after October 1, 1986, shall be paid by the United States Postal Service.".

SEC. 15203. COMPUTATION OF HOURLY RATES OF PAY.

(a) METHOD OF COMPUTATION.—Section 5504(b) of title 5, United States Code, is amended—

(1) by striking out the first sentence;

(2) in the second sentence, by striking out "When" and inserting in lieu thereof "When, in the case of an employee,";

(3) in paragraph (1), by striking out "2,080" and inserting in lieu thereof "2,087"; and

(4) in the last sentence, by striking out "title." and inserting in lieu thereof "title other than an employee or individual excluded by section 5541(2)(xvi) of this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 15204. COMPUTATION OF RETIREMENT ANNUITY FOR PART-TIME EMPLOYMENT.

(a) IN GENERAL.—(1) Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) In computing an annuity under this subchapter for an employee whose service includes service that was performed on a part-time basis—

"(A) the average pay of the employee, to the extent that it includes pay for service performed in any position on a part-time basis, shall be determined by using the annual rate of basic pay that would be payable for full-time service in the position; and

"(B) the benefit so computed shall then be multiplied by a fraction equal to the ratio which the employee's actual service, as determined by prorating an employee's total service to reflect the service that was performed on a part-time basis, bears to the total service that would be creditable for the employee if all of the service had been performed on a full-time basis.

"(2) For the purpose of this subsection, employment on a part-time basis shall not be considered to include employment on a temporary or intermittent basis.".

(2) Section 8341 of such title is amended—

(A) by striking out "and (n)" in subsection (b)(1) and inserting in lieu thereof ", (n), and (o)"; and

(B) by striking out "and (n)" in subsection (d) and inserting in lieu thereof "(n), and (o)".

(b) Section 4109(b) of title 38, United States Code, is repealed.

(c) The amendments made by this section shall be effective with respect to service performed on or after the date of the enactment of this Act.

SEC. 15205. EFFECT OF WAGE AREA SURVEY REGARDING CERTAIN FEDERAL EMPLOYEES IN TUCSON, ARIZONA.

(a) IN GENERAL.—Notwithstanding any other provision of law limiting the amounts payable to prevailing wage rate employees during the fiscal year 1986, wage schedules or rates applicable to the Tucson, Arizona, wage area shall not be reduced as a result of a wage survey conducted during fiscal year 1985.

(b) EFFECTIVE DATE.—This section shall be effective as of October 1, 1985.

SUBTITLE C—FEDERAL MOTOR VEHICLE EXPENDITURE CONTROL

SEC. 15301. MONITORING SYSTEM.

The head of each executive agency, including the Department of Defense, shall designate one office, officer, or employee of the agency to establish and operate a central monitoring system for, and provide oversight of, the motor vehicle operations of the agency, related activities, and related reporting requirements.

SEC. 15302. DATA COLLECTION.

(a) COST IDENTIFICATION AND ANALYSIS.—The head of each executive agency, including the Department of Defense, shall develop a system to identify, collect, and analyze data with respect to all costs, including obligations and outlays, incurred by the agency in the operation, maintenance, acquisition, and disposition of motor vehicles, including Government-owned vehicles, leased vehicles, and privately owned vehicles used for official purposes.

(b) REQUIREMENTS FOR DATA SYSTEMS.—The Administrator, in cooperation with the Comptroller General and the Director, shall promulgate requirements governing the establishment and operation by executive agencies of the systems required by subsection (a), including requirements with respect to data concerning the costs and uses of motor vehicles and with respect to the uniform collection and submission of such data. Requirements promulgated under this section shall be in conformance with accounting principles and standards issued by the Comptroller General. Each executive agency, including the Department of Defense, shall comply with such requirements.

SEC. 15303. AGENCY STATEMENTS WITH RESPECT TO MOTOR VEHICLE USE.

(a) CONTENTS OF STATEMENT.—The head of each executive agency, including the Department of Defense, shall include with the appropriation request of such agency submitted under section 1108 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, a statement—

(1) specifying—

(A) the total motor vehicle acquisition, maintenance, leasing, operation, and disposal costs, including obligations and outlays, incurred by such agency in the most recently completed fiscal year; and

(B) an estimate of such costs for the fiscal year in which such request is submitted and for the succeeding fiscal year; and

(2) justifying why the existing and any new motor vehicle acquisition, maintenance, leasing, operation, and disposal requirements of the agency cannot be met through the Interagency Fleet Management System operated by the Administrator, a qualified private fleet management firm, or any other method which is less costly to the Government.

(b) COMPLIANCE WITH REQUIREMENTS.—The head of each executive agency shall comply with the requirements promulgated under

section 15302(b) in preparing each statement required under subsection (a).

SEC. 15304. PRESIDENTIAL REPORT.

(a) SUMMARY AND ANALYSIS OF AGENCY STATEMENTS.—The President shall include with the budget transmitted pursuant to section 1105 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, or in a separate written report to the Congress for each such fiscal year, a summary and analysis of the statements most recently submitted by the heads of executive agencies pursuant to section 15303(a). Each such summary and analysis shall include a review, for the fiscal year preceding the fiscal year in which the budget is submitted, the current fiscal year, and the fiscal year for which the budget is submitted, of the cost savings that have been achieved, that are estimated will be achieved, and that could be achieved, in the acquisition, maintenance, leasing, operation, and disposal of motor vehicles by executive agencies through—

(1) the use of a qualified private fleet management firm or another private contractor;

(2) increased reliance by executive agencies on the Interagency Fleet Management System operated by the Administrator; or

(3) other existing motor vehicle management systems.

(b) APPLICABILITY TO FISCAL YEAR 1986.—The summary and analysis submitted under subsection (a) during fiscal year 1987 is not required to include a review, under the second sentence of such subsection, of the cost savings achieved for fiscal year 1986.

SEC. 15305. STUDY REQUIRED.

(a) STUDY OF COSTS, BENEFITS, AND FEASIBILITY.—(1) The head of each executive agency, including the Department of Defense, shall conduct a comprehensive and detailed study of the costs, benefits, and feasibility of—

(A) relying on the Interagency Management Fleet System operated by the Administrator;

(B) entering into a contract with a qualified fleet management firm or another private contractor; or

(C) using any other means less costly to the Government,

to meet its motor vehicle operation, maintenance, leasing, acquisition, and disposal requirements.

(2) Each study conducted under paragraph (1) shall compare the costs, benefits, and feasibility of the alternatives described in subparagraphs (A), (B), and (C) of such paragraph to the costs and benefits of the agency's current motor vehicle operations and, in the case of the alternatives described in subparagraphs (B) and (C) of such paragraph, to the costs, benefits, and feasibility of the use of the Interagency Fleet Management System operated by the Administrator.

(b) SUBMISSION TO DIRECTOR AND COMPTROLLER GENERAL.—Within 6 months after the date of enactment of this Act, the head of each executive agency shall submit a report concerning the study required under subsection (a) to the Administrator.

SEC. 15306. INTERAGENCY CONSOLIDATION.

(a) IDENTIFICATION OF OPPORTUNITIES FOR CONSOLIDATION.—The Administrator shall review and identify interagency opportunities for the consolidation of motor vehicles, related equipment, and facilities, and of functions relating to the administration and management of such vehicles, equipment, and facilities, in order to reduce the size and cost of the Federal Government's motor vehicle fleet.

(b) REPORT AND ACTION ON FINDINGS.—Within one year after the date of enactment of this Act, the Administrator shall—

(1) submit a report to the Congress specifying the findings and recommendations of the Administrator from the review conducted under subsection (a); and

(2) take such action as the Administrator considers appropriate based on such findings and recommendations and in accordance with section 211 of the Federal Property and Administrative Services Act.

SEC. 15307. REDUCTION OF STORAGE AND DISPOSAL COSTS.

The Administrator shall take such actions as may be necessary to reduce motor vehicle storage and disposal costs and to improve the rate of return on motor vehicle sales through a program of vehicle reconditioning prior to sale.

SEC. 15308. SAVINGS.

(a) ACTIONS BY PRESIDENT REQUIRED.—The President shall establish, for each executive agency, including the Department of Defense, goals to reduce outlays for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles in order to reduce, by fiscal year 1988, the total amount of outlays by all executive agencies for such operation, maintenance, leasing, acquisition, and disposal to an amount which is $150,000,000 less than the amount for such operation, maintenance, leasing, acquisition, and disposal requested by the President in the budget submitted under section 1105 of title 31, United States Code, for fiscal year 1986.

(b) MONITORING OF COMPLIANCE AND COMPLIANCE REPORT.—The Director shall monitor compliance by executive agencies with the goals established by the President under subsection (a) and shall include, in each summary and analysis required under section 15304, a statement specifying the reductions in expenditures by executive agencies, including the Department of Defense, achieved under such goals.

SEC. 15309. COMPLIANCE.

(a) ADMINISTRATOR OF GENERAL SERVICES.—The Administrator shall comply with and be subject to the provisions of this part with regard to all motor vehicles that are used within the General Services Administration for official purposes.

(b) MANAGERS OF OTHER MOTOR POOLS.—The provisions of this part with respect to motor vehicles from the Interagency Fleet Management System shall be complied with by the executive agencies to which such motor vehicles are assigned.

SEC. 15310. APPLICABILITY.

(a) PRIORITY IN REDUCING HEADQUARTERS USE.—The heads of executive agencies shall give first priority to meeting the goals established by the President under section 15308(a) by reducing the costs of administrative motor vehicles used at the headquarters and regional headquarters of executive agencies, rather than by reducing the costs of motor vehicles used by line agency personnel working in agency field operations or activities.

(b) REGULATIONS, STANDARDS, AND DEFINITIONS.—The President shall require the Administrator, in cooperation with the Director, to promulgate appropriate regulations, standards, and definitions to assure that executive agencies meet the goals established under section 15308(a) in the manner prescribed by subsection (a).

SEC. 15311. COOPERATION.

The Director and the Administrator shall closely cooperate in the implementation of the provisions of this part.

SEC. 15312. REPORTS.

The Comptroller General shall evaluate the extent to which the Director, the Administrator, and executive agencies have complied with this part. By January 31, 1988, the Comptroller General shall submit a report to the Congress describing the results of such evaluation.

SEC. 15313. DEFINITIONS.

For purposes of this title—

(1) the term "executive agency" means an Executive agency (as such term is defined in section 105 of title 5, United States Code), which operates at least three hundred motor vehicles, except that such term does not include the Tennessee Valley Authority;

(2) the term "Director" means the Director of the Office of Management and Budget;

(3) the term "Administrator" means the Administrator of General Services;

(4) the term "Comptroller General" means the Comptroller General of the United States; and

(5) the term "motor vehicle" means any vehicle self-propelled or drawn by mechanical power, except that such term does not include any vehicle designed or used for military field training, combat, or tactical purposes, or any other special purpose vehicle exempted from the requirements of this part by the Administrator.

TITLE XVI—HIGHER EDUCATION PROGRAMS

SEC. 16001. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Student Financial Assistance Amendments of 1985".

(b) REFERENCE.—References in this title to "the Act" are to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

Subtitle A—Savings in Student Loan Program Operations

SEC. 16011. RECOVERY OF OUTSTANDING ADVANCES TO GUARANTY AGENCIES.

Section 422 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this paragraph and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988.

"(2) In determining the amount of advances which shall be repaid by a State or nonprofit private institution or organization under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity, as determined by the Comptroller General, of the reserve and insurance funds of the State or nonprofit private institution or organization assisted by such advances;

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

"(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement mandated by the statutes of such State.".

SEC. 16012. DISBURSEMENT OF STUDENT LOANS TO INSTITUTIONS REQUIRED.

(a) FISL LOANS REQUIREMENT.—Section 427(a)(2) of the Act is amended—

(1) by striking out clause (ii) of subparagraph (B) and by redesignating clauses (iii) and (iv) of subparagraph (B) as clauses (ii) and (iii), respectively;

(2) by striking out "or the fifteen-year period" in the matter following clause (viii) of subparagraph (C); and

(3) by amending subparagraph (I) to read as follows:

"(I) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made copayable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and".

(b) GSL LOANS REQUIREMENT.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;".

(c) CONFORMING AMENDMENT.—Section 433A(a) of the Act is amended by striking out "to a borrower" in the first sentence.

SEC. 16013. MULTIPLE DISBURSEMENTS OF STUDENT LOANS REQUIRED.

(a) REPEAL OF INCENTIVES TO LENDERS TO MAKE MULTIPLE DISBURSEMENTS.—Section 428(a) of the Act is amended by striking out paragraph (8).

(b) MULTIPLE DISBURSEMENT REQUIRED IN FISL PROGRAM.—Section 427(a) of the Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) in the case of a loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more, the proceeds of the loan will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period.

For purposes of paragraph (3), all loans issued for the same period of enrollment shall be considered as a single loan.".

(c) MULTIPLE DISBURSEMENTS REQUIRED IN GSL PROGRAM.—Section 428(b)(1) of such Act is amended—

(1) by redesignating subparagraph (P) as subparagraph (Q); and

(2) by inserting after subparagraph (O) the following new subparagraph:

"(P) provides that the proceeds of any loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period, or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for purposes of this subparagraph; and".

(d) ORIGINATION FEE TO BE DEDUCTED PROPORTIONATELY FROM EACH INSTALLMENT.—Section 438(c)(2) of the Act is amended by striking out "which may be deducted from the proceeds of the loan prior to payment to the borrower" and inserting in lieu thereof "which shall be deducted proportionately from each installment payment of the proceeds of the loan to the borrower".

(e) CONFORMING AMENDMENTS.—(1) Section 425(a)(1) of the Act is amended—

(A) by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B); and

(B) by striking out the last sentence.

(2) Section 428(a)(3)(A) of the Act is amended—

(A) by striking out "Except as provided in paragraph (8) and subject" and inserting in lieu thereof "Subject"; and

(B) by striking out "but, except as provided in paragraph (8) of this subsection, such portion" and inserting in lieu thereof "but such portion".

(3) Section 428(b)(1)(A) of such Act is amended—

(A) by inserting "and" at the end of division (i);

(B) by striking out division (ii) and by redesignating division (iii) as division (ii); and

(C) in the matter following such division, by striking out "annual limit," and all that follows and inserting in lieu thereof "annual limit;".

SEC. 16014. PRECLAIM COLLECTION ACTIVITIES.

(a) DELAY REQUIRED BEFORE SUBMISSION OF CLAIMS BY GUARANTY AGENCIES.—(1) Section 428(c)(1)(A) of the Act is amended by adding at the end thereof the following new sentence: "In no case shall a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to subsection (b) file a claim for such reimbursement with respect to such losses prior to 270 days after the loan becomes delinquent with respect to any loan installment.".

(2) Section 430(e)(2) of the Act is amended—

(A) by striking out "one hundred and twenty days" and inserting in lieu thereof "180 days"; and

(B) by striking out "one hundred and eighty days" and inserting in lieu thereof "240 days".

(b) SUPPLEMENTAL PRECLAIMS ASSISTANCE.—(1) Section 428(c)(6)(A) of the Act is amended—

(A) by inserting after "assistance for default prevention," the following: "the administrative costs of supplemental preclaim assistance for default prevention,"; and

(B) by striking out "as such terms are defined in subparagraph (B)" and inserting in lieu thereof "as such terms are defined in subparagraph (B) or (C)".

(2) Section 428(c)(6) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) For purposes of this paragraph, 'administrative costs of supplemental preclaim assistance for default prevention' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under sections 428(c)(2)(A) and 428(f)(2), and which has been in delinquent status for at least 120 days; and

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed by the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required to provide pursuant to section 428(c)(2)(A) and section 428(f)(2) of this Act.

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan; or

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan.

"(iv) The costs associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each delinquent loan subject to the supplemental preclaim assistance authorized by this subparagraph or $100, whichever is less.".

(3) The amendments made by this subsection shall be effective in accordance with section 16041(a) of this title without regard to whether such amendments are reflected in the regulations prescribed by the Secretary of Education.

SEC. 16015. PROMPT PAYMENT OF SUPPLEMENTAL GUARANTY ADMINISTRATIVE COST AGREEMENT.

(a) PURPOSE.—It is the purpose of the amendments made by this section to assure the prompt payment of the amount due under the supplemental guaranty administrative cost agreement made under section 428(f)(2) in order to encourage improved collection of student loans and preclaims assistance to prevent default on student loans.

(b) PROMPT PAYMENT REQUIRED.—(1) Section 428(f)(1) of the Act is amended—

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

(2) Section 428(f)(2) of the Act is amended—

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

SEC. 16016. GUARANTY AGENCY; LENDER OF LAST RESORT.

Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(j) In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students who are eligible to have interest benefits paid on their behalf (under subsection (a) of this section) but who are otherwise unable to obtain loans under this part. Loans made under

this subsection shall neither exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200.".

SEC. 16017. STUDENT LOAN CONSOLIDATION.

(a) LOAN CONSOLIDATION AUTHORIZED.—Part B of title IV of the Act is amended by inserting after section 428B the following new section:

"CONSOLIDATION LOANS

"SEC. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans made, insured, or guaranteed under this part or made under part E of this title, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

"(A) the Student Loan Marketing Association;

"(B) agencies described in subparagraphs (D) and (F) of section 435(g)(1); and

"(C) eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such guaranty agency.

"(3) For the purpose of this section, the term 'eligible borrower' means a borrower who—

"(A) has an outstanding indebtedness, at the time of application for a consolidation loan, to one or more lenders or programs under this title of not less than $5,000;

"(B) has not during the previous 4 months carried at an eligible institution at least one-half the normal full-time academic workload;

"(C) if in repayment status, is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

"(D) is not a parent borrower under section 428B(a)(1).

"(4) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an individual, only loans received after such date shall be taken into account.

"(b)(1) Any lender described in clause (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A)(i) that, in the case of lenders described in subsection (a)(1)(C), the lender will make a consolidation loan to any eligible borrower on request of that borrower, if the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, and will make such loans to other eligible borrowers only to the extent permitted by the Secretary in an agreement under subsection (d);

"(ii) that, in the case of lenders described in subsection (a)(1)(B), the lender will make, subject to the availability of funds allocated for such purpose, a consolidation loan to any eligible borrower—

"(I) who is, or was at the time of receiving a loan which is selected for consolidation, a resident of the State of such lender; or

"(II) who received loans under this title while attending an institution of higher education in the State of such lender,

except that the lender may elect to limit further the availability of its loans under this section to those borrowers for whom the lender is the holder of a loan selected for consolidation; or

"(iii) that, in the case of the Student Loan Marketing Association, the lender will make a consolidation loan to any eligible borrower on request of that borrower;

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3)(A)(i), and (ii) which is equal to the sum of the unpaid principal, accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) that, in the case of any lender, such lender will not make consolidation loans under this part from the proceeds of bonds or other obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, issued subsequent to the enactment date of the Student Financial Assistance Amendments of 1985; and

"(F) such other terms and conditions as the Secretary or guaranty agency (whichever is party to the agreement) may specifically require of the lender to carry out this section.

"(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. A guaranty agency may issue a certificate of comprehensive insurance coverage to a lender if the lender has entered into an agreement under paragraph (1) of this subsection. The Secretary shall not issue such a certificate under this paragraph to a lender described in clause (B) or (C) of subsection (a)(1) if the Secretary determines that such lender has reasonable access in its State, for the purpose of obtaining such a certificate, to a guaranty agency. In either case, such certificate shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(F) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(3) A consolidation loan made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section and contains notice of the possibility of a revised repayment schedule under paragraph (2) of such subsection;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition;

"(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(iv) which is a single period, not in excess of 12 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c)(1) Consolidation loans made under this section shall bear interest at the rate of 10 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made

pursuant to section 428B, the consolidation loan shall bear interest at a rate per annum on such unpaid balance which is equal to the highest applicable interest rate under section 427A on any loan which is selected for consolidation by the borrower. For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(2) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan, with the agreement of the borrower, may establish such repayment terms as will promote the objectives of this section, including the establishment of graduated and income sensitive repayment schedules. In each case a consolidation loan shall be repaid as follows:

"(A) in the case of a consolidation loan the original amount of which is less than $7,500, such loan shall be repaid in not more than 10 years;

"(B) in the case of a consolidation loan the original amount of which equals or exceeds $7,500 but is less than $11,000, such loan shall be repaid in not more than 13 years; or

"(C) in the case of a consolidation loan the original amount of which equals or exceeds $11,000, such loan shall be repaid in not more than 15 years.

"(3) Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(4) No origination fee or insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

"(d)(1) If, within 18 months after the effective date of this section, an eligible lender described in subsection (a)(1)(B) for a State has not entered into an agreement with the Secretary or a guaranty agency for purposes of making consolidation loans under this section, the Secretary may, after a hearing and upon a determination of need therefor, enter into an agreement for the purposes of making consolidation loans to eligible borrowers in such State with an eligible lender described in clause (B) or (C) of subsection (a)(1) from another State.

"(2) Notice of the hearing required by paragraph (1) of this subsection shall be sent to the Governor of the affected State and the eligible lenders described in subsection (a)(1)(B) for that State. At any such hearing representatives of such Governor and lenders may present evidence and testimony and examine witnesses, and full consideration shall be given to the views of such Governor and lenders with respect to the interests of the eligible borrowers in that State and with respect to the impact on programs of such lenders of allowing a lender described in clause (B) or (C) of subsection (a)(1) from another State to make consolidation loans pursuant to an agreement under this subsection in such State.

"(3) An agreement under this subsection may contain such terms and conditions as the Secretary may specifically require of the lender to carry out this section.

"(4) The requirements of paragraphs (1) and (2) of this subsection shall not apply if, in any State, an eligible lender described in subsection (a)(1)(B) from another State is functioning as a secondary market described in subparagraph (D) or (F) of section 435(g)(1) prior to the date of enactment of the Student Financial Assistance Amendments of 1985 and such lender agrees to make consolidation loans to eligible borrowers in such State.

"(e) The authority to make loans under this section expires at the close of September 30, 1991. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).".

(b) CONFORMING AMENDMENTS.—(1) Section 427(a) of the Act is amended by striking out "A loan" and inserting in lieu thereof "Except as provided in section 428C, a loan".

(2) Section 435(g)(1) of the Act is amended—

(A) by striking out "section 439 (o) and (q)" in subparagraph (G) and inserting in lieu thereof "sections 428C and 439(q)"; and

(B) by striking out "section 428(j)" in subparagraph (H) and inserting in lieu thereof "sections 428(h) and 428C".

(3) Section 438 of the Act is amended—

(A) in subsection (b)(5)(A)(ii), by inserting ", 428C," after "428B"; and

(B) in subsection (c)(2), by striking out "section 428B and section 439(o)" and inserting in lieu thereof "sections 428B and 428C".

(4) Section 439(d)(1)(C) of the Act is amended by striking out "428(A), and except with respect to loans under section 439(o)," and inserting in lieu thereof "428A, and except with respect to loans under section 428C,".

(c) SPECIAL ALLOWANCE.—(1) Section 438(b)(2)(A) of the Act is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(2) The first sentence of section 438(b)(2)(B)(i) of the Act is amended—

(A) by inserting "appropriate" before "quarterly rate" the second time it appears; and

(B) by inserting "or subparagraph (C)" before the period.

(3) Section 438(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of loans made in accordance with section 428C, the applicable per centum to be added under clause (iii) of subparagraph (A) shall be 3 per centum.".

(d) COST EVALUATION REPORT.—The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.

SEC. 16018. EXTENSION OF PROGRAM.

(a) EXTENSION OF AUTHORITY.—Part B of title IV of the Act is amended—

(1) in section 424(a)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992";

(2) in section 428(a)(5)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992"; and

(3) in section 439(l), by striking out "1988" and inserting in lieu thereof "1990".

(b) EXTENSION OF FAMILY CONTRIBUTION SCHEDULES.—Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 is amended—

(1) in subsection (a), by striking out "and from July 1, 1986, through June 30, 1987," and inserting in lieu thereof "from July 1, 1986, through June 30, 1987, from July 1, 1987, through June 30, 1988, from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1990,"; and

(2) in subsection (c)—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the comma at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(C) by inserting after such paragraph the following new paragraphs:

"(5) April 1, 1987, for the period of instruction from July 1, 1987, through June 30, 1988;

"(6) April 1, 1988, for the period of instruction from July 1, 1988, through June 30, 1989; and

"(7) April 1, 1989, for the period of instruction from July 1, 1989, through June 30, 1990,".

SEC. 16019. SAVINGS FROM OPERATIONS OF THE STUDENT LOAN MARKETING ASSOCIATION.

(a) GENERAL RULE.—In order to contribute to carrying out the directions in the first concurrent resolution on the budget for the fiscal year 1986 (S. Con. Res. 32, 99th Congress, agreed to August 1, 1985) designed to reduce the Federal budget deficit, the Student Loan Marketing Association shall, during the fiscal year 1986, reduce the level of obligations owed to the Federal Financing Bank by $30,000,000 which, but for this section, will be paid to the Federal Financing Bank after October 1, 1986.

(b) SPECIAL RULE.—The amount described in subsection (a) may not be credited by the Student Loan Marketing Association to reduce the obligation to repay the Federal Financing Bank amounts which the Student Loan Marketing Association owes to the Federal Financing Bank in each of the fiscal years 1987 and 1988.

(c) SAVINGS PROVISION.—Nothing in this section shall be construed to authorize or require the Student Loan Marketing Association or the Federal Financing Bank to renegotiate the contract or other agreement under which the Student Loan Marketing Association agreed to pay amounts made available by the Federal Financing Bank to carry out section 439 of the Higher Education Act of 1965.

SEC. 16020. DEFINITION.

Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(k) The term 'guaranty agency' means a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to section 428(b).".

Subtitle B—Savings From Improved Student Loan Collection

SEC. 16021. AGREEMENT FOR AUDITS.

Section 428(b)(2) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by inserting after such subparagraph the following:

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit.".

SEC. 16022. RECOVERY COSTS.

Section 430(b) of the Act is amended—

(1) by striking out in paragraph (1) "(including reasonable administrative costs)" and inserting in lieu thereof the following: "(including reasonable administrative and collection costs, to the extent set forth in regulations issued by the Secretary)";

(2) by striking out paragraph (2); and

(3) by striking out "(1)".

SEC. 16023. CREDIT BUREAU REPORTS.

Part B of title IV of the Act is amended by adding immediately after section 430 the following new section:

"REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

"SEC. 430A. (a) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, and each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response to the Secretary (concerning loans covered by Federal loan insurance) or by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement) to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subsection (c), such agreements shall require the the Secretary or guaranty agency, eligible lender, or subsequent holder to disclose to such organizations with respect to any loan dispersed to a student—

"(1) the date of disbursement and the amount of the loan;

"(2) the date of default and information concerning collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

"(b) Such agreements may also provide for the disclosure by such organizations to the Secretary, a guaranty agency, eligible lender, or subsequent holder upon receipt of a notice under subsection (a)(2) that such a loan is in default, or information which may assist the Secretary, guaranty agency, eligible lender, or subsequent holder in collecting the loan.

"(c) Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary, guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary, guaranty agency, eligible lender, or subsequent holder has determined that disclosure would carry out the purpose of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, guaranty agency, eligible lender, or subsequent holder with respect to such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 168i);

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, guaranty agency, eligible lender, or subsequent holder (A) shall not disclose any such information until the Secretary, guaranty agency, eligible lender, or subsequent holder has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of the loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(d) A guaranty agency, eligible lender, subsequent holder, or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5 of the United States Code (the Privacy Act of 1974).

"(e) The Secretary and each guaranty agency, eligible lender, and subsequent holder is authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

"(f) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary, or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's account on a loan insured or guaranteed under this part until the later of—

"(1) seven years from the date on which the agency paid a claim to the holder on insurance or the guaranty, or

"(2) seven years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to a consumer reporting agency.".

SEC. 16024. CIVIL PENALTIES.

Section 432 of the Act is further amended by adding at the end thereof the following new subsection:

"(f)(1) Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $15,000 for each violation, failure, or misrepresentation.

"(2) No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that—

"(A) the violation, failure or substantial misrepresentation referred to in that paragraph resulted from—

"(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial misrepresentation is material.

"(3) A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) For the purposes of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged (unless the lender or agency has in the case of a final agency determination commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding).".

SEC. 16025. ASSIGNMENT AND REFERRAL OF NDSL LOANS FOR COLLECTION.

Section 463(a)(5) of the Act is amended to read as follows:

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) among other institutions in accordance with section 462; or

"(B) if the institution is not one described in clause (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;".

SEC. 16026. REPORTING BY CONSUMER REPORTING AGENCY ON NDSL LOANS.

Section 463(c) of the Act is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until the later of—

"(A) seven years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) seven years from the date the Secretary first reported the account to a consumer reporting agency, if that account had not been previously reported by any other holder of the note.".

SEC. 16027. DEFAULT PENALTY ON NDSL LOANS.

Section 463A(a)(7) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan".

SEC. 16028. NDSL LOAN AGREEMENTS.

(a) CHARGES FOR LATE PAYMENTS.—Section 464(c)(1)(H) of the Act is amended to read as follows:

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this clause shall exceed 20 per centum of the amount of the monthly payment of the borrower; and".

(b) CONFORMING AMENDMENT.—Section 464(c)(4) of the Act is amended to read as follows:

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.".

SEC. 16029. REFERRAL OF NDSL LOANS FOR COLLECTION.

Section 467 of the Act is amended to read as follows:

"COLLECTION OF DEFAULTED LOANS

"SEC. 467. (a) With respect to any loan—

"(1) which was made under this part, and

"(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a), the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

"(b) The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.".

Subtitle C—Savings Related to General Provisions

SEC. 16031. EXCLUSION OF LIQUIDATION PROCEEDS FROM FAMILY CONTRIBUTION COMPUTATIONS.

Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall, within 30 days after the date of enactment of this subsection, promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 1 of part A and part B of this title for any academic year beginning on or after July 1, 1985, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.".

SEC. 16032. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR STUDENT LOANS.

(a) STUDENT IDENTIFICATION.—Section 484(a) of the Act is amended—

(1) by striking out the word "such" each place it appears in paragraph (4) and inserting in lieu thereof "any"; and

(2) by striking out "(which need not be notarized)" in paragraph (5) and inserting in lieu thereof "(which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number)".

(b) ELIGIBILITY DETERMINATIONS.—Section 484 of the Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) In order to be eligible to receive any loan under this title (other than a loan under section 428B or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

"(1) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

"(2) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period; and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.".

(c) CONFORMING AMENDMENT.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "subparts 1 and 2 of part A," and inserting in lieu thereof "subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A,".

SEC. 16033. STATUTE OF LIMITATIONS.

Part F of title IV of the Act is amended by adding immediately after section 484 the following new section:

"STATUTE OF LIMITATIONS

"SEC. 484A. (a) Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

"(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower; and

"(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

"(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

"(A) for payment of a refund due from a student on a grant made under this title until six years following the date on which the refund first became due;

"(B) for collection of the amount due the Secretary from a borrower pursuant to section section 428(c)(2)(D) of this title until six years following the date on which the loan is assigned to the Secretary under part B of this title; and

"(C) for collection of the amount due from a borrower on a loan made under this part

until six years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

"(b) Notwithstanding any provision of State law to the contrary—

"(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

"(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.".

SEC. 16034. PROGRAM PARTICIPATION AGREEMENTS.

(a) USE OF INTEREST ON FUNDS RECEIVED.—Section 487(a)(1) of the Act is amended to read as follows:

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purposes specified in, and in accordance with the provision of, that program.".

(b) AUDIT AND RECOVERY OF FUNDS.—Section 487(b)(1) of the Act is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organization, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;".

Subtitle D—effective dates

SEC. 16041. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) PROSPECTIVE PROVISIONS; LOANS.—(1) The amendments made by sections 16012, 16027, and 16028 shall apply to loans to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(2) The amendments made by section 16013 shall apply to loans made on or after July 1, 1986.

(c) RETROACTIVE PROVISIONS; LOANS.—(1) The amendment made by section 16015 shall apply to any fiscal year beginning after September 30, 1984.

(2) The amendments made by sections 16021 through 16026, 16029, and 16032(b) shall apply to all loans, including loans made before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(d) PROSPECTIVE PROVISION; ALL ASSISTANCE.—The amendment made by section 16032(a) shall apply to grants, loans, or work assistance to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(e) RETROACTIVE PROVISION; GRANTS.—The amendment made by section 16033 shall apply to all grants, including grants awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(f) RETROACTIVE PROVISIONS; ALL ASSISTANCE.—The amendment made by section 16034 shall apply to all grants, loans, or work assistance, including such assistance awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

TITLE XVII—GRADUATE MEDICAL EDUCATION COUNCIL AND TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 17001. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Title VII of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART H—GRADUATE MEDICAL EDUCATION

"COUNCIL ON GRADUATE MEDICAL EDUCATION

"SEC. 799. (a) There is established the Council on Graduate Medical Education (hereafter in this section referred to as the 'Council'). The Council shall—

"(1) prior to July 1, 1988, and every three years thereafter, provide advice and make recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to—

"(A) the supply and distribution of physicians in the United States;

"(B) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

"(C) issues relating to foreign medical school graduates;

"(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

"(E) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathy, and accrediting bodies with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate medical education programs; and

"(F) deficiencies in, and needs for improvements in, existing data bases concerning the supply and distribution of, and postgraduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies; and

"(2) encourage entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

"(b) The Council shall be composed of—

"(1) the Assistant Secretary for Health or the designee of the Assistant Secretary;

"(2) the Administrator of the Health Care Financing Administration;

"(3) the Chief Medical Director of the Veterans' Administration;

"(4) 6 members appointed by the Secretary to include representatives of practicing primary care physicians, national and specialty physician organizations, foreign medical graduates, and medical student and house staff associations; and

"(5) 4 members appointed by the Secretary to include representatives of schools of medicine and osteopathy and public and private teaching hospitals; and

"(6) 4 members appointed by the Secretary to include representatives of health insurers, business, and labor.

"(c)(1) Members of the Council appointed under paragraphs (4), (5), and (6) of subsection (b) shall be appointed for a term of 4 years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, 4 at the end of one year, 4 at the end of 2 years, 3 at the end of 3 years, and 3 at the end of 4 years.

"(2) The Secretary shall appoint the first members to the Council under paragraphs (4), (5), and (6) of subsection (b) within 60 days after the date of enactment of this section.

"(d) The Council shall elect one of its members as Chairman of the Council.

"(e) Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

"(f) Any vacancy in the Council shall not affect its power to function.

"(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(h)(1) In order to carry out the provisions of this section, the Council is authorized to—

"(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

"(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

"(2) The Council shall coordinate activities carried out under this section with the activities of the National Advisory Council on Health Professions Education under section 702 and with the activities of the Secretary under section 708. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under section 708 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

"(i) In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.

"(j) The Council shall terminate on September 30, 1996."

SEC. 17002. SPECIAL PAY PROVISIONS.

(a) SERVICE IN THE INDIAN HEALTH SERVICE.—Section 208(a)(2)(B) of the Public Health Service Act (42 U.S.C. 210(a)(2)(B)) is amended by inserting "(other than an of-

ficer serving in the Indian Health Service)" after "Corps".

(2) The amendment made by paragraph (1) shall take effect as of October 7, 1985.

(b) EMPLOYEES AT THE GILLIS W. LONG HANSEN'S DISEASE CENTER.—Section 208(e) of the Public Health Service Act (42 U.S.C. 210(e)) is amended to read as follows:

"(e) Any civilian employee of the Service who is employed at the Gillis W. Long Hansen's Disease Center on the date of the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 shall be entitled to receive, in addition to any compensation to which the employee may otherwise be entitled and for so long as the employee remains employed at the Center, an amount equal to one-fourth of such compensation.".

SEC. 17003. USE OF FISCAL AGENTS BY PUBLIC HEALTH SERVICE.

Title XXI of the Public Health Service Act is amended by adding at the end the following new section:

"USE OF FISCAL AGENTS

"SEC. 2116. (a) The Secretary may enter into contracts with fiscal agents—

"(1)(A) to determine the amounts payable to persons who, on behalf of the Indian Health Service, furnish health services to eligible Indians,

"(B) to determine the amounts payable to persons who, on behalf of the Public Health Service, furnish health services to individuals pursuant to section 319 or 322,

"(2) to receive, disburse, and account for funds in making payments described in paragraph (1),

"(3) to make such audits of records as may be necessary to assure that these payments are proper, and

"(4) to perform such additional functions as may be necessary to carry out the functions described in paragraphs (1) through (3).

"(b)(1) Contracts under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring competition.

"(2) No such contract shall be entered into with an entity unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"(c) A contract under subsection (a) may provide for advances of funds to enable entities to make payments under the contract.

"(d) Subsections (d) and (e) of section 1842 of the Social Security Act shall apply to contracts with entities under subsection (a) in the same manner as they apply to contracts with carriers under that section.

"(e) In this section, the term 'fiscal agent' means a carrier described in section 1842(f)(1) of the Social Security Act and includes, with respect to contracts under subsection (a)(1)(A), an Indian tribe or tribal organization acting under contract with the Secretary under the Indian Self-Determination Act (Public Law 93-638).".

SEC. 17004. TECHNICAL REVISIONS RELATING TO EMERGENCY MEDICAL SERVICES FOR CHILDREN.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

(1) by striking out "grant to not more than four States in any fiscal year" in the first sentence of subsection (a) and inserting in lieu thereof "not more than four grants in any fiscal year to States or accredited schools of medicine in States";

(2) by adding at the end of subsection (a) the following new sentence: "Only one grant under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.";

(3) by striking out "other States" in subsection (b) and inserting in lieu thereof "States in which grants under such subsection have not been made";

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following new subsection:

"(c) For purposes of this section—

"(1) the term 'school of medicine' has the same meaning as in section 701(4); and

"(2) the term 'accredited' has the same meaning as in section 701(5).".

TITLE XVIII—SMALL BUSINESS PROGRAMS

SEC. 18001. SMALL BUSINESS ADMINISTRATION PROGRAM AND AUTHORIZATION LEVELS.

Section 20 of the Small Business Act is amended by adding the following new subsections:

"(u) The following program levels are authorized for fiscal year 1986—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $60,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $2,971,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $15,000,000 in loans as provided in paragraph (12), $400,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $250,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,050,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

"(v) There are authorized to be appropriated to the Administration for fiscal year 1986, $515,000,000. Of such sum, $295,000,000 shall be available for the purpose of carrying out the programs referred to in paragraphs (1) through (3) of subsection (u); $12,000,000 shall be available for the purposes of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; and $208,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(w) The following program levels are authorized for fiscal year 1987—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $70,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $35,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,134,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $63,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $261,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,096,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

"(x) There are authorized to be appropriated to the Administration for fiscal year 1987, $605,000,000. Of such sum, $381,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (w); $14,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $210,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(y) The following program levels are authorized for fiscal year 1988—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $75,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $40,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms

and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,245,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,142,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

"(z) There are authorized to be appropriated to the Administration for fiscal year 1988, $634,000,000. Of such sum, $409,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (y); $13,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $212,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.".

SEC. 18002. TECHNICAL AND CLERICAL AMENDMENTS.

Section 20 of the Small Business Act is amended—

(1) in subsection (t), as added by section 302 of Public Law 98-270—

(A) by inserting "(1)" after "(t)";

(B) by striking out "each of fiscal years 1985 and 1986," and inserting in lieu thereof "fiscal year 1985"; and

(C) by striking out "for each of such years"; and

(2) in subsection (t), as added by section 3 of Public Law 98-395—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(B) by redesignating such subsection (t) as paragraph (2).

SEC. 18003. DETERMINATION OF LABOR SURPLUS AREAS.

(a) IN GENERAL.—Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section, the determination of labor surplus areas shall be made on the basis of the criteria in effect at the time of the determination, except that any minimum population criteria shall not exceed twenty-five thousand. Such determination, as modified by the preceding sentence, shall be made by the Secretary of Labor.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the ninetieth day after the date of the enactment of this Act.

SEC. 18004. FEDERAL FINANCING BANK PURCHASE OF GUARANTEED OBLIGATIONS.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"GUARANTEED OBLIGATIONS NOT ELIGIBLE FOR PURCHASE BY FEDERAL FINANCING BANK

"SEC. 320. Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire after September 30, 1985—

"(1) any obligation the payment of principal or interest on which has at any time been guaranteed in whole or in part under this title,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) CLERICAL AMENDMENT.—The table of sections for title III is amended by adding at the end thereof the following new item:

"Sec. 320. Guaranteed obligations not eligible for purchase by Federal Financing Bank.".

SEC. 18005. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES

"SEC. 321. (a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies and guaranteed by the Administration under this Act: Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect any fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued.

"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government;

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

(b) RULES AND REGULATIONS; CONSULTATION.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 321(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in sections 321(f)(2) and 321(f)(3) of such Act.

(2) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 of the Small Business Investment Act.

(c) CLERICAL AMENDMENT.—The table of sections for title III of such Act is amended by adding at the end thereof the following new item:

"Sec. 321. Issuance and guarantee of trust certificates.".

SEC. 18006. TERMINATION OF AUTHORITY TO MAKE CERTAIN DISASTER ASSISTANCE LOANS.

(a) IN GENERAL.—The Small Business Act is amended—

(1) in section (7)(b)—

(A) by striking out "The" after "(b)" and inserting in lieu thereof "Except as to agricultural enterprises as defined in section 18(b)(1) of this Act, the,";

(B) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraphs (3) and (4);

(2) in section 7(c)(4) by striking out the last, undesignated paragraph; and

(3) in section 18(a) by striking out all that follows "Federal Government," through "Consolidated Farm and Rural Development Act".

(b) PIPELINE LOANS OR PREVIOUS DISASTERS.—Notwithstanding the amendments made by this section, sections 18002 and 18016, or any other provision of law, the Small Business Administration shall continue to accept, process, and approve loan applications under paragraphs (1) through (4) of subsection 7(b) of the Small Business Act and shall obligate and disburse loan funds on account of disasters declared before October 1, 1985, even if any such application is filed after the date of the enactment of this Act.

SEC. 18007. GUARANTEE FEE.

Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new sentence:

"(16) The Administration shall collect a guarantee fee equal to two percent of the amount of the deferred participation share of any loan under this subsection other than a loan repayable in one year or less or a loan under paragraph (13). The fee shall be payable by the participating lending institution and may be charged to the borrower.".

SEC. 18008. PILOT PROGRAM INVOLVING SALE OF DEVELOPMENT COMPANY DEBENTURES.

(a) PILOT PROGRAM.—Title V of the Small Business Investment Act of 1958 is amended by adding the following new section:

"SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall conduct a pilot program involving the sale to investors, either publicly or by private placement, of debentures guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 as follows—

"(1) of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000; and

"(2) of the program levels otherwise authorized by law for fiscal year 1987, an amount not to exceed $295,000,000.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of the Small Business Investment Act of 1958 and which is being sold pursuant to the provisions of the pilot program authorized in this section,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) REPORT ON PILOT PROGRAMS.—The Administration shall report to the President and the Congress on the conduct of the pilot program established under subsection (a) not later than 90 days after the date on which the last sale is made pursuant to such subsection in each fiscal year, and unless a report has been made not later than October 1 of 1986 and 1987, the Administration shall make an interim report by such dates.

(c) AUTHORITY FOR ISSUANCE OF TRUST CERTIFICATES.—Such title is further amended by adding at the end thereof the following new section:

"SEC. 505.(a) The Administration is authorized to issue trust certificates representing ownership of all of a fractional part of debentures issued by State or local development companies and guaranteed by the Administration under this Act: Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect any fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued.

"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government;

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

(d) RULES AND REGULATIONS.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of enactment of this act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 505(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in section 505(f)(2) of such Act.

(2) Notwithstanding any law, rule or regulation, within 60 days after the date of enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 of the Small Business Investment Act.

SEC. 18009. MISREPRESENTATION AS A SMALL BUSINESS OR MINORITY CONCERN.

Section 16 of the Small Business Act is amended by adding to the end thereof the following new subsections:

"(d) Whoever misrepresents the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals', in order to obtain for oneself or another any—

"(1) prime contract to be awarded pursuant to section 9 or 15;

"(2) subcontract to be awarded pursuant to section 8(a);

"(3) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

"(4) prime or subcontract to be awarded as a result, or in furtherance, of any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility,

shall be punished by a fine of not more than $50,000 or by imprisonment for not more than five years, or both.

"(e) Any representation of the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals' in order to obtain any prime contract or subcontract enumerated in subsection (d) of this section shall be in writing.".

SEC. 18010. REPORT CONCERNING ALTERNATIVE SOURCES FOR LOAN GUARANTEES.

Not later than June 30, 1986, the Administrator of the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives an internal report concerning—

(1) the options available to provide a guarantee on loans under section 7(a) of the Small Business Act from sources outside the Federal Government, together with such recommendations as the Administrator may have with respect to such options, including an evaluation of the feasibility of establishing a corporation owned by the Federal Government to make such guarantees; and

(2) the imposition, on each participating lender in the guaranteed loan program under section 7(a) of the Small Business Act, of an annual fee of between one-quarter of one percent and one percent of the value of the unpaid balance of any loan made under such program, particularly on the revenues that could be expected and whether such revenues could be used for a loss reserve fund or to defray the cost of administration of the program.

SEC. 18011. USER FEES.

(a) REPORT ON USER FEES.—Not later than September 30, 1986, the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on user fees. The report shall specify for each fee which is currently being imposed or which is under consideration—

(1) the type of service provided by the Administration for which the fee is or may be charged;

(2) the amount of fee imposed or being considered;

(3) the formula for setting the fee; and

(4) the statutory or regulatory authority for the fee.

(b) REVIEW OF APPROPRIATENESS OF FEES.—The Administration shall review all other services provided by the Administration for which no fee is currently being imposed and include in the report its findings and recommendations as to—

(1) whether or not a fee should be imposed for each service; and

(2) whether statutory authority is needed to impose the fee.

SEC. 18012. UTILIZATION OF PROGRAM AUTHORITY.

Section 20(a) of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 20. (a)"; and

(2) by adding at the end thereof the following:

"(2) Notwithstanding any other provision of law, the Administration shall enter into commitments for direct loans and to guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and enter into commitments to purchase debentures and preferred securities and to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958, in the full amounts provided by law subject only to (A) the availability of qualified applications, and (B) limitations contained in appropriations Acts. Nothing in this paragraph authorizes the Administration to reduce or limit its authority to enter into such commitments.".

SEC. 18013. BUSINESS LENDING REFORMS.

Section 7(a)(2) of the Small Business Act is amended—

(1) by striking out "$100,000" both places it appears and inserting in lieu thereof "$155,000";

(2) by striking out "90" in subparagraph (B) and inserting in lieu thereof "85";

(3) by striking out "90" in the proviso and inserting in lieu thereof "85"; and

(4) by inserting before the period the following: ": Provided, further, That the Administration may reduce its participation below the per centums stated in this paragraph if the lender requests the reduction under the preferred lenders program or any successor thereto. As used in this sentence the term 'preferred lenders program' means a program under which, pursuant to a written agreement between the lender and the Administration, the lender has been delegated (1) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (2) authority to service and liquidate such loans".

SEC. 18014. SURETY GUARANTEES.

Section 411 of the Small Business Investment Act of 1958 is amended—

(1) in subsection (a) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000"; and

(2) in subsection (e)(2) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

SEC. 18015. ELIGIBILITY OF SMALL BUSINESSES OWNED BY INDIAN TRIBES.

(a) CONSIDERATION OF INDIAN TRIBES.—Section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(2)(C)) is amended by inserting "Indian tribes," after "Native Americans,".

(b) CLARIFICATION OF DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Paragraph (4) of section 8(a) of such Act (15 U.S.C. 637(a)(4)) is amended to read as follows:

"(4)(A) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern which meets the requirements of subparagraph (B) and—

"(i) which is at least 51 per centum owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe, or

"(ii) in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe.

"(B) A small business concern meets the requirements of this subparagraph if the management and daily business operations of such small business concern are controlled by one or more—

"(i) socially and economically disadvantaged individuals described in subparagraph (A)(i)(I) or subparagraph (A)(ii)(I), or

"(ii) members of an economically disadvantaged Indian tribe described in subparagraph (A)(i)(II) or subparagraph (A)(ii)(II).".

(c) DETERMINATION OF ECONOMIC DISADVANTAGE OF AN INDIAN TRIBE.—Paragraph (6) of such Act (15 U.S.C. 637(a)(6)) is amended by adding at the end thereof the following new sentence: "In determining the economic disadvantage of an Indian tribe, the Administration shall consider, where available, information such as the following: the per capita income of members of the tribe excluding judgment awards, the percentage of the local Indian population below the poverty level, and the tribe's access to capital markets.".

(d) DEFINITION OF "INDIAN TRIBE".—Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(13) For purposes of this subsection, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (within the meaning of the Alaska Native Claims Settlement Act) which—

"(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or

"(B) is recognized as such by the State in which such tribe, band, nation, group, or community resides.".

SEC. 18016. SIZE STANDARD FOR AGRICULTURAL ENTERPRISES.

Section 3(a) of the Small Business Act is amended by inserting the following before the period at the end of the first sentence: : "Provided, That notwithstanding any other provision of law, an agricultural enterprise shall be deemed to be a small business concern if it (including its affiliates) has annual receipts not in excess of $500,000".

SEC. 18017. ENCOURAGEMENT OF VETERANS BUSINESS RESOURCE COUNCILS.

(a) FINDINGS.—The Congress finds that—

(1) Veterans Business Resource Councils have been established in the following ten States: California, Ohio, Texas, New York, Massachusetts, Indiana, Louisiana, Maryland, Minnesota, and Missouri;

(2) the concept of Veterans Business Resource Councils to establish networks of veterans with business experience assisting fellow veterans seeking to establish small businesses merits serious consideration; and

(3) the majority of our Nation's Vietnam era veterans fall within the thirty-five to forty-five-year-old age range, in which most people decide to enter into small business ownership.

(b) RECOMMENDATIONS.—The Congress urges the Small Business Administration—

(1) to evaluate the effectiveness of the Veterans Business Resource Councils which are currently operating and to recommend improvements in their operations;

(2) to develop guidelines to assist in the establishment of Veterans Business Resource Councils; and

(3) to work with the remaining States and any interested organizations to encourage the establishment of Veterans Business Resource Councils in those States.

TITLE XIX—VETERANS' PROGRAMS

SEC. 19001. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the "Veterans' Health-Care and Compensation Rate Amendments of 1985".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SUBTITLE A—HEALTH CARE

SEC. 19011. ELIGIBILITY FOR HEALTH CARE OF VETERANS WITH NON-SERVICE-CONNECTED DISABILITIES.

(a) HOSPITAL CARE AND NURSING HOME CARE.—(1) Subsection (a) of section 610 is amended to read as follows:

"(a)(1) The Administrator shall furnish hospital care, and may furnish nursing home care, which the Administrator determines is needed—

"(A) to any veteran for a service-connected disability;

"(B) to a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty, for any disability;

"(C) to a veteran who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement described in such section, for any disability;

"(D) to a veteran who has a service-connected disability rated at 50 percent or more, for any disability;

"(E) to any other veteran who has a service-connected disability, for any disability;

"(F) to a veteran who is a former prisoner of war, for any disability;

"(G) to a veteran exposed to a toxic substance or radiation, as provided in subsection (e) of this section;

"(H) to a veteran of the Spanish-American War, the Mexican border period, or World War I, for any disability; and

"(I) to a veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

"(2)(A) To the extent that resources and facilities are available, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to a veteran for a non-service-connected disability if the veteran has an income level described in section 622(a)(2) of this title.

"(B) In the case of a veteran who is not described in paragraph (1) of this subsection or in subparagraph (A) of this paragraph, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to the veteran for a non-service-connected disability—

"(i) to the extent that resources and facilities are otherwise available; and

"(ii) subject to the provisions of subsection (f) of this section.

"(3) In addition to furnishing hospital care and nursing home care described in paragraphs (1) and (2) of this subsection through Veterans' Administration facilities, the Administrator may furnish such hospital care in accordance with section 603 of this title and may furnish such nursing home care as authorized under section 620 of this title.".

(2) Such section is further amended by adding at the end the following new subsections:

"(f)(1) The Administrator may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care by reason of subsection (a)(2)(B) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

"(A) the cost of furnishing such care, as determined by the Administrator; and

"(B) the amount determined under paragraph (3) of this subsection.

"(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is—

"(i) the amount of the inpatient Medicare deductible, plus

"(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

"(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

"(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

"(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

"(ii) the end of the 365-day period applicable to the nursing home care for which payment was made,

whichever occurs first.

"(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under section 612(f) of this title to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under section 612(f)(4) of this title for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

"(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(5) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

"(g) Nothing in this section requires the Administrator to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.".

(b) MEDICAL SERVICES FURNISHED ON AN OUTPATIENT OR AMBULATORY BASIS.—(1) Subsection (a) of section 612 is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following:

"(1) Except as provided in subsection (b) of this section, the Administrator may furnish such medical services as the Administrator determines are needed—

"(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service); and

"(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more.";

(B) by designating the sentence beginning "The Administrator may also" as paragraph (2) and in such sentence striking out "The Administrator may also furnish to any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(C) by striking out the sentence beginning "In the case of"; and

(D) by adding at the end of such subsection the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(2) Subsection (f) of such section is amended—

(A) by striking out "The Administrator, within the limits of Veterans' Administration facilities, may" and inserting in lieu thereof "(1) Except as provided in paragraph (4) of this subsection, the Administrator may";

(B) by redesignating clause (1) as clause (A), redesignating subclauses (A) and (B) of such clause as subclauses (i) and (ii), respectively, and inserting "and" at the end of such clause;

(C) by striking out clause (2);

(D) by redesignating clause (3) as clause (B);

(E) by designating the second sentence as paragraph (2) and in such sentence striking out "The Administrator may also furnish to

any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(F) by striking out the third sentence; and

(G) by adding at the end the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.

"(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection) to a veteran who is eligible for hospital care under this chapter by reason of section 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States the amount determined under subparagraph (B) of this paragraph.

"(B) A veteran who is furnished medical services under this subsection and who is required under subparagraph (A) of this paragraph to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Veterans' Administration facility. Such estimated average cost shall be determined by the Administrator.

"(C) A veteran may not be required to make a payment under this paragraph for services furnished under this subsection during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this paragraph for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

"(D) This subsection does not apply with respect to home health services under this subsection to the extent that such services are for improvements and structural alterations.

"(E) For the purposes of this paragraph, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

"(F) Amounts collected or received by the Veterans' Administration under this paragraph shall be deposited in the Treasury as miscellaneous receipts.".

(3) Subsection (g) of such section is amended to read as follows:

"(g)(1) The Administrator may furnish medical services which the Administrator determines are needed to a veteran—

"(A) who is a veteran of the Mexican border period or of World War I; or

"(B) who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(2) As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran home health services under the terms and conditions set forth in subsection (f) of this section.

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(4) Subsection (i) of such section is amended by adding at the end the following:

"(6) To any veteran who is in receipt of pension under section 521 of this title.".

(c) INCOME THRESHOLDS FOR CERTAIN NON-SERVICE-CONNECTED CARE.—(1) Section 622 is amended to read as follows:

"§622. Determination of inability to defray necessary expenses; income thresholds

"(a)(1) For the purposes of section 610(a)(1)(I) of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

"(A) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) the veteran is in receipt of pension under section 521 of this title; or

"(C) the veteran's attributable income is not greater than the Category A threshold.

"(2) For the purposes of section 610(a)(2)(A) of this title, a veteran's income level is described in this paragraph if the veteran's attributable income is not greater than the Category B threshold.

"(b) For the purposes of this section:

"(1) The Category A threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $15,000 in the case of a veteran with no dependents; and

"(ii) $18,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(2) The Category B threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $20,000 in the case of a veteran with no dependents; and

"(ii) $25,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(c) Effective on January 1 of each year, the amounts in effect under paragraphs (1) and (2) of subsection (b) of this section shall be increased by the percentage by which the maximum rates of pension were increased under section 3112(a) of this title during the preceding calendar year.

"(d)(1) Notwithstanding the attributable income of a veteran, the Administrator may refuse to make a determination described in paragraph (2) of this subsection if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some part of the corpus of the estate of the veteran be consumed for the veteran's maintenance.

"(2) A determination described in this paragraph is a determination—

"(A) that for the purposes of subsection (a)(1)(C) of this section a veteran's attributable income is not greater than the Category A threshold; or

"(B) that for the purposes of subsection (a)(2) of this section a veteran's attributable income is not greater than the Category B threshold.

"(3) For the purposes of paragraph (1) of this subsection, the corpus of the estate of a veteran shall be determined in the same manner as the manner in which determinations are made of the corpus of the estates of persons under section 522 of this title.

"(e)(1) In order to avoid a hardship to a veteran described in paragraph (2) of this subsection, the Administrator may deem the veteran to have an attributable income during the previous year not greater than the Category A threshold or the Category B threshold, as appropriate.

"(2)(A) A veteran is described in this paragraph for the purposes of subsection (a)(1) of this section if—

"(i) the veteran has an attributable income greater than the Category A threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(B) A veteran is described in this paragraph for the purposes of subsection (a)(2) of this section if—

"(i) the veteran has an attributable income greater than the Category B threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(f) For purposes of this section:

"(1) The term 'attributable income' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 521 of this title would be reduced if such veteran were eligible for pension under that section.

"(2) The term 'corpus of the estate of the veteran' includes the corpus of the estates of the veteran's spouse and dependent children, if any.

"(3) The term 'previous year' means the calendar year preceding the year in which the veteran applies for care or services under section 610(a) or 612(f) of this title.

"(g) For the purposes of sections 610(b)(2) and 624(c) of this title, the fact that a veteran is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.".

(2) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Determination of inability to defray necessary expenses; income thresholds.".

(3) The first increase under subsection (c) of section 622 of title 38, United States Code, as added by paragraph (1), shall take effect on January 1, 1987.

(d) CONFORMING AMENDMENTS.—(1) Section 525(a) is amended by striking out "section 612(i)(5) of this title" and inserting in lieu thereof "clauses (5) and (6) of section 612(i)".

(2) Section 601(6) is amended—

(A) in clause (A)(i), by striking out "section 612(f)(1)(A)" and inserting in lieu thereof "section 612(f)(1)(A)(i)", and

(B) in clause (B)(ii), by striking out "section 612(f)(1)(B)" and inserting in lieu thereof "section 612(f)(1)(A)(ii)".

(3) Section 610(e) is amended—

(A) by striking out "may be furnished hospital care or nursing home care under subsection (a)(5)" in subparagraphs (A) and (B) of paragraph (1) and inserting in lieu thereof "is eligible for hospital care and nursing home care under subsection (a)(1)(G)"; and

(B) by striking out "subsection (a)(5)" in paragraphs (2) and (3) and inserting in lieu thereof "subsection (a)(1)(G)".

(4) Section 612A is amended—

(A) by striking out "clause (1)(B)" in subsection (b)(1) and inserting in lieu thereof "paragraph (1)(A)(ii)"; and

(B) by striking out "612(f)(2)" in subsection (e)(1) and inserting in lieu thereof "612(a)(1)(B)".

(5) Section 620(f)(1)(A)(ii) is amended by striking out "612(f)(2)" and inserting in lieu thereof "612(a)(1)(B)".

(6) Section 663(a)(1) is amended by striking out "612(f)(2)" both places it appears and inserting in lieu thereof "612(a)(1)(B)".

(e) REPORTS ON FURNISHING OF HEALTH CARE AND IMPLEMENTATION OF CHANGES IN ELIGIBILITY.—(1) The Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report for each of fiscal years 1986, 1987, and 1988 concerning the implementation of the amendments made by this section.

(2) Each report under paragraph (1) shall provide detailed information with respect to the fiscal year for which it is submitted regarding—

(A) the number of veterans who received health care from the Veterans' Administration during the fiscal year concerned (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care);

(B) with respect to veterans who applied for health care from the Veterans' Administration during such fiscal year but did not receive such care—

(i) the number of such veterans (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care); and

(ii) the primary reasons why such care was not furnished;

(C) the guidelines and processes for—

(i) implementation of the income-threshold criteria for Veterans' Administration health-care eligibility established by paragraph (1)(I) and subparagraphs (A) and (B) of paragraph (2) of section 610(a) of title 38, United States Code (as added by subsection (a)), paragraph (4) of section 612(f) of such title (as added by subsection (b)), and section 622 of such title (as amended by subsection (c)); and

(ii) the collection of payments required by section 610(f) of such title (as added by subsection (a)(2)) and by section 612(f)(4) of such title (as added by subsection (b)(2));

(D) the numbers and characteristics of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of any such authorities, including—

(i) with respect to those eligible by reason of each such authority, the numbers who applied for and were furnished such care, the type and extent of such care that they were furnished, and their incomes and family sizes; and

(ii) with respect to veterans eligible by reason of section 610(a)(2)(B) of such title, the average and total payments made by such veterans for such care (shown in total and separately for hospital care, nursing home care, and outpatient care); and

(E) the numbers of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of each clause of section 610(a)(1) of such title (shown in total and separately for veterans with service-connected disabilities for each percentile disability rating).

The report for fiscal year 1986 shall include information relating only to care furnished on or after April 1, 1986.

(3) Each report under this subsection shall be submitted not later than the February 1 following the end of the fiscal year for which it is required.

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to hospital care, nursing home care, and medical services furnished on or after April 1, 1986.

(2)(A) The provisions of sections 610 and 622 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall apply with respect to hospital and nursing home care furnished on or after April 1, 1986, to veterans furnished such care or services on March 31, 1986, but only to the extent that such care is furnished with respect to the same episode of care for which it was furnished on March 31, 1986, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe.

(B) During the months of April and May 1986, the Administrator may, in order to continue a course of treatment begun before April 1, 1986, furnish medical services to a veteran on an ambulatory or outpatient basis without regard to the amendments made by this section.

(C) For the purposes of this paragraph, the term "episode of care" means a period of consecutive days—

(i) beginning with the first day on which a veteran is furnished hospital or nursing home care; and

(ii) ending on the day of the veteran's discharge from the hospital or nursing home facility, as the case may be.

SEC. 19012. TECHNICAL REVISION OF AUTHORITY TO CONTRACT FOR HOSPITAL CARE AND MEDICAL SERVICES.

(a) REPEAL OF CONTRACT AUTHORITY FROM DEFINITION OF VETERANS' ADMINISTRATION FACILITIES.—Section 601 is amended—

(1) in paragraph (4)—

(A) by inserting "and" at the end of clause (A); and

(B) by striking out the semicolon at the end of clause (B) and all that follows through the end of such paragraph and inserting in lieu thereof a period; and

(2) by adding at the end the following new paragraph:

"(9) The term 'non-Veterans' Administration facilities' means facilities other than Veterans' Administration facilities.".

(b) REENACTMENT OF CONTRACT AUTHORITY.—(1) Chapter 17 is amended by inserting after section 602 the following new section:

"§ 603. Contracts for hospital care and medical services in non-Veterans' Administration facilities

"(a) When Veterans' Administration facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Administrator, as authorized in section 610 or 612 of this title, may contract with non-Veterans' Administration facilities in order to furnish—

"(1) hospital care or medical services to a veteran for the treatment of—

"(A) a service-connected disability; or

"(B) a disability for which a veteran was discharged or released from the active military, naval, or air service;

"(2) medical services for the treatment of any disability of—

"(A) a veteran described in section 612(a)(1)(B) of this title;

"(B) a veteran described in section 612(f)(1)(A)(ii) of this title; or

"(C) a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Veterans' Administration facilities;

"(3) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Veterans' Administration facility until such time following the furnishing of care in the non-Veterans' Administration facility as the veteran can be safely transferred to a Veterans' Administration facility;

"(4) hospital care for women veterans;

"(5) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and non-Veterans' Administration facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Veterans' Administration within the 48 contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico of the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical services;

"(6) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Veterans' Administration out-patient clinics to obviate the need for hospital admission; or

"(7) outpatient dental services and treatment, and related dental appliances, for a veteran described in section 612(b)(1)(G) of this title.

"(b) In the case of any veteran for whom the Administrator contracts to furnish care or services in a non-Veterans' Administration facility pursuant to a provision of subsection (a) of this section, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 602 the following new item:

"603. Contracts for hospital care and medical services in non-Veterans' Administration facilities.".

(c) CONFORMING AMENDMENTS.—(1) Section 612(b)(3) is amended by striking out "clause (i), (ii), or (v) of section 601(4)(C)" and inserting in lieu thereof "clause (1), (2), or (5) of section 603(a)".

(2) Section 612(b)(4) is amended by striking out "section 601(4)(C)" both places it appears and inserting in lieu thereof "section 603".

(3) Section 612A(e)(1) is amended by striking out "601(4)(C)(ii)" and inserting in lieu thereof "603(a)(2)".

(4) Section 903(a) is amended by inserting "hospital care in accordance with section 603 of this title or" after "was receiving".

(5) Section 102(b) of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166) is amended—

(A) by striking out "such section" in paragraph (1) and inserting in lieu thereof "section 603(a)(5)"; and

(B) by striking out "clause (v) of section 601(4)(C)" in paragraph (5) and inserting in lieu thereof "section 603(a)(5)".

SEC. 19013. RECOVERY OF THE COST OF CERTAIN HEALTH CARE AND SERVICES FURNISHED BY THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Section 629 is amended to read as follows:

"§ 629. Recovery by the United States of the cost of certain care and services

"(a)(1) Subject to the provisions of this section, in any case in which a veteran is furnished care or services under this chapter for a non-service-connected disability described in paragraph (2) of this subsection, the United States has the right to recover or collect the reasonable cost of such care or services (as determined by the Administrator) from a third party to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

"(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

"(A) that is incurred incident to the veteran's employment and that is covered under a workers' compensation law or plan that provides for payment for the cost of health care and services provided to the veteran by reason of the disability;

"(B) that is incurred as the result of a motor vehicle accident to which applies a State law that requires the owners or operators of motor vehicles registered in that State to have in force automobile accident reparations insurance;

"(C) that is incurred as the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person injured as the result of such a crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime; or

"(D) that is incurred by a veteran—

"(i) who does not have a service-connected disability; and

"(ii) who is entitled to care (or payment of the expenses of care) under a health-plan contract.

"(3) In the case of a health-plan contract that contains a requirement for payment of a deductible or copayment by the veteran—

"(A) the veteran's not having paid such deductible or copayment with respect to care or services furnished under this chapter shall not preclude recovery or collection under this section; and

"(B) the amount that the United States may collect or recover under this section shall be reduced by the appropriate deductible or copayment amount, or both.

"(b)(1) As to the right provided in subsection (a) of this section, the United States shall be subrogated to any right or claim that the veteran (or the veteran's personal representative, successor, dependents, or survivors) may have against a third party.

"(2)(A) In order to enforce any right or claim to which the United States is subrogated under paragraph (1) of this subsection, the United States may intervene or join in any action or proceeding brought by the veteran (or the veteran's personal representative, successor, dependents, or survivors) against a third party.

"(B) The United States may institute and prosecute legal proceedings against the third party if—

"(i) an action or proceeding described in subparagraph (A) of this paragraph is not begun within 180 days after the first day on which care or services for which recovery is sought are furnished to the veteran by the Administrator under this chapter;

"(ii) the United States has sent written notice by certified mail to the veteran at the veteran's last-known address (or to the veteran's personal representative or successor) of the intention of the United States to institute such legal proceedings; and

"(iii) a period of 60 days has passed following the mailing of such notice.

"(c)(1) The Administrator may compromise, settle, or waive any claim which the United States has under this section.

"(2)(A) The Administrator, after consultation with the Comptroller General of the United States, shall prescribe regulations for the purpose of determining the reasonable cost of care or services under subsection (a)(1) of this section. Any determination of such cost shall be made in accordance with such regulations.

"(B) Such regulations shall provide that the reasonable cost of care or services sought to be recovered or collected from a third-party liable under a health-plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Administrator it would pay for the care or services in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with facilities (other than facilities of departments or agencies of the United States) in the same geographic area.

"(C) Not later than 45 days after the date on which the Administrator prescribes such regulations (or any amendment to such regulations), the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendment).

"(d) Any contract or agreement into which the Administrator enters with a person under section 3718 of title 31 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to sections 3301 and 4132 of this title.

"(e) A veteran eligible for care or services under this chapter—

"(1) may not be denied such care or services by reason of this section; and

"(2) may not be required by reason of this section to make any copayment or deductible payment in order to receive such care.

"(f) No law of any State or of any political subdivision of a State, and no provision of any contract or other agreement, shall operate to prevent recovery or collection by the United States under this section or with respect to care or services furnished under section 611(b) of this title.

"(g) Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.

"(h)(1) Subject to paragraph (3) of this subsection, the Administrator shall make available medical records of a veteran described in paragraph (2) of this subsection for inspection and review by representatives of the third party concerned for the sole purposes of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the veteran; and

"(B) that the provision of such care or services to the veteran meets criteria generally applicable under the health-plan contract involved.

"(2) A veteran described in this paragraph is a veteran who is a beneficiary of a health-plan contract under which recovery or collection is sought under this section from the third party concerned for the cost of the care or services furnished to the veteran.

"(3) Records shall be made available under this subsection under such conditions to protect the confidentiality of such records as the Administrator shall prescribe in regulations.

"(i) For purposes of this section—

"(1)(A) The term 'health-plan contract' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid.

"(B) Such term does not include—

"(i) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of such Act (42 U.S.C. 1395j);

"(ii) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.);

"(iii) a workers' compensation law or plan described in subparagraph (A) of subsection (a)(2) of this section; or

"(iv) a program, plan, or policy under a law described in subparagraph (B) or (C) of such subsection.

"(2) The term 'payment' includes reimbursement and indemnification.

"(3) The term 'third party' means—

"(A) a State or political subdivision of a State;

"(B) an employer or an employer's insurance carrier;

"(C) an automobile accident reparations insurance carrier; or

"(D) a person obligated to provide, or to pay the expenses of, health services under a health-plan contract.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), section 629 of title 38, United States Code, as amended by subsection (a), shall apply to care and services provided on or after the date of the enactment of this Act.

(2)(A) Such section shall not apply so as to nullify any provision of a health-plan contract (as defined in subsection (i) of such section) that—

(i) was entered into before the date of the enactment of this Act; and

(ii) is not modified or renewed on or after such date.

(B) In the case of a health-plan contract (as so defined) that was entered into before

such date and which is modified or renewed on or after such date, the amendment made by subsection (a) shall apply—

(i) with respect to such plan as of the day after the date that it is so modified or renewed; and

(ii) with respect to care and services provided after such date of modification or renewal.

(3) For purposes of paragraph (2), the term "modified" includes any change in premium or coverage.

(c) REPORTS.—(1) Not later than six months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the process for and results of the implementation of section 629 of title 38, United States Code, as amended by subsection (a). Such report shall show the costs of administration (and a detailed breakdown of such costs) and the amount of receipts and collections under such section.

(2) Not later than February 1, 1988, the Administrator shall submit to such Committees a report—

(A) updating the information in the report submitted under paragraph (1); and

(B) providing information on the process and results of such implementation through at least the end of fiscal year 1987.

SUBTITLE B—COMPENSATION RATE INCREASES

SEC. 19021. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "$2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 19022. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 19023. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 19024. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$491	W-4	$703
E-2	505	O-1	621
E-3	518	O-2	640
E-4	552	O-3	686
E-5	566	O-4	725
E-6	578	O-5	799
E-7	607	O-6	900
E-8	640	O-7	973
E-9	[1] 669	O-8	1,067
W-1	621	O-9	1,145
W-2	645	O-10	[2] 1,255
W-3	664		

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $722.

[2] "If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 19025. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 19026. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 19027. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect as of December 1, 1985.

SUBTITLE C—MISCELLANEOUS PROVISIONS

SEC. 19031. STUDY OF EFFECT OF VIETNAM EXPERIENCE ON HEALTH STATUS OF WOMEN VIETNAM VETERANS.

(a) REQUIREMENT FOR EPIDEMIOLOGICAL STUDY.—(1)(A) Except as provided in paragraph (2), the Administrator of Veterans' Affairs shall provide for the conduct of an epidemiological study of any long-term adverse health effects (particularly gender-specific health effects) which have been experienced by women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era and which may have resulted from traumatic experiences during such service, from exposure during such service to phenoxy herbicides (including the herbicide known as Agent Orange), to other herbicides, chemicals, or medications that may have deleterious health effects, or to environmental hazards, or from any other experience or exposure during such service.

(B) The Administrator may include in the study conducted under this paragraph an evaluation of the means of detecting and treating long-term adverse health effects (particularly gender-specific health effects) found through the study.

(2)(A) If the Administrator, in consultation with the Director of the Office of Technology Assessment, determines that it is not feasible to conduct a scientifically valid study of an aspect of the matters described in paragraph (1)—

(i) the Administrator shall promptly submit to the appropriate committees of the Congress a notice of that determination and the reasons for the determination; and

(ii) the Director, not later than 60 days after the date on which such notice is submitted to the committees, shall submit to such committees a report evaluating and commenting on such determination.

(B) The Administrator is not required to study any aspect of the matters described in paragraph (1) with respect to which a determination is made and a notice is submitted pursuant to subparagraph (A)(i).

(C) If the Administrator submits to the Congress notice of a determination made pursuant to subparagraph (A) that it is not scientifically feasible to conduct the study described in paragraph (1)(A), this section (effective as of the date of such notice) shall cease to have effect as if repealed by law.

(3) The Administrator shall provide for the study to be conducted through contracts or other agreements with private or public agencies or persons.

(b) APPROVAL OF PROTOCOL.—(1) The study required by subsection (a) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(2) Not later than April 1, 1986, the Administrator shall publish a request for proposals for the design of the protocol to be used in conducting the study under this section.

(3) In considering any proposed protocol for use or approval under this subsection, the Administrator and the Director shall take into consideration—

(A) the protocol approved under section 307(a)(2)(A)(i) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note); and

(B) the experience under the study being conducted pursuant to that protocol.

(c) OTA REPORTS.—(1) Concurrent with the approval or disapproval of any protocol under subsection (b)(1), the Director shall submit to the appropriate committees of the Congress a report—

(A) explaining the reasons for the Director's approval or disapproval of the protocol, as the case may be; and

(B) containing the Director's conclusions regarding the scientific validity and objectivity of the protocol.

(2) If the Director has not approved a protocol under subsection (b)(1) by the last day of the 180-day period beginning on the date of the enactment of this Act, the Director—

(A) shall, on such day, submit to the appropriate committees of the Congress a report describing the reasons why the Director has not approved such a protocol; and

(B) shall, each 60 days thereafter until such a protocol is approved, submit to such committees an updated report on the report required by clause (A).

(d) OTA MONITORING OF COMPLIANCE.—(1) In order to ensure compliance with the protocol approved under subsection (b)(1), the Director shall monitor the conduct of the study under subsection (a).

(2)(A) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in subparagraph (B), a report on the Director's monitoring of the conduct of the study pursuant to paragraph (1).

(B) A report shall be submitted under subparagraph (A)—

(i) before the end of the 6-month period beginning on the date on which the Director approves the protocol referred to in paragraph (1);

(ii) before the end of the 12-month period beginning on such date; and

(iii) annually thereafter until the study is completed or terminated.

(e) DURATION OF STUDY.—The study conducted pursuant to subsection (a) shall be continued for as long after the date on which the first report is submitted under subsection (f)(1) as the Administrator determines that there is a reasonable possibility of developing, through such study, significant new information on the health effects described in subsection (a)(1).

(f) REPORTS.—(1) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (b)(1) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing—

(A) a description of the results obtained, before the date of such report, under the study conducted pursuant to subsection (a); and

(B) any administrative actions or recommended legislation, or both, and any additional comments which the Administrator considers appropriate in light of such results.

(2) Not later than 90 days after the date on which each report required by paragraph (1) is submitted, the Administrator shall publish in the Federal Register, for public review and comment, a description of any action that the Administrator plans or proposes to take with respect to programs administered by the Veterans' Administration based on—

(A) the results described in such report;

(B) the comments and recommendations received on that report; and

(C) any other available pertinent information.

Each such description shall include a justification or rationale for the planned or proposed action.

(g) DEFINITIONS.—For the purposes of this section:

(1) The term "gender-specific health effects" includes—

(A) effects on female reproductive capacity and reproductive organs;

(B) effects on reproductive outcomes;

(C) effects on female-specific organs and tissues; and

(D) other effects unique to the physiology of females.

(2) The term "Vietnam era" has the meaning given such term in section 101(29) of title 38, United States Code.

SEC. 19032. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) ESTABLISHMENT OF COMMITTEE.—Not later than February 1, 1986, the Administrator of Veterans' Affairs shall establish an advisory committee to be known as the Advisory Committee on Native-American Veterans (hereinafter in this section referred to as the "Committee").

(b) DUTIES.—The Committee shall examine and evaluate programs and other activities of the Veterans' Administration with respect to the needs of veterans who are Native Americans, including American Indians and Alaska Natives. Such examination and evaluation shall include—

(1) an assessment of the needs of such veterans with respect to health care, rehabilitation, readjustment counseling, outreach services, and other benefits and services under programs administered by the Veterans' Administration; and

(2) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(c) MEMBERS.—The Committee shall consist of—

(1) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(2) the Chief Medical Director and Chief Benefits Director of the Veterans' Administration or their representatives; and

(3) members appointed by the Administrator from the general public, including—

(A) representatives of veterans who are Native Americans, including American Indians and Alaska Natives and such veterans with service-connected disabilities; and

(B) individuals who are recognized authorities in fields pertinent to the needs of such veterans, including the specific health-care needs of such veterans and the furnishing of health-care services by the Veterans' Administration to such veterans.

(d) PARTICIPATION BY OTHER AGENCIES.—The Administrator may invite representatives of other departments and agencies of the Federal Government to participate in the meetings and other activities of the Committee.

(e) NUMBER AND PAY OF MEMBERS.—The Administrator shall determine the number and pay and allowances of the members of the Committee appointed by the Administrator.

(f) REPORTS.—(1) Not later than November 1, 1986, and November 1, 1987, the Committee shall submit to the Administrator a report containing the findings and any recommendations of the Committee regarding the matters described in subsection (b) that were examined and evaluated by the Committee during the preceding fiscal year.

(2) Not later than 60 days after receiving each such report, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Administrator considers appropriate.

(g) ALASKA NATIVE DEFINED.—For the purposes of this section, the term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(h) TERMINATION.—The Committee shall terminate 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (f)(2).

SEC. 19033. WAIVER OF CONGRESSIONAL NOTICE-AND-WAIT PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION AUTOMATED DATA PROCESSING ACTIVITIES.

(a) WAIVER.—The Administrator of Veterans' Affairs may undertake the administrative reorganization described in subsection (b) without regard to the requirements of section 210(b)(2) of title 38, United States Code.

(b) COVERED ADMINISTRATIVE REORGANIZATION.—The administrative reorganization referred to in subsection (a) is a reorganization that—

(1) involves the transfer of certain functions from the Office of Data Management and Telecommunications of the Veterans' Administration to the Department of Veterans' Benefits of the Veterans' Administration; and

(2) is described in letters dated November 1, 1985, that were submitted by the Administrator to the chairmen and ranking minority members of the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 19034. RATIFICATION OF CERTAIN TEMPORARILY EXPIRED AUTHORITIES.

(a) VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.—Any action by the Administrator of Veterans' Affairs in providing, during the ratification period, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period.

(b) CONTRACT CARE AUTHORITY IN PUERTO RICO AND THE VIRGIN ISLANDS.—Any action by the Administrator in entering into a contract applicable to the ratification period for furnishing care described in subclause (v) of section 601(4)(C) of title 38, United States Code, any action by the Administrator under such contract, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

(c) ALCOHOL AND DRUG TREATMENT AND REHABILITATION CONTRACT PROGRAM.—Any action by the Administrator in entering into a contract described in section 620A(a) of title 38, United States Code, that is applicable to the ratification period, and any action by the Administrator under such contract, is hereby ratified with respect to that period.

(d) RATIFICATION PERIOD DEFINED.—For the purposes of this section, the term "ratification period" means the period beginning on November 1, 1985, and ending on December 3, 1985.

TITLE XX—MISCELLANEOUS PROVISIONS

SEC. 20001. MISCELLANEOUS PROVISIONS.

(a) When the Senate is considering a reconciliation bill or a reconciliation resolu-

tion pursuant to section 310 of the Congressional Budget Act of 1974, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (d) shall be deemed stricken from the bill and may not be offered as an amendment from the floor. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section, as well as to waive or suspend the provisions of this subsection.

(b) No motion to waive or suspend the requirement of section 305(b)(2) of the Congressional Budget Act of 1974, as it relates to germaneness with respect to a reconciliation bill or resolution, shall be agreed to unless supported by an affirmative vote of three-fifths of the Members, duly chosen and sworn, which super-majority shall be required to successfully appeal the ruling of the Chair on a point of order raised under that section, as well as to waive or suspend the provisions of this subsection.

(c) This section shall become effective on the date of enactment of this title and shall remain in effect until January 2, 1987.

(d)(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 310 of the Congressional Budget Act of 1974 shall be considered extraneous if such provision does not produce a change in outlays or revenues, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected; (B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous; (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision.

(2) A provision shall not be considered extraneous under (1)(A) above if: (A) it is designed to mitigate the direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit; (B) it will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

And the House agree to the same.

From the Committee on the Budget, for consideration of the entire amendment and the entire House amendment to the Senate amendment, except for sections 778H, 778I, 780, 781, 783 through 789B, 789D through 789G, subpart A of part 3 of subtitle I of title VII, section 793, subsections (a), (b), (c), (f), and (g)(1) of section 794, and sections 795 and 796 of the Senate amendment, and except for sections 2502(a) and 2503 of division B of the House amendment to the Senate amendment:

WILLIAM H. GRAY III,
BUTLER DERRICK,
MICHAEL D. BARNES,
CHARLES E. SCHUMER,
BARBARA BOXER,
BUDDY MACKAY,
JIM SLATTERY,
CHESTER G. ATKINS,

From the Committee on Ways and Means, solely for the consideration of sections 144(b)(3), 204, 205, 746(e)(2)-(4), and 759, subtitles A, C-F, H, and I of title VII, part G of title IX, and part I of title IX of the Senate amendment, and of subtitles B and C of title III and section 1974 of division A, and all of division B except parts E and G of title I, of the House amendment to the Senate amendment:

SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
JIM JONES,
HAROLD FORD,
ED JENKINS,
JOHN J. DUNCAN,
BILL GRADISON,
CARROLL CAMPBELL,
WM. THOMAS,

From the Committee on Agriculture, solely for the consideration of title I and section 536 of the Senate amendment:

E DE LA GARZA,
ED JONES,
LEON E. PANETTA,
TONY COELHO,
BERKLEY BEDELL,
ED MADIGAN,
BILL EMERSON,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN,

From the Committee on Agriculture, solely for the consideration of subpart B of part 3 of subtitle I of title VII of the Senate amendment:

E DE LA GARZA,
CHARLIE ROSE,
WALTER B. JONES,
CHARLES HATCHER,
CHARLIE WHITLEY,
ROBIN TALLON,
ROBERT L. THOMAS,
LARRY J. HOPKINS,
PAT ROBERTS,
WEBB FRANKLIN,
LARRY COMBEST,

From the Committee on Agriculture, solely for the consideration of section 2502(b) of division B of the House amendment to the Senate amendment:

E DE LA GARZA,
CHARLIE ROSE,
CHARLIE WHITLEY,
LARRY J. HOPKINS,
PAT ROBERTS,

From the Committee on Armed Services, solely for the consideration of title II and section 165 of the Senate amendment, and of title I of division A of the House amendment to the Senate amendment:

LES ASPIN,
G.V. MONTGOMERY,
PAT SCHROEDER,
WM. L. DICKINSON,
BUD HILLIS,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the Senate amendment and of title II of division A of the House amendment to the Senate amendment:

FERNAND J. ST GERMAIN,
PARREN J. MITCHELL,
STAN LUNDINE,
MARY ROSE OAKAR,
BRUCE VENTO,
BARNEY FRANK,
CHALMERS P. WYLIE,
STEWART MCKINNEY,
MARGE ROUKEMA,
STEVE BARTLETT,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of subtitle A of title IV of division A of the House amendment to the Senate amendment:

FERNAND J. ST GERMAIN,
STAN LUNDINE,

From the Committee on Education and Labor, solely for the consideration of parts A through E of title IX of the Senate amendment, and of subtitle A of title III of division A of the House amendment to the Senate amendment:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
MARIO BIAGGI,
PAT WILLIAMS,
MAJOR R. OWENS,
CHARLES A. HAYES,
CARL C. PERKINS,
TERRY L. BRUCE,
JIM JEFFORDS,
E. THOMAS COLEMAN,
STEVE GUNDERSON,
PAUL B. HENRY,

From the Committee on Education and Labor, solely for the consideration of section 746(d), subtitle H of title VII, section 782, and parts G and I of title IX of the Senate amendment, and of subtitle B and C of title III of division A, and of sections 2181 and 2505 and title VI of division B, of the House amendment to the Senate amendment:

GUS HAWKINS,
WILLIAM D. FORD,
JOSEPH M. GAYDOS,
WILLIAM CLAY,
MARIO BIAGGI,
DALE E. KILDEE,
MAJOR R. OWENS,
CHARLES A. HAYES,
MERVYN M. DYMALLY,
CHESTER G. ATKINS,
JAMES M. JEFFORDS,
THOMAS E. PETRI,
MARGE ROUKEMA,
STEVE BARTLETT,
ROD CHANDLER,
RICHARD ARMEY,
HARRIS W. FAWELL,

From the Committee on Education and Labor, solely for the consideration of part F of title IX of the Senate amendment:

AUGUSTUS F. HAWKINS,
AUSTIN J. MURPHY,
BILL CLAY,
PAT WILLIAMS,
JIM JEFFORDS,
TOM PETRI,
STEVE BARTLETT,

From the Committee on Energy and Commerce, solely for the consideration of sections 706 and 713-716, parts 2-5 of subtitle A

of title VII (except for section 734), subtitle B of title VII (except for subsections (d) and (e)(2)-(4) of section 746), sections 769B, 770, 772, 774, and 782, and parts G and H of title IX of the Senate amendment, and of section 1974 of division A, and of section 2107, parts B-G of title I, and section 2302 of division B of the House amendment to the Senate amendment:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
THOMAS LUKEN,
DOUG WALGREN,
BARBARA A. MIKULSKI,
MICKEY LELAND,
CARDISS COLLINS,
RON WYDEN,
ED MADIGAN,
(for medicaid and maternal and child health only),
BOB WHITTAKER,
(for Medicare, Medicaid, and maternal and child health only),

From the Committee on Energy and Commerce, solely for the consideration of those portions of section 789C of the Senate amendment inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code:

JOHN D. DINGELL,
DENNIS E. ECKART,
RALPH M. HALL,
BILLY TAUZIN,
WAYNE DOWDY,
TOM LUKEN,
AL SWIFT,
MIKE SYNAR,
NORMAN F. LENT,
DON RITTER,
JACK FIELDS,
DAN SCHAEFER,

From the Committee on Energy and Commerce, solely for the consideration of sections 501, 502, 521-524, and 536 of the Senate amendment, of subtitles A-E of title IV and subtitles B and C of title VIII of division A of the House amendment to the Senate amendment:

JOHN D. DINGELL,
PHIL SHARP,
ED MARKEY,
DOUG WALGREN,
AL SWIFT,
MICKEY LELAND
(except for strategic petroleum reserve, shared-energy, biomass loan guarantee, and synfuels programs),
RICHARD C. SHELBY,
MIKE SYNAR,
BILLY TAUZIN,
JAMES T. BROYHILL,
BILL DANNEMEYER,
CARLOS MOORHEAD,
BOB WHITTAKER,
MICHAEL G. OXLEY,
FRED J. ECKERT,

From the Committee on Energy and Commerce, solely for the consideration of sections 403 and 404 of the Senate amendment, and subtitle F of title IV of division A of the House amendment to the Senate amendment:

JOHN D. DINGELL,
TIMOTHY E. WORTH,
JAMES H. SCHEUER,
TOM LUKEN,
AL SWIFT,
MICKEY LELAND,
CARDISS COLLINS,
MIKE SYNAR,
BILLY TAUZIN,

From the Committee on Energy and Commerce, solely for the consideration of sections 401, 402, 408, 769G, 777(h)(1), and subsections (d), (e), (g)(2) and (g)(3) of section 794 of the Senate amendment, and of subtitles G and H of title IV of division A, and of sections 2252(b) and 2402 of division B of the House amendment to the Senate amendment:

JOHN D. DINGELL,
JAMES F. FLORIO,
PHIL SHARP,
BILLY TAUZIN,
RALPH M. HALL,
WAYNE DOWDY,
BILL RICHARDSON,
JIM SLATTERY,
JIM BROYHILL,
NORMAN F. LENT,
DON RITTER,
DAN COATS,
JACK FIELDS,

From the Committee on Government Operations, solely for the consideration of subtitle G of title VII of the Senate amendment:

JACK BROOKS,
DON FUQUA,
TED WEISS,
FRANK HORTON,
ROBERT S. WALKER,

From the Committee on Government Operations, solely for the consideration of section 523 and parts C and D of title VIII of the Senate amendment, and of subtitle E of title IV of division A of the House amendment to the Senate amendment:

JACK BROOKS,
DON FUQUA,
CARDISS COLLINS,
FRANK HORTON,
AL MCCANDLESS,

From the Committee on Interior and Insular Affairs, solely for the consideration of sections 521, 522, and 531-535 of the Senate amendment, and of subtitle C of title IV, section 1542, title V, subtitles D and H of title VI, and subtitle C of title VIII, of division A of the House amendment to the Senate amendment:

MO UDALL
(except for Outer Continental Shelf programs),
JOHN F. SEIBERLING
(except for Outer Continental Shelf programs),
JIM WEAVER
(except for Nuclear Regulatory Commission fees),
GEORGE MILLER,
PHIL SHARP
(except for Outer Continental Shelf programs),
NICK RAHALL,
BRUCE F. VENTO
(except for Outer Continental Shelf programs),
JERRY HUCKABY,
SAM GEJDENSON
(except for Outer Continental Shelf programs),
DON YOUNG
(except for Nuclear Regulatory Commission fees),
MANUEL LUJAN, Jr.
(except for Nuclear Regulatory Commission fees),
ROBERT J. LAGOMARSINO
(except for Outer Continental Shelf programs, and Nuclear Regulatory fees),
RON MARLENEE
(except for Outer Continental Shelf programs, and Nuclear Regulatory fees),
CHARLES PASHAYAN, Jr.
(except for Nuclear Regulatory Commission fees),

From the Committee on the Judiciary, solely for the consideraton of section 982 and that portion of section 999 amending paragraph (2) of section 4074(c) of the Employee Retirement Income Security Act, of the Senate amendment, and of that portion of section 1458 inserting section 4041(c)(2)(B)(ii) in the Employee Retirement Income Security Act, of division A, and section 2124(b) of division B, of the House amendment to the Senate amendment:

PETER W. RODINO, Jr.,
DANIEL GLICKMAN,
DON EDWARDS,
HAMILTON FISH, Jr.,
THOMAS N. KINDNESS,

From the Committee on Merchant Marine and Fisheries, solely for consideration of sections 405, 406, 407, and 531-535 of the Senate amendment, and of titles V and VI of division A of the House amendment to the Senate amendment:

WALTER B. JONES,
MARIO BIAGGI,
GLENN M. ANDERSON,
JOHN BREAUX,
GERRY E. STUDDS,
BARBARA A. MIKULSKI,
MIKE LOWRY,
DOUGLAS H. BOSCO,

(In lieu of Mr. Hughes solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

BILLY TAUZIN,
NORMAN F. LENT,
GENE SNYDER,
DON YOUNG
(except as listed below),
BOB DAVIS,

(In lieu of Mr. Young solely for consideraton of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

WILLIAM CARNEY,
JACK FIELDS
(for purposes of OCS programs only),

From the Committee on Post Office and Civil Service, solely for the consideration of section 769G and parts A and B of title VIII of the Senate amendment, and of title VII of division A of the House amendment to the Senate amendment:

WILLIAM D. FORD,
MICKEY LELAND,
MARY ROSE OAKAR,
BENJAMIN A. GILMAN,

From the Committee on Public Works and Transportation, solely for the consideration

of title VI, sections 777(h)(2) and 1202, and those portions of section 789C inserting sections 9505(c), (d), and (e) in the Internal Revenue Code, of the Senate amendment, and of sections 1533, 1541, and title VIII of division A, and section 2252(c) of division B of the House amendment to the Senate amendment:

JAMES J. HOWARD
(except for Superfund authorization and pipeline programs),
GLENN M. ANDERSON
(except for Superfund authorization and pipeline programs),
ROBERT A. ROE
(except for Superfund authorization and pipeline programs),
NORMAN Y. MINETA
(except for Superfund authorization and pipeline programs),
JAMES L. OBERSTAR
(except Superfund authorization),
HENRY J. NOWAK
(except for Superfund authorization and pipeline programs),
BOB EDGAR
(except Superfund authorization and pipeline programs),
ROBERT A. YOUNG
(except Superfund authorization and pipeline programs),
NICK RAHALL
(except Superfund authorization and pipeline programs),
GENE SNYDER
(except Superfund authorization and pipeline programs),
JOHN PAUL HAMMERSCHMIDT
(except Superfund authorization),
BUD SHUSTER
(except Superfund authorization and pipeline programs),
ARLAN STANGELAND
(except Superfund authorization),
NEWT GINGRICH
(except Superfund authorization and pipeline programs),
BILL CLINGER
(except Superfund authorization and pipeline programs),

(In lieu of Mr. Rahall solely for the consideration of section 1541 and subtitle B of title VIII of division A of the House amendment to the Senate amendment):

JOHN BREAUX,

From the Committee on Science and Technology, solely for the consideration of sections 406(a)-(c), (e)-(g), and (i) of the Senate amendment:

DON FUQUA,
JAMES H. SCHEUER,
TIM WORTH,
MANUEL LUJAN, Jr.,
CLAUDINE SCHNEIDER,

From the Committee on Small Business, solely for the consideration of title X of the Senate amendment and of title IX of division A of the House amendment to the Senate amendment:

PARREN J. MITCHELL,
JOSEPH P. ADDABBO,
JOSEPH M. McDADE,
SILVIO O. CONTE,

From the Committee on Veterans' Affairs, solely for the consideration of section 205 and title XI of the Senate amendment, and of title X of division A of the House amendment to the Senate amendment:

G.V. MONTGOMERY,
BOB EDGAR
(solely for requirement of Medicare providers to accept VA beneficiaries),
DOUGLAS APPLEGATE
(solely for requirement of Medicare providers to accept VA beneficiaries),
JOHN PAUL HAMMERSCHMIDT,
CHALMERS P. WYLIE,

Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

JESSE HELMS,
BOB DOLE,
RICHARD G. LUGAR,
THAD COCHRAN,
ED ZORINSKY,
PATRICK LEAHY,
JOHN MELCHER,

From the Committee on Finance—general conferees:

BOB PACKWOOD,
W.V. ROTH, Jr.,
J.C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
LLOYD BENSTEN,
SPARK M. MATSUNAGA,

From the Committee on Armed Services:

SAM NUNN,

From the Committee on Veterans' Affairs:

FRANK H. MURKOWSKI,
ALAN K. SIMPSON,
ALAN CRANSTON,

From the Committee on Finance—for CHAMPUS Medicare Subconference only:

DAVE DURENBERGER,
MAX BAUCUS,

From the Committee on Banking, Housing, and Urban Affairs:

JACK GARN,
JOHN HEINZ,
CHIC HECHT,

From the Committee on Commerce, Science, and Transportation:

J.C. DANFORTH,
BOB PACKWOOD,
BARRY GOLDWATER,
LARRY PRESSLER,
SLADE GORTON,
TED STEVENS,
FRITZ HOLLINGS,
RUSSELL LONG,
DANIEL K. INOUYE,
WENDELL FORD,
DON RIEGLE,

From the Committee on Energy and Natural Resources—general conferees:

JAMES A. McCLURE,
PETE V. DOMENICI,
MALCOLM WALLOP,
J. BENNETT JOHNSTON,
WENDELL H. FORD,

From the Committee on Energy and Natural Resources—conferees on title VI, section 6701 only:

JAMES A. McCLURE,
MARK O. HATFIELD,
PETE V. DOMENICI,
J. BENNETT JOHNSTON,
WENDELL H. FORD,

From the Committee on Commerce, Science, and Transportation—conferees on title VI, section 6701 only:

BOB PACKWOOD,
ERNEST F. HOLLINGS,
RUSSELL B. LONG,

From the Committee on Environment and Public Works:

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
AL SIMPSON,
STEVE SYMMS,
LLOYD BENTSEN,
QUENTIN N. BURDICK,
FRANK R. LAUTENBERG,

From the Committee on Labor and Human Resources—general conferees:

ORRIN HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
EDWARD M. KENNEDY,
CLAIBORNE PELL,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

(For the purposes of subconference No. 18 only):

ORRIN HATCH,
DON NICKLES,
STROM THURMOND,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,

From the Committee on Finance—for PBGC and ERISA Subconference only:

BOB PACKWOOD,
JOHN CHAFEE,
JOHN HEINZ,
GEORGE MITCHELL,
DANIEL PATRICK MOYNIHAN,

From the Committee on Finance—for Private Health Insurance Coverage Subconference only:

JOHN HEINZ,
DAVE DURENBERGER,
MAX BAUCUS,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

ORRIN HATCH,
DON NICKLES,
STROM THURMOND,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,

From the Committee on Environment and Public Works:

(For Superfund authorization only):

JOHN H. CHAFEE,
LLOYD BENTSEN,

From the Committee on Governmental Affairs:

W.V. ROTH, Jr.,
TED STEVENS,
WILLIAM S. COHEN,
TOM EAGLETON,
CARL LEVIN,
ALBERT GORE, Jr.,

From the Committee on the Budget—general conferees:

PETE V. DOMENICI,
W.L. ARMSTRONG,

NANCY LANDON KASSEBAUM,
RUDY BOSCHWITZ,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
HOWARD M. METZENBAUM,
From the Committee on Small Business:
LOWELL P. WEICKER, Jr.,
SLADE GORTON,
DALE BUMPERS,
Managers of the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AGRICULTURE PROGRAMS

The Senate amendment included agriculture provisions relating to agricultural exports, food stamps and commodity distribution, and agricultural credit.

The House bill contained no similar provisions.

The Conference substitute deletes the Senate provisions and substitutes language providing that the expenditures and outlays of Titles XI and XIII of the Food Security Act of 1985 shall be counted for purposes of determining savings in this reconciliation legislation. The provisions contained in the Senate reconciliation language have been considered by the Congress within the context of the conference on H.R. 2100, the Food Security Act of 1985.

TOBACCO SUPPORT PROGRAM

(1) Findings and purposes

(a) The Senate amendment sets forth certain findings concerning the importance of maintaining a viable tobacco price support and production adjustment program and the reasons necessitating a reform in the current program. (Sec. 792.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment states that the purposes of the bill are—

(1) to encourage cooperation among tobacco producers and purchasers and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, and the size of producer associations' inventories;

(2) to adjust the method by which price support levels and production quotas are calculated to reflect market conditions;

(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of the producer associations;

(4) to provide that purchasers and producers of domestic tobacco will share equally in the cost of maintaining the tobacco price support program; and

(5) to expedite reform of the system of grading tobacco. (Sec. 792.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Price support adjustments

(a) The Senate amendment establishes the price support level for the 1985 crop of Burley tobacco at $1.449 per pound. (Sec. 792A.)

The House bill contains no comparable provision.

The Conference substitute establishes the price support level for the 1985 crop of Burley tobacco at $1.488 per pound, in accordance with the provisions of Public Law 99-157, and establishes the price support level for the 1986 crop of Flue-cured tobacco at $1.438 per pound and the price support level for the 1986 crop of Burley tobacco at $1.488 per pound. The House conferees expressed concern that the level of price supports in the Senate amendment was inadequate.

(b) The Senate amendment establishes the price support level for the 1985 and subsequent crops of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers at the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which (1) the support level for the crop for which the determination is being made, as determined under section 106(b) of the Agricultural Act of 1949, is greater or less than (2) the support level for the immediately preceding crop, as determined under such section, as that difference may be adjusted by the Secretary of Agriculture under section 106(d) of such Act if the support level under clause (1) is greater than the support level under clause (2).

The Senate amendment also provides that, if requested by the board of directors of the association through which price support for the respective kind of tobacco specified above is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco. (Sec. 792A.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision but makes it applicable to the 1986 and subsequent crops since the 1985 price support level for these kinds of tobacco has already been announced.

(c) The Senate amendment establishes the price support level for the 1986 and subsequent crops of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers. Under this provision, the support level would be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

(1) 66.7 percent of the amount by which the average price received by farmers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary during the 5 marketing years immediately preceding the marketing year for which the determination is being made (excluding the high and low years) is greater or less than the average market price received by farmers for such tobacco on the United States auction markets during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made (excluding the high and low years); and

(2) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco growers during the calendar year immediately preceding the year in which the determination is made.

For the purposes of this provision, the average market price for Burley tobacco for the 1984 and each prior applicable marketing year would be reduced by $0.30 per pound, and the average market price for Flue-cured tobacco for the 1985 and each prior applicable marketing year would be reduced by $0.30 per pound. Also, the support level for the 1985 crop of Flue-cured tobacco would be deemed to be $1.399 per pound.

The Senate amendment specifies that the index of prices paid by tobacco farmers is to include items representing general, variable costs of producing tobacco, as determined by the Secretary. However, such index is not to include the cost of land, risk, overhead, management, purchase or leasing of quota, marketing contributions or assessments, and other costs not directly related to the production of tobacco. (Sec. 792A.)

The House bill contains no comparable provision.

The Conference substitute provides that the formula for making future adjustments in the price support levels for Flue-cured and Burley tobacco, as contained in the Senate provision, is applicable to the 1987 and subsequent crops of such tobacco. The Conference substitute establishes, for purposes of calculating future adjustments in the price support levels for Flue-cured and Burley tobacco, that the average market price for Burley tobacco for the 1985 marketing year is to be reduced by $0.039 per pound and the average market price for Flue-cured tobacco for the 1985 marketing year is to be reduced by $0.25 per pound. The Conference substitute deletes the provision that deems the price support level for the 1985 crop of Flue-cured tobacco to be $1.399 per pound.

(d) The Senate amendment, effective for the 1986 and subsequent crops of tobacco, strikes out section 106(g) of the Agricultural Act of 1949, which gives the Secretary authority to lower the price support on certain low quality grades of Flue-cured tobacco if requested by the board of directors of the producer association that makes price support available to producers of Flue-cured tobacco. (Sec. 792A)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(3) Determination of marketing quotas for Flue-cured and Burley tobacco

(a) The Senate amendment defines the term "reserve stock level" to be the greater of 100 million pounds (farm sales weight), in

the case of Flue-cured tobacco, and 50 million pounds, in the case of Burley tobacco, or 15 percent of the national marketing quota for Flue-cured or Burley tobacco, respectively, for the marketing year immediately preceding the marketing year for which the level is being determined. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment defines the term "domestic manufactuer of cigarettes" to mean a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(c) The Senate amendment provides that for the 1986 and each subsequent crop of Flue-cured tobacco, the national marketing quota for a marketing year would be the amount of Flue-cured tobacco, as determined by the Secretary of Agriculture, that is not more than 103 percent nor less than 97 percent of the total of—

(1) the aggregate of the amounts of Flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on the United States auction markets or from producers during the marketing year;

(2) the average annual exports of Flue-cured tobacco during the 3 preceding marketing years; and

(3) the amount, if any, of Flue-cured tobacco that the Secretary, in his discretion, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that makes price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

In determining the amount of Flue-cured tobacco necessary to establish the inventory of the producer association at the reserve stock level under clause (3) above, the Secretary must provide for attaining the reserve stock level over a period of 5 years. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that (1) deletes the requirement that the reserve stock level be attained over a period of 5 years; and (2) establishes that for each of the 1982 through 1989 marketing years for Flue-cured tobacco, the national marketing quota for each such marketing year will not be less than 94 percent of the national marketing quota for the preceding marketing year; and for each of the 1990 through 1993 marketing years for Flue-cured tobacco, the national marketing quota for each such marketing year will not be less than 90 percent of the national marketing quota for the preceding marketing year. The House conferees expressed concern that the national marketing quota under the Senate amendment would have resulted in large reductions annually, reflecting the impact of the "buy-out."

It is the intention of the conferees to create a quota setting formula that will establish, as nearly as possible, a quota for the marketing year equal to actual demand of purchasers from that year's crop, plus or minus the amount necessary to maintain the prescribed reserve stock level, as well as the average exports for the 3 preceding years. The conferees encourage the Secretary of Agriculture to study carefully the recordkeeping requirements necessary to determine accurate future marketing quotas for Flue-cured and Burley tobacco.

(d) The Senate amendment deletes the limitation of 10 percent on any downward adjustment in the national marketing quota for Burley tobacco. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(e) The Senate amendment provides that for the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year would be the amount of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(1) the aggregate of the amounts of Burley tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on the United States auction markets or from producers during the marketing year;

(2) the average annual exports of Burley tobacco during the 3 preceding marketing years; and

(3) the amount, if any, of Burley tobacco that the Secretary, in his discretion, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

In determining the amount of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under clause (3) above, the Secretary must provide for attaining the reserve stock level over a period of 5 years. Also, any downward adjustment in the inventories of Burley tobacco of the producer associations under clause (3) above could not exceed the greater of 35 million pounds or 50 percent of the amount by which the total inventories of Burley tobacco of the producer associations exceed the reserve stock level for Burley tobacco. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that (1) clarifies that the 5-year period for attaining the reserve stock level applies only to the initial attainment of the reserve stock level; and (2) establishes that for each of the 1986 through 1989 marketing years for Burley tobacco, the national marketing quota for each such marketing year will not be less than 94 percent of the national marketing quota for the preceding marketing year; and for each of the 1990 through 1993 marketing years for Burley tobacco, the national marketing quota for each such marketing year will not be less than 90 percent of the national marketing quota for the preceding marketing year.

The conferees' concern with respect to the determination of future national marketing quotas (as noted in connection with item (c) above) applies to both Burley and Flue-cured tobacco.

(f) The Senate amendment makes inapplicable to Burley tobacco the limitation of 90 percent on the minimum national factor that is used in determining the farm marketing quota for each year under a poundage quota system. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(g) The Senate amendment requires, no later than December 1 of any marketing year with respect to Flue-cured tobacco (December 1, 1985, with respect to the 1986 crop) and January 15 of any marketing year with respect to Burley tobacco (January 15, 1986, with respect to the 1986 crop), each domestic manufacturer of cigarettes to submit to the Secretary a statement, by kind, of the amount of Flue-cured and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year. On receipt, the Secretary would aggregate the amounts of intended purchases in a manner that would not allow the identification of any manufacturer's amount of intended purchases.

The Senate amendment also provides that if any domestic manufacturer of cigarettes fails to submit to the Secretary the required statement of its amount of intended purchases, the Secretary would establish the amount of the intended purchases to be attributed to such manufacturer based on (1) the amount of intended purchases submitted by the manufacturer for the preceding marketing year, or (2) if the manufacturer did not submit a statement of its amount of intended purchases for the preceding marketing year, the most recent information available to the Secretary.

The Senate amendment requires that all information with respect to the amount of intended purchases submitted by domestic manufacturers of cigarettes must be kept confidential by officers and employees of the Department of Agriculture. Such information may only be disclosed by such persons in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving enforcement of the Agricultural Adjustment Act of 1938, except that the name of any person violating any provision of the Act, together with a statement of the particular provisions of such Act that were violated, could be published. Criminal penalties of a $1,000 fine or 1-year imprisonment, or both, and removal from office, are provided for violation of this provision by Department of Agriculture employees.

The Senate amendment exempts statements of the amount of intended purchases that are submitted under this provision from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act). (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that establishes the deadline for submission of the domestic cigarette manufacturer's statement of intended purchases from the 1986 crops of Flue-cured and Burley tobacco as 14 days from the date of enactment of this Act, on January 15, 1986, whichever is later, in the case of Burley tobacco.

(4) Marketing quota announcement date

The Senate amendment changes the date by which the Secretary of Agriculture must proclaim or announce the national marketing quota for any kind of tobacco other than Flue-cured and Burley tobacco from February 1 to March 1 prior to the marketing year in question. (Sec. 792C.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that establishes the deadline for the proclamation and announcement of the 1986 national marketing quotas for Flue-cured and Burley tobacco as 21 days from the date of enactment of this Act, or, in the case of Burley tobacco, February 1, 1986, whichever is later.

(5) Reduction in excess tobacco not subject to marketing penalty

(a) The Senate amendment, effective for the 1986 and subsequent crops of tobacco, reduces the amount of Flue-cured and Burley tobacco that may be marketed without penalty when acreage-poundage or poundage farm marketing quotas are in effect from 110 to 103 percent of the farm marketing quota for the farm. (Sec. 792D.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment reduces from 110 to 103 percent of the farm marketing quota the amount of tobacco marketed from a farm on which price support would be made available when acreage-poundage or poundage marketing quotas are in effect. (Sec 792D.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(6) Purchase requirements; penalty

The Senate amendment requires each domestic manufacturer of cigarettes, at the conclusion of each marketing year, on or before a date prescribed by the Secretary of Agriculture, to submit to the Secretary a statement, by kind, of the amount of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year. The statement must include the amount of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer associations that make price support available to producers of Flue-cured or Burley tobacco.

The Senate amendment subjects to a penalty any domestic manufacturer of cigarettes that the Secretary determines, after notice and opportunity for a hearing, has failed to purchase during a marketing year on the United States auction markets, from producers, or from the inventories from the 1985 and subsequent crops of the producer associations a quantity of Flue-cured and Burley quota tobacco equal to at least 90 percent of the amount of the intended purchases of such tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year for purposes of determining the national marketing quota for such tobacco.

If the total amount of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the amount of intended purchases of each domestic manufacturer of cigarettes for purposes of determining the penalty would be reduced by the percentage by which the total amount marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings and undermarketings) for that kind of tobacco for the marketing year. For purposes of this section, the term "marketed" would include disposition of tobacco by cosigning the tobacco to a producer association for a price support advance.

The Senate amendment provides that the amount of any penalty to be imposed on a manufacturer under this provision would be equal to (1) twice the per pound assessment (as determined under section 106A or 106B of the Agricultural Act of 1949) for the kind of tobacco involved, multiplied by (2) the amount by which the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories from the 1985 and subsequent crops of the producer associations of Flue-cured and Burley quota tobacco, respectively, for the marketing year are less than 90 percent of the amount of intended purchases of such kinds of tobacco submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year.

The Senate amendment requires that an amount equivalent to the penalty collected by the Secretary under this provision be transmitted by the Secretary to the appropriate producer association that makes price support available to producers of Flue-cured or Burley tobacco, as the case may be, for deposit in such association's No Net Cost Fund or Account.

The Senate amendment provides that the provisions relating to confidentiality of information submitted by domestic manufacturers of cigarettes with respect to intended purchases of tobacco and exemption of such information from disclosure under the Freedom of Information Act apply to information submitted by such manufacturers with respect to the amount of purchases of Flue-cured and Burley quota tobacco during a marketing year.

The Senate amendment defines the term "quota tobacco" as used in this provision to mean any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers. (Sec. 792E.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and adds a new provision that permits, with respect to the 1985 and subsequent crops of Burley tobacco, the approval of agreements involving the lease and transfer of Burley tobacco quotas filed after July 1 if the county ASC committee determines, with the concurrence of the State ASC Committee, that (1) all interested parties agreed to such lease and transfer agreement before July 1 and (2) the failure to file a record of the lease and transfer was not a result of gross negligence on the part of any party to such agreement.

(7) Assessment to no net cost funds or accounts

(a) The Senate amendment amends section 106A of the Agricultural Act of 1949 to provide that the Secretary of Agriculture shall require that each purchaser of Flue-cured and Burley quota tobacco pay an assessment to the producer association that makes price support available to producers of that respective kind of tobacco for deposit in the association's No Net Cost Tobacco Fund. The term "purchaser" is defined to mean any person who purchases in the United States, either directly or indirectly for the person's own account or for the account of another, Flue-cured or Burley quota tobacco. The assessment would be in an amount determined from time to time by the association with the approval of the Secretary and would be paid with respect to all purchases of Flue-cured and Burley tobacco that is marketed by producers from a farm, including purchases of such tobacco from the 1986 and subsequent crops from the producer association.

The amount of the producer contributions and purchaser assessments to be paid under section 106A of the Act of 1949 is to be determined by the Secretary in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining an association's Fund. In making such determination with respect to purchaser assessments, however, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco would be taken into account.

The Secretary is to approve the amount of purchaser assessments determined by an association only if the Secretary determine that such amount (in addition to the amount of the producer contributions to the Fund) will result in accumulation of a Fund adequate to reimburse the Commodity Credit Corporation for any net losses the Corporation may sustain under its loan agreements with the association.

The Secretary must also require that any producer contribution or purchaser assessment to be paid under section 106A of the 1949 Act is to be collected—

(1) from the person who acquired the tobacco involved from the producer, but an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer in case the tobacco is marketed by sale;

(2) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent who may deduct an amount equal to the producer contribution from the price paid to the producer and who may add an amount equal to the purchaser asssessment to the price paid by the purchaser; and

(3) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer who may add an amount equal to the purchaser assessment to the price paid by the purchaser.

The Senate amendment also provides that, effective for the 1986 and subsequent crops, the loan agreements between the Commodity Credit Corporation and an association must provide that if the Secretary determines that the amount in the Fund or any net gains on tobacco pledged by the association as security for price support loans exceeds the amounts necessary for the purposes specified in section 106A of the 1949 Act, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under section 106A of the 1949 Act on terms and conditions established by the association, with the approval of the Secretary. (Sec. 792F.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. The House conferees expressed concern that the Senate provision does not address producers' uncertainty with respect to future assessments, and fails to apply an equal assessment on imported tobacco.

(b) The Senate amendment amends section 106B of the Agricultural Act of 1949 to require that, if a No Net Cost Tobacco Account is established for an association under section 106B, the Secretary must require that each purchaser of Flue-cured and Burley quota tobacco must pay an assessment to the Commodity Credit Corporation for deposit in the association's Account. The term "purchaser" is defined to mean any person who purchases in the United States, either directly or indirectly for the person's own account or for the account of another, Flue-cured or Burley quota tobacco in the United States. The assessment would be determined by the Secretary in consultation with the association and would be paid with respect to all purchases of Flue-cured and Burley tobacco that is marketed by producers from a farm, including purchases of such tobacco from the 1986 and subsequent crop from the association.

The amount of the assessment to be paid by producers and purchasers of tobacco is to be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the association's Account. In making such determination with respect to purchasers assessments, however, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco would be taken into account. Also, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco is to be determined without regard to any net losses that the Commodity Credit Corporation may sustain under its loan agreements with associations with respect to the 1983 crop of such tobacco.

Under the Senate amendment any assessment to be paid by a producer or a purchaser under section 106B would be collected from the person who acquired the tobacco involved from such producer, but an amount equal to the producer assessment could be deducted by the purchaser from the price paid to the producer in case such tobacco is marketed by sale. However, if tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or other agent, both the producer and the purchaser assessment would be collected from such warehouseman or agent who could deduct an amount equal to the producer assessment from the price paid to the producer and who could add an amount equal to the purchaser assessment to the price paid by the purchaser. Also, if tobacco is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment would be collected from the producer who could add an amount equal to the purchaser assessment to the price paid by the purchaser. (Sec. 792F.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees encourage the Secretary of Agriculture to use funds from the no-net-cost assessments collected from producers on the 1985 Burley tobacco crop as (provided for in P.L. 99-157) to offset the producers' liability for potential losses associated with the 1982 and 1984 crops of Burley tobacco. In the event that there are no potential losses on the 1982 and 1984 Burley tobacco crops for which producers are responsible, the boards of directors of the Burley tobacco producer associations may determine, with the approval of the Secretary of Agriculture, how such funds may be used.

(c) The Senate amendment provides that each person who fails to collect any contribution or assessment as required by section 106A or 106B of the 1949 Act and remit such contribution or assessment to the producer association or the Commodity Credit Corporation, as the case may be, at such time and in such manner as may be prescribed by the Secretary, is liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs. The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the failure was unintentional or without knowledge on the part of the person concerned. Any penalty may be assessed by the Secretary only after notice and opportunity for a hearing.

Any person against whom such a penalty is assessed may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after the penalty is imposed.

An amount equivalent to any such penalty collected by the Secretary must be transmitted by the Secretary to the appropriate association or to the Commodity Credit Corporation, as the case may be, for deposit in the appropriate association's Fund or Account. (Sec. 792F.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(8) Exemption from rulemaking

The Senate amendment requires the Secretary of Agriculture to implement the provisions of the Senate amendment without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary. (Sec. 792F(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(9) Purchase of inventory stock

The Senate amendment requires the producer association that makes price support available to producers of Flue-cured tobacco to offer to sell its stocks of Flue-cured tobacco from the 1976 through 1984 crops at the base prices, including carrying charges, in effect as of the date of the offer, reduced by 90 percent for Flue-cured tobacco from the 1976 through 1981 crops and reduced by 10 percent for Flue-cured tobacco from the 1982 through 1984 crops. The purchasers of the 1976 through 1984 crops of Flue-cured tobacco are to pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this provision to the date that such tobacco is removed from the inventory of the association.

The Senate amendment requires each producer association that makes price support available to producers of Burley tobacco to offer to sell its stocks of Burley tobacco from the 1982 crop at the listed base price in effect as of July 1, 1985, and to offer to sell its stocks of Burley tobacco from the 1984 crop at the assocications' costs for such tobacco as of the date of enactment of the bill. Also, purchasers of the 1982 crop of Burley tobacco are to pay the full carrying charges that have accrued to such tobacco, and purchasers of the 1984 crop of Burley tobacco are to pay the full carrying charges that have accrued to such tobacco from the date of enactment of the bill to the date such tobacco is removed from the inventories of the associations.

The Senate amendment requires no later than 30 days after the date of enactment of the bill, that the Commodity Credit Corporation acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco. The Corporation is then to offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation deems appropriate. If this tobacco is not sold within 2 years from the date the Corporation calls the loans, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco at the associations' costs, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent. Neither tobacco producers nor tobacco purchasers would be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

The Senate amendment authorize domestic manufacturers of cigarettes to enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, as set forth in the bill. To be eligible for the reductions in price, the manufacturers would have to enter into such agreements as soon as practicable, but no later than 90 days, after the date of enactment of the bill. Such agreements must provide that, over a period of time, each participating domestic manufacturer of cigarettes must purchases a percentage of the stocks of Flue-cured and Burley tobacco held by the producer associations at the close of the 1984 marketing year, or with respect to the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under the bill. The period of time over which the purchases would be made could not exceed 8 years from the date of enactment of the bill with respect to Flue-cured tobacco, 5 years from the date of enactment of the bill with respect to Burley tobacco from the 1982 and 1984 crops, and 5 years from the date the Commodity Credit Corporation offers the 1983 crop of Burley tobacco for sale to domestic manufacturers of cigarettes with respect to the 1983 crop of Burley tobacco.

The percentage to be purchased by each participating manufacturer is to be at least equal to such manufacturer's respective percentage of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture on the basis of the monthly reports ("Manufacturer of Tobacco Products—Monthly Reports") submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

The amount of tobacco to be purchased by each participating manufacturer is to be determined annually and would be based on the manufacturer's percentage of net cigarettes manufactured for use multiplied by the appropriate annual amount to be withdrawn from the inventories of the producer associations or the Commodity Credit Corporation. The appropriation annual amount to be withdrawn from inventories would be—

(1) 12½ percent of the inventories of Fluecured tobacco from the 1976 through 1984 crops on hand on the date of enactment of the bill;

(2) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on the date of enactment of the bill; and

(3) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date 2 years after the call of the loans on such tobacco by the Corporation.

Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this provision in any year of the buy-out period that exceed the amount of the manufacturer's purchases required under the agreement would be applied against future purchases required of such manufacturer.

The Senate amendment provides that in carrying out this provision, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation as may be necessary or appropriate to effectuate the provision. Each agreement entered into under this provision must be submitted to the Secretary for review and approval. Agreements with producer associations would be submitted by the association. No agreement could become effective until approved by the Secretary, and the Secretary may not approve any such agreement unless the Secretary has determined that—

(1) the agreement will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement and is otherwise consistent with the purposes of the bill; and

(2) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

The Senate amendment also provides that provisions relating to confidentiality of information submitted by cigarette manufacturers with respect to intended purchases of tobacco and exemption of such information from the Freedom of Information Act would apply to information submitted by domestic manufacturers of cigarettes with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. (Sec. 792G.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(10) Review of tobacco grading system and disaster crop designation

The Senate amendment requires the Secretary of Agriculture to conduct a study of the methods and procedures for grading tobacco marketed in the United States, including an evaluation of—

(1) the extent to which grades assigned to tobacco accurately reflect the quality of such tobacco;

(2) the extent to which the number of grades of tobacco affects the operation of the grading system; and

(3) the competence and independence of tobacco graders.

The Secretary is also required to study the feasibility and desirability of providing for a grade that would be used to designate tobacco that is of such poor quality as a result of a natural disaster as to affect substantially its marketability. As part of this study the Secretary would be required to look at the feasibility and desirability of establishing a price support level, if any, for such tobacco which may be adjusted by the Secretary as necessary to facilitate the sale of such tobacco and protect the no net cost funds or accounts.

Within 120 days after the enactment of the bill, the Secretary is to report the results of these studies, together with any recommendations for necessary legislation, to the House and Senate agriculture committees. As soon as practicable after submission of this report, but no later than the opening of the marketing season for the 1986 crop of Flue-cured tobacco, the Secretary is to implement any recommendations made in such report that may be implemented by the Secretary under existing authority. (Sec. 792H.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(11) Investment of tobacco inspection fees

The Senate amendment authorizes the investment of the fees and charges collected for providing inspection services under the Tobacco Inspection Act. Such fees and charges could be invested by the Secretary of Agriculture in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity would be used to pay the expenses of the Secretary of Agriculture incident to providing services under the Tobacco Inspection Act or reinvested in the manner authorized in the bill. (Sec. 792I.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(12) Effective date

The Senate amendment provides that, except as otherwise provided in the subpart, the subpart and the amendments made by the subpart are to become effective on the date of enactment of the subpart. (Sec. 792J.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS

The House bill contained a provision (sec. 1101) that would authorize the United States to collect from a third-party payer the reasonable cost of care provided in medical facilities of the uniformed services. "Third-party payer" includes both insurance underwriters and private employers who offer self-insured or partially self-insured/partially underwritten health insurance plans. Such collection would be authorized only in the case of a non-active duty beneficiary.

The Senate amendment contained a provision (sec. 203) similar to section 1101 of the House bill, except the collection authority would be limited to fiscal years 1986 and 1987.

The Senate amendment also contained two provisions dealing with military retirement. Section 201 would place a ceiling on the total of basic pay and retired pay accrual charge that would require a $2.9 billion reduction in the accrual charge for the military retirement system. Section 202 would require the Secretary of Defense to submit a report (including draft legislation) proposing two separate plans to change the military retirement system: one of the proposed plans would consist only of changes in the military retirement system other than changes in the procedure for periodic cost-of-living adjustments in retired pay. Each proposal would have to be sufficient to reduce the accrual charge by $2.9 billion.

The Senate amendment also contained two provisions (sec. 204 and 205) dealing with the linkage of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) to Medicare. These provisions are discussed under Title ——.

The House recedes with amendments.

The conferees agree to drop sections 201 and 202 of the Senate amendment because identical provisions were enacted as sections 666 and 667 of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

The conferees agree to retain the provision to bill third-party payers for the cost of medical care provided to non-active duty beneficiaries in military medical facilities. This provision would become permanent law, but would be applicable only to inpatient medical care. Once the inpatient collection process is operational, the conferees intend to review the program to determine the feasibility and cost-effectiveness of extending this coordination of benefits requirement to outpatient services as well. Authority to collect would become effective on October 1, 1986, and would apply to any insurance, medical service, or health plan agreement entered into, amended or renewed on or after the date of enactment of this act.

The reasonable cost of inpatient medical care to be collected would be determined in accordance with regulations prescribed by the Secretary of Defense. In such regulations, the Secretary of Defense may utilize the per diem charge currently used for collections under the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), diagnosis related groups, fee schedules, or such other methodology determined appropriate by the Secretary. Regardless of the methodology, however, the reasonable cost collected from a third-party payer should not exceed an amount equal to the prevailing rate that the third-party payer can demonstrate to the satisfaction of the Secretary of Defense it would pay under valid contractual arrangements with other facilities or providers within the same geographic area for similar service or services. The conferees want to ensure that Department of Defense collection practices are consistent with and do not impede cost containment initiatives undertaken by the private sector.

For the first year, funds collected would be returned to the Treasury. When the Department of Defense and the military services successfully implement a program of collections and develop an accounting system that is capable of tracking the level of funds collected and identifying the disposition of those funds within the military medical care system, the conferees contemplate that the Congress will be prepared to

review the Department of Defense's request to permit the funds to be returned to the appropriation account from which the care was provided, rather than to the Treasury. The conferees further contemplate that the progress made on such an accounting system will be reviewed next year.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1985.

Hon. LES ASPIN,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the reconciliation provisions of subconferences four and five as of December 13, 1985.

The provision in subconference four authorizes the federal government to recover from third-party health insurers the cost of inpatient medical care provided to dependents of active-duty military members, military retirees, and retirees' dependents when these patients are covered by private health insurance, effective October 1, 1986.

The provision in subconference five requires institutions wishing to participate in Medicare to accept Civilian Health and Medical Care Program for the Uniformed Services (CHAMPUS) patients at the same reimbursement rates applied to Medicare users, effective January 1, 1987. The savings of both these provisions fall within function 050.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner.)

Attachment.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 4, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990
Authorizations: Third-party reimbursement:					
Budget authority	0	−160	−200	−36	−215	−235
Outlays	0	−160	−200	−360	−215	−235

SUBCONFERENCE 5, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990
Authorizations: CHAMPUS					
Budget authority	0	−105	−160	−265	−175	−185
Outlays	0	−85	−150	−235	−170	−185

1. Study of use by CHAMPUS of Medicare Prospective Payment System (section 204 of the Senate amendment)

Present law

Section 634 of the Department of Defense Authorization Act of 1985, Public Law 98-525, required the Secretary of Defense and the Secretary of Health and Human Services to study jointly the possible effects of the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services like the one used for medicare.

The report, with recommendations, was to be submitted to the Committees on Armed Services and Finance in the Senate, and the Committees on Armed Services and Ways and Means in the House of Representatives no later than February 28, 1985. Although the Department of Defense transmitted its portion of the study to the Department of Health and Human Services, the joint report has not yet been sent to Congress.

House bill

No provision.

Senate amendment

The Secretary of Defense and the Secretary of Health and Human Services would be required to study jointly the possible effects of the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services like the one use for medicare. The study would address: (1) the advisability and feasibility of requiring by law that a hospital participate in the CHAMPUS program as a condition of participating in medicare; and (2) the changes that might be expected, if such a system were adopted, in the CHAMPUS patient workload and the CHAMPUS aggregate payment levels to various segments of the provider community (e.g. hospitals and nursing homes).

The report with recommendations would be submitted to the Committees on Armed Service and Finance in the Senate and the Committees on Armed Services and Ways and Means in the House of Representatives no later than December 1, 1985.

Conference agreement

House recedes with an amendment. The date for submission of the report would be extended until June 30, 1986. The conferees expect the Secretaries to issue the report in a timely fashion.

2. Requirement of Medicare providers of Hospital services to participate in CHAMPUS and/or CHAMPVA programs. (section 205 of the Senate amendment)

Present law

Current law contains no requirement that medicare-participating hospitals accept beneficiaries of CHAMPUS or CHAMPVA. Current law imposes no requirement on such hospitals regarding acceptance of payment amounts under these programs as payment in full.

Section 931 of the Department of Defense Authorization Act for fiscal year 1984 included a provision authorizing CHAMPUS and CHAMPVA to utilize medicare reimbursement procedures in paying for care under these programs.

House bill

No provision.

Senate amendment

The bill would require a medicare-participating hospital to accept and also participate in the CHAMPUS and CHAMPVA programs and to accept payment made under both programs as payment in full.

The bill would be effective, generally on October 1, 1985.

Conference agreement

House recedes with an amendment. Admissions practices, payment methodologies and amounts would be prescribed in regulations jointly issued by the Secretary of Health and Human Services and the Secretaries of Defense and Transportation. It is the intent of the managers that the Secretary of Defense will identify hospitals which fail to meet this additional condition and convey that information to the Secretary of HHS for appropriate action.

The Secretary of HHS would be required to report to Congress periodically on the number of hospitals that have terminated or failed to renew an agreement as a reult of this additional requirement.

3. Requirement of Medicare providers to accept Veterans' Administration beneficiaries (section)

Present law

Current law does not require medicare-participating hospitals to accept Veteran Administration beneficiaries.

Further, the Administrator of the VA contracts individually with facilities to provide services to eligible veterans. The Office of Management and Budget is requiring the VA to cap reimbursement rates under these contracts at levels similar to rates established for medicare beneficiaries.

House bill

The bill would require medicare participating hospitals to accept Veterans' Administration (VA) beneficiaries on a basis similar to medicare and requires them to accept payment amounts determined under VA regulations as payment in full. The Secretary of HHS would be authorized to take corrective action or to terminate a provider's agreement for failure to comply.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill.

TITLE III—HOUSING AND RELATED PROGRAMS

Section 3002 prohibits The Federal Financing Bank from purchasing notes or other obligations guaranteed under Section 108 of the Community Development Block Grant Program after June 30, 1986, and requires the Secretary of HUD by July 1, 1986, to take the actions necessary to provide for the financing by the private sector of loans guaranteed under Section 108.

Section 3003 authorizes $1.279 billion in fiscal year 1986 for public housing operating subsidies.

Section 3004—Provides that loans made for public and Indian housing, as well as modernization assistance, will be forgiven at the end of each fiscal year. It also gives direction for the use of the budget authority in the HUD Independent Appropriations Act of 1986, P.L. 99-160, which provides funds for new public housing development and modernization on the basis of long-term financing. As the legislative language the conferees adopted forgives the future public housing indebtedness and as this is tantamount to capital grant financing, the conferees intend that any budget authority that becomes available due to the change in financing will be rescinded. If this approach is used the conferees intend that any budget authority not needed to fund the 7000 additional public and Indian housing units or provide the level of modernization activity assumed by the Appropriations Committee for FY 86 and any other budget authority not needed for public housing development or modernization activities will be rescinded. Further, the conferees expect that the Congressional Budget Office take this into consideration in developing the baseline for FY 1987.

Section 3005—Rural Housing Authorization. Provides that the aggregate principal amount of loans that may be guaranteed or insured in fiscal year 1986 may not exceed $2,146,600,000,000 to be allocated as follows: Sec. 502 homeownership loans $1,209.6 million; Sec. 515 rental loans $900 million; Sec. 514 farmworker housing loans $19 million;

Sec. 524 site loans $1 million; and Sec. 504 repair loans $17 million.

Section 3006—Management of Insured and Guaranteed Loans. (a) Prohibits rural housing loans made directly or by private lenders and insured or guaranteed by the Farmers Home Administration from being sold to the Federal Financing Bank. (b) Provides that each insured or guaranteed loan contain an agreement by FmHA to pay the difference between the interest rate paid by the borrower and the full private market rate of interest. (c) Provides for protection of the borrowers' rights by requiring that the loan be assigned to the Secretary in the event of a substantial default but before foreclosure. The conferees wish to make clear that Congress intends that the FmHA follow the practices of private mortgage bankers and lenders with regard to defining substantial defaults and that the full forebearance provisions under existing law be extended to the borrower. (d) Provides that the rights that were available to FmHA borrowers prior to the enactment of this provision will continue to be available. (e) Further provides for a loss reserve account of not less than 5 percent of the loans sold to the public and makes other conforming changes in existing law.

The Conference Report also contains a provision to require that not later than 90 days after enactment, regulations be issued to implement the new loan sales approach including any measures that will facilitate the marketability of such loans in the private sector; and to assure that such loans will be competitive with other federally insured or guaranteed loans.

Section 3007—Extends the insuring authorities for all FHA programs through March 17, 1986.

Section 3008—Extends through March 17, 1986, the authority of the HUD Secretary to provide Section 312 rehabilitation loans.

Section 3009—Extends through March 17, 1986, the authority for all of housing related loan and grant programs of the Farmers Home Administration.

Section 3010—Extends through March 17, 1986, the flood insurance and crime and riot insurance programs.

Section 3011(a)—Grandfathers through March 17, 1986, the eligibility of certain metropolitan cities and urban counties as entitlement communities for purposes of the Community Development Block Grant program.

Section 3011(b)—Continues through March 17, 1986, the requirement that the interest rate on Section 202 loans for the elderly and handicapped not exceed 9¼ percent.

Section 3011(c)—Extends through March 17, 1986, the requirements of the Home Mortgage Disclosure Act of 1975.

TITLE IV

SUBTITLE A—AMTRAK, LOCAL RAIL SERVICE ASSISTANCE, TRAVEL AND TOURISM

Amtrak authorization

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(a), would limit the appropriation for Amtrak to $582 million in fiscal year 1986, $606.1 million in fiscal year 1987, and $630.3 million in fiscal year 1988.

House amendment to Senate amendment

The House amendment, in section 1581(a), would authorize an appropriation not to exceed $603.5 million for Amtrak for fiscal year 1986.

Conference substitute

The conference substitute authorizes the appropriation of $600 million in fiscal year 1986, $606.1 million in fiscal year 1987, and $630.3 million in fiscal year 1988.

Use of nonoperational capital funds to maintain service

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1581(b), provides that unless sufficient funds are otherwise available to operate Amtrak's rail system at substantially the same level of service, maintenance, and equipment overhauls as are in effect on the date of enactment, the carrier must use funds designated for non-operational capital projects to maintain the operations of the system.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Capital assets

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(e), would amend section 304(c) of the Rail Passenger Service Act (RPSA) to permit Amtrak to restate its books and tax returns for years prior to fiscal year 1982 as if preferred stock had actually been issued in the years when it received certain capital grant funds. The amendment would remove an uncertainty as to the reporting of depreciation of the assets acquired with such capital gains.

House amendment to Senate amendment

The House amendment, in section 1583, contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Government travel

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(g), would amend section 306(f) of the RPSA to permit Amtrak to participate in the contract air program administered by the General Services Administration (GSA) in markets where service of Amtrak is competitive with that of air carriers. Under this program, GSA lists certain carriers as "preferred carriers" for federal employee travel. The program currently is restricted to air carriers. This amendment would allow Amtrak to increase revenues by approximately $1 million annually.

House amendment to Senate amendment

The House amendment, in section 1584, contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Report consolidation

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(f)(3), would amend section 308(a) of the RPSA, which currently requires Amtrak to submit monthly reports to Congress on the fully allocated itemized revenues and expenses of each train operated. This section would require Amtrak to consolidate the monthly reports into an annual report due no later than February 15 of each year. The report would incorporate the following information for the preceding fiscal year: data on ridership; short-term avoidable profit or loss per passenger miles; revenue-to-cost ratio; revenues; subsidy requirements; and, on-time performance.

The provision also would require specification of significant operational problems which have been identified by Amtrak, together with proposals to resolve such problems.

House amendment to Senate amendment

The House amendment, in section 1585, contains a similar provision, whith two differences. The House amendment also would require data on passenger miles for the preceding fiscal year and would not require specification of significant operational problems.

Conference substitute

The conference substitute is the Senate amendment, with an amendment to require information on passenger miles.

Charter trains

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(m), would repeal section 402(g) of the RPSA which requires Amtrak to enter into an industry-wide agreement with respect to the operation of charter and special trains.

House amendment to Senate amendment

The House amendment, in section 1586, contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Discretionary audits

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(o), would amend section 805(2) of the RPSA to eliminate the requirement that the General Accounting Office conduct an annual performance audit of Amtrak. Under this amendment, such audits would be discretionary.

House amendment to Senate amendment

The House amendment, in section 1587(a), contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Repeal of studies and reports

House bill

No Provision.

Senate amendment

The Senate amendment, in sections 403(1), (p), (q), and (r), would repeal requirements for a number of studies and reports that either have been done or are no longer necessary.

Specifically, the provision would repeal section 306(k) of the RPSA, which deals with a study the Interstate Commerce Commission (ICC) was required to do in 1977; section 806 of the RPSA, which deals with a report the Secretary of Transportation was

required to do in 1973; section 810 of the RPSA, which deals with a study the Secretary of Transportation was required to do in 1980; and section 811 of the RPSA, which requires Amtrak to submit an annual report to Congress on the ratio of revenue to operating expenses on each of its routes. This last report is not necessary, because the same information would be contained in the new consolidated report described in a previous section.

House amendment to Senate amendment

The House amendment, in section 1587(b), contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Emergency assistance repeal

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(j), would repeal title VII of the RPSA, which authorized interim emergency Federal financial assistance to private railroads to assist them in carrying out the operating contracts with Amtrak authorized by the Act. This financial assistance was never required or used.

House amendment to Senate amendment

The House amendment, in section 1587(c), contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

NECIP report repeal

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(s), would repeal section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976, which requires Amtrak and the Secretary of Transportation to submit annual reports on the progress of the Northeast Corridor Improvement Project.

House amendment to Senate amendment

The House amendment, in section 1587(d), contains a similar provision, specifying an effective date of October 1, 1986.

Conference substitute

The conference substitute is the Senate amendment.

Performance evaluation center repeal

House bill

No Provision.

Senate amendment

The Senate amendment, in sections 402(f)(1) and (2), would repeal section 305(1) of the RPSA, which requires Amtrak to maintain a Performance Evaluation Center and to report to Congress every six months on the Center's activities and recommendations.

This provision also would make a conforming change in section 305(m) of the RPSA.

House amendment to Senate amendment

The House amendment, in section 1587(e), contains a similar provision, without the conforming change to section 305(m) of the RPSA.

Conference substitute

The conference substitute is the Senate amendment.

Revenue-cost ratio

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1588, would require Amtrak to set a goal of recovering at least 61 percent of its operating costs from its revenue beginning in fiscal year 1986. Currently, Amtrak is required to recover fifty percent of its operating costs from revenues.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Labor-related cost savings

House bill

No Provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1589, would direct Amtrak and the representatives of employees of Amtrak to negotiate changes in existing agreements between such parties that would result in cost savings to Amtrak. Amtrak and the representatives of Amtrak's employees would report the results of their negotiations to Congress within six months of the date of enactment.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.,

House bill

No Provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1590, would prohibit Amtrak, as a result of the provision of this subtitle, from reducing the frequency of service on any line which, as of May 1, 1985, had three or fewer trains operating in either direction per week.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Employment vacancy filing

House bill

No Provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1592(a), would amend section 704(c) of the Regional Rail Reorganization Act to provide a sanction when railroads fail to file job vacancy notices with the Railroad Retirement Board. The provision would require the Board to issue a warning when it becomes aware of a railroad's failure to file. Thereafter, the railroad would be liable for a $1,000 civil penalty for any failure to file a notice of a subsequent job vacancy.

Conference substitute

The conference substitute is the House amendment to the Senate amendment, with two amendments: (1) reducing the civil penalty to $500; and, (2) exempting Amtrak from certain first-right-of-hire provisions where Amtrak hires qualified train and engine employees who hold seniority rights to work in intercity rail passenger service in connection with the assumption of functions previously performed under contract by other carriers.

The conferees intend that the Railroad Retirement Board will issue appropriate regulations providing for reasonable guidelines to implement this section.

Central register of railroad employment extension

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1592(b), would extend for two additional years the applicability of the provisions of section 704 of the Regional Rail Reorganization Act with respect to the maintenance of a central register of railroad employment, filing of vacancy notices, and dispute resolution procedures.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Transportation of used unoccupied vehicles

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(b), would amend section 103(3) of the RPSA to provide that Amtrak's authority to operate auto-ferry service extends to the transportation of used automobiles regardless of whether the automobiles are accompanied by their owners. Amtrak now operates Auto Train service between Virginia and Florida. Under the current law, it only can transport an automobile if the automobile's owner is also travelling on the train regardless of whether excess space is available. This amendment would permit Amtrak to generate additional revenues of approximately $1 million annually.

House amendment to Senate amendment

The House amendment, in section 1593, would amend section 103(3) of the RPSA to provide that Amtrak's authority to operate auto-ferry service extends to the transportation of unoccupied vehicles when space is available.

Conference substitute

The conference substitute provides that Amtrak's authority to operate auto-ferry service extends to the transportation of used, unoccupied vehicles when space is available.

Amtrak corporate citizenship

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(h), would amend section 306(m) of the RPSA to specify that Amtrak shall be considered a citizen only of the District of Columbia for purposes of determining original jurisdiction in Federal district courts.

House amendment to Senate amendment

No Provisions.

Conference substitute

The conference substitute is the Senate amendment.

Route and service criteria—403(d) trains

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(i)(1), would amend section 403(d) of the RPSA regarding Amtrak's operation of commuter trains. Under current law, Amtrak is required to operate these trains if they meet the current criterion for short-distance trains of 80 passenger miles per train mile (pm/tm), a criterion that would be eliminated by the Senate amendment. The Senate amendment provides that, effective October 1, 1986, if a train operated under this section does not meet the avoidable loss per passenger mile criterion for short-distance trains, Amtrak may discontinue the train unless the State or States involved enter into an agreement ensuring that the criterion would be met.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment, with an amendment giving Amtrak the flexibility to "discontinue, modify, or adjust such service" to meet the applicable criterion.

Route and service-criteria—legislative review

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(i)(2), would amend section 404(c) of the RPSA to provide that any changes proposed by Amtrak to its Route and Service Criteria shall not be effective until 120 days after they have been submitted to the Congress. This amendment is made necessary by the fact that the current law contains a one-house legislative veto declared unconstitutional by the United States Supreme Court.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment, with an amendment providing that the Congress may pass a joint resolution during the period which, if signed by the President (or, if vetoed, overridden by Congress), would disapprove such changes.

Route and service-criteria—short and long distance trains

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(i)(3), (4) and (5), would amend sections 404(c) and (d) of the RPSA to eliminate, effective October 1, 1986, the passenger mile per train mile (pm/tm) criterion. Under current law, each Amtrak route is required to meet both the pm/tm and short-term avoidable loss criteria. If a route is projected not to meet these criteria, Amtrak must discontinue, modify or adjust the service over the route so that the criteria will be met. Under the amendment, Amtrak would continue to be required to review each of its routes to determine whether it meets the criterion on short-term avoidable loss per passenger mile.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment.

ICC regulation

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(k), would amend section 306(a)(3) of the RPSA to strike an obsolete reference to the Interstate Commerce Act and ICC regulation of train discontinuances.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment.

Meaning of "discontinuance" for labor protection purposes

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(n), would amend section 405(a) of RPSA to clarify that the term "dicontinuance" of rail service does not include any reduction in frequency, seasonal suspension or other service modification that does not result in the elimination of all service on a route.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment, with an amendment. Under the conference substitute, the term "discontinuance" shall not include any adjustment in frequency the effect of which is a temporary suspension of service, unless such suspension causes a reduction of passenger train operations on a particular route to a frequency of less than three round trips per week at any time during any calendar year. In approving this substitute, the conferees understand that the term "adjustment in frequency" includes "seasonal suspension."

Northeast Corridor cost dispute decisions

House bill

No provision.

Senate amendment

The Senate amendment, in section 402(t), would repeal section 1163 of the Northeast Rail Service Act of 1981 and would amend section 402(a) of the RPSA to modify the criteria to be used by the Interstate Commerce Commission (ICC) in future determinations of the compensation to be paid Amtrak for the use of the Northeast Corridor by freight railroads (primarily Conrail) and various commuter authorities.

House amendment to Senate amendment

No provision.

Conference substitute

The conference substitute is the Senate amendment with four amendments: (1) providing that the modified criteria to be used in ICC determinations shall not apply to the commuter authorities, which shall continue to be governed by the statutory standard adopted in 1981; (2) specifying that the ICC shall make future determinations within 120 days; (3) clarifying that the conference substitute shall not preclude parties from independently entering into agreements dealing with the compensation to be paid to Amtrak by the freight carriers; and, (4) clarifying that the conference substitute shall not be construed to alter the long-standing Congressional policy against cross-subsidization among intercity, commuter, and rail freight services. That is, the conferees do not intend that intercity and freight, intercity and commuter, or freight and commuter services cross-subsidize one another.

Local rail service assistance [LRSA]

House bill

No provision.

Senate amendment

The Senate amendment, in section 401, provides that, for purposes of the LRSA program, not more than $11.8 million shall be appropriated in fiscal year 1986; not more than $12.2 million shall be appropriated in fiscal year 1987; and not more than $12.8 million shall be appropriated in fiscal year 1988.

House amendment to Senate amendment

The House amendment, in section 1571, provides that no funds are authorized to be appropriated after September 1, 1985, for grants to states under the LRSA program.

Conference substitute

The conference substitute authorizes the appropriation of $12 million in fiscal year 1986, $10 million in fiscal year 1987, and $8 million in fiscal year 1988, with a provision that no funds are authorized to be appropriated for the period after September 30, 1988.

Funds appropriated will remain available after September 30, 1988, for obligation and expenditure, subject to the same statutory criteria, guidelines, and requirements under which the program currently operates. In addition, states that have established revolving loan funds from their rail assistance grants are also unaffected by the conference substitute.

Study commission

House bill

No provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1582, would establish a Study Commission, the National Railroad Passenger Corporation Financial Status Commission, to examine the ability of Amtrak to further improve its financial performance. The Commission would also be responsible for studying the short-term and long-term capital needs of Amtrak. In addition, the Study Commission would investigate alternative funding mechanisms for Amtrak. The 17-member Commission would be required to transmit its findings, conclusions and recommendations to Congress no later than March 30, 1986.

This section also would authorize the appropriation of not to exceed $1 million for the Commission to carry out its responsibilities.

Conference substitute

The conference substitute is the Senate amendment.

Relocation assistance

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1591, would add a new section 812 to the RPSA to provide a procedure to submit a petition to the Department of Transportation for safety-related Amtrak relocation assistance.

Conference substitute

The conference substitute is the Senate amendment.

Rail employee taxes

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1594, would exempt railroad employees from multiple state income tax liability. It would amend section 11504 of the Interstate Commerce Act to provide that railroad employees would only be subject to state income tax liability in the state where th employee earns more than 50 percent of the employee's pay from the railroad or, if there is no such state, in the state of residence of the employee.

Conference substitute

The conference substitute is the Senate amendment.

Amtrak Board representatives

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(c), would amend section 303(a) of the RPSA to provide that the two members of the Amtrak Board of Directors who are selected by the preferred stockholders shall serve until their successors are appointed.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Amtrak officers' pay

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(d), would amend section 303(d) of the RPSA to strike the provision imposing a pay cap on the officers of Amtrak, leaving discretion in Amtrak's board to set the level of compensation.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

U.S. Travel and Tourism Administration authorization

House bill

No Provision.

Senate amendment

The Senate amendment, in section 408, would authorize the appropriation of $12 million for the U.S. Travel and Tourism Administration in fiscal year 1986, $13 million in fiscal year 1987, and $14 million in fiscal year 1988.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 17, 1985.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 7. The enclosed table reflects the budget impact of the provisions assuming a December 31, 1985 date of enactment.

If you wish further details on these estimates, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 7, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986–88
Authorizations:				
Amtrak:				
Budget authority	−113	−137	−142	−392
Outlays	−98	−126	−140	−364
Local rail service assistance:				
Budget authority	−7	−10	−13	−30
Outlays	−1	−4	−8	−13
Total:				
Budget authority	−120	−147	−155	−422
Outlays	−99	−130	−148	−377

TITLE IV

SUBTITLE B

Reduction in Highway Authorizations

House bill

This section reduces fiscal year 1986 highway authorizations a total of $800 million. The reduction is made by reducing authorizations for the Interstate 4R program $350 million, the Primary program $150 million, and the Bridge Replacement and Rehabilitation program $300 million, which reduces authorizations for these three programs to their fiscal year 1985 levels.

The Secretary of Transportation is directed to reduce fiscal year 1986 apportionments for these three programs on the first day following enactment of this bill. In the event that any state has obligated previously authorized funds for these three programs in excess of the reduced amounts contained in this bill, the Secretary of Transportation is directed to subtract the excess from the fiscal year 1987 apportionments made to the affected states for these three program on October 1, 1986.

Senate amendment

No comparable provision.

Conference substitute

House provision, except fiscal year 1986 authorizations would be reduced a total of $400 million—$175 million for the Interstate 4R program, $75 million for the Primary program, and $150 million for the Bridge Replacement and Rehabilitation program.

Obligation limitations

House bill

Establishes obligation ceilings for affected highway and highway safety construction programs of $13.25 billion in fiscal year 1986, $13.80 billion in fiscal year 1987 and $14.40 billion in fiscal year 1988.

Programs exempted from obligation ceilings include obligations for Emergency Relief under section 125, Minimum Allocation under section 157, Bridges on Federal Dams under section 320, all of Title 23, United States Code, Acceleration of Bridge Projects under section 147 of the Surface Transportation Assistance Act of 1978, Woodrow Wilson Bridge Improvements under section 9 of the Federal-Aid Highway Act of 1981, Pennsylvania and Illinois demonstration projects authorized in sections 131(b) and 131(j) of the Surface Transportation Act of 1982, National Visitor Center improvements authorized under section 118 of the National Visitors Center Facilities Act of 1968, and Zilwaukee Bridge project construction required as the result of construction failure.

This section further specifies that no obligation controls be placed upon ongoing emergency projects carried out under section 125 of Title 23, United States Code or section 147 of the Surface Transportation Assistance Act of 1978.

Senate amendment

Establishes obligation ceilings for affected highway and highway safety construction programs of $12.75 billion in fiscal year 1986, $13.25 billion in fiscal year 1987, and $13.80 billion in fiscal year 1988.

Programs exempted from obligation ceilings include obligations for Emergency Relief under section 125, Minimum Allocation under section 157, Bridges on Federal Dams under section 320, all of Title 23, United States Code, Acceleration of Bridge Projects under section 147 of the Surface Transportation Assistance Act of 1978, Woodrow Wilson Bridge Improvements under section 9 of the Federal-Aid Highway Act of 1981, and National Visitor Center Improvements under section 118 of the National Visitors Center Facilities Act of 1968.

Conference substitute

Establishes obligation ceilings for affected highway and highway safety construction programs of $13.125 billion for fiscal year 1986, $13.525 billion for fiscal year 1987, and $14.1 billion for fiscal year 1988.

Programs exempted from obligation ceilings are the same as the House bill, except the Zilwaukee Bridge project is not exempted.

The redundant House provision specifying that no obligation controls be placed upon ongoing emergency projects carried out under section 125 of Title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978 is deleted.

Distribution of obligation authority

House bill

Directs the Secretary of Transportation to distribute obligation authority to the states for each of the fiscal years 1986, 1987, and 1988 based 95 percent upon the ratio that each state's apportionments or allocations for that year bears to the total nationwide apportionments or allocations made for that year and 5 percent based upon the ratio that each state's available unobligated balance of funds previously apportioned or allocated bears to the nationwide total of such available unobligated apportionments or allocations. These latter determinations shall be made based upon each state's unobligated balance of Federal-aid highway and highway safety funds previously apportioned or allocated which remain available for obligation on the last day of the preceding fiscal year which are not subject to lapse on such last day of that fiscal year.

This section limits first quarter obligations for each state to obligation of no more than 35 percent of its total obligation authority for the year and the nationwide total obligations for the first quarter to no more than 25 percent of the total for each of fiscal years 1986, 1987, and 1988.

This section also directs the Secretary of Transportation to provide in fiscal years 1986, 1987, and 1988 all states sufficient obligation authority to prevent lapses of funds

previously authorized to be apportioned or allocated, notwithstanding the previous provisions of this section, except for those instances where a state indicates its intent to lapse funds apportioned under section 104(b)(5)(A) of Title 23, United States Code.

The Secretary of Transportation is further directed after August 1 of fiscal years 1986, 1987, and 1988 to revise the distribution of obligation authority to the states if one or more states will not obligate the obligation authority amounts previously distributed to them under this section. Such redistribution shall be made giving priority to states having large unobligated balances of funds apportioned to them under section 104 of Title 23, United Stated Code and to states experiencing substantial proportional reductions in apportionments or allocations as the result of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981.

The Secretary may not distribute amounts authorized for administrative expenses and Federal lands highways programs.

Section 157(b) of Title 23, United States Code, is amended to make clear that Minimum Allocation funds, which are exempt from obligation ceilings, are not considered in computing the distribution of obligation authority to the states.

Senate amendment

Same as House bill except that obligation authority for each of fiscal years 1986, 1987, and 1988 is distributed to the states based strictly upon the ratio that each state's apportionments or allocations bear to the nationwide total apportionments and allocation for that fiscal year. Senate bill does not contain House bill comforming amendment to Section 157(b) regarding Minimum Allocation funds.

Conference substitute

Same as House bill except that obligation authority for each of fiscal years 1986, 1987, and 1988 is distributed to the states based strictly upon the ratio that each state's apportionments or allocations bear to the nationwide total apportionments and allocations for that fiscal year.

Emergency relief

House bill

No comparable provision

Senate amendment

This section increases the maximum amount which the Secretary may expend in any State for any single natural disaster or catastrophic failure under the provision of section 125, Emergency Relief, of Title 23, United States Code, from $30 million to $55 million for any disasters or failures occurring in calendar year 1985.

Conference substitute

Senate provision.

National minimum drinking age

House bill

No comparable provision.

Senate amendment

This section amends section 158 of Title 23, United States Code, to direct the Secretary of Transportation to permanently withhold, beginning in fiscal year 1989, ten percent of highway funds apportioned each year under sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this Title from any state which does not have in effect an acceptable permanent twenty-one year old minimum drinking age law in effect on the first day of fiscal year 1989.

Fiscal year 1987 and 1988 funds withheld pursuant to existing law may be restored to any state enacting a suitable minimum twenty-one year old drinking law as long as the normal lapsing period for such funds has not expired. Funds withheld under this section for fiscal year 1989 and subsequent fiscal years may not be restored.

Conference substitute

Similar to the Senate provision, except section 158 is further amended by directing that a state law containing a grandfather clause allowing those persons under 21 who had the right to drink under the state's previous law is to be considered as meeting the requirements of section 158, if such state law is enacted no later than October 1, 1986, or the tenth day following the last day that the state's legislature first meets after the date of enactment, whichever date is later. Any 21 year old minimum drinking age law containing a grandfather clause enacted after the later of those two dates will not be considered in compliance with section 158, and a state enacting such a law after such date will be sanctioned in accordance with section 158, as amended. In addition, it is also intended that a state failing to enact such a law prior to October 1, 1986, because its legislature has not met or finished its next session shall be subject to the 5 percent penalty on October 1, 1986, subject to reimbursement upon enactment of its grandfather law during such session.

Any state enacting an acceptable minimum drinking age law after September 30, 1988, will be entitled to reimbursed for only those funds withheld in fiscal year 1987 and 1988 and for no subsequent years. After FY 1988, funds withheld for succeeding fiscal years from any state that has not yet enacted a minimum drinking age law in conformance with section 158 will be considered to have permanently lapsed, except that Interstate funds would be reallocated by the Secretary under section 118(b) of Title 23, United States Code. Funds withheld from a state and remaining available for reimbursement will be allocated to such state the day after a minimum drinking age law is enacted in accordance with section 158. Reimbursable funds include only those funds withheld from apportionment in fiscal years 1987 and 1988 that, under current law, have not lapsed and remain available for apportionment. Upon apportionment, such funds shall be available for obligation for a period not to exceed the period such funds are normally available when apportioned.

The Conference Substitute also includes conforming amendments to make technical corrections in the minimum drinking age provision of P.L. 98-363.

Ohio River bridge reprogramming

House bill

This section amends section 147 of the Federal-Aid Highway Act of 1978 to permit the use of previously set aside and authorized funds, excess to the needs of the two bridge projects designated as the result of the 1978 Act, to carry out three bridge replacement projects over the Ohio River. Such projects will use state-of-the-art design and construction technology to provide the most cost-effective projects which result in minimum future maintenance and rehabilitation costs.

The Secretary is instructed to allocate sufficient funds from the available excess to carry out two Ohio River highway bridge replacement projects between Newport, Kentucky, and Cincinnati, Ohio, and between Covington, Kentucky, and Cincinnati, Ohio, before allocating any remaining available funds for the Ohio River highway bridge replacement project between Maysville, Kentucky, and Aberdeen, Ohio.

Funds allocated under this section are to be made available for obligation in the same manner and extent as if such funds were made available under chapter 1 of Title 23, United States Code except that such funds are made available until expended and are not subject to any obligation limitations.

The Federal share of such projects shall be 90 percent as specified under subsection (a) of section 147 of the 1978 Federal-Aid Highway Act.

In order to maximize the dissemination of knowledge gained from the use of advanced technology and other effects on these projects, the Secretary is directed to submit reports on these projects, together with recommendations for applying the results to other projects, and where appropriate, changes in law necessary to incorporate the beneficial results into other projects. Such reports are to be submitted one year, six years, 11 years, and 21 years after completion of the three bridge replacement projects authorized under this section.

Senate amendment

No comparable provision.

Conference substitute

Same as the House provision with technical changes, except that no more than $65 million of section 147 funds shall be available to carry out the three bridge replacement projects over the Ohio River. The balance of section 147 funds shall be redistributed to all states pursuant to section 144(e) of Title 23, United States Code.

The Conferees want to emphasize four points with respect to this provision. First, the term "replace" is used in a functional sense, meaning that the new bridge will be a substitute for the old bridge on the particular route in question. The Conferees want to make it clear that the bridges being replaced do not necessarily have to be taken down.

Second, it is the intent and expectation of the Conferees that the Secretary assure that sufficient funds are set aside from the $65 million to fully construct the bridges described in subparagraphs (2)(A) and (2)(B). In the unlikely event that the $65 million is not sufficient to fully construct the bridges described in subparagraphs (2)(A) and (2)(B), the state would have to use other Federal and state funds available to it to make up the difference. Once these projects proceed to the point where the Secretary can make a determination and certify in writing that sufficient funds have been set aside from the $65 million to complete these projects, then the Secretary is to allocate remaining funds to the project described in subparagraph (2)(C). Of course, if the $65 million is not sufficient to complete the projects described in subparagraphs (2)(A) and (2)(B), then no funds could be allocated to the project described in paragraph (2)(C). Since the projects described in paragraphs (2)(A) and (2)(B) have priority over the project described in subparagraph (2)(C), the Conferees fully recognize that the amounts allocated to the bridge described in subparagraph (2)(C) will not be sufficient to fully construct it. The state will have to use other Federal and state funds available to it to make up the difference.

Third, the Conferees have agreed to this provision with the understanding that no additional special Federal funding will be provided for any of these bridges. In that

regard, it is the intent and expectation of the Conferees that the Secretary require, as a condition precedent to making an allocation from the $65 million of each project, the state to agree in writing that it will provide the necessary funds to complete such project in the event that the amount allocated under this provision is not sufficient. In other words, before receiving any funds under this provision, the state must agree to bear full responsibility for completing the project. With respect to the projects described in subparagraphs (2)(A) and (2)(B), this agreement would cover at least the following situations: (1) the state must agree to complete the projects in the event that the $65 million turns out to be insufficient; and (2) the state must agree to cover any cost overruns which might occur subsequent to the Secretary certifying that sufficient funds have been set aside to complete the project (this latter situation should be quite remote given the intent of the Conferees that the Secretary not make the required certification until he or she has a high degree of assurance as to the final cost of the project). With respect to the project described in subparagraph (2)(C), the agreement would set forth the funding arrangements that have been made by the state to assure completion of the project given the limited Federal contribution under this provision.

And fourth, the Conferees want to note the extraordinary nature of the situation that led to the need for this provision. The excess funds being reprogrammed by this provision were the result of changed circumstances, overly conservative estimates of inflation, and cost savings achieved by the Section 147 demonstration program, a one-time special program to demonstrate methods to accelerate construction of bridge projects. Thus, this provison should not in any way be viewed as a precedent with respect to cost savings that might be achieved on bridge projects funded under the normal Federal-aid programs.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 19, 1985.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached revised estimate of the Budget impact of the reconciliation provisions within the jurisdiction of subconference 14. This supersedes the previous estimate dated December 18, 1985, and reflects additional information provided by the committee staff.

If you wish further details on this estimate we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner).

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 14, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986–88
Direct spending: Federal-aid highways:				
Budget authority	−400			−400
Outlays	−200	−1,000	−1,300	−2,500

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 14, CHANGE FROM RESOLUTION BASELINE—Continued

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986–88
Total:				
Budget authority	−400			−400
Outlays	−200	−1,000	−1,300	−2,500

Note.—Assumes a December 31, 1985 date of enactment.

TITLE V—CORPORATION FOR PUBLIC BROADCASTING AND FEDERAL COMMUNICATIONS COMMISSION

Section 5001—Public Broadcasting authorization

House bill

The House bill contained no provision.

Senate bill

The Senate bill authorized the Corporation for Public Broadcasting (CPB) at $200 million for FY 1987, $214 million for FY 1988, $238 million for FY 1989 and $254 million for FY 1990. The Senate bill also authorized the Public Telecommunications Facilities Program (PTFP) at $24 million for FY 1986, $28 million for FY 1987 and $32 million for FY 1988, in addition to certain provisions related thereto.

Conference agreement

The Conference adopts the Senate provision.

Section 5001(c)(1) of the conference report authorizes appropriations for the operations of the Corporation for Public Broadcasting (CPB) at $200 million for fiscal year 1987, $214 million for fiscal year 1988, $238 million for fiscal year 1989, and $254 million for fiscal year 1990. Section 5001(a) of the conference report authorizes appropriations for the Public Telecommunications Facilities Program (PTFP) at $24 million for fiscal year 1986, $28 million for fiscal year 1987, and $32 million for fiscal year 1988.

The CPB is a private, nonprofit corporation organized under the laws of the District of Columbia. CPB acts as the public trustee for funds appropriated pursuant to the Public Broadcasting Act of 1967.

The PTFP provides grants for broadcast equipment and other telecommunications "hardware." This program is administered by the National Telecommunications and Information Administration (NTIA) of the Department of Commerce.

The 1981 reauthorization legislation sharply curtailed federal support for public broadcasting in view of overall federal budget constraints. For CPB, Congress authorized $130 million for each of fiscal years 1984, 1985, and 1986. For PTFP, Congress authorized $20 million for fiscal year 1982, $15 million for fiscal year 1983, and $12 million for fiscal year 1984. At the same time, Congress sought to stimulate alternatives to federal funding and allowed public broadcasting stations greater freedom to engage in commercial ventures for support. The 1981 authorization also established the Temporary Commission on Alternative Financing (TCAF) to explore financing alternative for public broadcasting.

It was hoped at the time that new sources of revenue, provided for in part by that Act, could be generated to compensate for decreasing federal funds, thereby preventing a deterioration in service. However, since that time, despite major efforts by the Public Broadcasting System, revenue has not been forthcoming in sufficient amounts to compensate for the drastic cuts. As a result, many stations have had to reduce the amount of locally produced programming, overall broadcast hours, and staff. Moreover, important cultural and educational series are being forced out of production. For example, the series "Nature: Living Wild" and "Latenight America" have been canceled due to lack of funding. Production of new shows for "Great Performances", "Frontline" and "Playhouse" has been scaled back 20 percent. Production for "Wonderworks" and "Reading Rainbow", both popular and critically acclaimed programs for children, has been cut 30 percent and 33 percent respectively. Two-thirds of all "Sesame Street" programs are now reruns of previous segments, and for the first time, no new American-produced series aired on public television last Fall.

A low level of funding for the PTPF program threatens to undermine severely the goal of assuring the availability of quality public broadcasting facilities which are vitally necessary to assure the public receives adequate access to public broadcast programming. Currently, approximately 30 percent of the country does not receive public radio signals, and approximately 10 percent of the public still does not receive a local public television signal. Many large geographic areas, particularly in the West, cannot receive a public television signal. There is no local service yet in Montana, 15 percent of Missourians do not receive public television signals, and similar problems exist in Nevada, Arizona, Alaska and Hawaii. In other areas there are particular problems where mountains and buildings interfere with signals, and equipment is needed to correct this situation in order to serve the entire community. Finally, a severe problem is developing with respect to preservation and maintenance of existing transmission and other broadcasting equipment, and it has become very clear that updating and replacing equipment and parts requires an ongoing commitment of resources if quality public broadcasting signals are going to be available to the public.

In 1983, in an attempt to prevent further decline in the system, Congress passed a supplemental authorization bill which increased the authorizations for CPB to $145 million for fiscal year 1984, $153 million for fiscal year 1985, and $162 million for fiscal year 1986 (Public Law 98-214).

In 1984, the Congress passed S. 2436, and the House companion legislation, H.R. 5541. Based upon hearings on these bills and upon the findings of the TCAF, it was clear that alternative financing mechanisms had not developed to the point where they could replace or substantially supplement federal support for public broadcasting. These bills therefore provided authorization levels that were substantially higher than those provided by the 1981 legislation. For CPB, S. 2436 and H.R. 5541 authorized $238 million for fiscal year 1987, $253 million for fiscal year 1988, and $270 million for fiscal year 1989. For PTFP, they authorized $50 million for fiscal year 1985, $53 million for fiscal year 1986, and $56 million for fiscal year 1987. On August 29, 1984, the President vetoed S. 2436.

As a result of this veto, on September 20, 1984, the Senate passed new authorizing legislation, S. 607. For CPB, S. 607 authorized $200 million for fiscal year 1987, $225 million for fiscal year 1988, and $250 million for fiscal year 1989. For PTFP, it authorized

$25 million for fiscal year 1985, $35 million for fiscal year 1986, and $40 million for fiscal year 1987. S. 607 passed the House on October 5, 1984, but was pocket vetoed by the President on October 22, 1984.

The Conference report retains strong support for our nation's public broadcasting system, recognizing that this system still needs adequate federal funding. At the same time, the conferees are aware of federal budget constraints, and have endeavored to strike an appropriate balance in this legislation. The authorization levels in the conference agreement are well below those in S. 2436 and S. 607, and the conferees believe these levels provide the minimum amount that will allow CPB and PTFP to fulfill adequately their important functions.

The funding levels contained in this measure are below the Administration's own 1985 recommendations for CPB. However, the conferees expressly reject the Administration proposal to abolish the PTFP program which is a program critically necessary to meeting the goal that public broadcasting service is available to all Americans.

In addition to reauthorizing CPB and PTFP, Section 5001(b) of the conference report amends section 393 of the 1934 Act by striking subsection (c), which provides that not less than 75 percent of program funds shall be available for new public telecommunication facilities that will reach unserved areas. By striking this 75 percent allocation guideline, the Conference Committee intends that the administrators of the program have flexibility to use a greater proportion of funds for replacement or rebuilding of equipment in existing public telecommunications facilities. The release of additional funds for this purpose will help prevent service to the public from being disrupted by failures or breakdowns in aging equipment.

In approving grants, the conferees intend that NTIA shall continue to follow the criteria set forth in section 393(b) of the 1934 Act, which remain unchanged by this legislation.

Section 5001(c)(2) of the conference report also amends section 396(k)(3)(a)(i)(II) of the Communications Act of 1934 to strike the words "research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness." This amendment is intended to provide CPB with greater flexibility to use the funds allocated to it to meet the evolving needs of public broadcasting. In providing CPB with this flexibility, the Committee does not intend to preclude CPB from providing funds for research, training, technical assistance, engineering, instructional support, and payment of interest on indebtedness. Capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, and the costs of interconnection facilities remain specified obligations of CPB under this subclause.

Finally, Section 5001(c)(3) of the conference reports amends section 396(k) of the 1934 Act to strike paragraph (8). Paragraph (8) currently requires that public broadcasting entities, if they file income tax returns declaring unrelated business income from commercial activities permitted under the 1934 Act, must refund to CPB an amount equal to the unrelated business income tax paid.

TCAF reviewed the possibility that additional sources of income could be generated by public broadcasters entering auxiliary commercial ventures. For example, some public television stations use spare production capacity to produce programs for cable television, others lease the satellite uplink for commercial purposes. Some public radio stations have signed agreements to lease excess satellite distribution capacity for commercial paging ventures. However, TCAF included that profits from these ventures are extremely small, and prospects for them to generate meaningful income in the forseeable future appear dim.

TCAF also concluded, that Section 396(k)(8) of the Public Broadcasting Act of 1981 is a barrier to increased entrepreneurial activities by public broadcasters. The Conference Committee agrees that the additional generation of revenues should be encouraged and adopts TCAF's recommendation to repeal the unrelated business income tax provision.

Section 5002—Federal Communications Commission

House bill

The House bill contained a cost of regulation fee schedule and certain provisions related thereto.

Senate bill

The Senate bill authorized the Federal Communications Commission at $98.1 million for FY 1986, and $97.6 million for FY 1987 with certain related provisions. The Senate bill also contained a cost of regulation fee schedule and related fee provisions.

Conference agreement

The conference adopts the Senate provision.

FCC Travel

Subsection (b) of the Conference Report amends section 4(g)(2) of the 1934 Act (47 U.S.C. 154(g)(2)) to extend the FCC's travel reimbursement program through fiscal year 1987. New subparagraph (E) is added to section 4(g)(2) to authorize the Commission to obligate travel reimbursement funds that are received after the close of a fiscal year.

Annual Report

Subsection (c) of the Conference Report changes the due date on the FCC annual report to Congress required by section 5(g) of the Communications Act. Because of circumstances beyond its control, the FCC has been unable to submit the report by January 31, as current law provides. By prescribing March 31 as the new due date, the conferees have provided more than ample time for timely submission. The conferees expect that the report will be submitted as soon after January 31 as is possible. In no case, should the report be submitted later than March 31.

Charges for operation

Section 5002(e) of the Conference Report creates a new Section 8 of the Communications Act of 1934 which requires the Federal Communications Commission (FCC) to charge fees for the regulatory services it provides to many of the communications entities within its jurisdiction. These fees have been recommended by the FCC and are based on the Commission's estimates of the cost of providing such services. The fee schedule will not subject any additional communications entities to Commission regulation.

The Conferees believe that fees based on the cost of regulation principle are an appropriate mechanism by which a portion of the FCC's regulatory expenses may be recaptured.

Non-commercial radio and TV stations will not be subject to any of the fees listed in this schedule. In addition, no provision in the fee schedule applies to petitions to deny the grant of a license to regulated communications entities filed by non-licensees.

The fee schedule shall be implemented not later than 360 days after the date of enactment of this section.

Section (8)(b) of the Communications Act requires the Commission to review these fees every 2 years, and to increase or decrease the fees to reflect changes in the Consumer Price Index (CPI). Adjustments will apply to all fees, but an individual fee shall not be adjusted until the net change in the CPI amounts to at least $5 for fees under $100, or 5 percent of fees of $100 or more. Adjusted fees will be rounded upward to the next $5 increment. The Commission shall notify Congress of any adjustments no later than 90 days before such adjustment takes effect. Adjustments to fees pursuant to this procedure shall not be subject to judicial review, because these changes merely are ministerial, nondiscretionary acts.

Subsection (c) requires the Commission to develop penalty charges that will be assessed for late payment of fees. These penalties will equal 25 percent of the late payment of fees. The Commission is authorized to dismiss applications or other filings to penalize late payment of charges.

Subsection (d) provides that the fees shall not apply to specified radio services: Local government, police, fire, highway maintenance, forestry-conservation, public safety, and special emergency radio. In addition, the charges established shall not apply to governmental entities licensed in other services. The Commission is authorized to waive or defer fee payments in specific instances, where good cause is shown and where waiver or deferment of fees would promote the public interest. The Conferees intend that the Commission's discretion to waive or defer fees shall be narrowly defined.

Subsection (e) provides that the fees collected by the Commission under this section will be deposited in the general fund of the U.S. Treasury. Although the fees collected will reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions, nothing in this section shall be interpreted to affect the need for full funding of the Commission's activities through the normal appropriations process.

Subsection (f) directs the Commission to prescribe rules and regulations to implement this fee schedule.

The Conference Report requires the Commission to collect fees for the following regulatory services:

Private Radio Service

1. *Marine Corps Stations* (New, Modifications, Renewals). Maritime stations on land which are intended for the transmission of marine radionavigation information or communications for the operation of ships and for convenience of shipboard personnel and passengers. Alaska stations intended are for point-to-point communications within Alaska where no other means of communication is available.

2. *Operational Fixed Microwave Stations.* (New, Modifications, Revewals). These stations are most commonly used for point-to-point communications. These communications are associated with Aviation, Marine, Public Safety, Industrial and Land Transportation Radio Services.

3. *Aviation Ground Stations* (New, Modifications, Renewals). These stations are intended for the transmission of air radionavi-

gation communications for the operation of aircraft. This definition is applicable to the following Part 87 stations: Flight Test, Aviation Instruction, Aeronautical Search, Rescue, Radionavigation Land Test, etc.

4. *Land Mobile Radio Licenses* (New, Modifications, Renewals). These sections are used to satisfy the needs of commercial and industrial activities, state and local governments, transportation systems and religious, philanthropic and educational endeavors.

EQUIPMENT APPROVAL SERVICE

1. *Certification.*—An equipment authorization issued by the Commission for equipment designed to be operated without individual license under Parts 15 and 18. Applies mostly to low power radio frequency devices, some computing devices, receivers which tune anywhere in the band 30 to 890 MHz, CB receivers and some other kinds of Industrial, Scientific and Medical (ISM) equipment.

1.a. *Receivers (except TV and FM receivers).*—A device for receiving electrical waves and/or signals. These include CB receivers, scanning receivers, radio control and security alarms and receivers tuning between 30 and 890 MHz. TV and FM receivers are excluded as they require only *verification.* A process which allows the manufacturer to be responsible for measurement necessary to insure with appropriate technical requirements. Reports of compliance are not required unless requested by the FCC.

1.b. All other devices.—These include nonlicensed transmitting devices (low-power communication devices, personal computers (PC), PC peripheral devices, telemetering devices, cordless telephones, TV interface devices, to name a few) and Industrial, Scientific and Medical Equipment (Industrial heating equipment and induction cooking ranges).

2. *Type Acceptance.*—Equipment authorization issued by the Commission for transmitting equipment to be used pursuant to a station authorization.

2.a. *Approval of Subscription TV Systems.*—Applies to encoding and decoding schemes for transmission and reception of scrambled pay TV programs over the air. Applicants must show that the requirements of Part 73 of the rules are met by the system.

2.b. *All Others.*—Applies to certain licensed transmitting equipment such as AM stereo exciter-generators, remote pick-up, low power TV, TV translators, instructional TV, FM broadcast translators/boosters, cable TV relay, mobile, maritime radio-telephone, aviation transmitters, to name a few.

3. *Type Approval.*—Equipment authorization issued by the Commission based on examination and measurement of one or more sample units by the Commission at its laboratory. This applies to some compulsorily installed marine safety-of-life equipment, and to some non-licensed devices, including certain ISM devices.

3.a. *Ship (Radio-Telegraph) Automatic Alarm Systems.*—Self-explanatory.

3.b. *Ship and Lifeboat (Radio-Telegraph) Transmitters.*—Self-explanatory.

3.c. *All others (with testing).*—Examinations and measurement testing required of new and major modification of some non-licensed transmitting devices (wireless microphones telemetering devices) and some Industrial, Scientific and Medical Equipment (ultrasonic, heating, medical disthermy).

3.d. *All others (without testing).*—Applies to equipment previously tested and approved as new equipment, however resubmitted for approval under new name or minor modification to original approval.

4. *Notification.*—Process requires manufacturers to test devices for compliance with applicable FCC regulations and to keep records of test data. Manufacturer submits brief application for authorization of device citing that all regulatory requirements have been met. Test data is not required unless requested by FCC.

Mass Media Bureau

1. *Commercial TV Stations.*—

Commerical Television Station.—Any UHF or VHF station other than those classified by the FCC as non-commercial educational stations.

Construction Permit for New Station.—The instrument authorizing construction of a broadcast facility which has not been previously authorized.

1.a. *New and Major Change Construction Permits Application Fees.*—The charge levied when filing an application for a permit to construct a new station or change frequency or station location of a previously authorized facility. The application fee does not apply to requests for Special Temporary Authority or reinstatement of expired permits.

1.b. *Minor Change Application Fee.*—The charge levied when filing an application for a construction permit to make minor changes in previously authorized facilities.

(1) Minor changes include any change involving operating power; the installation of a transmitter which has not been authorized by the FCC for use by licensed broadcast station; any change in location, height or directional radiating characteristics of the antenna or antenna system; and moving the main studio of a TV station to a location outside the principal community, or in move the studio from one location outside the principal community to another such location.

(2) Minor changes do not include extension of time to construct, reinstatement of expired permit, modifications that may be made without prior authorization from the FCC and requests for Special Temporary Authority.

1.c. *Hearing Charge.*—The charge levied when an application is designated for hearing.

1.d. *License Fee.*—The charge levied when an application is filed for a license to cover a construction permit. License fees are not applicable to any license modification that may be made without prior authorization from the FCC.

2. *Commercial Radio Station.*—

Commercial Radio Station.—Any AM or FM station other than those classified by the FCC as non-commercial educational stations.

Construction Permit for New Station.—The instrument authorizing construction of a broadcast facility which has not been previously authorized.

2.a. New and Major Change Construction Permits:

(1) *Application Fee AM Station.*—The charge levied when filing an application for a permit to construct a new station or for a construction permit for any increase in power, or any change in frequency, hours of operation or station location. The application fee does not apply to requests for Special Temporary Authority or reinstatement of expired permits.

(2) *Application Fee FM Station.*—The charge levied when filing an application for a permit to construct a new station or for a construction permit to change frequency or station location. The application fee does not apply to requests for Special Temporary Authority or reinstatement of expired permits.

2.b. *Minor Changes Application Fee—AM & FM.*—The charge levied when filing an application for a construction permit to make minor changes in previously authorized facilities.

(1) Minor changes include the installation of a transmitter which has not been authorized by the FCC for use by licensed broadcast stations; any change in the location, height, or directional radiating characteristics of the antenna or antenna system; any change involving operating power of an FM station; any decrease in nominal power of an AM station; and moving the main studio of a station to a location outside the principal community, or to move the studio from one location outside the principal community to another such location.

(2) Minor changes do not include extensions of time to construct, reinstatement of expired permit, modifications that may be made without prior authorization from the FCC, requests for Special Temporary Authority or remote control authorizations.

2.c. *Hearing Charge.*—The charge levied when an application is designated for hearing.

2.d. *License Fee:*

(1) AM. The charge levied when filing an application for a license to cover a construction permit. AM license fees are not applicable to requests to determine power by the direct method or for any license modification that may be made without prior authorization from the FCC.

(2) FM. The charge levied when filing an application for a license to cover a construction permit. FM license fees are not applicable to any license modification that may be made without prior authorization from the FCC.

Directional Antenna.—A system of one or more towers used to orient or redirect radiation in a certain direction.

2.e. *Directional Antenna License Fee* (AM Only).—The charge levied when filing for a license for a directional antenna. This charge is in addition to the AM license fee.

3. *FM/TV Translators and LPTV Stations* (New & Major Change Construction Permits).

FM Translator Station.—A station in the broadcast service operated for the purpose of retransmitting the programs and signals of an FM broadcast station, without significantly altering any characteristics of the original signal other than its frequency and amplitude, for the purpose of providing FM reception to the general public.

Television Translator Station.—A station in the broadcast service operated for the purpose of retransmitting the programs and signals of a television broadcast station, without significantly altering any characteristics of the original signal other than its frequency and amplitude, for the purpose of providing television reception to the general public.

Low Power Television Station.—A UHF or VHF station that may originate programming or provide a subscription television service. The transmitter power output is limited to a maximum of 1,000 watts for a UHF station and 10 watts for a VHF station, except where VHF operation is on an allocated channel and then 100 watts may be employed.

3.a. *Application Fee:*

(1) *FM Translators.*—The charge levied when filing an application for a permit to

construct a new station or to make major changes in previously-authorized facilities. Major changes include changes in frequency (output channel) or authorized principal community for area.

(2) *TV Translators and LPTV Stations.*—The charge levied when filing an application for a permit to construct a new station or make major changes in previously authorized facilities. Major changes include any change in frequency (output channel) assignment or any of the following changes if such changes will increase the signal range of the station in any horizontal direction.

(i) Transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line; (ii) antenna height; (iii) antenna location exceeding 200 meters; or (iv) authorized operating power.

3.b. *License Fee.*—The charge levied when filing an application to cover a construction permit for a new station or major change in previously authorized facilities.

4. *Station Assignment and Transfer Fees.*—

4.a *AM. FM. and TV Commercial Stations:*

(1) *"Long" Form Application Fees.*—The charge levied when filing an Application for Consent to Assignment of Broadcast Construction Permit or License (FCC Form 314) or an Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License (FCC Form 315).

(2) *"Short" Form Application Fee.*—The charge levied when filing FCC "short" form Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of control of Corporation Holding Broadcast Station Construction Permit or License (FCC Form 316).

4.b. *FM/TV Translators & LPTV Stations.*—The charge levied when filing Application for Transfer of Control of Corporate License or Permit or Assignment of License or Permit for an FM or TV Translator Station, or a Low Power TV Station (FCC Form 345).

5. *Auxiliary Services Major Actions—Application Fee.*—The charge levied when filing applications for new stations and changes to existing stations (equivalent to the category "New and Major Changes" in other services), including Remote Pickup, TV Auxiliary Broadcast Stations, Aural Broadcast STI and Intercity Relay, and Low Power Auxiliary Stations.

6. *Renewals—All Services.*—The charge levied when filing an application for license renewals. The license periods are five years for television broadcast stations and seven years for radio broadcast stations. Auxiliary Service license are generally held by licensees of full service AM, FM or TV stations and are renewed automatically whenever the main station license is renewed.

7. *Cable Television Service.*—

Cable Television Service.—A fixed or mobile station used in connection with the operations of cable television systems for the transmission of television, audio and other signals to a cable system or within a cable system (Section 73.5(a) of the Commission's Rules).

7.a. *Cable Television Relay Service (CARS).*—Filing fees for construction permits, assignments and transfers, renewals and modifications.

7.b. *Cable Special Relief Petitions.*—Filing fees for petitions filed by a cable television sysem, a franchising authority, an applicant, permittee or licensee of a television broadcast, translator or microwave relay station, or by any other interested party, seeking waiver of any provision of the rules relating to cable television systems, or the imposition of additional or different requirements, or the issuance of a ruling on a complaint or dispute question.

8. *Direct Broadcast Satellites.*—

Direct Broadcast Satellites.—A radio communication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public.

8.a. *Application Fee.*—Self-explanatory.

8.b. *CP and Launch Authority.*—An applicant for a DBS facility is first granted an authorization. The applicant then has one year to demonstrate "due diligence" toward construction of the proposed satellite. If the showing is successfully made, a construction permit will be issued. The fee is for issuance of this construction permit, which specifies orbital positions and frequencies to be used, as well as granting launch authority.

8.c. *License to Operate a Satellite.*—Self-explanatory filing fee.

8.d. *Hearing Charges.*—Self-explanatory.

Common Carrier Bureau

1. *Domestic Public Land Mobile Stations (Base, Dispatch, Control & Repeater Stations).*—

Domestic Public Land Mobile Radio Service.—A public communications service for hire between land mobile stations wherever located and their associated base stations which are located within the United States or its possession, or between land mobile station in the United States and base stations in Canada.

Base Station .—A land station in the land mobile service carrying on a service with land mobile stations.

Dispatch Station.—A fixed station, operated by a subscriber, or a group of subscribers, which communicates, under the supervision and control of the base station licensee, through the base station, with the individual subscriber's own mobile station or stations.

Control Station.—A fixed station whose transmissions are used to control automatically the emissions or operations of another radio station at a specified location, or to transmit automatically to an alarm center telemetering information relative to the application of such station.

Repeater Station.—A fixed station established for the automatic retransmission of radiocommunications received from one or more mobile stations and directed to a specific location.

1.a. *New or Additional Facility Authorizations, Assignments and Trasnfers* (per transmitter/per station).—Initial authorization to construct and operate common carrier land mobile stations and their associated bases stations; approval of major modifications to an authorized facility and consent to assign or transfer control a station authorization.

1.b. *Renewals and Minor Modifications* (per station).—Renewal of an initial authorization and minor modifications effected on authorized facilities.

1.c. *Air-Ground Individual License Renewals and Modifications.*—Application for license, renewal or modification for airborne mobile stations for subscribers to a common carrier service for public correspondence.

2. *Cellular Systems.*—A mobile radio system with a high capacity to service subscriber units due to the coordinated reuse of a group of radio channels. A system in which the assigned spectrum is divided into discrete channels which are assigned in groups to geographic cells covering a cellular geographic service area.

2.a. *Initial Construction Permits & Major Modification Applications* (per cellular system).—Self-explanatory

2.b. *Assignments and Transfers* (per station).—Self-explanatory

2.c. *Initial Covering License* (per cellular system).—Initial authorization to operate a cellular system.

2.d. *Renewals.*—Self-explanatory

2.e. *Minor Modifications and Additional Licenses.*—A minor modification effected on an authorized facility Application notifying of additional sites or completion of contruction of original sites for which license to cover not yet filed, requiring additional licenses.

3. *Rural Radio (Central Office, Interoffice or Relay Facilities.*—A domestic public radio service rendered by fixed stations on frequencies below 1000 MHz used to provide (1) public message communication service between a central office and subscribes located in rural areas to which it is impracticable to extend service between landlines, or (2) public message communication service between landline central offices and different exchange areas which it is impracticable to interconnect by other means, or (3) private line telephone, telegraph, or facsimile service between 2 or more points to which it is impracticable to extend service via landline.

3.a. *Initial Construction Permits, Assignments and Transfers* (per transmitter)..—Self-explanatory

3.b. *Renewals and Modifications* (per station).—Self-explanatory

4. *Offshore Radio Service.*—A public communications service for hire betwen stations located in the offshore coastal waters of the United States and its possessions.

4.a. *Initial Construction Permits, Assignments and Transfers* (per transmitter).—Self-explanatory

4.b. *Renewals and Modifications* (per station).—Self-explanatory

5. *Local Television or Point-to-Point Microwave Radio Service.*—

Local Television.—Radio communications service for the transmission of television material and related communications.

Point-to-Point Microwave.—A service rendered on microwave frequencies by fixed stations between points which lie within the United States or between points to its possessions, or to points in Canada and Mexico.

5.a. *Construction Permits, Modification of Construction Permits, and Renewals of License.*—Self-explanatory.

5.b. *Assignments and Transfers of Authorizations.*—Self-explanatory.

5.c. *Initial License for New Fequency.*—Self-explanatory.

6. *International Fixed Public Radio (Public & Control Stations).*—

Public Stations.—Stations which are open to public correspondence and which, in general, are intended to provide radiocommunications between any one of the contiguous 48 states, Alaska, Hawaii or any U.S. possession in connection with the relaying of international traffic between stations.

Control Stations.—Stations whose transmissions are used to control automatically the emissions of operations of another radio station at a specified location, or to transmit automatically to an alarm center telemetering information relative to the operation of such station.

6.a. *Initial Construction Permits, Assignments & Transfers.*—Self-explanatory.

6.b. *Renewals and Modifications.*—Self-explanatory.

7. *Satellite Services.*—A service that provides access to any authorized satellite for communications purposes.

7.a. *Transmit Earth Stations.*—Antennas and associated transmitting and receiving equipment which gives access to a communications satellite.

(1) *Initial Station Authorization.*—Authority to construct and/or operate a transmitting earth station for regular private or common carrier communications services or for telemetry, tracking and command functions.

(2) *Assignments and Transfers of Authorization.*—Self-explanatory.

(3) *All Other Applications.*—Any other application for regular or temporary authorization, including but not limited to, modification or renewal of station authorization, temporary authorizations or waivers.

7.b. *Small Transmit/Receive Stations.*—Small antennas (two meters or less) and associated transmitting and receiving equipment which gives access to a communications satellite.

(1) *Lead Station Authorization.*—Authority to construct and/or operate a small transmit/receive earth station for regular private or common carrier communication services. A Lead Authorization is the first earth station authorization in a network of user earth stations. The Lead Authorization establishes the terms and conditions under which routine authorizations may be granted.

(2) *Routine Stations Authorization.*—Authority to construct and/or operate a small transmit and/or receive earth station for regular private or common carrier communications services under the terms and conditions of a Lead Autorization. An application for a rountine authorization must identify the Lead Authorization to which it is associated.

(3) *All Other Applications.*—Any other application for regular or temporary authorization, including but not limited to, modification or renewal of station authorizations, temporary authorizations or waivers, and transfers and assignments.

7.c. *Received Only Earth Stations.*—Stations licensed to only receive transmissions from communications satellites.

(1) *Initial Station Authorization.*—Stations licensed to only receive transmissions from communications satellites.

(2) *All Other Applications.*—Any other application or regular or temporary authorization, including but not limited to, modification or renewal of station authorizations, temporary authorizations or waivers, and transfers and assignments.

7.d. *Applications for Authority to Construct a Space Station.*—Self-explanatory.

7.e. *Application for Authority to Launch and Operate a Space Station.*—Authorization to launch a space station and assignment of an orbital location at which the space station is to be operated.

7.f. *Satellite Systems Application.*—All antennas and associate transmit and receive equipment required to operate a single satellite communications system which generally includes a main Transmit Earth Station and many Small Transmit/Receive earth stations. The application is processed as a total and complete system in bands where frequency coordination is not required for each station site.

(1) *Initial Station Authorization.*—Authority to construct and/or operate a satellite system for regular private or common carrier communications services.

(2) *Assignments and Transfers of System Authorizations.*—Self-explanatory.

(3) *All Other Applications.*—Any other application for regular or temporary authorization, including but not limited to, modifications or renewal of station authorizations, temporary authorizations or waivers, and transfers and assignments.

8. *Multipoint Distribution Service.*—One way domestic public radio service rendered on microwave frequencies from a fixed station transmitting (usually in a omnidirectional pattern) to multiple receiving facilities located at fixed points determined by the subscribers.

8.a. *Construction Permits, Renewals and Modifications of Construction Permits.*—Self-explanatory.

8.b. *Assignments and Transfers of Control* (per station).—Self-explanatory.

8.c. *Initial License (first license or a license adding a new frequency).*—Self-explanatory.

9. *Section 214 Applications.*—All circuits (channels) installed or acquired and required to be reported pursuant to Sections 63.03(e), 63.04(e) and 63.07(b) of the Commission's rules.

9.a. *Overseas Cable Construction Permits.*—Authorization to lay a new cable or cables.

9.b. *Domestic Cable Construction Permits.*—Authorization to lay a new cable or cables.

9.c. *All other 214 Applications.*—Authorization to intall or acquire a 4 kHz or 24 Kb/s channels for domestic use. Any Domestic broad band channel is considered, for free purposes, a single 4 kHz frequency. All international 214 applications other than cable construction permits.

10. *Tariff Filings.*—Published charges or regulations for one or more, but not all carriers applicable to communication service between points of a system which is subject to any provision of the Communications Act of 1934 and which participates or engages in such communications service, irrespective of whether it is a terminal or intermediate carrier.

10.a. *Filing Fee.*—A filing is a Letter of Transmittal with accompanying tariff supplement, revised page(s), additional page(s), concurrence(s), notice of revocation, adoption notice or any other schedule(s) of rates or regulations filed in accordance with Part 61 of the Commission's rules.

10.b. *Special Permission Filing.*—An application to waive any portion of Part 61 of the Commission's rules.

11. *Telephone Equipment Registration.*—Registration of equipment filed pursuant to Part 68 of the rules. (Terminal equipment and protective circuitry.)

12. *Digital Electronic Message Service.*—A two-way domestic end-to-end fixed radio service utilizing Digital Termination Systems for the exchange of digital information.

12.a. *Contruction Permits, Renewals and Modifications of Construction Permits.*—Self-explanatory.

12.b. *Assignments and Transfers of Control* (per station).—Self-explanatory.

12.c. *Initial License (first license of license adding a new frequency).*—Self-explanatory.

The FCC has previously maintained fee schedules under the general authority granted to the head of each federal agency (see section 9701 of title 31 U.S. Code). However, in 1976, the U.S. Court of Appeals (D.C. Circuit) ruled that the Commission had exceeded its authority under those provisions of law and struck down the fee schedule which was then in place (NAB v. FCC 554 F2d 1118). Since that time the FCC has not attempted to reinstitute a schedule of fees. It is the intent and understanding of Congress that the subsequent enactment of specific fee authority for meeting the actual cost of handling transactions before the FCC will supercede any authority the FCC would otherwise have under section 9701 of title 31 to impose additional fees over and above those provided for under this reconciliation Act.

Cross-Ownership Rule Waivers

The conferees are concerned with Commission enforcement of the local cross-ownership rules particularly in light of the number of recent waiver requests to these rules the Commission has considered. The Commission's purpose in granting any waiver to the cross-ownership rules should be to further the public interest; furtherance of the private interest of any applicant or licensee must be subservient to this purpose.

The conferees expect the Commission to review such requests with great scrutiny and not grant a waiver unless the applicant meets the burden of clearly demonstrating why such a waiver should be granted. Any temporary waiver granted should be limited in duration to the minimum amount of time necessary.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1985.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 8. As requested by your staff, Table 1 reflects the budget impact of the provisions assuming an October 1, 1985 date of enactment. As requested by the Budget Committee, the estimates in Table 2 assume a December 31, 1985 date of enactment.

If you wish further details on these estimates we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner).

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 8

TABLE 1.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986–88
Direct spending: Receipts from FCC services and land sale				
Budget authority		−30.0	−36.0	−66.0
Outlays		−30.0	−36.0	−66.0
Authorizations:				
FCC:				
Budget authority	0.9	−.8	[2] −.8	−.7
Outlays	.9	−.8	−.7	−.7
CPB:				
Budget authority	−1.0	2.0	11.0	12.0
Outlays	−.1	−.5	7.4	6.8
Total:				
Budget authority	−0.1	−28.8	−25.8	−54.7
Outlays	.8	−31.3	−29.3	−59.9

[1] Assumes October 1, 1985 date of enactment.
[2] Assumes authorization of the FCC at the 1987 authorization level, adjusted for inflation.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 8

TABLE 2.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986–88
Direct spending: Receipts from FCC services and land sale:				
Budget authority		−22.5	−36.0	−58.5
Outlays		−22.5	−36.0	−58.5
Authorizations:				
FCC:				
Budget authority	0.9	−.8	[2] −.8	−.7
Outlays	.9	−.8	−.7	−.7
CPB:				
Budget authority	−1.0	2.0	11.0	12.0
Outlays	−.1	−.5	7.4	6.8
Total:				
Budget authority	−.1	−21.3	−25.8	−47.2
Outlays	.8	−23.8	−29.3	−52.4

[1] Assumes December 31, 1985 date of enactment.
[2] Assumes authorization of the FCC at the 1987 authorization level, adjusted for inflation.

TITLE VI—WATER TRANSPORTATION PROGRAMS

SUBTITLE A—BOATING SAFETY FUND

The House bill contained a provision to transfer certain funds from the Boating Safety Account to the General Fund of the Treasury. The Senate receded to the House provision.

SUBTITLE B—NOAA CHARTS

Both House and Senate versions contained provisions authorizing the Secretary of Commerce to raise the price of nautical and aeronautical products. The House receded to the Senate with amendments.

The first amendment requires the Secretary to consult with the Secretary of Transportation concerning impacts on aviation and maritime safety before submitting required reports to the Congress and before any adjustments in prices are made.

The second amendment prohibits the Secretary from raising the price of nautical and aeronautical products in order to recover the costs of data acquisition and processing.

The third amendment defines nautical and aeronautical products.

SUBTITLE C—FOREIGN FISHING PERMIT FEES

The House bill included a provision that would amend section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (MFCMA) (16 U.S.C. 1824(b)). The House would have stricken the terms "and the territorial waters of the United States" in section 204 of the MFCMA thereby altering the formula by which MFCMA costs are assigned. The effect of this change would be to increase the proportion of the costs of implementing the MFCMA allocated to foreign fishing nations. Under current law, the fees, once collected, are deposited in the Fisheries Loan Fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)). The House bill also provided that any increase in fees collected through the new formula, over and above what would have been collected via the old formula, would be deposited in the General Fund of the United States Treasury. The Senate bill had no comparable provision.

The Senate receded to the House with amendments, which authorize the Secretary of Commerce to raise foreign fishing fees by instituting the new formula if the Secretary, in consultation with the Secretary of State, finds that any foreign nation receiving an allocation under section 201(e) of the MFCMA is: (1) harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or (2) failing to take sufficient actions to benefit conservation and development of United States fisheries.

Under the new formula, fees that would apply if either of the above conditions are not met would be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this title during that fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone during the preceding year. Application of this new formula could be waived at any time during the year if the Secretary, in consultation with the Secretary of State, finds that remedial actions are taken by such foreign nations.

The Secretary, in consultation with the Secretary of State, would be required in each year to make a determination of the performance of foreign nations receiving an allocation and to report to the Congress on those determinations and the reasons therefor.

Any amount collected over and above what would have been collected under the existing fee formula would be deposited in the General Fund of the United States Treasury.

The Conferees wish to clarify that the term "harvesting anadromous species" means the catching and retention of such anadromous species for economic benefit and not situations where, in the course of fishing for other species, anadromous species are caught incidentially and discarded.

SUBTITLE D—OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

The House bill included provisions to provide, subject to appropriations, annual block grants to coastal states from a fund consisting of a portion of annual, federal Outer Continental Shelf (OCS) receipts. Similar legislation has passed the House on several occasions (see H. Rpt. 99-300). The Senate bill contained no similar provision. The Senate receded to the House with amendments.

Section 6032(b)(1) was amended to specify that an amount equal to twenty percent of the amount, if any, by which the total OCS revenues during the previous fiscal year exceeded $5 billion shall be deposited annually into the fund. In addition, the fund is capped so that it may not contain more than $150 million at any time during fiscal year 1988, nor more than $300 million during fiscal year 1989. The cap on the fund increases by five percent per year thereafter.

The second amendment provides for the deduction from block grants of a proportion of the funds received by the state pursuant to the Coastal Zone Management Act and the Outer Continental Shelf Lands Act prior to the award of block grants. Funds not awarded as a result of these deductions are to be paid into the General Fund as miscellaneous receipts.

SUBTITLE E—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT

The House bill contained a slightly modified version of H.R. 2121, a bill to reauthorize and amend the Coastal Zone Management Act (CZMA). The Senate bill contained no similar provision. The Senate receded to the House with amendments.

In Section 6043(b), the expression of the federal-state grant provisions under Sections 306 and 306A of the CZMA is changed from a percentage to a ratio. The amendment clarifies that federal funds are to be provided on a matching basis without reference to the total costs for implementing any state program.

Section 6043(c) amends section 306(g) of the CZMA. The amendment requires states to promptly notify the Secretary of any proposed amendments, modifications or other program changes to their federally approved programs. It establishes deadlines for Secretarial review of proposed amendments. In addition, it stipulates that a state may not implement any proposed amendment as part of its approved program until after the amendment has been approved by the Secretary.

The Conferees note that a proposed amendment is not a part of a state's federally approved program until that amendment has received Secretarial approval. Since federal assistance under Section 306 is provided for implementation of approved programs, no federal funds may be utilized for implementation of a proposed amendment until it has been so approved.

Section 6044(g) requires certain information regarding implementation of Section 315 of the CZMA be included in the biennial report required under Section 316 of the CZMA.

The Conferees have agreed upon amendments to Section 315 of the CZMA which would, among other things, require redesignation of all existing national estuarine sanctuaries as national estuarine reserves. The Conferees do not intend that NOAA immediately require that educational and informational materials be modified to effect a redesignation if doing so would impair public recognition and acceptance of any existing sanctuary or impose undue administrative and economic burdens.

Finally, authorization figures for fiscal year 1986 have been added in Section 6046.

SUBTITLE F—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION [NOAA]

The Senate bill incorporates the text of S. 990, the NOAA Ocean and Coastal Programs Authorizations. S. 990 was passed with amendments by the Senate on June 19, 1985, and its provisions are discussed in S. Rpt. 99-72. The House receded to the Senate with amendments.

In Section 6051, fiscal year 1986 authorizations were amended to correspond to fiscal year 1986 appropriations levels. These authorizations are increased by 4.5 percent in fiscal year 1987, consistent with the approach taken by S.990.

The final text also includes amendments to Title II of the Marine Protection, Research, and Sanctuaries Act and additional amendments to the National Ocean Pollution Planning Act set forth in Subtitles G and H.

Finally, the Senate bill included a two-year reauthorization for the National Advisory Committee on Oceans and Atmosphere (NACOA). The Conferees agreed to a one-year reauthorization at fiscal year 1986 appropriation levels, recognizing that a decision on authorizations for fiscal year 1987 and beyond should be deferred pending further consideration of the role of NACOA and the establishment of a National Ocean Policy Commission.

SUBTITLE G—THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT AMENDMENTS

The Senate bill contained a two-year reauthorization of Title II of the Marine Protection, Research, and Sanctuaries Act in S. 990. The final text contains a two-year reauthorization with additional amendments which were contained in H.R. 2958. For further discussion of these amendments see H. Rpt. 99-101, Part I and H. Rpt. 98-135, Part I.

SUBTITLE H—NATIONAL OCEAN POLLUTION PLANNING ACT AMENDMENTS

The Senate bill included a two-year reauthorization of NOPPA which had been incorporated into S. 990. The final text contains a two-year reauthorization with additional amendments which were contained in H.R. 1958. For further discussion of these amendments see H. Rpt. 99-101, Part II.

SUBTITLE I—WEATHER MODIFICATION

Section 6081 authorizes, for the fiscal years 1986 through 1988, NOAA's program for reporting on all public and private weather modification activities. A similar provision was included in S. 1103 (S. Rept. 99-75), which passed the Senate June 18, 1985.

Section 6082 directs the Administrator of NOAA to assure the future availability and usefulness of ocean satellite data to the maritime community. In adopting this provision, the Conferees' primary aim was to encourage NOAA to take full advantage of future ocean satellite missions flown by sister agencies, thereby facilitating the use of data and information from such missions by the maritime community. For example, the Navy intends to launch the $300 million Navy Remote Ocean Sensing System (NROSS) in 1990. For an additional modest investment, NOAA could and should establish a system for disseminating real-time NROSS data to the civilian community.

Section 6083 requires the Administrator to report to the appropriate Congressional Committees and to provide full justification before contracting any activity to the private sector pursuant to OMB Circular Memorandum A-76. The 30-day stay of the A-76 process constitutes an appropriate balance between providing an adequate opportunity for Congress to consider and act upon A-76 proposals and ensuring that desirable management efficiencies are achieved without undue delay. A provision similar to Section 6083 was included in S. 1103 (S. Rpt. 99-75), which passed the Senate June 18, 1985.

Section 6084 authorizes, for the fiscal years 1986 and 1987, the activities of the National Climate Program Office. A provision analogous to Section 6084 was included in S. 1103 (S. Rept. 99-75), which passed the Senate June 18, 1985. The key provision in section 6084 is the statutory establishment of the Climate Program Policy Board, which functions as a "Board of directors" for the Program and is responsible for long-range planning and presentation of budgetary recommendations to OMB. The Conferees' intent in enacting section 6084 is well explained in H. Rpt. 98-135 (Part I)

Section 6085 redesignates section 5 of the Coast and Geodetic Survey Act as section 5(1), and amends that section to clarify that it authorizes the Administrator to enter into cooperative agreements with other Federal agencies for joint surveys and investigations. Questions have been raised as to whether section 5(1), as redesignated, applies to agreements among Federal agencies, as well as agreements between the Secretary and other public and private organizations, such as state mapping agencies. The amendment to section 5(1) is intended to clarify that the section does authorize the Secretary to enter into cooperative agreements with other Federal agencies.

Section 6085 also adds a new paragraph (2) to section 5 that explicitly authorizes the Secretary to establish the terms of agreements entered into pursuant to this section, including the terms of reimbursements to the Administration, that reflect the amount of benefits derived by the Administration from the agreement.

SUBTITLE J—MARITIME AUTHORIZATIONS

The Senate bill contained provisions of S. 679 which was passed by the Senate on June 5, 1985 (see Senate Rpt. 99-64). The House bill contained no similar provisions. The House receded to the Senate with an amendment to strike the last subsection.

Construction Differential Subsidy

The Senate bill contained a provision citing those provisions of the Merchant Marine Act, 1936, which authorize repayment to the Federal Government of construction-differential subsidy (CDS) grants with interest. The House bill contained no similar provision. The Senate receded to the House, agreeing to delete the provision as unnecessary.

The Maritime Administration has promulgated a final rule (50 Fed. Reg. 19170-78, May 7, 1985) to allow vessel owners or operators to repay CDS grants with interest, as authorized by the Merchant Marine Act, 1936. This administration action obviates the need for legislative action to achieve the desired savings estimated by CBO at $200 million in fiscal year 1986.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 18, 1985.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 9.

If you wish further details on these estimates, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 9, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986–88
Direct spending: Boat safety:				
Budget authority	−15			−15
Outlays	−6	−5	−3	−14
Authorizations:				
Coastal block grants:				
Budget authority			150	150
Outlays			50	50
National Oceanic and Atmospheric Administration:				
Budget authority	−51	−59	[1] −64	[1] −174
Outlays	−42	−59	−63	−164
Maritime Administration:				
Budget authority	−10	[2] −10	[2] −10	[2] −30
Outlays	−8	−10	−10	−28
Total:				
Budget authority	−76	−69	76	−69
Outlays	−56	−74	−26	−156

[1] Assumes a 1988 authorization for NOAA programs at the 1987 authorization levels, adjusted for inflation at the rate projected in the budget resolution baseline.

[2] Assumes authorization of the maritime programs for 1987 and 1988 at the 1986 authorization levels, adjusted for inflation at the rate projected in the budget resolution baseline.

Note.—Assumes a Dec. 31, 1985, date of enactment.

TITLE VII—ENERGY AND RELATED PROGRAMS

SUBTITLE A—PIPELINE PROGRAMS

Pipeline Safety Authorization User Fees

This subtitle establishes a user fee to fund the cost of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act and authorizes appropriations for FY86. The House bill contained conflicting provisions on user fees. The Public Works title prohibited pipeline safety user fees. The Energy and Commerce title required user fees. The Senate had no user fee provisions. The Conferees agreed to establish and collect user fees starting in FY86.

User fees may be based on volume-miles, miles, revenues, or any appropriate combination of these. The Conferees intend for the gas pipeline industry and liquid pipeline industry to each pay their own appropriate share of the pipeline safety program. The Conferees require that the Secretary of Transportation will take into account allocation of Department resources when setting user fees. The Secretary is allowed, but not required, to set higher fees for non-hydrocarbon pipelines such as sour crude, sour gas, or carbon dioxide if these substances require a disproportionate share of Department resources. Likewise, the Secretary could set a special fee for a facility, such as an LNG facility, if it requires a disproportionate share of Department Resources.

The Conferees clearly intend for user fees to cover all Federal costs associated with the Federal Pipeline Safety program, but do not intend for the fees to raise any funds in excess of costs.

The Conferees have not changed the normal budget, authorization and appropriations requirements for the pipeline safety program. The only change caused by the establishment of user fees is the source of funds. Annual authorization and appropriation are still required, but the cost of the program is offset by user fees.

The Conferees note that this is not a trust fund.

SUBTITLE B—STRATEGIC PETROLEUM RESERVE (SUBCONFERENCE NO. 11)

Both the House and the Senate passed bills contain very similar provisions authorizing appropriations for the Strategic Petroleum Reserve for fiscal years 1986, 1987 and 1988. Both provisions also amend sec. 160(c) of the Energy Policy and Conservation Act which currently prohibits the U.S. Government from selling its share of oil from the Naval Petroleum Reserve at Elk Hills, unless the SPR is being filled at a minimum of 100,000 barrels per day or until 500 million barrels are in storage in the SPR. The conference agreement amends that provision so as to continue the prohibition on the sale of the U.S. share of the Elk Hills oil unless an average daily SPR fill rate of at least 35,000 barrels per day is maintained for each of the fiscal years 1986, 1987 and 1988, or until 527 million barrels are in storage in the SPR. The conferees regard the storage level of 527 million barrels as an interim storage figure. Nothing in this provision alters the current objective of filling the SPR to 750 million barrels.

SUBTITLE C—FEDERAL ENERGY CONSERVATION SHARED SAVINGS

The House Budget Reconciliation legislation authorizes the federal government to

enter into long-term contracts with private energy service companies for the purposes of saving energy in federal buildings. The Senate included a similar provision in its Budget Reconciliation legislation. The conferees agreed to provide Federal agencies authority to enter into shared energy savings contracts with private energy service companies for limited purposes. Such contracts are designed to facilitate reducing the cost of energy consumed in federal buildings, which totaled over $4 billion in 1984. The subtitle adds a new title VIII, consisting of four sections, to the National Energy Conservation Policy Act (NECPA).

Section 801 authorizes federal agencies to enter into long-term "shared savings" contracts for the limited purpose of reducing the cost of energy consumed in federally owned buildings or other federally owned facilities.

Typically, under such contracts, private energy service companies will install energy efficiency equipment and provide energy management services in federal buildings at no cost to the federal customer. The private company risks its own capital in return for a share of the value of energy savings resulting from the improvements. Thus far, restrictions on long-term contracting authority have prevented the Federal government from reducing the federal energy bill through shared savings contracts.

This provision would, therefore, allow the Federal government to enter into long-term contracts, not to exceed twenty-five years, without the necessity of obligating the total cost of the contract, including termination costs, at the time of the contract award. The conferees note that the type of contract permitted under this provision is unique and that such contracts are to be allowed only for the purpose of saving energy and may only be entered into within the context of federal government contracting law and regulation. The conferees further note that allowing shared energy savings contracts to be entered into for up to twenty-five years is not to be interpreted as a general endorsement of long-term contracts for goods and services. However, the conferees also intend that this legislation allow agencies to proceed with shared savings contracts, and every effort should be made to make full use of this authority wherever such contracts are expected to prove cost-beneficial to the agency.

It is understood that due to the unique and specialized nature of these contracts, they may require new contracting procedures. The conferees intend that any changes to existing contracting procedures necessitated by this title be incorporated into standard procurement regulations, such as the Federal Aquisition Regulations and the Defense Acquisition Regulations.

Although energy efficiency improvements frequently provide benefits in addition to energy savings, such as more reliable equipment or increased comfort, the contracts authorized herein are for the purpose of energy savings alone, and any other benefits which arise therefrom must be ancillary to that purpose.

As noted above, a typical contract obligates a private energy service company to risk its own capital on implementing energy savings measures. Implementaton activities might include an energy audit of the building, the purchase or lease and installation of equipment, or the training of personnel required to maintain or operate the equipment. Moreover, the contract might obligate the private contractor to provide ongoing operation and maintenance services for the life of the contract. In return, the Federal agency agrees to share the value of the energy savings, if any, which result from such measures. The "split" of the savings each year, and the method of determining the value of such savings, are specified in the contract. In a ten year contract, for example, the federal share of the savings might begin at 20 percent, but rise steadily to 50 percent by the fifth year. If no savings result, the private contractor receives no payments for savings.

The typical contract also provides the agency the opton to purchase the removable equipment at the end of the term of the contract for the remaining value of that equipment, if any. Nothing in this legislation is intended to prevent such arrangements as long as they comply with applicable federal law.

Section 802 authorizes any federal payments pursuant to such contracts representing the shared energy savings due the contractor to be made out of funds appropriated, or otherwise made available, to the agency for energy expenses and related operation and maintenance expenses. This section also authorizes the payment of termination costs, if any, to be made from such funds as long as these costs are provided for in the contract. The conferees wish to make clear that no payments are authorized by this section in excess of payments provided for in the contract and consistent with this title.

Section 803 requires each Federal agency to report periodically to the Secretary of Energy on its progress in implementing this authority. The conferees intend that such reports shall be made at least annually. This section further provides that the Secretary of Energy shall include a summary of that progress in the annual report to Congress already required under section 550 of NECPA, and shall include a description of progress made in achieving energy savings using this authority.

Section 804 defines "Federal agency" to include both civilian and military agencies. It also defines the term "energy savings" to mean a reduction in the cost of energy from a base cost established through a methodology set forth in the contract. The typical contract requires the parties to agree on the method for measuring the reduction of consumption (or, in the case of cogeneration, the production of new energy) resulting from the implemented measures, and for translating that result into dollar savings. The conferees also note that these contracts are restricted to savings energy in federally owned buildings and other federally owned facilities. In the case of congenerated electricity, the definition of "energy savings" limits the use of such electricity to federally owned facilities. However, the conferees recognize that the physical transmission of electricity among federally owned facilities may require using public or private transmission facilities in the customary manner and in accordance with applicable law.

The conferees also note that these contracts are not for saving energy in, for example, vehicles, or for the purpose of producing energy to sell to the private sector.

SUBTITLE D—BIOMASS ENERGY AND ALCOHOL FUEL, LOAN GUARANTEES

The Senate Committee on Energy and Natural Resources version contained a provision which extended the loan guarantee authority for Biomass Energy projects set forth in section 221 of the Biomass Energy and Alcohol Fuels Act of 1980. The House version contained no similar provision.

The conference agreement would amend Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Act), providing one final opportunity for three projects to obtain loan guarantees from the Department of Energy to construct ethanol plants in the United States. It is the clear intention of the conferees that no further administrative or legislative extensions of the conditional commitments be issued and that no loan guarantees be issued after June 30, 1986, assuming that the Department of Energy expedites consideration of these projects.

SUBTITLE E—SYNTHETIC FUELS

The House measure contained provisions terminating on the date of enactment, the United States Synthetic Fuels Corporation established under title I of the Energy Security Act.

The Senate measure contained no comparable provision.

The conference agreement provides for (1) termination of the authority of the SFC to award financial assistance as of the date of enactment; (2) termination of the Board of Directors of the SFC within 60 days after enactment of this Act; and (3) transfer, within 120 days of enactment of this Act, of the duties and responsibilities of the SFC to the Secretary of the Treasury in accordance with subtitle J of title I of the Energy Security Act.

SUBTITLE F—URANIUM ENRICHMENT

The House bill authorized the uranium enrichment program for fiscal years 1986, 1987, and 1988 at a level equal to estimated revenues less specific amounts established in the provision. Those amounts—$110 million in FY 1986, $150 million in FY 1987, and $150 million in FY 1988—were to be paid to the Treasury in partial repayment of the program's debt. The bill also permitted the Department of Energy (DOE) to resell unneeded power purchased from the Tennessee Valley Authority (TVA) to electric utilities. Savings from such transactions were to be deposited in the Treasury as further repayment.

The Senate bill authorized the uranium enrichment program for fiscal years 1986, 1987, and 1988 at a level equal to estimated revenues. Any revenues in excess of expenditures were to be deposited in the Treasury in partial repayment of the program's debt. The bill also required a report by the Secretary of Energy on the effects of a lawsuit, currently under appeal, that invalidated the utility services uranium enrichment contract between DOE and its customers.

The conference substitute is a compromise of the two bills. The substitute authorizes appropriations for the enrichment program during fiscal years 1986, 1987, and 1988 at a level equal to estimated revenues less an amount determined by the Secretary of Energy. The amount determined by the Secretary is to be paid to the Treasury in partial repayment of the unrecovered investment. In addition, any further revenues in excess of expenditures are to be deposited in the Treasury in repayment of the debt identified by the Secretary at the time he makes his first determination. The report required in the Senate bill is retained. The provision in the House bill relating to sales of TVA power is deleted.

The Secretary of Energy is given responsibility for determining the appropriate repayment amount after permitting an opportunity for notice and comment. The deter-

mination is in his discretion and is not subject to judicial review. The determination is to be consistent with the financial integrity of the uranium enrichment service activities program over a period of not less than 10 years. The provision also requires that the amount of such repayment shall not adversely affect the reliability of supply of uranium enrichment services at competitive prices for existing and potential customers. The amounts specified in the House bill are to be goals which the Secretary shall seek to achieve, but is not required to achieve.

The conference substitute recognizes that as part of comprehensive legislation to reduce the Federal deficit, the uranium enrichment program shares a responsibility to make a partial repayment of its debt, and that the amounts assumed in the First Concurrent Resolution on the Budget for FY 1986, and contained the House bill are reasonable goals. However, maximizing repayments in the next three years may impair the financial integrity of the program in the longer term, and thus, the Secretary must establish a repayment amount consistent with such financial integrity as well ensuring that the repayment will not adversely affect the reliability of supplies at competitive prices. The conferees expect the Secretary to consider a variety of factors in his determination, including the appropriate price and market share, the impact upon existing enrichment facilities and other program expenditures, the impact upon research and development of advanced technologies for additional capacity, and the deficit reduction goals in the provision.

The Secretary is to make the determination prior to the submission of the budget in each of the three fiscal years, but may make revised determinations, subject to the same standards and procedures, during such fiscal years. Since fiscal year 1986 has already begun, the Secretary should make the determination as soon as practicable. The conference report on the Energy and Water Development Appropriations Act of FY 1986 explicitly permitted a repayment if authorized. This legislation constitutes such an authorization.

The substitute also requires the Secretary to submit to Congress, along with his first determination, an estimate of the amount of prior investment in the uranium enrichment service activities program that remains unrecovered. The estimate should also include an analysis of how any of the debt should be apportioned between defense and commercial customers.

Tennessee Valley Authority [TVA] Power Sales

The House bill contained a provision entitled "Sale of Unnecessary Electric Energy". The House bill also contained a conflicting provision entitled "Sale by Secretary of Energy of Certain Unnecessary Electric Energy". The Senate bill contains no comparable provision. The House Conferees receded to the Senate in this matter.

Federal Energy Regulatory Commission Annual Charges

The House bill contained a provision requiring the FERC to assess and collect annual charges from interstate oil or natural gas pipelines and public utilities in amounts determined under the provision. The House bill also prohibits FERC from assessing or collecting charges from interstate oil or natural gas pipelines, except those charges assessed or collected pursuant to law approved before the date of enactment of this Act. The Senate bill contained no comparable provision. The House Conferees receded to the Senate on this matter.

TITLE VIII—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

SUBTITLE A—AMENDMENTS TO OUTER CONTINENTAL SHELF LANDS ACT

Section 8001—Short title

Neither House version contained a short title. The Senate version contained the short title, "Outer Continental Shelf Lands Act Amendments of 1985". The House Conferees receded to the Senate on the short title.

Section 8002—National policy for the Outer Continental Shelf

The Committee on Merchant Marine version, at section 6401 of H.R. 3500, contained an addition to the policy provision (Section 3 of the OCSLA) which stated that the distribution of section 8(g) receipts will provide states with funds which shall be used for the mitigation of adverse economic and environmental effects related to OCS development. Neither the House Interior Committee nor the Senate Energy Committee versions contained a comparable provision. The Senate Conferees receded to the House Merchant Marine Committee language, with an amendment. The amendment provided that the use of the funds for the mitigation of adverse economic and environmental effects would be discretionary with the State, rather than obligatory. The Conferees rejected the concept of federal control or limitation over State activities. The House Conferees agreed to change the word "shall" to the word "may".

Section 8003—Revision of Section 8(g)

Paragraph (1) of subsection (g) stipulates the type of geographical, geological, and ecological information that is to be shared with coastal states with respect to the 8(g) zone and adjacent federal areas. Both House Committee versions contained similar language and the Senate Committee had no comparable provision. The Conferees agreed to accept the language of the Committee on Merchant Marine and Fisheries on information sharing.

Paragraph (2) of subsection (g) describes the revenues to be divided between the federal government and coastal state governments. The Conferees accepted language of the House Committees, with an amendment to add the words "derived from any bidding system authorized under subsection (a)(1), excluding Federal income and windfall profits tax and" after the words "royalties and other revenues". The intent of the amendment was to assure the division of revenues received from any of the alternative bidding systems, if utilized by the Secretary of the Interior, under section 8(a). The Conferees also reasserted their intention that federal income and windfall profit taxes would not be included in such division. With the amendment noted, the Conferees agreed on the House language in paragraph (2).

The agreed upon language is clear that Federal income and windfall profits taxes are excluded. If the Secretary were to shift to an alternative bidding system, the fact that revenues may be termed "profit sharing receipts" or some other nomenclature is irrelevant. All such revenues, except federal income and windfall profits taxes, are to be included and the Federal government may not attempt to exclude any revenues by not calling them "bonus", "rent", or "royalty".

Section 8(g)(2) as amended by this title requires that the State's share of the 8(g) revenues together with accrued interest shall be transmitted "not later than the last business day of the month following the month in which these revenues are deposited in the Treasury,". The Conferees fully expect that the Department will comply with this prescribed deadline. However, under this language the Department may expedite distribution of the State's share to the State by omitting the step of investing these escrowed revenues in interest-bearing securities, which may have a maturity of 30 days or more, and by paying the State its share as soon as the 8(g) revenues can be identified among non-8(g) royalty payments by a lessee.

Under the current reporting system in place, the OCS lessee aggregates payments to the Federal Government of 8(g) and non-8(g) OCS revenues, so some period of time is required for the Department to identify the 8(g) revenues. Thus, even where the Department does invest the State's share of 8(g) revenues, the period during which interest accrues to the State will not commence until the 8(g) revenues can be segregated by the Department and actually invested. It is anticipated that the Department can meet the requirements of section 8(g)(2) as amended without substantial revision of the current OCS reporting system, reporting forms, or Treasury accounts.

Paragraph (3) provides for an agreement between the Secretary of the Interior and the Governor of the coastal State to enter into an unitization or other royalty sharing agreement for the division of revenues from the production of any common potentially hydrocarbon-bearing area. Both House Committees and the Senate Committee had similar language. However, the Senate language contained an additional provision that if no such agreement is reached, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the Federal Government from such leasing would be subject to the requirements of paragraph (2). The House Conferees receded to the Senate on this provision.

Paragraph (4) provides for the investment by the Secretary of the Treasury of the deposits in the 8(g) account. The Senate language was different from the two House Committee versions because, to provide some flexibility to the Secretary of the Treasury, it required the deposits be invested in securities having the highest reasonably available interest rate as determined by the Secretary of the Treasury. The House Conferees receded to the Senate.

Paragraph (5) provides for the distribution of revenues when there is a boundary dispute between the United States and a state under section 7 of the OCSLA. Both House Committees and the Senate Committee had similar language in this paragraph. The House Conferees receded to the Senate on its language in paragraph (5).

Paragraphs (6) and (7) were identical in all three versions and were not subject to change in the Conference.

During the Conference, an issue was raised as to whether revenues received by the Federal Government from tracts located in what is now the 8(g) zone, but which were leased prior to the date of enactment of the OCS Lands Act Amendments of 1978 (September 18, 1978), should be excluded from the distribution of revenues to the States under this title. The uniform position of the Senate Conferees was that the issue had been settled by a roll call vote on the Senate floor and that all such revenues were subject to such distribution under this

title. The House Conferees then considered and rejected a motion to adopt Statement of managers language to exclude such revenues.

Section 8004—Distribution of 8(g) account

Subsection (a) provides that prior to January 1, 1986, the Secretary shall distribute to designated coastal States the amounts due and payable to each state under paragraph (2) of section (g), as amended, for the period between October 1, 1985, and the date of such distribution and the monies to be distributed under subsection (b) of this section. Except for technical differences, both House Committee versions and the Senate Committee version were identical and were not subject to modification by the Conference.

With respect to the requirement of the distribution of the appropriate shares of currently escrowed funds by January 1, 1986, the Conferees understand that it has been the practice of the Department of the Interior to invest such funds to obtain interest on the escrowed funds with the intent of distributing this interest to the States and the Federal Government upon distribution of the account. Because of such investment practices, the full amount of escrowed funds due to be paid under this section may not be liquid as of January 1, 1986. Therefore, the Conferees anticipate that the Secretary will make payments to the states as soon as such investments mature and money is available.

Subsection (b) provides for the fair and equitable distribution of funds in the 8(g) account, including all accrued interest thereon through September 30, 1985. Both house versions contained identical distribution figures for each of the seven states eligible for the funds. The Senate figures were identical, except for Alaska which was $10 million less than that provided in the House bills. The House Interior Committee version also provided that no more than $4.3 billion would be credited to the Federal Treasury. Any money that remained after such credit to the Federal Treasury would be paid to affected coastal States. Neither the Merchant Marine Committee nor the Senate Energy Committee versions contained a comparable provision.

Finally, the House Merchant Marine Committee and Senate Energy Committee versions provided that acceptance of payment under this section shall satisfy and release any and all claims against the U.S. arising under, or related to, section 8(g) as it was in effect prior to the date of enactment of this Act. With respect to all of the described provisions in subsection (b), the Senate receded to the House Merchant Marine Committee version.

Section 8005—Immobilization of boundaries

This section amends the Submerged Lands Act to provide that any boundary between a State and the U.S. which has been or is hereafter established by a final decree of the U.S. Supreme Court shall remain immobilized. All three Committee versions were similar, except for technical differences.

Section 8006—Recoupment

This section provides for States to recoup their share of revenues which should have been, but which were not, deposited in the 8(g) account under section 8(g)(4) of the OCS Lands Act as it was in effect prior to the date of enactment of this Act. All three Committee versions were similar. The language in the first clause relating to "bonuses, royalties, and other revenues" was taken from existing section 8(g)(4).

Section 6404—Local passthrough

The House Committee on Merchant Marine version contained a provision that would have provided a minimum of 33 percent of the funds to local coastal governments for the mitigation of economic and environmental effects related to OCS development. Neither the House Interior Committee nor the Senate Energy Committee version contained a comparable provision. The House receded to the Senate by deleting the local passthrough provision.

SUBTITLE B—COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS

Section 8101—Revision of section 19

The House Interior Committee version contained an amendment to section 19 of the OCSLA. The Merchant Marine Committee and the Senate Energy Committee versions has no comparable provision. The Conferees agreed to an amendment to the Interior Committee language.

Under existing law, section 19(c) requires that the Secretary accept the recommendations of a Governor regarding a proposed lease sale or development and production plan if the Secretary determines that acceptance of the recommendation provides a "reasonable balance between the national interest and the well-being of the citizens of the affected state."

During extensive House hearings on the OCS leasing process, including the State/Federal consultation process, several representatives of environmental groups, fishing groups, and state governments, including those from oil-producing states such as Texas and Louisiana, expressed dissatisfaction with the Secretary of the Interior's response to state recommendations. In the past, this dissatisfaction has led to lawsuits and moratoria over lease sales off several states. The development of potential hydrocarbon resources in areas with valuable fisheries resources has also been a contentious and recurring issue.

Under the amendment agreed to by the Conferees, the Secretary will be required, in determining the "national interest", to "equally weigh" the need for offshore energy activities and the need to protect "other resources and uses of the coastal zone and the marine environment, including living marine resources" affected by such offshore energy activities. Section 19, as amended, will require the Secretary to consider carefully and equitably the recommendations of the Governors of coastal states with respect to lease sales and oil and gas development and production plans. The Secretary is required to provide the Governors of affected states with a decision in writing together with reasons and information sufficient to support the decision. The Secretary's decision must also address each specific point raised in the Governor's recommendations. Further, if the Secretary rejects the Governor's recommendation, he may not implement any decision for a period of 30 days following receipt, by the Governor, of the findings on which the Secretarial decision was based.

The amendment includes new language which provides that the scope of judicial review of the Secretary's decision shall be that applied to final federal agency actions by the Administrative Procedure Act, 5 U.S.C. 706(2)(A)—"arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law".

The amendment repeals subsection (d) of existing law.

SUBTITLE C—USE OF AMERICAN-BUILT RIGS FOR OCS DRILLING

Section 8201—Use of American-built rigs for OCS drilling

The Senate receded to the House on Title VI, Subtitle H of the Merchant Marine Committee version—Use of American-built Rigs for OCS Drilling.

TITLE IX. MEDICARE, MEDICAID, MATERNAL AND CHILD HEALTH

SUBTITLE A. MEDICARE

1. Rates of increase in payments for inpatient hospital services (sec. 101)

Present law

Current law generally provides that the medicare prospective payment rates should be updated annually by the Secretary of Health and Human Services. The law states that the update for FY 1986 should take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality, but may not exceed the rate of increase in the hospital marketbasket index (the increase in hospital input prices) plus one quarter of a percentage point. The Secretary of HHS promulgated final regulations freezing hospital medicare payments for FY 1986 at the FY 1985 levels. Public Law 99-107, the Emergency Extension Act of 1985, amended current law to provide that the payment rates in effect on September 30, 1985 should remain in effect for a further 45-day period, through November 14, 1985. Public Law 99-155 extended this requirement through December 14, 1985, and Public Law 99-181 extended the requirement through December 18, 1985.

House bill

The bill would require that the Secretary provide a 1 percent increase in the PPS payment rates for FY 1986. A similar rate of increase would be provided for PPS-exempt hospitals, which remain under a cost reimbursement system. For PPS hospitals, the provision would be effective for discharges occurring during FY 1986 for the Federal portion of the prospective payment rates. For the hospital-specific portion of the payment rates in PPS hospitals, and for PPS-exempt hospitals, the provision would take effect for the hospital's cost reporting period that begins during FY 1986.

Senate amendment

The provision would require the Secretary of Health and Human Services to provide a 0.5 percent increase in the PPS rates for fiscal year 1986 and an increase no greater than the increase in the hospital market basket index in fiscal years 1987 and 1988. Additionally, the payment limits for PPS-exempt hospitals and units would be increased by 0.5 percent for fiscal year 1986 and by an increase of no more than the hospital market basket in fiscal years 1987 and 1988.

The provision would be effective for hospital cost reporting periods beginning on or after October 1, 1985, for the hospital-specific portion of the PPS rates, and for discharges occurring on or after October 1, 1985, for the Federal portion of the PPS rates. For PPS-exempt hospitals, the provision would take effect for hospital cost reporting periods beginning on or after October 1, 1985.

Conference agreement

The conference agreement includes the House bill with the following modifications. The conference agreement extends the cur-

rent freeze on the PPS payment rates and on the cost limits for PPS-exempt hospitals through February 28, 1986.

For PPS hospitals, the Secretary will be required to provide an increase of 1 percent in the PPS payment rates for the remainder of fiscal year 1986 and an increase no greater than the increase in the hospital market basket index in fiscal years 1987 and 1988. For fiscal year 1986, the increase in the Federal portion of the rates will take effect for discharges occurring on or after March 1, 1986, and the increase in the hospital specific portion of the rates will take effect with the beginning of the sixth month of the hospital's first cost reporting period beginning on or after October 1, 1985 (e.g., June 1, 1986, for a hospital with a cost reporting period beginning on January 1, 1986; and December 1, 1986 for a hospital with a reporting period beginning on July 1, 1986).

For PPS/exempt hospitals, the Secretary will be required to increase the applicable cost limits for fiscal year 1986 by seven-twelfths of 1 percent (0.5833 percent) effective for hospital cost reporting periods beginning on or after October 1, 1985 but before October 1, 1986. For fiscal years 1987 and 1988, the Secretary will be required to provide an increase in the cost limits that is no greater than the increase in the hospital market basket index. Further, in computing the cost limits for fiscal years 1987 and 1988, the increase for fiscal year 1986 shall be deemed to be 1 percent rather than 0.5833 percent.

2. One-year extension of transition to national DRG rates (sec. 102)

Present law

The Social Security Administration of 1983 (P.L. 98-21) provided for a new prospective payment system for hospital inpatient services provided to medicare beneficiaries.

Current law provides for a three-year transition from payments based on hospital specific costs to payments based on national DRG (diagnosis related group) rates. During this period, a declining portion of the total prospective payment will be based on a hospital's historical reasonable costs and an increasing portion will be based on a combination of regional and national DRG rates. In the fourth year of the program and thereafter, medicare payments will be determined under a totally national DRG payment methodology. The blend of the historical cost (hospital specific) portion of the payment rate with the Federal portion of the DRG payment rate is changed with the beginning of the hospital's cost reporting period.

The Federal DRG component is comprised, for the first three years, of a combination of national and regional rates. This phase-in takes account of current differences in hospital costs across regions; different payment levels are provided for nine census regions of the United States. Changes in the blend and the amounts of the national/regional components of the Federal DRG payment rates are made on the Federal fiscal year basis. The prospective payment rate transition started with each hospital's first cost reporting period that began on or after October 1, 1983. The current transition schedule is shown below.

For hospital cost reporting periods beginning on or after:

Fiscal year [1]	Hospital specific portion (percent)	Federal DRG portion (percent)
1984	75	25 (100 percent regional)
1985	50	50 (25 national, 75 regional)
1986	25	75 (50 national, 50 regional)
1987	0	100 (100 national)

[1] The hospital specific portion (HSP) amount and the proportional shares of the HSP and the Federal DRG amount change with the beginning of the hospital's cost reporting period. The Federal (national and regional) rates and their proportional shares change with the beginning of the Federal fiscal year.

P.L. 99-107, the Emergency Extension Act of 1985, amended current law to provide that hospital payment rates that were in effect on September 30, 1985 should remain in effect for a further 45-day period, through November 14, 1985. This change also suspends the transition at the blend of 50 percent hospital specific/50 percent Federal for the 45-day period. Public Laws 99-155 and 99-181 extended this requirement through December 18, 1985.

House bill

The bill would extend the transition period for one additional year. The 50 percent hospital specific cost/50 percent Federal DRG payment rate blend would be maintained for FY 1986. Since changes in the regional/national composition are made on a Federal fiscal year basis, the transition schedule would be revised as follows. For hospital cost reporting periods beginning on or after:

Fiscal year [1]	Hospital specific portion (percent)	Federal DRG portion (percent)
1984	75	25 (100 percent regional)
1985	50	50 (25 national 75 regional)
1986	50	50 (25 national, 75 regional)
1987	25	75 (50 national, 50 regional)
1988	0	100 (100 national)

This provision would have two effects. First, it would continue to base 50 percent of the payment on the hospital's own historical cost base for one more year. Second, it would continue to base 75 percent of the Federal portion of the payment rate on regional costs for one more year. For the blend of the regional and national portions of the Federal component of the payment rate, the provisions would be effective for discharges occurring on or after October 1, 1985. The blend of the hospital specific and Federal portions would be effective for discharges occurring during hospital cost reporting periods beginning on or after October 1, 1985.

[1] The hospital specific portion (HSP) amount and the proportional shares of the HSP and the Federal DRG amount change with the beginning of the hospital's cost reporting period. The Federal (national and regional) rates and their proportional shares change with the beginning of the Federal fiscal year.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the following modifications. Beginning with the sixth month of the hospital's cost reporting period beginning during fiscal year 1986, the hospital specific/Federal blend will be 45 percent hospital specific and 55 percent Federal. For hospital cost reporting periods beginning during fiscal year 1987 the hospital specific/Federal blend will be 25 percent hospital specific and 75 percent Federal. Effective for discharges occurring on or after March 1, 1986 and before October 1, 1986 the blend of the Federal rate components will be 75 percent regional and 25 percent national. For discharges occurring during fiscal year 1987, the blend of Federal rate components will be 50 percent regional and 50 percent national.

The conferees believe that this modification in the transition will give all hospitals more time to adjust to the prospective payment system. In addition, it would provide hospitals in higher cost regions of the country an opportunity to make the necessary changes to reduce their costs. This modification in the transition to national rates does not reflect a lack of support for the prospective payment system. The conferees do not believe that any further delay in the transition to national rates is warranted. The conferees believe that significant progress must be made in developing refinements to the DRG system to more accurately reflect the actual costs incurred in providing care. For example, the conferees, in this legislation, have requested a report on refining the hospital wage index to reflect the higher costs incurred in core city areas relative to suburban areas. In addition, the conferees anticipate that significant progress will be made toward implementing a severity of illness index.

It has come to the conferees' attention that burn center hospitals may be among these hospitals that will require special treatment because of the extensive treatment needs of their patients. For these hospitals, up to one-half of the burn patients may be outliers—far in excess of the percentage comtemplated by the PPS. The Secretary is requested to review the adequacy of the payments being made to burn center hospitals under PPS and any problems of access that the present payment method may be creating for medicare patients.

3. Application of revised hospital wage index (sec. 103)

Present Law

As an integral part of the medicare prospective payment system (PPS) for hospitals, the Federal portion of the prospective payment rates is adjusted to take into account differences in wages from area to area. This is accomplished by means of an area wage index applied to all PPS hospitals in urban and rural areas. The current hospital wage index is constructed from a national data base of hospital wage records maintained by the Bureau of Labor Statistics (BLS). There are a number of technical flaws in this index, principally that is fails to recognize differences at the local level regarding the number of part-time hospital workers.

In response to requirements in the Deficit Reduction Act of 1984, P.L. 98-369, the Health Care Financing Administration developed a new "gross hospital wage index," based on a more refined survey of hospital wage costs. This index is derived from total gross hospital wages including salaries of interns and residents, personnel employed in areas other than the inpatient area, hospital-based physicians and all other salaries paid to hospital employees. P.L. 98-369 required that any new wage index be implemented retroactive to October 1, 1983. According to the PPS final regulations published September 3, 1985, HCFA planned to implement the new wage index October 1, 1985, retroactive to October 1, 1983.

P.L. 99-107, the Emergency Extension Act of 1985, amended current law to provide that medicare hospital payments would be determined on the same basis as they were on September 30, 1985, effective through November 14, 1985. Public Law 99-155 extended this requirement through December 14, 1985, and Public Law 99-181 extended it through December 18, 1985. This means that there can be no change in the wage index until after this date.

a. New gross wage index

House bill

The Secretary would be required to implement the new "gross wage index" published in the proposed PPS regulations on June 10, 1985. The provision of current law requiring retroactive application of the new wage index would be repealed. The house bill does not preclude the Secretary from making adjustments to reflect computation errors that may have been made in calculating the specific index amounts. The provision would be effective for discharges occurring during fiscal year 1986.

The House bill requires that the gross wage index be used for FY 1986. Further, the House bill requires the Secretary to make refinements, as necessary, in the area wage index for FY 1987 and beyond.

Senate amendment

Similar provision, except references final PPS regulations published September 3, 1985. The provision would be effective for discharges that occur during FY 1986, with Secretarial authority to make periodic adjustments in the appropriate wage index for discharges occurring after September 30, 1986.

Conference agreement

The conference agreement follows the Senate amendment with a modification that the provision would be effective for discharges occurring on or after March 1, 1986.

B. Wage index study

House bill

The Secretary would be required to study, in consultation with the Prospective Payment Assessment Commission, and make a recommendation to the Congress by May 1, 1986, on refining the area wage adjustment to reflect the higher wage costs incurred by hospitals located in core city areas relative to those in surburban areas of the same metropolitan area.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification of the reporting date to March 1, 1987.

4. Change in formula for indirect teaching adjustment (sec. 104)

Present law

The medicare program provides reimbursement for both the direct and indirect costs of medical education incurred by teaching hospitals. The direct costs of approved medical education programs (such as salaries for residents and teachers and classroom costs) are excluded from the prospective payment system, and are reimbursed on a reasonable cost basis. The indirect costs are increased patient care costs associated with teaching programs due to such factors as increased diagnostic testing, increased numbers of procedures prescribed, higher staffing ratios, and a more severely ill patient population.

A proxy measure, defined as the hospital's ratio of the number of interns and residents divided by the number of beds (IRB), has been used to adjust medicare prospective payments for indirect medical education costs. An adjustment factor for indirect medical education costs was estimated statistically based on the increase in hospitals' costs as their ratio of interns and residents to the number of beds (IRB) increases. This factor was first used as an adjustment to the medicare limits on hospital payments under the former cost-based reimbursement system.

When Congress enacted the prospective payment system, it established the indirect teaching adjustment factor at double the factor which was in effect as of January 1, 1983. After recomputing this factor, the Health Care Financing Administration estimated, on a linear basis, that a 0.1 increase in the IRB ratio would result in a 5.79 percent increase in a hospital's cost per discharge; doubled, the indirect teaching factor was established at 11.59 percent. This adjustment is made to the Federal DRG portion of the PPS rate only. The adjustment was doubled because of concerns that the DRG system would adversely affect teaching hospitals. These concerns stemmed from doubts about the ability of the DRG case classification system to fully account for factors such as severity of illness, urban location, bed size, and increased medicare costs associated with hospitals that serve large numbers of low-income patients. The doubling of the indirect teaching adjustment from 5.79 percent to 11.59 percent was done on a budget-neutral basis, which means that the DRG payments were adjusted downwards overall to account for the doubling of the indirect teaching adjustment.

a. Adjustment reduction

House bill

The House bill would reduce the indirect teaching adjustment to 8.1 percent (for FY's 1986 and 1987) and 8.7 percent (for FY's 1988 and beyond) for each 0.1 increase in the IRB ratio, on a variable or curvilinear basis. (An adjustment made on a variable basis reflects the non-linear cost relationship; that is, each increase in residents-to-bed ratio does not result in a proportional increase in costs).

The reduction from 8.7 percent to 8.1 percent in FY 1986 and FY 1987 recognizes that a portion of the indirect teaching adjustment compensates hospitals serving a disproportionate share of low-income patients. When the disproportionate share payment provisions expire at the end of FY 1987, the indirect teaching adjustment would revert to 8.7 percent.

The savings from the reduction in the indirect teaching adjustment from 11.59 percent on a linear basis to 8.7 percent on a curvilinear basis would be total systems savings. The savings from the further reduction from 8.7 percent to 8.1 percent would be used to offset the additional costs of the disproportionate share provision.

Senate amendment

The Senate amendment would reduce the indirect teaching adjustment from 11.59 percent to 7.7 percent on a variable, or curvilinear basis, for fiscal years 1986 and 1987, and 8.7 percent for fiscal years 1988 and beyond.

Conference agreement

The conference agreement includes the House bill with an amendment to clarify effective dates (see item (g)).

b. Intern outpatient counting

House bill

The House bill would provide that interns and residents assigned to outpatient departments of a hospital would be counted for purposes of determining the indirect teaching adjustment.

Senate amendment

There is a similar provision in section 704 of the Senate amendment.

Conference agreement

The conference agreement includes the Senate amendment.

c. Restandardizing the DRG rates

House bill

The House bill would require the Secretary to restandardize the Federal DRG payment amounts by excluding, for discharges occurring after September 30, 1985, the reduced indirect medical education payment amounts based on the indirect teaching adjustment factors authorized by this provision (i.e., 8.1 percent in fiscal years 1986 and 1987, and 8.7 percent in fiscal years 1988 and thereafter) in place of the factor used under current law (i.e., 11.59 percent).

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the modification that the Secretary will be required to restandardize the Federal DRG payment amounts effective for discharges occurring after September 30, 1986.

d. Reduce the standardized rates

House bill

The House bill requires that the Secretary restandardize the standardized payment amounts. In order to ensure that the budget neutrality calculation does not redistribute payment amounts among the twenty payment areas for which standardized payment amounts are calculated, the budget neutrality adjustment should be calculated to take into account the varying teaching payments in each of these regions. For each of these twenty payment areas, indirect teaching payments based on rates standardized to 8.1 percent curvilinear and paid out on the same basis (plus the disproportionate share payments) shall be neither more nor less than the payments based on rates standardized by 11.59 percent linear indirect medical education factor and paid out on 8.7 percent curvilinear basis.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the modification that the reduction in the Federal DRG payment amounts will be effective for discharges occurring on or after October 1, 1986

e. Counting of non-employee interns

House bill

No Provision.

Senate amendment

In determining the indirect teaching adjustment, the Senate amendment would prohibit the Secretary from distinguishing between interns and residents who are employees of a hospital and those who furnish services to a hospital but are not employees of the hospital.

Conference agreement

The conference agreement includes the Senate amendment.

f. Intern and resident reimbursement limitations

House bill

No provision.

Senate amendment

Effective July 1, 1986, the Senate amendment would provide that interns and residents whose costs are not recognized as reasonable for the following reasons would not

be counted in determining the indirect teaching adjustment: (1) those whose training exceeds the lesser of 5 years or the minimum number of years necessary to meet initial board eligibility requirements except, however, those who begin geriatric fellowship programs prior to July 1, 1991. After July 1, 1989, if the required number of years of training changes, the Secretary may change the number of years within specified limits; (2) for the year beginning July 1, 1986, one-third of those who are not graduates of accredited or approved schools of medicine osteopathy, dentistry, or podiatry; for the year beginning July 1, 1987, two-thirds of those who are not graduates of such accredited schools; and for the year beginning July 1, 1988, none of those who are not graduates of such accredited schools; (3) for hospitals at which on October 1, 1985, more than 50 percent of their interns and residents were not graduates of accredited schools, one-third of such graduates for the 2 years beginning July 1, 1986, two-thirds of such graduates for the 3 years beginning July 1, 1988, and none of such graduates beginning July 1, 1991.

Conference agreement

The conference agreement does not include the Senate amendment.

g. Effective date

House bill

The House bill would be effective for discharges occurring on or after October 1, 1985.

Senate amendment

The Senate amendment provides an identical effective date.

Conference agreement

The Conference agreement includes the Senate amendment with the modification that the effective date will be March 1, 1986. In addition, the Secretary will be prohibited from implementing this provision until such time as the additional payments to disproportionate share hospitals are initiated.

5. Additional payment amounts for hospitals serving a disproportionate share of low income patients (sec. 105)

Present law

Under the Social Security Amendments of 1983, the Secretary of HHS is required to make adjustments to the PPS rates as the Secretary deems appropriate for hospitals that serve a disproportionate number of low income or medicare part A patients. The Deficit Reduction Act of 1984 requires the Secretary, prior to December 1, 1984, to develop and publish a definition of disproportionate share hospitals, to identify such hospitals, and to make the list available to the Committees with legislative jurisdiction over part A. The Secretary has failed, to date, to develop any criteria for defining or identifying such hospitals or otherwise make any information available to the Committees.

House bill

a. Fiscal years 1986 and 1987 payments

For FY 1986 and FY 1987, the House bill would require the Secretary of HHS to make additional payments by adjusting the Federal portion of the DRG payment, for eligible urban PPS hospitals with 100 beds or more, serving a disproportionate share of low income patients.

b. Eligible hospitals

The House bill would provide that such adjustment would be made to urban PPS hospitals with 100 or more beds meeting the disproportionate share criteria.

c. Low income patient definition

The proxy measure for low income would be the percentage of a hospital's total inpatient days attrributable to medicaid patients (including medicaid-eligible medicare beneficiaries—medicare/medicaid crossovers).

d. Mandatory payment rate

The Federal portion of the DRG payment would be increased by .7 percent for each 1 percentage point increase in the ratio of low income inpatient days to total inpatient days, above the minimum threshold of 15 percent. The maximum adjustment would be 16 percent.

A limited exceptions process would be established for urban PPS hospitals with 100 beds or more. The Secretary would be required to make disproportionate share payments where a hospital can demonstrate that more than 30 percent of its net inpatient care revenue is provided by local or state governments for inpatient care for low income patients not otherwise reimbursed by medicare or medicaid. If this threshold is met, the per DRG add-on would be 16 percent. In no case would a hospital receive an adjustment greater than 16 percent.

This bill reduces the indirect teaching adjustment from 8.7 percent to 8.1 percent to reflect the disproportionate share adjustment. When the disproportionate share adjustment expires in two years, the indirect teaching adjustment would be increased for FY 1988 and beyond to 8.7 percent. The disproportionate share provision would be budget neutral and would be accomplished by restandardizing the standardized payment amounts.

e. Restandardization of DRG rates

The House bill would require the Secretary to restandardize the DRG payment amounts to reflect the disproportionate share adjustment.

f. Data development

No provision.

g. Data use for payment

No provision.

h. Discretionary payment add-on

No provision.

i. Waiver of Paperwork Reduction Act

No provision.

j. Effective date

The House bill would be effective for discharges occurring between October 1, 1985 and September 30, 1987.

Senate amendment

a. Fiscal years 1986 and 1987 payments

Similar provision, except that additional payments would be made to qualified urban or rural hospitals regardless of bed size.

b. Eligible hospitals

The Senate amendment provides that such additional payments would be made to any PPS hospital meeting the disproportionate share criteria.

c. Low income patient definition

The proxy measure for low income patients would be the percentage of a hospital's total medicare part A patient days attributable to medicare patients who are also enrolled in the Federal Supplemental Security Income (SSI) program.

d. Mandatory payment rate

For hospitals with 100 beds or more, the Federal portion of the PPS payment would be increased by 2 percent plus .25 percent for each 1 percentage point (or portion thereof) that the proxy measure is above the 15 percent minimum threshold. The maximum adjustment would be 12 percent. PPS rates for hospitals with less than 100 beds would be increased by 12 percent if their proxy measure is 55 percent or more.

e. Restandardization of DRG rates

No provision.

f. Data development

The Secretary would be required to develop accurate data on medicare patients who are also enrolled in SSI by October 1, 1986.

g. Data use for payment

The proposal also requires the Secretary to pay hospitals where historical data is not available on the basis of similar hospitals in the region in which the hospital is located.

h. Discretionary payment add-on

The Senate amendment would provide that disproportionate share payments may be made to a hospital based on data provided by the hospital if the Secretary agrees that such data is more accurate than the data which would otherwise be used.

i. Waiver of Paperwork Reduction Act

The Senate amendment would provide that the Paperwork Reduction Act would not apply to information required for purposes of carrying out this provision.

j. Effective date

The provision would be effective for discharges occurring on or after October 1, 1985, and before October 1, 1987.

Conference agreement

The conference agreement includes the House bill with the following modifications. Additional payments will be made to urban PPS hospitals with more than 100 beds if the hospital's percentage of low income patients is 15 percent or higher. For such hospitals, the Federal portion of the hospital's payment rate will be increased by 2.5 percent plus one-half of the difference between the hospital's percentage of low income patients and 15 percent, up to a maximum increase of 15 percent. The Federal portion of the payment rate will be increased by 5 percent for urban hospitals with less than 100 beds having a percentage of low income patients of 40 percent or higher. The increase will be 4 percent for rural hospitals with a percentage of low income patients of 45 percent or more.

The percentage of low income patients will be defined as the total number of inpatient days attributable to Federal Supplemental Security Income beneficiaries divided by the total number of medicare patient days, plus the number of medicaid patient days divided by total patient days.

Additional payments to qualified hospitals will be effective for discharges occurring on or after March 1, 1986 and before October 1, 1988.

The Congressional Budget Office is required to undertake a study of the impact of payments to disproportionate share hospitals and the advisability of providing additional payments to all "Pickle" hospitals, i.e., those which can demonstrate that more than 30 percent of their revenues are derived from State and local government payments for indigent care provided to patients not covered by medicare or medicaid. The CBO is required to report the results of this study by January 1, 1987.

6. Treatment of certain rural osteopathic hospitals as rural referral centers (sec. 106)

Present law

Under present law, rural hospitals that meet certain requirements can qualify to receive the "urban standardized payment amount adjusted by the rural wage index applicable for the geographic area. The adjustment was permitted because data indicated that large rural hospitals with high case mix indices had costs which were similar to those of urban hospitals.

Under existing criteria there are approximately 146 rural referral centers. Each rural referral center is reviewed every three years by the Health Care Financing Administration to determine if the center continues to qualify. In order to qualify, a rural referral center must meet a specified case mix index, have at least 6,000 discharges in a cost reporting period, and meet other minor requirements.

House bill

The House bill would allow osteopathic hospitals to meet the rural referral center standard if they had at least 3,000 discharges in a cost reporting period and if they meet all the other requirements, as specified by the Secretary, for rural referral center designation. The provision would be effective for cost reporting periods beginning on or after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill. The conferees note that rural osteopathic hospitals wishing to qualify as rural referral centers must meet all other applicable requirements, in addition to the new discharge requirement established by this provision.

7. Return on equity capital for inpatient hospital services and other services (sec. 108)

Present law

A return on equity (owner) capital invested and used in providing patient care is considered a medicare allowable cost for proprietary, or for-profit, health care providers. Equity capital is the net worth of a hospital excluding those assets and liabilities not related to patient care. Specifically, equity capital includes: (1) the investment in the plant, property, and equipment (net of depreciation) related to patient care, plus deposited funds required in connection with leases; and (2) working capital maintained for necessary and proper operation of patient care facilities.

The level of payment for return on equity (ROE) formerly was set at a rate of no more than one and one-half times the average rate of return on trust fund investments. In the Social Security Act Amendments of 1983 (P.L. 98-21), Congress reduced the level of payments for hospitals to the average rate of return on trust fund investments. The rate of return for other providers was not affected.

a. Hospital return on equity payments

House bill

The House bill would provide that return on equity would not be a medicare allowable cost for inpatient hospital services beginning October 1, 1986. In addition, costs attributable to a return on equity capital would be excluded in determining national and regional DRG prospective payment rates adjusted to include capital costs.

The bill would be effective with respect to cost reporting periods beginning on or after October 1, 1986, and to DRG payments for discharges on or after October 1, 1986.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the modification that payments to hospitals for return on equity capital will be separated from payments for other elements of capital costs and phased out over a three-year period. For hospital cost reporting periods beginning in fiscal year 1987, payments for return on equity will be reduced to 75 percent of the otherwise allowable amount. For cost reporting periods beginning during fiscal years 1988 and 1989, return on equity payments will be reduced to 50 percent and 25 percent, respectively, of the otherwise allowable amounts.

The conferees expect that next year the Congress will review the entire issue of the method by which capital expenses of hospitals are reimbursed. At that time, the Congress will review, and may change, the provisions in this Act regarding return on equity.

b. Other provider return on equity payments

House bill

The House bill would reduce the rate of return for other provider services, if regulations provide for ROE, to the average rate of return on the hospital insurance trust fund beginning October 1, 1985.

The bill would be effective with cost reporting periods beginning on or after October 1, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification. The effective date would be March 1, 1986.

8. Continuation of medicare reimbursement waivers for certain hospitals subject to regional hospital reimbursement demonstrations (sec. 109)

Present law

Section 1886(c) permits a permanent waiver of the standard medicare reimbursement rules for States whose hospital cost containment programs meet a number of requirements, including the requirement that the costs under the State program not exceed those that would have been incurred without the waiver.

House bill

The House bill would permit a local hospital reimbursement system that had operated under a waiver to continue if the State requested the continuation and if the local project meets the requirements for States that receive a waiver, with the following change.

Such a system would have to include substantially all acute care hospitals in the area, and review a minimum of 75 percent of all revenues or expenses there for inpatient hosptial services and 75 percent of revenues or expenses for inpatient hospital services provided under the state's plan approved under title XIX. Medicare's costs could not exceed what they otherwise would be under the medicare PPS systems.

This option would be limited to reimbursement systems that were carrying out demonstration on January 1, 1985 with the approval of the Secretary of Health and Human Services. This provision would become effective upon enactment.

Senate amendment

Similar provision except (a) requires the Secretary to approve such a waiver request and (b) includes demonstrations authorized under section 402 of the Social Security Amendments of 1967, (as amended by section 222(b) of the Social Security Amendments of 1972).

Conference agreement

The conference agreement includes the Senate amendment with a modification to strike the language concerning the effective date.

In addition, the conference agreement will extend the demonstration project known as "Assessment for Community Care Services" through September 30, 1986. The conferees note that this project, carried out by Monroe County Long Term Care Program, Inc. has pioneered in the development of home based alternatives to hospital and nursing home use which allow the delivery of more appropriate and economical care to medicare beneficiaries.

9. Four-year test for state waivers for certain states (Sec. 110)

Present law

Under present law, States may request a waiver of medicare's reimbursement rules for a statewide hospital reimbursement control system under section 1886(c) of the Social Security Act. A number of requirements must be met before such a waiver request is granted. One requirement is that the State demonstrate, to the Secretary of the Department of Health and Human Services' satisfaction, that the amount of medicare payments made under the waiver would not exceed the amounts that otherwise would have been paid over a 36-month period under Title XVIII, if the State were not under a statewide reimbursement waiver.

House bill

The House bill would extend the 36-month test period under section 1886(c)(1)(C) for a further 12 months. Therefore, the comparison period would be a 48-month period. The provision would apply only to states which had made a request for a waiver under 1886(c) prior to December 31, 1984, and whose request was approved. The Secretary would be prohibited from discontinuing payments under the State's system because the Secretary has reason to believe that the assurances for meeting cost effectiveness tests are not being (or will not be) met before July 1, 1986. The only State that meets these criteria is New Jersey. The provision would be effective upon enactment.

Senate amendment

The Senate amendment would prohibit the Secretary from discontinuing a State's waiver so long as the State takes appropriate steps by July 1, 1986, to assure the Secretary that its system will continue to meet the cost-effectiveness test. The provision would apply only to States which had made a request for a waiver under 1886(c) prior to December 31, 1984. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the House bill.

10. Special rule for treatment of depreciation and capital indebtedness for donations of State property to non-profit corporations (sec. 111)

Present law

Section 2314 of the Deficit Reduction Act of 1984 (DEFRA), P.L. 98-369, limited the basis for which medicare depreciation is allowed when a change of ownership occurs. The new owner's basis is the lesser of (1) the historical cost, net of depreciation (cost to the previous owner), or (2) the purchase price.

House bill

The House bill would provide a special rule for treatment of certain transfers. In the case of a hospital or skilled nursing facility that is donated by a State government (donor) to a non-profit corporation (donee), the basis from which capital-related costs to the donee is calculated would be the donor's historical cost (net of depreciation).

The provision would be effective as if it had been included originally in DEFRA.

Senate amendment

Similar provision, except it applies only to hospitals.

Conference agreement

The conference agreement includes the Senate amendment.

11. Report on impact or outlier and transfer policy on rural hospitals (sec. 112)

Present law

Present law requires that additional payments be made under the prospective payment system for hospitals when there is either an unusually long length of stay or the stay is excessively costly (both as defined by the Secretary).

House bill

The Secretary of Health and Human Services would be required to review the impact of the outlier and transfer polices under the PPS system as they relate to rural hospitals, particularly rural hospitals with less than 100 beds.

The Secretary would be required to report to Congress on findings of the review not later than May 1, 1986, and should include in this report recommendations on changes in these policies to the extent that they adversely affect rural hospitals. The provision would be effective upon enactment.

Senate amendment

No provision

Conference agreement

The conference agreement includes the House bill with a modification to change the due date of the report to October 1, 1986.

12. Information on impact of PPS payments on hospitals (sec. 113)

Present law

Under the Congressional Budget Act of 1974, the Congressional Budget Office (CBO) is entitled to the most recently available cost reports submitted by medicare participating hospitals to the Department of Health and Human Services. There is no requirement that the House of Representative's Committee on Ways and Means or the Senate's Committee on Finance receive cost report information on hospitals that participate in the medicare program.

House bill

The House bill would require the Secretary of Health and Human Services to make available to the Prospective Payment Assessment Commission (ProPAC), the Congressional Budget Office, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, the most current information on the payments being made under the prospective payment system to individual hospitals.

The hospital specific information would be treated as confidential and would not be subject to further disclosure in a manner that would permit the identification of individual hospitals. The provision would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill, with a modification to omit the House Committee on Ways and Means and the Senate Committee on Finance from, and to add the Congressional Research Service and the General Accounting Office to, the list of entities to receive current PPS payment information.

13. Indirect teaching adjustment related to independent clinic activities (sec. 710)

Present Law

For the first three years of the prospective payment system (PPS), a special exception is applied to hospitals which had traditionally been allowed direct billing under part B so extensively that it would have been disruptive to immediately require them to bill for all such services under part A. These hospitals are, in effect, allowed to have part of their PPS payments paid through part B billings and the remainder paid to the hospital under part A. The Health Care Financing Administration has ruled that in such split payment cases, the indirect teaching adjustment would apply only to the portion of the medicare payment that is paid through part A.

House bill

No provision.

Senate amendment

The provision would clarify that the split payment provision was only intended to provide a temporary billing accommodation for certain hospitals and that the indirect teaching adjustment should be applied as if the entire PPS payment had been made under part A. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment, with the following modifications. Part A services billed under part B under a waiver granted under this authority will be paid at 100 percent of the reasonable charge (or other applicable basis of payment) and the entity billing such services under part B must accept such payment as payment in full. Payment of the indirect teaching adjustment as if all services were billed under the PPS payment methods in part A, will be effective with the first hospital cost reporting period beginning on or after January 1, 1986. Payment or part A services billed under part B at 100 percent of reasonable charges and the requirement that the billing entity accept such payment as full payment will be effective for services provided on or after 10 days following enactment.

14. Coverage of psychologists' services (sec. 711)

Present law

Section 1861(b) of the Social Security Act includes the definition of the inpatient hospital services that are paid for by medicare "such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements.

House bill

No provision.

Senate amendment

The provision would clarify that inpatient hospital services for which payments may be made under medicare part A would include diagnostic or therapeutic services provided by a psychologist. The provision would be effective upon enactment.

Conference amendment

The conference amendment does not include the Senate amendment.

15. Payments to sole community hospitals (sec. 711C)

Present law

Public Law 98-21 provided a special PPS payment formula for hospitals known as sole community hospitals that, due to special circumstances such as isolated location, are the sole source of inpatient services reasonably available in a given geographic area. Such hospitals are paid on the basis that all other PPB hospitals are paid during the fist year of the transition period: 75 percent based on the hospital specific rate and 25 percent on the national DRG rate. Unlike other hospitals under PPS, which will eventually be paid totally according to a national DRG rate, sole community hospitals will remain at the 75/25 ratio.

In a suit filed in 1984, Redbud Community Hospital, a sole community hospital in Clearlake, CA, challenged HHS's determination of its PPS rate, arguing that the rate did not take into account the costs of providing several new services that were incurred subsequent to its base year. The United States District Court for the Northern District of California issued a preliminary injunction on July 30, 1984, directing the HHS Secretary to issue regulations taking into account any extraordinary and unusual costs not necessarily reflected in a hospital's base year costs but which, if not considered in estimating the hospital specific rate, were likely to result in a distortion in that rate, and taking into account the special needs of sole community hospitals and the unique effects of their status on the hospital specific rate. HHS issued such regulations on July 1, 1985, but withdrew them on July 31, 1985, after Supreme Court Justice William Rehnquist stayed the order of the U.S. District Court. There is a small number of other sole community hospitals that also consider their PPS payments to be inadequate because of costs incurred subsequent to their base year due to the addition of new facilities or services.

House bill

No provision.

Senate amendment

a. Payment provision

The Senate amendment would require the Secretary to provide an adjustment to the PPS rates to reasonably compensate sole community hospitals that experience a significant increase in operating costs in cost reporting periods after the base period due to the addition of new inpatient facilities or services (including the opening of a special care unit). Such payment adjustment would be applied to the cost reporting period during which the cost increase was incurred

and to subsequent cost reporting periods as may be necessary to reasonably compensate the hospital for the increased costs.

b. Study

The Senate amendment would require the HHS Secretary to complete a study by January 1, 1987, of the effects of this provision, including recommendations on a permanent mechanism for needed expansions of sole community hospitals' services and the hospital specfic rates of such hospitals.

The provision would be effective for payments for cost reporting periods beginning on or after October 1, 1983. The provision would expire on September 30, 1989.

Conference agreement

The conference agreement includes the Senate amendment but deletes the language relating to case mix changes, which is superfluous. The conferees intend that this provision will remedy problems for hospitals such as Redbud that have added new inpatient services subsequent to their base years.

16. Sense of the Senate with respect to inpatient hospital deductible (sec. 711B)

Present law

The Secretary of HHS announced that the inpatient hospital deductible for calendar year 1985 will be $492.

Medicare law specifies the formula to be used to determine the inpatient hospital deductible amount, based on the average costs of a day of hospital care. Reduced lengths of stay and lower hospital occupancy rates have reduced costs per admission but have increased the costs of care per day.

House bill

No provision.

Senate amendment

Expresses the sense of the Senate that the Committee on Finance should report legislation on the annual increase in the deductible so that it is more consistent with annual increases in medicare payments to hospitals. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment, with the understanding that this provision expresses only the sense of the Senate.

17. Promulgation of inpatient hospital deductible (sec. 716A)

Present law

The Secretary of HHS announced on September 30, 1985, that the inpatient hospital deductible for calendar year 1986 will be $492, an increase of 23 percent over the corresponding 1985 figure. Medicare law specifies the formula to be used to determine the deductible amount.

The Secretary must publish a notice of the projected increase by October 1 of each year.

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretary to publish a notice of the projected increase by September 15 of each year. This provision would be effective for calendar years after 1985.

Conference agreement

The conference agreement includes the Senate amendment.

18. ProPAC expansion (sec. 142 and 734)

Present law

The Social Security Amendments of 1983 (P.L. 98-21) provided for the establishment of the Prospective Payment Assessment Commission (ProPAC) consisting of 15 members appointed by the Director of the Office of Technology Assessment, generally to serve for 3-year terms.

House bill

The House bill would expand current ProPAC membership by two, to be appointed no later than January 1, 1986. (See item 40 also for provisions relating to physician payment activities or ProPAC.)

Senate amendment

The provision would expand ProPAC membership by two, to be appointed no later than 60 days after enactment, for 3-year terms. This provision would become effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment. It is the intent of the conferees that the two new ProPAC members would represent nurses and rural hospitals.

19. Extension and payment for hospice care (sec. 121)

Present law

Under current law, individuals who are entitled to medicare part A benefits and who are certified to be terminally ill may elect to receive part A reimbursement for hospice care services, in lieu of certain other services. Public Law 97-248, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which authorized this hospice benefit, mandated reports to the Congress by the Secretary of Health and Human Services on September 30, 1983, (regarding the Department's hospice demonstration project) and January 1, 1986 (evaluating the hospice benefit). Current authority for the medicare hospice benefit is scheduled to sunset on October 1, 1986.

In implementing the TEFRA hospice benefit, the Department of Health and Human Services established a prospective payment system and set daily rates for each of four levels of hospice care. Public Law 98-617 increased the routine home care payment rate by approximately $7.00 per day for the fiscal year beginning October 1, 1984, and required the Secretary of HHS to review and adjust the hospice rates annually, beginning October 1, 1985.

The report on the hospice demonstration project, which was to have been submitted by September 30, 1983, has not been received by the Congress. Cost data will not be available to the Secretary in order for the rates to the updated by October 1, 1985.

House bill

The bill would repeal the sunset provision of present law. Beginning January 1, 1986, each of the daily payment rates for hospice care would be increased by $10.00, an amount which is slightly less than the Congressional Budget Office estimate of the savings per day attributable to a medicare hospice election. The Secretary would be given one additional year, until October 1, 1986, to review and adjust the hospice rates and to report to the Congress on the adequacy of the rates in insuring participation in medicare by an adequate number of hospice programs. The repeal of the sunset provision would be effective on enactment of the bill.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House bill.

20. Limiting the penalty for late enrollment in part A (sec. 122)

Present law

Part A coverage under medicare is available on a voluntary basis to individuals 65 or over who are not otherwise entitled to coverage. These individuals may obtain medicare part A coverage by paying a monthy premium. Anyone purchasing part A coverage after the third month after the month in which he becomes eligible is charged a late penalty of 10 percent of the standard premium for each 12 months he is late in enrolling; that is, for each 12 months during which he could have been, but was not enrolled. This penalty is paid each and every month of coverage for the rest of the beneficiary's life.

House bill

The House bill would limit the part A premium penalty to 10 percent no matter how late an individual enrolled, and the period during which the penalty is paid would be limited to twice the number of years enrollment was delayed. At the end of this period, the premium would revert to the standard monthly premium in effect at that time. For example if the individual enrolled one year late, the penalty would be 10 percent paid for two years; for late enrollment for two years, the penalty would be 10 percent a year for four years, and so on, after which it would revert to the standard premium amount.

The House bill would also apply to medicare beneficiaries currently paying a part A premium penalty. Months before, during or after January 1986, in which such an individual was required to pay a premium penalty, would be taken into account in determining the month in which the premium would no longer be subject to a penalty increase.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill, with a modification that the effective date will be April 1, 1986.

21. Medicare coverage of, and application of hospital insurance tax to, newly hired state and local government employees (sec. 123)

Present law

Under present law, there is no Federal requirement that state and local government employees pay the hospital insurance tax. Most state and local government employment is already covered as a result of voluntary agreements for such coverage entered into by the States. About 25-30 percent of such employment is not currently covered.

House bill

The House bill would extend medicare coverage on a mandatory basis for all state and local government employees hired subsequent to December 31, 1985. The employers and their employees would become liable for the hospital insurance portion of the FICA tax and the employees would earn credit toward medicare eligibility based on their covered earnings.

Senate amendment

The Senate amendment is similar, but would include current, as well as newly

hired, employees and would become effective October 1, 1986.

22. Responsibilities of medicare hospitals in emergency cases (sec. 124)

Present Law

Hospitals that participate in medicare have to meet defined conditions of participation and enter into participation agreements. The participation agreement contains no specific requirements relating to the appropriate treatment of emergency patients, including non-medicare patients.

a. Requirements

(1) Medical screening

House bill

The House bill would require all participating hospitals with emergency departments to provide an appropriate medical screening examination for any individual who requests it (or has a request made on his behalf) to determine whether an emergency medical condition exists or if the patient is in active labor.

Senate amendment

The Senate amendment contains a similar provision, except it would require such examination or treatment only if it is within the capability of the hospital's emergency department. In addition, it provides that these medical screening requirements would not apply if providing a medical screening examination would delay or otherwise be contrary to prompt medical treatment of the individual's medical condition.

Conference agreement

The conference agreement includes the Senate amendment's provision that such examination or treatment is required of the hospital only if it is within the capability of the hospital's emergency department; the conference agreement does not include the Senate amendment's provision that the medical screening requirements would not apply if they would delay or be contrary to prompt treatment.

(2) Necessary stabilization

House bill

The House bill provides that all participating hospitals must, when a patient is found to have an emergency condition or to be in active labor (i) provide further examination and treatment within their competence to stabilize the medical condition or provide treatment for the labor, unless such treatment is refused, or (ii) provide an appropriate transfer to another medical facility in accordance with a defined standard.

Senate amendment

The Senate amendment contains a similar provision, except that such a determination could be made through an appropriate medical screening examination or otherwise. In addition, the Senate amendment does not require the hospital to provide for transfer to another medical facility if the transfer is refused.

Conference agreement

The conference agreement includes the House bill's language concerning the hospital's determination of an emergency medical condition or active labor. The conference agreement includes the Senate amendment's provision that transfer is not required if refused, with a clarifying amendment that examination, treatment or transfer could be refused by either the patient or a person responsible for the patient. The conference agreement also provides that if the individual (or a legally responsible person acting on the individual's behalf) refuses further medical examination and treatment or refuses a transfer, the hospital's obligation with respect to further examination and treatment or with repect to transfer is discharged.

(3) Restricting transfers until patient is stabilized

House bill

A hospital may not transfer a patient who has not been stabilized or is in active labor unless: (i) a physician has signed a certificate that, based on the information available at the time and using reasonable standards, the medical benefits to be obtained from appropriate medical treatment at another facility outweigh the risks of transfer, i.e., the receiving facility has agreed to accept the patient, has space and qualified personnel available for his treatment and is provided with medical examination and treatment records from the transferring hospital, and the transfer is made by proper personnel using equipment that meets health and safety standards.

Senate amendment

The Senate amendment includes a similar provision, except prohibits a hospital from transferring a patient who has not been stabilized or is in active labor unless: (i) the patient (or member of the patient's family if the patient is an unemancipated minor or is unable to communicate) or (ii) a physician or other qualified medical personnel when a physician is not available in the emergency department has made a determination that the benefits of a transfer outweigh the risks, and (iii) the transfer is an appropriate transfer.

Conference agreement

The conference agreement includes the Senate amendment provision conditioning a transfer on patient (or member of the patient's family) approval, with an amendment that a person legally responsible for the patient could also request a transfer. The conference agreement includes the House bill provision requiring physician certification for transfer, but includes the Senate amendment provision that such certification could also be made by other qualified medical personnel when a physician is not (adding the word "readily") available in the emergency department.

(4) Definition of an appropriate transfer

House bill

Defines an appropriate transfer as one:

(i) in which the receiving facility has available space and qualified personnel for the treatment of the patient, has agreed to accept transfer of the patient and to provide appropriate medical treatment, and is being provided appropriate medical records (or copies) of the examination and treatment provided by the transferring facility;

(ii) in which the transferring hospital provides the receiving hospital with appropriate medical records (or copies) of the examination and treatment affected the transferring hospital;

(iii) in which the transfer is made through qualified personnel and transportation equipment, including medically appropriate life support measures during the transfer; and

(iv) which meets other requirements the Secretary of HHS may find necessary.

Senate amendment

The Senate amendment contains a similar provision except:

(i) also provides that if the patient's medical condition is sufficiently serious to require an immediate transfer, the receiving facility must be notified of the transfer as soon as practicable under the circumstances;

(ii) no provision;

(iii) provides that the transfer be made by qualified personnel and transportation equipment as required, including necessary and medically appropriate life support measures; and

(iv) identical provision.

Conference agreement

The conference agreement includes:

(i) the House bill, which does not include notification of the transfer as soon as practicable;

(ii) the House bill, which requires the transferring hospital to provide the receiving hospital with appropriate medical records; and

(iii) the Senate amendment regarding qualified personnel and transportation equipment.

b. Enforcement

House bill

The House bill provides that a hospital that fails to meet these requirements would have its medicare participation agreement terminated. In addition, a participating hospital that knowingly violates these requirements and the responsible physician in the hospital with respect to such a violation are each subject to a civil monetary penalty of not more than $25,000 for each violation. For purposes of this section, a "responsible physician" means a physician who is employed by, or under contract with, the participating hospital, and acting as such an employee or under such contract, has professional responsibility for the provision of examinations or treatments for the individual, or transfers of the individual with respect to which the violation occurred.

Any person who suffers personal harm, and any medical facility which suffers a financial loss as a direct result of a participating hospital's violation of these requirements, may bring a civil action, in an appropriate Federal district court, against the participating hospital, for damages and other appropriate relief. No civil action may be brought more than two years after the violation.

Senate amendment

The Senate amendment provides that if a hospital knowingly and willfully, or negligently, fails to meet the requirements of this provision, the hospital would be subject to (1) termination of its medicare provider agreement, or (2) at the option of the Secretary, suspension of the medicare provider agreement for an appropriate length of time, as determined by the Secretary, after reasonable notice to the hospital and to the public.

Conference agreement

The conference agreement includes the House bill, with a modification to permit the Secretary to terminate or suspend a hospital's provider agreement for "knowingly and willfully, or negligently" failing to meet the requirements of this provision in addition to the civil monetary penalties and civil enforcements.

The civil enforcement provision was restructured to clarify its application. In addition, the courts are directed, on the issue of damages, to apply the law of the State in which the violating hospital is located, for actions brought by a harmed individual or a hospital which suffers a financial loss. The language allowing courts to grant "other appropriate relief" was also modified to read "other equitable relief as appropriate", to

give the courts clearer direction that such relief should be within the courts regular equitable powers and should be granted for the purpose of remedying the violation or deterring subsequent violations.

c. Definitions

(1) Emergency medical condition

House bill

The House bill defines "emergency medical condition" to mean a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that lack of immediate medical attention could result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

Senate amendment

The Senate amendment contains an identical definition.

(2) Active labor

House bill

The House bill defines "active labor" to mean labor when delivery is imminent, there is inadequate time to safely transfer the patient to another hospital, or a transfer could threaten the health and safety of the patient or the unborn child.

Senate amendment

The Senate amendment includes a similar definition, except provides that there is inadequate time to safely transfer the patient prior to delivery, and does not include that a transfer could threaten the health and safety of the patient or the unborn child.

Conference agreement

The conference agreement includes the House bill provision concerning the threat to the health and safety of the patient or unborn child and the Senate amendment provision regarding inadequate time to transfer prior to delivery.

(3) Participating hospital

House bill

The House bill defines "participating hospital" to mean a hospital that has a provider agreement under section 1866 of medicare and has obligated itself to comply with the requirements of this provision.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House definition of "participating hospital."

(4) To stabilize

House bill

The House bill defines "to stabilize" to mean, with respect to a medical condition, to provide such medical treatment of the condition as may be necessary to assure that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

Senate amendment

The Senate amendment defines "to stabilize" to mean, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary under the circumstances and within the capability of the hospital (A) so that the transfer of the individual will not, within reasonable medical probability, result in substantial risk of death or serious impairment as a direct result of the transfer, or (B) in order to determine that the benefits obtained from providing appropriate medical treatment at another medical facility, taking into account potential risks involved in the transfer, outweigh the potential benefits to the individual's medical condition from not affecting the transfer.

Conference agreement

The conference agreement includes the House bill with two modifications from the Senate amendment: the condition must be an emergency medical condition, and the assurance that no material deterioration of the medical condition is likely to result must be within reasonable medical probability.

(5) Stabilized

House bill

The House bill defines "stabilized" to mean, with respect to a medical condition, that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

Senate amendment

The Senate amendment defines "stabilized" to mean, with respect to an emergency medical condition, that such medical treatment has been provided as may be reasonably necessary under the circumstances and within the capability of the hospital (A) so that the transfer will not, within reasonable medical probability, result in substantial risk of death or serious impairment as a direct result of the transfer, or (B) in order to determine that the benefits obtained from providing appropriate medical treatment at another medical facility, taking into account potential risks involved in the transfer, outweigh the potential benefits to the individual's medical condition from not affecting the transfer.

Conference agreement

The conference agreement includes the House bill with the same two modifications described in Item (4) above.

(6) Transfer

House bill

The House bill defines "transfer" to mean the movement (including discharge) of a patient outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such movement of a patient who has been declared dead or leaves the facility without the permission of any such person.

Senate amendment

The Senate amendment contains an identical definition.

d. Preemption

House bill

The House bill provides that this provision does not preempt State or local law requirements respecting hospitals, except if such requirements directly conflict with a requirement of this provision.

Senate amendment

The Senate amendment contains a similar provision, except does not specify that the State or local law requirements must apply only to hospitals.

Conference agreement

The conference agreement includes the Senate amendment.

e. GAO study

House bill

No provision.

Senate amendment

The Senate amendment requires the Comptroller General to conduct a study, and report to Congress within 2 years after enactment, on problems created by hospitals that transfer patients without providing necessary emergency medical treatment. The study must include a survey and assessment of the extent of the problems; a survey of the available remedies to such problems and an assessment of the frequency and effectiveness with which such remedies are utilized; an assessment of the effectiveness of the remedy provided by this new provision; and recommendations for changes in Federal law, including medicare and possibly medicaid.

Conference agreement

The conference agreement does not include the Senate amendment.

f. Regulations

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretary of HHS to promulgate final regulations to implement this new provision within 180 days of enactment, and to report to Congress on the methods to be used for monitoring and enforcing compliance with this provision.

Conference agreement

The conference agreement does not include the Senate amendment regarding regulations, but does include the Senate amendment requiring the Secretary to report to Congress on monitoring and enforcement within 6 months after the enactment date.

g. Effective date

House bill

The House bill provides an effective date of October 1, 1985.

Senate amendment

The Senate amendment provides an effective date of April 1, 1986.

Conference agreement

The conference agreement includes the modification that the effective date would be 90 days after enactment.

23. Improve access to skilled nursing facilities (sec. 722)

Present law

Medicare provides skilled nursing facility (SNF) services under the Hospital Insurance (Part A) program.

a. Payment rates.—SNF's are reimbursed on the basis of reasonable costs actually incurred, subject to limits. Medicare's final payment to a SNF is determined retrospectively only after a SNF has itemized its costs for a full year on a medicare cost report. Separate reimbursement limits are applied to freestanding SNFs and hospital-based SNFs. For freestanding facilities, limits are established at 112 percent of the mean operating cost of urban and rural freestanding facilities respectively. Limits for urban hospital-based facilities are equal to the urban freestanding facility limits plus 50 percent of the difference between the freestanding limit and 112 percent of mean operating costs for hospital-based facilities. A similar calculation, based on costs of rural facilities, is made for rural hospital-based facilities. Cost differences between hospital-based and freestanding facilities attributable to excess overhead allocations resulting from medicare reimbursement principles are recognized as an add-on to the limit for hospital-based facilities.

b. Waiver of liability.—Current medicare law allows part A providers to collect payment from intermediaries after a claim has

been denied because the items or services were found not to be medically reasonable and necessary or because services where determined to be custodial care. A finding must be made that neither the beneficiary nor the provider knew or could reasonably have been expected to know that the items or services were not covered. However, providers can earn a presumption, or waiver, that allows them not be held liable for uncovered services they provided if the provider meets five procedural criteria. By meeting the criteria, providers are essentially presumed not to have known that the service would not be covered and their liability for paying for that service therefore can be waived. This is often referred to as the "waiver of liability." Under current administrative practice, a SNF is judged to meet these criteria and to have its liability for certain uncovered claims waived if its denial rate does not exceed 5 percent. The denial rate is determined by the percentage of days billed by the provider as covered that HCFA later determines to be noncovered when the bill is reviewed. Under the waiver policy, SNFs with a denial rate of 5 percent or less are paid for these denied services.

In a proposed rule published February 12, 1985, HCFA would eliminate the criteria for a favorable presumption and determine payment on a case-by-case basis. Under the rule, SNFs would be liable for payment for 100 percent of all claims which were judged to be uncovered after HCFA review.

House bill

No provision.

Senate amendment

The Senate amendment provides that SNFs providing less than 1,500 days of care per year to medicare patients in the preceding year would have the option of being paid a prospective rate set at 105 percent of the regional mean for all SNFs in the region. The rate would be separately calculated for urban and rural areas and include all non-ancillary costs, including capital and return on investment if medicare pays SNFs for a return on equity capital. Those accepting the prospective rate would be required to file a minimal cost report. With respect to ancillary services, the Secretary would be allowed to pay for those services on the basis of reasonable costs or reasonable charges. The Secretary would be required to reduce the number of intermediaries to ten by April 1, 1987. The Secretary would be required to maintain the five percent favorable presumption waiver of liability until 30 months after enactment of this legislation. This provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment, with the following modifications. The prospective per diem rates will be adjusted to reflect wage differences between urban areas and between rural areas within each region. The prospective urban or rural regional per diem rate for a skilled nursing facility cannot exceed the per diem cost limit otherwise applicable to that facility, adjusted to include average urban or rural per diem capital costs and return on equity if medicare pays SNFs for a return on equity capital under the normal reimbursement rules. Thus, the SNF's prospective rate cannot exceed its cost limit adjusted for capital costs. Prospective payment on this basis will take effect for facilities that elect such payment for cost reporting periods beginning on or after October 1, 1986. The conference agreement does not require the Secretary to reduce the number of fiscal intermediaries serving skilled nursing facilities.

24. Limitation on direct medical education payments (sec. 107)

Present law

On July 5, 1985, the Administration issued final regulations freezing the amount medicare reimburses providers for their direct costs of approved medical education activities, for cost reporting periods beginning on or after July 1, 1985.

The freeze permits payment based on the lesser of a provider's allowable direct medical education costs for the current cost reporting period or for a base year (the provider' cost reporting period beginning on or after October 1, 1983), adjusted for changes in medicare utilization.

House bill

The House bill would retroactively prohibit implementation of the regulations imposing the one-year freeze.

Senate amendment

a. Payment level

The Senate amendment would limit payments to hospitals for their direct costs of approved medical education activities for the first cost reporting period beginning on or after July 1, 1985. The limit would be the provider's approved medical education costs during the cost reporting period ending prior to October 1, 1985, updated to reflect general increases in the cost of approved medical educational activities which took place between the end of the prior accounting period and the beginning of the freeze accounting period.

b. Residency year limitation

Beginning with the first cost reporting period beginning on or after July 1, 1986, the direct costs of medical education activities associated with those residents who are either board eligible or have completed more than five years of training will no longer be allowable, with the exception of geriatric fellowships which meet criteria established by the Secretary. The exception for geriatric fellowships expire July 1, 1991.

c. Limitations regarding certain foreign medical graduates

Also beginning with a hospital's first cost reporting period beginning on or after July 1, 1986, only 66 percent of the direct educational costs of graduates of medical schools not accredited by the Liaison Committee on Medical Education (LCME), or graduates of accredited schools of osteopathy, dentistry, or podiatry will be considered for allowable cost determinations. The allowable percent for these so-called "foreign medical graduates" would be reduced to 33 percent in the subsequent reporting and to zero percent thereafter.

d. 1986-1987 payments

For the year beginning July 1, 1986, the amounts recognized as reasonable would include, on an average cost per intern and resident basis, the lesser of (1) two-thirds the number of interns and residents who are not graduates of such accredited schools but two began their formal training required for initial board eligibility in their specialty prior to July 1, 1986, or (2) two-thirds the number of interns and residents who are not graduates of such accredited schools but for whom the hospital received direct medical education payments from medicare for the year beginning July 1, 1985.

e. 1987-1988 payments

For the year beginning July 1, 1987, the amounts recognized as reasonable would include, on an average cost per intern and resident basis, the lesser of (1) one-third the number of interns and residents who are not graduates of such accredited schools but who began their formal training required for inital board eligibility in their specialty prior to July 1, 1986, or (2) one-third the number of interns and residents who are not graduates of such accredited schools but for whom the hospital received direct medical education payments from medicare for the year beginning July 1, 1985.

f. Special 50 percent foreign medical graduate rule

Hospitals whose unaccedited medical school graduates represent more than 50 percent of their students as of October 1, 1985, would receive the 66 percent funding for the first two reporting periods beginning on or after July 1, 1986, 33 percent funding for the three subsequent periods, and no funding thereafter. The provision also requires the Secretary and the General Accounting Office to study and report on various aspects of graduate medical education. The provision would be effective for cost reporting periods beginning on or after July 1, 1985.

g. Nursing and other health professions study

The Senate amendment would require the Secretary to conduct a study and report to Congress prior to December 31, 1986, on approved nursing and other health professions educational activities for which medicare reimburses hospitals. The study must address data on the types of such programs and the number of programs and students; relationships between hospitals and the schools with which the programs are affiliated; the types and amounts of expenses for which reimbursement is made; and the financial and other contributions which accrue to the hospital as a consequence of having such programs.

h. Geriatric fellowship study

The Senate amendment would require the Secretary to conduct a study and report to Congress prior to July 1, 1990, on (1) the advisability of continuing the exemption for geriatric fellowships from the limitation on years of training for purposes of determining medicare payments for direct medical education costs, (2) the advisability of expanding the exemption to cover other educational activities, and (3) the adequacy of the supply of faculty in the field of geriatrics.

i. GAO study

The Senate amendment would require the General Accounting Office to conduct a study and report to Congress prior to December 31, 1986, on differences in medicare payments to teaching versus nonteaching hospitals, identifying the components of such payments and accounting, to the extent feasible, for any differences between the amounts of the payment components in teaching and nonteaching settings. It would provide that GAO may use a sample of teaching hospital patients and other data sources deemed appropriate, and would require GAO to control to the extent feasible for differences in a number of factors which could affect the comparability of patients and of payments between teaching and nonteaching settings. It would require that this study be coordinated with the study of

teaching physicians' services required under section 2307(c) of the Deficit Reduction Act of 1984.

j. Waiver of Paperwork Reduction Act

The Senate amendment would provide that Chapter 35 of Title 44, U.S. Code (Paperwork Reduction) would not apply to information required to carry out this provision.

Conference agreement

a. Payment level

The conference agreement includes the Senate amendment with a modification as follows.

Hospital-specific approved FTE resident amounts will be determined based on data on direct graduate medical education (GME) costs and numbers of interns and residents, from hospital cost reporting periods beginning in fiscal year 1984. These amounts will then be updated according to the specifications described in the July 5, 1985 regulation (amending 42 CFR Parts 405 and 412) limiting medicare payments for direct medical education costs; and will then be increased by an additional one percent.

This methodology replaces the current reasonable cost methodology for determining hospitals allowable costs, in calculating hospitals' medicare payments for graduate medical education activities. (Medicare will continue to reimburse hospitals on a cost basis for the direct medical education costs associated with nursing and allied health training activities. This amendment prohibits the Secretary from placing limitations on the allowable costs of such activities.)

A hospital's medicare payments will be determined by multiplying its approved FTE resident amount by the number of its full-time equivalent residents, and then by multiplying that product by the proportion of total inpatient days used by medicare patients.

For those hospitals whose cost reporting periods do not coincide with the normal July 1 through June 30 residency year, the hospital's FTE count will be determined by multiplying the number of FTE residents in the first residency year falling within the cost reporting period by the proportion of the residency period falling within that cost reporting period, and adding to this the number of FTE residents in the second residency year falling within the cost reporting period multiplied by the proportion of that residency year falling within the cost reporting period.

For hospitals' cost reporting periods beginning on or after July 1, 1986, the approved FTE resident amounts will be determined by applying the increase in the Consumer Price Index for Urban Consumers to the amounts allowed in the previous cost reporting period.

b. Residency year limitations

The conference agreement includes the Senate amendment with a modification as follows.

Limitations are placed on the way in which residents are counted toward full-time equivalency, once they have reached a specified point in their training. On or after July 1, 1986, hospitals will receive 100 percent of their approved FTE resident amounts for each year of a resident's training that is within the minimum number of years of formal training necessary to satisfy specialty requirements for initial board eligibility, plus one year, to a maximum of five years.

On or after July 1, 1986, and before July 1, 1987, medicare payment for training years exceeding these limits will be made at 75 percent of the rate that would otherwise be recognized. On or after July 1, 1987, payment will be made at 50 percent of the rate that would otherwise be recognized. Up to two years of training in a geriatric residency or fellowship program will be paid for at 100 percent of the rate that would otherwise be recognized, and will be excluded from the 5-year limit.

c. Limitations regarding certain foreign medical graduates

The conference agreement includes the Senate amendment with a modification as follows.

No limitations are applied with respect to medicare payment for approved FTE resident amounts for FMGs, except as follows. Effective July 1, 1986, an FMG will not be counted as a resident unless the individual has passed the Foreign Medical Graduate Examination in Medical Sciences (FMGEMS), except under specified circumstances. A one-year transition period is provided for current FMG residents. From July 1, 1986 through June 30, 1987, such an FMG will be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted. An FMG who does not pass the FMGEMS during that year would not be counted at all during subsequent years, unless he or she later passed the test.

d. 1986-1988 payments

The conference agreement does not include the Senate amendment.

e. 1987-1988 payments

The conference agreement does not include the Senate amendment.

f. Special 50 percent foreign medical graduate rule

The conference agreement does not include the Senate amendment.

g. Nursing and other health professions study

The conference agreement includes the Senate amendment.

h. Geriatric fellowship study

The conference agreement includes the Senate amendment with a modification as follows.

The conferees note that the Secretary is required by Public Law 99-158 to conduct a study of Health Personnel Needs for the Elderly. The conferees direct the Secretary to coordinate that study with the one mandated by this act.

i. GAO study

The conference agreement includes the Senate amendment with a modification as follows.

The GAO is required to study the differences in the amounts of medicare payments made with respect to patients in teaching and nonteaching hospitals, and also to study variations in such payments across teaching hospitals, taking into account the same variables and factors.

j. Waiver of paperwork reduction act

The conference agreement includes the Senate amendment.

k. Part B billing

The conference agreement includes a requirement that the Secretary establish by July 1, 1987, a system which provides for a unique identifier for each physician who furnishes services for which payment may be made under medicare. This system is required in order to enable the Secretary to effectively enforce the current law prohibition on part B billing by interns and residents in approved training programs for services within the scope of those programs. This capability is of particular importance in light of the limits on allowable direct GME costs established by this legislation.

l. Report on uniformity of approved FTE resident amounts

The conference agreement includes a requirement that the Secretary report to Congress before December 31, 1987, on the advisability of revising approved FTE resident payment amounts across hospitals to provide for greater uniformity, and on how such revisions should be implemented if advised.

m. Study on foreign medical graduates

The conference agreement includes a requirement that the Secretary study and report to Congress by December 31, 1987 on the use of FMGs for the provision of health care services to medicare beneficiaries. The study should evaluate cost, quality and access issues with respect to services provided by FMGs, and should address the impact on costs of and access to these services in the event of a phase-out of medicare direct GME payments for FMGs.

n. Changes in cost allocation methods

Certain hospital reimbursement systems that received waivers from medicare have used methods of allocating administrative and general costs that are different from those required by the medicare hospital cost reporting forms. The conferees are concerned that, where these alternative allocation methods are in use, the base year direct GME costs used to determine the approved FTE resident amounts established by other provisions of this legislation, may be understated.

The conferees direct the Secretary to permit changes in these alternative allocation methods. The conferees further direct the Secretary to adjust the regional standardized payment amounts and the hospital-specific amounts to account for the overstatement of these amounts due to the method of allocation of overhead used by teaching hospitals in the base period.

25. Moratorium on medicare laboratory payment demonstration

Present law

Pursuant to demonstration authority of present law, the Secretary has proposed to experiment with competitive bidding as a method of purchasing clinical laboratory services under the medicare program. Independent laboratories have expressed the concern that under the experiments, unsuccessful bidders might not be eligible to participate in the medicare program.

House bill

No provision.

Senate amendment

The provision would postpone the demonstrations until December 31, 1986 with the exception that the design of and site selection for such demonstrations can proceed. During this moratorium, representatives of the laboratory industry could conduct a study in collaboration with the Secretary and the U.S. General Accounting Office, to determine whether there is a less disruptive method of utilizing competitive market forces in setting medicare payment levels—e.g., by giving medicare access to laboratory fee schedules that have been established in competing for the business of other large purchasers. If the study is conducted, the

Secretary and the GAO shall provide the study and their comments on it to the committees of jurisdiction. This provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment. It is the intent of the conferees that if a study is conducted the Secretary will assist the industry in the conduct of the study by providing data and technical assistance as necessary. The GAO's role is intended to be consultative rather than participatory with respect to the conduct of the industry study.

26. Extend home health waiver of liability

Present law

Present medicare law allows part A providers to collect payment from intermediaries after a claim has been denied because the items or services were found not to be medically reasonable and necessary or because services were determined to be custodial care. A finding must be made that neither the beneficiary nor the provider knew or could reasonably have been expected to know that the items or services were not covered. Under current administrative practice, providers can be presumed to meet this test if they meet certain criteria. The principle criterion for home health agencies is that its denial rate does not exceed 2.5 percent. The denial rate is determined by the percentage of days billed by the provider as covered that HCFA later determines to be noncovered when the bill is reviewed. Under this waiver of liability policy, home health agencies with a denial rate of 2.5 percent or less are paid for these denied services.

In a proposed rule published Feburary 12, 1985, HCFA would eliminate the criteria for a favorable presumption and determine payment on a case-by-case basis. Under the rule, home health agencies would be liable for payment for claims which were judged to be uncovered after HCFA review.

House bill

No provision.

Senate amendment

The provision would require the Secretary to maintain the 2.5 percent waiver of liability policy for home health agencies from the date of enactment until 12 months after the consolidation of claims processing for home health agencies, that is, when all ten home health agency fiscal intermediaries begin operations. This provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

27. Home health regulation moratorium

Present law

Prior to the recent publication of final regulations, reimbursement for home health services was limited to the 75th percentile of the average costs per visit incurred by all home health agencies. Separate limits were established for each type of service (e.g., skilled nursing, home health, and physical therapy); however, they were applied in the aggregate to each home health agency based on its mix of services.

The Administration has revised, in regulations published July 5, 1985, the home health cost limit methodology. For cost reporting periods beginning on or after July 1, 1985, the limits are set at 120 percent of the mean and would be applied separately to each type of service. For cost reporting periods beginning on or after July 1, 1986, the limits are to be reduced to 115 percent of the mean. For cost reporting periods beginning on or after July 1, 1987, the limits are to be set at 112 percent of the mean.

House bill

No provision.

Senate amendment

The provision would delay implementation of the July 5 regulations until July 1, 1986. The provision would become effective July 1, 1985.

Conference agreement

The conference agreement includes the Senate amendment with a modification as follows:

The modification specifies that for cost reporting periods beginning on or after July 1, 1985, the limits are set at 120 percent of the mean. For cost reporting periods beginning on or after July 1, 1986, the limits are to be set at 115 percent of the mean and for cost reporting periods beginning on or after July 1, 1987 the limits are to be set at 112 percent of the mean. The statute also directs the Secretary to provide for an adjustment to these limits as they apply to hospital-based home health agencies, to account for the higher administrative and general costs incurred by such agencies.

The Secretary is precluded from applying the limits separately for each type of service. Instead, the Secretary would be required to continue to allow agencies to aggregate these limits and apply them to aggregated costs. The Comptroller General is required to report to Congress by September 1, 1986 on the appropriateness of applying the cost limits discipline-by-discipline, rather than through aggregation. The conferees expect to examine this issue after submission of the GAO report.

28. Studies relating to physical therapists and other professionals

a. Study of physical therapists' office requirements

Present law

Under current law, part B of medicare covers the services of a qualified physical therapist in independent practice when furnished by him or under his direct supervision in his office or in the patient's home. These services must be prescribed by a physician and furnished pursuant to a written plan of treatment established by a physician or a qualified physical therapist.

The Secretary is required, under present law, to establish conditions that an independently practicing physical therapist must meet in order to receive medicare reimbursement. The Secretary, by regulation, requires that a physical therapist in independent practice maintain an office space with the necessary equipment to provide an adequate program of physical therapy. This requirement is applied even to those therapists who operate exclusively in the beneficiary's home.

House bill

No provision.

Senate amendment

The Senate amendment is required to study the requirement that independently practicing physical therapists who operate exclusively in beneficiaries' homes maintain fully-equipped offices. The report would be due April 1, 1986. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification that specifies the report is due to Congress prior to October 1, 1986.

b. Study of home health agency supervision

Present law

The medicare law requires that a physician or registered nurse supervise patient care services provided by a home health agency.

House bill

No provision.

Senate amendment

The Secretary is required to examine the question of whether other health care professionals (e.g., physical therapists, occupational therapists, and speech-language pathologists) may be qualified to supervise patient care services provided by a home health agency. Further, the Secretary would be required to specify criteria and conditions for which they could fulfill the supervisory role. The report would be due April 1, 1986. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification that specifies the report is due to Congress prior to October 1, 1986.

29. Extension of working aged provisions to individuals over 69

Present law

The Age Discrimination in Employment act (ADEA) requires employers of 20 or more people to offer employees and their spouses age 65-69 the same health insurance coverage they offer to younger employees and under the same conditions.

If the older employee chooses the employer's plan, medicare becomes the secondary payor if the employer plan does not pay full benefits.

If the older employer chooses not to participate in the employer's plan, medicare will be the primary payor. The employer is prohibited from offering a health plan designed to supplement medicare (i.e. fill in medicare's deductible and coinsurance).

Currently, ADEA applies only to persons between the ages of 40 and 70.

House bill

The House bill would extend the health insurance requirements of ADEA to persons over the age of 69, thereby removing the upper age limit, and makes corresponding changes in medicare law.

The House bill would amend ADEA to provide that the group health insurance requirement be exempted from the age limits.

The House bill would make other conforming amendments regarding special enrollment periods and the effective date of enrollment.

The House bill generally would be effective January 1, 1986 with certain exceptions.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with a technical modification.

30. Health maintenance organizations and competitive medical plans

a. Finanical responsibility for patients hospitalized on the effective date of an enrollment or disenrollment.

Present law

Under current law it is unclear who is resposnible for payment when a medicare beneficiary is an inpatient of a hopital under the prospective payment system on the ef-

fective date of his/her TEFRA HMO/CMP enrollment. A similar problem exists for disenrollment. A TEFRA HMO/CMP is a health maintenance organization or competitive medical plan with a risk contract under Section 1876 of the Social Security Act, authorized under the Tax Equity and Fiscal Responsibility Act of 1982.

House bill

Enrollment—a TEFRA HMO/CMP is not financially responsible for reimbursing covered inpatient stays in a PPS hospital for inpatient stays beginning before the effective date of the beneficiary's enrollment in the TEFRA HMO/CMP. Medicare will reimburse for the inpatient stay, if otherwise covered, as if the beneficiary were not enrolled in a TEFRA HMO/CMP. The TEFRA HMO/CMP will be responsible for any other services covered under medicare (i.e., all services except the inpatient stay, such as physician services provided to the patient during the inpatient stay) and any additional or supplemental services which would otherwise be due an enrollee, effective with the date of his/her enrollment in the TEFRA HMO/CMP.

Disenrollment—if the enrollee is an inpatient in a PPS hospital on the effective date of his/her disenrollment from the TEFRA HMO/CMP, the TEFRA HMO/CMP will be responsible for reimbursing for the full inpatient stay. Medicare will not make a monthly capitation payment nor will it pay for the inpatient stay under the regular medicare program after the effective date of disenrollment. The TEFRA HMO/CMP is not responsible for any other covered medicare services, or any additional or supplemental services to the enrollee, beginning on the effective date of disenrollment. This provision would apply only if the enrollee is an inpatient of a PPS hospital provided for or arranged by the TEFRA HMO/CMP, or if the services were emergency or urgently needed services. The provision is effective for enrollments and disenrollments effective on or after October 1, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification changing the effective date to enactment.

b. Disenrollment procedures

Present law

Present law specifies the effective date of disenrollment from a TEFRA HMO/CMP to be the first calendar month following a full calendar month after the request is made for termination.

House bill

Disenrollments would be effective with the first day of the first month following the month in which the disenrollment request was made. The provision would require that the beneficiary receive a copy of the disenrollment form and that materials be provided to the beneficiary explaining how long he/she must continue to use the HMO/CMP facilities in order to have the services covered. The House bill requires that information be provided to beneficiaries clearly delineating when they may begin to use the regular medicare benefit. The provision is effective for requests for termination of enrollment submitted on or after October 1, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification changing the effective date to February 1, 1986.

c. Review of marketing material

Present law

There are no present law provisions relating to marketing materials.

House bill

The House bill would require all TEFRA HMO/CMPs to submit all brochures, application forms, and promotional and informational material to the Health Care Financing Administration (HCFA) for approval, at least 45 days before issuance. HCFA would be required to review all these materials. If the HMO did not hear from the HCFA within the 45-day period, the organization could assume approval. The provision would apply to material for distribution on or after November 15, 1985. This provision would not apply to material which has been distributed prior to November 15, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with two modifications. The effective date is changed to April 1, 1986 and the provision would not apply to materials distributed prior to April 1, 1986.

d. Prompt publication of the AAPCC

Present law

In order to establish the payment amounts to TEFRA HMO/CMPs the Secretary has developed a measure called the Average Adjusted Per Capita Cost (AAPCC). There are no current law requirements relating to the specific date of publication of the AAPCC.

House bill

The House bill would require the Secretary to publish the AAPCC no later than September 7 of each year. The provision would apply to determinations of per capita rates of payment for 1987 and subsequent years.

Senate amendment

The Senate amendment would require the Secretary to publish the AAPCC no later than 10 days after publication of the hospital prospective payment rates.

Conference agreement

The conference agreement includes the House bill.

31. Evaluation of preadmission and pre-procedure certification programs

Present law

Peer review organizations (PROs) have the general responsibility of reviewing the quality and utilization of inpatient hospital services provided to medicare beneficiaries. PROs have been directed specifically by the Secretary of the Department of Health and Human Services to reduce the rate of inappropriate admissions. As a method to accomplish this goal, all PROs do preadmission screening on some elective surgery. Four PROs are currently conducting 100% preadmission review of non-emergency surgery.

House bill

The House bill would require the Secretary of HHS to evaluate the efficacy of PRO programs with 100% preadmission elective surgery review compared with programs that include less comprehensive review.

The Secretary would be required to evaluate the feasibility of extending PRO pre-procedure certification activities to outpatient and ambulatory settings. The Secretary would also be required to consider whether other organizations, including medicare carriers, could more effectively conduct such pre-procedure screening.

The Secretary would be required to submit a report to Congress by December 31, 1986.

Senate amendment

No provision.

Conference agreement

The Conference agreement does not include the House bill.

32. Prohibition of administrative merger of renal disease networks with other organizations

Present law

Present law required the Secretary to establish network organizations to assure effective and efficient administration of the end stage renal disease (ESRD) program. The network organizations are responsible for coordinating and evaluating ESRD Services provided within assigned geographic areas. Thirty-two network organizations have been established.

House bill

Under the House bill, the Secretry is prohibited from merging any renal disease network organization into a utilization and quality control peer review organization or any other entity without express statutory authorization.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with modifications. The Secretary is permitted to consolidate the network areas and organizations in order to achieve efficiencies in the administration and operation of these organizations, provided the number of network organizations is not reduced to less than fourteen.

33. Extension of certain medicare municipal health services demonstration projects

Present law

Currentlaw permits waiver of certain medicare requirements when the Health Care Financing Administration enters demonstrations under its general demonstration authority.

House bill

Under the House bill, the Secretary would be required to extend for three additional years, the three municipal health services health maintenance organization demonstration projects (Milwaukee, San Jose and Cincinnati) currently authorized under medicare demonstration authority. These demonstrations were authorized under authority provided in the Social Security Amendments of 1967 and 1972. The provison would be effective upon the date of enactment.

Senate amendment

Similar provision, except it includes an additional project in Baltimore.

Conference agreement

The conference agreement includes the Senate amendment.

34. Technical corrections

Present law

Current medicare law contains an number of technical errors.

House bill

(a) The House bill would correct problems with the medicare special enrollment period and the premium penalty forgiveness for the working aged. The anomaly under which certain individuals who are working and covered by an employer group health plan receive only one special enrollment period and others receive more would be corrected.

(b) In addition, the House bill would clarify that an individual would be eligible for forgiveness of the medicare penalty for any period during which he or she was over 65 and covered by an employer group health plan.

The provision requiring a person to meet the eligibility requirements of part A, and to have filed for part A, would be repealed.

(c) The House bill would make certain corrections in spelling, language and indentation.

Paragraph (a) would apply to the first month that begins more than 90 days after the date of enactment with certain exceptions.

Paragraph (b) would apply to months beginning January 1983 as they effect premiums for months beginning with the first month that begins more than 30 days after the date of enactment.

Paragraph (c) generally would be effective as though they had been included in the public laws that they correct.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill.

35. Coverage of respiratory care services for ventilator-dependent individuals

Present law

Medicare provides limited outpatient and home services to ventilator dependent individuals.

In order to qualify for home health services, a medicare beneficiary must be confined to his or her home and under the care of a physician. In addition, the person must be need of part time or intermittent skilled nursing care or physical or speech therapy. Once an individual qualifies for medicare's home health benefit, the beneficiary becomes entitled to a range of home health services.

In order to qualify for medicare's skilled nursing facility benefit, individuals must first be hospitalized for at least three consecutive days. They must also need skilled nursing or other skilled rehabilitation services on a daily basis for treatment related to the condition for which the beneficiary was hospitalized. Medicare law specifies the range of services which are covered in the skilled nursing facility.

House bill

No provision.

Senate amendment

The provision would amend medicare law to allow qualified respiratory care patients to qualify for medicare's home health and skilled nursing facility benefits and would include among covered services respiratory care for such individuals. The provision defines "qualified respiratory care patient" as an individual who has been hospitalized for at least 30 consecutive days, dependent on a respirator for life support at least 6 hours per day during that time, and is willing and medically able to be cared for in a less intensive setting.

The provision relating to medicare would be effective for services performed on or after October 1, 1988.

Conference agreement

The conference agreement does not include the Senate amendment.

36. Increase audit effort and medical claim review (sec.)

Present law

Under current law, the Secretary contracts with intermediaries and carriers to perform the day-to-day administrative and operational tasks for the medicare program, including the review of claims and the conduct of audits.

House bill

No provision.

Senate amendment

The provision would require that medicare contractor budgets for fiscal years 1986, 1987, and 1988 be supplemented by $105 million in each year to be spent specfically for provider cost audits and medical review activities. The provision would be effective October 1, 1985.

Conference agreement

The conference agreement includes the Senate amendment with a technical modification. The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) earmarked $45 million through FY85 for intensified review activities. This authorization is extended for three years through FY88. The $105 million under the Senate amendment represents an additional $60 million above this amount.

The conferees intend that the Secretary has the flexibility to utilize the funding amounts in whatever manner the Secretary determines would be most cost-effective.

37. Charges by physicians for services billed to an HMO

Present law

Physicians who agree to become participating physicians, that is, accept assignment for all medicare patients, must accept medicare's reasonable charge determination as payment in full (subject to applicable cost-sharing) for services rendered to beneficiaries. When a participating physician provides an emergency service to a medicare beneficiary who is enrolled in a Health Maintenance Organization (HMO), the physician may bill the HMO. In this case, a participating physician does not have to accept assignment. Further a nonparticipating physician is not limited as to the amount he or she can charge the HMO (as he or she would otherwise be under the physician fee freeze provisions).

House bill

No provision.

Senate amendment

The provision would provide that participating and nonparticipating physicians cannot charge HMOs more for emergency services rendered to a medicare beneficiary than they could charge the beneficiary. The provision would be effective for items and services provided on or after October 1, 1985, and before October 1, 1986.

Conference agreement

The conference agreement does not include the Senate amendment.

38. Sense of the Senate with respect to coverage of liver transplant procedures for persons over 18 years of age under medicare

Present law

Section 1862 excludes from medicare coverage any items or services that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. This section has been interpreted to exclude from coverage items and services that are considered to be experimental and that do not have a proven medical benefit. On February 9, 1984, the Secretary announced that liver transplants for persons under 18 years of age with certain specified conditions were no longer considered experimental and would, therefore, be covered under medicare.

House bill

No provision.

Senate amendment

The Senate amendment specifies the sense of the Senate, given available information regarding liver transplant services, that liver transplant services are to be covered under medicare and that the Secretary reconsider coverage of liver transplant services for individuals over 18 years of age.

Conference agreement

The conference agreement includes the Senate amendment with the understanding that the provision expresses only the sense of the Senate.

39. Extension of physician fee freeze for nonparticipating physicians and improvements in the participating physician program

a. Physician payments

Present law

Medicare pays for physicians' services on the basis of medicare-determined "reasonable charges". The reasonable charge for a service is the lowest of 1) a physician's billed charge; 2) the charge customarily made by the physician; or 3) the prevailing charge limit, derived from the charges made by all physicians in the geographic area for the service. The customary and prevailing charge screens are generally updated annually, on October 1. Increases in prevailing charge levels are limited by an economic index that reflects general inflation and changes in physicians' office practice costs.

Under the Deficit Reduction Act of 1984 (P.L. 98-369), the medicare customary and prevailing charges for all physicians' services provided during the 15-month period beginning July 1, 1984 were frozen at the levels that applied for the 12-month period ending June 30, 1984. The actual charges of nonparticipating physicians were also frozen during the 15-month period, at the levels in effect during April-June 1984.

The Deficit Reduction Act (DEFRA) also instituted a medicare participating physician and supplier program. Participating physicians and suppliers agree to accept assignment on all medicare claims for the 12-month period beginning on October 1 of a year. Nonparticipating physicians and suppliers can decide on a claim-by-claim basis whether or not to accept assignment.

The carriers responsible for paying medicare claims are required to monitor nonparticipating physicians' actual charges during the 15-month freeze. Physicians who knowingly and willfully bill beneficiaries in excess of what they charged during April-June 1984 can be subject to civil monetary

penalties and/or exclusion from participation in medicare.

Public Law 99-107, Public Law 99-155 and Public Law 99-181 extended through December 18, 1985 the payment terms established in DEFRA. Physicians are bound during the extension period by the decisions they made regarding participation for the year beginning October 1, 1985, and are subject to the corresponding payment rules.

House bill

(sec. 141)

Under the bill, an update in customary and prevailing charges would be provided on October 1, 1985 to all physicians who, as of that date, are participating physicians. The same prevailing charge screens would apply to all physicians who are participating as of that date, regardless of their prior participation status.

For any physician who is not covered by a participation agreement as of October 1, 1985, the current freeze on customary and prevailing charges would be extended through September 30, 1986. The current freeze on the actual charges of nonparticipating physicians would also be extended, for the same period. Formerly participating physicians who withdrew from the participation program for the year beginning October 1, 1985 would be required, like continuing nonparticipating physicians, to limit their actual charges to no more than the levels they charged during April-June 1984. The monitoring of nonparticipating physicians' actual charges would be continued through FY 1986.

On October 1, 1986, physicians covered by participation agreements effective for the year beginning October 1, 1986 would receive customary and prevailing charge updates. Nonparticipating physicians for the year beginning October 1, 1986 would also receive customary and prevailing charge updates. However, they would be subject to the prevailing charge limits applied to participating physicians during the prior participation period. This one-year differential would apply in future years, establishing a permanent gap between the prevailing charge screens to which participating and nonparticipating physicians are subject.

(sec. 151)

The provision is identical to the one outlined for section 141, with the following exceptions:

Physicians who participated or took assignment on 100 percent of medicare claims during the year beginning October 1, 1984, but who are not participating as of October 1, 1985, would receive increases in their customary and prevailing charges on October 1, 1985, equal to one-half the increases they would have received had they been participating as of that date.

In addition, previously participating physicians who are not participating as of October 1, 1985 would be allowed to increase their actual charges by one-half the percentage increase in their actual charges during the July 1, 1984-September 30, 1985 period over their charges during the period April 1, 1984-June 30, 1984. These physicians' actual charges would then be monitored against these new levels. Charges in excess of the new freeze levels would not be recognized in computing customary charge updates on October 1, 1986.

Beginning October 1, 1986, the prevailing charge screens of physicians who participated or always accepted assignment in the immediately preceding year, but who do not participate in the current year, would lag behind those of participating physicians by one-half the amount that other nonparticipating physicians' prevailing charges lag.

Senate amendment

The Senate amendment is similar to section 141 of the House bill with the following modifications. Physicians who were participating in fiscal year 1985, but who withdrew from the participating program in fiscal year 1986 would have their actual charges during the 12-month period ending March 31, 1985 reflected in the calculation of their customary charges for fiscal year 1986.

The Senate amendment would afford all physicians a second opportunity to exercise their option to enter into or terminate participation agreements for fiscal year 1986, during a 30-day period following enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification as follows.

The payment rates now in effect will be extended from December 19, 1985 through January 31, 1986. The freeze on nonparticipating physicians' actual charges to beneficiaries, and the monitoring of these charges, will also be extended during this period.

During the month of January 1986, physicians will have the opportunity to decide whether or not to participate for the 11-month period beginning February 1, 1986. New participation agreements can be signed or old ones terminated during January. In order to make existing participation agreements (which apply on a fiscal year basis) consistent with the new update and participation cycles (which will be on a calendar year basis), and in order to expedite implementation of the fee screen update for participating physicians, the agreement provides that existing participation agreements will be deemed to be in effect through December 31, 1986, unless terminated by the physician during January 1986. Therefore, physicians covered by agreements effective through September 30, 1986 who, during the month of January 1986, elect to continue participation do not have to sign new agreements; and the automatic renewal clause in the existing agreements will apply on a calendar year basis. Those physicians covered by participation agreements who wish to withdraw from participation for the 11-month period beginning February 1, 1986 must notify the carrier in writing during the month of January of their wish to do so.

On February 1, 1986, physicians who are covered by participation agreements on that date will receive customary and prevailing charge updates. The prevailing charges will reflect the updated customary charges of all physicians. With respect to most nonparticipating physicians, customaries will be updated solely for the purpose of updating participating physicians' prevailing charges. However, updated customaries will be used for payment purposes for nonparticipating physicians for the 11-month period beginning February 1, 1986 if they participated during fiscal year 1985.

For physicians who are neither participating on February 1, 1986 nor were participating during fiscal year 1985, the existing freeze on customary and prevailing charges will be extended through December 31, 1986. In addition, the freeze on actual charges (at April-June 1984 base period levels) will be extended through December 31, 1986 for all nonparticipating physicians, including those who were participating during fiscal year 1985. Monitoring of these physicians' actual charges continues for the same period.

The customary and prevailing charge screens applied on February 1, 1986 for participating physicians will be those that would have been applied for the October 1, 1985 update, had they not been frozen at the levels in effect on September 30, 1985. These October 1, 1985 charge screens reflect physicians' actual charges made during the 12-month period ending March 31, 1985. Use of these screens, rather than new ones based on a more recent period of charges (July 1, 1984 through June 30, 1985), will enable the carriers to apply the payment increases to participating physicians as expeditiously as possible. Construction and application of new screens would result in delaying the update significantly.

In order to compensate participating physicians for the prevailing charge increases that they will lose during the 4-month period beginning October 1, 1985 due to the freeze, the medicare economic index (MEI) applied to prevailing charges for services provided during the 11-month period beginning February 1, 1986, will be increased by one percentage point, approximately one-third of the total MEI increase due these physicians over the 12-month period beginning October 1, 1985. This one percentage point increase is a one-time increase to be applied only during the 11-month period, and is not built into the prevailing charge levels on a permanent basis. It is to be excluded in determining nonparticipating physicians' prevailing charges for the year beginning January 1, 1987.

Beginning January 1, 1987, participation agreements will be effective on a calendar year basis. Similarly, future customary and prevailing charge updates will be moved permanently from October 1 to January 1. Following February 1, 1986, the next participation period will begin and the next payment update will occur on January 1, 1987 and on each January 1 thereafter. The data base used to calculate the fee screens will also be moved forward by one quarter, to the period July 1 through June 30; thus, updates will continue to reflect physicians' actual charges made during the 12-month period ending six months prior to the update.

During the 45-day period (November 15 through December 31) immediately preceding a new participation period, physicians will have the opportunity to enter into participation agreements effective for the year beginning January 1, or to withdraw from existing agreements.

On January 1, 1987, and on each January 1 thereafter, physicians who are participating on that date will receive customary and prevailing charge updates, based on actual charges made during the preceding July 1 through June 30. Nonparticipating physicians will also receive customary charge updates, based on their actual charges made during that period.

For purposes of the January 1, 1987 customary charge update, actual charges exceeding the April-June 1984 base period levels, billed from October 1, 1985 through January 31, 1986 by a physician who was not participating during that four-month period, will not be recognized. Likewise, for purposes of the January 1, 1987 and January 1, 1988 customary charge updates, actual charges in excess of the April-June 1984 base period levels, billed from October 1, 1985 through December 31, 1986 by a physician who was not participating at the time of providing the service, will not be recognized.

For the year beginning on January 1, 1987, physicians who elect not to participate

will be subject to the prevailing charges that were applied to participating physicians during the preceding participation period, excluding the temporary one percentage point increase in the MEI. For years beginning on January 1, 1988, and each January 1 thereafter, physicians who elect not to participate will be subject to the prevailing charges that were applied to participating physicians during the preceding participation period. This permanent one-year lag or differential in prevailing charges is intended to provide an incentive to physicians to participate, and reflects the priority the conferees attach to increasing participation.

b. Transfer of funds for carriers

Present law

The Deficit Reduction Act of 1984 provided for transfer from the Federal Supplementary Medical Insurance Trust Fund to carriers of at least $8 million in fiscal year 1984 and $15 milion in fiscal year 1985 to implement the freeze and participating physician and supplier program.

House bill

The bill would extend for one year (FY 1986) the current law provision for the transfer of $15 million from the Federal Supplementary Medical Insurance trust fund. The bill would require that a significant proportion of those funds be used for the expansion of the participation program and for the development of professional relations staffs dedicated exclusively to addressing the billing and other problems of participating physicians and suppliers.

Senate amendment

Identical provision.

Conference agreement

The Conference agreement includes the House provision with a modification as follows.

In addition to the $15 million provided for in the House and Senate bills, a further $3 million (total $18 million) will be transferred from the part B trust fund to the carriers in fiscal year 1986, and will be available for obligation through December 31, 1986. These funds are intended to cover the costs of additional mailings by the carriers to physicians and suppliers explaining the changes in the fee freeze and participation program, and to cover the carriers' costs of implementing the fee freeze and participation program during the last three months of 1986.

The conferees intend that the Secretary devote sufficient funds to the carriers for maintenance of their toll-free telephone lines so that they are useful to beneficiaries seeking information about participating physicians and suppliers. Sufficient resources should also be devoted to ensure that participating physicians and suppliers enjoy the benefit of the carriers' direct lines for the electronic receipt of claims.

c. Participating physician directory

Present law

DEFRA required the Secretary to publish annually a directory identifying participating physicians by name, address, and specialty. The directory is to be organized to make the most useful presentation of information.

House bill

The Secretary would be required to publish participating physician and supplier directories (rather than a single directory) for appropriate local geographic areas, and to provide for their distribution to each participating physican located in each such area.

Senate amendment

Identical provison.

Conference agreement

The Conference agreement includes the House provision. The conferees note that the directories of participating physicians and suppliers should be organized so as to be meaningful and useful to beneficiaries. For example, if, in especially large metropolitan areas, local medical markets can be identified, these should serve as the basis of organizing the directories. The requirement that the directories be sent to all participating physicians in an area is intended to facilitate and encourage the development of referral networks among participating physicians and suppliers.

d. Physician assignment rate list (PARL)

Present law

DEFRA required the Secretary to publish annually a list of physicians and suppliers serving medicare beneficiaries. The list is to include, for each physician and supplier name, address, specialty, and percent of claims accepted on assignent during the preceding year.

House bill

The House bill eliminates the requirement for the PARL directory.

Senate amendment

Identical provision.

Conference agreement

The Conference agreement includes the House provision.

e. Explanation to benefits

Present law

Medicare carriers inform beneficiaries of actions taken on their claims through Explanation of Medicare Benefits (EOMB) notices.

House bill

The bill would require that, for all unassigned claims, the Explanation of Medicare Benefits (EOMB) include a reminder to beneficiaries of the participating physician and supplier program, and provide them with the toll-free number for information in their area. The message would also remind beneficiaries of the limitation on the charges that participating physicians and suppliers may impose.

Senate amendment

Identical provision.

Conference agreement

The Conference agreement includes the House provision with the deadline moved to July 1, 1986. The conferees note that this provides the Secretary with ample time to pilot-test messages, if necessary, to ensure that they convey information to beneficiaries in a meaningful and appropriate fashion.

f. Inapplicability of penalties

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would provide that the freeze imposed on actual charges to beneficiaries would not apply in cases where a claim for payment is not filed because the patient chooses to pay the entire bill from private sources.

Conference agreement

The Conference agreement does not include the Senate amendment.

40. Physician payment assessment group and development of relative value scales

Present law

There currently exists no advisory body whose purpose it is to make recommendations regarding medicare physician payment.

(sec. 142)

The Director of the Congressional Office of Technology Assessment would appoint to the Prospective Payment Assessment Commission (ProPAC) two additional members to provide representation for rural hospitals and four nurses. In addition, the Director would appoint six new members to comprise a physician payment unit, which would function as a subcommittee of ProPAC.

The mission and ongoing duties of the physician payment subcommittee would be to make recommendations regarding medicare physician payment. Recommendations would address, among other issues, adjustments to reasonable charge levels for physicians' services, and changes in the medicare physician payment mechanism. The physician payment subcommittee would advise the Secretary on the development of a fee schedule based on a relative value scale (RVS), to be implemented by October 1, 1987.

(sec. 152)

The section would provide for establishment of a physician payment review commission of 11 members, separate from and independent of ProPAC. The duties and activities of the commission are largely identical to those of the physician payment subcommittee of ProPAC outlined in section 142.

Senate amendment

No provision.

Conference agreement

The conference agreement includes section 152 of the House bill with a modification to conform the required functions to those specified in section 142 of the House bill.

41. Part B premium

Present law

The Secretary is required to calculate and announce each September the amount of the monthly premium that will be charged in the following calendar year for people enrolled in the Supplementary Medical Insurance (part B) portion of medicare. A temporary provision of law requires that for 1986 and 1987 the premium amount be calculated so as to produce premium income equal to 25 percent of program costs for enrollees age 65 and over.

Beginning in 1988, the premium calculation would revert to an earlier method under which the premium amount is the lower of: (1) an amount sufficient to cover one-half of program costs for the aged; or (2) the current premium amount increased by the percentage by which cash benefits were most recently increased under the cost-of-living adjustment (COLA) provisions of the social security program.

House bill

The House bill would extend for one additional year the existing temporary provision whereby the portion of part B costs financed by enrollee premiums equals 25 percent of program costs. If there is no social

security cost-of-living adjustment, the monthly premium would not be increased that year.

Senate amendment

Same provision.

Conference agreement

The conference agreement includes the Senate amendment with a technical modification. There is no intent to change any policy other than to extend the date to 1988.

42. Inherent reasonableness determinations and customary charges for certain former hospital-compensated physicians

a. Inherent reasonableness

Present law

Payment for items and services under part B is generally made on the basis of reasonable charges. The law provides for some flexibility in the determination of reasonable charges; the regulations at 42 CFR 405.502(a)(7) allow the use of "other factors that may be found necessary and appropriate with respect to a specific item or service . . . in judging whether the charge is inherently reasonable."

House bill

The bill would require the Secretary to promulgate regulations which specify explicitly the criteria of "inherent reasonableness." The Secretary would be required to correct both excessive and deficient charges in accordance with these regulations.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision.

b. Hospital-compensated physicians

Present law

Carriers established compensation-related customary charges (CRCCs) for certain hospital-based physicians when combined-billing arrangements were eliminated, effective October 1, 1983. The CRCC provision was intended to be transitional; hospital-based physicians would have received customary charge updates on July 1, 1984 based on their actual charges had it not been for the general freeze on medicare customary and prevailing charges for physicians' services instituted by the Deficit Reduction Act.

House bill

In FY 1986, participating hospital-based physicians (HBPs) whose compensation-related charges were frozen as part of the general medicare fee freeze would, like other participating physicians, receive increases in their medicare payment based on their actual charges. Participating HBPs would receive increases that reflect charges that they made during the same base period used to update other participating physicians' charges (April 1984-March 1985). Nonparticipating HBPs would receive payments that reflect their charges during April 1984-March 1985, but deflated to approximate 1982 charges. This is the same period on which other nonparticipating physicians' payment is based.

Senate amendment

The Senate amendment would provide for the recalculation of the compensated-related customary charges (CRCCs). For services rendered between October 1, 1985, and September 30, 1986, the customary charges of physicians would be determined based on the physicians' actual charges made between April 1, 1984 and March 31, 1985. If such physicians had insufficient billings during that 12-month period, the calculation would be based on the first 3-month period beginning on or after February 1, 1985 for which sufficient billings are available. In either case, in order to put these physicians in the same position as other physicians, the actual charges will be deflated to September 1, 1984 levels in the case of physicians who were participating physicians during fiscal year 1985 or 1986; or to July 1982 in the case of physicians who did not participate in either year. The provision would be effective for services rendered on or after October 1, 1985, and before October 1, 1986.

Conference agreement

The conference agreement includes the House bill with a modification as follows.

Hospital-compensated physicians who, between October 31, 1982 and January 31, 1985 were in (and within the same period terminated arrangements by which they were compensated by a hospital for part B services furnished to its patients, will have customary charges calculated based on their actual charges. On February 1, 1986, physicians covered by this provision who are participating on that date will have their customary charges updated based on their actual charges billed during the 12-month period ending March 31, 1985. Physicians who are not participating on February 1, 1986 but who participated during fiscal year 1985 will have their customary charges updated in the same fashion. Physicians who were nonparticipating in fiscal year 1985 and who are not participating on February 1, 1986 will have their customary charges updated, and then deflated by .85 to approximate 1982 charge levels, on which other continuing nonparticipating physicians' customary charges are based.

Physicians who come off compensation arrangements between February 1, 1985 and December 31, 1986 will be treated as new physicians for purposes of establishing their customary charges. However, if a group or other entity continues to bill for or on behalf of a physician who came off a compensation arrangement before January 31, 1985, the customary charges (as well as the actual charges, in the case of a nonparticipating physician) of the group or the entity billing for or on behalf of the physician would be imputed to the physician.

43. Occupational therapy services

Present law

Medically necessary occupational therapy services are covered under part A of medicare when provided as a part of covered inpatient or post-hospital extended care services in a skilled nursing facility, or as part of home health services or hospice care.

Part B coverage of occupational therapy services is limited to treatment in a hospital outpatient department, comprehensive outpatient rehabilitation facility, home health agency or when incident to a physician's service.

House bill

The House bill would extend reimbursement under part B of medicare for occupational therapy services. This therapy would be covered when provided in a skilled nursing facility (when part A coverage is exhausted), in a clinic, or a rehabilitation agency. Payment would be made on a reasonable cost basis.

The House bill would provide part B coverage of occupational therapy services when furnished in a therapist's office or a beneficiary's home. The independently practicing therapist would have to meet licensing and other standards prescribed by the Secretary. No more than $500 in incurred expenses would be eligible for coverage in a calendar year per beneficiary. Payment would be based on 80 percent of reasonable charges.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill.

The conferees believe that the value of occupational therapy services to beneficiaries merits a modest expansion of the program. Further, the conferees find that such services have the potential to reduce and avoid the need for institutional care while enabling the beneficiary to function more independently.

44. Payment for durable medical equipment and other nonphysician services

Present law

Payment for durable medical equipment (DME) is paid under part B on the basis of reasonable charges. In the past, payment for DME was made for both rented and purchased items, depending on the beneficiary's decision to either rent or purchase. As a result, the majority of DME was rented, even when purchase would have been more economical.

Beginning February 1, 1985, the Secretary implemented three methods for reimbursing DME under medicare: lease-purchase, lump sum purchase or rental charges. Equipment costing less than $120 is considered inexpensive equipment and payment is made only on the basis of purchase. For equipment costing more than $120, the carrier must determine which method is cost-effective based on the beneficiary's expected need for the equipment (as indicated on the physician's prescription) and reimburse accordingly. Used equipment that is purchased and that meets certain standards is reimbursed at 100 percent rather than 80 percent of the reasonable charges (applicable copayment amounts are waived).

House bill

(Section 146)

a. Fiscal year 1986 payment level

The House bill would set new reimbursement limits on rented durable medical equipment (DME). In determining medicare's customary and prevailing charges for rented DME during FY 1986, the Secretary would allow an increase of no more than one percent over the level set for rented DME furnished beginning July 1, 1984.

b. Mandatory Assignment

The House bill would provide that payment for DME provided on a rental basis would only be made on the basis of assignment.

c. Limits on annual increases in prevailing

For DME items furnished during fiscal years beginning on or after October 1, 1986 the House bill would limit the annual percentage increase in prevailing charges for rental and purchase to no more than the increase in the Consumer Price Index for all urban consumers for the 12-month period ending the preceding March.

d. Clarification of DEFRA effective date

The bill clarifies that the DEFRA provision moving updates of customary and prevailing charges to October 1 also applies to DME.

Effective Date

Paragraph (a) would be effective with respect to items or services furnished on or after October 1, 1985.

Paragraph (b) would be effective with respect to supplies or items furnished on or after January 1, 1986.

Paragraph (c) would be effective with respect to items or supplies furnished on or after October 1, 1986.

Paragraph (d) effective as though included in DEFRA.

(Section 153)

a. Fiscal year 1986 payment level

This section is similar except that it would freeze both customary and prevailing charges for rented DME and for purchases of oxygen supplies during FY 1986 at the same level for supplies furnished during the 15-month period beginning July 1, 1984.

b. Mandatory assignment

This section is similar except that payment for purchases of oxygen supplies, in addition to DME provided on a rental basis, would only be made on the basis of assignment.

c. Limits on annual increase in prevailing

This section is similar except that future increases in payment for purchases of oxygen supplies, in addition to DME provided on a rental basis, would be limited to the CPI.

d. Clarification of DEFRA effective date

Same provision.

Same effective dates.

Senate amendment

a. Fiscal year 1986 payment level

The provision would impose new reimbursement limits on nonphysician services paid on a reasonable charge basis under part B other than DME that is lump-sum purchased or furnished under a lease-purchase agreement and independent clinical laboratory services. During fiscal year 1986, medicare customary and prevailing charges for services subject to the limits would be allowed to increase by 1 percent over the level in effect for the 15-month period beginning July 1, 1984.

b. Mandatory assignment

No provision.

c. Limit on annual increase in prevailing

For items and services furnished in fiscal year 1987 and thereafter, medicare prevailing charges could rise no faster than the increase in the consumer price index. The provision would be effective October 1, 1985.

Conference agreement

The conference agreement includes section 153 of the House bill with modifications. Customary and prevailing charges and lowest charge levels will be frozen for the period October 1, 1985 through January 31, 1986 for nonphysician and nonlaboratory supplies and services. This means that medicare fee screens for all nonphysician services paid for on a reasonable charge basis under Part B are frozen at the level which was in effect for such services for the 15-month period beginning July 1, 1984.

The agreement provides that the freeze is extended for the eleven-month period February 1, 1986–December 31, 1986 for rented durable medical equipment and consumable oxygen. Beginning April 1, 1986, and thereafter, payment for those items and services would be made only on the basis of assignment; that is, suppliers would have to accept the medicare reasonable charge as payment in full (except for the deductible and copayment).

The agreement specifically precludes extension of the freeze after February 1, 1986 for purchased DME and other nonphysician services paid for on a reasonable charge basis. Thus, other nonphysician suppliers and services would receive the full update in customary and prevailing charge screens for the 11-month period beginning February 1, 1986. This is the update that would have been effective on October 1, 1985, but for regulations issued by the Secretary which froze the rates.

Future updates of customary, prevailing, and lowest charge level screens for DME and other nonphysician services will occur on January 1 of each year beginning in 1987. Beginning January 1, 1987, the annual increase in the prevailing charge screens for rented DME and consumable oxygen will be limited to the increase in the Consumer Price Index for all urban consumers (U.S. city average). Beginning January 1, 1988, the annual increase in the prevailing charge screens for purchased DME will be subject to the same limit. For the purpose of this section, purchased DME includes DME furnished on a lease-purchase basis.

The base period for calculation of customary and prevailing charge screens is the 12-month period ending the preceding June 30. The base period for the lowest charge levels is the three-month period ending the preceding September 30.

The conference agreement for the DEFRA effective date provision includes the House provision, with a modification to specify that the provision applies for all, rather than some, part B nonphysician services except lab tests.

45. Payment for assistants at surgery for certain cataract operations and other operations

Present law

Currently, medicare covers assistants at surgery during routine cataract operations. Their services are considered reasonable and necessary if it is generally accepted practice among ophthalmologists in the local community to use an assistant at surgery. Some medicare carriers restrict coverage of assistants at surgery to cases where medical necessity is established.

House bill

The House bill would deny medicare payment for assistants at surgery for routine cataract operations. In cases where complicating medical conditions exist, the Secretary would be required to establish procedures by which the primary surgeon could request prior approval from the PRO for the use of an assistant.

The House bill would prohibit the assistant at surgery (or someone on his or her behalf) from billing medicare or the beneficiary for services which did not receive prior approval. In addition, the primary surgeon (or someone on his or her behalf) would be prohibited from including charges for the assistant in his or her bill if prior approval had not been received. In order to enforce this provision, the House bill would provide the Secretary authority to impose civil monetary penalties or assessments, or exclusion for up to five years from the medicare program.

The House bill would require the Secretary, after consultation with the physician payment review group, as constituted under section 142 or 152 the House bill, to develop and report to Congress by April 1, 1986, recommendations and guidelines regarding other surgical procedures for which an assistant at surgery generally is not medically necessary. The Secretary would be required to include in this report procedures by which the primary surgeon could request prior approval from an appropriate entity for the use of an assistant at surgery when prior approval is required for those surgical procedures.

The House bill would be effective with respect to services performed on or after October 1, 1985.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with a modification to allow the Secretary discretion to require the carrier or PRO to be the entity from which the primary surgeon requests prior approval for the use of an assistant at surgery. It is the intent of the conferees that this modification would facilitate timely implementation of the provision.

The conferees reviewed the findings of the Office of the Inspector General, HHS, which stated that the use of an assistant at surgery has not medically necessary in most situations. In addition, several medicare carriers currently restrict coverage of assistants at surgery, and there has been no indication that this has an adverse effect on patients.

The agreement further specifies that the provision applies to services performed on or after April 1, 1986. The Secretary's report to Congress on the recommendations and guidelines is due no later than January 1, 1987.

46. Limitation on medicare payment for post-cataract surgery patients (sec. 148)

Present law

Medicare part B pays for certain combinations of prosthetic lenses for post-cataract surgery patients, if determined to be medically necessary by the physician, i.e. cataract contact lenses and eyeglasses. Generally, part B carriers are authorized to replace prosthetic lenses without a physician's prescription in cases of loss or irreparable damage and when supported by a physician's prescription in cases of a change in the patient's condition. Currently, there are not uniform limits on the number of replacements for which medicare will provide reimbursement.

Physicians can bill medicare for services related to cataract surgery in two ways: (1) a comprehensive service code covering the lenses, their fitting and evaluation, and short-term follow-up to assure their suitability; or (2) separate codes for the lenses and for the physician's service.

House bill

The House bill would limit medicare reimbursement with respect to replacement of lost or damaged prosthetic lenses as follows:

(1) cataract eyeglasses; one replacement each year;

(2) cataract contact lenses; one original and two replacements per eye the first year after surgery and two replacements per eye each subsequent year.

The House bill would require the Secretary to provide for separate payment amount determinations for the prosthetic lenses and for the related professional services, and to apply inherent reasonableness guidelines, in accordance with the bill, in determining the reasonableness for charges for prosthetic lenses.

The House bill would be effective for items or services furnished on or after October 1, 1985.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with respect to payment limitations with a modification specifying that the provision applies to items and services furnished on or after April 1, 1986. The conference agreement does not include the limitations on replacements of eyeglasses and contact lenses.

47. Demonstration of preventive health services under medicare

Present law

Medicare does not generally provide coverage of preventive health services.

House bill

The House bill would require the Secretary of HHS to fund at least five demonstrations, under the auspices of schools of public health, to determine whether and how it would be cost-effective to include preventive services as a medicare benefit.

The House bill would require that certain preventive health services be made available to medicare beneficiaries. Such services would include health screenings, health risk appraisals, immunizations, counseling and instruction on such matters as diet and nutrition, reduction of stress, exercise, sleep regulation, prevention of alcohol and drug abuse and mental health disorders, self-care and smoking reduction.

The Secretary would be required to submit a report to Congress describing the demonstrations in progress within three years. Within five years, the Secretary would be required to submit a final report that would evaluate the costs and benefits of providing such services and recommend whether specific preventive services should be included as a medicare benefit.

The House bill would be effective October 1, 1985.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with a modification that specifies that the demonstrations be conducted under the auspices of schools of public health and medical schools with preventive medicine departments accredited by the Council on Education for Public Health. It is the intent of the conferees that at least one of the projects include cancer screening (including breast cancer screening).

48. Ambulatory surgery

Present law

Medicare may pay for ambulatory (i.e., outpatient) surgical procedures performed in three different settings.

(a) Ambulatory Surgical Center (ASC).—The "Omnibus reconciliation Act of 1980" authorized payments for surgical procedures, to be specified by the Secretary, performed in an ASC to be made on the basis of prospectively set rates. On August 5, 1982, the Department issued final regulations and an accompanying notice identifying four groups of surgical procedures and the payment amount for each group. The payment amounts and the list of procedures has not been updated.

The prospective payment rates do not include payments for physicians' services, prosthetic devices, or laboratory services.

Under the 1980 legislation, the costs related to the use of an ASC were covered in full. The Congress waived the 20 percent copayment usually required of patients for such part B services in order to foster greater use of ambulatory surgical centers as opposed to higher cost hospitals.

(b) Hospital outpatient departments.—Medicare payments for ambulatory surgery performed in a hospital outpatient department are made on the basis of reasonable costs. As a part B service, a 20 percent copayment is required of the patient in connection with the costs related to the use of the facility.

(c) Physican's office.—The "Omnibus Reconciliation Act of 1980" also authorized payments to be made to physicians for the use of their office facilities when covered ambulatory surgical procedures were performed there. However, the legislation has not been implemented because adequate utilization and quality control peer review, which is required by law, is not available for office-based surgery.

When surgery is performed in any of these three settings, medicare reimburses 100 percent of the physician's reasonable charge, provided the physician agrees to accept assignment, otherwise the 20 percent copayment is imposed on the beneficiary.

House bill

No provision.

Senate amendment

The provision would extend the ASC prospective payment approach to hosptial outpatient surgery for all procedures which the Secretary approves for the ASC; 150 are currently approved. The rates for ambulatory surgery in all settings would be increased to include the costs associated with a given procedure, including prosthetic devices and lab work. Professional fees would not be included. The provision specifies that the pass-through for direct graduate medical education and capital costs associated with the surgery that is now paid to hospitals would be continued. Further, separately calculated payments would be provided to take into account the costs of services provided by a Certified Registered Nurse Anesthetist (CRNA).

The Secretary would be required to update the present ASC prospective rates to reflect current costs. No rate could exceed the DRG payment rate for comparable inpatient surgery. The rates would be updated annually.

The provision would require the Secretary to have PROs review outpatient surgical procedures.

Finally, the provision would eliminate the current law provisions which waive copayments in connection with both the use of the facility and the physician's charge.

The provisions relating to the updating of payments and lists of procedures would be effective January 1, 1986. Payment amounts for ambulatory procedures that are furnished in ASCs and physicians' offices would be updated prior to January 1, 1986. Other provisions would be effective October 1, 1985.

Conference agreement

The conference agreement does not include the Senate amendment.

49. Payment for clinical laboratory services

Present law

Outpatient clinical diagnostic laboratory services are reimbursed according to fee schedules established by medicare carriers. The initial fee schedules, which went into effect on July 1, 1984, were established at a percentage of the prevailing charges that would have gone into effect on that date. The fee schedules are to be updates on July 1 of each year by the percentage change in the Consumer Price Index for all urban consumers (CPI-U).

The fee schedules are currently calculated and applied on the basis of a statewide or substate geographical area. Beginning July 1, 1987, a national fee schedule is to be established for tests performed in a physician's office, by a freestanding laboratory, or by a hospital (if the test is for a person who is not a patient of that hospital). The fee schedules are to expire July 1, 1987 for hospital laboratory tests performed for outpatients of the hospital; payment for these services would revert to cost-based reimbursement. Payment may only be made to the person or entity who performed such test.

Hospital laboratories and independent laboratories are subject to standards designed to protect the health and safety of patients and to monitoring of compliance with such standards. Laboratories located in physicians' offices are not subject to such standards or monitoring.

House bill

The House bill moves the timing of the annual update to October 1, beginning in 1986. The annual update which would take effect on October 1, 1986 would take into account the change in the CPI-U occurring over the preceding 15-month period. The expiration date for the fee schedules for tests done by hospital-based laboratories would be delayed 3 months, to October 1, 1987.

The Secretary of Health and Human Services would be required to establish a ceiling on the maximum amount medicare would pay under the current fee schedules. A different ceiling would be set for each test and would be applied nationwide. The ceiling would be set at 115 pecent of the median fee for each procedure beginning on January 1, 1986, and at 110 percent of the median beginning on October 1, 1986.

The Secretary would also be required to report to Congress, within one year after the date of enactment, on standards which could be established to protect the health and safety of patients of clinical laboratories which are part of, or associated with, a physician's office. In recommending standards, the Secretary is to consider such factors as scope, type and complexity, which may indicate a need for different standards for laboratories with different characteristics.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the following modifications. The annual update of the fee schedules will occur January 1 of each beginning in 1987. The annual update which will take effect on January 1, 1987 will take into account the change in the CPI-U occurring over the preceding 18-month period. The fee schedule for laboratory tests furnished by hospitals for outpatients is extended through December , 1987.

The conference agreement further modifies the House bill to specify that the ceilings would be set at 115 percent of the median fee for the respective tests beginning on April 1, 1986 and 110 percent of the median beginning on January 1, 1987. The

national fee schedule for laboratory services would go into effect on January 1, 1988.

It is the conferees understanding that there may be a limited number of lab tests where there is some discrepency in the service reported for the procedure code (such as organ or disease oriented panel tests). In these isolated cases, a reasonable delay in application of the limits on fee schedules may be appropriate.

The conference agreement further specifies that beginning January 1, 1987, medicare payments for laboratory services performed in a physician's office will only be made on the same basis as payments to independent clinical labs. Payment will be made only on the basis of assignment, and the patient's deductible and coinsurance will be waived.

The conferees continue to be concerned about the Secretary's lack of progress is simplifying the current billing requirements for laboratory services. Such simplification may include eliminating requirements that a patient diagnosis appear on clinical laboratory bill, mechanisms to ensure prompt payment, minimizing the amount of information required for claims processing and facilitating bulk or periodic billing for multiple beneficiaries.

The conference agreement reinstates section 1123 of the statute regarding proficiency testing, through September 30, 1987.

50. Vision care

Present law

Medicare pays for eye examinations furnished by a physician to a patient with a complaint or symptom of eye disease or injury. Medicare does not pay for eyeglasses or for eye examinations for the purpose of prescribing, fitting, or changing eyeglasses (except for prosthetic lenses for aphakic patients; that is, those without the natural lens of the eye). Payment is also denied for procedures performed to determine the refractive state of the eye. An optometrist who is legally authorized by the State to practice optometry is defined as a physician, but only with respect to services related to the treatment of aphakic patients.

House bill

Payment would be made under medicare for vision care services performed by optometrists, if the services are among those already covered by medicare when furnished by a physician and if the optometrist is authorized by State law to provide the services.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with an effective date of July 1, 1986. The conferees are concerned that many beneficiaries are either foregoing covered eye care or are paying out-of-pocket for eye care services furnished by optometrists, because they do not have ready access to an ophthalmologist. The bill would not expand or change the current coverage and reimbursement rules in any other manner. It is the conferees' expectation that the medicare carriers, with guidance from HCFA, would use information regarding payments they make for optometrists' services under their own health plans, or other appropriate information, to establish the initial customary and prevailing charge screens.

51. Second opinions

Present law

Medicare payment will be made for medical and other health services if the services are reasonable and necessary. Although a medicare beneficiary may seek a second opinion prior to undergoing surgery, a second opinion is not required as a precondition to payment.

Utilization and quality control peer review organizations (PROs) are authorized to determine whether services and items furnished in connection with medical care are reasonable and medically necessary. PROs conduct pre-admission reviews with respect to a limited number of elective surgical procedures, but are not authorized to require a second opinion as part of the pre-admission review process.

House bill

a. Mandatory second opinions

Payment for certain elective surgeries would be denied under both part A and part B, unless the patient obtained a second opinion from a qualified physician. Payment would not be denied if the second opinion did not agree with the first.

b. Required procedures

The Secretary of Health and Human Services would be required to designate at least ten surgical procedures for which second opinions would be required, chosen from those that can be postponed without undue risk, that are high volume or high cost procedures, and that have a high rate of nonconfirmation. The Secretary could vary the list for each geographic area if available data on volume and costs suggest that it would be cost-effective to do so. The Secretary would also be required to specify which type of specialist must be consulted for each of the listed procedures.

c. PRO functions

Utilization and quality control peer review organizations (PROs) would serve as referral centers to assist patients in obtaining second opinions. The PRO would maintain a list of qualified physicians and would tell the patient which physicians are participating physicians and which have agreed to accept assignment for second opinions. At the patient's request, the PRO would refer the patient to an appropriate physician for a second opinion. The patient could choose any physician of the proper specialty to provide the second opinion, as long as the physician was not affiliated with or did not have any common financial interest with the physician who rendered the first opinion. The Secretary could enter into an agreement with a State or local agency or appropriate private entity (other than a PRO) under certain circumstances.

d. Waiver of requirements

The requirement for a second opinion would be waived if (1) delay would pose a risk to the patient; (2) no physician is reasonably available who is (a) an appropriate specialist, and (b) a participating physician or a physician who has agreed to accept assignment for the second opinion; or (3) the patient is enrolled in a health maintenance organization or competitive medical plan with a medicare risk-sharing contract.

e. Beneficiary notification responsibilities

Physicians, hospitals, and ambulatory surgical centers would be obligated to inform patients about the requirement for a second opinion and would be subject to civil monetary penalties and exclusion from the program for failing to do so.

f. Secretarial notification requirements

The Secretary would be required to notify all physicians, hospitals with medicare agreements, and ambulatory surgical centers with medicare agreements, of these second opinion requirements, including the applicable list of surgical procedures and a description of the penalties for failure to notify a patient about the requirement for a second opinion.

The Secretary would also be required to provide periodic notice to medicare beneficiaries of the second opinion requirements, including the applicable list of the surgical procedures and information about the availability of the second opinion referral services.

g. Deductible and coinsurance waiver

The deductible and coinsurance would be waived for the second opinion (and for a third opinion, if the second was in disagreement from the first).

h. Conforming amendments

The bill makes conforming amendments regarding exclusions from coverage, provider agreements, and functions of PROs.

i. Contingency procedures list

If the Secretary did not establish a list or lists of surgical procedures requiring second opinions within six months after enactment, a statutory list of procedures would go into effect.

j. Study

The secretary would be required to conduct a study of the results of the amendments made by this section. The study must include any changes in utilization of surgical procedures, changes in nonconfirmation rates of second opinions, and outcomes in cases where surgery is not done after a second opinion failed to confirm the necessity of the surgical procedure.

The provision would become effective the first month which begins more than 6 months after enactment. The Secretary must promulgate final regulations necessary to implement the amendments made by this section within six months after enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision with modifications as follows.

a. Mandatory second opinions

PROs would be required to perform 100 percent pre-procedure review on at least 10 elective surgical procedures whether the procedure is performed on an inpatient or outpatient basis. Pre-procedure review would be required as a condition of payment except that review would be waived in the case of a medical emergency or under other circumstances as the Secretary may specify. PROs would be authorized to require a second opinion for these procedures as part of the pre-procedure review process if a second opinion is warranted to assist the beneficiary regarding the need for the procedure.

b. Required procedures

The procedures that would be subject to pre-procedure review by a PRO pursuant to this provision would be specified in a contract negotiated between the PRO and the Secretary. Existing contracts (which are on a 2-year cycle) will expire during 1986. New contracts will be signed between June and October 1986. Therefore, implementation of this provision will require renegotiation of signed contracts.

The Secretary would be required to develop guidelines for determining whether a surgical procedure is appropriate for inclu-

sion in the pre-procedure review program. These guidelines would be based on three general requirements. First, the procedure must be one which generally can be postponed without undue risk to the patient. Second, the procedure must be sufficiently costly, or of sufficient volume, as to make it probable that savings to the medicare program would result from effective review. Third, there must be a basis for concluding that pre-procedure review of that procedure is likely to be cost-effective. Such a basis could appropriately include data regarding the frequency with which a second opinion results in a recommendation against surgery and data regarding small area (or regional) variations in the incidence of the procedure. The Secretary is expected to apply these criteria flexibly in developing an appropriate list of procedures.

The Secretary would also be required to develop a list of procedures appropriate for inclusion in the program. The list would include substantially more than ten procedures. PROs would not be bound to include only procedures listed by the Secretary. Subject to negotiation, a PRO could include other procedures when cost-effective and consistent with general criteria specified in the provision. A PRO could review different sets of procedures in various regions of its service area. It is expected that a PRO will identify procedures for inclusion in this program based, in part, on information pertaining to patterns of medical practice within the PRO's service area.

Finally, the Secretary would be required to develop criteria specifying the type of specialist that must be consulted for each procedure, and the circumstances under which a physician may not provide a second opinion because of a common financial interest with the physician who rendered the first opinion.

c. PRO functions

A PRO could approve or disapprove a procedure as reasonable and necessary without requiring a second opinion. In addition, the PRO could require a second opinion and allow the beneficiary to decide among conflicting opinions. A second opinion should not be required if additional information could be obtained from the first physician which would resolve outstanding uncertainties as to medical necessity. Second opinions also should not be required in instances in which it is clear on the basis of available information that the procedure is not needed.

If the PRO requires a second opinion, the beneficiary generally would be free to choose any appropriately qualified physician. However, physicians with a possible conflict of interest, or physicians who have been disqualified by the PRO, would be prohibited from providing second opinions. A physician could be prohibited from providing second opinions if the PRO determines that the physician has rendered grossly unreliable second opinions.

The PRO would be required to assist the patient in identifying a qualified physician for a second opinion and would be required to forward medical records to the physician providing the second opinion. The PRO would not be required to transmit the records in a manner that would conceal the identity of the physician who rendered the first opinion.

d. Waiver of requirements

The conference agreement accepts the House provision regarding waiver of the requirement for a second opinion.

e. Beneficiary notification requirements

The detailed beneficiary notification requirements set forth under the House provision are replaced in the conference agreement by more general notice requirements. It is understood that general requirements with respect to beneficiary notification under the PRO program will apply to pre-procedure reviews under this section.

f. Secretarial notification requirements

Under the conference agreement, the Secretary would be required to arrange for appropriate notice to physicians, hospitals, ambulatory surgery centers, and beneficiaries regarding the pre-procedure review program.

g. Deductible and coinsurance waiver

The conference agreement accepts the House provision.

h. Conforming amendments

The conference agreement accepts the House provision.

i. Contingency procedures list

The conference agreement does not include the House provision.

j. Study

The conference agreement includes a study to be conducted by the Secretary. The study is to evaluate the results of the program on utilization of surgical procedures, changes in nonconfirmation rates and, where possible, outcomes. It is also to evaluate the appropriateness of the procedures actually selected for reviews and PRO patterns with respect to requiring second opinions. Finally, the study is to assess the effectiveness of reviews mandated under this section as compared with other methods of ensuring the medical necessity of surgical procedures. The study is due 36 months after enactment.

The conferees agreed that the effective date would be January 1, 1987.

52. Changing medicare appeal rights

Present law

Beneficiaries dissatisfied with a carrier's disposition of a part B claim are entitled to a review by the carrier. A fair hearing by the carrier is then available if the amount in controversy is $100 or more. The law does not provide for any further administrative appeal or judicial review for a part B claim.

Since the inception of the program, beneficiaries with disputes over claims could be represented by providers in their administrative appeals. In 1984, the Health Care Financing Administration issued a manual instruction prohibiting such representation.

House bill

The House bill provides that beneficiaries may obtain an administrative law judge hearing for part B claims if the amount in controversy is $500 or more, and a judicial review if the amount in controversy is $1,000 or more. In determining the amount in controversy, the Secretary, under regulations, must allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals. The current carrier hearing would be retained for amounts in controversy between $100 and $500.

The bill also clarifies that beneficiaries taking appeals under part A or part B could be represented by the provider who furnished the services or items in question.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision with a modification to specify that a national coverage determination made pursuant to section 1862(a)(1)(A) of the Act may not be reversed upon appeal. These determinations are made by the Health Care Financing Administration (HCFA), generally after consultation with the National Center for Health Service Research and Health Care Technology Assessment, and are contained in the Coverage Issues Appendix (now called Medicare Coverage Issues Manual) to the intermediary and carrier manuals.

With the additional workload that would be established under the bill, it is the conferees' expectation that HHS will give serious consideration to establishing a separate office of hearings and appeals for HCFA or otherwise creating a group of hearing officers devoted exclusively or predominately to medicare appeals.

53. Extension of On Lok waiver

Present law

The On Lok Community Care Organization for Dependent Adults provides health care services to frail elderly patients at risk of institutionalization. On Lok conducted a demonstration project from February 1979 to October 1983, with the aid of waivers of compliance with certain medicare and medicaid requirements. P.L. 98-21 required the Secretary to approve waivers for a new three-year, risk-sharing, capitated payment demonstration to be conducted by On Lok from November 1983 to November 1986.

House bill

The Secretary would be required to extend medicare waivers for the risk-sharing On Lok demonstration upon their expiration and, if the State of California applies for an extension of related medicaid waivers, to approve the State's application. The waivers would be extended on the same terms and conditions as applied to the original approval mandated under P.L. 98-21 (except that requirements for collection and evaluation of information for demonstration purposes should not apply) and would remain in effect until the Secretary found that the applicant no longer complied with those terms and conditions. The provisions would be effective upon enactment.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the House bill.

54. Remove restriction on actuarial opinion

Present law

Annual reports required of the Board of Trustees on the financial status of the Social Security trust funds (including the medicare trust funds) must include an actuarial opinion certifying that the assumptions and cost estimates used in the report are reasonable. According to provisions in the Social Security Amendments of 1983 (P.L. 98-21), this certification may not refer to the economic assumptions underlying the trustees report.

House bill

No provision.

Senate amendment

The provision would allow the actuaries to comment on the economic assumptions underlying the trustee's report. It would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

55. Extend GAO reporting date

Present law

The Deficit Reduction Act of 1984 (DEFRA) required the General Accounting Office (GAO) to study the following aspects of medicare contracting for claims processing:

The ability of HCFA to manage competitive bidding and the relative costs of competitive arrangements compared with cost based reimbursement;

The appropriateness of removing the provider nomination requirements in the statute;

Any disparities in costs and quality of claims processing among various intermediaries and carriers;

Whether the Secretary's standards for evaluating contractor costs are adequate and properly applied; and

Whether the Secretary's authority is sufficient to deal with inefficient intermediaries and carriers either through the contract negotiation and budget review process or through the process of termination or nonrenewal of contracts.

DEFRA required submission of the report to Congress within 12 months of enactment, i.e., by July 18, 1985.

House bill

No provision.

Senate amendment

The provision would extend the reporting date to 18 months after the enactment of DEFRA (i.e. January 18, 1986) to allow the GAO to expand the scope of the study as requested by the committees of jurisdiction (i.e. Senate Committee on Finance, House Committee on Ways and Means, and House Committee on Energy and Commerce).

The provision would be effective as if originally included in the Deficit Reduction Act of 1984.

Conference agreement

The conference agreement includes the Senate amendment with a modification specifying that the GAO report is due May 1, 1986.

56. Allow greater HMO membership on PRO boards

Present law

The Secretary must enter into contracts with organizations to provide utilization and quality control peer review of the health care services paid for under medicare. The contractors are referred to as Peer Review Organizations (PROs). An applicant whose governing body has more than one member who is affiliated with a health maintenance organization (HMO) is given secondary preference to physician-sponsored or physician-assisted entities when PRO contracts are awarded.

House bill

No provision.

Senate amendment

The provision would allow PROs with more than one HMO board member to qualify as a PRO on the same basis as other organizations. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

57. Peer Review Organization Reimbursement

Present law

Section 1866(a)(1)(F)(iii) of the Social Security Act specifies that Peer Review Organization reimbursement is to be set at a level which reflects peer review rates established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation). Section 1866(a)(1)(F)(iv) specifies that the aggregate reimbursement for a fiscal year may not be less than the aggregate amount expended in fiscal year 1982 (adjusted for inflation).

House bill

No provision.

Senate amendment

The provision deletes section 1866(a)(1)(F)(iii) and substitutes fiscal year 1985 for fiscal year 1982 in clause (iv). Reimbursement shall be made to the organization on a monthly basis, with payments for any month being made not later than 15 days after the close of such month. This change is to address the concern that current law provisions could be used to restrict PRO reimbursement. The provision would be effective on enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification specifying that fiscal year 1986 is the base year against which aggregate expenditures are compared.

58. PRO review of Health Maintenance Organization Services

Present law

Current law requires the Secretary of Health and Human Services to contract with Peer Review Organizations (PROs) for the review of the medical necessity, quality, and appropriateness of services provided to medicare beneficiaries. The PROs are required to review some or all of the professional services provided under medicare. Each PRO, in consultation with the Secretary, determines the types and kinds of cases over which it will exercise its review authority in order to most effectively meet its responsibilities.

On January 10, 1985, the Secretary published final regulations to implement the 1982 TEFRA health maintenance organizations (HMOs) and competitive medical plans (CMPs) contract provisions with medicare. The final regulation includes a provision that requires HMOs and CMPs with contracts under section 1876 to comply with the requirement for PRO review of services furnished to medicare enrollees.

House bill

No provision.

Senate amendment

The provision would require the Secretary to implement peer review of part A and part B services furnished by HMOs and CMPs. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification and changes the effective date of the provision to January 1, 1987. This clarifies an ambiguity that had been raised about current law. The conferees intend that the Secretary allocate sufficient additional funds to the PROs for the performance of the required functions and to recognize the unique features of HMO and CMP delivery of services in implementing this provision.

The conferees understand that the HMO/CMP industry is in the process of developing its own quality assurance capabilities. Conferees intend to review this approach prior to the effective date of this provision.

59. Substitute review pending termination of a PRO contract

Present law

A Peer Review Organization (PRO) which has a contract with the Health Care Financing Administration (HCFA) has exclusive authority to review utilization and quality of services as specified under Title XI of the Social Security Act. The Secretary may terminate a PRO contract for nonperformance provided certain procedures are followed. These procedures require the Secretary to "provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract." The data is to be reviewed by a panel appointed by the Secretary and the findings submitted to the Secretary and made available to the organization. The Secretary may accept or not accept the panel's findings. The Secretary may, with the concurrence of the organization, modify the scope of the contract. The Secretary may terminate the contract upon 90 days after the panel has submitted a report or earlier if the organization so agrees. The law does not make provision for assigning review (or backlogged review) to another entity during termination proceedings. Thus, terminations can create a period of several months where no utilization and quality review is conducted.

House bill

No provision.

Senate amendment

The provision would authorize the Secretary to assign review authority to another entity after the PRO has been notified of an intent to terminate its contract because the PRO is not performing effectively and prior to the time when a new PRO contract is awarded. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

60. Authorize peer review organizations to deny payment for substandard care

Present law

Peer Review Organizations (PROs) may review, subject to the provisions of their contracts, the professional activities of physicians, other practitioners and institutional and noninstitutional providers in rendering services to medicare beneficiaries. The review is to focus on: (a) the medical necessity and reasonableness of care; (b) the quality of care; and (c) the appropriateness of the setting. The law specifies that the determinations of the PRO with respect to medical necessity reviews and previews of the appropriateness of the setting are generally binding for purposes of determining whether benefits should be paid. Despite the fact that PROs are required to conduct quality reviews, they are not authorized to deny payment for care of substandard quality.

House bill

No provision.

Senate amendment

The provision would authorize PROs to deny payment for care of substandard quality that is identified through criteria developed according to a plan approved by

HCFA. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification specifying that beneficiaries are to be protected by the waiver of liability provisions against being charged for services for which medicare payment is denied. Further, the agreement requires the criteria to be developed pursuant to guidelines established by the Secretary.

TITLE IX

SUBTITLE B—MEDICAID AND MATERNAL AND CHILD HEALTH PROVISIONS

1. Services for Pregnant Women (Section 9501)

Present law

The Deficit Reduction Act of 1984 (P.L. 98-369) requires the States to cover under Medicaid, from the date of medical verification of pregnancy, certain pregnant women, if they meet State AFDC income and resource requirements, as follows: (a) pregnant women who would be eligible for AFDC and Medicaid if their child were born; and (b) pregnant women in two-parent families where the principal breadwinner is unemployed.

House bill

(a) *Mandatory coverage.* Requires States to cover under Medicaid pregnant women in two-parent families that meet AFDC income and resource standards even where the principal beadwinner is not unemployed.

(b) *Targeted services.* Specifies that States are not required to extend comparable benefits to other beneficiaries when they provide additional services related to pregnancy (including prenatal, delivery, and post-partum services) or its complication to all covered pregnant women.

(c) *Post-partum coverage.* Requires States to provide post-partum coverage to eligible pregnant women until the end of the 60-day period beginning on the last day of their pregnancy.

Senate amendment

(a) *Mandatory coverage.* No provision.

(b) *Targeted services.* Similar provision.

(c) *Post-partum coverage.* Permits a State to provide such coverage if it does so for all pregnant women covered under the plan. Covered services for this population group may be limited to post-partum care.

Conference agreement

(a) *Mandatory coverage.* The conference agreement follows the House bill.

(b) *Targeted services.* The conference agreement follows the Senate amendment with a clarification that services relating to any other condition which may complicate pregnancy are included in this exception to the general comparability requirement.

(c) *Post-partum coverage.* The conference agreement follows the House bill.

Effective dates. The mandatory coverage provision applies to Medicaid payments for calendar quarters beginning on or after April 1, 1986, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date. Delay is permitted where State legislation (other than legislation appropriating funds) is required. All other provisions take effect on the date of enactment.

2. Modifications of Home and Community-Based Waiver (Section 9502)

Present law

(a) *Eligibility for Ventilator-Dependent Persons.* Section 1915(c) of the Social Security Act authorizes the Secretary of HHS to waive certain Medicaid requirements to allow States to provide a variety of home and community-based long-term care services to individuals who would otherwise require the level of care provided in a SNF or ICF whose cost could be reimbursed under the State's Medicaid plan.

(b) *Needs Allowances.* Regulations require the income of beneficiaries of home and community-based care to be applied to the cost of this care, after deductions have been made for maintenance needs.

(c) *Habilitation Services.* States may cover the following services under waivers: case management, homemaker/home health aid services, personal care, adult day health, habilitation services, respite care, and such other services requested by the State and approved by the Secretary. With regard to habilitation sevices, final regulations excluded prevocational and vocational training and educational activities from services which may be covered.

(d) *Waiver Approval.* In order to receive approval for a waiver, States must provide a number of assurances to the Secretary, including one requiring that the estimated average per capita expenditure for medical assistance under the waiver for those receiving waivered services in any fiscal year not exceed the average per capita expenditure that the State reasonably estimates would have been incurred in that year for that population if the waiver had not been granted. This has been interpreted to require a showing by States that estimated average per capita expenditures under the waiver will not exceed 75 percent of the average per capita expenditures the State estimates would have been incurred in the absence of the waiver. Final implementing regulations published March 13, 1985, also require States to assure that the actual total expenditures for home and community-based services under the waiver will not exceed the State's approved estimated expenditures and that the State will not claim Federal matching payments for expenditures exceeding the approved estimate.

(e) *One Year Waiver Extension.* A home and community-based waiver is granted for an initial term of 3 years, and, upon the request of a State, can be renewed for additional 3-year periods, unless the Secretary determines that certain assurances have not been met.

(f) *Five Year Waiver Renewals.* Same as (e).

(g) *MCH Block Grant Coordination.* Under the waiver authority, States are providing home and community-based services to a number of groups of individuals, inlcuding children. Title V of the Social Security Act, known as the Maternal and Child Health (MCH) Block Grant, authorizes grants to the States for a variety of maternal and child health services, inlcuding services for children with special health care needs.

(h) *Substitution of Participants.* Under the waiver authority, a State may provide a variety of home and communiuty-based services to individuals who would otherwise require the level of care provided in an SNF or ICF, cost of which could be reimbursed under the State's Medicaid plan. Regulations require States, in their applications to provide home and community-based services, to describe the group or groups of indivuduals to whom services will be offered and to estimate the unduplicated number of recipients who will receive services in a given year. This has been interpreted to mean that individuals who receive services in a given year and who die, enter a nursing home, or otherwise drop out of the home and community-based care program during that year, cannot be replaced in that year with other individuals would be eligible to receive such services.

House bill

(a) *Eligibility for Ventilator-Dependent Persons.* Includes ventilator-dependent individuals who receive inpatient hospital services among those individuals eligible for expanded home and community-based services.

(b) *Needs Allowances.* Allows States to establish for individuals receiving waivered services in the community higher maintenance needs allowances than maximum amounts allowed under regulations in effect July 1, 1985.

(c) *Habilitation Services.* Defines habilitation services as services designed to assist individuals to acquire, retain, and improve the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings, and includes prevocational, educational, and supported employment services. Habilitation services would not include special education and related services as defined in the Education of the Handicapped Act which otherwise are available through a local educational agency, nor would they inlude vocational rehabilitation services which otherwise are available through a program funded under the Rehabilitation Act of 1973.

(d) *Waiver Approval.* Clarifies that the estimated average per capita expenditure for medical assistance under the program in any fiscal year must not exceed 100 percent of the average per capita expenditures that the State reasonably estimates would have been incurred in that year if the waiver had not been granted.

Prohibits the Secretary from requiring that the actual total expenditures for home and community-based services under the waiver, and the associated claim for Federal matching payments, can not exceed the approved estimates for these services.

Prohibits the Secretary from denying Federal matching payments for home and community-based services on the ground that a State has failed to limit actual total expenditures for home and community-based services under the waivers to the approved estimates for these expenditures.

Allows States, in estimating the average per capita expenditures for physically disabled individuals in ICFs, to use only the expenditures associated with that group of patients and not expenditures associated with non-disabled individuals.

(e) *One Year Extension.* No provision.

(f) *Five Year Waiver Renewals.* No provision.

(g) *MCH Block Grant Coordination.* No provision.

(h) *Substitution of Participants.*—No provision.

Senate amendment

(a) *Eligibility for Ventilator-Dependent Persons.* No provision; however, section 720 of Senate amendment amends Medicaid to require States to cover respiratory services for qualified respiratory care patients.

(b) *Needs Allowance.* No provision.

(c) *Habilitation Services.* No provision.

(d) *Waiver Approval.* No provision.

(e) *One Year Waiver Extension.* Requires the Secretary to extend, for a period of 1 year at a minimum or 5 years at a maximum, any waiver that expires during the 12-

month period beginning September 30, 1985, if the State requests an extension.

(f) *Five year Waiver Renewals.* Requires the Secretary, beginning September 30, 1986, to renew home and community-based services waivers for additional 5-year periods if the Secretary approves the waiver renewal request.

(g) *MCH Block Grant Coordination.* Amends the waiver authority to require the State Medicaid agency, whenever appropriate, to enter into cooperative arrangements with the State agency administering the MCH Block Grant program of services for children with special health care needs. These cooperative arrangements must provide that individuals under 18 who are eligible for home and community-based services will be referred to the State agency administering the MCH program for children with special health care needs.

In addition, the State MCH agency would be required to assure: (1) the establishment of an individual service plan for the child; (2) the designation of a case manager to assist the family in carrying out the plan; and (3) the monitoring of the utilization, quality, and costs of services provided for appropriateness and reasonableness.

(h) *Substitution of Participants.* Amends the home and community-based waiver authority to specify that for waivers which contain a limit on the number of individuals who will receive home and community-based services, the State may substitute additional individuals for any individuals who die or become ineligible for services.

Conference agreement

(a) *Eligibility for Ventilator-dependent Persons.* The conference agreement follows the House bill.

(b) *Needs Allowances.* The conference agreement follows the House bill.

(c) *Habilitation Services.* The conference agreement follows the House bill.

(d) *Waiver approval.* The conference agreement follows the House bill.

(3) *One Year Waiver Extension.* The conference agreement follows the Senate amendment. The conferees intend that waivers extended under this provision are subject to the same Secretarial monitoring and compliance procedures as all other home and community-based services waivers.

(f) *Five Year Waiver Renewals.* The conference agreement follows the Senate amendment.

(g) *MCH Block Grant Coordination.* The conference agreement follows the Senate amendment. The conferees intend that the use of cooperative arrangements be optional with the States and that the use of MCH agencies as case managers be optional with beneficiaries covered under the waiver.

(h) *Substitution of Participants.* The conference agreement follows the Senate amendment.

Effective dates

(a) *Eligibility for Ventilator-dependent Persons.* Effective for services furnished on or after October 1, 1985.

(b) *Needs Allowances.* Effective for waiver or renewal applications filed before, on, or after the date of enactment.

(c) *Habilitation Services.* Effective for services furnished on or after enactment.

(d) *Waiver Approval.* Effective for waiver or renewal applications filed before, on, or after the date of enactment, and for services furnished on or after August 13, 1981.

(e) *One Year Waiver Extension.* Effective for waivers expiring on or after September 30, 1985, and before September 30, 1986.

(f) *Five Year Waiver Renewals.* Effective on September 30, 1986.

(g) *MCH Block Grant Coordination.* Effective on the date of enactment.

(h) *Substitution of Participants.* Effective on the date of enactment.

3. Home and Community-based Services Demonstrations. (Section 9513)

Present law

No comparable provision.

House bill

No provision.

Senate amendment

Requires the Secretary of HHS to conduct demonstrations in four States to determine whether, and to what extent, State-controlled home and community-based services programs for elderly, disabled, and developmentally disabled Medicaid-eligible individuals can reduce expenditures for society as a whole, the Federal government, and/or the States. Under the demonstration, expenditures would exceed the amounts which would otherwise be expended under the States' Medicaid plans for services provided to the same individuals by not less than $85,000,000 no more than $88,000,000 for all four projects over the 3-year period of the projects. These additional amounts may be used to provide additional services such as habilitative services not otherwise covered under the State's Medicaid plan or care provided in small facilities not otherwise eligible for payments under the State plan, but all standards for quality of care otherwise applicable under the State plan would apply. In selecting the four States to carry out the demonstration projects, the Secretary would be required to select programmatically and demographically disparate States.

Requires the Secretary to evaluate the demonstration projects and to submit a preliminary report during the third year of the projects. Requires that the evaluation be funded at a level of not less than $1,500,000 nor more than $2,000,000.

Conference agreement

The conference agreement follows the Senate amendment with a modification providing that at least one of the four demonstration projects include the provision of home and community-based services for a substantial number of persons with Alzheimer's and related disorders, and that at least one of the other demonstration projects address services for mentally retarded and developmentally disabled Medicaid beneficiaries. The conference agreement also clarifies that beneficiaries participating in these demonstration projects will not experience any reduction or delay in benefits or services to which they are entitled under the regular State Medicaid plan. In addition, the conference agreement clarifies that the funding provided for these demonstrations is Medicaid entitlement funding, subject to regular State matching requirements.

The purpose of these demonstration projects is to determine the cost of expanding the availability of home and community-based services as an alternative to institutional long term care. The conferees recognize that the budget neutrality requirement of the current home and community-based waiver provision does not allow the States the flexibility to determine the cost of expansion of services because current waiver programs must be designed within existing spending levels. Under these demonstrations, however, a State's expenditures can exceed the amounts which would otherwise be spent under the State's Medicaid plan for services to the same individuals.

With regard to the demonstration concerning Alzheimer's and related disorders, the conferees intend that the project should specifically address the criteria for determining who is eligible for services as an Alzheimer's or related disorder patient, the range of services needed, and the cost of care for such patients. The conferees expect that the project relating to the mentally retarded and developmentally disabled population will address the cost, range and quality of services needed and the appropriateness of home and community-based care for this population.

Since the individuals participating in these demonstrations are otherwise eligible for Medicaid, the funds provided under this section are intended to support new and expanded benefits that are otherwise unavailable to these individuals under the State's Medicaid plan, such as habilitation services and respite care. The conferees do not intend the conduct of these demonstrations to restrict the benefits available under the State's plan, or otherwise impair and entitlement of any Medicaid-eligible individual participating in the demonstration. This section does not authorize the demonstration of a block grant for ICF/MR services.

The conferees are particularly concerned that these demonstrations attempt to assess the extent to which there are individuals in need of long-term care services who are not now receiving care, but would seek care if services in the community were expanded. The question of induced demand for services (the so-called "woodwork effect") is a major unresolved issue in current policy debates regarding the cost of expanding the availability of home and community-based services for the frail elderly and disabled. The conferees expect that one of the research objectives of these demonstrations will be to test whether a "woodwork effect" exists and, if so, to estimate its size and cost.

In determining whether and to what extent home and community-based waivers reduce expenditures, the conferees intend that the demonstration project evaluation will assess the impact of such services on the utilization and cost of both acute care and long term care services. For those participants eligible for both Medicare and Medicaid, the conferees intend that the costs and/or savings to both programs be separately evaluated.

The conferees are also interested in determing whether home and community-based services under Medicaid are newly offered services or whether they substitute for service currently available under other programs, such as Title XX of the Social Security Act. The conferees expect that the evaluation will determine whether expanding Medicaid home and community-based care improves access to such services or merely changes the financing for existing services.

Effective Date. Effective on enactment.

4. Task Force on Technology-Dependent Children. (Section 9520)

Present law

No comparable provision.

House bill

Requires the Secretary to establish, within 6 months after enactment of this Act, a task force concerning alternatives to institutional care for technology-dependent children. Requires the task force to submit, not later than two years after enactment of

this Act, a final report to the Secretary and Congress on (1) barriers that prevent the provision of appropriate care in a home or community-setting to technology-dependent children, and (2) recommended changes in the provision and financing of health care in private and public health care programs so as to provide home and community-based alternatives for these children.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill.

Effective Date. Effective on enactment.

5. Medicaid Coverage of Respiratory Care Services for Ventilator-Dependent Individuals. (Section 9504)

Present law

States are required to cover home health services for Medicaid beneficiaries over 21 who are categorically needy. In addition, a State must provide home health services to (1) categorically needy beneficiaries under 21 if such individuals are eligible to receive skilled nursing facility services under a State's Medicaid plan, or (2) medically needy beneficiaries if SNF services are offered to that group. States may provide such services to other program beneficiaries if they are offered to all eligible beneficiaries.

House bill

No provision.

Senate amendment

Requires States to cover respiratory services in the home for individuals who (1) are medically dependent on a ventilator for life support at least 6 hours per day; (2) have been so dependent for at least 30 consecutive days or the maximum number of days authorized under the State plan, whichever is less, as inpatients in one of more hospitals, SNFs, or ICFs, and who, but for home respiratory care, would require respiratory care in these institutions; (3) have adequate social support services to be cared for at home; and (4) wish to be cared for at home.

Conference agreement

The conference agreement follows the Senate amendment with a modification providing that respiratory care services are an optional Medicaid benefit. Respiratory care services are defined as services provided on a part-time basis at the home of the eligible ventilator-dependent individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State) for which payment is not otherwise made under the State plan within the payments for other items or services. The conferees expect that the Secretary, in regulations implementing this provision, will take particular care to assure that payment is not made twice for the respiratory care services, either because this service is already covered in the charge for ventilator or related equipment, or because the patient is also receiving nursing or other home care services that include the provision of respiratory care services.

Effective Date. Effective with respect to services furnished on or after April 1, 1986.

6. Optional Hospice Benefits (Section 9505).

Present law

States may cover some services that make up the hospice benefit package, such as home health care and prescription drugs. However, hospices are not recognized as providers for payment purposes, and States may not pay for comprehensive hospice services as a package. In addition, States may not offer services in the hospice package to terminally ill beneficiaries without offering those same services to all beneficiaries.

House bill

Allows States to cover hospice care as an optional Medicaid benefit. Hospice services could be provided to terminally ill individuals who have voluntarily elected to receive hospice care instead of certain other benefits. Hospice care would include the services included under Medicare. Hospice programs would be required to meet Medicare's requirements for organization and operation, and be public or nonprofit. The amount, duration, or scope of hospice services could not be less than benefits under Medicare. States choosing to cover hospice would be required to use Medicare's prospective payment methodology and reimburse at Medicare's rates. Beneficiary elections of hospice care could be for a period or periods as the State may establish. Beneficiaries could revoke election. States could apply the same eligibility standards for patients receiving hospice care outside of institutions as they apply to institutionalized patients. Cost sharing would not be imposed on hospice patients.

Senate amendment

Similar provision. However, contains no further requirements with respect to: the nature of the hospice organization; the amount, duration, or scope of benefits; reimbursement; election periods; income eligibility standards; or cost sharing.

Conference agreement

The conference agreement follows the House bill with a modification to delete the limitation on participation by otherwise qualified for-profit entities. The agreement also clarifies that, if an eligible individual who is a patient in an SNF or ICF elects hospice coverage, the payment for that individual's care in the institution during the period covered by the election will be made by the responsible hospice. The State's payment rate to the responsible hospice for each day the patient resides in an SNF or ICF must be increased by the amount attributable to the cost of room and board in the SNF or ICF; the facility will be paid by the responsible hospice, not by the State.

Effective Date. Effective for services furnished on or after enactment.

7. Medicaid Payments of Direct Medical Education Costs of Hospitals

Present law

State Medicaid payments for inpatient hospital services must be reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to meet State and Federal laws and regulations and quality and safety standards.

House bill

(a) *Basis of payment.* Requires State Medicaid programs to pay hospitals for their direct medical education costs associated with approved medical residency training programs on the basis of a fixed amount per fulltime equivalent (FTE) resident.

(b) *Calculation of payment.* Provides that the payment to each hospital would equal the hospital's approved FTE resident amount, times the hospital's number of FTE residents, times the proportion of total inpatient days attributable to Medicaid patients.

(c) *Payment limitation.* Requires the Secretary to determine each hospital's allowable average cost per FTE resident by using data on the average reasonable direct medical education cost per FTE resident from the hospital's most recent audited Medicare cost report, updated by the actual and estimated change in the Consumer Price Index. Provides that a hospital's FTE resident amount may not exeed the following percentages of the national average FTE resident amount: 175 percent for the residency year beginning July 1, 1986; 150 percent for the residency year beginning July 1, 1987; and 125 percent for residency years beginning on or after July 1, 1988.

(d) *Counting of residents.* Requires the Secretary to establish rules for the computation of FTE residents which provide that only time spent in patient care activities be counted, that time spent in an outpatient setting be counted, and that residents who serve only a portion of their year with one or more hospitals taken into account.

(e) *Weighting factors.* Requires that for residency years beginning July 1, 1987, a weighting factor be applied in calculating the number of FTE residents as follows:

Weighting Factors

Residency year beginning in	Primary care residents	Other residents	
		During initial residency period	During any other period
1987	1.10	0.90	0.75
1988	1.20	.80	.50
1989 or later	1.30	.70	.50

Authorizes the Secretary, beginning July 1, 1989, to change the weighting factors or to establish an alternative method for calculating the number of FTE residents, based on recommendations of the Physician Payment Review Commission (as authorized by Section 152 of the House bill).

(f) *Primary care residents.* Defines "primary care resident" to mean an individual in the first 3 years of postgraduate medical training in the fields of internal medicine, pediatrics, or family medicine, and an individual in up to 2 years of training in geriatric medicine, health, or preventive medicine.

(g) *Initial residency period.* Defines "initial residency period" to mean the minimum number of years of formal residency training necessary to satisfy the requirements for initial board eligibility in a particular medical specialty, not to exceed 5 years; excludes up to 2 years of residency in the fields of geriatric medicine, public health, and preventive health.

(h) *Foreign medical graduates.* Provides that foreign medical graduates (i.e., graduates of medical schools not accredited by a body or bodies approved by the Secretary of Education) may not be counted as residents beginning July 1, 1986, unless they have passed parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS). Foreign medical graduates who began serving as residents before July 1, 1986, and serve as residents during that year but have not passed the FMGEMS examination before July 1, 1986, would be counted at one-half the rate at which the resident would otherwise have been counted. Authorizes the Secretary to treat an individual as having passed the FMGEMS examination if the individual is unable to take that examination because

they previously received certification from the Educational Commission for Foreign Medical Graduates.

(i) *Report.* Requires the Secretary to report to Congress, not later than Dec. 31, 1986, on whether the new Medicaid payment methodology for direct medical education costs should be revised to provide for greater uniformity in the approved FTE resident amounts and, if so, how such revisions should be implemented.

Senate amendment

No provision directly amending the Medicaid statute.

Conference agreement

The conference agreement does not include the House provision. See section 9202, concerning Medicare payments to hospitals for direct costs of medical education, which affects State Medicaid programs that elect to follow Medicare principles.

8. Treatment of Potential Payments from Medicaid Qualifying Trusts (Section 9506)

Present law

Under Medicaid, only income and resources actually available to an individual are considered in determining eligibility. The law contains no specific provision pertaining to income from trusts.

House bill

(a) *Definition of available amounts.* Specifies that for purposes of Medicaid eligibility, the distributions from certain Medicaid qualifying trusts would be considered available to the individual establishing the trust whether or not the distributions are actually made. The amount deemed available to the beneficiary is the maximum amount of payments that may be permitted under the terms of the trust assuming the full exercise of discretion by the trustee or trustees.

(b) *Definition of trust.* Defines a "Medicaid qualifying trust" as a trust or similar legal device established by an individual (or his or her spouse) under which the the individual is the beneficiary of all or part of the payments from the trust and the amount of such distribution is determined by one or more trustees who are permittted to exercise any discretion with respect to the amount to be distributed to the individual. Clarifies that the provision applies: (1) whether or not the Medicaid qualifying trust is irrevocable or is established for purposes other than to enable the individual to qualify for Medicaid; and (2) whether or not the trustee(s) actually exercise discretion with respect to the amount of funds distributed.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification authorizing States to refrain from applying this provision to individuals in cases where undue hardship will result. While the conferees intend to discourage the establishment of the specified grantor trusts for the purpose of shielding assets from the State, the conferees also would expect States to waive application of this provision in cases where undue hardship would occur. For example, the conferees do not expect a State to deny Medicaid coverage to an individual under this section if he or she would be forced to go without life-sustaining services altogether because the trust funds could not be made available to pay for the services.

This provision addresses only eligibility for Medicaid, not eligibility for Supplemental Security Income or Aid to Families with Dependent Children. The conferees do not intend that the enactment of this provision be interpreted to have any bearing on eligibility policy in either of those cash assistance programs. It is also the understanding and intent of the conferees that this provision will have no effect on current law with regard to the treatment of such trusts in the context of estate proceedings.

In those States where, pursuant to section 1634 of the Social Security Act, the Secretary is making Medicaid eligibility determinations with respect to Supplemental Security Income beneficiaries, the conferees expect that the Secretary and the States will integrate the determinations required under this section into their current arrangements in a manner satisfactory to the Secretary.

Effective Date.—Applies to medical assistance furnished on or after the first day of the second month beginning after the date of enactment.

9. Written Standards for Provision for Organ Transplants (Section 9507)

Present law

No provision.

House bill

Denies Federal matching payments for organ transplant services provided to Medicaid beneficiaries unless the State plan provides for written standards for the coverage of such services and unless the standards treat similarly situated individuals alike. If such standards impose restriction on the faciliities or practitioners who may provide such services, the restrictions must be consistent with the accessibility of high quality care by Medicaid patients.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective Date.—Applies to medical assistance furnished on or after January 1, 1987.

10. Extension of MMIS Deadline. (Section 9518)

Present law

States are generally required to have mechanized claims processing and information retrieval systems, known as "Medicaid management Informtion Systems" (MMIS), that are annually reviewed and approved by the Health Care Financing Administration. The systems are designed to improve the capability of State Mediciad agencies to process claims on an accurate and timely basis and to provide data for administration of the Medicaid program.

The current deadline for a State to operate such a system is the earlier of (a) September 30, 1982, or (b) the last day of the sixth month following the date specified for operation of such systems in the States most recently approved advance planning document submitted before the enactment of P.L. 96-398 (October 7, 1980).

House bill

The deadline for State compliance with Federal performance standards for the operation of a Medicaid management information system is extended to September 30, 1985.

Senate Amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective Date.—Applies to payments to States for calendar quarters beginning on or after October 1, 1982.

11. Extension of Certain Texas Waiver Project. (Section 9523)

Present law

Section 1115 of the Social Security Act provides the Secretary of HHS general authority to conduct experiments and demonstrations under Medicaid and to waive program requirements in conducting these demonstrations. Under this authority, the Secretary has approved a waiver for the demonstration project, "Modifications of the Texas System of Care of the Elderly: Alternatives to the Institutionalized Aged," for the period January, 1980, through December, 1985.

House bill

Requires the Secretary to extend until December 31, 1988, approval of the waiver for the demonstration project, "Modifications of the Texas System of Care for the Elderly: Alternatives to the Institutionalized Aged," and to continue the approval on the same terms and conditions as applied to the project as of the date of enactment of this Act. Also specifies that approval remain in effect until such time as the Secretary finds that the applicant no longer complies with these terms and conditions.

Senate amendment

Similiar provision, except requires the Secretary to extend approval of the waiver for this demonstration until January 1, 1989. Does not require the Secretary to continue the approval on the same terms and conditions as applied to the project on date of enactment of the Act.

Conference agreement

The conference agreement follows the House bill with a modification that the waiver be extended until January 1, 1989.

Effective Date.—Effective on enactment.

12. Report on Adjustment in Medicaid Payments for Hospitals Serving Disproportionate Numbers of Low Income Patients. (Section 9519)

Present law

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) required States, in developing their payment rates for inpatient hospital services, to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

House bill

Requires the Secretary to submit to Congress a report (1) describing the methodology used by States to take into account the situation of disproportionate share hospitals when determining their Medicaid payments to hospitals, (2) identifying hospitals that have received a disproportionate share adjustment, and (3) specifying the proportion of low income and Medicaid patients at such hospitals.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification providing that the Secretary transmit the report to Congress no later than October 1, 1986.

13. References to Provisions of Law Providing Coverage Under, or Directly Affecting, the Medicaid Program. (Section 9526)

Present law

No provision.

House bill

A section is added to Title XIX (the Medicaid title) of the Social Security Act which provides references to laws directly affecting the Medicaid program. This allows readers of the title to more easily locate provisions of law that make additional individuals eligible for Medicaid, and that establish additional requirements for State plans to be approved under Medicaid.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

14. Third Party Liability Collections. (Section 9503)

Present law

(a) State Plan Requirements

Medicaid is intended to be the payer of last resort; that is, other available resources must be used before Medicaid pays for the care of an individual enrolled in the Medicaid program. The law requires the State plan to provide that:

(1) the State or local agency administering the plan will take all reasonable measures to ascertain the legal liability of third parties to pay for care;

(2) that where such agency knows that a third party has legal liability it will treat the liability as a resource of the individual for purposes of eligibility determinations; and

(3) the agency will seek reimbursement from liable third parties where payment has already been made where the expected amount of recovery exceeds the costs of recovery.

(b) Mechanized Claims Processing Systems

States are generally required to have Medicaid management information systems (MMIS) that are reviewed and approved by HCFA each year. The Secretary is required to develop performance standards, system requirements and other conditions for use in approval of such systems.

(c) Regulations

No provision.

(d) Conditions of Medicaid Eligibility

Current law requires Medicaid beneficiaries to assign their rights to medical support payments and other payments for medical care to the State.

(e) Penalties for Erroneous Excess Payments

If a State makes erroneous excess payments exceeding allowable rates, Federal financial participation is reduced.

House bill

No provision.

Senate amendment

(a) State Plan Requirements

(1) Amends the law to specify that reasonable measures for ascertaining the legal liability of third parties include:

(i) collection of sufficient information (as specified in regulations) to enable the State to pursue claims with such information collected at the point of eligibility determinations,

(ii) submission of a plan to the Secretary for pursuing claims. This plan is to be monitored by the Secretary as part of the review of the claims processing system and be subject to penalties for failing to meet conditions of approval, and

(iii) all other penalties, such as audit disallowances for third-party liability, are prohibited.

(2) Clarifies that the person furnishing the service to a Medicaid eligible may not collect cost-sharing amounts if total third-party liabilities at least equal the amount otherwise payable under Medicaid. Cost-sharing may not exceed the lesser of the amount the beneficiary would be required to pay in the absence of third-party liability or the difference between such liability and the Medicaid payment amount. Violation of this provision could subject the person to a sanction equal to up to three times the amount sought to be collected.

(3) Clarifies that a person furnishing services may not refuse to furnish services to a Medicaid eligible because of a third-party's potential liability.

(b) Mechanized Claims Processing Systems

(1) Requires the Secretary to develop performance standards for assessing States' third-party liability collection efforts which are to be integrated with and monitored as part of the Secretary's review of each State's MMIS.

(2) Provides that reviews of MMIS may be conducted once every three years and may, at the Secretary's discretion, be either total reviews or focused reviews.

c. Regulations

Requires issuance of regulations to implement (a) and (b) above within six months of enactment.

(d) Conditions of Medicaid Eligibility

Requires individuals, as a condition of eligibility, to cooperate with the State in identifying and pursuing liable third parties unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary.

(e) Penalties for Erroneous Payments

Disregards, for purposes of this calculation, errors resulting from failure of an individual to cooperate or give correct information relating to third-party liability.

Conference agreement

(a) State plan requirements

The conference agreement follows the Senate amendment with a modification that third party payments for preventive pediatric care, including Early and Periodic Screening, Diagnosis, and Treatment services, as well as those for prenatal care, must be pursued by the State, not by the provider. The conferees are concerned that the administrative burdens associated with third party liability collection efforts not discourage participation in the Medicaid program by physicians and other providers of preventive pediatric and prenatal care, since the beneficiaries in need of such services already have difficulty finding quality providers in many communities. The conference agreement therefore provides that, in the cases where preventive pediatric and prenatal services are rendered to a beneficiary for whom a third party is potentially liable, the State make payment to the provider according to the normal payment schedule and pursue the third party payment itself.

The conference agreement further provides that, in the case of beneficiaries on whose behalf a child support enforcement is being carried out by a State agency under Title IV-D, the State Medicaid agency will seek to collect from the third party if, after 30 days of delivering the services in question, the provider has not received payment. The intent of the conferees is to protect the mother and her dependent children from having to pursue the absent spouse, or his employer or insurer, for third party liability.

(b) Mechanized claims processing systems

The conference agreement follows the Senate amendment.

(c) Regulations

The conference agreement follows the Senate amendment.

(d) Conditions of Medicaid Eligibility

The conference agreement follows the Senate amendment with a modification clarifying that individuals are required to indentify, to the extent they are able, potentially liable insurers and other third parties, and to provide information to assist the State in pursuing third parties. Beneficiaries are not required to pursue the collections themselves. Pursuit is the responsibility of the provider or the State as provided elsewhere in this section.

The conferees note that the fact that an insurer or other third party is potentially liable for the costs of an individual's care does not, of course, mean that this coverage constitutes a resource for purposes of Medicaid eligibility. If the applicant or beneficiary actually receives a cash payment from a third party by way of indemnification for a medical expense, and if this payment were not somehow already assigned to the State, then the payment so received would be considered a resource for Medicaid eligibility purposes. In all other circumstances, the health insurance or benefits coverage is not to be considered a resource.

(e) Penalties for Erroneous Payments

The conference agreement follows the Senate amendment.

Effective Date.—The requirement that the Secretary promulgate regulations is effective on the date enactment. All other requirements take effect with respect to calendar quarters beginning on or after the date of enactment, except that delay is permitted where State legislation (other than appropriations legislation) is required. No penalty may be applied against a State for violations of State plan requirements occurring before the effective date of these amendments.

15. Optional Targeted Case Management Services (Section 9508)

Present law

"Case management" is commonly understood to be a system under which responsibility for locating, coordinating, and monitoring a group of sevices rests with a designated person or organization. Under current Medicaid law, case management is not included among the list of medical services which may be covered under a State's Medicaid plan. However, States may include case management services under freedom-of-choice and home and community-base services waivers authorized under sections 1915(b) and 1915(c) respectively. In addition, States may receive administrative funds under their Medicaid plans for certain case management activities (for example, preadmission screening) when offered to all Medicaid beneficiaries in all areas of the States.

House bill

No provision.

Senate amendment

Allows States to cover case management services without regard to requirements that Medicaid services be available throughout a State and that covered services be equal in amount, duration, and scope for certain Medicaid beneficiaries. Defines case management services as services which will assist individuals eligible under Medicaid in gaining access to needed medical, social educational, and other services.

Conference agreement

The conference agreement follows the Senate amendment with a modification clarifying that beneficiaries cannot be locked into designated providers under targeted case management services, whether for the case management services themselves or other services. The conferees expect that the Secretary will assure that payments made for case management services under this section do not duplicate payments made to public agencies or private entities under other program authorities for this same purpose. The conference agreement also provides that, with respect to family planning services, the right of Medicaid beneficiaries to choose their own providers may not be restricted under any waivers granted under section 1915(b) of the Social Security Act.

Effective Date.—Effective for services furnished on or after enactment.

16. Modify revaluation of Assets Provision (Section 9509)

Present law

Under section 2314 of the Deficit Reducton Act of 1984, the "revaluation of assets" provision, Medicare payments to nursing homes may not be increased to reflect higher capital costs that result solely from the sale of such facilities. Capital costs recognized for reimbursement include depreciation, interest expenses, and in the case of proprietary providers, return on equity. Capital-related costs to the new owner are based on the lesser of (1) the allowable acquisition cost to the prior owner (i.e., the historical cost, net of depreciation), or (2) the acquisition cost to the new owner. Medicaid payments are subject to a similar limit with States required to provide assurances, satisfactory to the Secretary, that methodologies used to establish rates paid to nursing homes can reasonably be expected not to increase those rates more than they would under Medicare policy as a result of a change in ownership.

House bill

No provision.

Senate amendment

Amends the Medicaid revaluation of assets provision to allow a State's aggregate capital cost payments to nursing homes to reflect increases in their valuation due to changes in ownership. The revaluation, however, would be limited to the acquisition costs of the previous owner increased by one-half the percentage increase in the Dodge Construction Index for Nursing Homes applied in the aggregate to those facilities which have changed ownership, or one-half the percentage increase in the CPI, whichever is lower.

Requires GAO to conduct a study of the effects of these amendments and to report the results of the study two years after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. It is the understanding of the conferees that the Senate report language regarding reduction by the previously allowed depreciation does not govern.

Effective Date.—October 1, 1985, but only with respect to changes in ownership occurring on or after such date.

17. Beginning Date of Optional Coverage for Individuals in Medical Institutions (Section 9510)

Present law

States may provide Medicaid coverage for individuals who are in medical institutions but who have too much income to qualify for cash payments under the Supplemental Security Income Program. The income standard which a State applies to this optional coverage group cannot exceed 300 percent of the SSI benefit amount payable to an aged, blind or disabled individual in his or her own home who has no other income or resources. Implementing regulations specify that the State Medicaid agency shall apply the special income standard beginning with the first full calendar month of institutionalization.

House bill

No provision.

Senate amendment

Substitutes for the full calendar month test a requirement that payment begins at the beginning of any 30 consecutive-day period of institutionalization.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Applies to services furnished on or after January 1, 1985.

18. Optional Coverage of Children (Section 9511)

Present law

States are able to cover under Medicaid all, or reasonable categories of, poor children under age 18 or 19 or 20 or 21 living in two parent families. These are known as "Ribicoff children." The Deficit Reduction Act required States to cover all children born on or after October 1, 1983, up to age 5, who meet AFDC income and resources requirements. The law requires that coverage for this population group be phased-in over a 5 year period starting with the youngest children. Federal matching is not available for children under age 5 born prior to October 1, 1983, unless the State extends coverage to all Ribicoff children other than those added by the Deficit Reduction Act provision.

House bill

No provision.

Senate amendment

Allows States to cover and receive Federal matching funds for all Ribicoff children under age 5 immediately.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Applies with respect to payments for services furnished on or after October 1, 1985.

19. Overpayment Recovery Rules (Section 9512)

Present law

State Medicaid agencies are allowed to pay nursing homes and hospitals at interim rates until final rates are established. The State is responsible for the collection of any "overpayment" and must refund the Federal share of such overpayment to the Federal Government. Under current program administrative instructions, the State must refund the Federal share immediately upon discovering the overpayment. Refunds must be made for all overpayments even where they are not collectible because the providers have gone into bankruptcy or out-of-business.

House bill

No provision.

Senate amendment

Allows States up to sixty days (from the date of discovery) to recover overpayments from providers and refund the Federal share. Provides that a State is not liable for the Federal share of overpayments which cannot be collected from bankrupt or out-of-business providers.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Applies to overpayments for quarters beginning on or after October 1, 1985.

20. Expansion of Services Under Demonstration Waivers (Section 9522)

Present law

Section 1903(m)(2) of the Social Security Act stipulates that States cannot contract on an at-risk basis with an entity which provides a certain number and type of services unless certain conditions are met. If any entity provides: (a) inpatient hospital services and any other mandatory Medicaid service, or (b) any three mandatory services, that entity must meet the specified standards before a State can enter into a risk contract with it for the provision of Medicaid services. The Secretary may not waive these requirements under the freedom-of-choice waivers under section 1915(b).

House bill

No provision.

Senate amendment

Authorizes the Secretary, with respect to entities providing services under a freedom-of-choice waiver, to waive the specified standards under section 1903(m)(2) if the entity does not provide more than five of the mandatory services and does not provide inpatient hospital services.

Conference agreement

The conference agreement follows the Senate amendment with an amendment limiting applicability to the State of Oregon. The conferees view this waiver as a demonstration program which will be reviewed and evaluated.

Effective Date.—Enactment.

21. Life Safety Code Recognition (Section 9515)

Present law

The Secretary of the Department of Health and Human Services may establish "standards of safety and sanitation" applicable to intermediate care facilities for the mentally retarded (ICFs/MR). Section 1905(c) of the Social Security Act requires intermediate care facilities (ICFs) to meet such standards prescribed by the Secretary as he/she finds appropriate for the proper provision of care and to meet such standards of safety and sanitation as established under regulation of the Secretary. These regulations refer to the 1981 Edition of the Life Safety Code of the National Fire Protection Association.

House bill

No provision.

Senate amendment

Requires the Secretary for purposes of section 1905(c) to specify the 1985 edition of the Life Safety Code of the National Fire Protection Association until such time as a new edition is published.

Conference agreement

The conference agreement follows the Senate amendment with an amendment limiting the provision to fire safety code requirements for ICF/MR and allowing the Secretary to use an updated life safety code or higher standards.

Effective Date.—Enactment.

22. Publication of ICF/MR Regulations (Section 9514)

Present law

At their option, States may cover in their Medicaid plans intermediate care facility services for the mentally retarded. These facilities must meet such standards as may be required by the Secretary. These standards were published in 1974 (42 CFR Subpart G).

House bill

No provision.

Senate amendment

Requires the Secretary to publish, within 60 days of enactment, proposed revisions to the standards for intermediate care facilities for the mentally retarded (ICFs/MR).

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Enactment.

23. Modifying Application of Medicaid HMO Provisions for Certain Health Centers (Section 9517)

Present law

(a) *Eligibility to Contract on a Risk Basis.* States can contract with certain organizations to provide health care services to Medicaid beneficiaries on a prepaid capitated basis. Among these organizations are: Community Health Centers and Migrant Health Centers, primarily funded by the Public Health Service, and certain rural health care centers known as Appalachian Health Centers, funded under the Appalachian Regional Development Act, that had existed prior to June 30, 1976.

(b) *Lock-in Provision.* States can restrict Medicaid beneficiaries from disenrolling without cause from certain organizations offering services on a prepaid capitated basis for periods of up to six months. This restriction is known as lock-in." Organizations eligible to participate in the lock-in provisions include federally qualified HMOs, and Community, Migrant and Appalachian Health Centers that are receiving, and had received in each of the two preceding years, at least $100,000 under the appropriate sections of the Public Health Service or Appalachian Regional Development Acts. In either case, the organizations must also meet the requirement that less than 75 percent of their enrolled members are receiving benefits under either Medicaid or Medicare.

(c) *Continuation of Benefits.* In the case of Medicaid beneficiaries who are enrolled in a federally qualified HMO contracting with a State Medicaid program and who would otherwise lose their Medicaid eligibility, States may deem these individuals eligible for Medicaid with respect to the services provided by the HMO for a period of up to 6 months.

House bill

No provision.

Senate amendment

(a) *Eligibility to Contract on a Risk Basis.* Allows States to contract on a risk basis with Community and Migrant Health Centers and Appalachian Health Centers that are receiving, and for the past two years have received, at least $100,000 in grants under the appropriate sections of the Public Health Service and Appalachian Regional Development Acts.

(b) *Lock-in Provision.* Permits Community and Migrant Health Centers and Appalachian Health Centers that are contracting with the Medicaid program on a risk basis, and are receiving, and had received in each of the two preceding years, at least $100,000 in grants under the appropriate sections of the Public Health Service and Appalachian Regional Development acts to participate in the lock-in provision without regard to the 75 percent rule.

(c) *Continuation of Benefits.* Allows States to provide for continuation of benefits to individuals enrolled in certain Community, Migrant and Appalachian Health Centers on the same basis as individuals enrolled in federally qualified HMOs. The eligible Community, Migrant, and Appalachian Health Centers are those that are contracting as HMOs with the Medicaid program and are receiving, and had received in each of the two preceding years, at least $100,000 under the appropriate sections of the Public Health Service and Appalachian Regional Development Acts.

Conference agreement

The conference agreement follows the Senate amendment with an amendment clarifying the applicability of current prepayment rules to Health Insuring Organizations (HIOs). According to a recent GAO Fact Sheet, "Medicaid Requirements: Health Insuring Organizations," (HRD-86-42FS, November, 1985), current HHS regulations and guidelines do not specify minimum qualifications for an HIO that arranges for the provision of services to Medicaid eligibles; do not specify the quality assurance methods that such an HIO must employ; do not specify the standards that an HIO must meet to assure access by program beneficiaries to services to which they are entitled; do not specify the amount of savings an HIO may retain for its own financial benefit; and do not specify the frequency or content of the utilization or financial reports that an HIO must submit with regard to the services for which its has arranged. In addition, the GAO Fact Sheet states that HIOs which arrange for the provision of services to Medicaid patients are not subject to specific regulatory requirements regarding financial reporting or ownership information. The conference agreement clarifies that where an HIO does more than simply act as a fiscal agent to review and process claims for payment, but actually arranges with other providers (through subcontract or otherwise) for the delivery of services to Medicaid eligibles (even though the HIO does not itself deliver services), it is subject to all of the regulatory requirements to which any health maintenance organization or similar prepaid entity is subject under current law.

Effective Date.—Enactment. The clarification with respect to HIOs applies to entities that first become operational after January 1, 1986.

24. Use of Sampling for Medical Review in Mental Hospitals, Skilled Nursing Facilities, and Intermediate Care Facilities

Present law

Requires that the care of each person receiving medical assistance in mental hospitals, SNFs, and ICFs be reviewed annually for the adequacy of services available, the necessity and desirability of continued placement in the facility, and the feasibility of alternative institutional or noninstitutional services.

House bill

No provision.

Senate amendment

Provides that medical reviews could be limited to a sample group of individuals receiving medical assistance in mental hospitals, SNFs, and ICFs, as permitted by the Secretary.

Conference agreement

The conference agreement does not include the Senate provision.

25. Wisconsin Health Maintenance Organization Waiver (Section 9524)

Present law

The Secretary of Health and Human Services may no longer waive the one-month disenrollment requirements for certain HMOs participating in a freedom-of-choice waiver.

House bill

No provision.

Senate amendment

Upon request by the State of Wisconsin, the Secretary of Health and Human Services is required to reinstate the waiver granted to the State of Wisconsin relating to HMO participation in the lock-in provision for renewable terms of 2 years, subject to the general requirements of such waivers.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Enactment.

26. Clarification of Medicaid Moratorium Provisions of Deficit Reduction Act of 1984 (Section 9521)

Present law

(a) *Clarification.* The Deficit Reduction Act of 1984 prohibits the Secretary of the Department of Health and Human Services from taking any regulatory action against a State because the State uses less restrictive standards or methodologies in determining the eligibility of Medicaid beneficiaries who do not receive cash assistance than it does for those who do. The prohibition applies during a moratorium period that will end 18 months after the Secretary submits to the Congress her recommendations on the application of cash assistance eligibility standards and other methodologies to the "medically needy" and other non-cash Medicaid eligibles.

(b) *Restoration.* When it is determined that a Medicaid beneficiary who owns his or her own home could never return home, the value of his or her residence becomes a resource that can increase his or her resources beyond the permitted level. In the past, Federal Medicaid policy gave such an individual time to dispose of the property if he or she was making a bona fide effort to do so. Recent interpretations of these policies would tend to force premature sale of the homes of institutionalized Medicaid applicants and beneficiaries.

House Bill

No provision. (An identical provision regarding clarification was included in H.R. 1868 as passed by the House, H. Rept. 99-80, Part 2).

Senate amendment

(a) *Clarification.* Clarifies that the moratorium applies whether or not the less restrictive standards or methodologies applied by the State were explicitly stated and approved as part of a State's Medicaid plan.

(b) *Restoration.* Restores for the duration of the moratorium the previous Medicaid policy governing the period when home ownership by an institutionalized individual is permitted and the period of time given for the sale of a home.

Conference agreement

(a) *Clarification.* The conference agreement follows the Senate amendment.

(b) *Restoration.* The conference agreement follows the Senate amendment with a technical amendment.

Effective Date.—Apply as though included in DEFRA as originally enacted.

27. New Jersey Demonstration Project Relating to Training of AFDC Recipients as Home Health Aides (Sction 9525)

Present law

The "Omnibus Reconciliation Act of 1980" authorized the Secretary to enter into agreements for the purpose of conducting demonstration projects to train formally AFDC recipients as homemaker-home health aides. The bill authorized 90 percent Federal matching for the reasonable costs of conducting the projects. The projects were limited to a maximum of 4 years plus an additional period of up to 6 months for planning and development and a similar period for final evaluation and reporting. Several States, including New Jersey, conducted such demonstration projects.

House bill

No provision.

Senate amendment

Extends for one additional year, at 50 percent Federal matching, the demonstration project in the State of New Jersey.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Enactment.

28. Correction plans for Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) (Section 9516)

Present law

Section 1910(c) of the Social Security Act authorizes the Secretary to conduct validation, or "look behind," surveys to determine the validity of Medicaid certification actions taken by the designated State survey agency. Where the Secretary finds that a facility substantially fails to meet the requirements of participation in the Medicaid program, he/she is empowered to cancel the facility's provider agreement.

House bill

No provision.

Senate amendment

Provides that if the Secretary finds that an intermediate care facility for the mentally retarded (ICF/MR) has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State may elect to submit a written correction plan. The plan must provide for (1) a timetable for completion of necessary steps to correct staffing deficiencies within 6 months, and a timetable for rectifying all physical plant deficiencies within 6 months, or (2) a timetable for permanently reducing the number of certified beds, within a maximum of 36 months, in order to permit any noncomplying buildings (or distinct parts thereof) to be vacated and any staffing deficiencies to be corrected.

If the Secretary finds at the conclusion of an initial 6-month period, or any subsequent 6-month period, that a State has substantially failed to meet its obligations established under a plan of correction, the Secretary may (1) terminate the facility's provider agreement, or (2) disallow (in the case of a planned reduction in a facility's population) an amount of Federal financial participation equal to 5 percent of allowable Medicaid cost for all eligible facility residents for each month the State fails to meet its interim goals.

Conference agreement

Under the conference agreement, if the Secretary finds that an ICF/MR has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State has two options. It may either (1) implement a plan of correction, approved by the Secretary, to remedy any staffing and/or physical plant deficiencies within 6 months, or, (2) implement a plan, approved by the Secretary, to permanently reduce, within a maximum of 36 months, the number of certified beds in the noncomplying facility (or distinct parts thereof). If a State which has elected option (1) fails to make the necessary corrections within the 6-month period, the Secretary may terminate the provider agreement, as under current law. The conferees expect that prompt action will be taken to terminate the facility's provider agreement in such circumstances. If a State which has elected option (2) substantially fails to meets its interim reduction goals during any given 6-month period, the Secretary must either terminate the facility's provider agreement or disallow, for each month the State remains out of compliance, 5 percent of the Federal matching payments the State would otherwise receive for the cost of care of all residents in the facility.

The Secretary's authority to approve reduction plans under this section is effective only with the promulgation of final regulations implementing this provision. The Secretary is directed to publish, in the Federal Register, a notice of proposed rulemaking implementing this provision within 60 days of enactment. The notice must allow a 30-day comment period. The Secretary's authority to approve permanent reduction plans extends for 3 years from the effective date of the final regulations. States could continue implementation of permanent reduction plans approved during this 3-year period beyond the expiration date of the Secretary's authority to approve such plans, provided of course that the State continued to comply with the terms and conditions of plans as approved. The Secretary's responsibility to monitor and enforce compliance by the States with the terms of the approved plans does not lapse with the expiration of his authority to approve new plan applications.

No later than 6 months before the expiration of the Secretary's approval authority, the Secretary is directed to report to the Congress on the implementation and results of this section. The conferees expect that the Secretary will provide the Congress with information on the impact of both the correction plans and the reduction plans on the quality of life and the availability of active treatment for the Medicaid-eligible individuals who remain in the facilities in question and for those who are placed in community settings. The conferees also expect that the Secretary's report will detail the involvement of resident's families in the process of developing the correction or reduction plans and in the placement of affected patients.

During each of the 3 years that the Secretary's authority to approve reduction plans is in effect, the Secretary may approve, on a first come, first served basis, 15 plans that meet the requirements of this section. Thereafter, the Secretary may approve reduction plans that otherwise comply with this section only if the State can demonstrate, to the satisfaction of the Secretary, that the State would have to spend at least $2,000,000 in State or local funds in order to remedy the substantial physical plant deficiencies found by the Secretary. There is no limit on the number of otherwise qualified plans that the Secretary may approve where the State meets the $2,000,000 compliance cost threshhold.

When the Secretary finds that an ICF/MR has substantial deficiencies, the State has the same period allowed under current law within which to submit a written plan of correction with the Secretary. If the State chooses to submit a written plan to permanently reduce the number of certified beds, it has the same period allowed under current law plus 35 days to accommodate the public hearing requirement described below. The Secretary must allow not less than 30 day after the submission of a proposed reduction plan by the State before approving or disapproving the proposal. During this period, interested residents, family, staff, and members of the public may comment directly to the Secretary on the State's proposal. The conferees expect that the Secretary will give careful consideration to these comments in connection with his decision.

The conference agreement imposes a number of requirements on States that elect to implement reduction plans rather than correct the deficiences cited at the facility in question. The general purpose of these requirements is to assure that any such plan is well conceived; that it has had the benefit of resident, family, staff, and public input; and that the quality of life for both the residents remaining in the facility and those receiving community placements is adequately protected. While the conferees wish to allow the States some flexibility in the allocation of capital and staff resources between institutional and community settings, the conferees intend that fiscal concerns not compromise the accessibility or quality of services to Medicaid-eligible clients. Above all, it is the primary intention of the conferees that the Secretary, in administering this provision, take extreme care that reduction plans approved under this section do not lead to the "dumping" of affected residents into substandard settings.

As a condition of approval of a reduction plan, a State must provide for a hearing to be held at the affected facility at least 35 days prior to submission of the reduction plan, with reasonable notice to the staff and residents, the residents' families, and the general public. The purpose of this hearing is to facilitate discussion of a State's proposed plan by those most directly affected.

As a condition of approval, a State must also demonstrate to the Secretary that it has successfully provided home and commu-

nity services similar to the services proposed to be provided under the reduction plan for similar Medicaid-eligible individuals. The purpose of this provision is to assure that the State, from direct experience, developed the technical and administrative capacity to implement a reduction plan without harming the affected residents. The conferees expect that, at a minimum, the Secretary will review carefully the experience of the mentally retarded and developmentally disabled under the State's relevant home and community-based services waivers, if any.

In addition, any reduction plan must meet the following requirements. First, the plan must identify the number of existing facility residents that are to be provided home or community services, must describe their individual services needs, and must specify the timetable for providing such services, in 6-month intervals, within the 3-year period.

A reduction plan must describe the methods to be used (1) to select such residents for home and community services and (2) to develop the alternative home and community services to meet their needs effectively. The conferees intend that, in selecting the residents and meeting their service need, the States will use an interdisciplinary team process that provides an opportunity for participation by the resident's family.

A reduction plan must describe the necessary safeguards that will be applied to protect the health and welfare of the residents of the facility who are to be placed in community settings. These safeguards must include, at a minimum, participation by residents and family members and providers. In addition, the State must assure that community residences in which affected residents are placed meet all applicable State licensure requirements and all applicable State and Federal certification requirements. The conferees are particularly concerned that any community settings to which Medicaid-eligible residents are transferred comply fully with Federal certification requirements. The purpose of a reduction plan is to move Medicaid-eligible residents out of deficient facilities into complying settings.

A reduction plan must provide that residents of the affected facility who are eligible for Medicaid while in the facility shall, at their (or their legal guardian's) option, be placed in another setting, or another part of the affected facility, that is in full compliance with Federal Medicaid requirements and therefore allows them to retain their Medicaid eligibility. It is the firm intent of the conferees that a reduction plan not impair the Medicaid eligibility of an affected resident without their consent. It the resident would have remained eligible for Medicaid had the State opted to eliminate the deficiencies in the affected facility, then the State may not, at any time, involuntarily place the resident in a setting where he or she loses the entitlement to Medicaid. The resident may elect to be placed in a setting where he or she does not retain entitlement to Medicaid. Of course, if the resident, or the resident's guardian, voluntarily chooses to move to a setting—for example, back home with his or her family—that causes the resident's countable income or resources to exceed the State's eligibilty standards, then the resident's Medicaid eligibility would be subject to termination under the same terms and procedures as applicable to all Medicaid beneficiaries.

A reduction plan must specify the actions that will be taken to protect the health and safety of the residents who remain in the affected facility while the reduction plan is in effect. The conferees wish to avoid a situation in which a State, rather than correct the deficiencies in a facility within 6 months, attempts to use the reduction plan option to delay making needed improvements for an additional 3 years. The reduction plan is intended as an alternative compliance mechanism, not a tool for avoiding compliance. The conferees expect that, before approving any reduction plan, the Secretary will satisfy himself that the health and safety of the residents remaining in the facility will be assured during the entire phase-out period.

In this connection, a reduction plan must also provide that the ratio of qualified staff to residents at the affected facility (or part thereof) will be the higher of (1) the ratio which the Secretary determines is necessary in order to assure the health and safety of the remaining residents, or (2) the ratio which was in effect at the time that the Secretary made the finding of substantial deficiencies. A State may use temporary staff to satisfy these staffing ratio requirements, but only if the staff are qualified for the patient treatment responsibilities that they are assigned.

Finally, a reduction plan must provide for the protection of the interests of employees affected by the reduction plan, including (1) arrangements to preserve employee rights and benefits; (2) training and retraining of such employees where necessary; (3) redeployment of such employees to community settings under the reduction plan; and (4) making maximum efforts to guarantee the employment of such employees. This requirement is not to be construed to guarantee the employment of any employee.

Substantial failure to meet any of these reduction plan requirements subjects the State to one of two sanctions; termination of the facility provider agreement, or disallowance of Federal Medicaid matching payments equal to 5 percent of the cost of care for all eligible individuals in the facility for each month of noncompliance. The Secretary has discretion as to which sanction to apply, but must apply one or the other. The conferees expect that the Secretary will vigorously enforce these requirements for the protection of the resident population affected by a reduction plan.

Effective Date.—Enactment.

29. Annual Calculation of Federal Percentage (Section 9428)

Present law

Between October 1 and November 30 of each even-numbered year the Secretary of HHB is required to promulgate the Federal percentage that will be in effect for 2-year period beginning the following October. The Federal percentage is used to determine the Medicaid matching rate. Each State's AFDC program may use the Medicaid rate or a separate rate derived from the Federal percentage. The percentages are based on the average per capita income of each State and the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. The Federal percentage for the fiscal years 1986-1987 is based on State and national per capita income for calendar years 1981-1983.

House bill

No provision.

Senate amendment

Provides for annual, rather than biennial, calculation of the Federal percentage.

Conference agreement

The conference agreement follows the Senate amendment with a modification moving the effective date forward to fiscal year 1987. The conferees recognize that this modification will cause several States to receive substantially less in Federal Medicaid and AFDC matching payments than they otherwise would have received under current law for fiscal year 1987 only. However, the conferees expect that, over the long run, the greater sensitivity to State economic conditions will benefit all States. A "hold harmless" provision was considered by the conferees, but its estimated cost of $155 million precluded its adoption. The conferees agree that the committees of jurisdiction will explore ways to relieve the hardship that may be suffered by the States that will receive substantially less in matching payments as a result of this provision.

30. Medicaid for Children Whose Adoption is Federally Aided (Section 9429)

Present law

The law extends Medicaid coverage to AFDC- or SSI-eligible children with special needs for whom Title IV-E adoption assistance payments are made. The State which entered into the adoption assistance agreement is responsible for providing Medicaid coverage to the child, even if the child and adoptive parents live in a different State. Similarly, children in foster care for which Federal funding is provided under Title IV-E are eligible for Medicaid coverage. The Medicaid coverage is provided by the State responsible for the foster care placement.

House bill

Specifies that, for purposes of Medicaid eligibility determinations, children receiving adoption assistance or foster care payments under Title IV-E of the Social Security Act are considered to be residents of the State in which they are placed even if this is not the State making the IV-E payment.

Senate amendment

In the case of children receiving adoption assistance, makes the State of the child's residence responsible for providing Medicaid coverage, even if the adoption assistance agreement was entered into with a different State.

Conference agreement

The conference agreement follows both the House bill and the Senate amendment. The conference agreement also clarifies that children with special medical rehabilitative needs who are receiving Medicaid and who are adopted by parents under a publicly-funded adoption program (other than a program funded under Title IV-E of the Social Security Act) are eligible for Medicaid regardless of the income and resource levels of the adoptive parents. States could, at their option, extend Medicaid coverage to such children if (1) an adoption assistance agreement (other than one under Title IV-E) is in effect; (2) the child was eligible for Medicaid under the State's plan before the adoption assistance agreement was entered into; and (3) the responsible State agency has determined that, because of the child's special needs for medical or rehabilitative care, the child would be difficult to place with adoptive parents without Medicaid coverage.

With the respect to the second requirement, the States may use either Title IV-A methodologies and standards, or Title IV-E methodologies and standards, in determining Medicaid eligibility for this population.

With respect to the third requirement, the conferees note that it is not necessary that the State Medicaid plan cover all of the services necessary to treat the child's special medical needs; the issue is simply whether, absent Medicaid coverage, the child would be difficult to place.

Effective Date.—The provision concerning residency is effective beginning with medcial assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment. The provision relating to coverage of children with special needs who receive State adoption assistance applies to adoption assistance agreements entered into before, on, or after enactment.

31. Elimination of 2-Year Limit for Obligation of Funds Under Maternal and Child Health Block Grants.

Present law

Under the Maternal and Child Health (MCH) Services Block Grant, States must olbigate a fiscal year's allotment prior to the close of the following fiscal year.

House bill

No provision.

Senate amendment

Would repeal the requirement that States obligate their MCH allotments within a 2-year time frame.

Conference agreement

The conference agreement does not include the Senate provision.

32. Children With Special Health Care Needs (Section 9527)

Present law

The Maternal and Child Health Services Block Grant provides funds to States to deliver services and care for children who are crippled or who are suffering from conditions leading to crippling.

House bill

No provision.

Senate amendment

Would change the term "crippled children" to "children with special health care needs" wherever the term "crippled children" appears in Title V, the Maternal and Child Health Services Block Grant.

Conference agreement

The conference agreement follows the Senate amendment. The conferees have agreed to strike the words "crippled children" and "crippled children's services" from Title V of the Social Security Act and to substitute in their place "children with special health care needs" and "services for children with special health care needs." In so doing, the conferees have simply made technical changes in the statutory language which more appropriately describe the populations to be served under the Title V program. No substantive changes in the program are intended.

Effective Date.—Enactment.

TITLE IX

SUBTITLE C—TASK FORCE ON LONG TERM CARE HEALTH POLICIES (SECTION 9601)

Present law

No comparable provision.

House bill

The House bill requires the Secretary of the Department of Health and Human Services to establish, in consultation with the National Association of Insurance Commissioners, an 18-member Task Force on Long Term Health Care Policies. It further requires that the Task Force develop guidelines for long term health care policies. Within eighteen months after its establishment, the Task Force is to report to the Secretary and to the Congress on both the guidelines it has developed and on recommendations for any additional activities it finds appropriate. The report is to be distributed to the States through a cooperative effort between the Secretary and the National Association of Insurance Commissioners. The Secretary is required to report annually to the Congress on various activities related to the guidelines.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment making changes in the statutory language, terminating the Task Force upon completion of its report, limiting the number of secretarial reports to two and clarifying that the recommendations do not preempt State law.

The conference agreement replaces "guidelines" with "recommendations" in each instance where it appears. In making this change, the Conferees wish to emphasize their intent that these recommendations be used only at the option of each State. Under the conference agreement, States are not required to consider, refer to, or otherwise use the recommendations of the Task Force if they do not think it appropriate to do so.

The Conferees intend the Task Force to complete its report 18 months after enactment of this legislation and to be discharged within 90 days of completion of the report. The Conferees also intend that the Department distribute the recommendations to the States in cooperation with the National Association of State Insurance Commissioners. Adoption of the recommendations is entirely voluntary.

In order to assess the usefulness of the work of the Task Force and the actions taken by the States in response to the Task Force recommendations, the conference agreement requires the Secretary of the Department of Health and Human Services to provide two reports to both the House Committee on Energy and Commerce and the Senate Committee on Labor and Human Resources on State efforts in utilizing the recommendations. The first report is due 18 months after the Task Force completes its work and the second report 18 months thereafter. The conference agreement limits the number of secretarial reports to two instead of the annual reporting required in the House bill.

Effective Date.—The Task Force is to be established not later than 60 days after enactment of this legislation.

TITLE X.—CONTINUED HEALTH COVERAGE

a. Employers required to provide continuation coverage; sanction for noncompliance

Present law

There is no requirement in the Internal Revenue Code or other Federal law that an employer-provided group health plan must include continuation or conversion options in order for favorable tax rules to apply or in order to comply with other statutory requirements.

House bill

H.R. 3128

Covered Employers

The bill amends the Internal Revenue Code to require that an employer-provided group health plan must provide continuation coverage for qualified beneficiaries. Although the bill includes no explicit exclusions for churches, or tax-exempt or governmental employers, the applicable sanction—denial of the employer's tax deduction—has no impact on such employers.

H.R. 3500

This bill amends the Employee Retirement Income Security Act (ERISA), rather than the Internal Revenue Code, to cover all employee welfare benefit plans. Although the bill includes no explicit exclusions for churches or governmental employers, its amendment of ERISA effectively excludes churches (but not other tax-exempt entities), as well as Federal, State and local governments.

Sanction for Noncompliance

If any group health plan maintained by an employer fails to provide continuation coverage, H.R. 3128 denies a tax deduction for employer contributions to any health plan; and H.R. 3500 permits employees, beneficiaries and the Secretary of Labor to sue the employer to enforce compliance. In addition, an employer may be liable under ERISA for certain monetary penalties.

Senate amendment

Covered Employers

Title VII of the Senate amendment generally follows H.R. 3128 by amending the Internal Revenue Code although it does include tax-exempt employers because of the additional sanction imposed on highly compensated employees. However, this provision of the Senate amendment provides explicit exclusions for churches, Federal, State and local governments and small employers. For this purpose, a small employer is defined as an employer that normally employs 25 or fewer employees.

Title IX of the Senate amendment amends the Public Health Services Act to require that each employer subject to the Fair Labor Standards Act must provide continuation coverage. This title provides explicit exclusions generally following Title VII of the Senate amendment. Despite the exclusion, no State or political subdivision with more than 25 employees could receive Federal funds under certain public health service programs unless plans maintained by such entities provide continuation coverage.

Sanction for Noncompliance

In addition to following H.R. 3128, Title VII of the Senate amendment denies an income exclusion to any highly compensated employee. An employee is considered highly compensated if the employee is one of the 5 highest paid officers, a 10-percent shareholder, or among the highest paid 25 percent of all employees.

Title IX generally permits suits for injunctive relief and imposes civil penalties on employers who fail to provide continuation coverage.

Conference agreement

Covered Employers

The conference agreement generally follows the House bill and the Senate amendment, by amending ERISA, the Code, and the Public Health Service Act. Under the agreement, the changes to the Code and ERISA do not apply to churches, Federal, State and local governments, and small employers. Small employers are defined as those with fewer than 20 employees. In addition, the amendments to the Public Health Service Act apply only with respect

to State and local governments (other than those with fewer than 20 employees.)

To avoid the issuance of duplicate and perhaps inconsistent regulations, the conferees authorized the Secretary of Labor to promulgate regulations implementing the disclosure and reporting requirements, and the Secretary of Treasury to issue regulations defining required coverage, deductions, and income inclusions. The Secretary of Health and Human Services is to issue regulations regarding the requirement that State and local governments provide continuation coverage for qualified beneficiaries. The conferees intend that any regulations issued by the Secretary of Health and Human Services will conform (in terms of actual requirements) with those regulations issued by the Secretary of Treasury and Labor. Under the agreement, enforcement of the requirements imposed through the Public Health Service Act will be through suits for equitable relief filed by qualified beneficiaries. Of course, as under present law, all affected agencies will have the opportunity to comment before regulations are issued.

Sanctions for Noncompliance

Any regulations issued pursuant to these changes are to be effective after the date of issuance. However, pending the promulgation of regulations, employers are required to operate in good faith compliance with a reasonable interpretation of these substantive rules, notice requirements, etc.

The conference agreement generally follows H.R. 3500 and the Senate amendment except that the only sanction imposed on covered State and local governments under the Public Health Service Act are suits for equitable relief.

b. Required coverage

Present law

Otherwise deductible expenses paid or incurred by an employer for a group health plan are disallowed if the plan differentiates in benefits between individuals having end stage renal (kidney) disease and other individuals (Code sec. 162(i)).

House bill

Qualified beneficiaries

Both H.R. 3128 and H.R. 3500 provide that qualified beneficiaries include widows, divorced spouses and persons whose spouse becomes eligible for Medicare, as well as dependent childern of such beneficiaries.

Type of benefit coverage

House bill

Both H.R. 3128 and H.R. 3500 require that the continuation coverage for which a qualified beneficiary must be offered an election is coverage identical to the coverage provided under the plan to similarly situated beneficiaries.

Period of coverage

Both H.R. 3128 and H.R. 3500 require that continuation coverage be provided for 5 years. However, no coverage need be provided after the qualified beneficiary becomes eligible for coverage under another plan as a result of reemployment or remarriage.

Cost of coverage

Both H.R. 3128 and H.R. 3500 provide that some or all of the cost of continuation coverage could be charged to the qualified beneficiary, whether or not the employer otherwise subsidizes some or all of the premiums for covered employees. However, in no event may the cost charged to the qualified beneficiary exceed the total applicable premium. The applicable premium is defined as the cost to the plan for the period of coverage for a similarly situated beneficiary with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

Senate amendment

Qualified beneficiaries

In addition to those classes of qualified beneficiaries described in the House bill, Title VII of the Senate amendment provides that (1) employees are qualified beneficiaries upon termination of employment (voluntary and involuntary) and (2) dependent children are also separately considered to be qualified beneficiaries when they cease to be covered as dependents under the plan.

Title IX of the Senate amendment further expands the classes of qualified beneficiaries listed to include employees whose hours are reduced, resulting in a loss of coverage. It provides that no coverage is required for employees who are terminated for cause.

Title VII of the Senate amendment requires that the continuation coverage for which a qualified beneficiary must be offered an election is coverage identical to the coverage provided immediately before the qualifying event. In addition, if the plan otherwise permits employees and beneficiaries to modify coverage, the qualified beneficiary must be entitled to modify coverage at the same time and in the same manner as other similarly situated beneficiaries.

Title IX of the Senate amendment follows the House bill.

Duration of coverage

Title VII of the Senate amendment provides that continuation coverage must be provided for 18 months.

Title IX of the Senate amendment provides that continuation coverage must be provided for 3 years (18 months with respect to terminated employees and reduced hour workers), and provides cutoff dates similar to those in the House bill.

Cost of coverage

Although Title IX of the Senate amendment follows the House bill, Title VII provides that the cost must not exceed 102 percent of the applicable premium and provides specific rules for calculating the "cost" of the applicable premium in self-insured plans.

Conference agreement

Qualified Beneficiaries

The conference agreement generally follows the House bill and the Senate amendment except that no continuation coverage is required for terminated employees if the termination occurs by reason of the employee's gross misconduct.

Type of benefit coverage

The conference agreement generally follows the House bill with a modification so that the type of benefit coverage is identical, as of the time the coverage is being provided, to the coverage provided under the plan to similarly situated beneficiaries under the plan with regard to whom a qualifying event has not occurred.

Duration of Coverage

The conference agreement generally follows Title IX of the Senate amendment, requiring that continuation coverage provided to widows, divorced spouses, spouses of Medicare-eligible employees, and dependent children who become ineligible for coverage under the plan be provided for 3 years, while coverage for terminated employees and employees with reduced hours must be provided for 18 months. The agreement provides that the coverage period begins with the date of the qualifying event. As under the House bill and Title IX of the Senate amendment, no coverage need be provided after (1) failure to make timely payment under the plan, (2) the qualified beneficiary is covered under another group health plan as a result of employment, reemployment, or remarriage, and (3) the qualified beneficiary becomes entitled to Medicare benefits. In addition, as under the House bill and Title VII of the Senate amendment, no coverage need be provided after the employer ceases to maintain any group health plan.

Cost of Coverage

The conference agreement generally follows Title VII of the Senate amendment. For a self-insured plan, the conferees agreed that the "applicable" premium for any year generally is equal to a reasonable estimate of the cost of providing coverage for such period for a similarly situated beneficiary. The cost is to be determined on an actuarial basis and takes into account such factors as the Secretary may prescribe in regulations. Alternatively, unless there has been a significant change affecting a self-insured plan (e.g., a modification of covered benefits, a significant change in the number or composition of the covered workforce, etc.), the employer may elect to use as the applicable premium, the cost for a similarly situated beneficiary for the preceding year, adjusted to reflect cost-of-living increases as measured by the GNP deflator.

In general, similarly situated individuals are those individuals defined by the plan (consistent with Treasury regulations) to be similarly situated and with respect to which no qualifying event has occurred. The Secretary of the Treasury is to define similarly situated individuals by taking into account the plan under which the coverage is provided (e.g., high or low option), the type of coverage (single or family coverage) and, if appropriate, regional differences in health costs. The conferees do not intend that similarly situated mean medically identical (for example, all employees with heart problems); nor do the conferees intend that plans can define similarly situated beneficiaries by reference to classifications that are in violation of Title VII of the Equal Pay Act.

In addition, the conferees intend that Treasury regulations defining a plan should preclude an employer from grouping employees to inappropriately increase the cost of continuation coverage for qualified beneficiaries who are rank-and-file employees (or their beneficiaries).

c. Notice requirements; election period

Present law

No provision.

House bill

Both H.R. 3128 and H.R. 3500 require that notice of the option to continue health coverage be provided in the summary plan description. In addition, the bills require that notice of a qualifying event be given to the plan administrator (1) by the employer, in the event of the employee's death; (2) by the employee, in the event that the employee is divorced, separated, or becomes eligible for Medicare.

Under both bills, the period during which a qualified beneficiary may elect continuation coverage does not expire before 60 days after the later of (1) the termination

date of coverage, or (2) the date the beneficiaries receive notice of the right to elect.

Senate amendment

Title VII of the Senate amendment provides that the Secretary of the Treasury is to prescribe notice requirements pursuant to regulations and establishes a 60-day notice period commencing with the qualifying event.

Title IX

Title IX of the Senate amendment provides that the Secretary of Health and Human Services is to prescribe notice requirements pursuant to regulations. Such regulations are to prescribe notice consistent with that required by the House bill.

Conference agreement

The conference agreement generally follows the House bill. Thus, notice of the option to continue health coverage must be provided in the summary plan description. In addition, in the event of an employee's death, separation from service, or Medicare eligibility, the employer is required to notify the plan administrator within 30 days of the qualifying event who will in turn notify the qualified beneficiary within 14 days.

In the event of other qualifying events (e.g., divorce, legal separation, or the child's becoming ineligible) the employee or qualified beneficiary affected by that event is required to notify the plan administrator. Unless the qualified beneficiary is the party providing notice, the plan administrator is in turn required to notify the qualified beneficiary. The election period begins not later than the later of (1) the date on which coverage terminates, or (2) the date on which the qualified beneficiary receives notice of the right to elect continuation coverage. Any election by a qualified beneficiary is considered an election by other qualified beneficiaries who would otherwise lose coverage by reason of the same qualifying event.

The conferees intend that the Secretary of Labor will issue regulations defining what notice will be adequate for this provision. The conferees intend that notice by mail to the qualified beneficiary's last known address is to be adequate; however, mere posting is not to be adequate. In addition, in applying these requirements to multiemployer plans, the conferees intend that the Secretary of Labor should take into account the special problems faced by those plans.

d. Conversion option

Present law

No provision.

House bill

Both H.R. 3128 and H.R. 3500 require that a conversion option be offered to qualified beneficiaries if under the plan the conversion option is otherwise available.

Senate amendment

Although Title IX of the Senate amendment follows the House bill, Title VII does not require that a conversion option be offered.

Conference agreement

The conference agreement generally follows the House bill and Title IX of the Senate amendment. Under the agreement, a qualified beneficiary must be offered a conversion option from any plan (including a self-insured plan) only if such an option is otherwise available under the plan to other participants.

Effective Date.—These provisions are effective for plan years beginning after June 30, 1986. In the case of a group health plan maintained pursuant to one or more collective bargaining agreements, the bill does not apply to plan years beginning before the later of (1) the date the last of the collective bargaining agreements terminate, or (2) January 1, 1987.

TITLE XI. PENSION BENEFIT GUARANTY CORPORATION PROVISION [1]

1. Insurance Premiums

Present law

A private defined benefit pension plan must generally pay to the Pension Benefit Guaranty Corporation ("PBGC") an annual per participant premium of $2.60. The Employee Retirement Income Security Act of 1974 (ERISA) permits the PBGC to provide for a risk-related premium (within limits).

House bill—H.R. 3128

The premium is increased to $8.00 for plan years beginning after December 31, 1985, and before January 1, 1989. For plan years beginning after December 31, 1988, the premium level returns to $2.60. The bill also provides for a study by the Treasury Department with respect to risk-related premiums.

House bill—H.R. 3500

The premium is increased to $8.50 for all plan years beginning after December 31, 1985.

Senate amendment—Title VII

The premium is increased to $8.10 for all plan years beginning after December 31, 1985. The bill also provides for a study by the Department of Labor (DOL) with respect to risk-related premiums.

Senate amendment—Title IX

No provision.

Conference agreement

The conference agreement follows H.R. 3500 except that the conferees agreed generally to require the PBGC to study the premium structure (including the feasibility of a risk-related premium) and make recommendations for change, if necessary. An advisory group appointed by the Chairman of the House Committees on Education and Labor and Ways and Means and the Senate Committees on Labor and Human Resources and Finance is required to analyze and critique the study. The study is to be filed with the Congress no later than one year from the date of enactment and the advisory group's report is due no later than six months after the PBGC submits its report to the Advisory Council.

2. Single Employer Pension Plan Amendment Act

a. Clarification of authority to freeze plans

Present law

Under present law, a plan may be amended to freeze future benefit accruals and to freeze other factors used to calculate benefits, such as compensation taken into account. In the absence of a contractual obligation, an employer is not required to provide participants with advance notice of a freeze.

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

Under the bill, an amendment freezing accruals is not effective unless, subsequent to the adoption of the amendment and at least 60 days prior to the effective date of the amendment, the plan administrator gives written notice to each affected party. The term "affected party" is defined under the bill as each participant in the plan, each beneficiary of a deceased participant, each beneficiary who is an alternate payee under a qualified domestic relations order, and each employee organization representing participants in the plan and the PBGC.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

Although the bill contains no specific provisions covering plan freezes, the proposed first stage of plan termination covers similar situations (see Voluntary plan terminations—Senate amendment).

Conference agreement

The conference agreement provides that an amendment to reduce significantly future benefit accruals under a plan is not effective unless, subsequent to the adoption of the amendment and at least 15 days prior to the effective date of the amendment, the plan administrator gives written notice of the reduction to each participant in the plan, each beneficiary under the plan who is a beneficiary of a deceased participant, each beneficiary who is an alternate payee under a qualified domestic relations order, and each employee organization representing participants in the plan. This notice does not apply to any amendment (or portion thereof) to retroactively reduce plan benefits (Sec. 412(c)(8) of the Code and Section 302(c)(8) of ERISA).

The conference agreement does not affect the requirements for qualification of a plan under the Code. For example, the agreement does not change the requirement of minimum benefit accruals under a frozen top-heavy plan.

b. Voluntary plan terminations

Present law

Restrictions on plan termination.—Under present law, an employer's continued maintenance of a defined benefit pension plan is not required by statute. Thus, subject to contractual obligations, the employer generally may terminate a plan at any time upon satisfaction of the procedureal requirements described below.

Employer liability under a terminated plan.—If a single-employer defined benefit pension plan is terminated with assets sufficient to pay benefits at the level guaranteed by the PBGC (described below), the employer has no further liability to the PBGC.

If a single-employer defined benefit pension plan is terminated with insufficient assets to pay benefits at the level guaranteed by the PBGC, then the employer is liable to the PBGC for the insufficiency. However, the employer's liability is limited to 30 percent of the employer's net worth (determined as of the date of termination). The 30-percent limit applies whether or not the employer remains in business after the plan is terminated. All trades or businesses under common control are treated as a single employer.

In computing the extent to which assets are insufficient to pay guaranteed benefits, the value of any accumulated funding deficiency or outstanding waived liability under the minimum funding standard of the plan

[1] Note: H.R. 3500 as passed by the House was added as an amendment to H.R. 3128 as amended by the Senate. The PBGC provisions of both H.R. 3128 and H.R. 3500 as passed by the House are mentioned separately to indicate the legislative background of the separate House bill provisions.

(discounted for likelihood of payment) is treated as a receivable of the plan and, thus, as a plan asset. An employer's liability for amounts due to the plan under the minimum funding standards of ERISA is not limited to 30 percent of net worth.

The full amount of the employer's liability to the PBGC is generally due and payable as of the date of plan termination. However, the PBGC, in its discretion, may grant deferred payment terms for employer liability.

PBGC guaranteed benefits.—Subject to limits, the PBGC guarantees basic benefits under a plan. Basic benefits consist of nonforfeitable retirement benefits other than those benefits that become nonforfeitable solely on account of the termination of the plan. Guaranteed benefits are limited to basic benefits of $750 per month adjusted for inflation since 1974 ($1,687.50 for 1985).

Guarantees do not apply with respect to benefits in effect for fewer than 60 months at the time of plan termination unless the PBGC finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of securing increased guaranteed benefits for participants. In cases in which they apply, guarantees are phased in at the rate of $20 per month or 20 percent per year (whichever is greater) for (1) basic benefits that have been in effect for less than 60 months at the time the plan terminates, or (2) any increase in the amount of basic benefits under a plan resulting from a plan amendment within 60 months before the date of plan termination.

Notice of termination.—Under present law, an employer must file a Notice of Intent to Terminate (NOIT) a plan with the PBGC not less than 10 days prior to the proposed date of termination. Participants and beneficiaries must be notified of the termination no later than the date that the NOIT is filed with the PBGC.

Distribution.—Under present law, at least 30 days prior to the proposed date of distribution, the plan administrator must submit projected asset and liability data demonstrating that the plan holds sufficient assets to pay guaranteed benefits as of the proposed date of distribution. Under certain circumstances, the plan administrator also has the option of establishing the plan's sufficiency by certification of an enrolled actuary.

Within 90 days after the proposed termination date, the PBGC is to notify the plan administrator as to whether plan assets are sufficient to satisfy plan obligations. This period may be extended by mutual agreement of the plan administrator and the PBGC. The plan administrator may distribute plan assets 30 days after the notice of sufficiency is issued. If the PBGC fails to issue a notice of sufficiency during the 90-day statutory period and the parties fail to agree to extend the 90-day period, the employer may distribute plan assets upon the expiration of the 90-day period.

Post-distribution audit.—Within 60 days of the date of distribution, the plan administrator must certify to the PBGC that plan assets have been allocated and distributed in accordance with the requirements of ERISA. The PBGC may, in its discretion, conduct a post-distribution audit of a terminated plan.

House bill—H.R. 3128

Restrictions on plan termination.—No provision.

Employer liability upon plan termination.—Unless the employer terminating a plan goes out of business, the employer is liable to the PBGC for (1) the full amount of any funding deficiency, plus (2) the full amount of any unfunded guaranteed benefits (determined by treating any funding deficiency as an available plan asset of the terminated plan). A funding deficiency consists of any accumulated funding deficiency and the outstanding balance of any waived funding deficiency. If an employer goes out of business, its liability for the unfunded guaranteed benefits described in (2) is limited to 30 percent of the Employer's net worth.

The bill also provides that the liability of an employer to the PBGC upon plan termination is the joint and several liability of all members of the controlled group of the employer. "Controlled group" is defined as all persons who are treated as a single employer under subsections (b), (c), (m) or (o) of section 414 of the Internal Revenue Code ("Code").

The bill generally provides that the full amount of the liability to the PBGC is normally due and payable as of the date of plan termination, unless the employer elects a deferred payment schedule. An employer may pay its liability to the PBGC (1) in a lump sum payment, (2) over a period of five years, or (3) over a period of 15 years. If the employer elects deferred payments over a 5- or 15-year period, liability payments include interest. Security is required if the 15-year schedule is elected and can be required if the 5-year schedule is elected. In addition, as under present law, the employer and the PBGC may agree to a special schedule of payments. The schedule may, for example, reflect the ability of the employer to pay the liability, as well as the hazards of litigation.

Procedural requirements.—No provision.

House bill—HR. 3500

Restrictions on plan termination.—Under the bill, an employer may only terminate a single-employer defined benefit pension plan under which benefits are guaranteed by the PBGC in a "standard termination" or in a "distress termination." A standard termination is permitted only if the plan holds assets sufficient to pay all benefit entitlements.

Under the bill, "benefit entitlements" include all guaranteed benefits and all benefits that would be guaranteed but for the insurance limits on the amount or value of the benefit, or the length of time that the benefit has been in effect. In addition, benefit entitlements include certain additional benefits for which a participant has satisfied all conditions of entitlement prior to termination, irrespective of whether those benefits are guaranteed. These additional benefits are (1) early retirement supplements or subsidies, (2) plant closing benefits, and (3) death benefits. The general definition of benefit entitlements excludes those benefits that have become nonforfeitable solely by virtue of the plan's termination.

A plan with assets insufficient to provide benefit entitlements may be terminated in a "distress termination" only if the PBGC determines that (1) funding waivers have been granted with respect to the terminating plan for three of the five plan years preceding the termination date, and such a waiver has been granted to each other single employer plan maintained by each contributing sponsor (as that term is defined in the bill) of the terminating plan and each substantial member (as defined in the bill) of each contributing sponsor's controlled group in any one of the three plan years preceding the termination date; (2) a petition has been filed in bankruptcy or state insolvency proceedings seeking liquidation of each contribution sponsor of the plan and each substantial member of their controlled groups, and has not been dismissed or converted to a petition for reorganization; (3) unless a distress termination occurs, each contributing sponsor of the plan and each substantial member of each contributing sponor's controlled group will be unable to pay its debts when due and will be unable to continue in business; or (4) as a result of the decline in the number of employees covered as participants under all of the plans maintained by the contributing sponsors of the terminating plan an members of each contributing sponsor's controlled group, the costs of providing pension coverage have become unreasonably burdensome. The bill contains an objective test of "burdensomeness" relating to plan costs, payroll costs, and gross income level of contributing sponsors and members of their controlled groups.

Employer liability under a terminated plan.—If an employer terminates a plan pursuant to a standard termination, with assets sufficient to fund all benefit entitlements, the employer has no further liability to the PBGC or plan participants.

Liability to the PBGC.—If a plan is terminated pursuant to a distress termination (or if the termination is instituted by the PGBC), each contributing sponsor of the plan and each member of the controlled group of a contributing sponor is jointly and severally liable to the PBGC for (1) any unfunded guaranteed benefits, plus (2) the full amount of any funding deficiency. A funding deficiency consists of any accumulated funding deficiency and the balance of any waived funding deficiency.

Under the bill, the full amount is normally due and payable to the PBGC as of the date of plan termination. However, where the amount of unfunded guaranteed benefits exceeds 30 percent of the collective net worth of the persons subject to liability, liability for the excess amount may be satisfied by payments to the PBGC each year, over a 10-year period (specified in the bill) following the plan's termination. The required payment in any year is 10 percent of the sum of the individual annual pretax profits (if any) of all persons subject to liability in connection with the plan termination. Liability to the PBGC ceases after the earlier of the tenth annual payment or the time when the liability to the PBGC is paid in full.

Liability to participants.—If a plan has assets insufficient to fund nonguaranteed benefit entitlements, each contributing sponsor to the plan and each member of the contributing sponsor's controlled group is jointly and severally liable for payments for a 10-year period (specified in the bill) following the plan's termination, of 5 percent of the sum of the individual annual pretax profits (if any) of all persons subject to liability in connection with the plan termination. The payments are to be made to a special trustee appointed by the PBGC. Employer liability to the special trustee ceases after the earlier of the tenth annual payment or the time when the nonguaranteed benefits are fully funded. The special trust makes benefit payments to participants and beneficiaries.

Notice of termination.—Not less than 60 days prior to a proposed plan termination date, a plan administrator is required to give written notice of the proposed termination to the PBGC, plan participants and benefi-

ciaries, and unions representing the participants.

Related adjudiciatory proceeding.—If, during the period between the date notice is given and the proposed termination date, the plan administrator learns of a "related adjudicatory proceeding" (as defined in the bill), the plan administrator is required to suspend the termination or to structure the termination so that the plan could be restored if it were later determined that the termination violated the contractural or statutory right of any affected person. The payment of benefits is restricted during the suspension period.

Distribution.—As soon as practicable after the proposed termination date, the plan adminstrator is required to provide the PBGC with certification by an enrolled actuary of the plan's sufficiency as of the plan's proposed date of distribution.

The plan administrator is permitted to distribute plan assets upon the expiration of the 60-day period following the date the certification of sufficiency is filed with the PBGC, provided that the PBGC has not issued a notice of noncompliance with respect to the plan, and the parties have not agreed to extend that period. The plan administrator is also required to notify each participant and beneficiary of such person's benefit entitlement at least 60 days prior to the plan's proposed date of distribution.

Post-distribution audit.—The plan administrator is required, within 30 days after the final distribution of assets, to file a notice with the PBGC certifying that assets have been allocated and distributed in accordance with the requirements of ERISA.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

Restrictions on plan termination.—Under the bill, an employer may only terminate a single employer defined benefit pension plan under which benefits are guaranteed by the PBGC in a "standard termination" or in a "distress termination."

A standard termination consists of two distinct stages: (1) a cessation of accruals stage, and (2) a liquidation or "closeout" stage. If the plan has sufficient assets to fund all "final benefit obligations" of the plan, the two stages may occur simultaneously. If assets are insufficient to fund final benefit obligations the plan may not complete the second stage until such obligations are fully funded or the plan qualifies for liquidation under the distress termination rules. A plan in the first stage of termination is a frozen plan to which the present-law rules regarding vesting apply. The bill also provides that the required annual contribution, during the stage-one period, is an amount not less than benefits currently due.

Under the bills, final benefit obligations include all "benefit entitlements" as defined under H.R. 3500, plus, (1) benefits which comes nonforfeitable solely by virtue of the plan's termination, and (2) certain ancillary benefits for which a participant satisfies the conditions of entitlement subsequent to the plan's termination.

In order to terminate a plan in a distress termination, a plan administator is required to demonstrate that (1) a petition in bankruptcy or other State insolvency proceedings has been filed seeking liquidation of each contributing sponsor (as defined in the bill) of the plan and each substantial member (as defined in the bill) of the contributing sponsors' controlled groups, and that the petition has not been dismissed or converted to one seeking reorganization; (2) a petition in a bankruptcy or State insolvency proceeding has been filed seeking reorganization of each contributing sponsor of the plan and each substantial member of their controlled groups, and the bankruptcy court has approved the plan termination; or (3) unless a distress termination occurs, each of the contributing sponsors and the substantial members of their controlled groups will be unable to pay its debts when due, and will be unable to continue in business.

Employer liability under a terminated plan.—These provisions of the bill are substantially the same as H.R. 3500, except that the contributing sponsors and members of their controlled groups are liable to plan participants for unfunded nonguaranteed "final benefit obligations" rather than benefit entitlements, and payment of those benefits is made directly by the employer to plan participants and beneficiaries, rather than through a special termination trust.

Notice.—Not less than 10 days prior to a "stage one" termination, a plan administrator is required to give written notice of the termination to the PBGC, plan participants and beneficiaries, and unions representing the participants.

Notice to the same parties is required at least 30 days prior to the second, closeout stage. If stages one and two occur simultaneously, the 30-day notice applies. In any event, if the plan is maintained pursuant to a collective, bargaining agreement, the plan administrator is required to notify unions representing participants at least 30 days prior to a stage one freeze or a stage two closeout filing.

Related adjudicatory proceeding.—No provision.

Distribution.—At least 30 days prior to the distribution of plan assets, the plan administrator is required to provide the PBGC with certification by an enrolled actuary of the plan's sufficiency as of the plan's proposed date of distribution. The plan administrator is permitted to distribute plan assets upon the expiration of the 30-day period, provided that the PBGC has not issued during that period a notice of noncompliance with respect to the plan.

Notice of benefit computations to participants.—At the same time as the plan administrator notifies each participant or beneficiary of the benefits to which the participant or beneficiary is entitled, the plan administrator must also notify the participant or beneficiary of the information used in computing the amount of such benefits, including (1) the length of service, (2) the age of the participant or beneficiary, (3) wages, and (4) such other information as the PBGC may require.

Post-distribution audit.—The PBGC is required to audit annually all participants in terminated plans after the final distribution of assets.

Conference agreement

The conference agreement generally follows the structure of H.R. 3500.

Restrictions on terminations.—Under the agreement, as under H.R. 3500, an employer may only terminate a single-employer defined benefit pension plan under which benefits are guaranteed by the PBGC in a standard termination or in a distress termination. An employer is permitted to terminate a plan in a standard termination only if the plan holds sufficient assets to pay all "benefit commitments" under the plan. Benefit commitments are defined under the conference agreement as all guaranteed benefits (including qualified preretirement survivor annuities) and all benefits that would be guaranteed but for the insurance limits on the amounts or value of the benefit, or the length of time that the benefit has been in effect. In addition, benefit commitments include certain additional benefits for which a participant has satisfied all conditions of entitlement prior to termination. These additional benefits, irrespective of whether they are guaranteed, are (1) early retirement supplements or subsidies, and (2) plant closing benefits.

With respect to the circumstances under which an employer may terminate a plan in a distress termination, the bill generally follows Title IX of the Senate amendment except that it provides an additional criteria permitting "distress" termination if pension costs become unreasonably burdensome due to a declining workforce. In addition, the conference agreement makes it clear that different members of a controlled group may separately satisfy different criteria for distress termination.

As under present law, to the extent a pension plan is an executory contract included within the scope of Section 365 (11 USC 365) or is included within the scope of Section 1113 of the Bankruptcy Code (11 USC 1113), these Bankruptcy Code Provisions are applicable to the court's decision on whether to approve the termination of the pension plan. The distress termination criteria are not intended to make any substantive changes in the bankruptcy laws. The conferees take no position on when or whether a pension plan is an executory contract.

Employer liability under a terminated plan.—Upon the termination of a plan, pursuant to a standard termination in which all benefit commitments are fully funded, the employer has no further liability to the PBGC or to plan participants.

Liability to PBGC.—Upon the termination of a plan pursuant to a distress termination, if the PBGC determines that plan assets are insufficient to fund guaranteed benefits, the PBGC is required to institute trusteeship proceedings for the plan. Each contributing sponsor of the plan and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) the total amount of all unfunded guaranteed benefits, up to 30 percent of the collective net worth of those persons liable to the PBGC; (2) an amount equal to the excess (if any) of (a) 75 percent of the total amount of all unfunded guaranteed benefits over (b) the amount described in (1); and (3) interest on the amount due calculated from the termination date. The total amount of unfunded guaranteed benefits is computed by treating any accumulated funding deficiency and the balance of any waived funding deficiency as a receivable of the plan and, thus, as a plan asset.

The full amount of the liability to the PBGC is generally due and payable as of the date of plan termination. However, if the liability to the PBGC for unfunded guaranteed benefits exceeds 30 percent of the collective net worth of the parties that are liable to the PBGC, the payment of that excess amount is to be made under commercially reasonable terms prescribed by the PBGC. The parties are to make a reasonable effort to reach agreement on such terms. Under the conference agreement, any terms prescribed by the PBGC must provide for the deferral of 50 percent of any amount of liability otherwise payable for

any year if the PBGC determines that no person subject to such liability has individual pretax profits for the fiscal year ending during such year.

If a plan terminates pursuant to a distress termination and is subject to PBGC trusteeship proceedings, then each contributing sponsor and each member of their controlled groups is liable to the PBGC for the sum of (1) the outstanding balance of any accumulated funding deficiency, and (2) the balance of the amount of any waived funding deficiencies. The full amount of such liability is due and payable to the PBGC as of the date of plan termination.

The conferees take no position with respect to the treatment in bankruptcy of PBGC claims and liens. Deletion of the amendments to section 4068 that appeared in S. 1730 is not intended to express any view on the meaning of the present language in section 4068. Section 4068 has been amended, however, to assure that it applies only to the liability that was covered by section 4068 prior to these amendments, i.e., the value of unfunded guaranteed benefits up to 30 percent of the employer's net worth. Section 4068 does not apply to liability being added to section 4062 by these amendments for amounts in excess of the 30 percent of net worth cap.

Liability to participants.—If the PBGC determines that there is an outstanding amount of benefit commitments, the PBGC is required to appoint a fiduciary with respect to the termination trust. The fiduciary must be independent of the contributing sponsors (and members of a controlled group including sponsors) and generally is subject to the fiduciary requirements of ERISA (other than the prohibited transaction rules). The "outstanding amount of benefit commitments" under a plan is defined as the excess of (1) the actuarial present value of the benefit commitments of each participant and beneficiary over (2) the actuarial present value of the benefits of each participant and beneficiary that are guaranteed by the PBGC or to which assets of the plan have been allocated under the distribution procedures of section 4044 of ERISA. Each contributing sponsor of the plan and each member of the controlled group of a contributing sponsor is jointly and severally liable to the termination trust for the lesser of (1) 75 percent of the total amount of outstanding benefit commitments under the plan, or (2) 15 percent of the total amount of benefit commitments under the plan. The termination trust generally will be administered by the PBGC except in cases in which PBGC determines that delegation of this responsibility is cost effective.

Under the conference agreement, payment of liability is to be made under commercially reasonable terms prescribed by the fiduciary of the termination trust. The parties are required to make a reasonable effort to reach agreement on such terms. In addition, the conference agreement provides that if liability to the termination trust is less than $100,000, the payment of liability to the trust over 10 years in equal annual installments (with interest at the applicable rate determined under sec. 6621(b) of the Code) will satisfy this requirement even if the terms are not commercially reasonable. The PBGC is permitted to increase, by regulation, the $100,000 ceiling. To phase in this $100,000 rule, the conference agreement provides that no payment under this provision is required before January 1, 1989.

The conference agreement also provides that any payment schedule is to provide for the deferral of 75 percent of the liability otherwise payable to the termination trust for any year if no person subject to liability to the termination trust has any individual pre-tax profits for such person's fiscal year ending during such year. However, the conferees intend that the fact that one person has minimal profits should not make the benefits of deferral totally unavailable. The required payments in any year should not exceed 50 percent of the otherwise payable amount plus profits. The amount of liability so deferred is payable only after payment of any liability to the PBGC arising in connection with the terminated plan.

The conference agreement provides rules governing the allocation and distribution of assets of the termination trust to participants and beneficiaries.

Under the conference agreement, a participant or beneficiary who receives distributions from a termination trust is, subject to certain requirements, permitted to roll over the distributions to an IRA or qualified plan.

Deductibility of payments.—The conference agreement provides rules as to the deductibility of payments to the PBGC and the termination trust.

Notice.—The conference agreement follows H.R. 3500.

Related adjudicatory proceedings.—The conference agreement contains no provision dealing with related adjudicatory proceedings. However, the conference agreement provides that the PBGC is not to proceed with the voluntary termination of a plan if the termination would violate the terms and conditions of a collective bargaining agreement.

Distributions.—The conference agreement generally follows H.R. 3500. As under H.R. 3500, the conference agreement provides that the assets of a terminated plan may be distributed if the PBGC fails to issue a notice of noncompliance within 60 days after receipt of a NOIT. As under H.R. 3500, the conference agreement provides that the 60-day period may be extended by PBGC and the plan administrator and that the extension may be subject to conditions to which they have agreed. The conference agreement does not change the rules of the Code for determining the qualified status of a plan (or of a trust forming a part of a plan), or the application of the minimum funding standard to a plan. Accordingly, the conference agreement does not authorize the PBGC to waive, or otherwise modify, the requirements of the Code.

Notice of benefit computations to participants.—The conference agreement generally follows Title IX of the Senate amendment except that, in addition to the other information specified in the Senate amendment, the plan administrator must supply to participants and beneficiaries the actuarial assumptions used in computing plan benefits (including, but not limited to, the interest rate assumption).

Post-distribution audit.—The conference agreement generally follows H.R. 3500. In addition, under the conference agreement the PBGC is required to perform annually an audit of a statistically significant sample of terminated plans to determine whether participants and beneficiaries have received the benefits to which they are entitled. For each plan selected for audit, the benefits of a statistically significant sample of participants and beneficiaries are to be verified.

In addition, the conference agreement authorizes the Comptroller General of the General Accounting Office to examine certain plan documents. Any information gathered under this authority shall not be available to the public.

3. Involuntary Plan Termination

Present law

Under present law, the PBGC is permitted, but not required, to commence proceedings to terminate a plan under a variety of circumstances including the inability of the plan to pay benefits when due.

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

Under the bill, the PBGC is required to commence termination proceedings if the plan does not have assets available to pay benefits that are currently due under the terms of the plan.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

As under present law, the PBGC is permitted, but not required, to terminate a plan under certain circumstances. In addition, the PBGC may appoint a temporary receiver if the plan fails to meet minimum funding requirements, is not able to pay current benefits when due, or has been abandoned.

Conference agreement

The conference agreement follows H.R. 3500.

4. Waiver of Funding Standard

Present law

Present law authorizes the Internal Revenue Service to waive the requirements of the minimum funding standard no more frequently than 5 times in any 15-year period. In addition, the amortization period for liabilities under defined benefit pension plans may be extended, and a waiver previously granted by the IRS may be modified.

The IRS may grant a waiver on condition that appropriate requirements are met.

House bill—H.R. 3128

The IRS is authorized to require that security be provided as a condition of granting a waiver of the minimum funding standard, an extension of an amortization period and modifications of a previously granted waiver. The IRS is required to notify the PBGC before granting a waiver and is to consider the comments of the PBGC. The PBGC has a 15-day comment period after the date of receipt of notice.

The new provisions apply to waivers, extensions, and modifications granted on or after the date of enactment of the bill.

House bill—H.R. 3500

The bill is similar to H.R. 3128, except that (1) a "reasonable period" rather than a 15-day comment period is provided, and (2) the security, notice, and comment provisions do not apply to cases involving less than $1 million of outstanding waived liability. The bill requires that an employer that submits a request for a waiver of the minimum funding standard notify each affected party. The term "affected party" is defined under the bill as a plan participant, a beneficiary of a deceased participant, a beneficiary that has been designated as an alternate payee pursuant to a qualified domestic relations order, an employee organization representing participants in the plan and the PBGC.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

No provision.

Conference agreement

The conference agreement clarifies that the IRS is authorized to require that security be provided as a condition of granting a waiver of the minimum funding standard, the extension of an amortization period, or modification of a previously granted waiver of the minimum funding standard with respect to a single employer defined benefit plan. The conference agreement requires that, before granting an application for a waiver, extension or modification to a single employer defined benefit plan, the IRS notify the PBGC of the receipt of a completed application for a waiver, extension, or modification, and consider the views of any interested party, including the PBGC, submitted in writing. The PBGC has a 30-day period after the date of receipt of notice to submit to the IRS comments on the application.

The conference agreement provides that the notice of the application and any other information or materials relating to the application that is sent to the PBGC by the IRS constitutes tax return information and is subject to the safeguarding and reporting requirements of section 6103(p) of the Code.

Under the conference agreement, the security, notice, and comment provisions do not apply if, with respect to the plan for which a waiver is requested, the sum of (a) the accumulated funding deficiencies (including the amount of any increase in the accumulated funding deficiency that would result if the request for a waiver were denied); (b) the outstanding balance of any previously waived funding deficiencies; and (c) the outstanding balance of any decreases in the minimum funding standard allowed under section 303 of ERISA, is less than $2 million. As under current law, the mere creation of a security interest at the direction of the Secretary of the Treasury as a condition for granting a waiver does not by itself constitute a prohibited transaction. The provisions of the conference agreement relating to security are intended by the conferees to provide appropriate rules for the future. The conferees intend that no inference is to be drawn from this provision with respect to the application of present law to such transactions.

The conference agreement also contains an amendment to the Code requiring that if the IRS grants a request for a waiver, extension, or modification, the interest on the waived amount must be computed by using a rate prescribed in section 6621(b) of the Code.

Finally, under the conference agreement, an employer that submits an application for a waiver of the minimum funding standard is required to notify any employee organization representing participants in the plan of the application.

5. Special Enforcement Rules

House bill—H.R. 3128

A nondeductible excise tax applies if termination liability payments are not made as required.

The initial tax is 5 percent of any payment not made when due. The tax increases by an additional 5 percent of any portion of such payment that is not made within 90 days of the payment's due date, and increases by an additional 5 percentage points for each 30-day period thereafter that the amount remains unpaid. The total additional tax imposed on any unmade payment is limited to the amount of such payment that has not been made within 90 days of the payment's due date.

There is allowed as a credit against the excise tax (up to the amount of the excise tax) any amount paid by the employer to the PBGC, with respect to the employer's termination liability, no later than two years after the final determination of that liability. Liability for the excise tax is the joint and several liability of the controlled group.

House bill—H.R. 3500

The bill adds a new section to ERISA that would expressly confer, upon an adversely affected plan fiduciary, employer, employee organization representing plan participants, contributing sponsor, participant or beneficiary, a private right of action to enjoin certain acts or practices of any party in violation of the employer liability provisions. Other appropriate equitable relief could also be provided by a court.

Under the bill, district courts have exclusive jurisdiction over these actions. A plan could be sued as an entity under these provisions. The bill also provides for venue and for awards of attorney's fees ad expenses under certain circumstances.

A copy of the complaint in any action under these provisions would be served on the PBGC. The PBGC could intervene in the action.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

No provision.

Conference agreement

The conference agreement generally follows H.R. 3500.

6. Evasion of Employer Liability

House bill—H.R. 3128

Certain transactions undertaken by a person would not be treated as transferring employer liability away from that person or any member of a controlled group including that person. This treatment would apply to transactions undertaken within 10 years before the date of termination of single-employer defined benefit pension plan if a principal purpose of the transaction was to fraudulently evade any employer liability to the PBGC.

House bill—H.R. 3500

If a principal purpose of any person in entering into any transaction is to evade employer liability in connection with the termination of a single-employer defined benefit pension plan, and the transaction becomes effective within 5 years before the termination date, then that person and the members of that person's controlled group (determined as of the termination date) are subject to employer liability in connection with the termination as if that person were a contributing sponsor of the terminated plan as of the termination date. Post-transaction benefit increases or improvements would not be taken into account in computing the liability such an entity.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

Rules would be provided for tracing liability in the case of certain corporate reorganizations.

Conference agreement

The conference agreement generally follows H.R. 3500, except that the conference agreement provision is effective only with respect to transactions occurring on or after the earlier January 1, 1986, or the date of enactment. The provisions of the conference agreement relating to evasive transactions are intended by the conferees to provide appropriate rules for the future. The conferees intend that no inference is to be drawn from these provisions with respect to the application of present law to such transactions. In addition, the conference agreement makes it clear that only contributing sponsors (and members of a controlled group including the contributing sponsors) are affected by this provision.

7. Special Rule for Pending Cases

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

No provision.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

In the case of an employer that (1) had filed an NOIT with the PBGC prior to the date of enactment and had not yet received a notice of sufficiency or (2) files an NOIT in a standard termination subsequent to the date of enactment and prior to March 1, 1986, the bill requires that the processing of the plan be delayed if the lesser of 10 or 10 percent of plan participants file complaints with respect to the termination.

The plan administrator of such a plan is not permitted to distribute plan assets until final benefit obligations are fully funded and the PBGC a notice of sufficiency with respect to the plan. The PBGC issues generally is not permitted to issue a notice of sufficiency to the plan until 90 days subsequent to the date that the PBGC determines the plan to be sufficient, except if the employer demonstrates that it is experiencing substantial business hardship. During this additional 90-day period, the PBGC is required to consider and respond to participants' complaints. (Under a special rule, the processing of a plan can be delayed no more than 14 days if the PBGC was previously granted an extension of the period in which to determine the plan's sufficiency because of circumstances wholly within the control of the PBGC.)

Conference agreement

The conference agreement generally follows Title IX of the Senate amendment, except that (1) the processing of a plan is delayed only if the employer is to receive a reversion of surplus assets in excess of $1 million, and the lesser of 200 or 10 percent of plan participants file complaints with respect to the termination; and (2) the PBGC is not permitted to issue a notice of sufficiency for 90 days after the plan is determined to have assets sufficient to fund all benefit commitments, even if an extension period within which PBGC must determine the plan's sufficiency was granted at the request of the PBGC and because of circumstances wholly within the control of the PBGC.

8. Plan Assets

Present law

As a general rule, the assets of an employee benefit plan must be held in trust for the exclusive benefit of plan participants. Those individuals or entities with discretion over the management and disposition of plan assets are subject to a number of fiduciary duties enumerated in ERISA. In addition, ERISA prohibits any transaction in which the assets of a plan inure to the benefit of

the employer, plan fiduciaries or other interested parties enumerated in ERISA.

Proposed regulations issued by DOL define plan assets for purposes of the fiduciary duty and prohibited transactions rules of ERISA. Under the regulations, if a plan acquires an equity interest in certain types of entities, the investing plan's assets are considered to include both its investment and an undivided interest in each of the underlying assets of the entity. The regulation is effective for purposes of identifying plan assets on or after 90 days after publication of the final regulation.

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

No provision.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

The bill provides to certain publicly held real estate entities transitional relief from final regulations, to be issued by DOL, defining "plan assets."

Conference agreement

The conference agreement generally follows Title IX of the Senate amendment. Except as a defense, no rule or regulation adopted after date of enactment that defines the term plan assets for purposes of ERISA shall apply to any asset of certain public real estate programs if investments by plan investors in such programs occur prior to the expiration of a specified period of time following the issuance of such rule or regulation. A plan investor is any plan, account, or arrangement (including an individual retirement account).

The conference agreement does not contain a substantive amendment to ERISA but, rather, provides transitionl relief in connection with plan asset regulations that are to be issued under ERISA. This will enable public real estate programs to avoid the disruption of normal business arrangements during the development of final regulations by the DOL.

The transitional relief provided in the conference agreement for certain real estate entities is limited to regulations which the DOL currently has under consideration. The conferees have instructed, and expect, the Secretary to adopt final regulations pursuant to the proposal by December 31, 1986.

The transitional relief provided applies to a real estate program that meets certain conditions, including the requirement that the economic rights of ownership with respect to a security issued by such program are "freely transferable." Whether a particular security is "freely transferable" is to be determined based upon all the facts and circumstances; however, the conference agreement also lists several kinds of restrictions which, absent unusual circumstances, will not (either alone or in any combination) cause a security to fail to be freely transferable. The categories are based upon restrictions commonly found in public offerings of securities of real estate entities which are imposed in order to comply with State and Federal laws, to assure continued eligibility for favorable tax treatment, and to avoid certain practical administrative problems. The conferees understand that such restrictions do not, alone or in combination, present any substantial impediment to the ability of investors to readily dispose of their investments and do not prevent such securities from being described as "freely transferable" in prospectuses required under the Federal securities laws. Such a description need not be included in a prospectus in order for a security offered or acquired thereunder to be considered "freely transferable" for purposes of this section.

One of the factors listed is the requirement that transfer or administrative fees be reasonable. It is intended that a fee will not be unreasonable if it does not exceed the cost of effecting transfers of interest on the program's books and the cost of complying with State filing requirements.

It is the intention of the conferees that the requirement that every interest in a real estate entity must be registered under Federal securities laws shall not apply to interests issued to initial limited partners solely for partnership organizational purposes in compliance with State limited partnership laws, provided that such interests are nominal in amount when compared to all other interests in the partnership as of the date of the completion of the offering of such entity, and such partnership was organized prior to enactment. Generally, an interest will be considered nominal if the interest has a value as of the date of issue of less than $20,000 and represents less than one percent of the total interests outstanding as of the completion of the offering period.

Although this section only covers certain public real estate entities, no inference should be drawn concerning the status of any other entity.

9. Additional studies

House bill.—H.R. 3128

No provision.

House bill—H.R. 3500

No provision.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

The bill requires that DOL conduct a study of terminations of overfunded pension plans. DOL is required to submit a report on the study, together with any recommendations for statutory changes, to the House Committee on Education and Labor, the Senate Finance Committee, and the Senate Committee on Labor and Human Resources by February 1, 1986.

The bill also requires that the PBGC conduct a study on the purchase of insurance contracts from an insurer in satisfaction of all final benefit obligations under ERISA. The PBGC is required to submit a report on the study to various committees of Congress by one year from the date of enactment.

Conference agreement

The conference agreement requires the Secretary of Labor to conduct a study of terminations of overfunded pension plans. The report, together with any recommendations for statutory change, must be submitted to the Committees named above by February 1, 1986.

10. Effective dates

The provisions of the conference agreement relating to amendments to reduce significantly future benefit accruals apply to amendments adopted on or after the earlier of January 1, 1986, or the date or enactment.

The provisions of the conference agreement relating to voluntary plan terminations apply to terminations for which a NOIT is filed on or after the earlier of January 1, 1986, or the date of enactment. The provisions relating to involuntary plan terminations apply to terminations for which termination proceedings are instituted on or after the earlier of January 1, 1986, or the date of enactment.

The provisions relating to waivers of the minimum funding standard apply to applications for waivers, extensions of an amortization period, and modifications of a previously granted waiver, submitted to the IRS on or after the earlier of January 1, 1986, or the date of enactment.

The provisions of new ERISA section 4070 relating to enforcement apply to actions filed on or after the earlier of January 1, 1986, or the date of enactment.

As noted above, the provisions of the conference agreement relating to evasion of liability apply to transactions becoming effective on or after the earlier of Janaury 1, 1986, or the date of enactment.

Special effective dates, as described above, are provided for the provisions of the conference agreement relating to PBGC premiums, the special processing rule for pending cases, the DOL plan asset regulations, and the studies authorized.

TITLE XII—INCOME SECURITY AND RELATED PROGRAMS

1. Minor and Federal amendments

(a) Demonstration Projects Involving the Disability Insurance Program (Section 760 of the Senate amendment)

Present law

The Social Security Disability Amendments of 1980 directed the Secretary of Health and Human Services to develop and carry out experiments and demonstration projects to test the advantages of various ways to facilitate and encourage the return to employment of individuals who would otherwise remain dependent on disability benefits. A key element in conducting these demonstration projects is the authority for the Secretary to waive requirements of the Social Security Act related to the subject matter of the projects. A provision of the 1980 amendments calling for a final report within 5 years of the enactment of that statute has been interpreted as terminating the Secretary's authority to make such waivers. Without this waiver authority the Secretary is unable to carry out demonstration projects that have not yet been implemented.

House bill

No provision.

Senate amendment

Extends the waiver authority for 5 years. The deadline for a final report on the OASDI projects is extended to June 9, 1990. Since this requirement is made applicable only to OASDI, the provision could be interpreted to grant a permanent extension of authority to waive the Supplemental Security Income program rules.

Effective date.—Requires a final report to Congress by June 9, 1990.

Outlay effect (in millions):

Fiscal years:	
1986	$3
1987	5
1988	5
3-year total	13

Conference agreement

House recedes to the Senate amendment.

(b) Disability Advisory (Section 761 of the Senate amendment)

Present law

The Social Security Act requires an Advisory Council on Social Security to be appointed every 4 years, at the beginning of

each Presidential term, and to report by January 1 of the second year after appointment. The disability amendments enacted in 1984 require that the Council to be appointed in 1985 make recommendations on the medical and vocational aspects of disability.

House bill

No provision.

Senate amendment

Establishes a special ad hoc Disability Advisory Council in lieu of the general council scheduled to be appointed in 1985. The ad hoc Council shall report to Congress by December 31, 1986.

Outlay effect.—None

Conference agreement

House recedes to the Senate amendment.

(c) Taxation of Social Security Benefits Received by Certain Citizens of Possessions of the United States (Section 762 of the Senate amendment)

Present law

Citizens of American Samoa are treated as non-resident aliens and are subject to withholding of taxes from their social security benefits at a 15-percent rate. Citizens of other U.S. territories are exempt from the withholding requirement.

House bill

No provision.

Senate amendment

Eliminates U.S. tax withholding on social security payments to citizens of American Samoa, to make it consistent with the tax treatment of citizens of other U.S. possessions.

Effective date.—Applies to benefits received after December 31, 1983, in taxable years ending after such date.

Revenue effect (in millions):

Fiscal years:	
1986	−$1
1987	−1
1988	−1
3-year total	−3

Conference agreement

House recedes to the Senate amendment.

(d) Application of Dependency Test to Adopted Great-Grandchildren for Purposes of Child's Insurance Benefit (Section 763 of the Senate amendment)

Present law

A grandchild (under age 18) of a social security beneficiary may be entitled to benefits if the child is adopted by and lives with the grandparent for at least 1 year before applying for benefits and received half his support from the beneficiary.

House bill

No provision.

Senate amendment

Extends the provision to great-grandchildren of the beneficiary.

Effective date.—Applies with respect to benefits for which an application is filed after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(e) Elimination of Requirement for Publication of Revisions in Pre-1979 Benefit Table (Section 764 of the Senate amendment)

Present law

The Secretary is required to publish the pre-1977 Amendments table of benefit amounts as revised by each general benefit increase. (This table applies to those eligible for benefits in 1978 or earlier.)

House bill

No provision.

Senate amendment

Eliminates the requirements to publish the revised tables, but would not affect the revisions themselves.

Effective date.—The month after the month of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(f) Notification Formula Clarification (Section 765 of the Senate amendment)

Present law

Under the 1983 Amendments, the Board of Trustees is required to notify Congress whenever it determines that the reserves in any of the trust funds at the beginning of any calendar year may become less than 20 percent of expenditures

House bill

No provision.

Senate amendment

Clarifies the Congressional intent that the determination should utilize a measure of reserves which includes the taxes credited to the trust funds on the first day of each month.

Effective date.—The month after the month of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(g) Extension of 15-month Reentitlement Period to Childhood Disability Beneficiaries Subsequently Entitle (Section 766 of the Senate amendment)

Present law

Disabled individuals who complete a 9-month trial work period and still have a disabling impairment, may be automatically reinstated to active benefit status during the next 15 months for any month in which their earnings fall below substantial gainful activity (SGA) level, currently $300 per month. However, a person entitled to benefits as a disabled adult child who has used this provision once cannot subsequently be covered by it again.

House bill

No provision.

Senate amendment

Extends the subsequent 15-month reentitlement periods to reentitled childhood disability beneficiaries.

Effective date.—Applies to individuals who are disabled on or after December 1, 1980.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(h) Charging of Work Deductions Against Auxiliary Benefits in Disability Cases (Section 767 of the Senate amendment)

Present law

When a person receiving auxiliary benefits on the record of a disabled worker has earnings which exceed the exempt amount allowed under the earnings test, work deductions are imposed against the auxiliary worker's benefits which could be payable after any reduction for the family maximum limit. However, the amount withheld from the working individual is redistributed to others in the family so that the family continues to receive benefits up to the family maximum. As a result of a technical error in the 1980 amendments, this provision uses the regular (retired) family maximum formula for computing the amount to be withheld from the working family member instead of the disability family maximum formula which is used to determine the amount actually payable to the entire family.

House bill

No provision.

Senate amendment

Requires the use of the disability family maximum limit for computing the individual's deductions as well as for computing the total family entitlement.

Effective date.—Effective with respect to benefits payable for months after December 1985.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(i) Perfecting Amendments to Disability Offset Provision (Section 768 of the Senate amendment)

Present law

The 1981 Omnibus Budget Reconciliation Act expanded the social security disability offset (reduction in social security disability benefits due to receipt of other types of benefits) to include most governmental disability benefits paid to individuals. Previously, the offset was applicable only to workers' compensation payments. However, unclear wording led to confusion with regard to the continued application of the offset to certain workers' compensation benefits. Present law also treats State and local disability payments differently than similar Federal payments.

House bill

No provision.

Senate amendment

(a) Clarifies that all disability benefits paid under a Federal or State workers' compensation law or plan would continue to be subject to the disability offset.

(b) Clarifies that both Federal and State or local workers must have had substantially all their service covered by social security to be excluded from the disability offset.

Effective date.—(a) is effective as if it were in effect upon implementation of the Omnibus Budget Reconciliation Act of 1981. (b) is effective for persons becoming disabled after the month of enactment.

Outlay effect (in millions):

Fiscal years:	
1986	(*)
1987	−$1
1988	−1
3-year total	−2

*Less than −$500,000.

Conference agreement

House recedes to the Senate amendment.

(j) State Coverage Agreements (Section 769 of the Senate amendment)

Present law

Coverage of State and local employees under social security is, in most cases, effective on the date that an agreement is mailed by the State to the Secretary of Health and Human Services. However, for workers paid on a fee basis and for those whose coverage is retroactive, the agreement becomes effective on the date it is signed by both parties, which may result in complications and loss of coverage for some employees.

House bill

No provision.

Senate amendment

Makes all agreements and modifications of agreements effective on the date the agreement is mailed or delivered by other means to the Secretary.

Effective date.—For agreements or modifications mailed or delivered on or after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(k) Effect of Early Delivery of Benefit Checks (Section 769A of the Senate amendment)

Present law

When the normal delivery date for social security benefits (the third day of the month) falls on a Saturday, Sunday or legal holiday, checks must be delivered on the nearest preceding banking day. This may result in checks being delivered in the previous month. If this situation arises at the end of a year, it could cause distortion of year-end trust fund balances, possibly making them low enough to trigger the stabilizer provision, which could effect the amount of cost-of-living increases. This could also result in exaggerated beneficiary tax liability in the earlier year and reduced tax liability in the later year.

House bill

No provision.

Senate amendment

Eliminates these problems by providing that, for purposes of asset-expenditure ratio calculations and taxation of benefits, Social Security benefits delivered prior to their scheduled delivery date would be deemed to have been paid on the regular delivery date.

Effective date.—For benefit checks issued for months ending after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

2. Exemption from Social Security coverage for retired Federal judges on active duty (Section 769C of the Senate amendment)

Present law

The 1983 Social Security Amendments (Public Law 98-21) provided that the wages of all active Federal judges would be subject to Social Security taxes beginning January 1, 1984. This provision applied to both current and future judges. P.L. 98-21 also specifically provided that amounts received by judges who achieve senior (retired) status but who continue on active duty would be subject to Social Security taxes on so much of their pay as was attributable to periods when they were performing judicial services. Those earnings would also cause reductions in the judges' benefits under the social security retirement test. (Subsequently, P.L. 98-118 delayed the effective date of this provision until January 1, 1986.)

House bill

No provision.

Senate amendment

Excludes, from the definiton of wages for Social Security purposes, the amounts received by Federal judges who meet the criteria for retirement on salary (e.g., age 65 with 15 years of service or 70 with 10 of service), who retire, and who perform active duty. The effect of this exclusion would be to exempt their pay from Social Security taxes and to preclude it from being counted for Social Security earnings test purposes.

Effective date.—Effective for services performed after December 31, 1983.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

3.. Recovery of overpayments (Section 769D of the Senate amendment)

Present law

Under the Social Security Act, entitlement to Social Security benefits ends with the month before the month of death and eligibility for Supplement Security Income (SSI) benefits ends with the month of death. Under current reclamation procedures, benefits erroneously paid to a deceased individual by means of direct deposit are recovered by the Department of the Treasury from the financial organization which accept the deposit. In most cases, the financial organization debits the account to which the amounts were finally credited. When an account is debited, the financial organization is required to provide concurrent notice to any individuals shown as owners.

House bill

No provision.

Senate amendment

Provides that when (1) a payment is made to a deceased individual by means of direct deposit; (2) such payment is credited by a financial organization to an account jointly owned by the deceased individual and another person; and (3) such other person is (a) entitled to a Social Security benefit based on the same wages and self-employment income as the deceased person for the month immediately preceding the month in which the deceased person died; or (b) such other person is the surviving spouse of the deceased person and was eligible for an SSI payment (or federally administered State supplement) as an eligible spouse (including either member of an eligible couple) in the month in which the deceased individual died; such payment shall be treated as an overpayment to the surviving individual.

Effective date.—Applies to deaths of which the Secretary of Health and Human Services is first notified on or after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

4. Study of benefit formula notch (Section 769E of the Senate amendment)

Present law

Some workers who reach age 62 in 1979 (or later) and have their Social Security benefits determined under the computation provisions included in the 1977 Social Security amendments can get significantly lower monthly benefits than similar workers who reach age 62 in 1978 (or earlier), have similar earnings histories, retire at the same age and have their benefits computed under the old system. This difference in benefit amounts is commonly referred to as the "notch."

Because benefits are generally lower under the new system than the old one, a transitional provision was included in the 1977 amendments to smooth the differences between benefits computed under the two systems in the early years of the new system. A worker who reaches age 62 in 1979-1983 gets a benefit figured under the transitional provision if the benefit is higher than the one figured under the new system. While the transitional provision lessens the extent of the benefit differential, it does not eliminate it.

House bill

No provision.

Senate amendment

Directs the Secretary of HHS to appoint a panel to study the Social Security "notch". The panel is to study the extent of the benefit differential known as the "notch", as well as the nature and desirability of actions for addressing this benefit differential. The report is to include estimates of the short- and long-range costs of such proposals. The panel's report will be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives by December 15, 1986.

Effective date.—On enactment.

Outlay effect.—None.

Conference agreement

Senate recedes to the House bill.

5. Coverage of Connecticut State police (Section 769H of the Senate amendment)

Present law

Under the Social Security Act, only States specifically listed in the Act may extend social security coverage to policemen who are covered under other retirement programs. Connecticut is not listed. Listed States may only extend coverage in one of two ways: (1) by covering all current and future employees of the affected group; or (2) by covering all future employees and those current employees who desire coverage.

House bill

No provision.

Senate amendment

Allows Connecticut, if the Governor so requests, to cover State police hired on or after May 8, 1984 without conducting a referendum.

Effective date.—Applies to individuals hired on or after May 8, 1984 who are members of the Tier II plan of the Connecticut State Employee Retirement System, with respect to services performed after enactment of this Act.

Revenue effect (in millions):

Fiscal years:	
1986	[1]
1987	$1
1988	1
3-year total	2

[1] Less than $500,000.

Conference agreement

house recedes to the Senate amendment.

6. Removal of comment prohibition by Social Security and Medicare actuaries relating to economic assumptions (Section 735 of Senate amendment) (See also item 54 in Part I Medicare provisions)

Present law

Requires Board of Trustees annual report on the financial status of the Social Security trust funds (including the Medicare trust funds) to include an actuarial opinion certifying that the assumptions and cost estimates used in the report are reasonable. According to Section 154 of the Social Security Amendments of 1983 (P.L. 98-21), that certification may not refer to the economic assumptions underlying the Trustees' reports.

House bill

No provision.

Senate amendment

Eliminates the language of current law prohibiting Social Security and Medicare actuaries from commenting on the economic assumptions underlying the Trustees' reports.

Effective date.—Enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

7. Restoration of trust fund investments (Section 769G of the Senate amendment) [Related measures are contained in House and Senate amendments to H.J. Res. 372]

House bill

No provision.

Senate amendment

For Social Security Trust Funds and other retirement funds:

(a) Requires the Secretary of the Treasury, on the basis as if H.J.Res. 372 (as deemed passed by the House on August 1, 1985) had been enacted on August 1, 1985, to:

(1) immediately reissue securities redeemed on or after September 1, 1985 that would not have been redeemed;

(2) pay the interest that would have accrued but for "non-investment, redemptions, and disinvestments" on or after September 1, 1985;

(b) Requires the Secretary to pay to the trust funds the present value of the permanent interest loss resulting from limitations on the public debt from September 1, 1984 to September 1, 1985.

The determinations of interest loss for Social Security and Medicare would be made by the Secretary of the Treasury and the Commissioner of Social Security, and by the Secretary and Chairman of the Railroad Retirement Board for railroad retirement. All determinations would be certified by the Comptroller General, and also by the public members of the Board of Trustees with respect to Social Security and Medicare.

(c) Requires the Secretary to provide 15 days prior notice to Congress and to each member of the Board of Trustees of any planned action to disinvest or not invest trust fund assets due to debt limit constraints.

Effective date.—Immediately with respect to reissuance of trust fund holdings; by June 30, 1986 with respect to the payment of lost interest (with April 1, 1986 or earlier notice to Congress of any disagreements in making the interest determinations).

Outlay effect.—None.

Conference agreement

Senate recedes with amendment to restore the 1984 losses of the Civil Service Retirement trust funds.

Civil Service

On December 31, 1985, the Secretary of the Treasury shall pay to the Civil Service Retirement and Disability Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary to be equal to the sum of—

(i) the excess of the amount of interest which would have been earned by such fund, during the period beginning with September 28, 1984 and ending with December 31, 1984 on all monies transferred to such fund on September 28, 1984, if all such moneis had been invested on September 28, 1984, over the amount of interest actually earned by such fund on such moneis during such period;

(ii) interest that would have been earned on the amount described in clause (i) during the period starting with January 1, 1985 and ending with June 30, 1985;

(iii) the excess of the amount of interest which would have been earned by such fund, during the period beginning on January 1, 1985 and ending on June 30, 1985, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over the amount of interest actually earned by such fund on such monies during such period; and

(iv) the interest that would have been earned on the amounts described in clauses (i), (ii) and (iii) during the period starting with July 1, 1985 and ending with December 31, 1985.

Military

On March 31, 1986, the Secretary of the Treasury shall pay to the Department of Defense Military Retirement Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary of the Treasury, in consultation with the Secretary of Defense, to be sufficient to compensate such fund, to the maximum extent practicable, for losses arising from the inability to invest, on October 1, 1984, all monies transferred to such fund on such date.

SUBTITLE B—SSI PROGRAM

1. Amendments relating to State supplementation under the SSI program

Present law

When there is an increase in the Federal SSI benefit standard, States which supplement the Federal standard are required to "passthrough" the Federal increase by not decreasing State supplementary payments. States are allowed to meet this requirement under two different options. Under the payment level option, a State can meet the passthrough requirement by not reducing the State supplementary payment levels (the net State payment over and above the Federal payment) below those in effect in March, 1983 but with a reduction in State payment levels allowed after July, 1983 to provide only a cost-of-living increase instead of the full $20 individual and $30 couple increase in the Federal SSI supplementary payment levels below their December, 1976 levels. As an alternative to the payment level option, a State can meet the passthrough requirement by spending as much in total for State supplementary payments in the 12-month period following the Federal increase as the State spent in the previous 12-month period.

House bill

No provision.

Senate amendment

The passthrough requirement under the payment level option would be modified to allow a State to meet the passthrough requirement by using either the current law's 1983 payment level base or the previous law's December, 1976 State supplementary payment level base but with a full passthrough of the July, 1983 $20/$30 increase. This would allow any State that has increased its State supplementary payment levels above those in effect in December, 1976 to reduce those levels (but not below those in effect in December, 1976). This change would be effective for months beginning after March, 1983.

Conference agreement

The Conference agreement follows the Senate bill but with the following modifications. In addition to the current methods of compliance with the passthrough requirement, a State would be found to be in compliance with the passthrough requirement for calendar years 1984 and 1985 if in calendar year 1986, the State supplementary payment levels are such that, since December, 1976, the State has increased its State supplementary payment levels (other than for residents of medical facilities) by no less than the total percentage increase in the Federal SSI benefit standard between December, 1976 and February, 1986 including the cost-of-living increase for 1986.

The Conference agreement also provides that the Social Security Administration shall, at the request of a State, administer State supplementary payments provided to residents of medical institutions who are eligible for the $25 a month Federal SSI personal needs allowance.

2. Third-party liability collections (SSI eligibility)

Present law

Medicaid recipients are required, as a condition of eligibility for Medicaid, to assign their rights to medical support payments and other payments for medical care to the State.

House bill

No provision.

Senate amendment

Requires applicants and recipients, as a condition of SSI eligibility, to cooperate with the Secretary of HHS in identifying and pursuing third parties liable for health coverage unless such individual has good cause for refusing to cooperate as determined in accordance with standards prescribed by the Secretary.

Conference agreement

The Conference agreement follows the House bill.

3. Preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula

Present law

The Social Security Amendments of 1983 raised the amount of benefits for disabled widows and widowers aged 50 to 59, effective January 1984. As a result of the increase, some beneficiaries lost eligibility for Supplemental Security Income (SSI) and, consequently, Medicaid.

House bill

No provision.

Senate amendment

Requires that those low-income widows and widowers who lost SSI eligibility because of the January 1984 disability benefit increase may file an application for protection with the State within 15 months after enactment and be deemed to be receiving SSI benefits for the purpose of Medicaid eligibility. The provision further directs the Secretary to inform the States of the identities of affected individuals, solicit their applications for Medicaid coverage and process their applications promptly. Effective for months starting at least 2 months after enactment.

Conference agreement

The conference agreement follows the Senate bill.

Part VI: AFDC, Adoption Assistance, and Foster Care

1. AFDC and Medicaid quality control

(Section 301 of House bill)

Present law

AFDC: Federal regulations outline AFDC quality control procedures for measuring errors in eligibility and payment, identifying causes of error, and taking corrective action. A State's error rate is determined annually from the State's full sample and a Federal subsample.

Before enactment of P.L. 97-248, regulations required States to reach a 4 percent AFDC error tolerance level, in phased stages between fiscal years 1981 and 1984. Starting in FY 1984, the law reduced the tolerance level to 3 percent for erroneous excess payments (overpayments to eligibles and payments to ineligibles).

The law prescribes fiscal sanctions (withholding of some program matching funds) for State AFDC payment error rates that exceed tolerances. Fiscal sanctions have been assessed, but not collected. By regulation, the payment error rate tolerance is 4 percent for Puerto Rico, Guam, and the Virgin Islands. The statute allows fiscal incentives to be paid to those jurisdictions for dollar error rates (including underpayments) that are below 4 percent.

The law permits the HHS Secretary to waive all or part of fiscal sanctions if a State is unable to reach the target despite a good faith effort. This finding is limited to extraordinary circumstances.

Medicaid: Federal regulations require States to operate a Medicaid quality control eligibility system that identifies, on a sample basis, erroneous payments resulting from ineligibility, incorrect beneficiary liability, or third-party liability. States are required to take action to correct any eligibility, third-party liability, or other errors found in the sample cases. A State's error rate is determined annually from a State's full sample and a Federal subsample.

Effective with calendar quarters beginning April 1, 1983, P.L. 97-248 required States to keep their Medicaid payment error rates at or below 3 percent. Payment errors are Medicaid payments made for individuals of families in the sample subject to quality control review who were ineligible or who had not met beneficiary liability requirements prior to receiving services.

Technical errors that do not affect the amount of medical assistance paid are excluded from the calculation of a State's erroneous payments. Payments made on behalf of aged, blind or disabled individuals whose eligibility determinations were made exclusively by the Social Security Administration are excluded from the calculation of a State's erroneous payments.

States with Medicaid payment error rates in excess of 3 percent are subject to a disallowance of Federal Medicaid matching funds. These reductions are imposed prospectively, using an anticipated error rate projected by the Health Care Financing Administration (HCFA) based upon a State's previous error rates. At the end of each annual period, when actual payment error rates have been determined, the appropriate adjustment in Federal matching payments is made. Fiscal sanctions have been assessed and collected.

Puerto Rico, Guam, the Virgin Islands and American Samoa are not subject to a Medicaid payment error rate standard.

The Administrator of HCFA is authorized to waive all or part of the fiscal sanctions if the State is unable to meet the 3 percent standard despite a good faith effort. This finding is limited to extraordinary circumstances.

House bill

AFDC: Establishes basic AFDC quality control procedures in law. Permits States to use 6-month or annual samples, but not to reduce sample size.

Sets a national tolerance level of 3.5 percent for erroneous AFDC payments (payments to ineligibles and overpayments to eligibles). Requires individual tolerance rates for States, which can range as high as 5 percent depending on the existence of the AFDC-UP program in the State, the share of earners among the State's AFDC families and the State's population density.

Revises calculation of a State's error rate by: excluding technical errors that do not affect the AFDC payment levels and by setting a State's error rate at the lower bound rather than the midpoint of the range within which its true error rate falls in cases where the sample size is sufficient to produce a lower bound that is no more than 2.5 percentage points below the midpoint.

Sets a State's fiscal sanction equal to the Federal portion of AFDC benefits paid above the State tolerance level, using the adjusted State error rate. Reduces a State's sanction by the Federal share of overpayments collected by the State in the fiscal year to which the sanction applies.

Requires the HHS Secretary to take into account factors beyond the State's control and other matters in replying to waiver requests. Requires the Secretary to waive fiscal sanctions if a State submits a corrective action plan that would increase its administrative costs by as much as 50 percent of the sanction. These expenditures would be a federally matched administrative expense.

Bill provisions would not apply to Puerto Rico, Guam and the Virgin Islands.

The legislation would be effective for quarters in fiscal 1983 and later, except at State option and in accordance with regulations to be prescribed by the HHS Secretary, changes may take effect for quarters in FY 1981 and 1982, or in FY 1982.

Medicaid: No provision.

Senate amendment

AFDC and Medicaid: Prohibits collection of AFDC or Medicaid fiscal sanctions, including any as yet uncollected sanctions for 1981 and later years, for 2 years after enactment. Requires sanctions for the 2-year moratorium period and for earlier times to be subsequently calculated on the basis of rules in the restructured program.

During the 2-year moratorium of fiscal sanctions, continues data collection and calculation of error rates as under current law.

Requires the HHS Secretary to conduct a study of quality control systems for AFDC and Medicaid, examining how best to operate them to improve administration and obtain reasonable data on which to base fiscal sanctions. Requires the Secretary to contract with the National Academy of Sciences to conduct a concurrent study. Sets one year after enactment as the deadline for reports on both studies.

Requires the Secretary, not later than 18 months after enactment, to publish regulations to restructure the quality control systems for AFDC and Medicaid to the extent he determines appropriate and to establish criteria for adjusting fiscal sanctions calculated for quarters before the new systems so as to eliminate penalties that would not have been imposed had the new rules been in effect then. Requires the Secretary to take into account the prescribed quality control studies in revising the systems. Requires the Secretary to implement the revised systems beginning with the first calendar year after the 2-year moratorium.

The provision would be effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

2. Grants for teenage pregnancy program

(Section 302 of House bill)

Present law

Although some States operate pilot pregnancy service programs for teenage families, there is no specific block grant program designed to provide these services to AFDC recipients in each State.

House bill

Authorizes $50 million in fiscal year 1986 and $100 million in 1987 for grants to State AFDC agencies to operate teenage pregnancy programs for children and young parents up to age 25 who are eligible for AFDC. Limits funds to areas with high rates of teenage pregnancy or infant mortality. Requires each site receiving funds to act to discourage teenage pregnancy and to give services to teenage mothers and fathers.

Goals of pregnancy prevention program include: encouraging children to postpone sexual activity and child bearing and to develop education and employment goals; identifying factors that determine teenage contraceptive use and sexual activity.

Makes eligible for services to help them become self-sufficient: AFDC-eligible persons under age 25 who are pregnant or are parents of children under 6 and who have not completed high school (or its equivalent) and who volunteer for the program. Requires participants to seek a high school diploma (or equivalent). Requires State programs to provide each participant with academic or vocational training, job counseling, employment readiness and job placement services, and an individualized assessment and plan. Provides that States could obtain permission from the Secretary to require participation if funds are sufficient to provide all necessary services for all eligible persons.

Prohibits use of these grant funds for abortions or counseling to have an abortion except when the mother's life would be endangered if the fetus were carried to term.

Allocates funds to States on the basis of their share of national AFDC benefit spending. Provides that unused funds would be reallocated where needed.

Requires applicant States to submit a program plan with provision for specified services. Requires participating States to report on progam activities by March 1, 1987.

Requires the HHS Secretary to report to Congress on program evaluation and recommendations for the future by July 1, 1987.

Specifies that payments made and services given to program participants shall not be considered income or resources by AFDC.

The program would be effective from October 1, 1985 until September 30, 1987. (However, funds allocated to States before September 30, 1987 could be carried over to fiscal year 1988.)

Senate amendment

No provision.

Conference agreement

3. AFDC for families with unemployed parents

(Section 303 of House bill)

Present law

States have the option to provide AFDC to financially eligible two-parent families in which the principal earner is "unemployed," defined as working fewer than 100 hours per month.

For eligibility, the law requires that the unemployed parent have worked 6 or more quarters in any 13-calendar quarter period ending within 1 year before applying for AFDC-UP.

States without an AFDC-UP program are: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

House bill

Requires all State AFDC programs to offer coverage to financially eligible two-parent families in which the principal earner is "unemployed," defined as working fewer than 100 hours per month.

Permits States to substitute for 4 of the 6 quarters of work, quarters of full-time attendance in elementary or secondary school or full-time participation in vocational training, but sets a lifetime limit of 4 quarters creditable to vocational training.

The provision would be effective October 1, 1986.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment establishing January 1, 1988 as the effective date for the mandate.

4. Recovery of excess funding for incomplete automated AFDC systems

(Section 771 of Senate amendment)

Present law

A Federal matching rate of 90 percent is paid for the development and installation of automated claims processing and information retrieval systems for AFDC. Systems must be designed and developed in accordance with a planning document approved by the Secretary of Health and Human Services.

House bill

No provision.

Senate amendment

Requires the Secretary to recover 40 percent of the amounts spent on automated systems from any State that fails to implement those systems by the implementation date called for in the approved planning document. Authorizes the HHS Secretary to extend the deadline if the failure to meet the deadline occurs for reasons which the State cannot control. The provision would be effective on the date of enactment, but applicable only to funds spent after that date.

Conference agreement

The House recedes. The managers intend that the Secretary of Health and Human Services extend any deadlines and waive any penalty if the deadline is not met for reasons which the State cannot control. Specifically, this would include extending the deadline for contractor delays and delays in hardware delivery which cause implementation delays. The conferees also recognize that the deadlines set in the advanced planning document are established very early in the system development process. Frequently, these deadlines are unrealistic given the system design that is eventually chosen. States should be permitted to revise these deadlines, subject to the approval of the Secretary.

5. Counting certain payments to Indians as income

(Section 772 of Senate amendment)

Present law

A 1973 law, as amended in 1982, generally exempts from taxation certain per capita distributions to Indian tribal members from Indian trust funds and provides that such payments will be disregarded by Federally-funded benefit programs. As an exception to this rule, per capita payments in excess of $2,000 can be counted as income for Federally-assisted programs other than those under the Social Security Act.

House bill

No provision.

Senate amendment

Applies the $2,000 limit on uncounted income to Social Security Act programs. Calculates (for purposes of all Federally-assisted programs) the $2,000 limit on the aggregate of all per capita payments received in a year by all members of a family unit. The amendment would be effective January 1, 1986.

Conference agreement

The Conference agreement generally follows the House bill. The Conference committee believes that there is need for a thorough review and evaluation of the current provisions of law concerning the manner in which various forms of per capita income received by members of Indian tribes and organizations is taken into account in determining the eligibility for and the amount of income and medical assistance under the Social Security Act and other federal programs.

Such an evaluation needs to take into account the unique responsibility that the Federal government has to members of Indian tribes and organizations. The evaluation also needs to consider how such responsibilities should fit within the broader Federal responsibilities to provide income and medical assistance to low income individuals and in an equitable manner irrespective of membership in a particular group or historical circumstances.

The Conferees, therefore, direct the General Accounting Office (GAO) to conduct a study of the extent, size, nature and frequency of payments to Indians from various funds which are based on their status as a member of an Indian tribe or organization. The study should also describe how these payments are treated under current law for purposes of eligibility for programs authorized under the Social Security Act and other means tested programs. As part of the study, the GAO would also gather information on the justification which has been given for special exceptions in the counting of certain types of income received by members of Indian tribes or organizations.

It is intended that there port would be submitted to the Finance Committee and Agriculture Committee and Select Committee on Indian Affairs of the Senate and the Committee on Ways and Means, Committee on Energy and Commerce, Committee on Agriculture, Committee on Interior and Insular Affairs of the House. There port shall be submitted no later than one year from the date of enactment of this Conference Report.

6. Third-party liability collections (AFDC eligibility)

(Section 746 of Senate amendment)

Present law

Medicaid recipients are required, as a condition of eligibility for Medicaid, to assign their rights to medical support payments and other payments for medical care to the State.

House bill

No provision.

Senate amendment

Requires applicants and recipients, as a condition of AFDC eligibility, to cooperate with the Secretary of HHS in identifying and pursuing third parties liable for health coverage unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary. The provision would be effective for calendar quarters beginning on or after October 1, 1985, except delay is permitted where State legislation is required.

Conference agreement

The conference agreement follows the Senate amendment with a modification clarifying that individuals are required to identify, to the extent they are able, potentially liable insurers and other third parties, and to provide information to assist the State in pursuing third parties. Beneficiaries are not required to pursue the collections themselves. Pursuit is the responsibility of the provider or the State.

The Managers also note that, under current law, State child support enforcement agencies, which are required to enforce the child support obligations on behalf of all AFDC families, must also petition the court for medical support when it is available to the absent parent at a reasonable cost.

The conference agreement also follows the Senate amendment provision which excludes, from the calculation of AFDC fiscal sanctions, errors resulting from the application of this policy.

PART 1—Foster Care and Adoption Assistance

7. PROVISIONS RELATING TO MEDICAID COVERAGE UNDER THE ADOPTION ASSISTANCE AND FOSTER CARE PROGRAMS

Present law

Under the Title IV-E adoption assistance program, only children for whom adoption assistance payment are being made under an Adoption Assistance Agreement are deemed to be receiving AFDC and thus eligible for Medicaid.

House bill

No provision.

Senate amendment

Removes the need for an actual adoption assistance payment to be made for the adopted child to be deemed eligible for Medicaid. If an Adoption Assistance Agreement under Title IV-E is in effect, the child would be deemed eligible for Medicaid. Applies to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment.

Conference agreement

The Conference agreement follows the Senate amendment

(b) Medicaid Eligibility in State of Residence

Present law

The State which entered into the Adoption Assistance Agreement related to a particular child is responsible for providing Medicaid coverage to that child, even if the child and adoptive parents live in a different State. Similarly, for children in foster care the Medicaid coverage is provided by the State responsible for the foster care placement.

House bill

Amends Title XIX to specify that, for purposes of Medicaid eligibility, children receiving adoption assistance or foster care payments under Title IV-E of the Social Security Act are eligible for Medicaid from the State in which they reside even if this is not the State making the Title IV-E foster care or adoption assistance payment.

Senate amendment

Amends the Title IV-E adoption assistance law to provide that in the case of a child for whom an Adoption Assistance Agreement is in effect under Title IV-E, the State of the child's residence would be responsible for providing Medicaid to the child.

Conference agreement

The Conference agreement follows both the House bill and Senate amendment with modifications. The agreement provides that for purposes of Medicaid eligibility, children with respect to whom there is an Adoption Assistance Agreement in effect under Title IV-E and foster care children for whom payments are being made under Title IV-E would be eligible for Medicaid from the State in which the child resides. The Conference agreement would amend both the Title XIX Medicaid statute and the Title IV-E adoption assistance and foster care program statute to provide for Medicaid eligibility in the State in which the child resides.

The provision is effective beginning with medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment.

(c) Medicaid Eligibility for Children Prior to Decree of Adoption

Present law

Adoption assistance and, therefore, Medicaid—to the extent that it is based on adoption assistance—are available only after a child is placed for adoption and an interlocutory decree of adoption is issued or the adoption is finalized under a judicial order.

House bill

No provision.

Senate amendment

Establishes Medicaid eligibility at the time a child is placed for adoption in accordance with applicable State law and for whom an adoption assistance agreement is in effect whether or not an interlocutory decree of adoption or a judicial decree of adoption has been issued. The amendment would apply to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment.

Conference agreement

The Conference agreement follows the Senate amendment.

8. Extension of ceiling on AFDC foster care funds and of State authority to transfer funds to child welfare services

Present law

State-by-State ceilings on Federal AFDC foster care maintenance funds were imposed through fiscal year 1985 by Public Law 96-272, as amended, for any year in which Congress appropriated a specified sum of Title IV-B child welfare funds. Each State's ceiling was based on funding for previous years or the State's under-18 population. The mandatory ceilings were not in effect in fiscal years 1983-85 because child welfare funds remained below the trigger level ($266 million). However, many States chose to operate under a voluntary ceiling.

The law provided that through fiscal year 1985, when operating under a foster care funding limit, whether mandatory or voluntary, and under certain conditions, States could transfer at least some of their allocation of unused foster care funds to child welfare services (all unused foster care funds if a mandatory ceiling were in effect).

House bill

No provision.

Senate amendment

Extends through fiscal year 1987 the ceilings on AFDC foster care funds when annual child welfare services appropriations equal at least $266 million. Extends formulas for calculating each State's ceiling and provisions allowing States to transfer unused foster care funds to child welfare services through fiscal year 1987. Effective October 1, 1985.

Conference agreement

The Conference agreement follows the Senate amendment.

9. Extension of authority for AFDC foster care payments on behalf of children placed in foster care under a voluntary placement agreement

Present law

Title IV-E AFDC foster care payments were authorized through fiscal year 1985 by P.L. 96-272, as amended, for children removed from their home under a voluntary placement agreement, provided States met specified protections and procedures.

House bill

No provision.

Senate amendment

Extends through fiscal year 1987 provisions allowing payments for children placed in foster care under a voluntary agreement. Effective October 1, 1985.

Conference agreement

The Conference agreement follows the Senate amendment.

10. Independent living initiatives

Present law

AFDC foster care maintenance payments are intended for such essentials as food and shelter and generally end when the child reaches age 18 (although some States continue aid to high school students under age 19). Specific services to help foster children prepare for independent living as adults must be funded either by the State or by other Federal programs, such as the Title XX block grant or Title IV-B child welfare services.

House bill

No provision.

Senate amendment

Authorizes $45 million each for fiscal years 1987 and 1988 for State entitlement programs to help AFDC foster care children age 16 and over prepare for independent living. Each State's share of funds would equal its proportion of the fiscal year 1984 AFDC foster care caseload. Provides that any unused funds would be reallocated to States needing them. Requires no State matching funds, but stipulates that program funds shall not replace those already available for the same general purpose.

Cites as examples of services that would promote the program's objective: enabling children to complete high school or receive vocational training; providing training in daily living skills such as budgeting and career planning; counseling; coordinating services; outreach activities; and developing individuals plans for the transition to independent living. The services will be provided directly by the State agency or under contracts with local governmental entities or private nonprofit organizations that have children in their care.

Requires State case plans for Title IV-E foster care children, where appropriate, to include a description of programs and services that will help them prepare for independent living.

Requires States to submit a report by March 1, 1988, on the uses of program funds and the attainment of program goals. Requires the DHHS Secretary to submit to Congress by July 1, 1988, a description and evaluation of the program and recommendations for the future. The effective date except as noted, would be upon enactment.

Conference agreement

The Conference agreement follows the Senate amendment.

SUBTITLE D—UNEMPLOYMENT COMPENSATION

1. Supplemental unemployment compensation for certain individuals

Present law

The Federal Supplemental Compensation program (FSC), which provided additional weeks of unemployment compensation to individuals who had exhausted their regular State benefits, was due to expire on April 6, 1985. Public Law 99-15, enacted on April 4, 1985, allowed individuals who were receiving FSC benefits for the week of March 31-April 6, to continue to receive the remainder of their benefits. No new FSC benefits were payable after April 6, 1985. Under Public Law 99-15, the remaining weeks of FSC benefits had to be collected in consecutive weeks of unemployment. Any interruption of benefits, for whatever reason, ended an individual's eligibility for FSC benefits.

House bill

The bill allows certain individuals in the State of Pennsylvania to collect the remainder of their FSC benefits, notwithstanding the requirement in Public Law 99-15 that such benefits be collected in consecutive weeks. These individuals were receiving FSC for the week of March 31, 1985-April 6, 1985, and were eligible to collect the remainder of their benefits under Public Law 99-15. The collection of their remaining benefits was interrupted. However, when they were called up in the National Guard in early June to provide services during a major disaster.

The provision applies only to individuals who were called up for National Guard duty by the Governor in a disaster declared by the President on June 3. It applies to weeks

of unemployment occurring after the individual had completed his Guard duty but during which he may not have met the work search or availability requirements of State law because he failed to file claims believing he was no longer eligible (having failed to file in consecutive weeks). It applies only until an individual's FSC benefits were exhausted or he became employed, whichever occurred earlier.

Effective date.—For weeks of unemployment beginning after March 31, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. Recovery of overpayments

Present law

When a State finds that it has made an overpayment of unemployment benefits, it may (after observing appropriate procedural safeguards) collect that overpayment by withholding a subsequent unemployment benefit due to the same individual.

This procedure, however, is permitted only when both the incorrect payment and the withheld payment are funded from the State's own unemployment trust fund. In some circumstances, unemployed workers receive benefits which are paid by the same State agency and appear to the worker as though they were the same type of unemployment benefit but are funded from different sources. This can occur, for example, when a worker moves from one State to another and receives some benefits from the State from which he moved. It also happens when a worker's entitlement is extended by reason of trade adjustment assistance or other Federally-financed unemployment programs.

House bill

No provision.

Senate amendment

Allows reciprocal withholding of overpaid unemployment benefits regardless of the funding source. The same procedural safeguards would be required, but an overpayment of State benefits could be recovered by withholding from subsequent Federally-funded benefits if the State also agreed that it would recover incorrect Federal benefits. Similarly, States would be allowed to withhold benefits payable under their program to recover payments of benefits incorrectly made to the same individual by other States. Implementation of this provision would be at the option of each State.

Effective date.—October 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

The House Conferees from the Committee on Energy and Commerce were appointed solely for the consideration of issues related to authorization of expenditures from the Superfund and took no part in the consideration of the Superfund revenue aspects of the Senate amendment.

TITLE XIII—TRADE, CUSTOMS, INCOME SECURITY, AND RELATED PROGRAMS

SUBTITLE A—TRADE AND CUSTOMS PROVISIONS

Part 1—Trade Adjustment Assistance

Short title (Section 13001 of Conference Agreement).

House bill

No provision.

Senate amendment

"Trade Adjustment Assistance Reform and Extension Act of 1985."

Conference agreement

House recedes.

A. WORKER ADJUSTMENT ASSISTANCE

1. Petitions (section 13002 of conference agreement; section 778A of Senate amendment)

Present law

Section 221 permits any group of workers or their authorized representative to file a petition with the Secretary of Labor for a certification of eligibility to apply for TAA.

House bill

No provision.

Senate amendment

Provides explicitly that workers in agricultural firms or subdivisions may petition for TAA certification.

Effective date.—1 year after import fee imposed; i.e., 1 year after the earlier of 2 years after enactment or 30 days after the President certifies that the GATT allows such a fee.

Conference agreement

House recedes with an amendment to make the provision effective upon date of enactment.

2. Group eligibility requirements section 13002 of conference agreement; section 201 of House bill; section 778A of Senate amendment)

a. Agricultural workers

Present law

Any group of workers may be certified eligible to apply for TAA if they meet the statutory criteria.

House bill

No provision.

Senate amendment

Provides explicitly that workers in agricultural firms or sudivisions may be certified eligible to apply for TAA (conforms to amendment above).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with an amendment to make the provision effective upon date of enactment

b. Component parts, services

Present law

Under section 222, the Secretary of Labor must certify a group of workers as eligible to apply for TAA benefits if he determines (1) a significant number or proportion of the workers in a firm or subdivision have been laid off or are threatened with layoff; (2) sales and/or production of the firm or subdivision have decreased absolutely; and (3) increased imports of articles like or directly competitive with articles produced by the firm or subdivision "contributed importantly" to the layoffs and sales/production declines.

House bill

No provision.

Senate amendment

Expands certification eligibility to encompass those workers in firms that supply essential parts or essential services for articles produced by directly affected firms.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

c. Relocation overseas

Present law

Because increased imports must be an important cause of layoffs and sales/production declines, workers laid off as a result of firm or plant relocations overseas may be certified if increased imports of the article produced by that firm or plant preceded its closing and move.

House bill

Expands certification eligibility to workers in a firm or subdivision who are laid off or threatened with layoff "by reason of the relocation of the production functions of that firm or subdivision to a foreign country or instrumentality".

Effective date.—Petitions filed after September 30, 1985.

Senate amendment

No provision.

Conference agreement

House recedes.

3. Qualifying requirements for workers (section 13003 of conference agreement; Section 202 of House bill; Section 778B of Senate amendment)

a. Cash assistance

Present law

Under section 231, individual certified workers who meet the qualifying requirements on pre-layoff employment are entitled to weekly cash payments (trade readjustment allowances) equal to the amount of their unemployment compensation (UC) after they have first exhausted all UC for the balance of 52 weeks of unemployment. Workers may receive up to 26 additional weeks (maximum of 78 weeks) of TRA benefits while in approved training.

House bill

No provision.

Senate amendment

Adds a new requirement for workers to qualify for TRA payments:

1. The worker must be enrolled in a training program approved under section 236(a); or

2. The worker must have completed such approved training after layoff.

Such workers would be entitled to up to the balance of 78 weeks of TRA benefits.

Alternatively, a worker would be entitled to TRA for up to the balance of 52 rather than the balance of 78 weeks if the worker has received a written statement after layoff from the Secretary of Labor certifying that he was unable to approve a training program under section 236(a) (Secretary must review and certify any such determination by a State or State agency). The Secretary must submit an annual report to the Ways and Means and Finance Committees on the number of certifications.

If the Secretary determines the worker has failed to begin or ceased to participate in the training program without justifiable cause, no TRA may be paid to the worker until he begins or resumes participation.

No TRA would be paid to the worker for any week he receives on-the-job training.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with amendments: (1) to clarify that the Secretary of Labor is to certify workers for whom it is not feasible or appropriate to approve a training program under section 236(a); and (2) to remove the requirement that certification may be made

only by the Secretary and to include State responsibility for such certifications in cooperative agreements under section 239.

The Conferees intend to emphasize that the purpose of the exception to the general rule requiring enrollment in retraining is to continue benefits to the worker for whom, through no fault of his own, there is no suitable or reasonably available training program. The Secretary will make the finding on the basis of the criteria under section 236(a), taking into account factors such as age and mobility of the worker, and location of retraining programs or work for which the worker could be retrained. The Conferees expect the Secretary of Labor to issue regulations setting forth guidelines and a time frame for the States and State agencies to make certifications under cooperative agreements. The Conferees also expect that the terms of any cooperative agreement will provide for prompt termination of this delegation in the event that a State or State agency fails to comply with such guidelines.

b. Employment requirements

Present law

An individual worker must have at least 26 weeks of employment at weekly wages of $30 or more in adversely affected employment during the 52 weeks preceding layoff to be eligible for TRA payments. Qualifing 26 weeks may include:

Up to 3 weeks of employer-authorized leave (e.g., vacation sickness) or to serve as full-time union representative;

Up to 7 weeks of disability covered by workmen's compensation; or

Up to 7 weeks combining disability and leave, of which not more than 3 weeks may be employer-authorized or union leave.

House bill

Increases the maximum number of weeks that may be counted as weeks of employment toward the 26-week minimum preceding layoff from 3 to 7 for employer authorized or union leave; from 7 to 26 weeks for disability; and from 7 to 26 weeks combining disability and leave, or which authorized leave cannot exceed 7 rather than the present 3 weeks.

Effective date.—Petitions filed after September 30. 1985.

Senate amendment

Identical provision.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

4. Limitations on trade readjustment allowances (section 13003(d) of conference agreement; section 203 of House bill)

Present law

Under section 233(a)(2) a worker may collect basic TRA only during the 52-week period beginning with the week immediately following the first week covered by the certification with respect to which the worker has first exhausted all rights to regular unemployment compensation.

House bill

Extends the collection period for basic TRA benefits from 52 to 104 weeks following exhaustion of regular unemployment compensation.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with an amendment to make the provision effective upon date of enactment.

5. Training (section 13004 of conference agreement; section 204 of House bill; section 778C of Senate amendment)

a. Approval standards

Present law

Under section 236(a) if the Secretary of Labor determines that (1) there is no suitable employment available for an eligible worker; (2) the worker would benefit from appropriate training; (3) there is a reasonable expectation of employment after such training; (4) training approved by the Secretary is available; and (5) the worker is qualified to undertake and complete such training, then the Secretary may approve training for the worker.

House bill

Adds the stipulation that a "reasonable expectation of employment" does not require that employment opportunities for a worker be available or offered immediately upon the completion of training.

Effective date.—Certifications issued after September 30, 1985.

Senate amendment

Clarifies that "no suitable employment available" criterion refers to adversely affected workers.

Amends "training approved by the Secretary" criterion to be "reasonably" available.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes to the Senate provision and Senate recedes to the House provision with amendments to make the provisions effective upon date of enactment.

b. Training approval

Present law

The Secretary may, but is not required to, approve training for a certified worker if the five criteria are met. Upon approval the worker is entitled to have the costs of training paid by the progam.

House bill

No provision.

Senate amendment

Requires approval of training for a certified worker if the five criteria for approval are met.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

c. Types of training

Present law

Under section 236(a), training approved by the Secretary may be available from either governmental agencies or private sources, insofar as possible on-the-job.

House bill

No provision.

Senate amendment

Includes list of types of training that may be approved, including but not limited to, on-the-job, training provided by States or approved by a private industry council under JTPA, or any other training program approved by the Secretary.

Amends section 247 to include a definition of "on-the-job training."

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with an amendment to make the provision effective upon date of enactment.

d. Training direct payment or voucher

Present law

If training is approved, the worker is entitled to have payment of costs of training paid on his behalf by the Secretary of Labor, through reimbursements to the States under cooperative agreements.

House bill

No provision.

Senate amendment

Directs the Secretary of Labor to pay training costs, up to $4,000, either directly or through a new voucher mechanism, for each worker for whom training has been approved. (There may be one or more vouchers to a qualified worker with respect to a particular separation.) Prohibits double Federal reimbursement of training costs.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

e. On-the-job training

Present law

Section 236(a) requires the Secretary to provide or assure training on-the-job insofar as possible, including related education necessary for occupational skills.

House bill

No provision.

Senate amendment

Applies section 143(b) of JTPA to TAA training (provisions for no displacement or infringement of promotion opportunities of currently employed workers, etc.). Permits payment of on-the-job training only if the training is not for the same occupation from which the worker was laid off and certified, the employer certifies he will employ the worker for at least 26 weeks after training completion if the worker desires and the employer does not have due cause to terminate, and the employer has not violated section 143(b) of the JTPA or any other certification of paid on-the-job training.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with amendments: (1) to adopt actual language of the provisions of section 143(b) of the JTPA; and (2) to make the provision effective upon date of enactment.

6. Job search allowances (section 13005 of conference agreement; section 778D of Senate amendment)

Present law

Under section 237, the Secretary of Labor may provide reimbursement for 90 percent of the costs of necessary job search by a certified worker, up to $800, if the worker has been laid off, cannot reasonably be expected to secure suitable employment within his commuting area, and applies within specified time limits.

House bill

No provision.

Senate amendment

Adds a benefit of reimbursement for necessary expenses of a job search program approved by the Secretary, available to any certified worker regardless of whether the worker has enrolled in an approved training

program or meets the eligibility criteria for existing job search allowances. A reimburseable job search program includes either a job search workshop (short seminar to provide participants with knowledge, e.g., interview techniques, resume writing, to enable them to find jobs) or a job finding club (the same except it includes a one-two week period of supervised activity in which participants attempt to obtain jobs).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

7. Agreements with States (section 13004 of conference agreement; section 205 of House bill; section 778C of Senate amendment)

Present law

Section 239(a) authorizes the Secretary of Labor to enter into cooperative agreements with any State or any State agency to receive applications, make payments of TAA benefits, and afford adversely affected workers who apply for payments testing, counseling, referral to training, and placement services.

House bill

Adds requirements that each cooperating State agency (1) advise each adversely affected worker to apply for training at the time the worker applies for TRA benefits; and (2) within 60 days after the worker applies for training, to interview and review with that worker suitable training opportunities available under section 236.

Effective date.—October 1, 1985.

Senate amendment

Adds provision that agreements may be made with one or more State or local agencies, including State employment service agencies, State agencies carrying out the JTPA dislocated worker program, or any other State or local agency (e.g., private industry council) administering job training or related programs.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes to the Senate provision and Senate recedes to the House provision with amendments to make the provisions effective upon date of enactment.

B. FIRM ADJUSTMENT ASSISTANCE

8. Petitions and determinations (section 13006 of conference agreement; section 211 of House bill; section 778A of Senate amendment)

a. Agricultural firms

Present law

Section 251 permits any firm or its representative to file a petition with the Secretary of Commerce and be certified eligible to apply for TAA if they meet the statutory criteria.

House bill

No provision.

Senate amendment

Provides explicitly that any agricultural firm may petition and be certified for TAA eligibility (conforms to amendment for agricultural workers).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with an amendment to remake the provision effective upon date of enactment.

b. Component parts, services

Present law

Under section 251, the Secretary of Commerce must certify a firm eligible to apply for TAA benefits if (1) a significant number or proportion of the workers in such firm have been laid off or are threatened with layoff; (2) sales and/or production of such firm have decreased absolutely; and (3) increased imports of articles like or directly competitive with articles produced by that firm contributed importantly to the layoffs and sales/production declines.

House bill

No provision.

Senate amendment

Expands certification eligibility to encompass firms that supply essential parts or essential services to directly affected firms (conforms to amendment for workers).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

c. Significant product lines

Present law

Under present criteria, total sales and/or production of the firm must have decreased absolutely for the firm to be certified eligible to apply for TAA.

House bill

Includes an alternative sales/production criterion if sales and/or production of an article that accounts for not less than 25 percent of the firm's total sales or production decline absolutely during the 12 months preceding the most recent 12-month period for which data are available.

Effective date.—Petitions filed after September 30, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with an amendment to make the provision effective upon date of enactment.

9. Financial assistance (section 13006 of conference agreement; section 214 of House bill; section 778E of Senate amendment)

Present law

Section 252 authorizes the Secretary of Commerce to provide a certified firm either technical assistance, financial assistance, or both, if he determines that the firm's application (including an economic adjustment proposal) meets the statutory approval criteria.

Financial assistance under section 254 consists of direct loans and/or loan guarantees to be used for fixed asset investment or as working capital to enable the firm to implement its adjustment proposal. If the Secretary determines that the required funds are not available from the firm's own resources or the private capital market and that there is a reasonable assurance of repayment, he may provide direct loans up to $1 million per firm and/or loan guarantees up to $3 million per firm.

House bill

Clarifies that single loans or a combination of loans or loan guarantees may be made for mixed uses.

Effective date.—October 1, 1985.

Senate amendment

Eliminates financial assistance, i.e., authority to provide any new direct loans or loan guarantees; conforming amendment eliminates approval criterion that the firm has no reasonable access to financing through the private capital market.

Effective date.—Enactment.

Conference agreement

House recedes.

10. Technical assistance (section 13006 of conference agreement sections 212,213 of House bill)

a. Types of technical assistance

Present law

Section 252(b) authorizes technical assistance to certified firms to implement acceptable adjustment proposals; section 252(c) authorizes technical assistance to certified firms to help them prepare adjustment proposals. Section 253 authorizes technical assistance to assist firms in preparing petitions for certification, as well as to certified firms to prepare and implement adjustment proposals.

House bill

Amends section 252 to clarify that three forms of technical assistance are available to firms, consistent with section 253.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with amendment: (1) to make conforming changes; and (2) to make the provision effective upon date of enactment.

b. Matching requirements

Present law

Section 253(b)(2) limits the U.S. Government share to 75 percent of the cost of technical assistance provided by private individuals, firms, or institutions.

House bill

Removes the 75 percent limitation on the U.S. Government share of the cost of technical assistance to assist firms in preparing petitions for certification or in preparing economic adjustment proposals (including diagnostic surveys). The matching share requirement would continue to apply to assistance for implementing economic adjustment proposals.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with amendments: (1) to retain the 75 percent limitation on the U.S. Government's share of the cost of peparing economic adjustment proposals; and (2) to make the provision effective upon date of enactment.

11. Protective provisions (section 215 of House bill)

Present law

Section 258(d) prohibits the provision of financial assistance to any firm unless the owners, partners, or officers execute an agreement binding them and the firm for 2 years after the assistance is provided not to employ or retain for professional services any person who on the date the assistance was provided or within one year prior thereto occupied a position or engaged in activities involving discretion in providing the assistance.

House bill

Requires that the agreement bind the owners, partners, or officers on behalf of the firm, but not themselves individually.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

House recedes.

C. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE

12. Termination date section 13007 of conference agreement; (section 221 of House bill; section 778F of Senate amendment)

Present law

Section 285, as amended in 1983, terminated the worker and firm TAA programs on September 30, 1985. Public Law 99-107 extended the termination date until November 14, 1985; Public Law 99-155 further extended the programs through December 14, 1985.

House bill

Amends the termination date in section 285 to reauthorize the worker and firm TAA programs for 4 years through September 30, 1989.

Senate amendment

Reauthorizes worker and firm TAA for 6 years from date of enactment.

Conference agreement

House recedes.

D. FUNDING OF TRADE ADJUSTMENT ASSISTANCE

13. Program funding (section 13009 of conference agreement; section 778H of Senate amendment)

Present law

Worker and firm TAA are funded from general revenues.

House bill

No provision.

Senate amendment

Imposes a small fee on all imports into the United States, up to a maximum one percent, to be set at a uniform ad valorem rate sufficient to provide the necessary funding for the TAA programs and for allowable payment of drawbacks and refunds of such fee. The fee is to be assessed regardless of any duty-free treatment accorded articles under other provisions of law, except on goods or belongings of returning tourists or Americans living abroad. One year after imposition of the import fee, the entire program would be funded by the fee, rather than by general revenues.

Effective date.—Earlier of 2 years after enactment or 30 days after President certifies that GATT allows import fee.

The President is directed to undertake negotiations to achieve changes in the GATT to allow any country to impose such a small uniform fee on all imports to fund any program which assists adjustment to import competition. The President must report to Congress on the progress of negotiations within 6 months of enactment and submit a statement of certification on the date the GATT allows such a fee.

Effective date.—Enactment.

Conference agreement

House recedes with amendments to exempt from the import fee: (1) most articles treated as duty free under schedule 8 of the Tariff Schedules of the United States; and (2) entries valued at less than $1,000.

14. Authorization of appropriations (section 13008(a) of conference agreement; section 778G(a) of Senate amendment)

Present law

Sections 245 and 256(b) authorize to be appropriated to the Secretaries of Labor and Commerce such sums as may be necessary to carry out their program functions.

House bill

No provision.

Senate amendment

Authorizes appropriations of such sums as necessary for worker and firm TAA for fiscal year 1986 through the earlier of 1 year after imposition of the import fee or fiscal year 1989.

Conference agreement

House recedes.

15. Trust fund (section 13008(b) of conference agreement; section 778G(b) of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

Establishes within the Treasury of the United States a Trade Adjustment Assistance Trust Fund. The Secretary of the Treasury is to transfer to the Trust Fund, from the General Fund of the Treasury, amounts equivalent to receipts from the import fee at least quarterly, adjusted for any shortfall or overage in previous transfers. The Secretary must submit an annual report to the Ways and Means and Finance Committees on the actual and expected financial condition and operation of the Fund. The Secretary must invest such portion of the Fund which is not required to meet current withdrawals; interest and proceeds would be credited to the Fund.

Effective date.—Same date as import fee is imposed.

Conference agreement

House recedes.

16. Annual appropriations (section 13008(b) of conference agreement; section 778G(b) of Senate amendment)

Present law

The program is funded from general revenues under annual appropriations bills for the Departments of Labor and Commerce.

House bill

No provision.

Senate amendment

Payments out of the Trust Fund would be subject to the annual appropriations process.

Effective date.—Same date as import fee is imposed.

Conference agreement

House recedes.

17. Taxation of training benefits (section 13010 of conference agreement; section 778I of Senate amendment)

Present law

Section 85 of the Internal Revenue Code provides a limited exclusion from gross income for amounts received by a taxpayer that are in the nature of unemployment compensation. There is no express provision exempting training cost from income.

House bill

No provision.

Senate amendment

Expressly excludes payments of training costs or vouchers entirely from gross income for purposes of income taxation.

Effective date.—Taxable years ending on or after 1 year after imposition of the import fee.

Conference agreement

House recedes.

Part 2—Authorization of Appropriations for Trade and Customs Agencies

18. U.S. International Trade Commission (sec. 13021 of conference agreement; sec. 241 of House bill)

Present law

Section 330(e), Tariff Act of 1930, restricts sums to be appropriated to the ITC to the amount authorized by law; no authorization exists beyond October 1, 1985. (H.R. 2965, as agreed in conference, appropriates $28,600,000 for fiscal year 1986, including not be exceed $2,500 for official reception and representation expenses).

House bill

Authorizes appropriations of $28,901,000 for fiscal year 1986 (including for rental of conference rooms), of which not to exceed $2,500 may be used, subject to the Chairman's approval, for reception and entertainment expenses.

Senate amendment

No provision. (S. 1146, as reported but not included in this bill, authorizes appropriations of $28,901,000 for fiscal year 1986).

Conference agreement

The conferees agreed to the House Provision.

19. U.S. Customs Service (sec. 13022 and 13024 of conference agreement; sec. 242 of House bill, section 799A of Senate amendment)

Present law

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 requires annual enactment of an authorization Act of 1978 annual enactment of an authorization of appropriation to the U.S. Custom Service.

House bill

For fiscal year 1986 the House bill authorizes appropriations for salaries and expenses of the U.S. Customs Service of an amount not to exceed $769,067,000 of which $50,425,000 if for the operation of the air interdiction program and not to exceed $14,000,000 is for the implementation of "Operation Exodus" and related programs. The authorization level approved by the House not only would restore the proposed cut of 887 positions but would also allocate $27.9 million for the hiring of 800 new frontline customs officers.

The House bill also includes provisions relating to the use of savings from administrative consolidation, criteria for closing ports, the Customs air program, consolidation of drawback liquidation centers, sureties on customs bond, appropriations for the Customs Forfeiture Fund, and user fees at certain small airports.

Senate amendment

Although the Senate amendment has no provision for overall authorization of appropriations for the U.S. Customs Service, it does provide for an additional authorization of appropriations of $27.9 million for each of fiscal years 1986, 1987 and 1988 to hire 800 additional front-line customs officers. The Commissioner of Customs is directed to

ensure that sufficient resources are devoted to customs headquarters in newly created customs districts. (S. 1146, as reported but not included in this bill, would also restore Customs' proposed cut of 887 positions.)

Conference agreement

The conferees agreed to the House provision with several modifications. First, the overall authorization level and air program authorization level were changed to $772,141,000 and $53,500,000 respectively. Provisions were also added providing for the allocation of resources to statutorily created district headquarters offices; extending the application of users fees at certain small airports provided for in section 236 of the Trade and Tariff Act of 1984 to additional airports and continuing a provision requiring Customs to notify the Committees before taking certain actions. The conferees also agreed to continue the funding for new Customs personnel in fiscal years 1987 and 1988.

With regard to the provision extending the application of section 236 of the Trade and Tariff Act, the conferees urge the Secretary to give favorable consideration to the application on behalf of the airport at Pontiac/Oakland, Michigan for designation as an airport subject to this provision.

The provision relating to the allocation of resources to Customs district headquarters offices was added to provide explicit and detailed instructions to the Customs Service in the administration of a customs district designated by statute, such as the Columbia Snake Customs District designated by the Trade and Tariff Act of 1984.

20. U.S. Trade Representative (sec. 13023 of conference agreement; sec. 243 of House bill)

Present law

Section 141(f), Trade Act of 1974, authorizes to be appropriated to the USTR such sums as are provided by law (H.R. 2965, as passed by the House and Senate, appropriates $13,158,000 for fiscal year 1986, of which not to exceed $72,000 is available for official reception and representation expenses).

House bill

Authorizes appropriations of $13,582,000 for fiscal year 1986, of which not to exceed $68,000 may be used for official entertainment and representation expenses.

Senate amendment

No provision. (S. 1146, as reported but not included in this bill, authorizes appropriations of $13,582,000 for fiscal year 1986, including $80,000 for official entertainment and representation expenses.)

Conference agreement

The conferees agreed to the House provision with an amendment increasing the ceiling for official entertainment and representation expenses from "$68,000" to "$80,000".

Part 3—*Customs Fees* (Sec. 13031 of conference agreement; Sec. 251 of House bill; section 777 of Senate amendment)

1. Schedule of fees

Present law

The U.S. Customs Service does not currently have the general legal authority to collect fees for the processing of persons, aircraft, vehicles, vessels, and merchandise arriving in or departing from the United States. They do, however, have authority to charge fees under certain limited circumstances, such as when they are providing services (such as pre-clearance of passengers and private aircraft) which are of special benefit to a particular individual. They also have the authority to assess fees on operators of bonded warehouses and foreign trade zones and on the entry of vessels into ports and are authorized to receive reimbursement from carriers for overtime for services provided during non-business hours and reimbursement from local authorities for services provided to certain small airports.

House bill

Amends section 214 of the Customs Procedural Reform Act (19 U.S.C. 58a) to establish the following fee structure to cover the costs of Customs processing of arrivals of:

Commercial vessels (100 tons or over)	$425
Railroad cars	5
Commercial trucks	5
Private aircraft and boats (per year)	25
Passengers (on commercial vessels, aircraft or trains):	
From Canada, Mexico, insular possessions and adjacent islands	1
From all other countries	5

Such fees would be applicable 180 days after enactment.

Senate amendment

As a free-standing provision establishes the following fee structure in addition to any other fees authorized by law:

Commercial vessels (100 net tons or more)	$397
Commercial vessels, less than 100 net tons	25
Commercial trucks	5
(Total fees not to exceed $100 per truck in calendar year)	
(Would not apply if train originates and terminates in same country)	
Private aircraft and boats	[1] 25
(Total fees not to exceed $500 per aircraft or boat in calendar year)	
Passengers (commercial vessel or aircraft):	
From Mexico, Canada, Insular possessions and adjacent islands	0
From all other countries	5
Informal entries prepared by customs officer	5
(No fee if passenger arrival fee collected)	
Dutiable mail entries prepared by customs officer	5
In-bond shipments	10
Customs broker permits (per year)	125

[1] On arrival.

Such fees would be applicable 90 days after the date of enactment.

Conference agreement

The conferees agreed to the House provision on vessels under 100 net tons and private aircraft and boats, the Senate provisions on vessels over 100 net tons, trucks, railroad carts, passengers, broker permits and dutiable mail entries and agreed to drop the Senate provision on in-bound shipments and informal entries. The conference agreement fee schedule is as follows:

Commercial vessels (100 net tons or more)	$397
Commercial trucks	5
(Total fees not to exceed $100 per truck in calendar year)	
Railroad cars	5
(Total fees not to exceed $100 per car in calendar year)	
(Would not apply if train originates and terminates in same country)	
Private aircraft and boats (per year)	25
Passengers (commercial vessel or aircraft):	
From Mexico, Canada, Insular possessions and adjacent islands	0
From all other countries	5
Dutiable mail entries prepared by customs officer	5
Customs broker permits (per year)	125

The conferees agreed to the Senate effective date provision except that with respect to passengers fees, such fees would apply to customs services rendered to passengers using transportation for which documents or tickets were issued more than 90 days after the date of enactment.

The processing fee imposed on commercial vessels weighing 100 net tons or more is in addition to existing fees on commercial vessels. The conferees expect the Customs Service to consolidate the new processing fee with existing fees to the extent an existing fee represents a standard charge on every vessel. Overtime should not be included in such a consolidated fee since overtime charges vary according to each vessel's schedule.

Although the conferees agreed to "cap" the annual fee paid by each train car, or truck, they expect the Customs Service to administer this fee as a one-time fee. Thus, the Customs Service should develop regulations for the prepayment of such fees so that those subject to the fee may choose between paying the fee at the time of each entry, or once annually.

The fee on each truck entry is intended to apply to self-propelled vehicles designed and used for the transportation of property.

The annual fee authorized to be imposed by this legislation on private boats, like the other fees, is intended to cover Customs' processing costs in clearing such boats. The conferees recognize, however, that in border states, there are many owners of small pleasure boats (i.e., less than 30 feet) who frequently travel across the border without carrying imported goods. Since Customs processing costs are not incurred in the clearance of such boats, it is the conferees' intention that such pleasure boats should not be subject to this fee. The Secretary is therefore directed to issue regulations exempting such boats from the application of this fee so long as they are not carrying imported goods required to be declared to the U.S. Customs Service.

The conferees further agreed that the users fees provided for under section 13031 shall not apply to crew members on commercial aircraft or commercial vessels or to diplomats entering the United States.

Finally, with regard to the application of the annual fee imposed on permits for customs brokers it is noted that in Public Law 98-573, Congress provided for the imposition of fees on customs brokers to defray the costs of administration. Every individual, corporation, association, or partnership wishing to conduct customs business for those other than themselves must hold a valid customs brokers license. Every person granted a license will be subsequently issued a permit to conduct business in a particular Custom district. Thus, a license holder may have several permits depending upon the number of districts in which he conducts business. Additionally, every person granted

a license must file a triennial report pursuant to the Act.

The conferees have agreed to a provision imposing an annual fee for each permit that is issued pursuant to Public Law 98-573. It is through a fee on permits that the bill will help to defray the costs of regulating the customs brokerage industry. The number of permits is a measure of the cost of regulating these brokers.

The conferees anticipate that Customs will also charge a one-time fee for the issuance of a brokers license and accompanying permits, as well as an administrative fee to accompany each filing of the triennial report. The purpose of the latter fees are exclusively to defray the costs of issuing licenses and permits and of processing the receipt and storage of the triennial reports. We understand, for example, that Customs will charge a one-time fee of $300 for licenses and $100 for permits.

The conferees expect that Customs will confine itself to these fees on brokers and avoid arbitrarily increasing the amount charged.

a. Collection of passenger fees

Present law

No provision.

House bill

Provides for passenger fees to be collected by the commercial carriers and separately identified on the ticket as a Federal inspection fee. Fees are to be remitted to the Secretary of Treasury on a quarterly basis.

Senate amendment

Same provision in substance but also provides for the collection of the fee at the time of departure from the U.S. if the ticket is issued in a foreign country and the fee was not collected as part of the original ticket price.

Conference agreement

The conferees agreed to merge the two provisions together and clarify that whoever issues the ticket is authorized to collect the fee. The Senate language was agreed to with regard to tickets issued in foreign countries and the House language was accepted on remittance of the fees.

b. Status of fees

Present law

Section 214 of the Customs Procedural Reform Act (19 USC 58a) authorizes the collection of specified fees for certain customs services.

House bill

Authorizes Secretary to continue to collect fees to cover the cost of services provided for under 19 USC 58a, as in effect before this Act to the extent not covered in the new fee schedule.

Senate amendment

Since Senate provision is a free-standing provision which does not amend 19 U.S.C. 58a, the authority to collect the fees set out in 19 U.S.C. 58a would continue to exist.

Conference agreement

The conferees agreed to merge two provisions by accepting the Senate free-standing approach and by specifically providing that the Secretary continues to have the authority to charge fees under 19 U.S.C. 58a.

c. Treatment of scheduled airline flights.

Present law

No provision.

House bill

With regard to scheduled airline flights, requires customs services to be adequately provided without additional costs (such as for overtime) to airlines or passengers other than the fees set out in the bill.

Senate amendment

Similar provision except an exception is made with respect to designated airports under section 236(c) of the Trade and Tariff Act of 1984, which provides for reimbursement for Customs services.

Conference agreement

The conferees agreed to accept the Senate provision.

d. Deposit and disposition of proceeds

Present law

Section 524 of the Tariff Act (19 USC 1524) provides for receipts for any reimbursable charges or expenses to be deposited as a refund to Customs' appropriation.

House bill

Repeals section 524 and provides for all receipts for reimbursable charges and expenses to be covered into the Treasury as miscellaneous receipts and placed in a proprietary account.

Senate amendment

Retains section 524 and provides for all the fees collected under this Act to be deposited in a separate "Customs Users Fee Account" within the general fund of the Treasury.

The Secretary is authorized and directed to refund out of this account to its appropriation an amount to cover Customs overtime inspectional services for which a reimbursement is not required. Such refunds should be made at least quarterly with appropriate adjustments, as needed.

Conference agreement

The conferees agreed to accept the Senate provision.

e. Definitions

Present law

No provision.

House bill

No provision.

Defines terms "vessel" (to exclude ferry), "arrival", "customs territory of the United States", and "customs broker permit".

Conference agreement

The conferees agreed to accept the Senate provision.

22. Promulgation of rules and regulations

Present law

Secretary has general authority (19 USC 66) to prescribe rules and regulations in carrying out provisions of law.

House bill

No provision.

Senate amendment

Grants Secretary explicit authority to prescribe rules and regulations to carry out this provision.

Conference agreement

The conferees agreed to accept the Senate provision.

23. Advisory Committee

Present law

No provision.

House bill

Provides for the establishment of an advisory committee to meet on a periodic basis and to advise the Secretary on issues relating to performance of Customs' services. The committee is to be made up of representatives from the airline, shipping and other transportation industries, the general public, and others who may be subject to the fees authorized by section 13031. It is contemplated that the advice include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection offices and the level of fees. The Secretary is directed to give substantial consideration to the views of this Committee in the exercise of his duties.

Senate amendment

No provision.

Conference agreement

The conferees agreed to the House provision.

1. Railroad unemployment repayment tax

Present law

Loan authority.—The railroad unemployment insurance (RRUI) program, which provides unemployment and sickness benefits, is funded by unemployment taxes paid by rail employers. The RRUI program can borrow from the railroad retirement program as needed to pay benefits. Such loans are repaid when the Railroad Retirement Board determines that the RRUI account has sufficient funds to make such a repayment. The program's authority to borrow additional funds from the railroad retirement program is scheduled to expire after December 19, 1985.

Loan repayment tax.—The Railroad Retirement Solvency Act of 1983 established a repayment tax scheduled to begin on July 1, 1986 and to expire on September 30, 1990 (Code secs. 3321-3323). The present-law tax rate, applicable to the first $7,000 in wages paid annually to a rail employee, is as follows (sec. 3321):

	Percent
1986	2.0
1987	2.3
1988	2.6
1989	2.9
1990	3.2

House bill

Loan authority.—The House bill makes permanent the authority of the RRUI program to borrow from the railroad retirement program.

Loan repayment tax.—The rate of the present-law loan repayment tax is modified under the House bill to be as follows, beginning July 1, 1986 and expiring September 30, 1990:

	Percent
1986	4.3
1987	4.7
1988	6.0
1989	2.9
1990	3.2

Loan surtax.—Under the House bill, an automatic surcharge of 3.5 percent on the loan repayment tax base will be levied if the RRUI program must borrow from the retirement program. The surtax proceeds are to be used to repay such loans made after September 30, 1985, and is in effect for any year if on September 30 of the prior year any principal or interest from a loan after September 30, 1985 remains unpaid.

Effective date.—The tax provisions will apply to remuneration paid after June 30, 1986. The extension of borrowing authority is effective on enactment.

Senate amendment

The Senate amendment includes the same provisions on loan authority, loan repayment tax, and loan surtax as in the House bill.

In addition, under the Senate amendment a portion of the tier 2 railroad retirement tax equal to one percent of the payroll subject to that tax will be diverted from the railroad retirement program to the RRUI program. These revenues would then be returned to the railroad retirement program to help repay the principal and interest on loans made prior to October 1, 1985. This diversion provision will apply effective January 1, 1986 and will terminate on April 1, 1990.

Conference agreement

The conference agreement is the same as the House bill.

2. Extension of Medicare coverage, hospital insurance tax to State and local government employees

Present law

State and local government employees are covered for social security and Medicare benefits, and such employees and their employers are subject to the FICA tax (including the hospital insurance portion), only pursuant to voluntary agreement between the State and the Secretary of Health and Human Services (Code sec. 3121(b)(7)). Governmental units whose employees have such coverage purusant to voluntary agreement may not later withdraw their employees from coverage.

Medicare coverage (and the corresponding hospital insurance payroll tax) is mandatory for Federal employees.

For wages paid after 1985, the employer-employee hospital insurance tax rate will be 2.9 percent of the first $42,000 of wages (sec. 3101, 3111, and 3121(a)).

House bill

The House bill extends Medicare coverage on a mandatory basis to State and local government employees hired after December 31, 1985, for service performed after that date. These employees and their employers will be liable of the hospital insurance portion of the FICA tax.

Under the House bill, Medicare coverage and the hospital insurance tax are not extended to individuals hired by a State or political subdivision to relieve unemployment; patients or inmates working in a hospital, home, or other institution; temporary workers hired for certain emergencies; or certain students working in District of Columbia hospitals.

The House bill makes technical changes relating to payment of hospital insurance taxes and definition of Medicare-qualified government employment.

Senate amendment

The Senate amendment extends Medicare coverage on mandatory basis to all current and new State and local government employees, effective for service performed after September 30, 1986. These employees and their employers will be liable for the hospital insurance portion of the FICA tax. Under the Senate amendment, employees who perform State or local government service during and before October 1986 will be given credit toward Medicare eligibility for such past State or local government employment.

The Senate amendment provides that hospital insurance taxes for Medicare-qualified State or local government employment are to be collected in the same manner as in the case of such taxes paid by nongovernmental employers.

Conference agreement

The conference agreement follows the House bill, except that a State may extend Medicare coverage (without extending coverage under social security cash benefits) to State and local government employees hired prior to 1986 by voluntary agreement with the Secretary of Health and Human Services. Such employees and their employers would also be liable for the hospital insurance portion of the FICA tax. Under this provision, the collection of Medicare contributions for State and local govenment employees who are newly covered by this bill will be carried out by the State social security office in cases where the local jurisdiction (or State government) currently has in effect an agreement covering some employees of the jurisdiction under social security. Those jurisdictions (e.g., a city, county, or other government subdivision) within a state that have no employees currently covered under a section 218 agreement will be required to make their payments for Medicare coverage of their employees under the same procedures as private employers currently follow.

3. Tobacco excise tax provisions

a. Extension of present cigarette excise tax rates

Present law

A manufacturers' excise tax equal to $8 per thousand is imposed on small cigarettes; this produces a tax of 16 cents on a pack of 20 cigarettes. Large cigarettes (those weighing more than 3 pounds per thousand) are taxed at $16.80 per thousand. These tax rates are scheduled to decrease by one-half after December 19, 1985.

House bill

The House bill makes permanent the present cigarette excise tax rates (e.g., 16 cents per pack of 20 small cigarettes).

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Excise taxes on smokeless tobacco

Present law

Present law does not impose any excise taxes on smokeless tobacco products (e.g., chewing tobacco and snuff).

House bill

No provision.

Senate amendment

The Senate amendment imposes an excise tax of 8 cents per pound on chewing tobacco and 24 cents per pound on snuff, effective for taxable products removed after September 30, 1985.

Conference agreement

The conference agreement follows the Senate amendment with a modification providing that the excise taxes on chewing tobacco and snuff are effective for taxable products removed after March 31, 1986.

c. Tobacco Equalization Trust Fund

Present law

Revenues from the cigarette excise tax are deposited in the Treasury as part of general revenues.

House bill

The House bill dedicates a portion of the cigarette excise tax revenues to a new trust fund to assist in defraying the costs of the tobacco price support program, through September 30, 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

4. Coal excise tax; Black Lung Disability Trust Fund repayable advances

a. Coal excise tax

Present law

A manufacturers excise tax is imposed on domestically mined coal (other than lignite) sold or used by the producer (Code secs. 4121, 4218).

The tax rate is the lesser of (1) $1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines, or (2) four percent of the price for which the coal is sold. These rates are to revert to pre-1982 rates (50 cents/25 cents per ton; two percent ceiling) on January 1, 1996, or, if earlier, on the January 1 as of which all principal and interest owed the Treasury by the Trust Fund have been paid.

House bill

The House bill increases the coal excise tax rate and sales price ceiling as follow, effective for sales of taxable coal on or after January 1, 1986:

For calendar years 1986–1990, the tax on underground coal will be $1.50 per ton, the tax on surface coal will be $0.75 per ton, and the ceiling will be six percent of the sales price.

For calendar years 1991–1995, the tax on underground coal will be $1.60 per ton, the tax on surface coal will be $0.80 per ton, and the ceiling will be 6.4 percent of the sales price.

For 1996 and later years, the tax on underground coal will be $1.50 per ton, the tax on surface coal will be $0.75 per ton, and the ceiling will be six percent of the sales price. However, the 1985 rates ($1/0.50 per ton; four percent ceiling) will be reinstated for 1996 or any later calendar year if throughout the two most recent fiscal years ending before the beginning of such calendar year there was no balance of repayable advaces made to the Trust Fund, and no unpaid interest on such advances.

Senate amendment

No provision.

Conference agreement

The conference agreement will increase the coal excise tax rate, effective January 1, 1986 through December 31, 1995, to the lesser of (1) $1.10 per ton for coal from underground mines and 55 cents per ton for coal from surface mines, or (2) 4.4 percent of the sales price.

b. Black Lung Disability Trust Fund repayable advances

Present law

Amounts equal to the coal excise tax revenues are automatically appropriated to the Black Lung Disability Trust Fund. The Trust Fund pays black lung disability benefits to coal miners (or their survivors) who have been totally disabled by black lung disease in cases where no coal mine operator is found responsible for the individual miner's disease.

Present law includes an unlimited authorization for advances, repayable with interest, from general revenues to the Trust Fund (sec. 9501(c)).

House bill

No provision.

Senate amendment

Under the Senate amendment, no further advances from general revenues to the

Black Lung Disability Trust Fund may be made after September 30, 1986. Under the provision, the Trust Fund may not borrow prior to October 1, 1986, amounts to be used to make expenditures after September 30, 1986, or during post-1986 years.

Conference agreement

The conference agreement follows the House bill, except that a one-time, five-year forgiveness of the current interest payments on the cumulative indebtedness of the Trust Fund is provided.

6. Certain exemptions from FUTA tax

a. Certain nonresident farm workers

Present law

An exemption from FUTA is provided for wages paid for agricultural labor performed by aliens admitted to the United States pursuant to section 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act (Code sec. 3306(c)(1)(B)). This exemption is scheduled to expire on December 31, 1985.

House bill

No provision.

Senate amendment

The FUTA exemption for certain nonresident farm workers is extended on a permanent basis for wages paid on or after January 1, 1986.

Conference agreement

The conference agreement follows the Senate amendment, except that the FUTA exemption is extended only for wages paid before January 1, 1988.

b. Summer camp counselors

Present law

A one-year exemption from FUTA was provided for wages paid for 1983 by certain summer camps for employees who were full-time students (sec. 276(b) of P.L. 97-248).

House bill

No provision.

Senate amendment

The Senate amendment provides a permanent FUTA exemption for wages paid to summer camp counselors who are full-time students, effective for wages paid after September 19, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

c. Fishing boat crew members

Present law

An exemption from FUTA was allowed for remuneration paid during 1981-84 to certain fishing boat crew members. This exemption applied only if the remuneration depended on the boat's catch and the crew normally consisted of fewer than 10 members (sec. 822(b) of P.L. 97-34).

House bill

No provision.

Senate amendment

The Senate amendment provides a permanent FUTA exemption for wages paid to certain fishing boat crew members, effective for wages paid after December 31, 1980.

Conference agreement

The conference agreement follows the Senate amendment.

7. Tax treatment of railroad retirement benefits

Present law

Under present law (Code sec. 86), a portion of Railroad Retirement system benefits computed by using the social security benefit formula (tier 1) is subject to Federal income tax in the same manner as social security benefits, i.e., for individuals whose incomes exceed certain levels (generally, $25,000 for unmarried individuals and $32,000 for married individuals filing a joint return). These benefits may be available at an earlier age under the Railroad Retirement system than under the social security system. Other benefits under the Railroad Retirement system are subject to Federal income tax for all recipients to the extent the payments exceed the amount of the individual's previously taxed contributions to the plan.

House bill

The portion of tier 1 Railroad Retirement benefits that is taxable in the same manner as social security benefits will be limited to the portion of tier 1 benefits that equals the social security benefits to which the individual would have been entitled if all of the individual's employment on which the annuity is based had been employment for social security benefit purposes. In addition, a minimum monthly annuity benefit (described in sec. 3(f)(3) of the Railroad Retirement Act of 1974) will be taxed in the same manner as social security benefits. Other tier 1 Railroad Retirement benefits will be taxed under the rules that apply to all other payments under the Railroad Retirement system.

These provisions will be effective for monthly benefits for which the generally applicable payment date is after December 31, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The conferees expect that the IRS will exercise its authority to waive penalties for failure to make estimated tax payments for 1986, to the extent such failure is solely attributable to increased tax liability of the taxpayer resulting from the amendments made by this provision, in light of the short time between enactment of this bill and the effective date of this provision.

8. Income averaging for former full-time students

Present law

An individual whose income in a year is more than 40 percent higher than his or her average income during the prior three years may use income averaging to reduce tax liability (Code sec. 1301).

To be eligible for income averaging, the individual must have been self-supporting during each of the prior three years. Subject to this requirement, an individual beginning full-time employment after completing college or graduate school is eligible for income averaging.

House bill

No provision.

Senate amendment

The Senate amendment provides that an individual is not eligible for income averaging for a year if he or she was a full-time student during any of the prior three years.

This rule does not apply to a married individual who files a joint return if 25 percent or less of the adjusted gross income of the return is attributable to that individual. Thus, income averaging will remain available where one spouse had been a full-time student during the base period, but did not contribute substantially to the current-year income to be averaged.

This provision is effective for taxable years beginning after December 31, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

9. Fringe benefit provisions

a. Parents of airline employees; airline affiliate employees

Present law

Under the Deficit Reduction Act of 1984, the value of "no-additional-cost" services provided by an employer for use by the employee, or the employee's spouse or dependent children, is excluded from income and wages if certain conditions are met, including a line-of-business limitation (Code sec. 132).

House bill

No provision.

Senate amendment

Parents.—Under the Senate amendment, the value of the use of free or discounted airline passes by parents of an airline employee is excluded from the employee's income and wages on the same basis as where such benefits are used by the employee's spouse or dependent children, effective January 1, 1985.

Airline affiliates.—The Senate amendment excludes from income and wages the value of the use of airline passes by certain individuals who are directly engaged in providing airline-related services. This treatment applies to employees of a corporation predominantly engaged in airline-related services that is a member of an affiliated group which includes an airline. The exclusion applies on the same basis as in the case of employees of the airline corporation who perform airline services. The term airline-related service means (i) catering; (ii) baggage handling; (iii) ticketing and reservations; (iv) flight planning and weather analysis; (v) restaurants located at an airport; (vi) gift shops located at an airport; and (vii) such other similar services provided to and directly benefiting airlines as may be prescribed by Treasury regulations.

Also, a grandfather exception is provided to the line-of-business limitation for tax-free treatment of airline passes furnished (after 1984) to individuals employed, as of September 12, 1984, by Pan American World Services, Inc.

These provisions relating to certain airline affiliate employees are effective January 1, 1985.

Conference agreement

The Conference agreement follows the Senate amendment, with a modification to reflect the House airline affiliate technical corrections provision (in H.R. 3838).

b. Faculty housing

Present law

Several court cases have held that on-campus housing furnished to faculty or other employees by an educational institution does not qualify for the exclusion under Code section 119 (certain lodging furnished for the convenience of the employer), and that therefore the rental value of the housing (less any amounts paid by the employee) is includible in income and wages.

The Deficit Reduction Act of 1984 prohibits Treasury from issuing, prior to 1986, regulations treating as income the excess of the value of qualified campus lodging over the greater of (1) the operating cost paid in furnishing the lodging, or (2) the rent received,

in the case of such lodging furnished in 1984 or 1985.

House bill

No provision.

Senate amendment

The Senate amendment provides that the rental value of qualified campus lodging for a year may not be treated as greater than five percent of the appraised value for the year of the lodging, provided that an independent appraisal is obtained by a qualified appraiser. Thus, the value of the lodging will be excluded from the employee's income and wages if the rent paid by him or her to the educational institution equals or exceeds (on an annualized basis) five percent of the appraised value. Also, rents charged by an educational institution to nonemployees for comparable lodging may be used to define fair rental value.

This safe-harbor valuation rule will apply for post-1985 taxable years. For prior years, the IRS also is to follow the valuation rule, except that the assessed valuation of the property for local real estate tax purposes would be treated as meeting the requirement of a qualified appraisal.

Conference agreement

The conference agreement follows the House bill.

10. Minimum tax on certain capital gains of insolvent individuals

Present law

Individuals are subject to an alternative minimum tax (Code sec. 55), applying at a 20 percent rate to a base determined by adding certain preferences to the taxpayer's regular taxable income (in addition to certain other adjustments). The minimum tax preference items include the portion of net capital gain excluded for regular tax purposes under section 1202.

House bill

No provision.

Senate amendment

The Senate amendment provides that an insolvent individual who transfers real property used in the active conduct of a trade or business of the taxpayer is not required to treat certain capital gain on the transfer as a minimum tax preference if the transfer was made to a creditor in cancellation of indebtedness or to a third party under threat of foreclosure. The amount of the capital gain exclusion that is not treated as a preference item pursuant to the new rule may not exceed the amount of the individual's insolvency immediately prior to the transfer.

The amendment is effective for transfers of real property occurring after December 31, 1981.

Conference agreement

The conference agreement generally follows the Senate amendment, except that the provision will apply only to farmers and not to other taxpayers. For this purpose, a farmer is defined as an individual more than 50 percent of whose gross income over the past three years was derived from farming. In addition, the provision applies only to transfers of farmland, not of all real property.

11. Tax-exempt bonds for a regional pollution control authority

Present law

Tax-exempt industrial development bonds (IDBs) generally may not be used to acquire a facility, if a substantial user of the facility before acquisition remains as such thereafter (Code sec. 103). Additionally, under a rule enacted in the Deficit Reduction Act of 1984, IDBs may not be used to acquire any existing facilities unless a rehabilitation requirement is satisfied.

A provision enacted in 1982 permitted the Gulf Coast Waste Disposal Authority to acquire certain existing air or water pollution control facilities with the proceeds of IDBs.

House bill

No provision.

Senate amendment

The Senate amendment authorizes up to $200 million of IDBs for acquisition of 23 specific pollution control facilities for the Gulf Coast Waste Disposal Authority. This provision perfects the authorization for these bonds as originally enacted in 1982.

Conference agreement

The conference agreement follows the Senate amendment.

12. Netting of gains and losses by cooperatives

Present law

Cooperatives may exclude from their taxable income amounts distributed to patrons in the form of patronage dividends, and certain other amounts paid or allocated to patrons, to the extent of the net earnings of the cooperative from business done with or for patrons, provided that there is a pre-existing obligation to distribute such amounts (Code sec. 1382). Cooperatives that qualify as tax-exempt farmers' cooperatives also may exclude such amounts from income to the extent of all net income, and also may deduct to a limited extent dividends paid on common stock (sec. 521).

The Code does not contain any explicit provisions regarding whether a cooperative may offset the earnings and losses of its various allocation units in computing its net earnings for the purpose of determining the amounts to be distributed or allocated to patrons, or providing that a cooperative that so computes its net earnings may qualify as a tax-exempt farmers' cooperative. Under present law, the Code does not require a cooperative to notify its patrons that it has offset earnings and losses of its various allocation in computing its net earnings.

House bill

No provision.

Senate amendment

Netting.—The Senate amendment provides that a cooperative is not ineligible for treatment as a tax-exempt farmers' cooperative if it offsets certain earnings and losses in determining any amount available for distribution to patrons. For this purpose, the losses that are attributable to one or more allocation units (including a loss that is carried over from another year) may be offset against earnings of one or more other allocation units, but only to the extent such earnings and losses are derived from business done with or for patrons. Such patronage earnings and losses may be offset without regard to whether the allocation units whose earnings or losses are offset are functional, divisional, departmental, geographic, or otherwise.

The Senate amendment also provides that the offsetting of earnings and losses may be used, at the option of the cooperative, for computing its net earnings in determining the amount of patronage dividends to be paid or allocated to patrons. In addition, the Senate amendment provides that if a cooperative acquires the assets of another cooperative in a transaction specified in section 381(a) and exercises its option to offset earnings and losses, the acquiring cooperative may not, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of one or more of the allocation units of the acquiring or the acquired cooperative against earnings of the acquired or acquiring cooperative, respectively, to the extent that (a) the earnings that are offset are not properly allocable to periods after the date of acquisition, and (b) such earnings and losses could not have been offset if derived from allocation units of the same cooperative.

The provisions relating to netting generally are effective for taxable years beginning after December 31, 1962.

Notice requirement.—Cooperatives that engage in the practice of offsetting earnings and losses are required to notify their members that the amount of the member's distribution or allocation may have been affected by the cooperative's netting, effective for taxable years beginning after the date of enactment of the bill. The notice also must specify the identity of the allocation units whose earnings and losses have been offset, as well as what additional information the member is entitled to under governing law.

Conference agreement

The conference agreement generally follows the Senate amendment with modifications.

The conference agreement clarifies that if a cooperative acquires the assets of another cooperative in a transaction described in section 381(a) and exercises its option to offset earnings and losses, the acquiring cooperative may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of one or more allocation units of the acquiring or acquired cooperative against earnings of the acquired or acquiring cooperative, respectively, but only to the extent that (a) such earnings are properly allocable to periods after the date of acquisition,[1] and (b) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same cooperative.

13. Extension of moratorium on application of research and experimental expense allocation regulation

Present law

The foreign tax credit is limited so that it cannot offset U.S. tax on U.S. source taxable income. In general, the Code requires allocation of all expenses between U.S. and foreign source gross income to determine U.S. and foreign source taxable income. A Treasury Regulation (sec. 1.861-8) rule generally requires taxpayers with foreign source income from products in a product area in which the taxpayers do U.S. research to allocate part of their U.S. research and experimental expense against their foreign source income. In 1981, the Congress suspended this rule for two years, so that research expenditures made for research conducted in the United States were allocated against U.S. source gross income only. In 1984, the Congress extended the moratorium for two additional years. The moratorium generally expired for taxable years beginning after August 1, 1985.

[1] Where an acquisition takes place during a taxable year, the conferees intend that the cooperative's earnings for the entire year are to be allocated pro rata between the pre-acquisition and post-acquisition periods.

House bill

No provision.

Senate amendment

The Senate amendment effectively extends for one year, the moratorium on the application of the research and experimental expense allocation rules of Treas. Reg. sec. 1.861-8. For taxable years beginning on or before August 1, 1986, all of a taxpayer's research and experimental expenditures attributable to research activities conducted in the United States will be allocated to U.S. source gross income for purposes of computing U.S. source and foreign taxable income and taxable income from sources partly within and partly without the United States. The extension of the moratorium applies only to the allocation of research expenses for the purpose of geographic sourcing of income. It does not apply for other purposes, such as the computation of combined taxable income of a FSC (or DISC) and its related supplier.

Conference agreement

The conference agreement follows the Senate amendment.

14. Limitation on issuance of U.S. bonds

Present law

U.S. bonds have a maturity when issued of more than 10 years. The interest rate paid on U.S. bonds may not exceed 4¼ percent, except for $200 billion of bonds specified by statute that may be issued for sale to the public, at interest rates above 4¼ percent. This exception is expected to be exhausted during the first calendar quarter in 1986.

House bill

No provision.

Senate amendment

The Senate amendment increases the exception from the interest rate limitation on U.S. bonds from $200 billion to $250 billion. The increase is expected to meet Treasury's anticipated needs through calendar year 1986.

Conference agreement

The conference agreement follows the Senate amendment.

15. Awards of attorneys fees and other court costs in tax litigation

Present law

Attorneys fees for tax litigation and other court costs of up $25,000 may be awarded to a taxpayer who prevails in the litigation in a Federal court if the taxpayer shows that the Government's position in the litigation was unreasonable (Code sec. 7430). Under present law, this provision will not apply to court proceedings commenced after December 31, 1985.

House bill

No provision.

Senate amendment

The Senate amendment makes permanent the authorization of attorneys fees and other court costs for tax litigation under section 7430. Also, the Senate amendment makes the following modifications which would apply to court proceedings commencing after December 31, 1985:

(1) If it is determined that the taxpayer prevailed in the tax litigation, the burden is on the Government to show that its position was substantially justified or that special circumstances exist that make an award of litigation costs unjust;

(2) Whether an award is made is determined based upon a "substantially justified" standard;

(3) No award is allowed to a prevailing party who unreasonably protracted the proceedings;

(4) The $25,000 cap of present law is eliminated (as under present law, recoverable costs would not include costs of the administrative process); and

(5) Limits are imposed on hourly charges by attorneys and expert witness fees recoverable under the provision.

Conference agreement

The conference agreement follows the House bill (i.e., contains no provision).

16. Increase in IRS budget

Present law

The Administration's initial budget request for fiscal year 1986 recommended a decrease in IRS funding levels as compared with fiscal year 1985. The conference report on H.R. 3036 (the Treasury, Postal Service and General Government Appropriations Act for fiscal year 1986) would have restored that decrease and provided for an increase in fiscal year 1986 of $76 million over the Administration's revised budget request. The President vetoed H.R. 3036 on November 15, 1985.

House bill

The House bill provides a sense of the Congress resolution that both the restoration of the funding cuts initially proposed by the Administration to the IRS budget for fiscal year 1986 and the further increase in the IRS budget as recommended by the House Committee on Appropriations in H.R. 3036 as reported are necessary for the efficient operation of the Government and to carry out the purposes of the budget reconciliation bill.

Senate amendment

The Senate amendment authorizes to be appropriated $46.5 million for each of fiscal years 1986, 1987, and 1988 for the use of the IRS to employ 1,550 additional agents and examination employees. This appropriation is in addition to any other amounts authorized to be appropriated to the IRS for those fiscal years.

Conference agreement

The conference agreement includes the provisions of both the House bill and the Senate amendment.

5. Superfund revenue provisions

Present law

Trust fund provisions.—Amounts equivalent to taxes on petroleum and feedstock chemicals (described below) were deposited in the Hazardous Substance Response Trust Fund ("Superfund"). These taxes expired on September 30, 1985.

In addition to taxes, $44 million was authorized to be appropriated to the Superfund from general revenues for each of fiscal years 1981-85 (an aggregate of $220 million). Total tax and general revenue appropriations were intended to equal $1.6 million over the five-year period.

Amounts in the Superfund are available for cleanup and certain other expenditures in connection with hazardous substance release.

Petroleum taxes.—An excise tax of 0.79 cent per barrel was imposed on (1) crude oil received at a U.S. refinery, and (2) imported petroleum products. The tax expired on September 30, 1985.

Tax on feedstock chemicals.—A tax was imposed on the sale of 42 organic and inorganic substances ("feedstock chemicals") by a manufacturer, producer, or importer. The tax rates ranged from 22 cents per ton to $4.87 per ton of the specified feedstock chemical. The tax expired on September 30, 1985.

Exceptions to the tax were provided for:

(1) butane or methane used as a fuel;

(2) nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, if used to produce fertilizer;

(3) surfuric acid produced solely as a by-product of (and on the same site as) air pollution control equipment;

(4) any taxable feedstock to the extent derived from coal;

(5) petrochemicals used to manufacture or produce motor fuel, diesel fuel, aviation fuel, or jet fuel, and

(6) certain compounds which exist in transitory form in the process of refining non-taxable metal ores or compounds into other (or purer) non-taxable compounds.

Post-closure Liability Trust Fund and tax.—A separate trust fund, the Post-closure Liability Trust Fund, is to assume completely the liability of owners and operators of hazardous waste disposal facilities that have been granted permits and have been properly closed under Subtitle C of the Resource Conservation and Recovery Act (RCRA). The Fund also may be used to pay certain monitoring and maintenance costs.

An excise tax of $2.13 per dry weight ton was imposed on the receipt of hazardous waste at a qualified facility, in order to finance the Post-closure Fund.

The authority to collect the Post-closure tax expired on September 30, 1985.

Tax-exempt bonds for hazardous waste treatment facilities.—Tax-exempt industrial development bonds (IDBs) may be issued to financial solid waste disposal facilities (sec. 103(b)(4)(E)). Facilities for the disposal of liquid or gaseous waste (including most hazardous wastes) do not qualify for this financing.

Hazardous waste removal costs treated as qualifying distributions by private foundations.—To avoid penalty excise taxes, a private foundation must annually make expenditures or grants for charitable purposes in an amount (the "distributable amount") equal to five percent of the fair market value of its investments (sec. 4942).

House bill

No provision in H.R. 3128. On December 10, 1985, the House passed H.R. 2005, which included Superfund revenue provisions (title V). (The Committee on Ways and Means reported H.R. 2817 on October 26, 1985 (H. Rept. 99-253, Pt. 2), which included Superfund revenue provisions (title IV).)

Senate amendment

Trust fund provisions.—The Senate amendment reauthorizes revenues for the Superfund program for five years, and generally retains present law trust fund provisions, except:

(1) amounts equivalent to revenues from the Superfund Excise Tax are appropriated to the Trust Fund;

(2) no further appropriations are authorized from general revenues; and

(3) Trust Fund provisions are placed in the Internal Revenue Code.

Cumulative Superfund revenues are intended to be $7.5 billion over the five-year period (including interest on trust fund balances).

Petroleum tax.—The Senate amendment extends the prior law for five years, through September 30, 1990, effective October 1, 1985.

The tax would be suspended or terminated earlier than September 30, 1990, if cumu-

lative Superfund receipts from taxes and interest during the 5-year period reach $7.5 billion. The tax also would expire under certain circumstances if the unobligated balance of the Superfund exceeds $2.225 billion on September 30, 1988 or $3 billion on September 30, 1989.

Tax on feedstock chemicals.—The Senate amendment extends the present law tax for five years, through September 30, 1990 (with the same termination date provisions as for the petroleum tax).

Additional exceptions to the tax are provided for:

(i) exported feedstocks,

(ii) substances used to produce animal feed, and

(iii) domestically recycled nickel, chromium, or cobalt.

Certain inventory exchanges of chemicals are not treated as sales.

This provision generally is effective October 1, 1985. The amendment regarding inventory exchanges applies as of the original effective date of the feedstock chemicals tax. Exchanges before January 1, 1986, do not qualify for this treatment if the exchange was treated as a taxable sale by the taxpayer. Registration requirements apply to inventory exchanges on or after January 1, 1986.

Manufacturers' excise tax.—The Senate amendment imposes an excise tax on the sale, lease, or transfer of tangible personal property by the manufacturer of the property, in connection with a trade or business. The tax equals 0.08 percent of the sales price of, or gross lease payments for, the property (i.e., $8 of tax per $10,000 of taxable amount).

The tax also is imposed (at a 0.08 percent rate) on importers of tangible personal property based on the customs value plus duties (or, if no customs value is available, the fair market value) of the imported property.

The tax is deductible from Federal income taxes.

Under the Senate amendment, a credit equal to 0.08 percent of the taxpayer's qualified inventory costs is allowed against the tax. Credits may be carried forward but are not refundable. "Qualified inventory costs" are amounts paid or incurred for purchases of tangible personal property and which are allocable to the inventory of a manufacturer using the full absorption accounting method (unless otherwise provided in regulations). Property manufactured for lease is treated in the same manner as property manufactured for sale. In lieu of any allowance for depreciation or amortization, qualified inventory costs include amounts paid or incurred for depreciable or amortizable property (i.e., expensing treatment).

A manufacturer with $5 million or less of annual taxable receipts is effectively exempt from tax via a minimum $4,000 allowable credit. (The minimum credit is not available to importers, is nonrefundable, and may not be carried over).

Exemptions from the tax are provided for:

(1) Import shipments with an aggregate value of $10,000 or less.

(2) Items sold or leased (but not imported) by governmental units or organizations exempt from taxation under section 501(a) (Other than in unrelated trades or businesses).

(3) Exports from the United States.

"Manufacturing" includes mining, raw material production, and the production of tangible personal property. Manufacturing does not include services incidental to storage or transportation of property; preparation of food in a restaurant or other retail establishment; or incidental preparation of property by a wholesaler or retailer.

"Tangible personal property" includes natural gas and other gaseous products and materials. Tangible personal property does not include electricity, unprocessed agricultural products, or unprocessed food products.

The tax is effective on January 1, 1986 and terminates after December 31, 1990. The tax would be suspended or terminated earlier under similar conditions as the petroleum and feedstock chemical taxes.

GAO study.—The Senate amendment directs GAO to report to the Finance Committee by January 1, 1988, its findings on various mechanisms for financing the Superfund, including a study of the effect of a tax on hazardous waste on the generation and disposal of such waste.

Post-closure Liability Trust Fund and tax.—The Senate amendment repeals the Post-closure Liability Trust Fund and the associated waste disposal tax, effective October 1, 1985. Amounts in the Post-closure Trust Fund at that time are appropriated to the Superfund. Refunds of the tax (without interest) would be paid out of the Superfund, effective March 1, 1989, unless certain Congressional action has been taken prior to March 1, 1989.

IDB's for hazardous waste treatment facilities.—The Senate amendment allows tax-exempt IDBs to be issued to finance facilities for the treatment of hazardous waste, as these terms are defined under sec. 1004 of the Solid Waste Disposal Act. This exemption is limited to facilities which are subject to permitting requirements under RCRA.

Bonds issued under this provision would be subject to the income and other restrictions applicable to solid waste IDBs. The provision applies to bonds issued after the date of enactment.

Hazardous waste removal costs.—The Senate amendment provides that, subject to certain limitations, the distributable amount of a private foundation (under sec. 4942) is to be reduced by amounts paid or incurred by the foundation for removal or remedial action with respect to a hazardous substance release at a facility owned or operated by the foundation. This provision is effective for taxable years beginning after December 31, 1982.

Conference agreement

a. Hazardous Substance Superfund

The conference agreement redesignates the "Hazardous Substance Response Trust Fund" as the "Hazardous Substance Superfund" and continues and expands the Superfund by allocating to the fund amounts equivalent to revenues derived from expanded taxes on petroleum and chemical feedstocks; a new Superfund excise tax on manufacturers; and a tax (beginning in 1987) on imported substances derived from taxable chemical feedstocks or petroleum. Other amounts allocated to the Fund under present law (including penalties, punitive damages, amounts recovered on behalf of the fund, and interest on Trust Fund balances) are not affected by the conference agreement. Superfund revenues from taxes, general revenues, interest on Fund balances, and recoveries are estimated to total $9.5 billion over the reauthorization period.

Under the conference agreement, the expenditure purposes of the Superfund generally are amended to conform to the expanded list of Superfund activities under section 111 of CERCLA.

Termination provisions.—The petroleum tax, chemical feedstock tax, and the Superfund excise tax that finance the Superfund would terminate under either of two trigger mechanisms. First, these taxes would terminate at the end of the calendar quarter in which the Secretary estimates that the amount collected under these taxes exceeds $10 billion. Second, these taxes would terminate on September 30, 1988 (or September 30, 1989) if the Secretary determines that the unobligated balance of the Super fund exceeds $3 billion ($4 billion) and if the taxes were terminated the unobligated balance of the Superfund on September 30, 1989 (September 30, 1990) would exceed $3 billion ($4 billion).

The conference agreement generally continues the present law provisions regarding administration of the Superfund, and authorizes the Fund to borrow amounts from the Treasury as repayable advances for any authorized fund purpose. Any such advances are required to be repaid before September 30, 1990. The conference agreement also transfers the trust fund provisions to the Internal Revenue Code.

The conference agreement specifies that no funds raised for the Superfund, the Leaking Underground Storage Tank Trust Fund, or the Oil Spill Liability Trust Fund under the provisions of this agreement may be spent until authorization of these programs. The amendments to the Superfund trust fund provisions are effective on January 1, 1986. Special effective date provisions apply for certain of the Superfund taxes (as described below).

b. Excise tax on petroleum

The conference agreement re-enacts the prior law environmental excise tax on petroleum and increases the tax from 0.79 cent per barrel tax to 3.85 cents per barrel. This tax is to apply from January 1, 1986 through September 30, 1990. Thus, the conference agreement repeals the termination provisions of present law (sec. 4611(d)), which would have terminated the tax if the unobligated balance in the Superfund exceeded specified amounts, and section 303 of CERCLA, which provided for termination of the environmental excise taxes when aggregate tax collections exceed $1.38 billion.

In addition to re-enacting the petroleum tax as a Superfund financing source, the conference agreement imposes a new 1.3-cent per barrel tax on crude oil and imported petroleum products to finance the Oil Spill Liability Trust Fund (discussed below).

c. Excise tax on chemical feedstocks

Tax rates.—The conference agreement generally re-enacts the prior law environmental excise tax on chemical feedstocks. Specifically, the conference agreement provides that specified organic and inorganic substances sold by the manufacturer, producer, or importer are to be taxed in accordance with the following table (Table 1).

TABLE 1.—*Chemical feedstock tax rates under conference agreement, 1986*

[Dollars per ton]

Substance	*1986*
Organic Substances:	
Acetylene	4.87
Benzene	4.87
Butadiene	4.87
Butane	4.87
Butylene	4.87
Ethylene	4.87
Methane	3.44
Naphthalene	4.87
Propylene	4.87

Substance	1986
Toluene	4.87
Xylene	9.81
Inorganic Substances:	
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromite	1.52
Chromium	4.45
Cobalt	4.45
Cupric oxide	3.59
Cupric sulfate	1.87
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Nitric acid	0.24
Phosphorus	4.45
Potassium dichromate	1.69
Potassium hydroxide	0.22
Sodium dichromate	1.87
Sodium hydroxide	0.28
Stannic chloride	2.12
Stannous chloride	2.85
Sulfuric acid	0.26
Zinc chloride	2.22
Zinc sulfate	1.90

Beginning in calendar year 1987, the rates specified in Table 1 are to be adjusted for inflation. In the case of organic substances, the inflation adjustment for any year is to be the percentage by which the average producer price index for basic organic chemicals, published by the Bureau of Labor Statistics, for the 12-month period ending in September of the preceding year, exceeds the comparable average of the index for the 12 months ending in September 1985. In the case of inorganic substances the inflation adjustment for any year is to be the percentage by which the average producer price index for basic inorganic chemicals for the 12-month period ending in the preceding September exceeds the comparable average for the 12 months ending in September 1985. Tax rates would not be reduced below the levels shown in Table 1, even if the producer price index declines relative to 1985; however, if this occurs, the conferees expect to consider whether such a reduction is appropriate. It is anticipated that the Treasury Department will publish annual tables setting forth increased tax rates resulting from the inflation adjustment.

The conference has addressed a technical problem under prior law concerning the appropriate point at which to levy the tax on the production of xylene. Under the conference agreement, for purposes of this tax, xylene includes separated isomers of xylene only in the case of imported or exported xylene. The conference adopted this rule because it understands the separated isomers of xylene (meta-xylene, ortho-xylene, and para-xylene) are isolated from a mixed stream of xylenes produced in a reformation process. Accordingly, separated isomers will have been previously taxed (when the mixed stream of xylene is used in the reformation process) except when those separated isomers are imported; thus, the conference expects that no future loss of revenue will occur as a result of this provision. The conference agreement also repeals the prior law tax on xylene for periods before October 1, 1985. Manufacturers, producers, and importers of xylene who paid the tax under prior law will be permitted to obtain a refund of those taxes together with interest. To offset the resulting revenue loss, the tax rate on xylene in Table 1 incorporates an increase over the rates that would otherwise apply, in order to recapture the tax liability that had been expected under prior law for periods before October 1, 1985.

The conference agreement also includes a special rule with respect to nitric acid consumed by the manufacturer in the production of nitrocellulose. Under this rule, nitric acid used in this manner will continue to be taxed at not more than the prior law rate (24 cents per ton) applicable to that substance.

Exemptions.—The conference agreement repeals the prior law exemption for coal-derived feedstocks. The remaining prior law exemptions are retained.

In addition to prior law exceptions, the conference agreement provides three new exceptions to the chemical feedstocks tax:

Exports of taxable chemicals.—The conference agreement provides that the tax on chemical feedstocks does not apply to feedstocks that are exported from the United States. In particular, any feedstock that is sold by the manufacturer or producer for export, or for resale to a second purchaser for export is exempt from tax.[2] If the purchaser cannot certify in advance that a feedstock will be exported, or if a tax has otherwise been paid on the exported feedstock, the person who paid the tax could claim a refund or credit (without interest) for the amount of the tax previously paid. Such person would be required to pay the amount refunded or credited to the exporter, or to obtain the exporter's written consent to his receiving the credit or refund. The Treasury is authorized to prescribe necessary regulations for administering these provisions.

Substances used to produce animal feed.—An exemption from the feedstock tax is provided for nitric acid, sulfuric acid, or ammonia (or methane used to produce ammonia) used in a qualified animal feed use by the manufacturer, producer, or importer, or sold for use (or for resale for ultimate use) in a qualified animal feed use. Qualified animal feed use means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements. Under Treasury regulations, if tax is paid and a qualifying substance is subsequently used in a qualified animal feed use, the person so using the substance is entitled to a credit or refund (without interest) of the tax paid. Conversely, if an exemption is allowed and a substance is subsequently sold or used for a non-animal feed purpose, the person so selling or using the substance is to be subject to tax as if such person had manufactured the substance.

Certain recycled metals.—An exemption is provided under the conference agreement for nickel, chromium, or cobalt which is diverted or recovered in the United States from solid waste (as defined under section 1004 of the Solid Waste Disposal Act) as part of a recycling process (and not as part of the original manufacturing or production process). The exemption does not apply to metals which are diverted recovered from the byproduct, coproduct, or other waste of a metal refining, smelting, or other extraction process.

The recycling exemption does not apply for any period during which the taxpayer has failed to complete a corrective action required by EPA (or an authorized State program) under CERCLA or the Solid Waste Disposal Act. The exemption also does not apply to taxable substances which are recycled outside the United States.

For purposes of the credit for previously taxed chemical feedstocks, recycled metals that are exempt under this provision are treated as previously taxed (effectively preventing the imposition of further tax on the metal).

Exchanges of taxable chemicals.—The conference agreement provides that, when a manufacturer, producer, or importer exchanges a taxable chemical, as part of an inventory exchange with another person, the exchange is not to be treated as a taxable sale for purposes of the feedstock tax. Instead, the person receiving the chemical in the exchange is to be treated as the manufacturer, producer, or importer (as appropriate), and the tax is to be imposed upon the later sale (or use) by such person. Further, beginning January 1, 1986, the rule would apply only if (1) both parties to the exchange have registered with the Treasury Department as manufacturers, producers, or importers of taxable chemicals, and (2) the person receiving the chemical has notified the person exchanging the chemical of the recipient's registration number and Internal Revenue district.

For purposes of this provision, an inventory exchange is defined as an exchange of properties each of which is property described in section 1221 of the Code (relating to inventory, stock-in-trade, and property held primarily for sale to customers in the ordinary course of trade or business) with respect to both the transferor and transferee of the property. A transaction may be treated as an exchange although one or both parties pay reasonable transportation or similar costs in connection with the exchange.

The provision regarding tax-free exchanges is retroactive to the original effective date of the feedstock tax. However, for exchanges before January 1, 1986, the provision does not apply unless (1) the manufacturer, producer, or importer treated the exchange as a tax-free transaction for purposes of the feedstock tax, and (2) there was an agreement (including a blanket agreement covering a series of transactions) that the person receiving the taxable chemical would be treated as the manufacturer, producer, or importer of the chemical for purposes of the tax.

Termination date.—The chemical feedstocks tax expires after September 30, 1990.

Effective date.—The re-enactment of and modifications to the chemical feedstocks tax are effective January 1, 1986.

d. Tax on imported chemical derivatives and credit—for exported deviations

The conference agreement imposes a new tax on imported substances more than 50-percent of the value of which is derived from taxable feedstocks (as defined under sec. 4662) that are used as feedstock materials or as process fuels. The 50-percent test is determined using the predominant method of production for the product. The Treasury Department is directed to issue regulations identifying the specific products which are subject to the tax based on this criterion. The Treasury is to have authority to change this list at any time; however, only items identified in the regulations at the time of

[2] Rules similar to the rules of section 4221(b) (regardless of proof of export for excise tax purposes) would apply for this purpose.

sale or use by the importer would be subject to the tax.

The amount of tax imposed on any taxable imported substance is to be equal to the amount of tax which would have been imposed (under secs. 4662) on the component taxable feedstocks (that are used as feedstock materials or process fuels in the manufacture of the import), had these components been sold in the United States for an equivalent use. If the importer does not furnish sufficient information (as established by Treasury regulations) to determine the amount of tax under this method, then the tax is to be imposed at a rate determined by the Treasury based on the composition of imported derivatives determined by using the predominant method of production. These rates will be adjusted annually to account for indexing. If no such rates are published by Treasury and the importer does not furnish sufficient information, a rate of 5 percent of the appraised value of the imported substance at the time of import applies.

The tax is imposed on the sale or use of taxable substances by the importer thereof. Importers subject to tax include any person entering a taxable substance into the United States for consumption, use, or warehousing. The term "United States" is defined as it is for purposes of the petroleum and feedstocks taxes. If an importer uses a taxable substance, tax is imposed on the importer as if he had sold the substance. Revenues from the tax are not to be paid to Puerto Rico and the Virgin Islands under the cover over provisions of section 7652 of the Code. The tax on imported chemical derivatives does not apply to any substance if the petroleum tax (sec. 4611) or the chemical feedstock tax (sec. 4661) is imposed on the sale or use of such substance.

The tax on imported chemical derivatives and the credit for exports is effective on January 1, 1987.

A credit would be provided for exports of substances more than 50-percent of the value of which is derived from taxable feedstocks (as defined in sec. 4662) that are used as feedstock materials or process fuel. The amount of credit for any exported substance is to be equal to the amount of tax which was imposed under section 4662 on the component taxable feedstocks. If the exporter does not furnish sufficient information, then the amount of credit is to be determined by Treasury based on the composition of derivatives using the predominant method of production.

e. Study of trade impact of waste management tax

The Department of the Treasury and GAO are instructed to evaluate the effect of a waste management tax on the generation and disposal of hazardous waste and the ability of domestic manufacturers to compete in international trade, and to deliver recommendations for mitigating any adverse trade impacts to the House Committee on Ways and Means and the Senate Finance Commiittee by October 1, 1987. The study is to include recommendations regarding an export credit, an import equalization fee, and a cap on the amount of tax for economically distressed industries.

f. Superfund excise tax

General rules

The conference agreement establishes a new Superfund Excise Tax on manufacturers and importers. The tax, which is at a 0.1 percent rate, is imposed on the sale, lease, or import of tangible personal property by the manufacturer or importer of property. Exports of tangible personal property are exempt. In addition, unprocessed agricultural products, food, fertilizer, and unprocessed timber are exempt. To avoid the imposition of duplicative taxes in multi-stage production, manufacturers will be allowed a credit based on their purchases of tangible personal property (e.g., materials and equipment) allocable to the manufacturers of tangible personal property. Small manufacturers (with less than $10 million of otherwise taxable receipts) and small import shipments (under $10,000) are exempt from the tax.

Imposition of the tax

Under the conference agreement, the Superfund Excise Tax is imposed on the sale or lease (in connection with a trade or business) of tangible personal property by the manufacturer. The tax is generally imposed on the sale or leasing of tangible personal property for use, consumption, or disposition in the United States.[3] The tax is not imposed on sales or leases of tangible personal property for use outside the United States. The tax rate is 0.1 percent ($10 per $10,000 of taxable amount). The taxable amount in the case of a sale is the price (in money or the fair market value of other consideration) charged to the purchaser by the seller, including consideration) charged to the purchaser by the seller, including items payable to the seller during the taxable period with respect to the transaction (including Federal, State, and local sales and excise taxes, other than the Superfund Excise Tax and certain other specified Federal excise taxes on manufacturers, imposed on the transaction). A transfer or exchange, other than a gift within the meaning of sections 102 or 170 of the Code, is treated as a sale for purposes of the Superfund Excise Tax.

In the case of a lease by the manufacturer of the taxable property, the taxable amount is the gross lease payments received during the taxable period (including Federal and State sales and excise taxes, other than Superfund Excise Tax and certain other specified Federal excise taxes on manufacturers, imposed on the lease). The tax applies to lease payments received (or considered received under the partial year proration rules described below) during the period the Superfund Excise Tax is in effect, regardless of when the lease was entered into. The manufacturer is liable for the tax.

The sale or lease of tangible personal property by a person who included the cost of such property in qualified inventory cost is treated as a sale or lease by the manufacturer. Thus, the tax applies to the resale or sublease of tangible personal property in the same manner that the tax applies to the originalsale or lease of the tangible personal property. This rule prevents the claiming of excess credits with respect to resales or subleases.

The tax is also imposed on the import of tangible personal property into the United States by the importer of the tangible personal property. The taxable amount is the customs value plus customs duties (and any other duties) that may be imposed. The tax on imports is to be collected in the same manner as duties by the customs service. Shipments for which the taxable amount is less than $10,000 are exempt from the tax. The importer is liable for the tax.

The Superfund Excise Tax is deductible in determining Federal income tax liability.

Definitions and special rules

Manufacturer.—"Manufacturer" includes any producer of tangible personal property, including raw materials. The conferees intends that the term "manufacturer" be read broadly to include mining and extraction. The categories of mining and manufacturing establishments set forth in Divisions B and D of the Standard Industrial Classification ("SIC") Manual, published by the Office of Management and Budget, generally reflect the conferees' intent as to the proper line separating manufacturing from nonmanufacturing activity. The SIC Manual generally excludes from manufacturing agriculture, forestry, fishing and construction. The production of films, videos, tapes, discs, and records would be treated as manufacturing for purposes of the Superfund excise tax.

The following activities are not taken into account for purposes of determining whether a person is a manufacturer. Manufacturing does not include services furnished incidental to the storage or transportation of property or the incidental preparation of property by a retailer or wholesaler, including routine assemblage. For example, the incidental preparation of property would include the routine preparation of an automobile for the retail customer by a retail automobile dealer.

Tangible personal property.—Tangible personal property, for purposes of this tax, generally includes all property that is not either real property or intangible property. It includes gases, such as natural gas, and other gaseous materials, but does not include electricity.

Tangible personal property does not include mineral rights (including oil or gas rights), since these interests are themselves considered to be real property. Minerals (or oil or gas) are, however, considered to be tangible personal property after they have been mined or otherwise extracted. Additionally, tangible personal property does not include rights to or interests in intellectual property, such as copyrights or royalty payments on property such as books. These interests are considered to be intangible property. Tangible personal property does, however, include the actual property produced, such as the books or other printed material produced by the manufacturer.

Containers, transportation charges, constructive sales price.—The Secretary of the Treasury is to issue regulations specifying that charges for coverings, containers, and packing are included in the taxable amount. The regulations are also to provide that (1) transportation (including pipeline transportation) and related charges (including insurance and installation) and (2) the Superfund Excise Tax and certain other specified Federal excise taxes imposed on manufacturers (but no other excise tax) are excluded from the taxable amount (but only to the extent the amount of the transportation and related charges is established to the satisfaction of the Secretary in accordance with regulations).

The regulations are also to provide rules establishing a constructive sales price when, for example, a manufacturer sells directly at retail or sells only or primarily to related persons. If a natural gas pipeline company sells natural gas that it has produced itself ("pipeline-owned" production), these Treasury regulations should provide that the constructive sales price for purposes of the Su-

[3] For these purposes, the United States includes the 50 States, the District of Columbia, and any Commonwealth or possession of the United States.

perfund Excise Tax is the price established under the Natural Gas Policy Act and Federal Energy Regulatory Commission (FERC) regulations. These FERC regulations treat pipeline-owned production in the same manner as natural gas produced by an affiliated company. The natural gas is considered sold, for purposes of the Superfund Excise Tax, when it is transferred from the well to the pipeline.

These regulations are to be similar to the rules of sections 4216 (a) and (b) (relating to containers, packing, and transportation charges, and constructive sales prices for excise tax purposes).

Timing of receipt and expenses.—In computing the taxable amount and qualified inventory costs of a taxpayer, an amount shall be treated as recognized, paid, or incurred at the time it is recognized, paid, or incurred under the taxpayer's method of accounting for Federal income tax purposes.

A special rule applies to installment sales. The taxable amount of the seller includes, for a taxable period, only the principal payments received during that taxable period. The qualified inventory costs of the buyer includes, for a taxable period, only the portion of the costs corresponding to the principal paid during the taxable period. Thus, the seller is taxed, and the buyer obtains credit for the item purchased, over the term of the installment sale. This rule matches the timing of the seller's tax with the timing of the buyer's credits.

Credit against tax

The conference agreement provides manufacturers a credit against the Superfund Excise Tax that is the greater of two amounts:

(1) The first amount is equal to the Superfund Exicse Tax imposed on sales and leases (but not imports), to the extent it does not exceed $10,000.[4] Persons under common control (whether corporations, partnerships, proprietorships, or other entities) are to be treated as one taxpayer for purposes of the standard $10,000 credit. The rules of section 52 (originally drafted for purposes of the targeted jobs credit) apply to determine whether persons are under common control. Thus, a manufacturer (but not an importer) with a taxable amount of $10 million or less would be exempt from the tax ($10 million times 0.1 percent equals $10,000).

(2) The second amount is equal to the qualified inventory costs of the taxpayer multiplied by 0.1 percent.

The conferees recognize that these rules may provide the taxpayer with a credit against tax that is larger than the tax actually paid. (For example, sellers with less than $10 million of receipts are exempt, and buyers include Superfund and other manufacturers' excise taxes as well as wholesale margins in computing credits.) Excess credits could be avoided by limiting the credit to the amount of tax shown on invoices; however, the desire of the conferees to make administration of the tax as simple as possible, in conjunction with the low rate of tax, outweighs concerns about the technical perfection of the credit mechanism.

Qualified inventory costs are direct material and other costs (including the Superfund Excise Tax on such materials) of tangible personal property that are allocable to the manufacturer's inventory and are paid or incurred during the taxable period for which the manufacturer is liable for the Superfund Excise Tax. Thus, the inventory tax accounting rules used in the definition of qualified inventory costs identify the items includible in qualified inventory costs, but not the time when the cost of these items is recognized for purposes of the Superfund Excise Tax. The cost is recognized at the time it is paid or incurred by the manufacturer.

Qualified inventory costs for any taxable period are amounts paid or incurred during the taxable period for tangible personal property (other than exempt products and property used to manufacture exempt products) which is allocable to the inventory of a manufacturer under the full absorption method of accounting (sec. 471). Exempt products include food, fertilizer, and unprocessed agricultural, fishery, and timber products (see below). Taxpayers that do not use the full absorption method of inventory accounting for income tax purposes are, nevertheless, required to use the standards of full absorption accounting for purposes of determining qualified inventory costs.

In lieu of any allowance for depreciation and amortization, with respect to tangible personal property, qualified inventory costs include the amount paid or incurred for such property in the year placed in service.[5] In the case of any tangible personal property purchased under the installment method, the cost of such property shall be taken into account, for purposes of determining qualified inventory costs, only when paid (see above).

Qualified inventory costs generally include the cost of utilities subject to the Superfund Excise Tax. Thus for example, the cost of natural gas, but not the cost of electricity would be included in qualified inventory costs. Qualified inventory costs include lease payments on qualifying equipment paid or incurred during the period the Superfund Excise Tax is in effect. Qualified inventory costs do not, however, include any cost or amount with respect to an item acquired before the effective date of the tax. Additionally, qualified inventory costs do not include the inventory costs of any nonmanufacturing operation. For purposes of computing qualified inventory costs, tangible personal property that is manufactured for lease is treated in the same manner as property that is manufactured for sale.

The amount of the credit allowed to be claimed for a particular taxable period may not exceed the liability for the Superfund Excise Tax. The amount by which the credit for qualified inventory costs exceeds the liability for a particular taxable period may be carried to the next taxable period and added to the credit potentially allowable for that period. No carryover is permitted for the excess, if any, of the standard $10,000 credit over the tax liability for any taxable period.

The conference agreement also provides that the amount of the Superfund Excise Tax credit for any particular item of tangible personal property must be subtracted from the income tax basis of that item. The amount of the basis adjustment is determined as 0.1 percent of the cost of the property included in qualified inventory costs. (In the case of an installment sale, the basis adjustment is computed as 0.1 percent of the principal amount of the installment obligation). Taxpayers not otherwise required to file returns for this tax must file returns and make this basis adjustment to claim the item of tangible personal property in qualified inventory costs.

The credits will carry over in a corporate reorganization in any situation in which there is a carryover of credits under section 381.

Exempt transactions

The conference agreement exempts several types of transactions from the Superfund Excise Tax. First, the Superfund Excise Tax is not imposed on the sale of any property that is to be exported outside the United States, as provided in regulations. The conferees intend that these regulations follow the principles of section 4221(b) (relating to excise taxes), and the regulations thereunder, for purposes of proving that an article has been exported. In particular, the conferees intend that Treasury regulations adopt the rule in section 4221(b) that provides that the exemption from tax ceases to apply to the sale of an article unless, within six months of the earlier of either the date of sale or date of shipment by the manufacturer, the manufacturer receives proof that the article has be n exported.

The confe nce agreement exempts from the Superfund Excise Tax the sale or lease of tangible personal property by the United States or any other governmental entity or by an organization that is exempt from the income tax under section 501(a) (unless the transaction is part of an unrelated trade or business within the meaning of section 513). Imports by governmental entities and organizations that are exempt from the income tax are subject to the Superfund Excise Tax.

The conference agreement exempts small imports from this tax. A small import is any shipment (whether formal or informal) the taxable amount of which is less than $10,000. The conferees intend that "shipment" be interpreted for purposes of this tax in the same manner that it is generally interpreted for customs purposes. Thus, a shipment is generally all articles on one carrier for one consignee on one day.

The conference agreement exempts from the tax food (whether for humans or animals), any product used as fertilizer, unprocessed agricultural or fishery products, and unprocessed timber. The term "food" does not include pharmaceuticals or other forms of medicine, whether available over the counter or by prescription only. Food generally includes beverages, except that it does not include alcoholic beverages. Food does include any additives. Any material, component, or packaging of food or fertilizer is considered to be part of the food or fertilizer. The conferees intend that Treasury regulations coordinate the definitions of unprocessed agricultural products and food products with the 5-digit tariff code for purposes of exempting from this tax imports of these items.

Time for filing returns and related administrative matters

Taxpayers are required to file a Superfund excise tax return annually, at the same time they file their regular income tax return. Thus, for example, a corporation that has as its taxable year the calendar year would be required to file the Superfund Excise Tax return by March 15 of the following year, which is the same date that

[4] This amount is prorated for taxable periods that do not include 12-full months. Thus, for example, a manufacturer subject to this tax for 6 months of a 12-month taxable year would be entitled to a maximum credit of $5,000 under this provision. The amount is also prorated for short taxable periods.

[5] If only a portion of depreciation or amortization is allocable to the inventory of a manufacturer, then the same portion of the amount paid or incurred for the property is allocable to qualified inventory costs.

its corporate income tax return (Form 1120) is due. As with other tax returns, the Secretary may grant a reasonable extension of time for filing a Superfund Excise Tax return (*see* sec. 6081).

The conference agreement provides that a manufacturer who has $10 million or less of aggregate receipts from the sale or lease of tangible personal property (excluding exports) is not required to file a Superfund Excise Tax return.[6] These taxpayers have no tax liability because of the credit mechanism (described above). Taxpayers who are under common control are treated as one person for purposes of this exemption from the requirement to file a return. In addition, the Secretary may provide by regulations that certain other taxpayers with more than $10 million of sales or lease receipts, but who may have no tax liability, need not file returns. Taxpayers not otherwise required to file returns must, however, file returns and make the income tax basis adustment (described above) in order to claim items of tangible personal property in qualified inventory costs to carry forward credits into future years.

The taxable period for which liability for the Superfund excise tax must be determined is the taxable person's taxable year for purposes of the income tax. If the taxpayer does not have a taxable year for purposes of the income tax, then the taxable period for purposes of the Superfund Excise Tax is the calendar year.

The penalties for failure to file a tax return or to pay tax that are applicable to the income tax (sec. 6651) are made applicable to the Superfund Excise Tax. In addition, the civil negligence penalty (sec. 6653(a)) that is applicable to the income tax is made applicable to the Superfund Excise Tax. The criminal penalties of the Code are generally applicable to the Superfund Excise Tax.

The conference agreement generally requires that the Superfund Excise Tax be deposited quarterly after the first taxable period in which a taxable sale or lease occurs. For the first taxable year that a manufacturer is potentially subject to this tax, any manufacturer is potentially subject to this tax, any manufacturer with more than $50 million of sales or lease payments determined in the prior year is required to deposit quarterly. (For this purpose, controlled groups are treated as one taxpayer.) In subsequent taxable years, any manufacturer not previously liable for a payment of Superfund Excise Tax will not be required to deposit quarterly. Thus, for example, a manufacturer who paid Superfund Excise Tax for 1986 would be required to deposit quarterly in 1987, whereas a manufacturer not required to pay any Superfund Excise Tax in 1986 would pay the Superfund Excise Tax (if any) for which the manufacturer is liable for 1987 with the manufacturer's return. The existing penalty for failure to make deposits (Code sec. 6656) applies to failures to deposit the Superfund Excise Tax. This penalty will not apply, however, if the manufacturer deposits at least the lesser of 90 percent of the tax due or 100 percent of the previous year's liability.[7]

The tax on imports is to be collected in the same manner as duties by customs agents. Consequently, the conference agreement does not specify deposit rules for the tax on imports.

Revenues from the Superfund Excise Tax are not paid to Puerto Rico or the Virgin Islands or any other possession or territory under the cover over provisions of section 7652 of the Code or similar provisions.

The Secretary of the Treasury is authorized to issue regulations to carry out the purposes of the Superfund Excise Tax.

Effective dates

The Superfund Excise Tax applies with respect to taxable amounts received or accrued after April 1, 1986. The tax will not apply with respect to taxable amounts received or accrued after March 31, 1991.

The conference agreement provides special rules for any taxable period including but not beginning on April 1, 1986 or April 1, 1991. In the case of such a taxable period, the taxpayer must, in computing its taxable amount and credit for the Superfund Excise Tax, prorate its receipts and purchases on a daily basis. For example, a taxpayer whose taxable year runs from May 1 through April 30 must, under this special rule, prorate 30/365 of its receipts and 30/365 of its purchases as representing those amounts for the period for May 1 through April 30, 1986. In addition, the $10,000 standard credit similarly would be prorated.

h. Repeal of Post-Closure Liability Tax and Trust Fund

The conference agreement retroactively repeals the tax on hazardous wastes under section 4681 of the Code, effective October 1, 1983, and terminates the Post-Closure Liability Trust Fund as of that date. Refunds (with interest) would be allowed for taxpayers who paid taxes on hazardous wastes under section 4681.

i. Leaking Underground Storage Tank Trust Fund and Tax

a. Leaking Underground Storage Tank Trust Fund

The conference agreement establishes a new trust fund, the Leaking Underground Storage Tank Trust Fund, under the Internal Revenue Code. The purpose of this trust fund is to pay for the costs of corrective actions involving leaks of petroleum and petroleum products from underground storage tanks. The Trust Fund generally is to be used to pay cleanup and related costs involving tanks where no solvent owner can be found, or the owner or operator refuses or is unable to comply properly with a corrective action order necessary to protect human health and the environment. The Trust Fund would also be available to provide grants to States authorized to carry out corrective actions. Claims filed against the Trust Fund may be paid only out of such Trust Fund. Claims in excess of the Trust Fund balance shall be paid in full (to the extent of such balance in the order in which the claim was finally determined.

The trust fund will be financed by (1) a tax on gasoline, diesel and special motor fuels (described below), (2) interest on balances in the Trust Fund, and (3) amounts recovered from responsible parties for costs incurred by the Administrator of the EPA (or by State) in undertaking a corrective action with respect to the release of petroleum and petroleum products from an underground storage tank.

The conference agreement provides that amounts in the Trust fund may not be expended until the Solid Waste Disposal Act (or other provision of law) is amended to authorize a program to clean up leaks of petroleum and petroleum products from underground storage tanks.

b. Tax on gasoline, diesel and special motor fuels

Under present law, an excise tax is imposed on gasoline sold by a producer or importer thereof (sec. 4081), and on the sale (or use) of diesel fuel and special motor fuels (sec. 4041). Special motor fuels include benzol, benzene, naptha, liquid petroleum gas, casing head and natural gasoline, and any other liquid (other than kerosenes, as oil, fuel oil, or gasoline) sold for use in motor vehicles or motor boats. No tax is imposed on diesel and special motor fuels used for use on a farm for farming purposes. Gasoline, diesel and special motor fuels sold for use as a fuel in an aircraft in noncommerical aviation are taxable. Exemptions are provided for certain aircraft museums and helicopter uses. Gasoline mixed with certain alcohol products is subject to tax at a reduced rate.

Under the conference agreement, an additional tax of 0.2 cent per gallon is imposed on the sale (or use) of gasoline, diesel and special motor fuels subject to tax under sections 4041, 4042 and 4081 of the Code Tax is also imposed on liquid fuels used in boats, planes, and trains. Revenues from this tax, or equivalent amounts, are to be deposited in the Leaking Underground Storage Tank Trust Fund.

The tax is effective on January 1, 1986. The tax terminates after September 30, 1990. Earlier termination would occur at the end of any month in which the Secretary of the Treasury first determined that cumulative net revenues equal or exceed $850 million.

j. Oil Spill Liability Tax and Trust Fund

a. Oil Spill Liability Trust Fund

Expenditure purposes.—The conference agreement establishes an Oil Spill Liability Trust Fund under the Internal Revenue Code. Amounts in the Trust Fund are available for the payment of removal costs incurred in cleaning up or preventing oil pollution from vessels or offshore facilities, including costs incurred by government officials in carrying out oil pollution cleanup requirements under the Federal Water Pollution Control Act and the Intervention on the High Seas Act. The fund may also be used to pay removal costs the liability for which is transfered to the fund from the Deepwater Port Liability Fund (established under the Deepwater Port Act of 1974) or the Offshore Oil Pollution Compensation Fund (established under the Outer Continental Shelf Lands Act Amendments of 1978). No fund moneys may be used to pay natural resource damage claims or to pay governmental entities for costs incurred other than for removal actions and related administrative costs. Funds could be used for compensating loss or income and private

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[6] This exemption is prorated for taxable periods that do not include 12 full months. Thus, for example, a manufacturer subject to this tax 6 months of a 12-month taxable year would not be required to file a return if it had less than $5 million of sales or lease receipts in that taxable year. This exemption is also prorated for short taxable periods.

[7] A taxpayer may avoid this penalty with respect to any year the taxpayer is liable for Superfund Excise Tax by depositing at least 90 percent of the tax due for that taxable year. A taxpayer may, however, avoid this penalty with respect to a year the taxpayer is liable for this tax by depositing 100 percent of the previous year's liability for this tax only if the taxpayer prorates this amount for a full 12-month period. Thus, if a taxpayer was liable for $100,000 of Superfund Excise Tax for its taxable year July 1, 1985 through June 30, 1986, the taxpayer would be considered to have deposited 100 percent of the previous year's liability by depositing $400,000.

damage claims under certain circumstances. No amounts could be paid for loss of State and local tax revenue.

Amounts in the Trust Fund are available to pay contributions to the fund established by the 1984 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, if this convention (and a related liability convention) comes into force with respect to the United States. Trust Fund moneys may also be used to pay administrative costs. However, such contributions shall be reduced to the extent that the International Fund is used for expenditure purposes that are not permissible uses of the Oil Spill Liability Trust Fund.

The liability of the Trust Fund cannot exceed $200 million for any single incident.

The conference agreement provides that amounts in the Trust Fund may not be expended until a program is authorized to clean up or prevent oil pollution from vessels or offshore facilities.

Claims against the Trust Fund can be paid only out of the Trust Fund. If the fund is unable to pay all claims, claims will be paid in full (subject to the limitations above) in the order in which the claims are finally determined.

Other financing sources

The following amounts are to be deposited in the Trust Fund:

(1) A 1.3-cents-per-barrel tax on crude oil and imported petroleum products (described below),

(2) Amounts recovered, collected, or received from responsible parties under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act, as reported by the authorizing committees,

(3) Amounts remaining in the Deepwater Port Liability Fund and the Offshore Oil Pollution Compensation Fund after the new Trust Fund and petroleum tax become effective,

(4) Income on Trust Fund investments, and

(5) The proceeds of authorized borrowing by the Fund (which is not to exceed $300 million in outstanding indebtedness at any time).

Effective date.—These provisions are effective on January 1, 1986.

b. Tax on petroleum

Imposition of tax.—The conference agreement imposes a new excise tax of 1.3 cents per barrel on domestic crude oil and on petroleum products (including crude oil) imported into the United States. The tax is imposed on the same crude oil and petroleum products, and is subject to the same definitional and other provisions, as is the Superfund petroleum tax (discussed above), and is in addition to that tax. Amounts equivalent to the revenues from the tax are to be deposited in the Oil Spill Liability Trust Fund.

The collection, enforcement, and penalty provisions that are applicable to the Superfund petroleum tax are also applicable to this petroleum tax.

Effective date.—The tax applies from January 1, 1986 through September 30, 1990.

k. Hazardous waste removal costs treated as qualifying distributions by private foundations

Senate recedes to the House (no provision).

l. IDBs for hazardous waste treatment facilities

House recedes to the Senate (Senate provision is included).

TITLE XIV.—GENERAL REVENUE SHARING

Senate amendment

The current authorization of the general revenue sharing program, which provides unrestricted grants totaling $4.6 billion annually to local governments, is scheduled to expire on September 30, 1986. The Senate amendment would terminate the program on October 1, 1986, by a repeal of the Revenue Sharing Act.

Under the Senate amendment, local governments would have until March 1, 1986 to demand an adjustment in future payments for prior underpayments or overpayments. In addition, amounts paid to local governments would have to be used, obligated or appropriated by such governments by April 1, 1987. Only such sums as are necessary for the purposes of administering the provisions of this section and the orderly phaseout of the Revenue Sharing Program are authorized for fiscal year 1987.

House amendment

No provision.

Conference agreement

Generally follows the Senate amendment, but incorporates several changes. Although the current authorization expires on September 30, 1986, the repeal of the Revenue Sharing Act would be delayed until the earlier of December 31, 1986 or adjournment sine die of the 99th Congress. In no event would an early effective date prevent the payment of any allocation for the fiscal year 1986 entitlement period, including any funds held in reserve pursuant to Section 6702(d) of Title 31, U.S.C.

In addition, local governments would be required to have used, obligated or appropriated payments to them by October 1, 1987. This allows local governments six months more to allocate such funds than was available under the Senate amendment.

As under the Senate amendment, only such sums as are necessary to administer the provisions of this section are authorized for Fiscal Year 1987.

TITLE XV.—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

POSTAL SERVICE ISSUES

1. Reduction of authorization for revenue forgone

House provision

The House bill (Sec. 7104(a)) limits the FY 1986 authorization for the "revenue forgone" appropriation to $749 million. (The revenue forgone appropriation subsidizes the postage rates paid by nonprofit organizations and other "preferred rate" mailers.)

Senate provision

The Senate bill (Sec. 801) contains a substantially similar provision

Conference agreement

The conference agreement contains the House language.

2. Reduction of transitional appropriation

House provision

The House bill (Sec. 7104(b)) reduces to zero the amount authorized to be appropriated for FY 1986 for the transitional appropriation to the Postal Service. (The transitional appropriation is used by the Postal Service to reimburse the Department of Labor for workers' compensation costs arising from injuries to employees of the pre-1971 Post Office Department). The House bill further provides that the amount which would have been authorized for this appropriation for FY 1986 shall be authorized for FY 1989, in addition to the amount already authorized for FY 1989 pursuant to 39 U.S.C. 2004. The House bill provides further that the Postal Service's obligations for FY 1986 shall be met using any amounts in the Postal Service Fund.

Senate provision

The Senate bill (Sec. 802) provides that no funds shall be appropriated for the FY 1986 transitional appropriation prior to FY 1989.

Conference agreement

The conferees agree to delete both provisions.

3. Delay of step 16 rates to January 1, 1986

Senate provision

The Senate bill (Sec. 803) provides that the increase in postage rates for nonprofit organizations and certain other mailers announced by the Postal Service Board of Governors on September 6, 1985, shall not take effect until January 1, 1986. The Senate bill also amends section 3626(a) of title 39, United States Code, to eliminate the rate "phasing" schedule and provide that effective January 1, 1986, the rates paid by nonprofit organizations and other affected mailers will recover the full costs attributable to their mail.

House provision

The House has no comparable provision.

Conference agreement

The House recedes and concurs with an amendment making it clear that the rate increase announced by the Board of Governors in Resolution No. 85-7 shall not take effect before January 1, 1986 and that any changes in rates shall be established in accordance with chapter 36 of title 39, United States Code. Additionally, in order to obtain needed savings, the conferees agree to eliminate the authorization for that part of the revenue forgone appropriation which makes possible the "limited circulation" second-class rate. The conferees intend that this rate be eliminated upon enactment.

4. Appropriation ceiling and study concerning third-class commercial material mailed at reduced rates

Senate provision

The Senate bill (Sec. 804) reduces by 50 percent the authorized appropriation for FY 1987 and FY 1988 for third-class nonprofit bulk rate mail which advertises or promotes the sale of, recommends the purchase of, or announces the availability of any article, product, service, insurance, or travel arrangements. The Senate bill also directs the Postal Rate Commission to prepare and transmit to Congress within 6 months of enactment a report containing legislative recommendations to achieve the required 50 percent savings. The Commission's study shall also include second-class nonprofit rate and fourth-class library rate mail. The Commission is to invite and consider the views of all interested parties.

House provision

The House has no comparable provision.

Conference agreement

The House recedes and concurs with an amendment striking the mandatory authorization reduction but directing that the Postal Rate Commission conduct an expanded study covering three subject areas. The first subject shall be the use of third-class nonprofit bulk rate mail, second-class nonprofit mail, and fourth-class library rate mail for advertising, promotion, and solicitation purposes (as provided for and defined in the Senate bill). The second subject shall

be the general use of the second-class "in-county" publication rate. The focus of the Commission's inquiry in this area shall be the accumulation and synthesis of data and information concerning the number and types of publications which use this subsidized rate, the users' needs for this rate, and the potential impact both on the publications and on their readers of further modification or total elimination of the authorization for this rate. The conferees take specific note of their agreement in section 15104 to amend the Senate bill's provision concerning eligibility for the in-county rate by deleting the limit of 20,000 copies per issue. The conferees hereby direct the Postal Rate Commission to include in its study a specific determination of the number and types of publications which would have been adversely affected had the 20,000 "cap" remained in the new 39 U.S.C. 3626(f). The third subject for the Commission's study is the accuracy, or inaccuracy, of the current method of computing revenue forgone and the development and assessment of alternative methods. The Postal Service is to cooperate fully in the conduct of every phase of the study (including the provision to the Commission of adequate financial, technical, and personnel resources).

5. Restriction on eligibility for in-county second-class rates of postage

Senate provision

The Senate bill (sec. 805) amends 39 U.S.C. 3626 by limiting application of the in-county rate (which is subsidized by the revenue forgone appropriation). The rate shall not apply to an issue of a publication if the number of copies of that issue distributed within the county of publication is less than half of the issue's total paid circulation. This limitation shall not apply if the issue's total paid circulation is less than 10,000 copies. In no case shall the rate apply to more than 20,000 copies of an issue.

House provision

The House has no comparable provision.

Conference agreement

The House recedes and concurs with an amendment striking the Senate provision which would have limited applicability of the subsidized rate to not more than 20,000 copies of any issue. The conferees note that this provision will be a subject of the study to be conducted by the Postal Rate Commission pursuant to section 15103.

6. Curbing of subsidies for advertising-oriented "plus issues" mailed to subscribers at in-county rates

Senate provision

The Senate bill (Sec. 806) further amends 39 U.S.C. 3626 with regard to application of the subsidized in-county rate to nonsubscriber copies of subscription publications. The number of nonsubscriber copies to which the rate is applied in any calendar year may not exceed 10 percent of the number of copies mailed to subscribers in that year.

House provision

The House has no comparable provision.

Conference agreement

The House recedes.

CIVIL SERVICE ISSUES

1. Federal employee pay adjustments

House provision

The House bill (Sec. 7101) freezes civilian pay for FY 1986 and provides 5% pay increases effective January 1, 1987, and January 1, 1988. Prevailing rate pay adjustments are limited to 5% and are delayed 90 days in FY 1987 and 1988. Agencies are required to absorb 33% of the cost of the pay increases.

Senate provision

The Senate bill (Sec. 811) freezes pay for civilian workers of the Federal Government for fiscal year 1986 and makes the effective date of any future pay raises the first applicable pay period after January 1 of each year. In addition, the Senate bill approves legislation, previously done in the appropriations process, that provides Federal Wage System employees with the same pay increases as General Schedule workers and delays those increases for 90 days, similar to the delay for the General Schedule.

The Senate achieves out-year savings in accordance with the conference report on the First Concurrent Budget Resolution for fiscal year 1986. The Senate bill does not mandate a pay raise for fiscal years 1987 and 1988, but, rather, retains the current process for pay increases. However, any pay proposal must save at least $746 million in FY 1987 and $1,264 million in FY 1988 which is consistent with the budget resolution. The estimates are based on the resolution's pay assumptions of 3.8 percent and 4.7 percent in fiscal years 1987 and 1988, respectively.

Conference agreement

The conference agreement freezes civilian pay for FY 1986 and requires the President to exercise his authority under section 5305 of title 5, United States Code, to limit pay adjustments in FY 1987 and FY 1988 to achieve savings of $746,000,000 in FY 1987 and $1,264,000,000 in FY 1988. These savings are to be computed using the baseline for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress, 1st Session) agreed to on August 1, 1985. The conferees note that these savings could be achieved if FY 1987 and FY 1988 pay increases were each limited to approximately 5 percent and employing agencies were required to absorb approximately one-third of the cost of the pay increases. The conference agreement also delays FY 1987 and FY 1988 civilian pay adjustments until January 1, 1987, and January 1, 1988, respectively. In FY 1987 and FY 1988, prevailing rate pay adjustments are limited to the average percentage adjustment under section 5305 of title 5 and are delayed 90 days.

2. Health insurance program reserves

House provision

The House bill (Sec. 7102(a)) requires OPM to determine minimum level of necessary reserves under the FEHBP and requires each carrier to refund excess reserves to the FEHBP Fund. Required refunds may not be less than $800 million in FY 1986 and $300 million in FY 1987. The House bill prohibits transfer of any amount in contingency reserves to the general fund of the U.S. Treasury as a result of any refund of excess reserves.

Senate provision

The Senate bill (Sec. 814) is similar to the House except that it requires the Government's share of the refunds to be held in the health benefits fund and to be used to pay for future increase in Government's contributions for health insurance premiums.

Conference agreement

The conference agreement requires OPM to determine the minimum level of necessary reserves under the FEHBP and requires each carrier to refund excess reserves to the FEHBP Fund. Required refunds cannot be less than $800 million in FY 1986 and $300 million in FY 1987. The agreement further provides no funds may be transferred to the general fund of the Treasury of the United States as a result of a refund required by the conference agreement. The conference agreement specifically authorizes the use of the Government's share of refunded amounts to fund the Government's share of subscription charges for annuitants participating in the FEHBP. The conference agreement permits refunds to the Government of the District of Columbia and the United States Postal Service in amounts attributable to the employer's share of subscription charges paid by those entities. Beginning in FY 1987, the Postal Service shall be required to pay all FEHBP costs for future postal annuitants.

3. Health insurance premium cap

Health provision

Under existing law, the Government's health insurance premium contribution may not exceed 75% of the total premium for a particular plan. The House bill (Sec. 7102(b)) suspends application of the 75% cap for the 1986 and 1987 contract years.

Senate provision

The Senate has no comparable provision.

Conference agreement

The conference agreement amends section 8902(b)(2) of title 5, United States Code, to repeal permanently the 75 percent limitation on the Government contribution to FEHBP premiums. The conference agreement further provides that the amendment to section 8902(b)(2) shall be effective with respect to pay periods commencing after March 1, 1986.

4. Pay based on 2,087 hours per year

House provision

The House bill (Sec. 7103) provides for continued use of the 2,087 hour pay computation factor through FY 1988.

Senate provision

The Senate bill (Sec. 812) permanently extends use of the 2,087 hour pay computation factor.

Conference agreement

The House recedes to the Senate and concurs with an amendment which makes the provision effective beginning with pay periods which commence on or after March 1, 1986.

5. Health benefits in medically underserved areas

Senate provision

The Senate bill (Sec. 813) permanently reauthorizes a program that expired on December 31, 1984, which required FEHB plans to provide benefits for the services of any state licensed health care provider if the service is provided in a state designated as a medically underserved area.

House provision

The House has no comparable provision.

Conference agreement

The Senate recedes to the House. The conferees note that this issue is addressed in other legislation currently pending before the Senate.

6. Retirement benefits for part-time employment

Senate provision

The Senate bill (Sec. 815) provides prospectively that the total service of an employee who has performed part-time service

shall be prorated to reflect such part-time service when computing the employee's civil service retirement annuity.

House provision

The House has no comparable provision.

Conference agreement

The House recedes to the Senate and concurs with an amendment making technical and clerical changes.

. *Wage rates of certain employees in Tuscon, Arizona*

Senate provision

The Senate bill (Sec. 816) prohibits any reduction in the wage schedules or rates applicable to prevailing rate employees in the Tucson, Arizona, wage area during FY 1986.

House provision

The House has no comparable provision.

Conference agreement

The House recedes to the Senate and concurs with an amendment which takes into account the fact that reductions in wage schedules for the affected area have already occurred and back payments will be necessary in order to fully implement the conference agreement.

ESTIMATED BUDGETARY IMPACT OF RECONCILIATION PROVISIONS: SUBCONFERENCE 24 [1]

TABLE 1.—SUMMARY BY SECTION OF NET BUDGETARY EFFECTS OF SUBCONFERENCE 24 PROVISIONS

[By fiscal year, in millions of dollars]

Section and program	1986	1987	1988	Total 1986–88
Section 15201. Pay adjustments:				
Budget authority	−1,910	−3,336	−4,039	−9,285
Outlays	−1,940	−3,452	−4,194	−9,587
Section 15202. Federal Employees Health Benefits Program:				
Budget authority	−973	−148	−105	−1,016
Outlays	−973	−148	−105	−1,016
Section 15203. Computation of hourly rates of pay:				
Budget authority	−72	−145	−154	−371
Outlays	−72	−145	−154	−371
Section 15204. Computation of retirement annuity for part-time Federal employees:				
Budget authority				
Outlays				
Section 15205. Effect of wage survey regarding Federal employees in Tucson, AR:				
Budget authority				
Outlays				
Section 15101–15105. U.S. Postal Service:				
Budget authority	−45	−65	−27	−137
Outlays	−45	−65	−27	−137
Total net budgetary effects:				
Budget authority	−3,000	−3,694	−4,115	−10,809
Outlays	−3,030	−3,810	−4,270	−11,110

[1] Unless otherwise specified by the bill, all estimates assume enactment of provisions by December 31, 1985.

TABLE 2.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO PAY COMPARABILITY ADJUSTMENTS (SEC. 15201)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986–88
Savings: Civilian agency employees (920):				
Budget authority	−1,187	−1,991	−2,394	−5,571
Outlays	−1,232	−2,120	−2,557	−5,908
Department of Defense employees (050):				
Budget authority	−919	−1,693	−2,068	−4,680
Outlays	−904	−1,680	−2,061	−4,645
Subtotal, savings:				
Budget authority	−2,106	−2,684	−4,462	−10,251
Outlays	−2,136	−3,800	−4,618	−10,554

TABLE 2.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO PAY COMPARABILITY ADJUSTMENTS (SEC. 15201)—Continued

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986–88
Offsettsing receipts (950):				
Budget authority	195	348	423	966
Outlays	195	348	423	966
Net budgetary effect:				
Budget authority	−1,910	−3,336	−4,039	−9,285
Outlays	−1,940	−3,452	−4,194	−9,587

TABLE 3.—BUDGETARY EFFECTS OF INDIVIDUAL COMPONENTS OF PROVISIONS RELATING TO PAY COMPARABILITY ADJUSTMENTS [1]

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986–88
Freeze pay in 1986 (920, 050):				
Budget authority	−2,106	−2,405	−2,533	−7,044
Outlays	−2,136	−2,504	−2,636	−7,276
3-month delay in 1987–88 (920, 050):				
Budget authority		−543	−704	−1,247
Outlays		−550	−717	−1,267
Savings of outyear pay adjustments (920, 050):				
Budget authority		−736	−1,224	−1,960
Outlays		−746	−1,264	−2,010
Total budgetary effects:				
Budget authority	−2,106	−3,684	−4,462	−10,251
Outlays	−2,136	−3,800	−4,618	−10,554

[1] Excludes effects of offsetting receipts.

TABLE 4.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (SEC. 15202)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986–88
Function 550				
Refund excess carrier reserves:				
Budget authority	−1,067	−300		−1,367
Outlays	−1,067	−300		−1,367
Reimburse Postal Service:				
Budget authority	60	17		77
Outlays	60	17		77
Reimburse District of Columbia:				
Budget authority	6	2		8
Outlays	6	2		8
Require Postal Service to pay health benefits for future annuitants:				
Budget authority		−10	−35	−45
Outlays		−10	−35	−45
Remove limit on Government's share of health insurance premiums:				
Budget authority	88	150	150	388
Outlays	88	150	150	388
Subtotal, Function 550:				
Budget authority	−913	−141	115	−939
Outlays	−913	−141	115	−939
Function 370				
Refund excess carrier reserves: Reimburse Postal Service:				
Budget authority	−60	−17		−77
Outlays	−60	−17		−77
Require Postal Service to pay health benefits for future annuitants:				
Budget authority		10	−10	
Outlays		10	−10	
Subtotal, Function 370:				
Budget authority	−60	−7	−10	−77
Outlays	−60	−7	−10	−77
Total net budgetary effect:				
Budget authority	−973	−148	105	1,016
Outlays	−973	−148	105	1,016

TABLE 5.—BUDGETARY EFFECTS OF PROVISION TO EXTEND PERMANENTLY METHOD OF CALCULATING CIVILIAN PAY USING 2,087 HOURS PER WORKYEAR (SECTION 15203)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986–88
Savings: Civilian agency employees (920):				
Budget authority	−50	−101	−107	−258
Outlays	−50	−101	−107	−258
Department of Defense employees (050):				
Budget authority	−30	−59	−63	−152
Outlays	−30	−59	−63	−152
Subtotal, savings:				
Budget authority	−80	−160	−170	−410
Outlays	−80	−160	−170	−410
Offsetting receipts (950):				
Budget authority	8	15	16	39
Outlays	8	15	16	39
Net budgetary effect:				
Budget authority	−72	−145	−154	−371
Outlays	−72	−145	−154	−371

Note: Fiscal year 1986 figures assume enactment of this provision on March 1, 1986, as specified in the bill.

TABLE 6.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO THE U.S. POSTAL SERVICE (SECTIONS 15101–15105)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986–88
Savings: Cap 1986 revenue forgone (370):				
Budget authority	−83			−83
Outlays	−83			−83
Eliminate phasing (370)				
Budget authority		−38		−38
Outlays		−38		−38
End subsidized rates for 2d class/limited circulation (370):				
Budget authority	−24	−18	−18	−60
Outlays	−24	−18	−18	−60
Restrict 2d class, In-county (370):				
Budget authority	−8	−9	−9	−26
Outlays	−8	−9	−9	−26
Restrict "plus" mail (370):				
Budget authority				
Outlays				
Subtotal, savings:				
Budget authority	−115	−65	−27	−207
Outlays	−115	−65	−27	−207
Costs: Delay step 16 rates (370):				
Budget authority	70			70
Outlays	70			70
Net budgetary effect:				
Budget authority	−45	−65	−27	−137
Outlays	−45	−65	−27	−137

Civilian Agency Multiyear Contracting Authority

Senate provision

The Senate bill contains a provision that amends title 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) by adding a new section 306 on Multiyear Contracts. This section, which is identical to S. 678, the Civilian Agency Multiyear Contracting Act of 1985, authorizes civilian procuring agencies to enter into multiyear contracts, not to exceed five years, when it is determined to be in the government's best interest.

House provision

The House bill contains no comparable provision.

Conference agreement

The Senate agrees to recede to the House provision.

Sections 15301–15303. Federal Motor Vehicle Expenditure Control

House amendment

The House amendment contains no provision relating to reduction of Federal motor vehicle expenditures.

Senate amendment

Sections 15301-15313 of the Senate amendment require executive agencies, the Administator of General Services, and the Director, Office of Management and Budget, to take a number of actions designed to reduce the costs of acquiring, operating, maintaining, and disposing of motor vehicles. Agencies would establish data collection systems, study the costs and benefits of contracting with private fleet management firms, and provide with their budget requests statements of motor vehicle costs. Appropriations otherwise available for motor vehicle expenditures would be reduced $225 million by fiscal year 1988.

Conference agreement

The conferees agreed to the Senate provision with an amendment.

The conferees agree that significant savings can be achieved by finding more efficient means to acquire, operate, maintain, and dispose of motor vehicles in Federal agencies. Therefore, the conferees support establishment of the basic mechanisms in the Senate bill to require executive agencies, the General Services Administration, and the Office of Management and Budget to improve government motor vehicle fleet management. However, the conferees believe there are insufficient data on current costs of fleet management to mandate specific dollar savings. The government's accounts do not separately identify the specific cost of motor vehicles acquisition, operation, maintenance, and disposal.

The amendment agreed to by the conferees requires the President to establish cost reduction goals aimed at reducing outlays for motor vehicle fleet management by fiscal year 1988 to an amount which is $150 million less than the amounts requested for this purpose in the fiscal year 1986 budget. While the agencies would not be required by law to actually reduce their appropriations by that cumulative amount, the conferees expect all agencies to make every effort, while giving consideration to performing their missions, to comply fully with the President's goals. The reporting requirements have been modified to assure that Congress will be fully informed not only of the projected savings in future budgets, but also progress in meeting established goals. Certain other minor changes were made in the Senate bill's study and reporting requirements to eliminate redundancy.

The conference amendment also exempts the Postal Service, the Postal Rate Commission and the Tennessee Valley Authority. These organizations in large part are not normally subject to direct Presidential control and reductions in their motor vehicle costs would not result in significant budgetary savings. In addition, the GSA Administrator is authorized to exempt agencies' special purpose vehicles. The conferees expect this latter authority to be used sparingly. The total savings goal was reduced from $225 million to $150 million in recognition of the exemption of the Postal Service, which bears a large percentage of government motor vehicle costs.

TITLE XXV—HIGHER EDUCATION PROGRAMS

The Senate language requires recall of state agency advances of $75 million in FY 1988. The House recedes on the amount.

The House bill states that agencies less than five years old at the time of the recall are exempt, the Secretary must take into consideration the solvency and maturity of the insurance and reserve funds of the agencies as determined by the Comptroller General in determining how much of their advances to recall. The Senate recedes with an amendment that prohibits repayment from any state if that repayment encumbers the reserve fund requirement mandated by state statute.

Both the House and Senate bills require multiple disbursement of student loans. The House language states that loans are to be multiply disbursed to students on the basis of their academic terms (i.e. semester, quarter, etc.) lenders receive subsidies only on the disbursed portion of the loan and the origination fee is charged proportionately on each disbursement. The effective date is July 1, 1986. The Senate recedes.

The Senate also recedes to the House language on the copayability of GSL checks. The Senate language requires the GSL check to be made copayable to the student and the institution the student is attending. The House language requires the check to be made payable to the student, but sent to the school the student is attending. Because some public schools are required to deposit the GSL checks made copayable to them into their state accounts, this would have resulted in the delay of disbursement of GSL money to the student. By sending the check to the school, the conferees are confident that the goals of copayability will be met, without the administrative problems and delay in giving the GSL proceeds to the student. The Senate conferees receded to the House on this language based on the administrative problem, not because of any other alleged problems with certain schools not disbursing GSL proceeds as required.

The Senate and House bills extend the period that state guarantee agencies are required to attempt to collect defaulted loans before submitting them to the Secretary for reinsurance. The House recedes with an amendment that extends to 270 days the period that loans must be held before reinsurance is collected. This period includes 180 days during which the lender or other holder must attempt to collect the loan and an additional 90 days during which the state guarantee agency must pursue collection efforts. This extends the current time period by 150 days.

Both the House and Senate bills include language to strengthen preclaims assistance activities. Lenders and guaranty agencies may be reimbursed through Federal reinsurance for use of collection agencies in reinstating delinquent loans in repayment status. The maximum allowable reimbursement is the lesser of $100 or 2% of the loan value. This section shall take effect immediately upon enactment rather than waiting until regulations are promulgated in order to accomplish savings in FY '86.

The Senate bill requires mandatory payment of administrative cost allowances. The Secretary is required to pay the full 1% ACA for each fiscal year beginning after September 30, 1984. The House recedes.

The Senate bill requires states to establish lenders-of-last resort. The House recedes with an amendment, clarifying the intent.

The Senate bill includes a new loan consolidation program. Borrowers with indebtedness in excess of $5,000 in loans made under the NDSL or GSL program may consolidate those loans at a rate of 10 percent (unless ALAS loans are also consolidated, then the rate is the rate of the highest ALAS loan). Lenders, Sallie Mae, State guaranty agencies, and secondary markets, and eligible higher education institutions may consolidate loans. The yield to lenders on consolidation loans is T-bill plus 3 percent. The House recedes.

The House bill extends the Guaranteed Student Loan program for two years, through fiscal year 1988. The GSL family contribution section of the Student Financial Assistance Technical Amendments Act of 1982 is also extended. The Senate recedes.

The Senate bill requires acceleration of Sallie Mae's repayment schedule to the Federal Financing Bank in FY 86 by $30 million. The increased FY 1986 repayment cannot be used as credit to reduce its payments in FY 1987 or FY 1988. The House recedes.

Both the House and Senate bills include language to help tighten collection efforts. Collection efforts are to be enhanced by the use of credit bureaus, stiffer penalties for late payments, increased auditing of state agencies; disbursement of GSLs through postsecondary education institutions; and a standard federal statute of limitations on collection efforts. The conferees also agreed to language in the credit bureau reporting section that would cover the Secretary of Education, guaranty agencies, eligible lenders, and subsequent holders of loans. The conferees recommend that these entities adhere to the generally accepted standards of credit bureau operations when providing information to and requesting information from these organizations. Nothing in this legislation is intended to regulate the ordinary business practices of a credit bureau.

The House bill includes language requiring discounting income from foreclosures or bankruptcy. Proceeds from the sale of farms or businesses which results from bankruptcy, foreclosure, or forfeiture cannot be counted in determining family income for the purposes of Pell Grant or GSL eligibility. The Senate recedes.

The House bill requires students to have a determination of their Pell Grant eligibility or ineligibility before applying for a GSL. The Senate recedes with a clarifying amendment.

The Senate, but not the House proposal, reduces special allowance payments by 0.25 percent. The Senate recedes.

The House, but not the Senate proposal, requires a need assessment for all students in the Guaranteed Student Loan program. The House recedes.

The House bill requires that all students be charged a 3 percent insurance premium. The House recedes.

The Senate measure contained a provision amending the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act. The House had no comparable provision.

The Senate recedes because of a similar provision currently contained in Public Law 99-145.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1985.

Hon. AUGUST F. HAWKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 27. Table 1 reflects the budget impact of the provisions assuming an October 1, 1985 date of enactment. The estimates in Table 2 assume a December 31, 1985 date of enactment.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

JAMES BLUM,
(For Rudolph G. Penner, Director.)

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS SUBCONFERENCE 27

TABLE 1.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	Total					
	1986	1987	1988	1986–88	1989	1990
Direct spending:						
Guaranteed Student Loan Program:						
Budget authority	−269	−205	−292	−765	−187	−181
Outlays	−335	−200	−297	−832	−197	−186

[1] Assumes an October 1, 1985 enactment date.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 27

TABLE 2.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	Total					
	1986	1987	1988	1986–88	1989	1990
Direct spending:						
Guaranteed Student Loan Program:						
Budget authority	−254	−200	−287	−741	−182	−181
Outlays	−319	−195	−292	−806	−192	−186

[1] Assumes a December 31, 1985 enactment date.

TITLE XVII—GRADUATE MEDICAL EDUCATION COUNCIL AND TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

1. Council on graduate medical education (section 17001)

Present law

No comparable provision.

House bill

No provision.

Senate amendment

The Senate amendment establishes a permanent Council on graduate Medical Education. The Council would make recommendations to the Secretary of the Department of Health and Human Services concerning the supply of physicians, physicians needed in primary care and specialties in shortage, foreign medical graduates, appropriate Federal policies concerning graduate medical education, and efforts by schools to meet the recommendations of the Council. Membership of the Council would include Federal officials and private individuals, and would be appointed by the Secretary.

Conference agreement

Section 17001 provides for the establishment of a Council on Graduate Medical Education under Title VII of the Public Health Service Act. This Council would have the responsibility for assessing physician manpower needs on a long-term basis. It would recommend the appropriate Federal and private sector efforts necessary to address these needs and would provide a forum to enable fair consideration of changing medical personnel needs.

Specifically, the Council is charged with providing advice and recommendations to the Secretary and the appropriate House and Senate Committees concerning:

(a) The supply and distribution of physicians in the United States;

(b) Current and future needs in the medical and surgical specialties and subspecialties, in terms of both shortage and excess;

In making these determinations, the Council should consider which disciplines are the most appropriate to provide primary patient care and the supply of physicians available to fill the needs of rural and low-income inner city areas.

The Council is charged to assure, in cooperation with the Secretary of the Department of Health and Human Services, the availability of a data base for graduate physician education of sufficient detail and accuracy to carry out its mission.

(c) Issues relating to foreign medical graduates;

These include: an analysis of the extent to which the service needs of institutions with a high proportion of foreign medical graduates supersede the educational goals of their graduate medical education programs; the quality of education provided in these programs; the validity of the certification process for foreign medical graduates; the question of establishing an accreditation or approval process for schools located outside the United States and Canada; and, the ability of alien foreign medical graduates to obtain exchange visitor visas to enter U.S. training programs.

(d) Appropriate Federal policies with respect to these issues, including recommended policy changes in the financing of undergraduate and graduate medical education training programs and changes in the types of medical education training in graduate medical education programs; and

(e) Appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathy, and accrediting bodies with respect to the matters outlined in (4), including efforts for changes in undergraduate and graduate medical education programs.

The role of the accrediting bodies and the residency review committees in assuring the quality of programs should be particularly emphasized.

In addition, the Council is expected to encourage entities providing graduate medical education to conduct activities to achieve voluntarily the recommendations of the Council.

Effective date.—Enactment.

2. Technical amendment to the Public Health Service Act (sections 17002–17004)

Conference agreement

The conference agreement includes four technical amendments to the Public Health Service Act.

Section 17002(a) of the conference agreement amends Section 208 of the Public Health Service Act providing for compensation and allowances. Section 3 of the Health Services Amendments of 1985 (P.L. 99-117) amended Section 208 of the Public Health Service Act to eliminate additional special pay for National Health Service Corps (NHSC) obligees. The purpose of that amendment was to conform the authorizing law with the language in recent Labor-HHS appropriations acts that prohibited such additional special pay. The Labor-HHS appropriations acts did not, however, prohibit the additional special pay for those NHSC obligees serving in the Indian Health Service. The Conferees agreed to correct this mistake by restoring additional special pay for NHSC obligees serving in the Indian Health Service.

Section 17002(b) of the conference agreement further amends Section 208, regarding the compensation of civilian employees of the Gillis W. Long Hansen's Disease Center. This provision is intended to ensure that current employees continue to receive the traditional special pay without interruption, rather than being frozen at current pay levels for extended periods. The language does not affect newly hired employees or those employees who cease to work at the Center. Under this arrangement, current workers will suffer no financial hardships and the special pay program will be phased out through the normal attrition of employees.

Section 17003 of the conference agreement provides authority for the Secretary of the Department of Health and Human Services to contract with fiscal agents to perform claims payment, processing and audit functions with respect to services purchased on a contact basis by the Public Health Service on behalf of eligible Indians, in the case of public health emergencies, or in the case of persons detained at the request of the Immigration and Naturalization Service. Fiscal agents must either be entities which could qualify as carriers for Medicare purposes, or Indian tribes or tribal organizations acting under Indian Self-Determination Act contracts. While the fiscal agents need not be Medicare carriers, they must meet the same requirements as Medicare carriers regarding efficiency and effectiveness of operations, surety bonds, and financial controls.

Section 17004 of the conference agreement amends Section 1910 of the Public Health Service Act authorizing grants for emergency medical services for children. This provision is intended to ensure that in addition to States, accredited medical schools may apply for grants and that only one grant may be made to a State (or to a medical school in that State) in any fiscal year.

Effective date.—Except for Section 17002 (a) which is effective as of October 7, 1985, each of these sections is effective upon enactment.

TITLE XVIII—SMALL BUSINESS PROGRAMS

CBO OUTLAY SAVINGS ESTIMATE FOR FISCAL YEARS 1986–88 RELATIVE TO THE BASELINE

[In millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Reconciliation instruction to committees pursuant to Senate Concurrent Resolution 32	−509	−972	−998	−2,479
Total title XVIII outlay savings achieved	−484	−994	−1,049	−2,526
Breakdown of savings achieved by account:				
Salaries and expense	−29	−38	−47	
Pollution control	0	0	0	
Business loan and investment fund	−110	−165	−159	
Surety bond	0	−1	−2	
Business, on-budget	−139	−204	−208	
Federal Financing Bank, SBIC	−203	−189	−159	
Federal Financing Bank, 503	−13	−180	−224	
Business, off-budget	−216	−369	−383	
Total business	−355	−573	−591	
Disaster reforms	−129	−421	−457	
Total outlay savings	−484	−994	−1,048	−2,526

1. 1986 program levels

The amounts of 1986 program levels authorized by the Senate bill, the House amendment, and the Conference substitute are as follows:

[In millions of dollars]

Item	Senate	House	Conference substitute
Regular business direct	0	0	0
Regular business guaranteed	2,650	2,332	2,491
Handicapped direct	15	15	15
Handicapped guaranteed	5	5	5
Economic opportunity direct	0	45	25
Economic opportunity guaranteed	60	60	60
Energy direct	0	0	0
Energy guaranteed	15	15	15
Development direct	0	0	0
Development guaranteed	200	450	400
Small business investment company direct	41	41	41
Small business investment company guaranteed	250	250	250
Veterans loans direct	20	20	20
Veterans loans guaranteed	0	0	0
Total direct	76	121	101
Total guaranteed	3,180	3,112	3,221
Nonphysical disaster loans	0	0	0
Surety bond guarantees	1,115	900	1,050
Pollution control contract guarantees	150	50	75

2. 1987 program levels

The amounts of 1987 program levels authorized by the Senate bill, the House amendment, and the conference substitute are as follows:

[In millions of dollars]

Item	Senate	House	Conference substitute
Regular business direct	0	0	0
Regular business guaranteed	2,766	2,332	2,600
Handicapped direct	15	15	15
Handicapped guaranteed	5	5	5
Economic opportunity direct	0	45	35
Economic opportunity guaranteed	63	60	63
Energy direct	0	0	0
Energy guaranteed	16	15	16
Development company direct	0	0	0
Development company guaranteed	200	450	450
Small business investment company direct	41	41	41
Small business investment company guaranteed	261	250	261
Veterans loans direct	20	20	20
Veterans loans guaranteed	0	0	0
Total direct	76	121	111
Total guaranteed	3,311	3,112	3,395
Nonphysical disaster loans	0	0	0
Surety bond guarantees	1,164	900	1,096
Pollution control contract guarantees	157	50	75

3. 1988 program levels

The amounts of 1988 program levels authorized by the Senate bill, the House amendment, and the conference substitute are as follows:

[in millions of dollars]

Item	Senate	House	Conference substitute
Regular business direct	0	0	0
Regular business guaranteed	2,882	2,332	2,709
Handicapped direct	15	15	15
Handicapped guaranteed	5	5	5
Economic opportunity direct	0	45	40
Economic opportunity guaranteed	65	60	65
Energy direct	0	0	0
Energy guaranteed	16	15	16
Development company direct	0	0	0
Development company guaranteed	200	450	450
Small business investment company direct	41	41	41
Small business investment company guaranteed	272	250	272
Veterans loans direct	20	20	20
Veterans loans guaranteed	0	0	0
Total direct	76	121	116
Total guaranteed	3,440	3,112	3,517
Nonphysical disaster loans	0	0	0
Surety bond guarantees	1,213	900	1,142
Pollution control contract guarantees	163	50	75

4. 1986 authorizations

For 1986, the House bill authorizes the appropriation of $593.34 million, of which $376 million is for business loan programs; $12 million is for surety bond guarantees; and $205.34 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The Senate bill authorizes the appropriation of $534 million, of which $312 million is for business loan programs; $12 million is for surety bond guarantees; $210 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes the appropriation of $515 million, of which $295 million is for business loan programs; $12 million is for surety bond guarantees; $208 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

5. 1987 authorizations

For 1987, the House bill authorizes the appropriation of $627.34 million, of which $410 million is for business loan programs; $12 million is for surety bond guarantees; and $205.34 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The Senate bill authorizes the appropriation of $561 million, of which $331 million is for business loan programs; $16 million is for surety bond guarantees; $214 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes the appropriation of $605 million, of which $381 million is for business loan programs; $14 million is for surety bond guarantees; $210 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

6. 1988 authorizations

For 1988, the House bill authorizes the appropriation of $634.34 million, of which $417 million is for business loan programs; $12 million is for surety bond guarantees; and $205.34 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The Senate bill authorizes the appropriation of $566 million, of which $333 million is for business loan programs; $15 million is for surety bond guarantees; and $218 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes the appropriation of $634 million, of which $409 million is for business loan programs; $13 million is for surety bond guarantees; $212 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

7. Guaranteed loans—utilization of program guarantee authority

Existing law authorizes SBA to make loans to small businesses through its various guaranteed lending programs as established by annual program ceilings. There is no requirement that SBA utilize the entire guarantee authority provided by law.

The House bill does not change existing law.

The Senate amendment would require the SBA to enter into commitments to guarantee loans, debentures and other types of financial assistance in the full amounts provided by law, subject only to the availability of qualified applications, and limitations contained in appropriation Acts.

The conference substitute adopts the Senate provision with an amendment that this provision apply to MESBIC financings and direct loans as well as guaranteed loans, and other guarantees.

8. Guaranteed loans—percent of loan guaranteed

Existing law provides that guaranteed loans of $100,000 and less made under the 7(a) guaranteed loan program must carry at least a 90 percent guarantee; that guaranteed loans over $100,000 receive a guarantee of between 70 percent and 90 percent; and that SBA only reduce such guarantees below 90 percent on a case by case basis.

The House bill does not change existing law.

The Senate amendment would permit SBA to reduce its guarantee for loans of $100,000 and less from 90 percent to 80 percent; and for loans of more than $100,000 reduces the maximum authorized guarantee from 90 percent to 80 percent.

The conference substitute includes the Senate provision, with an amendment that guaranteed loans of $155,000 or less must carry a mandatory 90 percent guarantee. Guaranteed loans of $155,000 or more may carry a maximum guarantee of 85 percent. Any loan approved as part of the Preferred Lenders Program may carry a lesser guarantee.

9. Guaranteed loans—guarantee fee

Under its current regulations, SBA charges a 1 percent fee for loans it guarantees under the 7(a) guaranteed loan program.

The House bill would require SBA to impose on the small business borrower a 3 percent fee on any guaranteed loan with a term of more than one year.

The Senate bill would require SBA to impose on the small business borrower a 2 percent fee on any guaranteed loan with a term of more than one year.

The conference substitute adopts the Senate provision.

10. SBIC debentures—financing through the Federal Financing Bank (FFB)

Under existing law, Small Business Investment Company (SBIC) financings are funded through the Federal Financing Bank (FFB) when SBICs present their 100 percent SBA guaranteed debentures.

The House bill would prohibit the FFB from purchasing all or any part of SBIC debentures, any interest in SBIC debentures, or any obligation secured by an SBIC debenture or a share in an SBIC debenture.

The Senate bill contains an identical provision.

The conference substitute adopts this provision.

11. SBIC debentures—pooling

The conference substitute adopts this provision.

11. SBIC debentures—pooling

The House bill would provide authorization for the sale of SBIC government guaranteed debentures under the same terms and conditions established for the SBA secondary market under section 5(g) of the Small Business Act, which permits the pooling of loans for sale into the secondary market and the issuance of trust certificates.

The Senate bill contains no comparable provision.

The conference substitute adopts this provision.

11. SBIC debentures—pooling

The House bill would provide authorization for the sale of SBIC government guaranteed debentures under the same terms

and conditions established for the SBA secondary market under section 5(g) of the Small Business Act, which permits the pooling of loans for sale into the secondary market and the issuance of trust certificates.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision with an amendment that would enact pooling provisions for SBIC debentures under the Small Business Investment Act of 1958 similar to the statutory pooling provisions for 7(a) guaranteed loans under section 5(g) of the Small Business Act. The conferees have established a 60-day time limit within which the Administration shall have selected an agent and issued final rules and regulations. Because of the urgent and compelling need for prompt action by the Administration, the conferees intend that the Administration's actions be exempt from standard federal procurement practices.

12. Section 503 pilot program

Under existing law, section 503 development companies receive financing for projects when they present their SBA-guaranteed debentures to the Federal Financing Bank for financing.

The House bill would establish a pilot program for the public or private sale of section 503 debentures up to $235 million and $280 million in fiscal years 1986 and 1987, respectively, and authorizes the sale of these debentures into the secondary market under the same terms and conditions as provided for under section 5(g) of the Small Business Act. SBA would be required to report on the results of the pilot program either 90 days after all pilot program debentures are sold in each year, or October 1st of each year, whichever date occurs first.

The Senate bill contains no comparable provision.

The conference substitute includes the House provision with an amendment authorizing up to $200 million and $155 million in fiscal years 1986 and 1987, respectively, to be financed through the Federal Financing Bank, and authorizing a pilot program for financing of 503 debentures through the private capital markets up to $200 million and $295 million in fiscal years 1986 and 1987, respectively. In addition, the method of financing of debentures through the pilot program is conformed to the secondary market pooling provisions adopted for the financing of SBIC debentures. Utilization of the pilot program authority for Fiscal Year 1988 was not addressed by the conferees. The conferees have established a 60-day time limit within which the Administration shall have selected an agent and issued final rules and regulations. Because of the urgent and compelling need for prompt action by the Administration, the conferees intend that the Administration's actions be exempt from standard federal procurement practices.

13. User fees

The House bill would require SBA to establish user fees as follows: (1) for SBA publications, the lesser of $5 or cost; (2) loan applications, not to exceed $100; and (3) determinations of eligibility of small concerns for assistance or preferential treatment as a small business concern, not to exceed $100. Fees would be used to offset costs to the extent provided by appropriation Acts.

The Senate bill contains no comparable provision.

The conference substitute does not include the House provision.

14. Report on feasibility of other user fees

The House bill would require SBA, within one year, to report on the feasibility of charging fees for management assistance or other counseling.

The Senate bill contains no comparable provision.

The conferees agreed to a substitute amendment requiring SBA to submit a report by September 30, 1986, specifying user fees currently being charged, and making a recommendation as to whether user fees should be charged for services where there is currently no user fee, and whether statutory authority is necessary to impose a fee.

15. Disaster loans—program levels

Existing law authorizes the appropriation of $500 million for fiscal year 1986 for the disaster loan program.

The House bill repeals the $500 million cap on the disaster loan program for FY 1986. (See item 4)

The Senate bill contains an identical provision.

The conference substitute adopts this provision.

16. Disaster loans—eligibility of agricultural enterprises

Existing law permits agricultural enterprises to apply for and receive SBA assistance if they meet eligibility criteria applied to non-agricultural enterprises, except that if the assistance sought is for a disaster loan, the agricultural enterprise must be declined for, or would be declined for emergency loan assistance at substantially similar interest rates from the Farmers Home Administration.

The House bill specifically removes agricultural enterprises from eligibility for any assistance under the disaster loan program.

The Senate bill contains an identical provision.

The conference substitute adopts this provision, with an amendment that SBA should fund qualified applicants for disasters declared in Fiscal Year 1985, both as to applications on file and applications filed in the future.

17. Duplication of assistance of other agencies

Existing law provides (1) that nothing contained in the Small Business Act shall be construed to authorize SBA to duplicate the activity of other agencies unless expressly provided in the Act; and (2) that if loan applications are being refused or loans denied by another agency due to withholding from obligations or apportionment or due to administratively declared moratorium, then no duplication shall be deemed to have occurred.

The House bill does not change existing law.

The Senate bill repeals this language.

The conference substitute does not change existing law.

18. Disaster loans—technical amendment

The House bill removes the undesignated paragraph provisions following 7(c)(4) of the Small Business Act, which have been superseded by section 7(c)(5) of the Act.

The Senate bill contains an identical provision.

The conference substitute adopts this technical amendment.

19. Nonphysical disaster loans—1986 authorization

Existing law authorizes $100 million in 1986 for the nonphysical disaster loan programs authorized by sections 7(b)(3) and 7(b)(4) of the Small Business Act.

The House bill repeals the $100 million authorization for 1986 for the nonphysical disaster loan programs.

The Senate bill contains an identical provision.

The conference substitute adopts this provision, with an amendment that SBA should fund qualified applicants for disasters declared in Fiscal Year 1985, both as to applications on file and applications filed in the future.

20. Elimination of the nonphysical disaster loan programs

Existing law established nonphysical disaster loan programs in subsections 7(b)(3) and 7(b)(4) of the Small Business Act.

The House bill repeals these nonphysical disaster loan programs and provides no new substitute.

The Senate bill contains an identical provision.

The conference substitute adopts this provision.

21. Labor surplus area

The House bill provides for a maximum population criterion of 25,000 when population criteria are used in labor surplus areas for purposes of priority of award of contracts under section 15 of the Small Business Act.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

22. Contract fraud

The House bill establishes a criminal violation, permitting imprisonment of up to 5 years, and a fine of up to $50,000, or both, for anyone making an intentional misrepresentation of small business status or disadvantaged status in order to obtain: prime contracts under sections 9 or 15 of the Small Business Act, subcontracts under section 8(a) of the Small Business Act, contracts included in subcontracting plans under section 8(d) of the Small Business Act, or any contract awarded under Federal law that uses criteria of section 8(d) of the Small Business Act for a definition of program eligibility.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision with an amendment specifying that this fraud provision apply only to a misrepresentation made in writing.

23. Report on 7(a) loan guarantee program

The House bill would require the SBA to report by December 15, 1985, to the Small Business Committees of the Congress on the options available for establishing a non-federal government 7(a) guaranteed loan program, specifically including an evaluation of the establishment of a federal government-owned corporation to make such loans. The House bill also required an evaluation of charging participating financial institutions an annual fee of between ¼ of 1 percent and 1 percent of the outstanding balance of all 7(a) loan guarantees to that institution, and further the feasibility of suing such fees for a loss reserve or the cost of administration.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provisions.

24. Limitation on use of SBA loans

The House bill prohibits loans under section 7(a) of the Small Business Act to any

applicant who performs abortions, engages in abortion research, promotes abortions or trains any individual to perform abortions, except that it allows financing of applicants involved in performing, promoting, or recommending abortions in cases where the life of the mother would be endangered if the fetus were carried to term.

The Senate bill contains no comparable provision.

The conference substitute does not include this provision.

25. Surety bond maximum contract guarantee

Existing law permits SBA to issue a surety bond guarantee to qualified applicants on a contract up to $1 million.

The House bill makes no change in existing law.

The Senate bill would increase from $1 million to $1,500,000 the contract amount that SBA may guarantee under the surety bond program.

The conference substitute adopts the Senate provision with an amendment that the maximum contract guarantee amount be set at $1,250,000.

26. Eligibility of Indian tribes as socially and economically disadvantaged small business concerns

Existing law specifically identifies persons who are Black Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans among those individuals who may be considered as socially disadvantaged persons. Existing law also defines what economically disadvantaged means and provides that a "socially and economically disadvantaged small business concern" is any small business concern which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of such individuals.

The House bill makes no change in existing law.

The Senate bill amends existing law by adding "Indian Tribes" to the list of groups that are specifically recognized as socially disadvantaged and establishes criteria that should be used and considered in determining the "economic disadvantage" of Indian Tribes and their eligibility for assistance on equal terms with other socially and economically disadvantaged businesses.

The conference substitute adopts the Senate provision. The conferees, recognizing that some tribally-owned businesses may not pay federal taxes due to the sovereign status of tribes, which may provide an advantage over other section 8(a) program participants, direct the Small Business Administration to carefully monitor this situation and, if SBA finds a problem, report its findings and recommendations to the House and Senate Small Business Committees.

27. Size standard for agricultural enterprises

By regulation, SBA has established a maximum of $100,000 in annual receipts as the size standard for eligibility of agricultural enterprises for assistance under the Small Business Act.

The House bill contains no provision pertaining to the size standard that should be used for agricultural enterprises.

The Senate bill establishes a maximum of $500,000 in annual receipts as the size standard for eligibility of agricultural enterprises for assistance under the Small Business Act.

The conference substitute adopts the Senate provision with a technical amendment. The conferees have agreed on substitute language for the Senate amendment governing eligibility of agricultural enterprises for SBA assistance, including regular business loans under section 7(a). Thus, farms having not more than $500,000 in average annual revenue will be eligible for assistance.

28. Veterans business resource councils

The House bill contains no provision regarding Veterans Business Resource Councils.

The Senate bill encourages the Small Business Administration to evaluate the effectiveness of and work toward the formation of Veterans Business Resource Councils.

The Conferees have agreed on the Senate amendment urging the Administrator to encourage the establishment of Veterans Business Resource Councils in as many districts as practical, and also to evaulate the usefulness of such councils in meeting the needs of veterans. No additional appropriation is authorized for this purpose, and the Committee expects that the financial commitment by SBA for each council should not exceed $2000.

TITLE XIX—VETERANS' PROGRAMS

On October 24, 1985, the House passd H.R. 3500, the proposed "Omnibus Budget Reconciliation Act of 1985". Title X of the bill included the provisions of H.R. 1538, ordered reported by the House Committee on Veterans' Affairs on September 11, 1985, to satisfy its reconciliation instructions contained in section 2 of the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32).

On November 14, the Senate passed H.R. 3128, the proposed "Deficit Reduction Amendments of 1985", after striking out the House-passed text and inserting in lieu thereof the text of S. 1730, title XI of which contained the legislation reported by the Senate Committee on Veterans' Affiars to satisfy its reconciliation instructions in section 2 of the FY 1986 budget resolution.

On December 5, the House amended the Senate-passed H.R. 3128 by inserting the House-passed texts of H.R. 3500 and H.R. 3128, and requested a conference with the Senate. Title X of H.R. 3500 as it originally passed the House was redesignated as Title X (sections 1951-1982) of Division A of the House amendment to the Senate amendment to H.R. 3128.

The following material refers to the Senate amendment to H.R. 3128 as the "Senate bill", to the House amendment to the Senate amendment as the "House bill", and to title XIX of the Reconciliation Act conference report as the "conference agreement".

SUBTITLE A—HEALTH CARE

Both the House bill (section 1972) and the Senate bill (sections 1101-07) would, as discussed below, amend chapter 17 of title 38, United States Code, to revise existing eligibilities for health care furnished by the Veterans' Administration, and to establish a "health-care income threshold" for purposes of determinations of eligibility based on "inability to defray" the cost of needed care.

The conference agreement (section 19011) contains such provisions as discussed below.

Hospital Care

House bill

The House bill would amend the eligibility requirements, set forth in present section 610(a) of title 38, for veterans seeking VA hospital care. The six categories of veterans eligible for such health care under current law would be revised and restated as nine separate categories, and the separate basis of eligibility for non-service-connected veterans 65 years of age or older (without regard to income) contained in current law would be eliminated.

Under the House bill, the Administrator would be required to furnish hospital care determined by the Administrator to be necessary to:

(1) any veteran for a service-connected disability;

(2) a veteran discharged for a disability incurred or aggravated in line of duty;

(3) a veteran entitled to receive disability compensation;

(4) a veteran disabled as a result of VA treatment or vocational rehabilitation;

(5) certain Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions;

(6) former prisoners of war;

(7) veterans of the Spanish American War, Mexican border period, or World War I; and

(8) veterans who are unable to defray the expenses of necessary care.

The current limitation on furnishing hospital care "within the limits of Veterans' Administration facilities" would no longer be applicable to these eight categories of eligible veterans.

A veteran would be eligible for necessary medical care under category (8) if the veteran's family's income in the 12 months preceding the application for care was no greater than 3.34 times the maximum annual rate of VA pension payable to totally disabled veterans (referred to below as the "health-care income threshold"). In determining the incomes of veterans for the purpose of this category, the Administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility under chapter 15 of title 38, United States Code. The maximum income level for health care would be increased each year by the same percentage increase applicable to the maximum pension rate. Thus, as of the time the House passed the bill, the "health care income threshold" would be $19,068 for a veteran with no dependents and $24,977 for a veteran with one dependent, plus $3,233 for each additional dependent. On December 1, 1985, the VA pension income standard increased by 3.1 percent, by virtue of present section 3112(a) of title 38, United States Code, and reference to the consumer price index.

The House bill would establish, as a ninth category of veterans eligible for hospital care, those seeking care for treatment of non-service-connected disabilities who do not fall into one of the eight other categories. Thus, this last category would consist of those veterans whose income and assets exceed the health-care income eligibility threshold. They would be required to make an annual payment equal to the Medicare deductible ($492 in 1986) in order to receive needed care. Such care could be provided only "within the limits of Veterans' Administration facilities".

The House bill would also provide that nothing in these provisons would (1) require the Administrator to furnish hospital care in a facility other than a VA facility or to furnish care to a veteran to whom another agency of a Federal, State, or local government has a duty to provide care in an institution of that government, or (2) restrict the Administrator's discretion to determine the appropriateness of furnishing medical services, therapies, or programs under chapter 17 of title 38 or in what manner they will be furnished.

Senate bill

The Senate bill would create three categories of eligibiity for hospital care. Under the first category, the Administrator would be required to furnish hospital care determined to be reasonably necessary for service-connected disabilities and for any disability of veterans who have service-connected disabilties rated at 50 percent or more. This care would be required to be furnished through VA facilities or, to the extent authorized, through non-VA facilities except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized.

Under the second category, which would remain essentially unchanged from current law (except that the separate basis of eligibility for veterans 65 years of age or older would be eliminated), the Administrator would be authorized, through VA facilities or, to the extend authorized, through non-VA facilities, to furnish reasonably necessary hospital care to veterans with service-connected disabilities rated at less than 50 percent; veterans who, but for the receipt of retired pay, would be entitled to disability compensation; veterans who are eligible for compensation for disabilities incurred as VA patients or as participants in a VA vocational rehabilitation program; veterans who were discharged from military service for disabilities incurred or aggravated in the line of duty; former prisoners of war; Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions; Spanish-American War, Mexican border period, or World War I veterans; and veterans unable to defray the cost of necessary care.

Under the third category, the Administrator would have the authority, through VA facilities or, to the extent authorized, through non-VA facilities, to furnish, to the extent facilities and resources are otherwise available, reasonably necessary hospital care for the non-service-connected disability of a veteran not included in categories one or two whose annual family income for the calendar year preceding the veteran's application for care exceeds $25,000 and who agrees to make certain payments to the United States in connection with such care. In determining the incomes of veterans for the purpose of this category, the Administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility. Further, the Administrator would be given authority to prescribe regulations defining the circumstances under which a non-service-connected veteran having an annual income or estate above a certain level would be ineligible for VA care.

Conference agreement

The conference agreement (section 19011(a)) generally follows the House provision. It would establish two groups of VA health-care eligibilities. Under the first group, the conference agreement would require the Administrator to furnish needed hospital care through VA facilities, and authorize the Administrator to furnish needed hospital care in non-VA facilities as authorized, to the first eight categories from the House bill except that the third category from the House bill is subdivided into two categories—veterans with service-connected disabilities rated at 50 percent and above and any other veterans who have service-connected disabilities. The ninth category of veterans would consist of veterans who are unable to defray the expenses of necessary care—those who are receiving chapter 15 VA improved pensions or are eligible for Medicaid or whose annual family incomes" do not exceed the "Category A threshold" ($15,000 for veterans with no dependents and $18,000 for veterans with one dependent with an increase of $1,000—approximately equal to the amount of the VA pension allowance ($999 as of December 1, 1985)—for each additional dependent). These amounts would be increased on January 1 of each year (beginning January 1, 1987) by the same percentage by which VA chapter 15 improved pension benefits are increased on the preceding December 1 (pursuant to section 3112 of title 38).

The conferees intend that, for the categories of veterans specified in section 610(a)(1) of title 38 (as revised by this section)—those to whom the Administrator is required to furnish hospital care—the VA's sole obligation with respect to needed hospital care for these veterans is (1) if a veteran is in immediate need of hospitalization, to furnish an appropriate bed at the VA facility where the veteran applies or, if none is available there, to furnish a contract bed (as authorized under current law as recodified in new section 603) or to arrange to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there. The VA, of course, as also noted above, would also retain any existing discretionary authority to furnish health care to these veterans.

Also, if there are 2 or more veterans applying for the same bed at a particular facility on a non-emergent basis and one is seeking care for a service-connected disability or has a 50-percent-or-more service-connected disability, the conferees intend that that veteran should receive the bed. With respect to the remaining veteran, he or she, as noted above, would be scheduled for the next available bed at the VA facility where the veteran applies or, if none is available there, would be furnished a contract bed (as authorized under current law as recodified in new section 603) or arrangements would be made (1) to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there. The VA, of course, as also noted above, would also retain any existing authority to furnish health-care to that veteran.

The conference agreement (section 19011(a)) would provide for a second eligibility group as to which the Administrator "may", through VA facilities and through non-VA facilities as authorized, furnish needed hospital care to the extent that resources and facilities are available, to non-service-connected veterans with incomes above $15,000 for those with no dependents and $18,000 for those with one dependent, plus $1,000 for each additional dependent. For those non-service-connected veterans with incomes above the "Category B" threshold ($20,000 for those with no dependents and $25,000 for those with one dependent, plus $1,000 for each additional dependent), the Administrator "may", through VA facilities and through non-VA facilities as authorized, and to the extent that resources and facilities are otherwise available, furnish needed hospital care if the veteran agrees to make certain payments to the VA in connection with that care. Each of the amounts would be increased on January 1 of each year (beginning January 1, 1987) in accordance with the VA pension-COLA increase percentage.

The conference agreement further includes a provision specifying that nothing in section 610 of title 38, relating to eligibility for hospital and nursing home care (as revised by the conference agreement), requires the VA to furnish care to a veteran to whom another government entity has a legal duty to provide care in a government institution—for example, this would apply to an incarcerated veteran.

With respect to the revisions in hospital-care eligibility, the conferees intend that care be furnished to service-connected disabled veterans, low-income veterans, and, to the extent resources are available, other eligible veterans.

The conferees note with approval the statements made by the Chairman and Ranking Minority Member of the Senate Committee on Veterans' Affairs during the debate on the Senate bill (pages S 15467 and S 15471, respectively, of the CONGRESSIONAL RECORD for November 14) with respect to the effect of the use of the word "may" in providing VA health-care eligibility (in current law and the revised eligibility provisions) from the standpoint that the term does not connote discretion, on the part of the Administration, to withhold funds appropriated for the furnishing of care or, on the part of the VA, to withhold needed care that the VA has the capacity to provide. As indicated there, and the conferees agree, the amount of care that the VA provides to eligible veterans necessarily depends upon the level of funds appropriated for that purpose.

The conferees further note that this legislation would not change current law or practice regarding the beneficiary travel program.

The conferees recognize that in some cases it may not be readily determined with certainty, at the time that the veteran first applies for VA care during a calendar year, to which eligibility category the veteran belongs. Thus, where necessary to avoid delay-

ing medical attention beyond the point at which it may be needed, the conferees intend that the VA make tentative eligibility-category determinations based on the available evidence at the time, subject to modification when a final determination can be made.

Also, in light of the uncertainties that may exist at the time of application and in view of the fact that even determinations based on apparently sufficient information may need to be changed on the basis of new evidence, the conferees expect the VA to require at least those veterans applying for VA care for the first time during a calendar year to sign an agreement to make the payments required by law if it is ultimately determined, by reason of their income during the preceding calendar year and any other matters relating to eligibility, that their eligibility is contingent upon their agreeing to make such payments. Of course, the agreement should also state what those payment amounts are.

In a similar vein, the conferees note that veterans with annual incomes above the applicable income threshold for payments would generally be eligible for care or services only upon the veteran (or someone authorized to act for him or her) agreeing to pay for those services before they are furnished. However, the VA has full authority under current section 611(b) to furnish hospital care or medical services in emergency cases and to charge appropriately for such care, and the conferees stress that this emergency authority would be applicable in the case of a veteran in this category of eligibility who is unable to execute such an agreement prior to the commencement of care. What, if any, payments the veteran would ultimately be required to make would, of course, depend on the eligibility determination made after the fact.

The conferees expect that the form used for the agreement to pay would clearly state eligibility criteria as well as potential liability

Nursing Home Care

House bill

The House bill would provide that the VA "may within the limits of Veterans' Administration facilities" furnish nursing home care to the nine categories of veterans eligible for hospital care (as discussed above) under the House bill. Those veterans having incomes above the applicable "health-care income threshold" in the House bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Senate bill

The Senate bill would provide that the Administrator, through VA facilities or through non-VA facilities as authorized, "shall" furnish nursing home care determined to be reasonably necessary for a service-connected disability and "may" furnish nursing home care determined to be reasonably necessary for any veteran having hospital care eligibility under the Senate bill (as discussed above). Those having incomes above the applicable health-care income eligibility threshold in the Senate bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Conference agreement

The conference agreement (section 19011(a)) makes no change in VA nursing home care eligibilities in current law except to provide that non-service-connected veterans with incomes above the "Category B threshold" would be eligible only upon agreeing to make certain payments in connection with their care.

Domiciliary Care

House bill

The House bill contained no provision regarding eligibility for VA domiciliary care.

Senate bill

The Senate bill would authorize the Administrator to furnish reasonably necessary domiciliary care through VA facilities to veterans who are determined by the Administrator to be incapacitated from earning a living and to have no adequate means of support.

Conference agreement

The conference agreement makes no change in VA domiciliary care eligibilities in current law.

In leaving current law intact regarding domiciliary-care eligibility, the conferees are not expressing their satisfaction with the status quo. Both Committees on Veterans' Affairs plan to hold hearings next year to consider appropriate revisions to the eligibility for domiciliary care as provided by section 610(b)(2) of title 38.

Outpatient Treatment and Home Health Services

House bill

The House bill would require the Administrator to furnish outpatient treatment to those veterans with outpatient treatment eligibility under current law, but would also specify that there is no requirement to furnish services to those non-service-connected disabled veterans with incomes that exceed the applicable health-care income eligibility threshold discussed above (under the heading "Hospital Care") unless they agree to make payment in connection with such services.

The House bill would make no change in eligibility for home health services except to provide that the eligibility of a non-service-connected veteran whose income exceeds the health-care income eligibility threshold would be contingent upon the veteran's agreement to make payment in connection with such services.

Senate bill

The Senate bill would amend current law to require the Administrator—"shall" rather than "may" as in current law—to furnish (directly or by contract) outpatient treatment and home health services determined to be reasonably necessary to any veteran for a service-connected disability and for any disability of a veteran with a service-connected disability rated at 50 percent or more, except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized. Otherwise, the Senate bill would not modify current eligibilities for outpatient treatment and (except to increase the maximum amount that may be expended for home structural alterations from $600 to $2,500 for a veteran with a 50-percent-or-more-service-connected disability) home health services except to specify that non-service-connected disabled veterans with incomes above the applicable health-care income eligibility threshold would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Conference agreement

The conference agreement (section 19011(b)) would make no change in current law eligibilities relating to outpatient treatment or home health services (except with respect to the cap on home health structural alterations payments, described above) except to provide that non-service-connected veterans with incomes above the Category B threshold (discussed below under the heading "INCOME THRESHOLDS") would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Amount of Payments

Both the House and Senate bills contain provisions to specify the amounts that veterans with incomes above the income thresholds must agree to pay in order to be eligible for VA health care.

House bill

The House bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: During any 12-month period, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the applicable 12-month period ($492 in 1986).

Outpatient treatment: For each visit (except for outpatient services furnished to complete treatment following hospitalization), the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished.

During any 12-month period, a veteran would not be required to pay in total for any mode of care or combination of modes of care an amount greater than the amount of the inpatient Medicare deductible.

Senate bill

The Senate bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: For each 60 days of care during an episode of care (a period beginning on the first day of hospital or nursing home care and ending at the close of the first period of 60 consecutive days thereafter during which the veteran receives neither hospital nor nursing home care), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect when the care is furnished.

Outpatient treatment: For each visit, the amount equal to a percentage—the percentage that Medicare generally does not pay for such treatment (20 percent at present)—of the estimated average cost of an outpatient visit in a VA facility during the fiscal year in which the treatment is furnished.

Conference agreement

The conference agreement (section 19011(a)(2) and (b)(2)(F)) contains provisions specifying, in the cases of veterans who must agree to make payments in order to be eligible for VA health care (those with incomes above the Category B level), the amounts that they must pay, as follows:

Hospital care: During any 365-day period (1) for the first 90 days of care (or part thereof), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the 365-day period, and (2) for each succeeding 90 days of care (or part thereof), the lesser of the cost of furnishing the care or one-half of the amount of that inpatient Medicare deductible.

Nursing home care: During any 365-day period, for each 90 days of care, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible.

Outpatient treatment: For each outpatient or home health visit, the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished, but not to exceed during any 90-day period the amount of the inpatient Medicare deductible in effect at the beginning of that period.

Combination of hospital and nursing home care: In the case of a veteran who pays the inpatient-Medicare-deductible amount in connection with VA-furnished hospital or nursing home care and who, before using 90 days of the initial mode of care (hospital or nursing home) within a 365-day period, is furnished the other mode of care, the veteran would not be required to make any payment for the second mode until either (1) the number of days of hospital and nursing home care combined exceed 90, or (2) the beginning of the next 365-day period, whichever occurs first. If the veteran pays an amount equal to one-half of the inpatient-Medicare-deductible amount in connection with receiving hospital care (as when the veteran is receiving more than 90 days of hospital care in a 365-day period) and, before using 90 days of hospital care within the applicable 365-day period, receives VA-furnished nursing home care, the veteran would be required to pay one-half of the deductible amount in connection with the number of days of nursing home care that, when added to the hospital days, do not exceed 90 within that 365-day period.

Payments for combinations of outpatient treatment and hospital and nursing home care: A veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and inpatient care furnished during any 90-day period.

The conferees stress that the legislation makes no change in current eligibility for contract hospital, nursing home, or outpatient care and the way that eligibility is applied and intend the Administrator to ensure that expenditures for veterans eligible for care by virtue of agreeing to make payment to the VA have the lowest priority for the use of funds available for contract care as well as the lowest priority for inpatient, outpatient, and nursing home care furnished through VA facilities.

Priorities

House bill

The House bill would repeal the provision, section 612(i) of title 38, requiring the Administrator to implement through regulations the priorities specified in that section for the furnishing of outpatient treatment.

Senate bill

The Senate bill would require the Administrator to prescribe regulations to ensure the implementation of priorities specified in the Senate bill in the furnishing of hospital, domiciliary, and nursing home care and medical services and would require the Administrator to ensure that no guideline, regulation, or other VA issuance has the effect of encouraging the furnishing of care or services in any way inconsistent with such priorities to a veteran whose eligibility is based on agreement to make payments.

Conference agreement

The conference agreement does not contain any such provisions related to priorities except a provision (in section 19011(b)(4)) adding veterans in receipt of VA improved pension under chapter 15 of title 38, as a new, sixth priority for outpatient care under present section 612(i).

Income Thresholds

House bill

The House bill would amend section 622 of title 38, relating to evidence of veteran's "inability to defray the cost of necessary expenses" in connection with establishing eligibility for VA health care, so as to provide that (in addition to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall generally be presumed to be "unable to defray" the cost of care if the veteran's family income for the 12-month period preceding the veteran's application for care was equal to or less than 3.34 times the maximum annual rate of improved pension payable to totally disabled veterans under chapter 15 of title 38 (as increased annually pursuant to section 3112 of title 38). Thus, this income threshold amount at the time the House bill was passed was $19,068 for veterans with no dependents and $24,977 for veterans with one dependent, plus $3,233 for each additional dependent. In determining a veteran's annual family income, the Administrator would consider the same items and sources of income and would allow the same exclusions as are considered and allowed under the improved pension program.

Senate bill

The Senate bill would amend section 622 to provide generally that (in addition to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall be determined to be "unable to defray" the cost of care if, during the calendar year preceding the date of the veterans's application for care, the veterans' family income is not greater than $25,000 and would provide for that amount to be increased by the same percentage and at the same time as each cost-of-living adjustment is made in chapter 15 VA improved pension benefits pursuant to section 3112 of title 38. In determining a veterans' annual family income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the improved pension program.

The Senate bill would also provide the Administrator with discretionary authority, in order to avoid hardship, to increase the above-mentioned income level for a specified geographic area.

Conference agreement

The conference agreement (section 19011(c)) would amend present section 622 to provide generally that a veteran shall be determined to be unable to defray the necessary expenses of hospital care if the veteran receives VA improved pension or is eligible for Medicaid, or if, during the calendar year immediately preceding the veteran's application for care, the veteran's family income is not greater than $15,000 for a veteran with no dependents or $18,000 for a veteran with one dependent, plus $1,000 for each additional dependent.

A veteran would be considered not unable to defray the necessary expenses of care and thus liable for making certain payments for care (discussed above under the heading, "AMOUNT OF PAYMENTS") if the veteran's family income exceeds the Category B threshold—is greater than $20,000 for a veteran with no dependents or greater than $25,000 for a veteran with one dependent, plus $1,000 for each additional dependent. Each of the above amounts would be increased on January 1, of each year (beginning January 1, 1987) by the precentage that chapter 15 VA improved pension benefits are increased, pursuant to section 3112(a) of title 38, effective the preceding December 1.

In determining a veteran's annual income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the chapter 15 VA improved pension program.

Consideration of Assets in Determining Eligibility

House bill

The House bill would provide that the Administrator may refuse to determine that the veteran is unable to defray necessary medical expenese if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, it is reasonable that some part of those assets be consumed for the veteran's maintenance.

Senate bill

The Senate bill would provide that the Administrator shall not determine that a veteran is "unable to defray" the cost of care if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 improved pension program.

Conference agreement

The conference agreement (section 19011(c)) follows the House bill. In determining a veteran's assets for this purpose, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 VA improved pension program.

Certain Adjustments of Income Eligibility Determinations

The conference agreement (revised section 622(b) of title 38) would enable the Administrator to adjust a veteran's income threshold status where necessary in order to avoid hardship to the veteran in certain cases in which the veteran's income has dropped off substantially from the preceding calendar year amount.

Reports

Both the Senate bill (section 1108) and the House bill (section 1975) would require the Administrator of Veterans' Affairs to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports relating to the furnishing of health care to veterans after the enactment of this Act.

The conference agreement (section 19011(e)) would blend the Senate and House reporting requirements, with three annual reports due by February 1 of 1987, 1988, and 1989, and require the Administrator to include in the reports information regarding the numbers and characteristics of, and health care furnished to, veterans (and amounts of payments by them where appropriate) who are eligible for VA care by reason of any of the proposed new income threshold criteria, and the numbers of and health care furnished to veterans in each of the other categories of eligibility, with breakdowns, in the case of such veterans

with service-connected disabilities, for each percentile disability rating.

Technical Revision of Authority to Contract for Hospital Care and Medical Services

The Senate but not the House bill (1) would delete section 601(4)(C) of title 38, which includes within the definition of "Veterans' Administration facilities"—and thus, in conjunction with provisions in sections 610 and 612, authorizes the VA to contract for hospital care or medical services with—private facilities in certain cases when VA facilities are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care of services required, and (2) replace that provision with a new section 603, which would recodify current law under section 601(4)(C), for purposes of clarity, without making any substantive change.

The conference agreement (section 19012) follows the Senate provision.

Recovery by the United States of the Cost of Certain Health Care and Services

Both the Senate bill (section 1111) and the House bill (section 1973) would amend present section 629 of title 38, United States Code—relating to the United States' authority to recover under workers' compensation laws or plans, from automobile accident reparation (auto no-fault) insurers, and from crime-victim compensation programs the reasonable costs of VA-furnished non-service-connected health care to the extent that the insurer or program would be liable to a non-Federal provider—so as (1) to add authority for the United States to recover from a third party under a health-plan contract (a defined term that includes, for example, health-insurance policies) the reasonable costs of VA care furnished to a veteran who does not have a service-connected disability and is entitled to care or reimbursement for care from the insurer; (2) to require the Administrator to prescribe regulations to govern determinations of the reasonable cost of care or services; (3) expressly to authorize the Administrator to compromise, settle, or waive claims of the United States under section 629; (4) to specify that money collected under section 629 shall be deposited in the Treasury; and (5) to provide for the changes in existing law made by amendments to section 629 to a apply prospectively, that is, only with respect to care furnished after the date of enactment and only with respect to heatlh-plan contracts that are entered into, renewed, or modified after the date of enactment.

The conference agreement (section 19013) contains these provisions.

The conferees note that, in revsing the wording of existing provisions of section 629 pertaining to recovery under workers' compensation laws or plans, from automobile accident reparation insurers, and from crime-victim compensation programs, the conferees do not intend to make any substantive revisions in current law or in its application or to overrule any judicial interpretations of these provisions.

The Senate bill, but not the House bill, would delete from section 629(b) provisions specifying that the amount that the United States may recover under that section may not exceed the lesser of (1) the reasonable cost of the care involved as determined by the Administrator, or (2) the maximum amount specified by applicable State or local law or by any relevant contractual provision.

The conference agreement (revised section 629(a)(1) of title 38) follows the Senate provision.

The conferees agree that, in light of the provisions in section 629(a) providing for recovery by the United States of the reasonable cost of the VA-furnished care "to the extent" that the veteran (or the provider of the care) would be eligible for payment for the care had it been furnished by a non-Federal provider, the provisions being deleted are surplusage.

The Senate bill, but not the House bill, would specify, in the case of a health-plan contract containing the requirement for payment of a deductible or copayment by the veteran, (1) that the veteran's not having paid the deductible or copayment with respect to VA-furnished care does not preclude recovery under section 629, (2) that the amount that the United States may recover under section 629 shall be reduced by the appropriate deductible or copayment amount, or both, and (3) that a veteran eligible for VA care shall not be required by reason of section 620 to make any copayment or deductible payments in order to receive such care.

The conference agreement (revised section 629(a)(3) contains these provisions.

The Senate bill, but not the House bill, would (1) require the Administrator, before prescribing the regulations for determining the reasonable cost of care or services (discussed above), to consult with the Comptroller General of the United States; (2) require the Comptroller General, within 45 days after the regulations (or any amendment to them) are prescribed, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendments); and (3) require that the regulations provide that in no event may such reasonable cost exceed an amount equal to what the third party would pay for the care or services under the prevailing rates applicable under its contracts with non-Federal facilities in the geographic area in which the VA facility that provided the care or services is located.

The conference agreement (revised section 629(c)(2)) follows the Senate amendment.

The House bill, but not the Senate bill, would provide the Administrator with express authority to enter into agreements with health-plan contractors for the purpose of determining reasonable costs.

The conference agreement does not contain this provision.

The conferees note that the Administrator is already authorized by section 213 of title 38, relating to the Administrator's authority to enter into contracts for necessary services, to enter into such agreements.

Both the Senate and the House bills would require that the medical records of a health-plan beneficiary for the cost of whose care recovery is sought be made available for the purpose of enabling the third party to verify that the care for which recovery is sought was furnished. The Senate bill, but not the House bill, would also provide that the records shall be made available under such conditions to protect their confidentiality as the Administrator shall prescribe in regulations and that the records may also be made available to permit the third party to verify that the provision of the care involved meets criteria generally applicable under the health-plan contract.

The conference agreement (revised section 629(h)) follows the Senate bill.

The Senate bill, but not the House bill, would require the Administrator to submit to the Committees on Veterans' Affairs a 6-month report and annual reports on the process for and results of the implementation of the amendments to section 629.

The conference agreement would require two such reports, one due not later than 6 months after the date of enactment and the other, to provide information through at least the end of fiscal year 1987, due not later than February 1, 1988.

Medicare Providers' Acceptance of Veterans' Administration Beneficiaries at Medicare Rates

The House bill (section 1974), but not the Senate bill, would amend chapter 17 of title 38, United States Code, relating to VA health care, to insert a new section 625 to require non-Federal providers of hospital services under the Medicare program to accept VA beneficiaries on a basis similar to that on which they accept Medicare beneficiaries; to require those providers to accept VA payments made in accordance with VA regulations as payment in full; to authorize the Administrator to report violations of these requirements to the Secretary of Health and Human Services; and to authorize the Secretary to terminate a provider's participation in the Medicare program on the basis of such violations.

The conference agreement does not contain this provision.

SUBTITLE B—COMPENSATION RATE INCREASES

DISABILITY COMPENSATION

House bill

The House bill (sections 1962 through 1964) would amend chapter 11 of title 38, United States Code, relating to compensation for service-connected disability, to increase by 3.7 percent, effective December 1, 1985, the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the dependents' allowances payable to veterans rated 30-percent or more disabled, and the annual clothing allowance for certain disabled veterans.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 disability compensation COLA to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its reconciliation recommendations to the Senate Budget Committee. Thereafter, on December 2, 1985, the Senate passed S. 1887 providing (in sections 101 through 103) for a 3.1-percent increase, the same percentage as the actual percentage increase for the Social Security/VA pension cost-of-living adjustments, effective December 1, 1985.

Conference agreement

The conference agreement (sections 19021 through 19023) would increase these rates and allowances, effective December 1, 1985, by 3.1 percent.

DEPENDENCY AND INDEMNITY COMPENSATION

House bill

The House bill (sections 1965 through 1967) would amend chapter 13 of title 38, relating to dependency and indemnity compensation (DIC) for service-connected deaths, to increase by 3.7 percent, effective December 1, 1985, rates of DIC payable to the surviving spouses and children of veterans whose deaths were service connected.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 DIC increases to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its recommendations to the Senate Budget Committee. S. 1887 as passed by the Senate provided for a 3.1-percent COLA.

Conference agreement

The conference agreement (sections 19024 through 19026) would amend chapter 13 to increase these rates, effective December 1, 1985, by 3.1 percent.

SUBTITLE C—MISCELLANEOUS PROVISIONS

Epidemiological Study of Female Vietnam Veterans

The House bill (section 1982), but not the Senate bill, would require the Administrator to provide for the conduct of an epidemiological study of any long-term adverse gender-specific health effects in female Vietnam veterans that may result from their exposure to Agent Orange or to other phenoxy herbicides and would authorize the Administrator to expand the scope of the study to evaluate any long-term adverse gender-specific health effects in females resulting from other aspects of service in Vietnam. However, the Senate, on December 2, 1985, passed a similar provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985" (section 507), that would unless determined not to be scientifically feasible, require the Administrator to provide for the conduct of a female Vietnam veterans health-experience study and permit investigation of any long-term adverse health effects which may have resulted from traumatic experiences, exposure to phenoxy herbicides (including Agent Orange), or other experience or exposure.

The conference agreement (section 19031) follows the Senate provision.

Advisory Committee on Native-American Veterans

The House bill (section 1981), but not the Senate bill, would provide for the establishment of a VA Advisory Committee on American-Indian Veterans to examine and evaluate VA programs and activities with respect to the needs of American-Indian veterans and to transmit reports on its examinations and evaluation to the Administrator of Veterans' Affairs for subsequent transmittal to the Congress. However, on December 2, 1985, the Senate passed a comparable provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985" (section 505), which would provide for the establishment of a VA Advisory Committee on Native American Veterans (including Alaska Natives).

The conference agreement (section 19032) contains such a provision, blending together aspects of the two provisions, naming the Advisory Committee the "Advisory Committee on Native-American Veterans" and specifying that representatives of American Indians and of other Native Americans each would serve on the Committee.

Waiver of waiting Period for Administrative Reorganization of Certain Veterans' Administration Automated Data Processing Activities

The conference agreement (section 19033) also contains a provision that would waive the waiting period prescribed by section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, submits a report containing a detailed plan and justification for the reorganization—with respect to a reorganization, described in letters dated November 1, 1985, that were submitted to the chairmen and ranking minority members of the Committees, involving the transfer of certain functions from the VA's Office of Data Management and Telecommunications to the VA's Department of Veterans' Benefits and requesting a waiver of that waiting period.

The conferees have determined that the information contained in the November 1 letters, together with other information subsequently provided to the Committees, constitutes a sufficiently detailed plan and justification (as that term is proposed to be defined by section 501 of S. 1887, as passed by the Senate on December 2, 1985) for this proposed reorganization and that the reorganization will serve to improve the operations of the VA's service and benefits delivery system. Since, under the provisions of section 210(b)(2), the reorganization would not be permitted to be implemented prior to the beginning of fiscal year 1987, the conference agreement would waive the required waiting period in order to permit the Administrator to implement this reorganization prior to October 1, 1986.

In agreeing that this statutory waiver be granted, the conferees intend that the Administrator, as part of implementing the reorganization, develop and implement plans for better coordination and integration between the Department of Medicine and Surgery and the Department of Veterans' Benefits in automated data processing modernization, and are not necessarily expressing agreement with the recommendations of the October 25, 1985, report of McManis Associates. The conferees believe that the Administrator should proceed cautiously in adopting recommendations from that report (particularly those relating to procurement). In that regard, the confereees recommend that the Administrator take full cognizance of the review being conducted by the General Accounting Office, pursuant to a request from the Chairman of the House Veterans' Affairs Committee and the Ranking Minority Member of the Senate Veterans' Affairs Committee, pertaining to certain aspects of the report

RATIFICATION OF CERTAIN TEMPORARILY EXPIRED AUTHORITIES

Veterans' Administration Regional Office in the Philippines

The compromise agreement (section 19034(a)) contains a provision ratifying any action taken by the Administrator during the period beginning on November 1, 1985, and ending on December 3, 1985, in connection with the exercise of the Administrator's authority under section 230(b) of title 38, relating to the establishment of a regional office in the Republic of the Philippines. This authority to operate such an office expired on October 31, 1985, but was extended for three additional years by section 402 of Public Law 99-166.

Contract Care Authority in Puerto Rico and the Virgin Islands

The compromise agreement (section 19034(b)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning on November 1, 1985, and ending on December 3, 1985, care described in subclause (v) of section 601(4)(C) of title 38, United States Code, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), including any waiver made by the Administrator of the applicability to the Commonwealth of Puerto Rico or the Virgin Islands of the restrictions described in that subclause for that period. This authority to provide such care and services also expired on October 31, 1985, but was made permanent in the case of the Virgin Islands, and was extended (with certain limitations) for an additional three years in the case of Puerto Rico, by section 102 of Public Law 99-166, enacted on December 3, 1985

ALCOHOL AND DRUG TREATMENT AND REHABILITATION CONTRACT PROGRAM

The compromise agreement (section 19034(c)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning November 1, 1985, and ending December 3, 1985, care described in section 620A of title 38, relating to contracts for certain care and treatment and rehabilitative services for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. This authority to provide such care and services also expired on October 31, 1985, but was extended for an additional three years by section 101 of Public Law 99-166.

From the Committee on the Budget, for consideration of the entire Senate amendment and the entire House amendment to the Senate amendment, except for sections 778H, 778I, 780, 781, 783 through 789B, 789D through 789G, subpart A of part 3 of subtitle I of title VII, section 793, subsections (a), (b), (c), (f), and (g)(1) of section 794, and sections 795 and 796 of the Senate amendment, and except for sections 2502(a) and 2503 of division B of the House amendment to the Senate amendment:

WILLIAM H. GRAY III,
BUTLER DERRICK,
MICHAEL D. BARNES,
CHARLES E. SCHUMER,
BARBARA BOXER,
BUDDY MACKAY,
JIM SLATTERY,
CHESTER G. ATKINS,

From the Committee on Ways and Means, solely for the consideration of sections 144(b)(3), 204, 205, 746(e)(2)-(4), and 759, subtitles A, C-F, H, and I of title VII, part G of title IX, and part I of title IX of the Senate amendment, and of subtitles B and C of title III and section 1974 of division A, and all of division B except parts E and G of title I, of the House amendment to the Senate amendment:

SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
JIM JONES,
HAROLD FORD,
ED JENKINS,
JOHN J. DUNCAN,
BILL GRADISON,
CARROLL CAMPBELL,
WM. THOMAS,

From the Committee on Agriculture, solely for the consideration of title I and section 536 of the Senate amendment:

E DE LA GARZA,

ED JONES,
LEON E. PANETTA,
TONY COELHO,
BERKLEY BEDELL,
ED MADIGAN,
ED EMERSON,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN,

From the Committee on Agriculture, solely for the consideration of subpart B of part 3 of subtitle I of title VII of the Senate amendment:

E DE LA GARZA,
CHARLIE ROSE,
WALTER B. JONES,
CHARLES HATCHER,
CHARLIE WHITLEY,
ROBIN TALLON,
ROBERT L. THOMAS,
LARRY J. HOPKINS,
PAT ROBERTS,
WEBB FRANKLIN,
LARRY COMBEST,

From the Committee on Agriculture solely for the consideration of 2502(b) of division B of the House amendment to the Senate amendment:

E. DE LA GARZA,
CHARLIE ROSE,
CHARLIE WHITLEY,
LARRY J. HOPKINS,
PAT ROBERTS,

From the Committee on Armed Services, solely for the consideration of title II and section 165 of the Senate amendment, and of title I of division A of the House amendment to the Senate amendment:

LES ASPIN,
G.V. MONTGOMERY,
PAT SCHROEDER,
WM. L. DICKINSON,
BUD HILLIS,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the Senate amendment and of title II of division A of the House amendment to the Senate amendment:

FERNAND J. ST GERMAIN,
PARREN J. MITCHELL,
STAN LUNDINE,
MARY ROSE OAKAR,
BRUCE VENTO,
BARNEY FRANK,
CHALMERS P. WYLIE,
STEWART MCKINNEY,
MARGE ROUKEMA,
STEVE BARTLETT,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of subtitle A of title IV of division A of the House amendment to the Senate amendment:

FERNAND J. ST GERMAIN,
STAN LUNDINE,

From the Committee on Education and Labor, solely for the consideration of parts A through E of title IX of the Senate amendment, and of subtitle A of title III of division A of the House amendment to the Senate amendment:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
MARIO BIAGGI,
PAT WILLIAMS,
MAJOR R. OWENS,
CHARLES A. HAYES,
CARL C. PERKINS,
TERRY L. BRUCE,
JIM JEFFORDS,
E. THOMAS COLEMAN,
STEVE GUNDERSON,
PAUL B. HENRY,

From the Committee on Education and Labor, solely for the consideration of section 746(d), subtitle H of title VII, section 782, and parts G and I of title IX of the Senate amendment, and of subtitles B and C of title III of division A, and of sections 2181 and 2505 and title VI of division B, of the House amendment to the Senate amendment:

GUS HAWKINS,
WILLIAM D. FORD,
JOSEPH M. GAYDOS,
WILLIAM CLAY,
MARIO BIAGGI,
DALE E. KILDEE,
MAJOR R. OWENS,
CHARLES A. HAYES,
MERVYN M. DYMALLY,
CHESTER G. ATKINS,
JAMES M. JEFFORDS,
THOMAS E. PETRI,
MARGE ROUKEMA,
STEVE BARTLETT,
ROD CHANDLER,
RICHARD ARMEY,
HARRIS W. FAWELL,

From the Committee on Education and Labor, solely for the consideration of part F of title IX of the Senate amendment:

AUGUSTUS F. HAWKINS,
AUSTIN J. MURPHY,
BILL CLAY,
PAT WILLIAMS,
JIM JEFFORDS,
TOM PETRI,
STEVE BARTLETT,

From the Committee on Energy and Commerce, solely for the consideration of sections 706 and 713–716, parts 2–5 of subtitle A of title VII (except for section 734), subtitle B of title VII (except for subsections (d) and (e)(2)–(4) of section 746), sections 769B, 770, 772, 774, and 782, and parts G and H of title IX of the Senate amendment, and of section 1974 of division A, and of section 2107, parts B–G of title I, and section 2302 of division B of the House amendment to the Senate amendment:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
THOMAS LUKEN,
DOUG WALGREN,
BARBARA A. MIKULSKI,
MICKEY LELAND,
CARDISS COLLINS,
RON WYDEN,
ED MADIGAN
(for Medicaid and maternal and child health only),
BOB WHITTAKER
(for Medicare, Medicaid, and maternal and child health only),

From the Committee on Energy and Commerce, solely for the consideration of those portions of section 789C of the Senate amendment inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code:

JOHN D. DINGELL,
DENNIS E. ECKART,
RALPH M. HALL,
BILLY TAUZIN,
WAYNE DOWDY,
TOM LUKEN,
AL SWIFT,
MIKE SYNAR,
NORMAN F. LENT,
DON RITTER,
JACK FIELDS,
DAN SCHAEFER,

From the Committee on Energy and Commerce, solely for the consideration of sections 501, 502, 521–524, and 536 of the Senate amendment, of subtitles A–E of title IV and subtitles B and C of title VIII of division A of the House amendment to the Senate amendment:

JOHN D. DINGELL,
PHIL SHARP,
ED MARKEY,
DOUG WALGREN,
AL SWIFT,
MICKEY LELAND
(except for strategic petroleum reserve, shared energy, biomass loan guarantee, and synfuels programs),
RICHARD C. SHELBY,
MIKE SYNAR,
BILLY TAUZIN,
JAMES T. BROYHILL,
BILL DANNEMEYER,
CARLOS MOORHEAD,
BOB WHITTAKER,
MICHAEL G. OXLEY,
FRED J. ECKERT,

From the Committee on Energy and Commerce, solely for the consideration of sections 403 and 404 of the Senate amendment, and subtitle F of title IV of division A of the House amendment to the Senate amendment:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES H. SCHEUER,
TOM LUKEN,
AL SWIFT,
MICKEY LELAND,
CARDISS COLLINS,
MIKE SYNAR,
BILLY TAUZIN,

From the Committee on Energy and Commerce, solely for the consideration of sections 401, 402, 408, 769G, 777(h)(1), and subsections (d), (e), (g)(2) and (g)(3) of section 794 of the Senate amendment, and of subtitles G and H of title IV of division A, and of sections 2252(b) and 2402 of division B of the House amendment to the Senate amendment:

JOHN D. DINGELL,
JAMES J. FLORIO,
PHIL SHARP,
BILLY TAUZIN,
RALPH M. HALL,
WAYNE DOWDY,
BILL RICHARDSON,
JIM SLATTERY,
JIM BROYHILL,
NORMAN F. LENT,
DON RITTER,
DAN COATS,
JACK FIELDS,

From the Committee on Government Operations, solely for the consideration of subtitle G of title VII of the Senate amendment:

JACK BROOKS,
DON FUQUA,
TED WEISS,
FRANK HORTON,
ROBERT S. WALKER,

From the Committee on Government Operations, solely for the consideration of section 523 and parts C and D of title VIII of the Senate amendment, and of subtitle E of title IV of division A of the House amendment to the Senate amendment:

JACK BROOKS,
DON FUQUA,
CARDISS COLLINS,
FRANK HORTON,
AL MCCANDLESS,

From the Committee on Interior and Insular Affairs, solely for the consideration of

sections 521, 522, and 531-535 of the Senate amendment, and of subtitle C of title IV, section 1542, title V, subtitles D and H of title VI, and subtitle C of title VIII, of division A of the House amendment to the Senate amendment:

MO UDALL
(except for Outer Continental Shelf programs),
JOHN F. SEIBERLING
(except for Outer Continental Shelf programs),
JIM WEAVER
(except for Nuclear Regulatory Commission fees),
GEORGE MILLER,
PHIL SHARP
(except for Outer Continental Shelf programs),
NICK RAHALL,
BRUCE F. VENTO
(except for Outer Continental Shelf programs),
JERRY HUCKABY,
SAM GEJDENSON
(except for Outer Continental Shelf programs),
DON YOUNG
(except for Nuclear Regulatory Commission fees),
MANUEL LUJAN, Jr.
(except for Nuclear Regulatory Commission fees),
ROBERT J. LAGOMARSINO
(except for Outer Continental Shelf programs, and Nuclear Regulatory fees),
RON MARLENCE
(except for Outer Continental Shelf programs, and Nuclear Regulatory Commission fees),
CHARLES PASHAYAN, Jr.
(except for Nuclear Regulatory Commission fees),

From the Committee on the Judiciary, solely for the consideration of section 982 and that portion of section 999 amending paragraph (2) of section 4074(c) of the Employee Retirement Income Security Act, of the Senate amendment, and of that portion of section 1458 inserting section 4041(c)(2)(B)(ii) in the Employee Retirement Income Security Act, of division A, and section 2124(b) of division B, of the House amendment to the Senate amendment:

PETER W. RODINO, Jr.,
DANIEL GLICKMAN,
DON EDWARDS,
HAMILTON FISH, Jr.,
THOMAS N. KINDNESS,

From the Committee on Merchant Marine and Fisheries, solely for consideration of sections 405, 406, 407, and 531-535 of the Senate amendment, and of titles V and VI of division A of the House amendment to the Senate amendment:

WALTER B. JONES,
MARIO BIAGGI,
GLENN M. ANDERSON,
JOHN BREAUX,
GERRY E. STUDDS,
BARBARA A. MIKULSKI,
MIKE LOWRY,
DOUGLAS H. BOSCO,

(In lieu of Mr. Hughes solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

BILLY TAUZIN,
NORMAN F. LENT,
GENE SNYDER,
DON YOUNG
(except as listed below),
BOB DAVIS,

(In lieu of Mr. Young solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

WILLIAM CARNEY,
JACK FIELDS
(for purposes of OCS programs only),

From the Committee on Post Office and Civil Service, solely for the consideration of section 769G and parts A and B of title VIII of the Senate amendment, and of title VII of division A of the House amendment to the Senate amendment:

WILLIAM D. FORD,
MICKEY LELAND,
MARY ROSE OAKAR,
GENE TAYLOR,
BENJAMIN A. GILMAN,

From the Committee on Public Works and Transportation, solely for the consideration of title VI, sections 777(h)(2) and 1202, and those portions of section 789C inserting sections 9505(c), (d), and (e) in the Internal Revenue Code, of the Senate amendment, and of sections 1533, 1541, and title VIII of division A, and section 2252(c) of division B of the House amendment to the Senate amendment:

JAMES J. HOWARD
(except for Superfund authorization and pipeline programs),
GLENN M. ANDERSON
(except for Superfund authorization and pipeline programs),
ROBERT A. ROE
(except for Superfund authorization and pipeline programs),
NORMAN Y. MINETA
(except for Superfund authorization and pipeline programs),
JAMES L. OBERSTAR
(except Superfund authorization),
HENRY J. NOWAK
(except Superfund authorization and pipeline programs),
BOB EDGAR
(except Superfund authorization and pipeline programs),
ROBERT A. YOUNG
(except Superfund authorization and pipeline programs),
NICK RAHALL
(except Superfund authorization and pipeline programs),
GENE SNYDER
(except Superfund authorization and pipeline programs),
JOHN PAUL HAMMERSCHMIDT
(except Superfund authorization),
BUD SHUSTER
(except Superfund authorization and pipeline programs),
ARLAN STANGELAND
(except Superfund authorization),
NEWT GINGRICH
(except Superfund authorization and pipeline programs),
BILL CLINGER
(except Superfund authorization and pipeline programs),

(In lieu of Mr. Rahall solely for the consideration of section 1541 and subtitle B of title VIII of division A of the House amendment to the Senate amendment):

JOHN BREAUX,

From the Committee on Science and Technology, solely for the consideration of sections 406(a)-(c), (e)-(g), and (i) of the Senate amendment:

DON FUQUA,
JAMES H. SCHEUER,
TIM WIRTH,
MANUEL LUJAN, Jr.,
CLAUDINE SCHNEIDER,

From the Committee on Small Business, solely for the consideration of title X of the Senate amendment and of title IX of division A of the House amendment to the Senate amendment:

PARREN J. MITCHELL,
JOSEPH P. ADDABBO,
JOSEPH M. MCDADE,
SILVIO O. CONTE,

From the Committee on Veterans' Affairs, solely for the consideration of section 205 and title XI of the Senate amendment, and of title X of division A of the House amendment to the Senate amendment:

G.V. MONTGOMERY,
BOB EDGAR
(solely for requirement of Medicare providers to accept VA beneficiaries),
DOUGLAS APPLEGATE
(solely for requirement of Medicare providers to accept VA beneficiaries),
JOHN PAUL HAMMERSCHMIDT,
CHALMERS P. WYLIE,

Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

JESSE HELMS,
BOB DOLE,
RICHARD G. LUGAR,
THAD COCHRAN,
ED ZORINSKY,
PATRICK LEAHY,

JOHN MELCHER,

From the Committee on Finance—general conferees:

BOB PACKWOOD,
W.V. ROTH, Jr.,
J.C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
LLOYD BENTSEN,
SPARK M. MATSUNAGA,

From the Committee on Armed Services:

SAM NUNN,

From the Committee on Veterans' Affairs:

FRANK H. MURKOWSKI,
ALAN K. SIMPSON,
ALAN CRANSTON,

From the Committee on Finance—for CHAMPUS Medicare Subconference only:

DAVE DURENBERGER,
MAX BAUCUS,

From the Committee on Banking, Housing, and Urban Affairs:

JAKE GARN,
JOHN HEINZ,
CHIC HECHT,

From the Committee on Commerce, Science, and Transportation:

J.C. DANFORTH,
BOB PACKWOOD,
BARRY GOLDWATER,
LARRY PRESSLER,
SLADE GORTON,
TED STEVENS,
FRITZ HOLLINGS,
RUSSELL LONG,
DANIEL K. INOUYE,
WENDELL FORD,
DON RIEGLE,

From the Committee on Energy and Natural Resources—general conferees:

JAMES A. MCCLURE,
PETE V. DOMENICI,
MALCOLM WALLOP,
JO BENNETT JOHNSTON,
WENDELL H. FORD,

From the Committee on Energy and Natural Resources—conferees on title VI, section 6701 only:

JAMES A. MCCLURE,
MARK O. HATFIELD,
PETE V. DOMENICI,
J. BENNETT JOHNSTON,
WENDELL H. FORD,

From the Committee on Commerce, Science, and Transportation—conferees on title VI, section 6701 only:

BOB PACKWOOD,
ERNEST F. HOLLINGS,
RUSSELL B. LONG,

From the Committee on Environment and Public Works:

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
AL SIMPSON,
STEVE SYMMS,
LLOYD BENTSEN,
QUENTIN N. BURDICK,
FRANK R. LAUTENBERG,

From the Committee on Labor and Human Resources—general conferees:

ORRIN HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
EDWARD M. KENNEDY,
CLAIBORNE PELL,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

(For the purposes of subconference No. 18 only):

ORRIN HATCH,
DON NICKLES,
STROM THURMOND,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,

From the Committee on Finance—for PBGC and ERISA Subconference only:

BOB PACKWOOD,
JOHN CHAFEE,
JOHN HEINZ,
GEORGE MITCHELL,
DANIEL PATRICK MOYNIHAN,

From the Committee on Finance—for Private Health Insurance Coverage Subconference only:

JOHN HEINZ,
DAVE DURENBERGER,
MAX BAUCUS,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

ORRIN HATCH,
DON NICKLES,
STROM THURMOND,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,

From the Committee on Environment and Public Works:

(For Superfund authorization only):

JOHN H. CHAFEE,
LLOYD BENTSEN,

From the Committee on Governmental Affairs:

W.V. ROTH, Jr.,
TED STEVENS,
WILLIAM S. COHEN,
TOM EAGLETON,
CARL LEVIN,
ALBERT GORE, Jr.,

From the Committee on the Budget—general conferees:

PETE V. DOMENICI,
W.L. ARMSTRONG,
NANCY LANDON KASSEBAUM,
RUDY BOSCHWITZ,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
HOWARD M. METZENBAUM,

From the Committee on Small Business:

LOWELL P. WEICKER, Jr.,
SLADE GORTON,
DALE BUMPERS,

Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR REJECTION OF CONFERENCE REPORT ON H.R. 3128, CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. 99-454) on the resolution (H. Res. 349) providing for the House to reject the conference report on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution recede from its amendment to the Senate amendment, and to concur in the Senate amendment with an amendment; which was referred to the House Calendar and ordered to be printed.

□ 2000

CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 349 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 349

Resolved, That upon the adoption of this resolution the conference report on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress) shall be considered as having been rejected, and the House shall be considered to have receded from its amendment to the Senate amendment to said bill, and to have concurred in the Senate amendment with an amendment inserting in lieu of the Senate amendment an amendment consisting of the text of the conference report, with the following modification: strike out Subtitle B of Title XIII.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides that upon adoption of the rule, the House is deemed to have rejected the conference report to accompany H.R. 3128, the Deficit Reduction Amendments of 1985. It further provides that the House shall be deemed to have receded from its position, and to have concurred in the Senate amendment to the bill, with an amendment.

The amendment to the Senate amendment shall consist of the substitute amendment reported from the committee on conference as modified by the deletion of certain sections of the conference's amendment. The sections which would be stricken from the conference committee's amendment are those which relate to the broad-based tax proposed by the conferees as a means of funding the Superfund Program. The adoption of the rule would effectively remove Superfund funding from the bill, leaving the other body to deal with this modified version of the conferees' decision.

Mr. Speaker, the procedure being employed by this rule is an unusual one. The Rules Committee chose to recommend this approach after sensing that the House indeed wants to see the enactment of a reconciliation measure but has indicated opposition to the use of the broad-based tax to finance the Superfund Program. The committee made its decision after hearing the concerns of several Members of the House earlier this evening who voiced strong opposition to the adoption of the manufacturers' excise tax. While the other body considers the approach an appropriate one, the House clearly rejected it during consideration of Superfund reauthorization legislation on the floor of the House. Further, it has been the position of the House to deal with the taxing provisions related to Superfund

as part of the overall reauthorization of that program. And as our colleagues are aware, that issue was recently considered on the floor of the House.

Adoption of this rule, therefore, allows the reconciliation process to be concluded in the Congress tonight while leaving the issue of Superfund financing to be resolved next year by the conferees on the Superfund reauthorization bill.

Mr. Speaker, having been very much involved in the reconciliation process as chariman of the budget process and reconciliation task force of the Budget Committee. I am pleased that agreement has been reached on this very important piece of legislation. This represents the tireless efforts of 16 House committees and 12 Senate committees, working since the Congress adopted the conference report on the budget resolution on August 1. The 3-year reconciliation instructions in the budget resolution were $75.5 billion. The House passed its reconciliation measures in October and the Senate followed suit in November. This conference agreement, representing the work of 31 subconferences and over 200 Members has resulted in estimated savings of $81.6 billion over 3 years—over the target set in the budget resolution by at least $6 billion. I should note, Mr. Speaker, that this estimate does include the revenues which will be raised by Superfund. Which, by operation of this rule, will not be included in this reconciliation conference report. They will be enacted separately at a later date.

It is imperative that we pass this measure prior to adjourning so that these savings can be achieved. This is the budget process working. This is the commitment the Congress made when it passed the budget resolution last August. This is real deficit reduction, not just talk about reducing the deficit.

Mr. Speaker, this is the 11th hour. This rule provides the Members of the House a single-up-or-down vote on reconciliation for fiscal year 1986. I urge adoption of this rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say I believe that this resolution lives up to the commitment that the majority leader made as far as the deletion of the funding for Superfund is concerned. The matter dealing with teenage pregnancies was removed in conference before it came to the Rules Committee.

So what will happen, if we adopt this rule, we move the funding for Superfund from the legislation, we are merely delaying this question until January or February when we can take it up again. We are doing nothing with Superfund itself, only with revenues.

So I cannot understand why there would be any opposition at this late hour to this resolution.

If you oppose the resolution, what you will be doing is, for all practical purposes, killing this reconciliation bill which saves billions of dollars.

Now I do not think anybody wants to do that. I know there are some interests that would like to see the new VAT that is being proposed in this legislation written into our tax laws. Well, let me say I do not think that is going to happen. Even if this House would turn down this resolution and come forth with another resolution, the President says he will not accept the VAT tax.

To start a new system of taxation for the American people would be absolutely wrong.

Go back and look at the history of the income tax. You know, when they came forth with that, $3,000 was the limit; $3,000, and look at how it expanded, the income tax.

The same thing could happen on VAT if we opened up this whole keg of worms.

Every time the Congress wanted more money for this program or that program, it would increase the VAT. We do not want to get into the history of VAT's in some of these other countries, how detrimental they have been to the economies of these countries. That was fully debated.

I believe that the Rules Committee has taken the proper approach, with the full support of the majority leader, to resolving this matter tonight insofar as reconciliation is concerned and putting over the question of revenues for Superfund until the next session of this Congress.

So I urge my colleagues to support this resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, the issues before us tonight are compelling, and I think that for those of us who have been on the VAT patrol for the last 12 hours, we need not drag this out, but it is important to understand what is at stake here tonight.

The House of Representatives has already spoken on the value-added tax; by a margin of 220-204, we turned it down. The House of Representatives has every reason to expect and demand from its conferees, whether they are new or old ones, that the House position be presented to the Senate. What happened in the naming of conferees prior to that vote, we have conferees that decided because the numbers were wrong to recede and concur with the Senate position on the value-added tax. The other body is so desperate and understands the President's opposition and that of the American people that they have decided to hide the VAT under the skirts of reconciliation. People have worked very, very hard on reconciliation. Without the VAT, it is a good bill and should be voted on.

When you vote "aye" tonight for the rule, you will be able to say a couple of things, that you are not intimidated by the other body, that you believe you can make the savings, and that you are unalterably opposed to a value-added tax.

As the gentleman from Ohio mentioned, this is the foot in the door. If we adopt, at the 11th hour, a value-added tax to finance Superfund as part of reconciliation, history will not smile on us. They will say that in a rush to go home, in a rush to close the door on this contentious problem, we found the easy way out. It is not the easy way out. It is the wrong way. Vote "aye" on the rule, send reconciliation back to the other body absent the VAT, and we will have done our job. We will have saved the money that we needed to save, and we will have shut the door once and for all on this most pernicious tax.

Please, please, vote "aye" on the rule when it comes up if you want to kill the VAT and keep reconciliation.

The last point should be an obvious one: The supreme legislator at 1600 Pennsylvania Avenue has already indicated that this legislation is history with the value-added tax. If you want to see it succeed, make sure it is not part of the legislation.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I am sorry to burden the House again with the question of policy and procedure. I asked, along with others, to have a provision in this rule which would allow us—those of us who come from those States that still have not been bludgeoned by the Federal Government to raise their drinking age—to have an opportunity to get all Members to vote on it, and I can understand the Rules Committee desire to protect you from that vote. But I would hope that you would remind yourselves—the next time we show that movie around this country, you know the one we all introduce on film, that shows how the process in Congress works, with Chairman JOHN DINGELL starring and with all of the hearing process—the great committee debates, the floor debates, and so forth, by comparing it as to how this law was enacted. For it did not come from those debates and hearings, it did not come from that process. It came to us without hearings. It came from a sneak attack on the House floor when we were told it was not going to come up. It came to us again as a sneak attack at 1 o'clock in the morning on a

unanimous-consent request after we were told no more legislative business would be considered. And now, after we succeeded in getting it out of the continuing resolution yesterday, here it is again, right now, in this bill which will be coming before us on reconciliation, buried and untouchable.

I would like to see the civics professor or the civics teacher that is able to explain this reprehensible process to his young people, and that this is how Congress really works; or, from another perspective, how a professor of constitutional law, in defending States' rights, is able to say how this law, contrary to the Constitution and the 21st amendment—when this very aspect of Federal involvement was considered and rejected in the constitutional process—is the way the Constitution ought to work with respect to States' rights. One can only imagine where this abrogation of States' rights will lead us in other areas.

It is the saddest moment in my time here, to see this procedure is abusing those young people who have not had the courtesy to be heard, or the ability to ever be represented or meaningfully voted on in this body.

Residents of my home State of Vermont and the Vermont Legislature has passed a joint resolution which, and I quote:

Expresses on behalf of the people of the State of Vermont its outrage and opposition to very instrusive actions by the Federal Government on the drinking age.

The 10th amendment to the U.S. Constitution states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The 21st amendment to the U.S. Constitution states:

The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

The legislative history of the 21st amendment shows that a proposed section 3 was deleted, and that said deleted section 3 would have stated that:

Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

One opponent of the deleted section 3 of the 21st amendment expressed the intent of Congress by saying during the 1933 congressional debate on the amendment:

If Congress gave itself power to regulate the saloon, it would have the power to regulate the place and hours of purchase as well as the age and sex of purchasers. By striking section 3, the Congress reserved these powers to the States.

The proponents of this legislation have used every conceivable tactic to get this bill past this House with no debate and no vote. It was tacked on to the continuing resolution, and now it shows up on the budget reconciliation bill. I guess if we keep adding this amendment to every bill where it is possible to waive points of order and limit debate, eventually it will pass without Members having to vote on the issue.

This should not be in the reconciliation bill. There will be an opportunity for meaningful debate on the merits of the issue when the House considers the Surface Transportation Act next session. So why must we ramrod this amendment through the House on the reconciliation bill? Why make a mockery of the legislative process? Not only is this an unnecessary and unwarranted intrusion of rights specifically granted to States in the Constitution, it is an unnecessary and unwarranted circumvention of the legislative process. I must challenge the treatment of this issue and the process which has allowed the inclusion of this nongermaine issue in the reconciliation bill. There will be no budget savings if this amendment is included in the reconciliation bill.

Back in 1971, after prolonged national debate, the Congress voted to lower the age of voting to 18. The States followed by lowering the age of majority. We judged that those old enough to die for our country are old enough for all rights, obligations, and privileges of citizenship.

But last year, with no meaningful debate, without even a meaningful vote, the Congress approved legislation which instructs the Department of Transportation to withhold highway trust fund money from those States which do not have a 21-year-old drinking age. This is money that the taxpayers of these States have paid into the highway trust fund. Yet we say, "We know what's best for your State, so we're going to take your money away until you do what we say."

How can the Federal Government claim to know what is best for the States? What about the unique problems of the States which border Canada or Mexico? Proponents of the national minimum drinking age cite the benefits of uniformity among the States. However, this legislation creates a whole new set of problems for border States. The largest city in Vermont with a college population of 13,400 is a quick drive to the Quebec Province where the drinking age is 18. This situation exists all across the northern tier where cities such as Buffalo, Detroit, Duluth, Grand Forks, Spokane, and Seattle, with an estimated combined population of 180,000 18- to 21-year-olds, are all within striking distance of Canadian Provinces where the drinking age is less than 20. Along our Mexican border, cities such as Brownsville, Corpus Christi, El Paso, Tucson, and San Diego are all within easy reach of a drinking age less than 21. The combined population of 18- to 21-year-olds in these cities is approximately 152,000. All in all, the total 18 to 21 population that will be tempted to cross international borders is probably close to a half million. The paternal approach taken by Congress disregards the special circumstances involved in this issue, and blackmails Vermont and other border States into taking action which could cost young lives.

In taking this ill-conceived action, Congress is led to believe that it is addressing the national tragedy of drunk driving. Is it? No, because drunk driving is a national problem which cuts across the entire age spectrum.

We are all aware of the statistic that 18- to 21-year-olds make up 9 percent of the country's drinking population, yet they are involved in 17 percent of all alcohol-related accidents. This figure is high, but what of the remaining 83 percent of the accidents?

On a national basis, under 20-year-old drivers account for a high percentage of all fatal car accidents, alcohol related or not. This can be explained in part by their inexperience and propensity to drive with a "heavy foot." The insurance companies certainly see it this way and adjust their rates accordingly. I know this for a fact—I pay for my son's car insurance.

When looking at raising the drinking age to reduce the number of car accidents involving individuals under 20, I think we have to realize that this group, historically, are problem drivers. Data for all fatal car accidents in 1970 show that drivers less than 20 years old accounted for 15 percent of all accidents. This is of course prior to the time the drinking age was generally reduced to 18 across the country. In 1983, this group still accounted for 15 percent of all fatal accidents.

Proponents of the national minimum drinking age often cite statistics which show that States which have raised their drinking age to 21 have experienced reductions in alcohol related fatalities among 18- to 20-year-olds. However, many of these States have also simultaneously toughened drunk driving laws and increased enforcement. I believe that the tougher penalties and enforcement efforts had a more significant impact on the reduction of fatalities than raising the drinking age.

In some States, a higher drinking age has resulted in more fatalities among the age group concerned. Illinois, which raised its drinking age from 19 to 21 effective January 1980, saw alcohol-related fatalities among 19- and 20-year-olds increase by 15 percent in 1981, then decrease by 15 percent in 1982, then increase by 12 percent in 1983. Florida raised their drinking age from 18 to 19, effective

January 1981. Alcohol-releated fatalities among 18-year-olds dropped 5 percent in 1981, then increased 21 percent in 1982 and 26 percent in 1983. I fail to see the connection in these cases.

A few other statistics of interest are worth noting at this time. In 1983, 17- to 20-year-olds were involved in 18.8 percent of all alcohol-related fatal accidents. In this same year, 21- to 24-year-olds accounted for 22.2 percent of these accidents. Figures from my own State of Vermont show roughly the same relationship with 17- to 20-year-old drivers accounting for 22 percent of alcohol-related fatal accidents and 21- to 24-year-olds accounting for 27 percent. If the answer to drunk driving is raising the drinking age, shouldn't we be looking at raising the age to 24? Or, is not the more logical answer to direct educational and other special programs toward our younger generation?

I am concerned because this national minimum drinking age legislation is a phony solution to a very real problem. We need to find real solutions to this national problem, not raise the drinking age and pat ourselves on the back. Many States are enacting tough new drunk driving laws and increasing enforcement of drunk driving laws. State and local governments and school officials are developing innovative education programs.

In my home State of Vermont, bar and restaurant owners are implementing call-a-cab programs. Students at the University of Vermont have organized a "free ride home" for students and local residents who have had too much to drink. We should be commending these students, not taking away the opportunity to make responsible choices about alcohol. We should be educating students about the dangers of drinking and driving, and increasing public awareness of the tragedy of drunk driving with alcohol education programs.

This Congress should be looking at the approach that student groups such as the U.S. Student Association have taken to address the national tragedy of drunk driving. The U.S. Student Association has undertaken a grassroots campaign to educate young adults about the dangers of drunk driving. They have received literally thousands of requests for the pamphlet, "5 Things a Young Adult Can Do About Drunk Driving." We should be commending the efforts of student groups around the country.

I would like to commend the efforts of all individuals and groups committed to increasing awareness about drunk driving. I believe the country is now painfully aware of the tragedy of drunk driving. We are focusing our efforts, through the media and through our schools, on the young people who will be making decisions about drinking and driving.

The Congress should be looking at providing incentives to States to take actions which will have a real impact upon our drunk driving problem. States should be encouraged to adopt strict penalties such as mandatory jail terms for offenders. We should continue to provide Federal support for special drunk driving enforcement units which patrol our highways on Friday and Saturday nights, when over 50 percent of drunk driving fatalities occur. There is no better deterrent to drunk driving than strict penalties and the knowledge that there is a good chance of being arrested. Sweden and other countries with strict drunk driving laws have virtually no drunk driving problems.

Many States would not agree that raising the drinking age is the best way to address the drunk driving issue. Some States with 21-year-old drinking ages also have some of the most lax penalties for drunk driving. Tough penalties and strict enforcement will deter drunk drivers. A 21-year-old drinking age will not. What we are doing if we take this action is allowing business as usual for those over 21 who drink and drive while singling out 18 to 20 year olds for blame, even though statistics show that the majority of drunk driving arrests occur in the 21 to 24 age group.

Proponents cite statistics about how many young lives can be saved by the higher drinking age. I wonder how many more lives could be saved by mandatory installation of airbags. There are many laws we could pass that would save lives. Why must we single out a certain group of adults for discrimination?

The Congress is sticking its nose in somewhere it doesn't belong. This is a State issue. Even as we pass historic legislation which will shift massive Federal responsibilities back to the States, we choose blackmail on an issue which is unquestionably under the jurisdiction of the States. There are important considerations which each State must take into account when considering the drinking age issue. The border with Canada is one such issue.

Mr. Speaker, I resent the way this issue has been brought before the House. With no opportunity for debate, on a bill which has nothing to do with the issue, and on a bill which the House must pass to keep the Government operating, this was a prime example of bending the rules to circumvent the legislative process. What a perfect example for our young voters of how democracy should not work.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. Speaker, I urge a no vote on the rule. I think there is one basic reason why Members who might be for some of the provisions should vote no on the rule. The rule simply kills budget reconciliation. The other body, by a 78-to-1 version, has already passed their version of budget reconciliation. It is incredible information that we get a rule here in the House that allows us to get the Senate to accept what they have passed already.

All of those who voted no on the Downey amendment should vote no on this rule. I think that is very, very clear. For those who might have voted yes on the Downey rule and are looking for a reason to change, let me suggest that if you have any concern about the black lung program, you ought to vote no on this rule; if you have any concern about railroad retirement, you ought to vote no on this rule; if you have any concern about the coal excise tax, you ought to vote no on this rule; if you have any concern about protecting fringe benefits for airline employees, you better vote no on this rule—because all of those provisions are far better if we can get a no vote on this rule and proceed to move forward and get a new rule, which we could do in 5 minutes, and get budget reconciliation adopted.

A no vote on this rule ensures that we have a chance to do budget reconciliation and save about $25 billion over three years besides improve all of those programs that I just mentioned. A no vote on the rule does that, and I would urge my colleagues to vote no.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. Mr. Speaker, at the end of a session, we always get into this. We start doing things in a peculiar and unusual way. And this rule is precisely that. You know and I know that it is very unusual to bring a conference report to the floor minus certain provisions. I do not think I have seen that done before, nor do you. Let me tell you how serious it is. The provision we are cutting out of here is the one that funds Superfund. We all voted overwhelmingly very recently to fund Superfund. Yet in an unusual way, we are cutting that out of here tonight.

As a result, let me tell you what is going to happen. The whole reconciliation bill is going to fall. I have just been told—and there are people you can ask in this Chamber who will confirm that—that if this conference report goes back to the other body with this excised out of it, that is the end of reconciliation for this session. Then you are looking at some time in 1986 and you are looking at the Gramm-Rudman complication that is going to cause this to be an extremely unwise move on the part of the House.

I would urge each of you to think about that and to vote down this rule.

It is a mistake to do this. We are angering the other body. You are doing something that is very unusual. Let us take the reconciliation conference report and vote for it. Let us vote down the rule so that we can approve a rule that will allow us to do that.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Oklahoma [Mr. JONES].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to remind all Members they should not refer to the vote taken in the other body.

Mr. JONES of Oklahoma. Mr. Speaker, if this body is interested in passing reconciliation and taking credit for $81 billion of spending cuts—deficit cuts—the only way to do that is to vote down this rule and allow the Rules Committee to come right back with a rule that lets us vote up or down on the conference agreement.

This reconciliation package has been the subject of long and arduous conference meetings. This evening, we reached agreement. There is nothing in this conference report that is in disagreement.

The House came out very, very well. We came out essentially with what we wanted with regard to Medicare and the coverage of State and local employees. Only prospective new employees will be covered, and that helps every one of our States. The House came out in this conference report with essentially what we wanted on the Black Lung Disability Trust Fund. The House came out with the extension of the cigarette tax. The House came out with a fringe benefit program and railroad unemployment. We have gotten virtually everything we want. And the other body passed it overwhelmingly.

Now, if we vote for this rule, you have taken out $10 billion of savings. But what is even more important, the other body is not even going to consider a partial conference, and you have done away with all of the reconciliation for this year and you are going to have to go back home and say you dumped reconciliation.

Now, let me refer specifically to the point of this rule that would take out the financing of Superfund.

First of all, it is not a value-added tax. The Tax Code does not identify it as that. They have said that this would be vetoed if this funding mechanism were in there. I can assure you the other body, of the President's party, would not pass in such overwhelming numbers this funding mechanism if they thought the President was going to veto the conference report. They just would not do it. The President or people speaking on behalf of the President has said he would veto it because of trade adjustment, because of the offshore payments, because of Medicaid quality control, because of Medicare cost savings and because of this.

Why did not the Rules Committee come back and take all of those other things out? The financing mechanism for Superfund was passed by the House conferees by a vote 9 to 4. It was not even close.

Now, for rules to come in and just wipe out what 9 out of 13 House conferees said they wanted in this bill is just not right.

So if you really believe and if you want to go home and say you saved reconciliation, that you cut $81 billion over the next 3 years from the deficit, the only way you are going to be able to do that is to vote this rule down and then to vote for a rule immediately thereafter that allows an up or down vote on the conference.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. If this rule passes, is it your opinion, as I believe I have heard you state, that the other body would not take this mechanism and that all of reconciliation would be lost and therefore we would lose, in fact, $81 billion in reconciliation over 3 years, inclusive of the Superfund legislation?

Mr. JONES of Oklahoma. The leaders of the other body have made that explicitly clear. The gentleman is absolutely correct. The leaders of the other body, who have gone through this difficult conference and reached an agreement on all points in good faith, have said publicly that if the entire conference is not agreed to, then they will not take up a partial conference; and this session of Congress will close and there will be no reconciliation savings, and those who vote for a rule with that will be responsible for deep-sixing $81 billion of deficit reduction over the next 3 years.

Vote no on the rule.

Mr. LATTA. Mr. Speaker, I yield myself 1½ minutes, and I do so to disagree—I hate to disagree with the former chairman of the Budget Committee, my good friend, JIM JONES. But I just heard him say and the other Members did that if you vote down this rule, you destroy reconciliation, you lose x number of billions of dollars. Humbug. That is crazy.

We could bring back another rule or we could take the same matter up in January. He knows it. So let us not try to deceive anybody that the reconciliation is dead. We can take reconciliation up in January, we can take it up tomorrow. If you defeat the rule, that does not mean that the bill is dead. We had the same thing this week on tax reform, remember? So let us correct the record and not let that stand.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman if he wants to correct his statement.

Mr. JONES of Oklahoma. Well, I do not want to correct my statement. I want to correct the gentleman's understanding of my statement.

My statement was that if this rule passes that that will be the end of reconciliation and we can come back immediately with a new rule and pass it.

Mr. LATTA. Well, I am sure if he checks his statement that was taken down, that he will find that he said you are killing $81 billion, or some fantastic figure like that, in reconciliation if you pass this rule.

Mr. JONES of Oklahoma. Only if this particular rule passes.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I think the thing we ought to keep in mind, if we need a source of revenue for environmental purposes, the measure that we have agreed to in our conference committee provides for that.

We ought to accept that so that we can do something about the environmental concern.

Now, I grow weary of the constant contention of a group that says, "Oh, this is a value-added tax and we must not advance it." It is an excise tax, similar to many other approaches already in the code. And it ought to be put into place. We have long since passed the time when we are just going to fund these measures by general revenue. We ought to have a steady, reliable source of funding, and this particular approach would do it.

There is no hiding behind a contention that there is a value-added tax. It simply is not true—it is not a value-added tax and we ought not to be fooled by those who say it is.

Now, if this bill, without the Superfund element, does go back to the other side, I can tell you that there will be a filibuster, and it will go on and on. That will be the end of reconciliation. You might ask for another rule, but they are going to filibuster unless we include the Superfund. The fact of the matter is, you have got a chance, if you defeat this rule, to move reconciliation and the Superfund forward, and that is the thing that we ought to do. Keep in mind we do not have any provision for an extension for the research and development credits and other expiring provisions that are still out there and have not been touched. They are not in this bill.

So we ought to defeat this rule and we ought to allow this House to move forward on Superfund and reconciliation.

I do not know whether there is another rule in place. You sound like you already have one, but if we adopt it without Superfund, that is the end of it. And I think, therefore, in fairness, we ought to have this broad-based tax, which is going to be the avenue you are going to be following in the years to come, anyway. We ought not to throw up a bugaboo now that this is something you ought to be afraid of. That is what you are going to be faced with from now on.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. I thank the gentleman for yielding.

Mr. Speaker, I cannot help but agree with the gentleman from Oklahoma when he says we have a good reconciliation bill, that it is almost everything the House wanted and virtually all that we worked for and effects some savings.

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Where I disagree is with his inclusions, because by the inclusion of the one provision which allows for the VAT tax or MET tax or SET tax, whatever you want to call it, the value-added tax, by that one provision I think we invite a certain veto of this bill. We have gotten a strong—more than strong—word from the White House or from the administration repeatedly for months as to their veto of any kind of a VAT, SET, MET, or whatever you want to call it, any tax on this Superfund.

What is happening here tonight is that we have taken an issue where we have a provision in the House and a provision in the Senate, and we are splitting that issue right down the middle, and by a sleight of hand we are moving the funding into a larger bill that all of us want because we want to effect these savings so that we can avoid the prospect of a conference next year.

Members should not be fooled. We are still going to have to meet to resolve the programmatic differences in this Superfund bill next year. What we are trying to do here or the attempt here this evening is to split out the tax portion so we do not have to deal with that.

What kind of a deal did the House get? The House voted for zero VAT funds. The Senate voted for $5.4 billion of a tax on manufacturers, and the reconciliation of that ends up with $5.7 billion. I do not call that a very good deal for the House. When you go from zero to even higher than what the other body voted, that is not a good deal for the House.

The House expressed its will on this matter. It defeated the VAT tax. It voted for an alternative tax, and the House is being robbed and cheated of its position by this mechanism that we are going through this evening.

Mr. Speaker, I urge support for this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Speaker, the issue is real clear here. You cannot say you are for Superfund and cleaning up hazardous waste in your back yard or in your district and vote for this rule.

The bottom line is that we have had two votes on Superfund this year. We had a vote a week or so ago when we passed by 380 to 30 a provision to create a program and to fund it, and now you have a chance. You have $10 billion in your hands to end business as usual.

Now, let us look at history here. In 1980, when this body passed Superfund, it came charging out here with $4 billion, and the other body came back with $1 billion. We left here last week with $10 billion and the other body came in with $7 billion. Now, if you want to gamble that come next February, March, April, or May we are going to come back in here with $10, $9, $8, or $7 billion against the fact that we have in our hands 10 billion real hard Gramm-Rudman-proof dollars to effect the cleanup that we know needs to be done in each of our districts, then take the bird in the hand.

This was a difficult trade and an extensive conference. I was on four parts of it. We got what we wanted on black lung. The other body had a 50-percent tax; we knocked them down to 10.

We got what we wanted on public employees on Medicare coverage by only getting new hires. In exchange for that, frankly, we got something that perhaps some of us did not appreciate, but we got our number. We got 10 billion real dollars to start that cleanup with, and I do not think I can bear to stand the crying come next January, February, March, or April when somehow we come up a little light.

When we come up a little light, remember this night here in this Chamber when we had a chance to go home with real money for a real cleanup. Remember this night when we had a chance to get black lung eradicated. Remember this night when we had a chance to protect State and public employees. Remember this night when we had a chance to give quality Medicare and Medicaid coverage for people. Reject the rule. Save your programs. Kill the rule.

Mr. Speaker, let me just simply say that killing this rule is going to save our programs. This is our vote, this is our chance, this is our night.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. Mr. Speaker, in reference to the comments previously made by my colleagues, I would like to address the House and to assure the Members that if we are genuinely concerned about environmental cleanup, if we have in our hearts a feeling for the appropriate financing of Superfund, and our philosophy is in fact that the polluters should pay rather than having a consumer tax straight across the board to be borne by every single individual, then certainly we want to be guaranteed that we take advantage of this opportunity to excise the Superfund financing mechanism from reconciliation.

Let me assure the Members that funding for Superfund is totally extraneous to the reconciliation bill. It has nothing to do with deficit reduction. If this VAT does pass, we can be assured that the President will veto it.

But to follow up on my colleagues' comments, if you are going to return to your constituents and say that you made an environmental vote by voting "no" on this rule, you are misleading your constituents. The environmental community has made it clear that they want a "yes" vote on this rule. It is a "yes" vote only that they want.

Mr. LATTA. Mr. Speaker, I yield myself 30 seconds.

I take this time to commend the gentlewoman from Rhode Island [Mrs. SCHNEIDER] for turning the cards up. We might just as well face the issue. The question is whether or not the people who dirtied up the environment want to pay for it or whether they want everybody to pay for it. That is the issue, and I want to commend the gentlewoman for bringing it out.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, it is with great reluctance that I rise in opposition to a rule produced by my own committee.

The issue is very, very clear. Either we want $81 billion of savings in reconciliation or we do not. If this rule passes, reconciliation is dead. As the gentleman from Oklahoma [Mr. JONES], the former chairman of the Budget Committee, pointed out, the Senate has passed one version, we will have passed another version, and we will all go home and there will be no reconciliation.

I would urge this body to defeat the rule and send it back to the Rules Committee. There is an alternative way to go. We could report out another rule providing for a separate vote on the question of the VAT. Those Members who feel strongly

about the VAT would have a separate vote; those Members who feel strongly on the other side would have a separate vote.

However, by rolling this into a self-executing rule, we are killing $81 billion of reconciliation.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, it is interesting sometimes how we take an object that fills several boxes and narrow it down to one particular issue. We have 16 House committees, 12 Senate committees, and thousands of man-hours of labor over 167 items, with subheadings, so that you can multiply the 167 by 10, and you have a number of items that the House had in this provision that the Senate did not. You also have a number of items the Senate had that the House did not. And what we did was reconcile the differences.

Over every single issue that was in disagreement, we came to an agreement. A majority of the Senate conferees signed every single item. A majority of the House conferees signed every single item. There was agreement across the board. You have before you now a rule that imposes someone else's wishes on the conferees that you appointed from both the House and the Senate.

I understand the peculiarities which got this rule in front of us. A commitment was made, and in this rule that commitment is honored, but it is up to the House to decide whether or not it is appropriate.

Now, I know the deck is stacked because it has been folded into the rule. We can unfold it by voting down this rule and by allowing, at the suggestion of the gentleman from Texas, another rule which would provide a separate vote.

We have talked about whether or not the President is going to veto this measure. There was a threatened veto by the Treasury on every single item that came up. I can tell the Members that tonight there is one certainty. The one certainty that we have to hang onto is that if this rule passes and we vote reconciliation out, it is not going beyond those double doors. That is as far as it is going to go tonight. It will not cross the Capitol; it will not pass the Senate. Our only chance is to vote this rule down and let us do it right.

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Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, there is no way that the value added tax provision should be part of the reconciliation package we are now considering. This rule must be adopted. Not to adopt is essentially to write off the kind of taxation policy and the kind of environmental policy that this House went on record in clear and unmistakable fashion in asserting just a few days ago.

The issue is very clear. We are talking about a value added tax. Members who vote against this rule today will effectively be affirming their willingness to launch into this new unchartered course of value added taxes in this country, and that is a tax that is regressive. To those of you who are talking about saving money for the taxpayers, how about saving a dollar for the consumer?

The fact of the matter is that the value added tax is regressive. It comes down disproportionately upon the poor, upon the elderly, and it makes no sense from the standpoint of environmental policy.

Let it be understood that many of the same people who have fought diligently over many months to get a strong Superfund reauthorized in the $10 billion amount certainly do not intend to abandon the basic principle that the polluter should pay, and yet that is what we are being asked to do this evening, to forget sound taxation policy, forget sound environmental policy, and allow ourselves to be intimidated by the other body. We cannot allow that to happen.

I would argue that all of the discussion about reconciliation should be an equal concern of the other body, as it is of ours. The other body can stay in session and we can get this matter resolved, but let there be no effort at intimidation, such as we have seen this evening.

The real issue is are we going to insist that those industries principally responsible for pollution pay the bill, or are we going to spread it to other innocent parties?

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, this body did not send to a reconciliation conference the issue of how to finance Superfund. Our conferees, I do not know how nine of them could have voted to do this when the House just rejected that method of financing Superfund; so I think they have some explaining to do; but more than that, I think we ought to recognize a point that was just made by the previous speaker.

The other body has just as much at stake in reconciliation as we do. It cannot be something that we get rolled on tonight.

So I think the question is whether or not you want a conference on Superfund with our version in the conference, where the tradeoffs can be made from the bucket of money as to whether or not the list has 600 or 600,000 toxic waste sites on it.

The dilemma that you might face if you do not get a chance to have a conference with some money in conference is whether or not we want to leave here for Christmas with the question on some people's minds, did the Congress want to satisfy oil and gas or the President of the United States?

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, we had a debate on Superfund financing not long ago in this body and the House, not by a large margin, but by a clear margin decided that it did not want what the sponsors call a manufacturers' excise tax and what the people are calling a sales tax or a VAT. Instead, we opted for an increased version of the same kind of taxes that are now being applied, plus a new waste-end tax.

Our conferees went into conference with nothing on this reconciliation bill on Superfund financing and came back with that sales tax, or VAT, and they came back with no waste-end tax, something environmentalists have been looking to for a number of years. They came back with an unreliable financing system for our Superfund activities.

We have been told tonight that the Senate will reject this if we give it back to them. I think it is far more pertinent that the President is pretty clearly ready to veto anything we give him with a VAT in it. Therefore, I think we take a much greater risk with the President than we do with the Senate.

If we do not believe that we should have a national sales tax, if we do not want to see reconciliation vetoed by the President, it is important to pass the rule. The Rules Committee when it gave us this rule understood those things. It said, "We want to preserve reconciliation. We want it to have the best possible shot. We don't want it vetoed. Therefore, we are going to give you a rule to take out the VAT from the conference report."

I believe that the Rules Committee should be sustained. We should vote aye on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, there is certainly no shortage of predictions tonight. On one side we have a group that predicts that the President will veto this measure with the broad-based tax. On the other side, we have a group that says that the other body will not take it up without the broad-based tax.

Well, I would like to say as someone who has worked very hard on this bill that Superfund or the broad-based tax

is not the only issue in the bill. In fact, there are thousands of issues in this bill of importance to our entire country.

Now, 31 subconferences met in the consideration of this one bill. Hundreds of Members put in a lot of time and work. All 31 of those subconferences agreed, there is no disagreement in the conference report, and yet by some quirk of fate we have a rule before us that in effect will not allow us to vote on the conference report that was agreed to by all 31 subconferences. The only way we can vote on that conference report is to defeat this rule, to have the Rules Committee quickly bring back another one and then to vote up or down on the reconciliation bill. If we vote it up, we will be in agreement with the other body, send it to the White House, and if the President wants to veto a bill with 80 billion dollars' worth of savings in it, let him veto it.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my friend, the gentleman from Ohio, for yielding me this time.

I would like to talk a little bit about the substance of the reconciliation bill that is now pending before that House. It raises certain questions as to whether or not it truly is an effort to reduce the deficit that is projected for fiscal year 1986.

We all know that we began this year with the goal of some $50 billion in deficit reduction for fiscal year 1986. The bill before us suggests that we will achieve a deficit reduction of some $17.4 billion, but there is a very basic policy question that should be addressed concerning a measure that is represented to be a deficit reduction proposal; namely, whether we should permit such a vehicle to be used as a means of adding programs.

The bill before the House right now makes very clear that the answer is that we will use this deficit reduction package as a means of adding programs.

What I would like to bring to the attention of my colleagues is that in the area of health care costs, this vehicle for deficit reduction adds $222 million of new programs over a 3-year span of the bill.

Mr. Speaker, in Medicare part B, we have new spending proposals totaling $170 million. In these two areas of health care costs, the total increased programs are $392 million over the 3-year span.

In one of the committees on which I serve, the Energy and Commerce Committee, we were directed to achieve reductions of some $15 billion over the 3-year span. Our committee actually achieved $9.67 billion, leaving some $5.33 billion unachieved.

With respect to what we are doing in the area of taxes, I might point out to my colleagues that this bill represents the implementation of the second rule that drives the liberal welfare state in America; namely, "If it grows, tax it."

Now, we all know that imports have been growing by leaps and bounds over the last 2 or 3 years. In fact, the negative trade balance is in excess of $150 billion in the current calendar year, so we propose to tax it at 1 percent. I think the theory is that whatever we tax, we get less of.

I submit to my colleagues that imposing a tax on imports is not the way to serve the consumers of this country. It is not the way that we can serve the interests of free trade in the world.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, while we are on the area of taxes and also on spending add-ons, I am sure the gentleman is aware of the increased appropriations for public broadcasting of $990 million.

Mr. DANNEMEYER. I thank my colleague for pointing that out. This is supposed to be a deficit reduction bill.

I am opposed to a VAT to finance Superfund. The rule is crafted so that a yes vote on the rule means a rejection of the VAT. I would prefer a rule which would permit an unhindered vote on the reconciliation package and separately on the VAT. Therefore I suggest a no vote on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, the defeat of reconciliation will also spell the defeat of language from the other body that makes permanent the reduction in Federal highway funds for a State's failure to establish a minimum drinking age of 21.

The Rules Committee considered efforts to delete this important language and wisely decided to keep the other body's language intact.

The passage of reconciliation with the other body's language will send a message to recalcitrant States that their refusal to join in an effort to establish a national minimum drinking age of 21 will continue to cost them Federal highway funds, and the passage of reconciliation will save hundreds of lives of our children who are needlessly killed each year in the slaughter alleys between States with different drinking ages.

Members wanting a solid record on the issue of drunk driving should vote yes for the rule and yes for reconciliation.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I am happy to yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, contained within this reconciliation bill is a very important provision that will make permanent the restriction on a portion of Federal highway assistance funds for States which fail to pass laws raising the drinking age for alcohol in their respective States to 21. Of all times of the year to take such action, the holiday season makes perhaps the most sense—a season during which, historically, hundreds of lives are taken at the hands of drunk drivers.

Mr. Speaker, we have all come to realize in the past several years there is a horror which exists on the streets and highways of our Nation. That horror is drunk driving. Those responsible for this carnage are individuals who drink and then get behind the wheel of an automobile without any consideration given to the rights and safety of others on the road. Not one of us is safe from this menace.

This is a grassroots problem—one which can most effectively be dealt with at that level. However, leadership must be provided at the Federal and State levels. The administration and the Congress had begun this process by requiring that the States raise their minimum drinking ages to 21 by 1987, or lose a percentage of their Federal highway assistance. So far, 35 States have enacted this minimum drinking age requirement, while 15 other States and the District of Columbia have not yet followed suit.

Mr. Speaker, I cannot understand the failure of these 15 States and, particularly, the District of Columbia to enact legislation to establish this uniform drinking age. It should not be reduced to a simple revenue issue—you cannot put a price tag on the lives of our youth—you cannot deny that our future is dying out there.

The action on the reconciliation bill not only makes it more difficult for the District of Columbia and those other 15 States to resist passage of drinking age legislation, it virtually guarantees that many of the States who have enacted the 21 drinking age will not revert to 18- or 19-year-old drinking ages now that the threat of Federal highway fund loss will not be lifted.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, as a conferee on certain parts of the reconciliation conference report before us tonight, I must express my dismay at many parts of said conference report. Admittedly, there are many good items that address the needs of the elderly and the poor; however, to say

that the conference committee went overboard on certain items is to say the least. We are in the midst of the most difficult deficit situation this country has ever faced. Yet, during the conference, there was a reluctance to stop the creation of expensive new spending programs. I was particularly dismayed that the Energy and Commerce conferees had to make judgments on new expensive programs that we had never had hearings on. Additionally, on the provision pertaining to the annual calculation of the Federal medical assistance percentage, outright selfishness was exhibited. Rather than accept Senate language to provide for an annual, rather than biennial calculation of the Federal medical assistance percentage effective in 1988, an amendment was accepted to accelerate this date to 1987. Some of the States that will be the biggest losers under this acceleration are: Florida, $8.4 million; Georgia, $13.3 million; and Virginia, $8.2 million. Other losing States are Arizona, Maine, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, and South Dakota. Those States which stand to gain the most are Texas, $30 million; and Louisiana, $17 million.

Whether you like Medicaid or not, it is a reality. In my own State of Florida 45 percent of the Medicaid budget is devoted to care for the elderly, and is the major source of funds for long-term care. Approximately a third of Florida's Medicaid budget is spent on nursing home care. This loss of $8-plus million in funds becomes even more crucial when one considers that Florida leads the Nation in growth of the age 65-plus population. Even though language is contained in the conference report expressing my dissatisfaction with the acceleration, it isn't strong enough. It says the conferees agree that the committees of jurisdiction will explore ways to relieve the hardship that may be suffered by the States that will receive substantially less in matching payments as a result of this provision. Mr. Speaker, I deeply regret that I must vote against this package before us. However, I was sent to Washington to represent the people and this package is not representative of my constituents.

Mr. BARNES. Mr. Speaker, as a member of the House Budget Committee and a member of the conference committee, I strongly support enactment of the reconciliation bill. I am particularly pleased by the provision which makes permanent the incentives to States to adopt a minimum drinking age of 21, an issue for which I have been an advocate for much of my career in the House. This is a goal I have long worked for.

But, Mr. Speaker, I cannot support the Senate's outrageous tactics to try to force this House to accept the value added tax provision for the Superfund. The VAT is misguided and doesn't belong in this bill. It belongs in the Superfund conference to be discussed—and hopefully rejected—there. That is why I cannot vote to concur in the Senate amendment and why I must oppose the motion offered by the gentleman from Pennsylvania [Mr. GRAY] my chairman.

The House should stand firm against the VAT, and also stand for a rational and sensible legislative process.

Mr. SKELTON. Mr. Speaker, I want to take a few minutes to bring to the attention of this body my concern about the affect Medicare's prospective payment system for hospitals is having on the rural health-care system. As chairman of the congressional rural caucus, I feel obligated to raise these concerns because flaws in the PPS threaten the access of all rural Americans to high-quality health care, not just the access of senior citizens who depend on Medicare.

While we were assured that how a hospital would fare under the PPS would depend on how efficiently it was operated, 2 years of experience have made it abundantly clear that how a hospital fares under the current system depends in a large part on its location. With certain narrow exceptions, hospitals located outside metropolitan statistical areas are forced to accept substantially lower payments from Medicare than their urban counterparts. While theoretically there may have been some justification for different urban and rural payment rates, the actual payment differences that have resulted under this arbitrary classification scheme are incomprehensible. In many instances, the rural payment rates are not sufficient to allow even the most efficient hospitals to treat Medicare beneficiaries without incurring a loss.

I cannot overstate the threat unjustifiably low Medicare payments to rural hospitals poses to the access of rural Americans to health-care services. At a time when stress brought on by the depressed farm economy is adding to the already substantial health-care problems of rural America, the current system causes increased financial pressure on the cornerstone of the rural health care system. Because Medicare patients comprise a very large proportion of their caseloads, inadequate Medicare payments threaten the continued existence of many rural hospitals. Some have already closed, including one in my own district; others will surely follow unless corrective action is taken. To make matters worse, the closing of rural hospitals encourages physicians to leave the communities involved, exacerbating the physician shortage that already exists in much of rural America.

To those of us who were raised in rural areas and who are old enough to remember what it was like to be without reasonable access to necessary hospital services, this is a most serious situation. By allowing an adjustment in Medicare payments to rural hospitals of 100 beds or more that serve a disproportionately high number of poor and elderly, this bill will provide some relief. However, I urge members of the committee to more fully address the problems of rural hospitals, and other hospitals that are suffering unwarranted losses under the current system, next session by giving consideration to price-blending legislation like that which I have already introduced. I believe there is ample evidence to show that such legislation would make the PPD fairer for all hospitals, regardless of their locations, while maintaining the incentives that have helped slow the rate of increase in Medicare expenditures for hospital care.

Mr. RAHALL. Mr. Speaker, the conference report on H.R. 3128, the Deficit Reduction Amendment Act, before us today contains a most important compromise regarding the black lung excise tax.

As passed by the House, the black lung tax on coal would have been increased by 50 percent. The other body, however, proposed to end the automatic borrowing authority between the black lung trust fund and the Treasury.

Both of these positions were unacceptable to me, and to all of us concerned with the viability of the coal industry and the welfare of those individuals suffering from the crippling effects of black lung disease.

Because of this situation, members of the coal industry and the United Mine Workers of America formulated a compromise which I adopted and diligently pursued with those members on the Ways and Means Committee assigned to the revenue subconference on this legislation.

I am pleased to say the conferees accepted this compromise and that it is contained in H.R. 3128. The bill before us today incorporates that compromise largely due to the persistent efforts on its behalf by the gentleman from Florida, a member of the Committee on Ways and Means, SAM GIBBONS. To him, the coal industry owes a debt of gratitude. As for myself, I extend my deepest appreciation to SAM GIBBONS for his work and perserverance on this matter.

Also to be commended for accepting this compromise is the distinguished chairman of the Committee on Ways and Means, DAN ROSTENKOWSKI, as well as the other House conferees.

The black lung provisions of H.R. 3128 provide for a 10-percent increase in the coal excise tax—rather than the 50-percent originally proposed by the House—and a 5-year forgiveness of the interest payments on the indebtedness of the black lung disability trust fund. In addition, the proposal of the other body to end the borrowing authority between the trust fund and the Treasury was dropped.

Mr. Speaker, this is a great victory for the coal industry and coal labor. It represents an attempt by coal management and labor to meet the responsibilities for achieving solvency in the black lung disability trust fund, which is currently $1.5 billion in debt, at the lowest possible cost to an industry which is currently in a depressed state.

Mr. HAWKINS. Mr. Speaker, I rise in support of the conference report on H.R. 3128. Title XI contains provisions urgently needed to put the Pension Benefit Guaranty Corporation [PBGC], the agency which insures that workers get their private pen-

sions when their companies are in financial difficulty, back on a sound financial footing. The bill would strengthen the PBGC plan termination insurance program in two significant ways. First, the premium that single-employer plans pay the PBGC is raised from $2.60 per year per plan participant to $8.50, effective January 1, 1986. Second, the single-employer program is restructured to limit access to PBGC assistance only to those cases in which worker's pensions are jeopardized because their employers are in genuine financial difficulty.

The termination insurance program is administered by a self-financing Government corporation, the Pension Benefit Guaranty Corporation. The PBGC was created in 1974 to assure that pension benefits earned by workers would be paid even if the employer terminated the plan in an underfunded condition. The program covers about 30 million retired and working Americans and is financed solely by premiums paid by covered plans and by liability paid to the PBGC by employers that terminate underfunded plans.

Both the premium rate—currently $2.60 per plan participant—and the employer liability rules under current law have proven inadequate. The program is now responsible for benefit payments to about 160,000 current and future retirees in about 1,100 terminated plans and has a deficit of over $1 billion. The conference has agreed on a premium increase to $8.50 effective January 1, 1986, and reforms to protect this program against unwarranted claims.

The bill also provides an explicit provision on the important issue of transactions intended to evade liability to the PBGC for an underfunded plan. Although there is not an explicit provision under current law regarding evasive transactions intended to insulate an employer from liability, current law does not permit such abusive shifting of liability to the insurance program. In the case of *Solar* v. *PBGC*, 504 F. Supp. 1116 (D.C.N.Y. 1981), affirmed 666 F.2d 28 (2nd Cir. 1981), the court held that a transaction intended to avoid liability should be disregarded for title IV liability purposes. See also III Legislative History of ERISA of 1974 at 4741–42 (remarks of Sen. Williams); *Nachman Corp.* v. *PBGC*, 592 F.2d 947 (7th Cir. 1979), aff'd., 446 U.S. 359 (1980).

The PBGC and the courts have always been expected to look at the substance of a transaction rather than its form, and to disregard transactions where the substance, viewed in light of the purposes of title IV, indicate that a company improperly transferred its pension obligations to the insurance program. See joint report of the Senate committee, 126 Cong. Rec. 510, 117 (daily ed. July 29, 1980). The following is an example of such a transaction:

Company P has a division or subsidiary S whose employees are covered by the S pension plan. At the time of the transaction, the S plan has unfunded benefits. P sells the stock or assets of S to B, and transfers all or part of the unfunded benefits in the S plan to B's plan. B is a company that, after the transaction, does not have a reasonable prospect of funding the benefits. B's plan later terminates. At the time of the termination, the plan does not have sufficient assets to provide all PBGC-guaranteed benefits. Under current law, when substance rather than form is considered, the transaction is really a delayed termination of the transferred benefits; the seller is not exempted from title IV liability merely because the transaction, in form, provides for continuation of the plan. Under both the bill and current law, company P is liable.

Revision of the employer liability rules is also an essential part of this bill. As under current law, the bill provides for liability for unfunded guaranteed benefits, up to 30 percent of the employer's net worth, with a tax priority status in bankruptcy proceedings. The bill improves the PBGC's recoveries over current law by creating additional liability equal to the excess, if any, of 75 percent of unfunded guaranteed benefits over 30 percent of the employer's net worth. This additional liability has general unsecured status in bankruptcy proceedings. As under current law, PBGC, as plan trustee, collects unpaid contributions due the plan. The bankruptcy status of PBGC's claim for these contributions is the same under the bill as under current law; unpaid contributions that accrue after a bankruptcy petition have administrative expense priority; those that accrue within 180 days before the petition have employee benefit status—subject to the $2,000 per employee limit on priority employee wage and benefit claims—and remaining unpaid contributions have general unsecured status.

Finally, the bill contains an explicit provision requiring that PBGC not proceed with a plan termination if the termination would violate the terms and conditions of an existing collective bargaining agreement. The enactment of this provision is in no way meant to diminish the already clear meaning of section 404(a)(1)(d) of Employee Retirement Income Security Act of 1974 [ERISA] which expressly requires that a fiduciary's duties be discharged "in accordance with the documents and instruments governing the plan * * *." Rather, this provision is an endorsement of judicial decisions such as *Terones* v. *Pacific States Steel Corp.*, 526 F. Supp. 1350 (N.D. Calif. 1981), holding that a company cannot unilaterally terminate a collectively bargained pension plan, when such termination is in violation of the terms of any agreement between the parties.

Because the bill the conferees adopted is similar to the Committee on Education and Labor's provisions contained in title III of H.R. 3500, for purposes of determining congressional intent in adopting those provisions, the most authoritative source of legislative history on the single-employer termination insurance reforms can be found in the report on H.R. 3500, the Omnibus Budget Reconciliation Act of 1985 (H. Rept. 99–300, 99th Congress, 1st session, pp. 278–320).

The Committee on Education and Labor has been working for over 4 years on these issues. We are delighted that the conference report before the House today contains provisions to strengthen the PBGC program established under title IV of ERISA. I want to take this opportunity to commend the members of the Subcommittee on Labor-Management Relations, especially its chairman, Congressman BILL CLAY, and the ranking member, Congresswoman MARGE ROUKEMA, for their tireless efforts to get this legislation passed. In addition, thanks must go to the ranking Republican member of the full committee, Congressman JIM JEFFORDS, for his assistance in assuring that this critical worker protection legislation was considered this session. Finally, I want to thank the conferees for their diligent work in producing the bill before us today. We are most appreciative of the cooperation we received from or colleagues on the Committees on Ways and Means and Judiciary, as well as the Senate Committees on Labor and Human Resources and Finance.

The report on H.R. 3500 cited above also contains the committee's views on the health insurance continuation coverage provisions found in title X of bill before us today. We are pleased that the conferees have included provisions in the bill that require group health plans to offer a continuation option to certain groups of qualified beneficiaries, including widows and dependent children, divorced spouses and dependent children, Medicare-ineligible spouses and dependent children, the unemployed—and those who have a reduction of hours such that they would lose health coverage—and dependent children who no longer qualify under the plan. This is an important step forward toward meeting the pressing need for those groups to have available continued access to affordable medical care.

I urge support of the conference report.

Mr. ROSTENKOWSKI. Mr. Speaker, the provisions of law within the jurisdiction of the Committee on Ways and Means contained in H.R. 3128 represent many months of hard work. The Medicare provisions save some $11.2 billion over 3 years and were the result of bipartisan efforts of the committee. These provisions contain some important reforms in hospital reimbursement.

In AFDC, the conference agreement mandates AFDCP-UP coverage in all States. This will help some of the neediest children in this Nation a 2-year moratorium is established on the collection of fiscal sanctions.

The Trade Adjustment Assistance Program is reauthorized for 6 additional years. The Customs Service authorization for the number of personnel is increased, which will greatly strengthen the enforcement capability of the service.

The current cigarette excise tax is permanently extended. The House upheld its position on coverage of State and local employees, and consequently only new employees will be covered.

With the exception of the Superfund revenue provisions, this is an excellent agreement which saves some $25.5 billion over the next 3 years.

Mr. ROGERS. Mr. Speaker, I would like to bring to the attention of my colleagues to vitally important portions of the bill before us this evening.

First, the bill includes the legislative culmination of many months of negotiation among tobacco growers, cigarette manufacturers, tobacco congressmen and the committees of jurisdiction. These provisons provide for the drawdown of existing tobacco stocks, so we can remove this ominous burden from our tobacco growers' backs and bring the no net cost fees back down to a reasonable level.

It establishes a new system for setting tobacco marketing quotas, requires manufacturers to share in the no net cost fees now paid only by growers, and most importantly, limits the maximum reductions in marketing quotas to 6 percent per year for the next 4 years, and to 10 percent in subsequent years. This last provision is especially important, representing a substantial improvement over current year and offering our American tobacco growers some measure of protection from imports.

Tobacco is the only commodity in the United States which pays its own program at USDA. The legislation before us today continues that system, but significantly improves it by requiring the manufacturers to join in bearing these costs which up until now have been paid only by the tobacco growers.

Second, I would like to bring to my colleagues' attention an important provision relating to black lung taxes. As my colleagues know, the House version of the bill included a 50-percent increase in black lung taxes, an increase which if enacted would have caused serious hardship for American coal companies and seriously worsened their competitive position in the world market.

The conference agreement includes a compromise provision, calling for only a 10-percent increase in the black lung taxes, and enabling the black lung trust fund to remain solvent instead through a moratorium on interest payments made to Treasury.

While I would have preferred no increase at all, this is a masterful compromise which will provide for the financial well-being of the trust fund without placing an onerous burden on our coal operators.

I commend the members of the conference committee, most notably Mr. ROSE and Mr. HOPKINS for their diligent efforts on the tobacco agreement, and Mr. ROSTENKOWSKI and Mr. DUNCAN for their effective assistance on the black lung compromise. I urge my colleagues to support this conference agreement.

Mr. RINALDO. The reconciliation budget package (H.R. 3128) contains major spending reductions and will help to reduce the Federal deficit.

But there are other items which have no budgetary impact and which do not belong in or near this piece of legislation.

In the explanatory material accompanying H.R. 3128, there are extraneous remarks dealing with the Federal Communication Commission's local cross-ownership rules. This material is not part of the act, and is strictly superfluous.

I object to addressing such a serious matter in this fashion.

This is not a new issue. We have had, and continue to have, opportunities to deal responsibly with this question. Legislation has been introduced. The Subcommittee on Telecommunications, however, of which I am the ranking Republican member, has not held any hearings or markups on the topic: There has not even been any formal discussion by our Members regarding this question.

The FCC cross-ownership rules are designed to limit concentration of control of mass media. Generally the rules ban certain combinations, such as an ownership or control of both a radio and television station in the same market.

The Commission has granted only one permanent waiver of its local ownership rules in the last few years that did not involve a clearly de minimis overlap for the rules. In that case, involving the Capital Cities/ABC merger, it granted the waiver only after careful consideration and after the FCC fully explained its rationale.

All other recent waivers have been granted for a limited period of time, generally 18 months. Although in previous administrations such waivers had been granted for as long as 3 years. Even when considering temporary waivers, the FCC has based its decisions on public interest factors and has not rested its decisions on purely private considerations. In view of the records of these proceedings, including the showings made by the parties and the other public interest considerations set out by the FCC, it is clear that the FCC has carefully scrutinized each waiver request and determined that the applicants had provided a clear showing of the need for such waivers. In so doing, the FCC has demonstrated serious concern that the purpose of the local ownership rules be given full and appropriate weight.

The language in the report appears to be a general restatement of the existing legal standard in this area as well as the present practice of the FCC and, therefore, does not impose any different or additional obligations on the FCC.

Mr. DASCHLE. Mr. Speaker, I want to express my strong support for a provision of H.R. 3128, Deficit Resolution Amendments of 1985, which will establish an Advisory Committee on Native American Veterans in the Veterans' Administration. The purpose of this committee will be to examine and evaluate programs and other activities of the VA with respect to the needs of Native American veterans, including American Indian veterans. Special emphasis will be given to health care, rehabilitation, outreach, employment, and other programs.

Continuing the traditions of their ancestors, many American Indians served with distinction in our Nation's Armed Forces during World War I and II, the Korean conflict and during the Vietnam era. According to the 1980 census, 44,500 American Indiana served during World War II, 29,700 during the Korean conflict, and 73,681 during the Vietnam era, and it has been estimated that an astonishing 23 to 26 percent of all Indians are also veterans.

I provide this background so that all of us in this body may understand the depth of patriotism demonstrated by American Indians during times of national peril. In spite of this long history of Indian participation in our Nation's military conflicts, no major scientific study regarding veterans has identified American Indian veterans as a specific group and no assessment of their particular needs has ever been conducted.

I believe that we might recognize the contribution made by American Indians and other Native Americans during times of war and the effect those wars may have had on them after their return home. Vice President Hubert Humphrey made the following observation,

It was once said that the moral test of Government is how that Government treats those who are in the dawn of life—the children; those who are in the twilight of life—the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

The establishment of the Advisory Committee on Native American Veterans will enable us to more accurately evaluate the status of these veterans who have so faithfully served in our Nation's armed services. Are they in the shadows of life? Do they need vital assistance that they are not now receiving? Have their particular needs been overlooked in the past? If so, we as a nation have a particular obligation to assist American Indians and other Native American veterans. The findings of the advisory committee will direct us to the actions we must take.

Membership on the advisory committee will consist of the Secretary of Labor—or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment—the Chief Medical Director and Chief Benefits Director of the Veterans' Administration; and members appointed by the Administrator from the general public including representatives of veterans who are Native Americans, including American Indians and Alaska Natives and individuals who are recognized authorities in the fields pertinent to the needs of Native American veterans.

The legislation will also permit the Administrator of Veteran's Affairs to invite representatives of other departments and agencies of the Federal Government to participate in the meetings and other activities of the committee. It is my expectation that representatives of the Bureau of Indian Affairs, the Indian Health Service and other agencies concerned with issues relating to American Indians will be included by the Administrator in advisory committee activities.

The advisory committee will submit reports to the VA Administrator on November 1, 1986, and November 1, 1987, regarding its findings. On January 1, 1987, and January 1, 1988, the Administrator will transmit to the Congress the committee reports together with comments and recom-

mendations the Administrator considers appropriate. The committee will terminate 90 days after the Administrator submits the final report. There are no new costs associated with the establishment of this advisory committee.

As the original proponent of this measure, I want to again express my enthusiasm and full support for the establishment of the Advisory Committee on Native American Veterans. I also want to thank SONNY MONTGOMERY, chairman of the full committee, JOHN PAUL HAMMERSCHMIDT, ranking minority member of the full committee, DOUG APPLEGATE, chairman of the Subcommittee on Compensation, Pension and Insurance, and JERRY SOLOMON, ranking minority member of that subcommittee, for their strong support for this proposal when it was considered as an amendment to H.R. 1538 and later to H.R. 3500. I believe the needs of Native American veterans have been overlooked too long, and this advisory committee will go a long way toward righting that wrong.

□ 2055

Mr. LATTA. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ECKART of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 205, nays 151, not voting 78, as follows:

[Roll No. 479]

YEAS—205

Akaka	Collins	Frank
Alexander	Conte	Frenzel
Anderson	Cooper	Gejdenson
Annunzio	Coyne	Gingrich
Applegate	Daschle	Goodling
AuCoin	Daub	Green
Badham	Davis	Guarini
Bates	DeLay	Gunderson
Bedell	Dellums	Hamilton
Beilenson	Derrick	Hammerschmidt
Bennett	DeWine	Hawkins
Bereuter	Dicks	Hayes
Berman	Donnelly	Henry
Bilirakis	Dorgan (ND)	Hertel
Boehlert	Downey	Hiler
Boner (TN)	Duncan	Horton
Bonior (MI)	Durbin	Howard
Boucher	Dwyer	Hoyer
Brown (CA)	Dyson	Hughes
Broyhill	Edgar	Hyde
Burton (CA)	Edwards (CA)	Ireland
Byron	Evans (IA)	Jeffords
Carr	Evans (IL)	Jones (TN)
Chandler	Fascell	Kanjorski
Chappell	Fawell	Kastenmeier
Coats	Fish	Kemp
Cobey	Foley	Kennelly
Coble	Ford (TN)	Kildee
Kleczka	Moody	Smith (FL)
Lantos	Morrison (WA)	Smith (NE)
Latta	Mrazek	Smith (NJ)
Leach (IA)	Natcher	Smith, Denny (OR)
Lehman (FL)	Neal	Smith, Robert (NH)
Leland	Nelson	Smith, Robert (OR)
Levin (MI)	Nowak	Snowe
Levine (CA)	O'Brien	Snyder
Lewis (FL)	Oberstar	Solarz
Lightfoot	Obey	Solomon
Lloyd	Owens	Spratt
Lott	Oxley	St Germain
Lowry (WA)	Parris	Stark
Luken	Pashayan	Studds
Lundine	Pease	Tauke
Lungren	Penny	Taylor
Mack	Pepper	Torres
MacKay	Perkins	Torricelli
Madigan	Petri	Towns
Markey	Porter	Traficant
Martin (IL)	Pursell	Udall
Martin (NY)	Rangel	Valentine
Matsui	Regula	Vento
Mavroules	Reid	Volkmer
Mazzoli	Robinson	Walker
McCain	Rodino	Weber
McCloskey	Rogers	Weiss
McCollum	Rostenkowski	Wheat
McDade	Roth	Whitley
McEwen	Rowland (CT)	Wolf
McHugh	Rudd	Wolpe
McKernan	Sabo	Wortley
McMillan	Savage	Wright
Meyers	Scheuer	Wyden
Mica	Schneider	Yates
Michel	Schroeder	Yatron
Mikulski	Seiberling	Young (FL)
Miller (WA)	Sensenbrenner	
Mineta	Shaw	
Mitchell	Shelby	
Moakley	Shuster	
Molinari	Skelton	

NAYS—151

Andrews	Foglietta	Ortiz
Anthony	Fowler	Packard
Archer	Franklin	Pickle
Armey	Frost	Rahall
Bartlett	Gallo	Ray
Barton	Gekas	Ridge
Bateman	Gilman	Rinaldo
Bentley	Glickman	Ritter
Bliley	Gonzalez	Roberts
Boggs	Gradison	Roe
Borski	Gray (PA)	Roemer
Bosco	Grotberg	Rose
Boulter	Hall, Ralph	Roukema
Breaux	Hansen	Rowland (GA)
Brooks	Hartnett	Saxton
Brown (CO)	Hatcher	Schaefer
Bruce	Hefner	Schuette
Bryant	Hendon	Schulze
Burton (IN)	Hopkins	Shumway
Bustamante	Huckaby	Siljander
Callahan	Hunter	Sisisky
Campbell	Hutto	Skeen
Carney	Jacobs	Slattery
Carper	Jenkins	Slaughter
Chappie	Johnson	Smith (IA)
Cheney	Jones (NC)	Spence
Clinger	Jones (OK)	Staggers
Coelho	Kasich	Stangeland
Coleman (MO)	Kolbe	Stenholm
Combest	Kostmayer	Strang
Coughlin	Kramer	Stratton
Courter	Lagomarsino	Stump
Craig	Leath (TX)	Sundquist
Crane	Lent	Sweeney
Dannemeyer	Lewis (CA)	Swift
Darden	Livingston	Swindall
de la Garza	Long	Synar
Dingell	Lowery (CA)	Tallon
DioGuardi	Lujan	Tauzin
Dornan (CA)	Manton	Thomas (CA)
Dreier	McCandless	Thomas (GA)
Dymally	McCurdy	Vander Jagt
Eckart (OH)	Miller (OH)	Visclosky
Eckert (NY)	Mollohan	Vucanovich
Edwards (OK)	Montgomery	Waxman
Emerson	Moore	Whittaker
English	Moorhead	Wilson
Fazio	Murtha	Wise
Feighan	Myers	Young (AK)
Fiedler	Nielson	
Fields	Oakar	

NOT VOTING—78

Ackerman	Fuqua	Morrison (CT)
Addabbo	Garcia	Murphy
Aspin	Gaydos	Nichols
Atkins	Gephardt	Olin
Barnard	Gibbons	Panetta
Barnes	Gordon	Price
Bevill	Gray (IL)	Quillen
Biaggi	Gregg	Richardson
Boland	Hall (OH)	Roybal
Bonker	Heftel	Russo
Boxer	Hillis	Schumer
Broomfield	Holt	Sharp
Chapman	Hubbard	Sikorski
Clay	Kaptur	Stallings
Coleman (TX)	Kindness	Stokes
Conyers	Kolter	Traxler
Crockett	LaFalce	Walgren
Daniel	Lehman (CA)	Watkins
Dickinson	Lipinski	Weaver
Dixon	Loeffler	Whitehurst
Dowdy	Marlenee	Whitten
Early	Martinez	Williams
Erdreich	McGrath	Wirth
Flippo	McKinney	Wylie
Florio	Miller (CA)	Young (MO)
Ford (MI)	Monson	Zschau

□ 2105

Messrs. McCAIN, CHAPPIE, and RINALDO changed their votes from "yea" to "nay."

Messrs. McCAIN, EVANS of Iowa, McMILLAN, COBLE, and COBEY changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 349, the conference report on H.R. 3128 is rejected, and the House recedes from its amendment to the Senate amendment and concurs with an amendment inserting in lieu of the Senate amendment an amendment consisting of the text of the conference report, with the following modifications: Strike out subtitle B of title XIII.

REQUEST TO CONSIDER H.R. 3992, EXTENSION OF CERTAIN TAX PROVISIONS FOR A TEMPORARY PERIOD

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3992) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

□ 2120

Mr. WALKER. Reserving the right to object, Mr. Speaker.

Mr. Speaker, I reserve the right to object in order to ask the distinguished chairman of the Committee on Ways and Means just exactly

which bill this is. Is this the one that does a number of different extensions, but also involves some changes in present law including the provisions, some provisions that were passed by the House in 3838?

Mr. ROSTENKOWSKI. Yes, the gentleman is correct.

Mr. WALKER. So, in other words, we are passing new provisions in the Tax Code if we in fact agree to this particular bill.

Mr. ROSTENKOWSKI. If the gentleman will yield.

Mr. WALKER. I am glad to yield to the gentleman.

Mr. ROSTENKOWSKI. The gentleman would like to point out that unless we pass something, there will be no extensions as of January 1.

Mr. WALKER. Well, further reserving the right to object, I do not think that there would be any problem on this side of the aisle for passing a bill that would be a simple extension of all these present programs.

However, there is concern on this side of the aisle with passing provisions that would make new law, and/or begin the enactment of 3838 before the Senate has even considered it.

I would feel constrained to object to any resolution that moves us in that particular direction. If we do a simple extension of the present code, I think that would be perfectly acceptable to me, and to a number of other Members who have similar concerns.

Mr. ROSTENKOWSKI. Well, if the gentleman, on his reservation, will allow me to explain just what the bill presently before the House will do, I think we can clarify a lot of language.

The gentleman would also like to point out that unless this legislation is passed, there is a revenue loss incurred; and that is one of the reasons why it is the gentleman from Illinois' opinion that should we be able to pass this, we then give an opportunity to the Senate to work on the tax reform legislation.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I think it is incumbent upon us on this side, in these kinds of circumstances, to be reasonable. I would suggest to the majority it is also incumbent to be reasonable.

To come here at the 11th hour and try to pass new law, and make changes in the Tax Code at the 11th hour, it seems to me is unreasonable. What we will accept as a reasonable solution is the fact that you take and you extend the present code as it now exists; we do not lose the revenue that way, and we assert ourselves in a way which assures that we do retain the present code.

That seems to me to be an entirely reasonable proposition, given the lateness of the hour and the situation we are in.

I will be glad to yield to the gentleman from Mississippi.

Mr. LOTT. I understand the gentleman is asking unanimous consent on this, but the gentleman does have rules that were reported by the Committee on Rules on this and two other measures that you might ask unanimous consent on?

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. LOTT. To save our Members time so that we will not drag this out, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PROVIDING FOR CONSIDERATION OF H.R. 3992, EXTENSION OF CERTAIN TAX PROVISIONS FOR A TEMPORARY PERIOD

Mr. BONIOR of Michigan, from the Committee on Rules, reported the following privileged resolution (H. Res. 350, Rept. No. 99-455) which was referred to the House Calendar and ordered to be printed.

H. RES. 350

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3992) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes, the bill shall be considered as having been read, all points of order against the bill and against its consideration are hereby waived, debate on the bill shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means or their designees, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 350 and ask for its immediate consideration.

The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 350?

The question was taken.

Mr. WALKER. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 142, not voting 82, as follows:

[Roll No. 480]

YEAS—210

Akaka	Beilenson	Bryant
Alexander	Bennett	Burton (CA)
Anderson	Berman	Bustamante
Andrews	Boggs	Byron
Annunzio	Boner (TN)	Campbell
Anthony	Bonior (MI)	Carper
Applegate	Borski	Carr
Aspin	Boucher	Chappell
AuCoin	Brooks	Coelho
Bateman	Brown (CA)	Collins
Bates	Broyhill	Conte
Bedell	Bruce	Cooper
Coyne	Kennelly	Reid
Darden	Kildee	Rinaldo
Daschle	Kleczka	Ritter
de la Garza	Kostmayer	Robinson
Dellums	Lantos	Rodino
Derrick	Latta	Roe
Dicks	Lehman (FL)	Rose
Dingell	Leland	Rostenkowski
Donnelly	Lent	Rowland (CT)
Dorgan (ND)	Levin (MI)	Rowland (GA)
Downey	Levine (CA)	Rudd
Duncan	Livingston	Sabo
Durbin	Lloyd	Savage
Dwyer	Lowry (WA)	Scheuer
Dymally	Luken	Schneider
Dyson	Lundine	Schroeder
Edgar	MacKay	Seiberling
Edwards (CA)	Manton	Sisisky
Evans (IL)	Markey	Skelton
Fascell	Matsui	Slattery
Fawell	Mavroules	Smith (FL)
Fazio	Mazzoli	Smith (IA)
Feighan	McCloskey	Smith (NJ)
Foley	McCurdy	Snowe
Ford (TN)	McEwen	Solarz
Fowler	McHugh	Spence
Frank	McKernan	Spratt
Frenzel	McMillan	St Germain
Frost	Meyers	Staggers
Gejdenson	Mica	Stark
Gilman	Mikulski	Stratton
Glickman	Miller (OH)	Studds
Gonzalez	Mineta	Sundquist
Gradison	Mitchell	Swift
Gray (PA)	Moakley	Synar
Green	Molinari	Tallon
Guarini	Montgomery	Thomas (GA)
Hamilton	Moody	Torres
Hatcher	Moore	Torricelli
Hawkins	Mrazek	Towns
Hayes	Murtha	Traficant
Hefner	Natcher	Udall
Hendon	Neal	Valentine
Hertel	Nelson	Vander Jagt
Hopkins	Nowak	Vento
Horton	Oakar	Visclosky
Howard	Oberstar	Volkmer
Hoyer	Obey	Waxman
Hughes	Ortiz	Weiss
Hutto	Owens	Wheat
Jacobs	Pease	Whitley
Jeffords	Penny	Whittaker
Jenkins	Pepper	Wilson
Johnson	Perkins	Wise
Jones (NC)	Pickle	Wolpe
Jones (OK)	Rahall	Wright
Jones (TN)	Rangel	Wyden
Kanjorski	Ray	Yates

NAYS—142

Archer	Dornan (CA)	Lewis (FL)
Armey	Dreier	Lightfoot
Badham	Eckart (OH)	Long
Bartlett	Eckert (NY)	Lott
Barton	Edwards (OK)	Lowery (CA)
Bentley	Emerson	Lujan
Bereuter	English	Lungren
Bilirakis	Evans (IA)	Mack
Bliley	Fiedler	Madigan
Boehlert	Fields	Martin (IL)
Bosco	Fish	Martin (NY)
Boulter	Franklin	McCain
Breaux	Gallo	McCandless
Brown (CO)	Gekas	McCollum
Burton (IN)	Gingrich	McDade
Callahan	Goodling	Michel
Carney	Grotberg	Miller (WA)
Chandler	Gunderson	Mollohan
Chappie	Hall, Ralph	Moorhead
Cheney	Hammerschmidt	Morrison (WA)
Clinger	Hansen	Myers
Coats	Hartnett	Nielson
Cobey	Henry	O'Brien
Coble	Hiler	Oxley
Coleman (MO)	Huckaby	Packard
Combest	Hunter	Parris
Coughlin	Hyde	Pashayan
Craig	Kasich	Petri
Crane	Kemp	Porter
Dannemeyer	Kolbe	Regula
Daub	Kramer	Ridge
Davis	Lagomarsino	Roberts
DeLay	Leach (IA)	Roemer
DeWine	Leath (TX)	Rogers
DioGuardi	Lewis (CA)	Roth

Roukema	Smith, Denny (OR)	Tauke
Saxton	Smith, Robert (NH)	Tauzin
Schaefer	Smith, Robert (OR)	Taylor
Schuette	Snyder	Thomas (CA)
Schulze	Solomon	Vucanovich
Sensenbrenner	Stangeland	Walker
Shaw	Stenholm	Weber
Shelby	Strang	Wolf
Shumway	Stump	Wortley
Shuster	Sweeney	Yatron
Siljander	Swindall	Young (AK)
Skeen		Young (FL)
Slaughter		
Smith (NE)		

NOT VOTING—82

Ackerman	Garcia	Murphy
Addabbo	Gaydos	Nichols
Atkins	Gephardt	Olin
Barnard	Gibbons	Panetta
Barnes	Gordon	Price
Bevill	Gray (IL)	Pursell
Biaggi	Gregg	Quillen
Boland	Hall (OH)	Richardson
Bonker	Heftel	Roybal
Boxer	Hillis	Russo
Broomfield	Holt	Schumer
Chapman	Hubbard	Sharp
Clay	Ireland	Sikorski
Coleman (TX)	Kaptur	Stallings
Conyers	Kastenmeier	Stokes
Courter	Kindness	Traxler
Crockett	Kolter	Walgren
Daniel	LaFalce	Watkins
Dickinson	Lehman (CA)	Weaver
Dixon	Lipinski	Whitehurst
Dowdy	Loeffler	Whitten
Early	Marlenee	Williams
Erdreich	Martinez	Wirth
Flippo	McGrath	Wylie
Florio	McKinney	Young (MO)
Foglietta	Miller (CA)	Zschau
Ford (MI)	Monson	
Fuqua	Morrison (CT)	

□ 2130

Mr. PASHAYAN changed his vote from "yea" to "nay."

Messrs. BATEMAN, RITTER, WHITTAKER, ROWLAND of Connecticut, LIVINGSTON, JEFFORDS and TALLON changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the House refused to consider House Resolution 350.

The result of the vote was announced as above recorded.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.4 percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration, and for other purposes.

□ 2145

REQUEST FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2466, MAKING MISCELLANEOUS CHANGES IN LAWS AFFECTING U.S. COAST GUARD

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2466) to make miscellaneous changes in laws affecting the U.S. Coast Guard, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)-(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.".

(D) Strike "or a sailing school vessel," in clause (B).

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.".

(B) In item 3304 in the analysis of chapter 33, strike "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than".

(7)(A) Section 3503 is amended as follows:

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.".

(B) Until the regulations required by clause (7) of this section become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer".

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge".

(10) In section 7111, strike "Part" and substitute "part".

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited".

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches".

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of a continuing violation is a separate violation.".

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

(19) Chapter 111 is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section:

"§ 11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

SEC. 2. (a) The Coast Guard may enter into a lease in excess of one fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for constrcution of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in appropriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

SEC. 3. Notwithstanding any other law, the Coast Guard Yard, Curtis Bay, Maryland, and the Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina, are exempt from statutory and administrative personnel ceilings through September 30, 1988.

SEC. 4. The body of water known as Lawyer's Ditch located at block 5000 in the city of Newark, County of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 5. Notwithstanding the last sentence of section 81 of title 14 of the United States Code, the Coast Guard may not, except for the installation of fixed aids to navigation, carry out by contract the determination of the location, or the placement, of aids to maritime navigation in the Introcoastal Waterway in New Jersey.

SEC. 6. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District electricity to a Coast Guard facility without complying with the provisions of section 14 of Public Law 98-557.

SEC. 7. (a) There is established a National Offshore Vessel Operators Safety Advisory Committee (hereinafter in this section referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") on matters relating to the safety aspects of offshore oil, gas, and other mineral operations subject to regulation by the Secretary. The Secretary shall, whenever practicable, consult the Committee concerning proposed or desirable actions affecting the safety of such offshore operations. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b)(1) The Committee shall consist of fifteen members, who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration for, or the recovery of, offshore oil, gas, or other mineral resources, as follows:

(A) Two members representing enterprises engaged in the production of oil, gas, or other mineral resources, except that not more than one member may represent companies included on the list of restricted joint bidders prepared by the Department of the Interior;

(B) Two members representing enterprises specializing in offshore drilling;

(C) Two members representing enterprises specializing in the supply of offshore oil, gas, or other mineral exploration or recovery operations by water;

(D) Three members representing general support services for offshore oil and gas activities, including construction, diving, geophysical, and helicopter services;

(E) Two members representing individuals employed in offshore operations;

(F) Two members representing environmental interests; and

(G) Two members representing the general public.

(2) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(3) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(4) Terms of members appointed to the Committee shall be for three years, except that the terms of those members first appointed under subsection (c)(1) (A), (B), and (C) shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c)(1) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

(2) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this section.

SEC. 8. Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, Parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 9. Notwithstanding sections 12105, 12106, 12107 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: *Marilyn*, Maryland registration number MD 3533 AA; *Royal Star*, Michigan registration number MC 9797 J; *Alaskan Shores*, United States official number 603879; *Shearwater*, United States official number 260827; *Gypsy Rose*, California registration number CF 4291 HF; *Eliminator*, United States official number 507572; *Puka Kai*, United States official number 677462; *Lobster House*, Panama registration number 494-Pext; *Jane E.*, Bahamian official number 315924; and *Diane M.*, Bahamian official number 315925, except that such vessels *Jane E.*, and *Diane M.*, may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

SEC. 10. Any use or expenditure of funds by the Coast Guard related to the alteration of the Burlington-Northern Railroad Bridge at mile 6.9 on the Willamette River in Portland, Oregon shall be subject to the first six sections of the Act of March 3, 1931 (40 U.S.C. 276a through 276a-5).

SEC. 11. Section 2(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following: ", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies".

SEC. 12. The Coast Guard may enter into a cost-sharing arrangement with the City of Cape May, New Jersey under which the City of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a nonrecurring basis.

SEC. 13. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting. "The Secretary may prescribe regulations to carry out the provisions of this subtitle.".

SEC. 14. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under sec-

tions 12106 or 12107 of title 46, United States Code,"; and

(2) by striking "a vessel of foreign registry, or a vessel in distress," and substituting "a vessel in distress".

SEC. 15. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding at the end thereof the following: "except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semi-colon and substituting a period.

SEC. 16. (a) As used in this section, the term—

(1) "commercial fishing industry vessel" means a fishing vessel, fish processing vessel, or fish tender vessel, as those terms are defined in section 2101 of title 46, United States Code;

(2) "Committee" means the Commercial Fishing Industry Vessel Safety Advisory Committee established in subsection (b) of this section; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(b) There is established a Commercial Fishing Industry Vessel Safety Advisory Committee as an advisiory committee of the United States Government reporting to the Secretary.

(c)(1) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to commercial fishing industry vessels, including—

(A) navigation safety;

(B) safety equipment and procedures;

(B) marine insurance;

(D) vessel design, construction, maintenance, and operation; and

(E) personnel qualifications and training.

(2) The Secretary, and the Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding commercial fishing industry vessels.

(3) The Committee shall meet at the call of the Secretary, but not less often than once during each calendar year.

(4) Any advice or recommendation made by the Committee shall reflect the independent judgment of the Committee on the matter concerned.

(5) The Committee may make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry, as follows:

(A) ten members from the commercial fishing industry who reflect a regional and representational balance, and have experience in the operation of commercial fishing industry vessels, or have experience as a crew member or processing line worker on a commercial fishing industry vessel;

(B) two members from each of the following:

(i) underwriters engaged in insuring commercial fishing industry vessels; and

(ii) the general public, including, whenever possible, a member of a national organization composed of commercial fishing industry vessel and marine insurance interests; and

(C) one member from each of the following—

(i) naval architects or marine surveyors;

(ii) manufacturers of fishing industry vessel equipment; and

(iii) education or training professionals related to commercial fishing industry vessel safety or personnel qualifications.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee. After timely notice is published, the Secretary shall appoint the members of the Committee. A member may be reappointed to any number of terms.

(3) The term of a member is three years, except that—

(A) initially, one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

(B) initially, terms may be adjusted to coincide with the Government's fiscal year; and

(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to commercial fishing industry vessels under the jurisdiction of their respective departments. The Secretary's jurisdiction of their respective departments. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties specified in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App. 10(c)).

(e)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee concerning the following actions affecting commercial fishing industry vessels—

(A) proposing legislation;

(B) proposing or publishing a regulation;

(C) authorizing or conducting research or a study; or

(D) taking any other major action of the United States Government relating to the Committee's purpose and duties as set forth in subsection (c)(1) of this section.

(2) Consultation with the Committee shall be deemed to satisfy all requirements of title 46, United States Code, for consulting with representatives of the private sector having experience in the operation of commercial fishing industry vessels.

(f)(1) Except as otherwise provided in paragraph (3) of this subsection, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, shall serve without pay. While away from their homes or regular places of business, members of the Committee may be allowed travel or transportation expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Any payment made under this subsection shall not render a member of the Committee a member of the uniformed services (as defined in section 101(3) of title 37, United States Code), or an officer or employee of the United States for any purpose.

(3) A member of the Committee who is a member of the uniformed services or an officer or employee of the United States may not receive additional pay on account of such member's service on the Committee, but a member of the Committee who is a member of the uniformed services shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code, unless such member is otherwise entitled to such expenses under any other provision of law.

(4) The Secretary shall furnish the Committee an executive secretary and such secretarial, clerical and other services as are necessary for the conduct of the Committee's business.

(g)(1) The Committee shall terminate on September 30, 1991.

(2) Two years prior to the date of its termination, the Committee shall submit to the Congress its recommendation as to whether the Committee should be renewed and continued beyond such termination date.

(h) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

SEC. 17. Notwithstanding the provisions of the Act entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels *Pictor*, United States official number 243529, *Procyon*, United States official number 244022, and *Zelima*, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

SEC. 18. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels *Paul Bunyan*, United States official number 602272, and *John Henry*, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secretary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

SEC. 19. The Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas and the Houston Ship Channel is declared to be a lawful bridge for all purposes of the Act entitled "An Act to provide for the alternation of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such a bridge, and for other purposes", approved June 21, 1940 (33 U.S.C. 511 et seq.). The Secretary of the department in which the Coast Guard is operating is authorized to reimburse the owner of the bridge for work done prior to the date of enactment of this section that would be the responsibility of the United States under the Act of June 21, 1940 (33 U.S.C. 511 et seq.) if performed after the date of enactment of this section, except that such reimbursement shall not exceed $450,000.

SEC. 20. Notwithstanding any other provision of law or of prior contract with the United States, the United States flag tug *MOIR*, offical Coast Guard number 60018, shall not be subject to the requirements of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156).

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. LENT. Mr. Speaker, reserving the right to object, I will not object, but I would like to have the gentleman from North Carolina [Mr. JONES] the distinguished chairman of the Committee on Merchant Marine and Fisheries, to give a short explanation of this bill, which essentially passed the House back on July 29 of this year, has come back from the other body, with what appear to be a few very technical amendments, but I think in view of the tenor of the House that it might be advantageous if the gentleman would just explain away some of these technical amendments.

Mr. JONES of North Carolina. Mr. Speaker, this bill, as passed by the House, contained miscellaneous provisions of law affecting Coast Guard operations. The bill returned from the Senate retains nearly all of these provisions in essentially the same form.

New section 9 waives the restrictions in coastwise laws for certain vessels. The House has previously approved most of these in a private bill, H.R. 739.

New section 10 makes expenditures of funds for the alteration of a bridge in Oregon subject to certain restrictions to ensure use of local labor.

New section 11 clarifies statutory provisions to facilitate drug enforcement activities of the Coast Guard.

New section 12 provides authority for the Coast Guard to share costs with Cape May, NJ, for improvement of roads.

New section 13 gives the Secretary of Transportation explicit authority to prescribe regulations relating to marine safety and seamen's welfare.

New section 14 amends the towing vessel statutes to close a loophole that allows foreign tugs to be used to tow foreign registry vessels in U.S. ports.

New section 15 resolves an ambiguity in the Shipping Act of 1984 relating to chemical parcel tankers. It clarifies that those vessels are not subject to FMC regulation as common carriers and are, therefore, not exempt from the antitrust laws.

New section 16 establishes a Commercial Fishing Industry Safety Advisory Committee. It is similar to the provisions of H.R. 3025 introduced by Mr. LENT and which I cosponsored.

New section 17 provides authority for three vessels, currently tied up and rusting, to be scrapped in foreign yards if the purchaser and country in which they will be scrapped are acceptable to the Secretary of Transportation and the Secretary is given at least one-half of the profits realized from the scrapping.

New section 18 allows two vessels to be sold to a foreign purchaser if neither the Secretary of Transportation nor the Secretary of the Navy elect to buy them at world market prices.

New section 19 is the same as in section 10 of the House bill with a minor change. It allows the Port of Houston Authority to seek up to $450,000 in reimbursement from the Coast Guard for alteration of a bridge.

New section 20 allows the sale of a tugboat free of the requirements resulting from previous CDS payments.

Mr. Speaker, I know of no controversies regarding these Senate amendments and believe that both majority and minority leaders of the Merchant Marine and Fisheries Committee are prepared to recommend that the House accept them.

Mr. LENT. Mr. Speaker, further reserving the right to object, we have had an opportunity to go over this, at least I have, on behalf of the minority on the House Merchant Marine Committee. This is essentially the bill that passed the House in July. It helps the Coast Guard, it helps the maritime industry. Essentially, we are talking about some technical amendments that were added to a bill that passed by an overwhelming majority back in July.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BADHAM. Mr. Speaker, reserving the right to object, I do so because I am concerned about the Coast Guard. It has come to this Member's attention that there are items of legislation working around the House that are denying the Coast Guard some appropriation and some authority, and I would like to ask the chairman of the committee if this has anything to do with that, because I would certainly object, and I would like to ask the chairman of the committee what the gentleman's unanimous-consent request alludes to, as far as the powers, duties, and authorities of the Coast Guard.

Mr. JONES of North Carolina. If the gentleman will yield, as one of the real strong supporters of the Coast Guard, having served as chairman of the Coast Guard Subcommittee a year or so ago, I can assure the gentleman there is nothing in this bill that adversely affects the U.S. Coast Guard.

Mr. BADHAM. Further reserving the right of object, why, may I ask, on December 19, at almost 10 o'clock at night, is the gentleman bringing this unanimous consent up, expressing the urgency of the House to act at this late hour?

Mr. JONES of North Carolina. The Senate just passed it a couple hours ago. I was ready last week, the week before last, and the week before that.

Mr. BADHAM. Mr. Speaker, maintaining my reservation of objection, the gentleman referred to the other body. I do not see that as any particular reason at all for this body to do anything. I would suggest, maintaining my reservation of objection, that the gentleman ought to have a better reason than that.

Mr. JONES of North Carolina. That is the only reason I have.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. Further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I want to clarify for a moment, if I can, for the record that it is my understanding that there is no money authorized by this bill, nor is there any money appropriated by the bill, that at one point in the bill, it allows someone to seek authorizations but does not specifically make authorization. Is that a correct characterization?

Mr. BADHAM. Under my reservation of objection, I yield to the chairman for a response to that query.

Mr. LENT. Mr. Speaker, will the gentleman yield to me on that point?

Mr. BADHAM. Under my reservation of objection, Mr. Speaker, I yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, one of the provisions in this bill authorizes a commercial fishing industry vessel safety advisory committee. It is possible, under the terms of that legislation, at some future time an authorization might be requested, but there are

no funds in this bill, which is what I think the gentleman is most concerned about.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. BADHAM. Under my reservation of objection, Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Just let me clarify. There is no language with regard to the commission of such sums as may be necessary, or any of that kind of language?

Mr. LENT. If the gentleman will yield further, the only thing of that nature that would be provided in this bill is that it provides that 2 years prior to the date of the termination of the advisory council, that council should submit to the Congress recommendations as to whether the committee should be renewed and whether any funds need be authorized.

Mr. BADHAM. Mr. Speaker, under my reservation, I would ask either the chairman or the ranking minority member, is there anything in this unanimous-consent request in this bill that is going to expire if we do not act on it right now, tonight, at the 10th hour of the 12th month?

Mr. JONES of North Carolina. If the gentleman will yield, nothing that I know of.

Mr. BADHAM. Mr. Speaker, then I object.

The SPEAKER pro tempore. Objection is heard.

REVISING AUTHORITY RELATING TO PAYMENT OF SUBSISTENCE AND TRAVEL ALLOWANCE TO GOVERNMENT EMPLOYEES

Mrs. COLLINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1840) to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

Mr. McCANDLESS. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the gentlewoman from Illinois [Mrs. COLLINS], the chairman of the Subcommittee on Government Activities and Transportation of the Committee on Government Operations, for an explanation of the legislation.

Mrs. COLLINS. I thank the gentleman from California for yielding.

Mr. Speaker, the new travel reimbursement system under S. 1840 would allow the Administrator of General Services to establish these allowances by locality and in accordance with currently prevailing average costs, as determined by expert surveys by locality. Proposed changes in the allowances and procedures would nevertheless have to be laid before Congress for 30 days before they could become effective.

The language of H.R. 1840 and the virtually identical language of H.R. 3291 as amended and ordered reported by the Committee on Government Operations, would provide a basis for GSA's requiring a locality-based reimbursement system under which lodgings cost would have to be validated by a motel or motel receipt. There would be a specific flat allowance for meals for each locality, but without receipt requirement. In no event could total daily reimbursement exceed the established daily maximum set by regulation for the locality in question. This so-called lodgings-plus system would provide the optimum balance with administrative efficiency and economy employee accountability.

The Administrator would also have authority to allow for some increase over the daily local maximums in certain extraordinary and temporary situations, such as would occur, in a given city, if a political convention and some other major event should coincide. In that sort of situation, the Administrator would require that each and every expense claimed by the employee would have to be validated by receipt.

The bill contains additional provisions to relieve certain inequities. For instance, some reimbursement may be allowed to an employee on travel who experiences a serious emergency like a death in the immediate family. Relief would also be available to an employee in law enforcement or investigation capacity where threats to life necessitate temporary relocation of the employee and the employee's family.

Furthermore GSA would be required to collect data from major Federal agencies to permit analysis of travel and transportation expenditures.

The language also includes a provision that would supplement the provisions relating to Federal employees and assure that Government contractors who charge their employees' travel against the Government contract are not able to claim more for that travel than what a Federal employee performing the same travel could claim.

During the September 1985 hearings by the Government Activities and Transportation Subcommittee, all witnesses testified in general support of the principle this bill represents and the system it would authorize. They included Members of Congress, the new Administrator of General Services and representatives of the GAO and employee organizations.

GSA testified that agencies would be required to absorb the additional first year cost of the increased rates, and in subsequent years to monitor travel to keep it to the minimum amount necessary.

The language of the bill represents a very carefully crafted legislative product worked out in close cooperation with the Government Operations Committee's minority and GSA. I particularly appreciate the high interest and fine cooperation of the gentleman from California, the ranking minority member of the Government Activities and Transportation Subcommittee. I am confident that the measure before us will meet well the purposes and needs which prompted its introduction. I am pleased that the other body, through its adoption of the language of the Government Operations Committee's amendment to H.R. 3291, has also reached this conclusion.

It is for these reasons that I strongly urge Members of the House to approve S. 1840. Early enactment would expedite arrival of the time when GSA's implementing regulations become effective—which would be no later than 180 days from the date of the act—and Federal employees consequently could begin receiving fair and adequate reimbursement for the expenses of official travel.

Mr. McCANDLESS. Mr. Speaker, further reserving the right to object, I shall not object, I yield to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, today I rise in support of this legislation the Civilian Travel Expenses Act of 1985. As one of the early cosponsors of this legislation, I feel its expeditious passage would benefit Federal employees, the Government and the American taxpayers.

As a Member who has worked for several years to reform the reimbursement system for Federal workers who are relocated through Government jobs, I feel it is not only an ethical issue that we cover the costs of our employees who we direct to relocate, but it also is a family issue. It becomes a family issue when financial hardships arise from inadequate compensation for required moves because that money has to come out of the pockets of Federal workers and their families.

I am also concerned about providing adequate reimbursement for travel expenses that Federal employees incur through their civil service positions. I have talked with employees who conveyed how frequently they must subsidize business trips because current government rates will not authorize payment for certain unavoidable expenses.

Employees have been concerned because of lengthy delays in getting re-

imbursed for travel vouchers long after they had to pay for the business expense. If a credit card is used to pay the expense, the interest on delayed repayments also goes unreimbursed.

Employees have also mentioned that traveling for the Government is no small expense, and accounting for that travel, keeping adequate records, and administration of the travel activities may account for up to 15 to 20 percent of all travel expenses the Government pays. Clearly, any effort to reduce this costly overhead, encourage accountability and provide adequate reimbursement in a timely manner should be actively pursued.

Mr. Speaker, travel per diem bill demonstrates that constructive Government reforms also can be positive changes for Federal workers. I feel this is a fair approach and urge my colleagues to support this measure.

Mr. McCANDLESS. Mr. Speaker, further reserving the right to object, I would simply like to add the minority's view of S. 1840.

The language contained in S. 1840 is virtually identical to that of H.R. 3291, which has been approved unanimously by voice vote in both subcommittee and in our full Government Operations Committee. We have worked very closely with the other body on this needed legislation, and we have something here that's being supported by both sides of the aisle in both Houses of Congress.

S. 1840 is strongly supported by the administration. Additionally, various Federal employee organizations are endorsing the legislation.

H.R. 3291 as amended and reported unanimously by the Committee on Government Operations.

The purpose of the legislation is to give the Administrator of General Services more flexibility in establishing the system of reimbursing Federal employees for the subsistence expenses of official travel. These subsistence expenses consist of lodgings, meals, and incidentals.

S. 1840 would permit the GSA Administrator to establish locality-based allowances for these expenses. These allowances would be based upon cost surveys conducted by locality. S. 1840 maintains strict congressional scrutiny of implementing regulations by providing that such regulations are not effective until 30 days after transmittal to the appropriate congressional committees.

Current law, which sets reimbursement caps on a nationwide basis, has proven inadequate to meet the needs of the Government. As a result, Federal employees must many times subsidize official Government travel.

At our hearing on H.R. 3291—which, as I say, is embodied in S. 1840—all the Federal employee organizations that testified supported the changes. H.R. 3291 was originally proposed by the administration, and or committee's amendments have their support.

What we have is legislation that's fair to the Government and fair to those traveling on official Government business. S. 1840 is responsible legislation, and it has my support.

I want to thank Chairwoman COLLINS, Chairman BROOKS, and my ranking member, FRANK HORTON, for their assistance in making this legislation a reality.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 19, 1985.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3291, the Federal Civilian Employee and Contractor Travel Expense Act of 1985, as ordered reported by the House Committee on Government Operations, December 10, 1985.

The bill would authorize the Administrator of the General Services Administration (GSA) to establish new rates for payment of federal employees' travel expenses. Based on the Administrator's testimony before the Subcommittee on Government Activities and Administration, we expect that GSA would replace the current $50 and $75 statutory limitations on per diem and actual expense reimbursements with a "lodgings-plus" system. Under that system, the per diem allowance would cover the actual cost of lodgings plus a flat rate (which would vary by location) for meals and miscellaneous expenses. Because the expected costs of lodgings and rate amounts would be greater than the $75 cap that is currently in effect for 137 cities, total travel costs would increase by an estimated $200 million annually. However, these increased costs would be partially offset by a reduction in the administrative expenses associated with reimbursing federal employees. Because the locality-based flat-rate system for meals and miscellaneous expenses would eliminate the need for processing vouchers for those expenses, annual administrative costs may decrease by $20 million to $30 million. The full effect of these increases in travel costs and decreases in administrative costs would probably not occur until fiscal year 1987 because the new travel regulations would not become effective until six months after enactment of the bill.

The bill would also require that government contractors be reimbursed for travel expenses at the same rate as federal employees. This is likely to reduce somewhat government contracting costs, but we cannot presently estimate the magnitude of such savings. In addition, the bill would require the Administrator to prepare a biennal analysis of federal travel costs for the Office of Management and Budget. Because GSA already collects most of the information required by the report, we do not expect the report to result in significant additional costs to the federal government.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner, *Director*).

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, this bill is identical to H.R. 3291, which I introduced at the request of the administration on September 12, 1985. The bill's main purpose, very simply, is to make sure that Federal employees who are traveling on agency business are treated more fairly than under current conditions. It authorizes the Administrator of General Services to establish a per diem allowance system that more accurately reflects the true cost of away-from-home duty than the current system does. GSA intends to establish a "lodgings plus" reimbursement system that will both reimburse the employee adequately and reduce the paperwork involved in travel accounting by the agencies.

In addition, the bill contains language proposed by Mr. McCANDLESS, which provides that allowable costs for the travel expenses of Government contractors would be required to conform to the payment for regular Government employees.

S. 1840 is a good bill that promises a fair deal both for Federal employees and for the agencies administering their travel expenses.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I rise in support of the legislation.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I rise in support of this legislation.

As the gentleman from California [Mr. McCANDLESS] stated, this legislation was unanimously adopted in the subcommittee and the full Committee on Government Operations. It is a good bill, and I urge its adoption.

Mrs. BENTLEY. Mr. Speaker, I rise in support of this legislation to ease the burden of Federal employees who are required to travel in order to accomplish their assigned work. It would be shameful to allow a state of affairs to continue in which our own Federal workers are forced to underwrite the expenses which they incur on Government business.

It seems that, in my brief time in this body, we have the unfortunate tendency to look to our own work force to find ways to cut spending. At least we should make sure, as this bill does, that they do not have to operate out of their own pockets when away from home on business.

I urge the passage of this bill to relieve these workers who are already bearing

more of the Government's rush to economize, than is, in my view, equitable. I will vote for it and ask my colleagues to do the same.

Mr. PARRIS. Mr. Speaker, I rise in support of H.R. 1840, the reported committee version of H.R. 3291. This legislation, which I have cosponsored and testified on behalf of before the House Government Operations Committee, offers much needed improvements in the travel reimbursement system for Federal employees.

As has been pointed out by the General Services Administration, the $50 and $75 statutory ceilings for domestic travel expenses have become inadequate for travel to most cities. Designated high rate areas have increased from 6 in 1975 to 379 in 1985. Food and lodging in my district surrounding the Washington, DC, area, for example, can cost up to $148 a day, according to a 1984 GSA survey. H.R. 1840 would remove these outdated ceilings on reimbursement and eliminate financial losses currently being incurred by Federal employees when they travel to many cities.

The second significant change proposed by this legislation deals with reimbursement methods. For 5 years, the General Accounting Office, Office of Management and Budget, and the General Services Administration have supported replacing the current methods of reimbursement with a system less costly, time consuming, and burdensome for the traveler as well as the agency. To accomplish this, H.R. 1840 proposes a per diem based on the cost of lodging actually incurred by the traveler plus a flat rate, which may vary by location, for meals and miscellaneous expenses. Proper implementation of this system should help reduce employee travel costs and increase administrative accountability, resulting in cost savings to the Government.

Mr. Speaker, this legislation is not the final answer to every problem in the Federal travel system. It does, however, offer major improvements in many areas, particularly in ensuring accurate travel costs to many cities.

I urge prompt and favorable House consideration of H.R. 1840.

Mr. McCANDLESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

SEC. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

SEC. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continential United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continential United States or an amount established by the President or his designee for travel outside the continential United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate officials of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred has such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

SEC. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travell expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expresses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel."

SEC. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement secton 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress an shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office

of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) the requirements of paragraph (1) of this subsection shall exprie upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

SEC. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu thereof "maximum payment premitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

SEC. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service

"Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employes within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

SEC. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(2)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

SEC. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"SEC. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

SEC. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 180 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

SEC. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Amend the title so as to read as follows: "To amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 2200

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time in an effort to share with my colleagues where we are and where we expect to be. We still very earnestly expect to adjourn sine die this evening. With the cooperation of the Members, this can be done.

At this moment we are standing by while staff are drafting a mutually satisfactory agreement relating to the extensions that were discussed earlier. We will have those back again.

There will be some resolutions concerning the adjournment sine die, and those must be agreed to. We will have those rather shortly.

But I want to ask if all Members will stand by and await the action of the other body with regard to our reconciliation bill. This is the largest reconciliation bill ever passed in Congress with or without the Superfund provisions. Including the Superfund provisions, it would have been an $81 billion deficit-reduction package, the biggest we have ever had. Even without the Superfund provisions, it still amounts to approximately a $72 billion deficit-reduction package. It is surely worth waiting a little while for. What a Christmas present for the American people.

So let us stick around. We have asked the Rules Committee to stand by just in the event it were necessary for them to meet again, but we hope that will not be necessary. We trust things will go well and we will be able to adjourn sine die this evening. Then the distinguished minority leader and someone from the majority can go and make a phone call and tell our President that we are ready to leave and wish him and all of his a happy Christmas and a happy Yuletide season.

Mr. MICHEL. Mr. Speaker, will the distinguished majority leader yield?

Mr. WRIGHT. I surely will yield to the minority leader.

Mr. MICHEL. Mr. Speaker, according to my understanding, our Ways and Means Committee members are in consultation now on a general accord on all those tax provisions that would expire on December 31 to extend, gen-

erally speaking, most all of them until about March 15, and if it takes them yet a while to work out a couple of those intricacies, what do we plan to do in the interval here?

Mr. WRIGHT. Well, I should think we might try to pass some resolutions concerning the sine die adjournment.

Mr. MICHEL. Well, let us do that, then. That would be very productive.

Mr. WRIGHT. If the gentleman from Illinois wanted to ask unanimous consent at that point that we might allow the House to stand in recess subject to the call of the Chair, it may be that he would have better luck than the gentleman from Texas had on an earlier occasion today.

Mr. MICHEL. I understand. I understand that.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I appreciate the gentleman's yielding.

I think the one thing we want to be careful of on recesses, as I understand it, is that we have to get the bill passed with the tax provisions, past the Senate and down to the President, so he can sign it before midnight or it kicks in all of the problems that accrued because of States and their cigarette taxes, and so on. So I think we would want to be very careful with recesses to make certain we allow plenty of time to get the work done that we have to do on those provisions and get the bill down to the White House well before midnight.

Mr. WRIGHT. Mr. Speaker, we have no expectation of recessing prior to the passage of that particular piece of legislation. I understand the Ways and Means Committee will only require about 15 minutes to be ready here on the floor with that legislation. So we can busy ourselves with one thing and another prior to that time. And I do plead earnestly with our colleagues not to go home just yet. Let us stick around.

Mr. MICHEL. Mr. Speaker, I have no objection to that, other than we would like to have sufficient notice on this side of those matters that will be brought up from the majority side so that we will have the competent Members here from the respective committees to respond. I have no objection to that.

Mr. WRIGHT. We will try not to surprise you. We may be ourselves surprised because nobody knows what may happen, but we will try to share whatever knowledge we have with the minority just as soon as we have it.

REQUEST FOR CONSIDERATION OF S. 1574, HEALTH CONSEQUENCES OF USING SMOKELESS TOBACCO PRODUCTS

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent, and this has been cleared with the minority, to take from the Speaker's table the Senate bill (S. 1574) to provide for public education concerning the health consequences of using smokeless tobacco products, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from California?

Mr. BLILEY. Reserving the right to object, Mr. Speaker, earlier this week the Senate passed S. 1574 without dissent. I have told the gentleman from Oklahoma and the gentleman from California, the distinguished chairman of the Health Subcommittee, that I would be willing to accept the Senate bill as is. I have even told the gentleman that I would be willing to accept the Senate bill with an amendment that had an electronic-advertising ban, which the Senate bill does not contain and which I feel is unnecessary and wrong. But I would be willing to accept it in the spirit of accommodation.

Will the gentleman accept this offer?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield to me?

Mr. BLILEY. I am happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, if I get unanimous consent to take this bill from the Speaker's table, I have an amendment at the desk which I will offer. That amendment embodies an agreement which has been signed off by all the industry groups affected. So I would propose to amend the bill and send it back to the Senate with the expectation that they would take the bill as amended.

Mr. BLILEY. Further reserving the right to object, Mr. Speaker, does the gentleman's proposal include arrows, a bull's eye, and color?

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield to me further, our proposal does try to develop a very visible way of displaying the warning label on the advertising, and it would have in its display a circle and an arrow to draw people's attention to that label. We want people to see the warning label, and hopefully they will be discouraged voluntarily from using this substance.

Mr. BLILEY. Reclaiming my time and further reserving the right to object, Mr. Speaker, this is a more stringent provision than is required on cigarettes at the present time, and I would be forced to object.

Mr. ROSE. Mr. Speaker, will the gentleman yield to me?

Mr. BLILEY. I am happy to yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, My information is that the smokeless-tobacco industry has signed off on what the gentleman from California is attempting to do. Is that not correct?

Mr. BLILEY. That is correct, but the smokeless-tobacco industry is a small part of the industry, as the gentleman knows.

Mr. ROSE. But this bill only affects the smokeless-tobacco industry.

Mr. BLILEY. At the present time, yes, but the effects will be brought back on the others.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

A LAST-MINUTE PROLIFERATION OF LEGISLATION

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, as a new Member, I would just like to say here that it seems at the last minute we are getting an awful lot of legislative items come before us. Perhaps it is just to spend some time. Nevertheless, I think I am going to establish a rule that, while I am in Congress, might be a general rule to guide me through the end of sessions. That is going to be basically this. Anything that is thicker than 4 inches or weighs more than 4 pounds that is brought up at the very last hour of the session, I am going to vote "no" on it.

□ 2210

I would just like to say that I would like to encourage the leaders to look very carefully at the process that is now being undertaken, to bring back to us those measures that are pertinent and germane, and I think the House will act on them prudently.

THERE IS NO CHRISTMAS HOLIDAY IN ROMANIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, on December 25, 1983, in a Christmas message, Father Geza Palfy, Roman Catholic priest of Hungarian minority in Romania, made the following statement: "I believe in Romania, Christmas should be an official holiday."

For that, he was arrested by secret police, interrogated, severely beaten, and left the police station 2 days later unconscious. He died 2 months later in a hospital Tirgu-Mores. Romanian officials say he died of cancer of the liver; however, all evidence gathered

by Christian Response International indicated Father Palfy died of internal injuries sustained during police beatings.

This is the same country to which we give preferential trade status—most favored nation. Can we support such religious repression and violation of human rights? As we reflect during this Christmas season on our own liberties, won't you join me and 60 of our colleagues in supporting a 6-month suspension of the MFN trade status to Romania to make a moral statement that Americans will have no part in the economy or support of such a repressive regime?

Please cosponsor H.R. 3599 to suspend MFN for 6 months in Romania.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. FOLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 351) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 351

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING DATE FOR BEGINNING OF SECOND SESSION OF 99TH CONGRESS

Mr. FOLEY. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 496) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 496

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the Ninety-ninth Congress shall begin at 12 o'clock meridian on Tuesday, January 21, 1986.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the 1st session of the 99th Congress, the Speaker be authorized to accept resignations, and to appoint Commissions, Boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR ALL MEMBERS TO REVISE AND EXTEND THEIR REMARKS AND TO INCLUDE SHORT QUOTATIONS UNTIL LAST EDITION OF CONGRESSIONAL RECORD

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks, but this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND EACH SUBCOMMITTEE TO EXTEND REMARKS UP TO AND INCLUDING LAST PUBLICATION OF CONGRESSIONAL RECORD

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee thereof be permitted to extend their remarks in the RECORD, up to and including the last publication thereof, and to include therewith a summary of the work of that committee or subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I think that is a standard item. Why is that one different than the resolution we just passed that gives broad authority for revision and extensions?

I yield to the gentleman from Washington.

Mr. FOLEY. I think it is largely traditional to specify the subcommittee chairmen and the ranking minority members, the full committee members and the ranking minority members to indicate that they may make extended remarks on the work of the subcommittees. This is sometimes a longer authority then would be given normally to Members to include extraneous material.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington [Mr. FOLEY]?

There was no objection.

VETERANS' COMPENSATION RATE AMENDMENTS OF 1985

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Rate Increase and Job Training Amendments of 1985".

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 of title 38, United States Code, is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "$2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659",

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) of title 38, United States Code, is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 of title 38, United States Code, is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade:	*Monthly rate*
E-1	$491
E-2	505
E-3	518
E-4	552
E-5	566
E-6	578
E-7	607
E-8	640
E-9[1]	669
W-1	621
W-2	645
W-3	664
W-4	703
O-1	621
O-2	640
O-3	686
O-4	725
O-5	799
O-6	900
O-7	973
O-8	1,067
O-9	1,145
O-10[2]	1,255

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $722.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345."

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 of title 38, United States Code, is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460";

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 of title 38, United States Code, is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect as of December 1, 1985.

TITLE II—VETERANS' JOB TRAINING AMENDMENTS

SEC. 201. EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) SHORT TITLE.—(1) The first sentence of section 1 of Public Law 98-77 (29 U.S.C. 1721 note) is amended to read as follows: "This Act may be cited as the 'Veterans' Job Training Act'.".

(2) Any reference in any Federal law to the Emergency Veterans' Job Training Act of 1983 shall be deemed to refer to the Veterans' Job Training Act.

(b) ELIGIBILITY.—Section 5(a)(1)(B) of the Veterans' Job Training Act, as redesignated by subsection (a), is amended by striking out "fifteen of the twenty" and inserting in lieu thereof "10 of the 15".

(c) COUNSELING.—Section 14 of such Act is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection.

"(b) The Secretary—

"(1) shall provide for a program under which periodic (not less than monthly) contact is maintained with each veteran participating in a program of job training under this Act for the purposes of avoiding unnecessary termination of employment, referring the veteran to appropriate counseling if necessary, and facilitating the veteran's successful completion of such program; and

"(2) after consultation with the Administrator, shall provide for a program of counseling services designed to resolve difficulties that may be encountered by veterans during their training under this Act and shall advise all veterans and employers participating under this Act of the avilability of such services and other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "and $65,000,000 for fiscal year 1986" after "1985"; and

(2) by striking out "1987" and inserting in lieu thereof "1988".

(e) TOLLING OF CERTAIN PERIOD.—Section 17 of such Act is amended—

(1) by striking out "Assistance" and inserting in lieu thereof "(a) Except as provided in subsection (b), assistance";

(2) in clause (1), by striking out "February 28, 1985" and inserting in lieu therof "January 31, 1987";

(3) in clause (2), by striking out "July 1, 1986" and inserting in lieu thereof "July 31, 1987"; and

(4) by adding at the end the following new subsection:

"(b) If funds for fiscal year 1986 are appropriated for the purpose of making payments to employers under this Act but are not both so appropriated and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before February 1, 1986, for such purpose, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

"(1) applies for a program of job training under this Act within 1 year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

"(2) begins participation in such program within 18 months after such date.".

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (e)(2) shall take effect on February 1, 1986.

SEC. 202. COORDINATION.

(a) IN GENERAL.—In carrying out section 1516(b) of title 38, United States Code, the Administrator of Veterans' Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training consistent with the provisions of the Veterans' Job Training Act (as redesignated by section 201(a)(1) of this Act) so as to utilize programs of job training established by employers pursuant to such Act.

(b) DIRECTIVE.—In carrying out such Act, the Administrator shall take all feasible steps to ensure that, in the cases of veterans who are eligible to have payments made on their behalf under both such Act and section 1516(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the veteran's best interests, to make payments to employers on behalf of such veterans.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, and I do not plan to object, but I would ask my distinguished friend, the chairman of the Veterans' Committee, to give us an explanation of his request.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, on December 9, 1985, the House passed by a voice vote and sent to the Senate H.R. 1538, to provide service-connected veterans and their eligible dependents with a 3.4-percent cost-of-living increase effective December 1, 1985.

The Senate amended the bill to reduce the COLA to 3.1 percent, and since that amount is the same as Social Security and pension beneficiaries will receive, we will accept this reduction from 3.4 percent to 3.1 percent. That is the cost-of-living increase for service-connected veterans.

Also in the bill is an extension of the Emergency Veterans Job Training Act. The Senate amendments contain these provisions as well, the 3.1-percent COLA increase for service-connected veterans and also the Emergency Veterans Job Training Act is extended.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, and having heard the explanation of the chairman with respect to H.R. 1538, as amended by the other body, I urge its passage.

Many of us have stated on many occasions that compensation for service-connected disabled veterans, their survivors and dependents is the No. 1 priority of our Government. By the passage of this bill and upon its signature by the President, we will again have observed that priority.

The job training amendment to this bill was the subject of previous legislation passed by the House and Senate in different forms. It contains limited extensions of current authority. The chairman and I are in agreement with them.

Mr. Speaker, this body originally passed a compensation increase of 3.7 percent based on the then estimate of the Consumer Price Index. That index is now 3.1 percent and that is why that figure is in this legislation.

We had hoped and do hope that this legislation would have been taken care of in reconciliation. Apparently, that may not be and that is why this bill is before us in its current form. I join the distinguished chairman in urging its passage.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the distinguished gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to associate myself with the gentleman's remarks and commend the gentleman for bringing up this legislation at this time.

Mr. HAMMERSCHMIDT. Mr Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMMERSCHMIDT. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ROMANIA'S HUMAN RIGHTS RECORD CONTINUES TO BE POOR

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, on Sunday December 15, Secretary of State George Shultz and Counselor Ed Derwinski held high level talks with Romanian authorities in Bucharest. High on the agenda was a frank discussion of human rights. It is my understanding that the Romanians were advised that MFN may be in jeopardy next year unless Romania substantially improves its observance of basic human rights.

The President's seminannual report to the Commission on Security and Cooperation in Europe, on which I serve as a commissioner, makes it abundantly clear in its report released just a few weeks ago to that Romania's human rights record continues to be poor.

Mr. Speaker. There is a growing sensitivity on the part of many Members of Congress and the American people that religious repression and violation of human rights have not improved in Romania. If the conference of MFN is to have any meaning at all, only performance serves as a useful barometer. Paper guarantees, personal assurances, and public pronouncements by Romanian officials are indeed useful, but the record must correspond with to words they say. If that is not the case, I would suggest we are only kidding ourselves and doing an injustice to those Romanians who suffer beatings, imprisonment, interrogation, job loss, and other forms of harassment.

Mr. Speaker, several weeks ago, the gentleman from Virginia [Mr. WOLF], the gentleman from Ohio [Mr. HALL] and myself introduced H.R. 3599, which will suspend temporarily for 6 months MFN for Romania. I urge Members to cosponsor this. We currently have 65 cosponsors. It is a good bill and I hope that Members will cosponsor it.

REMEMBERING OUR HOSTAGES IN BEIRUT

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, in the spirit of the season, I think it would be wise to remind the House that Terry Waite is back in Beirut. He is back there to seek once more the release of our hostages.

I would remind the House that perhaps a new consideration is necessary to be brought into the equation. Heretofore hostages have been equated with prisoners. No way can they be equated with prisoners. You cannot take an innocent hostage on one side and balance against someone who has bombed two embassies, injured 85 people, killed 6 and stolen an aircraft.

It seems to me that it would be timely, and I urge the Members of the House to go back to their temples and their churches at this particular season to storm the gates of heaven and indeed to disturb the stars to shake those hostages loose. What an indescribably beautiful Christmas gift it would be to all.

HUMAN RIGHTS IN ROMANIA

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, I would like to join the two previous colleagues on the floor, the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. WOLF] who have alluded to the fact that Secretary Shultz is going to Romania to discuss, among other things, with the Romanians, human rights.

I would like to support their legislation that could cause a 6-month lapse in the most-favored-nation treatment to the nation of Romania.

The Romanian people are friends of the United States. The American

people are friends of the Romanian people, but the suppression of human rights, their denial of exit visas, and various other things, would cause them to be in violation of those things which we hold dear.

Mr. Speaker, I would support their legislation and ask for its passage and I commend them for offering that legislation.

□ 2225

EXTENDING TEMPORARILY CERTAIN TAX PROVISIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means and the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do so in order to yield to the distinguished chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] so that he can explain this new bill, which I believe is going to be satisfactory to all Members.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, this bill extends certain tax, Medicare, and other provisions some of which expire at midnight tonight and others the end of the year. These provisions are addressed on a permanent basis in the tax reform bill or the reconciliation conference report just adopted by the House. All of these provisions are extended as under current law until March 15, 1986, under this bill. This extension bill is necessary for several reasons:

First, the President may be unable to sign the reconciliation conference report for certain provisions which expire tonight, including the 16-cent tobacco tax, Medicare hospital and physician reimbursement provisions, and the Trade Adjustment Assistance Program. The extension is necessary for other provisions because of the time it will take the Senate to consider the tax reform bill.

The provisions extended by the bill include the following:

First, the 16-cents-per-pack cigarette excise tax;

Second, the research and development tax credit;

Third, the targeted jobs tax credit;

Fourth, research expense allocation rules;

Fifth, solar and geothermal tax credits;

Sixth, tax-free employer-provided educational assistance;

Seventh, qualified employer-provided group legal services;

Eighth, expensing of up to $35,000 annually of the cost of removing architectural barriers for the handicapped;

Ninth, the current moratorium in the 1976 act net operating loss carryover rules;

Tenth, the present law provisions for awards of attorney's fees in tax litigation;

Eleventh, tax relief provisions for Vietnam-MIA's and their spouses;

Twelfth, moratorium on faculty housing regulations;

Thirteenth, the 4-cent-per-gallon exemption from the motor vehicle fuel excise tax for taxicabs;

Fourteenth, the Medicare hospital and physician reimbursement provisions;

Fifteenth, borrowing authority for the railroad unemployment fund; and

Sixteenth, the Trade Adjustment Assistance Program.

Several points should be clearly understood by the Members of the House.

First, the extensions of current law contained in this bill are substantially more expensive than the extension bill just defeated, approximately $500 million more expensive.

Second, any further extension of these provisions must include the modifications contained in either the tax reform bill the House passed earlier this week or the reconciliation conference report just adopted by the House.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from South Carolina [Mr. CAMPBELL].

Mr. CAMPBELL. I thank the gentleman for yielding.

Mr. Speaker, if I might inquire, this, if I understand it, is strictly an extension of current law on all of the items that are listed, and all of the extensions apply until March 15, 1986.

Mr. ROSTENKOWSKI. If the gentleman will yield further, the gentleman is correct.

Mr. CAMPBELL. I thank the gentleman, and I support the extension.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. I thank my colleague from Illinois for yielding and would address a question to my chairman.

It is my understanding, Mr. Speaker, that the objective of this package is to extend the provisions of current law. I would inquire specifically what this provision does with regard to the reimbursement of participating physicians; that is, those physicians who have agreed to accept assignment in all cases.

Current law has provided for some time that if they became participating physicians, their payments would be increased as of October 1, 1985. I just want to make sure that we provide the increase in the package before us.

Mr. ROSTENKOWSKI. If the gentleman will yield further, what the gentleman just explained is what we had intended and had hoped to do previously. However, the provisions of this bill continue the freeze.

Mr. GRADISON. I thank the chairman for this explanation and would like to explain to my colleagues of the House, then, that this is not an extension of the present law. It may be an extension of the freeze, but present law does not provide for a continuation of the freeze. Let me elaborate further.

What we have been trying to do in the Medicare Program is encourage physicians, instead of increasing their billings on the beneficiaries, to accept the payments made by Medicare as the payments in full for services provided to Medicare beneficiaries under the program. One of the inducements which we offered more than a year ago was that if they became participating physicians, if they agreed to accept assignment in all cases of Medicare beneficiaries who came to them, they would get a modest increase in reimbursement as of October 1, 1985.

I appreciate that the package before us is not amendable, but I would say to my chairman that I think this is clearly turning our backs on an agreement which has been made in good faith with the physicians and I think it runs the serious risk of increasing the billings which will be made directly to Medicare beneficiaries because of the likelihood that it will discourage physicians who are not required to be participating physicians from dropping out of that program.

I just want to make it clear, and I am not going to object, but if we do this it runs the serious risk, indeed I think it has the definite assurance, that between now and March 15, it is going to increase the out-of-pocket costs to the elderly for physician services provided under the Medicare Program.

I want to make one other point. I do not think it is exactly truth in advertising to bring this package forward and say that it continues present law. I have not studied all the provisions, but with regard to the one that this

gentleman is inquiring about, it does not.

Mr. ROSTENKOWSKI. If the gentleman will yield further, I am sure my colleague, the gentleman from Ohio, will have to agree that if asked the question, "Is there a freeze currently?" the gentleman would have to agree that there is a freeze currently.

Mr. GRADISON. There is a freeze which is about to expire.

Mr. ROSTENKOWSKI. If the gentleman will yield further, we tried to correct that and we tried to avoid the very situation that the gentleman explained. However, we were not successful.

Mr. GRADISON. If the gentleman from Minnesota will yield further, I certainly accept the explanation of my chairman. I understand what he is saying and I understand what I am saying, and what I am saying is that this is not cost free and that if there are costs, they are going to be paid by the elderly. That is the only point I want to make so that my colleagues know what we are getting into if we go ahead with this change.

Mr. ROSTENKOWSKI. I agree with the gentleman. The gentleman makes a very good point.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. I thank the gentleman for yielding.

I have a brief question. Was there any consideration given to an extension of the present utility stock dividend reinvestment program?

Mr. FRENZEL. There was none given in the recent meeting that we had. We worked off of the three bills that were presented by the committee tonight. We took all of the items that were in the three bills. We extended them through the period of March 15. Those are the only items we took.

We were trying to prepare a bill that would be generally acceptable in a minimal amount of time, so we did not extend things that were not in the three bills.

Mr. MYERS of Indiana. I thank the gentleman.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman from yielding.

Mr. Speaker, I think the gentleman from Indiana has made a very good point, that the question of dividend reinvestment is not in any of the three proposals. It has been swallowed up. It has been lost. It is one of the most effective programs we have. Yet, in the rush of trying to take advantage of one side or the other, we are letting one of the best programs that Congress has expire.

□ 2235

It has been proven that if you allow an individual to get credit on stock options that they will take that rather than dividends. It provided capital for our utilities. I wish it could be broader, but nowhere has anybody made any attempt to do anything about dividend reinvestment, and it is a great omission, and we must correct it.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. I ask the gentleman to yield for the purpose of directing a question to the chairman of the committee. I would like to ask our distinguished chairman what the situation would be with respect to the Medicare provisions, particularly those discussed by the gentleman from Ohio [Mr. GRADISON] should reconciliation, as we passed it, be accepted by the other body.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, it is my understanding that certainly reconciliation, if agreed to in the other body, and then is signed by the President, will supersede what we have done here.

Mr. DAUB. I thank the gentleman.

Mr. ROSTENKOWSKI. Of course, it also would meet the concerns of our good friend from Ohio.

Mr. DAUB. I thank the chairman of the committee.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I think these discussions have been very helpful. The committee did the best that it could to resolve the difficulties that resulted in the failure of the last rule.

I hope the gentleman's request will be swiftly granted.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FIFTH EMERGENCY EXTENSION ACT OF 1985-86

SEC. 101. SHORT TITLE OF TITLE; EXPIRATION DATE OF EXTENSION PERIOD.

SHORT TITLE.—This title may be cited as the "Fifth Emergency Extension Act of 1985-86".

(b) EXPIRATION DATE OF EXTENSION PERIOD.—For purposes of extending the provisions of certain Acts, the "expiration date of the extension period" is March 15, 1986.

SEC. 102. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "the expiration date of the extension period (as specified in section 1(b) of the Fifth Emergency Extension Act of 1985-86)".

SEC. 103. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "the expiration date of the extension period (as specified in section 1(b) of the Fifth Emergency Extension Act of 1985-86)".

SEC. 104. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 19, 1985" and inserting in lieu thereof "the expiration date of the extended period (as specified in section 1(b) of the Fifth Emergency Extension Act of 1985-86)".

TITLE II—MISCELLANEOUS TAX PROVISIONS EXTENSION ACT OF 1985

SEC. 201. SHORT TITLE OF TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Miscellaneous Tax Provisions Extension Act of 1985".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. TEMPORARY EXTENSION OF CREDIT FOR INCREASE IN RESEARCH ACTIVITIES.

(a) 2½ MONTH EXTENSION.—

(1) IN GENERAL.—Section 30 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any amount paid or incurred after March 15, 1986.

"(2) COMPUTATION OF BASE PERIOD EXPENSES.—In the case of any taxable year which begins before March 16, 1986, and ends after March 15, 1986, any amount for any base period with respect to such taxable year shall be the amount which bears the same ratio to such amount for such base period as the number of days in such taxable year before March 16, 1986, bears to the total number of days in such taxable year."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(A) by striking out ", and before January 1, 1986" in paragraph (1), and

(B) by striking out the last sentence of paragraph (2)(A).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1985.

SEC. 203. TEMPORARY EXTENSION OF TARGETED JOBS CREDIT.

(a) 2½ MONTH EXTENSION.—Paragraph (3) of section 51(c) (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "March 15, 1986".

(b) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983, 1984, and 1985" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, and 1986".

SEC. 204 2½ MONTH EXTENSION OF EXCLUSIONS FOR EDUCATIONAL ASSISTANCE PROGRAMS AND GROUP LEGAL PLANS.

(a) EDUCATIONAL ASSISTANCE PROGRAMS.—Subsection (d) of section 127 (relating to termination) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, this section shall apply to periods before March 16, 1986, in taxable years beginning after December 31, 1985."

(b) GROUP LEGAL PLANS.—Subsection (e) of section 120 (relating to termination) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, this section and section 501(c)(20) shall apply to periods before March 16, 1986, in taxable years ending after December 31, 1985."

SEC. 205 2½ MONTH EXTENSION OF PROVISION AWARDING COURT COSTS AND CERTAIN FEES.

(a) GENERAL RULE.—Subsection (f) of section 7430 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "March 15, 1986".

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in same manner as such an award by a district court)" after "a judgment".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to proceedings commenced after December 31, 1985.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 206. EXTENSION OF INCREASE IN CIGARETTE TAX.

In no event shall the amendments made by section 283(a) of the Tax Equity and Fiscal Responsibility Act of 1982 be treated as having ceased to apply before March 16, 1986.

SEC. 207. 2½ MONTH DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

Subsection (g) of section 806 of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383) is amended—

(1) by striking out "December 31, 1985" in paragraph (2) and inserting in lieu thereof "March 15, 1986", and

(2) by striking out "January 1, 1986" in paragraphs (2)(B) and (3) and inserting in lieu thereof "March 16, 1986".

SEC. 208. 2½ MONTH EXTENSION OF ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Paragraph (1) of section 126(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, this section shall also apply to periods before March 16, 1986, in taxable years beginning after August 1, 1985."

SEC. 209. EXTENSION OF RULES FOR SPOUSES OF INDIVIDUALS MISSING IN ACTION.

(a) EXTENSION.—Sections 2(a)(3)(B)(i), 692(b)(1), 6013(f)(1), and 7508(b)(1) are each amended by striking out "December 31, 1982" and inserting in lieu thereof "March 15, 1986".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 210. MORATORIUM ON ISSUANCE OF REGULATIONS RELATING TO FACULTY HOUSING.

Paragraphs (1) and (3) of section 531(g) of the Tax Reform Act of 1984 are each amended by striking out "January 1, 1986" and inserting in lieu thereof "March 16, 1986".

SEC. 211. 2½ MONTH EXTENSION OF EXPENSE TREATMENT FOR REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED AND ELDERLY.

Subsection (d) of section 190 (relating to application of section) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) expenses paid or incurred before March 16, 1986, in taxable years beginning after December 31, 1985."

SEC. 212. EXTENSION OF RESIDENTIAL ENERGY CREDITS FOR SOLAR RENEWABLE ENERGY SOURCE EXPENDITURES.

(a) IN GENERAL.—Subsection (f) of section 23 (relating to termination) is amended to read as follows:

"(f) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to expenditures made after December 31, 1985.

"(2) SOLAR PROPERTY.—In the case of solar property (as defined in subsection (b)(6)(B)), this section shall not apply to expenditures made after March 15, 1986."

(b) SOLAR PROPERTY.—Subsection (b) of section 23 (relating to qualified expenditures) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR SOLAR PROPERTY.—

"(A) IN GENERAL.—In the case of renewable energy source expenditures for solar property made after December 31, 1985, and before March 16, 1986, paragraph (5)(B) shall be applied by substituting "1988" for "1987".

"(B) SOLAR PROPERTY.—For purposes of subparagraph (A), the term 'solar property' means renewable energy source property which, when installed in connection with a dwelling, transmits or uses solar energy for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after December 31, 1985, in taxable years ending after such date.

SEC. 213. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) IN GENERAL.—The table contained in subparagraph (A) of section 46(b)(2) (relating to energy percentage) is amended by adding at the end thereof the following new items:

"(viii) Solar energy property.—Property described in section 48(l)(4) (other than wind energy property).	15 percent.	Jan. 1, 1986.... Mar. 15, 1986.
"(ix) Geothermal property.—Property described in section 48(l)(3)(A)(viii).	15 percent.	Jan. 1, 1986.... Mar. 15, 1986."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods beginning after December 31, 1985, under rules similar to the rules under section 48(m) of the Internal Revenue Code of 1954.

SEC. 214. EXTENSION OF REDUCTION IN TAX FOR FUEL USED BY TAXICABS.

Paragraph (3) of section 6427(e) (relating to termination for use in certain taxicabs) is amended by striking out "September 30, 1985" and inserting in lieu thereof "March 15, 1986".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Speaker, I was not in the room when the Committee on Ways and Means was meeting. I would ask the Chair if we have passed an adjournment resolution.

The SPEAKER pro tempore. The House has not passed the adjournment resolution. The House is waiting on the Senate at this point.

Mr. FRENZEL. Mr. Speaker, does the Senate have the adjournment resolution?

The SPEAKER pro tempore. We are waiting to receive that resolution from the Senate.

Mr. FRENZEL. Mr. Speaker, insofar as the Chair is aware, is there any further pending business before the House other than the adjournment resolution?

The SPEAKER pro tempore. The Chair is not aware of any business at this time other than the adjournment resolution, but cannot speak with absolute certitude. A case may arise, but I am not aware of any business at this time.

Mr. FRENZEL. I thank the Chair for the information.

The SPEAKER pro tempore. The Chair will announce that in conjunction with its previous statement and in line with that previous statement, we cannot anticipate what the other body may do or send to us.

REQUEST TO REMOVE SECTION 6403 FROM H.R. 3500, BUDGET RECONCILIATION ACT OF 1985

Mr. MOORE. Mr. Speaker, I ask unanimous consent to take section 6403, distribution of 8(g) account from H.R. 3500, the Budget Reconciliation Act of 1985, as passed by the House October 24, 1985, and ask for its immediate consideration.

Mr. AUCOIN. Mr. Speaker, I reserve the right to object.

Mr. DINGELL. Mr. Speaker, I object.

The SPEAKER pro tempore. First of all, the Chair would state to the gentleman that the Chair cannot entertain that request under the Speaker's guidelines, and furthermore, the Speaker hears an objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. BARNES] is recognized for 5 minutes.

Mr. BARNES. Mr. Speaker, I wish to indicate my positions on two votes which occurred today when I was unavoidably absent.

On rollcall No. 479, the rule (H. Res. 349) providing for the passage of the budget reconciliation conference report (H.R. 3128) while dropping the "value-added tax" provisions, I would have voted "aye."

On rollcall No. 480, on the question of taking up a rule (H. Res. 350) providing for the consideration of legislation extending a variety of tax provisions, I would have voted "aye."

GENERAL LEAVE

Mr. PENNY. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on House Resolution 349, the rule on budget reconciliation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

LET US CONDEMN THE BRUTAL OCCUPATION OF AFGHANISTAN

(Mr. BRYANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT. Mr. Speaker, this month, as Americans across the Nation are celebrating the holiday season, we should also take note of the fact that this is the sixth anniversary of the Soviet Union's murderous invasion and brutal occupation of Afghanistan.

While we are enjoying this special family time of the year, millions of Afghans will be trekking across the rugged lands to flee the brutal armed aggression perpetrated by the Soviets and their Afghan puppet proxies against "everything Afghan."

The plight of the nation of Afghanistan is tragic. Millions have been forced from their homes and villages, while hundreds of thousands of Afghans—mostly innocent civilians—have been brutally murdered by Soviet and Afghan Army Forces.

The Soviets' vicious and immoral war against the Afghan nation, people, culture, food supply system, and religion is unconscionable. Virtually every form of human decency is being violated daily by the Soviets in their relentless drive to eliminate opposition to their puppet government.

Despite the oppression and use of force, Afghanistan's freedom fighters struggle to remove the Soviet occupation and restore peace and democracy to their troubled land.

As a result of the Soviet invasion, over one-fourth of the prewar population has fled the country, constituting the largest refugee population in the world.

Even though the Soviets and their puppet government have stepped up their military campaign against the civilian population, the freedom fighters have frustrated all Soviet attempts to suppress them and withstood with unmatched courage and sacrifice the unrelenting attacks by Soviet forces.

The Soviet invasion and repression of the Afghan people has earned the condemnation of the Non-Aligned Movement, the United Nations, the European Parliament, the Islamic Conference Organization, the Association of Southeast Asian Nations, and most of the countries of the world.

I have joined with many of my colleagues this holiday season in sponsoring a resolution condemning these 6 horrible years of aggression waged against the independent country and people of Afghanistan. It expresses our support for continued aid for the Afghan population both inside and outside Afghanistan and urges the prompt conclusion of a negotiated settlement based upon the complete withdrawal of Russian troops, restoration of the independent and nonaligned status of Afghanistan, self-determination for the Afghan people, and the return of the Afghan refugees to their country with safety, dignity, and honor.

It has been accurately observed that, "No one can be perfectly free until all are free." So in our hopes and prayers this special season, let us seek freedom, democratic self-government, and justice for the people of Afghanistan.

□ 2250

PARLIAMENTARY INQUIRIES

Mr. CAMPBELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. CAMPBELL. Under the provisions that we are operating for expiration of existing tax, do they expire at a time certain or at the end of the legislative day on a day like this?

The SPEAKER pro tempore. The Chair cannot interpret that. That is a matter of substantive law.

Mr. CAMPBELL. In a law on the extensions that were expiring in law today, would the hour be a time certain, or would it be the end of the legislative day?

The SPEAKER pro tempore. The Chair cannot interpret the law. That is a question of substantive law, and the Chair is not in a position to interpret the law.

The gentleman is not really stating a parliamentary inquiry.

Mr. CAMPBELL. The legislative day that we are now operating in would not come to an end until we have officially adjourned, no matter what the time on clock is. Is that correct?

The SPEAKER pro tempore. The Chair states that he can respond to that; that is correct.

THE TIME TO GO HOME IS NOW

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, it is almost 11 o'clock. It is indeed nap time at the nursery school. This is ludicrous. We know there is going to be no real business transacted; we know what is underneath this delay, which is destructive to the House as a whole, and destructive to the image and the perception of this House to the Americans who have trusted us to have accomplished what we needed to accomplish in a more efficacious and efficient way earlier this year.

Now for those who would, for their own special interests, continue to keep this House in, I beg them to remember why we should be here and why and when we should go home, and that is now.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, who is in charge? What are we doing here?

The SPEAKER pro tempore. The House is waiting on what business the Senate may send us, among other things. We are not sure what the Senate may send us.

Mr. LOTT. Well, do we know what they are going to send us? I mean, I understand that they are punting back the reconciliation package, insisting on the original language with the idea that they are not going to take up the unanimous consent cigarette tax and other things we just agreed to, and I do not see that as much of a bluff. So why are we here?

The SPEAKER pro tempore. The Chair is not privy to what the Senate is doing at this time.

OBSERVING THE ACTIONS OF THE OTHER BODY

(Mr. STARK asked and was given permission to address the House for 1 minute.)

Mr. STARK. Mr. Speaker, I had the joyous experience of sitting on the floor of the other body, as several of us were observing just a moment or two ago, and the other body took the original reconciliation bill and as I understand their procedures, returned it to us, period.

No; just returned it, period. No changes, no—just what was reported out of the conference before it went to Rules.

A question was raised on the floor of the other body about, might there be

extenders and that was diffused; it was not answered directly as to whether they would consider it. It was mentioned on the floor of the other body that we had passed the extender bill, and that was diffused, too.

So as I understand it now, we will get that back, the original bill which we amended once before; and whether the extender which I gather we have sent to them remains in doubt. That is all I can report to the distinguished minority whip.

Mr. LOTT. Mr. Speaker, I think the burden is on them. I mean, we have done our work here; we have passed reconciliation, sent it over there; we got an unanimous-consent agreement, sent it over there. It is their problem, and I would hope that the House would move expeditiously to adjourn sine die.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CAMPBELL. Is the Chair now in possession of the documents from the Senate on the reconciliation package?

The SPEAKER pro tempore. The message has not arrived.

Mr. CAMPBELL. No message has yet arrived?

FURTHER LEGISLATIVE PROGRAM

(Mr. MURTHA asked and was given permission to address the House for 1 minute.)

Mr. MURTHA. Let me explain the problem. I just went in the room where the leadership is meeting. They are trying to figure out what to do about the other body's action. They expect to be out here momentarily; hopefully they will have a solution to what action they are going to recommend to the House.

It is such an important piece of legislation they have asked me to convey to the House, to try to be patient, just a few minutes longer, and they are not eating and they are not drinking and they are not carrying on; they are trying to figure out a method to solve this delemma that we are in.

It is, I have to say, a very important issue and hopefully they will be back in a few minutes and we will be able to solve this thing.

Mr. WALKER. Will the gentleman yield?

Mr. MURTHA. I yield to the gentleman.

Mr. WALKER. We just had a conversation with a Member of the other body, who has considerable weight in these matters, who said just a few minutes ago on this floor that there is no way we are going to resolve this impasse; that we are at a complete deadlock, and that there is no way that the impasse is going to be resolved.

It seems to me that we do not need to wait a few more minutes; that we can simply adjourn now.

Mr. MURTHA. Let me say this. I know everybody is tired after 4 or 5 days of 18-hour days, and I do not blame you a bit. I mean, everybody is exhausted and frustrated and I am certainly not trying to add to that frustration.

What I am saying is, the information they have is a little bit different than what the gentleman says, and they are just trying to come up with a plan of action here, and I suggested that they come out and address the problem, but they felt they needed a few more minutes.

Mr. LOTT. Will the gentleman yield?

Mr. MURTHA. I will be glad to yield to the gentleman.

Mr. LOTT. Once again trying to find a way out of this box, I know what really is involved; some Members are still trying to find a way to pass the VAT or the MET tax, whatever you want to call it; the House has already voted on that twice; and I voted, personally, for the Downey amendment, but the House has spoken twice.

To expect at this late hour that the House is now going to turn itself around, I cannot understand that. The way to handle this issue now; we have acted responsibly, we sent it back to them; I think we ought to move to adjourn sine die.

They have our reconciliation, and they have the bobtail resolution we just passed to March 15. So if we allow this to drag out, go back to the Rules Committee so we can punt this ball back over to the other body, I do not understand why we go through this madness at this point.

Mr. MURTHA. Well, as I understand the parlimentary situation, I had understood the other body was going to take action and send it back as it was in the original conference report.

We could not amend it; we could only defeat it and go to conference. Now, they are discussing with the Parliamentarians if anything else could be done, and obviously arguing about what action should be taken in the House.

I think essentially what you are saying is true; but, when you talk to the Parliamentarian, there may be something else that can be done.

I agree with the situation as you have—you have stated it very clearly, and I am on the other side of the issue. I am just as anxious to go home, but they hope, in the spirit of Christmas, that we will be able to wait a few more days—minutes.

□ 2300

Mr. THOMAS of California. It is 11 o'clock, and for those of us or others who are looking for planes to catch, they are gone, and we have discussed the issues and made decisions and have almost brought the process to a successful culmination, not necessarily winning but wrapping up all of the loose ends so that we can leave in an organized fashion. It seems to me it would be very precipitous when we are 15, 20 minutes, half an hour away from knowing that we have concluded all of the loose ends, I think it is a little premature at this time.

Mr. Speaker, I agree totally with the gentleman that the patience of just a few more minutes will be well rewarded in making sure that we have tied up all the loose ends.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, we have to have permission of the other body to adjourn sine die under the Constitution. You cannot just take it on yourself that we are going to quit.

LET US STAY AND FINISH OUR WORK

(Mr. GROTBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROTBERG. Mr. Speaker, I rise in support of the last speaker, the gentleman from California. Everyone here is having a good time talking, and I thought I would save mine until the end. The only thing I would say, as we urge ourselves to get out of here, is that I join in the urgency to get out but I also remember the day I filed for the office. You know why I got it, and so does everybody else here. Now one thing referred to in some earlier remarks, Mr. Speaker, was that people out there want us to go home. I think they want us to finish our job. They are a little disappointed. I have not heard any disappointed people in my district that I am down here working; it is when I am not working that they get disappointed.

So I have a kind of rebel attitude about feeling sorry for ourselves because we want to finish the day's work. If a few minutes would finish it, I would like to stay and then go home with a clear conscience.

PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE CONGRESS

Mr. ROWLAND of Connecticut. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 266) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 266

Resolved by the House of Representatives (the Senate concurring), That the two Houses of the Congress shall adjourn on the legislative day of Thursday, December 19th 1985, that they stand adjourned sine die, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House, after consultation with the minority leader of the House and the majority leader of the Senate, after consultation with the minority leader of the Senate, acting jointly, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

MOTION TO TABLE OFFERED BY MR. AU COIN

Mr. AUCOIN. Mr. Speaker, I move to lay the resolution on the table.

Mr. WALKER. Mr. Speaker, is the motion in writing?

Mr. AUCOIN. It is in writing, Mr. Speaker, and I send it to the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. AUCOIN moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. AUCOIN].

The question was taken, and on a division (demanded by Mr. WALKER) there was—yeas 110, nays 61.

Mr. ROWLAND of Connecticut, Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 107, not voting 98, as follows:

[Roll No. 481]

YEAS—229

Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
AuCoin
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilirakis
Boggs
Boner (TN)
Bonior (MI)
Bonker
Borski
Boucher
Boulter
Breaux
Brooks
Brown (CA)
Broyhill
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Cheney
Cobey
Coble
Coelho
Collins
Combest
Conte
Cooper
Coughlin
Coyne
Darden
Daschle
de la Garza
DeLay
Dellums
Derrick
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Durbin
Dwyer
Dymally
Dyson
Eckart (OH)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Evans (IL)
Fawell
Fazio
Feighan
Fields
Foglietta
Foley
Fowler
Frank
Frost
Gejdenson
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gray (PA)
Grotberg
Guarini
Hall, Ralph
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Hiler
Hopkins
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kanjorski
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Lantos
Leath (TX)
Levin (MI)
Levine (CA)
Lloyd
Long
Lowry (WA)
Luken
Lundine
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
Mica
Mikulski
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moore
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens
Pease
Penny
Pepper
Perkins
Pickle
Porter
Rahall
Rangel
Ray
Reid
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland (GA)
Sabo
Savage
Saxton
Scheuer
Schroeder
Schuette
Seiberling
Shelby
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Waxman
Wheat
Whitley
Wise
Wolpe
Wright
Wyden
Yatron

NAYS—107

Armey
Badham
Bliley
Boehlert
Brown (CO)
Burton (IN)
Chappie
Clinger
Coats
Coleman (MO)
Courter
Craig
Crane
Dannemeyer
Daub
DeWine
Dornan (CA)
Downey
Dreier
Duncan
Eckert (NY)
Evans (IA)
Fiedler
Fish
Franklin
Frenzel
Gallo
Gekas
Gingrich
Green
Gunderson
Hansen
Hartnett
Horton
Hunter
Hyde
Ireland
Jeffords
Kasich
Kemp
Kramer
Lagomarsino
Latta
Leach (IA)
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Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McEwen
McKernan
McMillan
Meyers
Michel
Miller (WA)
Molinari
Moorhead
O'Brien
Oxley
Packard
Parris
Pashayan
Petri
Pursell
Regula
Ridge
Roberts
Roth
Rowland (CT)
Schaefer
Schneider
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solomon
Stangeland
Strang
Stratton
Stump
Tauke
Taylor
Vander Jagt
Walker
Weber
Weiss
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—98

Ackerman
Addabbo
Alexander
Aspin
Atkins
Barnard
Barnes
Bevill
Biaggi
Boland
Bosco
Boxer
Broomfield
Carney
Chapman
Chappell
Clay
Coleman (TX)
Conyers
Crockett
Daniel
Davis
Dickinson
Dixon
Dowdy
Early
Erdreich
Fascell
Flippo
Florio
Ford (MI)
Ford (TN)
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gradison
Gray (IL)
Gregg
Hall (OH)
Heftel
Hillis
Holt
Hubbard
Jones (NC)
Kaptur
Kindness
Kolter
LaFalce
Lehman (CA)
Lehman (FL)
Leland
Lipinski
Livingston
Loeffler
Marlenee
Martinez
McDade
McGrath
McHugh
McKinney
Miller (CA)
Mitchell
Monson
Morrison (CT)
Murphy
Nichols
Olin
Panetta
Price
Quillen
Richardson
Roybal
Rudd
Russo
Schulze
Schumer
Sharp
Sikorski
Smith (NE)
Solarz
Stokes
Traxler
Vucanovich
Walgren
Watkins
Weaver
Whitehurst
Whitten
Williams
Wilson
Wirth
Wortley
Wylie
Yates
Young (MO)
Zschau

□ 2315

Mr. DUNCAN and Mr. VANDER JAGT changed their votes from "yeas" to "no."

Mr. ARCHER, Mrs. BENTLEY, Mr. REID, and Mr. COMBEST changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 3128) entitled "An act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," with an amendment.

The message also announced that the Senate had passed a joint resolution of the following title, in which concurrence of the House is requested:

S.J. Res. 255. Joint resolution relative to the convening of the 2d session of the 99th Congress.

CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. GRAY of Pennsylvania. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, with the Senate amendment to the House amendment to the Senate amendment, and concur in the Senate amendment to the House amendment to the Senate amendment.

The SPEAKER pro tempore. The Clerk will report the title of the bill and the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment as follows:

(See Senate Proceedings in today's RECORD, page 38503, Part II.)

MOTION OFFERED BY MR. DAUB

Mr. DAUB. Mr. Speaker, I move to table the motion.

My motion is in writing, and it is on its way to the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DAUB moves to table the motion.

The SPEAKER pro tempore. The question is on the motion to lay on the table offered by the gentleman from Nebraska [Mr. DAUB].

The motion to table was rejected.

Mr. GRAY of Pennsylvania. Mr. Speaker, I move to limit debate to 15 minutes per side.

The SPEAKER pro tempore. The gentleman requests that debate be limited. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DAUB. Mr. Speaker, I object.

The SPEAKER pro tempore. Objectin is heard.

The gentleman from Pennsylvania [Mr. GRAY] will be recognized for 30 minutes and the gentleman from Ohio [Mr. LATTA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GRAY].

□ 2330

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, I thank the gentleman for yielding time.

Well, it is down to the last minute now.

We spent a good bit of time on Gramm-Rudman this year. Gramm-Rudman does not have anything to do with dollars and cents or reducing the deficit. We spent a lot of time around here on balance-the-budget amendments, and that really does not have a lot to do with balancing the budget. But we are here tonight in this last hour to talk about reconciliation, and when we are talking about reconciliation, we are talking about doing something about the budget deficit. We are talking about doing something about the budget deficit to the tune of some $81 billion.

Now, I am not going to stand up here tonight and talk to you about VAT, whether I like it or I do not like it. It is more important to some than it is to me. But I think we have to put it in perspective and remember that it is just a part of an $81 billion reconciliation bill, a reconciliation bill, a reconciliation that is the only enforcement procedure that we have in the Budget Act that we passed back in August of this year.

If we are not willing to deal with reconciliation tonight and we are not willing to concur in the Senate amendment, in my opinion what we will say to the American people is that we did not mean what we voted on in August when we passed the budget resolution, that we did not mean that we meant to enforce the budget resolution.

There is an awful lot of time and work that has gone into this. There were, I believe, some 243 conferees, not to mention the time that the Budget Committee, the Rules Committee, the Ways and Means Committee, and every other committee in this House has put into it. It is truly a consensus of this House that we come down to vote on tonight.

Mr. Speaker, let me say to the Members, if you really believe in fiscal responsibility and you really believe that we meant what we said when we passed the budget resolution in August of this year, I ask you to vote to concur in the Senate amendments.

Mr. LATTA. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, what we are about to vote on is not a question of whether we are for Gramm-Rudman or whether we are for reductions. This question is whether or not we meant what we voted on just a few hours ago and sent to the U.S. Senate. By a vote of 205 to 151 the House loudly and clearly told the other body that we did not want another tax, namely, VAT, put in the Tax Code.

That is what we voted on. How many times do we have to tell the other body that we do not want a VAT? I am ready and willing to stay here all night and all next week to get that message across to the other body. This is a matter of a battle of the wills with the other body. Are we stronger than they, or are they going to beat us down?

Well, you have spoken loud and clear. I know what this House will do. We mean what we say. They are not about to ram this down our throats. The American people do not want another tax.

So, Mr. Speaker, what are we going to do? We are going to vote it down again.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the issue is as described by the distinguished gentleman from Ohio [Mr. LATTA]. What we have before us is the same issue that we have voted on twice before, once only a very short time ago when the House rejected the idea of the VAT, the manufacturers' excise tax, or the sales tax or whatever you might call it.

Reconciliation does not have to die. We can reconstitute the conference committee. They can excise the excise tax, and we can have it done after we come back. If we send the VAT down, we have not saved reconciliation because we have sent it forward to a certain veto.

But I think the worst of it is that we should not allow that risk to go forward. We have some responsibilities to our constituents, and one is that we will not lay an extra tax on them, which extra tax can be raised very subtly before those who are taxed know it, and those are the consumers who live in each of our districts. It can be raised before they know what has happened to them on this particular tax.

I do not think we ought to concede. If we reject this motion offered by the distinguished chairman of the Budget Committee, the gentleman from Pennsylvania, the Senate will then undoubtedly take up our tax-extension bills and we will not have to worry about a veto. We can simply, when we come back, go into conference and bring out a reconciliation bill that we can all be proud of.

It is a fundamental question, I think, of how this House wants to operate. Is it going to be driven by the Senate?

I remind the body that we had no provision for financing in the House bill. The Senate had a $5.4 billion tax. The final conference version has a $5.7 billion tax, way above the House, which had no position, and in fact above the Senate's position that they took into conference. Clearly, this goes against the will of the House, which voted by about 200 to 150 to reject the sales tax.

Mr. Speaker, I ask the House to maintain its position, to reject this motion, and, in so doing, to reject the sales tax for the people of the United States.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, we have come to the end of the road. I think we have the decision before us whether we are going to have a reconciliation bill at all, and I think we ought to vote for a reconciliation bill.

Now, all of the things that I would like to see are not in the bill. I voted for the Downey amendment to fund the work under the Superfund Program. I would prefer that way of financing the work under Superfund. But let us face the fact that we have this provision coming from the conference, and we either agree to it or we dump the whole reconciliation proposal. This VAT proposal raises the highest figure anyone has asked for for the cleanup program under Superfund.

Now, if we reject this game and play a macho number with the Senate, we will have rejected a number of very important items in reconciliation. We have heard about the savings, and the

net savings from this legislation is very important as we try to reduce the deficit—$81 billion. But we also have other important provisions in here that are very much needed.

There is an extension of prenatal care for low-income women under Medicaid. There is an extension of the hospice care program. There is a provision extending aid for dependent children in families where there is an unemployed parent, and in those States where they do not extend AFDC benefits, the father is usually forced to leave and break up the family in order for them to qualify for welfare and qualify for Medicaid.

□ 2340

I speak particularly with reference to the health programs, because that is the area in which I have been most involved. If we look at the reality of hospitals that deal with a high proportion of low-income patients and we give them a break under Medicare reimbursement.

We have many reforms in this legislation. The only time we can deal with health programs these days is in the context of a budget bill. Do not dump all the work that has gone into this bill because you prefer on balance a different way to fund the Superfund Program. I would have preferred it as well, but it is better now at the end of the road to pass reconciliation than to turn our backs and walk away on this whole legislation.

Mr. Speaker, I urge an "aye" vote.

Mr. LATTA. Mr. Speaker, I yield myself 30 seconds.

Let me just tell my good friend, the gentleman from California, who just left the well, that we just voted on all these things. We accepted them, all but one—all but one. That is the only issue here. We voted on that. We sent it back over there and let them take what we want for a change.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield.

Mr. WAXMAN. You do not pass a law by one House saying what the House wants alone. You must have two Houses to concur. Let it be law. The law is what we need, not rhetoric.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the Speaker for his marvelous behavior in the chair, which I think has helped us through these difficult times.

Mr. Speaker, the tragedy is that we are here doing this and to place blame in this fashion seems unfortunate. Reconciliation should have been passed months ago. To argue that now we must do something that is inherently wrong and use as an excuse the old, the needy, Americans who want the savings of reconciliation, is, I think, both ludicrous and hypocritical.

We have here two Houses playing chicken and someone will indeed get hurt.

Sitting next to me earlier this evening was the charming and very bright chairman from the other body, who jokingly asked, "Could I speak?"

I am sure he would speak for what he believes is the right position, but I tell him with respect and liking that one does not bring in a whole new school, a type, a class, a genus of taxes, at a quarter to twelve in this part of the House deliberations, but to move to a Value-Added Tax which some people feel may well be a tax of the future, a needed and necessary tax, deserves the full discussion of both Houses, of a conference committee that has time to go and act and come back and describe to both Houses that need, and to move into that entire new era of taxation would be a dreadful mistake on a road of speeding cars like teenagers at night.

Stay with the House, not because we are necessarily more right in our conclusion, because we are right in the manner that we are trying to reach that end and we should recognize that and pass reconciliation and pause for the deep and clear examination of a new kind of tax that it deserves, not at this particular moment at this particular place and at this particular time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr, Speaker, I know that we are probably playing some brinksmanship with the other body. I do believe that we owe it to ourselves to take a look at what is in reconciliation as far as budget savings are concerned. I believe that we would be making a terrible mistake down the road, and I say to my friends on this side of the aisle that there is a lot of savings in this package. If Gramm-Rudman does go into effect, it will impact defense tremendously. It will make severe reductions in the defense budget.

We have saved a great deal in this package. I know we have a lot in dispute about the manner in which we finance Superfund and that will be debated for a long time.

I would hope that this body, even though it is late at night, would consider those things as we vote upon this issue.

In addition, as my friend, the gentleman from California pointed out, there are many programs that ought to be saved. There are many extensions, targeted job credits, and others that are worth saving. We can never be happy with all of the provisions in the tax bill. It is not perfect, but it saves a great deal of money. I would hope that my colleagues would vote to concur with the Senate action.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Well, Mr. Speaker, we have been over this and over this. I do not know how many times we have to send a message to the other body that the House is not in a position and not of a will to enact a new tax at the last hour on a situation that has not been fully conferenced. We all know this was attached to a very good reconciliation bill at the last minute in a attempt to squeeze it through so that it could not go to a full conference for a full airing of the positions of the two bodies that are involved.

It is a controversial tax. It passes the Ways and Means Committee by one vote and the chairman of that committee came before this body and said even he was not going to support his own committee provision.

It was taken up before the House and defeated. It was defeated again this evening and now it appears that we are faced one more time with having to demonstrate the will of the House in this matter.

It is not a good tax, but we can argue the merits of that later, and it ought to be argued later.

What we are being asked to do is reconcile the provision where we sent over zero. The Senate put up $5.4 billion and the compromise comes back at $5.7 billion of a new tax, enacted at 10 minutes of 12 on the last day of the session of this Congress. It is just not the right thing to do and we should not do it.

Finally, I want to add one thing, because as we drag on here, I think I need to say this. To my wife, to my kids, to my mother, to my father, merry Christmas. I do not think I am going to be home to see you.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I want to direct the Members' attention to some aspects of Gramm-Rudman and to some numbers and what this means.

There is a target for fiscal year 1987 in Gramm-Rudman, enthusiastically suppported by many Members on this side of the aisle, some Members on that side of the aisle, of $144 billion that we will have to come to grips with starting in February. The President is having to come to grips with it right now.

If we do not enact these $81 billion in reconciliation savings, our job in meeting that Gramm-Rudman target early next year, because it will be done early, will be that much harder, and as the gentleman from Georgia [Mr. JENKINS] pointed out, the ax will fall that much more deeply on defense, that much more deeply on domestic programs, and inevitably will lead to that much more in tax revenues.

The choice is very, very simple on this question. Do we want reconciliation or do we not? Are we prepared today to start implementing Gramm-Rudman that we passed just recently? If the answer to that is no, then you do not want to concur. Gramm-Rudman was a nice theory, but we are really not willing to start putting up money when it counts and we are willing and are going to require ourselves to do that much more of a difficult job come early next year.

I urge you to vote to concur, to put our first down papyment on the deficit reduction that has been embraced so enthusiastically by this House.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, something purgative has to take place here tonight. In the spirit of reconciliation and trying to accomplish something, and every time I look at our great Speaker at this time of the year I picture him with a white beard and it warms the cockles of my heart; so I would like to get something off my chest.

TOM DOWNEY, Merry Christmas.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the great State of New York [Mr. DOWNEY], a member of the Ways and Means Committee, and a senior member of the Budget Committee.

□ 2355

Mr. DOWNEY of New York. Is it straight? Happy Near Year to you, Bob. In the spirit of the holiday season, I wish you a Happy New Year.

Mr. Speaker, there are two issues at stake here. First of all, we have an opportunity to say to the Senate that we stand for something; that we have spoken on the question of the value added tax and we have rejected their position. This is not about reconciliation. All of us are for reconciliation. We want it to go forward. It needs to go forward.

The value added tax, people have said here before, will grow and grow and grow, and change and change and change if we do. It already has. The value added tax that this House wisely turned down in the Committee on Ways and Means raised $4.3 billion. In the Senate it raised the same amount. But in the House provision we exempted food processing and fertilizer. The Senate did not.

In an attempt to raise the value added tax to pick up more money, the Senate decided to accept the exemptions for food and fertilizer and the tax grew before it was even enacted from $4.3 billion to $5.7 billion. So before our eyes, the most important lesson that we need to learn about a value added tax, that it will grow and grow, that it will be amended, excepted and changed ad infinitum and ad nauseam is already before us.

We have a chance today to vote against the value added tax, to stand on principal, to make sure that the other body understands that when they want us to blink and turn tail and run, we will not.

Please, please, on the motion to concur vote "no" and tell the other body that we will not have a supertax. We would like reconciliation without it.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for yielding this time to me.

Frankly, my colleagues, it is too late and I am too tired to be macho. I do not think we need to try to determine who is eyeballing whom on this. I think it is time to try to pass legislation.

We have a decision that we have to make and we hopefully can make it in the most enlightened manner. We have had some discussions about the fact that the Presient is going to veto this. We know it because it has an excise tax in it and there is no question he has made a statement on that.

Let us take a look at what the President has to decide; not on how you view what the President is going to decide but where he is going to be. He is looking at a January 15 snapshot of the laws that are in place at that time to determine Gramm-Rudman. We have in this reconciliation an opportunity to take your side of the aisle's $10 billion. I do not like the dollar amount. That was the figure that the Democrats, basically, chose for Superfund. The Senate has agreed on your figures. You have your money. You have the polluters paying more than under current law.

But the President is not going to focus on that. He is going to focus on the decision he has to make on January 15th in terms of where is going to get the money to fund your $10 billion that you are going to put in the bill after January 15, and he has very few choices in front of him. Frankly, the area where he is going to have to get the money from that you want is going to come from your side of the ledger in terms of defense. That is what he is looking at. That is what his advisers are going to be looking at, the big picture of where we are in that first segment of Gramm-Rudman.

The question of this tax as a funding device will not be the preeminent decision that the President of the United States makes. It will be a question of whether or not he can veto this, realizing that defense is going to take an even bigger slug than he thought it was going to take when they get their $10 billion.

So vote "yes" now and your defense positions are protected.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think my colleagues in this body deserve an explanation of just how controversial this matter really is. I do not know of any piece of legislation that we voted on in Ways and Means more frequently in a short period than the proposition of the value-added tax.

The problem here is not the money. It is how do we raise it? How do we pay for the problems of hazardous waste sites. If my memory serves me correctly, on 6 occasions in the Committee on Ways and Means during our markup on Superfund, the proposition that the House ultimately adopted was rejected. On the seventh occasion, that was reversed and the Committee on Ways and Means then reported out the funding mechanism—the VAT—in the reconciliation conference report.

The House then reversed the position of the Committee on Ways and Means, not on one occasion, but on two occasions. Most recently we did that about 25 or 35 minutes ago.

Maybe the description of playing chicken is apt. Maybe it is brinksmanship. But I will tell my colleagues one thing, we do not win them by turning and running. We win by standing up and facing up to it. If there is any area in which I despise legislating it is in crisis situations and we are doing to much of this.

This bill does not die if we do not pass it tonight. This bill does not go away if we refuse to concur. All we have to do is to disagree and send the message back to the Senate that we disagree with their position. We will come back here next January and reinstate a conference and go back and deliberate just how we want to pay for cleaning up the toxic waste sites in this country.

So the crisis is here but it is not the end. All we have to do is refuse to concur, indicate to the Senate that we disagree and wait for a conference to take place next year.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. I thank the gentleman for yielding this time to me.

Mr. Speaker, we are not deciding this evening whether ultimately this country will or will not have a national value-added tax. We may have to face that next year when Gramm-Rudman and the tax bill comes back to us.

We are deciding how we should deal with pollution, and I think a very

basic principle in that has always been that the polluters should pay. The effort of the Senate to sneak into our tax code this value-added tax, whatever they want to call it, manufacturers' tax via the environmental route, I think is fundamentally wrong.

We will have our debate on the value-added tax or manufacturers' tax and other excise or sales taxes in the future, but I think it is very important that this House stand by the position it has stood by in the past that the polluter pays.

I am very sad that the gentleman from California [Mr. WAXMAN] would walk away from that position tonight. I think it was unfortunate earlier that he walked away from that when we were dealing with acid rain and came up with a different scheme for dealing with that. I think that is the wrong way to go, and I think the fact that over the years we have been trying to push that and we have not been able to come up with an acid rain solution shows that that is not a valid way to deal with environmental problems.

I think we ought to stick with the position we have had. Let us hold firm. Let us vote against this value added tax tonight.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I concur with the chairman of the Committee on Ways and Means. We all regret very much the fact that we are here legislating under crisis at midnight, but I was told earlier that at midnight the cigarette tax will be imposed by the States across the country that have already moved to pick up that revenue source.

So we are not entirely free of having to face up to our responsibilities, even though we do not like the time or the place that we have to do it in. If we are interested in sending a message to our constituents, and I know we all are regardless of how we voted on Gramm-Rudman, that we are sincere about deficit reduction and that we are capable of doing something about deficit reduction on our own, I think we have to take the opportunity tonight to recede and concur with the Senate position.

This is the first opportunity we are going to have to make sizable, in fact historic, reductions in the deficit that is spread out before us on the landscape in 1987 and 1988. We can pick up $81 billion if we will simply relent from our macho position here tonight and go along with what I think on balance is best for the American people.

The gentleman from California [Mr. WAXMAN] spoke earlier about some of the provisions that are in here that we value. I know the people from the Northeast and the Midwest are concerned and support the "Buy American" provisions for the offshore drilling rigs, and others have a sincere concern about jobs. There are many provisions that we cannot afford to lose and we could just lose the opportunity to enact the legislation if we fool around much longer.

I think we have to show the American people that we can do something on our own, that we will not fail at the last minute to make the tough cuts that we have to make. If we do this, we deserve Gramm-Rudman, and we not only deserve the law, we deserve the kind of Draconian cuts that will occur across the spectrum making irrational decisions because we once again fail to be rational when we have the opportunity.

Mr. Speaker, I urge that we recede and concur.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. I thank the gentleman for yielding this time to me.

My colleagues, I guess I am one of the confused people here this evening. I do not think this is a vote on Gramm-Rudman. I do not think this is supposed to be a vote on Superfund this evening.

My understanding of the procedure today was that we would have a vote on budget reconciliation. We have about 75 Members who are not here this evening who I am sure, had we told them earlier in the day that we would be taking up the value added tax and Superfund, would probably be here this evening. But unfortunately, they went home thinking this would be a simple vote on budget reconciliation which would probably pass 350 to 5.

I am one of the people who voted for Downey-Frenzel. I did not vote for Downey-Frenzel because I was overly enamored with the Downey-Frenzel approach, but I thought the Downey-Frenzel approach was far superior to a new value added tax.

□ 0005

But it was my hope that in a conference that would take place after the first of the year that the conferees from the House and the other body would sit down and have an intelligent discussion about the best way to raise this money, not to try to attach $5.7 billion of new tax at the 12th hour of the last day of this session of Congress.

So it would seem to me that the proper thing for this body to do this evening is to defeat the motion of the gentleman and to send this measure back to the other body and to adjourn sine die.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, resolving the differences between the House and Senate on veterans provisions in this bill was a difficult task. All Members of this body have had to make hard choices about all Federal programs during this Congress, but I doubt that any choices have been tougher than those we have made with regard to health care for our Nation's veterans. Therefore, I would be remiss if I did not at the outset of my remarks recognize the diligence of the House and Senate conferees.

Mr. Speaker, I want to acknowledge the outstanding leadership of the ranking minority member of our committee, Mr. HAMMERSCHMIDT, who joined me in introducing the proposal to carry out the mandate of the Congress in the budget resolution. Every year that I work with the gentleman from Arkansas, I am more impressed with his legislative skills, his political judgment and his commitment to our Nation's veterans. What a pleasure it is to work with him.

I especially wish to acknowledge the forbearance and cooperation of Chairman FRANK MURKOWSKI, and the ranking minority member, Senator ALAN CRANSTON, of the Senate Veterans' Affairs Committee. Without their exceptional understanding of the issues and a conscious air of complete cooperation, we could not have completed this challenging task.

On August 1, 1985, the House and Senate reached agreement on the first concurrent budget resolution for fiscal year 1986. The agreement required the Committees on Veterans' Affairs to report legislation on matters within their jurisdiction that would reduce budget authority and outlays by $300 million in fiscal year 1986, and by a total of $1.5 billion during fiscal years 1986 through 1988. I am pleased to report to my colleagues that the Committees on Veterans' Affairs have exceeded by a substantial margin our targeted savings as mandated by the House and Senate over the 3-year period. We have met the targets in a way that I believe will help veterans as they seek health care, in a way that will help the Veterans' Administration in planning and delivering medical services, and in a way that will help us as Members of Congress in our budget decisions.

Mr. Speaker, the conference agreement generally follows the House bill. The policy adopted by the House for hospital care will be maintained should the conference agreement be adopted. Under the agreement the Administrator of Veterans' Affairs would be required to furnish hospital care to: First, veterans for service-connected conditions; second, veterans discharged for disability incurred or aggravated in line of duty; third, veterans disabled as a result of VA treat-

ment or vocational rehabilitation; fourth, service-connected veterans rated at 50 percent or greater; fifth, any other veterans who have service-connected disabilities; sixth, Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions; seventh, former prisoners of war; and eighth, veterans of the Spanish American War, Mexican border period, or World War I.

In adddition, the Administrator would also be required to provide hospital care to a ninth category of veterans. This group of veterans would receive such care because of their inability to defray expenses of necessary hospital care—income less than $15,000 for veterans with no dependents and $18,000 for veterans with one dependent, with an increase of $1,000 (approximately equal to the amount of the VA pension allowance—$999 as of December 1, 1985) for each additional dependent.

In addition, the conference agreement would provide that hospital care may be provided to a second group of veterans, to the extent that resources and facilities are available. The Administrator would have discretionary authority to provide care to nonservice-connected veterans whose income exceeds $15,000 with no dependents and $ 18,000 for veterans with one dependent, plus $1,000 for each additional dependent. The VA would have discretionary authority to furnish hospital care to this second group of veterans through VA facilities and through non-VA facilities as authorized. For those veterans who may receive care and whose income exceeds $20,000 with no dependents and $25,000 with one dependent, plus $1,000 for each addtional dependent, the veteran would be required to agree to make certain payments to the VA in connection with his or her hospital, nursing home, and outpatient care. The income thresholds would be automatically adjusted beginning January 1, 1987, by the same percentage as the VA pension rates would be adjusted.

The Senate bill would have required that the Administrator provide care to only two categories of veterans—those seeking care for their service-connected disabilities and those rated 50 percent or more for any disability. The care would have been provided through VA facilities or, to the extent authorized, through non-VA facilities. For all other eligible veterans hospital care would have been furnished as it is today under current law. The Administrator would have had discretionary authority to furnish care to the extent facilities and resources are available. Some would have gotten care—some would not. Under the Senate bill the overwhelming majority of veterans would have received care according to certain priorities established by the Veterans' Administration.

The conferees rejected this policy. There will be no priorities for hospital care under the conference agreement. The Administrator would be required to provide care to all eligible veterans under section 610(a)(1) of title 38 (as revised by the agreement). In other words, Mr. Speaker, all veterans under section 610(a)(1) would be treated alike. Under current law the VA has been providing hospital care on a priority basis set out in VA regulations. Since we have now entitled certain categories of veterans to hospital care, current VA regulations (section 17.49, Code of Federal Regulations) must now be revised to reflect the major change in policy to which we have agreed.

Under the conference agreement, outpatient treatment will continue to be provided on a priority basis. The conferees rejected the changes proposed by the House and Senate. Under the House bill, the Administrator would have been required to furnish outpatient treatment to those veterans with outpatient treatment eligibility under current law. It also specified that there would be no requirement to furnish services to non-service-connected disabled veterans with incomes above a certain amount. The Senate bill would have required the Administrator to furnish—directly or by contract—outpatient treatment determined to be reasonably necessary to any veteran for a service-connected disability and for any disability of a veteran with a service-connected disability rated at 50 percent or more, with certain exceptions. Otherwise, the Senate bill would not have modified current eligibilities for outpatient treatment.

The conference agreement would make no change in current law eligibilities relating to outpatient treatment, except to provide that non-service-connected veterans with incomes above the upper income threshold contained in the bill would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

The provision under current law allowing a non-service-connected veteran over the age of 65 to receive his or her hospital care without regard to income would be repealed under the conference agreement.

The conference agreement would authorize the Administrator to collect from third party insurers for the care and treatment of non-service-connected veterans who have insurance.

Finally, Mr. Speaker, the conference agreement includes a COLA increase of 3.1 percent for VA compensation and DIC payments. This provision is identical to the COLA increase passed earlier this evening.

Mr. Speaker, heretofore all eligible veterans seeking hospital care at a particular VA medical center on a given day, and who are determined by the examining physician to be in need of inpatient care, are generally admitted to the medical center. If the facility is unable to provide necessary care, the veterans may be referred to a nearby VA facility which can provide the needed care. Yet, in too many similar cases, certain non-service-connected veterans may simply be told that the facility cannot provide needed care and he or she is turned away. In addition, some veterans who present themselves at a VA medical center and do not require immediate care are requested to return at a scheduled time in order that more urgently needed care can be provided to other veterans.

The House, when it passed the provision requiring the Administrator to furnish hospital care to specified categories of eligibility, and the conferees, when they agreed to it, have established a new policy that is long overdue. We have defined a limited group of veterans who will now be assured of receiving hospital care when the admitting physician determines it to be necessary. Clearly, there is capacity for more hospital services at existing VA facilities and I refer to the committee report accompanying H.R. 1538 for details about this. (Report 99-337, page 31.) In addition to assuring that each medical center has the capacity to care for eligible veterans who require immediate care, the VA may have to improve its ability to locate bed services at other VA medical centers which can accommodate demand when it exceeds the capacity of a particular VA medical center. An expanded referral capability should not be limited to existing medical districts or even regional boundaries, since the proposed bill requires the Veterans' Administration to provide care in VA facilities. The VA will be required to treat the veteran, seek a bed in another VA facility within reasonable distance, locate a bed in a DOD hospital nearby or, where applicable, contract for such care.

Mr. Speaker, the conference agreement makes no change in VA nursing home care eligibilities in current law except to provide that nonservice-connected veterans with incomes above the upper income threshold would be eligible only upon agreeing to make certain payments in connection with their care.

Similarly, the conference agreement makes no change in VA domiciliary care eligibilities in current law. The conference agreement would make no general change in current law eligibilities relating to outpatient treatment or home health services except to provide that non-service-connected veter-

ans with incomes above a threshold would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Mr. Speaker, the payments described in the conference agreement are modest ones and are payable only by nonservice-connected veterans with incomes above $20,000 for a single veteran and $25,000 or more for married veterans with dependents. Incomes and assets of veterans are to be determined by considering the same items as the Administrator currently considers for purposes of the VA Pension Program.

These are only the major provisions of this bill relating to veterans' benefits and services. All provisions are explained in detail in the statement of the managers.

I urge the adoption of the conference agreement.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, as the ranking member of the House Veterans Affairs Committee, I rise in strong support of H.R. 3128's provisions on veterans' programs. This bill would be of great benefit to service-connected disabled veterans and to needy veterans. It has been a year of difficult decisions in the face of the imperative for deficit reduction.

The Committee on Veterans Affairs at the outset adopted a bipartisan approach to the budget for the VA, and when the joint budget resolution instructed a savings of $300 million for the VA, the committee again acted on a bipartisan basis to achieve the savings.

The principal vehicles for meeting the budgetary goals for the VA are reform of veterans' health care eligibility and third-party reimbursement from health care insurance.

It was necessary to work out differences with the other body on much of the reform of veterans' health care eligibility. Both bodies began with their own means tests and strengthened commitments to provide health care. The third-party reimbursement proposals had only technical differences, which were easily resolved.

There is no need to report the details of the health care eligibility reform and the means test which the chairman, SONNY MONTGOMERY, has outlined. Suffice it to say, for the first time ever, the Government is formally committed to providing hospital care for service-connected and truly needy veterans. For the first time ever, the universe of veterans for whom the VA is going to provide hospital care is clearly defined.

I would have preferred the income line of the means test be drawn somewhat higher than allowed by the compromise with the other body. However, the $15,000 limitation for single veterans and the $18,000 limitation for married veterans provide a starting point and could possibly be adjusted in the future, if experience bears out my belief that they may be too low.

Mr. Speaker, I hope the reform of health care eligibility with its strengthened commitment to provide hospital care is as pleasing to our Nation's veterans as it is to me. This legislation adopts the framework of the original House bill. It is a truly historic step which confirms that the Congress intends for the Veterans' Administration hospital system to keep essentially its present form for many years to come.

The cost-of-living allowance for disabled veterans and veterans is set at 3.1 percent, the same as the Social Security and veterans' survivors pension COLA's. Rather than hold up the COLA any longer—it should have been passed prior to December 1, 1985—I believe we should accept the 3.1 percent figure upon which the other body insisted.

This important legislation in large part owes its existence to the leadership and personal dedication of my friend and colleague, SONNY MONTGOMERY, chairman of our committee. Further, the chairman of the Subcommittee on Hospitals and Health Care, BOB EDGAR; the chairman of the Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, and its ranking member, GERALD SOLOMON, have each been instrumental in bringing this veterans' legislation to the floor.

Also, a special note of appreciation should go to the chairman of the House Budget Committee, BILL GRAY, to its ranking member, DEL LATTA, and to MARVIN LEATH, a member of the Veterans' Affairs Committee on temporary leave of absence to the Budget Committee.

Mr. Speaker, I urge my fellow Members to support this measure, which will achieve both the desired savings in the VA budget and a significant reform of veterans' health care eligibility.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. Mr. Speaker, I am very distressed that we are attempting to bring forward some smoke and mirrors this evening to discuss the whole prospect of reconciliation.

We have voted on reconciliation. We made it very clear that this body has already acted in support of helping the poor and needy.

Unfortunately, we are back here again because the other body has not chosen to take our message. We are here for one reason and one reason only, and that is to discuss once again the value-added tax.

This House is on record. This House has been on record each time with an increasingly larger margin of support in opposition to the value-added tax.

I believe that this is a very deceptive way of us to give with one hand through reconciliation and to take away with the other hand through a value-added tax.

My question is: Procedurally, are we here tonight to bow to the other body? Are we here this evening to react in the form of crisis management? Or are we here once again, a third time, to stand up and to be counted?

Tonight we are experiencing an endurance test of time. Sure, we are all very tired. Sure, we would like to go home. But I think that we have to make it very clear that this vote is an attempt to separate the men from the boys.

Now I do not know about the rest of you, but I happen to have taken my vitamin pills this evening. I hope all of you have also. But I think that this evening is beyond the endurance test, and it is a question as to whether or not those Members who have stood up and been counted in the past will continue to stand up and be counted and make it very clear to their constituents that we stand in strong opposition to a deceptive way to bring about a value-added tax.

We will have plenty of opportunities to increase taxes next year. And when it comes to environmental protection, there is only one approach that is appropriate, and that is the approach of having the polluter pay.

This is an opportunity for us to yet a third time make it very clear as to where we stand.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, if the cloud of Gramm/Rudman were not over us, I would not support the resolution, but it is over us. And we had better face reality.

I am telling you, there is a reality out there that we have to get some reductions in order, and at the same time, we have to speak about our priorities.

There is a lot in this bill, and I concur with the gentleman from California, HENRY WAXMAN, and frankly I did not think it was fair of my friend from New York to criticize him that much, because HENRY WAXMAN pointed out some priority areas such as Medicare, Medicaid, black lung is in here, some training programs, and other things that we care about. And we are sending a signal that we do not want those kinds of programs reduced by Gramm/Rudman, we can save it in another way.

So I reluctantly concur with this resolution. At the same time, I want to take the opportunity to commend the Speaker pro tempore who has met the test of fairness and endureness. He has been in the chair for 12 hours, and I think we ought to commend my friend from Michigan [Mr. KILDEE].

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Speaker, I thank the gentleman for yielding me this time. I will not need a minute.

If you strip the veneer and all the rhetoric away, there is just one simply issue: Are we going to fold to the big oil interests?

I hope not.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, the issue is simple. We have in this reconciliation bill done a lot for Medicare, we have done a lot on a bipartisan basis and we have helped the average American.

You can defeat this motion, you can do away with the sales tax, you can make the oil industry, as was previously stated, pay their fair share. The bill will be considered next year with a new conference, and the majority of it, all of the good parts that we voted for three and four times will be preserved and Americans will benefit, will get better Medicare, better help, and we will not have this onerous sales tax begin at the hands of the House of Representatives.

I urge a no vote on this motion.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. HARTNETT] in order to make a unanimous consent request.

Mr. HARTNETT. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I would like to make a unanimous consent request that all speeches be considered as if heard, and that the majority and the minority managers yield back the balance of their time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I will be glad to support the gentleman's request.

The SPEAKER pro tempore. The two managers hold the fate of the House in their hands on that question.

Mr. LATTA. Mr. Speaker, I yield myself 15 seconds.

I would like to accede to that request, but I promised some of my colleagues here some time.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I also will not use my 2 minutes. I just hope that the House will hold firm to its position and vote in opposition.

The issue is not whether we support reconciliation. Of course we do. The issue is not whether we support budget savings. Of course we do.

The issue is whether or not we are going to have a new tax that makes no sense from the standpoint of tax policy or environmental policy, and I might suggest from the standpoint of the principles of my own party, from the standpoint of those principles as well.

I urge a no vote.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, it is not often that I agree with the other gentleman from Ohio [Mr. LATTA] but on this particular matter I do.

As I have stated earlier, any piece of legislation shotgunned through at the last minute of the end of the session that is thicker than 4 inches and weighs more than 4 pounds, then I am going to vote no. This thing here would cause a hernia in the average American.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, almost 200 years ago, Alexander Hamilton said to a foreign visitor, "Here, sir, the people rule." I pray tonight that we will not change that statement to "Here, sir, the Senate rules."

I would like very much for my colleagues to take into account two things. This is not a discussion about Gramm-Rudman.

Reconciliation a year ago came to this body for the previous year in April, in April, so what we may do is not without precedent. We can take the matter up, as the chairman of the Ways and Means Committee said, early next year.

We have not abandoned our duties to the poor, our duties to those issues that affect health and limb and life. We have not abandoned our duties to the veterans.

We voted for reconciliation and we sent it to the other body. We have done our duty.

They have not, for their penchant with the nongermaneness of the operations of their body allows them the kind of thinking that has beset us with our difficulties tonight and that is to add something in conference that we did not send them. We should not accept it.

I urge us, I urge us with all my heart as a matter of procedure and as a matter of process to reject this motion and vote it down.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Speaker, somebody said come back next year. Next year to what? Next year to Gramm-Rudman? Next year to business as usual, with Superfund cleanups being delayed all across the United States? Next year to an undone Black Lung Medical Program on the brink of bankruptcy? Next year to expanded physician charges to our senior citizens instead of a freeze?

Yes, we bowed, we got the other body to accept 33 percent more for Superfund than they originally agreed to.

The bottom line is when we come back it is not going to be business as usual, it is a whole new ballgame, and it is not going to be very pleasant.

I urge adoption of the conference committee report.

□ 2420

Mr. LATTA. Mr. Speaker, may I inquire about the time?

The SPEAKER pro tempore. The gentleman from Ohio [Mr. LATTA] has 6 minutes remaining and the gentleman from Pennsylvania [Mr. GRAY] has 7 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, this has been a good debate. Let me say that I have been in this House now for 27 years, and I have been proud to be a Member of this House.

This House over those years has been a House that voted its convictions and stayed by those convictions; and I think tonight we have an opportunity to show that we are a proud body; that we are not going to let the other body tell us what to do when we have voted 205 to 151 on an issue so important to the American people, are we going to have a whole new tax system imposed on them?

What a fine Christmas present we could give them by backing down to the other body and putting a whole new taxing system on them? Come on, we do not want to do that. We do not want to do that.

Certainly, on reflection, the other body would not want to do that. What did we do when we voted just an hour or so ago? We voted for all of these reductions that we have heard so much about here; we voted for those—yes, we voted for a Superfund. The only thing we said to the other body was in that vote, was that we wanted to wait for another day to come up with the funding, and not to swallow a whole new taxing system; the value added tax.

So I ask my colleagues tonight to stay by their convictions and to vote down this motion.

Mr. Speaker, I yield back the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and colleagues, someone has said tonight that we are involved in a game of political "chicken," and that is probably very accurate in the description.

Let us talk about how we got to the game. We got to the game because we went to conference on reconciliation; the conferees worked, the conferees on the subgroup number 22 voted, came out with a position. They went there knowing what the House had done on

the Downey amendment earlier, but yet they acted in good faith; and now the other body, knowing that their President has said that he will veto a value added tax, does have us involved in a game of political chicken.

Before we talk about who should blink and who should run, let us talk about what the price is. The price, the price is $80 billion of deficit reduction. The only deficit reduction that we know for sure we are going to get, because we have heard it so many times from other persons.

Reconciliation. The price? Those programs: Medicaid, pension benefits, veterans programs, and others that have been reformed that are now going to be left dormant and left over to next year, when we come back.

Next year when we come back what will we have? I will tell you what we are going to have: We are going to have to learn a whole new budget process with a whole new set of dates and targets, and how to do it very quickly; and if anybody thinks we can come back to this next year for all of those spending reductions, I have news for you, I do not think it is going to happen.

We can also have Superfund coming up through the regular process. So I just simply say to the Members, we are involved in a game of political chicken. The Senate does not, does not want to resolve the problem. What they have said in essence is, "Let's challenge the President."

This House earlier said, "We don't want to do that bipartisanly." So I stand here tonight, asking you to vote to concur. Vote so that we can make the savings, vote so that we can go home and say that we have reduced the deficit. Vote so that we can come back next year, and we can come back and be on with the rest of the business; including, there will be business of reauthorization on Superfund and that issue will not be closed.

So next year for me is deficit reduction as well as reauthorization of Superfund; and that battle is not over. I say let us get the deficit reduction we can tonight. We cannot wait until next year; America cannot wait until next year. The red ink is drowning this country.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The question is on the motion offered by the gentleman from Pennsylvania [Mr. GRAY] to concur in the Senate amendment to the House amendment to the Senate amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GRAY of Pennsylvannia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 137, nays 211, not voting 86, as follows:

[Roll No. 482]

YEAS—137

Anderson	Foglietta	Porter
Andrews	Ford (TN)	Rahall
Anthony	Fowler	Ray
Archer	Frank	Ridge
Bartlett	Franklin	Rinaldo
Barton	Frost	Ritter
Bateman	Gallo	Roberts
Berman	Gilman	Roe
Bliley	Glickman	Roemer
Boggs	Gonzalez	Rogers
Bonker	Gray (PA)	Rose
Borski	Hall, Ralph	Roukema
Bosco	Hatcher	Rowland (GA)
Boulter	Hawkins	Saxton
Breaux	Hefner	Schaefer
Brooks	Hendon	Schuette
Brown (CO)	Hopkins	Siljander
Broyhill	Huckaby	Sisisky
Bruce	Hutto	Skeen
Bryant	Jacobs	Slattery
Bustamante	Jenkins	Slaughter
Campbell	Johnson	Snyder
Carper	Jones (OK)	Spratt
Cheney	Kolbe	Staggers
Clinger	Kostmayer	Stangeland
Cobey	Leath (TX)	Stenholm
Coble	Leland	Strang
Coelho	Lent	Stratton
Combest	Livingston	Sundquist
Coughlin	Long	Sweeney
Courter	Lowery (CA)	Synar
Craig	Lujan	Tallon
Darden	Manton	Tauzin
DeLay	McCurdy	Thomas (CA)
Derrick	McMillan	Thomas (GA)
Dingell	Mollohan	Udall
DioGuardi	Montgomery	Valentine
Dymally	Moore	Walgren
Eckart (OH)	Murtha	Waxman
Eckert (NY)	Myers	Whitley
Edwards (OK)	Natcher	Whittaker
Emerson	Nielson	Wilson
English	Oakar	Wise
Fazio	Ortiz	Wright
Feighan	Perkins	Young (AK)
Fields	Pickle	

NAYS—211

Akaka	de la Garza	Horton
Alexander	Dellums	Howard
Annunzio	DeWine	Hoyer
Applegate	Dicks	Hughes
Armey	Donnelly	Hunter
AuCoin	Dorgan (ND)	Hyde
Badham	Dornan (CA)	Ireland
Barnes	Downey	Jeffords
Bates	Dreier	Jones (TN)
Bedell	Duncan	Kanjorski
Bellenson	Durbin	Kasich
Bennett	Dwyer	Kastenmeier
Bentley	Dyson	Kemp
Bereuter	Edgar	Kennelly
Bilirakis	Edwards (CA)	Kildee
Boehlert	Evans (IA)	Kleczka
Boner (TN)	Evans (IL)	Kramer
Bonior (MI)	Fascell	Lagomarsino
Boucher	Fawell	Lantos
Brown (CA)	Fiedler	Latta
Burton (CA)	Fish	Leach (IA)
Burton (IN)	Foley	Levin (MI)
Byron	Frenzel	Levine (CA)
Callahan	Gejdenson	Lewis (CA)
Carney	Gekas	Lewis (FL)
Carr	Gingrich	Lightfoot
Chandler	Goodling	Lloyd
Chappell	Gordon	Lowry (WA)
Chappie	Green	Luken
Coats	Grotberg	Lundine
Coleman (MO)	Guarini	Lungren
Collins	Gunderson	Mack
Conte	Hamilton	MacKay
Cooper	Hammerschmidt	Madigan
Coyne	Hansen	Markey
Crane	Hartnett	Martin (IL)
Dannemeyer	Hayes	Martin (NY)
Daschle	Henry	Matsui
Daub	Hertel	Mavroules
Davis	Hiler	Mazzoli
McCain	Pease	Snowe
McCandless	Penny	Solomon
McCloskey	Pepper	Spence
McCollum	Petri	St Germain
McDade	Pursell	Stallings
McEwen	Rangel	Stark
McHugh	Regula	Studds
McKernan	Reid	Stump
Meyers	Robinson	Swift
Mica	Rodino	Swindall
Michel	Rostenkowski	Tauke
Mikulski	Roth	Taylor
Miller (OH)	Rowland (CT)	Torres
Miller (WA)	Sabo	Torricelli
Mineta	Savage	Towns
Moakley	Scheuer	Traficant
Molinari	Schneider	Vento
Moody	Schroeder	Visclosky
Moorhead	Seiberling	Volkmer
Morrison (WA)	Sensenbrenner	Vucanovich
Mrazek	Shaw	Walker
Neal	Shelby	Weber
Nelson	Shumway	Weiss
Nowak	Skelton	Wheat
O'Brien	Smith (FL)	Wolf
Oberstar	Smith (IA)	Wolpe
Obey	Smith (NJ)	Wyden
Owens	Smith, Denny (OR)	Yatron
Oxley	Smith, Robert (NH)	Young (FL)
Packard	Smith, Robert (OR)	
Parris		
Pashayan		

NOT VOTING—86

Ackerman	Gradison	Panetta
Addabbo	Gray (IL)	Price
Aspin	Gregg	Quillen
Atkins	Hall (OH)	Richardson
Barnard	Heftel	Roybal
Bevill	Hillis	Rudd
Biaggi	Holt	Russo
Boland	Hubbard	Schulze
Boxer	Jones (NC)	Schumer
Broomfield	Kaptur	Sharp
Chapman	Kindness	Shuster
Clay	Kolter	Sikorski
Coleman (TX)	LaFalce	Smith (NE)
Conyers	Lehman (CA)	Solarz
Crockett	Lehman (FL)	Stokes
Daniel	Lipinski	Traxler
Dickinson	Loeffler	Vander Jagt
Dixon	Lott	Watkins
Dowdy	Marlenee	Weaver
Early	Martinez	Whitehurst
Erdreich	McGrath	Whitten
Flippo	McKinney	Williams
Florio	Miller (CA)	Wirth
Ford (MI)	Mitchell	Wortley
Fuqua	Monson	Wylie
Garcia	Morrison (CT)	Yates
Gaydos	Murphy	Young (MO)
Gephardt	Nichols	Zschau
Gibbons	Olin	

□ 0030

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF THE COMMITTEE TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION AND ARE READY TO ADJOURN

The SPEAKER pro tempore. The Chair appoints as members on the part of the House to notify the President the gentleman from Washington [Mr. FOLEY] and the gentleman from Illinois [Mr. MICHEL].

MOTION TO DISAGREE TO THE SENATE AMENDMENT TO H.R. 3128, CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. GRAY of Pennsylvania. Mr. Speaker, I move that the House disagree to the Senate amendment to the House amendment to the Senate amendment to H.R. 3128.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GRAY].

The motion was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT SINE DIE OF THE CONGRESS ON FRIDAY, DECEMBER 20, 1985

Mr. FOLEY. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 267) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 267

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Friday, December 20, 1985, pursuant to a motion made by the majority leader or his designee, it stand adjourned sine die and that when the Senate adjourns on Friday, December 20, 1985, pursuant to a motion made by the majority leader or his designee, it stand adjourned sine die or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House, after consultation with the minority leader of the House, and the majority leader of the Senate, after consultation with the minority leader of the Senate, acting jointly, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985.

□ 0045

PARLIAMENTARY INQUIRIES

Mr. PICKLE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Texas will state his parliamentary inquiry.

Mr. PICKLE. Mr. Speaker, I understand the message from the Senate has gone to the desk. Has not the House already adjourned.

The SPEAKER pro tempore. The House has not adjourned. The House has passed a resolution stipulating that when it adjourns today, it will adjourn sine die, to meet on January 21, or subject to the call of the Chair under certain circumstances.

The Senate would also have to concur in that resolution, the Chair would advise the gentleman from Texas.

Mr. CAMPBELL. Mr. Speaker, I have a parliamentary inquiry.

On the message that came from the Senate, parliamentarily, would it take a unanimous-consent request to take that matter up?

The SPEAKER pro tempore. At this point, that is correct; it would require a unanimous-consent request.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent that the matter be taken up.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, under my reservation, I just want to let the House know that it is my understanding that the chairman of the Committee on Ways and Means will have a motion to offer on this, and for that reason, I am anticipating to go forward with an objection to the unanimous-consent request of the gentleman from South Carolina.

Further reserving the right to object, I yield to the gentleman from South Carolina [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, if the chairman of the Committee on Ways and Means is preparing to make a motion on the matter, I would certainly withdraw my unanimous-consent request to defer to any motion by the chairman.

Mr. ROSTENKOWSKI. Mr. Speaker, the chairman of the Committee on Ways and Means had no intention of making any motion.

Mr. FRENZEL. In that case, Mr. Speaker, I object.

The SPEAKER pro tempore. Objecton is heard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to take this occasion to advise Members that the business of this session of the 99th Congress has been completed. All that remains is for us to await the formal report of the committee to notify the President and the adjournment of the Senate, as well.

Let the Chair take this occasion to express his thanks and the thanks of the leadership for the cooperation throughout this year of the Members on both sides of the aisle and to wish to all of you and all of your families a very joyous Christmas season, and may the new year bring happiness and peace to all of you.

PARLIAMENTARY INQUIRY

Mr. CARNEY. Mr. Speaker, may I make a parliamentary inquiry?

The SPEAKER pro tempore. The gentleman from New York may state his parliamentary inquiry.

Mr. CARNEY. Mr. Speaker, the resolution that we just passed, we used the date December 20. May we assume that this day, the 19th, carried into the 20th, and at the end of this business immediately we will be out sine die?

The SPEAKER pro tempore. This is calendar December 20, and when the House adjourns today, it will adjourn sine die, assuming the agreement of the Senate to the resolution.

Mr. CARNEY. I thank the Chair.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHAPMAN (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUNGREN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. JEFFORDS, for 10 minutes, today.

Mr. SWINDALL, for 60 minutes, today.

Mr. FISH, for 10 minutes, today.

Mr. BEREUTER, for 15 minutes, today.

Mr. DANNEMEYER, for 60 minutes, today.

Mr. FRENZEL, for 60 minutes, today.

Mr. FRANKLIN, for 30 minutes, today.

Mr. DANNEMEYER, for 60 minutes, January 21.

Mr. DANNEMEYER, for 60 minutes, January 22.

Mr. DANNEMEYER, for 60 minutes, January 23.

(The following Members (at the request of Mr. SNYAR) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PEASE, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

(The following Member (at the request of Mr. AUCOIN) to revise and extend their remarks and include extraneous material:)

Mr. BARNES, for 5 minutes, today.

(The following Member (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN, for 10 minutes, today.

(The following Member (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes, today.

(The following Member (at the request of Mr. NATCHER) and include extraneous material:)

Mr. NELSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS, prior to the vote on House Joint Resolution 465 today.

Mr. ROSTENKOWSKI, prior to the vote on the conference report on H.R. 3128, in the House, today.

Mrs. BENTLEY, during debate on S. 1840, in the House, today.

Mr. DASCHLE, prior to passage of House Resolution 1538, in the House, today.

(The following Members (at the request of Mr. LUNGREN) and to include extraneous matter:)

Mr. MADIGAN.
Mr. BROYHILL.
Mr. WHITEHURST.
Mr. LEWIS of California.
Mr. MCKINNEY.
Mr. HYDE.
Mr. DIOGUARDI in two instances.
Mr. STANGELAND.
Mr. KASICH.
Mr. COURTER.
Mr. FRENZEL in six instances.
Mr. GUNDERSON.
Mr. CLINGER.
Mr. GALLO.
Mr. DORNAN of California.
Mr. KEMP in three instances.
Mr. GILMAN in six instances.
Mr. COATS.
Mr. WOLF.
Mr. EMERSON in five instances.

(The following Members (at the request of Mr. SYNAR) and to include extraneous matter:)

Mr. HOYER in two instances.
Mr. BARNES in two instances.
Mr. OLIN.
Mrs. LLOYD in three instances.
Mr. HOWARD.
Mr. EDWARDS of California.
Mr. HAMILTON.
Mr. MCHUGH.
Mr. KILDEE.
Mr. FASCELL in four instances.
Mr. FLORIO in three instances.
Mr. DOWNEY of New York.
Mr. RODINO.
Mr. GARCIA.
Mr. FORD of Michigan.
Mr. SIKORSKI.
Mr. RICHARDSON.
Mr. MRAZEK.
Mr. HAWKINS.
Mr. FAZIO.
Mr. PEPPER.
Mr. MANTON.
Mr. LOWRY of Washington.
Mr. YATRON.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1831. An act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law; to the Committee on Foreign Affairs.

S.J. Res. 231. Joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker pro tempore.

H.R. 1603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 2100. An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2698. An act to designate the U.S. Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse";

H.R. 2903. An act to designate the Federal Building and U.S. Post Office in Philadelphia, PA, as the "Robert C. Nix, Sr., Federal Buiding and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958;

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the U.S. Sentencing Commission, and for other purposes; and

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolution of the Senate of the following title:

S. 1918. An act to change the date for transmittal of a report; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week."

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER pro tempore announced his signature to enrolled bill and joint resolutions of the Senate of the following title:

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes;

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week"; and

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on the following day present to the President, for his approval, bills of the House of the following title:

On December 18, 1985:

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbusement provisions, and borrowing authority under the railroad unemployment insurance program; and

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On December 19, 1985:

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes;

H.R. 603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2698. An act to designate the U.S. Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse";

H.R. 2903. An act to designate the Federal Building and U.S. Post Office in Philadelphia, PA, as the "Robert C. Nix, Sr., Federal Building and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958; and

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the United States sentencing Commission, and for other purposes.

RECESS

The SPEAKER pro tempore. The Chair wants to propound an inquiry.

In view of the fact that all of our business has been transacted, would there be objection to the Chair's declaring a recess pending the report of the committee to notify the President?

Without objection, the Chair declares a recess subject to the call of the Chair.

There was no objection.

Accordingly (at 12 o'clock and 56 minutes a.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2416. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-114, "The George Washington University Revenue Bond Act of 1985", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2417. A letter from the Secretary of Health and Human Services, transmitting the Surgeon General's report on the health consequences of smoking, pursuant to 15 U.S.C. 1337(a); to the Committee on Energy and Commerce.

2418. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2419. A letter from the General Council, Department of the Treasury, transmitting a draft of proposed legislation to amend certain provisions of title 18, United States Code, relating to firearms and explosives; to the Committee on the Judiciary.

2420. A communication from the President of the United States, transmitting notice of his intent to add Aruba to the list of beneficiary developing countries under the Generalized System of Preferences [GSP] Program, effective January 1, 1986, pursuant to 19 U.S.C. 2462(a) (H. Doc. No. 99-139); to the Committee on Ways and Means and ordered to be printed.

2421. A letter from the Secretary of Defense, transmitting a recommendation that legislation be enacted to reinstate the death penalty for persons convicted of espionage in civilian courts, pursuant to Public Law 99-145, section 1439; jointly, to the Committees on Armed Services and the Judiciary.

2422. A letter from the Under Secretary of State for Management, transmitting a draft of proposed legislation to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

2423. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to resolve issues related to state use of the worldwide unitary method of taxation jointly, to the Committee on the Judiciary and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 465 (Rept. 99-450). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 3614. A bill to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes (Rept. 99-451). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 3168. A bill to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes; with an amendment (Rept. 99-452). Referred to the Committee of the Whole House on the State of the Union.

Mr. GRAY of Pennsylvania: Committee of conference. Conference report on H.R. 3128 (Rept. 99-453). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 349. Resolution providing for the House to reject the conference report on the bill (H.R. 3128), to recede from its amendment to the Senate amendment, and to concur in the Senate amendment with an amendment (Rept. 99-454). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 350. Resolution providing for the consideration of H.R. 3992, a bill to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes (Rept. 99-455). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 3992. A bill to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 3993. A bill to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, and borrowing authority under the Railroad Unemployment Insurance Program, and to extend until March 15, 1986, and December 31, 1986, the application of certain Medicare hospital and physician provisions, respectively; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 3994. A bill to extend until December 31, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MADIGAN (for himself, Mr. SCHEUER, Mr. BROYHILL, Mr. SHARP, Mr. LENT, Mr. LUKEN, Mr. NIELSON of Utah, Mr. TAUKE, Mr. SHELBY, Mr. RITTER, Mr. BLILEY, Mr. TAUZIN, Mr. WHITTAKER, Mr. DOWDY of Mississippi, Mr. DANNEMEYER, Mr. BILIRAKIS, Mr. GALLO, Mr. DWYER of New Jersey, Mr. RALPH M. HALL, Mr. OXLEY, and Mr. ECKART of Ohio):

H.R. 3995. A bill to amend the Federal Food, Drug and Cosmetic Act to establish conditions for the export of drugs; to the Committee on Energy and Commerce.

By Mr. ROSTENKOWSKI:

H.R. 3996. A bill to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BROWN of California (for himself, Mr. BEILENSON, Mr. BERMAN, Mr. BONIOR of Michigan, Mr. CONYERS, Mr. CROCKETT, Mr. DIXON, Mr. DYMALLY, Mr. EDGAR, Mr. FAZIO, Mr.

FORD of Michigan, Mr. GUARINI, Mr. HAWKINS, Mr. HERTEL of Michigan, Mr. LEVINE of California, Mr. LUNDINE, Mr. MACKAY MCKINNEY, Mr. MITCHELL, Mr. NELSON of Florida, Mr. RANGEL, Mr. TORRES, Mr. UDALL, Mr. WAXMAN, and Mr. WEISS):

H.R. 3997. A bill to advance the national prosperity, quality of life, and welfare, to establish a National Policy and Technology Foundation, and for other purposes; jointly, to the Committees on Science and Technology and the Judiciary.

By Mr. CONYERS:

H.R. 3998. A bill to amend the Federal Rules of Civil Procedure with respect to offers of judgment; to the Committee on the Judiciary.

By Mr. DARDEN:

H.R. 3999. A bill to amend the Internal Revenue Code of 1954 to repeal the requirement that certain food or beverage establishments allocate a portion of its gross receipts to its employees as tips and report such allocation to the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. HERTEL of Michigan:

H.R. 4000. A bill to assist in the admission into the United States of certain aliens who have fled from Poland; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 4001. A bill to amend chapters 37 and 123 of title 28, United States Code, and chapter 301 of title 18, United States Code; to the Committee on the Judiciary.

By Mr. LATTA:

H.R. 4002. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Ways and Means.

By Mr. MOLINARI:

H.R. 4003. A bill to permit the reappointment of certain former air traffic controllers, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SLATTERY:

H.R. 4004. A bill to establish a corporation to be known as Haskell Indian College and for other purposes; to the Committee on Education and Labor.

By Mr. WOLF:

H.R. 4005. A bill to amend section 8332 of title 5, United States Code, to allow periods of certain service performed as an employee of a State or an instrumentality of a State to be creditable for civil service retirement; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H.R. 4006. A bill to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ST GERMAIN:

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FOLEY:

H.J. Res. 496. Joint resolution providing for the convening of the second session of the 99th Congress; considered and passed.

By Mr. SEIBERLING:

H. Con. Res. 263. Concurrent resolution to rescind the approval of House Concurrent Resolution 262, correcting the enrollment of House Joint Resolution 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution (H.J. Res. 187); considered and agreed to.

By Mr. DE LA GARZA:

H. Con. Res. 264. Concurrent resolution to correct the enrollment of H.R. 2100; considered and agreed to.

By Mrs. LLOYD (by request):

H. Con. Res. 265. Concurrent resolution expressing the sense of the Congress that all executive agencies should preferentially appoint veterans of the Armed Forces of the United States to positions in the Federal Government as provided in title 5, United States Code; to the Committee on Post Office and Civil Service.

By Mr. ROWLAND of Connecticut:

H. Con. Res. 266. Concurrent resolution providing for the sine die adjournment of the Congress; laid on the table.

By Mr. FOLEY:

H. Con. Res. 267. Concurrent resolution providing for the sine die adjournment of the 1st session of the 99th Congress; considered and agreed to.

By Mr. DERRICK:

H. Res. 349. Resolution providing for the House to reject the conference report on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, 99th Congress), to recede from its amendment to the Senate amendment, and to concur to the Senate amendment with an amendment; House Calendar No. 114. H. Rept. 99-454.

By Mr. BEILENSON:

H. Res. 350. Resolution providing for the consideration of the bill (H.R. 3992) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes; House Calendar No. 115. H. Rept. 99-455.

By Mr. FOLEY:

H. Res. 351. Resolution appointing a committee to notify the President concerning the proposed adjournment of the session; considered and agreed to.

By Mr. SMITH of New Jersey (for himself, Mr. BROOMFIELD, Mr. SOLOMON, Mr. PORTER, Mr. SOLARZ, Mr. KEMP, Mr. HYDE, Mr. HALL of Ohio, Mr. BARNES, Mr. GILMAN, Mr. FEIGHAN, Mr. GEJDENSON, Mr. WOLF, Mr. HOYER, Mr. COUGHLIN, Mr. BOULTER, Mr. BIAGGI, Mrs. BENTLEY, Mr. BADHAM, Mr. MOAKLEY, Mr. MILLER of Washington, Mr. MCCOLLUM, Mr. KOLTER, Mr. VALENTINE, Mr. VENTO, Mr. GEKAS, Mr. FISH, Mr. DELAY, Mr. SCHAEFER, Mr. MCDADE, Ms. FIEDLER, Mrs. MARTIN of Illinois, Mrs. BURTON of California, Mr. MCCAIN, Mr. NELSON of Florida, Mr. DENNY SMITH, Mr. LAGOMARSINO, Mr. LANTOS, Mr. ZSCHAU, Mr. SILJANDER, Mr. GARCIA, Mr. LOWERY of California, Mr. LENT, Mr. WHITEHURST, Mr. BORSKI, Mr. LEVIN of Michigan, Mr. MOORE, Ms. MIKULSKI, Mr. ROE, Mr. FRENZEL, Mr. SCHUMER, Mr. FRANK, Mr. DWYER of New Jersey, Mr. LEVINE of California, Mr. BUSTAMANTE, Ms. KAPTUR, Mr. ANDREWS, Mr. DORNAN of California, Mr. LIGHTFOOT, Mr. MCGRATH, Mr. WEBER, Mr. SAXTON, Mr. MITCHELL, Mr. WILSON, Mr. STOKES, Mr. YOUNG of Missouri, Mr. BEDELL, Mr. MARTINEZ, Mr. SCHEUER, Mr. LELAND, Mr. MORRISON of Connecticut, Mr. LAFALCE, Mrs. BOXER, Mr. GLICKMAN, Mr. BILIRAKIS, Mr. DEWINE, Mr. BERMAN, Mr. BLILEY, Mr. WORTLEY, Mr. GALLO, Mr. COBEY, Mr. REID, Mr. DASCHLE, Mr. DIOGUARDI, Mr. DURBIN, Mr. EVANS of Iowa, Mr. BOEHLERT, Mr. GREEN, Mr. HEFTEL of Hawaii, Mr. Weiss, Mr. OBERSTAR, Mr. ECKART of Ohio, Mr. MINETA, Mr. BATEMAN, Mr. KRAMER, Mr. CARNEY, Mr. MANTON, Mr. BURTON of Indiana, Mr. MRAZEK, Mr. BOUCHER, Mr. FROST, Mr. MATSUI, Mr. ACKERMAN, Mr. ERDREICH, Mr. CONTE, Mr. EDWARDS of Oklahoma, Mrs. COLLINS, Mr. WAXMAN, Mr. SWEENEY, Mr. KOLBE, Mr. ADDABBO, Mr. BROWN of Colorado, Mr. GRAY of Pennsylvania, Mr. BARTLETT, Mr. SISISKY, Mr. HERTEL of Michigan, Mrs. LLOYD, Mr. CARPER, Mr. BRYANT, Mr. DONNELLY, Mr. LUNGREN, Mr. FOGLIETTA, Mr. COOPER, Mr. KOSTMAYER, Mr. HORTON, Mr. SEIBERLING, Mr. GRADISON, Mr. SYNAR, Mr. ROBINSON, Mr. ATKINS, Mr. GUNDERSON, Mr. ECKERT of New York, Mr. STRANG, Mr. SWINDALL, Mrs. ROUKEMA, Mr. BROWN of California, Mr. CHANDLER, Mr. SMITH of Florida, Mr. DAUB, Mr. RICHARDSON, Mr. GINGRICH, and Mr. LEACH of Iowa):

H. Res. 352. Resolution calling upon the Union of Soviet Socialist Republics to cease its concentrated and systematic persecution of Hebrew teachers and cultural activists, and for other purposes; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. RICHARDSON.

H.R. 44: Mr. BARTLETT.

H.R. 385: Mr. BATEMAN and Mr. JACOBS.

H.R. 472: Mr. COBLE, Mr. SAXTON, and Mr. SLAUGHTER.

H.R. 1052: Mr. BEILENSON.

H.R. 1089: Mr. VENTO, Mr. EVANS of Illinois, Mr. FISH, and Mr. NEAL.

H.R. 1284: Mr. HEFTEL of Hawaii.

H.R. 1551: Mr. APPLEGATE, Mr. EDWARDS of Oklahoma, Mr. FUSTER, Mr. ROWLAND of Connecticut, and Mr. SHUMWAY.

H.R. 1625: Mr. BURTON of Indiana.

H.R. 1748: Mr. MAVROULES, Mr. LIVINGSTON and Mr. MCKERNAN.

H.R. 1769: Mr. SUNDQUIST.

H.R. 1946: Mr. LUJAN, Mr. MCCAIN, Mr. MCDADE, Mr. MACK, Mr. MARTIN of New York, Mr. RIDGE, Mr. SKEEN, Mr. DENNY SMITH, Mr. TAUKE, Mrs. VUCANOVICH, Mr. WALKER, and Mr. KINDNESS.

H.R. 2020: Mr. EVANS of Illinois.

H.R. 2440: Mr. BONIOR of Michigan and Mr. BOUCHER.

H.R. 2580: Mr. GONZALEZ and Mr. SCHEUER.

H.R. 2684: Mr. BONER of Tennessee and Mr. TOWNS.

H.R. 2978: Mr. CONYERS.

H.R. 3167: Mr. MOODY.

H.R. 3292: Mr. FRENZEL.

H.R. 3296: Mr. TRAFICANT and Mr. GINGRICH.

H.R. 3349: Mr. APPLEGATE, Mr. WHITTAKER, and Mr. BOUCHER.

H.R. 3378: Mr. WEISS and Mr. NOWAK.

H.R. 3388: Mr. HORTON, Mr. ROE, Mr. STARK, Mr. WHITEHURST, Mr. KINDNESS, Mr. LIGHTFOOT, Mr. GALLO, Mr. WOLF, Mr. LAGOMARSINO, Mr. GINGRICH, Mr. CAMPBELL, Mr. LOWERY of California, Mr. WORTLEY, Mr. DORNAN of California, Mr. BLILEY, Mr. DANIEL, Mr. DAUB, Mr. DYSON, Mrs. MARTIN of Illinois, Mr. VALENTINE, Mr. RUDD, Mr. PORTER, Mr. ROSE, Mr. CARNEY, Mr. CHAPMAN, Mr. SWINDALL, Ms. KAPTUR, Mr. PARRIS, Mr. FRANK, Mr. NIELSON of Utah, Mr. LOEFFLER, Mr. GUNDERSON, Mr. WILSON, Mr. BARTON of Texas, Mr. DEWINE, Mr. PACKARD, Mr. ARCHER, Mr. SOLOMON, Mr. BATEMAN, Mr. MCGRATH, Mr. BURTON of Indiana, Mr. CLINGER, Mr. EDWARDS of Oklahoma, Mr. LAFALCE, Mr. YOUNG of Florida, Mr. SMITH of New Hampshire, Mr. SAXTON, Mr. MOORHEAD, Mr. TAUKE, Mr. LUKEN, Mr. BEREUTER, Mr. BLAZ, Mr. PURSELL, and Mr. SILJANDER.

H.R. 3408: Mr. SEIBERLING, Mr. GEJDENSON, Mr. CONTE, Mr. SHAW, Mr. DURBIN, Mr. DELLUMS, Mr. OWENS, Mr. MILLER of California, Mr. SCHEUER, Mr. GARCIA, Mr. DONNELLY, Mr. PURSELL, and Mr. PANETTA.

H.R. 3427: Mr. RAHALL, Mr. CALLAHAN, Mr. TORRICELLI, Mr. BONER of Tennessee, Mr. OBERSTAR, Mr. QUILLEN, Mr. PERKINS, Ms. MIKULSKI, Mr. ROE, Mr. COELHO, Mr. MCEWEN, Mr. YOUNG of Missouri, Mr. BEVILL, Mr. NICHOLS, Mr. TAUZIN, and Mr. CARNEY.

H.R. 3465: Mr. ST GERMAIN, Mr. MCDADE, Mr. GOODLING, Mr. VENTO, Mr. MARTIN of New York, Mr. BONER of Tennessee, Ms. OAKAR, Mr. STRATTON, Mr. FEIGHAN, Mr. WYDEN, Mr. TRAXLER, Mr. OWENS, and Mr. SMITH of Florida.

H.R. 3469: Mr. MORRISON of Connecticut, Mr. BOSCO, Mr. DYMALLY, Mr. COELHO, Mr. MATSUI, Mr. BROYHILL, Mr. MILLER of California, Mr. LEVINE of California, Ms. OAKAR, Mr. MARTINEZ, Mr. PANETTA, Mr. LEHMAN of Florida, Mr. THOMAS of Georgia, and Mr. LANTOS.

H.R. 3470: Mr. MCDADE, Mr. MCCOLLUM, Mr. FOGLIETTA, Mr. SIKORSKI, and Mr. SPRATT.

H.R. 3472: Mr. GEKAS.

H.R. 3521: Mr. LUKEN.

H.R. 3562: Mr. EDWARDS of Oklahoma.

H.R. 3593: Mr. COBEY.

H.R. 3599: Mr. ARMEY, Mr. BADHAM, Mr. BRYANT, Mr. DEWINE, Mr. DOWDY of Mississippi, Mr. DWYER of New Jersey, Mr. EDGAR, Mr. GALLO, Mr. GARCIA, Mr. GINGRICH, Mr. LEHMAN of Florida, Mr. MCCAIN, Ms. MIKULSKI, Mr. MOLINARI, Mr. PARRIS, Mr. ROBINSON, and Mrs. VUCANOVICH.

H.R. 3626: Mrs. JOHNSON.

H.R. 3660: Mr. DORGAN of North Dakota and Mr. PENNY.

H.R. 3723: Mr. LUKEN.

H.R. 3733: Mr. KOLTER and Mr. LEVINE of California.

H.R. 3739: Mr. DASCHLE.

H.R. 3760: Mr. TRAFICANT and Mr. GINGRICH.

H.R. 3767: Mr. GUNDERSON and Mr. SHARP.

H.R. 3785: Mr. WEBER, Mrs. BENTLEY, and Mr. ROE.

H.R. 3802: Mr. WEBER, Mrs. BENTLEY, and Mr. ROE.

H.R. 3814: Mr. HEFTEL of Hawaii, Mr. LUNDINE, Mr. GREEN, and Mr. GILMAN.

H.R. 3842: Mr. RODINO, Mr. RINALDO, Mr. SHUMWAY, Mrs. BURTON of California, Mr. YATRON, and Mrs. HOLT.

H.R. 3894: Mr. TORRES, Mr. FRANK, Mr. FAUNTROY, Mr. DELLUMS, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. RODINO, Mr. BEREUTER, and Mr. STARK.

H.R. 3906: Mr. MRAZEK.

H.R. 3950: Mr. MORRISON of Connecticut.

H.R. 3952: Mr. DE LA GARZA and Mr. WILSON.

H.R. 3958: Mr. BATES, Mr. HUNTER, and Mr. LOWERY of California.

H.J. Res. 88: Mr. LAFALCE.

H.J. Res. 315: Mr. MCKERNAN, Mrs. BOXER, Mr. RUDD, Mr. FRENZEL, Mr. BIAGGI, Mr. MONTGOMERY, Mr. ANDERSON, Mr. DIXON, Mr. HORTON, Mr. DONNELLY, Mr. ERDREICH, Mrs. BENTLEY, Mr. DYSON, Mr. GONZALEZ, Mr. SUNIA, and Mr. GUARINI.

H.J. Res. 332: Mr. MOORHEAD, Mr. MOORE, Mr. MRAZEK, Mr. MURPHY, Mr. MURTHA, Mr. ORTIZ, Mr. NICHOLS, Mr. MANTON, Mr. SCHUMER, Mr. WYLIE, Mr. MORRISON of Connecticut, Mr. DE LA GARZA, Mr. TORRICELLI, Mr. VANDER JAGT, Mr. WOLPE, Mr. AKAKA, Mr. VENTO, Mr. LIVINGSTON, and Mr. GONZALEZ.

H.J. Res. 336: Mr. STRATTON.

H.J. Res. 341: Mr. BOSCO, Mr. BATES, Mr. COELHO, Mr. SHUMWAY, Mrs. BOXER, Mr. MARTINEZ, Mr. PANETTA, Mr. FAZIO, and Mr. ANDERSON.

H.J. Res. 345: Mr. WALGREN, Mr. PANETTA, Mr. WHITLEY, Mr. GEPHARDT, Mr. DURBIN, Mr. HALL of Ohio, Mr. SMITH of Florida, Mr. LOWRY of Washington, Mr. BUSTAMANTE, Mr. GILMAN, Mr. ORTIZ, Mr. STAGGERS, Mr. DELLUMS, Mr. HAMMERSCHMIDT, Mr. TAYLOR, Ms. OAKAR, Mrs. BOGGS, Mr. DE LA GARZA, Mr. LIPINSKI, Mrs. LLOYD, Mr. SIKORSKI, Mr. FOLEY, Mr. NEAL, Mr. BONIOR of Michigan, Mr. CHAPPELL, Mr. YATRON, and Mr. SAVAGE.

H.J. Res. 364: Mr. PURSELL.

H.J. Res. 421: Mr. FISH, Mr. PACKARD, and Mr. BADHAM.

H.J. Res. 439: Mr. PEPPER, Mr. HUBBARD, Mr. MURPHY, Mr. BRUCE, Mr. FASCELL, Mr. SHUMWAY, Mr. ROSE, Mr. BREAUX, and Mr. HAYES.

H.J. Res. 462: Mr. SOLARZ, Mr. MANTON, Mr. SAVAGE, Mr. MRAZEK, Mr. ORTIZ, Mr. ADDABBO, Mr. MOORHEAD, Mr. MOAKLEY, Mr. SCHUMER, Mr. ROSE, Mr. LUNDINE, Mr. MORRISON of Connecticut, Mr. BONIOR of Michigan, Mrs. KENNELLY, and Mrs. COLLINS.

H.J. Res. 468: Mr. KLECZKA, Mr. THOMAS of Georgia, Mr. FOWLER, Mr. GINGRICH, Mr. BARNARD, Mr. JENKINS, Mr. BROYHILL, and Mr. DUNCAN.

H.J. Res. 470: Mr. DWYER of New Jersey, Mr. ROE, Mr. MORRISON of Connecticut, Mr. FUSTER, Mr. BEVILL, Mr. BARNES, Mr. VENTO, Mr. YOUNG of Missouri, Mr. BERMAN, and Mr. BROWN of California.

H. Con. Res. 15: Mr. BERMAN.

H. Con. Res. 24: Mr. EDGAR.

H. Con. Res. 156: Mr. WEISS, Mr. LUNGREN, Mr. EMERSON, Mr. LEVIN of Michigan, Mr. DIOGUARDI, Mr. BEREUTER, Mr. REID, Mr. LEVINE of California, Mr. HUGHES, and Mr. GINGRICH.

H. Res. 165: Mr. BUSTAMANTE, Mrs. LLOYD, and Mr. PURSELL.

H. Res. 346: Mrs. BURTON of California, Mr. ANNUNZIO, Mr. RINALDO, Mr. SMITH of Florida, Mr. BLILEY, Mr. FORD of Michigan, Mr. WILSON, Mr. SABO, Mr. ERDREICH, Mr. DIOGUARDI, Mr. SCHUMER, Mr. LAGOMARSINO, Mr. DE LUGO, Mr. MATSUI, Mr. PARRIS, Mr. FAUNTROY, and Mr. GILMAN.

H. Res. 347: Mrs. BENTLEY, Mr. SENSENBRENNER, Mr. LAGOMARSINO, Mr. JEFFORDS, and Mr. PARRIS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2451: Mr. SHAW.

SENATE—*Thursday, December 19, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we rejoice with Alan Frumin, our assistant parliamentarian, and his wife, Jill, on the birth of their little daughter last night.

Eternal Father, we have been here too long. There is a limit to what mind and body and emotion can bear—a point beyond which issues become unclear, thinking ambivalent, decision equivocal. You know, Lord, how the leadership has been tested, Members pressed and the conferees exhausted. Renew them for this day's business that what is necessary may be done and they may go home to their families.

Gracious God, family holiday plans have been hostage to tentative and uncertain agendas. Spouses and children have a right to the time and attention of the Senators. Mitigate the disappointments suffered and crown with extraordinary pleasure family togetherness in this holiday period. Protect those who travel that they may go and come in safety that these next weeks will be filled with reconciliation and love and the realization of some family dreams. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, I share the views expressed by the Chaplain. We have been here too long but we may be here a while longer, hopefully not beyond today. We still have the continuing resolution and reconciliation. Then there will be some extensions on some of the expiring provisions that we will have to act upon. I do not think we will act on the big list that the House shipped over last night. Most of those can be done next year without any impact on anyone.

Mr. President, I suggest that at 11:30 we could either agree or not agree on what we might take up today by unanimous consent. I would like to take up the Angola resolution, but I understand it will be objected to. In any event, I am going to make the unanimous-consent request at 11:30.

There are nominations on the Executive Calendar. The Senator from Georgia, Senator MATTINGLY, would like to discuss that. On Mr. Scanlon, I would hope we could confirm his nomination today.

There are some of these matters that I thought we might as well bring up early. If they are not going to happen, they are not going to happen, so we can forget about that the remainder of the day and devote our time to matters such as the continuing resolution and reconciliation.

Senator DANFORTH would like to move ahead on the telecommunications.

(Mr. SYMMS assumed the chair.)

Mr. HOLLINGS. Mr. President, will the majority leader yield at this point?

Mr. DOLE. I know you are going to object to that, but we will do that at 11:30.

Mr. HOLLINGS. I am not going to object, but I have another little amendment on textiles.

Mr. DOLE. We have already done that once.

On low-level nuclear waste, as I understand, the principals are in agreement but Senator BOREN has now changed his mind on what he previously agreed to as far as campaign financing is concerned. He may want to object to the consideration of those matters.

Mr. President, I think it should be noted that yesterday I received a letter from Kansas Gov. John Carlin, the immediate past chairman of the National Governors' Association, asking, on behalf of all the States, that the Low-Level Waste Policy Act amendments and the regional compacts be adopted this session. I ask unanimous consent that the letter be printed in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
December 18, 1985.

Hon. ROBERT J. DOLE,
Senate Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing to you as the Governor of Kansas and the immediate past chairman of the National Governors' Association to urge Congress to pass the Low Level Waste Policy Amendments Act and the regional compacts before the close of business this session. I cannot overemphasize the importance which states attach to this measure. Positive action by Congress will avoid a potential low level waste disposal crisis in January and will permit the states to continue to develop new low level waste disposal facilities.

In 1980, with the support of the states, Congress passed the Low Level Waste Policy Act. Since then, forty states have adopted compact legislation, and seven compacts are pending before Congress. Anticipating the need for a transition period to allow for the construction of new facilities, states have for the past three years negotiated with generators, federal agencies, environmentalists and congressional staff to create legislation which balances the interests of sited and unsited regions and which contains a series of tough but achievable milestones designed to provide regional disposal self-sufficiency by 1993.

These goals are embodied in the legislation reported out by the Senate Environment Committee, S. 1578, as well as in H.R. 1083, the legislation adopted on December 9 by the House of Representatives by a vote of 378–0.

States are uniformly supportive of the major elements of these bills. This is evidenced by the policy adopted unanimously by NGA last summer and the numerous letters signed subsequently by individual Governors representing states of various regions and political affiliations. We anticipate that if a Senate vote can be scheduled, a margin of approval similar to that in the House will result. States are proud of their achievements to date. Five years ago, they voluntarily shouldered a difficult national environmental problem and established an institutional framework for resolving it. The legislation currently before Congress will allow us to complete this task.

On behalf of all states, I ask that the Low Level Waste Policy Act Amendments be adopted this session.

Sincerely,

GOV. JOHN CARLIN.

Mr. DOLE. Mr. President, I thought it best to do it all at 11:30 because Members have other things to do. We can sort of settle that then.

Mr. MOYNIHAN. Will the majority leader yield for a question in the way of a statement?

Mr. DOLE. Yes.

Mr. MOYNIHAN. I was talking to our eminent President pro tempore yesterday and asked him to speak to our friend the distinguished Senator from Idaho, who happens to be in the chair at the moment, about his willingness to let certain legislation come forward. The Senator explained that he could not do it. Could the distinguished majority leader give us some hope that we might get to this matter early in the coming year?

Mr. DOLE. Mr. President, I support the legislation the Senator is referring to. My own view is that it should have

been done by unanimous consent. The tax amendment obviously would be blue-slipped. But, yes, we will take it up early next year.

Mr. MOYNIHAN. I thank the Senator.

Mr. DOLE. Mr. President, I want to yield 5 minutes of my leader time to the Senator from Wyoming, Senator WALLOP.

Mr. METZENBAUM. Mr. President, before the Senator does that, if he will yield for another question, it is my understanding he has mentioned several measures that he might bring up. I wonder whether the leader, in view of past commitments and the record made by this Congress last year, would make an effort to move the Genocide Treaty which we have been talking about but have never agreed to bring up.

Mr. DOLE. I support the convention. I want to bring it up. We went through an exercise about 10 days ago with a number of items, including Conrail which the Senator from Ohio objected to taking up, as did others.

Mr. METZENBAUM. I never had a chance to get to it, there were so many objections.

Mr. DOLE. There was a small crowd—four.

In any event, I would not be opposed to that, but I know what will happen.

I hope this is our last day. I do not really believe we are going to get into anything that is going to take a lot of time.

Mr. METZENBAUM. Let me ask one other question. This body and the House have made it unequivocally clear that we are in favor of terminating the actions of the Synthetic Fuels Corporation.

In the continuing resolution, we provided that the Synthetic Fuels Corporation could take no action until 12 o'clock meridian time. I do not know whether that is 12 o'clock noon or 12 o'clock midnight.

I have just been informed that the White House has indicated that there will be a press conference at noon at which they will indicate that they are prepared to direct the Synthetic Fuels Corporation to expend $684 million which, in turn, picks up another $300 million, which will be almost $1 billion, notwithstanding the overwhelming indication by Congress that we do not believe any further expenditures should be made.

I know $1 billion is not much money around here. It gets to be that way, as Everett Dirsken said. But the fact is, would the leader be willing to consider our passing a resolution before 12 o'clock noon extending the bar on that expenditure of funds which we did in the continuing resolution until such time as the full continuing resolution is enacted into law?

As the Senator well knows, the full continuing resolution does have that bar in it. The short continuing resolution does have that bar in it. What the White House is doing is being a party to finding a window for two projects on the basis that the parties have invested so much of their own funds. In one of them, they invested less than $20 million, in the other they have invested a substantial amount. I think congressional will should not be thwarted and I believe that Congress should keep this from occurring during this so-called window.

Mr. DOLE. I shall be happy to consult with the chairman of the Committee on Apprpriations. Again, I doubt that if we had one drafted, it could be passed by noon. I assume there would be people on the other side who would like to be heard on this resolution.

Mr. METZENBAUM. Mr. President, we will——

Mr. DOLE. I am opposed to synthetic fuels, voted against it. I know several have some genuine concern about a couple of projects. I was not a party to those negotiations.

Mr. METZENBAUM. I appreciate that, Mr. President. If there were a resolution passed here, I think the House would pass it immediately thereafter. The House has indicated by tremendous votes, like 312 to 30, their strong feeling on the subject. I would consult with them. I just learned about it but I want at least to advise the leader that I might try to bring something of that kind to the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

THANKS TO THOSE WHO MAKE THE SENATE RUN

Mr. BYRD. Mr. President, as the first session of the 99th Congress comes to a close, I take this moment to express my appreciation, and I think the appreciation of all Members on our side of the aisle, to the many able and dedicated staff members who make such an important contribution to the work of the Senate.

I begin by expressing my appreciation to the Senate Democratic floor staff—Abby Saffold, Charles Kinney, and Marty Paone—who are well known to every Member of this body. Theirs are among the most demanding and difficult jobs in the Senate. Yet, they discharge their responsibilities with unfailing courtesy, patience, and good humor.

I also thank Elizabeth Baldwin, who directs scheduling for the majority party. She is as dedicated and careful with respect to detail as is the Democratic floor staff. She, likewise, is extremely competent and understands the needs of the Members on her side of the aisle. She treats the Members on our side with equal courtesy.

I compliment David Pratt, the secretary to the minority, and his fine assistants—Dianne Davies, Sue Spatz, and Betty Lou Sisson. David performs his many duties with distinction and ability. I am sure that all of my colleagues join me in expressing our thanks to him for the many services he has rendered to the Democratic conference and to the Senate.

I also express appreciation for the fine work of Patrick Hynes, deputy secretary to the minority, and the young men in the Democratic cloakroom—Robert Bean, William Norton, and Joseph Hart. The Senate is a better place for their unstinting and capable efforts in our behalf.

The pages are fine young people and they do everything they can do to assist Members in the operation and actions of the Senate. We appreciate their services.

I compliment and thank Ms. Jo-Anne Coe, the Secretary of the Senate, and her staff. Hers is a demanding job, but she carries it out ably.

I commend the work of Howard Greene, secretary to the majority; John Tuck, assistant secretary; and Rod Dearment, chief of staff, and Sheila Burke, deputy chief of staff, for the majority leader, all of whom perform their duties so capably.

I thank my good friend Dr. Halverson, the Senate Chaplain, for his unfailing support, kindness, and good spirit.

I am grateful to Ernest Garcia, Sergeant At Arms, whose office so ably assists us all, and to Jeanine Drysdale-Lowe, executive assistant to the Sergeant At Arms, who represents the minority in that office. The Sergeant's Office provides for the security which is, regrettably, continually a greater necessity in this dangerous world. I want to especially thank Jeanine who looks out for the interests of the Members on this side of the aisle so ably and so loyally.

I reserve a special word of commendation and appreciation for the excellent work of my executive director in the Democratic leader's office, Mrs. Barbara Videnieks. She works closely with me, with the policy staff, and with my State office staff every day, and has demonstrated outstanding ability and dedication. She is ably assisted by Patty Kirschner, Gigi Deslongchamps, and Becki Roberts.

I express my appreciation for the work of Scott Bunton, staff director of the Democratic policy committee in the Senate. I thank, also, his capable assistants, Jerri Davis and Alice Aughtry. Through their competence and dedication, they make a major

contribution to the smooth running of the Democratic policy committee.

I thank Dick D'Amato, deputy director of the policy committee for defense and foreign policy, and Tom Sliter, deputy director for domestic policy, as well as the outstanding issues staff in their offices who have given unstintingly of themselves to the work of this body.

Linda Peek is the very capable director of communications on the policy staff. Linda's daily assistance to me and other Democratic Senators in conducting our relations with the news media is deeply appreciated, as are the efforts of her fine staff.

One of the most important tasks of the policy committee is to keep the Members on our side of the aisle supplied with information on the Senate's work through our legislative bulletins, special reports, vote compilations, and other committee publications. The staff members who perform this vital and demanding task, which they do excellently and diligently, are ably led by the committee's chief clerk, Elizabeth Shotwell.

My representative on the Judiciary Committee staff, Mike Epstein, works closely with me and with the policy committee staff. I value his able counsel.

I would be remiss if I did not thank the Senate Parliamentarian Bob Dove, and his assistants, Alan Frumin and Gail Cowper. Bob's knowledge and expertise—and that of his staff—and the assistance they offer to Senators and their staffs in dealing with the complex rules and precedents of the Senate are much appreciated.

I compliment the work of the official reporters of debates—Mr. Russell Walker, the editor in chief, and Mrs. Jeanie Bowles, the assistant editor, and their fine staff. Their highly specialized work helps keep the Senate running. They often work late into the night, long after the Senate has gone home, preparing the CONGRESSIONAL RECORD for printing. I thank all the official reporters of debates for their dedication and patience: William Mohr, Charles Reynolds, Frances Garro, Frank Smonskey, Ronald Kavulick, Jerald Linnell, and Raleigh Milton. I also thank the assistants to the official reporters, Mark Lacovara and Scott Sanborn.

I commend all the members of the Secretary of the Senate's staff and office and those who work at the desk—William Farmer, legislative clerk; Scott Bates, assistant legislative clerk; Vincent Del Balzo, bill clerk; Jim Thorndike, journal clerk; and William Lackey, assistant journal clerk. They are all extremely helpful and cooperative.

There are many hundreds of other people who help make the Senate run. I thank the many others whose efforts all too often go unsung: There is our Capitol physician, Dr. Cary, and his staff; the many members of the staffs of the Secretary of the Senate and the Sergeant At Arms; the doormen; the Capitol Police; the restaurant workers; the maintenance staff; the staff of the Senate reception room, and all the many, many others who contribute to the work of the Senate.

I also thank those in the Senate press galleries who follow our efforts and help to keep us accountable to our constituents.

I thank all of these fine people for their tireless efforts in our behalf and in behalf of the Nation.

Mr. President, I know that I cannot mention every person by name. But in closing, I express the hope that all who have a part in this great forum and its operation will have a restful and enjoyable holiday, and can enjoy the opportunity to prepare and be ready for the coming year, which undoubtedly will be as strenuous for Members and staff alike as this one has been.

THE ANGOLA RESOLUTION

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, apparently, we will not even see an expression of support for Jonas Savimbi's brave fight, even through a sense of the Senate resolution.

Mr. President, the sense of the Senate resolution on Angola provided aid only to those who put real aid for Jonas Savimbi further down their list of priorities than the convenience of the Senate. While I welcomed Senate consideration of the resolution, no resolution can be used to excuse Senate failure to take concrete steps to assist the democratic freedom fighters of Angola. Their needs are arms, not words.

Those here who have been unwilling to face the truth of what has been happening in Angola and to take meaningful steps to defend United States interests there cannot and should not leave these Chambers with a clear conscience. I hope it is clear to the American people that a resolution is only words, not action, and what Savimbi and his men face are actions—brutal actions, not words. And we cannot even have that.

Mr. President, the urgency of the crisis in Angola is of such seriousness and proportions that no resolution, no matter how strong, can substitute for action. The stark truth is that the Soviet Union and its Marxist allies—Cuba, Mozambique, and North Korea—are assisting pro-Soviet groups in Angola, Zimbabwe, Ethiopia, Madagascar, Namibia, and Tanzania to try to turn Africa into a continent totally dominated by and controlled through Soviet power. This is absolutely consistent with Gorbachev's published ideology that there can be only one winner in the struggle between the West and the Marxist systems and that the Marxists will prevail.

In the case of Africa today, however, he seems also to subscribe to the theory that might makes right and that power will win because the West totally lacks the courage, the will, the foresight or the determination to draw the line or to take any action whatsoever in this Angolan crisis and the Senate epitomizes that.

Here, while we debate even whether or not to have resolutions that are not promises, the Soviets are on the march in southern Africa to advance their foreign policy goal of taking charge of Africa militarily as well as politically and psychologically. The Soviet Union wants military bases on the African continent to use as platforms for its armies, navies, and intelligence services for deployment in Africa, Central America, and the international sealanes of the South Atlantic and the Indian Ocean.

The U.S.S.R. will then use these bases, not only against Africans, but also against the strategic and political interests of the entire free world. World domination is the name of this incredible and dangerous game—but we dawdle with parliamentary feats of conscience-salving.

Mark my words that the purpose of the Soviet Union in Angola today is one thing and one thing alone. That is to moot the issue in advance of the coming summit next year. We were unable to get Gorbachev's attention on this matter during the summit, he having successfully focused our and the world's eyes on arms control.

How can we and our allies in the West be fooled into thinking otherwise? Our inaction, inattention and short-sightedness is counted upon by the Soviet policy planners. They think that all we care about is racial problems in Africa and that we cannot think of that continent in the global-strategic terms they do. And, unfortunately, they may have assessed many democratic nations correctly.

The Soviet Union has been preparing its Africa offensive carefully and deliberately for some time. These efforts have intensified since last fall at the very time when the U.S.S.R. was lulling the west into a false and foolhardy sense of security by concentrating our attention on the Geneva summit. At that meeting, as well as during the elaborate preparations for it, the Kremlin skillfully manipulated the agenda to focus on arms control, something they know the West wants. They artfully dodged the tough regional questions at the summit, which remained, as they wished, on the margins of that meeting. They know the old truism that American governments can focus on only a few front-page

issues at a time. And now mark my words, by the time of the next summit, they intend to have the point moot by full control over Angola.

Mr. President, I must ask why the vast foreign and national security policy establishments of the United States and its allies can be so blind to the advancement of Soviet military power in Africa? Why have our policy planners not thought through the strategic consequences for Africans and for the interests of the West of Soviet domination of that part of the world? Why have Mr. Crocker and the African specialists in the White House, National Security Council, State Department, Pentagon, and at NATO not looked at where Africa is headed and made plans to protect our interests there? Have we learned nothing at all from our experiences in confronting Soviet power from Berlin to Afghanistan?

We know that the Soviet Union has systematically wooed, trained, or indoctrinated the military leaders of numbers of African states. These military leaders are traveling to Moscow on a virtual commuter basis. But worse, the Soviets have now sent hundreds of highly trained specialists to command the military units fighting in Angola against Dr. Jonas Savimbi and his UNITA forces. The level of sophistication of the current Soviet-Cuban offensive in Angola testifies to the statement made on November 8, 1985, in the Soviet military publication, Krasnya Zvezda as follows:

> The Soviet Union, Cuba, and other socialist countries, loyal to their international duty, are rendering Angola assistance in strengthening its national army and defending the sovereignty and territorial integrity of the country.

By the destruction of UNITA in Angola, the Soviets plan to gain access to naval and air bases in expected theaters of military operations. They are building up air defense weapons systems there and advanced C31 capabilities. Their radars and SAMS are better there than anything the Republic of South Africa has. There has been a massive Soviet airlift from the U.S.S.R. to Angola to support the Marxist MPLA. Soviet AN-22 transports, usually employed only within the U.S.S.R., have been sent to Angola.

This buildup suggests that the Soviet Union and Cuba fully intend to wipe out UNITA, the only democratic resistance force in Angola, as a prelude to enhancing their ability to conduct strategic military operations in the South Atlantic and the Indian Ocean. Meanwhile, back at the ranch, the Senate shrinks from resolve and the State Department negotiates without tools and, worse yet, without goals.

The Soviets have used Cubans in the Angola situation to divert the West from seeing through the heart of Soviet intentions there. The Cubans are Soviet proxies and are fighting their proxy war in southern Africa. From a global-strategic standpoint, this presents a serious challenge to United States and Western interests in the world and to our ability to defend those interests on the African continent and in important international sea lanes. I must note, Mr. President, my extreme disappointment at United States inaction in the Angola crisis. When we all seem to agree, as we have by Senate consideration of this Angola resolution, that the situation demands our support of UNITA, why are we unable to supply anything but words to Dr. Savimbi and his brave UNITA forces?

Mr. President, we should not go home for the Christmas holidays with any sense of comfort that we have done our best to prevent the advancement of Soviet power in southern Africa. We must know from past history that the Soviets and their proxies often mount offensives to advance their power at Christmastime, when they know we will be distracted by other things. Remember, they marched into Afghanistan right at Christmas 6 years ago, counting upon the inability of the West to react. They murdered our Ambassador while we caroled.

If the Senate of the United States continues its inaction in the Angola crisis into January and February, we will have betrayed Jonas Savimbi, UNITA, and the interests of the free world in Africa. I understand that at this very moment, the fighting in Angola is intensifying and many are dying. News from the 30 military region says that MPLA units have killed 17 UNITA forces and captured their ammunition. In light of this, it is the ultimate sophistry for us to go home to our Christmas dinners without even having considered the Angola resolution and feel comfortable for having done something. May we at least have the decency to view this as a commitment to action and not just a trip to the confessional.

I ask unanimous consent that an article for the forthcoming policy review by Jonas Savimbi, entitled "The War Against Soviet Colonialism—The Strategy and Tactics of Anti-Communist Resistance," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WAR AGAINST SOVIET COLONIALISM—THE STRATEGY AND TACTICS OF ANTI-COMMUNIST RESISTANCE

(By Jonas Savimbi)

The age of European imperialism ended in 1975, when a military coup in Portugal led to independence for Angola, Mozambique, and Guinea-Bissau. Portugal had been the last European power to maintain sizeable colonies overseas. Now that it was relinquishing its empire, the struggles for national liberation that swept Africa and Asia during the 1950s and 1960s finally appeared to be over. The former British, French, Dutch, Belgian, Italian, and Portuguese colonies could now develop themselves free of imperial exploitation. The people of Asia, Africa, and Latin America could live at peace, for the anit-colonial guerrilla wars had at long last been won.

But this dream of peace and national self-determination could not yet be achieved. In country after country, struggles for national liberation were betrayed and hijacked, and new nations found themselves once again the victims of colonialism. The time they were assaulted by a new imperial power: the Soviet Union, acting directly or through its first overseas colony, Cuba. And so the nationalist struggles had to begin anew. People tired of years of war and sacrifice were once again turned into soldiers; their nations became battlefields once more.

For eight years, the independence movement that I founded and lead, UNITA (the National Union for the Total Independence of Angola), fought against Portuguese colonial rule. We expected to win the free elections that had been promised by the Portuguese in 1975, for we had strength in all Angola's tribes as well as overwhelming support among the Ovimbundu tribe, which accounts for 40 percent of the nation's population. By contrast, the other non-Communist independence group, the F.N.L.A. (Angolan National Liberations Front), was supported exclusively by the Bakongo people of northern Angola. And the Moscow-controlled M.P.L.A. (Popular Liberation Movement of Angola) was supported only by urban leftists and portion of the Mbundu people living near the capital city of Luanda.

But suddenly in 1975, Luanda was seized by the Soviet-controlled M.P.L.A. and hundreds and then thousands of Cuban troops. Elections were called off, and Angola was recolonized. Today our land is occupied by 45,000 Cuban troops and colonial bureaucrats (at least 17,000 of whom have taken Angolan citizenship), as well as by thousands of East Germans, Poles, Czechs, and North Koreans. The Soviets have sent $2.5 billion in arms to maintain their imperialist rule.

And so for 10 years more, UNITA has had to continue its guerrilla war—this time against the Cubans and Soviets who have replaced the Portuguese as the foreign rulers and exploiters of our people and land. Today the peoples of Afghanistan, Cambodia, Laos, Nicaragua, Ethiopia, and Mozambique are also waging wars of liberation against foreign troops and foreign secret police and the imposition of a foreign ideology on their nation. They are resisting tyrannical regimes that are kept in power only by the imperialist military force of the Soviet bloc.

This is a historic reversal of roles. For many decades, Communism was identified with nationalism in the Third World, and many Communist parties came to power playing on the nationalist sentiments of the people. But the experience of countries ranging from Afghanistan to Laos to Angola to Nicaragua shows clearly that Marxist-Leninist regimes have no respect for the traditions of a people or for the tribal customs and languages that strengthen a sense of community and of continuity with the past. True nationalists around the world are therefore rejecting the Marxist-Leninist path and taking up arms against regimes that impose this failed ideology.

The spread of anti-Communist revolutions is a historic reversal in yet another sense. Until recently, the language of revolution was written entirely by Communists. From Mao to Che Guevara to General Giap, the greatest theoreticians, practitioners, martyrs, and heroes of revolution were Communists. They wrote the texts and histories; they produced the weapons of guerrilla war. It was to the Soviet Union, China, and Cuba that would-be guerrillas turned for money, arms, training, and political support.

I know, because I received my revolutionary education in China. In 1965, as I was preparing to found UNITA, I met Hua Hua, the Chinese ambassador to Nasser's Egypt. He invited me to Peking, where I met Mao Tse-tung and the other military and political leaders of the Chinese revolution. They advised me to return with 12 recruits, and late in 1965 we began a nine-month course in guerrilla warfare.

From Mao and the Communists, I learned how to fight and win a guerrilla war. I also learned how not to run an economy or a nation. Collectivist agriculture does not work. Peasants must be able to own their own land, their own houses, and their own cattle. People must be free to practice their religions, and observe their tribal traditions.

LESSONS FROM CHAIRMAN MAO

Today we who fight for these freedoms are using the strategy and tactics of guerrilla warfare developed by the Communists. But we are using Communist military and propaganda principles in order to defeat the Soviets and their political ideology. UNITA is now in the third phase of Mao Tse-tung's classic description of a successful guerrilla war: we are waging widespread guerrilla conflict throughout our country. Our forces control one-third of the territory of Angola, and protect under our political influence some 60 percent of the 7 million Angolan people. Soon we shall liberate all Angola and bring peace, freedom, and true independence to all the Angolan people. We are achieving victory by following the five central principles of guerrilla warfare.

The first principle comes from Mao: a guerrilla must be one with the people. It is more important to win the support of the people in the countryside than to take and hold cities. In Angola, as in China, the great mass of the people are peasants living in small villages. Our first goal had to be to win their allegiance and confidence. Without the support of the people, our roads would be mined with informers. With it, we have an intelligence network alerting us to enemy troop movements out of the cities, and we do not need to carry all our food and supplies with us—critical to a guerrilla movement that has to travel thousands of kilometers by foot and possesses neither trucks nor access to rail travel.

When the people come to trust and support a guerrilla movement, they willingly share what they can. The guerrilla must therefore have strict discipline. To take food from villagers, to steal their land, to mistreat the people is to poison the waters in which the guerrilla army must swim. It is treason to the movement and is punished as such.

To gain the trust and support of the people, it is also important to establish schools and hospitals throughout liberated territory—if possible, even in areas where guerrillas operate but do not control. Today UNITA administers 6,951 primary schools with 7,127 teachers and 224,811 students. We run nine secondary schools with 80 teachers and 1,860 students. Though the main hospital in Jamba, our provisional capital, has only three doctors, the French medical group Medecins sans Frontieres has sent doctors and nurses to Angola to train our people and help administer inoculation programs. Every battalion has men assigned to treat and evacuate our wounded.

The second key to the success of a revolutionary movement is a clear political program. Soldiers cannot fight and the civilian population cannot endure the hardships of war unless the political program meets their daily concerns and is understood. We have political officers in every guerrilla unit and every village. The political program of UNITA is simple and clear. We fight for an independent Angola, free of all foreign troops. We believe that peasants, not the state, should own farm land. We favor democratic elections, freedom of religion, and respect for tribal customs and languages. We broadcast daily from a mobile radio station in Portuguese and local languages so that all Angolans know why we fight and what our goals are. The United States lost its war in Vietnam when the American people no longer understood why their sons were dying. No revolution or war can succeed unless the soldiers and their families know why they are fighting.

Unity is a third vital point in the success of any guerrilla movement. Guerrillas can only win if their military and political and propaganda efforts are all working in the same direction. Fidel Castro makes unity of command a precondition for Cuban support of guerrilla movements. We saw this in his insistence on a popular front in the struggle against Somoza in Nicaragua. Castro also insisted on unity among the guerrillas in El Salvador, withholding arms and even engineering a "suicide" or two to force the guerrillas to come together under a common command. Some anti-Communist freedom fighters have unfortunately hurt their effectiveness by a lack of coordination between guerrilla forces.

Fourth, it is essential that the guerrilla base of operations be within the territory of your own nation. This is to ensure self-reliance, as well as closeness to your own people. Another Angolan guerrilla group, the F.N.L.A., was based in Zaire, and lost its base of operations when Zaire established relations with the M.P.L.A. UNITA had bases briefly in Zambia, but we were expelled after we sabotaged the Benguela railroad through occupied Angola, over which Zambian copper is exported. Never again will we rely on bases on foreign soil.

The Afghan freedom fighters are constantly threatened with losing their bases in Pakistan should Soviet pressure on President Zia increase. The Nicaraguan resistance will face similar problems, should Costa Rica or Honduras be pressured sufficiently by the Sandinistas or the Cubans or the Soviets. By contrast, a base within Angola—we now control a third of the land—allows our guerrillas a safe haven to rest. It gives us a place to train new recruits and it provides safety for the families of our fighters. UNITA was able to survive and grow, even during years without international support, because we were self-reliant. We could grow our own food, repair weapons we captured, and strengthen our ties with the people.

The fifth challenge is to establish international political ties—to find allies who will give military, political, and propaganda support. Too often the West thinks only in terms of military support. But political support and international propaganda are just as important, as I learned from General Giap of North Vietnam when I met him in China. He said that the world must know why a guerrilla movement is fighting. A revolutionary movement's supporters around the world must know its successes.

The world must not be fooled into thinking that the M.P.L.A. truly represents the Angolan people or that it has control of the nation. That is why UNITA has representatives in Washington, London, Paris, Munich, Geneva, Portugal, Morocco, and Senegal. It is why we regularly invite members of the international press to come to our capital to see our successes, and to interview our prisoners so they may know about the demoralization of the Cubans and the M.P.L.A. Some reporters have travelled with our guerrilla forces and can report to the world the truth of our claims to travel freely throughout Angola, enjoying popular support and winning victories against the supposedly invincible Cuban forces.

At first it was difficult to get the world's attention. Anti-Soviet resistance movement were supposed to be doomed. The West has not yet learned that truly nationalistic movements can use the guerrilla tactics of Mao and Fidel Castro successfully against the Soviets. Some of our first propaganda victories came when we captured Western technicians who worked in the diamond mines on behalf of the Cubans and the M.P.L.A. Finally the West was forced to realize that UNITA was not limited, as is so often said, to the southeast corner of Angola. Governments that refused to recognize us had to come and negotiate for the release of their nationals. And prisoners who were treated well and safely transported thousands of kilometers to our base camps could report to the world that we were not bandits and that we moved freely through most of Angola. Now it is unnecessary to prove these points and we do not take Westerners when we overrun mines and power stations. But we try to warn Westerners that the Cubans and M.P.L.A. cannot guarantee their safety, and we ask them to stay out of all Angola, for it is a war zone.

GUERRILLA STRATEGY

The goals of UNITA are clear and open for the world to see. We will drive the Cubans and Soviets and Eastern-bloc personnel from Angola. We will work with all patriotic Angolans to establish an independent, democratic, and free Angola. We reject foreign ideologies that presuppose masses of industrial workers and men without souls.

Our strategy is to raise the costs of the foreign occupation of Angola until the Cubans and Soviets can no longer bear the burden. A combination of rising military, financial, and political costs will finally drive the imperialist forces from our shores. The French gave independence to Haiti, the first black republic, when Napoleon could no longer afford the financial costs of keeping the country enslaved. He had other uses for those resources. The United States won its revolution when the cost in lives and materiel led to divisions among the British about whether to continue the war. Similarly, America left Vietnam as the result of rising political costs at home. America was never defeated on the battlefield in Vietnam; in fact, the North Vietnamese strategist, General Giap, told me he never expected to defeat the American in battle. The guerrilla does not have to win decisively to drive out the foreign occupiers of his land. He simply has to raise the price of colonialism.

A central element of this strategy is to deny the colonial forces the revenues that finance their occupation. Today the Soviets and Cubans exploit Angola with a rapacity unrivalled by the Portuguese. Soviet fishing fleets have swept our coastlines, and fish has disappeared from the Angolan diet. Our diamonds, minerals, and oil from the Cabinda province are taken in Committee "payment" for arms and for support of the Cuban troops. The M.P.L.A. government pays Castro $1,000 per month for each Cuban soldier in Angola, for a total of $480 million per year. These mercenaries can afford to stay in our nation only as long as they are paid. So UNITA attacks the diamond mines, sabotages the bridges, and destroys the industries that support the Cuban occupation. This policy does not harm our brothers in occupied Angola, for the wealth produced there does not go to them. It is taken by the Cubans and Soviets to pay for their repression here and to finance Cuban expeditions in other nations.

When enough Cuban officers are returned to Cuba in coffins, then Castro must face the wrath of his own people. Already we learn from Cuban prisoners of war that the war in Angola is unpopular in Cuba. The United States can help our cause by bringing the truth to the Cuban people on Radio Marti and Voice of America, and thus weakening Castro's already endangered rule.

Our military strategy is designed to inflict casualties on Castro's troops and not, when possible, on the M.P.L.A. Some true Angolan nationalists have been forced by the Cubans to fight with the M.P.L.A. Not all German officers in World War II were crazed Nazis, so too in the M.P.L.A. there are Rommels and Von Stauffenbergs, nationalists who oppose the Cuban occupation. These kidnapped warriors are our brothers, and our goal is to treat them well when we capture them. Many M.P.L.A. prisoners now fight with UNITA. Every UNITA victory strengthens the hand of the nationalists with the M.P.L.A., and hastens the day when they will join with us in driving out the Cubans and Soviets.

COMMUNIST STRENGTHS

UNITA's guerrilla war against the Portuguese colonialists was much easier than our struggle against the Soviets and Cubans. The Portuguese were perhaps better infantrymen than the Cubans, but by comparison with Angola's new colonialists, they suffered in both the quality and quantity of arms. The Portuguese used little armor and had no more than five helicopters, whereas the Cubans and Soviets will send 15 helicopters to a single battle. The Soviet Union may not be able to feed its people or build advanced computers, but it knows how to build weapons (in fact, UNITA fighters rely on the AK-47 Kalashnikov, a low-cost automatic rifle that withstands dust and water better than anything the United States offers at comparable prices). The Soviets also deliver arms in large quantities; in Angola during the last 18 months, they have unloaded $2 billion worth of MIG 23 and MIG 21 jets, MI-25 helicopter gunships (the weapon used so effectively against the Afghan people), and T-62 and T-55 tanks, as well as trucks and armored personnel carriers.

Relative to the Soviets and Cubans, the Portuguese were as weak politically as they were militarily. They put almost no emphasis on the political side of waging war, and they had no international support. By contrast, the M.P.L.A. was winning endorsements and awards from Soviet-front groups long before it was a factor in the war against Portugal. Communist guerrillas and occupation forces benefit from an established worldwide propaganda network. And when the Cubans and Soviets seized power in Angola, sympathetic propaganda outlets immediately sprang into action in the Organization for African Unity, the United Nations, and front organizations around the world.

A third strength of the Communists in combatting nationalist resistance movements is their ability to black out news coverage with surprisingly little complaint from the West. Little television footage gets out of Cambodia or Afghanistan. And although UNITA works hard to bring Western journalists to Free Angola, the Cubans do not permit newspaper or television coverage of their atrocities in areas they control.

DEMOCRATIC V. MARXIST GUERRILLAS

In countering these important advantages of Soviet and Cuban colonialists, the anti-Communist freedom fighter has some distinctive advantages of his own. The first is the religious faith and institutions of his country's people.

Marxism-Leninism is atheistic and materialistic. By definition it attempts to crush religious belief, and Communist governments demand a monopoly on the people's loyalty. But in deeply religious countries such as Afghanistan and Nicaragua and Angola, the suppression of religion has backfired and intensified the opposition to colonial regimes. The Constitution of the M.P.L.A. forbids membership to anyone holding "any religious belief"; this is one reason why it is such a small political party, consisting of only 0.3 percent of the Angolan people. The majority of Angolans are animists, 27 percent are Catholics, and 12 percent are Protestants; all have suffered from persecution. Church property has been expropriated by the Cubans, atheism is constantly preached in hospitals, schools, and political meetings. The Cubans and Soviets taunt animists by flying to the sky with their helicopters and jets, and then telling the local population that they looked and found no God in the heavens. All this has resulted in strong opposition to the regime of occupied Angola. In August 1985, the Catholic Church of Angola endorsed UNITA's call for an end to the war and for a negotiated settlement.

The second weakness of the Communists is economic. The Soviets may provide enormous quantities of arms but they refuse economic aid. And while it is UNITA's goal to damage the export economy that finances the Cuban war against our people, the Soviets and Cubans are doing much of our work for us by nationalizing all industry and collectivizing agriculture. Around the world, Communist governments lower the standard of living, destroy chances to work, and impoverish the people in a way that guerrilla wars never do.

Once a food exporter, Angola now must import some 90 percent of its food. Diamond and gold mines that once made Angola a wealthy Portuguese colony are now actually losing money. Only the Communists could turn gold mining into a losing proposition. The economy is sustained, and the Cuban occupation is financed, only by the offshore oil produced by Gulf Oil, owned by Chevron, an American multinational corporation. Lenin said the capitalists would sell the rope with which to hang themselves. Today they are hanging the Angolan people. But tomorrow they come for you.

ON THE BATTLEFRONT

Between 1976 and the summer of 1985, UNITA was able to maintain its base securely, in spite of 10 major offensives launched against its territory by Cuban and M.P.L.A. troops. Usually we stopped these offensives within little more than a month—by going behind the lines and cutting off supplies of food, fuel, and ammunition to the advancing enemy.

The offensive of 1985, lasting from June until October, saw a change in tactics, weapons, and intensity. Prior to the offensive, the Soviet Union greatly increased both the quantity and the sophistication of weapons it was sending to Angola. And this time, the offensive was directly coordinated by Soviet officers, 15 to a brigade.

The first prong of the offensive was aimed at Cazombo, a town near the Angola-Zambia border. It appeared at first that the goal was political: to cut off UNITA's border with Zaire and Zambia, to increase the pressure on these two nations and prevent them from aiding UNITA. UNITA moved men and resources up to meet this advance and to defend Cazombo as we had successfully defended it before.

But the Soviet-Cuban strategy was a radical departure from past offensives. The Soviet, Cuban, and M.P.L.A. troops brought a much larger number of trucks and armored cars with them, and so they were able to carry much larger supplies of food, fuel, and ammunition. They were able to move faster and farther without leaving vulnerable supply lines in their wake.

For the first time, UNITA was forced to fight a conventional war, denied the ability to follow the guerrilla strategy of intercepting and cutting off supply lines. The occupation forces surrounded their "soft trucks" with armored trucks, so that we could not destroy their supplies, and then moved forward with armor in flanking moves attempting to surround our defensive positions.

Under Soviet commanders, MIG 21s and 23s and MI-25 helicopter gunships would arrive within 15 minutes of each engagement to provide air cover. Artillery shelling was also better coordinated and more accurate. It was a completely different war than we had fought in the offensives of 1982 through 1984. The Soviet troops always remained in armored cars and tanks, and their commanders stood behind three lines of M.P.L.A. and Cuban troops.

Throughout the offensive, the Soviets proved experts at using speed, maneuverability, and deception. On August 15, while the greater part of our commanders, resources, and troops were in Cazombo, 750 kilometers from Jamba, the Soviets unleashed what turned out to be the real thrust of their offensive—an assault on Mavinga, a town captured by UNITA in 1982 and located only 200 kilometers northwest of our capital. This was to be the final offensive of the war, with Jamba as its goal. For should the airport at Mavinga have been captured, the Soviets would have had a strong base from which to attack our capital.

The Soviets drove toward Mavinga with four M.P.L.A. brigades, each 1,300 men strong and fully equipped with armored personnel carriers, tanks, artillery, and air cover. Defending Mavinga, UNITA had only one regular battalion of 1,100 men and two semi-regular battalions of 600 men each. Fighting to slow the Soviet offensive, we had to call our troops back from Cazombo,

and we threw up deep defensive lines and dug in in front of the Soviet advance.

Forced to bring in units from throughout southern Angola, we surrounded the Soviet-Cuban M.P.L.A. offensive. We outnumbered their four battalions by four to one, and with mortar and infantry fire we destroyed many of their trucks, tanks, and armored cars. We halted the advance 17 kilometers northwest of Mavinga.

By October 3, the Soviet officers were airlifted out by helicopter. If we had enough anti-aircraft missiles, we could have destroyed the entire Soviet high command. But they escaped by air, and the M.P.L.A. retreated, after leaving behind many tanks, Stalin Organ rocket launchers, and armored personnel carriers.

The offensive of 1985 was to have been the Soviets' final drive against UNITA. They will not give up after their defeat. It is now the rainy season in Angola, but the Soviets will come again next March or April when the ground hardens and the skies clear for their MIGs and helicopters. The next offensive, like this one, will rely on heavy armor, tanks, concentrated artillery, and airpower. We look to the West for the anti-tank and anti-aircraft weapons that will allow us to stop the next attack, to continue to build our base among the people of Angola and move northward, to drive the Cubans and Soviets from Angola, and to win the true independence that was stolen from us 11 years ago.

SUPPORT FROM ABROAD

The Soviets and Cubans and their friends around the world can be expected to continue their political and propaganda war against UNITA. Our success in defeating the offensive of 1985 will force them to redirect some of their propaganda. No longer can they claim that UNITA is weak, that we do not represent the popular will of the Angolan people. Too many journalists have travelled with our guerrillas and can testify to our support in the countryside. We have engaged the Cubans in virtually every province, and our support comes from every region and tribe in Angola.

A new tactic is to claim that UNITA is tied to the South African government. The Cuban troops, say the Communist propagandists, are in Angola to protect Angola from the South Africans. This claim may fool some in the West, but the nations of black Africa know the truth. They know that Nigeria offered to replace the Cuban and Soviet bloc troops with Nigerian troops. But the M.P.L.A. leadership refused, showing the whole world that their real fear is not the South Africans but UNITA, the Angolan people, and the nationalists within the M.P.L.A.

Yes, UNITA receives aid from the Republic of South Africa. We have also received support from China, Arab nations, and other black African countries, and much of that support has been shipped across the Namibian border. But it is hypocritical of the Soviets to claim that this means we somehow endorse the Pretoria government. We oppose apartheid. Fortunately, it is a dead ideology. It cannot be exported. Even everyone in South Africa talks about how to move away from the apartheid system.

The Lord did not ask our permission when he put Angola on the southwest coast of Africa. We need outside help, even if it has to come across the Namibian border. I would remind the Communists that Stalin's acceptance of war material from America and Britain during World War II did not constitute an endorsement of liberal democracy on Stalin's part. Nor did my acceptance of Chinese military training and aid—when no other nation would help me—make me a Maoist in economics or politics.

AMERICAN OBLIGATIONS

Angola was the first nation to begin its guerrilla war against Soviet colonialism. But we are not alone. Today the brave peoples of Afghanistan, Cambodia, Laos, Nicaragua, and Ethiopia are fighting their own wars of national liberation. We fought and carried on while the West went through a crisis of faith, wondering if its traditions, values, and civilization were worth fighting and dying for. I think that the Third World, through these struggles, has helped to give the West the courage to oppose the Soviet Union—to provide a cure for what Solzhenitsyn calls the Western disease. Our struggle in Angola, the battle of other freedom fighters, is the battle for the West and its values.

We who fight these wars of national liberation see the unity of our cause and the common enemy we face—Soviet imperialism. As a result, representatives of the freedom fighters of Angola, Laos, Afghanistan, and Nicaragua met in Jamba on June 12, 1985 to sign the Jamba Accord and announce the formation of the Democratic International. We who fight the battle for Western values of democracy, freedom of religion, freedom of speech, the right to own one's home and some land, have joined together. Now we ask the West to join us.

We in UNITA call upon the West, and the United States as the leader of the free world, to give us military and political support. The moral case is clear. UNITA is fighting for a free, independent, and democratic Angola. We are fighting the Cubans and Soviets who would deny us our nation.

The strategic case, the self-interest of the West and America, is equally compelling. Should massive Soviet air and armor attacks succeed in defeating UNITA when the dry season begins in March 1986, then 45,000 Cuban troops and advisers, thousands of Eastern-bloc "technicians," and an untold quantity of tanks, figther planes, helicopters, and artillery will stand uncontested along the borders of Zaire, Zambia, Namibia, and Botswana. Not UNITA alone, but all of central and southern Africa awaits the decision by the United States.

We were all encouraged by the decision of the United States Congress to repeal the Clark Amendment, which forbade U.S. assistance to the forces of freedom in Angola and left us for 10 years alone against the Cubans. Now the United States must take the next step and commit the military aid that will allow us to defeat the Cubans and Soviets in Angola—anti-aircraft weapons, the Red-eye missile and Stinger missile, and anti-tank weapons. With those arms we can protect our people from air and armor attacks and drive back the Cubans and Soviets through the continuation of the guerrilla war that we have waged for 11 years.

We ask also for your political and diplomatic support. We need you to insist at the United Nations and other international forums that the Cubans and Soviets leave Angola and that the promised elections be held. With your military and political support, other nations will follow your lead and give us aid. Do not underestimate the importance of your decision. For Angola is the Munich of Africa. Hesitation, the refusal to aid UNITA in its fight against the Cubans and Soviets, will be taken as a signal by all the countries in the region that the United States has abandoned them to the Soviets as the West abandoned Czechoslovakia and Eastern Europe to Hitler in 1938. Do not suppose that Zaire, Zambia, Botswana, and Namibia will remain of the West when faced with an unopposed base in Angola. They will be forced to make their political accommodations with the Soviets just as most of Eastern Europe fell under Nazi political domination without a shot being fired. The loss of the sea route around the Cape and the loss of the strategic minerals found in central and southern Africa would be a crippling blow to the economy and defense of the West. That is why I say that UNITA is the key to Angola, Angola is the key to Africa, and Africa is the key to the West.

I am not alone in this assessment. The Soviets agree.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, do Senators on my side wish some time?

Mr. HOLLINGS. Yes, Mr. President.

Mr. BYRD. Mr. President, I yield such time as he may require out of my order to the distinguished Senator from South Carolina [Mr. HOLLINGS].

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished leader and the distinguished Presiding Officer.

THE TEXTILE BILL

Mr. HOLLINGS. Mr. President, I want to respond to some claims. I want to respond to the distinguished majority leader's comments a few moments ago when he referred to textiles in expressing his hopes for unanimous consent. He said, "We have already done that one. That is enough to kill that one." On the contrary, we have just begun to fight. In essence, this entire trade matter is an educational process. It is also a parliamentary obstacle course when one is in the minority.

We presented a textile bill in an orderly fashion and that bill is not only still in the Finance Committee, but this distinguished Senator was told by the chairman of the Trade Subcommittee of the Finance Committee that it would not see the light of day. And he is right. It is still there and I have not seen the light of day on that bill.

We had to use every maneuver in the book, going from bill to bill, and every time the amendment was adopted on a particular bill, the leadership then removed the bill from further consideration. We got into a terrible snarl where we had to agree to a time agreement for a vote on textiles, with some 23 amendments to be considered. Now, of course, that has been done and been done in an orderly process.

The bill went over to the House side, which adopted the Senate amendment, our bill, and in turn it went to the White House and at the 11th hour, exactly at 11 o'clock the evening before last, the President of the United States vetoed the bill.

Now, in the minds of some, that would end it. As the majority leader stated, "That is enough to kill that one," assuming, of course, that this was a momentary initiative and a one-shot deal with respect to textiles and then we would move on to something else.

In fact, it was brought into sharp focus when my distinguished colleague from Missouri [Mr. DANFORTH], and I were speaking yesterday. He said that telecommunications had reached a crisis stage. I harkened back 30 years ago when we in textiles had reached that stage—30 years ago. I testified before the U.S. Tariff Commission. They were telling us to use the orderly procedures under the law.

In fact, the summary advice of our distinguished colleague from Florida [Mr. GIBBONS] on the House side was, that what we really should do in addition to modernizing—showing he had no knowledge whatever of the industry's modernization to the tune of some $8 billion in the last 5 years—in addition to modernizing and computerizing and getting competitive, what we should do is bring injury cases.

Our injury cases were brought back in the fifties over a 10-year period, promised by both administrations.

The fact is at the hearings the Government of Japan, where our distinguished colleague from Missouri will visit during the Christmas break, was represented by none other than the great Thomas Dewey from New York, the Republican nominee for President back in 1948. Tom Dewey ran me around the hearing room there for 2 days. We tried the injury cases. We went to the White House. Jerry Persons escorted us in to see the Chief, namely President Eisenhower, who said in March of 1960, "You will win your case; you have done the right thing." We lost the case to Dewey, and thereupon I went to my friend John F. Kennedy, then Senator Kennedy. We exchanged correspondence. We got the Seven Point Kennedy Program, and in 1962, Mr. President, we adopted the Trade Expansion Act. That was the basis for the Multi-Fiber Arrangement, the MFA, in pursuance of trade expansion, not protectionism.

I highly resent the idea expressed in the President's veto message that this is another protectionist bill. This Senator is going to stand here on this Senate floor for trade, not trying to hold up the orderly process of the Finance Committee and the duties of the Government. If they want to take up H.R. 3722 and pass on different measures that are in their particular jurisdiction, fine. But whenever we come to trade we must realize that this has been a long, hard road and greeted with a methodical message of so-called protectionism, when, in reality, it is in conformance with the objectives of the MFA and our agreements that I have now in my hand. I would not ask the CONGRESSIONAL RECORD to print all of these agreements, but I hold a deck of agreements here from 34 countries. These are bilateral agreements and that is what they said you should have, the orderly process, the orderly process of these particular agreements and enter into them, and so we did.

Now, let me follow that thought because they have not been enforced by the U.S. Government. Japan enforces their agreements. We know now of the transshipments from the Republic of Korea through Japan of textile goods, and who is this complaint referred to? To MITI, the Ministry of International Trade and Industry. That is an entity of the business leadership within the Government which controls trade, and they are studying it and we do not hear anything further.

The President's veto message talks about protectionism. What they do is go around and enforce it for their market but our Government not only does not enforce it, they do not give us the ear of the Government's representatives.

Last week it was very interesting because it was touch and go. I happen to have been one who believed that President Reagan would sign this particular measure. I get the feel now why he did not, when I looked last Saturday and I saw the headline in the business section in the Washington Post, "White House Backs Off Baldrige Plan." Well, I was not particularly interested in that one plan or Secretary Baldrige. I was interested in President Reagan. I saw where the White House had backed down temporarily from any kind of penalties against Japan for selling computer chips well below their market value. But the text of the story about dumping and penalties is really what got my attention:

> The White House reacted after aides were subjected to heavy lobbying all week by lawyers for the Japanese industry who wanted to narrow the scope of the possible penalties. We made all kinds of representation on behalf of the Japanese, said William Walker, an attorney for the New York and Washington law firm of Mudge Rose Guthrie and Alexander. He added that the Japanese felt Baldrige was being excessively aggressive.

Can you imagine such nonsense? Here seven Republican Senators were imploring their President to be heard over at the White House on the textile bill and were refused; the President was too busy, but the entire staff over there was listening to Japanese representatives, same story, same act, same situation that we had years and years ago. We think we can go to Japan and implore and persuade and cajole and say we are going to get real mad and nasty now, we are going to start enforcing the law unless you equalize this semiconductor trade, this telecommunications trade. Nakasone, Tojo, every Premier, Prime Minister of Japan has been through the act down in the Fish room. They have been down in the Fish room perhaps more than maybe our Presidents. They know when they go to the Fish room it is the same act for every American delegation that goes over.

So it is my intent to educate Congress and get a vote on this bill. It is a twofold purpose, not only of educating but being blocked in the Finance Committee and not having a chance to take up our textile bill and get it back over to the House so we can bring it up again in an amended form.

As you will remember the House was helpful in taking the amendment of Senator THURMOND and myself on textiles to send over to the President. When we start on trade at the end of this year and all during the beginning of next year, whether it is the bipartisan trade bill, the Democratic trade bill, the particular trade bill here with respect to telecommunications, or otherwise, it is this Senator's intent to get a vote on something that has been blocked by the majority on the other side at every particular turn. We are not asking for time. We are not objecting to bringing up the telecommunications bill. Rather, we would implore the leadership to give us just 5 minutes to a side and let us have a vote on this particular measure so that we can get it over to the other side because under the Constitution of course all trade measures should originate on the House side. So we have to use a House title on this basis and make clear our intent.

I had to take this position. They have taken their positions in trade throughout, and have yet to report our textile bill out of committee even though it has passed overwhelming hurdles, trials and obstacles on both the House and Senate side. And we have not just killed that bill and gotten through with textiles this session. On the contrary, let us not say we are going to have a tariff in some of these bills, we are going to have this, we are going to have the next thing and subsidies, or whatever. All we are asking is a licensing system in our particular measure to enforce in an orderly way the objectives of the MFA and our 34 bilateral agreements. When they talk about rollbacks, we talk about the amounts that they agreed to. We only rollback the three largest exporters. We are talking about amounts agreed to under the MFA and our agreements, not rollbacks.

If we cannot get enforcement of trade measures, then why should the Japanese pay any attention? The automobile industry went through that. They got temporary quotas and now the temporary quotas are going off and they are going to devastate once again the automobile industry. So what we have is a bunch of corporations who went over under the inducement of the Marshall plan to spread the seeds of capitalism and found

what? They found that they could produce more economically in these offshore countries and be protected by those offshore countries. And they get protection and come back into the Trilateral Commission and the big banks in New York and jump up and down and holler "protectionism, protectionism free trade, free trade," an absolute shibboleth. There is no such thing as their yearning for competitive trade. The only way we can be competitive on this score is not cajole and implore, but take a page from F.D.R. when in order to save the farms he plowed under the crops, in order to save the banks he closed their doors.

Now, in order to remove a barrier, we will have to raise these barriers, of at least enforcement on our part. If we enforce the laws in an orderly fashion, there will be no need for a textile bill. We are not enforcing our law.

So we have another message about protectionism, and the Secretary is asked to investigate. Why should the Secretary investigate? Call up the Japanese lawyers and let them investigate for you and save time. The Secretary has plenty of duties. There is no reason for him to run around, because the White House is going to back off as soon as the Japanese lawyers hit the staff over there, and they will arrange one of these silly messages about protectionism.

That is why I will not object to Senator DANFORTH's bill on telecommunications. I support it. When we move along, either move mine along with it or tell me I can get an up-and-down vote by itself. That is what I had to spend all last year on, and we are willing to spend all next year on the same point.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with statements therein limited to 5 minutes each.

The Senator from Missouri.

INTERNATIONAL TRADE IN TELECOMMUNICATIONS EQUIPMENT

Mr. DANFORTH. Mr. President, I apologize to the Senator from South Carolina, because I came in in the middle of his remarks, and I was distracted during part of his remarks.

I was pleasantly surprised when I thought I heard, at the end of the Senator's comments, that he would not object to the unanimous-consent request to be propounded by the majority leader. I hope that is correct, because I have succeeded in getting 99 Senators to sign off on the unanimous-consent request. We had a lengthy discussion on the telephone yesterday.

My hope is that the Senator from South Carolina will become the 100th Senator to allow this telecommunications bill to go forward.

Mr. HOLLINGS. It depends on the form in which the unanimous-consent request is made.

I had an exchange with the majority leader earlier this morning with respect to the fact that he wants to bring up those measures. But if he wants to bring it up and use it as a vehicle for a telecommunications bill or any other trade bill, I will ask that mine be included in the unanimous-consent request. Otherwise, I will have to object.

Mr. DANFORTH. As the Senator knows, we have been working for some days to clear the telecommunications bill. We have done so. The unanimous-consent request will be to bring up the old cigarette tax bill, strip everything after the enacting clause, and insert in lieu of the bill the telecommunications trade bill. That is the only thing we have succeeded in having cleared.

As I believe the Senator realizes, the textile bill is significantly more controversial than the telecommunications bill, and there is no possibility of clearing a unanimous-consent request to bring up the textile bill. The Senator has had several votes on the textile bill. In fact, he prevailed, and it was vetoed. The Senator did get action on the floor of the Senate. I did not support the textile bill, but I certainly supported the Senator's efforts to get a vote on the textile bill, as the Senator from South Carolina knows.

My hope is that the Senator would be equally cooperative with other Senators who are trying to get some work done.

MOSS TALKS ON LUMBER

Mr. BAUCUS. Mr. President, Thomas Mann once said:

> Time has no divisions to mark its passage, there is never a thunderstorm or blare of trumpets to announce the beginning of a new month or year.

Mr. President, Thomas Mann's observation reminds us that it is up to us to review our progress each year—or time will simply slip by.

Therefore, it is appropriate at the end of this year to examine the administation's track record on trade this year.

I would like to focus on the ongoing MOSS talks with Japan, particularly the negotiations relating to forest products.

Mr. President, this year was heralded with what seemed like a dramatic announcement by President Reagan and Prime Minister Nakasone.

On January 3, 1985, these two leaders announced that Japan had agreed to undertake further market opening measures in several product areas, including forest products.

Now we are approaching the anniversary of that announcement, and virtually no progress has been made in the forest products area.

The Japanese simply have agreed to positively consider unspecified tariff reductions, but not until 1987.

In other words, in the forest products area all we get from Japan is words, not action.

The hopeful announcement of a year ago is now a bitter disappointment.

Mr. President, the result of this inaction has been disaster for the American forest products industry.

Japan imports logs duty-free, but continues to impose a web of tariff and nontariff barriers against imports of processed forest products, like lumber, plywood, and draft linerboard.

As a result, many jobs that might exist in Missoula, Montana or Bend, Oregon are carefully protected in Sapporo or Osaka, Japan. U.S. companies lose about $1 billion a year in sales.

Mr. President, today, I call on the President to explain to this Congress why these talks have failed.

I call on the President—on or before the first anniversary of the Reagan-Nakasone announcement—to report to Congress on the progress of the forest product negotiations.

I call on the President to say what he has accomplished, what he has not accomplished, why he has failed to accomplish it and what he intends to do about it.

We cannot simply let months and years slip by without making progress in these negotiations.

The history of our trade negotiations with the Japanese are replete with examples of negotiated inaction.

We cannot let that happen again.

We must ensure that the announcement made almost a year ago does not get thrown on the ash heap of empty promises.

Mr. HOLLINGS. As we stated during the textile debate, this is just the beginning. I passed a textile bill with Senator Cotton. I passed it in the Carter-Mondale administration. Now we have passed it again, noting, of course, the veto message about protectionism; and, thinking that we can pick up more support to override a veto on the House side, we want another bill. We need another bill, and I hope in turn to educate Members of Congress and the President on this particular score. I cannot get my bill up on this floor and voted on unless it is on trade matters, and it is still in the committee of the Senator from Missouri.

Mr. DANFORTH. Mr. President, the telecommunications bill has been cosponsored by a number of Senators.

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Action on it is supported by the AFL-CIO, the Communications Workers of America, the International Brotherhood of Electrical Workers, the Electronic Industries Association, the American Electronics Association, the Computer and Business Equipment Manufacturers Association, and the U.S. Telecommunications Suppliers Association—all of whom have worked to put together this bill.

It is opposed by the administration. I have been curious as to whether or not the administration has asked the Senator to take this position on the bill, because the effect of the Senator's position, of course, is that the telecommunications bill cannot be passed, which is doing the bidding of the administration.

I am sure that the Senator's position would also be greeted with great huzzahs by the Japanese and by other countries that are only too ready to come into this market. It will cost Americans jobs. So be it.

UNANIMOUS-CONSENT REQUEST

Mr. President, I have discussed this with the majority leader. I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3722, dealing with an extension of the tobacco excise taxes, and I ask for its immediate consideration. I further ask unanimous consent that on consideration of H.R. 3722, only one amendment be in order, that the amendment be in the nature of a substitute, and that that amendment consist of the text of S. 942, which is the telecommunications bill.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I object.

Mr. JOHNSTON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I think the purpose of this exercise is to see whether or not some of these matters are objected to.

I agree with the distinguished Senator from Missouri that the bill should pass unanimously. We have already dealt with the textile matter. Many of us cooperated in getting that bill before the Senate. I hope we can have the same cooperation now, for the consideration of other bills. But apparently that is not going to happen today. At least, that effort has been made, and that will take care of that matter for the remainder of the year.

U.S. SUPPORT FOR THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question, just to tell us what the resolution is?

Mr. DOLE. It is the Angola resolution, and there will be an objection.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, if I may, let me indicate that I have discussed this resolution with Senator PELL. He would object, and I think that objection will be made by the distinguished minority leader on his behalf.

I commend the distinguished Senator from Wyoming, who made a statement on this matter earlier.

I do not agree with Senator PELL that the matter should go through the committee in the normal process. We have an emergency on our hands, and the longer we wait, in my view, we make it more difficult.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

Mr. BYRD. Mr. President, on behalf of Mr. PELL, I object.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over under the rule.

Mr. DOLE. Mr. President, I regret the decision of the Senator from Rhode Island to object to the Senate's consideration of my resolution on freedom fighters in Angola.

I am generally sympathetic to pursuing the normal processes of the Senate and having the appropriate committee review legislation prior to floor consideration, but there are times when expedited consideration is justified. This is one of those times.

CUBAN AND SOVIET INTERVENTION CLEAR

The substantive issue is clear and clearly drawn. In 1975, the Marxist MPLA regime in Angola seized power in violation of an agreement to which it was a party—the Alvor accord—which stipulated that all the major political forces in Angola would be offered the opportunity to contest free and fair elections to set up a permanent government. Having seized power illegally, the MPLA has invited in more than 35,000 Cuban troops and thousands of additional Soviet and East German advisers, undermining the sovereignty of the Angolan nation and representing both the most blatant foreign intervention in Africa's internal affairs and the most brutal suppression of black Africans by nonblack foreigners in the postcolonial period.

Utilizing more than $1.5 billion in military aid provided by the Soviet Union—including some of the most modern and deadly weapons and armament—the Cubans, Russians, and East Germans are spearheading an effort to wipe out the large and popular insurgency called UNITA, under the leadership of the charismatic Dr. Jonas Savimbi. That effort culminated this year in a brutal new offensive, blunted only because the badly outgunned UNITA enjoys the support of so many Angolans.

UNITA'S STRENGTH IS ITS POPULAR SUPPORT

UNITA is strong, and growing stronger, because it is struggling for the basic freedoms of the Angolan people—freedom from foreign domination, freedom from the suffering of war and its privation, freedom to determine their own political future. UNITA is also struggling to prevent the spread of Soviet imperialism, within Angola, and later throughout southern Africa.

UNITA, in short, is struggling for the same goals that we espouse, in Africa and throughout the globe: That people everywhere should be free from the yoke of foreign domination and that they should be able to determine their own future.

UNITA NEEDS OUR SUPPORT

Yet, however worthy the cause, UNITA standing alone will be hard-pressed to continue its effective struggle—a struggle serving the interests of the Angolan people and, simultaneously, the interests of all of us who oppose Soviet imperialism—if the Soviets and Cubans continue to throw in thousands of their troops and provide new weapons and enhanced firepower to the MPLA. Even now, preparations are underway in Luanda for a new offensive, at the onset of the next dry season, aimed at wiping out UNITA once and for all.

Because the issue is so clear and because the threat of a new Soviet/Cuban/MPLA offensive is so imminent, it is important that we respond and respond quickly. That is why I hoped the Senate would act today on this resolution. It represents one way we make clear our determination to meet the direct challenge to freedom, and to our own national interests, which the Soviets and their allies are mounting in Angola.

AMERICAN INTERESTS AND GOALS

The resolution lays out clearly our own interests and goals in Angola—an end to the massive foreign intervention in Angola; a withdrawal of the Cuban and Soviet forces, which threaten not only Angola but all of southern Africa; and good faith negotiations, including with UNITA, which could forge an acceptable political solution within Angola.

The resolution makes clear that we are fed up with the intrasigence of the MPLA and its Soviet and Cuban sponsors, who have refused to engage in good faith negotiations despite our efforts over several years to bring all the relevant parties to the bargaining table.

And it would serve notice that, unless the MPLA changes its course and initiates good faith talks—with us and with UNITA—the Senate is pre-

pared to provide needed, critical material assistance to UNITA early in 1986.

These are goals, attitudes and intentions which, in my view, are shared by a large majority of the Senate. The list of cosponsors who have joined me in support of this resolution—Senators LUGAR, DURENBERGER, HATCH, DENTON, ROTH, COCHRAN, WALLOP, ARMSTRONG, MCCONNELL and DECONCINI—indicates the breadth of support the resolution would enjoy in this body, if it could be brought to a vote.

I regret that it could not. But I assure you that this is not the end of the Senate's consideration of this issue, any more than it is the end of the struggle for freedom and justice in Angola. In a few weeks, we will be back to revisit this issue, in light of developments in the interim. And I, for one, will be as determined as ever that the Senate support the freedom fighters in Angola and, through that support, further our own national interest in that critical part of the globe.

Mr. President, I ask unanimous consent that the resolution be appropriately referred.

The PRESIDING OFFICER. Is there objection? Without objection, the resolution will be appropriately referred.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 280

Whereas the National Union for the Total Independence of Angola (hereafter in this resolution referred to as "UNITA") led by Dr. Jonas Malheiro Savimbi, represents the views and wishes of a large number of Angolans;

Whereas UNITA was denied the legitimate role in the political life of Angola envisioned for it in the Alvor Accord of 1975, an agreement among all political elements in Angola which called for free and fair elections in Angola, when the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") faction, backed by Soviet and Cuban troops, illegally seized power in Angola;

Whereas since that time UNITA has waged a courageous and effective guerrila war, with the support of a large part of the Angolan population, aimed at pressuring the MPLA to live up to its commitments under the Alvor Accord, permit free and fair elections in Angola, and remove Soviet and Cuban forces from Angola;

Whereas that struggle has achieved such success that many independent observers have concluded that, in free and fair elections, UNITA and Savimbi would likely enjoy the support of a large portion of the Angolan population;

Whereas the MPLA, faced with the possibility that the popularly supported forces of UNITA could militarily defeat the forces of the MPLA, has introduced even larger numbers of Soviet and Cuban forces, so that more than 35,000 such troops and advisers are now in Angola;

Whereas this Cuban and Soviet intervention represents the most blatant foreign intervention in the post-colonial history of Africa;

Whereas the Civil war in Angola, caused primarily by the illegal acts of the MPLA and waged increasingly by Cuban and Soviet troops, has led to widespread suffering for the people of Angola;

Whereas the MPLA, at the urging and with the extensive involvement of Soviet and Cuban troops and advisers, has recently undertaken a major offensive utilizing massive new shipments of modern arms from the Soviet Union and Cuba, aimed at wiping out UNITA;

Whereas UNITA has temporarily blunted that offensive, reestablishing a practical stalemate in the military situation;

Whereas the MPLA nonetheless may seek and obtain even more modern and extensive armaments and perhaps even more combat troops from its Communist suppliers and will launch further attacks on UNITA, leading to more suffering among, and greater suppression of, the Angolan people;

Whereas the MPLA, despite being offered the opportunity to seek a solution to these problems through negotiations in which the United States Government has sought to play a facilitating role, has refused to take any meaningful steps to lessen its dependency on Soviet and Cuban forces, to end the civil war, or to grant UNITA and its followers their legitimate place in the political life of Angola;

Whereas the only practical way in the foreseeable future to achieve a viable solution to the problems within Angola would be for the MPLA to effect the removal of Soviet and Cuban forces and to enter into direct and meaningful negotiations with UNITA concerning the political future of Angola; and

Whereas the main barrier to such a solution has been and is the refusal of the MPLA and its Communist allies to agree to meaningful negotiations aimed at brining it into effect: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the legitimate aspirations of the people of Angola for democracy, justice, peace, and freedom from foreign interference deserve the support of the United States;

(2) UNITA and its leader, Dr. Jonas Malheiro Savimbi, which represent the political aspirations of a large number of the Angolan people, have the right to play a commensurate role in the political life of Angola;

(3) UNITA and Savimbi deserve the political and moral support of the people of the United States and freedom-loving people everywhere, in demanding and struggling for that right;

(4) the MPLA has violated the rights of the Angolan people through its illegal seizure of power and suppression of the population;

(5) the MPLA, further, has compromised the sovereignty of the Angolan nation by introducting large numbers of Cuban and Soviet forces into Angola;

(6) the growing intensity of the civil war, suffering of the Angolan people, presence of foreign forces in Angola, and failure of the MPLA to respond to diplomatic initiatives calling for the elimination of foreign forces and free and fair elections in Angola have given new urgency to efforts to deal effectively with the Angolan situation;

(7) the MPLA should agree promptly to a process of meaningful negotiations, to include direct and good-faith negotiations with UNITA, aimed at ending the presence of Soviet and Cuban forces in Angola, terminating the civil war, and setting up an administration which respects the rights and reflects the wishes of the Angolan people, with a mandate to organize free and fair elections for a new government; and

(8) if the MPLA, during the current rainy season in Angola, continues to be intransigent, by—

(A) refusing to engage in good faith negotiations, including negotiations with UNITA, aimed at eliminating the presence of foreign forces and reaching a just political settlement in Angola, or

(B) continuing its preparations for a new military offensive,

then the Senate would support the provision early in 1986 of material assistance to UNITA and would impose economic sanctions against those sectors of the Angolan economy which provide resources to support the Cuban troop presence.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

UNANIMOUS-CONSENT REQUEST FOR THE NOMINATION OF RALPH E. KENNICKELL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Ralph E. Kennickell, Jr., to be Public Printer.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. MATTINGLY. Mr. President, I ask the majority leader, since there is now objection from the minority side, what would be the status now of this nomination on the Government Printing Office of Mr. Kennickell, since he has been serving, I believe, as acting administrator of the GPO for some 1 year, I think, and at least has gone through several investigations by both the Rules Committee and the FBI, which all of those investigations proved him innocent of any allegations put forth by some members of that committee, both staff and Senators? What would be the status of this now and what would be the objection, which the majority leader might ask the other side, of bringing it up for an up or down vote?

Mr. DOLE. Mr. President, if I could respond to the Senator from Georgia, I am not certain what would happen to the nomination. It could go back and require resubmission next year. There still may be time today to move to the consideration of the nomination. If we have a little slack period this afternoon, I would attempt to do that with reference to this nomination and the nomination of Terrence M. Scanlon, to be Chairman of the Consumer Product Safety Commission.

Mr. MATTINGLY. I would appreciate if the majority leader would do that. Any help I can give along that line, I would certainly give.

Mr. DOLE. I regret we could not clear the nomination. As far as I know, there is no reason it should not be cleared. There must be some reason someone has, but they are not required to state their reasons. They are only required to object.

Mr. MATTINGLY. I thank the majority leader.

Mr. DOLE. I am not certain we will have any success if we move to the nomination, but at least we could find out why there is an objection.

Mr. MATTINGLY. Then there is a possibility the majority leader may move to that nomination and the Scanlon nomination both this afternoon; is that correct?

Mr. DOLE. That is correct.

We may have some time this afternoon or evening waiting on House action on the continuing resolution and also the reconciliation matter.

Mr. MATTINGLY. I thank the majority leader. I may have further to say later with reference to this subject matter.

RESOLUTION TO IMPROVE SENATE PROCEDURES

Mr. BYRD. Mr. President, Senator DOLE and I have been discussing Senate Resolution 28, star print, the resolution to improve Senate procedures. I would hope that early next year the majority leader would be in a position to move to take up that resolution. It is a resolution which has been amended in the Senate Committee on Rules and Administration. I had, in offering the resolution, proposed several rules changes, some of which would be, I think, very important whether or not the Senate eventually votes to allow TV and radio coverage of Senate debate. In any event, those proposed rules changes, in my judgment, should be made. And I would hope that we could have a time early next year that we might proceed at least to begin the debate on Senate Resolution 28, as amended.

As amended, S. Res. 28 would provide for a trial period during which preparations would be made and equipment put into place to allow TV and radio coverage of the Senate. The Rules Committee chose to amend my resolution, Senate Resolution 28, star print, by knocking out the rules changes and just providing essentially for the trial period anent TV and radio coverage.

I have been discussing this with the distinguished majority leader. Would he at this time be prepared to give the minority leader and other interested Senators on both sides of the aisle assurance of an opportunity to debate the TV resolution early next year? I do not want to do anything at this point to attempt to go to that resolution. I could offer an amendment to the adjournment resolution setting a date or time for debate on this resolution next year, and such an amendment to the adjournment resolution would not be debatable. Of course, there could be other things happen that would be debatable. For example, a motion to refer that resolution or commit it to the Appropriations Committee would be debatable.

But I do not plan to make any such move. I only hope that I can get the assurance from the distinguished majority leader that very early in the next session the Senate will have an opportunity to debate that resolution.

Mr. DOLE. Let me respond by indicating that, as the Senator knows, we have a group, headed by Senator ARMSTRONG, of four Members on this side who have been meeting with Members on the Democratic side to work out some of the problems with TV and radio coverage, including whether or not there should be rules changes. There is some disagreement on that. There was some hope we could do it before adjournment this year. We were notified by the distinguished Senator from Louisiana, Senator LONG, that he would have to object to that for reasons that he holds very strongly. We also looked at the possibilities of amending the adjournment resolution, Senator ARMSTRONG did, and I do not believe a final judgment has been made on that.

But it would be my hope that, in any event, we could bring it up early next year, maybe as the second or third order of business, and dispose of it before or immediately after the so-called Lincoln day recess period.

Mr. BYRD. Is the distinguished majority leader indicating that he will make that effort early next year?

Mr. DOLE. I will; in fact, I am willing to make an effort this year, but that is not, I do not think, feasible at this point. The answer is yes.

I would indicate, though, for the record that there is a difference of opinion on whether or not there should be rules changes. I know Senator ARMSTRONG feels we just ought to proceed with TV and radio coverage and worry about the rules changes in the normal course of events.

My own view is that there might be some way to package some rules changes with radio and TV coverage. I know the Senator from Tennessee [Mr. GORE] has been attending those meetings.

I am not certain where that group finally came down. But the answer is yes. We will give early consideration.

Mr. BYRD. I thank the distinguished majority leader. I hope that the ad hoc groups that have been appointed on both sides of the aisle by the distinguished Senator from Kansas [Mr. DOLE] and this Senator, respectively, will be able to do some work during the break in preparation for the time when hopefully the Senate will be able to debate this measure early in the second session.

I have assured Senator LONG that I would not make an effort to amend the adjournment resolution, and he has indicated to me that he would like to discuss the matter with me during the break perhaps, and I look forward to that discussion.

I appreciate the distinguished majority leader's assurance that this resolution will be called up early during the next session.

Mr. President, is the distinguished majority leader in a position to assure Senators who are interested in debating TV in the Senate that there will be some effort made before the Lincoln day recess begins?

Mr. DOLE. That would be my hope. It depends on what may happen ahead of that time. We hope to have Conrail up when we come back. That may take 2 or 3 days, or 2 or 3 weeks. There is no way to judge. We are trying to. I think we have TV in the Senate as the No. 2 post right now.

Mr. BYRD. Then will the distinguished majority leader assure this Senator that the majority leader will call up, at least try to call up, Senate Resolution 28 immediately following whatever disposition is made on Conrail, if Conrail is to be the first item?

Mr. DOLE. Mr. President, I would like to keep some flexibility. I am not certain how Gramm-Rudman is going to fit into the activities next year. That is the same problem we are having with other matters.

If we get locked into bringing something up, as the distinguished minority leader knows, we may be in a real bind.

But let me say this: I want to get it before the Senate at the earliest possible time. There are not many objections left on our side of the aisle. Senator ARMSTRONG has done an outstanding job visiting with each Senator.

I hope we can move to it immediately after the disposition of Conrail.

Mr. BYRD. I can understand the practical problems that may prevent the majority leader from giving me a flat assurance at this moment that this will be the No. 2 item next year. But does he assure me that he will make every effort to make it the No. 2 or the No. 3, or something that comes along that will come before the Senate very early next year?

Mr. DOLE. Yes. For a couple of reasons: first of all, we want to do that; second, if we do not do it early, there are going to be some who do not want to do it at all next year. If we get into May, June, or July, there will be arguments on both sides that the year is over, we are near the election, and we

may give somebody an advantage. If we do not do it early, as I have indicated to Senator ARMSTRONG, I am not certain we would do it at all next year.

So I think there is that driving force also.

Mr. BYRD. Mr. President, I know the distinguished majority leader is speaking in good faith. He has to have some flexibility because there are other items of great importance. And as of this particular point in time, he cannot foresee all the problems. I do not want to call up this as an amendment to any measure. I do not want to attempt to pull any fast end run at this time because in the event that were done, then we might incur the opposition not only of the majority leader but also of other Senators as well who might otherwise be supportive of TV in the Senate.

I am happy to take the assurance of the distinguished majority leader, in good faith, that Senate Resolution 28, TV in the Senate, will be brought before the Senate very early next year. I know he is trying to do it as early as February.

I thank the majority leader.

LOW-LEVEL NUCLEAR WASTE

Mr. DOLE. Mr. President, one of the matters that we need to discuss before we move on is low-level nuclear waste. Senator GLENN just indicated he had an amendment. He will not offer it. That is fine because without his concurrence, we would not have the unanimous-consent agreement. That is why I was indicating it.

But the other matter is how we dispose of or at least consider the request of the distinguished Senator from Oklahoma, Senator BOREN, with reference to campaign reform. When that matter was last before the Senate, on December 3, 1985, there was a vote of 84 to 7 not to table the amendment.

So the amendment is still pending under the unanimous-consent agreement. The question was when it would come back before the Senate. As I indicated at that time, January-something. We have February partially committed to. We just had another example of that with TV in the Senate.

I was trying to provide some flexibility because I also believe that we should have reform of the campaign financing system, but I must say I am not prepared to advocate public financing. That is what we are going to get out of the Rules Committee if anything comes out there. I think that is a bad idea.

So there may be merit to what the Senator from Oklahoma proposes with some modifications because there, I think, you have discrimination among PAC's. The early PAC's could contribute to your campaign. Those who did not would not be permitted under the cap. It is my hope that we might be able to resolve some of the differences on campaign financing.

Now the Senator tells me that as opposed to December 3 he wants a date certain. I indicated also on December 3, and we explored it on our side of the aisle—that we might want to go beyond the committee, and have four Senators on each side or whatever try to work out some satisfactory compromise if possible on campaign finance reform.

I am still prepared to do that. But I wanted the distinguished Senator from Pennsylvania, Senator HEINZ, to be here because he has a particular sensitive role in campaign finance, and see if we can work out some agreement with the Senator from Oklahoma. Otherwise, there would not be any low-level nuclear waste compact come up today. That is a matter of great importance. So I hope we can resolve the matter now.

(Mr. MCCONNELL assumed the chair.)

Mr. BOREN. Mr. President, will the distinguished majority leader yield?

I thank the leader.

Of course, on the 3d of December we had a conversation about when we might return to the campaign reform amendment which was not tabled. At that time I asked if the distinguished majority leader could indicate on what date we could return. He told me at that time he could not. He would endeavor to try to get back to it as soon as possible. He intended to get back to the subject. But as reflected in our conversation at that time, he was unable to give me a date certain.

The problem the Senator suggests, when we were talking about which vehicle on which we would attach this particular amendment, we first intended to attach it to the compact of free association, the Micronesia compact. We were informed by the leadership and others that could have delayed that piece of legislation. It was very important to get it done at that time. So we were told that this was also a very live vehicle. There were serious problems. There was also a piece of authorizing legislation, or transition legislation, these would be married together at some point in time, and a total package to deal with the subject had to be enacted. It was on the must list. Therefore, we were on a very live vehicle.

I want to be completely reasonable with the majority leader. I am sure he can understand having been given this vehicle and having not had the amendment tabled, the campaign reform amendment is still alive, that this Senator would feel constrained to object to any kind of a movement of the package of bills relating to this subject unless he could be assured that we would return to the campaign reform amendment at a time certain or not later than a time certain.

I have a lot of sympathy for the problems of the majority leader. I happen to be one of those in this body who believes in the leadership being able to control the schedule of the Senate. It is not fair for Members to make unreasonable demands that would impinge upon that role. But I cannot totally give away the thought of the legislation to which the campaign finance amendment would be attached.

I have always been willing to accept the amendment of the distinguished majority leader. As far as I am concerned, it would not require any unanimous-consent request. The majority leader could simply indicate to me that he would call up that bill, the campaign reform amendment, S. 365, no later than a certain date, with the full range of flexibility to the majority leader for when he would call it up. We come back from a recess on April 8 and he could call it up on April 15. He could say that we would stay on it a reasonable length of time. If we were not able to complete action, the amendment of the Senator from Oklahoma would be subject to a tabling motion because 3 days would have passed.

If it were passed, it would be subject to unlimited amendment. The Senator from Pennsylvania has indicated he would offer amendments. I am sure there would be many others who would offer amendments.

I understand the majority leader cannot commit to me to stay on that matter until it was completed. If he were in a situation that might take 2 or 3 weeks, I certainly would not want to tie the hands of the majority leader. But if he could assure me that he would call that measure back up before us, it would automatically mean that my amendment would be the pending business, say, no later than April 15, or if the majority leader wants to suggest any other date, it would be satisfactory.

I hope we can reach an agreement before then. We may end up with a campaign reform package that would have broad, bipartisan support that we could pass and hopefully this issue would be moved by whatever date is set. This Senator would just want to set a date on which it would be called up. Certainly, a personal commitment on that would satisfy me. Then I would want us to stay on it a reasonable period of time, either until it is disposed of or 2 calendar days.

This Senator would understand that the Senator from Kansas would also have to consider other Senate business. This Senator, however, does not want to give away the vehicle. There are 10 cosponsors of this amendment.

I do hope the majority leader could give us the assurance that he would call it up at a certain date and give us

a reasonable period of time on it in attempting to finish it.

Mr. DOLE. Mr. President, going back to December 3, maybe right after the vote was not a good time to try to work out an agreement. The Senator asked me if I would be willing to bring it back in the next session. I said yes. But now he is suggesting that we do it by mid-April, with the session probably going to last until October.

Again, I do want comments from the Senator from Pennsylvania, but it is my hope that we can work out a bipartisan package within or without the Rules Committee, maybe with just the Rules Committee giving its blessing. If not, maybe there would be enough on either side to have a substitute or somehow agree with all parties or a majority that we need to do certain things. We do.

I am not certain the Rules Committee would have time to fashion a compromise which would indicate what they might have in mind by mid-April.

I have asked the distinguished Senator from Pennsylvania if he would object if I would say that by not later than June 1, we would return to this matter and set aside a couple of legislative days for consideration in the hope that we might have an agreement by that time by which it would be disposed of. I would like to hear from the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have listened to the discussion with somewhat mixed emotions because when we were considering the Boren amendment earlier I heard our leader make a commitment to do his best to return to this and other campaign reform issues in the coming session. That was apparently acceptable to the Senate. That was my impression. The record leaves no impression to the contrary, but that that was acceptable to the Senator from Oklahoma.

I am somewhat constrained to say this has the appearance of changing the rules in the middle of the game or taking a second bite at the apple. I do not like to see a commitment by our leader in a sense questioned by somebody coming back—I will say this of anybody coming back—saying that they want different treatment of what in the judgment of many of us was clearly understood and by implication agreed to.

It is this Senator's view that the Senate should consider campaign reform in the coming session. I think it is important for us to do so. I know the Senator from Oklahoma feels it is important to do so.

It seems to me that there is an obvious problem, that we need to give the Senate Committee on Rules and Administration the appropriate amount of time to do their job.

I am at something of a disadvantage because as I look around the floor, the chairman of the Rules Committee is not here. The Rules Committee is decidedly underrepresented. I do not feel comfortable agreeing to any kind of date certain without the Rules Committee being consulted.

If I find that there is a sentiment to agree to a date certain, I would, for those reasons, feel at this point constrained to object to any unanimous-consent request for such a date certain.

It may be that we could agree on a date certain, but I do not see how we could do it at this moment.

Mr. BOREN. Mr. President, I have listened very closely. The Senator from Oklahoma certainly thought we would come back to this matter at a time certain on December 3. The Senator from Oklahoma also knows that there was a vehicle. We were promised that we would have an opportunity to put our amendment on a very live vehicle as opposed to a dead horse. Every Senator on this floor understands the difference. There was not a Senator on this floor that, if he or she had an amendment that was important to that Senator and they were able to attach it to a given vehicle, would then give away the vehicle. This Senator was perfectly content when the majority leader could not, on December 3, promise a date on which we would return to it, but this Senator rested with the knowledge that his amendment was on a package of bills that were important to be moved.

So it was the assumption of the Senator from Oklahoma that, ultimately, we would return to the matter because, ultimately, the Senate would need to return to the question of low-level radioactive waste. So, of course, the Senator from Oklahoma, knowing his rights, that would be the situation, that the Senator would have another opportunity to determine, if we could get back to this matter at a date certain, that the Senate would move to that legislation.

I have great respect for the Senator from Kansas [Mr. DOLE]. I have great respect for his legislative ability. I have served on the committee which he chaired. I have learned a great deal from him.

I see the distinguished Senator from South Carolina on the floor, the distinguished Senator pro tempore [Mr. THURMOND]. I have learned a great deal from him. I respect them. We have utilized the rules to try to make sure that the things in which we believe are fairly treated.

This Senator is being asked to do something else now, to give away a vehicle, a package of bills on which we deliberately put our amendment. We deliberately put our amendment on this particular measure because we knew there was going to be a series, a whole package of these, in legislation that would have to be married together. This Senator would certainly not be willing to give away the vehicle. This Senator would have to object. I understand it will cause problems. The Senator from Oklahoma would have to object to the unanimous-consent request that would give away his vehicle.

I do not think there is a single Member of 100 Members of the Senate who would not object to giving away a vehicle to which he had succeeded in attaching an amendment without any promise whatsoever that we would now return to the vehicle which would, by the way, lose its importance as a vehicle other than for the amendment itself. There would be nothing pushing us to return to it. We have disposed of these other problems. This Senator would have to object on that basis.

The distinguished chairman of the Rules Committee has said he plans to move very, very early, after we return from recess, to additional hearings. He is talking about this matter. This Senator has said that as far as he is concerned, he will accept the personal commitment of the majority leader without our having to ask for a unanimous-consent request. But if the distinguished majority leader would just tell me that no later than a certain date, which does not set a date certain, just says no later than an outside date, we would return to this matter and make it the pending business, that we would stay on it either until we finish it or a reasonable period of time—I am not asking the majority leader to commit to until we finish it, say a couple of calendar days.

I understand the majority leader has to push on to other things. Of course, if the Senate started attaching it, we have some subjects around here. A former Member of the Senate, Mr. Magnuson, once cataloged how many times we have discussed abortion and busing and we could face the issue of campaign financing every time we move. This Senator does not want to do that.

I ask the distinguished majority leader again. I hope he understands what I am trying to say. The Senator from Oklahoma is trying to be reasonable. He did not push for a date certain on the third of December because he still had this vehicle. The vehicle is this amendment on a package of vehicles that is important and needs to be dealt with. If we are going to give the vehicle away, I am willing to move.

The Senator from South Carolina [Mr. THURMOND] and the Senator from Washington [Mr. EVANS] are on the floor. I am willing to accommodate those Senators and their needs. I would be very happy to give flexibility. But I also want to see us act on this in enough time next year that the House would have time to act. I think it is very important. If we wait then until the next election cycle, it is going to be too late again. This bill I have introduced does not apply until the 1988 election cycle anyway. If we wait until after the 1986 elections until we act, they will say you cannot apply it to the next election cycle and we will

have to wait until the 1990 election cycle. So I do not want to get into that.

I hope if the distinguished leader—we come back on the 8th of April, we go back out on recess again until the 25th of May, this would really stretch it.

I have indicated if we are not making progress—and I am going to watch to see if progress is made in the Rules Committee and elsewhere and if we are not making progress—I will begin to move as early as March. If we are not making progress—this Senator is interested in progress, a bipartisan, reasonable approach as the majority leader has said. I am optimistic. The majority leader himself has said we can work something out on this. We may end up getting something the Senator from Pennsylvania and the Senator from Oklahoma can both be for. I shall be very happy if that can be done.

If the Senator from Kansas can just indicate to this Senator that he would like to see it done no later than—I have said the 15th of April. Certainly no later than the end of April. I would be willing to say no later than the period that we are talking about here between those two recesses, the April recess and the May recess, during that period of time.

I would not consider waiting until the last day to do it. That would not be appropriate because we would not have time then. If the distinguished majority leader, during that period of time at the latest, would call that matter up before the Senate, make it the pending business and give us at least 2 calendar days to work on it or until we can complete it—it might not take 2 full calendar days—this Senator would be satisfied and not make an objection to consideration of the authorizing legislation or any of the compact legislation or to the folding-in of the provisions relating to low-level radioactive waste. Even those provisions in 655 can be put in some other bill, so far as this Senator is concerned, and considered.

If the distinguished majority leader could simply make that commitment to me, this Senator would be satisfied with it and not press for a unanimous-consent request.

Mr. DOLE. Mr. President, we have a time problem. I would rather not debate the bill today because we are going to have low-level nuclear waste compacts agreed to by the House. They are now considering the continuing resolution. I am not sure how long they will stay around after that, hopefully long enough to pass the reconciliation conference report. I am prepared, if we cannot get an agreement, to just forget it or pull out the Oklahoma-Kansas compact and go ahead and pass the others. There is no need to punish the other States because the Senator from Oklahoma feels that the campaign finance reform is more important than dealing with low-level nuclear waste. That is a judgment he has made.

There are plenty of opportunities to bring up campaign finance reform. There is more than one Senator concerned about campaign finance reform in this body. We are prepared to try to work something out, but I have to get agreement on both sides. If we cannot get agreement, let us just say we are not going to get the agreement so we can go on with something else.

Mr. BOREN. The distinguished Senator from Kansas said a while ago he is prepared to talk about the 1st of June. The Senator from Oklahoma just noted that we are in recess until then. If we could bring it up prior to the May recess. The Senator from Oklahoma has moved from the 1st of March to the 15th of April.

Mr. DOLE. He has moved from the next session, which he agreed to on December 3, to now the first few weeks we are back. He has not moved the other way.

Mr. BOREN. The Senator from Kansas knows that is not the fact.

Mr. DOLE. That is what the RECORD says.

Mr. BOREN. The Senator from Oklahoma is not willing to give away a vehicle on which the distinguished Senator from Kansas said we could attach this.

Mr. SIMPSON. Mr. President, would the Senator yield for a question?

Mr. BOREN. In just a moment.

The Senator from Oklahoma is very happy to allow this to proceed. The Senator from Oklahoma is not holding up anything. But if the vehicle on which we were promised we would have an opportunity to attach this—we were told this was a live vehicle, it was on the "must" list. The Senator from Kansas has said he would try to return to this next year.

That is perfectly fine if we know we have a vehicle that is alive. But once we allow these other things to move, we have that vehicle no more. The Senator from Oklahoma is very happy to give the Senator from Kansas full flexibility about this matter. But I think the Senator from Oklahoma is making the very minimal requirement that any Senator would make under the circumstances in saying that we would like to have assurance that the majority leader will call this matter back up. I am not requiring we stay until we finish. Every Senator can offer every amendment they want to offer to it. If the Senator from Kansas cannot complete action on it; he has other responsibilities—this Senator respects those—he can simply pull the matter down after a reasonable period of time. The Senator is willing to do that. But the Senator will be constrained to object to taking up any of the measures, the authorizing measure or any of the compacts, the Senator will object to this full range of bill numbers if he is not given some assurance that his vehicle will not have been disposed of. I think that is a very reasonable request.

I would be happy to yield to the Senator from Wyoming for a question.

Mr SIMPSON. Mr. President, I have entered into this discussion in days past. It seems extraordinary to me that the Senator from Oklahoma is not hearing what the majority leader is saying, and that is that we will have this issue on the floor of the Senate. I do not know what could be more direct or more honest. If the Senator from Oklahoma does not believe that, then it strains my knowledge of who he is and what he does. That is what the majority leader has promised. Is that not the case? It is the case in the RECORD on December 3. It is in the RECORD today. What more is it that the majority leader can tell the Senator from Oklahoma?

Mr. BOREN. Well, he can tell the Senator from Oklahoma an ending date; that he will bring it up before a certain period of time. The reason for that is the Senator from Oklahoma is perfectly willing to have a statement of feeling by the majority leader that he hopes to return to this next year, which is what he said on December 3. I certainly believe that. I accept the word of the Senator from Kansas. But now the Senator from Oklahoma is being asked to give away the vehicle. As long as the vehicle is there, pushing us to bring back this particular measure, the Senator from Oklahoma does not express much concern. But this Senator will say again—and I do not want to be quarrelsome about it. I am not quarreling with my good friend from Wyoming. I am certainly not quarreling with the distinguished majority leader——

Mr. SIMPSON. Will the Senator yield?

Mr. BOREN [continuing]. For whom this Senator has great affection and regard. All I am saying is I know the Senator from Wyoming. He is a person who fights for his convictions. I do not believe that the Senator from Wyoming would give up the vehicle on which he was told to attach his amendment because there were a whole bundle of bills that had to be married together and that that was a live bill number, because all these were going to move together, they were going to be married together and move. I do not believe he would give up that vehicle. This Senator is sorry, but I simply believe that we cannot afford to put this off.

The Senator from Kansas has said the 1st of June. We are going to be in recess another 2 weeks prior to that. The Senator from Oklahoma simply said I accept what the Senator from Kansas has said. If he would just say we will deal with it before we go out for that May recess, which is virtually

the same thing he was talking about, that would give us time when we come back from the May recess to take some action. The House would then have time to work on this matter.

I understand the problems. I had wanted to bring it up before we went out in April. The Senator from Kansas has said to me—he was talking about all the pressures he is under. I respect that. We have heard about TV in the Senate. We have heard about Conrail in the Senate. The Senator from Oklahoma wants to be reasonable about it.

Mr. SIMPSON. Will the Senator yield for another question?

Mr. BOREN. I will be happy to yield for a question.

Mr. SIMPSON. The Senator is well aware that 37 States are critically affected by this transitional legislation.

The Senator asked the Senator from Wyoming what he would do if he were involved in the same situation. I could tell the Senator what I have done in the past, which is more than rhetoric. When our good colleague from West Virginia was majority leader and told me that we would hear something of mine or bring it to the floor, he kept every single commitment to do that. That is what this majority leader——

Mr. BOREN. That is what——

Mr. SIMPSON. May I just finish the question, please. I have just a critical one for the Senator. I am saying that I would then have believed the majority leader, and I would under any circumstances in this place. But I say to the Senator, we can leave the Senator with a vehicle. Indeed, we can. It will be the Senator's vehicle. He will have the fate of it in his hands. It is S. 655, which is the compact that applies to Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the central interstate low-level radioactive waste compact. That is the Senator's vehicle.

He will have many allies in that cause, and we will go forward with our business today while the House awaits the work product and soon will go out. If the Senator from Oklahoma wishes to have that responsibility, I say he will. If he wants to allow us to go ahead and take care of the other States in the United States who have a critical problem as of January 1, I would hope that he might defer on that basis. If not, then the Senator has his vehicle. It is here. It is S. 655. In fact, that is all the Senator's vehicle ever was. And he would still have that option in its purest form. I think it is critical to remember where exactly we are.

Mr. BOREN. The Senator from Oklahoma understands that. The Senator from Oklahoma is willing to accept that responsibility. I am perfectly willing to accept that responsibility. I think the Senator has made a very open and aboveboard offer, and I have shown great flexibility in what I am willing to accept. I am absolutely willing to accept the word of the Senator from Kansas. The Senator does not need a unanimous-consent agreement. If the Senator from Kansas tells me that he will call that bill back up sometime prior to our going out for the May recess, which is in essence what he said just a minute ago, and let us be on it for a reasonable period of time, this Senator accepts that. I understood it was the Senator from Pennsylvania who was going to object perhaps. I hope that he would not because that gives us plenty of time. I am very optimistic that the Senator from Pennsylvania and the Senator from Oklahoma and a lot of others who are interested in the subject could get together in the meantime and work out something we can all be perhaps very enthusiastic about. The Senator from Oklahoma and the Senator from Pennsylvania have done that on a number of occasions in the Finance Committee where we found ourselves allies on a number of matters. I realize that we are here at the end of the session. It has been a very hard and stressful session and tempers tend to flare and we tend to get into rather short-fuse situations in terms of our moods. The Senator from Oklahoma does not desire to contribute to that in the least.

The Senator is perfectly willing to accept the word of the Senator from Kansas if he will just simply say to the Senator—it does not require unanimous consent. I have know the Senator from Kansas long before I came to the U.S. Senate. I have the greatest regard for him and respect for him and warm personal friendship. I certainly will be glad to accept the word of the majority leader that he will return to this matter, call it back up, bring it before the Senate. I do not want to put him in any box about having to stay on it until it is disposed of, if that becomes a time problem.

So the Senator from Oklahoma feels that he has made a very reasonable, about a third counterproposal, I will say, in response to the legitimate concerns of the Senator from Kansas about scheduling. The Senator is perfectly willing to accept his personal commitment if he chooses to give it. Otherwise, I see no point in discussing it further, if the Senator from Kansas does not wish to give that commitment.

The Senator from Oklahoma will object to the consideration of any of these numbers. There it is.

Mr. SIMPSON. Will the Senator yield for another question? The only vehicle the Senator ever had in this whole situation was S. 655. Is that not correct?

Mr. BOREN. That is not correct.

Mr. SIMPSON. It is correct in the RECORD.

Mr. BOREN. It is not correct. It may be correct in the RECORD, but we have a lot of conversations——

Mr. SIMPSON. That is the best thing we can use—the RECORD.

Mr. BOREN. Mr. President, if I might respond to the Senator——

Mr. SIMPSON. Yes.

Mr. BOREN [continuing]. Of course we have what is in the RECORD, but we also have conversations that occur around here. And I think if we call the distinguished Senator from Mississippi [Mr. STENNIS] and the distinguished Senator from Arizona (Mr. GOLDWATER) to the floor, they would be happy to report conversations that we had, as the Senator from Oklahoma will. This Senator believes in operating in good faith.

This Senator accepts the word of other Senators and the understandings of other Senators.

I see that the Senator from Idaho is on the floor. I know that at some particular period of time, he was in at least a very small portion of those discussions, as the chairman of the committee.

It was explained to the Senator from Oklahoma that there were a whole series of issues dealing with low-level radioactive waste; that there was an authorizing bill; that there was a House bill number; that there were a series of Senate bill numbers; that there was a series of regional compacts, and that it was the intent of the leadership to bring all those back together at a certain point; that before the whole matter was disposed of effectively, a whole package, a whole bundle, would be put together and enacted into law; that, therefore, we would have the ability to prevent that bundle from going forward, to deal with this whole problem as we would on that piece of legislation.

I hope we can work it out. I do not know that we need to discuss it any further. I am perfectly willing to rely upon the word of the distinguished Senator from Kansas.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. McCLURE. I thank the Senator for yielding. Perhaps when I am finished, he will not be glad he yielded, and I apologize for that in advance.

I remember the portions of the discussions in which I was involved with respect to what the Senator from Oklahoma would do rather than attach it to the compact. I happen to be the chairman of the committee that had both the compact and the initial jurisdiction over this low-level nuclear waste matter.

I was trying to get it off the compact. In the discussions that I recall, it was suggested that the Senator from South Carolina was vitally interested in this subject matter and was willing

that it be attached to one of the compact measures. In no part of the discussion in which I took part was it mentioned that it would attach to the whole package. If there was a different understanding or a different conversation, it is not an understanding the Senator from Idaho had, nor was it in a conversation of which I was part.

Mr. BOREN. I appreciate what the distinguished chairman has said, and I am not sorry I yielded to him.

I understand that this amendment would not be attached to each part of it. My understanding was that for us to have an effective, comprehensive solution to this problem, all these measures would have to be enacted and pulled together, and therefore, by attaching it to any one of them, we would be in a position to prevent movement on a solution of this problem.

A moment ago, the distinguished majority leader mentioned the 1st of June. He mentioned that he would be willing to say that he would call this matter back up prior to the 1st of June. I suppose the Senator from Oklahoma is arguing about semantics, because we will be in recess for a week prior to that, and obviously the Senator from Kansas is not going to call it up when we are in recess. The Senator from Oklahoma will be happy to accept what the distinguished majority leader just said.

Mr. HEINZ. Mr. President, will the Senator yield for a question?

Mr. BOREN. I yield.

Mr. HEINZ. There are a number of issues that I think we should get on the table if we are going to talk about anything like a date certain for the Senator's amendment. I said earlier that I was not necessarily opposed to it but that we had to have a number of uncertainties addressed.

Let me ask the Senator this: Were there to be an agreement, whether it is informal or a unanimous consent request, would the Senator also be willing to agree that if we take up the Boren amendment in some other context between now and then, or if the Rules Committee reports campaign reform legislation and the Senator has his opportunity to debate the Boren amendment, as an amendment or as part of such campaign reform, whatever agreement would have been reached would, in effect, have been overtaken by events and would have been discharged? Would he agree to that principle, in principle?

Mr. BOREN. Yes. In response to the Senator from Pennsylvania, let me say this.

As the Senator knows, when this bill number is called back up and the campaign reform amendment becomes the pending business, under the prior unanimous consent agreement it will be subject again to tabling because 3 days have passed. It would not be subject to amendment. It would be subject to amendment after it is disposed of.

For example, let us suppose it is adopted or is not. The Senator from Pennsylvania could offer his amendment, or any other amendment could be offered.

The Senator from Oklahoma would be perfectly ready, let us say, in the meantime, if the whole matter becomes moot, because a group of Senators would get together and agree on a different package, or perhaps a broadening of the Senator from Oklahoma's proposal, and there is a desire to move on, that we can move on that earlier. Of course, the Senator from Oklahoma then would be willing to release the majority leader, if he should make that commitment, from a commitment. It would be foolish to return to something that was moot.

The Senator from Oklahoma would not want to give away, if the Senator felt we had not really dealt with the matter—the Senator from Oklahoma would want to keep it at his own option to release the majority leader from a commitment. Obviously, the parliamentary situation in which we now find ourselves is that when this matter becomes pending again, it will not be subject to amendment. That gives some leverage to the Senator that he would like to keep, and I am sure that my colleagues who are cosponsors of this measure would like to keep it.

If we were going to return to that prior to the 1st of June, with that parliamentary situation, I hope it would give all of us an incentive in the meantime to work out something that is good, genuine campaign reform on which we could move forward. If we were able to get that done in the meantime, certainly I think we all recognize that we would not expect the majority leader then to do that.

This Senator does not want to say, in any petty sense, that I personally have to be satisfied; but I hope the Senator will understand that I would want to be the one to release the majority leader from that commitment.

Mr. HEINZ. I do not know of any commitment the majority leader has made, other than to consider the Senator's legislation in the next session. There was discussion of various dates, but I do not know that any commitments have been made. The majority leader is here. I have not heard any commitments made as yet.

If the Senator will yield further, I have a question for him. I urge the Senator to think through his answer very carefully because it may make a difference as to whether or not he succeeds or fails in his objective, which is to pass meaningful legislation.

Were the Boren amendment in S. 655 to be brought up at any time, the Senator knows that his amendment would not be amendable.

Mr. BOREN. That is correct.

Mr. HEINZ. And it would not be debatable. It would be voted up or down.

Mr. BOREN. I did not understand that it was not debatable. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BOREN. It is not subject to any further debate?

Mr. HEINZ. That is correct.

As a result, the parliamentary situation is not very favorable to careful consideration of that amendment as it stands. There could be a 2-day quorum call. There could be all kinds of methods whereby somebody might force the Senator's amendment to be voted on.

Mr. BOREN Mr. President——

Mr. HEINZ. Let me ask the question. I want to make sure that we are dealing with the same set of facts.

The question is this: Would the Senator not think, as a second principle, that it would be advantageous to him, and perhaps to the rest of the Senate, if we are going to revisit this issue, to make his amendment amendable? I think the Senator knows that there was some controversy about his amendment on his side of the aisle immediately prior to the vote on the Boren amendment.

How does the Senator feel about that?

Mr. BOREN. Mr. President, let me say I appreciate the question that the Senator from Pennsylvania is asking. I hope we can resolve this matter. I think I detected a tone just now of a possibility that we will.

The Senator from Oklahoma would not want at this point to waive what he has already gained in terms of it not being amendable. It would be amendable after it was acted upon. If it fails, the amendment of the Senator from Pennsylvania would be offered. If it passes, the amendment of the Senator from Pennsylvania or amendment of any other Member of this body could be offered to it. It would totally change its nature after it was adopted.

I have said in previous discussions over the last 2 weeks when this matter first began to surface—we are suffering from the surfacing of it—that the Senator from Oklahoma would be perfectly willing to reopen the matter to debate. In other words, I do think the Senator from Pennsylvania has raised a good point.

Mr. HEINZ. I raised a question.

Mr. BOREN. It is an important matter.

The Senator from Oklahoma would be very willing to change the present parliamentary situation which if indeed it would preclude debate, and I believe that the Senator is correct. It is not the intent of the Senator from Oklahoma to preclude debate. The

Senator from Oklahoma would be very happy if the Senator from Kansas will make a commitment that we return to that matter. The Senator from Oklahoma would be very pleased to include in it unanimous consent to modify the previous consent we entered into several weeks ago on the floor to make the amendment subject to further debate, and the Senator from Oklahoma would not necessarily require any limitation on time.

Mr. HEINZ. Do I understand the Senator is willing to let the Senate work its will as to amendment? Is that right?

Mr. BOREN. The Senator would prefer, because the Senator negotiated for many, many days, weeks, and months—I am sure the Senator from Pennsylvania will understand this—with his cosponsors of this proposal the exact provisions of it.

That is the reason that the Senator entered into it, because it is a broad coalition. It stretches from the Senator from Colorado, Senator HART, Senator LEVIN from Michigan, Senator GOLDWATER from Arizona, Senator STENNIS—that it would not be amendable. It would be amendable after it is acted upon.

I think that would give the Senate an opportunity to completely work its will.

If there were no time limitation on it and if it were subject to debate, the Senator from Pennsylvania would have every opportunity to say if this amendment passes here is the next amendment I am going to offer to it, or whatever.

Let us say it passed in this form after debate, and the Senator from Pennsylvania, let us say, did not succeed on some amendment he felt was very important to make it acceptable before he was going to finally vote for passage of that bill, the Senator from Pennsylvania would have every right, without time limitation, to stop the bill from then passing.

I think all of the rights the Senator from Pennsylvania would be protected, and I think the Senator from Pennsylvania has raised a good point about allowing additional time for debate. I think that is very reasonable.

Mr. HEINZ. The Senator from Pennsylvania may think it is reasonable, if there is an opportunity to offer amendments.

Let me, if the Senator will yield further, state this. The Senator knows from the viewpoint of most of us, the Senator from Oklahoma cut a very smart sharp deal that allowed the Senate to debate for 2 days and vote up or down or on a tabling motion on his amendment. That was the deal that the Senator from Oklahoma cut. It was the deal that was followed thereon.

The Senate said what it had to say, voted the way it decided to vote, and I do not believe the majority leader having discharged his obligations, the Senate having lived up to its unanimous-consent request, the Senate being under no obligation to return to S. 655, that is, it is reasonable for any Member of the Senate to say we have to do it all over again as if we never did it.

Now, it seems to me reasonable that if we are going to visit the issue of campaign reform of which the Boren amendment is clearly an important part, we should allow the Senate to focus not just on the one provision that everyone talks about, which is limiting PAC's to less money per election than they now are able to contribute, but to all the other aspects of the Boren amendment which, frankly, were rather ill-considered, and if you review the debate on the floor and if you look at the questions that were asked of the sponsors of the legislation one would find very few answers responsive directly or indirectly to the questions posed by myself and others to the sponsors of the legislation on all those other issues.

Now, I would hope that the Senator from Oklahoma would have been persuaded by now that it would be advantageous to him to allow the Senate to do some fine tuning of his amendment because, as far as I can tell, it really needs it.

And is the Senator from Oklahoma saying, and I urge him to consider his answer very carefully, if the Senate were to return to his amendment he would simply under no circumstances permit any amendments to it? Is that his position?

Mr. BOREN. The Senator from Oklahoma would be willing if the Senate wants to return to the amendment now to vote on it; that is fine. If we want to call up S. 655 and vote on the pending amendment that was not tabled, we could do that. The Senator would be very willing to do that. We could vote on it. We could vote on the PAC amendment and everything else that would be brought up as far as the Senator is concerned. We could vote on that now and vote on the campaign reform amendment.

The Senate did not table the Senator's amendment. Therefore, it is alive. We were told that was meaningful action. I assume people knew what they were doing when they voted not to table it. It was still alive in a nonamendable form. When the matter is brought back to the Senate it would be under those conditions.

The Senator from Oklahoma would like to be in position to take credit for negotiating a time agreement. The Senator from Oklahoma would have to say that he received very substantial assistance from the distinguished Senator from Arizona, Senator GOLDWATER, and the distinguished Senator from Mississippi, Senator STENNIS, who were principal negotiators of that time agreement, and this Senator wants to give them credit for their very important role in those negotiations.

The Senator from Oklahoma has never suggested, and I want to state on the record again, that anyone has not kept their word on this matter. The Senator from Kansas did exactly what he said he would do. The measure was called up. We had that vote on the tabling motion at 2 p.m., just as he said we would.

The original unanimous-consent agreement did not then require us to stay on that legislation. The Senator from Kansas chose to pull it down. That is his prerogative. It is no breach of his word. It was exactly what we agreed to.

He then said he hoped we would return to it the next year, which the Senator was glad to hear. The Senator accepts that he hopes we can return to it next year.

Now, this Senator is being asked to allow these other vehicles to move, rather, the other parts of this bundle of provisions under separate bill numbers dealing with this subject. The Senator is willing to let it move. The Senator is willing to allow the Senator from Pennsylvania or anyone else time to debate. This Senator is willing to ask himself if the Senator from Pennsylvania would desire to make the campaign reform amendment debatable when we return to it.

Mr. SIMPSON. Mr. President, will the Senator yield for a question?

Mr. BOREN. In just a moment.

This Senator is also willing to allow us to have no time limitation on it at all, either before or after it is voted on, so that we have full opportunity for anyone to offer amendments and to allow the majority leader control over taking the bill back down after a couple of days if we are not able to complete it. He would, of course, have control over when it would be brought back.

In the meantime I hope it would become moot before that time. The Senator from Kansas is very interested in this subject. We have all been able to get together. We are all working out something in the meantime about this subject about which we can all be very enthusiastic. I think we could.

I would just say again I would be willing to move to vote on the campaign reform amendment right now if we want to. That would dispose of it. I would be willing to accept what the Senator from Kansas discussed—did not promise—he simply discussed the possibility of his simply saying he would return to that matter and call it back up for a reasonably period of time before June 1. This Senator is prepared to accept that. That was in

the thinking-out-loud stage, as I understand it, from the Senator from Kansas a while ago. The Senator will accept that. If the Senator from Pennsylvania requests it, wants me to, this Senator would be very happy to move to change the unanimous-consent request entered into earlier to the extent that the amendment would be debatable if and when it returns.

(Mr. PRESSLER assumed the chair.)

Mr. SIMPSON. Will the Senator yield for a question?

Mr. BOREN. The Senator is happy to yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask this of the Senator from Oklahoma at least so that I have the record complete, because I am not obsessed with this legislation. My State will function quite well. The rest of the United States will not function quite as well as of January 1 because three of the receiving States, the only receiving States, will begin to reject the low-level waste material, which will affect my State, the hospitals in my State, and it will affect the oil and gas industry in my State as they use nuclear materials. It will affect the oil and gas industry in the State of the Senator from Oklahoma in their use of nuclear facilities and materials. It will affect every hospital, with the universities at Norman and Stillwater and Oklahoma City, because they will not be able to dispose of low-level nuclear waste. It will affect Kerr-McGee; it will affect those things that are very real. If we are going to get to this level, this is where we have to get.

Let me ask the Senator a question: Is the Senator suggesting—and I heard him say this in earlier debate—that if we were to remove the central compact, the interstate low-level radioactive compact, from this package, which is the compact that grievously affects the State of Oklahoma, is the Senator saying that then we would be left with an insignificant, an unimportant, a sterile vehicle, when that is the vehicle that has been negotiated by his Governor and others within the compact who are now asking this Congress to approve this so that the Senator's State and the other affected States can get on with low-level waste disposal? That is my question.

Mr. BOREN. The Senator from Wyoming is, as always, very adroit in selecting examples and pointing out the importance of legislation. He said exactly what was pointed out to this Senator at the time that we decided to agree not to put the amendment on the Micronesia Compact of Free Association, but to put it on a very live horse. That is exactly what was said.

The reason this Senator, and I presume the Senator from Arizona, the Senator from Mississippi, and others involved, agreed to put this on this vehicle was that it was an important vehicle, one on which we would have to act. This Senator understands that hospitals have at least a 30-day holding capacity for radioactive waste; utilities have up to 6 months. The Senator would hope we would not have to run them up to their full 30 days or 6 months. But it is certainly a matter that is not going to bring everything to a halt.

This Senator is absolutely willing—perhaps if we can put in a quorum call, I have discovered that—usually we are all people of good will—we can work something out very quickly, and I think we can.

But this Senator is not trying to score rhetorical points or anything else. This Senator simply wants to move on this and is willing to move to a vote on the campaign reform amendment now. We can vote on it now and get it over with. Then we can go on to everything else. As far as I am concerned, this Senator is willing to not even have to operate under the unanimous consent and accept the commitment of the Senator from Kansas not only for a date certain, but no later than a certain date, which means the Senator from Kansas would have a whole range of flexibility on when to call it up, flexibility on when to take it down after he called it up, as long as we had a minimum of a couple of days if we were not able to dispose of it. This Senator wants the Senator from Kansas to be able to, in essence, set the schedule of the Senator, and supports that.

This Senator is willing to modify the previous unanimous-consent agreement to make the amendment debatable and to impose no time limitations before or after the vote on the amendment so that it will be subject to further amendment after it is acted upon. So that is where we are.

Perhaps if we could put in a quorum call for a minute, or whatever the majority leader would like to do, maybe we can reach a conclusion.

Mr. DOLE. Mr. President, because I need the consent of both Senators or we are not going to do anything, this discussion has been going on for 67 minutes on a matter that could have been disposed of in 2 minutes after we had reached this agreement. This matter is very vital to this Nation and time is of the essence as it is necessary that we get this measure to the House today. The House is going to be in for some time because they are going to go to the Rules Committee later on today on reconciliation. So we still have some time.

I hope that, while we are working out some reasonable agreement, we could take up some other unanimous-consent items that have been cleared on each side.

I would note for the record, so I have some defense at home, that I have already missed my wife's party which was from 12 to 1. I hope Senators will help me out on that one. [Laughter.]

But, in any event, there are some other matters that we could do by unanimous consent. Senators D'AMATO and DODD are very interested in effective dates. They have been the principal sponsors, along with Senators WILSON, HAWKINS, and others. I became involved in that to see if we could not get it done yet this session.

I first wish to thank both Senators for permitting me not to take it over but at least to become involved. I think that matter has been cleared.

PROSPECTIVE EFFECTIVE DATE FOR TAX REFORM

Mr. DOLE. Mr. President, I send a resolution to the desk on behalf of myself, Senator D'AMATO, Senator DODD, and about 55 others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 281) relating to prospective effective date for tax reform.

Mr. BYRD. Mr. President, I ask that the resolution be read.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

S. RES. 281

Whereas the Senate will require adequate time to consider tax reform legislation proposed by the President and the House of Representatives, and to prepare legislation which will maximize fairness and long-term economic growth and minimize short-term economic disruption; and

Whereas, it is likely that such action will not be completed before August 1986; and

Whereas, the tax legislation as prepared in the House of Representatives by the Committee on Ways and Means contains effective dates of January 1, 1986 and earlier; and

Whereas, it is unreasonable to expect taxpayers to comply with fundamental changes in the tax laws before they are enacted and they can be certain what those changes will be; and

Whereas, uncertainty as to the future of particular tax provisions is causing taxpayers either to delay decisions that they otherwise would make or to rush into transactions that, absent tax considerations, they would enter into at a more appropriate time;

Therefore, be it *Resolved*, That it is the sense of the Senate that the effective date of any fundamental tax reform legislation should generally be January 1, 1987 while recognizing that appropriate transition rules may be necessary to avoid unintended adverse effects both on taxpayers and the United States Treasury and recognizing, further that retroacitve effective dates may be necessary to extend certain provisions which expire before January 1, 1987.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, today I am introducing, along with a strong bipartisan group of my colleagues, a resolution expressing the sense of the Senate that the effective date of any major tax reform legislation enacted in this Congress should generally be January 1, 1987. The reason this resolution has such widespread support is simple—it is the right thing to do.

At the outset, I should acknowledge the leadership on this issue by my distinguished cosponsor from New York [Mr. D'AMATO]. The Senator from New York, along with the Senator from Florida [Mrs. HAWKINS] and the Senator from Connecticut [Mr. DODD] earlier introduced a resolution expressing that the effective date of tax reform legislation should be no earlier than July 1, 1986. That date was a reasonable one when the resolution was introduced, but the legislative process has taken longer than originally anticipated. The Senator from New York has continued in forcefully expressing his concern that any basic changes in tax legislation be enacted prospectively and I applaud his leadership on this issue.

SENATE SCHEDULE

Congress will not be able to complete action on tax reform before mid-1986. This is not a statement of sentiment in favor or against tax reform. It is merely a realistic estimation of how long it will take the Finance Committee and the full Senate to give fundamental tax reform the consideration it deserves.

We will not accept either the House Ways and Means Committee bill or the President's original proposal without making our independent judgment on the merits of each provision. The American people expect us to take tax reform seriously and not to treat it merely as a political issue. We will do our best to deserve their trust and meet their expectations.

But adequate consideration will take time. The Finance Committee has historically taken over a month, and sometimes substantially longer, to report major tax legislation. It will then undoubtedly require some time for drafting. Once drafting is completed, a bill of this magnitude will probably occupy the Senate floor for 4 to 6 weeks. After taking into account the need to schedule other important legislation, as well as nonlegislative periods, and the time necessary to work out differences in conference, it is highly unlikely that we will be able to get a bill to the President before next summer.

With that reality, we need to let taxpayers know what we will try to do so that they can plan their business and personal matters while we do our job.

TAXPAYERS MUST BE ABLE TO PLAN

Mr. President, this Senator certainly does not oppose tax reform. I am happy to stand on my record on tax reform during the years I was chairman of the Finance Committee. However, I am also realistic. I know that it is impossible for taxpayers to plan their economic affairs when they cannot be sure what tax rules will apply.

This is not to say that everything in our economy is tax motivated. However, we must be honest with ourselves that tax implications affect nearly all transactions and, in a substantial number of situations, may make the difference on whether a transaction will go forward or not.

Unfortunately, the bill reported by the Ways and Means Committee contains effective dates of January 1, 1986 and, in the case of some provisions, even earlier. If we in the Senate who deal with tax legislation as part of our jobs don't know at this point whether we will agree with the House on certain provisions, it should be very clear that taxpayers will have no better ability to forecast what changes will be enacted. We should not put taxpayers in the position of second-guessing Congress.

THE EFFECT ON A PROSPECTIVE DATE

Mr. President, I am sensitive to the argument that making legislation effective on some future date may have an impact on taxpayer behavior. Some taxpayers who want to take advantage of a tax benefit that will be repealed or reduced may rush to enter into a transaction that might otherwise be delayed. Others who think that they may be better off under the new law may delay decisions they otherwise may make.

However, any rush to take advantage of specific benefits in present law has been taking place at least since the Ways and Means Committee began to make preliminary decisions on tax reform. What concerns me more at this point is that, even if we enact legislation which is significantly better for our economy in the long run, uncertainty about what law will apply while we complete our deliberations could cause severe short-run economic distruption.

It seems unfair and unreasonable to me to cause prudent business people using their best judgment to decide that they should delay business investment decisions, for example, because they do not know what will happen to capital cost recovery deductions, investment tax credits, or even tax rates. It is much more reasonable to let taxpayers go about their business with some sense of certainty while we go on about ours.

A GOAL, NOT A GUARANTY

Therefore, the resolution we are now introducing today states that it is the sense of the Senate that any tax reform enacted in this Congress should generally be effective January 1, 1987. It also notes that transition from one tax system to another may necessitate special rules to protect taxpayers and the Treasury from unintended adverse impact. It also suggests that, if Congress decides to extend any provisions which will expire before January 1, 1987, those extensions should have a retroactive effective date to assure that the provisions will continue in effect without interruption.

I should emphasize that this sense of the Senate resolution provides a goal, not a guaranty. It says that we intend to work for these results but, since we cannot bind the Members of the House or the administration, it may be that the final version of the legislation will have effective dates that differ from January 1, 1987. All we can do is say that we will do our best to pass legislation with a truly prospective effective date.

This Senator, for one, is gratified that the House has adopted a resolution proposed by their distinguished Republican leader, Mr. MICHEL, instructing the chairman and ranking member of the Ways and Means Committee and Finance Committee, working with the Secretary of Treasury, to prepare a list of tax reform items which would not become effective until January 1987. However, that resolution does not obviate the need for us to express our intent. The House bill still contains effective dates that are now, or soon will be, retroactive. I hope the parties specified in the House resolution will be able to agree on what most appropriately should become effective in 1987. However, the American taxpayer deserves to know where the Senate as a whole stands on this issue.

Mr. President, I hope that this expression of our intent will be helpful to people who have to live with the Tax Code while we deliberate its future. In the final analysis, I cannot believe that Congress will decide to make fundamental changes in the tax law on a retroactive basis. We cannot promise Americans that everything in any new legislation will be prospective, but there has to be consensus that the responsible position is to make major policy changes prospective in effect.

Again, it is knowledge that this effort was initially the initiative of Senators D'AMATO, DODD, HAWKINS, and later Senator WILSON. In an effort to help expedite, I join in the effort.

I do not want to take anything away from their effort. They have been most helpful, and cooperative. We now have 56 sponsors.

Our view was if we could not pass it, at least we would have more than half the Senate on record.

Mr. D'AMATO. Mr. President, I am pleased to join the distinguished majority leader in this effort to move the effective date of tax reform to January 1, 1987.

On Tuesday, the House passed a major overhaul of the Tax Code and a resolution addressing in an inadequate manner the problem of retroactivity.

The House tax bill is generally effective on January 1, 1986, except for the rate reductions which would be effective on July 1, 1986. First of all, it is disgraceful that middle-income individuals should not enjoy the only benefit of tax reform—lower rates—until six after the repeal or alteration of many tax preferences.

The House bill now comes over to the Senate. The House took almost 12 months to pass their bill. There is no reason to think that the Senate will act faster than the House did. As a result, it is vital that Congress state unequivocally that tax reform should not be retroactive.

The House resolution dealing with retroactivity is completely inadequate. The resolution states that the chairman and ranking members of the Finance and Ways and Means Committees and the Secretary of the Treasury issue a press release stating that certain tax provisions which are crucial to the economy should be extended and not altered retroactively.

This is ridiculous. Are we going to let the Treasury Department and chairman of the Ways and Means Committee decide what is crucial to the economy and what is not? This way of dealing with retroactivity flies in the face of tax fairness and simplicity. These individuals are going to decide that certain tax preferences will be extended and that certain other preferences will not be extended. This is neither fair nor simple. The changes made by tax reform should occur at the same date and not be staggered over time.

Furthermore, Treasury and Ways and Means have a definite bias against many tax provision. For instance, Treasury proposed complete repeal of the rehabilitation tax credit. Does anyone really believe that Treasury would want to extend this credit? Another example is tax exempt bonds which the chairman of Ways and Means said last night should not be extended. This will have a serious impact on general obligation bonds. I think all Senators feel general obligation bonds should continue to be issued next year.

I believe it is imperative that the effective date of any tax reform legislation be moved to January 1, 1987, before the bill is considered any further. No one should be forced to enter the next tax year with the uncertainty of retroactive tax reform hanging over their head.

After January 1, 1986, the current Federal Tax Code will, in a sense, become irrelevant. Individuals, nonprofit entities, and corporations will not know whether to abide by current law or by proposed, but not yet enacted, tax-reform legislation. In the end, many economic transactions will be postponed until tax reform either is enacted or is laid aside.

Support for tax reform without retroactivity is support for an effective marketplace. It is not an expression of support or opposition for either tax reform, in general, or for any one specific tax-reform proposal. It is just plain common sense designed to keep America's economy moving.

To amend this inequity on October 25, I introduced with Senators HAWKINS and DODD a resolution which stated that the effective date of any tax reform legislation should be no earlier than July 1, 1986. Subsequently, my friend, the distinguished majority leader, has decided to offer an improved resolution concerning the effective date of tax reform, moving the effective date to January 1, 1987. I am an original cosponsor of this resolution and pleased to give it my complete support.

Too many times the rules have been changed in the middle of the game. I believe this is an opportunity to play fair and to set a prospective, rather than retroactive, effective date for any tax-reform legislation which may be adopted. Individuals and companies should be allowed to operate freely under current law until that time when tax reform is enacted.

I thank the majority leader for taking such a visible role in this issue and I urge my colleagues to support the proposed amendment.

Thank you, Mr. President.

Mr. President, before I begin, let me commend Senator DOLE for taking such a visible role in this matter. Senator DODD and I raised this question on effective dates of tax reform sometime last year, because we were concerned of the chilling effect that would take place in our economy. That is that the economic impact of proposed tax-reform legislation without a prospective effective date would have a devastating impact on the marketplace. No one should be forced to enter the next tax year with the uncertainty of retroactive tax reform hanging over their head.

So, Mr. President, I think it is absolutely imperative that the effective date of any tax-reform legislation be moved to January 1, 1987. We must let the economy, the Nation's marketplace, continue to operate freely. We must not impair the Nation's economy as a result of uncertainty as to when the effective date will be.

I can tell you that there are major business deals in my own State, and I dare say throughout the length and breadth of this country that will not go forward if we do not act. If we do fail to act, there will be a loss of tens of thousands of jobs.

When we talk about the economy, and what the tax bill will mean, I will tell you, that without the certainty of when effective dates will occur—that we are doing substantial damage to the economy.

I want to commend Senator DOLE; my colleague, Senator DODD; and 15 others who originally came forth and recognized the importance of this piece of legislation.

I must say that the House resolution dealing with retroactivity is completely inadequate. It is a sham. In the press release they say the ranking members of Ways and Means and the Secretary of the Treasury are going to come together, they are going to decide which provisions will be retroactive, and when the effective dates will be taking place. It seems to me, that these are the same individuals who decided on the original effective dates and what parts of the Code should be effective. This is ridiculous.

I do not think there is anything more important that we can do for the individual taxpayer, the financial community, and the working people of America, then seeing to it that the Senate is strongly on record saying that the effective date will be January 1, 1987.

I thank the majority leader and my colleagues, Senator DODD, for their strong support on this matter.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, let me thank the distinguished majority leader.

Mr. President, the majority leader has not detracted at all by promoting this piece of legislation. He adds substantially to it with his insistence that this matter be brought up in the form of a resolution before we adjourn, as my good friend and colleague from New York has pointed out going back almost a year ago, and I think Treasury, too, first announced it.

In that particular proposition, there were a whole host of effective dates included in that proposal, and just for the introduction of that piece of legislation by the administration had a profound effect in the marketplaces.

It was a result of that particular proposal and the effective dates that were mentioned in that piece of proposed legislation that I, along with my colleague from New York, introduced the first resolution which very much approached in similarity the matter before us here in this resolution.

I think the Senator from New York accurately points out we now have two resolutions. This resolution, of course, calls for the chairman and the ranking minority member and the Secretary of

the Treasury to decide what the effective dates ought to be. That goes far beyond what any of us here would like to see occur. That certainly is a responsibility I think for those of us in the Congress as a whole to make those decisions, and as a practical matter we all recognize as well by the time we finish consideration of this legislation in the coming year the effective date would be 1987 at any rate. So I am delighted to join today in this proposal.

My hope is that it will have the effect of the Senator from New York has suggested, and we will not find people engaging in certain behavior or desisting in certain behavior merely because someone has proposed a piece of legislation with an effective date that would predate, of course, the enactment of that legislation.

Mr. President, I rise as a cosponsor in strong support of the resolution being offered by the distinguished majority leader, Senator DOLE, concerning the effective dates of pending tax reform provisions. This resolution states the sense of the Congress that, as a general rule, pending tax changes will be effective no earlier than January 1, 1987. I believe that this is one of the most positive and necessary statements this Congress will make in the closing moments of this congressional session. Since the unveiling of Treasury II, I have advocated action similar to that being taken today. In January of this year, I introduced a Senate resolution setting out the general principle that changes in tax laws should take effect no earlier than enactment. My resolution further addressed the need for reasonable transition rules. Several months ago, I joined with Senator D'AMATO and HAWKINS in sponsoring a similar measure. As the tax reform debate got off the ground this year, a variety of initiatives were advanced with effective dates prior to enactment. In many instances, economic behavior was altered based not on what the Congress might do, but rather on what might be enacted being applied retroactively. This chilling effect resulted in a definite slowdown of economic activity in certain areas. Except in instances involving egregious abuse of the law, I believe the retroactive application of any law violates fundamental principles of fairness. Even where abuses exist, the Congress should move expeditiously to close the particular loophole or enact the appropriate correction. This issue of retroactivity is most inappropriate as part of a comprehensive attempt at tax reform. Such an effort can succeed only with a broad-based consensus and support from investors and the business community. How ironic to begin the debate, therefore, with proposals carrying dates of implementation corresponding to the mere introduction of an idea.

Mr. President, the resolution now before the Senate is pro tax reform and deserves our unanimous endorsement. There will be ample opportunity next session to debate the specifics of tax legislation. With this resolution, I believe we send an important signal that these deliberations begin on a note of fairness and equity.

Mr. METZENBAUM. Mr. President, I rise to comment on this resolution, not to oppose it, not to get overly enthusiastic about it either. I think the resolution is one of those that you have to think about a bit because it will impact upon the tax aspects of our laws during the year 1986, and will indicate the Senator does not believe anything should be effective until January 1987.

Since I think tax reform is very much called for, and I hope the Senate would move promptly to act with respect to the House-passed bill, I would have hoped we would be able to put this kind of tax reform provisions into effect as early as possible.

But as I thought about the subject a minute it occurred to me that if you do not have the January 1, 1987, effective date you very well may have much more difficulty in passing any tax reform provision; I think it would be an impediment. I think everybody would be down here crying with their handkerchiefs out, and tears rolling down their faces about how this deal or that deal was being killed, and that therefore we should not pass the bill at all.

I believe it is imperative that we face up to our responsibilities, and that we act with dispatch because I belive that there is a better chance of getting tax reform legislation through the U.S. Senate if we do make it prospective rather than retroactive to January 1, 1987. I think there is considerable merit in our doing that which is proposed by the resolution.

Mr. DOLE. Mr. President, Senator DOMENICI is one of the cosponsors of this resolution. However, he is necessarily absent today. Therefore, I would like to send to the desk his statement on this important resolution, and ask unanimous consent that it appear in the RECORD.

● Mr. DOMENICI. Mr. President, when it comes to changes in the Tax Code, uncertainty breeds contempt. In addition, decisionmaking becomes unduly complicated and tax planning becomes a nightmare. The Congress is getting ready to adjourn for the first session of the 99th Congress and we are leaving unresolved the fate of tax reform. Because the 1,379-page Ways and Means Committee bill, the President's plan, and the Republican package, touch just about every major provision in the code, I feel it is very important that the Congress give a clear indication about when any changes would take place. That is why this resolution is so important. By plainly stating that none of the general provisions of any tax bill passed in 1986 will be effective until January 1, 1987, the Congress accomplishes two very important objectives. First, if this resolution is passed, everyone would know what the rules will be for 1985 and 1986. This reestablishes continuity and unties individuals' and businessmen's hands because they know what the rules will be.

Second, this will end speculation about the fate of this radical tax reshuffle. I think it is wrong for Congress to leave taxpayers with no alternative but to second-guess us. A clear statement of intention is good public policy as well as good economic policy. Our economy does not need stalling, second-guessing and speculating.

I have received dozens of telephone calls, stacks of letters, and a healthy number of telegrams. Their message is best exemplified by this urgent plea:

> Whatever the outcome of the tax bill, it is urgent you do not, repeat, do not, leave a cloud of uncertainty over the economy in early 1986 by not clarifying possibilities of retroactive tax changes later in the year.

I have a county in New Mexico that needs to reissue adjustable rate bonds. They don't know whether they can issue tax-exempt bonds as they have in the past, or whether they have to issue taxable bonds that will be harder to market and more expensive for the county. Under current law the bonds could be tax-exempt. Under the Rostenkowski bill they would have to be taxable bonds. I don't have to tell you what their bond counsel thinks about the dangling tax bill. Furthermore, the county commissioners feel like they have no choice but to issue taxable bonds even though it is possible this provision will never become law. The practical result for this county is legislation regardless of whether we act or not. This is not the way our process is designed to work.

There are a group of developers in Santa Fe that are waiting to see what happens to the historic tax credit. If they knew they had until the end of 1987 they would move forward and complete a very worthwhile project. They have all the plans and certifications and were moving ahead until the potential effective dates stopped them cold. Until they know what the 1986 rules are going to be, they are not doing any historic renovation. This is the type of paralyzing effect the uncertainty is causing. This is the type of paralyzing effect that this resolution can eliminate.

Aside from the question of general effective dates, I think Congress should also make it clear that any transition rule periods would begin to be measured from the January 1, 1987, as well. This would mean that transition rules would start January 1, 1987,

and be judiciously drawn so that transactions began under current law would be treated under current law.

I think we all have a stake in insuring that the economy does not slow down because of tax reform. I also think that taxpayers should not be penalized because they cannot complete their projects by the time Congress completes tax reform. We sometimes forget that business is not conducted around the congressional timetable.

I have some very serious concerns about the tax reform bill that was reported out of the House Ways and Means Committee. According to the business roundtable the provisions in the bill, if enacted, would put the United States dead last in terms of competitive incentives among its major world competitors.

The administration, by its own admission states that tax reform would increase the cost of funds for investment in business equipment by more than 40 percent and increase the tax burden for corporations by $140 billion over 5 years in order to get a 1.1-percent increase in GNP by 1996. According to Martin Feldstein, former chairman of the Council of Economic Advisers, the natural process of growth would raise real GNP by 30 to 40 percent between now and 1996 if the tax law is left unchanged. I am unconvinced that we should be increasing the cost investment when the United States is restructuring to meet the international competitive challenge.

I intend to further discuss the merits of tax reform as the process moves further along. Our task today is to pass a resolution that will clearly state congressional intent regarding the potential effective date of any tax reform bill passed in 1986.

I urge all of my colleagues to vote for this resolution. Thank you, Mr. President.●

Mr. DOLE. Mr. President, I indicate there are 66 sponsors; 14 of those are members of the 20-member Finance Committee.

Mr. PRYOR. Mr. President, I'm pleased to be an original cosponsor of the pending resolution dealing with the effective dates of any tax reform measure that might ultimately be enacted.

As I stated yesterday in a letter to the chairman of the Committee on Finance, Mr. PACKWOOD, the present situation presents us with the worst of all worlds—a House-passed bill, no action by the Senate until sometime next year, and effective dates in the House bill spread over several months. This situation, unless corrected through resolutions, or a joint statement by the chairmen of both tax-writing committees, will create serious problems for both businesses and individuals in 1986. Business planning will be virtually impossible without some guidance as to the effective date of the tax changes.

For all of these reasons, I think it is preferable to move the effective dates until the end of 1986. I strongly support the pending resolution, and I hope it is unanimously adopted by the Senate.

Mr. LOCKWOOD. Mr. President, the Senate today considered and passed a resolution intended to ensure that no provision of the tax reform bill which the House has sent to the Senate will become effective before January 1, 1987.

The resolution has been offered by the majority leader and has been cosponsored by many Senators. The intent of the sponsors is to provide an economic environment of stability and certainty. Those are goals that we all applaud and support. There is no one in the Senate who will work harder to achieve those goals than I. There can be no question that we want to avoid uncertainty in the private sector over what provisions are going to be in the tax reform bill and when they are going to be effective.

At the same time, Mr. President, I feel it incumbent to warn the Senate and all those in the private sector and in the public sector who may be contemplating investments or making economic decisions that neither the majority leader nor I nor Chairman ROSTENKOWSKI nor any other Member of the House or the Senate can guarantee what the effective dates of legislation are going to be.

Also, if by chance we moved all the effective dates, which are now January 1, 1986, in the House bill, to January 1, 1987, there would be an extraordinary loss of revenue, which would mean that the President's tax reform would no longer be revenue neutral, and it would mean that it would be well neigh impossible to pass a bill

I am perfectly willing to state that I will do everything possible to ensure that transition rules and effective dates are fair, that they will not harm investment decisions, that they will help to ensure growth in the economy. But if anyone makes investment decisions based upon the passage of Senate resolutions or House resolutions suggesting different alternative dates than appear in the House bill, they do that at their own risk. I would not want them to come back to me or the majority leader or any members of the Finance Committee and say that they had been misled.

I do not know what the effective dates will be. I cannot guarantee what the effective dates will be. Everyone who is contemplating making economic decisions should understand that when they make them.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. I am asking recognition on behalf of the majority leader.

The PRESIDING OFFICER. The majority leader holds the floor.

The Senator from Pennsylvania.

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT

Mr. HEINZ. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3384.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3384) entitled "An Act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes", do pass with the following amendments:

Page 1, strike out all after line 8 over to and including line 21 on page 3, and insert:

(a) DEFINITIONS.—Section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) 'certified nurse-midwife has the same meaning given to such term in section 1905(m) of the Social Security Act; and

"(12) 'qualified clinical social worker' means an individual—

"(A) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

"(B) who, if such State does not provide for the licensing or certification of clinical social workers—

"(i) is certified by a national professional organization offering certification of clinical social workers; or

"(ii) meets equivalent requirements (as prescribed by the Office).".

(b) NURSES AND NURSE-MIDWIVES.—Section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof "optometrist, nurse, or certified nurse midwife".

(c) CLINICAL SOCIAL WORKERS.—Section 8902(k) of title 5, United States Code, is further amended—

(1) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(2) by striking out the last sentence; and

(3) by inserting at the end thereof the following:

"(2) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract—

"(A) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(B) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(3) The provisions of this subsection shall not apply to group practice repayment plans.".

(d) EFFECTIVE DATES.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

Page 10, lines 1 and 2, strike out physician or nurse; and insert: physician, nurse, or other licensed health professional with training in occupational safety and health;

Page 10, line 14, strike out fitness; and insert: fitness, including weight reduction;

Page 11, lines 5 and 6, strike out physicians and dentists; and insert: physicians, dentists, and other licensed health professionals;

Page 11, line 12, strike "production", and insert: "productivity".

Page 13, line 18, after "health," insert: "school of nursing".

Page 13, after line 21, insert the following:

(B) The authority of the Director of the Office of Personnel Management to enter into contracts or to make grants under subparagraph (A) is effective for fiscal year 1986 and subsequent fiscal years only to such extent or in such amounts as are provided in appropriation Acts.

Page 13, line 22, strike "(B)" and insert in lieu thereof "(C)".

Page 14, after line 10, insert the following:

SEC. 110. ADDITIONAL TYPE OF HEALTH BENEFITS PLAN.

Paragraph (4) of section 8903 of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) MIXED MODEL PREPAYMENT PLANS.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).".

SEC. 111. REPEAL OF 75 PERCENT MAXIMUM IN GOVERNMENT CONTRIBUTIONS.

(a) REPEAL OF 75 TO MAXIMUM.—Section 8906(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 100 percent of the subscription charge.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 112. RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO THE EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES.

(a) PROHIBITED TRANSFERS.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

(b) RESTRICTION RELATING TO USE OF CERTAIN AMOUNTS IN THE FUND.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans.

(2) This subsection applies with respect to any amounts—

(A) which are referred to in subsection (a)(2); and

(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "Employees Health Benefits Fund" refers to the fund described in section 8909(a) of title 5, United States Code;

(2) the term "carrier" has the meaning given such term by section 8901(7) of such title; and

(3) the term "health benefits plan" has the meaning given such term by section 8901(6) of such title.

Page 16, line 14, after "occurring", insert "on or"

Page 17, line 6, strike out "to" and insert: "in the case of".

Page 17, strike lines 10 through 18 inclusive, and insert:

"(B)(i) The requirement described in clause (ii) shall not apply to an election made by an employee or Member under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity under section 8341(h) of such title (as amended by section 2(4)(G) of this Act) in the case of a former spouse referred to in subparagraph (A) if the election meets the requirements of clause (iii).

"(ii) The requirement referred to in clause (i) is the requirement prescribed in section 8339(j)(3) of title 5, United States Code, for an employee or Member to make an election in the case of a former spouse under such section 8339(j)(3) at the time of retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the employee or Member is dissolved.

"(iii) Clause (i) applies to an election which is made by an employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985, and is received by the Office of Personnel Management within the 2-year period beginning on the date of the enactment of such Act.

Page 18, line 9, strike out "May 7, 1985," and insert: "the date of the enactment of this Act".

Page 19, line 4, strike out "(6)", and insert in lieu thereof "(5)".

Page 20, line 3, strike out "(6)", and insert in lieu thereof "(5)".

Page 22, strike out all after line 16 over to and including line 11 on page 24.

Page 24, line 12, strike out "203", and insert: "202".

Page 24, line 16, strike out "204", and insert: "203".

Page 28, line 9, strike out "205", and insert: "204".

Page 28, line 20, strike out "206", and insert: "205".

Page 29, line 14, strike out "207", and insert: "206".

Page 29, line 21, strike out "208", and insert: "207".

Page 30, line 1, strike out "209", and insert: "208".

Page 32, after line 9, add the following:

SEC. 305. MINIMUM ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) REPEAL.—Section 8345(f) of title 5, United States Code, is repealed.

(b) SAVINGS PROVISION.—An annuity payable from the Civil Service Retirement and Disability Fund as of the day before the date of enactment of this Act shall not be reduced—

(1) by reason of the repeal of section 8345(f) of title 5, United States Code; or

(2) if or to the extent that the reduction is to be made for the purpose of eliminating an overpayment resulting from the manner in which such section 8345(f) has been administered by the Office of Personnel Management.

(c) RATIFICATION OF ERRONEOUS PAYMENTS.—Any individual to whom an overpayment of an annuity has been made from the Civil Service Retirement and Disability Fund before the date of enactment of this Act shall be deemed to have been entitled to that overpayment if and to the extent that such overpayment resulted from the manner in which the Office of Personnel Management has administered section 8345(f) of title 5, United States Code.

(d) ADJUSTMENTS OF CERTAIN REDUCTIONS.—(1) Effective for any month after the date of enactment of this Act, the amount of any annuity which—

(A) is payable from the Civil Service Retirement and Disability Fund; and

(B) was reduced after June 30, 1985, and before the date of enactment of this Act, to eliminate any overpayment resulting from the manner in which the Office of Personnel Management administered section 8345(f) of title 5, United States Code,

shall not be less than the amount which would have been payable as of such date of enactment if the reduction described in clause (B) had not been made.

(2)(A) The Office shall make a lump-sum payment to each individual receiving an annuity to which paragraph (1) applies.

(B) The lump-sum payment made to any individual under this paragraph shall be equal to the excess of—

(i) the total amount of the annuity payments which would have been made to the individual for the period beginning with the first month in which the reduction described in paragraph (1)(B) was made and ending on the last day of the month in which this Act is enacted if the reduction had not been made, over

(ii) the total amount of the annuity payments which have been paid to such individual for that period.

SEC. 306. CIVIL SERVICE BENEFITS FOR FORMER EMPLOYEES OF COUNTY COMMITTEES.

(a) RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

(b) RATE OF PAY ON CHANGE OF POSITION.—Section 5334(e) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(c) ACCRUAL AND ACCUMULATION OF LEAVE.—The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

SEC. 307. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) IN GENERAL.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following:

"(o)(1)(A) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who notifies the Office at such time (in accordance with subsection (j)) that a survivor annuity under section 8341(b) of this title is not desired,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a reduction under subsection (j) made in the annuity of the employee or Member (or in such portion thereof as the employee or Member may designate) in order to provide a survivor annuity for the spouse of such employee or Member.

"(B) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who, at such time designates (in accordance with subsection (j)) that a limited portion of the annuity of such employee or Member is to be used as the base for a survivor annuity under section 8341(b) of this title,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a greater portion of the annuity of such employee or Member so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b)(2) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section 8334(e) of this title for the calendar year in which the amount to be deposited is determined.

"(3) An election by an employee or Member under this subsection voids prospectively any election previously made in the case of such employee or Member under subsection (j).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.

"(6) The Office shall, on an annual basis, inform each employee or Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) EFFECTIVE DATE AND APPLICATION.—(1) The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

(2)(A) Subject to subparagraph (B), the amendment made by subsection (a) shall apply with respect to employees and Member who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 8339(o) of title 5, United States Code (as added by subsection (a) of this section) to employees and Members who retire before the date on which the amendment made by subsection (a) first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 8339(o) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the terms "employee" and "Member" each has the meaning given that term in sections 8331(1) and 8331(2) of title 5, United States Code, respectively.

Mr. STEVENS. Mr. President, on September 30, 1985, the House passed H.R. 3384, the Federal Employees Benefits Improvement Act of 1985. That legislation was reviewed and amended, and approved unanimously by the Governmental Affairs Committee on November 19, 1985. The Senate passed H.R. 3384, as amended, on December 11, 1985. The House has made additional amendments to the legislation which I urge the Senate to adopt. As originally amended by the Senate, the legislation is organized into three titles.

The provisions of title I make certain amendments to the Federal Employees Health Benefits Program—including an authorization allowing retired enrollees to receive refunds from the employees health benefits fund. The provisions of title II amend the Civil Service Retirement Spouse Equity Act of 1984, Public Law 98-615. Finally, the provisions of title III make miscellaneous amendments to title 5 of the United States Code. This bill does not authorize any new budget authority for fiscal year 1986 for activities required by its provisions.

As mentioned, section 105 of title I would enable the retired enrollees in the Federal Employees Health Benefits Program to receive a refund which will be offered by 11 plans in the program. This change will benefit hundreds of thousands of Federal retirees who, like current employees, are entitled to the excess reserves that have accumulated. in the program. The excess reserves have accumulated, in part, because of declining utilization of health care by Federal employees and annuitants. It is my hope that after the passage of this legislation plans will expedite the distribution of the refunds to all eligible enrollees.

In addition to the provision authorizing refunds to eligible Federal retirees, I would like to mention briefly two other provisions of title I. Section 101 requires direct reimbursement for services provided by nurses and nurse-midwives under the Federal Employees Health Benefits Program. In other words, if a Federal health plan covers obstetrical care and a nurse-midwife performs the service, then he or she shall be entitled to payment or reimbursement. Finally, section 106 of title I permanently and retroactively reauthorizes a program that expired on December 31, 1984. That program provided that if a health plan contract provided for the reimbursement of the cost of a particular health service, the carrier was required to reimburse for such service, the carrier was required to reimburse for such service provided by any State licensed health care provider if the service was provided in a State—such as Alaska—where 25 percent or more of the State's population was located in primary medical care manpower shortage areas.

The provisions of title II amend Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615) that we passed last fall. The majority of these amendments are technical in nature, however, several are substantive. The technical amendments affect the prospective provisions of last year's legislation which authorized, for the first time, State courts to award survivor annuities to former spouses of Federal employees. The substantive amendments generally broaden the quite narrow retroactive provisions of Public Law 98-615 which authorized survivor annuities for a small class of former spouses of Federal retirees.

The provisions of title III make certain miscellaneous amendments to title V of the United States Code. For example, section 304 would allow individuals authorized to receive hospitalization and dispensary services at naval

hospitals and dispensaries outside the continental United States and in Alaska to also receive dental care. Dental treatment is prohibited under current law, except as an adjunct to inpatient hospital care. However, this prohibition applies only to naval hospitals and dispensaries, no similar prohibition applies to hospitals and dispensaries operated by the other military services.

Individuals would be required to pay for any dental care received at rates prescribed by the Secretary of Defense. The care would be provided only on a space-available basis and would not require added personnel resources at any of the locations.

Permitting this dental care in the limited circumstances described will contribute to the well-being and productivity of employees in foreign areas. Alaska is also included so that employees working at the Naval Station, Adak, in the Aleutian Islands, will not be required to fly 1,000 miles or more at great personal expense to obtain routine dental care.

Mr. President, I thank the majority leader for bringing this bill to the floor, and I ask unanimous consent that a section-by-section summary of the Senate committee amendment to H.R. 3384, and a Congressional Budget Office cost estimate for the same be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY

(Committee amendment to H.R. 3384, Federal Employees Benefits Improvement Act of 1985)

TITLE I—FEDERAL EMPLOYEE HEALTH BENEFITS

Section 101, subsection (a), authorizes direct reimbursement for health services performed by nurses and certified nurse-midwives under the Federal Employees Health Benefits Program. For example, if a Federal health plan contract requires payment or reimbursement for obstetrical care, and a nurse-midwife performs the service, then he/she shall be entitled to payment or reimbursement. "Nurses" means, but shall not be limited to, nurse practitioners, clinical nurse specialists, and certified registered nurse anesthetists.

Subsection (b) authorizes direct reimbursement for services performed by clinical social workers under the Federal Employees Health Benefits Program. Federal health plans may require that the services be performed pursuant to a referral by a psychiatrist, but may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

The amendments made by subsections (a) and (b) shall take effect with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

In addition, the Committee instructs the Director of the Office of Personnel Management, in consultation with the Comptroller General of the United States, to carry out a study to determine the feasibility of direct reimbursement for services provided by marriage and family counselors, dieticians, and nutritionists under the Federal Employees Health Benefits Program.

The Director shall transmit a report on the study to the Committee not later than 9 months after the date of the enactment of this Act.

Section 102 eliminates the requirement that group-practice prepayment plans include physicians representing at least three major medical specialties and provides that such plans shall include at least three physicians who represent one or more medical specialties.

Section 103 allows the Office of Personnel Management to waive the eligibility requirements which an annuitant must meet to continue his/her enrollment under the Federal Employees Health Benefits Program.

Section 104 requires the Office of Personnel Management to conduct an open season of not less than three weeks before the start of any contract term in which—an adjustment is made in any rates charged or benefits provided under a health benefits plan, a newly approved health benefits plan is offered, or an existing plan is terminated.

The amendments made by this section shall take effect with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

Section 105 provides authority for the Office of Personnel Management (OPM) to reduce the contributions of enrollees to the Federal health plans.

Current law, according to a Department of Justice opinion, authorizes such reductions for employees, but not annuitants. This change will allow OPM to reduce contributions in the 1986 contract year for all enrollees—employees and annuitants.

In the 1986 contract year, eleven Federal health plans will offer refunds to their subscribers in order to reduce their excess reserves. The Committee believes that the proposed refunds are in accordance with OPM's authority to use excess reserves to reduce contributions, but that the refunds should be available to annuitants, as well as employees.

Section 106 permanently and retroactively reauthorizes a program that expired on December 31, 1984. That program provided that if a health plan contract provided for the reimbursement of the cost of a particular health service, the carrier was required to reimburse for such service provided by any state licensed health care provider if the service was provided in a state where twenty-five percent or more of the state's population was located in primary medical care manpower shortage areas.

The amendments made by this section shall take effect with respect to services provided after December 31, 1984.

Section 107 requires the Office of Personnel Management to encourage participating Federal health plans to provide adequate benefits for the treatment of mental illness, alcoholism and drug addiction (including inpatient and outpatient coverage and catastrophic protection).

Section 108 requires the Office of Personnel Management to study the adequacy of the Federal Employees Health Benefits Program information delivery system and submit a report on such to Congress not later than March 1, 1986.

Section 109 requires the Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services to conduct a demonstration project to determine the most effective means of furnishing health protection, health promotion, and disease prevention services to Federal employees.

TITLE II—CIVIL SERVICE SPOUSE AND FORMER SPOUSE EQUITY IMPROVEMENTS

Section 201 revises the application and special elections provisions of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615).

Subsection (a), of section 201, amends section 4(a)(1) of P.L. 98-615 providing that the amendments made by section 2 of that Act shall also apply to any individual who, on or after May 7, 1985, is married to a retired employee. Subsection (a) makes a technical amendment to section 4(a)(2) of that Act. Subsection (a) adds section 4(a)(3) to P.L. 98-615 providing that a widow's or widower's survivor annunity will not be terminated if she/he remarries on or after attaining the age of 55. This amendment shall apply to any such remarriage occurring on or after November 8, 1984. Subsection (a) adds section 4(a)(4) to P.L. 98-615 providing that the rules governing elections of survivor benefits upon marriage and remarriage after retirement and length of marriage requirements apply to individuals retiring before, on or after the effective date of that Act (May 7, 1985). The amendments referred to in subparagraph (A) of section 4(a)(4) shall not apply in the case of a marriage of an employee retiring before May 7, 1985, if the marriage occurred after May 6, 1985, and before the enactment date of the Federal Employees Benefits Improvement Act of 1985. Subsection (a) adds section 4(a)(5) to P.L. 98-615 providing that an employee may elect to have his/her annuity reduced in order to provide a survivor annuity to a former spouse whose marriage to such employee terminated before May 7, 1985, if such employee retires on or after May 7, 1985. Finally, subsection (a) adds section 4(a)(6) providing that the 9-month marriage requirement shall apply to any marriage occurring on or after the date of enactment of P.L. 98-615.

Subsection (b) makes amendments to Section 4(b) of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615). The amendment made to section 4(b)(1) of that Act in subparagraphs (A) and (B) of paragraph 1 allows the former spouse of an employee who died in service before May 7, 1985, and who was eligible to retire on the date he or she died, to receive a survivor annuity if the former spouse meets the conditions set forth in Section 4(b)(1)(B) of P.L. 98-615, as amended by this Act. Without this change, section 4(b)(1) of P.L. 98-615 allows only former spouses of employees who actually retired before May 7, 1985, to receive survivor annuities if they meet the specified conditons.

The amendment made by paragraph (1)(C) eliminates the requirement that the former spouse of an employee who retired before May 7, 1985, or who died in service before May 7, 1985, and who was eligible to retire on the date he or she died, must not be entitled to any other retirement or survivor annuity in order to qualify for a Civil Service annuity under section 4(b)(1)(B) of P.L. 98-615, as amended by this Act. The amendment made by paragraph (2) of this Act is a technical, drafting change.

The amendment made by paragraph (3) of this Act adds section 4(b)(4) to P.L. 98-615 providing that a fomer spouse of an employee who retired before May 7, 1985, who satisfies the requirements of clauses (ii) through (v) of section 4(b)(1)(B) of P.L. 98-615, as amended by this Act, shall be entitled to a survivor annuity if there is no surviving spouse of the employee and no other

former spouse of such employee who is entitled to receive a survivor annuity based on the creditable service of such employee and there is no other person who has been designated to receive a survivor annuity by reason of an insurable interest in such employee.

The amendment made by paragraph (4)(A) of this Act permits individuals who retired before May 7, 1985, to voluntarily elect to provide a full survivor annuity or a portion of a survivor annuity under section 4(b)(1)(A) of P.L. 98-615.

The amendment made by paragraph (4)(B) corrects an erroneous reference to 5 U.S.C. 8341(b)(4) which relates to the maximum Civil Service survivor annuity payable to a widow or widower. Because section (4)(b)(4) of P.L. 98-615 deals with survivor annuities for certain former spouses, the appropriate reference is to 5 U.S.C. 8341(h)(2) which limits annuities payable to former spouses.

Subsection (c) amends section 4(f) of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615) allowing certain former spouses to enroll in a Federal health plan if he or she is entitled to receive either a portion of a Federal retiree's annuity or is eligible for a survivor annuity.

Subsection (d) extends the time period during which a retiree, retired before May 7, 1985, may elect to have his/her annuity reduced to provide a survivor annuity for a former spouse. Any retiree who has made such an election may modify that election within this extended period.

Section 202 amends section 4(c) of the Civil Service Retirement Spouse Act of 1984 (P.L. 98-615) allowing the surviving spouse of an employee who died without making an election under such section, to make the election to receive a survivor annuity if done so within one year after the date of the enactment of this Act.

Section 203 amends section 5 U.S.C. 8332(j) allowing a former spouse to make or complete a deposit for post-1956 military service credit. Without this amendment, such a deposit would be meaningless because 5 U.S.C. 8332(j) excludes credit for post-1956 military service from annuities of only the employee or a surviving widow or child, and not a surviving former spouse.

Section 204(a) amends 5 U.S.C. 8339(j)(3) making it consistent with 8339(j)(1) and 8339(j)(5)(C)(iv) by prohibiting a survivor election at divorce if a joint waiver as made by a couple at the time of retirement.

Section 204(b) amends section 8339(j)(5)(B) providing that an annuity reduction terminated under this section will be replaced by another appropriate reduction if the retiree has another former spouse or a current spouse who is entitled to a survivor annuity.

Section 204(c) amends 5 U.S.C. 8339(j) and 5 U.S.C. 8339(k) making certain technical changes to the insurable interest election provisions.

Section 205 amends 5 U.S.C. 8340(c)(1) providing that the first cost-of-living adjustment payable to a former spouse or individual who has an insurable interest in the decedent will be prorated, just as it is for widows and widowers or deceased employees and retirees.

Section 203(a) amends 5 U.S.C. 8341(e) correcting two anomalies in the provisions governing entitlement to children's survivor benefits. Survivor annuities for children are provided at two levels, with higher benefits being paid to parentless children (double orphans) than to those who have one surviving parent (single orphans). Section 8341(e) of title 5, U.S.C., currently provides that if a deceased employee or retiree is survived by a spouse or former spouse who is the parent of a surviving child of the employee, the child will be paid at the lower rate applicable to single orphans.

However, an inequity arises because the definition of "former spouse" in 5 U.S.C. 8331(23) requires that the former spouse must have been married for at least 9 months to an employee who completed at least 18 months of service covered by the Retirement System.

Consequently, if a deceased employee is survived by a former spouse who is the parent of his/her child, but the employee was covered by the Retirement System for less than 18 months or was married to the former spouse for less than 9 months, the surviving child will be paid at the higher rate applicable to double orphans rather than at the lower rate applicable to single orphans, even though one of the child's parents is still living and can presumably contribute to the child's support. This amendment will correct this inconsistency.

Section 206(b) amends 5 U.S.C. 8341(e) which currently provides that if a deceased employee or retiree is survived by a spouse or former spouse who is the parent of a surviving child of the employee or retiree, each surviving child of the decedent will be paid at the lower rate applicable to single orphans.

Consequently, if the decedent is survived by several children and a spouse or former spouse who is the parent of only one of the children, all of the decedent's children will be treated as if they, too, were children of the surviving spouse or former spouse.

This amendment will correct this inequity so that each child will be treated as a double orphan unless there is a surviving spouse or former spouse who is that child's natural or adoptive parent.

Section 207 amends 5 U.S.C. 8341(h)(1) which currently allows the former spouse of a deceased employee, Member of Congress, or annuitant to receive a survivor annuity under the terms of a qualifying court order. However, it extends no such right to a former spouse of a deceased former Member who was entitled to a deferred annuity, even though section 8341(f) allows the surviving spouse of such a former Member to receive a survivor annuity. These former spouses were intended to be included in section 8341(h)(1). This amendment corrects this oversight.

Section 208 amends 5 U.S.C. 8341(h)(4) which currently provides that a court order awarding a survivor annuity to a former spouse cannot be amended after the employee's retirement. However, a court order could be changed following the death of an employee who has not yet retired. This amendment corrects this inconsistency by barring changes in court orders after an employee's death as well as after retirement.

Section 209 amends 5 U.S.C. 8342(j)(1)(B) which currently bars payment of a refund of retirement contributions to a former employee if the payment would deprive a former spouse of court-ordered retirement or survivor benefits. This amendment extends the same protection to a separated current spouse of the former employee who has title to benefits under the terms of a legal separation agreement.

TITLE III—MISCELLANEOUS CIVIL SERVICE AMENDMENTS

Section 301 amends 5 U.S.C. 1103(a) providing authority for the Office of Personnel Management to incur reception and representation expenses.

Section 302 amends 5 U.S.C. 1103(b) providing that the Federal Register notice and comment requirements concerning regulations issued by the Office of Personnel Management do not apply to the routing establishment of schedules of rates to pay or allowances. They do apply, however, to the establishment of the procedures, methodology, or criteria used to establish such schedules, rates, or allowances.

Section 303 amends 5 U.S.C. 5924(2)(A) providing for the payment of temporary living expenses for Federal employees transferring from a U.S. territory to a foreign area.

Section 304 amends 24 U.S.C. 35 allowing the use of naval hospital services for space available dental care in foreign areas and remote areas of Alaska.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 10, 1985.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3384, the Federal Employees Benefits Improvement Act of 1985, as ordered reported by the Senate Governmental Affairs Committee, December 6, 1985. Based on this review, CBO estimates that this bill would have no significant federal budgetary impact and would not directly affect the budgets of state and local governments.

This bill would enable annuitants covered under the Federal Employees Health Benefits (FEHB) program to be eligible for rebates. While this language in and of itself would not have a budget effect, it is anticipated that this legislation will enable active federal employees and annuitants to receive a share of the excess carrier reserves proposed to be refunded to the Office of Personnel Management (OPM) in 1986 and 1987. OPM estimates the refunds to be $1,067 million in fiscal year 1986, and $300 million in fiscal year 1987. Enrollees currently contribute about 40 percent to total premium costs. If enrollees were to receive 40 percent of carriers' refunded reserves, it would increase federal outlays by $427 million in fiscal year 1986, and $120 million in fiscal year 1987.

This bill also has several provisions affecting FEHB which are not expected to have a significant budget effect. Nurses and nurse-midwives would be allowed to be reimbursed without referral by another health practitioner. Non-physician health practitioners would be allowed to be reimbursed in medically underserved areas. In addition, FEHB plans could require an initial referral from a psychiatrist as a condition for reimbursement of clinical social worker services. The plans, however, could not require supervision by a psychiatrist or other health practitioner as a condition for reimbursement of such clinical social worker services. The Office of Personnel Management (OPM) would be called upon to encourage plans to provide adequate benefits for treatment of mental illness, alcoholism, and drug addiction. Requirements for group-practice prepayment plans would be made more flexible. Finally, OPM would be required to undertake studies of the adequacy of information made available to FEHB enrollees and to conduct an open season before the start of any contract year.

H.R. 3384 also amends the Civil Service Retirement Spouse Equity Act of 1984 to allow certain former spouses of civil service retirees to receive civil service survivor benefits. Specifically, this bill would expand the eligibility requirements for certain former spouses to receive survivor benefits and increase the period allowed for the election of survivor benefits. Although difficult to estimate, we assume only a small number of former spouses would be affected by this bill. Therefore, this provision is expected to have no significant budgetary impact.

In addition, this bill would require the Office of Personnel Management to conduct a demonstration project relating to health promotion for federal employees. No additional appropriation in 1986 is to be provided for this demonstration. OPM has been unable to tell us what funding, if any, would be necessary to conduct this project.

CBO prepared a cost estimate on October 1, 1985 of H.R. 3384 as ordered reported by the House Post Office and Civil Service Committee on September 26, 1985. The Senate reported bill excludes a Federal Employees Health Benefits (FEHB) provision that would eliminate the 75 percent cap on government premium contributions estimated to have a cost in the House reported bill. The other FEHB and Civil Service Retirement provisions included in the Senate version of the bill are again estimated to have no significant budgetary impact, however, some of the provision do differ.

If you have any questions, please call me or have your staff contact Anne Manley (226-2820) or Sherri Kaplan (226-2616).

With best wishes,

Sincerely,

C.J. NUCKOLS
(For Rudolph G. Penner, Director.)

Mr. HEINZ. I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. HEINZ. Mr. President, I send a resolution to the desk on behalf of the majority leader and Senator BYRD and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 282) to direct the Senate legal counsel to intervene in Representative MIKE SYNAR v. United States of America.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, last week the Congress enacted the Balanced Budget and Emergency Deficit Control Act of 1985 to establish, for the fiscal years 1986-91, objectives and procedures for reducing and then eliminating the annual deficit. On signing the measure last Thursday, the President questioned the constitutionality of provisions of the act which relate to the responsibilities of the Comptroller General and the Congressional Budget Office. Later that day, Representative SYNAR filed an action in the U.S. District Court for the District of Columbia to challenge the constitutionality of the act.

The Congress anticipated that there would be challenges to the constitutionality of the act and provided for expedited judicial review. The Congress also anticipated that there would be a need for a congressional defense of the statute and provided that each House of Congress shall have the right to intervene. The Senate also has authority under title VII of the Ethics in Government Act to intervene in legal actions in which the powers and responsibilities of the Congress under the Constitution are placed in issue.

The Senate has previously directed the Senate legal counsel to intervene in the defense of the responsibilities assigned by the Congress to the Comptroller General under the Competition in Contracting Act of 1984. To date, two U.S. district courts have upheld the constitutionality of that statute against a similar challenge by the executive branch.

The Attorney General is required by statute to notify the two Houses of Congress whenever he determines not to defend the constitutionality of an act of Congress. We have not yet received a formal notification from the Attorney General but we have decided to proceed with the resolution in light of the imminent adjournment of the Congress. The act requires that judicial review be expedited. Consequently, the Senate legal counsel should receive early authorization so that he may be prepared to present to the court the Senate's defense of the act during the adjournment, if that is necessary. Also, as the constitutionality of the act may be raised in other actions, section 2 of the resolution permits an appearance by the Senate legal counsel in similar cases during the adjournment with the approval of the joint leadership group.

Mr. President, I move adoption of the resolution.

Mr. HEINZ. Mr. President, if there is no further debate, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 282) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 282

Whereas, in the case of *Representative Mike Synar v. United States of America*, Civil Action No. 85-3945, pending in the United States District Court for the District of Columbia, the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, has been placed in issue;

Whereas, the statement of the President, on signing the Balanced Budget and Emergency Deficit Control Act of 1985, questions the constitutionality of several of its provisions and expresses the hope of the President that these constitutional questions will be promptly resolved;

Whereas, pursuant to section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 each House of Congress shall have the right to intervene in an action to determine the constitutionality of the Act;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a)(1982), the Senate may direct the Senate Legal Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Representative Mike Synar v. United States of America*.

SEC. 2. That during the adjournment of the Congress the Senate Legal Counsel is authorized to intervene or to appear as amicus curiae in the name of the Senate in other cases in which the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to intervene or to appear as amicus curiae in the name of the Senate in such other cases.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF ROBERT F. KENNEDY MEMORIAL STADIUM TO THE DISTRICT OF COLUMBIA

Mr. WARNER. Mr. President, I would like to direct inquiries to the leadership with reference to calendar item 459, H.R. 2776. This is a bill providing for the transfer of the Robert F. Kennedy Stadium from the Federal Government to the District of Columbia government. Two committees in the Senate, the Committee on Energy and Natural Resources and the Committee on Governmental Affairs, have reviewed this bill and both have reported it favorably.

The House of Representatives has passed the bill, H.R. 2776.

Mr. President, it is my understanding that a single Senator has indicated a hold on this bill. It is my further understanding that his concerns relate to the history of this part of the Nation's Capital and how this transfer might affect the original plan of the Nation's

Capital as laid out by L'Enfant many years ago.

In spite of that, it is my hope that if the Senator is listening at this time, he will have a willingness to come to the floor and discuss with the leadership and me the possibility of bringing up this legislation today.

Mr. HEINZ. Will the Senator yield?

Mr. WARNER. I yield to the acting majority leader.

Mr. HEINZ. On behalf of the leadership and Senator DOLE specifically, I can say to the Senator from Virginia that it is the leadership's intention at an appropriate time later today to propound the unanimous-consent request that would permit consideration, and that any Senator who feels constrained to object to that unanimous-consent request, as is the right of any Senator, should be here on the floor.

It would be the majority leader's intention to specifically advise the office of any Senator who is known to be inclined to object to that unanimous-consent request.

Mr. WARNER. I thank the Senator. It is very important to the government of the District of Columbia because they are at this time competing for a baseball team. This transfer will enhance the likelihood of their having a more competitive position to obtain that team.

Mr. DOLE. Let me also indicate that it is my intention to deal with this early next year.

Mr. WARNER. It is hoped that we can deal with it today.

Mr. DOLE. That would be better yet.

Mr. HEINZ. The majority leader has indicated that it is his intention to have a unanimous-consent request at a very early hour this afternoon.

Mr. WARNER. I thank the Senator.

OBSERVERS TO ARMS REDUCTION CONTROL NEGOTIATIONS

Mr. DOLE. Mr. President, there is one other matter we can deal with, the so-called Geneva resolution.

I sent to the desk, on behalf of myself and the distinguished minority leader, a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 283) relating to the Bipartisan Group of Senators designated pursuant to S. Res. 19 and S. Res. 86, 99th Congress, to act as Observers to Arms Reduction or Control Negotiations.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 283) was agreed to, as follows:

S. RES. 283

Resolved, That S. Res. 86, agreed to February 28, 1985, is amended as follows:

(a) Page 2, line 2 add: "The Chairman for Administrative purposes is the Senator from Alaska, Ted Stevens. The members of the Senate Observer Group shall include the Senator from Massachusetts, Edward Kennedy; the Senator from Wyoming, Malcolm Wallop; the Senator from New York, Daniel Patrick Moynihan; the Senator from Virginia, John Warner; the Senator from Oklahoma, Don Nickles; the Senator from Tennessee, Al Gore; the Majority Leader, Robert Dole, *ex officio;* and the Minority Leader, Robert C. Byrd, *ex officio.* Only Senators appointed as members of the Group may participate in official travel and activities of the Group. In the event that the Majority Leader or Minority Leader does not travel on an official trip of the Observer Group, he may designate one other Senator not a member of the Group to travel and participate in the activities of the Group in his stead. Any vacancy occurring in the Senate Arms Control Observer Group shall be filled in the same manner in which the original appointment was made."

(b) Page 2, Line 11: After the period, insert "Payments made under this section for receptions, meals and food-related expenses shall be authorized, however, only for those actual expenses incurred by the Senate Observer Group in the course of conducting its official duties and functions; provided, that notwithstanding any other provision of this Resolution, such amounts received as reimbursement for such expenses shall not exceed $6,000 in any fiscal year. Amounts received as reimbursement for such food expenses shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction under Title 26 of the U.S. Code."

(c) The amendment made by subsection (a) is effective with respect to expenditures incurred on or after February 28, 1985.

Page 3, Line 9, add the following new section: "(d) All foreign travel of the Group shall be authorized solely by the Majority and Minority Leaders, upon the recommendation of the Administrative Chairman. Participation by staff members in authorized foreign travel by the Group, access to all official activities and functions of the Group during such travel, and access to all classified briefings and information made available to the Group during such travel, shall be limited exclusively to delegation members with appropriate clearances. No travel or other funding shall be authorized by any Committee of the Senate for the use of staff, other than delegation staff, in regard to above mentioned activities, without the written authorization of the Majority Leader and the Minority Leader to the Chairman of such Committee."

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CAMPAIGN FINANCE REFORM

Mr. DOLE. Mr. President, let me indicate I believe we can work out this matter with reference to campaign finance reform and I hope we can do it very quickly so we can dispose of the low-level compact matter.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, earlier this afternoon we were discussing the parliamentary situation in the next session with respect to the Boren amendment which was pending on S. 655. I am going to propound a unanimous-consent request that has three significant components to it if it is agreed to.

The first is that it would set a date certain by which the Senate would consider the Boren amendment as an amendment to a suitable vehicle, such as S. 655.

In that context, the Senate would consider it for not more than 2 calendar days. There would be a division of time for debate equally divided, 6 hours of debate on each of the 2 days.

Amendments to the Boren amendment would be in order and the Boren amendment, which is not now debatable, would clearly be subject to debate.

That seems to me, Mr. President, to be a reasonable unanimous-consent request because it allows the Senator from Oklahoma to have a date certain, an early date, in this case not later than June 1, 1986.

It allows him something he does not have now, which is the ability to speak on his amendment and for other people to join in such debate.

It permits the rest of the Senate the opportunity to offer perfecting amendments to his amendment, which was precluded under the previous consent.

It provides a great deal of debate time, 12 hours, almost the amount we used when considering reconciliation, which was 20 hours. It is almost two-thirds of that amount used on a much more complex measure.

UNANIMOUS-CONSENT REQUEST

Having explained this, I ask unanimous consent that during the 2d session of the 99th Congress, the Senate for not more than 2 calendar days, turn to the consideration of the Boren "PAC" reform issue, to a suitable vehicle, prior to June 1, 1986, and it be considered under the following time limitation: 6 hours of debate on each of the 2 days, to be equally divided, in the usual form; and that following the conclusion or yielding back of time on the second day of floor consideration, that the Senate proceed to vote on disposition of the Boren amendment or

bill, and if the issue is not disposed of, it be placed back on the calendar.

Mr. BOREN. Mr. President, the distinguished Senator from Pennsylvania and I have discussed this matter. The Senator from Oklahoma is perfectly willing to have debate on his amendment. Once the amendment is disposed of, the Senator from Pennsylvania or any other Senator would have the right to offer amendments. There would be no time limitation on the pending bill.

The Senator from Oklahoma cannot agree to give up what has already been gained in the previous unanimous-consent request entered into and accepted on the Senate floor which provided for a vote on this amendment without being amendable.

Mr. HEINZ. The Senator has already gained that.

Mr. BOREN. That is what was agreed to. There was a vote against tabling that amendment. Under the current parliamentary situation, when the amendment returns for consideration of the Senate floor, it would not be subject to further amendment. It would be voted on up or down without further debate.

The Senator from Pennsylvania has suggested in his request that debate would be in order. The Senator from Oklahoma does not object to that part of the request. The Senator from Oklahoma, since he has negotiated with his cosponsor of this proposal, the exact language and provisions of it, and since all the cosponsors joined on it as an exact proposal to be voted on up or down in terms of the previous unanimous-consent request, the Senator from Oklahoma would be constrained to object. If the Senator from Pennsylvania would like to offer the request again, changing merely the provision that it is not be amendable, the Senator from Oklahoma would not object. But to the pending request, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. HEINZ. Mr. President, I deeply regret that the Senator from Oklahoma has objected to a unanimous-consent request that would allow the Senate to consider at an early date the Boren PAC issue and other issues. It is, frankly, to my mind, ridiculous that the Senate—and every one of us knows it—is being asked to rubberstamp without amendment a package that has apparently been agreed to by six Senators without amendment. This Senator never agreed as part of any unanimous-consent request and neither did most other Senators, I expect, to any agreement that would preclude the proper consideration of this or any other issue without amendment, for example, in the next session.

I suggest that the Senator from Oklahoma rethink whether or not it is in his best interests and in the best interest of campaign reform to object to a unanimous-consent request which provides for an early date for consideration, debate where none now exists, amendment where it is necessary, and provides for that action to be taken in a way that is fair to all sides. That seems to me to be a very reasonable proposition.

I am not going to propound a second unanimous-consent request because I understand the Senator from Oklahoma does not want to agree to it. But I urge him to think about it, because it seems to me that he is blocking consideration of his own bill. He has already had the opportunity to have his legislation voted on in accordance with the unanimous consent that we all entered into many months ago.

Mr. President, I must tell the Chair that I do not think any Member can say that the Boren amendment has not had, in conformance with the unanimous-consent request of earlier this year, its day in court, that we have not in every respect met the commitment of the Senate to the Senator from Oklahoma. What he asks for is more consideration and special consideration that we do not easily grant nor should we wisely—we do not grant it because we do not like to do things hurriedly or unwisely—a special form of consideration all over again that would yield him what I gather he considers are special privileges and denies to other Members of the Senate those privileges that we are constitutionally entitled to.

Mr. President, I know the Senator from Oklahoma probably did not intend to block consideration of the Boren amendment, but that is exactly what he has done. I yield the floor.

Mr. BOREN. Mr. President, I have always believed Christmastime is a time to end quarrels, not begin them. There are Senators on the floor who wish to get on with the discussion of important matters here, the low-level radioactive waste compact. This Senator does not want to continue useless haggling ovr what the situation is.

The Senator from Oklahoma is for campaign reform. He brought up an honest, straightforward amendment under a unanimous-consent agreement carefully negotiated with the able help of Senator GOLDWATER and Senator STENNIS, our distinguished senior colleagues. The Senator from Oklahoma is not going to give away on the floor now what those negotiators achieved earlier. I think everyone understands that. There is no point in pursuing this discussion any further. We have had a very amicable discussion with the majority leader and others involved.

Let me just say that I think the majority leader understands this. I have just discussed with the distinguished Senator from South Carolina—if I could have his attention also for just 1 minute. It is my understanding that the omnibus bill which he is moving to take up, wishes to take up, would include the transition rules and would also include the contents of compacts in all of these—I believe there are seven pieces of legislation, which includes the States covered under S. 655, the States of Oklahoma and Nebraska, Louisiana, Kansas, and Arkansas—to be dealt with in an omnibus bill. The Senator from Oklahoma does not object to that. Certainly, the Senator from Oklahoma wants the problems of Oklahoma, Kansas, Arkansas, these five States, taken care of in any omnibus solution. He does not want those five States left out.

I think the Senator from South Carolina can see, and I hope the Senator from Wyoming would understand this matter as well, if I could have his attention for a moment, that if those five States are dealt with in an omnibus bill, which of course this Senator wants—he does not want them left out of this solution—S. 655 then really becomes a shell.

All of the provisions have been taken care of in the omnibus bill, which is appropriate. The only thing left is the number, S. 655, with the pending campaign reform amendment to it. Therefore, there is nothing left to drive us to come back to it other than the commitment of the distinguished majority leader that he would return to that bill number and call it up with the campaign reform amendment pending, do that next year in sufficient time that if we were to act on it in a positive way, the House of Representatives would have sufficient time to act on it next year.

That is the reason the Senator from Oklahoma has been so concerned to get that sort of commitment so his vehicle does not become moot. I have discussed this with the majority leader and I believe the majority leader is willing to make that sort of commitment to the Senator from Oklahoma. If he is, the Senator from Oklahoma is absolutely prepared to allow the Senator from Wyoming and others to present the omnibus bill and let all those States be covered under S. 655.

Mr. THURMOND. Mr. President, as the Senator from Oklahoma has said, we have discussed this with the Senator. We have a volume of all compacts in the substitute amendment. Any unanimous-consent request the distinguished Senator from Wyoming would make, one of those included in his request is to ask unanimous consent that the following companion bills be indefinitely postponed.

That will be all of them except the vehicle upon the compact that contains the States of Oklahoma, Kansas, and others.

In other words, his amendment would be left there, but we would go

ahead with the compacts in the substitute amendment and the transition language, too.

Mr. BOREN. In other words, the omnibus bill would take care of approving the compact for Louisiana, Oklahoma, and Nebraska——

Mr. THURMOND. It would take care of all seven of them——

Mr. BOREN. It would take care of all the 50 States.

Mr. THURMOND. Not all the 50 States, the 37 States that have entered into compacts.

Mr. BOREN. Then we would leave the bill number, S. 655, with the campaign reform amendment pending that the majority leader would call up at some time next year.

Mr. THURMOND. That is Calendar No. 300 and bill S. 655.

Mr. BOREN. Yes, Mr. President.

Mr. THURMOND. We are willing to do that and the Senator from Wyoming will include that in his request.

Mr. DOLE. Mr. President, I am certainly willing to indicate to the Senator from Oklahoma that there is a bipartisan interest in campaign finance reform and we shall bring up S. 655, hopefully early enough—well, early enough in our opinion—have some disposition of it. Maybe it will not pass, but it ought to be done at a stage where if it did pass or something passes, there would still be a chance for some action on the House side. The House may mover independently on finance reform. Maybe they will act on it before the Senate acts.

But I have also indicated as I did a few weeks ago that I intend to designate five Republican Senators today who have agreed to undertake responsibility for campaign finance reform. I hope when we do bring that measure up, though, that the amendment will be debatable. Otherwise, we are in a position where we either have to move to table again or use other dilatory tactics. I also would agree to keep it up for a reasonable time.

But I hope we might be able to debate the amendment. There might be some things the Senator from Oklahoma would want changed in his amendment. So on that basis I am prepared to do that, if the Senator from Oklahoma is prepared to advise the Secretary of Transportation where I have been since noon.

Mr. BOREN. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. BOREN. The Senator from Oklahoma will certainly do almost anything for the Senator from Kansas, but he is not sure he wants to face the Secretary of Transportation and assume responsibility in that regard.

I appreciate the comments just made by the majority leader. The distinguished minority leader, who is on the floor, has already appointed a working group among our party to work on the subject of campaign reform, which he has asked this Senator to chair. It is my hope that we will have this kind of progress on both sides of the aisle.

As I understand what the majority leader has said, he has said that he will bring the bill, S. 655, with the pending campaign reform amendment up, call it back up for consideration early enough next year that if it were positively acted upon—and maybe it will be amended after it is adopted. Let us suppose that particular amendment would be adopted. After that it would be subject to other amendments, after it is acted upon. Whatever the product is, that we would call it up early enough next year that the House would have a reasonable chance to act upon it so that we would have a chance to get campaign reform through both Houses next year, and that S. 655, what would be left by this action merely is a skeleton with this amendment on it, really the only thing left on it since we are taking care of all 50 States.

Mr. DOLE. Right.

Mr. BOREN. The majority leader would still call back up this number under the conditions we have previously entered into. And I would say at that time, if the majority leader or someone else asks to have additional time for debate, this Senator will not object to additional time to debate the matter at that point in time.

With that assurance, Mr. President, I thank the majority leader for what he has just said. That satisifes the Senator from Oklahoma. The Senator will not lodge objection based upon that commitment of the majority leader to proceeding now to the consideration of the omnibus bill on low-level radioactive waste.

Mr. DOLE. Mr. President, I would just say very briefly in response to that, I hope in the meantime the working group on that side of the aisle and this side of the aisle might work separately for a few weeks in the next year, and then maybe come together and see if there could be a bipartisan package developed. I believe, as most Senators do, we need to take a look at it. We are prepared to do that.

I thank the Senator from Oklahoma, and I thank the Senators who have been interested in this issue. They have taken a lot of time, but we are going to give them a little more time, so I yield the floor.

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITIES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of calendar item No. 468, H.R. 1083, the low-level nuclear waste bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1083), to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SIMPSON. Mr. President, before the Senator from Oklahoma leaves the Chamber, I publicly thank him for his willingness to allow us to go forward. I have had some rather rich emotions to share with the Senator from Oklahoma on this issue, going back and looking at the RECORD. And I suppose, as one would who dabbled in the practice of law for some time, I came on a bit strong in the courtroom. I apologize for any activity that would hinder that relationship with the Senator from Oklahoma and his presence here, and I want to make that quite clear.

Mr. BOREN. Mr. President, I appreciate those words from my good friend from Wyoming. He is my good friend and continues to be my good friend. I have the greatest regard for him and appreciate very much the remarks which he just made.

Mr. SIMPSON. I thank the Senator.

Mr. President, I am most pleased to present for the consideration of the Senate a bill to grant the consent of the Congress to regional interstate compacts for the disposal of low-level radioactive waste. This legislation, which has had the benefit of nearly 4 years of work by three committees of the Senate—the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on the Judiciary—represents a milestone in our efforts to carry out the policies and objectives of the 1980 Low-Level Radioactive Waste Policy Act.

Before I go much further in explaining how we reached this point, I should like to add a special note of appreciation and congratulations to Senator THURMOND, who has pursued a just and effective solution to the crisis that faced his State and Nation in 1979, and that led to the passage of the legislation authorizing States to form regional compacts for the purpose of handling the disposal of low-level radioactive waste generated within each such region. The original act reflected a remarkable degree of equity and balance in the approach that we are now considering today on the Senate floor, and that very same degree of equity and balance has characterized the efforts of the Senator from South Carolina throughout this entire process and indeed throughout his life. I commend him for that and

thank him deeply for his leadership in this area.

We now have pending before the Senate 7 regional compacts covering 37 States. Each of these compacts must be approved before they can be implemented. This legislation that I now present to the Senate, and the amendment in the nature of a substitute that Senator THURMOND and I are proposing, establishes the terms and conditions for congressional approval of all currently pending and future compacts for low-level radioactive waste disposal. It would be my intention, Mr. President, to propose that the Senate consider what has been referred to as the consent legislation, as reflected in the substitute amendment, as the first item of business. At the conclusion of our consideration of this legislation, I will propose an amendment to add the seven currently pending compacts to the end of this legislation, as a new title II, so that the consent legislation and the pending compacts can all be considered as a package. Compacts submitted in the future would, of course, require congressional approval before they could be implemented, and the consent legislation, if adopted by the Senate, would provide the framework for approval of those compacts, as well, when submitted to the Congress for the required approval.

The compacts, when approved by Congress, must be implemented in accordance with the terms and conditions established in this bill. No amendments have been made in the compacts, per se, in an effort to avoid the potential need for subsequent State reratification. Nevertheless, if any such compact is implemented in a manner inconsistent with any of the provisions set forth in this bill, the entire compact shall be deemed to be invalid, notwithstanding the severability provisions that might be contained in individual compacts.

Upon enactment of this legislation, and upon congressional approval of individual compacts, each such compact region may restrict the use of a regional disposal facility located within such compact regions, other than a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b), to the disposal of a low-level radioactive waste generated within such region. Any such restriction may be imposed beginning January 1, 1993, or beginning on the date that such facility commences operation, whichever occurs first. After December 31, 1992, each compact region in which there is now located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this bill, that is, the commercial disposal facilities located in South Carolina, Nevada, and Washington, may restrict the use of such facility to the disposal of low-level radioactive waste generated within such region.

Mr. President, I commend this package to my colleagues and urge their wholehearted support. We have reached, in my judgment, a fair, effective, and balanced approach to write the final chapter in transferring the responsibility for low-level radioactive waste disposal to the States, and I urge my colleagues to support this measure.

Mr. HART. Mr. President, I rise as minority floor manager for the Environment and Public Works Committee to state that I am pleased today that we finally have an opportunity to consider the Low-Level Radioactive Waste Policy Amendments Act of 1985. This legislation has been the subject of intense debate among interested parties, two House committees, and three Senate committees. The fact that we have managed to arrive here today with a package is testimony to the extraordinary amount of discussions that have taken place in the common interest of providing additional low-level waste storage facilities to relieve sites in three States that currently bear the burden for the rest of the country.

Like any compromise, this legislation is not perfect. It is, however, a workable framework for developing new disposal capacity. As such, it is a needed improvement over the 1980 act, which has had limited effect on inducing States to open up new disposal sites. This legislation improves on the 1980 act, but does not discard the essential element of that legislation; that States are to enter into interstate compacts for the development of low-level waste disposal facilities. What we have done here is expand on that concept and clarify it so States and generators are more clear about what they are expected to do.

In the third section of the bill, the responsibilities of both the Federal Government and the States is clearly defined. States are responsible for the disposal of low-level radioactive waste generated within their borders—other than that generated by the Federal Government—that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10 in the Code of Federal Regulations, as in effect on January 26, 1983.

States are not responsible, for example, for the disposal of waste generated by the decommissioning of naval reactors. States are also not responsible for disposal of waste from the operation and maintenance of nuclear vessels of the U.S. Navy. In this area, for example, we have attempted to maintain existing law but clarify it so States are clear about their responsibilities.

The States' regional disposal facilities cannot be required to accept anything other than low-level waste or waste identified under the formerly Utilized Sites Remedial Action Program. States may, however, choose to accept these wastes, so long as disposal of such wastes is consistent with their license.

In addition, we have clarified the responsibility of the Federal Government under this legislation. The Federal Government is responsible for the Department of Energy's low-level waste, the Navy's waste—other than operation and maintenance—or low-level waste owned or generated by the Federal Government as a result of any research, development, testing, or production of any atomic weapon.

We have also clarified that the Federal Government is responsible for the disposal of low-level radioactive waste that exceeds the limits established by the Commission for class C radioactive waste, as defined by the regulations cited above. Such disposal is to be in a facility licensed by the Commission. This resolves a contentious issue of above class C waste, which the States were unwilling to be required to dispose of due to the uncertainty surrounding the type of disposal facility that might be required by the Commission for the safe disposal of such wastes. The bill also requires the Secretary of Energy to prepare a study on these wastes and investigate the proper methods of disposal by the Federal Government.

The framework of this legislation is familiar to those who have been working on this issue for so long. There are milestones in 1986, 1988, and 1990 that States must meet in order to retain access to existing sites and to avoid assessment of penalty surcharges.

In 1986, we expect States to have, by legislation, indicated their intent to enter into compacts with other States.

We are moving none too soon on this legislation, since the sited States, Nevada, South Carolina, and Washington, have informed us that as of January 1, 1986, they will close their borders to low-level waste unless new legislation has been enacted. Such action would clearly present a serious problem for all, since low-level radioactive waste is more ubiquitous than many of us realize.

Hospitals and laboratories, for example, generate low-level waste as part of their diagnostic and treatment procedures. These generators also normally have little ability to store their waste, and are thus tremendously dependent upon continued access to the three existing sites. Nuclear utilities are the largest generators of low-level waste, producing a fair amount of contaminated clothing and equipment.

In the legislation before us today, the sited States agree to continue to accept the waste for up to 7 years, by which time we expect other low-level waste disposal sites to be operating. As

an incentive to these three States to continue to accept waste during this transition period, we have included surcharges on the waste that is to be paid by the generators to the sited States.

We have also asked utility generators to reduce their volume of waste and have included utility allocations of waste that the sited States are required to accept, so long as the State in which the utility is located is in compliance with the milestones. In this way the sited States are assured of a limit on the volume of waste they will have to receive over the next 7 years.

This legislation also provides for specific milestones the unsited States are required to meet so we will have greater assurance that at the end of the transition period we will in fact have additional low-level waste disposal sites. The sited States are extremely concerned that we not repeat the failures of the 1980 act. This legislation goes a long way to assure that such additional disposal capacity will be available by the end of the transition period.

There are several mechanisms for encouraging nonsited States to enter into compacts and develop disposal sites. First, there are specific milestones defined in the legislation so it is clear to all what is required by a date certain. In addition, there are penalty surcharges placed on the waste generated in States that fail to meet these milestones. These penalties are in addition to the surcharges paid by generators during the transition period.

Another inducement to comply with the milestones is a 25-percent rebate of the surcharge for States meeting the milestones. This rebate is paid to the State or compact commission during the first 4 years to help finance the new disposal facility and costs associated with it. The rebate is to be paid to the States, rather than the compact commission, during the last 3 years that the State is in compliance with the milestones. We have designated these two recipients of the rebate because there are no reliable cost estimates for the amount of the rebate and the cost of the facilities. The rebate has not been determined based on disposal facility cost, but merely as a compromise percentage that is agreeable to all, thus we thought it fair to designate more than just the compact commission in case the commission had a windfall of rebates and no actual need for the total rebate.

If the milestones and penalties are not enough to encourage compliance, we have added another penalty to this process, which is denial of access to the disposal sites. The sited States are empowered to deny access to States or compact regions that have not met the milestones. Recognizing that hospitals, as well as utilities, are dependent upon access to disposal capacity, we have also included a provision for emergency access.

The Nuclear Regulatory Commission is given the authority to grant emergency access to a generator "if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security." We have included a detailed procedure for this emergency access provision to assure that it is used only during a true emergency and is not a perfunctory determination by the NRC.

Thus for each milestone, we have penalty surcharges and denial of access that may be imposed in the event that the State or compact region fails to comply with the milestone requirements in this legislation.

By July 1, 1986, for example, we expected States to have passed legislation indicating their intent to enter into compacts with other States or to have ratified compact legislation. Thirty-seven States are already in compacts, one State has clearly decided to go it alone, and the rest of the States are negotiating with other States regarding their compact. While this has been a long and frustrating process, particularly for sited regions that continue to accept all the low-level waste, I believe that the momentum among the States is finally to enter into these compacts. It is, for the first time, now the rule rather than the exceptions, for States to be in a low-level waste disposal compact. Passage of this legislation would continue to encourage States along the path.

If a State fails to meet the milestone, there is a penalty surcharge assessed. The surcharge is in effect at all times, during this transition period, although at various rates, beginning as $10 per cubic foot during 1986 and 1987. The penalty surcharge for the 1986 milestone is two times this $10 surcharge, or $20 per cubic foot, during the first 6 months after the July 1 1986, deadline. As of January 1, 1987, a State missing this deadline may be denied access by the sited States for failure to meet this milestone.

The second milestone has a January 1, 1988, deadline by which compacts must have selected a host State, the State that will have the disposal facility, or selected a developer and site. The compact region or State is also required to develop a siting plan for the facility, including detailed procedures and a schedule for site selection, application, and construction of the facility.

The standard surcharge during 1988 and 1989 is $20 per cubic foot, and the penalty surcharge for failing to meet the milestone is two times the $20 surcharge for the first 6 months after the milestone and four times the surcharge in the 6 to 12 months after the milestone. In addition, States may be denied access after January 1, 1989.

The third milestone is January 1, 1990. By this date, States are to have filed a license application with the Nuclear Regulatory Commission or the Governor of the State must certify that the State will be capable for providing for the storage, management, or disposal of the low-level radioactive waste generated within such State. The Governor's certification is also to include a description of the means by which the State is to provide such storage, management, or disposal.

If the State fails to meet this deadline, the State may be denied access to a low-level waste disposal facility outside the State.

During our negotiations, we also agreed to include a new 1992 deadline that was not included in S. 1578 as reported by the Environment Committee. By January 1, 1992, States must submit a license application for a low-level waste disposal facility to the Nuclear Regulatory Commission. This change is in essence a modification of the 1990 milestone.

If States fail to meet this milestone, there will be a penalty surcharge of three times the surcharge that is in place. Since the surcharge is $40 per cubic foot, the penalty surcharge would be $120 per cubic foot for States failing to meet this deadline.

In addition, we have decided to scrutinize the situation after the end of the transition period in 1993. Other legislation left a blank when 1993 arrived. We were concerned, however, that a State may choose to "manage" its waste by telling the waste generators that they had to develop a means of storage for their waste. Such a policy would be unacceptable from our perspective and would leave generators with no effective recourse.

In order to provide some framework for addressing this possibility, we told States that by 1993 they must take title to the waste, or the rebates to which they would have been entitled would be returned to the generators. This appeared to be a fair method since States not accepting title would be leaving generators with some serious problems. We believe that the generators should receive some compensation for their storage costs, and thus the generators receive the rebates.

We make it clear, however, that States cannot continue to rely on other entities to solve the low-level waste disposal problem and we require States to take title to the waste in 1996. We give the States up to 3 years after 1993 to take title because of two concerns. First, if States were forced to accept possession of the waste in 1993 and they had no disposal facility available, we could be creating, instead

of eliminating, a public health and safety problem, by transferring possession of the waste to an entity that had no effective storage capacity. The utility generators, in particular, may be better equipped to handle temporary storage of this waste and would also receive the 25-percent rebate—the largest of all the rebates—that the State sacrificed by not taking title to the waste.

Second, we are concerned that the Nuclear Regulatory Commission may need more time than we have provided to license alternatives to shallow land burial, in which many States represented on the Environment and Public Works Committee have indicated an interest. We are clear in demanding that States take title to the waste, but there must be a reasonable deadline that all parties can meet so that we do not exacerbate an already difficult problem.

The combination of these milestones, penalties, and rebates should provide sufficient inducement to persuade even recalcitrant States to become part of the low-level compact process and work diligently to open new disposal facilities.

Since we have developed a new framework for this issue, we have also addressed other tangential issues of interest to many States. We have, as I indicated earlier, addressed the process by which a State can gain emergency access to another State's disposal facility.

We have clarified the role of the Department of Energy to provide financial and technical assistance to States so they can more effectively fulfill their responsibilities under this legislation.

Of great interest to many Environment Committee members in section 8, which considers alternative disposal methods. In this section the NRC is to publish technical guidance for such alternatives within 12 months. This deadline, we are told by the agency, is achievable and it is consistent with the milestones in the bill. We also require that within 2 years after the date of enactment, the NRC is to identify and publish all relevant technical information for alternative methods identified by the Commission in its technical guidance.

The effectiveness of this legislation rests on its deadlines and the abilities of affected parties to meet those deadlines. We are concerned that the NRC, which has not been noted for its swiftness to date, could prevent willing States from complying with the milestones because the necessary guidance or license was not issued in time. The bill addresses this problem by requiring the Commission to establish procedures and develop the technical capability to handle license applications within 15 months of receipt. There must be a thorough and careful review of the license applications, consistent with the Commission mandate to apply the Atomic Energy Act in a manner that protects the public health and safety. The importance of this health and safety responsibility cannot be emphasized enough. At the same time, the Commission should not hide behind this banner to mask its own inefficiencies. It is these inefficiencies that the Commission should reduce wherever possible so that States can meet the deadlines contained in this legislation.

The final section of this legislation concerns what is known as "mixed waste," that is, waste that is subject to regulation both under the Atomic Energy Act and under the Solid Waste Disposal Act. As those familiar with this problem are aware, the NRC and the EPA, the two agencies involved, have been unable to reach agreement on how this or similar waste should be regulated. The regulated community has expressed fears about dual regulation while the environmental community is opposed to EPA being told to abandon its responsibilities to regulate hazardous wastes. This legislation has sunwittingly poked its finger into the fray. As a result, I believe it is fair to say that as much time was spent on this one provision as was spent discussing the rest of the bill.

While this amount of time may be out of proportion to the significance of the remainder of this legislation, it has been time well spent. The compromise we have forged on this issue is an effective one that is designed to achieve results quickly. Under section 11, the NRC and the EPA are told to review the universe of mixed waste and identify the waste, its generators and volumes. In doing so, they should consult with affected States, generators, and disposal facility operators. This first step is important because our discussions over the years have clarified how little is known about this waste, other than that its quantities do not appear to be very large.

After completing this 3-month study on the waste, the agencies are to look at each specific waste stream, such as liquid from scintillation vials, and see if they can agree if the waste can go to one or more facilities already licensed by one of the two agencies. Based on our discussions with the agencies, focus on waste streams should expedite their efforts. We found that specific questions about specific wastes often produced answers in which the two agencies' work complemented, rather than conflicted, with one another.

This process allows the Administrator and the Nuclear Regulatory Commission to review disposal—or treatment and disposal—of substances listed under subsection (a), at facilities meeting only subtitle C requirements under the Solid Waste Disposal Act or NRC requirements regarding the licensing and regulation of radioactive waste disposal. This section states that facilities disposing—or treating and disposing—of such wastes shall be deemed in compliance with the relevant provisions of both the Atomic Energy Act and subtitle C of the Solid Waste Disposal Act if the NRC and EPA jointly determine that the facility in question will achieve a level of performance "adequate to protect public health and safety and to protect human health and the environment. * * *" By referencing the substantive standards of both acts, the language contemplates that such substantive standards are to be applied as performance standards. This means, for example, that in achieving the subtitle C "protect human health and environment" standard, it may not be necessary or appropriate to apply the panoply of subtitle C statutory or regulaory requirements—such as doubleliner requirements—in this context. Likewise, it is not necessary that a facility meet all the technical standards of 10 C.F.R. part 61. In some circumstances though a RCRA standard may appear to be stricter regulation than would be the case under an AEA standard, AEA concerns relating to radioactive materials should not necessarily be overlooked or overridden. Generally speaking, the language envisions that the substantive statutory standards can be met through comparable regulatory activity, not necessarily the prescriptive means appropriate in other areas of waste management.

If there are some wastes that cannot be disposed of at a facility licensed by the NRC or the EPA under existing requirements, then the EPA is to determine what requirements, in addition to the NRC's 10 CFR Part 61 requirements for low-level waste disposal facilities, are necessary in order to meet the Solid Waste Disposal Act standard of protection of human health and the environmment. NRC is required to evaluate those additional requirements and apply those that are not inconsistent with the Atomic Energy Act. This can be done on a facility-specific basis through modification of licenses or through rulemaking. A faculty meeting these modified requirements is deemed in compliance with the Solid Waste Disposal Act requirements including the permit requirements. This applies to requirements based on the Solid Waste Disposal Act in authorized States, as well.

If there are EPA additional requirements that NRC finds cannot be applied consistently with those of the Atomic Energy Act, the NRC, as a last resort, is authorized to prohibit the disposal of the waste in a licensed low-level waste disposal facility.

This approach established a framework for expedited decisionmaking be-

tween the two agencies and eliminates the possibility of dual regulation, which has been a troublesome possibility for some. At the same time, we have assured that the standards of both the Solid Waste Disposal Act and the Atomic Energy Act so we have protected human health and the environment and the public health and safety.

I am pleased that we have developed this innovative compromise that should effectively respond to concerns raised on this issue.

In conclusion, months of negotiation have been held to reach agreement on this difficult issue of providing additional low-level waste disposal capacity. I am pleased that we have an opportunity to bring this legislation before the Senate. I am sure my colleagues will agree with me that the framework provided in this legislation is a constructive, workable solution to our low-level waste problem and I strongly urge passage of the bill.

AMENDMENT NO. 1429

Mr. THURMOND. Mr. President, I send a substitute amendment to the desk. I offer this on behalf of myself and Senators SIMPSON, STAFFORD, BENTSEN, MCCLURE, JOHNSTON, EVANS, HELMS, HART, and DOMENICI. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. SIMPSON, Mr. STAFFORD, Mr. BENTSEN, Mr. MCCLURE, Mr. JOHNSTON, Mr. EVANS, Mr. HELMS, Mr. HART, Mr. DOMENICI, Mr. HOLLINGS, Mr. HECHT, Mr. BRADLEY, Mr. GORTON, and Mr. GOLDWATER, proposes an amendment numbered 1429:

(The text of the amendment appears under Amendments Submitted.)

Mr. THURMOND. Mr. President, I ask unanimous consent that Senator HOLLINGS, Senator HECHT, Senator BRADLEY, Senator GORTON, and Senator GOLDWATER be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, today, I am offering a complete substitute to H.R. 1083, the Low-Level Radioactive Waste Policy Amendments Act of 1985, This legislation will help avert a potential nationwide crisis which would be caused by the closing of the three existing disposal facilities, located in South Carolina, Washington, and Nevada, on January 1, 1986.

In the late 1970's, these three disposal sites became responsible for the disposal of the entire Nation's low-level waste. Congress realized the inequity of this situation and passed the Low-Level Radioactive Waste Policy Act of 1980, which I was pleased to work on with several of my colleagues present here today. This act encouraged States to enter into compacts to handle this waste. As an incentive for entering such regional compacts, the 1980 act authorized compact regions whose compacts have received congressional approval to exclude out-of-region waste beginning January 1, 1986.

Unfortunately, this January 1, 1986, deadline for excluding waste will not become a reality. The sited regions were among the first to enter into regional compacts. However, most of the nonsited States did not choose to enter into compacts until several years after the 1980 act was enacted. Consequently, no new regional disposal sites will be operating by January 1, 1986. For this reason, Congress has not yet approved the seven regional compacts, involving 37 States, that have been submitted for congressional approval during this session. These compacts were referred to the Judiciary Committee, of which I am chairman, and were reported out, subject to the condition that they would not be considered on the floor until joined by suitable transition language.

On August 1, 1985, I introduced S. 1578 which will allow United States continued access to the existing regional sites through December 31, 1992—7 years—while they develop their own regional disposal facilities.

This legislation was considered by the Environment and Public Works Committee, and similar legislation was considered by the Energy and Natural Resources Committee. At this time, I would like to commend Chairman STAFFORD, ranking member BENTSEN of Environment and Public Works, and Chairman MCCLURE, and ranking member JOHNSTON of Energy and Natural Resources for the careful consideration and many long hours of hard work that these committees and their staffs have put into this legislation.

I would also like to thank assistant majority leader SIMPSON whose expertise as chairman of the Environment and Public Works Nuclear Regulation Subcommittee on this legislation was invaluable, as well as Senator EVANS of the Energy and Natural Resources Committee.

The substitute that I offered today is similar to the one that I circulated earlier this week with a Dear Colleague letter with the following major changes: a 1992 milestone requiring that a license application be filed or penalties assessed; and strengthening of the emergency access provision.

This substitute is strongly supported by the Governors of the sited States—South Carolina, Washington and Nevada.

This legislation contains the following major provisions:

First. Nonsited generators would be allowed to continue to dispose of their low-level waste at the existing disposal facilities through December 31, 1992. This means the Barnwell, SC, site will be able to close after December 31, 1992.

Second. Volume caps will be placed on the amount of low-level waste each of the three disposal sites is required to take.

Third. Nonsited regions and nonsited States will be required to meet specific milestones toward developing their own facilities. If the States do not comply with these milestones, generators will be assessed a penalty surcharge during a specified grace period. If compliance is not achieved by the end of the grace period, the generators may be denied access to the existing disposal facilities.

Fourth. An escalating surcharge will be placed on all low-level waste from nonsited regions and nonsited States.

Fifth. Surcharges will be rebated to compact commissions and States that comply with the milestones.

Sixth. States that do not have an operating disposal facility by January 1, 1996, will be required to take title to and possession of all waste generated within the State or compact region. The State or compact region shall also be liable for all consequential damages incurred by the generator due to the failure of the State to take possession of the waste as soon after January 1, 1996 as they are notified that waste is available for shipment.

I strongly urge each one of my colleagues to vote to approve this legislation. When we passed the 1980 act, Congress promised the sited States that the full responsibility for the disposal of low-level waste would not continue to fall on them after January 1, 1986. The Governors of the sited States have realized that this promise will not be kept and have agreed to keep their sites open for 7 more years. These Governors have given all they are willing to give, and they have indicated they will close their sites if this legislation is not enacted by January 1, 1986. It is time for all States to make a serious commitment to be responsible for the disposal of their own low-level waste by January 1, 1993, and for Congress to keep its promise to those States which have so far shouldered this full responsibility.

Mr. BENTSEN. Mr. President, the legislation before us represents a reasonable compromise among many interested parties, including States with existing low-level waste disposal sites, States without such sites, utility generators of waste, and the non-utility generators of low-level waste, such as hospitals. I am confident that this legislation is extremely workable and that at the end of the 7-year-transition period we will see more low-level waste disposal sites in operation.

One reason for my confidence is the example with which I am most familiar the situation in Texas. Texas is well on the way to developing its own disposal facility for low-level waste. The Federal legislation we are consid-

ering today will encourage States, including Texas, to keep moving toward the development of such a disposal facility by including a matrix of milestones with penalties, denial of access, and rebates for each of the milestones.

There has been considerable debate about these milestones. I believe the milestones included in this package represent a realistic set of goals for the States, goals States can meet, but only if the States are seriously addressing the need to develop low-level waste disposal sites on their own or in compacts.

To my knowledge, Texas is the only State that has clearly decided not to enter into the compact process in developing a low-level waste disposal facility, as the State indicated in joint hearings before the Environment and Public Works Committee and the Energy and Natural Resources Committee. The State chose to follow this course for several reasons, primary among them is that the volume of expected waste would be large enough to justify a disposal site for Texas. Most other States have not chosen this route, but I am pleased that this legislation does not preclude the "go it alone" option Texas has endorsed.

This legislation also addresses the difficult issue of what to do with above class C waste, which the States are unwilling to accept. Rather than remain silent on this possible source of "orphan" waste, we declare that such waste is a Federal responsibility and must be put in a facility licensed by the Nuclear Regulatoy Commission. The Department of Energy is to conduct a study on this waste and outline the disposal options for the Federal Government, including any new legislative authority that might be necessary to exercise any of the disposal options the DOE develops.

In sum, this low-level waste legislation corrects the shortcomings of the 1980 act, while maintaining a practical framework for encouraging States to develop additional sites of their own. I strongly support passage of this legislation and encourage my colleagues to do likewise.

Mr. STAFFORD. Mr. President, I am pleased to support the Low-Level Radioactive Waste Policy Amendments Act of 1985. Enacting this legislation this year will avoid a possible shutdown of the existing low-level radioactive waste disposal facilities on January 1, 1986. I would like to commend Senator THURMOND, the distinguished chairman of the Judiciary Committee, for his leadership on this issue.

This legislation will ultimately relieve the three existing low-level radioactive waste disposal sites from their current burden of having to take the entire Nation's low-level radioactive waste. At the same time, it will guarantee that the unsited States will have access to those facilities for the next 7 years. This is expected to be the time necessary for them to develop their own storage or disposal facilities.

I believe this bill represents a fair and equitable solution to the current problem. One part of the country should not have to bear disproportionate burdens of disposing of wastes created in another part of the country. Each State or region should bear its fair share of cleaning up or disposing of the wastes that are produced by the activities in that State or region.

A key element of this legislation is that it generally reflects the compromise between the sited and unsited States on the most appropriate way to achieve this goal. This compromise includes guarantees of access during the 7-year period, volume limitations on such waste being disposed of, milestones for the unsited States to meet in order to be entitled to access, penalties for missing the milestones, surcharges imposed on waste imported into the sited regions, and rebates of such surcharges for meeting the milestones. The compromise also contains a provision allowing emergency access to any disposal facility if the Nuclear Regulatory Commission determines that there is an immediate and serious threat to the public health and safety.

These elements to the compromise were supported overwhelmingly in the testimony before the Environment and Public Works Committee and the Energy and Natural Resources Committee. Representatives from sited States, from unsited States, from generators and environmentalists all testified that the package as a whole represented a workable and fair solution to the present problem.

In particular, however, I would like to note that the milestones in the bill are considered to be achievable by all unsited States or compact regions, and that meeting the milestones will allow the unsited States to accomplish a basic purpose of the act—for the unsited States to be able to provide for the storage or disposal of their own waste after January 1, 1993. After this date the three presently sited regions will have the right to exclude waste generated outside the region.

I would also like to point out that the bill provides the flexibility for unsited States or regions to file an application for a disposal facility even after 1990, up to January 1, 1992. The bill also provides the flexibility for unsited States or regions to obtain a license for and begin operating a permanent disposal facility after January 1, 1993, up to January 1, 1996. These elements of flexibility are necessary because States may wish to pursue disposal methods other than shallow land burial. The Nuclear Regulatory Commission projects that these additional periods of time may be necessary for States wishing to pursue such alternatives.

Nonetheless, States needing such additional time would still be required by January 1, 1990, to certify that such States or regions will be able to provide for the storage, disposal, or management of waste generated within such States or regions after January 1, 1993. The sited States or regions would be able to exclude waste after January 1, 1993, but the unsited States or regions would not be penalized because they needed additional time to provide for the disposal, rather than the storage, of their own waste. The bill therefore accommodates both the interests of the sited regions and the unsited regions.

Mr. President, to date approximately 37 States have entered into compacts. I hope that the remainder of the States will follow soon. I have been impressed with the remarkable spirit among the States of compromise, cooperation, and consensus that has been evident during the consideration of this difficult national issue. I am confident that as this spirit continues the States will easily achieve the goals and purposes of this legislation.

I would like to commend Senator SIMPSON, the distinguished chairman of the Subcommittee on Nuclear Regulation of the Environment Committee, for his leadership and efforts in transforming this consensus into the bill that we are considering today. I also urge my distinguished colleagues to consider and vote for this legislation in the same spirit that was responsible for bringing this process as far along as it is today. This concludes my statement. Thank you, Mr. President.

Mr. HOLLINGS. Mr. President, I urge my colleagues to vote for the compromise low-level nuclear waste bill now before the Senate. I also urge them to vote for related legislation ratifying the regional nuclear waste compacts. To avoid a major crisis over low-level radioactive wastes, we must act now. The time available for discussion has run out.

The simple fact is this: If Congress does not pass this compromise bill soon, Governor Riley will take steps to shut off access to the nuclear waste burial facility in South Carolina. The Governors of Washington State and Nevada, the other two States with burial grounds, will do the same. Our three States will no longer indefinitely accept waste from other regions of the country. We want to carry through with the policy that Congress adopted in 1980—the principle that every State and every region is responsible for handling its own low-level nuclear wastes.

That 1980 law, the Low-Level Radioactive Waste Policy Act, encouraged the States to form regional compacts

and provided that any region with a congressionally approved compact could stop accepting out-of-region waste after January 1, 1986. Frankly, I strongly believe this provision should have been implemented by now. After all, States have had more than 5 years to comply with this provision. Unfortunately, many States have failed to build their own disposal facilities. Rather, many have sought to block the compacts developed by the three States with sites until we three agreed to accept out-of-region waste past 1986.

I didn't like that position when I first heard it, and I do not like it now. The citizens of South Carolina resent it deeply. Last January, our Governor announced that he would shut our facility, if necessary, unless this issue were resolved in a form acceptable to South Carolina. I and every other member of the South Carolina congressional delegation supported him. But Governor Riley also went the extra mile, and said that he would hold good-faith discussions with those of the country that lack disposal capacity.

The bill now before the Senate is the result of those discussions. It does not give the three sited States everything we would like. In fact, it is only barely acceptable. But it protects South Carolina's most important interests, and we will support it. The legislation gives the regions without sites continued access to our three waste facilities, in return for surcharges and, most importantly, a strict schedule by which other States must build their own facilities. The last point is crucial. We don't want this whole issue to resurface again in another few years.

Mr. President, a great many people in and out of the Senate worked long and hard to hammer out this compromise. I want to thank them and compliment them for their efforts to resolve a complex and very difficult issue. I want to thank Senators JOHNSTON, EVANS, and MCCLURE from the Energy Committee, and Senators SIMPSON, STAFFORD, and BENTSEN from the Environment and Public Works Committee. My distinguished colleagues from the Judiciary Committee, Senators THURMOND and BIDEN, did a great deal to move the process forward. Congressman UDALL and his colleagues worked very hard on the House side. I want to thank Patrick Windham and other members of my staff. I particularly want to compliment Gov. Richard Riley and his staff. Without Dick's leadership, we would not have a bill before us today.

Governor Riley and others have led the way on this issue. Now it is time for us in the Congress to finish the business at hand and prevent our differences on low-level nuclear waste from turning into a major confrontation.

Mr. BRADLEY. Mr. President, it is with great pleasure that I rise to support the low-level radioactive waste transition bill that is before us today. I urge my colleagues on both sides of the aisle to approve this important legislation.

Today, Mr. President, South Carolina, Washington, and Nevada contain the only active disposal sites for civilian low-level radioactive wastes. The wastes include rags, paper, protective clothing, and other trash from industry; radiopharmaceuticals and lab equipment from hospitals; and used filters and reactor parts with relatively low levels of radioactivity. These operations mostly escaped public attention until 1979, until the Governors of Washington and Nevada temporarily shut down the disposal sites in their States. About the same time, the Barnwell, SC, disposal area began to limit the amount and type of waste it would accept. Hospitals, medical research facilities, universities, and industries were severely affected by the shutdowns. These institutions have the physical ability and legal authority to store only small amounts of radioactive waste and would have had to halt all work in nuclear medicine and nuclear related research and industry if the disposal sites were closed for any length of time. The crisis eased when the Western States were persuaded to reopen their disposal sites. But those States have served notice that they will not continue to be the country's dumping grounds indefinitely.

In response Congress passed the Low-Level Radioactive Waste Policy Act of 1980. This legislation made each State responsible for providing for the disposal of low-level waste generated within its borders. The act was designed to encourage States to form regional compacts that would cooperatively plan and operate low-level waste disposal sites, thereby more equitably allocating the economic and political costs now borne alone by the States of Nevada, Washington, and South Carolina.

Since passage of the 1980 act, seven regional compacts have been established and presented to Congress for ratification. Included in this group is the Northeast compact in which my State, New Jersey, is a party. These compacts represent 37 States. However, because a number of States have so far failed to enter into compacts, and furthermore, no States have developed new disposal facilities to date, the future of low-level waste disposal is in jeopardy under the current law.

Legislation is clearly needed for the purpose of preventing a nationwide crisis in low-level radioactive waste disposal. The failure to achieve the intended result of the 1980 act can be largely attributed to the act's lack of clearly defined incentives and penalties that would induce the establishment of new disposal capacity within the nonsited compact regions. Thus, the selection of appropriate incentives and penalties with respect to new disposal-site development is an essential element of any solution to the serious problem now facing the States in the unsited regions.

Mr. President, the Energy and Natural Resources Committee and the Environment and Public Works Committee have worked together to produce a low-level radioactive waste management bill with meaningful penalties and incentives. The bill fairly represents all sides of the low-level radioactive waste disposal issue.

Mr. President, passage of the low-level radioactive waste transition bill and ratification of the compacts currently before Congress is the first important step in establishing a cooperative regional low-level waste disposal system. It is imperative that we act quickly so that the low-level waste can be safely disposed of in the future thereby assuring the health and safety of the citizens of our States.

Mr. President, I would like to take this opportunity to thank Senators MCCLURE and JOHNSTON and the staff of the Energy and Natural Resources Committee, along with Senators STAFFORD and BENTSEN and the staff of the Environment and Public Works Committee. My colleagues and their committee's staffs have worked diligently and thoughtfully in preparing this legislation. The final product of their labors is a bill that fairly represents all sides of the low-level radioactive waste disposal issue.

Mr. President, when this legislation was in the Energy and Natural Resources Committee, I raised objections about the penalties for missed milestones and the associated emergency access provision. I fully support the need for meaningful penalties and incentives to ensure that low-level waste sites will be developed. However, I objected to placing the decision to grant emergency access and total control over the terms and conditions of that access in the hands of the currently sited States' Governors.

Mr. President, I appreciate the commitment of Senator MCCLURE, the chairman of the Energy and Natural Resources Committee, and Senator JOHNSTON, the ranking member, to explore the problems that I raised. These issues are very important to States such as New Jersey, which have entered into regional compacts to manage the disposal of low-level radioactive waste, as well as States which have not.

Mr. President, the bill before us today reflects the hard work of my colleagues on both sides of the aisle. I appreciate the efforts of the chairmen of both Senate committees involved and their staffs to produce low-level

radioactive waste management legislation with meaningful penalties and incentives and a fair emergency access provision. I urge my fellow Senators to accept this legislation.

Mr. LEAHY. Mr. President, I have a concern which I would like to raise with my colleagues from the States that are parties to the Northeast low-level radioactive waste compact.

As originally introduced by Senator BRADLEY, a sentence of the compact that had been ratified by the four party States was omitted. At the December 4, 1985, Judiciary Committee markup of this bill, Senator MATHIAS introduced an amendment which reinserted that language into the compact. The amendment was passed by the committee. Senator SIMPSON and I expressed reservations about the constitutionality of the language at that time, and I want to review those concerns now with my colleagues to be certain that they share my understanding of the limited purpose and effect of that language.

It would require the D.C. Circuit Court of Appeals to act within 90 days on a petition for review of a decision by the Northeast Interstate Low-Level Radioactive Waste Commission. If the court failed to do so, the Commission's decision, relative to the designation of a host State, would be deemed to be affirmed.

I am concerned about the part of the language which states "the Commisson's decision shall be deemed to be affirmed." Can Senators tell me what they understand that to mean?

Mr. MATHIAS. Yes. My understanding of the meaning of "shall be deemed to be affirmed" is that it shall be as if the court of appeals never acted on the appeal. The failure of the court to act within the 90 days would be the same as an affirmance in the limited sense that the Commission's decision would remain unchanged. But it would not be the same as an affirmance in the sense that it would not be a judgment by the court of appeals. The failure by the court to act could not be construed to be a ruling by the court on any issue in the case.

Mr. LEAHY. So the failure by the court to act on the appeal would have no precedential value of any kind?

Mr. MATHIAS. That is correct. It would not.

Mr. LEAHY. Would the Senator agree that if "the Commission's decision shall be deemed to be affirmed" was intended to mean "the court's failure to act shall be deemed to be a judgment on the merits upholding the Commission's decision," the amendment would violate the Constitution? That is what the Justice Department concluded in its memorandum on this queston. The Department concluded that such an interpretation would represent an unconstitutional exercise of the judicial function by the legislative branch.

Mr. MATHIAS. Yes. In my opinion, that would be unconstitutional. In that case the language would also violate the provisions of the congressional transition legislation, as amended. The language would thus be of no effect. But under the severability clause contained in article X of the compact, a court could strike the language and the rest of the compact would remain in effect.

"(S)hall be deemed to be affirmed" means only that the case would be ripe for review by the Supreme Court, if the aggrieved party chose to file for Review. The Supreme Court would then have within its inherent powers the right to remand the case to the court of appeals for a decision of the merits, or it could rule on the appeal itself.

Mr. President, I would also like to add that the premise of the Department of Justice letter's footnote 4 is incorrect. While I have no quarrel with the conclusions Justice has drawn, they are mistaken in assuming that this language was not a part of the compact negotiated and enacted by the States. It is for this reason that I felt constrained to offer the amendment including this language in the Judiciary Committee. In addition, I requested an analysis of the language to be prepared by the Congressional Research Service of the Library of Congress, and I ask unanimous consent that it also be included in the RECORD at the conclusion of this colloquy.

Mr. LEAHY. Then am I right that this language was simply intended to expedite the process for appealing a decision of the Commission to the Supreme Court? It would not limit in any way the substantive juridiction of the court of appeals, nor in any way affect the right of an aggrieved party to appeal a decision of the Commission?

Mr. MATHIAS. Yes. That is my understanding and I believe I speak for my colleagues from New Jersey as well. This is in the nature of a housekeeping measure. It would expedite these appeals and nothing more. It does not in any way narrow the jurisdiction of the court of appeals. In fact, if that were its purpose, I believe it would violate the Constitution.

All that this language says is that if the court of appeals does not act within 90 days, the Commission's decision will continue in effect. If the aggrieved party chooses to appeal to the Supreme Court, he may do so.

Mr. BRADLEY. That is also my understanding.

Mr. LEAHY. So I am correct that this language would have no effect on the right or scope of Federal review of the Commission's decision.

Mr. LAUTENBERG. The Senator is correct. I share the Senator's concerns about measures which would seek to restrict the substantive jurisdiction of the Federal courts. We would not support this language if it would in any way affect the right or scope of Federal review. This language is only intended to expedite these appeals.

Mr. BRADLEY. I am in complete agreement with Senators MATHIAS and LAUTENBERG.

Mr. LEAHY. I thank the Senators. Mr. President, I would have preferred it if the language contained in the amendment adopted by the Judiciary Committee had not been ratified by the States that are parties to this compact. At worst it is unconstitutional. At best it is confusing.

Although I would not support it myself, I believe that rather than delete this section and thereby require the States to repeat the lengthy ratification process, it is best to pass this legislation together with the judicial review amendment to the congressional transition legislation offered by the Senator from South Carolina. Assuming the judicial review language in the Northeast compact is ruled to violate the congressional transition legislation, as amended, or to be unconstitutional, it can be severed without affecting the compact as a whole. In my opinion, that would be the best result.

I ask unanimous consent that the opinion of the Department of Justice concerning the constitutionality of this provision be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, December 16, 1985.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our review of the constitutionality of a proposed amendment to the judicial review provisions of S. 1798, a bill "[t]o grant the consent of the Senate to the Northeast Interstate Low-Level Radioactive Waste Management Compact." The amendment would set a 90-day time limit for judicial review of certain administrative decisions made by the Commission established under the Compact, and would mandate that the decision of the Commission be "deemed affirmed" if the court did not rule within that time. As we discuss below, the proposed amendment raises serious constitutional problems.

The purpose of S. 1798 is to grant the consent of Congress pursuant to the Compact Clause of the Constitution, Art. I, sec. 10, cl. 3,[1] and section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, 42 U.S.C. 2021d(2), to the Northeast Interstate Low-Level Radioactive Waste Management Compact. The Compact, which was negotiated by Connecticut, New Jersey, Delaware, and Maryland, implements a regional approach to the management and disposal of low-level radioactive waste by providing a mechanism for establishment of regional waste disposal facilities and by granting to party states the

right to deposit wastes at those facilities. The Compact establishes the Northeast Interstate Low-Level Radioactive Waste Commission ("Commission"), composed of members appointed by the party states. Among other responsibilities, the Commission may designate "host states" that must establish regional disposal facilities to accept wastes generated by other party states, if the states fail to pursue voluntarily the development of such facilities. Art. IV(i)(9).[2]

The Compact establishes jurisdiction in the federal courts for suits arising from actions of the Commission. Jurisdiction is provided in the United States District Court for the District of Columbia for "all actions brought by or against the Commission." Any actions initiated in a state court "shall be removed" to the federal court. Art. IV(n). In addition, the United States Court of Appeals for the District of Columbia Circuit is given jurisdiction "to review the final administrative decisions of the Commission." Art. IV(o).[3] Persons aggrieved by a final administrative decision of the Commission may obtain review of the decision by filing a petition for review within 60 days after the Commission's final decision. Art. IV(o)(1). On review, the court of appeals is precluded from substituting its judgment for that of the Commission "as to the decisions of policy or weight of the evidence on questions of fact," but may remand the case for further proceedings if it finds that the petitioner has been aggrieved because the finding, inferences, conclusions or decisions of the Commission are: (a) in violation of the Constitution of the United States; (b) in excess of the authority granted to the Commission under the Compact; (c) procedurally defective "to the detriment of any person;" or (d) arbitrary, capricious, or an abuse or clearly unwarranted exercise of discretion. Art. IV(o)(3).

As drafted, the Compact provides that the court of appeals "shall accord . . . an expedited review" to any Commission decision "relative to the designation of a host state." Art. IV(o)(2). The proposed amendment you have asked us to review would expand on the requirement for expedited review, by providing as follows:

"[I]f the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed."

We assume that the purpose of this amendment is to insure that the court of appeals will expeditiously consider and rule on the designation of host states responsible for construction and operation of regional disposal facilities, so that the construction of such facilities can proceed as promptly as possible.[4] The effect of this amendment would be to establish an outside limit of 150 days (60 days for filing the petition for review and 90 days for the court's ruling) from the time of the Commission's determination to the end of review by the court of appeals. The amendment, however, would not just limit the time available to the court of appeals to rule on a petition for review; it would also effectively "affirm" any designation decision of the Commission not ruled on by the court within that time, regardless whether the court had in fact reviewed the petition and determined that affirmance was warranted under the standards set out in the Compact.

To our knowledge, this provision is virtually unprecedented. We are not aware of any comparable provision in statutes authorizing judicial review of administrative actions. The closest analogy we have found is the Speedy Trial Act, 18 U.S.C. 3161 *et seq.*, which requires that federal criminal defendants be charged and tried within certain time limits.[5] If the time limits are not met, the charges against the defendant must be dismissed by the court, either with or without prejudice.[6] The constitutionality of the Speedy Trial Act was upheld by the United States Court of Appeals for the Fourth Circuit in *United States v. Brainer*, 691 F.2d 691 (1982).[7] As discussed below, however, we believe that the purpose and effect of the Speedy Trial Act differ significantly from the purpose and effect of the proposed amendment, and therefore that the Brainer decision does not answer satisfactorily the difficult constitutional questions presented by the amendment.

Our primary concern is that the proposed amendment would violate the constitutionally mandated separation of powers between the Legislative and Judicial Branches. "Basic to the constitutional structure established by the Framers was their recognition that '[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.'" *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57 (1982), quoting *The Federalist No. 47*, at 300 (H. Lodge ed. 1888) (J. Madison). Accordingly, "[t]he Constitution sought to divide the delegated powers of the new Federal Government into three defined categories, Legislative, Executive, and Judicial, to assure as nearly as possible, that each branch of government would confine itself to its assigned responsibility." *INS v. Chadha*, 462 U.S. 919, 951 (1983); *See also Buckley v. Valeo*, 424 U.S. 1, 122 (1976). "The hydraulic pressure inherent within each of the separate Branches to exceed the outer limits of its power, even to accomplish desirable objectives, must be resisted." *INS v. Chadha*, 462 U.S. at 951.

The Constitution vests all federal judicial power "in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish." Art. III, sec. 1. "[O]ur Constitution unambiguously enunciates a fundamental principle—that the 'judicial Power of the United States' must be reposed in an independent Judiciary." *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. at 60. As Hamilton stated in *The Federalist No. 78* at 466 (C. Rossitor ed. 1961) (citation omitted), it is necessary for the Judiciary to remain "truly distinct from the Legislature and the Executive. For I agree that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers.'" Thus, it is a violation of the separation of powers for the Legislative and Executive Branches to exercise judicial power, just as it is unconstitutional for the Judiciary to engage in lawmaking or executive functions.

The core of the judicial power, which the Legislative and Executive Branches may not invade, it is the rendering of decisions in court cases, *i.e.*, the "application of principles of law or equity of [the] facts" of a particular case. *Vermont* v. *New York*, 417 U.S. 270, 277 (1974); *see also Williams* v. *United States*, 289 U.S. 553, 578 (1933); *United States* v. *Klein*, 80 U.S. (13 Wall) 128 (1872); *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272, 284 (1856). To be sure, Congress has the constitutional authority to enact laws establishing the framework within which judicial decisions must be made. Congress has broad authority to prescribe rules of practice and procedure,[8] to define and limit jurisdiction,[9] and to limit remedies available to litigants.[10] In addition, Congress prescribes the substantive law that governs court decisions.[11] But once that framework has been established, only the courts can render the actual decision.

Separation of powers questions regarding the exercise of the judicial power have frequently arisen in other contexts, such as cases concerning the powers of non-Article III courts. *See Northern Pipeline Co.* v. *Marathon Pipeline Co.*, 458 U.S. at 63-76. The amendment discussed here, however, presents a different—and as we have said, a virtually unique—separation of powers question. Under the proposed amendment, if the court of appeals failed to rule on a petition for review within the prescribed time limit, the Commission's decision would "be deemed to be affirmed." Such an affirmance would be tantamount to a judgment of the court of appeals and would accordingly have a legal status very different from a mere decision of the Commission.[12] Such an affirmance would plainly represent an exercise of the core judicial function of deciding cases. However, it would derive, not from any action taken by the Judiciary, but from an automatic decision-making mechanism created by legislative enactment. Therefore, by enacting this amendment, Congress would in effect be creating a mechanical substitute to do the work of the court of appeals. Because of the novelty of the proposed amendment and the consequent lack of judicial authority addressing the constitutionality of such measures, any judgment about the constitutionality of the proposed amendment must proceed from first principles relating to the separation of powers. Nevertheless, we believe that this measure would be unconstitutional.

We do not believe our conclusion is inconsistent with the Fourth Circuit's decision in *United States* v. *Brainer, supra*, holding that the time constraints and dismissal sanction of the Speedy Trial Act do not violate the separation of powers. The *Brainer* court assumed (691 F.2d at 695) that "the application of existing law to the facts of a case properly before the courts is a judicial function which the legislature may not constitutionally usurp." But the court analogized the challenged provisions of the Speedy Trial Act to "the host of other procedural requirements of unquestioned validity by which Congress regulates the courts of its creation—such measures as the Federal Rules of Civil procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, and statutes prescribing who may sue and where and for what." 691 F.2d at 696. The court added that "[s]tatutes of limitation provide perhaps the closest analogy." *Ibid.*

Whatever the merits of these inexact analogies may be in the context of the Speedy Trial Act, they have no force here. For example, we see no meaningful comparison for separation of powers purposes between a statute of limitations, which bars a party from bringing suit after the passage of a specified period of time, and the proposed amendment, which may result in the rendering by extra-judicial means of a decision in a case that is properly before the court of appeals. A statute of limitations, unlike the proposed amendment, does not create an automatic decision-making mechanism to take the place of a court. A better rationale for the result in *Brainer* is that mandatory dismissal under the Speedy Trial

Act is necessary to remedy a violation of the criminal defendant's statutory right to a speedy trial—a right that has roots in the Sixth Amendment and that plays an important role in safeguarding the accuracy of the trial process. As the Supreme Court has recognized in cases involving the Sixth Amendment speedy trial guaranty, dismissal of the action is really "the only possible remedy" for deprivation of a right to a speedy trial. *See Strunk v. United States*, 412 U.S. 434, 438-40 (1973); *Barker v. Wingo*, 407 U.S. 514, 531 (1972).[13] The proposed amendment, by contrast, does not appear to be designed to protect any particular substantive right (let alone any constitutional right), for it mandates an automatic affirmance of the Commission no matter what the Commission has decided. Although the proposed amendment demonstrates Congress' desire to have an expeditious review of the Commission's designation decisions, affirmance of such decisions cannot be viewed in any sense as a "remedy" to redress injury to other parties from delay in completion of judicial review. It is not at all clear, for example, that parties who support the Commission's decision would necessarily be injured by any further delay in review, or that affirmance of the decision would alleviate any such injury.

Moreover, under the Speedy Trial Act the court has discretion to dismiss the case either with or without prejudice, based on the court's evaluation of the reasons for and effect of the delay in the particular case. The choice whether to give the dismissal preclusive effect is therefore left to the courts, and requires the courts to conduct the sort of factfinding that is at the core of the judicial function. No such latitude is given the court of appeals under the proposed amendment; regardless of the circumstances and the merits of the petition for review, the Commission's decision is automatically deemed to be affirmed once the 90-day period has run.

In *Brainer* the court also considered a separate constitutional challenge to the Speedy Trial Act based on the time limits imposed by the Act—that those time limits, in and of themselves, "intrude upon the zone of judicial self-administration to such a degree as to 'prevent[] the [Judiciary] from accomplishing its constitutionally assigned functions.'" 691 F.2d at 698, *quoting Nixon v. Administrator of General Services*, 433 U.S. 425, 443 (1977). While expressing some doubt about the existence and scope of the Judiciary's inherent power to administer its own docket, the court concluded that the Speedy Trial Act did not unduly intrude upon that power. 691 F.2d at 698. In reaching that conclusion, however, the court cited the considerable flexibility provided by the Act, including the ability of the courts to dismiss an action without prejudice, exclusion of certain common types of delay from the time limit, and the authority of the courts to grant continuances, upon certain conditions, if "the end of justice . . . outweigh the best interests of the public and the defendant in a speedy trial." *Ibid.*

There is no such flexibility built into the proposed amendment. Moreover, it may well be unreasonable in particular cases to require that the entire process of appellate decisionmaking be completed within 90 days. Ninety days is less than the time generally allowed under the Federal Rules of Appellate Procedure just for briefing a case.[14] We note that at the present time in the District of Columbia Circuit the average case is not decided until almost seven months after the last brief is filed in the case.[15]

We do not believe that statutes prescribing a time limit for judicial decisions in particular types of cases are necessarily unconstitutional. *See, e.g.*, 28 U.S.C. 1826(c) (30-day limit for disposition of appeals under the recalcitrant witness statute).[16] As the court noted in *Brainer*, the separation of powers inquiry must focus on the extent to which such time limits actually prevent the Judiciary from accomplishing its constitutionally assigned functions, and the justification for legislative intervention.[17] Without knowing how the time limit in question here would affect the ability of the District of Columbia Circuit to conduct its business, and without additional information about the need for and purpose of the proposed amendment, we cannot predict how that balance would be struck.

In sum, we believe that the proposed amendment raises serious constitutional problems, arising from the doctrine of separation of powers. The most critical of those problems—that Congress would usurp the Judiciary's role in determining the outcome of particular cases—could be alleviated by deleting from the amendment the provision that the Commission's decision "shall be deemed to be affirmed."

We trust that this analysis has been useful to you. Please let us know if we can be of further assistance.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

FOOTNOTES

[1] The Compact Clause provides that, "[n]o State shall, without the consent of Congress, . . . enter into any Agreement or Compact with another State."

[2] The Commission also would exercise several other responsibilities, including approving the export or import of hazardous wastes not otherwise permissible under the Compact, accepting applications of other states to become members of the Compact, adopting a regional management plan for the disposal of low-level radioactive wastes, and overseeing implementation of the Compact. The Commission is given authority to hold hearings and to require testimony or other information from the party states, to intervene in judicial or administrative proceedings, and to impose sanctions on party states for violation of the Compact, including revocation of membership.

[3] The Compact does not define "final administrative decisions"; nor does it state expressly that jurisdiction in the court of appeals to review such decisions is exclusive of the district court jurisdiction to review "all actions brought by or against the Commission." It does state, however, that the provision granting jurisdiction to the district courts "shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the Commission . . . . " Art. IV(n).

[4] Because the Compact negotiated by the states does not include this provision, the proposed amendment would in effect be a condition imposed by Congress on its consent to the Compact. Congress may attach binding conditions to its consent to the formation of an interstate compact, provided such conditions are otherwise within Congress's authority and not in contravention of any constitutional limits. *See, e.g., Petty v. Tennessee—Missouri Commission*, 359 U.S. 275 (1952); *Tobin v. United States*, 306 F.2d 270 (D.C. Cir. 1962), *cert. denied*, 371 U.S. 902 (1963). A state that objects to such conditions may, of course, withdraw from an interstate compact in accordance with its terms.

[5] The Speedy Trial Act requires, *inter alia*, that any information or indictment charging an individual with an offense be filed within 30 days from the date of arrest, and that the trial be commenced within 70 days of the filing date of the information or indictment. 18 U.S.C. 3161(a), (b), (c). The statute excludes from the computation of time several types of delay, including delays resulting from other proceedings concerning the defendant; delays during which prosecution is deferred by agreement with the defendant; delays resulting from the absence or unavailability of the defendant or an essential witness; delays resulting from the mental incompetence or physical inability of the defendant to stand trial; delays resulting from the treatment of the defendant under 28 U.S.C. 2902; delays occasioned by the joinder of the defendant with a codefendant as to whom the time for trial has not run; and delays resulting from a continuance granted by any judge "if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. 3161(h).

[6] In determining whether to dismiss with or without prejudice, the judge must consider three factors: the seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the Speedy Trial Act and on the administration of justice. 18 U.S.C. 3162(a)(2).

[7] *Cf. United States v. Bounos*, 730 F.2d 468, 471 & n.2 (7th Cir. 1984) (court need not reach issue).

[8] *See, e.g., Hanna v. Plumer*, 380 U.S. 460, 472 (1965); *Palermo v. United States*, 360 U.S. 343, 353 n.11 (1959); *Sibbach v. Wilson & Co.*, 312 U.S. 1, 9 (1941); *Wayman v. Southard*, 23 U.S. (10 Wheat.) 1, 43 (1825).

[9] *See e.g., Sheldon v. Sill*, 49 U.S. (8 How.) 441 (1850); *Cary v. Curtis*, 44 U.S. (3 How.) 236 (1845).

[10] *See e.g., Yakus v. United States*, 321 U.S. 414 (1944); *Lauf v. E.G. Shinner & Co.*, 303 U.S. 323, 330 (1938); *Lockerty v. Phillips*, 319 U.S. 182 (1943);

[11] *Sec, e.g., Vandenbark v. Owens-Illinois Glass Co.*, 311 U.S. 538 (1941); *Carpenter v. Wabash Ry.*, 309 U.S. 23 (1940); *United States v. The Schooner Peggy*, 5 U.S. (1 Cranch) 102 (1801).

[12] In general, an affirmance by the court of appeals of a final administrative decision would bar relitigation of the same claims, under the doctrines of res judicata and collateral estoppel. Because of the preclusive effect of an "affirmance," it is possible that an individual who had sought judicial review could mount a due process challenge to the judicial review provisions. Congress may, of course, preclude or limit judicial review in cases involving statutory rights. *See, e.g., Morris v. Gressette*, 432 U.S. 491 (1977); *Johnson v. Robison*, 415 U.S. 361 (1974); *Weinberger v. Salfi*, 422 U.S. 749, 761-2 (1975); *See generally Abbott Laboratories v. Gardner*, 387 U.S. 136, 140 (1967). An absolute bar against judicial review of constitutional claims, however, raises difficult constitutional questions that have not been fully resolved by the Supreme Court. *See, e.g., Weinberger v. Salfi*, 422 U.S. at 762 (an interpretation that absolutely precluded review of constitutional claims "would have raised a serious constitutional question of the validity of the statute"); *Briscoe v. Bell*, 432 U.S. 404, 414-15 (1977) (absolute preclusion of judicial review of Attorney General's determination under the Voting Rights Act upheld as within Congress's specific power to enforce the 14th and 15th Amendments). Although Congress could therefore preclude any judicial review of Commission determinations, leaving to the original jurisdiction of the district courts constitutional challenges to such determinations, the effect of an "affirmance" under the terms of the proposed amendment could well be to cut off the individual's right to litigate constitutional issues, because of the operation of res judicata.

[13] In *Strunk*, the Court explained, 412 U.S. at 438-40 (citations omitted): "[b]y definition, such denial is unlike some of the other guarantees of the Sixth Amendment. For example, failure to afford a public trial, an impartial jury, notice of charges, or compulsory service can ordinarily be cured by providing those guaranteed rights in a new trial. The speedy trial guarantee recognizes that a prolonged delay may subject the accused to an emotional stress that can be presumed to result in the ordinary person from uncertainties in the prospect of facing public trial or of receving a sentence longer than, or consecutive to, the one he is presently serving—uncertainties that a prompt trial removes . . . In light of the policies which underlie the right to a speedy trial, dismissal must remain, as *Barker* noted, 'the only possible remedy.'"

[14] Under the Appellate Rules, the record must be filed within 40 days after service of the petition for review; the appellant must file his brief within 40 days after filing of the record; the appellee must file his brief within 30 days after service of the appellant's brief; and the appellant has 14 days after service of the appellee's brief to file a reply. Fed. R. App. P. 17, 31.

[15] The Administrative Office of the United States Courts has informed us that as of June 1985, the

average time in the D.C. Circuit from filing of the last brief to hearing or submission is 4.5 months, and the average time from hearing or submission to final disposition is 2.4 months.

[16] "The circuits are in general agreement that the passing of the 30-day period does not deprive an appellate court of jurisdiction." *United States v. Johnson*, 736 F.2d 358, 362 n.5 (6th Cir. 1984). *See also, e.g., In re Grand Jury Proceedings*, No. 85-6258 (2d Cir. Nov. 14, 1985), slip op. 251; *Melickian v. United States*, 547 F.2d 416-420 (8th Cir.), *cert. denied*, 430 U.S. 986 (1977). *But see In re Berry*, 521 F.2d 179, 181 (10th Cir.), *cert. denied*, 423 U.S. 928 (1975) (dictum that 30-day rule is mandatory).

[17] The *Brainer* court stated (691 F.2d at 697-98, *quoting Nixon v. Administrator of General Services*, 433 U.S. 425, 443 (1977)), that "[i]n determining whether the Speedy Trial Act disrupts the constitutional balance between Congress and the courts, 'the proper inquiry focuses on the extent to which [the Act] prevents the [Judiciary] from accomplishing its constitutionally assigned functions.' A considerable degree of congressional intervention in judicial administration is constitutionally permissible if such intervention is 'justified by an overriding need to promote objectives within the constitutional authority of Congress.'"

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, December 12, 1985.

To: Senator Charles Mc. Mathias, Attention: Eileen Mayer.

From: American Law Division.

Subject: Judicial Review of Host State Designation Decisions Made by the Northeast Interstate Low-Level Radioactive Waste Management Compact Commission.

This will respond to your inquiry and our conversation relating to various legal issues concerning the judicial review of host state designation decisions made by the Northeast Interstate Low-Level Radioactive Waste Management Compact Commission. Of specific concern to you are provisions contained in S. 1798, as recently reported by the Senate Committee on the Judiciary.

We understand that the text of S. 1798, as introduced, did not contain language adopted by the legislatures of the participating states relating to the automatic affirmation of the regional commission if the U.S. Court of Appeals for the District of Columbia failed to rule on appeal within ninety days. Specifically, the entire provision of concern reads as follows:

"The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the Commission.

"1. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 90 days after the Commission's final decision.

"2. In the event that review is sought of the Commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, *and, if the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed.*" (Italics added.)

The underlined portion of the excerpt is the provision at issue and is the language added to S. 1798 during committee mark-up. The legislatures of the four states participating in the compact have already passed legislation containing the text of the foregoing provision—including the underlined portion.[1] We also note that the companion bill in the House of Representatives contained the text of the foregoing provision, including the underlined portion, in the H.R. 3372, as introduced.

Apparently the reason the underlined language was not included in S. 1798, as introduced, was because of concerns about the constitutional implications of the language. However, the language was restored apparently because of the perceived need for Congress to give its full approval of the same language already adopted by the four states.

You have asked that we address the constitutional implications of the underlined language.

JURISDICTIONAL ISSUES

The provision limiting the amount to time the Court Appeals has to review the regional commission decision before the decision is automatically deemed to be affirmed might be reviewed as jurisdictional. That is to say that the provision could be viewed as granting limited jurisdiction to the Court of Appeals for a ninety day period, after which the Court of Appeals would no longer have jurisdiction to review the regional commission decision.

Characterized in this fashion, the provision raises the question of the extent to which Congress may limit or restrict the jurisdiction of federal courts. Historically, this question has been raised on several occasions,[2] and question of Congressional jurisdictional limitations also have been raised in various contemporary legislative initiatives.[3] Inferior federal courts owe their creation to the Congress and several early cases are often cited in support of the proposition that Congress possesses the power to limit their jurisdiction.[4] Nevertheless, Congress' ability to restrict jurisdiction has not been viewed as unrestrained. For example, in *United States v. Klein*,[5] the Supreme Court of the United States struck down a statutory limitation of jurisdiction relating to proof of loyalty. While reaffirming the authority of Congress to control inferior courts, the Supreme Court concluded that Congress could not accomplish certain forbidden substantive acts by casting them in jurisdictional terms.

Thus, in general terms the precise limits on the power of Congress to define Federal court jurisdiction are difficult to identify. One summary makes this observation:

"There thus remains a measure of doubt that Congress' power over the Federal courts is as plenary as some of the Court's language suggests it is. Congress has a vast amount of discretion in conferring and withdrawing and structuring the original and appellate jurisdiction of the inferior federal courts and the appelate jurisdiction of the Supreme Court; so much is clear from the practice since 1789 and the holdings of many Court decisions. That its power extends to accomplishing by means of its control over jurisdiction action which it could not do directly by substantive enactment is by no means clear from the text of the Constitution nor from the cases."[6]

It does not appear that courts have ever been called upon to address a jurisdictional limitation of the sort at issue here, where the jurisdiction of a court would be withdrawn by operation of a statutory deadline for a ruling by the Court. As a consequence, a definitive statement with regard to the constitutionality of such a legislative restriction cannot be made.

Certainly, Congress has enacted, utilizing many variations of language, numerous expedited judicial review provisions that have had the effect of accelerating access to the courts without encountering constitutional objection. However, Congress recently modified many of the statutory provisions allowing for preferential or expedited judicial consideration and, instead, vested by statute broad discretion in the courts to determine the priority of hearing civil actions.[7]

It is also noteworthy that when the courts have been asked to deal with statutory deadlines for certain federal agency action, they have been reluctant in most cases to do much more than "jawbone" the agencies to move more quickly.[8] The same reluctance might result when courts, themselves, are confronted with statutory deadlines requiring final disposition of cases.[9]

Viewed from the perspective of jurisdictional limitation, it cannot be definitively asserted that Congress possesses the constitutional power to limit the amount of time the Court of Appeals has to rule on a case before the decision of the regional commission will be deemed to be affirmed.

DUE PROCESS ISSUES

From a somewhat different perspective, the language of the bill automatically affirming the Commission's host state designation decision if the Court of Appeals does not rule within ninety days may raise Fifth Amendment due process issues. A leading case that demonstrates the potential due process issue is the 1982 decision by the Supreme Court in *Logan* v. *Zimmerman Brush Co.*[10] At issue in that case was statutory procedure giving the Illinois Fair Employment Practices Commission 120 days in which to convene a fact-finding conference to obtain evidence relating to allegations of discrimination. The mandatory fact-finding conference was not held within the 120 day period, and the employing company moved that the complaint be dismissed. The Illinois Supreme Court found that the language was mandatory and held that the Commission was deprived of jurisdiction for failure to convene the fact-finding conference and rejected arguments of violations of due process and equal protection.[11] The U.S. Supreme Court made this observation:

"[We are led to conclude] . . . that appellant Logan is entitled to have the Commision consider the merits of his charge, based upon the substantiality of the available evidence, before deciding whether to terminate his claim. Logan's interests in retaining his employment, in disproving his employer's charges of incompetence or inability, and—more tangibly—in redressing an instance of alleged discrimination, are all substantial. At the same time, the deprivation here is final; Logan, unlike a claimant whose charge is dismissed on the merits for lack of evidence, cannot obtain judicial review of the Commisison action. A system or procedure that deprives persons of their claims in a random mannering . . . necessarily presents and unjustifiably high risk that meritorious claims will be terminated. And the State's interest in refusing Logan's procedural request is, on this record, insubstantial." [12]

The Court went on to observe that ". . . it has become a truism that "*some* form of hearing" is required before the owner is finally deprived of a protected property right," (emphasis in original) and cited with apprpoval *Board of Regents* v. *Roth*.[13]

We note that the regional commission under the Northeast Interstate Low-Level Radioactive Waste Management Compact is "deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations,

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Footnotes at end of letter.

that its determinations are adjudicatory in nature." [14] It appears that the decisions to designate a host state potentially involve an adjudicatory process by the Commission, rather than a legislative process. The Commission is authorized to conduct hearing and studies, to take evidence and testimony, to conduct public hearings in each candidate state, and to render its decision on host state designation on the basis of specified criteria that include: health, safety, and welfare considerations, environmental, ecomomic, and social effects, along with consideration of the economic benefits and costs, the volumes and types of waste generated, the minimization of transportation, the existence of regional facilities within party states.[15]

For this reason, it could be argued that the host state designation process is more akin to an administrative adjudicatory proceeding than a legislative proceeding. As a consequence, it could be said that an administrative hearing must be held by the Commission, thereby disposing of at least minimal due process hearing requirements in advance of a taking. However, in order for the administrative hearing to adequately accord full due process, the proceeding may be required to hear and rule on all of the issues that might be the subject of appeal. Otherwise, some risk of denial of due process might result.[16]

But even so, the automatic affirmation of the commission decision without a Court of Appeals ruling potentially creates disparate procedural results for different litigants—the main objection in *Logan*. Certainly, *Logan* appears to involve a procedual mechanism closely analogous to the provision at issue here—with the admitted exception of the fact that the procedure in *Logan* was found in an administrative setting rather than a judicial setting.

CONCLUSION

For the reasons set forth above, it would appear that the provision in question raises extremely novel constitutional issues for which little definitive guidance can be gleaned from judicial precedent. While there is little doubt that the Congress has broad powers to control the federal courts, it is not clear that the use of a deadline to remove jurisdiction from a court once it has been vested is a valid legislative restriction. Moreover, the disparate treatment of failing to accord all similar litigants the same right to decisions on the merits may raise due process issues under the 5th Amendment.

We note that the compact contains a severability provision that would seemingly allow the Court of Appeals, itself, to address the constitutionality of the dealine (if the issue is raise) without doing harm to the remainder of the compact. Nevertheless, the enactment of the provision may serve as precedent for similar jurisdictional restrictions on federal courts, and for that reason, it my raise important policy considerations for the Congress.

We trust that the foregoing has been responsive to your inquiry.

ROBERT D. POLING,
Specialist in American Public Law,
American Law Division.

FOOTNOTES

[1] See, Annotated Code of Maryland, Health and Environmental, Section 7-304, Art. IV, (o)(2); Delaware Code Annotated, Title 7, Section 8001, Art. IV (o)(2); Commecticut General Statutes annotated Section 22(a)-161, Sec. 4.8; and, New Jersey statutes Annotated Section 32:31-5(o)(2).

[2] See Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 66 *Harvard Law Review* 1362 (1953).

[3] See for example, Ackerman, Congress and the Federal Courts: The Struggle for Primacy, 29 *Federal Bar New & Journal* 185 (1982).

[4] See, *United States v. Hudson & Goodwin, 7 Cr. (11 U.S.) 32(1812); and, Carry v. Curtis,* 3 How. (44 U.S.) 236 (1845).

[5] 13 Wall. (80 U.S.) 128 (1872).

[6] Killian, The Constitution of the United States of America: Analysis and Interpretation (1973) 761-762.

[7] Public Law 98-620, Title IV—Federal Courts Improvements, 98 State 3356 et seq. (1984).

[8] Compare, *Deering Miliken, Inc. v. Johnston,* 295 F.2d 856 (4th Cir. 1961); *National Labor Relations Board v. Staub Cleaners, Inc.,* 418 F.2d 1086 (2d Cir. 1969); *Poirrrier v. St. James Parish Police Jury,* 372 F. Supp. 1021 (E.D. La. 1974); *Bankameric Corp v. Board of Governors of the Federal Reserve System,* 596 F.2d 1368 (9th Cir. 1979); *Natural Resources Defense Council, Inc. v. Train,* 510 F.2d 692 (D.C. Cir. 1975); and *Ralpho v. Bell,* 569 F.2d 607 (D.C. Cir. 1977).

[9] It should be noted that the provision at issue here is somewhat ambiguous as to whether it requires the Court of Appeals to "rule" on the merits of the case, or to take some lesser action then final disposition of the case.

[10] 455 U.S. 422 (1982).

[11] *Zimmerman Brush Co. v. Fair Employment Practices Commission,* 82 Ill. 2d 99, 411 N.E.2d 277 (1980).

[12] 455 U.S. at 434-435.

[13] 408 U.S., at 570-571, n. 8.

[14] See, S. 1798, Article IV (o)(4).

[15] See generally, S. 1798, Art. V (c).

[16] See, *Brinkerhoff-Faris Trust & Savings Co. v. Hill,* 281 U.S. 673 (1930).

Mr. JOHNSTON. Mr. President, I am happy to cosponsor the compromise substitute low-level radioactive waste bill offered by Senator THURMOND. This compromise is based on a draft developed last week after many hours of very hard work by the majority and minority staffs of the Senate Committee on Energy and Natural Resources and the Senate Committee on Environment and Public Works. I also thank Senator THURMOND's staff member, Cindi Blackburns for invaluable assistance in keeping the process moving along.

The draft developed by the staff last week did not have the full support of the chairman of the Environment and Public Works Committee, and was also not fully supported by Senator EVANS, of the Committee on Energy and Natural Resources. But I believe that the compromise version offered by Senator THURMOND today does have the support of both these Senators. There is real urgency associated with this legislation. The Senate should act promptly to pass the Thurmond substitute. I believe the House can accept it.

The substitute before us today is a compromise between the approach taken by the Committee on Energy and Natural Resources, which involves tough, enforceable milestones for State action over the next 7 years to deal with low-level radioactive waste disposal, and the approach of the Environment and Public Works Committee, which involves considerable more flexibility in the near term and a potentially very tough requirement at the end of the 7-year period that any State that has failed to provide for the disposal of its low-level radioactive waste must take title to, and assume possession of, that waste.

At my suggestion, all the Senators involved agreed that this sanction would be considerably strengthened if we also made such a State liable for the consequential damages resulting from the failure of the State to comply with these two requirements. The compromise language we are introducing today incorporates this concept, which makes a State that is unable to provide for the disposal of low-level radioactive waste generated within its borders after January 1, 1996, "liable for all damages directly or indirectly incurred by the generator or owner of the waste as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996, as the generator or owner notifies the State that the waste is available for shipment."

This language insures that the State will not be able to avoid the financial consequences of failure to provide adequately for the disposal of its low-level radioactive waste, even though it may find a way to avoid taking title or possession in a timely manner. The consequential damages language ensures that, if the State does fail to take possession for whatever reason, it will not avoid liability for the damages that result directly or indirectly from that failure. This liability begins as soon after January 1, 1996, as the waste is ready for shipment, not at some indefinite date in the future when the State actually assumes possession of the waste. In the context of this amendment, the term "damages" includes both actual and punitive damages from actions taken against a generator or owner of wastes because that State has not taken possession of the waste and the costs incurred by the generator to safely manage waste that the State fails to possess.

In my opinion, this language is essential to provide the teeth to the more flexible Environment and Public Works approach. We need this language to ensure that we are not faced in the 1990's with the same situation we face today—inaction by a few generating States and no available leverage to force action. If these States were faced with liability for the consequences of inaction today, we would not have a low-level radioactive waste crisis upon us. Those States would have long ago taken the steps necessary to deal with their low-level radioactive waste so as to avoid the very liability this language would assign to them.

The liability for consequential damages is not being imposed on the States. The States that enter into compacts accept the terms of the legislation we are enacting. By entering into compacts, States assume the risk that they may incur the penalties set

forth in the act for failure to comply with its provisions. In return for assumption of this risk, these States receive the benefits of the act, chief of which is the right to exclude low-level radioactive waste not generated in the compact region from any disposal facility located within the region.

Mr. President, I thank my chairman, Senator McCLURE, and his staff, Marilyn Meigs, K.P. Lau and Gary Ellsworth, for all their help during the development of this bill. Special thanks should also go to Jim Curtiss, Senator SIMPSON'S counsel on the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works, who kept his head when all about him were losing theirs.

Mr. President, I congratulate all my friends who have put this bill together. It is a classic compromise, a difficult and detailed bill. But I think, in the best traditions of the Senate, staffs and principals have worked well together in this bill. I especially congratulate the two Senators from South Carolina who have been very assiduous and constant in their fidelity to this issue. They have not let us forget it for one single moment of a single day. I think it is a great monument to them to get this passed.

Mr. President, there is one provision of the bill to which I would like to make further special reference, and that is the so-called consequential damages provision. If the States do not meet the 1993 deadline, they could be responsible not only for taking title but immediate possession of the nuclear waste. If they fail to meet the 1996 deadline, they must be responsible for taking title and possession of the waste. In either case, upon failure to do so, the State becomes liable for all damages, directly or indirectly, caused by that failure.

That means that if some generator of nuclear waste must close down, for example, by reason of the failure of the State to accept possession and title to this nuclear waste, and that generator has to go out of business, then the State is responsible for all the damages.

It is a very far-reaching, difficult, and punitive provision, but we meant it to be precisely that.

As part of our compromise, in order to have this very strong provision in 1996, we relaxed a bit the provisions for the interim dates—1988, 1990, and 1992.

So, Mr. President, with that, I congratulate my friends, and I yield the floor.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Idaho [Mr. McCLURE].

Mr. McCLURE. Mr. President, I thank my colleagues, and I hope that by taking a few minutes to discuss this measure, I do not burden the discussion unduly. I think it is important to make a few points that are essential to an understanding of what has happened this year.

Mr. President, earlier this year, I had the opportunity to meet with Senator THURMOND and Governor Riley of South Carolina. The purpose of this meeting was to discuss the pending crisis in commercial low-level radioactive waste disposal management. As representatives of one of three States that have assumed the entire Nation's burden of low-level waste disposal for far too long, Senator THURMOND and Governor Riley emphasized the fact that the Low-Level Radioactive Waste Policy Act that was passed in 1980 has failed to achieve its goal of development of new disposal capacity by 1986. The January 1, 1986, deadline, by which time new regional disposal facilities should have been developed, is upon us. Unfortunately, no real progress has been made by the various States charged under the act with the responsibility to develop such disposal facilities. Governor Riley stated to me in no uncertain terms that his State, along with Nevada and Washington, would close down their low-level waste disposal facilities by January 1, 1986, if significant progress were not made to resolve the present impasse. I heard the same warning later in a meeting with Governor Gardner of Washington State. Senators EVANS and HECHT of my committee later reiterated sentiments similar to those voiced by Senator THURMOND.

The three Governors of the sited States subsequently proposed a compromise by which they would be willing to continue accepting a limited amount of waste for an "interim period," provided that sufficient monetary compensation were realized by their States, and more importantly, that significant, real, and measurable progress was generated on behalf of nonsited States.

I then pledged to those concerned parties my unconditional commitment to see that transition legislation was enacted by the end of this year that would achieve the goals of the Governors' compromise.

The Committee on Energy and Natural Resources has put its best efforts forward to fulfill the pledge I made. Committee members listened carefully to the testimony received during a joint hearing with the Environment and Public Works Committee held on October 8. I especially recall comments made by Gov. Booth Gardner at the hearing—

That the original 1980 act had failed because it lacked "teeth" to ensure that States would not delay unnecessarily in accepting their disposal responsibilities.

That real-time pressure would be essential to move the new-facility siting process forward.

That, while the sited-State Governors could "live with" the milestones in the House-proposed transition legislation, they were aware of the fact that these milestones were easy to meet, and that they probably were too weak.

That the sited States would accept "emergency access" provisions only if they were tightly drawn so as not to become major "loopholes"

That it was important to consider what additional incentives we could include in the legislation so as to ensure the timely opening of new disposal facilities.

Mr. President, the actions taken in the Committee on Energy and Natural Resources met the objections and the objectives of the States point by point; and I want to underscore what the Senator from Louisiana has indicated—that it is important that we have real milestones. It is important to note that the discussions between staffs and principals have produced and agreement that does have some real teeth in it at some points.

Mr. President, the bill reported out of the Energy Committee—S. 1517—addressed every single one the points I have just listed in a way that none of the other proposals before Congress has done. In particular, I would note the following provisions of the Energy Committee bill:

The milestone requirements of S. 1517, as reported, are more rigorous than those found in H.R. 1083 or in S. 1578 or in the compromise substitute proposal. I believe, however, that the milestones in S. 1517 are not only realistic and achievable, but are also crucial to the attainment of measurable progress on behalf of the nonsited regions during the next 7 years.

The penalties contained in S. 1517 for not meeting the milestones are directed to the States at fault—rather than to the generators—as is the case in all other proposals—generators who have no direct control over the attainment of the milestones. Furthermore, flexibility—rather than rigidity—is included in the penalty system to allow the penalty to be tailored to reflect the particular circumstances leading to the missed milestone.

The incentives in S. 1517 are in the form of monetary rebates—or shall I say rewards—directed with no strings attached to the States accepting the politically unpopular burden of waste disposal on behalf of their region.

The "emergency access" provision in S. 1517, which requires a bi-State agreement, rather than relying on a federal agency bailout, eliminates the possibility of a guaranteed "loophole" in the transition legislation.

The Federal Government assumes responsibility for all classes of waste above class C low-level waste, thereby eliminating "orphan waste" categories that now exist due to the absence of any Federal law governing their disposal.

The problem of dual-agency regulation of mixed wastes at low-level waste disposal facilities is resolved in a

straightforward, unencumbered manner.

I could go on to describe other features of S. 1517, as reported, that make this bill far superior to other proposals now before Congress.

But instead, I will turn to the compromise agreement reached last week after many long hours of negotiation between the staffs of the Energy and Natural Resources Committee and the Environment and Public Works Committee. This compromise is similar to Senator THURMOND's proposal in one critical respect: It contains a so-called fourth milestone, which would require each host State, by a time certain, to have filed a license application with the Nuclear Regulatory Commission for operation of a low-level waste disposal facility in the State.

I want to emphasize that the Energy Committee, in its negotiations with the Environment Committee, gave in on almost every major issue, provided that this one key—element the fourth milestone—as preserved in the final compromise. We sacrificed our bill's stiffer milestone requirements, our bill's penalty provision, our bill's incentive provision, our bill's emergency access provison, and our bill's approach to the mixed waste issue. We did this conditioned on the inclusion of this fourth milestone, without which States would be able to sail through the entire 7-year transition period without ever having to file a disposal facility license application with the NRC.

I hate to think what might happen if this fourth milestone were deleted from the bill. If I had to wager a guess, I would predict that in 1992, we'd have large numbers of States still happily shipping their waste to South Carolina, Washington, and Nevada, all guilty of inadequate efforts to develop new disposal sites, and all coming to Congress crying for mercy and begging for more time. And I'm afraid that that Congress, in its wisdom, would grant yet another extension of the current temporary arrangement, precisely because a time-clock was again turning into a time-bomb for the Senators representing those States that had failed to meet their commitment.

The Energy Committee's insistence on a fourth milestone will go a long way toward preventing such an unacceptable result. And, I reiterate, that fourth milestone was the basis for all our other concessions to the Environment Committee. This key provision is essential if we are to enact legislation that will solve the serious problem now confronting us. That is why I cannot accept anything less than the basic elements of the compromise agreement originally negotiated by staff on behalf of the two committees.

This compromise, as now offered by Senator THURMOND, is certainly not preferable to S. 1517 as reported by the Energy Committee, but it certainly is preferable to the House bill, H.R. 1083, especially in the following respects:

The inclusion of the fourth milestone will ensure actual progress during the 7-year transition period.

The post-1993 sanctions should further encourage pre-1993 diligence on the part of nonsited States.

The emergency-access provision is more tightly drawn than the one in H.R. 1083.

The mixed-waste provision is a less cumbersome process by which to resolve the current dilemma in mixed-waste disposal.

The administrative provisions are more carefully drafted, reflecting the Energy Committee's concerns about protection of proprietary information.

The incentives for meeting milestones are drafted to more accurately reflect the agreement reached by the sited-State Governors in their compromise proposal.

Several Energy Committee proposals are included in the substitute, including, in particular, Senator JOHNSTON's proposal to satisfy milestone requirements through separate agreements between States, and his proposal with respect to a States taking title to its low-level waste after the January 1, 1993, deadline.

And so, Mr. President, I must admit that I am deeply concerned and frustrated about the end result of our negotiations between the two committees. I nevertheless feel that, given the lack of time to adequately flush out the weaknesses inherent in this package, and given the sited-State Governors' unconditional endorsement for such an approach, we have no choice but to move this legislation forward at this time. I therefore urge my colleagues to support Senator THURMOND in the passage of this legislation.

I would like to thank Senator STAFFORD, Senator SIMPSON, and Senator BENTSEN of the Environment and Public Works Committee for their cooperation in arriving at this compromise. I also wish to thank Senator JOHNSTON, Senator DOMENICI, Senator HECHT, and particularly Senator EVANS for their assistance on this matter. Senator THURMOND's role, of course, has been instrumental. Finally, as always, the staff has provided invaluable assistance in putting this legislation together. I would particularly like to acknowledge the efforts of David Doane, Marilyn Meigs, K.P. Lau, and Ben Cooper of the Energy staff, Jim Curtiss and Kate Kimball of the Environment staff, Cindi Blackburn of the judiciary staff; and Phil Jones and Scott Cameron of Senator EVANS and HECHT's staff respectively. The dedication and timeless efforts of these people made this bill possible and we owe them our thanks.

Mr. EVANS. Mr. President, first, let me depart from my formal remarks to say that it has been an interesting and worthwhile experience, and particularly enjoyable, for me to be working on the same side as both Senators from South Carolina, after we crossed swords so avidly just a few weeks ago on the issue of textiles.

This is a critically important bill for the United States, particularly important for the States of Washington, South Carolina, and Nevada. It is my hope that it will be transmitted promptly to the House and that they will accept the Senate version, to put this into law before the first of the year.

Mr. EVANS. Mr. President, I have some serious reservations about the way in which a nonsited State or compact region may use the emergency access provisions in the bill. I am concerned that a nonsited State or compact region will petition the Nuclear Regulatory Commission for an emergency access waiver for a lack of diligence in attempting to meet the required milestones provided for in the act. After the 7-year transition period ends on December 31, 1992, I am also concerned that a State or compact region without a facility licensed or constructed will petition for unlimited grants and extensions of emergency access. This is especially true since the only means by which a nonsited State or region after 1992 can gain access to the sited States is through emergency access or a voluntary agreement.

Can the Senator from Wyoming assure me that emergency access will only be used in limited circumstances?

Mr. SIMPSON. The Senator is correct in his understanding that the emergency access provisions in section 8 of the full substitute are meant to be used in only very limited circumstances. The intent of the bill's language is that emergency access will only be granted by the Nuclear Regulatory Commission in rare circumstances when a real and immediate threat to public health and safety exists. The NRC is first to examine and exhaust all the possible alternatives to granting emergency access such as on-site storage, voluntary agreements with sited States, and purchasing the unused allocations of utilities.

Mr. EVANS. Is it my further understanding that ceasing to generate low-level radioactive waste shall be considered by the Commission as an equal alternative with the ones the Senator just mentioned?

Mr. SIMPSON. Yes, the Senator is correct. In fact, I think we have accommodated the concern of the Senator from Washington by including this criterion in the statutory language of the substitute. Let me clarify that such alternatives must be "consistent

with the public health and safety" as defined by the NRC. There may be some benefits from the generation of low-level radioactive waste to the public health that the Commission must consider in making its determination of the need for emergency access. For example, the Commission would probably consider the benefits to the public health and safety brought about by the use of radiopharmaceutical products in cancer research and other critical medical research.

Mr. SYMMS. Mr. President, I wish to take this opportunity to compliment my distinguished colleagues, Senator McCLURE and Senator SIMPSON, for their diligent work and creative thinking in working out an acceptable compromise in a most difficult area. I support their proposal, although I realize it won't be completely acceptable to everyone.

Resolution of this issue now is absolutely imperative. As you all know, we presently have only three sites in this Nation that accept low-level nuclear wastes. These three sites are not satisfied with the present situation and their position is understandable. One of these States may cease accepting wastes in January. If this happens it will cause some real hardships. If the three States choose to refuse wastes, many institutions such as research facilities, hospitals and universities will be in a difficult situation.

Mr. President, this situation has been building since 1980. Its my understanding that today 37 States have joined compacts for waste disposal. We must provide the guidances for them to proceed to prepare to accept wastes.

Its important that any legislation on this subject has guidelines firm enough and penalties for noncompliance severe enough to assure that we won't be back here in 1992 working on this same issue.

Again, I wish to compliment my colleagues and urge that their work be recognized by passing this legislation. We need to proceed in an orderly way to facilitate the use of the technology available to us.

Mr. GORTON. Mr. President, I speak in support of S. 1578, the Low-Level Radioactive Waste Policy Act Amendments of 1985, as amended. I want to commend the chairman of the Energy and Natural Resources Committee, Senator McCLURE, the chairman of the Environment and Public Works Committee, Senator STAFFORD, and the chairman of the Judiciary Committee, Senator THURMOND, for their diligent efforts in bringing this important piece of legislation to the floor. I want particularly to commend my colleague, Senator EVANS, a member of the Energy Committee, for his tireless work on, and insightful contributions to, this consensus package.

S. 1578 is necessary because several States failed to fulfill their obligations under the Low-Level Radioactive Waste Policy Act of 1980. The 1980 act gave each State responsibility for disposal of low-level waste generated within its borders, and permitted the States to enter into interstate compacts to provide for the development of new regional waste sites. A key element of the act was a provision which allowed compacts to exclude waste from outside their compact regions beginning January 1, 1986.

This date is almost upon us, Mr. President, and as of today there are still only three operating low-level waste disposal facilities, located in Washington, South Carolina, and Nevada. Seven compacts have been formed, representing 39 States, but progress toward the development of new facilities has been practically nonexistent. Since these States failed to comply with the 1980 act in a timely manner, congressional ratification of the compacts has been blocked in an attempt to prevent the three States with existing disposal sites from excluding all waste generated outside their respective regions beginning January 1, 1986.

Mr. President, Washington, South Carolina, and Nevada have shouldered all of the other States' low-level waste burden for too long. The State of Washington has done much more than its share and has cooperated in dealing with the national problem in an exemplary fashion. In 1981, Washington State, in conjunction with other Northwest States, established the first compact in the Nation. While waiting for Congress to pass S. 356, the bill I introduced to grant congressional consent to the Northwest Interstate Compact on Low-Level Radioactive Waste Management, Washington State has continued to accept for disposal over 50 percent of the low-level waste produced in the United States, although Washington itself generates only 3 percent of the Nation's waste.

To break this stalemate, the Governors of the three sited States developed a compromise legislative package in consultation with unsited States, which contained the following key elements. In exchange for congressional ratification of their compacts, they would agree to accept a limited amount of waste over a 7-year period. To ensure that States make progress in developing facilities over the 7-year period, the Governors proposed the establishment of milestones for various stages of new site development. The failure to meet such milestones would result in financial sanctions and, ultimately, the loss of access. In addition, since the sited States will only be accepting the amount of waste which they accepted in 1983, and 33 new reactors are scheduled for operation during the 7-year period, the Governors devised allocations for utility generators which would represent reductions in waste volumes which the three existing facilities would accept for disposal.

This compromise became the basis of the Low-Level Radioactive Waste Policy Act Amendments of 1985, of which I am an original cosponsor. The amended version of S. 1578 which is before us today represents a true compromise that will benefit all. Members of the Energy and Environment Committees have, through careful negotiations, crafted a consensus bill which achieves the proper balance between tough but realistic deadlines to ensure that new disposal sites are opened and limited exemptions to those deadlines to ensure public safety.

S. 1578 is being adopted in conjunction with ratification of the regional compacts which are pending before Congress. Unsited States have 7 additional years in which to develop new sites. But on January 1, 1983, regardless of whether or not those new sites have been developed, Washington, South Carolina, and Nevada will be closed to out-of-region waste.

This legislation would establish annual volume caps, which limit the amount of low-level waste which the existing sites are required to accept. In addition, it would require the utilities, who are the primary generators of low-level waste, to reduce the volume of waste they ship to the existing sites.

To provide an incentive for the development of new sites, S. 1578 would authorize the States with existing sites to impose surcharges for out-of-region waste. If the other States meet certain milestones for various stages of new site development, part of those surcharges will be rebated to them. On the other hand, if they miss the milestones, the amount of the surcharges will increase. If a State fails to meet the milestones even after generous grace periods, generators from that State may be denied access to the existing sites before the 1992 deadline.

In the unlikely possibility that an emergency might arise in which there is an immediate and serious threat to the public health and safety or our Nation's defense and security, this bill authorizes the Nuclear Regulatory Commission—under very narrow circumstances and for a limited period—to grant emergency access to a low-level waste disposal site.

S. 1578 also would provide for the resolution of conflicting regulations under the Solid Waste Disposal Act and the Atomic Energy Act relating to hazardous waste that is also low-level waste. The Environmental Protection Agency and the Nuclear Regulatory Commission would be required to resolve substantive and procedural regulatory conflicts and to consolidate procedures where practicable.

I am confident that S. 1578, in conjunction with ratification of the pending interstate compacts, is a fair and balanced package. By approving this legislation today we will have taken a vitally important step toward guaranteeing that our hospitals, our university research programs, and our industries and utilities will stay in business. I urge my colleagues to give it their full support.

Mr. HECHT. Mr. President, I thank the distinguished Senator from South Carolina [Mr. THURMOND] and the distinguished Senator from Washington [Mr. EVANS], who have worked with the State of Nevada to work out this problem.

Mr. President, the Senate is considering a bill that is very important to all of our Nation's people.

Everyone who has had a friend or relative treated for cancer, or who is interested in our national defense, or who is excited about research possibilities at the frontiers of science, or who uses electricity from a nuclear powerplant has a strong interest in the passage of this bill.

This bill, the Low-Level Radioactive Waste Policy Act Amendments of 1985, has been subjected to extensive consideration by both the Senate Energy Committee and the Environment Committee. Individual committee action was followed by difficult and time consuming negotiations between the Senators on the two committees in an effort to bring a final product to the floor of the Senate for consideration. I would also like to extend my thanks to the staffs of all the committees that have struggled long and hard on this legislation.

This was all done under great time pressure, because the Nation is faced with the very real possibility that without the enactment of this legislation the three existing low-level nuclear waste disposal facilities will close indefinitely on January 1, 1986.

This time pressure stems from the fact that back in 1980 the Congress enacted legislation that called for the States to organize themselves into compact regions by 1986 to dispose of low-level radioactive waste. The problem is that only 37 States entered into these compacts, and no other States developed additional disposal facilities.

The three States with existing sites, Nevada, South Carolina, and Washington, are understandably running out of patience. This bill gives the other 47 States 6 more years to comply with the intent of the 1980 law. In return, three States with existing sites are provided assurances that all their sister States will finally meet their responsibilities. These assurances take the form of milestones, coupled with incentives for cooperation, and disincentives for noncompliance.

Nevada, South Carolina, and Washington will not indefinitely bear the full burden of the the Nation's low-level nuclear waste disposal. Existing law gives these States the right to close their sites in just 12 days. I hope all Members of Congress realize that the three governors are quite likely to exercise this right if the Congress fails to enact this legislation before we recess for the holidays.

The other body recently passed its own version of this legislation, which is marginally acceptable, but I must tell my colleagues I believe that the Senate has put together a better bill, which I hope we will very soon pass and send over to the other body for its consideration and approval.

Mr. THURMOND. Mr. President, if there are any questions, I will be glad to try to answer them at this time.

I ask unanimous consent to have printed in the RECORD a resume of this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KEY POINTS OF THE THURMOND COMPROMISE PROPOSAL

(1) Non-sited generators will be allowed to continue to dispose of their low-level waste at the existing disposal facilities through December 31, 1992.

(2) Volume caps will be placed on the amount of low-level waste each of the three current disposal sites is required to take through 1992, and then current sites will be allowed to exclude out-of-region waste after 1992.

(3) Utility generators will be allocated a specific amount of this disposal space to be used at their discretion.

(4) Non-sited regions and non-sited states will be required to meet specific milestones toward developing their own facilities. If the states do not comply with these milestones, generators will be assessed a penalty surcharge during a specified grace period. It compliance is not achieved by the end of the grace period, the generators may be denied access to the existing disposal facilities.

(5) Another escalating surcharge will be placed on all low-level waste from non-sited regions and non-sited states, but these surcharges will be rebated to states that comply with the milestones.

(6) States which do not have an operating disposal facility by January 1, 1996, will be required to take title to, and possession of, all waste generated within the state. A state will also be liable for consequential damages if it fails to take possession of this waste after January 1, 1996.

(7) This proposal is essentially the draft I circulated with a Dear Colleague letter on Tuesday of this week with the following major changes:

(a) All states and compact regions will be required to file a disposal facility license application by January 1, 1992, or face a nonrebatable surcharge of three times the normal surcharge; and

(b) The emergency access provision has been strengthened.

(8) This legislation will also give consent to the seven regional compacts that were reported out of the Judiciary Committee.

Mr. THURMOND. Mr. President, this is one of the most complicated and sensitive pieces of legislation in which I have ever participated since I have been in the Senate. It is one of the most important pieces of legislation.

This legislation concerns every State in the Nation. There are only three States now that take this low-level waste: South Carolina, Washington, and Nevada. The Governors of those States have announced that they would close down the sites at the end of this year unless this action is taken. It is important that we take this action, anyway. The States should have acted before now to get these compacts ready.

This legislation contains seven compacts, and I ask unanimous consent that a list of these compacts be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATES THAT HAVE SUBMITTED COMPACTS FOR CONGRESSIONAL CONSENT

SOUTHEAST (SITED) (8) S. 144

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

CENTRAL (5) S. 655

Arkansas, Kansas, Louisiana, Nebraska, and Oklahoma.

NORTHWEST (SITED) (7) S. 356

Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Washington.

MIDWEST (7) S. 899

Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

ROCKY MOUTAIN (SITED (4) S. 442

Colorado, Nevada, New Mexico, and Wyoming.

NORTHEAST (4) S. 1798

Connecticut, New Jersey, Delaware, and Maryland.

CENTRAL MIDWEST (2) S. 802

Illinois and Kentucky.

Mr. THURMOND. Mr. President, I wish to say again that I deeply appreciate the tremendous cooperation that has been given by so many people.

I do not know of any piece of legislation that has brought into being the works of so many Senators in this Senate or so many staff members.

I especially wish to express my appreciation to Senator SIMPSON, who is the assistant majority leader, and also he is chairman of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee. Senator SIMPSON has worked on this day and night. He has been a giant in this matter, and I just cannot thank him enough.

I wish to express my appreciation to Senator STAFFORD, the able chairman of the Environment and Public Works Committee. He has been a stalwart here. He has cooperated beautifully and worked hard on this matter.

I express my appreciation to Senator MCCLURE, chairman of the Energy and Natural Resources Committee.

We had two big committees here that acted on this matter, and Senator McCLURE has been very sound on this. He has cooperated with Governor Riley and me all the way through on this, just the same as Senator STAFFORD has and Senator SIMPSON, and he has been most helpful.

I wish to express my appreciation to Senator EVANS of Washington State with whom we worked so hard, and yesterday we finally got Senator STAFFORD, Senator EVANS, and Senator SIMPSON in the President's pro tempore's office and overcame obstacles that I was not sure we would be able to do.

We are deeply appreciative of the consideration and the care that they gave to this legislation and came through in such fine style. I wish to also express my appreciation to Senator BENTSEN, the ranking minority member of the Environment and Public Works Committee for his cooperation, so Senator JOHNSTON, the ranking minority member of the Energy and Natural Resources Committee, for his fine cooperation, and who made many helpful suggestions and whose advice was very valuable.

I wish to also express my appreciation to Senator HECHT of Nevada who was so active and conferred with me and I am sure others from time to time and cooperated in every way we could to get through this legislation.

I wish to thank Senator DOMENICI, from New Mexico. Senator DOMENICI is a member of the Energy and Natural Resources Committee, and he has been most helpful in this matter.

I wish to thank Senator GORTON, of Washington State, who has cooperated in this effort and has been helpful.

I wish to express my appreciation to Senator HOLLINGS, my distinguished colleague from South Carolina, for his interest in this matter and all that he did to help bring it to fruition.

I thank also the distinguished majority leader, Senator DOLE. We could not have brought this matter here without his cooperation and assistance, and we are deeply grateful.

I thank Senator BYRD for his cooperation and assistance in bringing this matter to the floor and helping as he did.

Mr. President, this matter not only concerns all the Senators but it consumed many hours of work. You just do not realize how many hours went into this work by so many valuable staff members.

I wish to call their names because they deserve due credit for this.

Cindi Blackburn, of the Judiciary Committee; Jim Curtis, of the Environment and Public Works Committee under Senator SIMPSON; Dan Berkovitz, of the Environment and Public Works Committee under Senator STAFFORD; Kathy Cudlipp, of the Environment and Public Works Committee under Senator STAFFORD; Marilyn Meigs, of the Energy and Natural Resources Committee, under Senator McCLURE; Gary Ellsworth, of the Energy and Natural Resources Committee under Senator McCLURE; Ben Cooper, of the Energy and Natural Resources Committee under Senator JOHNSTON; Kate Kimball, of the Environment and Public Works Committee under Senator BENTSEN; Phil Jones, of the Energy and Natural Resources Committee, under Senator EVANS; and K.P. Lau, of the Energy and Natural Resources Committee, under Senator DOMENICI.

Mr. President, I also wish to express my appreciation to Dennis Shedd, who assisted greatly in the negotiations. He is the chief counsel of the Judiciary Committee. He, and as I mentioned, Ms. Blackburn, were both very helpful.

I also express my appreciation to Wright Andrews, Libby Langworthy, and David Shelledy, lawyers with the law firm of Sutherland, Asbill, & Brennan, a law firm here in Washington. They were most helpful. They conferred with us from time to time and made suggestions. They conferred with most of the Senators here who are players in this program, and they rendered a magnificent service in connection with it.

Mr. President, again I wish to say that I do not know of any piece of legislation that has required as much skill, as much patience, and as much effort and cooperative effort to pass since I have been in the Senate as this particular piece of legislation, and I am very grateful to all who participated and assisted in connection with it.

Mr. SIMPSON. Mr. President, before we get too much farther, we probably should pass this legislation and it might be an excellent idea.

So, I say that in the best humor because Senator THURMOND has really covered what a difficult thing it had been and without his graciousness and persistence we would not be here.

Mr. LAUTENBERG. Mr. President, I am pleased that the seven interstate compacts are before the Senate today. In 1980, the Congress declared that the disposal of low-level radioactive waste is a State responsibility. To meet this responsibility safely and efficiently, the States must develop regional plans. I am gratified that 37 State legislatures have responded by enacting enabling legislation for seven interstate compacts. These seven compacts represent an important step in moving toward regional disposal of these wastes. In consenting to these compacts, the Congress gives its go ahead to the implementation of regional disposal of low-level radioactive waste.

Having ratified the northeast compact, New Jersey has taken an essential step in assuring its access to the existing sites for low-level radioactive waste generated within New Jersey. This compact provides the framework for implementing siting plans and for establishing a new facility. Two concerns were raised, however, by New Jersey during the consideration of the northeast compact: shallow land burial and institutional control. In addition, the question of judicial review is addressed in a colloquy by several Senators.

Mr. President, a provision in the low-level radioactive waste policy amendments act, legislation which establishes the institutional framework within which the compacts will operate, requires the Nuclear Regulatory Commission to provide the technical guidance needed to develop and license new facilities by alternative disposal methods. This provision, that I authored, ensures that in meeting performance objectives, attention is paid to the careful balance of the combination of institutional control and engineered factors.

Each of these seven interstate compacts contains similar provisions for policy and purpose. In addition, they provide for the regional disposal of their own low-level radioactive waste, but vary in many other aspects. I commend my colleagues for developing consent language that respects the individual State needs and, yet reinforces the underlying Federal policy of the amended act.

Mr. President, I urge my colleagues to support the adoption of this consent legislation.

Mr. McCLURE. Mr. President, I rise in support of S. 1578, the Low-Level Radioactive Waste Policy Amendments Act of 1985. This legislation requires States to develop management plans for disposal of all low-level radioactive wastes generated within their boundaries. We owe a debt of gratitude to Senator STAFFORD, chairman of the Environment and Public Works Committee, and other members who have moved to resolve the important question of low-level radioactive waste disposal constructively and expeditiously to ensure passage this year. Certainly there is a need to enact this legislation in 1985, however, in responding to this urgency, important environmental protections should not be neglected. Thus, several issues addressed by this bill are of special concern to me.

Radioactive substances are used widely to generate electric power, and in medicine, research and manufacturing. Each year these uses produce 75,000 cubic meters of radioactive waste. These wastes represent one of the challenges of the nuclear age: To utilize radioactive materials for the general good, but to safely manage for eons the resulting radioactive waste.

Initially, the Federal Government was responsible for all low-level radioactive waste. Then in 1962, the Atomic Energy Commission started licensing privately owned commercial burial grounds for waste disposal. Eventually some of these sites were closed for environmental reasons, leaving only three States to accept all of the Nation's waste. To resolve this situation, Congress responded by passing the 1980 Low-level Radioactive Waste Policy Act. This act requires States to develop management plans for the disposal of all waste generated within its boundaries.

The bill we are approving today ensures access to the three operating disposal sites while new facilities are constructed. During these 7 years, milestones must be met by all the States. Surcharge penalties are imposed on those States that miss deadlines. Under certain circumstances, grace periods are granted to allow the States flexibility in meeting the deadlines. Flexibility grace periods prevent jeopardizing the careful analysis necessary for constructing new facilities. Also, generators of waste must reduce the waste volume produced each year. These steps provide incentives for both State and generator compliance but, also, encourage the development of sound facilities.

The emergency provision in the bill grants all the States time-limited access to the operating sites. This important feature is necessary to eliminate any serious threat to public health. Since New Jersey produces substantial amounts of this waste, these milestones, grace periods and emergency access provisions are essential. These provisions allow New Jersey access to the operating sites while a new regional facility is constructed that is safe and environmentally sound.

Another provision in the bill, that I authored, directs the Nuclear Regulatory Commission to provide all the States with technical guidance and licensing requirements for alternative disposal methods. This information is important because many States are still selecting disposal methods. To ensure efficient licensing, the NRC shall provide information necessary for meeting the performance objectives by alternative disposal methods. The inclusion of these provisions arose from my concern that the published requirements are directed only to shallow land burial, a disposal method of questionable environmental soundness.

I am also concerned that the NRC provide guidance to all the States about the feasibility of varying the institutional control and engineered features to meet the specific needs of each State. As many State plans are still in the developmental stages, the NRC should provide this essential information to ensure timely licensing of the new facilities. We must be assured that the combination of institutional control and engineered features will adequately protect public health and the environmental over the full lifetime of the hazard of the low-level radioactive waste.

Mr. President, I urge my colleagues to support the adoption of this legislation and its companion bill containing the text of the seven separate interstate compacts.

Mr. SYMMS. Mr. President, section 5 of the bill includes a provision that authorizes the Secretary of Energy to allocate additional disposal capacity to commercial nuclear power reactors that experience unusual or unexpected operating, maintenance, repair, or safety activities. Is it your understanding that the Secretary is authorized under this provision to make available additional disposal capacity to accommodate increased waste volumes which result from operation of a reactor without discharge of radioactively contaminated water into the environment?

Mr. SIMPSON. Yes; the Senator from Idaho is correct.

Mr. McCLURE. I would like to ask the distinguished chairman of the Judiciary Committee a question regarding the relationship of the Low-Level Radioactive Waste Policy Act, as amended by our action today, and the several related compacts to which Congress is consenting. Am I correct that the compacts are consented to on the condition that they are subject to the Low-Level Radioactive Waste Policy Act, as amended?

Mr. THURMOND. The Senator is correct.

Mr. McCLURE. Am I also correct in my understanding that the consent of Congress is granted only for so long as the regional commissions, committees, or boards established in these compacts comply with all of the provisions of such act, as amended?

Mr. THURMOND. The Senator is correct.

Mr. McCLURE. Am I also correct that, when we say the consent is granted as long as all provisions of the Low-Level Radioactive Waste Policy Act, as amended, are complied with, we include the provisions of section 5(d)(2)(C) regarding the States taking title to, possession of, and liability for waste which is their responsibility?

Mr. THURMOND. The Senator is again correct.

Mr. McCLURE. Does the Senator believe there are any constitutional problems with this approach of conditioning consent in this manner?

Mr. THURMOND. None that I am aware of.

Mr. McCLURE. I thank the Senator.

Mr. LAXALT. Mr. President, the safe and permanent disposal of this Nation's low-level nuclear waste is an issue of vital importance. For too long, the burden of nationwide disposal has been borne by three States—my home State of Nevada, as well as Washington and South Carolina.

In seeking a more equitable solution to this problem, Congress in 1980 enacted the Low-level Radioactive Waste Policy Act. The objective of the act was to create a safe and efficient national system of waste disposal by encouraging States to enter into regional compacts to handle the low-level waste generated within their borders. Consequently, this would allow the States to exercise the primary responsibility for such waste disposal, either through establishment of their own disposal site or through agreement with another State that has a disposal facility. An important provision of the act provided that regions with congressionally approved compacts may exclude out-of-region waste beginning January 1, 1986.

With the January 1, 1986, deadline less than 2 weeks away, it is imperative that Congress ratify the seven compacts for several reasons. For one thing, in the past 5 years no additional storage space has been created. Furthermore, the Governors of Nevada, Washington, and South Carolina have indicated that they will close their sites at the end of this year if Congress has not satisfactorily addressed this disposal problem. National inaction regarding the creation of additional storage facilities threatens to curtail seriously medical research and other activities vital to the public health and welfare.

In an effort to avoid this impending problem, the Governors of Nevada, Washington, and South Carolina along with unsited States and other interested parties have worked out legislation to provide for a reasonable and orderly system of nationwide low-level nuclear waste disposal for the next 7 years.

Under this bill, Nevada, Washington, and South Carolina are guaranteed that by 1993 they will no longer be the only dumping ground for all low-level nuclear waste. States that do not yet belong to a regional compact with an operating site are allowed access for 7 years to existing sites under tough but reasonable conditions. Moreover, enforceable milestones toward opening new sites will ensure continued progress in creating new disposal capacity.

It is high time that States which produce significant amounts of low-level radioactive waste and refuse take meaningful steps toward their own means of disposal. It is not fair, nor is it any longer acceptable, that three States shoulder this burden for the entire country. Congress and the individual States must act, and act now. We must assure continued adequate

nationwide low-level nuclear waste disposal for all States by adopting these compacts and enacting the transitional legislation.

Mr. MITCHELL. Mr. President, this legislation, the Low-Level Waste Policy Act Amendments of 1985, that sets the guidelines under which disposal of this Nation's low-level radioactive waste will be handled during the period between January 1, 1986, to January 1, 1993, when all access to low-level waste disposal sites can be terminated to unsited States or compacts.

It has been developed in order to maintain access for the disposal of low-level waste while keeping three States from having to take all the Nation's waste.

It represents a compromise which would avoid an immediate cut-off of access to generators as of January 1, but which assures the sited States that they will not have to continue accepting all of the Nation's low-level waste indefinitely.

A detailed explanation of the bill has already been given. In my statement, I would like to give a short explanation of the necessity of this legislation and its importance to all States.

Under the Low-Level Radioactive Waste Policy Act of 1980, States have the responsibility for disposing of low-level radioactive waste. The act authorizes States to organize into interstate compacts on a regional basis to handle the waste. After January 1, the act allows those regions whose compacts have been approved by Congress to exclude waste generated outside the region.

Seven regional compacts, covering 37 States, have now been submitted to Congress for the required congressional approval. Some 12 States, including my State of Maine, are negotiating possible compacts. Texas has announced its intention to build a Texas only disposal facility.

The 19 sited States in compact regions with operating low-level waste disposal sites: Southeast (Barnwell, SC), Northwest (Richland, WA), and Rocky Mountain (Beatty, NV) have been pressing Congress for quick approval of their compacts so that they can close their sites to out-of-region wastes.

Not surprisingly, the 31 "unsited" States, concerned that they will not be able to bring new regional disposal sites on line by the end of the year, have opposed action that would result in their being denied access to the only three sites currently licensed to accept low-level waste.

Earlier this year, Governors of the three sited States, Governors of many of the unsited States, and congressional leaders reached agreement on the general framework for congressional approval for all pending and future compacts. The compromise, which is embodied here, contains four basic elements.

The sited States will keep the three operating sites open for an additional 7 years. But under the compromise, the three sites do not have to accept more low-level waste than the volume currently accepted by the sites.

In exchange for the 7-year extension, the unsited States are required to meet three milestones toward opening new sites. If the milestones are not met, the States in violation may be denied access to an operating site.

Nuclear utilities, the largest generators of low-level waste, are required to reduce the volume of waste they generate over several years. Utilities in unsited States must make the largest reductions.

To encourage volume reductions by other, nonutility generators, sited States may impose surcharges on waste accepted between 1986 and 1992.

Under this bill, the sited States will keep the three operating sites open to generators from unsited States or compacts for an additional 7 years. States or compacts would be expected to have an operational low-level waste disposal facility in operation by that time. In exchange for the 7-year extension, the unsited States are required to meet three milestones toward opening new sites.

By July 1, 1986, each State legislature must ratify compact legislation or enact legislation indicating its intent to develop a disposal site within its borders.

By January 1, 1988, each compact region or State must choose a site or site developer and prepare a siting plan.

By January 1, 1990, a complete application for a disposal facility must be filed with the NRC or the Governor of a State must certify that the State will be able to provide for the disposal or storage of any low-level waste requiring disposal after January 1, 1993.

Sited States are not required to accept any volumes of waste greater than the amount they currently accept on an annual basis. Because the number of nuclear reactors is expected to increase in the next 7 years, utility generators must reduce their volume of waste based on fixed percentage reductions from the current utility industry average.

To encourage volume reductions by generators and as an economic incentive for other States to develop their own sites, sited States may impose surcharges on waste accepted between 1986-92. Under current law, States are prohibited from imposing higher surcharges on out-of-State waste.

If a State or compact region fails to meet either of the first two milestones, the sited States may impose a penalty surcharge, a doubling of the surcharge, on wastes disposed of from that State or region during the period of noncompliance, and for a limited grace period after the milestone deadline.

The sited States would be able to deny access after the grace periods. There is no grace period for the third milestone; sited States would be able to deny access immediately to States or compacts that have not met this final milestone.

This legislation also tackles the difficult problem of mixed waste, that is, waste that is subject to regulation both under the Solid Waste Disposal Act and under the Atomic Energy Act.

As those familiar with this issue know, EPA and NRC, the two agencies involved, have been struggling to resolve this apparent conflict for years. I believe the approach taken in this bill provides an effective and workable mechanism for resolving this conflict.

The agencies are first asked to focus on specific waste streams in deciding the appropriate method of handling the waste. In our discussions with the agencies, the level of conflict appeared greatly reduced when the discussion focused on specific wastes.

After the waste is identified, the agencies are to determine if the waste can be properly disposed of in a facility currently licensed by either agency. If the agencies cannot agree to send the waste to such a licensed facility, then they are to discuss what requirements in addition to the NRC's regulations would be necessary to protect the public health and safety and human health and the environment. If no accord can be reached on this issue, the NRC may prohibit the disposal of the wastes in a low-level waste disposal facility.

This provision is not perfect, but it serves the dual purpose of reducing uncertainty for the States, while not providing for mandatory years of joint rulemaking by the agencies.

States are entitled to know what kind of disposal facility they will need for mixed waste, and this provision attempts to give them a prompt answer.

I am pleased that such a practical compromise could be forged and I strongly support this provision.

This bill is important to my State of Maine. Like all other States, Maine has been grappling the questions involved with the disposal of low-level radioactive waste generated within its borders.

Maine's low-level waste siting commission (now called the Radioactive Waste Advisory Commission) has tried, without success, for several years to join with other States in forming a compact to dispose of its waste. As another alternative, Maine has explored the possibility of having its own disposal site.

Representatives from Maine State Legislature and the Governor's office have expressed support for the basic

concepts of the umbrella legislation. I think that is a tangible demonstration of my State government's willingness to address its responsibilty for the safe disposal of low-level radioactive wastes.

I believe the State's particular concerns regarding the transition bill originally introduced by Senator THURMOND have been addressed in two provisions that were developed with the cooperation of Senator SIMPSON, the chairman of the Nuclear Regulatory Subcommittee and Senator STAFFORD, the chairman of the full Environmental and Public Works Committee during that committee's consideration of this issue.

Under the 1980 act, States have the responsibility for disposing of Federal low-level waste generated within their borders with the exception of atomic weapons and research and development activities of the Department of Energy.

Low-level waste generated through nuclear submarine overhauls at the Kittery Naval Shipyard, which accounts for about 1,000 cubic feet of low-level waste annually, or roughly 10 percent of the State's waste, is the responsibility of Maine under current law.

The transition bills passed by the House and reported by the Senate Energy Committee included language that required submarine decommissioning wastes to be sent to Federal disposal sites.

Similar language is included in this bill. That will not take all of the shipyard's low-level waste out of Maine's hands, but it will allow the State to plan on a fairly constant and consistent flow of waste.

The second Maine concern centered around the feasibility of constructing and operating a site in Maine. The State's studies have found it may be feasible to site a low-level waste disposal facility in Maine safely, if regulatory approval can be obtained from the Nuclear Regulatory Commission.

The studies indicated that it would be preferable for any facility in Maine to use engineered above-ground construction rather than shallow land burial, which is the technique now in use in the three existing sites, because of the State's high water table and deep frost line.

Section 8 of this bill will help Maine and other States and compacts deal with this problem. It has two parts.

Twelve months after enactment, the NRC would have to establish and publish technical guidance for the licensing of facilities that use methods other than shallow land burial.

Twenty-four months after enactment, the NRC would have to establish the framework under which a low-level waste site utilizing an alternative disposal methodology could be licensed by the Commission. The amendment does not limit the NRC to rulemaking in order to set the requirements.

Enactment of this language should provide reasonable assurance that the NRC will be in a position to license any type of disposal site deemed appropriate by a compact or State by the January 1, 1990, deadline for States or compacts to submit a license application for a low-level waste disposal facility.

This bill represents months of extensive negotiations involving States and both Houses of Congress in order to reach a fair compromise in this most controversial, difficult, and sensitive issue for all concerned parties.

The bill offers sited States and regions assurance that they will not have to continue to accept the low-level waste from the rest of the country with no end in sight. That is critical for those States.

Equally critical to States or compacts without presently operating sites is the question of continued access to low-level waste disposal facilities until their own disposal sites can be constructed and licensed by the NRC. That has also been included in this legislation.

The fact that the Senate has such an effective piece of legislation before it is a direct result of the very diligent work and persistence of many Members. I'd like to particularly note the efforts of the chairman of the Judiciary Committee, Senator THURMOND, who introduced the legislation and who has played a critical role in its travels through this body over the past several months.

Commendations are also deserved for the leadership of both the Energy and Natural Resources Committee, Senators MCCLURE and JOHNSTON, and the most able leadership of the Environment and Public Works Committee, Senators SIMPSON and HART of the Subcommittee on Nuclear Regulation, and Senators STAFFORD and BENTSEN from the full committee.

I strongly support this important legislation and I urge my colleagues in the Senate to do likewise.

Mr. LEVIN. Mr. President, this legislation is very important to all States including Michigan who must do something to properly dispose of the low-level radioactive waste generated within their borders. It is important to all of us that this waste be properly disposed of.

At the present time, this Nation has only three commercial waste disposal sites and no new disposal facilities are expected to open before the early 1990's. Consequently, the Governors of those States have threatened to close the sites to any out-of-the-region waste after January 1, 1986—a deadline set in the 1980 Low-Level Radioactive Waste Policy Act for regional compacts to take care of their own waste. That presents a very real problem to States like Michigan, whose low-level waste generation is large enough to cause interim storage problems.

Therefore, it is my assessment that States like Michigan cannot afford to take the risk of those three facilities being closed and I would not stand in the way of passage of this legislation, which gives nonsited States an extended period of time in which to open their own disposal sites.

I do, however, have strong reservations about a provision which makes the State liable for all waste generated within its borders, if it is not able to dispose of all its waste by 1996. I understand the basis for this provision, which is to provide an additional incentive to States to properly dispose of their waste. However, I feel this measure is too drastic and could cause severe waste management problems for the States. I am concerned that it may be impossible for States which generate significant amounts of low-level radioactive waste to dispose of all of the waste generated within its borders by that date due to circumstances beyond their control, such as litigation. I believe that consideration should be given to States who cannot meet that deadline if they have made every effort to meet the milestones and the process set forth in that law and flexibility should be exercised on this provision, although it is my hope no States will be unable to meet this deadline.

Mr. President, I will follow the progress of the formation of the regional compacts very closely to make sure that we have not set unreasonable milestones in the bill.

THE NEED FOR A CHANGE IN THE LOW-LEVEL WASTE POLICY ACT OF 1980

Mr. DIXON. Mr. President, I rise today to commend my colleagues for working out a solution to the serious problem 47 States will face on January 1, 1986, because of the Low-Level Waste Policy Act of 1980.

Congress passed the Low-Level Radioactive Waste Policy Act of 1980 to allow individual States to treat and dispose of low-level waste that they generate. Congress determined, in the 1980 act, that low-level waste could best be dealt with on a State or regional level.

In response to the Low-Level Radioactive Waste Policy Act, the States of Illinois and Kentucky entered into a regional compact called the central midwest interstate compact. This measure was passed by the Illinois General Assembly. Further, an executive agreement was reached between the two States and signed by Illinois Gov. James Thompson and Kentucky Gov. Martha Layne Collins a year ago. The Low-Level Radioactive Waste Policy Act of 1980 requires that Con-

gress give its consent to such arrangements negotiated by the States.

Low-level nuclear waste is defined as any radioactive substance, but is generally confined to contaminated materials from commercial reactors, hospitals, research institutions, and industrial sites. Low-level waste decays faster than high-level waste and is measured by volume rather than radioactivity. Low-level waste is not spent reactor fuel or radioactive liquids produced by reprocessing, rock and sand from which uranium has been extracted, or transuranic waste.

Currently, all low-level waste that is privately owned in the United States is deposited at one of three sites: Barnwell, SC; Beatty, NV; or Hanford, WA. Additional sites are needed to respond to an increase in low-level waste generated from private operators, particularly from the growing field of nuclear medicine from which all Americans benefit.

Citizens of the 47 nondepository sites and the District of Columbia recognize the need to form regional compacts. In fact, the people of Illinois understand the concerns of the people from the depository States, because we have had a low-level waste site in the past. Currently, it is closed. However, the target date of January 1, 1986, as established under the 1980 act, was too optimistic. After this deadline set by Congress, a State could refuse to accept waste generated from outside its region.

The central midwest interstate compact, which would store low-level nuclear waste from Illinois and Kentucky, does not have an existing, operating site. The leadtime needed to build a site is 7 years from today. The State governments of Illinois and Kentucky are currently developing a detailed plan to be used for their site selection process.

I recognize the desire of the depository States to restrict the use of their facilities. Illinois and Kentucky State officials have been in contact with both the private operators and Federal officials to inform them of progress on the central midwest regional compact. However, the operators of the sites must realize that without the extension of the deadline for low-level nuclear waste this country will have unregulated nuclear waste at several unsanctioned sites across the country. Congress must not allow this situation to continue.

I am pleased that a 7-year extension has been worked out in a way that will ensure a more orderly transition designed to protect all Americans, as well as the citizens of Illinois and Kentucky.

Mr. BINGAMAN. Mr. President, I rise today in support of the passage of the bill amending the Low-Level Radioactive Waste Policy Act of 1980. This legislation is desperately needed to avoid the shutdown of existing low-level waste facilities.

The 1980 act was designed to encourage States to form regional compacts that would cooperatively plan and operate low-level waste [LLW] disposal sites, thereby more equitably allocating the economic and political costs now borne by just three States that host active disposal sites—Nevada, Washington, and South Carolina. The act included an exclusionary provision that enabled compacts consented to by Congress to exclude wastes from outside their region effective January 1, 1986.

Since passage of the 1980 act, seven compacts have been established and presented to Congress for eventual ratification. These compacts, representing 37 States, include the 3 sited region compacts and 4 unsited region compacts. Other States are in various stages of progress.

Because there remains a number of States that have not entered into compacts, and, no States have developed new facilities, the future of low-level waste disposal is in jeopardy unless the law is changed. Knowing that ratification of the compacts currently before Congress would allow the three existing sites to close their doors to out-of-region wastes, Congress has denied consent to any compacts.

Meanwhile, the Governors of the three States have threatened to close down the facilities January 1, 1986, if Congress does not take some action to resolve the impasse.

The legislation the Senate considers today would resolve this impasse. This legislation is the result of almost a year of effort to develop a compromise by which unsited regions would be allowed continued access to the existing disposal sites for a 7-year period. In return, the sited regions would be assured of specific volume limitations on incoming wastes, and restrictions on the access by any compact region that has failed to meet certain prescribed milestones for development of new disposal sites.

This legislation would ensure that we could continue disposing of civilian and certain Federal agency wastes at commercially operated facilities and minimize changes to the proposed interstate compacts.

I congratulate the sponsors of the bill for their diligence in keeping this issue before the Senate. I appreciate their willingness to make necessary changes in the definition of low-level waste in order to exclude certain wastes that are more appropriately the responsibility of the Federal Government.

I strongly urge my colleagues to support the bill.

It is imperative that the Senate act immediately on this legislation.

Thank you, Mr. President.

Mr. MOYNIHAN. Mr. President, the low-level nuclear waste bill before us is a well-balanced compromise, and a most necessary one. Without clear action by the Congress, the Governors of the three States that have been disposing of all of our commercial low-level nuclear wastes have threatened to shut down the disposal sites in their States. I cannot say that I blame them.

In 1980, when Congress passed the Low-Level Waste Policy Act, we thought that by now new disposal capacity would be available; such has proved not to be the case. The citizens of South Carolina, Nevada, and Washington deserve to know that a firm schedule is in place by which others will share the burden. At the same time, the rest of the Nation deserves to know that the existing sites will continue to accept these byproducts of both nuclear power and nuclear medicine until new sites are opened.

Mr. President, as a member of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee, I am pleased to report that this complex bill meets those conflicting needs very well. New Yorkers will continue to light some of their lights with nuclear electricity—and their doctors will continue to use life-saving laboratory tests that depend on the use of radioactive materials. So will the citizens of South Carolina—and they will be able to watch New York, and the rest of the Nation, make their own arrangements to dispose of their own low-level radioactive wastes.

The timetables required by this measure are firm and realistic. It is indeed an equitable approach for all concerned, and I am pleased to support it.

Mr. SPECTER. Mr. President, it is critical that the Senate take action today to allow a transition period for States to enter into compacts for the disposal of low-level radioactive waste.

Pennsylvania is one of a number of States which would be caught in a terrible bind beginning on January 1, 1986 without passage of this legislation. Although the Commonwealth has taken strides toward arranging a compact with neighboring States, it has not been able to finalize an agreement. Acting responsibly and in good faith, Pennsylvania has simply not had enough time to establish a comprehensive and worthwhile agreement.

Because so many States are in a similar situation, the Nation will face a certain environmental crisis beginning in the new year without congressional approval of a transition period. This can be prevented.

I am convinced that the Low-Level Radioactive Waste Policy Amendments Act of 1985 will provide the necessary time for States like Pennsylvania to complete negotiations and ar-

rangements for their respective compacts. I appreciate the diligence and persistence of my colleagues in bringing this vital legislation to the floor of the Senate before sine die adjournment.

H.R. 1083—LOW-LEVEL RADIOACTIVE WASTE

Mr. EVANS. Mr. President, I am delighted that we key Members of the Senate have been able to reach an agreement on an acceptable bill to bring to the Senate floor. It has been an interesting and challenging bill to consider, since it truly is a highly complex and technical subject. It is also a bill of immense importance to the State of Washington, which is why I have taken such an active role in this bill. The State of Washington currently accepts for disposal more than 50 percent of all commercially generated low-level radioactive waste in this country. We have a relatively large site for commercial waste at Hanford that will probably bear the brunt of the Nation's nuclear generators over this 7-year transition period unless a bill has strong and enforceable volume limitations. Furthermore, one should not overlook that fact that the Hanford site in the State of Washington also takes a large portion of our Nation's defense low-level radioactive waste—in fact, over 317,000 cubic meters of such waste has accumulated over the past several decades at the Hanford site.

There are really two fundamental parts in this bill: establishing milestones and State taking title to the waste. I am a strong believer in the importance of milestones that are both a challenge and can be enforced. In our negotiations in the Senate, I insisted that the 1988 milestone be strengthened to include a stronger definition of "siting plan." Yet it is the period from 1990 to 1993 that is critical. If a nonsited State or compact region has not filed a complete license application with the NRC by 1990, or is near filing one, it probably is not going to reach the 1993 deadline. And remember that the 1993 milestone is to have a disposal facility licensed and constructed for acceptance of waste.

Since I understood that the Senate Environment Committee was insistent on the language in the 1990 milestone, I suggested that a State or compact region which fails to reach the NRC license application deadline by January 1, 1990 be required to pay a higher surcharge. I originally intended the surcharge to be set at the discretion of the Governor of the accepting State. But I realize that some of the unsited regions have a concern that the Governor would have unlimited discretion to set the surcharge. So I agreed to limit the surcharge to a range between $40 to $120 per cubic foot. I also agreed to allow the surcharge to apply only after January 1, 1992.

The inclusion of this provision allows the market to operate more freely in setting a market-clearing price. I would like to have seen more market-oriented concepts contained in the final version passed by the Senate. We included a large number of those provisions in the bill passed by the Senate Energy and Natural Resources Committee. Indeed, this act provides that a nonsited State or compact region may at any time enter into a voluntary agreement with a State that has a disposal facility, which allows the market to operate to some degree. The voluntary agreement provisions, along with the surcharge provisions for the 1992-93 period, do introduce a healthy dose of the marketplace into the current situation.

I also had several serious reservations about the emergency access provisions in the bill. The Senate Environment Committee draft set significantly tighter provisions than the emergency access provisions in the House consensus bill. But, frankly, they were not tight enough. After 1993, there would only be two ways in which a nonsited State or region could continue to ship waste for disposal at States with disposal facilities: through voluntary agreements or through emergency access. For voluntary agreements, the Governor of the sited State would have great discretion in setting the terms and conditions for acceptance of such waste. But, for emergency access waste, I was concerned that we were giving too much authority to the NRC and too little authority to the sited States. That is why I insisted upon several changes to the emergency access provisions, including a provision that the NRC should consider ceasing to generate low-level radioactive waste as a coequal alternative before granting such access. I must stress that such alternatives must be consistent with the public health and safety. But the intent is that the NRC only grant emergency access in rare emergencies, after every other alternative has been exhausted.

In conclusion, Mr. President, I think we have crafted a good bill in the Senate. There is an appropriate balancing of equities and economic incentives and penalties. The three sited States have agreed to accept the waste for another 7 years. But they will be able to charge higher surcharges for such access, and, importantly, the generators are required to reduce the volume of waste significantly. Nonsited States are also provided a sufficient monetary incentive through the 25-percent rebate provisions.

Mr. President, we have already experienced 6 years of small progress by the States and regions without sites. We are giving them another 10 years with this bill. I am reluctant to do that, but I feel that the milestones, penalties, and incentives in this bill will prod the nonsited regions toward developing sites on schedule. Let us hope that progress is made and that we do not have to revisit this act in another 6 or 7 years.

STORAGE OF LOW-LEVEL RADIOACTIVE WASTE

Mr. DOLE. Mr. President, the Low-Level Waste Policy Act of 1980 directed each State to enter into a compact with neighboring States, by January 1, 1986, as a way to select a site for the disposal of low-level radioactive wastes. My home State of Kansas is a member of the central interstate low-level radioactive waste compact we are voting on today.

BACKGROUND

Kansas has joined with the States of Arkansas, Louisiana, Nebraska, and Oklahoma in an effort to pick an appropriate low-level radioactive waste disposal site in one of the five States. The phase I study authorized by the Central Interstate Low-Level Radioactive Waste Compact Commission has been completed and eliminates counties in each of the member States as possible disposal site locations. This study eliminated 73 counties in Kansas, thereby leaving 32 counties in contention for this dubious honor.

Once funding is approved, phase II of the study will begin. Phase II will further limit the sites down to two possible locations in each member State. At that time, it is hoped that one of the member States will volunteer to be the host State. This would be for economic reasons, of course. However, if no State volunteers, the compact will then invite developers to submit bids for a site location and the Commission members will then select the site. All of this must be completed by 1992.

KANSAS IMPLICATIONS

Since the completion of the phase I study, I have been contacted by a number of my Kansas constituents who are concerned about their counties being selected as possible waste disposal site locations. I have been contacted primarily by those living in north central Kansas and join them in urging the compact group to select a site outside of Kansas.

DEADLINE APPROACHING

Mr. President, although the Senator from Kansas has reservations about the possibility of my home State being selected as the location of a low-level radioactive waste disposal site, we are facing a deadline for the States to either have their compacts approved by Congress or have nowhere to send their low-level radioactive wastes after January 1, 1986. My State, as well as a majority of the other States, do not have the proper facilities to dispose of these wastes. Therefore, Mr. President, I urge my colleagues to approve this compact.

Mr. SIMPSON. Mr. President, I ask unanimous consent to add Senator DENTON as a cosponsor of the Thurmond amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina in the nature of a substitute.

The amendment (No. 1429) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. SIMPSON. Mr. President, I move that we pass H.R. 1083, as amended.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 1083), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent to make technical and cross-references in connection with the bill as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the following companion bills be indefinitely postponed with particular emphasis on the colloquy between Senator BOREN and Senator HEINZ:

Calendar No. 297, S. 44; Calendar No. 289, S. 356; Calendar No. 299, S. 442; Calendar No. 301, S. 802; Calendar No. 302, S. 899; Calendar No. 432, S. 1798; Calendar No. 461, S. 1578; and Calendar No. 469, H.R. 3878.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I move that we amend the title so as to read as follows:

To amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The title amendment was agreed to.

Mr. SIMPSON. Mr. President, let me then very quickly thank the principal participants in this activity. Senator Evans has been extraordinary. He brings his engineering background to the fray. It has been a difficult thing. He has been exemplary in the leadership on this.

Senator STAFFORD, my chairman of the Environment and Public Works Committee, has been absolutely persistent and realistic, and I admire him greatly and was pleased to stick with him.

Senator MCCLURE has been just as dogged and persistent, as has Senator JOHNSTON. They have both again disclosed how closely the Energy and Natural Resources Committee works with the Environment and Public Works Committee, and at this time also with the Senator from South Carolina, Senator THURMOND, and I wish to pay special tribute to Senator THURMOND, my other chairman, Senator STAFFORD being, as I indicated, the chairman.

Thanks to STROM THURMOND for his bulldog persistence, best described as, I believe, if we could say so, a Brahma bull on low-level waste matters; and to Senator JOHN GLENN for his effort in removing the very important amendment so that we will have a hearing in March; and, again, to Senator BOREN, for his extreme sensitivity to a rather crushing issue. Again I thank you.

I reiterate my thanks to the fine staff, particularly to Jim Curtis, who serves as the right hemisphere of my brain in matters nuclear and regulation of low-level waste.

With that, Mr. President, I will conclude. I thank the body.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR PROMPT ACTION ON THE GENOCIDE CONVENTION

Mr. PELL. Mr. President, I wish to express my deep regret that the Genocide Convention will not be considered during the first session of the 99th Congress.

Just 13 months ago, we briefly considered the convention in the final days of the 98th Congress, with the prospects for ratification greatly enhanced by President Reagan's strong endorsement in his September 1984 address to the B'nai B'rith International Conference. Faced with the reality of a filibuster at the end of the last Congress, the Senate suspended consideration of the convention and in its stead adopted a resolution expressing support for the principles contained in the Genocide Convention, and pledging expeditious action in the first session of this Congress.

That resolution, Senate Joint Resolution 478, passed this body by a vote of 87 to 2, and represented a commitment on the part of the Senate to at long last get this treaty to the Senate early enough in a session to give it a favorable chance of passage.

I regret that we have not kept the commitment embodied in Senate Joint Resolution 478. The Genocide Convention arose from the ashes of the Holocaust, and there could be no more fitting way for the United States to commemorate the 40th anniversary of the liberation of the Nazi death camps than by ratifying this treaty in 1985. In the words of Elie Wiesel, the Genocide Convention, when ratified, would become "not only an act of justice, but above all, a solemn and noble act of remembering."

I sincerely hope—and I know that many, many of my colleagues are of the same mind—that the convention will be made the first item of business when we return in January. It is time for the Senate to get on with the unfinished business of ratifying the Genocide Convention.

Mr. METZENBAUM. Mr. President, I wish to commend my distinguished colleague and ranking member of the Foreign Relations Committee for his remarks concerning bringing up the genocide treaty to the floor. I believe that he spoke directly to the point, that we made a commitment 13 months ago. We have not lived up to our own commitment. It was as firm and as forthright a commitment as could possibly have been made. Yet the fact is that we have dillied and dallied for 13 months and have not taken any action whatsoever.

The distinguished ranking member of the Foreign Relations Committee expresses his hope, as I have expressed mine previously, and as the Senator from Wisconsin and the minority leader have indicated, that we would like to act on the ratification of the genocide treaty. I believe it has been before this body for something like 28 years.

I wish to say—and I am sorry that the majority leader is not on the floor at the moment, but my guess is he will be advised—that all of us recognize his right to set the calendar. All of us respect the fact that the majority leader has the right and normally does decide what will be taken up and what will not be taken up.

But I believe there has been so much delay with respect to the genocide treaty that, if there is no action and no strong movement to take up the genocide treaty and make an all-out effort to bring it before this body for a vote, including, if necessary, a cloture motion, then I believe some of us may determine on our own that we will attempt to set the calendar by moving to take the matter up.

I hope we will not get to that point, but I strongly urge the majority leader to set a date and give those of us who are anxious to vote on the issue an opportunity to do so. I feel certain that in such an effort and undertaking the ranking member of the Foreign Relations Committee will be in a leadership role and I commend him for it.

Mr. PELL. I thank the Senator from Ohio for his remarks. I will only point out that the convention in its present form is really a middle ground. It contains some weakening reservations to it, perhaps, but no one on the committee voted against the convention in its present form.

It is a little too extreme for those in the extreme right, and maybe not strong enough for those on the left. But I think it represents a consensus position. It would be a symbolic act, if we passed it, and it would signify our commitment to human rights and the protection of human life against the most terrible of all crimes.

For that reason, although I sympathize with those who feel it is not strong enough, I support it in its present form. I hope the convention will be ratified, although the cannons from the right and the cannons from the left volley thunder at it.

FURTHER CONTINUING APPROPRIATIONS, 1986 CONFERENCE REPORT

Mr. HATFIELD. Mr. President, I would like to put the Senate on alert that the continuing resolution that has passed the House a little while ago will be arriving shortly in the Senate. I would like to do a number of preliminaries to taking up the conference report in order to have them out of the way and, therefore, expediting the conference report as much as possible.

Mr. President, the conference agreement was reached last night between the House and the Senate, has now been adopted by the House, has had the approval of the representatives of the White House as to the role that the White House will play in this in signing or rejecting the bill, and is recognized as House Joint Resolution 465 as a further continuing resolution for fiscal year 1986.

It provides for a total of $368,164,465,261 for programs, projects, and activities funded through the accounts of seven regular appropriation bills not yet enacted into law as separate measures, plus amounts provided by several general provisions of the joint resolution.

The seven bills not yet enacted into law and covering under this continuing resolution are Agriculture, Defense, District of Columbia, Foreign Assistance, Interior, Transportation, and Treasury. For three of these bills, District of Columbia, Agriculture, and Treasury the joint resolution references a conference report to establish the spending level with certified adjustments to Agriculture and Treasury in order to accommodate the administration's wishes on spending bills.

The four remaining bills; namely Defense, Foreign Assistance, Interior, and Transportation are incorporated into the joint resolution in their entirety.

Mr. President, I regret that this measure has been so long delayed, and that it covers so many fiscal year 1986 appropriation bills. Perhaps more than anyone in this body I deplore conducting our business in this way. For 5 years I have pushed, pulled, and urged, wheedled, and cajoled this body, striving to attain timely consideration, passage, and enactment into law the 13 regular appropriation bills.

Some years have been better than others, and this has not been a very good year. Because a budget resolution was not adopted until August 1, the Committee on Appropriations was not able to secure Senate passage of regular appropriation bills prior to the August recess except for two that were called up under a unanimous-consent agreement waiving section 330 of the Budget Act.

Once Congress returned from the August recess on September 8, the legislative calendar was cluttered with other priority items, and only one more regular fiscal year 1986 bill, the Treasury bill, was passed by the Senate before the first continuing resolution to maintain the operations of Government became necessary. That first continuing resolution was a straightforward measure unencumbered with extraneous amendments, and it passed the Senate in short order, and went straight to the White House on September 25, a week before the deadline.

I thank my colleagues again for their forbearance and cooperation in that expeditious action.

In the duration of that continuing resolution which expired on November 12, the Senate was able to make good progress on additional fiscal year 1986 appropriation bills despite extraordinary contentiousness with our colleagues on the Budget Committee on the question of outlay estimates, and the initial debate on reconciliation and the debt limit.

In that time, we passed 7 more fiscal year 1986 bills; namely, Commerce, Agriculture, HUD, District of Columbia Transportation, Labor-HHS, and Military Construction bringing the total acted upon by the Senate to 10. Unfortunately, we were not able to complete Senate consideration of the remaining three bills although we did have some debate on the Interior bill.

I really do not like that situation, Mr. President, when the Senate does not have an opportunity to consider an appropriations bill on their own as separate measures. This is true of all of them, but particularly so of the Defense bill. Senator STEVENS and Senator STENNIS worked long and hard to craft a bill under very difficult circumstances.

And their product was deserving of the consideration of the entire body. But that was not to be, Mr. President. And we have now before us the continuing resolution that will complete our appropriations business for this year. It is supported by the administration, as I have indicated, and it passed the House earlier this afternoon by a vote of 261 to 137, almost 2 to 1.

I will urge its adoption when it comes time for that consideration.

Mr. President, I ask unanimous consent that the statement of the administration's policy on House Joint Resolution 465 relating to the continuing resolution be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

H.J. RES. 465, MAKING CONTINUING APPROPRIATIONS FOR FY 1986 (HATFIELD (R) OREGON, WHITTEN (D) MISSISSIPPI)

The Administration supports Senate passage of the Conference Report to accompany H.J. Res. 465.

Mr. RUDMAN. Mr. President, will the Senator from Utah, the distinguished chairman of the Appropriations Subcommittee on HUD-Independent Agencies, have a discussion with me on the conversion and launch of NOAA weather satellites K, L, and M?

Mr. GARN. I would be pleased to do it with the acting chairman of the Commerce-State-Justice Appropriations Subcommittee.

Mr. RUDMAN. The fiscal year 1986 budget request for the National Oceanic And Atmospheric Administration assumes the launch of weather satellites K, L, and M on Air Force Titan II rockets—an assumption that was incorporated with certain reservations into the recent conference agreement for the fiscal year 1986 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation bill, H.R. 2965. However, for a variety of reasons, the National Aeronautics and Space Administration would prefer to launch these satellites on the Space Transportation System,

the shuttle. Based on my review of the most recent NASA launch proposal that would be my preference as well, assuming the distinguished ranking member of the subcommittee is agreeable.

Mr. HOLLINGS. Mr. President, I am interested in maintaining the integrity of the programs of both NOAA and NASA. It is my understanding that a letter of October 11, 1985, from NASA Administrator James Beggs to NOAA Administrator Anthony Calio, specifies the conditions under which NASA would procure, convert, and launch NOAA weather satellites K, L, and M on the Space Transportation System. It is my further understanding that NASA has agreed to modify the launch price quoted in the October 11 letter from $98.5 million to $86 million.

Mr. RUDMAN. As usual, I concur with the able ranking member. I now understand that NASA has agreed to charge NOAA $86 million for launching these three payloads. The NOAA K, L, and M launches would then be subject to the same price as DOD launches pursuant to the NASA/DOD shuttle pricing agreement finalized in accordance with National Security Directive No. 164.

Mr. HOLLINGS. I totally agree with the Senator's description of the agreement to launch NOAA K, L, and M on the shuttle.

Mr. RUDMAN. Based on the terms and conditions of the most recent NASA proposal that we have outlined, I believe there should no longer be an objection to the launch of NOAA weather satellites K, L, and M on the space shuttle.

Mr. GARN. I am pleased to see the NOAA and NASA intend to cooperate on this issue to the mutual benefit of both agencies. I support the amended NASA proposal affecting the conversion and launch of NOAA weather satellites K, L, and M and am happy to see this matter resolved. I compliment the chairman and ranking member of the Commerce-State-Justice Appropriations Subcommittee for their efforts in this matter and for their pragmatic solution to this problem.

Mr. RUDMAN. Mr. President, I thank the Senators from Utah and South Carolina for their willingness to engage in this discussion. There now appears to be no reason for the National Oceanic and Atmospheric Administration to further delay issuing a request for proposal [RFP] to procure weather satellites K, L, and M and I urge NOAA to move expeditiously in this matter.

I also ask unanimous consent that the letter of October 11, 1985, from NASA Administrator James Beggs to NOAA Administrator Anthony Calio, be reprinted in the RECORD. Recognizing of course that the launch cost in the letter should be amended to read $86 million.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, DC, October 11, 1985.

Hon. ANTHONY J. CALIO,
Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC.

DEAR TONY: We have been considering for an extended period of time the question of how best to launch the NOAA spacecraft series and what steps are necessary to proceed immediately with the procurement of NOAA K, L, and M which are required for service beginning in approximately 1989.

It is my understanding that our respective staffs have been discussing the major points that are important to our two agencies and have identified the key issues which we must resolve. It is my proposal that NASA and NOAA continue their past relationship in accordance with the principles of our basic Memorandum of Understanding, with such updating modifications as may be necessary, under which we have successfully operated for almost two decades. The essence of my proposal is that: (1) we launch the NOAA polar orbiting spacecraft, NOAA K, L, and M, from the Western Test Range (WTR) on the Shuttle beginning with a nominal 1989 launch; (2) NASA will continue to provide a callup launch capability to replace inoperative NOAA satellites on the current callup schedule (120 days). We will insure that the Shuttle pricing policy will not result in a penalty to NOAA because of launch delays caused by longer than anticipated orbital lifetimes; and (3) NASA will also provide for the avoidance of sole user charges for these WTR launches. These last two points will be accomplished by entering into a fixed price launch service agreement for these three spacecraft. For the launch of NOAA K, L, and M into an orbit of the required inclination and crossing time, we will charge the sum of $98.65M in real year dollars as specified in the enclosed schedule. We believe that the NOAA K, L, and M spacecraft, modified for launch on the Shuttle, can be procured for the sum of $438.1M, and we will enter into an agreement with NOAA to procure the spacecraft for that amount. As in the case of past unmanned launches, NASA will accept responsibility for delivery of the payload to the STS on time and will hand over the spacecraft to NOAA after its injection into the final operational orbit. A Goddard facility will be available for control of the spacecraft during this period.

It is understood that the quoted Shuttle price includes related services required for the launch unless modifications, other than the conversion to STS, are made by NOAA to the spacecraft which would significantly increase our costs. In the event that additional spacecraft beyond NOAA M are required to bridge the time until the initial operating capability of the Space Station polar platform, a continuation of this agreement will be negotiated. In the meantime, we will work with you to facilitate utilization of the Space Station for the needs of the operational programs.

If this arrangement is acceptable to NOAA, we will proceed to make arrangements with RCA for the procurement of the NOAA K, L, and M spacecraft. We have included in our FY 1987 budget, as submitted to OMB, the funding requirements for the spacecraft conversion from Atlas F to STS compatibility.

I believe it is in the interest of the U.S. government to provide for the maximum use of the Shuttle as a national launch capability and, particularly, that we maintain the minimum launch rate at WTR sufficient to maintain this national capability at that location. I am hopeful that, after the NOAA conversion, the Defense Meteorological Satellite Program (DMSP), which utilizes an almost identical spacecraft, will see fit to utilize the WTR/Shuttle capability.

Sincerely,

JAMES M. BEGGS,
Administrator.

Mr. KASTEN. Mr. President, the foreign operations section of the continuing resolution totals approximately $15,025 million, about $7 million below the budget request levels for these activities and $175 million below our 302(b) allocation.

Mr. President, the agreement on foreign operations is not one that all of us are particularly happy with, a fact which is probably the best evidence that we truly compromised the very widely divergent views on this section of the continuing resolution of the two bodies. I would like to highlight several points of the agreement:

For the Philippines, the conferees agreed to a compromise military level of $55 million, as opposed to $70 million which was in the Senate bill and $25 million in the House bill.

For Greece and Turkey, the House agreed to drop legislative language which proscribed that aid to Greece and Turkey be at a 7-to-10 ratio and because of the overall reductions necessary, military aid to those two countries was reduced by 10 percent from the Senate number. The conferees in its report agree that the 7-to-10 ratio should be maintained, but it is not something we believe should be proscribed in law.

While Central America items created little controversy compared to previous years, the conferees did agree to loosen restrictions which the House had suggested on Guatemala in view of the recent elections there, and the Senate once again went along with a development assistance limitation, although at a higher level than suggested by the House. Also, report language makes it clear that should the administration need to provide more than the limitation amount, it can do so through the regular notification process.

The conferees agreed to accept the Senate initiative to establish a separate line item for the Inspector General for the Agency for International Development. This action is a long overdue reform which the conferees believe is required for a truly independent and effective Inspector General. The conferees expect that in the fiscal year 1987 budget submission to Congress that the Inspector General's activities will be requested as a sepa-

rate item in accordance with this action. The conferees also agreed to report language, applicable to both the operating expenses of the agency as a whole and the Inspector General, which attempts to clarify expenditures which may be made under the operating expense account as opposed to the program account.

Mr. President, one issue which has caused some controversy relates to the so-called privateness test of private and voluntary organizations. The conferees agreed to a provision which requires private and voluntary organizations which receive AID grants to raise at least 20 percent of their total funding from non-Federal sources. The conferees have included report language further defining this provision. We believe that this is an important first step in assuring that private and voluntary organizations retain their private character, although it is, of course, not intended to prevent any PVO from competing for AID contracts.

Mr. President, the last issue I wish to highlight deals with the efforts of the Senate Foreign Operations Subcommittee to establish more realistic environmental policies in the multilateral development banks. We are pleased that the House has chosen to follow our lead on this issue, and, of course, welcome their support. The conferees agreed to the Senate provision on this matter, with some revisions which had been suggested by the House, as requested by the Department of the Treasury. The intent of the provision is, first of all, that the Treasury Department be directed to call for adding environmentally trained staff in the World Bank and inter-American development bank and to strengthen or add environmental staff in the Asian and African development banks. The words "add or strengthen" express the recognition of the conferees that the situation in the World Bank and the inter-American development bank urgently calls for the creation of more environmental review positions to be filled by qualified professionals, whereas in the two other regional development banks other measures to strengthen environmental review may be, at least initially, more appropriate.

It is the intent of the conferees that, in addition to promoting increased environmental staffing in the World Bank and IDP, the Treasury Department should also promote other measures to strengthen environmental review in those two institutions, as well as in the Asian and African development banks, such measures could include career incentives to reward professionals within those institutions for increased attention to environmental concerns in their work. We wish to emphasize that this provision calls for additional environmental review positions to be created within existing total staffing levels, and not to increase the already large bureaucracies of the banks.

The conferees also intend that environmental and public health ministers should be involved in bank activities where those activities have an indirect or direct effect on the environment and/or public health. Similarly, nongovernmental conservation and indigenous peoples' organizations in developing countries should be consulted and used by the banks. It is not the intention of the conferees to affect or change in any way the existing procurement policies and procedures of the banks.

We expect that the U.S. executive directors of the banks will also discuss the environmental performance of the banks, and ways in which this performance can be improved, in informal meetings, discussions and other fora, as well as in informal board meetings.

First priority should be given to promoting within the Inter-American Bank and International Bank for Reconstruction and Development the reviews of projects called for in the provision.

The provision calls upon the Department of the Treasury and the Department of State to use their influence through diplomatic and other channels to encourage other donor nations to the multilateral development banks to consider and promote operational and staffing reforms in the banks which will ensure systematic integration of sound management of the environmental and natural resources in bank programs and projects. In addition, other donor nations must be encouraged at every appropriate opportunity to promote environmentally beneficial projects and project components.

Mr. President, the foreign assistance section of the continuing resolution is balanced, and deserves the support of the Senate.

Mr. BAUCUS. Mr. President, the Bonneville Power Administration recently completed a study of several rate and service options that relate to its direct service industrial customers. To date, the conclusions of this options study have not been implemented.

The Bonneville Power Administration is proposing to publish in the Federal Register a strategy to implement a variable power rate sometime next week. They then propose to continue the process and move toward implementation of a variable rate for the direct service industry in the Pacific Northwest.

This proposed rate structure will operate within the laws now governing BPA's activities. At the same time, it will maintain or improve the strong, financial condition BPA has been able to achieve in the past 2 years while distributing benefits fairly among BPA's customers.

Peter Johnson, Administrator for the Bonneville Power Administration, is to be commended for his leadership in undertaking this process. It will insure a continued, strong aluminum industry in the Pacific Northwest.

The ratepayers in the Pacific Northwest have a shared interest in maintaining a strong economy. The proposal that Peter Johnson has developed goes a long way toward providing for future economic and rate stability in the region.

Implementing BPA's variable rate option will insure the continued presence of a strong aluminum industry in the region. It will preserve the industry's role as a steady electrical energy customer who can provide stability for all of BPA's ratepayers. They key to the variable rate option is that the largest block of the industry is maintained.

Currently, the Dallas Martin Marietta Plant is closed. The Spokane Kaiser Plant has expressed grave concerns over its ability to continue in the future. Columbia Falls Aluminum Plant in my own State has recently been given to an employee group and is trying to cut costs to maintain a viable operation. Only this week, Alcoa has announced an additional 25-percent cutback in aluminum production.

Mr. President, the aluminum industry is in a difficult period. The Bonneville Power Administration options-study process takes a positive step toward saving the industry, but it may not be implemented quickly enough to meet its objective.

Each State in the Pacific Northwest is dependent on the Bonneville Power Administration. All have a direct or indirect stake in the aluminum industry.

The Columbia Falls aluminum facility in my own State represents a large dependence on the aluminum industry. The approximately 1,100 jobs represented by this facility provides over 40 percent of the economy in the Flathead Valley.

Montana can ill afford to lose this industry. In 1950, per capita income in Montana was $2,664. At that time, the U.S. per capita income was $2,385. In other words, Montana's economic health was 12 percent better than our national average.

By 1984, U.S. per capita income had climbed to $4,939, while Montana's per capita income had only risn to $3,989. Now our per capita income is only 81 percent of the Nation's.

My point in recounting these figures is to show how devastating the loss of industrial jobs can be to a State. In our case, it was the decline of the copper industry.

We are now faced with the very real possibility of losing our aluminum in-

dustry. All involved parties are working hard to preserve the industry. Labor concessions have been successfully negotiated. Transportation agreements are very close to being completed. What remains is to obtain an electrical rate that will allow for the survival of this industry.

The Bonneville Power Administration option study, with its proposed variable rate, will meet this goal and allow the Columbia Falls facility to continue.

Mr. HATFIELD. Mr. President, my colleague, the able Senator from Montana, raises a concern that I share. Maintaining a viable aluminum industry is in the best interest of all the residents of the Northwest. The Bonneville Power Administration has shown tremendous leadership in moving forward with an option study to ensure a positive future for the direct service industry and all ratepayers in the Northwest.

As the Senator knows, I worked closely with Secretary Hodel and Peter Johnson to initiate the current lower-incentive rates for the DSI's which offer some short-term power rate relief and enhance the viability of the industry. In addition, I have been following the DSI options-study process very closely. In the report which accompanied the fiscal year 1986 energy and water appropriations bill, the Appropriations Committee urges Bonneville to increase its efforts in the area of industrial load stability, looking at such options as industrial modernization, conservation, increased interruptability, and variable rates. I share my colleague's interest in seeing Bonneville Power Administration move ahead to implement the results of its study.

Would the Senator comment on why action by BPA is needed expeditiously to implement the variable rate?

Mr. BAUCUS. The ability of the domestic aluminum industries to survive in the region depends upon swift action by BPA in the adoption of a properly designed variable rate. All of the aluminum industry would benefit.

The operation of two smelters in the region, Columbia Falls and The Dalles could be secured if BPA minimizes the time involved in adopting a variable rate. Both proposed sales arrangements of these smelters and their operations are heavily dependent on a workable variable rate being in place. Without assurance of a stable rate, these smelters cannot make the financial commitments necessary to secure the raw materials needed to assure operation.

BPA has been evaluating the variable rate as one of several proposals which will improve BPA's prospective revenues from the aluminum industry. The potential form and level of the rate have been widely discussed and reviewed by BPA with its customers, the regional power council and the public over the past 11 months.

Mr. HATFIELD. What impact would the proposed BPA variable rate have on other customer groups and BPA ability to meet repayment obligations?

Mr. BAUCUS. BPA studies show that BPA revenues will increase if power rates to existing regional aluminum plants vary with the price of aluminum over a limited range. The ability of BPA to repay its obligations to the Federal Treasury are improved, not reduced. There is no proposal to reduce or change BPA's statutory obligation to recover the cost of producing power to repay the Federal investment in its regional power system.

Mr. HATFIELD. The Senator from Montana raises a number of important points. He is correct in his assessment that Peter Johnson is to be commended for the fine job he is doing as Administrator for the Bonneville Power Administration. He has developed a series of options to address the serious problems facing the aluminum industry in the Northwest. I commend BPA for the public policy and involvement process that was followed during the options study. BPA does need to move as quickly as possible to implement the findings of the option study. It is my understanding that the variable rate proposal will be published in the Federal Register next week. BPA should then diligently move this process forward.

Mr. BAUCUS. The Bonneville Power Administration has agreed to move forward and do whatever is possible to have a variable rate structure in place by May 1, 1986. I believe that BPA's willingness to accelerate the process and to move as swiftly as possible with the May 1 date as a target to strive for shows the commitment of BPA to work for the good of the region.

I appreciate my colleague from Oregon's willingness to enter into this discussion.

Mr. HATFIELD. I thank the Senator from Montana for raising this issue and what to reiterate my support for BPA moving ahead with the option study process including the variable rate option.

Let me assure the Senator that I will help push BPA and FERC to take expedious action on this matter.

Mr. HATFIELD. Mr. President, I would like to make some further remarks on this continuing resolution.

Mr. President, frequently we have conveyed by various and sundry sources, political and media-wise, the impression that somehow the Congress is the big spender, and the White House is usually the fiscal constrainer to spending programs. I want to read into the RECORD at this point some basic statistics relating to this whole matter of the level of funding that the appropriations process provides the Government, that which is required under the budget resolution, and that which is basically requested by the White House.

First of all, I would like to say that this continuing resolution is $9.6 billion under the budget resolution in total.

Let me repeat, this continuing resolution is $9.6 billion under the budget resolution.

I was somewhat interested to read the morning press, filled with the actions of the appropriations conference of yesterday but more specially focusing upon what was going to happen under a new procedure we have set forth for budget reduction and deficit control. In not one line in that story on the matter of the actions of the appropriations process did it indicate where this figure was that we came out with in relation to anything, let alone to the Budget resolution.

Let me emphasize again that for the last 5 years the Congress has underappropriated the requests of the administration in the aggregate, accumulated funds that have been appropriated. So this imagery, somehow, that we are the wild, big spenders up here on the Hill just is not borne out by fact.

It is illustrative again today by this action of the conference committee between the House and the Senate on House Joint Resolution 465. We are $9.6 billion under the budget resolution.

Let me just take two other measurements. Under budget authority, the continuing resolution has $368.2 billion, as I indicated. The President requested, within the context of this continuing resolution $386.6 billion. That means that we were within budget authority $18.4 billion under the President's request.

But let us look at last year. Last year the fiscal year 1985, with the same aggregate number of appropriations matters, was $374.1 billion as against the $368.2 billion. That means that Congress has reduced the spending under the budget authority measurement by $5.9 billion under last year's level.

Now let me look at the total 1986 appropriations bill at the moment, the total bills including this resolution and the other bills that have been enacted. They total $568.6 billion. But in that same number of aggregate bills the President had requested $576.8 billion. That means, then, that in the total fiscal year 1986 we were $8.2 billion under the President's total request and compared to last year, 1985, which was a $577.2 billion aggregate level we are $8.3 billion under last year's levels of spending.

I think that illustrates again the fiscal constraints. I might say it has not just been in the last 5 years. I note the Democratic leader on the floor. I recall a time perhaps a number of months ago, maybe it is 1 year or 2

years by now, that the Democratic leader gave a recitation of 30 years of record on whether the Congress was above or below the Presidential requests. In that time, as I recall, the President was only under the final action of the Congress by 2 years; in other words, the Congress underappropriated the Presidents, Democrat and Republican alike, for at least 28 out of the 30 years, as indicated by the record.

Mr. HATFIELD. Mr. President, I submit a report of the committee on conference on House Joint Resolution 465 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 16, 1985.)

Mr. HATFIELD. Mr. President, I have a copy of the CR report, indicating that its size only reflects the complexity of this whole measure.

I might say that we had two conferences on the CR after the House defeated it the first time around. We had to have the second conference. At that time the first conference consisted of 76 Members: 47 House Members and 29 Senate Members. It was indeed a very, very difficult conference.

Throughout all of this time, again the great warrior and soldier of the Senate, a man who has been surely an inspiration for many of us for many years in the Senate, was there in the battle, who never left his post, who assisted so vitally in the accomplishment of this moment when we are here to consider this, a man upon whom I have said so many times I depend so much in being able to give leadership to the whole appropriations process, the ranking member of that committee, Senator STENNIS, of Mississippi.

At this time I yield to the Senator from Mississippi for his opening remarks or any other remarks he cares to present.

Mr. STENNIS. Mr. President, I am most grateful indeed to the Senator from Oregon for his yielding at this point, and to warmly thank him for his generous remarks. I have tried to respond to his challenges and friendly leadership. This year he has been almost overwhelmed with work. His response has been the highest, and the best. He has given truly great leadership. Along with the other committee members, I very much appreciate his efforts so greatly.

Let me say this, too, that his bill is very unusual. It has been a very unusual course for legislation to take, a continuing resolution that covers for over half of the active budget. It is not the best but it was the only way that this could be handled this year. The difficulties of Government that go with the times are all here to be contended with, as I say, under a handicap. I believe this bill, itself, is perhaps the largest, most extensive appropriations bill that has been passed in the history of this Nation and carries the complications of many of the departments of the Government, being a continuing resolution.

We have enacted it in the final statutes now. It is going to be very difficult to meet. I do not say that to discredit those laws, but just stating a fact. It is going to require the patience, indulgence, and best efforts of the membership of this body, both Houses, and the President of the United States and the understanding people, the people who vote under our system of government and know something at least of some of the problems that beset us in these times. It is going to take their understanding and backing and patience.

I want to say a special word, in addition to the services here in this very difficult role that he plays, about the Senator from Alaska [Mr. STEVENS]. I have been on the Appropriations Subcommittee with him for many years and with the work he has handled every year, it has seemed as if he has had more than usual this year. The work he has in connection with the Armed Services Committee of the Senate, of which I also have a privilege to be a member, there are very sweeping duties that he has in connection with that committee's jurisdictions and problems to go along with the Appropriations Committee. The way he works at it—his thoroughness, his understanding, his terrific, inexhaustible energy and willingness to do more than his share of the work—is one of the truly fine assets of this body.

You are not dealing with learners or beginners when you have to deal with the House of Representatives' Appropriations Subcommittee on Military Affairs for military funds. I am proud of them and their record. They have worked for many years, and I tell you, Mr. President, they know their business, they know this subject. They will give you a run for your money on anything. They are well prepared. I think that the work this year of Senator STEVENS and others on that subcommittee with him paired off, as it were, with the problems which fell in Senator STEVENS' pathway as he was carrying that load and responsibility. The way he met them deserves a great deal of credit. I am glad to put it on record here.

I want to mention one item here in this huge bill. It did not come up for debate as such, but we have undertaken and have a commission already started, in operation, the commission for the celebration of the 200th anniversary of the writing and adoption and beginning of Government under our present Constitution of the United States. The Nation has been fortunate—has been blessed, I think—by the fact that the Chief Justice of the United States has agreed to serve and is already serving as chairman of that commission. They have already started on their program. We have in this bill an open-ended authorization. That has gone out of style in a way, but there is an open-ended authorization in this bill of the funds for this purpose. We have here in our body three Members, the Senator from South Carolina [Mr. THURMOND], the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Alaska [Mr. STEVENS], as members of that commission.

I am just a sideline supporter, but I believe that to meet some conditions prevailing, there could not be a better chance to drill into the minds and hearts of the boys and girls, school children of our great Nation, the fundamental principles of our Constitution—why it was formulated, the reasons the provisions are there and the reasons they have stood the test of time for now these 200 years. This is a godsend of the way for us to take advantage of this anniversary and spend a relatively small amount of money under this leadership to which I have already referred. I think this body and the House of Representatives would give them any reasonable amount of money that they might suggest to us that they need. We already have here within the law an open-ended, unlimited authorization for the appropriation of funds without any further authority. We already have in this bill the sum of $12 million for this purpose.

Another far-reaching provision is an amendment which was adopted authorizing all the other departments to give this commission employees or talented people on their staffs or in their departments, an unlimited amount of their time to this commission which is, moneywise, the same as appropriating a sum of money in that amount, the amount that they may need. So these matters speak for themselves, being of strong backing and in unlimited form as far as money is concerned of this commission in its undertakings. I believe that when understood, it is just as strong support for them and their opportunity of service to the Nation is

just as strong as these other things that have happened.

We want to arm them in every way with the facilities that they need to make the work of their commission really count. I point to them with pride and emphasize again that it is a highly commendable step that the Chief Justice of the United States was willing to give his time, to undertake the job to give this work meaning, his backing and the backing of his position.

I know that the product that they turn out will be a great blessing and a strength maker for our country.

Mr. President, so far as opposition to this bill from this side of the aisle is concerned, certainly, the bill does not represent everything that everybody wanted or just exactly what their position was, but I do not believe any major bill with such far-reaching complications has gotten better or more extensive consideration of all major and minor points. I do not know of any opposition here now, today, at this point in this legislative step that we are taking or anyone who wants to defeat or oppose the provisions of the bill that has been presented here by the Senator from Oregon, the chairman of our Appropriations Committee [Mr. HATFIELD].

I trust that it will get a solid, strong vote here. It represents a lot of money and a lot of work, a lot of effort, and it is a forerunner for another year of it that is going to follow. I am proud that we have a product like this, more particularly a system that can produce a product like this bill and what it represents.

I thank the Senator again for yielding to me.

Mr. HATFIELD. Mr. President, I thank the ranking member of the committee for his analysis and his continuing contribution and for his very kind remarks.

Mr. BYRD. Mr. President, this measure includes a number of provisions of particular importance to flood victims in West Virginia and other States. I have gone back home on a number of occasions and have seen firsthand the destruction wrought by the flood waters. Homes have been washed away; bridges demolished; highways and rail lines severed; and once prosperous businesses destroyed or severely damaged.

The amendments I offered to this resolution are designed to help those victims of floods start the long process that will help them to begin their lives again.

This resolution includes the following proposals which I offered to assist the States and individuals affected by the disaster:

An additional $40 million to the Soil Conservation Service for reconstruction of levees, rechanneling of streams, and rehabilitation of farm land. Not only is this funding necessary to reclaim farm lands that have been so terribly damaged, but it is money that the Soil Conservation Service indicates it needs to do the work necessary to prevent future flooding.

For the transfer of $10 million for the Small Business Administration for additional staffing to process disaster loan applications for flood victims.

Three million dollars in funding to accelerate the implementation of the integrated flood observation and flash flood warning system (inflows), which would expand this program—not only to those 29 counties in my State of West Virginia that were hit by this flood, but would also expand the program in the States of Pennsylvania, Tennessee, and North Carolina.

Authority to raise the cap on the emergency relief fund through the U.S. Department of Transportation from $30 million to $55 million for emergency road and bridge repair and reconstruction.

Authority to allow students whose parents have lost their source of income because of flooding to apply for Pell grants for the second half of the 1985–1986 school year.

Funding for emergency flood repairs at the Parsons Forest Products Laboratory, the Monongahela National Forest, and the Harpers Ferry National Historic Park.

Mr. President, the sheer magnitude of the destruction wrought by this flood in West Virginia is hard to imagine. We cannot turn back the clock, but we can provide the necessary tools to rebuild. I thank the distinguished chairmen and ranking members and other members of the Appropriations Committees of both Houses for their understanding and cooperation and support.

Mr. President, I am also pleased that this continuing resolution contains approximately $400 million for clean coal technology demonstrations that will be cost-shared jointly between the Federal Government and the private sector. The cost-sharing criteria governing this program require that the private sector provide at least 50 percent of the cost of any project. So, clearly, any technologies which are demonstrated under this program will have the strong backing and support of industry.

There has been strong support for the Clean Coal Technology Program to date. In its May 1, 1985, report, the Department of Energy noted that industry had indicated an interest in 176 projects in 29 States. Half of these expressions of interest identified levels of cost-sharing that, in the aggregate, amount to a willingness for the private sector to share 57 percent of the demonstration program costs.

In addition to industrial interest in the Clean Coal Technology Program, the Sierra Club, the Environmental Policy Institute, the Izaak Walton League, the League of Women Voters, the National Governors Association, as well as many State governments, also have indicated strong support for joint Federal-private sector development of new clean coal technologies. When the U.S. House of Representatives considered funding for this matter on July 31, 1985, it indicated, by a vote of 317-98, its overwhelming support for an immediate funding level of $500 million. The few opponents of this program in the Senate were never able to mount a credible attack on the Clean Coal Technology Program and I believe, for obvious reasons, determined not to press their disagreement to a vote. Mr. President, the Clean Coal Technology Reserve continues to authorize a full $750 million Clean Coal Technology Program. While I would have preferred that the full amount be made available in this bill, I believe that the $400 million which is included in this bill for these demonstrations represents a spartan but adequate start at a time of very necessary Federal budgetary constraint. These are not new moneys. The $400 million for the Clean Coal Technology Program comes from funds previously set aside for the Synthetic Fuels Corporation. I believe that these funds will be better spent for the development of clean coal technologies which generally improve on the previous synthetic fuels proposals in terms of economic efficiency, smaller size and environmental performance. So, Mr. President, while I regret to see the demise of the Synthetic Fuels Corporation, we are taking a positive step here today in establishing a Clean Coal Technology Program, a program that means greater energy independence, more jobs for Americans, improved energy efficiency and environmental performance and which can provide a sensible approach toward meeting the clean coal concerns of our Canadian neighbors.

Mr. President, the next step is for the administration to carry out the intent of Congress in initiating this demonstration program as quickly as possible, and, ultimately, the burden will rest with the private sector to propose sound clean coal technology proposals which will benefit all Americans. I challenge the private sector to come forward with its best proposals, and I believe that we all look forward to its response.

Mr. MURKOWSKI. Mr. President, H.J. Res. 465, the fiscal year 1986 continuing resolution, includes an appropriation to fund the first of a series of payments by the Federal Government to various Alaska Native corporations under section 1411 of the Alaska National Interest Lands Conservation Act of 1980. This appropriation was requested by the administration in an

amendment to its fiscal year 1986 budget estimate. I want to thank the distinguished chairman of the Interior Appropriations Subcommittee, Senator McCLURE, and Linda Richardson of his staff for their quick response to the administration's request. I also want to commend Secretary of the Interior Don Hodel and Assistant Secretary Bill Horn for their efforts to resolve this issue.

Several disputes regarding the interpretation of section 1411 still exist. The most prominent include the accurate determination of the amounts that should have been escrowed from Alaska Railroad receipts or transactions and from economic interests acquired by Native corporations under section 14(g) of ANCSA and the determination of the portion of seal harvest revenues owed to Native corporations for the use of their land and property.

Mr. President, it is my hope—and I believe, the hope of Senator McCLURE—that the Department of the Interior will settle these disputes expeditiously so that funds can be appropriated to discharge the obligation of the Federal Government under section 1411.

Mr. McCLURE. Mr. President, I agree with the comments of my colleague from Alaska. It is important that the Federal Government move quickly to resolve this issue.

Mr. COCHRAN. Mr. President, the conference report on this continuing resolution includes funding for programs as provided in H.R. 3037, the appropriations bill for agriculture, rural development, and related agencies. This bill provides funding for the agencies of the Department of Agriculture—except the Forest Service—the Food and Drug Administration, and the Commodity Futures Trading Commission, and it places a limitation on the administrative expenses of the Farm Credit Administration.

The conference report on the agriculture appropriations bill contains a funding level of $36.5 billion in budget authority. However, the conference report on the continuing resolution reduces all appropriated accounts in the agriculture bill except child nutrition and special milk programs by sixtenths of 1 percent. This brings the total appropriated level to $36.3 billion. This is $4.3 billion under the fiscal year 1985 level, $148 million under the President's budget request, $57 million under the House-passed bill, and $1.2 billion below the Senate-passed bill. I ask unanimous consent that a table containing these reduced levels appear in the RECORD at the conclusion of my remarks. The remainder of my statement, however, will make reference to the levels contained in the agricultural appropriations conference report, rather than the reduced amounts.

Mr. President, the conference committee on this bill considered 102 Senate amendments to the House bill. There were some issues on which the House and Senate positions were vastly different, but after intense negotiations, those differences were resolved.

One of the most difficult issues to resolve was the funding approach for reimbursement of Commodity Credit Corporation net realized losses. The conferees finally agreed that $9.2 billion would be the appropriated level, and that an additional $4 billion would be available upon receipt of an official budget request. This total of $13.2 billion will not be sufficient to last throughout the year, so we expect that a supplemental appropriation will be necessary sometime next spring.

The Farmers Home Administration programs were also items in conference. The conference report contains a 35-percent cut in rural housing programs from the fiscal year 1985 level. Agricultural credit programs were maintained at levels which are near the levels available in fiscal year 1985. For farm operating loans, the conferees agreed to $2.7 billion for insured loans and $1.7 billion for guaranteed loans. For ownership loans, the conference report contains $400 million for insured loans and $250 million for guaranteed loans.

The rural development loan and grant programs of Farmers Home will be funded at a level of $540 million for loans and $169.5 million for grants. This includes $340 million for water and sewer loans and $115 million for water and sewer grants.

The nutrition programs of the Department of Agriculture will be fully funded for the first time in several years. The levels for the primary food programs are as follows:

[Dollars in billions]

Child nutrition programs	$4.11
Food stamps	11.89
Feeding program for women, infants, and children (WIC)	1.57

In the research portion of our bill, the conferees agreed to funding levels of $44.5 million for competitive research grants and $28.8 million for special grants. Overall, the conference report reflects a total of $1.12 billion for agricultural research and extension activities.

For soil and water conservation activities of the Soil Conservation Service and the Agricultural Stabilization and Conservation Service, the conferees agreed to a total of $832.7 million, which is roughly the same amount as was appropriated in fiscal year 1985.

The Rural Electrification Administration loan programs have been given strong support by both the House and the Senate. The electric and telephone loan programs will be funded at levels of $2.06 billion for loans and $30 million for the purchase of capital stock of the Rural Telephone Bank.

The conference report makes available $430,967,000 for the Food and Drug Administration. This includes $10 million for AIDS research, $4.7 million for orphan product work, and makes available, subject to the submission of a budget request, $6.7 million for increased operating and personnel costs. The conference agreement also provides a ban on the implementation of user fees during fiscal year 1986. It is my hope that the authorizing committees can reach an agreement concerning this matter, so that it will not be necessary for the Appropriations Committee to address this matter in next year's appropriations bill.

Mr. President, I have one last item I would like to mention. The conferees made sufficient funds available to the Food Safety and Inspection Service [FSIS] to perform its mandatory inspection programs.

Mr. President, while I believe that the bill as passed by the Senate was a more responsible bill, this conference report represents the best possible compromise with the House on the many issues before the conference. The totals in this bill are within the subcommittee's 302(b) allocation for budget authority and outlays.

I urge the Senate to support the conference report on the continuing resolution, which includes the provisions of the conference report on the Agriculture appropriations bill.

Mr. President, I also want to congratulate and commend the staff members who worked so hard and effectively to help develop and get approval of this conference report. Many long hours of tedious work went into this effort. I especially single out my chief clerk, Irma Hanneman, her assistant clerk, Forest Thigpen, and Koni Gleason, for their excellent work. Without them, this bill could not have been enacted.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.8 Percent	Difference
TITLE I - AGRICULTURAL PROGRAMS							
Production, Processing and Marketing							
Office of the Secretary	1,732,000	1,747,000	1,750,000	5,360,000	1,750,000	1,739,000	-11,000
Office of the Assistant Secretary for Administration	479,000	429,000	484,000	---	481,000	481,000	-3,000
Standard Level User Charges (USDA)	53,454,000	59,500,000	49,454,000	57,100,000	53,454,000	53,133,000	-321,000
Building operations and maintenance	13,300,000	17,800,000	17,800,000	17,800,000	17,800,000	17,693,000	-107,000
Advisory Committees (USDA)	1,385,000	1,385,000	1,323,000	1,323,000	1,323,000	1,315,000	-8,000
Departmental Administration	18,868,000	17,795,000	19,130,000	19,130,000	19,130,000	19,015,000	-115,000
Working Capital Fund	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	5,964,000	-36,000
Office of the Assistant Secretary for Governmental and Public Affairs	375,000	292,000	337,000	---	337,000	335,000	-2,000
Public Affairs	6,666,000	6,055,000	6,758,000	6,758,000	6,758,000	6,717,000	-41,000
Legislative Liaison	482,000	513,000	495,000	495,000	495,000	492,000	-3,000
Intergovernmental Affairs	467,000	470,000	467,000	467,000	467,000	464,000	-3,000
Office of the Inspector General	30,142,000	27,764,000	30,756,000	30,756,000	30,756,000	30,571,000	-185,000
(Transfer from food stamp program)	(16,355,000)	(14,710,000)	(15,924,000)	(15,924,000)	(15,924,000)	(15,924,000)	---
Total, Office of the Inspector General	(46,497,000)	(42,474,000)	(46,680,000)	(46,680,000)	(46,680,000)	(46,495,000)	(-185,000)
Office of the General Counsel	14,929,000	13,925,000	15,077,000	15,077,000	15,077,000	14,987,000	-90,000
(Transfer from food stamp program)	(974,000)	(786,000)	(786,000)	(786,000)	(786,000)	(786,000)	---
Total, Office of the General Counsel	(15,903,000)	(14,711,000)	(15,863,000)	(15,863,000)	(15,863,000)	(15,773,000)	(-90,000)
Office of the Assistant Secretary for Economics	413,000	382,000	418,000	---	418,000	415,000	-3,000
Economic Research Service	47,098,000	46,305,000	46,305,000	46,305,000	46,305,000	46,027,000	-278,000
Statistical Reporting Service	58,287,000	59,505,000	59,079,000	59,079,000	59,079,000	58,725,000	-354,000
World Agricultural Outlook Board	1,676,000	1,680,000	1,680,000	1,680,000	1,680,000	1,670,000	-10,000
Office of the Assistant Secretary for Science and Education	367,000	321,000	371,000	---	371,000	369,000	-2,000
Agricultural Research Service	493,106,000	498,753,000	492,806,000	501,043,000	501,043,000	499,037,000	-3,006,000
Special fund (reappropriation, indefinite)	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	1,988,000	-12,000
Buildings and facilities	23,050,000	---	3,600,000	3,350,000	6,350,000	6,312,000	-38,000
Scientific activities overseas (foreign currency program)	5,300,000	---	---	5,000,000	3,000,000	2,982,000	-18,000
Cooperative State Research Service	290,776,000	251,356,000	275,438,000	290,336,000	290,423,000	288,680,000	-1,743,000
Funds made available by P.L. 98-473	(700,000)	---	---	---	---	---	---
Extension Service	343,727,000	265,137,000	302,731,000	342,338,000	305,956,000	304,120,000	-1,836,000
(Transfer from food stamp program)	---	---	(38,627,000)	---	(38,627,000)	(38,627,000)	---
Total, Extension Service	(343,727,000)	(265,137,000)	(341,358,000)	(342,338,000)	(344,583,000)	(342,747,000)	(-1,836,000)
National Agricultural Library	11,464,000	11,340,000	11,340,000	11,340,000	11,340,000	11,272,000	-68,000
Total, Research and Extension	1,169,123,000	1,029,536,000	1,089,905,000	1,155,407,000	1,120,112,000	1,113,391,000	-6,721,000
Office of the Assistant Secretary for Marketing and Inspection Services	343,000	301,000	347,000	---	347,000	345,000	-2,000
Animal and Plant Health Inspection Service:							
Salaries and expenses	298,557,000	248,807,000	281,165,000	309,502,000	316,286,000	314,388,000	-1,898,000
Buildings and facilities	2,361,000	2,361,000	4,262,000	4,262,000	4,262,000	4,236,000	-26,000
Total, Animal & Plant Health Inspection Service	300,918,000	251,168,000	285,427,000	313,764,000	320,548,000	318,624,000	-1,924,000
Food Safety and Inspection Service	364,635,000	364,265,000	358,494,000	370,000,000	364,265,000	362,079,000	-2,186,000
Amount available subject to budget request	---	---	---	---	(5,735,000)	(5,735,000)	---
Federal Grain Inspection Service	6,994,000	7,045,000	7,045,000	7,045,000	7,045,000	7,003,000	-42,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(36,856,000)	(36,856,000)	(36,856,000)	(36,856,000)	(36,856,000)	(36,856,000)	---
Agricultural Cooperative Service	4,675,000	3,699,000	4,713,000	4,713,000	4,713,000	4,685,000	-28,000
Agricultural Marketing Service:							
Marketing Services	31,005,000	30,626,000	31,455,000	32,208,000	32,208,000	32,015,000	-193,000
(Limitation on administrative expenses, from fees collected)	(27,253,000)	(27,253,000)	(27,253,000)	(27,253,000)	(27,253,000)	(27,253,000)	---
Funds for strengthening markets, income, and supply (Section 32) (by transfer)	(6,145,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	---
Payments to States and possessions	990,000	---	990,000	990,000	990,000	984,000	-6,000
Office of Transportation	2,542,000	2,163,000	2,466,000	2,466,000	2,466,000	2,451,000	-15,000
Total, Agricultural Marketing Service	34,537,000	32,789,000	34,911,000	35,664,000	35,664,000	35,450,000	-214,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.4 Percent	Difference
Packers and Stockyards Administration	9,035,000	9,201,000	9,201,000	9,201,000	9,201,000	9,146,000	-55,000
Total, Production, Processing and Marketing	2,146,880,000	1,958,893,000	2,046,727,000	2,163,124,000	2,123,579,000	2,118,835,000	-12,744,000
Farm Income Stabilization							
Office of the Under Secretary for International Affairs and Commodity Programs	501,000	444,000	502,000	---	502,000	499,000	-3,000
Agricultural Stabilization and Conservation Service:							
Salaries and expenses	50,857,000	---	---	---	---	---	---
(Transfer from Commodity Credit Corporation)	(344,199,000)	(343,199,000)	(395,119,000)	(406,524,000)	(400,821,000)	(400,821,000)	---
Total, salaries and expenses, ASCS	(395,056,000)	(343,199,000)	(395,119,000)	(406,524,000)	(400,821,000)	(400,821,000)	---
Dairy indemnity program	100,000	---	100,000	100,000	100,000	99,000	-1,000
CORPORATIONS							
Federal Crop Insurance Corporation:							
Administrative and operating expenses	200,502,000	239,467,000	200,502,000	240,194,000	220,348,000	219,026,000	-1,322,000
Federal crop insurance corporation fund	223,000,000	135,000,000	135,000,000	135,000,000	135,000,000	134,190,000	-810,000
Subscription to capital stock	50,000,000	---	---	---	---	---	---
Total, Federal Crop Insurance Corporation	473,502,000	374,467,000	335,502,000	375,194,000	355,348,000	353,216,000	-2,132,000
Commodity Credit Corporation:							
Reimbursement for net realized losses 1/	12,285,790,000	9,396,240,000	9,195,240,000	9,396,240,000	9,195,240,000	9,140,069,000	-55,171,000
Amount available subject to budget request	---	---	---	---	(4,000,000,000)	(4,000,000,000)	---
General Sales Manager (transfer from Commodity Credit Corporation)	(6,079,000)	(5,882,000)	(6,089,000)	(6,089,000)	(6,089,000)	(6,089,000)	---
Total, Farm Income Stabilization	12,810,750,000	9,771,151,000	9,531,344,000	9,771,534,000	9,551,190,000	9,493,883,000	-57,307,000
Total, title I, Agricultural Programs:							
Definite appropriations	14,955,630,000	11,728,044,000	11,576,071,000	11,932,658,000	11,672,769,000	11,602,730,000	-70,039,000
Indefinite appropriations	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	1,988,000	-12,000
(By transfer)	(367,607,000)	(364,577,000)	(456,545,000)	(429,323,000)	(462,247,000)	(462,247,000)	---
(Transfer from Sec. 32)	(6,145,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	---
(Limitation on obligations)	(64,809,000)	(64,109,000)	(64,109,000)	(64,109,000)	(4,069,844,000)	(4,069,844,000)	---
Total, new budget (obligational) authority, Agricultural Programs	14,957,630,000	11,730,044,000	11,578,071,000	11,934,658,000	11,674,769,000	11,604,718,000	-70,051,000
TITLE II - RURAL DEVELOPMENT PROGRAMS							
Rural Development Assistance							
Office of the Under Secretary for Small Community and Rural Development	410,000	360,000	415,000	---	790,000	785,000	-5,000
Office of Rural Development Policy:							
Salaries and expenses	2,345,000	2,246,000	2,037,000	---	---	---	---
Farmers Home Administration:							
Rural Housing Insurance Fund:							
Direct loans	(17,000,000)	---	(17,000,000)	(10,200,000)	(15,000,000)	(15,000,000)	---
Insured loans	(3,220,000,000)	(30,000,000)	(3,220,000,000)	(1,932,000,000)	(2,112,000,000)	(2,112,000,000)	---
Collection and servicing contracts (limitation on obligations)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---
Site loans	(1,000,000)	---	(1,000,000)	(600,000)	(600,000)	(600,000)	---
Rent supplement authorization	(116,000,000)	(50,000,000)	(198,000,000)	(132,513,000)	(167,513,000)	(167,513,000)	---
Reimbursement for interest and other losses	1,843,927,000	2,136,784,000	1,843,927,000	2,136,784,000	1,843,927,000	1,832,863,000	-11,064,000
Total, Rural Housing Insurance Fund:							
Definite appropriations	1,843,927,000	2,136,784,000	1,843,927,000	2,136,784,000	1,843,927,000	1,832,863,000	-11,064,000
(Loan authorization)	(3,354,000,000)	(80,000,000)	(3,436,000,000)	(2,075,313,000)	(2,295,113,000)	(2,295,113,000)	---
(Limitation on obligations)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---
Self-help land development fund (loan authorization)	(2,700,000)	---	---	---	---	---	---

1/ Requested in the FY 1986 budget document as a permanent indefinite appropriation. Senate provides a current indefinite appropriation which would provide budget authority in at least the amount requested in the President's budget.

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
Agricultural Credit Insurance Fund:							
Real estate loans:							
Insured	(676,000,000)	---	(526,000,000)	(276,000,000)	(426,000,000)	(426,000,000)	---
Guaranteed	(56,000,000)	---	(206,000,000)	(256,000,000)	(256,000,000)	(256,000,000)	---
Total, real estate loans	(732,000,000)	---	(732,000,000)	(532,000,000)	(682,000,000)	(682,000,000)	---
Soil conservation loans	(16,000,000)	---	(16,000,000)	(16,000,000)	(16,000,000)	(16,000,000)	---
Operating loans:							
Insured	(1,920,000,000)	(400,000,000)	(1,920,000,000)	(3,000,000,000)	(2,700,000,000)	(2,700,000,000)	---
Guaranteed	(500,000,000)	(3,000,000,000)	(1,480,000,000)	(1,772,000,000)	(1,700,000,000)	(1,700,000,000)	---
Total, operating loans	(2,420,000,000)	(3,400,000,000)	(3,400,000,000)	(4,772,000,000)	(4,400,000,000)	(4,400,000,000)	---
Emergency disaster loans, (indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	---
Reimbursement for interest and other losses	1,089,943,000	1,477,565,000	1,089,943,000	1,477,565,000	1,089,943,000	1,083,403,000	-6,540,000
Total, Agricultural Credit Insurance Fund:							
Definite appropriations	1,089,943,000	1,477,565,000	1,089,943,000	1,477,565,000	1,089,943,000	1,083,403,000	-6,540,000
(Loan authorization)	(3,168,000,000)	(3,400,000,000)	(4,148,000,000)	(5,320,000,000)	(5,098,000,000)	(5,098,000,000)	---
(Loan authorization, indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	---
Rural Development Insurance Fund:							
Water and sewer facility loans	(340,000,000)	(50,000,000)	(340,000,000)	(340,000,000)	(340,000,000)	(340,000,000)	---
Industrial development loans: Guaranteed	(150,000,000)	---	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	---
Community facility loans	(115,000,000)	---	(115,000,000)	(75,000,000)	(100,000,000)	(100,000,000)	---
Reimbursement for losses	560,005,000	612,098,000	560,005,000	612,098,000	560,005,000	556,645,000	-3,360,000
Total, Rural Development Insurance Fund:							
Definite appropriations	560,005,000	612,098,000	560,005,000	612,098,000	560,005,000	556,645,000	-3,360,000
(Loan authorization)	(605,000,000)	(50,000,000)	(555,000,000)	(515,000,000)	(540,000,000)	(540,000,000)	---
Rural water and waste disposal grants	115,000,000	25,000,000	115,000,000	115,000,000	115,000,000	114,310,000	-690,000
Very low-income housing repair grants	12,500,000	---	12,500,000	12,500,000	12,500,000	12,425,000	-75,000
Rural housing for domestic farm labor	---	---	---	10,000,000	10,000,000	9,940,000	-60,000
Mutual and self-help housing	8,000,000	---	8,000,000	8,000,000	8,000,000	7,952,000	-48,000
Rural community fire protection grants	3,250,000	---	3,250,000	3,250,000	3,250,000	3,230,000	-20,000
Compensation for construction defects	1,000,000	---	1,000,000	500,000	750,000	745,000	-5,000
Rural rental assistance payments	52,250,000	---	---	---	---	---	---
Rural housing preservation grants	5,000,000	---	---	---	---	---	---
Carryover	---	---	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	---
Salaries and expenses	352,297,000	240,180,000	356,297,000	394,197,000	375,297,000	373,045,000	-2,252,000
(Transfer from loan accounts)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	---
Total, salaries and expenses	(356,297,000)	(244,180,000)	(360,297,000)	(398,197,000)	(379,297,000)	(377,045,000)	(-2,252,000)
Total, Farmers Home Administration	4,043,172,000	4,491,627,000	3,989,922,000	4,759,894,000	4,018,672,000	3,994,558,000	-24,114,000
Rural Electrification Administration:							
Rural electrification & telephone revolving fund:							
Direct loans:							
Insured loans:							
Electric	(850,000,000)	(500,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	---
Telephone	(250,000,000)	(75,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	---
Total, Insured loans	(1,100,000,000)	(575,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	---
Guaranteed loans:							
Electric	(1,200,000,000)	(300,000,000)	(850,000,000)	(850,000,000)	(850,000,000)	(850,000,000)	---
Telephone	(125,000,000)	---	(125,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	---
Total, Guaranteed loans	(1,325,000,000)	(300,000,000)	(975,000,000)	(975,000,000)	(975,000,000)	(975,000,000)	---
Reimbursement for interest and other losses	(215,964,000)	---	(225,395,000)	---	(100,000,000)	(100,000,000)	---
Rural telephone bank	(30,000,000)	---	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	---
Direct loans (limitation on obligations)	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	---
Rural communication development fund	841,000	1,203,000	1,203,000	1,203,000	1,203,000	1,196,000	-7,000
Salaries and expenses	30,664,000	29,668,000	30,990,000	30,990,000	30,990,000	30,804,000	-186,000
Total, Rural Electrification Administration	31,505,000	30,871,000	32,193,000	32,193,000	32,193,000	32,000,000	-193,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
Total, Rural Development Assistance:							
Definite appropriations	4,077,432,000	4,525,104,000	4,024,567,000	4,802,087,000	4,051,655,000	4,027,343,000	-24,312,000
(By transfer)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	---
(Loan authorization)	(7,129,700,000)	(3,530,000,000)	(8,139,000,000)	(7,910,313,000)	(7,933,113,000)	(7,933,113,000)	---
(Loan authorization, indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	---
(Limitation on obligations)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---
Conservation							
Office of the Assistant Secretary for Natural Resources and Environment	381,000	335,000	396,000	---	386,000	384,000	-2,000
Soil Conservation Service:							
Conservation operations	364,340,000	364,778,000	365,629,000	365,400,000	365,460,000	363,267,000	-2,193,000
River basin surveys and investigations	14,906,000	10,790,000	14,906,000	14,906,000	14,906,000	14,817,000	-89,000
Watershed planning	8,922,000	7,019,000	8,922,000	8,922,000	8,922,000	8,868,000	-54,000
Watershed and flood prevention operations	183,843,000	63,982,000	183,843,000	183,843,000	183,843,000	182,740,000	-1,103,000
Resource conservation and development	26,320,000	10,160,000	26,320,000	26,320,000	26,320,000	26,162,000	-158,000
Great Plains conservation program	21,531,000	7,529,000	21,531,000	21,531,000	21,531,000	21,402,000	-129,000
Total, Soil Conservation Service	620,862,000	465,198,000	621,151,000	620,922,000	620,982,000	617,256,000	-3,726,000
Agricultural Stabilization and Conservation Service:							
Agricultural conservation program	198,000,000	---	190,000,000	165,000,000	190,000,000	188,860,000	-1,140,000
Forestry incentives program	12,500,000	---	12,500,000	12,500,000	12,500,000	12,425,000	-75,000
Water bank program	8,800,000	---	---	8,800,000	8,800,000	8,747,000	-53,000
Emergency conservation program	---	---	5,000,000	---	---	---	---
Total, Agricultural Stabilization and Conservation Service	211,300,000	---	207,500,000	186,300,000	211,300,000	210,032,000	-1,268,000
Total, Conservation:							
Definite appropriations	831,763,000	465,533,000	829,037,000	807,222,000	832,668,000	827,672,000	-4,996,000
Total, title II, Rural Development Programs:							
Definite appropriations	4,909,195,000	4,990,637,000	4,853,604,000	5,609,309,000	4,884,323,000	4,855,015,000	-29,308,000
(By transfer)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	---
(Loan authorization)	(7,129,700,000)	(3,530,000,000)	(8,139,000,000)	(7,910,313,000)	(7,933,113,000)	(7,933,113,000)	---
(Loan authorization, indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	---
Total, new budget (obligational) authority, Rural Development Programs	4,909,195,000	4,990,637,000	4,853,604,000	5,609,309,000	4,884,323,000	4,855,015,000	-29,308,000
TITLE III - DOMESTIC FOOD PROGRAMS							
Office of the Assistant Secretary for Food and Consumer Services	346,000	303,000	350,000	---	350,000	348,000	-2,000
Food and Nutrition Service:							
Child nutrition programs	1,474,861,000	177,533,000	177,533,000	177,533,000	177,533,000	177,533,000	---
Amount available subject to budget request	---	---	(665,015,000)	(665,015,000)	(665,015,000)	(665,015,000)	---
(Transfer from sec. 32)	(2,329,819,000)	(3,250,647,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	---
Total, Child nutrition programs	(3,804,680,000)	(3,428,180,000)	(4,114,140,000)	(4,114,140,000)	(4,114,140,000)	(4,114,140,000)	---
Special milk program	17,600,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	---
Feeding program for Women, Infants and Children (WIC)	1,500,000,000	1,479,800,000	1,570,000,000	1,570,000,000	1,570,000,000	1,560,580,000	-9,420,000
Commodity supplemental food program	24,918,000	34,049,000	36,999,000	36,999,000	36,999,000	36,777,000	-222,000
Food stamp program	11,768,856,000	11,871,250,000	11,891,570,000	11,891,570,000	11,891,570,000	11,820,221,000	-71,349,000
Nutrition assistance for Puerto Rico	825,000,000	825,000,000	825,000,000	825,000,000	825,000,000	820,050,000	-4,950,000
Food donations programs:							
Needy family program	23,546,000	53,807,000	61,722,000	56,773,000	56,773,000	56,432,000	-341,000
Elderly feeding program	116,000,000	120,800,000	125,900,000	137,800,000	137,800,000	136,973,000	-827,000
Total, Food donations programs	139,546,000	174,607,000	187,622,000	194,573,000	194,573,000	193,405,000	-1,168,000
Temporary emergency food assistance program	57,600,000	---	50,000,000	50,000,000	50,000,000	49,700,000	-300,000
Food program administration	84,187,000	91,523,000	82,502,000	82,502,000	82,502,000	82,007,000	-495,000
Total, Food and Nutrition Service	15,891,968,000	14,655,262,000	14,832,726,000	14,839,677,000	14,839,677,000	14,751,773,000	-87,904,000
Human Nutrition Information Service	7,533,000	13,562,000	13,562,000	13,562,000	13,562,000	13,481,000	-81,000
Total, title III, Domestic Food Programs:							
Definite appropriations	15,899,847,000	14,669,127,000	14,846,638,000	14,853,239,000	14,853,589,000	14,765,602,000	-87,987,000
(Transfer from Sec. 32)	(2,329,819,000)	(3,250,647,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	---
Total, new budget (obligational) authority, Domestic Food Programs	15,899,847,000	14,669,127,000	14,846,638,000	14,853,239,000	14,853,589,000	14,765,602,000	-87,987,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
TITLE IV - INTERNATIONAL PROGRAMS							
Foreign Agricultural Service	83,622,000	83,516,000	83,547,000	83,547,000	83,547,000	83,046,000	-501,000
Public Law 480:							
Title I and III - Credit sales:							
Program level	(1,621,000,000)	(1,030,000,000)	(1,030,000,000)	(1,030,000,000)	(1,030,000,000)	(1,030,000,000)	---
Appropriation	705,000,000	657,000,000	657,000,000	657,000,000	657,000,000	653,058,000	-3,942,000
Title II - Commodities for disposition abroad:							
Program level	(1,050,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	---
Appropriation	1,034,000,000	650,000,000	650,000,000	650,000,000	650,000,000	646,100,000	-3,900,000
Emergency reserve for African famine relief	225,000,000	---	---	---	---	---	---
Total, Public Law 480:							
Program level	(2,671,000,000)	(1,680,000,000)	(1,680,000,000)	(1,680,000,000)	(1,680,000,000)	(1,680,000,000)	---
Appropriation	1,964,000,000	1,307,000,000	1,307,000,000	1,307,000,000	1,307,000,000	1,299,158,000	-7,842,000
Office of International Cooperation and Development	5,038,000	3,917,000	3,917,000	5,417,000	5,417,000	5,384,000	-33,000
Total, title IV, new budget (obligational) authority, International Programs (all definite appropriations)	2,052,660,000	1,394,433,000	1,394,464,000	1,395,964,000	1,395,964,000	1,387,588,000	-8,376,000
TITLE V - RELATED AGENCIES							
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
Food and Drug Administration:							
Salaries and expenses	387,157,000	393,657,000	392,370,000	399,629,000	396,955,000	394,573,000	-2,382,000
Amount available subject to budget request	---	---	---	---	(6,674,000)	(6,674,000)	---
Buildings and facilities	1,450,000	1,450,000	1,450,000	1,450,000	1,450,000	1,441,000	-9,000
Standard Level User Charges (FDA)	26,072,000	25,888,000	25,888,000	25,888,000	25,888,000	25,733,000	-155,000
Collections from user fees (limitation on obligations)	---	(5,000,000)	---	---	---	---	---
Total, Food and Drug Administration	414,679,000	420,995,000	419,708,000	426,967,000	424,293,000	421,747,000	-2,546,000
INDEPENDENT AGENCIES							
Commodity Futures Trading Commission	27,564,000	27,981,000	28,416,000	30,307,000	29,416,000	29,240,000	-176,000
Farm Credit Administration (limitation on administrative expenses)	(22,092,000)	(21,175,000)	(21,175,000)	(21,175,000)	(21,175,000)	(21,175,000)	---
Total, title V, Related Agencies:							
Definite appropriations	442,243,000	448,976,000	448,124,000	457,274,000	453,709,000	450,987,000	-2,722,000
(Limitation on obligations)	(22,092,000)	(26,175,000)	(21,175,000)	(21,175,000)	(27,849,000)	(27,849,000)	---
Total, new budget (obligational) authority, Related Agencies	442,243,000	448,976,000	448,124,000	457,274,000	453,709,000	450,987,000	-2,722,000
RECAPITULATION							
Title I - Agricultural programs	14,957,630,000	11,730,044,000	11,579,071,000	11,934,659,000	11,674,769,000	11,604,718,000	-70,051,000
Title II - Rural development programs	4,909,195,000	4,990,637,000	4,853,604,000	5,609,309,000	4,884,323,000	4,855,015,000	-29,308,000
Title III - Domestic food programs	15,899,847,000	14,669,127,000	14,846,638,000	14,853,239,000	14,853,589,000	14,765,602,000	-87,987,000
Title IV - International programs	2,052,660,000	1,394,433,000	1,394,464,000	1,395,964,000	1,395,964,000	1,387,588,000	-8,376,000
Title V - Related agencies	442,243,000	448,976,000	448,124,000	457,274,000	453,709,000	450,987,000	-2,722,000
Total, new budget (obligational) authority	38,261,575,000	33,233,217,000	33,120,901,000	34,250,444,000	33,262,354,000	33,063,910,000	-198,444,000
Transfer from sec. 32 (Customs Receipts)	2,335,964,000	3,256,840,000	3,277,785,000	3,277,785,000	3,277,785,000	3,277,785,000	---
Total obligational authority	40,597,539,000	36,490,057,000	36,398,686,000	37,528,229,000	36,540,139,000	36,341,695,000	-198,444,000
Memoranda:							
Direct and insured loan level	8,473,000,000	2,040,000,000	8,053,000,000	7,548,200,000	7,608,000,000	7,608,000,000	---
Guaranteed loan level	2,031,000,000	3,300,000,000	2,761,000,000	3,103,000,000	3,031,000,000	3,031,000,000	---
Transfers from Commodity Credit Corporation	344,199,000	343,199,000	395,119,000	406,524,000	400,821,000	400,821,000	---

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
CONGRESSIONAL BUDGET RECAP							
Section 32:							
Transfer (discretionary)	6,145,000	6,193,000	6,193,000	6,193,000	6,193,000	6,193,000	---
Transfer (mandatory)	2,329,819,000	3,250,649,000	3,271,592,000	3,271,592,000	3,271,592,000	3,271,592,000	---
Permanent (mandatory)	481,268,000	374,237,000	374,237,000	374,237,000	374,237,000	374,237,000	---
Total (including Section 32)	41,078,807,000	36,064,294,000	36,772,923,000	37,902,466,000	36,914,376,000	36,715,932,000	-198,444,000
Sec. 32 permanent	(481,268,000)	(374,237,000)	(374,237,000)	(374,237,000)	(374,237,000)	(374,237,000)	---
Amount in this bill (incl Sec. 32 transfers)	(40,597,539,000)	(36,490,057,000)	(36,398,686,000)	(37,528,229,000)	(36,540,139,000)	(36,341,695,000)	(-198,444,000)
Prior year outlays associated with this bill	---	---	---	---	---	---	---
Total Congressional mandatory and discretionary	41,078,807,000	36,064,294,000	36,772,923,000	37,902,466,000	36,914,376,000	36,715,932,000	-198,444,000
Mandatory (total)	(4,303,548,000)	(3,813,917,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	---
(Mandatory new)	(4,303,548,000)	(3,813,917,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	---
(Prior year)	---	---	---	---	---	---	---
Discretionary (new)	(36,775,259,000)	(33,050,377,000)	(32,938,061,000)	(34,067,604,000)	(33,079,514,000)	(32,881,070,000)	(-198,444,000)

1986 INTERIOR APPROPRIATIONS BILL

Mr. McCLURE. Mr. President, the portion of the conference report which funds the Department of the Interior and related agencies provides a total of $8,097,121,000 in new budget authority. This is $102,879,000 below the conference budget resolution and $290,543,000 below the fiscal year 1985 enacted level. In addition, this report is $140,956,000 below the House passed level and $22,013,000 below the Senate passed level.

The report includes language that essentially closes the Synthetic Fuels Corporation and provides for the rescission of SFC funds.

The report provides for a $400 million Clean Coal Demonstration Program to be funded from the energy security reserve. Of this amount, $100 million is available immediately, with $150 million available on October 1, 1986, and $150 million available on October 1, 1987.

For the first time in 4 years, this report does not include a moratorium on leasing in Federal waters off the coast of California. The conferees do agree that negotiations between the Secretary of the Interior and Members of Congress should continue on this long standing dispute. The Secretary will report, every 60 days, on the progress of these negotiations. Any agreement, however, is not binding on the Congress or on the Secretary but will provide the Secretary with a broad range of advice on the issue.

Other highlights of the fiscal year 1986 interior appropriations bill are contained in the accompanying conference report.

In the National Park Service construction account, the managers agree that planning for the Playalinda Beach access road, in Canaveral National Seashore, FL, should proceed, from funds available in the Federal Lands Highway Program advance project planning activity.

FISCAL YEAR 1986 DEFENSE BILL CONFERENCE AGREEMENT

Mr. STEVENS. Mr. President, we come to the floor today with a final defense bill within the continuing resolution that is a product of what I consider to be the most difficult and protracted conference negotiations in recent years. The final product, I submit, represents the best possible compromise of what appeared to be irreconcilable differences between the House and Senate. We were nearly $14 billion apart on appropriations, and that was only part of the problem. There were sharp differences over a number of major issues such as chemical weapons production, antisatellite weapon testing, inflation projections, and allocation and use of more than $6 billion in prior year savings. These and hundreds of other differences were spread over more than 200 pages of detailed conference notes that consumed 5 grueling days of negotiations.

We developed a final agreement on $281.2 billion for the defense appropriations bill, $1.5 billion below the Senate level and $12.3 billion above the House. It is $22.8 billion below the President's budget request and $4.3 billion below the defense bill allocation under the budget resolution process. This is much lower than the Senate wanted, Mr. President, and much lower than I wanted. It is also $1.3 billion below our original agreement embodied in the first conference report that was rejected by the House—rejected for a number of reasons that in my opinion did not center on the defense portion of the continuing resolution.

In terms of total defense funding in budget function 050, which includes appropriations in other bills, the total appropriation is $297.6 billion, or nearly $5 billion below the $302.5 billion target Congress agreed to in the budget resolution.

UNOBLIGATED BALANCES

There are those, Mr. President, who like to count apples and oranges and call them all apples. They are critics of defense spending for the most part, and they like to add unobligated balances of appropriations from prior years on to the new budget authority number and insist that we really approved $287.5 billion— a number much closer to the total funding calculation in the Senate-passed bill. But this $6.3 billion in prior year funds reflects real savings stemming from favorable inflation and from substantial spending reductions produced by procurement reforms and improved management practices in the Pentagon. This is a happy reversal from the situation confronting us in 1981 when it was necessary to approve a supplemental appropriations bill containing $1.6 billion to cover excessive inflation and rampant cost overruns. This remarkable achievement has gone largely unnoticed amid all the media attention to fraud and abuse that has surfaced as a result of increased attention to defense contractors practices. Now the defense critics want to turn those savings into new appropriations and accuse us of using the savings as a "slush fund" for the Department, ostensibly to cushion the impact of Gramm-Rudman sequestering.

There is a lot of misinformation being peddled in the other body on this issue, Mr. President, and I have heard criticism in the Senate as well.

Let me say that we cold simply have ignored those prior year savings in our handling of the defense appropriations bill, and they would have lain unnoticed among all the various appropriation accounts. Instead we dug up those savings and we established

controls over their use. They are not a hedge against Gramn-Rudman but a reserve to cover the expenses we know will be incurred as a result of congressional action or inaction on matters such as military pay raises and retirement benefits. To satisfy the critics in the second conference report, we detailed in the bill how those funds will be committed. But to argue that this is some kind of illegitimate gift to the Pentagon simply does not recognize the facts. The Appropriations Committtees in both Houses spent long days assembling the savings and providing for their use, and we did it up front. Nothing new emerged in conference. Those savings were contained in both House and Senate bills as they moved through the congressional process.

BALANCE OF DEFENSE AGREEMENT

Mr. President, while the defense funding total is not as high as we would wish, I think we have struck the best possible agreement in view of the wide gulf between the House and Senate positions. And funding was not the only critical issue. We struck an intricate balance in conference negotiations that sustained the Senate position on several critical points including:

First. Full authorized funding for the strategic defense initiative at the level of $2.75 billion.

Second. Facility and production funding at $126 million for modernizing our chemical weapons deterrent, an urgent national security progam, in my judgment.

Third. Full funding for the deep interdiction battlefield surveillance system, commonly called JSTARS. We restored the full $180 million Senate allowance.

Fourth. A budget addition of $1.5 billion for National Guard and Reserve equipment, more than twice the House allowance.

Fifth. Nearly $50 million, or most of the Senate allowance, for enhancing the Defense Department's drug interdiction mission.

Sixth. The full $375 million proposed by the Senate for procurement of Coast Guard vessels, aircraft and equipment, much of it for drug interdiction.

In addition, we accepted the $100 million proposed by the House to bolster Coast Guard operating requirements.

And these are highlights, Mr. President. We enjoyed success in a myriad of other items and were able to protect the Senate interests to a great degree.

ASAT TESTING

The downside of this good news is the concession to the House position against space testing of the antisatellite weapons system, commonly called Asat. We fought hard on this issue, Mr. President, to preserve the Senate position allowing limited testing under specific conditions, but the House was adamant. In the end Asat testing became a key link in the overall agreement and, in effect, the price for the successful conclusion of other high prority issues. So the agreement is on a testing moratorium, but the Senate position is that this issue can be reopened at any time in future appropriation acts. We will watch the progress of arms control negotiations in Geneva, and we will watch the activities of the Soviets in Asat development to ensure that this temporary halt in testing does not jeopardize our defense posture.

CONFERENCE DELIBERATIONS

Mr. President, I should go no further without expressing my personal gratitude to the members of the conference committee on both sides. Support for the Senate position was strong among our Senate conferees and helped preserve what I considered to be an intricate and, at times, quite fragile agreement. This is due in no small regard to my stalwart colleague, the senior Senator from Mississippi. Senator STENNIS is my predecessor and mentor as chairman of the Defense Appropriations Subcommittee and the senior Democrat on the Armed Services Committee. It was not his rank but his experience, leadership, patience and plain know-how—together with his willingness to stay at the conference table throughout the long hours—that strengthened the Senate resolve.

My commendation as well for the House conferees, in particular the chairman of the Defense Appropriations Subcommittee in the House, Congressman JOSEPH ADDABBO, and the acting chairman during Mr. ADDABBO's recent illness, Congressman WILLIAM CHAPPELL. They and their fellow conferees are hard bargainers, as I have said, but hard bargainers in good faith and in a forthright fashion. They were always willing to meet the Senate halfway without surrendering House priorities. Without their honest and skillful negotiations I, frankly, do not believe we could have achieved any agreements on these difficult issues.

DEFENSE SPENDING TREND

Mr. President, I pointed out the bill does not carry the funding level the Senate would have preferred. I think this is unfortunate because it marks the first real decline in defense spending since President Reagan entered the White House and successfully established a high priority for improving military readiness and modernizing our national defenses. Although the budget resolution established a no-growth target it did provide for inflation and avoided any actual program reductions. The final total appropriation for the defense function, however, has actually produced a real decline of nearly 2 percent for 1986 appropriations compared to the 1985 level. After sequestering under the Gramm-Rudman deficit reduction legislation just 3 short months away, the surviving appropriations will produce a real decline in defense of nearly 7 percent. This is a long way from the projected average of 7.5 percent real growth over this period and more recent projections of at least 3 percent real growth.

What alarms me most, Mr. President, is the impact this will have on future defense funding. By lowering the fiscal year 1986 base we are creating unacceptable demands in 1987. I estimate it would take real growth of nearly 10 percent from the sequestered 1986 level just to get back to our modest goal of 3 percent real growth from the current budget resolution figure. To put that in dollars, we are looking at an increase over 1986 of nearly $20 billion just to get back to the 1987 target projected by the current budget resolution. And that, too, will doubtless be subject to sequestration under Gramm-Rudman.

There is no question in my mind, Mr. President, that we are confronted with a systematic dismantling of the very initiatives for modernization and improved readiness that Congress supported so strongly at the beginning of this decade. If we cannot reverse this funding trend, I fear we must face up to difficult and dangerous decisions about our military force structure and our worldwide commitments.

What are those choices? The alternatives are not pleasant. It seems we must look to sharp reductions in the personnel of our Armed Forces and perhaps a return to the draft. Or we must consider abandoning the costly but essential modernization of military weapons and equipment and look to a realignment of the force structure. That means we must find a smaller objective than a 600-ship Navy and a 40-wing Air Force. Or we must consider again a dramatic reduction in our military commitment to NATO and reassess our expensive commitments to Middle East and Asian security.

If we don't correct this trend—forget the real growth calculations, the budget scorekeeping, and the projections that never occur. When the dollars aren't there our present military posture is simply not affordable.

If we don't correct this trend—we won't have to agonize so long over whether we test Asat in space, whether we modernize our chemical deterrent, whether we support the strategic defense initiative.

If we don't correct this trend—we can set aside the debate over MX versus Midgetman and other key elements of our strategic defenses. The dollars won't be there.

If we don't correct this trend—even the goal on which we all seem to agree, the improved readiness of con-

ventional military forces, is put in jeopardy.

CONGRESSIONAL FUNDING PROCESS

Mr. President, I cannot end without pointing to one of the biggest villains in the defense funding scenario. It is the cumbersome and increasingly ineffective congressional process for developing funding goals, not only for defense but for all Federal programs. And the legislation we now discuss is the best example of the failure of that process. Here we are again considering a catch-all continuing resolution created simply to rescue a gaggle of appropriation bills that could not be passed in orderly fashion. And I am not pointing the finger at the Appropriations Committee. I am talking about the process as a whole that begins with a seemingly endless debate over budget resolution goals that fails to produce a budget resolution on time. This is followed by delays in authorization bills and, in turn by delays in the appropriation measures.

It is December 19, Mr. President, 2 months and 19 days into fiscal year 1986—2 months and 19 days after we should have completed action on all appropriation bills. How the Department of Defense can operate without an established budget and still do its job is beyond my understanding. The Pentagon is now trying to develop a 1987 budget, and they don't even know what the 1986 budget is. Can you imagine running a sizable private corporation with that kind of fiscal irresponsibility?

We need to bring down the deficit, but we also need to get our own house in order. We need to establish real priorities and support them in an orderly and timely fashion. Let's quit adopting budget resolutions that project 3 percent real growth when we're not willing to put up the dollars to support even a zero real growth. The Congress is simply unwilling to put money where its mouth is—to fund the level of spending authorized and required.

In closing, Mr. President, I reiterate that we came out of conference with the best agreement possible on defense spending under the circumstances. I acknowledge some will claim that we got more than our fair share of the $14 billion separating the House and the Senate. But I maintain we did not come back with enough. I maintain that this settlement may easily set the stage for more damaging reductions in 1987 and beyond. I maintain that we must reverse this trend or retreat from our foreign policy and security commitments.

We had better decide soon, Mr. President. We are adrift.

Mr. President, I ask that a comparative table displaying the conference agreement on Defense appropriations be included in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Comparative Statement of New Budget (Obligational) Authority

	1/ FY 1985 Enacted	2/ FY 1986 Estimates	House	3/ Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
TITLE I									
MILITARY PERSONNEL									
Military Personnel, Army	21,437,593,000	22,712,000,000	21,741,423,000	21,109,765,000	21,078,169,000	-359,424,000	-1,633,831,000	-663,254,000	-31,596,000
(Transfer from other accounts)	(25,000,000)	---	---	---	---	(-25,000,000)	---	---	---
Military Personnel, Navy	15,640,244,000	17,221,400,000	16,472,973,000	15,838,363,000	15,917,144,000	+256,898,000	-1,304,256,000	-555,829,000	+78,781,000
(Transfer from other accounts)	(339,633,000)	---	---	---	---	(-339,633,000)	---	---	---
Military Personnel, Marine Corps	4,910,206,000	5,217,400,000	5,041,377,000	4,835,456,000	4,870,016,000	-40,190,000	-347,384,000	-171,361,000	+34,560,000
(Transfer from other accounts)	(10,000,000)	---	---	---	---	(-10,000,000)	---	---	---
Military Personnel, Air Force	17,826,830,000	19,187,900,000	18,341,185,000	17,688,587,000	17,744,770,000	-82,060,000	-1,443,130,000	-596,415,000	+56,183,000
(Transfer from other accounts)	(112,854,000)	---	---	---	---	(-112,854,000)	---	---	---
Reserve Personnel, Army	2,004,100,000	2,394,400,000	2,159,254,000	2,203,014,000	2,178,564,000	+74,464,000	-215,836,000	+19,310,000	-24,450,000
Reserve Personnel, Navy	1,132,319,000	1,353,600,000	1,297,123,000	1,264,334,000	1,267,734,000	+135,415,000	-85,866,000	-29,389,000	+3,400,000
(Transfer from other accounts)	(22,000,000)	---	---	---	---	(-22,000,000)	---	---	---
Reserve Personnel, Marine Corps	271,778,000	290,000,000	276,842,000	272,200,000	272,250,000	+472,000	-17,750,000	-4,592,000	+50,000
Reserve Personnel, Air Force	567,474,000	622,500,000	597,453,000	583,336,000	584,436,000	+16,954,000	-38,070,000	-12,723,000	+1,100,000
National Guard Personnel, Army	2,926,100,000	3,430,000,000	3,238,217,000	3,042,098,000	3,066,568,000	+140,468,000	-363,432,000	-171,649,000	+24,470,000
National Guard Personnel, Air Force	886,110,000	995,100,000	953,204,000	926,516,000	926,716,000	+40,606,000	-68,384,000	-26,488,000	+200,000
Total, title I, Military Personnel:									
New budget (obligational) authority	67,782,758,000	73,425,100,000	70,139,851,000	67,783,663,000	67,906,361,000	+203,603,000	-5,518,739,000	-2,233,490,000	+122,698,000
(Transfer from other accounts)	(209,487,000)	---	---	---	---	(-209,487,000)	---	---	---
TITLE II									
OPERATION AND MAINTENANCE									
Operation and Maintenance, Army	18,421,544,000	20,190,630,000	18,659,638,000	19,043,639,000	18,975,587,000	+553,963,000	-1,215,123,000	+315,849,000	-67,532,000
(Transfer from other accounts)	(119,300,000)	---	---	---	---	(-119,300,000)	---	---	---
Operation and Maintenance, Navy	25,123,360,000	25,797,700,000	23,862,082,000 4/	24,528,310,000	24,477,071,000	-646,289,000	-1,320,629,000	+615,049,000	-51,239,000
(Transfer from other accounts)	(180,829,000)	---	---	---	---	(-180,829,000)	---	---	---
Operation and Maintenance, Marine Corps	1,646,294,000	1,647,400,000	1,615,128,000	1,609,000,000	1,612,050,000	-28,244,000	-35,350,000	-3,078,000	+3,050,000
(Transfer from other accounts)	(8,488,000)	---	---	---	---	(-8,488,000)	---	---	---
Operation and Maintenance, Air Force	19,093,265,000	20,924,400,000	19,583,682,000	19,468,901,000	19,536,813,000	+443,548,000	-1,387,587,000	+29,141,000	+67,912,000
(Transfer from other accounts)	(90,346,000)	---	---	---	---	(-90,346,000)	---	---	---
Operation and Maintenance, Defense Agencies	7,148,699,000	7,568,900,000	7,348,674,000	7,479,956,000	7,432,569,000	+283,870,000	-136,331,000	+92,493,000	-47,387,000
(Transfer from other accounts)	(8,000,000)	---	---	---	---	(-8,000,000)	---	---	---
Operation and Maintenance, Army Reserve	731,736,000	779,600,000	774,988,000	793,100,000	780,100,000	+48,364,000	+500,000	+5,120,000	-13,000,000
Operation and Maintenance, Navy Reserve	828,581,000	954,500,000	896,415,000	896,708,000	894,958,000	+66,369,000	-59,550,000	-1,465,000	-1,750,000
Operation and Maintenance, Marine Corps Reserve	58,792,000	61,600,000	57,120,000	57,200,000	57,200,000	-1,592,000	-4,400,000	+80,000	---
Operation and Maintenance, Air Force Reserve	879,761,000	987,700,000	896,044,000	910,200,000	902,700,000	+22,939,000	-5,000,000	+5,856,000	-7,500,000
Operation and Maintenance, Army National Guard	1,437,487,000	1,605,200,000	1,646,385,000	1,656,500,000	1,652,800,000	+215,313,000	+47,600,000	+6,415,000	-3,700,000
Operation and Maintenance, Air National Guard	1,825,439,000	1,830,100,000	1,803,862,000	1,806,200,000	1,806,200,000	-19,239,000	-23,900,000	+2,338,000	---
National Board for the Promotion of Rifle Practice, Army	926,000	920,000	820,000	920,000	920,000	-6,000	---	+100,000	---
Claims, Defense	157,900,000	158,300,000	148,300,000	143,300,000	143,300,000	-14,600,000	-15,000,000	-5,000,000	---
Court of Military Appeals, Defense	2,870,000	3,200,000	3,200,000	3,200,000	3,200,000	+330,000	---	---	---
Tenth International Pan American Games	---	---	10,000,000	10,000,000	10,000,000	+10,000,000	+10,000,000	---	---
Environmental Restoration, Defense	314,000,000	---	---	429,100,000	379,100,000	+65,100,000	+379,100,000	-50,000,000	-50,000,000
(Internal DOD transfer account)	---	---	(329,100,000) 5/	---	---	---	---	(-329,100,000)	---
Total, title II, Operation and Maintenance:									
New budget (obligational) authority	77,664,654,000	82,456,150,000	77,222,362,000	78,835,626,000	78,664,480,000	+999,826,000	-3,785,670,000	+1,442,118,000	-171,146,000
(Transfer from other accounts)	(406,963,000)	---	---	---	---	(-406,963,000)	---	---	---
TITLE III									
PROCUREMENT									
Aircraft Procurement, Army	3,940,900,000	3,892,500,000	3,317,300,000	3,504,200,000	3,524,200,000	-416,700,000	-368,300,000	+184,900,000	+20,000,000
(Transfer from other accounts)	---	---	(217,600,000)	(101,800,000)	---	---	---	(-217,600,000)	(-101,800,000)
Missile Procurement, Army	3,167,000,000	3,386,700,000	2,939,232,000	3,056,050,000	2,904,332,000	-262,668,000	-482,368,000	-34,900,000	-151,718,000
(Transfer from other accounts)	---	---	(124,500,000)	(49,700,000)	---	---	---	(-124,500,000)	(-49,700,000)
Procurement of Weapons and Tracked Combat Vehicles, Army	4,548,100,000	5,739,100,000	3,749,004,000	4,629,900,000	4,684,800,000	+136,700,000	-1,054,300,000	+935,796,000	+54,900,000
(Transfer from other accounts)	---	---	(806,896,000)	(240,800,000)	---	---	---	(-806,896,000)	(-240,800,000)
Procurement of Ammunition, Army	2,644,360,000	2,635,000,000	1,858,200,000	2,588,213,000	2,497,200,000	-149,100,000	-137,800,000	+639,000,000	-91,013,000
(Transfer from other accounts)	---	---	(215,200,000)	(209,900,000)	---	---	---	(-215,200,000)	(-209,900,000)
Other Procurement, Army	5,122,450,000	5,712,800,000	4,809,986,000	5,214,750,000	5,275,556,000	+153,106,000	-437,244,000	+465,570,000	+60,826,000
(Transfer from other accounts)	---	---	(297,400,000)	(238,000,000)	---	---	---	(-297,400,000)	(-238,000,000)
Aircraft Procurement, Navy	10,903,798,000	12,862,400,000	10,446,400,000	10,289,651,000	11,175,678,000	+271,880,000	-886,722,000	+729,278,000	+886,027,000
(Transfer from other accounts)	---	---	(594,600,000)	(566,382,000)	---	---	---	(-594,600,000)	(-566,382,000)
Weapons Procurement, Navy	4,353,611,000	5,627,900,000	5,093,733,000	5,372,563,000	5,227,795,000	+874,184,000	-400,105,000	+134,062,000	-144,768,000
(Transfer from other accounts)	---	---	(109,600,000)	(15,000,000)	---	---	---	(-109,600,000)	(-15,000,000)
Shipbuilding and Conversion, Navy	11,736,000,000	11,481,600,000	8,648,900,000	9,598,990,000	10,840,400,000	-895,600,000	-571,200,000	+2,191,500,000	+1,241,500,000
(Transfer from other accounts)	(36,300,000)	---	(2,058,500,000)	(1,057,600,000)	---	(-36,300,000)	---	(-2,058,500,000)	(-1,057,600,000)
Other Procurement, Navy	5,341,614,000	6,601,200,000	5,682,694,000	6,463,560,000	6,377,630,000	+1,036,016,000	-223,570,000	+694,936,000	-85,930,000
(Transfer from other accounts)	---	---	(312,762,000)	(221,000,000)	---	---	---	(-312,762,000)	(-221,000,000)
Coastal Defense Augmentation	---	---	---	375,000,000	235,000,000	+235,000,000	+235,000,000	+235,000,000	-140,000,000
Procurement, Marine Corps	1,836,722,000	1,726,800,000	1,610,749,000	1,689,982,000	1,660,766,000	-175,956,000	-66,034,000	+50,017,000	-29,216,000
(Transfer from other accounts)	---	---	(85,717,000)	(31,056,000)	---	---	---	(-85,717,000)	(-31,056,000)
Aircraft Procurement, Air Force	26,188,266,000	26,165,500,000	20,722,700,000	24,142,651,000	23,255,424,000	-2,932,842,000	-2,910,076,000	+2,532,724,000	-887,227,000
(Transfer from other accounts)	---	---	(1,458,300,000)	(648,000,000)	---	---	---	(-1,458,300,000)	(-648,300,000)
Missile Procurement, Air Force	6,909,245,000	10,862,700,000	8,043,527,000	8,770,831,000	8,312,442,000	+1,403,197,000	-2,550,258,000	+268,915,000	-458,389,000
(Transfer from other accounts)	(1,500,000,000)	---	(155,000,000)	(64,400,000)	---	(-1,500,000,000)	---	(-155,000,000)	(-64,400,000)

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimate	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimate	Conference compared with House	Conference compared with Senate
TITLE III									
PROCUREMENT									
Other Procurement, Air Force	8,861,077,000	9,538,000,000	7,890,930,000	8,831,674,000	8,571,283,000	-289,794,000	-966,717,000	[illegible]	-260,391,000
(Transfer from other accounts)	---	---	(347,470,000)	(282,000,000)	---	---	---	(-347,470,000)	(-282,000,000)
National Guard and Reserve Equipment	300,000,000	---	282,000,000	2,863,000,000	1,301,000,000	+1,121,000,000	+1,301,000,000	[illegible]	-562,000,000
(Transfer from other accounts)	---	---	(8,000,000)	(178,400,000)	---	---	---	(-8,000,000)	(-178,400,000)
Procurement, Defense Agencies	1,165,794,000	1,391,900,000	1,181,089,000	1,426,914,000	1,302,790,000	+137,039,000	-89,110,000	[illegible]	-124,124,000
(Transfer from other accounts)	---	---	(36,000,000)	(36,000,000)	---	---	---	(-36,000,000)	(-36,000,000)
Defense Production Act Purchases	10,000,000	39,000,000	---	31,000,000	31,000,000	+21,000,000	-28,000,000	[illegible]	---
NATO Cooperative Defense Program	---	---	---	15,000,000	15,000,000	+15,000,000	+15,000,000	[illegible]	---
Total, Title III, Procurement:									
New budget (obligational) authority	97,111,404,000	106,813,300,000	86,597,912,000	98,044,619,000	97,393,146,000	+281,742,000	-9,420,154,000	[illegible]	-651,473,000
(Transfer from other accounts)	(1,534,300,000)	---	(6,827,951,000)	(3,940,038,000)	---	(-1,534,300,000)	---	(-6,827,951,000)	(-3,940,038,000)
TITLE IV									
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, Development, Test, and Evaluation, Army	4,349,015,000	5,279,900,000	4,436,473,000	4,841,169,000	4,798,172,000	+449,157,000	-481,728,000	[illegible]	-42,997,000
(Transfer from other accounts)	---	---	(110,530,000)	(265,000,000)	---	---	---	(-110,530,000)	(-265,000,000)
Research, Development, Test, and Evaluation, Navy	9,172,622,000	11,264,300,000	9,462,631,000	10,104,594,000	10,065,239,000	+892,617,000	-1,199,061,000	[illegible]	-39,355,000
(Transfer from other accounts)	---	---	(271,496,000)	(183,000,000)	---	---	---	(-271,496,000)	(-183,000,000)
Research, Development, Test, and Evaluation, Air Force	13,424,147,000	15,578,500,000	13,217,177,000	13,861,113,000	13,718,208,000	+294,061,000	-1,860,292,000	[illegible]	-142,905,000
(Transfer from other accounts)	---	---	(359,000,000)	(256,000,000)	---	---	---	(-239,000,000)	(-256,000,000)
Research, Development, Test, and Evaluation, Defense Agencies	4,182,287,000	7,053,900,000	5,943,038,000	7,033,745,000	6,637,386,000	+2,455,099,000	-416,514,000	[illegible]	-396,359,000
(Transfer from other accounts)	---	---	(179,112,000)	(51,000,000)	---	---	---	(-179,112,000)	(-51,000,000)
Director of Test and Evaluation, Defense	99,000,000	103,500,000	93,500,000	143,500,000	118,500,000	+19,500,000	+15,000,000	+25,000,000	-25,000,000
Total, Title IV, Research, Development, Test, and Evaluation:									
New budget (obligational) authority	31,187,071,000	39,280,100,000	33,152,821,000	35,984,121,000	35,337,305,000	+4,150,434,000	-3,942,795,000	[illegible]	-646,816,000
(Transfer from other accounts)	---	---	(920,138,000)	(755,000,000)	---	---	---	(-920,138,000)	(-755,000,000)
TITLE V									
SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	8,630,000	2,100,000	2,100,000	2,100,000	2,100,000	-6,530,000	---	---	---
TITLE VI									
REVOLVING AND MANAGEMENT FUNDS									
Army Stock Fund	366,440,000	442,000,000	393,000,000	393,000,000	393,000,000	+26,552,000	-49,000,000	---	---
Navy Stock Fund	473,387,000	716,500,000	616,500,000	638,500,000	638,500,000	+165,113,000	-78,000,000	+22,000,000	---
Marine Corps Stock Fund	34,908,000	42,700,000	37,700,000	37,700,000	37,700,000	+2,792,000	-5,000,000	---	---
Air Force Stock Fund	548,593,000	464,900,000	415,900,000	415,900,000	415,900,000	-132,693,000	-49,000,000	---	---
Defense Stock Fund	138,700,000	193,500,000	149,700,000	174,500,000	149,700,000	+19,000,000	-43,800,000	---	-24,800,000
Mariner Fund (Transfer from other accounts)	---	---	---	(852,100,000)	---	---	---	---	(-852,100,000)
ADP Management fund	---	---	---	150,000,000	100,000,000	+100,000,000	+100,000,000	+100,000,000	-50,000,000
Total, title VI, Revolving and Management Funds:									
New budget (obligational) authority	1,553,956,000	1,859,600,000	1,612,800,000	1,809,600,000	1,734,800,000	+180,844,000	-124,800,000	+122,000,000	-74,800,000
(Transfer from other accounts)	---	---	---	(852,100,000)	---	---	---	---	(-852,100,000)
TITLE VII									
RELATED AGENCIES									
Intelligence Community Staff	20,971,000	22,283,000	22,083,000	22,283,000	22,083,000	+1,112,000	-200,000	---	-200,000
Central Intelligence Agency Retirement and Disability System Fund	99,300,000	101,400,000	101,400,000	101,400,000	101,400,000	+2,100,000	---	---	---
Enhanced security countermeasures capabilities	35,000,000	---	---	---	---	-35,000,000	---	---	---
Total, title VII, Related Agencies:									
New budget (obligational) authority	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	-31,788,000	-200,000	---	-200,000
TITLE VIII									
GENERAL PROVISIONS									
(Additional transfer authority, sec. 8020)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	---
TITLE IX									
Counter-terrorism Contingency Fund	---	---	---	100,000,000	---	---	---	---	-100,000,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
RECAPITULATION									
Title I - Military Personnel	67,702,758,000	73,425,100,000	70,139,851,000	67,783,663,000	67,906,361,000	+203,603,000	-5,518,739,000	-2,233,490,000	+122,698,000
(Transfer from other accounts)	(509,487,000)	---	---	---	---	(-509,487,000)	---	---	---
Title II - Operation and Maintenance	77,644,654,000	82,450,150,000	77,222,342,000	78,815,626,000	78,644,480,000	+999,826,000	-3,785,670,000	+1,442,138,000	-171,146,000
(Transfer from other accounts)	(406,963,000)	---	---	---	---	(-406,963,000)	---	---	---
Title III - Procurement	97,111,484,000	106,813,300,000	86,597,212,000	98,064,619,000	97,593,146,000	+281,742,000	-9,420,154,000	+10,995,934,000	-471,473,000
(Transfer from other accounts)	(1,536,300,000)	---	(6,827,551,000)	(3,940,038,000)	---	(-1,536,300,000)	---	(-6,827,551,000)	(-3,940,038,000)
Title IV - Research, Development, Test, and Evaluation	31,187,071,000	39,280,100,000	33,152,871,000	35,984,121,000	35,537,585,000	+4,350,434,000	-3,742,515,000	+2,384,714,000	-446,536,000
(Transfer from other accounts)	---	---	(920,138,000)	(755,000,000)	---	---	---	(-920,138,000)	(-755,000,000)
Title V - Special foreign currency program	0,650,000	2,100,000	2,100,000	2,100,000	2,100,000	+4,350,000	---	---	---
Title VI - Revolving and management funds	1,553,956,000	1,859,600,000	1,612,800,000	1,809,660,000	1,734,800,000	+180,844,000	-124,800,000	+122,000,000	-74,800,000
(Transfer from other accounts)	---	---	---	(852,100,000)	---	---	---	---	(-852,100,000)
Title VII - Related agencies	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	-31,788,000	-200,000	---	-200,000
Title VIII - General provisions (additional transfer authority, sec. 8020)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	---
Title IX - Counter-terrorism Contingency fund	---	---	---	100,000,000	---	---	---	---	-100,000,000
Total, Department of Defense (NDA)	275,383,764,000	303,954,833,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	-22,792,158,000	+12,311,246,000	-1,541,537,000
(Transfer from other accounts)	(2,452,750,000)	---	(7,747,689,000)	(5,547,138,000)	---	(-2,452,750,000)	---	(-7,747,689,000)	(-5,547,138,000)
Total funding available	277,836,514,000	303,954,833,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	-22,792,158,000	+4,563,557,000	-7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	---
Distribution by organizational component									
Army	71,179,689,000	78,281,558,000	69,763,834,000	72,095,698,000	71,809,888,000	+630,199,000	-6,391,662,000	+2,046,054,000	-285,810,000
(Transfer from other accounts)	(144,300,000)	---	(1,772,126,000)	(1,105,200,000)	---	(-144,300,000)	---	(-1,772,126,000)	(-1,105,200,000)
Navy	93,478,158,000	102,017,290,000	91,119,387,000	93,872,013,000	93,627,123,000	+2,148,965,000	-4,390,077,000	+2,507,736,000	-244,890,000
(Transfer from other accounts)	(597,250,000)	---	(3,432,675,000)	(2,074,438,000)	---	(-597,250,000)	---	(-3,432,675,000)	(-2,074,438,000)
Air Force	97,010,829,000	107,677,380,000	92,390,142,000	97,405,983,000	95,774,986,000	-1,235,843,000	-11,902,394,000	+3,384,844,000	-1,630,997,000
(Transfer from other accounts)	(1,703,200,000)	---	(2,319,776,000)	(1,250,400,000)	---	(-1,703,200,000)	---	(-2,319,776,000)	(-1,250,400,000)
Defense Agencies/OSD	13,179,807,000	14,534,300,000	14,871,783,000	17,142,315,000	16,324,595,000	+3,144,788,000	+209,295,000	+1,452,812,000	-817,720,000
(Transfer from other accounts)	(8,000,000)	---	(215,112,000)	(939,100,000)	---	(-8,000,000)	---	(-215,112,000)	(-939,100,000)
Reserve & National Guard (procurement)	388,000,000	---	582,000,000	2,063,000,000	1,501,000,000	+1,121,000,000	+1,501,000,000	+919,000,000	-562,000,000
(Transfer from other accounts)	---	---	(8,000,000)	(178,400,000)	---	---	---	(-8,000,000)	(-178,400,000)
Related agencies	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	-31,788,000	-200,000	---	-200,000
Total, Department of Defense (NDA)	275,383,764,000	303,954,833,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	-22,792,158,000	+12,311,246,000	-1,541,537,000
(Transfer from other accounts)	(2,452,750,000)	---	(7,747,689,000)	(5,547,138,000)	---	(-2,452,750,000)	---	(-7,747,689,000)	(-5,547,138,000)
Total funding available	277,836,514,000	303,954,833,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	-22,792,158,000	+4,563,557,000	-7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	---

1/ Includes amounts in Supplemental Appropriation Act, 1985.
2/ Includes $383,000 for the Intelligence Community Staff (H.Doc. 99-69).
3/ Funds are included in individual appropriation accounts.
4/ Includes $100 million for Coast Guard (House section 8101).
5/ As amended on the Senate Floor during consideration of H.J. Res. 465.

Mr. JOHNSTON. Mr. President, I rise to express my appreciation and admiration for the work of Senator STEVENS on the Defense Subcommittee joint conference this past week. The joint conference on defense lasted for approximately 30 hours of the most intense negotiations. For a large portion of that time, Senator STEVENS was the only Member of the Senate at the table while the House always had many Members present. The entire Senate owes Senator STEVENS a resounding vote of thanks for his diligence and determination in representing the Senate position throughout the conference, and I particularly want him to know of my appreciation for his oustanding work.

In addition, I am very pleased that Senator STEVENS proposed and the conference approved an increased funding to enhance the Coast Guard's operational capability. It is my understanding, and I want to confirm with the Senator from Alaska, that in order to put this new equipment to work as soon as possible, the Navy and the Coast Guard should avoid developing new design changes and specifications and should proceed to acquire these items without delay and as expeditiously as possible while having due regard for competitive procurement whenever possible.

Mr. STEVENS. Mr. President, I might state to my good friend and to the Senate that that was our intent. We have included $375 million for specifically listed items to be procured by the Navy that are needed by the Coast Guard. This additional equipment will not only help the drug interdiction effort but also other law enforcement missions. This equipment is vitally needed by the Coast Guard now and would be essential to the Coast Guard's mission in the time of war or national emergency. The items ought to be procured as quickly as possible without any delay for design. There is no money in the bill for design. It is for acquisition.

Mr. JOHNSTON. I thank the distinguished Senator from Alaska.

I also wish to say, Mr. President, that our distinguished ranking minority member from the Defense Appropriations Subcommittee, Senator STENNIS, who is also, of course, the ranking minority member on the full Appropriations Committee, did his usual outstanding job in handling the Defense Appropriations Subcommittee's work. It was a grueling conference. I, myself, was there part of the time. Every time I was there, the distinguished Senator from Mississippi was there sitting with the distinguished Senator from Alaska as a great tem representing the position of the Senate.

Mr. President, we owe a great debt of gratitude to both Senators for the outstanding work they did on a very,

very difficult bill. There were literally hundreds and hundreds of items in disagreement. I think they worked well not only to represent the views and interests of the Senate, but the interests of this country and its national defense, as well.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM [AFATDS]

Mr. QUAYLE. Mr. President, I would like to address a question regarding a provision of this continuing resolution as it applies to fiscal year 1986 defense spending to the Senator from Alaska and chairman of the Appropriations Committee Defense Subcommittee. I note with concern the joint conference findings with respect to the U.S. Army's Advanced Field Artillery Tactical Data System [AFATDS]. Is this a repudiation of the Army's development plan that was submitted to the Congress this past September?

Mr. STEVENS. Absolutely not. We expect that this small augmentation for near term equipment improvements is fully in consonance with the plan. We fully support and endorse the Army's plan to develop the fire support segment of the Army's Command and Control System.

Mr. QUAYLE. I thank the Senator for his clarification of this point.

CONFERENCE AGREEMENT ON MICROELECTRONIC ENGINEERING

Mr. D'AMATO. One of the serious obstacles to the revitalization of American industry and our continuing effort to maintain a strong and modern military is the shortfall of engineers trained in microelectronic engineering. The United States, over the past decade, has been losing its competitive edge in the development of microchip computer circuitry. The U.S. electronic induatry places the blame primarily on the lack of qualified microelectronic engineers.

A recent study commissioned by the Texas Instruments Corp. found that by the end of 1985, the shortfall of high technology engineers with expertise in microelectronics processing and design is expected to be approximately 2,000, with a subsequent need for 400 additional microelectronic engineers each year thereafter. Part of this increase in demand for microelectronic engineers is a result of the Defense Department's need for computer engineers in research and development of high technology weapons and defensive systems required by the military services. In recent years, Defense Department officials have expressed concern about inadequate numbers of microelectronic engineers and have been supportive of new university programs to train increased numbers of them.

The Rochester Institute of Technology has been the focus of many national corporations in the high technology field and the Department of Defense because of its advanced program of study in microelectronic engineering. A number of these corporations, interested in recruiting entry-level microelectronic engineers, worked with the university in designing our Nation's first undergraduate degree program in microelectronics. This program will be incorporated into a Center for Microelectronic Engineering and Imaging Sciences. In its first year of operation it will graduate nearly 100 microelectronic engineers; this figure is expected to increase to 300 engineers in 4 years.

Equally noteworthy is the fact that the proposed microelectronic center has already received pledges from 16 corporations for equipment and research support totaling more than $7 million. In order to take advantage of the financial pledges made to the center by private corporations, the university was forced to begin development and construction activites. The total cost of the center is $22.4 million. The Federal contribution provided under the Defense portion of this continuing resolution—$11.1 million—will be matched by private and university moneys on a two-to-one basis. The Federal contribution is intended to cover all design, construction, equipment and other development costs of the Center for Microelectronic Engineering and Imaging Sciences center, including those costs already incurred by the Rochester Institute of Technology. I would like to know whether the Senator from Alaska has the same understanding about this project?

Mr. STEVENS. I agree with the Senator from New York that it is unfortunate that the supply of microelectronic engineers has not kept pace with the demand, both in defense and in private industry. At the present time, there is a serious shortfall of microelectronics engineers. Electronics industry leaders and Defense Department officials believe that this shortfall places the United States at a serious disadvantage in the development of advanced computer circuitry and high technology systems.

For this reason, I supported funding to help establish a Microelectronic Engineering and Imaging Science Center at the Rochester Institute of Technology. This program will greatly benefit our Nation. The center and the university's undergraduate microelectronic program is designed to address the serious shortfall of microelectronic engineers by graduating 100 engineers in its first year of operation and 300 by its fourth year. A significant number of leading corporations, including Texas Instruments, IBM, Eastman Kodak, and Digital Equipment joined RIT in the development of the center and the microelectronic curricula.

This conference agreement provides $11.1 million for the design, construction, equipment and other related development costs of the Microelectronic Engineering and Imaging Science Center. Since the university had to begin construction and development activities in order to take advantage of the considerable corporate pledges made to the center, the Federal funds provided in this conference agreement also are intended to cover costs already incurred by the university as a result of this necessarily accelerated schedule. I am pleased to support this ongoing public/private partnership that will enhance our scientific capabilities, especially in the field of microelectronic engineering.

Mr. D'AMATO. I thank the Senator from Alaska for answering my question and clearly expressing the need for this program. It addresses America's shortfall of engineers trained in the high sophisticated field of microelectronic engineering.

Mr. President, the microelectronic center will address a critical national need by providing the U.S. electronics industry and the Department of Defense with increased numbers of high tech engineers. I thank the Senator from Alaska, and my distinguished colleagues, for supporting for this effort that will enhance our scientific capability and strengthen our position in science and engineering.

Mr. EXON. Mr. President, I want to ensure that one provision of this continuing resolution is made perfectly clear to everyone involved.

This continuing resolution conference report contains a section which will extend for 9 months the authority of the Department of Energy to negotiate three remaining Federal loan guarantees to construct ethanol plants of the United States.

The 1980 Biomass Energy and Alcohol Fuels Act set this Loan Guarantee Program in place. The Loan Guarantee Program initially expired on September 30, 1984. Public Law 99-24, signed by the President on April 16, 1985, extended this deadline. The extension was until September 30, 1985, for those conditional commitments which were in existence on September 30, 1984. In other words, there were four pending ethanol plant projects which had conditional committments in place on September 30, 1984, which would be allowed to continue receiving consideration for loan guarantees. This fall one of these projects, in Louisiana, received Energy Department approval for its loan guarantees. Three remaining projects, in Nebraska, Minnesota and Maine, still are being evaluated for loan guarantee approval by the Department of Energy.

Unfortunately, the Department did not complete its evaluation of these last three projects by the September 30, 1985, revised deadline. Therefore, an amendment to extend the deadline for approval to June 30, 1986, was of-

fered and passed the U.S. Senate three times this fall—on October 15, as part of the Agriculture Appropriations Act; on November 13 on the Reconciliation Act; and on December 6 on the continuing resolution.

The section contained in this conference report to the continuing resolution being considered today will extend the authority of the Energy Department to evaluate loan guarantee applications for these remaining three pending alcohol plants—only those which had conditional commitments pending on September 30, 1984.

I also want to make clear that the "September 30, 1984" date which is to be stricken and replaced by the "June 30, 1986" date in this continuing resolution refers only to the original "September 30, 1984" expiration date of the Loan Guarantee Program and obviously not to the date by which conditional commitments for loan guarantees had to be in existence.

Clearly, this provision reflects Congressional intent that the evaluation period for these last three ethanol plant loan guarantees be extended to June 30, 1986. Congress has spoken once again. The Department of Energy must proceed expeditiously, complete its evaluation and make a decision by June 30 of next year.

DELAWARE AND OTSEGO PROJECT

Mr. LAUTENBERG. Mr. President, I rise to engage the distinguished Chairman of the Subcommittee on Tranportation, Senator ANDREWS, in a colloquy regarding the Redeemable Preference Shares Program.

Mr. Chairman, in the report of the conferees on the transportation portion of the continuing resolution, language was added to the Section 505 Redeemable Preference Shares Program to designate three projects, beyond those earmarked, for special consideration. These include the Massachusetts and Vermon project, the tri-county commuter project and the Delaware Otsego project in New York and New Jersey. While these projects are not earmarked, the committee indicated that they should be given "priority consideration".

I would like to ask the Senator from North Dakota two questions. First, is it the Chairman's view that the Federal Railroad Administrator will have the discretion to fund these projects as soon as he can determine that the earmarked projects either will or will not require the funding appropriated in this legislation? And second, is it the Chairman's view that the Administrator should make a determination on applications as early in the fiscal year as possible, so that the applications for the Delaware Otsego and the other two projects might be acted upon?

Mr. ANDREWS. The Senator is essentially correct on both counts. Given the strong interest in these rail rehabilitation funds, if the Federal Railroad Administrator and the representatives of the earmarked projects can determine that a project will not go forward or require the funding noted in the report accompanying this bill, the three projects the Senator mentions should be funded. The Delaware Otsego project, as the report specifies, should go forward as soon as it can be determined that available funding exists.

Mr. LAUTENBERG. I thank the Senator from North Dakota for that assurance. the Delaware Otsego project can enhance rail competition in New Jersey and I appreciate the Chairman's assistance in moving this project along.

Mr. ANDREWS. Mr. President, the fiscal year 1986 Transportation Appropriations bill is contained in this conference agreement. The total spending of $10.46 billion is well within the Appropriations Committee's 302(b) allocation under the budget resolution.

Balance among transportation programs is maintained: Coast Guard operations and capital acquisitions, when augmented by Defense funds, exceed the budget request. Federal Aviation Administration funds will support additional air traffic controllers, security personnel, air carrier inspectors, as well as necessary hardware improvements. The limitation on Federal-aid highway obligations is $12.75 billion, and highway safety programs have been increased.

Transit funding is continued within the parameters of the current authorization. Current law levels for operating subsidies, and formula and capital projects will be continued.

Amtrak is funded consistent with the budget resolution assumptions.

This has been a particularly challenging year for me as subcommittee chairman. The administration's insistence on dramatically reduced domestic spending clashed with the transportation priorities of both the House and Senate. We were unable to craft a separate bill which satisfied all parties. But this conference agreement represents a compromise under which our Federal transportation commitments are responsibly met.

I urge my colleagues' support for the conference agreement.

Mr. ARMSTRONG. Am I correct that under this bill the agreement between Union Oil Co. and the Synthetic Fuels Corporation will be honored by the Government and will be funded according to the terms of their October 1985 agreement?

Mr. McCLURE. Yes, you are correct.

Mr. ARMSTRONG. I also understand that the Synthetic Fuels Corporation will have authority to complete documentation necessary in accordance with its agreement with Union Oil Co. and that the Treasury is obligated to honor the Corporation's commitment. Is my understanding correct?

Mr. McCLURE. Yes, it is.

Mr. ARMSTRONG. The SFC has awarded Union an agreement committing the Corporation to make price guarantee payments and to execute a guaranteed loan agreement upon fulfillment of conditions to the satisfaction of the SFC Board of Directors. I understand that the conditions to the execution of the guaranteed loan agreement are set forth in the October 16, 1985, agreement executed by the parties.

Is this the situation contemplated by the language in the continuing resolution which states that "nothing in this act shall impair or alter the powers, duties, rights, obligations, privileges or liabilities of the Corporation (its Board or Chairman or Project Sponsor) in the preformance and completion of terms and undertakings of a legally binding award or commitment"

Mr. McCLURE. The Union amendment agreement executed by SFC and Union Oil on October 16, 1985, is in fact a commitment contemplated by the cited proviso. This proviso permits that the completion of the terms of legally binding awards or commitments previously executed by the loan guarantee agreement covered by the October 16, 1985, agreement would not increase the Government's fiscal obligation as the loan guarantee amount is within the funds obligated for this project by the SFC.

Mr. ARMSTRONG. And this is true although the actual financial documents for the loan guarantee have not been signed and completed and the agreement executed by the Corporation and Union Oil Co.?

Mr. McCLURE. That is true. It is our intent and in fact the intent of the Administration that the Union Oil Co. agreement of October 16, 1985, with the Synthetic Fuels Corporation will be fully honored.

SYNTHETIC FUELS RESCISSION

Mr. McCLURE. Mr. President, on numerous occasions since the oil embargo of 1973 I have risen to address the need for the development of a commercial synthetic fuels capability in the United States. That need continues today, and is growing.

That need, Mr. President, was reviewed in the October 4 dear colleague letter that was signed by 21 Members, which I ask unanimous consent be included at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, October 4, 1985.

DEAR COLLEAGUE: In the near future it is expected that you will once again be asked to vote on an amendment to abolish the Synthetic Fuels Corporation (SFC), which we urge you oppose.

Last year the Congress rescinded $7.375 billion of the SFC's off-budget obligational authority and eliminated the synthetic fuels production goals in the Energy Security Act. Subsequently, the SFC Board of Directors reformulated its business plan and is renegotiating the size of individual projects so as to achieve further budgetary savings of between $1.2 and $2.5 billion. When completed, this reduced program will significantly contribute to the statutory objective of establishment of the infrastructure necessary to support a commercial synthetic fuels industry in the United States. Moreover, this critical initial commercialization objective will be achieved at less than 10 percent of the cost contemplated by the Congress in the Energy Security Act.

In requesting your opposition to this amendment we urge that you consider the following recent reports that underscore the United States' continuing economic and international oil supply vulnerability:

The Iran-Iraqi War poses a new and greater threat to U.S. interests, according to Reagan Administration oil analysts and former Ambassador Richard Helms (Washington Post, September 27, 1985);

Iran's oil exports have declined by two-thirds as a result of Iraqi's attacks (Wall Street Journal, September 27);

Significant oil price increases recently have occurred because of such factors as Iran's and the Soviet Union's temporary suspension of oil exports, and the Saudi announcement that it will take on no new contracts (New York Times, September 27); and

Recently the U.S. Geological Survey concluded that the Middle East will increasingly monopolize dwindling world petroleum supplies and the U.S. can expect to return to the energy crisis of the 1970's, experiencing regular supply interruptions with but a few decades left to enjoy the convenience of crude oil as our major energy fuel and therefore it is essential for the Nation to develop its own alternative energy resources (Washington Post, September 26).

These recent reports do indeed highlight the danger of dependence on international oil supplies. Further, they emphasize our continuing need to develop the domestic alternative of synthetic fuels which relies on our abundant supplies of coal, oil shale, heavy oil and tar sands.

The SFC is close to completing the modest, but commercial, program that the Administration agreed to last year. This program will provide the operating and environmental experience that is essential to provide the United States with a synthetic fuels capability when required to meet our energy and security needs. Now, when we are about to culminate a four-year effort to achieve the principal goal of the Energy Security Act—commercialization of synthetic fuels in the United Staes—is not the time to scrap this critical program.

Opponents of the SFC argue that significant budget savings can be achieved from its abolition, but they fail to mention that, according to the Congressional Budget Office, the outlay savings are minimal. In FY 1986, for example, the savings are only $14 million. In later years there may be additional savings, but they would not occur, if at all, until after 1990. The CBO estimate also fails to take into consideration several significant factors: namely, (a) the profit sharing provisions that have been negotiated by the SFC; (b) cancellation of the Great Plains project; (c) significantly lower outlays as a result of the SFC's rescaling of proposed projects; (d) under last year's agreement, one-half of any savings—an estimated $1.2 to $2.5 billion—will be automatically returned to the Treasury; and (e) any costs associated with SFC assistance only occur in later years after the projects achieve commercial production. But more importantly, it can be aniticipated that any funds that are released now from abolition of the SFC will not be returned to the Treasury; instead they will be redirected to other Federal programs, which will immediately contribute a greater amount to the deficit than if we let the SFC program continue.

The importance of the SFC's program to our country's energy future was recently supported unanimously by the Western Governors' Association, the Southern Governors' Association, and the Southwest Regional Energy Council. Please join us and these 34 States and 5 territories in opposing any amendment which further erodes our necessary commitment to a strong U.S. synthetic fuels effort.

Sincerely,

James A. McClure, Chairman; J. Bennett Johnston, Ranking Minority Member; Wendell H. Ford, Quentin N. Burdick, Mark Andrews, Gary Hart, Arlen Specter, Alan J. Dixon, Paul Simon, William L. Armstrong, John W. Warner, Orrin G. Hatch, Jay D. Rockefeller, John Heinz, Ted Stevens, Paul S. Trible, Jr., Peter V. Domenici, Russell B. Long, Jake Garn, Robert C. Byrd, James Abdnor.

Mr. McCLURE. But, Mr. President, there is a complacency in the United States regarding the seriousness of our long-term energy vulnerability. The current ready availability of petroleum supplies at reduced prices is misleading. The suggested abundance of supplies has diverted our attention from the fact that over the longer term these supplies are politically and economically insecure. Our complacency, while understandable, does not reduce our energy vulnerability.

I recognize that today, as a nation, we are far better prepared to cope with disruptions in the world supply of petroleum than in the recent past. The strategic petroleum reserve now has over 100 days of imports. Once drawndown, however, this oil is gone. The SPR was designed to buy us time in the event of an interruption of international oil supplies. It was not intended or designed to serve as a replacement for lost oil imports.

Meanwhile, domestic petroleum supplies are declining. This decline is documented in the President's draft 1985 national energy policy plan, as reported by the December 3 issue of Energy Daily, and I quote,

"The United States faces a continuing long-term decline in domestic oil reserves and production, coupled with increased oil imports. This translates into spiraling costs for imported oil, from roughly $60 billion this year to more than $100 billion a year by 2000."

This is only 15 years from now.

"In total, the United States will spend more than $2.4 trillion for oil imports from 1984-2010 * * * ."

The President's draft National Energy Policy Plan presumes that in the 1990's the Organization of Petroleum Exporting Countries will regain market control, with resulting price increase. Annual oil imports costs—in constant 1984 dollars—will grow from $60 billion this year to $106 billion in the year 2000 and $182 billion in the year 2010. Only 5 years from now, in 1990, the United States will be more heavily dependent upon oil imports than it was before the 1973 oil embargo. Moreover, by the year 2000 oil imports could provide 47 percent of total U.S. oil consumption, an all time record, compared to 35 percent in 1984. I want to emphasize that these are administration figures, not mine, and the Gas Research Institute, among others, shares DOE's view of increased imports and decreased domestic production.

On the domestic front the draft National Energy Policy Plan projects that domestic oil production will decline from 10.2 million barrels per day in 1984 to 9.0 million barrels per day in the year 2000 and 7.6 million barrels per day by 2010—an overall decline of 25 percent from 1984. This decline of approximately 1.6 percent per year is projected to occur during a period when real oil prices are projected to increase at a substantial annual rate of 4.6 percent from $23 per barrel in 1990, to $30 per barrel in 1995, to $37 per barrel by the year 2000; to $47 per barrel by the year 2005; to $57 per barrel by the year 2010.

Recent events in the Middle East, as was reviewed in the October 4 "Dear Colleague" letter, argue for increased efforts toward ensuring energy security for the United States. We have made commendable progress in the area of energy conservation, but that is not enough. We have also made considerable progress in filling the strategic petroleum reserve, but that also is not enough.

Nevertheless, the United States continues to be faced with the specter of supply disruptions accompanied by precipitous price increases. Mr. President, I am convinced that foreign policy blackmail remains on the horizon.

CONFERENCE AGREEMENT

As we are all aware, Mr. President, the U.S. Synthetic Fuels Corporation was established in 1980 by the Energy Security Act to create a domestic synthetic fuels capability as an alternative to oil imports. After considerable debate and repeated attacks by its critics, the Synthetic Fuels Corporation, under this continuing resolution, will finally fall before the budgetary ax, at the very time that it is about to successfully achieve its statutory mission.

By comparison, the Senate of the United States correctly approved a further rescission of $3 billion of SFC

obligational authority, but allowed the Corporation to complete implementation of its business plan. In my judgment, and that of many of my colleagues, the Senate provision offered a clear choice between maintaining a much reduced and restructed—but meaningful—synthetic fuels program that was responsive to current budget realities, while at the same time recognizing the long-term national security importance of this vital energy program.

However, the position of the House prevailed in the conference, following a change in the administration's position in favor of abolition of the Synthetic Fuels Corporation. In my judgment, this action is a tragic mistake. Under this conference agreement, the United States and American consumers will be denied a long-term national capability for achievement of the domestic production of synthetic fuels in this century. Consequently, the American people are going to be denied a major insurance policy against the real and ever widening gap between domestic consumption and production of petroleum, the very fuel that drives our economy.

The importance of synthetic fuels was endorsed in July 1985 by the Department of Energy's Energy Research Advisory Board in a draft study on "Long-range Energy R&D Strategy," which stated:

> The major domestic source of fluid fuels, both liquid and gas, which could replace imports appears to be synthetic fuels produced from coal, with significant contributions potentially available from shale and biomass.
>
> Total replacement of imported fluids by synfuels is technically feasible. However, conversion of coal and shale to liquids and gases is intrinsically expensive. Imports will remain the cheaper option for a long time. This does not imply that we should wait to pursue synfuel development projects. Only operating synfuel plants can establish synfuels as a "real option. This was the rationale which resulted in creation of the Synthetic Fuels Corporation [SFC], which was assigned the task of establishing this option.

The budgetary savings from termination of the Synthetic Fuels Corporation have been consistently overstated by its critics. For example, although the Synthetic Fuels Corporation is being terminated and over $6.5 billion is being rescinded, the fiscal year 1986 budgetary savings, according to the Congressional Budget Office, are only $96 million. The 3-year total for fiscal years 1986 through 1988 is only $491 million. This is because the principal forms of financial assistance undertaken by the Corporation are conditional awards involving either price guarantees and, in some instances, loan guarantees.

The continuing resolution would restrict the Board of Directors of the Corporation from making any new awards for financial assistance under the Energy Security Act after enactment of this provision, except that the Corporation and its successor (Department of Treasury) is to perform and complete the undertakings of the Corporation's existing, legally binding, awards or commitments. By the statutory terms of the conference agreement, nothing in this act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities or the Corporation, its Board of Directors, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment.

This restriction also applies to changes in existing financial assistance awards or commitments of the Corporation. It is not intended, however, that this limitation on changes or modifications to existing financial awards or commitments restrict changes which may be necessary as part of normal contract monitoring or administration activities. This restriction on changes, in coordination with the rescission of funds in the Energy Security Reserve, does however limit the authority of the Board (or the Secretary) to make changes which would increase the maximum obligations authority established by the Corporation with respect to any such award or commitment.

The Corporation has entered into a legal binding financial assistance award for the Union Oil Parachute Creek Oil Shale project which obligates the Corporation to pay up to $500 million in price guarantee payments for the production of shale oil from new improved facilities to be constructed by Union Oil Company at its existing oil shale facility in Colorado. This award also legally commits the Corporation to use its best efforts to complete documentation of the terms of a loan guarantee, and execute the loan guarantee agreement, of up to $327 million within the $500 million in obligational authority available for the price guarantee payments. The language of the provision preserves the Corporation's obligation to complete the terms of the Union Oil loan guarantee agreement. Further, it recognizes the need for consultation with the Secretary of the Treasury on the interest rate, timing, and substantial terms of the loan guarantee, and requires that the Secretary provide such consultation within 30 days of enactment of this provision.

The Board of Directors of the Corporation is continued for 60 days after the date of enactment in order to perform these and other functions, including transmission to appropriate authorization committees of the Senate and House of a report containing a review of implementation of the Corporation's Business Plan, which also fulfills the requirements of section 126(b)(3) of the Energy Security Act.

Within 120 days of enactment the Corporation shall terminate and transfer all its functions to the Secretary of the Treasury in accordance with the provisions of existing law.

Because the Corporation is being terminated earlier than originally envisioned by the Congress, the conference agreement provides, first, that, with respect to the salaries and benefits of Directors, officers and employees of the Corporation, no officer or employee shall receive a salary in excess of the rate of basic pay payable for level IV of the executive schedule.

Second, the Director of the Office of Personnel Management shall determine the amount of compensation Directors, officers, and employees shall be legally entitled to under contracts in effect on the date of enactment. With respect to compensation and benefits not covered by contract, no change shall thereafter be allowed or permitted unless the Director of the Office of Personnel Management agrees that such change is reasonable.

While the Corporation's by-laws and written policies and procedures in effect on the date of enactment of the act will remain in effect until changed, the Corporation will not be permitted to waive any of their requirements which are necessary for a Director, officer or employee to qualify for pension or termination benefits under the Corporation's by-laws or written personnel policies and procedures in effect on the date of enactment.

CONCLUSION

Mr. President, this abolition of the Synthetic Fuels Corporation will go down in history as one of the major breaches of faith between the Federal Government and American industry. The losers, however, are the American people.

Because of an extraordinary national need, we asked American industry to step out to the frontier of energy development in the United States and undertake the significant technological and financial risks necessary to advance the commercial development of synthetic fuels. It was recognized that this was to be a joint effort in recognition of the risks involved. What was at stake was greater control of our energy future, and the resultant national security benefits energy independence would provide.

By our action today we may well be sacrificing the security of our energy future. Just as important, we are clearly sacrificing significant private sector investment that has been made and would likely not have been made at this time if it were not for the Federal synthetic fuels initiative that led to the creation of the Synthetic Fuels Corporation. Once again the Federal Government has failed to fulfill its

commitment to the American people and to the companies that have relied on it.

Mr. MATTINGLY. Mr. President, if I might, I would like to address a brief question or two to my distinguished colleague, the Senator from Idaho, who chairs the Interior Appropriations Subcommittee. I am concerned that one provision of the continuing resolution has the effect of repealing a part of the Outer Continental Shelf Lands Act which requires the Government to reimburse geophysical exploration contractors who are required by the same act to furnish data to the Government. In some instances, this data includes resource assessments of frontier areas, and is collected and processed at a loss by the contractor. The reimbursement requirement deters the Government from requisitioning data it does not need. The provision in the continuing resolution could open up the doors and perhaps allow the Government to requisition huge volumes of data. That would exacerbate the losses to the geophysical contractors, and perhaps discourage them from conducting this exploration in the future. The Mineral Management Service has relied upon this source for its resource assessments in determining what offshore areas to offer for lease, and what potential resources might be located in an area which would give the Department a more accurate idea of whether to accept or reject bids at lease sales. I think we may very well have adopted a provision which will cost the Treasury more money in the long run.

Mr. McCLURE. The Interior Subconference had to make some very tough choices in order to reduce the deficit. Although the continuing resolution denies geophysical contractors the reimbursement, it is not our desire to inflict economic loss on the independent contractors who take the risks in collecting the data. Therefore, I feel it is appropriate to caution the Department to requisition no more data than they have historically required to conduct resource assessments, and not to attempt to merely build a complete library of geophysical data. We will keep a close watch on the Department to make sure that they do not abuse the provision contained in the resolution. Also, we will be examining this matter shortly to determine whether or not any further safeguards are needed to ensure that this requirement does not lead to actions which damage the commercial value of the data to the contractors.

FUNDING FOR THE EMERGENCY VETERANS' JOB TRAINING ACT OF 1983

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I want to express my great disappointment in the decision of the conferees to delete the provisions, from the third continuing resolution for fiscal year 1986, House Joint Resolution 469, as it was passed by the Senate, that would have appropriated for fiscal year 1986, $55 million for continued operations under the Emergency Veterans' Job Training Act of 1983 [EVJTA] contingent upon the enactment of a law authorizing that appropriation.

The EVJTA Program provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean-conflict veterans. The program authority has at the present time expired in one respect; the period during which veterans could apply for participation closed on February 28, 1985. However, the period during which veterans may enter training who have applied and been certified eligible for the program, which period had expired on September 1, 1985, was extended to July 1, 1986, by Public Law 99-108, enacted on September 30, 1985. The program presently has a carryover balance—from the $150 million originally appropriated for the program in the fall of 1984—of some $15 to $20 million which is being used to place previously certified eligible veterans. Since September 30, more than 750 veterans have been placed in training positions through the use of these carryover funds.

More than 403,500 applications were received from veterans for participation in training under EVJTA, and almost 52,900 employers have been approved for more than 124,000 job slots. More than 37,000 veterans have entered into training under EVJTA. According to an evaluation of the program—carried out under contract with the Veterans' Administration—those who completed the program had an average hourly wage of $6.77; the completion rate for veterans who entered training under the program was estimated to be 44 percent; and the direct cost of training per participant was estimated to be $3,000.

Although an authorization of fiscal year 1986 appropriations for EVJTA has not yet been enacted, I feel certain that it will be early next year. Both Houses have passed legislation authorizing the appropriation of additional funds.

On May 20, the House of Representatives passed legislation, in H.R. 1408, authorizing the appropriation of $75 million for EVJTA in fiscal year 1986.

And on December 2, the Senate approved an amendment to S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985", offered on behalf of the distinguished chairman of the Veterans' Affairs Committee [Mr. MURKOWSKI] and myself, that includes a fiscal year 1986 authorization level of $55 million and program improvements designed to deal with the weaknesses outlined in the EVJTA Program evaluation. My statement on the amendment—which appears at page S16634 of the CONGRESSIONAL RECORD for December 2—discusses in detail the provisions of the amendment approved by the Senate.

I regret very much, Mr. President, that this legislation became bogged down in the negotiations between the House and Senate Committees on Veterans' Affairs over the numerous differences between our compensation, education, and other VA benefit measures embodied in S. 1887 and H.R. 1408, H.R. 2343, and H.R. 2344. Those negotiations have reached an impasse over certain provisions in the Senate bill—now endorsed by the administration—designed to improve, and enhance the fiscal stability of, the home-loan guaranty program. Although enactment of EVJTA extension legislation is not likely in the short timeframe remaining to us in this session, if we are not able to resolve our differences over the larger legislation early in the next session or proceed in some other fashion to pass—outside of S. 1887—this EVJTA extension and improvement legislation, Senator MURKOWSKI and I have agreed to return the Senate-passed EVJTA extension legislation to the House in a separate bill by early February. Nevertheless, by making the additional funds available in this continuing resolution, we would have been able to ensure that, when the program reopens—on February 1, 1986, under the Senate-passed legislation—sufficient resources would be available to serve the eligible veterans who seek to participate. It is thus very unfortunate that the House and Senate conferees chose to drop the Senate amendment.

Mr. President, I again want to note the fine work of the distinguished Senator from Arizona [Mr. DECONCINI], who serves on both the Veterans' Affairs Committee and the Appropriations Committee, for his successful efforts in persuading the Appropriations Committee to adopt his amendment to provide this funding that the House of Representatives has rejected.

I regret very much, Mr. President, that support for our provision to help unemployed veterans was not forthcoming from the other body and that the funds were, consequently, deleted from the conference agreement.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that tables showing the relationship of the conference agreement on the continuing appropriations resolution to the congressional budget, the Senate- and House-passed bills, and the president's request, and a summary of congressional action to date be printed in the RECORD at an appropriate place prior to final passage of the resolution.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—SPENDING TOTALS—CONFERENCE AGREEMENT

[Dollars in billions]

Fiscal year 1986	Budget authority	Outlays
Outlays from prior-year budget authority, bills enacted this session, and other actions completed	201.5	339.8
H.J. Res. 465, conference agreement	364.5	214.8
Possible later requirements: (see attached table for details)	3.2	3.0
Adjustment to conform mandatory programs to budget resolution assumptions and other adjustments	−14.0	−2.6
Appropriations Committee total	555.3	555.0
Appropriations Committee 302(a) allocation	567.1	554.1
House-passed level	547.0	556.3
Senate-passed level	562.3	555.3
President's request	567.9	562.3
Appropriations Committee total compared to:		
302(a) allocation	−11.8	+0.9
House-passed level	+8.3	−1.3
Senate-passed level	−7.0	−0.3
President's request	−12.6	−7.3

Note.—Details may not add to totals due to rounding.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—POSSIBLE LATER REQUIREMENTS

[Dollars in billions]

	Fiscal year 1986	
	Budget authority	Outlays
Agriculture:		
Salaries and expenses	0.1	(1)
ACIF/Net realized losses	0.4	
RHIF/Net realized losses	0.3	
RDIF/Net realized losses	0.1	
Extension Service/OIG transfer	0.1	0.1
Standard level user charges	(1)	(1)
Defense: Military pay raises		0.7
HUD-Independent Agencies:		
Veterans compensation COLA	0.4	0.3
Readjustment benefits	0.2	0.1
Interior: Forest firefighting	0.1	0.1
Labor-HHS:		
Federal unemployment benefits	0.1	0.1
Advance to unemployment trust funds	(1)	(1)
Black lung	(1)	(1)
Payment to health care trust fund	0.9	0.9
Special benefits for coal miners	(1)	(1)
Supplemental security income	(1)	(1)
Aid to families with dependent children	0.5	0.5
Legislative Branch: Official mail costs	(1)	(1)
Total—possible later requirements	3.2	3.0

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE—FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—H.J. RES. 465; CONFERENCE AGREEMENT

	Fiscal year 1986	
	Budget authority	Outlays
Congressional action to date	724.5	776.6
H.J. Res. 465	364.5	214.8
CCC adjustment	−11.1	
Offsetting receipts	−4.4	−4.4
Possible later requirements: [1]		
Child nutrition	0.2	0.2
Defense pay raises		0.7
Bureau of Land Management programs	(3)	(3)
Payment to air carriers	(3)	(3)
Payment to civil service retirement [2]	(0.2)	(0.2)
Total-possible later requirements	0.3	0.9
Total	1,073.7	987.8
Budget Resolution	1,069.7	967.6
Over (+)/under (−) budget resolution	+4.0	+20.2

[1] CBO estimates that entitlements and other mandatory programs will need the additional funding shown here based on the assumptions contained in the budget resolution (S. Con. Res. 32).

[2] This is an interfund transaction that does not add to budget totals.
[3] Less that $50 million.

Note—Details may not add to totals due to rounding.

Mr. QUAYLE. Mr. President, as chairman of the Defense Acquisition Subcommittee of the Committee on Armed Services, I want to make a brief statement that may be useful as legislative history on the amendments to section 2324 of title 10, United States Code that are included in this continuing resolution.

First, let me say that amendments to the Department of Defense Authorization Act for 1986 should not even have been considered in the appropriations bill. Both Houses have rules against including substantive legislation in appropriations acts, and those rules have a sound policy basis. Appropriations are difficult enough to enact without complicating them further by controversy over substantive law. However, the other body insisted on revisiting the issues that we had just resolved in the conference committee on the authorization bill and I am proud that the Senate, led by the able Senator from Alaska as chairman of the Defense Appropriations Subcommittee, resisted this undermining of proper procedure. I wish to publicly thank him for the vigor and ability with which he put and preserved the Senate position.

However, at the very end of the process, I was asked to negotiate some concessions to the House so that the continuing resolution could be passed. I want to describe the provisions that were agreed on and make clear their meaning.

First, there are two provisions requiring the Department of Defense to submit proposed regulations to specified committees before publication. I want to point out that these regulations may be submitted at any time before publication and these provisions are thus little more that a courtesy and a codification of normal practice.

Second, there are provisions for certain studies and evaluations by the General Accounting Office. These are the kinds of studies that are normally requested by committees from the GAO. I want to emphasize that, while these studies are to evaluate the regulations in the light of the legislative history of section 2324, that legislative history emphasizes the need for flexibility in the regulations to meet the variety of circumstances. See House Report 99-235 page 4490.

Third, the only substantive amendment to section 2324 provides that the Secretary may waive the requirement for certification of indirect costs in "an exceptional case." It is, of course, a truism that waivers are not for ordinary cases but rather for the unusual or the extraordinary case—and that is precisely the dictionary definition of exceptional.

In short, Mr. President, while the exigencies of the situation required that we include some provisions relating to defense acquisition in the conference report, the practical effect of these provisions is miniscule or, to be blunt about it, nil. Committees get advance copies of regulations a day or two before publication in any event; the GAO does studies requested by committees whether or not required to do so by statute; and the waiver provision merely restates the self-evident proposition that waivers should not be granted in the ordinary case.

INCREASES IN HONORARIA

Mr. DECONCINI. Mr. President, 2 weeks ago, the Senate briefly debated a bill to limit PAC contributions. I was a cosponsor to the Boren measure and the Senate should be ashamed that through various maneuverings, we did not vote passage on that reform. The intent of Senator BOREN's bill was to reduce the influence of PAC's on congressional policymaking. At the time the bill was raised, almost all Senators paidlip service to the notion of reducing PAC influence, yet 2 weeks later, we are raising the honoraria limit from $22,530 to $30,040, an increase of $7,510. In some ways, honoraria are more sinister than PAC money in that they are given in the guise of payment of a service—that is, giving a speech—when in actuality, it is a thinly disguised payoff.

When I first came to the Senate, I was surprised to discover that groups wanted to pay me money for having dinner or breakfast with them. I was raised to believe that a public servant is just that—a servant of the public and therefore should be accessible to the people he represents and that money should not be necessary to afford such access. For that reason, I have always refused personally to accept honoraria. In recent years, I have turned it over to charity.

I am sensitive to the arguments of some of my colleagues that Washington is an expensive town in which to live and for some Members, honoraria are necessary to survive. For that very reason, when confronted with a choice of increasing congressional salaries or increasing honorarium limits, I supported a proposal to increase congressional salaries as the lesser evil. And I do not begrudge my colleagues who support the honorarium increase—that is a choice they make. I do begrudge the fact that this new honoraria increase was slipped into the continuing reduction in the dead of night without a vote.

The arguments against honoraria are very similar to the ones raised 2 weeks ago on PAC's. Whether or not these honoraria actually buy anything, the public perception is that they do. Perhaps if the honoraria were limited to the traditional lecture cir-

cuit, I would not find them so offensive. But it is not the colleges and universities, the civil and religious groups that make up the lion's share of honoraria; rather it is trade associations—the same groups providing PAC contributions.

Common Cause reported that in 1984, Members of Congress reported over $5 million in honoraria payments. They further noted that approximately one-fifth of all honoraria went to the Members of the House and Senate tax-writing committees. Perhaps I am wrong, but I have trouble believing that my brethren on the Senate Finance Committee are that much more articulate than the rest of us, that their prose flows more sweetly or their thoughts are more original. I believe it is because there are more lobbyists interested in tax issues.

It is obvious to me that on the last day of the session, we are not going to get a vote on this issue. I wish we would but, being a realist, I have agreed to refrain. But this issue will not go away, and I would like to put my colleagues on notice that I do not plan to let sleeping dogs lie on this one. Not only do I believe that this honoraria increase is wrong and ill-timed but I firmly believe that we should be reducing the amount of honoraria we are allowed to take.

Last week we passed the Gramm-Rudman balanced budget package. I have serious reservation about what we did. But since we have decided that across-the-board decreases are what the rest of the country should live with, perhaps we should make a goodwill gesture and agree that honoraria should be decreased by that same percentage decrease mandated by Gramm-Rudman. I hope my colleagues will give this some thought for I plan on raising this again in the future.

I consider myself a reasonable man, and reasonable men disagree. However, those disagreements should be made in the light of day where everyone has a chance to make public their position. Therefore, I can promise my colleagues that this matter will return.

LOS ANGELES METRO RAIL PROJECT

Mr. WILSON. I would like to ask my friend from North Dakota a question about the metro rail project in Los Angeles.

As the chairman knows, mitigation measures to address the presence of methane gas along the metro rail alignment during construction and operation were first identified in 1983 in the environmental impact statement for the project. These measures were refined in the environmental assessment which was prepared specifically for the first phase, known as MOS-1, in 1984. In fact, I have a letter from the Urban Mass Transportation Administration dated November 21, 1984, which states that no further environmental work would be required on MOS-1. I ask unanimous consent that this letter be made a part of the RECORD.

This bill now before us requires a study of the existence of methane gas in an area beyond the first phase of metro rail. As I understand it, since full environmental studies and methane gas mitigation measures have been developed for MOS-1, it was not the intent of the committee to require this additional study for MOS-1.

Mr. ANDREWS. The Senator is essentially correct. In accepting this House-passed language in the bill, the conferees did not intend to either require a new methane mitigation environmental assessment for MOS-1, nor did they intend to preclude full environmental impact compliance associated with any MOS-1 construction. Regarding the methane gas study that the Senator mentions, a supplemental environmental impact statement for the area to the west of MOS-1 may be required if the geological assessment mentioned in the statement of managers generates significant changes in the project. A full alternatives analysis/environmental impact statement is not expected because the same corridor and same mode, heavy rail are assumed to be utilized.

Mr. WILSON. I thank the chairman.

OPPOSITION TO INCREASE IN HONORARIA CEILING

Mr. BUMPERS. Mr. President, I commend the distinguished chairman of the Appropriations Committee and ranking member for their tireless efforts on this continuing funding resolution. None of us likes the fact that almost 3 months into the fiscal year we are not even close to having passed all of the regular appropriations bills, and I share the chairman's distaste for this manner of governing.

But I do not rise primarily to make the point that we seem to be incapable as a Congress of getting our work done on time, although it is a point worth making time and time again. I wanted only to comment briefly on the issue.

Mr. President, the primary purpose for my seeking the floor is to express my strong opposition to the provisions of this continuing resolution which both increase the honoraria ceiling for Senators and make it easier for a congressional pay increase to be enacted at some point in the future. At a time of retrenchment, when we are asking the American people to cinch their belts, when we will probably be voting to eliminate or substantially cut many important Government programs, this kind of back door pay increase is a breach of faith with the American people. We have no business adopting these changes.

Mr. President, I just wanted to make the record clear on this point and to express my most strenuous objection to these provisions.

Mr. SARBANES. Mr. President, the continuing resolution contains an important provision that will ensure that flood damage repairs on the historic Chesapeake & Ohio Canal can get underway immediately. The measure authorizes the Park Service to use emergency funds to repair the extensive damages caused by the November floods. I want to thank the members of the Appropriations Committee and my colleague Senator MATHIAS for their efforts on this matter and for acting so expeditiously.

The C&O National Historic Park—one of our Nation's and Maryland's great public resources—suffered severe damages from the flood-swollen Potomac River last month. Portions of the C&O Canal and sections of the towpath, a popular hiking and biking trail that divides the canal and the Potomac River, were completely destroyed. Currently, only about a quarter of the 189-mile towpath remains open for recreational use. Experts estimate that the cost of making repairs and restoring the canal and towpath will exceed $10 million and could take up to a year to complete. However, emergency repairs must be made immediately to prevent even further deterioration of this important natural resource from winter storms. Any delay in acting to stabilize the canal and towpath would only mean more costly repairs in the future.

The measure approved by the Appropriations Committee will enable the Park Service to tap emergency funds immediately for necessary repairs. I urge my colleagues to join me in supporting this measure.

Mr. BURDICK. Mr. President, I am pleased to recommend to my colleagues that the continuing resolution conference report be accepted by the Senate as far as the agriculture section is concerned. I commend the chairman of the Agriculture section is concerned. I commend the chairman of the Agriculture Appropriations Subcommittee for his hard work in putting together a resolution that is fiscally responsible and enables the very important programs involving agriculture to continue.

I would, however, like to look briefly at the farm credit situation. In 1985, $5.3 billion was made available in farm loans due, in large part, to the transfer of over $2 billion from the Emergency Disaster Loan Program. The Senate recommended the same amount for 1986, but the conferees agreed to a reduced level of $5.1 billion. While this amount is considerably more than the $3.4 billion requested by the President, I am still very concerned that it will not be enough.

We have every indication that the spring of 1986 is going to be worse than the spring of 1985 as far as our farmers are concerned. The prices

they receive for their produce have not increased. Their land values have fallen. The exportation of their products has decreased significantly.

Congress has agreed to a new farm bill that, over time, will reduce farmers' income instead of increasing it. Also, we recently passed a farm credit bill which saves the Farm Credit System, but does not provide additional credit or direct assistance to the farmer.

Because of these factors, the possibility exists—indeed it is a probability—that many, if not most, of our farmers will have difficulty obtaining the necessary money to put the crop in the ground next spring. When that time comes, and it will be here very soon, I hope that my colleagues will be willing to come to the assistance of the American farmer. He is the backbone of this country and there is no greater need that can be served by the American dollar than maintaining a system of productive family farmers on our land.

NAVAJO-HOPI LAND DISPUTE

Mr. DECONCINI. Mr. President, woven into this country's 200 year history are the lives and destinies of our Native American peoples. The United States has always recognized a governmental relationship with the Indian tribes which embodies the constitutional principles of fairness and equity envisioned by America's founding fathers. This body is vested with the responsibility to uphold those principles as it sets the policy and makes the laws which determine the circumstances under which tribal people like the Navajo and Hopi families have to live.

Since 1958, Congress has been involved in setting the stage for an ultimate settlement of a conflict in land claims by the Navajo and Hopi Tribes. I remind my colleagues here that this conflict, known as the Navajo-Hopi Land Dispute, was originally set in motion by ill-defined Federal Government actions dating back to 1882. Now over 100 years later the tribes and their members are still bearing the burden of the heart-breaking human misery and escalating fiscal costs engendered by these decisions. To date, Federal intervention has in my view served only to complicate a legal dispute which will leave a dark mark in American history. I realize the good intentions behind these past interventions were sincere. But now it appears that we are adhering to a solution which in concept appears legally reasonable but which in the face of intangible human considerations associated with the issue is a dismal failure.

The nature of the problem cries for the attention of a compassionate and just government. I have always tried to make our current policy more responsive to the families who are being buffeted around by our misguided policy. In September, the Senate Appropriations Committee rejected my proposals to eliminate all the additional money originally provided by the Senate version of the Interior Appropriation bill, H.R. 3011, for relocation activities. I strongly believe that targeting more money for moving families without first re-evaluating the situation is fiscally irresponsible. As an alternative, my proposed bill language making the expenditure of those funds conditional upon the submission of a report by the Relocation Commission to Congress was adopted by the full Senate.

I am still deeply disturbed and troubled by the course we are on now. Never has a federal policy reached so far into the lives of people. In so doing we are destroying a world critical to the survival of these native Americans while spawning additional and costly litigation that may place their lives in an even more precarious situation. And these are people who, having lived under the dark cloud cast by the legal dispute for many years, crave stability and a sense of certainly. Even those who have decided to accept the risks and uncertainty or relocation are forced to deal with a Federal agency which has demonstrated limited sensitivity to the turmoil and upheaval in their lives.

As a Government responsible equally for all citizens, we cannot ignore the indelible identification of the Navajo families with the particular lands from which they are being forced to move. As long as their cultural and tribal memory serves them, these lands have been theirs by virtue of their daily usage. In the face of this, any Government action to confer title of those lands to another tribe and mandate the removal of the residents creates an emotionally and physically life threatening set of circumstances for these families. It may resolve a legal disagreement, but it does not compassionately respond to the more critical human problem associated with the issue.

That is why I have opposed the use of relocation to attempt settlement of this problem. I do not deny the legal basis of the Hopi claim to the land in question. However, we are thrusting families, who did nothing to place themselves at the mercy of this legal dispute, into a traumatic experience. They may not all successfully withstand the emotional pain and economic hardships certain to visit them. As the Clark report states "removal from family lands to strange lands, even though to other Navajo reservation lands, creates a sense of failure accompanied by severe emotional trauma and withdrawal."

We unfortunately cannot comfort ourselves with the assumption that those who have been entrusted with the responsibility of administering the relocation program are placing equal emphasis on mitigation the impacts of relocation as on moving the people. In March of this year, a House Committee on Appropriations investigation concluded that it was apparent that "the Commission did not adequately prepare the relocatees to make the transition from life on-reservation to life off-reservation." There are families who have been relocated away from their long-term employment on the reservation, subsequently lost their replacement homes and have ended up without a permanent homeland in a state of financial hardship and mental despair.

All this confirms the difficulty and pitfalls of implementing a Government policy which goes to the core of people's existence. If indeed a relocation policy is found to be the only way to resolve this kind of problem, then it must be carried out with the utmost sensitivity and unwavering commitment to protecting the basic rights of the relocatees. Much evidence abounds today indicating that the Navajo and Hopi Relocation Program is being handled so that the political considerations of a few takes priority over the lives of the relocatees.

We have a moral responsibility not to close our eyes to this extremely difficult situation in the belief that the passage of time will lessen the inhumanity of the relocation program. A public policy which ignores the damage it brings upon a community always leaves scars which starkly stand out in history. Ultimately, the real tragedy of our refusal to face the unpleasant reality of the failed relocation policy will be the creation of a new group of dispossessed people. I am compelled to ask: What public good is served by a Government which allows this to occur? I do not believe that the people of this country can in good conscience be proud of our Government for upholding a law which is humanly unjust.

In the final analysis, the value of human life must dictate the course we take and the manner in which we finally settle this problem. As the Clark Report urged us, "The whole range of issues—not just today's relocation problem—must be addressed. Unless a comprehensive plan be thoughtfully developed and put in place, fundamental tribal disputes may persist for still another century." I am convinced that beyond the tribal disputes we will end up with a monumental human tragedy so injurious to the livelihood of families affected and to the integrity of our great Government that it is imperative for us to take another look at the matter.

I urge my colleagues to consider the findings of the eminent Judge William Clark which were filed on October 21, 1985. These findings reflect the need

for a settlement which is more comprehensive in nature. Judge Clark's report fairly lays out the important elements of the dispute and gives us an excellent basis from which to proceed to a new era of understanding between the Navajo Nation, the Hopi Tribe and the Federal Government.

In the meantime, we must do everything possible to assure those families who are undergoing the relocation process the full protections of existing law. The Interior provisions of the continuing resolution incorporate new bill language which address current concerns about the volatile and sensitive nature of the situation. One provision requires the Relocation Commission to file with the Appropriations Committees of each House of Congress a report detailing the planned expenditure of the housing construction funds appropriated to the Bureau of Indian Affairs for relocatees. A second provision provides specifically:

Provided further, the none of the funds contained in this or any other Act may be used to evict any Navajo household who, as of November 30, 1985, is physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household.

As I understand it, this bill language is intended to permit Navajo families to continue to reside on lands partitioned to the Hopi Tribe without fear of eviction after the July 7, 1986 deadline for completion of the relocation program. The conference committee has accurately recognized the fact that hundreds of Navajo families will not be relocated from Hopi lands by the July 7, 1986 deadline. These families will not have been provided with the replacement homes and related facilities which are required to be provided to them by the mandate of the Navajo and Hopi Settlement Act of 1974, as amended.

It is my understanding that the committee by adopting this amendment, intends to ensure that all Navajo relocatees will receive the full measure of the benefits provided by Public Law 93-531 prior to their removal from Hopi lands. The benefits to be provided include compensation for their existing dwellings, replacement homes and "related community facilities such as water, sewer, roads, schools and health facilities." Finally, I would like to point out that this provision in no way alters the duty of the Navajo and Hopi Indian Relocation Commission to minimize the adverse "social, economic, cultural and other impacts" of relocation of these Navajo families.

I have grave reservations about the funding levels for relocation activities and the other provisions regarding the administration of a program which maintains current policy without reviewing the affect it is having on people. It is my hope that my colleagues will not forget that we are dealing with a human issue, not a simple real estate transaction.

Mr. GORTON. Mr. President, I want to take this opportunity to make a brief statement about the continuing resolution before us. First, I would like to congratulate all of the conferees on the agreement they have hammered out. Spending measures are a prime example of the exercise of congressional power and responsibility, and on this act, the conferees have exercised their power responsibly.

I would also like to take this opportunity to thank especially several Senators who have worked with me so thoughtfully to try to address issues of particular importance to my State. High among these is the distinguished Senator from North Dakota, Senator ANDREWS, who displayed great skill and diligence in helping meet a special concern without violating considerations of good national policy. The language contained in the act instructing the Urban Mass Transportation Administration [UMTA] to enter into a full funding contract to construct a bus tunnel in downtown Seattle is of great importance to Metropolitan Seattle. This is a project which is highly meritorious, having been ranked No. 1 in the Nation by UMTA itself. Senator ANDREWS has been consistent in his support of annual appropriations for the project.

But the instruction to enter into a full-funding contract is a special sign of support for this project, an expression which is especially valuable at this critical time. I appreciate Senator ANDREWS' diligent efforts to find a way to do this which avoided the problems inherent in the statutory letters of credit originally proposed by the House. Far from being a second-best substitute, the alternative statutory language Senator ANDREWS has drafted, together with the very strong supporting report language—which requires consummation of a contract within 90 days, or a report to Congress why the effort has not succeeded—address my constituents' needs in an even more helpful fashion. I am pleased that the Congress is taking this explicit and special step of indicating its support for this project.

There are, of course, numerous other items in this bill that are of special interest in my State, and for which I am appreciative of the hard work of the members of the Appropriations Committee in finding ways to solve the various problems I have brought to them. In particular, I appreciate the special efforts made by my good friend Senator MATTINGLY to secure both construction and planning assistance for the Everett Navy Base, as well as making repeated efforts to secure the discharge of a debt to the State of Washington—efforts which were finally successful.

My friend and neighbor Senator MCCLURE has been particularly generous and helpful on a large number of items, and Senator WEICKER was a great help in understanding and accepting changes in the freeze on indirect cost rates on HHS sponsored research—a provision that means more than a million dollars to the University of Washington.

Finally, I am elated at the generous restoration of absolutely needed funds for the Federal Aviation Administration and the Coast Guard.

I could continue on with a litany of items in the continuing resolution that are particularly important in Washington State, but I will not do so here. I have thanked those Senators who worked with me to address the problems I raised, and my not repeating that here is certainly not intended to slight the other Senators who worked with me. I merely repeat my congratulations to all of the conferees for producing a good bill in the face of great difficulties, and for having the patience to focus on small items as well as on the great.

Mr. GLENN. Mr. President, I rise to acknowledge and offer my support for the conference committee's actions regarding the Clean Coal Technology Program.

While the amount of Federal assistance committed is not as high as I had hoped, nor for as long a period as I would have wished, nevertheless, I commend the committee for its ultimate decisions on this matter. For I feel this program is vitally important if we are to establish a stable and environmentally acceptable energy supply that will sustain economic growth and competitiveness on into the next century.

Originally, both the House and Senate had approved $100 million in fiscal year 1986 for the clean coal technology reserve, but the total program approved by the House would have run for 3 years and cost $500 million, while the Senate voted for a 4-year, $750 million program.

The conference committee voted to set aside $750 million from the energy security reserve of the soon-to-be dismantled Synthetic Fuels Corporation [SEC]. However, only $400 million was actually appropriated: $100 million for fiscal year 1986 and $150 million each for fiscal year 1987 and fiscal year 1988.

I know that the Reagan administration has indicated its willingness to accept the fiscal year 1986 appropriation, but opposes the advance funding for the following 2 years. I firmly believe, however, that without a strong, multiyear commitment on the Government's part, the private sector would be reluctant to obligate the substantial investments required by the 50

percent cost-sharing provisions of this program.

Additionally, the conferees have further earmarked, through authorization, $350 million for the clean coal reserve. These funds are not available until released by a future appropriations act.

All we have to do is look at the facts in order to see why this program is vital to our national interest at this time. Eighty-two percent of the U.S. fuel energy reserves are coal, compared to just over 6 percent for natural gas and oil. Nearly 75 percent of electric power generation in our country is derived from fossil fuels, including almost 58 percent from coal, 4 percent from oil, and 12 percent from natural gas. However, recent studies have indicated that we have been overly optimistic in estimating our domestic recoverable reserves of oil and natural gas.

The United States, on the other hand, with over 470 billion tons, has the world's largest demonstrated coal reserves. This represents a supply of energy adequate for over 300 years at current and projected rates of consumption.

I would like to point out the major role Ohio plays in this regard. The Buckeye State itself has more than 15 billion tons of proven coal reserves. This amount alone would be sufficient to supply the State's current consumption level for the next 200 years and enough to power the entire country for 30 years. Moreover, Ohio has another 40 billion tons of potential coal reserves.

If we are to harness the enormous potential coal has to fuel our economic growth, we must launch a balanced and cost-effective research and development program which will pinpoint the most promising and efficient coal technologies. It seems apparent that our present generation of coal-burning techniques will not be adequate to meet our future requirements.

Conventional base-load pulverized coal units are characterized by economies of scale which require relatively large units with long construction periods and enormous capital investments. In addition, our current methods of controlling high sulfur emissions to conform with environmental regulations are costly and imperfect. Electrostatic precipitators trap flue gas particles on metal plates, like dust to a cloth, but many particles escape. Scrubbers can remove sulfur from smokestack gases by injecting limestone and water, but each year one scrubber generates enough paste-like waste from a single large plant to cover a square mile 1 foot deep. Moreover, it can also add 40 percent to a plant's cost and use up to 8 percent of the power output.

The clean coal technology reserve will help us overcome these obstacles. Its purpose is to identify emerging clean coal technologies that may be commercialized in the near term for reducing emissions from new and existing coal-burning powerplants and industrial coal uses and providing incentives to assure the earliest practicable commercial availability of these new techniques.

This program is also fiscally pragmatic. Private companies will put up at least half of the project costs. The commitment by private industry to move forward with the commercial demonstration of these technologies has already been demonstrated. More than 170 proposals have been received from project sponsors, including 14 from Ohio, representing more than $8 billion in total project costs.

Mr. President, while the funding of this program has vast benefits for the Nation as a whole, it certainly has great implications for those States with large deposits of high-sulfur coal. For instance, in 1970, my home State of Ohio, which burns more coal than any other State, produced some 55 million tons or about 9 percent of total U.S. production. By 1983, however, production had fallen to 33 million tons—just over 4 percent of our country's total. The effects in human terms have been devastating. Just between 1980 and 1983, employment in Ohio mines fell from 14,600 to 10,200.

Less than half of Ohio's consumption now is produced from Buckeye State mines. Ohioans, as consumers, are paying over $1 billion to import coal, primarily low-sulfur, from other States.

On November 5 of this year, Ohio citizens showed their determination to meet this challenge by voting to allow the State to issue up to $100 million in bonds to finance the creation of a statewide Clean Coal Research and Development Program similar to what we are now considering on the Federal level. This will assist a growing number of private companies and State institutions in Ohio that have already begun, or are planning, research, development, and demonstration activities devoted to clean coal burning processes.

It is essential that we move forward to meet the challenges of the 21st century by funding the clean coal technology reserve. Advanced power generation techniques which are modular, economic at smaller scales than conventional plants, and require shorter construction periods can better match capacity additions with actual demand and at lower costs to electric ratepayers. The Clean Coal Program will provide the necessary experience which will allow us to utilize our massive coal reserves in an environmental acceptable manner. It will bolster our energy and national security while enhancing our economic and industrial vitality. Moreover, greater reliance on domestic coal means that more of our energy dollars will support American jobs at home rather than employment in coal mines or oil fields abroad.

Mr. SPECTER. Mr. President, I rise to express my deep concern regarding the removal of funding for the Synthetic Fuels Corporation (SFC) in this year's House-Senate conference on the continuing resolution. It is with regret that I note the decision of Senate conferees to recede to the House position on the elimination of the SFC program.

If the Oil Embargo of 1973 taught America anything, it clearly proved that dependency on foreign suppliers for strategic commodities engenders economic and political vulnerability. As chairman of the Senate Coal Caucus, and Senator from Pennsylvania, a State rich in energy reserves, I believe we must maintain our Nation's energy independence through the use of coal and other domestic fuels for our energy needs.

The SFC provides an important synergism between research and development of new technologies and the commercial application of these technologies. When we created the Synthetic Fuel Corporation, we recognized that the road to commercial energy development is tenuous and expensive, but nonetheless, critical for our goal of long-term energy independence. Joint Government-industry participation is essential to the attainment of this goal.

When synthetic fuels are needed, they will be needed in quantities approaching 2 million barrels per day of production capacity. In a time of crisis, we will simply not have the time to build the necessary facilities to produce fuel in these quantities. That is why we must work now, in a time of relative energy abundance, to develop technologies which will allow us to produce the energy we will need the next time our foreign supplies are threatened.

The legislative memory of members of the House of Representatives can not be so short as to forget the economic and political chaos which followed in the wake of the 1973 oil crisis. We still feel these reverberations today. Yet, the House voted to abolish funding for the Synthetic Fuels Corporation. This action is not only historically naive; it is economically and strategically indefensible.

Although the SFC experienced initial difficulties, the program is close to completing its goal of providing the operating and environmental experience that is essential for our energy and security needs. Now, when we are about to culminate a 4-year effort to achieve synthetic fuel commercialization, is certainly not the time to eliminate this program.

In addition to the national security implications, I am also concerned over the economic impact of dismantling the SFC. Our Nation's energy industry employs thousands of people in Pennsylvania and across the United States in the research, production and extraction of fossil fuels. Many current and proposed projects, including the Keystone project near Johnstown, PA, would be terminated, resulting in layoffs and economic disruption.

With the energy surplus at the moment, we can delude ourselves into believing that we will never again be forced to deal with an energy crisis. Or we can face reality and continue to prepare for the future. Mr. President, it is my sincere hope that we can act and maintain funding for the critically important Synthetic Fuels Corporation programs, instead of having to react to a crisis at some later date.

Mr. BYRD. Mr. President, the continuing resolution, House Joint Resolution 465, was the fifth in a series of such resolutions since this past October 1. The Committee on Appropriations reported this particular resolution to the Senate 2 weeks ago, on December 5, 1985. The lengthy consideration of the measure was due in large part to the numerous and complex issues incorporated within that continuing resolution.

Throughout this wearing process, when many other tempers had shortened, I believe that the Senate was very fortunate, indeed, to have had the calm hand of Chairman MARK HATFIELD guiding this measure to a fair resolution as speedily as was possible. I thank Senator HATFIELD for his hard work on behalf of the Senate and for the many courtesies which he extended to me in this continuing resolution. He has exhibited true leadership and friendship.

I wish to thank Senator STENNIS, as well, for his wisdom and guidance in representing the interest of those on my side of the aisle. Much of the thanks also belongs to Senators JOHNSTON and MCCLURE and to Representatives YATES and REGULA for their tireless efforts to reach agreement on many of the tough issues in the resolution such as clean coal technology. I would also like to add a special thanks to Chairman WHITTEN, and to Senators ANDREWS, COCHRAN, BURDICK, RUDMAN, and HOLLINGS for their cooperation and understanding of the emergency needs of those many West Virginians whose possessions, homes, and communities were destroyed by the recent floods this past November. Without the assistance of these Members, the task of rebuilding would be even more difficult for these citizens. The efforts of these Members will be long remembered by those of us in West Virginia.

Mr. PROXMIRE. Mr. President, I rise reluctantly because there is a part of this bill that I think is a very, very great mistake. Last week the Senate decided to cut nearly $12 billion from the fiscal year 1986 budget. Today it is about to authorize a back door $7,510 pay increase for some Members of the Congress.

Like so many of the special provisions which bring Congress into dispute, this one was added at the last minute to an indispensable piece of legislation, this continuing resolution. Buried in the bill's fine print is a provision which allows Members to keep $30,040, an increase of $7,510 in speaking fees, honoraria.

Now, but just before we act on this, Members can keep $22,530. We are going to raise the limit on the honoraria we keep from 30 to 40 percent of our pay or to $30,000. What Congress cannot do directly it can often do indirectly.

Mr. President, the last time the Senate dealt with this issue in 1983, we voted on it. In fact, our late esteemed colleague, Henry Jackson, offered a series of amendments. Each had a different combination of pay and honoraria limits. Each amendment was the subject of a rollcall vote. Senators were counted on where they stood on increasing the honoraria.

What a difference 2 years can make.

This time neither the House nor the Senate voted to increase honoraria when each considered its version of the continuing resolution. After looking through the debate, the Senator found not one single, solitary mention of the word "honoraria," not a peep, not a chirp or even a whisper. And incidentally, Mr. President, in the conference it was made clear yesterday that the House will not go along with the Senate. As far as they are concerned, they will not take this additional 40 percent. They will keep their outside income at 30 percent.

Mr. President, for all these reasons the Senate should vote on this issue. The Senate may decide that this increase is unjustified. We may vote it down. The Senate should work its will on the issue.

Now, Mr. President, let me just speak briefly on the substance of this issue. In the spirit of the Christmas season, why should Senators and Congressmen not be generous with themselves? What is wrong with Members of this body pushing up their honoraria earnings from $22,500 to $30,000? Why should Senators not enjoy a potential increase in their total compensation? That is, their Senate salary of $75,000 plus $30,000. That would raise the compensation of Senators who want to go out and earn the maximum contribution from the present maximum potential level of $97,500 to $105,000. At $2,000 per speech, a Senator could with only 15 speeches earn the full amount each year.

Why not? There are many reasons why not, and here are a few.

First, for the first time Senators' total compensation would exceed six figures, which would mean it would put Senators in the exclusive class of less than 2 percent—in fact, about 1 percent; I just checked it out—of the American people. I am talking about American households earning $100,000 per year.

Now, many Senators are smart; all are special. There are only 100 Senators in this powerful body, so each of us has very considerable power. Why should we not have compensation to match? One reason is because this increase moves us more out of touch with our constituents who mostly have to get along on less than one-third of what we receive.

Now, most Americans still consider anyone with an income of more than $150,000 per year as rich. They consider those relatively few Americans with incomes of more than $100,000 anually as very rich. The increased honorarium levels puts Senators further than ever removed from their constituents.

No. 2, Senators do not need it. Greed knows no bounds, but certainly there is no rational basis for the arguments that Senators need to earn more than $100,000 per year to live. If the majority of Americans can secure the food they need, the housing they have to have, the transportation and recreation, clothing and education for less than $30,000 per year, why in the world does a Senator need $100,000? If Senators cannot live on less than three or four or five times as much as most taxpayers who pay their salaries live on, they are living an extravagant life which they should not expect the taxpayers to support.

No. 3, most of the honoraria earned by Members of the Senate comes from special interest groups that hire the Senators as speakers, not because those groups are thirsting for good oratory or good entertainment or inside information but because they want to win his support for their cause.

If you serve on the Senate Banking Committee, as I have for more than 28 years, you receive invitations to speak to national and State banking groups that are deeply interested in the legislation that you have a major role in drafting and amending. Your vote can make a big difference in opportunities for banks to increase their profitability. You also have a major influence on savings and loan institutions. Your vote and your influence can seriously help or hurt firms building homes and shopping centers. Construction unions have a direct interest in your position on Federal housing programs. It can literally increase or decrease total wages in the housing industry by billions of dollars. So what happens

when you as a Senator speak before any of these groups? What happens is that you literally go on their payroll. You speak for a half hour or hour and get a nice tidy $1,000 or $2,000.

With the maximum honoraria lifted to 40 percent of your Senate pay, it means that of your total compensation at $105,000, more than a quarter of that total may come from special interests which have a direct pecuniary interest in whether you support or oppose legislation.

Now what happens? As a Senator, your $75,000 pay is neutral. It has no effect on how you vote on legislation. You receive that $75,000 regardless of your position on legislation. But the $30,000 you receive in honoraria may come in large part from those who believe—and with good reason—that they are getting a good and faithful employee by putting you on the payroll at $1,000 per hour or so and up. Oh, sure, once in a while a Senator will read the riot act at his audience, disagree with them and tell them their legislative interest is self-serving, blatantly against the public interest, and he intends to oppose it, and kill it if possible.

That happens occasionally but how often? Let us face it, most of us tell our audiences what they want to hear. We do not insult them or enrage them. We support them. And when the vote comes in committee or on the floor, we want to be their friend, not their enemy.

It is not that $1,000 or $2,000 buys our vote. It does not. But as they say, there are two sides to everything. And if one side has the good judgment to listen appreciatively to your speech and pay you a fancy dollar for it, well, you sure give that side very careful consideration.

Fourth and finally, Mr. President, there is the matter of time. It is possible that some Senators can get the maximum, $2,000 per speech. They can limit their speeches to 15. They even can schedule the whole kit and caboodle in a month or 2. This is true for those Senators who chair critical committees or have a reputation for wielding plenty of power. For others, $30,000 means 30 speeches. That includes travel and preparation. A conscientious Senator wants to deliver a $1,000 speech for $1,000. So it does take time to serve so many masters. And at least in some cases Senators miss crucial rollcalls or committee meetings. With this expansion in honoraria, and therefore in speeches, more of the time on the lecture circuit comes at a time that otherwise could be spent on Senate business or assisting constituents as we were elected to do.

So in summary, Mr. President, we should not increase our honoraria for these reasons: For the first time even, Senators would go over $100,000 in their potential earnings and would find themselves in the company of only 2 percent—I should say 1.2 percent—of all American households who earn such a massive sum.

Senators would be further out of touch with the world of their constituents.

Secondly, Senators do not need it. A majority of constituents get along with less than a third of the more than $100,000 Senators would earn. Taxpayers should not be required to support such extravagance.

Third, most of the honoraria comes from special interest groups who buy legislation with their honoraria. The increase makes the special interest payoff worse than ever.

Fourth, the increase in honoraria will take Senators who are paid a handsome $75,000 per year to do the Senate business away from that business, so it is unfair to constituents.

Now, Mr. President, I had intended to amend the continuing resolution, or to try to get a point of order vote so that I could strike the provision increasing the honoraria limit from 30 to 40 percent.

But after talking with the Senate Parliamentarian I have decided not to proceed for now. To do so will mean defeating the continuing resolution. Even so, I would have been willing to do so if we could have an up or down vote on the issue of increasing the honoraria limit. But there is evidently no way to get a vote on this issue.

To raise the issue, the Senate would first have to overrule the Presiding Officer on a point of order that the conferees had exceeded their authority by including this increase. If the Senate were willing to do that, then the continuing resolution would fall. You can imagine the reaction in this body. We would then have to request another conference with the House and appoint new conferees. After all this, I could offer a motion to instruct the conferees to strike the provision increasing the honoraria. In the process, of course, this could take a week or even longer. It would mean that the continuing resolution would be stalled and stopped.

Furthermore, those favoring an increase would have ample opportunity to cloud the issue. They could argue that we would be risking a shutdown of the Federal Government. They could argue that it would take another week to resolve this issue. They could argue that the House would want to reopen other issues. By raising all these points, those favoring an increase would be likely to prevail on a procedural vote.

This is the situation those of us opposed to this increase face. It is outrageous that we are so boxed in.

It is even more outrageous that we have not had a chance to vote on this. Up until last week we would not have been faced with this impasse. But we are now operating under a precedent where anything in a conference report which is even remotely relevant is germane to the conference report. For that reason, the honoraria increase was put in and cannot be taken out. It was put in although there was no discussion, no debate, no appreciation that it might happen on the floor of the Senate or on the floor of the House.

I want to put the Senate on notice that this issue is not settled. Next February or March, the Senate will be dealing with the first spending cuts mandated by the Gramm-Rudman bill. The Senate will deal with this issue then. In an election year, we will see how many Senators are willing to defend this increase, even as we are cutting programs which are beneficial to millions of Americans.

Unfortunately, I cannot offer the point of order, which would be the basis for killing the whole conference report.

Mr. WALLOP. Mr. President, I rise to object to the provision in the continuing resolution that bans antisatellite testing. During the 6 months preceding the Geneva Summit, the Soviets had a strong, worldwide public relations case to lay groundwork for attaining their major goals for the summit meeting, a limitation restricting the U.S. Strategic Defense Program to laboratory research and a broad ban on antisatellite testing.

The Soviet carrot of deep cuts in offensive weapons played on the free world's desire for peace in order to gain unilateral concessions. President Reagan resisted attempts to bargain away the strategic defense initiative. Both sides came away with statements supporting cuts in offensive systems. The world knew that the tough work of hammering out a real and verifiable arms control agreement was yet to come.

Congress apparently cannot wait for the difficult and tedious process of negotiations. The continuing resolution appropriations conferees, following the lead of the House of Representatives, banned the testing of the U.S. antisatellite systems against objects in space.

The U.S. Asat Program, ready for tests No. 2 and No. 3 is effectively put on ice for the remainder of this fiscal year. Representative GEORGE BROWN, a supporter of such action said, as reported in the Washington Post, this "gives a little breathing space for the President if he wants to enter into real negotiations" with the Soviet Union. Perhaps it is poison gas he wishes the President to breathe. Whatever else he doesn't plan to give much breathing room as the Post article further says he hopes "by next year to have enough votes to abolish the program."

Perhaps Congressman BROWN does not realize that he has not been elected President by the people of the United States nor has he been appointed by the President of the United States and confirmed by the Senate to a role of negotiaton for this Nation. Rather than putting some type of antisatellite moratorium on the bargaining table for use in gaining offensive cuts or reaching reliable verification measures, the appropriations conferees have put Asat under the Soviet Christmas tree. The Soviets are achieving a major goal without any concessions on their part.

By any reasonable standard, the President needs his full arsenal in the months ahead if he is to have any chance to negotiate a treaty with the Soviets that enhances the security of the American people. Congressionally imposed unilateral disarmament is scarcely going to enhance American safety.

The conferees did more damage than this body typically sees on appropriations bills. They exceeded the scope of the House and Senate bills and prohibited the use of fiscal year 1985 funds for the testing authorized and appropriated in that year.

What Representative BROWN and his like-minded colleagues forget is the Soviets have an operational ASAT capability that has been tested, while ours has had but one test. In a potential conflict, the Soviet Union will have quantitative data on which to gage the reliability of their ASAT capability. They will continue to test a variety of capabilities and improve their margin of safety. We will not! The appropriations conferees now give the Soviets control over our ability to obtain that data. Theirs is the decision to test or not. They can decide to sit back with the known capability to destroy our surveillance and early warning satellites when they desire and testing undetectable capabilities. Or they can continue with their own ASAT development programs, selecting the most efficient time to do their own testing. And should they decide to test, I suspect that we will hear the words of the know-it-alls saying, "It was only one test, perhaps they will do no more,—it is best we don't respond. Besides, they have no technical capability, and why should we be the ones to destroy the climate?"

Those who have looked into how satellites fit into military strategy know that the Soviets use satellites differently than we do. Their satellites are not designed to stay in orbit as long as ours, and therefore the Soviets have an impressive relaunch capability. Even equal ASAT capabilities do not have equal tactical value since they can relaunch quickly.

Some say that is a reason to ban all testing and hope that neither side does anything to interfere with the other's satellite capability. It is naive to believe in a period of high tension that the Soviets would not use their existing capability, or that they would not use their extensive missile launch capability to use direct ascent attack on satellites in addition to the tested co-orbital ASAT weapon.

Numerous reports demonstrate that the Soviets continue with a broad scope ASAT and Strategic Defense Research Program, irrespective of what we do. Yossef Bodansky reported in a special to the Washington Times on October 1, 1985 that the Soviets "Already have most or all of the components for a successful antisatellite weapon system."

Research and development has pursued two lines simultaneously. One is a large missile, with a booster based on the technology of the Soviet BL-10, a new supersonic air-launched cruise missile. The other is a smaller missile to fit on a fighter-interceptor, "Most likely the SU-27 Flanker, the Mig-25 Foxbat or the Mig-31 Foxhound." In addition to these systems, Bodansky reports that the Soviets have two military installations in central Asia that have large ground-based lasers that can already be used to blind or destroy satellities.

The Soviets believe in testing their system. To illustrate the Soviet commitment to integrated testing in an operational environment, Bodansky describes a major Soviet exercise to test their offensive-defensive capabilities. One component of that test, only a component, was the launch on June 6, 1982, on a Kosmos-1375 satellite that was subsequently destroyed by a Kosmos-1379 satellite. The entire exercise tested the launching of ICBM's and even ABM operations. If in the face of a single, fully integrated Soviet test we are unconvinced of their intentions and our national need what on Earth would convince us to start to rebuild our limited Asat Program.

The Soviet ground-based lasers illustrate a major problem with the House-initiated ban that makes United States testing contingent on Soviet action. Many Asat actions cannot be verified by present means. Tracking the Soviet coorbital satellite killer is relatively straightforward. When a United States satellite, or even one of their own, is "blinded" or made less effective by a Soviet ground-based laser, verification that a Soviet test has occurred is difficult, if not, impossible. If we cannot even be able to tell when a Soviet test has occurred, the continuing resolution contingency of allowing a United States test should the Soviets do so is of little comfort. It is an act of national thumb sucking and Americans should know what their Congress has done.

In addition to undercutting the President in arms control negotiations, a second major problem exists with the Asat testing ban, the inefficiency it causes when defense dollars are extremely scarce. The press reports describing the House rejection of the initial conference report on the continuing resolution indicate Democratic dissatisfaction with the level of defense spending. The level on that conference report was something less than a full adjustment for inflation, down from the 6-percent real growth in the President's budget request. Some speculate that the passage of Gramm-Rudman-Hollings may even cause a real decrease in future year defense spending.

The ban on the final stage of Asat testing is a most irresponsible waste of increasingly critical dollars for national defense. Scientist and technicians are paid to do nothing but wait on Congressman BROWN and others or the Soviet cat toying with his American mouse. Wake up, brothers, before breakout is on us.

The F-15 Asat Program anticipated a total of 10 intercepts against objects in space. This is not as many as the 20 the Soviets are said to have conducted, but are an adequate number. As in any technical program, many problems must be identified, fixed, and reliability assured.

Testing is necessary. Only one test has been completed, on September 13, 1985. It demonstrated that certain problems with the motors had been solved. Under the Defense authorization bill, three tests were authorized for fiscal year 1986—including the September 1985 test. Following the testing plan, on December 13, 1985, the Air Force launched two targets for use in the remaining two tests for this year. Launching these two targets cost approximately $20 million. Because these targets have a limited useful lifetime, a moratorium for fiscal year 1986 would result in the loss of $20 million. Very efficient my colleagues. Very efficient.

Presently the F-15 Asat Project is costing $10 to $15 million a month. With a moratorium, since only ground testing can be done, the test and development team is essentially on hold. The Defense Department and the Air Force have two options, cancel the program or put the project on hold at a cost of $10 to $15 million each month. This body which has raised a great outcry against waste and inefficiency in the Defense Department should be incensed at this. It is inefficiency of the worst kind, and a waste of increasingly scarce defense dollars. While the expenditure of millions of dollars per month will pay the bills, members of the technical team will undoubtedly begin to look for new, more active projects to use their talents. Restarting a program becomes harder and harder.

Perhaps more important than the dollars wasted each month to keep a

technical team together is the lack of confidence that a capability which looks good on the drawing boards can perform as required in an operational sense. I would not be surprised to see in a year or two the same Members who pushed so hard for this moratorium assailing the Air Force about how we can know that Asat and SDI Systems will work as designed.

Mr. President, I object strongly to this ban on antisatellite testing. It undercuts the ability of the President to negotiate with the Soviets, it wastes scarce defense dollars, and impedes the ability of this Nation to protect itself. At this time late in the session when Members are eager to go home for the holiday, I know I am not able to do much to change this situation. Christmas pleasures must of course take precedence over national need. All of us can see that. My prayer is for a Christmas gift to the Nation. A Congress desirous of peace on Earth which is at last willing to face the dreadful challenge the Soviets thrust upon us. We did not seek that challenge and we do not wish it to be so—but it is here and it is real. Wishing will not make it go away. Wishing will make it here to stay. The clouds are dark. The hour grows ever later. Merry Christmas my colleagues. Absent courage there may not be many more.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. WALLOP. I yield the floor.

Mr. STEVENS. Mr. President, I commend the distinguished Senator from Wyoming for the statement he has just made.

One of the saddest portions of the last 2 weeks has been the vacillation of support for defense and the way that the whole fabric of our procedures has been eroded by the process of reconciliation and also by this continuing resolution.

We have not yet seen reconciliation come forward, although many of the people who were involved in our conference were taken away from the reconciliation process. It hampered us and prevented getting an earlier resolution to our problems. Then, as the Senator knows, we suffered defeat of the first conference report in the House.

The comments of the Senator from Wyoming concerning the defense portion of this bill are, in my judgment, well taken.

Mr. WALLOP. Mr. President, I thank the Senator from Alaska. I would say that the thrust of my remarks primarily is directed at those in the House. I know perfectly well of the commitment of the Senator from Alaska to the defense of this Nation, and I thank him for it. I yield the floor.

Mr. EXON. Mr. President, before the distinguished Senator from Wyoming leaves the floor, I, too, want to add my compliments to him for bringing this up. If there was one principal mistake made, it seems to me, it was yielding to the House position on antisatellite testing. I wish to generally associate myself with the remarks the Senator from Wyoming has made.

I wish to compliment the Senator from Alaska. I was glad that our conferees held, at least on the matter of chemical warfare, which is equally important and is another area where we are sorely behind the Soviets.

I hope that we will not live to regret the decision that was made. Maybe we can repair it somewhere along the line. But it seems to me that the testing of our antisatellite adventures, let me put it that way, rather than experiments, compared with what the Soviets have done in the past is something that we did not do wisely.

So I thank my friend from Wyoming for bringing up that point.

Mr. WALLOP. I thank the Senator from Nebraska. I know, too, of his commitment to it. We simply must find somehow or another to put this Nation's good above temporary political judgments, not that I am suggesting the conferees did that, but I am suggesting perhaps some in the House may have.

Mr. HATFIELD. Mr. President, if I may have the attention of the Senator from Idaho, if there is no further debate, I urge the adoption of the conference report.

The PRESIDING OFFICER (Mr. ARMSTRONG.) The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I want to be recorded as voting "no" on the conference report.

Mr. EXON. Mr. President, I ask that I be recorded in opposition to the continuing resolution that was just passed. This Senator was on the floor very recently, 15 or 20 minutes ago, or shortly before that, and was advised the conference report had not yet come over. I did not know we were not going to have a rollcall vote. I guess myself and others assumed we would.

But in any event, I would like to have this Senator as voting no at the appropriate place in the RECORD.

Mr. GOLDWATER. Mr. President, I believe this is the fifth—I may be one short or one long—but I believe this is the fifth continuing resolution in a row to take care of the military authorization and the funds required to provide for the defense of this country. The fifth in a row for this Congress or other Congresses of the past.

Mr. President, this is no way in the world to run not only the defense of the country, but any department of our Government. Here we have been in session now nearly 12 months and we have probably done more business and spent more of the taxpayers money in the last 6 hours than we have in those whole 12 months.

Mr. President, I, as Chairman of the Armed Services Committee, am going to repeat some of the things that I have said in the years before, particularly regarding the way that we have to go about providing these funds for the operation of our Government.

We meet here approximately January 1, and we are required by law to provide by May 15 this authorization for the different departments that we are responsible for. I believe the Armed Services Committee was the only committee ready by May 15, of last year. We held more hearings, longer hearings, and heard more testimony than any other committee. When we had completed this work, the Budget Committee said, "No, that was not quite the way its should be." So we went back to work, held more hearings, had more consideration, and came up with another military authorization bill.

Now, Mr. President, when the Budget Act was passed, I believe, in 1977, I voted for it. I thought it was a splendid idea to have this additional oversight on the expending of money that this Congress does every year. I have to admit now that it was probably the worst idea, in, at least, my humble opinion, that was ever adopted by the Congress of the United States.

What we are slowly doing, Mr. President, whether we like to admit it or not, is working ourselves into a situation where we do not really need committees of this Congress to conduct the business of this Congress. Let me try to explain that.

I have taken the military authorization bill through two processes already this year where we, I believe, as the only major committee in this body, reduced the funding by $20 billion. No other committee even approached what they were supposed to reduce their spending to so that we might help reduce the deficit and bring the budget more into balance.

After the Budget Committee had raised havoc with our first efforts at authorization, then it came back to us. We rewrote the bill. It came to the floor. It was passed in the Senate. At the same time, the House of Representatives was going through these same problems, the same actions. They passed their bill and, as is customary, the Senate and the House met in conference. We had a relatively successful conference this summer. It lasted only a little over 3½ weeks.

Then the bill came back to the Senate, where it was adopted by the Senate. We thought, "Well, that was probably the end of it." No, we had not reckoned yet with the Appropriations Committee.

Now, the normal process of the passage of legislation through this body and the other body, I must remind my colleagues, is that we meet in the early days of the session. We authorize what we feel is necessary to conduct the business of our particular part of Government for the year.

It then comes to the floor, goes to the House for conference, comes back, and then the Appropriations Committee approves or disapproves. That is the old way—just what we did.

But now let us see what we do today. I have already taken the listener through one authorization attempt, then through another authorization attempt, then through a joint authorization attempt by the House and the Senate. But now we are confronted with the Appropriations Committee.

I have to say this with all due respect to the Senator from Alaska. If we did not have him on that Appropriations Committee, I do not know where the military of this country would be. Mind you, here is a subcommittee that he Chairs, made up of committee chairmen from other committees who do not have the time, and, with one or two exceptions, do not have the expertise to consider the considerably intricate subject of the military.

Then they rewrite the bill. If it were not for the Senator from Alaska, who has had military experience, and understands what he is talking about, I do not know where the military of our Government would stand.

I am afraid we would be in far, far worse condition in relation to any potential enemy than we are today.

I would also say with great respect about the Senator from Oregon, who is chairman of the Appropriations Committee, that I do not think in all of my years in politics, particularly all of my years in the Senate I have ever known a more honest man, a man whose words are as good as all the gold you will ever find. However, this fine gentleman does not agree with the military. He very rightfully, as is the right of every American, having served his country well, feels that building a military necessary to defend our freedom as not particularly necessary confronts us with another problem.

So here we are. A military affairs committee faced with the defense of this country, and we have to go through all of these actions day after day after day, hour after hour after hour after hour with the American press telling lie after lie about the expenditure of the people's money for defense purposes.

We spend around $300 billion a year. We write over 15 million contracts a year in the Pentagon to go out to construct the equipment we need. Yet, we are doing it over constantly increasing difficulties.

Mr. President, if we do not do something about this budgetary process that we are in, and I think the chairman is doing a very fine job with all the problems that he has on his shoulders connected with it, I can see the day coming—in fact, I can see it not far off—where any chairman of any committee can stand on the floor of this body, or on the floor of the other body, and make an honest suggestion, Mr. President, that we do away with committees such as Armed Services, Interior, Agriculture, and so forth, that we turn it over to the Appropriations Committee, and let them in their wisdom write the legislation, bring it to the floor, have our amendments, and then feel that we have done our job.

(Mr. WALLOP assumed the chair.)

Mr. President, I do not believe that was the way the Founding Fathers of our country designed this country to be run. It is the finest Constitution, and it is the finest idea of government that was ever conceived by man. But we are slowly turning it into chaos. We are slowly making it impossible for intelligence to come to the floor of this Senate, and say we need this piece of equipment, or we do not. We bring bills to this floor under ample rules. Mr. President, there is nothing really wrong with the rules of this Senate except one thing. We ignore them.

We are not supposed to legislate on appropriations bills nor appropriate on legislation bills. But we do it, and do it, and do it. The military authorization bill that I started off on had 117 amendments when we brought that bill to the floor, and five of them had any relation at all to the defense of our country.

There is nothing wrong with the rules of this Senate. What is wrong with the rules of this Senate is nobody pays any attention to them. Just one little matter. It does not amount to much.

We have a 15-minute voting rule. Last year we spent 12 days, 12 days, voting on 15 minutes where we do not pay any attention to it. We some days may take an hour, half an hour, some days it might even take a half a day if somebody is off flying their airplane back to get in here, and they need the vote.

Mr. President, I did not intend to get off on this. But this has been bugging me for a long, long time. I have watched this Senate for nearly 30 years of my life. I have watched it operate under the rules as it should. I have watched it operate as a wonderful body where we knew what was going on. We knew when it was going on. We had a pretty good idea of how long it would take. And here it is a week from Christmas, and I do not know anybody around here that would make me a small-sized bet that we are going to get out of here before Christmas Eve.

Why? We do not work Mondays. We work Tuesdays, Wednesdays, and Thursdays. We do not work Fridays. That is wonderful if you come from a State east of the Mississippi. But if you live out in the States like the occupant of the Chair and I do, far, far west of the Mississippi, getting away from here on Friday does not mean a hoot. You cannot get an airline reservation. You cannot get home. So we stand around here, looking at some lousy television, read—I will not use the same term for the newspapers because they do have pretty good funnypapers. But this body, this Congress, is not being run the way it should in the best interests of our country.

I have served here nearly 30 years. I do not think I have ever served in a Congress that has served so badly as this one where it is the time to go home, and the time has long since passed when we should have gone home. And we still do not know what the other House is going to do. We still do not know what we are going to do.

So, Mr. President, I merely stood up, and when I did we just passed by voice vote a bill that contains over $300 million for defense purposes—no discussion, no understanding. When it came time yesterday, and the day before and the day before that for the military affairs under this bill to be discussed, do you think anybody from the Armed Services Committee discussed it? No. Somebody from the Appropriations Committee discussed it. That is as silly as asking me to discuss the agriculture bill. I do not even know which end of the shovel goes in the ground first. By golly, I am a little different than the other 100. I will admit it.

We bring bills in here, and we watch amendments pile up, pile up, pile up. They are not germane. We will not pass a rule relative to germaneness. So anything can be passed. The bills become nothing but Christmas trees.

When I came to this body I think we had, 1,300 people working on the Hill. I think we now have over 30,000 people working on the Hill. I honestly believe that some of their jobs consist of sitting before a typewriter or a computer and doing nothing but writing amendments all day long so that somebody can stand on this floor and offer, and I have counted one day, eight different amendments by one Member.

Mr. President, that is no way to run this body.

We are fooling ourselves. We are lying to the American people when we

try to tell them that we are doing the best we can for them.

We are doing a lousy job. It is time we faced up to it.

I regret that I was not here the other day when Senator BIDEN and some others began to call attention to the lack of work that we do, to the poor quality of work that we accomplish.

This country is in very, very serious trouble. We have a deficit that I doubt seriously will ever be met. I do think the Gramm-Rudman bill, contrary to what many people think, will work. At least we will try.

We will never reach a balanced budget in this body. We will not even come close to it.

I worry, Mr. President, about the future of my country. This is what I am alive for, it is what I live for, it is what I was raised for—to defend my country. When I think of the millions of men and women in uniform defending their country, and the handful of citizens in the Congress who do not seem to give a tiddly bing about whether we have defense or not, knocking out a program such as ASAT, the first real break we have had to be able to destroy an incoming missile should that sad day ever come, what are we thinking about?

I go back to the late 1930's when it took four Congresses to buy the B–17. It did not win the war for us in the 1940's but it sure was a help.

I sit now and listen to debate over whether we should buy chemicals for warfare, and whether the Russians are using it on Afghans day after day.

I have listened to debates as to whether we should allow the Chinese, the most double-crossing, undependable people—not the Chinese as Chinese people, but the Government of China, a Communist government—to allow those people to have our atomic secrets and then have the President defend it.

I hope the Glenn amendment comes up next year. I will be on that bill and I will argue my head off for it.

The greatest ally we ever had in the Pacific is Taiwan, and the perimeter of the Pacific is the future of this world, not Europe, not Asia. Someday, and I will be long gone, Asia will be one of the great productive areas, like South America. But we pay our attention to Europe and we ignore the countries of the Pacific where we have the country of Taiwan ready to defend us and yet we are arming their natural enemy, the home of the Red Chinese, not the home of the Chinese that I know and you know and we love, but the home of the Chinese Communist Government that will do everything to become the world power in this world.

I do not worry so much about the Soviets. I worry about the Chinese under a Communist form of government.

I am wandering around here.

(Mr. ARMSTRONG assumed the chair.)

Mr. WALLOP. Will the Senator yield for an observation?

Mr. GOLDWATER. I yield.

Mr. WALLOP. Mr. President, it is sometimes so sad that we have speeches on the floor that miss the ears of our colleagues. We have just been in the middle of a warning that this Senate, this Congress, this President, this Nation should take to heart.

Here we sit with our closest allies, the only ones willing to fight in our behalf, and certainly willing to fight in our behalf, and we limit them to technology that we know they cannot fight with while we advance the technology of their enemy who we know they will have to confront someday.

It gives this Nation such a peculiar aura of shamefulness that it does not deserve. The country does not feel that way. The country subscribes to what the Senator from Arizona just said. I only wish more of our colleagues had heard it. I salute him for it. I wish to God we had it more often. I hope one of these days the rest will hear and the rest will heed.

Mr. GOLDWATER. I thank my friend.

I did not plan on mentioning this, but I remember the great remarks of support that President Reagan gave to Taiwan during his first time of trying to get elected President. While I happened to have liked him and I would have voted for him anyway, Taiwan is the biggest aircraft carrier we have on any ocean, anyplace in the world, and yet Taiwan has been double-crossed by our State Department. I do not believe they understand what it means to get along with countries, to have peace in the world. We have people who say anything they want and they are never challenged.

I remember the day that it was suggested that President Nixon go to China and make a deal with China. Now we have recognized a Communist government bent upon the destruction of the world—and particularly the destruction of Taiwan—and which is our enemy. Our Government does not seem to understand that Taiwan is our friend.

Mr. President, if I went through all the things I can find wrong with our Government, I would be here for a month. But I do not want to do that. I love my country. I do not like to see it kicked around. I do not like to see 535 experts on foreign policy, 535 experts on every subject in the world, get up and try to run this country.

The committee system is the way this Government was planned to be run. The committee system can run this Government. But it cannot run this Government under the budget system and sooner or later, like it or not, we are going to have to get away from the budget system and go back to the system allowing the committees of Congress to operate.

I am glad this bill was passed. I again want to congratulate the Senator from Alaska who is the only man on the Military Affairs Committee who understands military. We at least came out of it with a lot more than I ever thought we would.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NICKLES). Without objection, it is so ordered.

THE GRAMM-RUDMAN-HOLLINGS DEFICIT REDUCTION PLAN

Mr. MOYNIHAN. Mr. President, on December 11, the Senate, as we know, adopted by a 2-to-1 vote the legislation which has come to be known as the Gramm-Rudman-Hollings deficit reduction plan. At that time I spoke at some length in opposition to the measure, having in mind a number of things. The first was that it represented a basic decision by the U.S. Congress to avoid and formally to renounce the responsibility for imposing priorities on public spending. On that occasion I recalled a statement President John F. Kennedy was fond of making when he would say that "To govern is to choose." To decide rather than choosing what to spend on, what not to spend on, and let such choices be made by kind of mechanical processes involving various bureaucracies, OMB, CBO, GAO, was an abdication of constitutional responsibility and of elemental good sense, which is that some things are more important than others, that resources are limited, and choices have to be made.

I also said at the time, Mr. President, that the way we were putting into place this automated mechanism was such that inevitably there would be large reductions in the provisions for the national defense. I spoke about this at great length and wondered what possibly could be our intention in setting in process such a reversal of what is now almost a 10-year, steady increase in the defense appropriations—a trend which has certainly restored our forces from the levels to which they had declined in the early and middle 1970's. This is a general proposition, not something we should do.

I observed that the highest levels of the Pentagon had assured that morning that the Gramm-Rudman-Hollings

legislation would require a 3-percent real reduction in fiscal 1987, 5 percent in 1988, 8 percent in 1989—an accelerating decline—just at the moment when we had once again aroused 5 NATO allies to keep the commitment which we made, and we all made together, under President Carter, in 1978, to maintain a 3-percent real growth rate in defense outlays. We agreed to go up 3-percent and yet under the provisions of Gramm-Rudman-Hollings we would reduce real defense outlays by 3-percent, which is hardly promising for a conventional force.

I recalled a remark which the distinguished Senator from Colorado (Mr. HART) had made in the early stages of this debate, when we had a number of colloquys. He noted that in this context the almost necessary movement of the force posture is of greater reliance on strategic nuclear responses to crises, a formulation which in the 1950's got the somewhat baleful designation of "more bang for the buck." That is to say that no matter what degree of engagement between powers might be, any hostilities will be nuclear hostilities, which is exactly the opposite of what the world needs or we want.

Mr. President, I went further in speaking of the implications of the action we were taking for the arms negotiations in place now in Geneva, negotiations to which I have the honor to be one of the Senate observers.

I said at the time, on December 11, that the Soviets had returned to the negotiating table with us probably out of a number of considerations, of which surely one was that the President had announced the intention to launch a major initiative called the Strategic Defense Initiative. SDI envisioned as a missile defense system of enormous range and consequence, far beyond anything ever contemplated in the days of point defense of ballistic missile fields or indeed of particular cities, but, rather, a shield that would cover the whole continental United States.

I acknowledge that the United States had not made such a proposition or offer, but it seemed to me that if there were going to be an agreement, it would take the following rough form: In return for a Soviet agreement to scrap their heavy missiles, those great SS-18's, and a possibility implicit in a proposal on warhead limits which they tabled sometime ago, we would agree to scrap this SDI.

I did not say that this is something our administration had proposed. But people who follow these things say that, in that rough context, there was indeed the prospect of a major agreement which, among other things, would bring about the President's repeated and genuine and admirable proposal that we reduce the numbers of warheads and missiles and not just lower the rate of increase.

In a brilliant article in the current Foreign Affairs, Mr. Thomas C. Schelling discusses the proposition that this particular preoccupation might not be as productive as it seems. Still, it is the President's goal, and it cannot do any great harm, and it could do great good.

Then, Mr. President, I said—and I take the liberty of quoting myself on that occasion:

> What about the Strategic Defense initiative? With an estimated cost of $1 trillion, clearly it is one of the concerns that has brought the Soviets to the bargaining table. With what credibility can the spokesmen for a country that is slashing its defense expenditures look across the table and say to their negotiating partners: "You know, if we cannot reach an agreement on real reductions, we are going to put a trillion dollars into the SDI." There is no trillion dollars for the SDI. There will be no SDI, and the Soviets will know it. Any downstream possibility of negotiating a real reduction, as the President has sought, on strategic weapons disappears. It disappears on this floor today. Arms control disappears.

I had previously inserted in the RECORD an article from the Washington Post of that morning which was headed: "Pentagon Warns Anti-Deficit Would Be Comfort to Soviets."

Mr. President, we had some further comment on that score, and it occurs again today. This morning, in the Washington Post, my friend and the widely-admired political commentator Mr. Ben Wattenberg has an article which has the headline: "Deficit Plan Is a Plus for the Soviets." In a way, he repeats, restates, and adds to the argument I made on December 11.

I should like to leave that as the first part of my statement this afternoon: It is my conviction that we have jeopardized the arms talks by the measures we have adopted in the first session of the 99th Congress.

To a second point, Mr. President: In that floor statement I did say that the Republican Party had initiated this proposal, the Gramm-Rudman-Hollings proposal; that it came to the floor without hearings, without any previous announcement, and indeed without even being printed. I made what I thought was the not altogether inaccurate statement that this was probably the first privately-printed bill that had ever been enacted by the Senate.

I recall standing here that day with Senator HART and asking, "Where is the bill? Can we see a copy of the bill?" Of course we could not. We were 3 days in debate before there was even a mimeographed version in circulation.

In this morning's Washington Post, Mr. Hobart Rowen, who is surely the Capital's most respected and experienced commentator on economic matters, has a column which is headed "The Democrats Will Have To Answer For It."

It begins:

> Now that the infamous Gramm-Rudman-Hollings budget-balancing gimmickry has been enacted into law, the Democratic Party must assess its shared responsibilities for getting it through Congress.

It is a fact that in the first vote on the matter a majority of Members on this side of the aisle voted for the measure and in the final measure it was an even 22 for and 22 against. That divides us.

I think it is fair to say that indeed this side of the aisle does have to account for, and is responsible in some measure for the success of that proposition, and I think it only fair that I should acknowledge that this is the case and that it might have been more graceful of me to say so at the time.

A third observation I wish to make, Mr. President is that we have come to the end of a tumultuous session with yet once again nothing in fact done about deficits. I am led into this third portion of my remarks on this closing afternoon by the closing paragraph of Mr. Rowen's essay this morning. He said:

> The folly of the whole exercise of budget-balancing via a blind formula is matched only by the deception symbolized in 1981 by the Laffer supply-side "curve" that was supposed to yield greater tax revenues and ample national savings out of lower tax rates. What supply-side economics produced, when tested, was the giant deficit that curbed the flow of savings, sapped the Democratic Party's virility and now, finally, has given us the Gramm-Rudman era.

I say this in the context of my disappointment in this session of Congress at the repeated rejection of the effort I have made along with distinguished friend from New Jersey [Mr. LAUTENBERG] to persuade Congress to make at least a small effort at the reduction of our debt and our deficit by selling in commercial markets portions of the $245 billion loan portfolio which various agencies of the U.S. Government have accumulated over the years.

At the time this proposal was first made in the Budget Committee and on the two occasions we debated it and voted on it in the Chamber, I have been first to acknowledge that some of these debts are not really collectible and we probably never expected that they would be. Famine assistance to countries that have changes their names twice since they fought famine before the present one are not going to pay back food assistance we gave them in the 1950's or 1960's.

But it is still the case that a very great deal of that loan portfolio represents valid debts which can be paid, will be paid, are regularly paid, and could be sold to other lenders, as is the normal commercial practice of banks and other institutions.

Mr. President, I have only a few remaining remarks to be made. If one looks at that portfolio you find it is, made up of loans of high quality which are perfectly marketable. The largest single loan in our portfolio is the $2 billion loan to a Government-owned public utility in South Korea for the purchase of American generating equipment through the financing of the Export-Import Bank.

I raise this issue again for two reasons. First, the terror with which the Members of this body seemingly faced the prospect that the public would learn just how huge a subsidy these loans are to those who receive them. They are. They are made at below market rates, such that the $2 billion loan if sold would sell for about $1.6 billion.

It is not that we would make some mistake in selling it. It would be worth $1.6 billion as it was the day it was made. The difference represents the subsidy involved in the transaction.

The fact that we might have picked up, as we still can do, $100 billion or $130 billion or $140 billion, cutting into the deficit that amount and saving in perpetuity or near thereto the interest payments, $10 billion or $12 billion per year, mounting as it compounds, did not attract any interest in this body.

It does not attract any interest in this day when we are approaching the point where it will require half the revenues of the personal income tax just to pay the interest on the debt.

The transfer of wealth from labor to capital which this represents I believe has no precedent in the annals of this Republic.

But there was another reason, Mr. President, that this proposal has not been welcomed, and that is that the Office of Management and Budget fiercely opposed this measure. They opposed it here. They opposed a much more modest proposal on the House side because all along we have been dealing with a grand design in the administration—a design of incredible folly—to create a deficit that would force not just the diminishment but in some measure the dismantling of the modern American Government in its domestic aspects.

I first made this observation in an article in the New Republic 2 years ago next week, that the deficit was deliberate. At that time, this was not a proposition generally agreed to. Since then we have the testimony of persons of such distinction as Friedrich von Hayek and Norman Ornstein, and others, who testified to having been told this by high officers in the administration, by the President's close counsellors.

At some level it could be forgiven as a policy if there were in fact that degree of options available. There have not been, as this body has over and over demonstrated. There just were not that may Government programs to be reduced.

And indeed instead of reducing what could be, as we surely have done as much as there was to be done, or as much as the political disposition of this body was to do at any given time, the strange fact is that early in the administration history, the realization came that these options were not there. You could not cut that much money.

If it were there, Mr. President, one elemental event would occur: The President would have sent us a balanced budget. One elemental fact: In 1981 or 1982 or 1983 or 1984 or 1985, he would have sent us a budget that was balanced. He has never done or anything near that which is testimony to their own understanding of this reality. And yet at the level of rhetoric, it is denied.

The statements continue that Congress must do its duty and balance the budget by taking down domestic spending. Even today, this morning, Mr. President, the New York Times reports in an article on the front page and the headline is "Reagan Denies cut Will Hurt Military," "Says Budget Bill"—meaning the Gramm-Rudman-Hollings bill—"Says Budget Bill Means End of 'Wasteful' Domestic Plans."

Mr. President, this attains to the condition of fantasy—5 years, doubling the national debt. Time will not be far off when the whole of the personal income tax will be required to pay the interest on the debt, a transfer of wealth from labor to capital, from workers who pay income tax to investors who hold Treasury bills. And we still are using the rhetoric which got us into the situtation. And that was really quite unforgivable of OMB, by which time the officials who did know the reality, even resisted as simple and elemental a measure as Mr. LAUTENBERG and I have put forward.

So here we are. Come to the end of 5 years, we have doubled the debt; turned ourselves into a debtor Nation. We are about, I think, to see the wreckage of the defense program. We are about to see, I think, the loss of an opportunity for a major arms agreement, a historic arms agreement, something the President came to this city with as high of a priority of anything he had.

It is tragic, Mr. President. No one can take any pleasure in it. But it also compels us to ask: Where did this leakage of reality begin? How long can we live in a world in which what we say and what we do is at such contrast?

The Financial Times of London, in an editorial about the Gramm-Rudman-Hollings legislation, not long ago said of the President—and they admire him, as we all admire him, as a person—in describing in one wonderful sentence his first 5 years in office with respect to fiscal matters: "He said one thing, did the opposite, and got credit for both." And yet, Mr. President, the crisis does not go away; it only compounds. And we look forward to the next session.

I hope that what I have said about Gramm-Rudman-Hollings is wrong. And if it is wrong, I hope I shall have the integrity to so state. And I fear it is not. And I find when what I have to say is confirmed by as eminent an economist as Hobart Rowen and as able a political commentator as Ben Wattenberg, I look forward with even greater apprehension to the year ahead.

Mr. President, I ask unanimous consent that the articles by Mr. Rowen and Mr. Wattenberg be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[Washington Post—Dec. 19, 1985]

THE DEMOCRATS WILL HAVE TO ANSWER FOR IT

(By Hobart Rowen)

Now that the infamous Gramm-Rudman-Hollings budget-balancing gimmickry has been enacted into law, the Democratic Party must assess its shared responsibility for getting it through Congress.

In the end, 22 Senate Democrats (including Edward M. Kennedy) voted for the bill, exactly equal to the 22 who had the guts to call it a fakery. And in the House, almost as many Democrats voted for it as against—118 to 130. These Gramm-Rudman Democrats will have to live with their vote to dismember the old left-labor-liberal-inner city coalition.

To be sure, some House Democrats succeeded in amending the original Senate bill to exclude from its automatic budget-cutting ax eight programs serving low-income families and disabled veterans, including Medicaid and food stamps.

And a few Democratic senators—including Pat Moynihan of New York and Gary Hart of Colorado—bluntly told their colleagues that Gramm-Rudman was bad medicine and a shirking of their responsibilities.

But as a party, the Democrats, in their new reliance on the political payoff of "fiscal integrity," were afraid, to try to kill Gramm-Rudman outright. Meanwhile, President Reagan's willingness to accept Gramm-Rudman as his own lends credence to the charge made some weeks ago by Moynihan that from the beginning, the president and then budget director David Stockman planned the huge tax cuts of 1981, along with the boost in military spending, for the precise purpose of creating the deficit that would then allow the final assault on social programs.

Moreover, no one—Gramm, Rudman, Hollings, Reagan or Kennedy—has yet explained why a balanced budget should be a national goal in and of itself. The proper goal, of course, should be to balance the economy, one that is both compassionate and competitive. That is something that President John F. Kennedy understood when he recommended a tax cut despite the existence of a budget deficit in 1962.

Gramm, the genius behind the revolution that takes budget decision-making out of

the hands of individual congressmen, is disarmingly candid about his objective.

"The whole genius of the American political system is imposing limits on the power of government. I think the American people want to control the growth and size and the expense of the government," he said in an interview.

Last week on PBS's "Capitol Journal," Gramm brushed aside discussion of one basic weakness of his scheme—its inadequate provisions for dealing with recession. Since Herbert Hoover turned a recession into Depression by attempting to cut government spending as an antidote to bad times, no national administration—Republican or Democratic—has repeated that mistake. But Gramm-Rudman will require budget cuts even if the economy is limping along, say at just a 2 percent real growth rate, accelerating the downturn.

The precise economic consequences of Gramm-Rudman are among the major worries. According to Data Resources, Inc., unless the Fed loosens the money supply considerably, the fiscal drag of deep, sudden budget reductions under Gramm-Rudman will push the unemployment rate sharply higher, to over 9 percent in 1987 before it retreats to around current levels.

That could provide a major surprise for congressmen who expect to brag to their constituents that they voted to balance the budget.

But Phil Gramm doesn't intend to rest on his laurels. He served notice that he'll be back next year trying to get those eight exempted programs under his budget-cutting knife, which would make it easier to meet deficit targets without excessive whacks at the military budget, or raising taxes. Even the exemption of Social Security benefits isn't safe forever.

Gramm doesn't talk much about the dangerous aspects of his brainchild. He is on the way to success in achieving his pet goal—eliminating government services—unless the courts declare the whole business unconstitutional, or a new Congress comes to its senses.

The folly of the whole exercise of budget-balancing via a blind formula is matched only by the deception symbolized in 1981 by the Laffer supply-side "curve" that was supposed to yield greater tax revenues and ample National savings out of lower tax rates. What supply-side economics produced, when tested, was the giant deficit that curbed the flow of savings, sapped the Democratic Party's virility and now, finally, has given us the Gramm-Rudman era.

[New York Post—Dec. 19, 1985]

DEFICIT PLAN IS A PLUS FOR SOVIETS

(By Ben Wallenberg)

There are more than initials that link the Gorbachev-Reagan diplomatic process with the new Gramm-Rudman budget process. In fact, the latter may emasculate the former.

You will recall that the first G-R process was featured recently in Geneva. President Reagan had said simply that America was strong again, and so we could negotiate—from strength—with the Soviets. It was simple, but probably accurate.

Apparently Gorbachev and the Soviets believed it. American military strength had increased. Then arms talks resumed; the summit occurred; two more summits were scheduled.

Perhaps something could come of it. Maybe we had forced the Soviets to behave reasonably.

Enter the second G-R. The Gramm-Rudman balanced budget bill, as you probably have heard, provides for a balanced budget by 1991, which, if you want a balanced budget, is a nice time to have a balanced budget by.

Have you been confused about Gramm-Rudman?

Confused because it forces the President to make big budget cuts, which the Congress will then change, which will then go back to the White House where a computer will do the real cutting, which will then go back to the Congress for another shot at it, which at some point may or may not involve a tax increase, all of which may or may not sharply cut defense and social programs?

You are not alone in your confusion. I am confused, too. That's all right, I am not a budget expert. But I will tell you something. The experts are confused, too. No one knows how it will work out. Including Gorbachev.

Imagine you are Gorbachev. You have decided to negotiate seriously because your adversary has demonstrated that he is serious: big arms buildup, a real push for Star Wars. Now, suddenly, everyone is talking about big defense cuts. Will the cuts really happen?

My guru on congressional matters is the scholar Norman Ornstein, a colleague at the American Enterprise Institute. Ornstein guesses—and he is guessing—that when it's all over, defense spending will probably come in at a range between no increase and a 5 percent cut.

Interesting: Recall that a year ago Reagan and Defense Secretary Caspar Weinberger were still talking about 6 percent increases.

Recall that the impact of Gramm-Rudman probably gets tougher and tougher each year until 1991, as the mandated deficit cuts go deeper and deeper.

I repeat: Imagine you are Gorbachev. What do you do? Negotiate? Or sit? Sit is not a bad strategy. You may well be able to let the U.S. give away for free what you were willing to trade for. The Soviet strategy has always been for America to unilaterally disarm.

In the end, Ronald Reagan will have to make a tough choice. New York Sen. Daniel P. Moynihan has described Gramm-Rudman as a "suicide pact." That's correct. It links defense spending to domestic spending. If one goes off the cliff—so does the other. If you save one, you have to save both.

It works out that if Reagan wants to preserve one of his dreams—promoting liberty via defense spending—he will have to give up another—cutting back the welfare state via domestic spending cuts.

One assumes that after much bluffing back and forth, much confusion, incredible boredom as three-cushion budget strategies are debated by arcane pundits—Reagan will go with the "save both" decision.

He will defend liberty and leave the welfare state alone. That means an over-his-dead-body tax increase, which he will inch up to—very, very slowly.

That G-R budget process will take a year, and perhaps two or three or four years. While that happens, it may well put the G-R diplomatic process on hold, as Gorbachev sits tight instead of backing down to a reasonable position.

Would you like to know my reaction?

Grrrr. . .

CONGRATULATIONS TO THE MEMBERS OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE

Mr. MATSUNAGA. Mr. President, I rise to congratulate the nine members of the Board of Directors of the U.S. Institute of Peace who were confirmed last night shortly before the Senate recessed.

As members of the first Board of Directors of the Institute of Peace, these nine will have a most important task. It will be up to them to set the Institute's course for the next several years. They will establish the Institute's research priorities, set up its information services division and establish the Jennings Randolph Center for International Peace, named in honor of my good friend and former colleague, who was the first to cosponsor the bill which I introduced in the Senate to establish the Institute. They will be responsible for finding ways to involve Americans from all walks of life in the Institute's work, and I am sure that this is one of the areas which Congress will analyze closely when considering legislation to reauthorize the Institute in future years. To paraphrase John Norton Moore, the designated Chairman of the Institute's Board of Directors, there is nothing more important to the citizens of our country than the search for peace and human dignity.

I am confident that the nine Directors nominated by President Reagan and confirmed last night by the Senate will fulfill these duties in an outstanding manner, and I urge President Reagan to expedite his nomination of the two remaining Board members so that the Institute will be able to begin its work with a full compliment.

As one who worked for 22 years in Congress to establish the U.S. Institute of Peace, I take great pleasure and pride in congratulating its first Board of Directors. They are John Norton Moore, Chairman; Allen Weinstein, Richard J. Neuhaus, W. Bruce Weinrod, W. Scott Thompson, Evron N. Kirkpatrick, Dennis L. Bark, William R. Kintner, and Sidney Lovett.

SUSTAINING PRESIDENTIAL VETO OF TEXTILE AND APPAREL TRADE ENFORCEMENT ACT OF 1985

Mr. MATSUNAGA. Mr. President, if and when this body attempts to override the President's veto of the Textile and Apparel Trade Enforcement Act of 1985 (H.R. 1562), I strongly urge my colleagues to vote to sustain the veto.

Mr. President, I have had keen reservations about this legislation from the very outset. As a member of the International Trade Subcommittee of the Senate Finance Committee, I voiced

my strong concerns about this bill when it was the subject of hearings before the subcommittee on July 15, 1985, and on September 12, 1985. On those occasions, I stated that I would filibuster against the bill on the Senate floor unless the discriminatory provisions of the bill were removed and the Hawaiian garment industry was protected from its provisions. During the Senate floor consideration of H.R. 1562 on November 13, 1985, I once again expressed my vigorous opposition to the bill as written. In keeping with my commitment to filibuster against the bill, I opposed a motion to invoke cloture to foreclose any prolonged debate. Unfortunately, the proponents of the legislation were able to garner more than the requisite 60 votes necessary to proceed to the consideration of, and final vote on, the bill.

In the hope that my colleagues who voted against the bill on final passage will vote to sustain the President's veto, I wish to reiterate the arguments I raised during that earlier debate.

Mr. President, the Textile and Apparel Trade Enforcement Act, H.R. 1562, in applying additional quota restrictions on textile and apparel imports, blatantly discriminates against Asian-Pacific nations and Brazil. The European Economic Community [ECC] is totally exempt from the bill's coverage, as is Canada, despite the fact that textile and apparel import growth from these two areas are increasing faster than from most developing countries. Imports from Multi-Fiber Arrangement [MFA] developing countries during the period October 1984 to March 1985 declined 4 percent, as compared with the same period in the preceding year, while imports from the EEC and Canada increased by 35 percent during the corresponding period, according to an international business and economic research consultants [IBERC] report. Imports from the EEC alone increased 22.5 percent from January 1984 through August 1985, while imports from Taiwan, Korea, Hong Kong, and China experienced a marked decline during this same period. Asian/Pacific rim nations, however, are the major targets of the import restrictions under the legislation.

In order to address this apparent discrimination I offered an amendment with the distinguished Senator from Alaska [Mr. MURKOWSKI] which would have expanded the coverage of the legislation to all foreign countries with which we have trade relations. The Matsunaga-Murkowski amendment would have redefined the term foreign country in order to eliminate unfair discrimination and restore American fairness to the legislation. Unfortunately, this amendment was not adopted by the Senate due to the opposition of the proponents of the bill.

The second issue which I raised on the Senate floor and which I restate today is the effect of the bill on the garment industry in Hawaii.

Mr. President, the proponents of the Textile and Apparel Trade Enforcement Act have asserted that due to textile and apparel imports into the United States, workers in domestic textile companies have lost employment and have been otherwise materially and adversely affected. Assuming the legitimacy of this assertion, the growth and development of the Hawaiian garment industry cannot be said to have caused the slightest increase in unemployment in South Carolina or any other State. Indeed, from its inception, the Hawaiian garment industry, which directly employs 2,950 workers, has depended on Asian textiles because the quality of prints and colors are available from only a few domestic mills and are not produced in sufficient quantities to meet the demand of Hawaii's industry. Since Hawaii's industry has always relied on Asian sources for textiles, jobs have not been taken away from domestic mills and no economic dislocation has occurred as a result of this reliance. In fact, the 2,950 garment workers in Hawaii, who are employed in 138 establishments with an annual gross product of $80 million, represent American jobs, which deserve to be protected from legislation which would result in the crippling of their industry.

Representatives of the Hawaii garment industry testified before the Trade Subcommittee of the Finance Committee that enactment of the Textile and Apparel Trade Enforcement Act of 1985 would mean the dismantling of the garment manufacturing industry in Hawaii and the loss of 2,950 jobs, or more—American Jobs, I repeat. Hawaiian garment industry leaders such as William S. Foster, Sr., and Gunter Von Hamm provided the subcommittee with valuable information on jobs which would be lost in Hawaii as a result of this bill. These are American jobs, I repeat, Mr. President. Certainly, if the intended purpose of the pending legislation is to save American jobs, these 2,950 jobs in Hawaii deserve saving.

Coupled with its crippling effect on the garment industry in Hawaii, this bill would also seriously harm the tourism industry, which constitutes the States largest industry. In 1983, for example, visitor expenditures on clothing and accessories totaled $417.8 million, which I must add, contributed favorably to the U.S. balance of trade. Textiles and apparel imported into the customs territory of Hawaii run at a level of 15 million square yards annually. This is an infinitesimal amount in relation to the total annual textile and apparel imports into the United States. According to the U.S. Department of Commerce, textile and apparel imports amount to approximately 7 billion square yards annually. This means that Hawaii's share of imports amount to less than one-fifth of 1 percent of the National total.

In order to prevent the Hawaiian garment industry from being harmed by this legislation, I offered an amendment on the Senate floor which would have exempted printed textiles imported for consumption and substantial transformation into the noncontiguous States from coverage of the bill. This amendment would have had minimal or no effect on our mainland domestic textile industry and would have served to maintain the economic viability of the garment industry in Hawaii. This amendment, However was not adopted as part of the Senate-passed bill due to the opposition of the Senate proponents of the bill.

Mr. President, I believe that the economic circumstances of the domestic textile industry should be addressed in the context of a comprehensive U.S. Trade Policy and not by legislation which is violative of international trade agreements. I believe this bill is discriminatory in its application to foreign countries and is harmful to our trade relations with such countries. Therefore, I will vote to sustain the President's veto of the Textile and Apparel Trade Enforcement Act of 1985, and urge my colleagues to do likewise.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA REVENUE BOND ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now turn to Calendar Order No. 460, H.R. 3718, the District of Columbia Revenue Bond Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike out all after the enacting clause, and

insert the following, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in bold face brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 3718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1985".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF REVENUE BONDS.

(a) WAIVER.—Section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to certain acts of the District of Columbia described in subsection (c) authorizing the issuance, sale, and delivery of revenue bonds.

(b) EFFECTIVE DATE OF ACTS.—Notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision in any District of Columbia act described in subsection (c), the District of Columbia acts described in subsection (c) shall take effect on the date of the enactment of this Act.

(c) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING THE ISSUANCE OF REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of revenue bonds referred to in subsections (a) and (b) are as follows:

(1) The Georgetown University Higher Education Facilities Revenue Bond Act of 1985, District of Columbia act 6-101, transmitted to the Speaker of the House and the President of the Senate November 7, 1985.

[(2) The George Washington University Revenue Bond Act of 1985, District of Columbia act 6-76, transmitted to the Speaker of the House and the President of the Senate October 3, 1985.**]**

[(3)**]** *(2)* The Sibley Memorial Hospital Revenue Bond Act of 1985, District of Columbia act 6-94, transmitted to the Speaker of the House and the President of the Senate October 23, 1985.

[(4) The Washington Hospital Center Corporation Revenue Bond Act of 1985, District of Columbia act 6-92, transmitted to the Speaker of the House and the President of the Senate October 10, 1985.**]**

(3) The American University Revenue Bond Act of 1985 (Series A) District of Columbia act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

(4) The Forrest Marbury House Project Revenue Bond Act of 1985, District of Columbia act 6-112, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

(5) The George Washington University Revenue Bond Act of 1985 (Series A).

The provisions of subsections (a) and (b) shall not apply to the District of Columbia act described in clause (5) of this subsection unless such act is passed by the District of Columbia by December 31, 1985. If the District of Columbia act described in clause (5) is passed by the District of Columbia after the date of enactment of this Act but before January 1, 1986, the effective date of such act, notwithstanding subsection (b) of this section, shall be the date of passage by the District of Columbia.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to

AMENDMENT NO. 1430

(Purpose: To strike provisions relating to the Forrest Marbury House Project)

Mr. BYRD. Mr. President, on behalf of Mr. METZENBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. METZENBAUM, proposes an amendment numbered 1430.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3 strike lines 17 through 20.

On page 3 strike "5" on lines 21 and 24 and insert in lieu thereof "4".

On page 4 strike "5" on line 2 and insert in lieu thereof "4".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1430) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read the third time.

The bill (H.R. 3718) was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARMS EXPORT CONTROL ACT AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 475, S. 1831.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1831) to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, S. 1831, the pending measure, is neither complicated nor controversial. It amounts to what is really a one-word change in law—changing "concurrent" to "joint" in the legal reference to the types of arms sales disapproval resolutions which enjoy expedited procedures.

This measure has very strong bipartisan support, both on the Foreign Relations Committee and throughout the Senate. I understand this measure is supported by the chairman of the Foreign Relations Committee. And it is cosponsored by Senators DODD, SARBANES, BOSCHWITZ, KERRY, PELL, EAGLETON, INOUYE, HATFIELD, LAUTENBERG, PACKWOOD, KENNEDY, HEINZ, LEVIN, GORTON, KASTEN, SASSER, and BINGAMAN.

It would simply restore the provision in law providing expedited procedures for resolutions of disapproval introduced pursuant to section 36(b) of the AECA, in a fashion similar to the Dodd-Cranston legislation, adopted on the pending measure last Friday, which provided expedited procedures for any Jordan-specific resolution of disapproval we might consider next February.

Let me stress that our proposal would not grant Congress any new powers in this area. The AECA already provides for expedited procedures for concurrent resolutions. Since the 1981 Supreme Court decision in the *Chadha* case rejecting the legislative veto, Congress has employed joint resolutions of disapproval as means of manifesting opposition to a particular sale. The problem—which we faced recently on the Jordan arms resolution—is that while a concurrent resolution of disapproval enjoys expedited procedures preventing filibusters, a joint resolution does not.

The AECA provisions of section 36(b) for arms export reviews work best when Congress can proceed in a deliberate and timely manner. For this reason, I hope that our colleagues will join with us in supporting this important proposal to clarify procedural safeguards which was unanimously passed by the Foreign Relations Committee on December 11.

I appreciate the bipartisan spirit with which we have proceeded thus far on this issue—it is not a partisan issue, it is simply a question of Senate rulemaking prerogatives, and therefore an issue in which the executive branch really has no say.

It is my hope the full Senate will now adopt this measure so that we can have this safeguard enacted into law.

I move the adoption of S. 1831.

Mr. DODD. Mr. President, I welcome the decision by the conferees on the continuing resolution to retain the Senate provision which provides for expedited procedures to govern any

joint resolution, introduced on or after February 1, 1986, objecting to the proposed arms sales to the Government of Jordan.

My colleagues will recall that on October 21, the administration officially notified Congress of its intention to sell 2 billion worth dollars of sophisticated armaments, including advanced aircraft and air defense systems, to Jordan. Three days later, the Senate acted on a resolution giving the President the authority to implement this sale after March 1, of the coming year.

I endorsed the concept of delaying this sale until next year. But, Mr. President, I could not support Senate Joint Resolution 228 because it did not guarantee this forum an opportunity to review this sale and to vote to disapprove it, should a majority of the Members determine prior to March 1, that implementing the sale after that date would not serve United States interests in helping to move the Middle East peace process forward.

As I have noted on other occasions, the sale of a variety of advanced weapons systems to the state of Jordan is simply too important to allow it to go forward without the appropriate procedural safeguards. We all recognize the volatility of the political environment of the Middle East, and because of this volatility, we all realize that we must approach arms sales to the region with great care and caution.

Like others in this Chamber, I hope such care and caution are unnecessary in this case; I hope the peace process proceeds apace; and I hope direct negotiations between Israel and Jordan begin tomorrow.

But I am also a realist, and I realize, as do others, that when it comes to the Middle East, there is an awful lot of history to suggest that our hopes will not be fulfilled, or at least, not fulfilled in the timeframe we expected.

The amendment which I offered to the continuing resolution, together with 51 cosponsors, recognized these realities and insisted on the necessary procedural safeguards with respect to the Jordan arms sales issue. The Senate adopted my amendment without objection. That amendment, I am pleased to report, has now been incorporated into the conference report on the continuing resolution.

Mr. President, because of this amendment the U.S. Senate is assured of a meaningful role in the final decision with respect to the Jordan arms sales proposal. I welcome this role, and I thank the conferees who insisted on keeping this amendment in conference report.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1831) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(d)(2) of the Arms Export Control act is amended—

(1) in subparagraph (A), by striking out "adopt, within such 30-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such 30-day period, a law prohibiting"; and

(2) in subparagraph (B), by striking out "adopt, within such fifteen-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such fifteen-day period, a law prohibiting".

(b) Section 36(b) of the Arms Export Control Act is amended—

(1) in the fifth sentence of paragraph (1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (2), by inserting "joint" before "resolution" each of the four places it appears; and

(3) in paragraph (3)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(c) Section 36(c) of the Arms Export Control Act is amended—

(1) in paragraph (2)(B), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (3)(A), by inserting "joint" before "resolution"; and

(3) in paragraph (3)(B)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(d) Section 63 of the Arms Export Control Act is amended—

(1) in subsection (a)(1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in subsection (b), by inserting "joint" before "resolution"; and

(3) in subsection (c)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution."

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNION STATION DEVELOPMENT

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1706.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1706) entitled "An Act to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corporation, to design a building or buildings adjacent to Union Station in Washington, D.C.", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. STUDY OF CONSTRUCTION OF OFFICE BUILDING.

(a) REQUIREMENT FOR JOINT STUDY. The Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, shall jointly study alternatives for the construction on squares 721 and 722, bounded by F Street, 2nd Street, Massachusetts Avenue, and Columbia Plaza, Northeast, in the District of Columbia, of a building or buildings to meet the current and future needs of the administrative office of the United States Courts, the Federal Judicial Center, and other judicial functions and such other commercial, governmental, cultural, educational, and recreational activities which the Architect and the Secretary determine may appropriately be located in such building or buildings. Such building or buildings shall complement the areas surrounding such squares and fulfill the goals of mixed use in the Public Buildings Cooperative Use Act of 1976.

(b) ELEMENTS OF STUDY.—The study under subsection (a) shall include—

(1) a study of alternative sizes and designs for such building or buildings and the estimated cost of each such alternative necessary to meet the current and future needs referred to in subsection (a);

(2) an analysis of other commercial, governmental, cultural, educational, and recreational activities which may appropriately be located in such building or buildings;

(3) an analysis of methods of providing security, utility, fire, and other related services for such building or buildings and allocating the cost of providing such services among the occupants of such building or buildings;

(4) an analysis of methods for financing and constructing such building or buildings in the most feasible and economical manner; and

(5) an analysis of methods of financing the construction of such building or buildings, including methods to minimize or eliminate initial capital investment by the United States through the use of public-private partnerships or nongovernmental sources of financing such construction.

(c) REPORT.—Not later than August 15, 1986, the Architect of the Capitol and the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a), together with recommendations concerning the size and design of such building or buildings and methods of financing the construction of such building or buildings.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Architect of the Capitol $2,000,000 for fiscal year 1986 to carry out this Act. From funds appropriated to carry out this Act, the Architect shall make available to the Secetary of Transportation such amounts as may be necessary for the Secretary to carry out the Secretary's functions under this Act.

Funds appropriated to carry out this Act shall remain available until expended.

Amend the title so as to read: "An Act to authorize the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.".

Mr. STAFFORD. Mr. President, I urge the Senate to approve this bill.

For quite some time, Congress has sought to redevelop Washington's Union Station and the area around it.

Prior to the creation of Amtrak, Congress enacted legislation to convert Union Station to a National Visitors Center. Tens of millions of dollars were spent to begin construction on a parking garage and the conversion of the Station. Following a series of cost overruns and other problems, the project was abandoned and the structure closed.

In 1981, Congress passed the Union Station Redevelopment Act as Public Law 97-125. The concept of that law was to revive Union Station as a station for Amtrak, while attracting commercial development into the building.

As a part of Public Law 97-125, Congress included a provision allowing the Department of Transportation, which is in charge of the revival of Union Station, to obtain from the Architect of the Capitol the use of two squares, 721 and 722, on the north side of Massachusetts Avenue. For the past decade, these two squares have been used as open, ground-level parking for Senate staff.

In that 1981 law, Congress took the position, which remains valid today, that development on these squares must occur in a manner that complements the revival of Union Station.

But because the Department of Transportation has not requested use of that land, control over those two squares remains somewhat uncertain. While the land continues to be a part of the Capitol Grounds, yet it is also subject to an option that has not been exercised.

When it became clear that both the Union Station Act and the Master Plan for Capitol Hill projected construction of some sort of Federal building on squares 721 and 722, discussions began to focus on the opportunity to locate there the Administrative Office of the U.S. Courts and related judicial activities.

The Administrative Office faces a severe housing problem. In this fiscal year, its 635 employees, along with another 122 persons assigned to the Federal Judicial Center, will be scattered among eight buildings in Washington, many of them several miles from the Supreme Court, to which they are responsible ultimately.

In an effort to resolve this question, I was honored to introduce S. 1706, a bill to move study of the project forward, while retaining the proper and effective degree of public control.

S. 1706 passed the Senate in October. The House later modified the bill, in no way undermining the basic intent of the Senate.

S. 1706, as amended by the House, authorizes two steps: An assessment on the size of a building that would be suitable for this site, while meeting the needs of the administrative office and other potential uses.

For example, the best proposal might be a building far larger than one needed simply to accommodate the administrative office. Such a building could include restaurants, shops, and other offices. This would be in line with the goals of the Public Buildings Cooperative Use Act—Public Law 94-541.

In this study, the Architect is also expected to review what types of tenants might be appropriate and which might be inappropriate to sharing a building with the administrative offices. It seems to this Senator, for example, that space should never be leased to law firms that might have business dealings with various components of the administrative office.

Second, the assessment will make a careful study of actual proposals for financing the building or buildings. We should expect to receive plans for alternative financing that would lessen or eliminate any need for a direct Federal capital investment.

While the study is undertaken by the Architect, in cooperation with the Department of Transportation, it is intended to be sufficiently flexible so that developers can bid at a later date to participate in the financing and construction.

While the bill does not address directly this point, I am convinced the bill also provides sufficient flexibility to the Architect to conduct a national architectual competition on the building's design.

Such a competition, as I see it, would involve selection of half a dozen or so leading architects, each of whom would be paid a sum, possibly $10,000 to $25,000, to develop a basic design.

We anticipate that the Architect and the Secretary of Transportation will have a panel of experts to help judge and select the design. Such a panel will be valuable whether we use this route, or one of the other financing alternatives.

The building's ultimate design would be selected from these submissions, with work on the drawings to begin immediately, using some of the $2 million that is authorized in this bill.

No matter how the building is to be financed, it is very important the size and design of this building fit in with the national significance of the site: Adjacent to the U.S. Capitol, near the office buildings of the U.S. Senate, and next door to Union Station. And it must also be recognized that it is across the street from an area of residences and small businesses.

The building must reflect the importance of the setting; we cannot settle for a glass box, a typical ticky-tack structure designed to turn a quick buck.

This bill offers a sound approach. But I must stress three points:

This is a cooperative venture, between the Architect and the Department of Transportation, working through its Union Station Redevelopment Corp.

This bill is intended to assure that as much of the construction financing as possible comes from non-Federal sources.

This bill is intended to meet the spirit of mixed use in the Public Buildings Cooperative Use Act, enhancing Union Station both visually and economically.

Mr. President, I move the adoption of the bill.

Mr. STEVENS. Mr. President, I move that the Senate concur on the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIAN YOUTH ALCOHOL AND DRUG ABUSE PREVENTION ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 1298 which deals with drug abuse among Indian youth.

Mr. BYRD. Mr. President, I have no objection to the waiver of the 3-day rule.

Mr. STEVENS. I thank the distinguished minority leader.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1298) to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause insert the following:

That this Act may be cited as the "Indian Youth Alcohol and Drug Abuse Prevention Act".

TITLE I—INTERDEPARTMENTAL AGREEMENT

SEC. 101. (a) The Secretary of Health and Human Services shall take action to enter into a written agreement with the Secretary of the Interior to—

(1) coordinate the Bureau of Indian Affairs and Indian Health Service Indian youth alcohol and drug abuse programs existing on the date of enactment of this Act and programs established by this Act;

(2) identify Federal, State, local, and private resources to combat Indian youth alcohol and drug abuse;

(3) delineate the responsbilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate Indian youth alcohol and drug abuse-related services at the central, area, agency, and service until levels;

(4) determine the scope of the Indian youth alcohol and drug abuse problem and its estimated financial and human costs;

(5) authorize the Bureau of Indian Affairs agency superintendents and education superintendents and the Indian Health Service service unit directors to enter into agreements described in section 102; and

(6) provide for biennial review of such agreement of the Secretary of Health and Human Services and the Secretary of the Interior.

(b)(1) The Secretary of the Interior and the Secretary of Health and Human Services shall consult with, and solicit the comments of, interested Indian tribes, Indian individuals, and Indian organizations in developing the agreement under subsection (a).

(2) The agreement under subsection (a) shall be submitted to Congress and published in the Federal Register within 180 days of the date of enactment of this Act.

SEC. 102. (a) After publication in the Federal Register of the agreement entered into under section 101, any Indian tribe may submit a written request to the Secretary of Health and Human Services to coordinate resources and services related to Indian youth alcohol and drug abuse prevention, identification, education, treatment, and followup care.

(b) Within 90 days of receipt of a written request of any Indian tribe submitted under subsection (a), the Secretary of Health and Human Services, in consultation with the Secretary of the Interior, shall—

(1) enter into an agreement with such tribe to identify and coordinate the responsibilities and referral resources of all agencies and programs providing youth alcohol and drug abuse-related resources or services within the service area of such tribe; and

(2) review and modify such agreement, as necessary, to reflect changes in the availability of resources and services related to youth alcohol and drug abuse prevention, identification, education, treatment, and followup care.

TITLE II—EDUCATION

SEC. 201. (a) The Secretary of the Interior shall require Bureau of Indian Affairs schools, and schools operated under any contract entered into with the Bureau of Indian Affairs, to provide a program of instruction regarding alcohol and drug abuse to students in kindergarten and grades 1 through 12.

(b) The program required under subsection (a) shall be developed in consultation with the Indian tribe or tribes that will be served by such program and with appropriate education and health personnel at the local level.

(c) Schools providing programs of instruction under subsection (a) shall include family participation in the instruction.

SEC. 202. The Secretary of Health and Human Services shall, within 9 months of the date of enactment of this Act, begin publishing an alcohol and drug abuse newsletter in cooperation with the Department of the Interior and the Department of Education which shall report on Indian alcohol and drug abuse projects and programs. The newsletter shall be published once in each calendar quarter and shall be circulated without charge to schools, tribal offices, Bureau of Indian Affairs agency and area offices, Indian Health Service area and service unit offices, Indian Health Service alcohol programs, and other entities providing alcohol and drug abuse-related services or resources to Indian people.

SEC. 203. Subsection (a) of section 423 of the Indian Education Act (20 U.S.C. 3385b(a)) is amended by inserting "clinical psychology," afer "medicine,".

TITLE III—FAMILY AND SOCIAL SERVICES

SEC. 301. (a) Any initial training program for new community health representatives and community health aids funded under the authority of the Act of November 2, 1921 (25 U.S.C. 13) shall include not less than 80 hours of instruction in the area of alcohol and drug abuse and shall include training in crisis intervention and family relations in the context of alcohol and drug abuse, youth alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome.

(b)(1) The Secretary of Health and Human Services shall, either directly or through contract, make available instructions in the area of alcohol and drug abuse, including instruction in crisis intervention and family relations in the context of alcohol and drug abuse, youth alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome to—

(A) personnel at schools operated any contract entered into the Bureau of Indian Affairs,

(B) personnel of programs operated under any contract entered into with the Indian Health Service,

(C) personnel of the Bureau of Indian Affairs,

(D) personnel of the Indian Health Service, and

(E) supervisors of emergency shelters described in section 401(b)(1),

who are responsible for, or work with, Indian youth.

(2) Upon request, the Secretary of Health and Human Services shall offer the instruction described in paragraph (1) to—

(A) members of school boards or designated school personnel who—

(i) govern, or are associated with, any school at which at least 20 percent of the enrollment consists of Indian students, and

(ii) are responsible for, or work with, Indian youth;

(B) urban Indian center personnel who are responsible for, or work with, Indian youth;

(C) judges of tribal courts and courts of Indian offenses;

(D) personnel associated with any tribal, State, or Federal Court who are responsible for, or work with, Indian youth;

(E) Bureau of Indian Affairs law enforcement personnel; and

(F) members of local community and tribal organizations or educational or health institutions responsible for, or working with, Indian youth.

(3) The Secretary of Health and Human Services shall provide the instruction described in paragraph (1)—

(A) in local Indian communities, whenever practicable, and

(B) within an integrated program for all participants.

(4) The Secretary of Health and Human Services—

(A) may provide the instruction described in paragraph (1) at no expense to the participants, or

(B) may charge a fee for the provision of such instruction to a participant.

If such a fee is charged, the amount of such fee shall not exceed the direct costs incurred by the Secretary of Health and Human Services in providing such instruction to the participant.

(5) The Secretary of Health and Human Services shall coordinate the planning of the instruction described in paragraph (1) with the Secretary of the Interior.

TITLE IV—LAW ENFORCEMENT

SEC. 401. (a) The Secretary of the Interior, in consultation with the Attorney General of the United States, shall—

(1) promulgate guidelines under which any tribal or Federal law enforcement officer shall, for the benefit of any Indian youth arrested for an offense in which the abuse of alcohol or drugs was a contributing factor, place such Indian youth in an emergency shelter licensed under subsection (b), a community-based alcohol or drug abuse treatment facility, or any other medical or detention facility, and

(2) make these guidelines available to any State which exercises criminal jurisdiction over any part of Indian country pursuant to Federal law.

(b)(1) By no later than the date that is 210 days after the date of enactment of this Act, the Secretary of Health and Human Services, with the concurrence of the Secretary of the Interior, shall establish standards for the licensing of temporary emergency shelters to house, whenever appropriate, Indian youth apprehended by any law enforcement officer for any offense in which the abuse of alcohol or drugs was a contributing factor.

(2)(A) Indian tribes may elect to adopt the standards prescribed by the Secretary of Health and Human Services under paragraph (1) and issue licenses to temporary emergency shelters that qualify under such standards. If an Indian tribe does not elect to perform the function of licensing temporary emergency shelters in accordance with such standards, such function shall be performed by the Secretary of Health and Human Services.

(B) Any license issued under subparagraph (A) shall be subject to renewal on an annual basis and, if an emergency shelter fails at any time to comply with the standards prescribed under paragraph (1), such license shall be revoked by the Indian tribe that issued such license or, if the Indian tribe fails to act, by the Secretary of Health and Human Services.

(3) An emergency shelter may be licensed under paragraph (2) only if the individual supervising such shelter has completed the training described in section 301(b)(1).

(4) The costs of constructing any emergency shelter are not authorized by this Act.

TITLE V—YOUTH ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION

SEC. 501. When the budget for the Indian Health Service for each fiscal year succeeding the fiscal year in which this Act is enacted is submitted to the Congress, the Secretary of Health and Human Services shall submit to the appropriate committees of the Congress, a detailed estimate of the cost of providing, under existing authority, comprehensive Indian youth alcohol and drug abuse treatment services, including detoxification and counseling services, and followup care in Indian Health Service facilities and in health facilities operated under any contract entered into with the Indian Health Service.

SEC. 502. The Secretary of Health and Human Services, in consultation with Indian tribes, shall, within 1 year of the date of enactment of this Act, complete a study to determine—

(1) the size of the Indian youth population in need of residential alcohol and drug abuse treatment;

(2) the location of residential facilities at which such treatment is available or could be made available; and

(3) the cost of providing such treatment.

SEC. 503. (a)(1) The Secretary of Health and Human Services shall, in consultation with Indian tribes, identify and utilize whenever possible existing—

(A) facilities owned by the Federal Government or by an Indian tribe, or

(B) local community or private hospitals or other appropriate facilities,

that would be suitable for use as residential alcohol and drug abuse treatment centers for Indian youth in order to meet the needs identified in the study conducted under section 502.

(2) Any facility described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency, or the local government unit, having responsibility for the facility.

(3) The Secretary of Health and Human Services may, directly or by contract, renovate any facility described in paragraph (1). Any such renovation shall conform with such terms and conditions as have been agreed upon under paragraph (2).

(b) The Secretary of the Interior shall identify for the Secretary of Health and Human Services any existing Bureau of Indian Affairs facilities which may be suitable for residential alcohol and drug abuse treatment centers for Indian youth.

(c) If the facilities identified and utilized under subsection (a) or (b) do not adequately meet the treatment needs identified in the study conducted under section 502, the Secretary of Health and Human Services shall, within 2 years of the date of enactment of this Act, advise the appropriate committees of Congress as to the cost required to construct such facilities as the Secretary of Health and Human Services finds necessary to meet such treatment needs.

TITLE VI—DEFINITIONS, EFFECTIVE DATE, AND AUTHORIZATION OF APPROPRIATIONS

SEC. 601. For the purposes of this Act—

(1)(A) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Claims Settlement Act (43 U.S.C. 1601, et seq.) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(B) For purposes of section 102, the term "Indian tribe" includes an urban center (within the meaning of section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)).

(2) The term "youth" means any Indian under the age 19.

(3) The term "drug abuse" includes, but is not limited to, abuse of inhalants and chemical substances.

(4) The term "service unit" means an administrative entity within the Indian Health Service serving one or more Indian tribes within a geographical area defined by regulation by the Indian Health Service.

(5) The term "service area" means the geographical area served by a service unit.

SEC. 602. The Secretary of the Interior and the Secretary of Health and Human Resources are authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act.

SEC. 603. (a) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of law, the receipts from any fees charged under section 301(b)(4)(B) for the provision of instruction shall, in lieu of being deposited in the general fund of the Treasury of the United States, be credited as a refund to the appropriation from which the expenses of such instruction were paid.

SEC. 604. The Secretaries shall allocate the monies appropriated under this Act on the basis of need.

Mr. STEVENS. Mr. President, I move adoption of the committee substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1298), as amended was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR INSPECTION AND RECEIPT OF TAX RECORDS

Mr. STEVENS. Mr. President, on behalf of Mr. ROTH, Mr. NUNN, and Mr. DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 284) to authorize the inspection and receipt of tax records by a subcommittee of the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

● Mr. ROTH. Mr. President, the Permanent Subcommittee on Investigations, of which I am chairman, is charged with investigating irregularities in the labor-management field and with examining instances of reported inefficiencies and improper functioning of Government operations. The subcommittee has undertaken an investigation to examine the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, President of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. As the press has widely reported, serious questions have arisen concerning coordination of the Presser investigation among the Department of Justice, the Department of Labor and the Federal Bureau of Investigation.

As part of its investigation, the subcommittee is attempting to uncover facts concerning Mr. Presser's and his associates' dealings over time with various Government agencies. This inquiry is prompted by public reports that these agencies may have established relationship with Mr. Presser and his associates that may have resulted in deferred prosecutions or other favorable treatment. For example, a Time magazine article referred to Internal Revenue Service files, allegedly containing reports of its agents that three Teamsters officials—then president Frank Fitzsimmons, William Presser, and Jackie Presser—regularly met with IRS agents between 1972 and 1974 and supplied the IRS with information about rival union members. At least one of these meetings was reportedly arranged by one Harry Hall, also known as Harry Haler, Harry Haller, and Harry Helfgot. The subcommittee believes that information contained in these IRS investigatory files may be relevant to its present investigation of the handling of the recent investigation and declined prosecution of Mr. Presser.

On advice from the permanent subcommittee's chief counsel, the ranking minority member Senator NUNN and I have determined that it is necessary for the subcommittee to inspect and receive materials held by the Secretary of the Treasury. Section 6103(f)(3) of the Internal Revenue Code of 1954, as amended, provides that a subcommittee of the Senate has the right to inspect returns or return information if the subcommittee has been specifically authorized to do so by the Senate. This resolution would provide the Permanent Subcommittee

on Investigation with such authorization, and enable the subcommittee to inspect and receive information that may bear on its investigation of the Presser case.●

Mr. DOLE. Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 284) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 284

Whereas, the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is conducting an investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, president of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America;

Whereas, allegations have been made that various Federal agencies, including the Internal Revenue Service, may have conducted other investigations involving Mr. Presser and other individuals that may relate to the handling of the recent investigation and declined prosecution of Mr. Presser;

Whereas, in order to conduct its investigation of the handling of the labor fraud investigation of Mr. Presser it is necessary for the Permanent Subcommittee on Investigations to inspect and receive tax returns, return information, and tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to certain named individuals;

Whereas, information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas, under sections 6103(f) and 6104(a)(2) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns and return information if such committee is specifically authorized to investigate tax returns and return information by a resolution of the Senate: Now therefore, be it

Resolved, That the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is specifically authorized, in conducting its investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, to inspect and receive for the tax years 1970-1985 any tax return information, or other tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to Jackie Presser, William Presser, Frank Fitzsimmons, and Harry Hall, alias Haler, Haller, Helfgot.

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I would like to inquire of the minority leader if he would be in a position now to go into executive session for the purpose of considering the nominations of Thomas A. Bolan and James R. Richards, Calendar Nos. 641 and 642.

Mr. BYRD. Mr. President, there is no objection on this side.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I make that request, that the Senate now go into executive session to consider the nominations of Thomas A. Bolan, of New York, to be a member of the board of directors of the Overseas Private Investment Corporation, and James R. Richards, of Virginia, to be inspector general, Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations are confirmed.

The nominations confirmed en bloc are as follows:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Thomas A. Bolan, of New York, to be a member of the board of directors of the Overseas Private Investment Corporation.

DEPARTMENT OF THE INTERIOR

James R. Richards, of Virginia, to be inspector general, Department of the Interior.

Mr. ROTH. Mr. President, the nomination of James R. Richards to be inspector general of the Department of the Interior was referred to the Committee on Energy and Natural Resources on November 13, 1985, and was favorably reported by that committee on December 17, 1985. On December 17, it was referred to the Committee on Governmental Affairs, of which I am chairman, for a period not to exceed 20 calendar days.

The Committee on Governmental Affairs reviewed biographical and financial information supplied to the committee by Mr. Richards and conducted an inquiry as to his experience to serve in the position for which he has been nominated.

For the past 4 years, Mr. Richards has been the inspector general for the Department of Energy. He has been an active member of the President's Council on Integrity and Efficiency and in January of this year was named as Vice Chairman of the PCIE.

The review conducted by the committee revealed nothing which could appear to preclude confirmation of Mr. Richards. That fact, coupled with Mr. Richards experience in the inspector general community and the favorable recommendation of the Energy Committee, led committee members, both Republicans and Democrats, to determine that, in this particular instance, it was not necessary for the committee to conduct a hearing or take formal action on the matter. In order that the Senate will have an opportunity to consider Mr. Richard's nomination before the recess, the committee is requesting that it be discharged from consideration of the nomination.

This determination, however, does not in any way indicate the committee's intention not to fully consider or vote on other nominations of inspector general in various Government departments and agencies which are sequentially referred to the Committee on Governmental Affairs.

NOMINATION OF JAMES R. RICHARDS

Mr. McCLURE. Mr. President, I am pleased to support the nomination of James R. Richards to be the inspector general for the Department of the Interior. Mr. Richards has complied with all requirements of the Senate and of the Committee on Energy and Natural Resources. He appeared before the committee on December 12, 1985, and has fully responded to all questions asked of him by the committee. The committee met in open business session on December 17, 1985, and unanimously ordered his nomination favorably reported to the Senate.

Mr. Richards has previously been considered and favorably reported to the Senate by the committee, and confirmed by the Senate to be the inspector general for the Department of Energy. His performance at the Department of Energy strongly supports the decision and confidence of the President in nominating him to be inspector general for the Department of the Interior. At the Department of Energy he was responsible for the coordination, supervision, and management of investigations and audits of all departmental activities, including those of the Federal Energy Regulatory Commission, to ensure honest and efficient management.

Mr. Richards is Vice Chairman of the President's Council on Integrity and Efficiency, a member of the Administrative Conference of the United States since 1984, and a member of the board of directors of the Association of Federal Investigators since 1984. He is also a member of the American, District of Columbia, and Colorado Bar Associations. Mr. Richards brings an outstanding career to this difficult position and I strongly urge my colleagues to support is nomination.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I should inform the distinguished acting majority leader that a Senator has requested the yeas and nays on the conference report on reconciliation at such time as it is before the Senate.

Mr. STEVENS. Mr. President, I thank the Senator. It is my hope that we will have action on the reconciliation bill tonight and all Senators ought to be on notice that under those circumstances, there will be a rollcall vote if it is presented to the Senate.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

Mr. PRYOR. Mr. President, will the Senator withhold that?

Mr. STEVENS. I withhold that, Mr. President.

USAGE OF TIME IN THE SENATE THROUGH DECEMBER 17, 1985

Mr. PRYOR. Mr. President, from time to time during the course of this year, it has been my opportunity to point out to our colleagues how we have spent our time during the course of this year with the hope that our time can be spent better. I have through December 17, 1985, recorded certain facts and figures that I think would be interesting to my colleagues in the Senate.

The reason I wait until these last few hours of the Senate session when we are about to go home for Christmas is that next year I shall do the same thing in order that we might have a benchmark to compare our progress or nonprogress, as the case may be.

For example, Mr. President, if we assume a hypothetical 5-day, 40-hour week, the quorum calls that we have been engaged in 1985 have used over 8 full weeks this year; in fact, almost 41 days.

Using the same assumption, if you add in the amount of time spent on rollcalls in excess of 15 minutes, this equals about 9½ weeks, or 47 typical 8-hour days. Roughly one-quarter of the time, Mr. President, we spend on rollcall votes is in excess of the 15-minute regular order.

Put another way, the Senate's lost time is one full workweek, using a 40-hour week assumption for the lost time on rollcall votes.

Finally, Mr. President, when you couple the lost time—that is, the quorum calls and the time spent voting in excess of 15 minutes—with the regular time spent on votes in 1985, the U.S. Senate consumed 60 full days. That is the equivalent of 12 weeks, or 3 months, out of 1985.

I do have a table, Mr. President. I present it for my colleagues at this time. I ask unanimous consent to have this table printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

USAGE OF TIME IN THE SENATE THROUGH DECEMBER 17, 1985

Quorum calls: 327 hours 15 minutes.

Time spent voting on roll call votes: 140 hours 12 minutes.

Time lost on roll call votes (amount in excess of 15 minutes): 46 hours 52 minutes.

Total roll call votes: 377.

Average length of each vote: 22.6 minutes.

If you assume a hypothetical 5-day, 40-hour week, the quorum calls have used over eight weeks this year (almost 41 days).

Using the same assumption, if you add in the amount of time spent on roll calls in excess of 15 minutes, this equals about 9 and ½ weeks (about 47 typical 8-hour days).

Roughly one-quarter of the time spent on roll call votes is in excess of the 15 minute regular order. Put another way, the Senate's lost one full work week (using a 40-hour week) on the lost time on roll call votes.

Finally, when you couple the "lost" time (quorum calls and time spent voting in excess of 15 minutes) with the regular time spent on votes in 1985, the Senate's used 60 days. That's the equivalent of 12 weeks, or 3 months out of 1985.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HECHT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENTAGON FRUITCAKE SPECIFICATIONS

Mr. NUNN. Mr. President, as we all know, Christmas is a time for sharing recipes, and I have one here from the Department of Defense I should like to share with my colleagues in the Senate. Normally, I would say get your pens and pencils ready, but since the recipe is 14 pages long, with an additional 4 pages of amendments, I will touch the highlights, and perhaps you can jot down some of the Pentagon's thoughts on fruitcake specifications as handy hints for your spouses.

I would call this a "Perfect Specification, Cost-Is-No-Object Fruitcake."

Let me flip through the first six pages or so, because I am sure all your kitchens surpass the MIL-STD-668 and MIL-STD-1105 sanitary standards, and that whoever does the cooking at your house meets the Workmanship Standards under item 3.7 in the recipe.

So, moving directly to the ingredients, I will pick one. Here is item 3.2.7: "Flavoring—Vanilla flavoring shall be pure or artificial vanilla in such quantities that its presence shall be organoleptically detected, but not to a pronounced degree." Or, as Julia Child has said, "Get to know your food." Here is a preparation hint, under item 3.3.1.2.1:

Blending and Depositing . . . The fruitcake batter shall consist of equal parts by weight of cake batter specified in table I, and fruit and nut blend specified in table II blended in such a manner as to meet the requirements of 3.5. A predetermined weight of the blended fruitcake batter, sufficient to yield the specified weight, shall then be deposited into cans with liners and discs and the lids of the cans shall be clinched on loosely to allow for the escape of mositure and gasses evolved during processing. Alternatively, in lieu of paper disc and liner, the can shall have an *enamel interior possessing adequate product release characteristics* so that not more than 5.0 percent by weight of the product adheres to the interior of the can.

It goes on to say that heat retention when baking should create a vacuum in accordance with PPP-C-26.

And, to make sure the cake is good, you will want to inspect it. Here, the perfect specification, Cost-Is-No-Object Fruitcake recipe has tables galore pointing out common pitfalls in fruitcake manufacture. But this pithy paragraph cuts to the heart of the matter:

3.5.1 The finished product shall conform to the inside contour of the can or can liner. There shall be no point on the top lid greater than ¾ inch (19 mm) from the side of the can where the cake did not touch the lid during baking. Sealing and baking shall be so accomplished as to maintain continuity of the compound seal. The processing time shall be adjusted so that the batter portion is heated uniformly throughout to produce a finished product having no raw, stringy, or ungelatinized portions. When the cooled product is bisected vertically and horizontally with a sharp knife, it shall not crumble nor show any compression streaks, gummy centers, soggy areas, be excessively dry or over-processed, and shall display an even grain structure throughout. The fruit and nut pieces when required shall be evenly distributed throughout the sliced surface. The flavor of the finished product shall be typical of the type indicated. There shall be no off-flavors or off-odors.

Under section 4.5.1.1.2, we are told to "examine each ingredient organoleptically." I assume this means we are to lick the beaters and bowl.

Finally, as an indication that the Pentagon is ever striving to tighten

their standards, I notice that amendment MIL-F-1499F increases military tolerances of candied cherries from 12.8mm to 12.7mm. Always onward and upward.

Mr. President, I am pleased to be able to share this old family recipe—and in case anyone is wondering, this really is Military Specification MIL-F-1499F, amended 1980.

In keeping with the spirit of military specifications, if your spouse prepares this recipe, the Pentagon will furnish 15 full-time inspection specialists, and they will work for 1 week to determine whether the fruitcake is in compliance. I will put the full specification in the RECORD.

Mr. President, on a serious note, I am afraid that this is typical of military specifications. It is not an exception. It goes on and on for 14 pages, plus a 4-page amendment—a total of 18 pages for making fruitcake. This is very small type, with all sorts of cross-references to other publications, so that one reading this would have to go to numerous other volumes to be able to determine the full scope of what is required. Can you imagine the specifications on an airplane or a complex weapons system?

Mr. President, Senator GOLDWATER and I have recently made a series of speeches on the floor about organizational bureaucracy and layers of command in the Department of Defense. We described how these layers have hindered our ability to conduct effective military operations. These fruitcake specifications are a wonderful example of the detailed work that the Department is capable of producing. If they go to such lengths for fruitcakes, you can just imagine what the standards and specifications would be for even the most basic weapons system.

Mr. President, I can understand the need for standards and specifications for all kinds of items. In some cases, these standards are needed for safety of performance, or to ensure compatibility with other systems. These standards are also valuable to ensure full and open competition on critical components to be incorporated into weapons systems.

So I am not suggesting here in a completely frivolous manner that there is no appropriate use for standards, but there must be some common sense applied somewhere down the line.

I am very concerned about the complexity of the Department of Defense acquisition process. I have tried and continued to seek ways to simplify this acquisition process.

I think our committee is going to have to focus on that.

I am very hopeful that the Packard Commission is focusing on it, because there is no way that you can buy items cheaply when the people who are bidding must go through this kind of maze to determine what it is they are required to do.

Recently, Deputy Secretary Taft announced a revitalization of the Department's initiative to streamline the standards and specifications being imposed on contractors.

I compliment Secretary Taft for that initiative. But until we address the need for specifications and the detailed requirements of specifications we will not have seriously begun to reform the acquisition system.

Mr. President, I ask unanimous consent to have printed in the RECORD the fruitcake recipe to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILITARY SPECIFICATION: FRUITCAKE, CANNED

[Beneficial comments (recommendations, additions, deletions) and any pertinent data which may be of use in improving this document should be addressed to: US Army Natick Research and Development Command, Natick, MA 01760 by using the self-addressed Standardization Document Improvement Proposal (DD Form 1426) appearing at the end of this document or by letter.]

This specification is approved for use by all Departments and Agencies of the Department of Defense.

1. Scope:

1.1 Scope. This specification covers fruitcake (see 6.4) for use by the Armed Forces as a component of operational rations. The product may be processed by baking or steaming.

2. Applicable Documents:

2.1 Issues of documents. The following documents of the issue in effect on date of invitation for bids or request for proposal, form a part of this specification to the extent specified herein:

Specifications:

Federal:

PPP-C-26—Canned Baked, and Canned Steamed and Retorted Subsistence Items, Packaging and Packing Of.

Military:

MIL-L-1497—Labeling of Metal Cans for Subsistence Items.

Standards:

Military:

MIL-STD-105—Sampling Procedures and Tables for Inspection by Attributes.

MIL-STD-129—Marking for Shipment and Storage.

MIL-STD-668—Sanitary Standards for Food Plants.

MIL-STD-1105—Sanitary Standards for Bakeries.

(Copies of specifications, standards and publications required by contractors in connection with specific procurement functions should be obtained from the procuring activity or as directed by the contracting officer.)

Laws and regulations:

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Food, Drug, and Cosmetic Act and Regulations Promulgated Thereunder.

Title 21, Code of Federal Regulations (CFR) 1977 Edition. Note: Orders for the publication should cite CFR 100-197.

(Application for copies should be addressed to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.)

U.S. DEPARTMENT OF AGRICULTURE

Regulations Governing the Grading and Inspection of Egg Products.

U.S. Standards for grades of: Shelled Almonds, Shelled Pecans, Shelled Walnuts, Processed Raisins.

(Application for copies should be addressed to the Information Division, Agricultural Marketing Service, US Department of Agriculture, Washington, DC 20250.)

Code of Federal Regulations, Title 21, Section 113.60. Orders for the above publication should cite CFR 100-199.

(Application for copies should be addressed to the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.)

2.2 Other publications. The following documents form a part of this specification to the extent specified herein. Unless otherwise indicated, the issue in effect on date of invitation for bids or request for proposal shall apply:

ASSOCIATION OF OFFICIAL ANALYTICAL CHEMISTS

Official Methods of Analysis of the Association of Official Analytical Chemists.

(Application for copies should be addressed to the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.)

AMERICAN OIL CHEMISTS SOCIETY

Official and Tentative Methods

(Application for copies should be addressed to the American Oil Chemists Society, 508 South Sixth Street, Chicago, IL 61820.)

3. Requirements:

3.1 First article. When specified (see 6.1), a sample of the finished product shall be submitted to the contracting officer for approval before production is commenced.

3.2 Material. All materials shall be clean, sound, wholesome, and free from insect infestation or other objectionable foreign matter and off-flavors and off-odors.

3.2.1. Chemical leavening agents. Chemical leavening shall be of a commercial grade normally used in the production of baked goods and of a type which will produce the required end product.

3.2.2 Enriched flour. Enriched flour shall be wheat flour of a type which will result in the required end product. Enrichment shall be in accordance with the requirements of the Federal Food, Drug, and Cosmetic Act and regulations promulgated thereunder and may be accomplished as a part of the milling process or adding equivalent enrichment to each batch. The flour may be bleached as necessary to provide the required product.

3.2.3 Sugar. Sugar shall be white, refined, cane or beet sugar, or a combination thereof.

3.2.4 Eggs, whole, fresh, frozen or dried. The egg products shall be whole, fresh, frozen or dried or a combination thereof. Egg products shall have been produced and handled in compliance with requirements set forth in the USDA publication entitled "Regulations Governing the Grading and Inspection of Eggs and Egg Products." They shall be prepared under continuous inspection of the USDA and shall bear the inspection shield mark. If fresh eggs are used, temperatures shall be maintained at or below 40°F (4.4°C) prior to use; when thawed frozen eggs are used the temperature and time requirements of the above

regulations shall be met. When dried eggs are used in formulation, and equivalency ratio of 1-part by weight of dried eggs to 3-parts by weight of water shall be maintained.

3.2.5 Shortening. The shortening shall be refined hydrogenated peanut oil or refined hydrogenated cottonseed oil or a combination of both, and shall have a stability of not less than 100 hours, as determined by the active oxygen method (AOM) (see 4.6.1). The shortening shall contain an antioxidant with an active ingredient of TBHQ at the maximum allowable level.

3.2.6 Salt. Salt shall be white, refined sodium chloride with or without anticaking agent. Iodized salt shall not be used.

3.2.7 Flavoring. Vanilla flavoring shall be pure or artificial vanilla in such quantities that its presence shall be organoleptically detected, but not to a pronounced degree.

3.2.8 Nuts. The nuts shall be US No. 1 grade of either pecan, almond or walnut pieces. The pieces shall be from ⅛ to ⅜ inches (3.2 to 9.5 mm) nominal. The walnut pieces shall be treated with a 1:1 mixture of BHA and BHT dissolved in vegetable oil, the level of BHA and BHT shall not exceed 0.02 percent, based on the amount of oil contained in the walnut pieces (approximate analysis 64 percent). The nuts shall be of the latest crop.

3.2.9 Candied cherries. Candied cherries shall be made from pitted cherries. They shall be thoroughly processed with sugars to a soluble solids content of not less than 72 percent and artificially colored with a red dye. They shall be cut to yield ¼-inch to ½-inch (6.4 to 12.8 mm) cherry pieces on the average.

3.2.10 Candied pineapple. Pineapple shall be thoroughly processed with sugars to not less than 72 percent soluble solids. The pineapple pieces shall be cut into approximately ¼-inch (6.4 mm) dice. Pineapple which has been diced through a machine equipped with blades set to yield ¼-inch (6.4 mm) cubes shall be acceptable.

3.2.11 Raisins. Raisins shall be soda dipped or bleached Thompson seedless, select size, grade B or better, as defined in the U.S. Standards for Grades of Processed Raisins. Raisins may be soaked as necessary to prevent clumping. Soak water shall be a part of the required water in the batter formulation and shall be added to the batter at an appropriate time.

3.2.12 Candied orange or lemon peel. Candied peel, as specified, shall be thoroughly deragged and processed with sugar and corn sirup to not less than 72 percent soluble solids. It shall be chopped in a dicer set for ¼-inch or ⅜-inch (6.4 mm or 9.5 mm) cut.

3.2.13 Candied citron. Citron shall have been completely fermented by commercially accepted methods and controls to remove any evidence of bitterness and treated with sugar and corn sirup to a soluble solids content of not less than 72 percent. The citron shall have a translucent appearance. It shall be diced through a dicer set for a ¼-inch (6.4 mm) cut.

3.3 Formulation.

3.3.1 Cake batter. Cake batter shall be prepared from the ingredients in the proportions shown in table I.

TABLE I.—*Cake batter*

Ingredients	*Parts by weight*
Sugar	24
Flour	26
Whole eggs [1]	24
Shortening	16
Salt	1
Water (100° to 140 °F) (38° to 60 °C) (approximately) (variable)	9
Vanilla flavoring (pure or artificial)	(2)
Chemical leavening agents	(2)

[1] For reconstitution ratio (see 3.2.4).
[2] As required.

3.3.1.1 Batter blending. All dry ingredients (flour, sugar and salt) shall be sifted prior to incorporating into the batter. The batter shall be creamed and mixed to yield a smooth homogeneous mixture.

3.3.1.2 Fruit and nut blend. Fruit and nut blend shall be prepared from the ingredients in the proportions shown in table II.

TABLE II.—*Fruit and nut blend*

Ingredients	*Parts by weight*
Raisins	30
Cherries, candied	12.5
Pineapple, candied	20
Citron, candied	10
Lemon peel, candied	8
Orange peel, candied	80
Nuts	20

3.3.1.2.1 Blending and depositing. The fruitcake batter shall consist of equal parts by weight of cake batter specified in table I, and fruit and nut blend specified in table II blended in such a manner as to meet the requirements of 3.5. A predetermined weight of the blended fruitcake batter, sufficient to yield the specified weight, shall then be deposited into cans with liners and discs and the lids of the cans shall be clinched on loosely to allow for the escape of moisture and gases evolved during processing. Alternatively, in lieu of paper disc and liner, the can shall have an enamel interior possessing adequate product release characteristics so that not more than 5.0 percent by weight of the product adheres to the interior of the can.

3.4 Processing. The filled loosely clinched cans shall be baked or steamed as necessary to meet the requirements of 3.5. Heat retention in the cans at the time of sealing shall be such that the vacuum shall be in accordance with PPP-C-26 for the baked or steamed product as applicable. Within one hour after the completion of the heating process, the product shall be cooled to an internal temperature of 100°F (38°C) or less in the center of the product or 10 degrees above ambient, whichever is greater.

3.5 Finished product.

3.5.1 The finished product shall conform to the inside contour of the can or can liner. There shall be no point on the top lid greater than ¾ inch (19 mm) from the side of the can where the cake did not touch the lid during baking. Sealing and baking shall be so accomplished as to maintain continuity of the compound seal. The processing time shall be adjusted so that the batter portion is heated uniformly throughout to produce a finished product having no raw, stringy, or ungelatinized portions. When the cooled product is bisected vertically and horizontally with a sharp knife, it shall not crumble nor show any compression streaks, gummy centers, soggy areas, be excessively dry or over processed, and shall display an even grain structure throughout. The fruit and nut pieces when required shall be evenly distributed throughout the sliced surface. The flavor of the finished product shall be typical of the type indicated. There shall be no off-flavors or off-odors. The moisture content of the end item shall be controlled within the limits of good manufacturing practice.

3.6 All deliveries shall conform in every respect to the provisions of the Federal Food, Drug, and Cosmetic Act and regulations promulgated thereunder.

3.7 Workmanship. The product shall be prepared, processed, and packaged under modern sanitary conditions and in accordance with good commercial practice. The product shall be processed in establishments meeting the requirements of MIL-STD-1105, or if produced in food establishments other than bakeries shall meet requirements of MIL-STD-668.

4. Quality Assurance Provisions:

4.1 Responsibility for inspection. Unless otherwise specified in the contract, the contractor is responsible for the performance of all inspection requirements as specified herein. Except as otherwise specified in the contract, the contractor may use his own or any other facilities suitable for the performance of the inspection requirements specified herein, unless disapproved by the Government. The Government reserves the right to perform any of the inspections set forth in the specification where such inspections are deemed necessary to assure supplies and services conform to prescribed requirements.

4.2 Classification of inspections. The inspection requirements specified herein are classified as follows:

a. Plant qualification (see 4.3).

b. First article inspection (see 4.4).

c. Quality conformance inspection (see 4.5).

4.3 Plant qualification. Product shall be rejected if produced in bakery establishments not meeting the requirements of MIL-STD-1105 or if produced in food establishments other than bakeries, not meeting the requirements of MIL-STD-668.

4.4 First article inspection. When preproduction samples of the product which the contractor intends to supply shall be inspected to assure compliance with 3.6.

4.5 Ouality compliance inspection. Sampling for inspection shall be performed in accordance with MIL-STD-105, except where otherwise indicated hereinafter.

4.4.1 Component and material inspection. In accordance with 4.1, components and materials shall be inspected in accordance with all the requirements of referenced specifications, drawings, and standards unless otherwise excluded, amended, modified or qualified in this specification or applicable purchase document.

4.5.1.1 Examination of ingredients. Examinations shall be in accordance with 4.5.1.1.1 and 4.5.1.1.2. Nonconformance with identity requirements of one or more sample units not conforming to condition or quality requirements shall indicate an unacceptable ingredient and use of such shall be cause for rejection of the involved finished product.

4.5.1.1.1 Identity. Examination shall be made of labels, invoices or other valid documents to determine conformance to identity requirements (kinds, grade, age, size, source of inspection, etc. as pertinent to the ingredient).

4.5.1.1.2 Condition. In addition, each ingredient shall be examined organoleptically, as necessary; to determine conformance to condition requirements of 3.2 and quality requirements (other than identity or analytical) that may be contained in the ingredient requirement paragraph. The sample unit for examination shall be approximately ½ pound (0.23 kg) of each ingredient from a primary container. The sample size shall be five. In the event a lot consists of less than five containers, a sample unit shall be extracted from each container in the lot.

4.5.1.1.3 Testing of components. Testing of components shall be as shown in table III. A test result not in conformance to the requirement shall indicate unacceptable component and use of such shall be cause for rejection of the involved finished product.

TABLE III.—TESTING OF COMPONENTS [1]

Component	Sample unit	Lot size expressed in	Inspection level	Characteristics	Results reported	Test reference and requirement paragraph
Shortening	One pound (0.45 kilogram) composite [3]	Pounds	S–2	Fat stability (AOM)	Pass or fail [3]	3.2.5; 4.5
Candied fruits (each kind)	½ pound (0.23 kilogram) composite of each fruit [2].	...do	S–2	Soluble solids	Nearest percent	3.2.9; 3.2.10; 3.2.12; 3.2.13; 4.5

[1] Each component or component characteristic, as applicable, which is not listed in this table, unless otherwise excepted, shall be tested in accordance with the applicable procedures contained in pertinent subsidiary specification.
[2] The composite shall be derived from the number of primary containers as indicated by the inspection level.
[3] If failure, report results to nearest hour.

4.5.2 In-process inspection. Examination shall be performed during the manufacture of the product to determine compliance with 3.3 and 3.4 as concerns formulation, procedures and processing controls, including those for dicing requirements of pineapple, orange or lemon peel, and citron. Records of formulation and moisture testing shall be maintained and made available for examination. Nonconformance to one or more requirement(s) as determined by examination of records or by actual visual examination during processing, shall be cause for rejection of the involved product.

4.5.3 End item inspection. Classification of defects found during examination shall be in accordance with tables V thru VII. The sampling plans for the above tables shall be as shown in table IV. AQLs shall be expressed as percent defective for table V, and in terms of defects per hundred units for table VI and VII.

TABLE IV.—END ITEM SAMPLING PLAN

Table	Inspection level	Sample unit	Lot size expressed in	AQL's		
				Major	Minor	Totals
V	S–3	1 filled and sealed can.	Cans		2.5	
VI	S–2	...do	...do		4.0	
VII	S–2	...do	...do	2.5		4.0

TABLE V.—*Examination for net weight* [1]

Defect	*Category (Minor)*
Net weight more than 5 percent under specified weight (container required to have a net weight of 1 pound (0.45 kg) or less). (Report to nearest ⅛ ounce (nearest gram))	201
Net weight more than 2 percent under specified weight (container required to have a net weight more than 1 pound (0.45 kg). (Report to nearest ¼ ounce (nearest gram))	202

[1] Lot shall be rejected if sample data indicate lot average net weight is less than specified net weight.

TABLE VI.—*Examination for fill of container*

Defect	*Category (Minor)*
The distance between the side of the can and the edge of where the cake touched the top lid in baking is greater than ¾ inch (19 mm) at any point	201
Lack of continuity in compound seal [1]	202

[1] Examine only cans in which the product completely fills the can, touching the top lid at a point closer than ¼ inch from the edge. Examination of can seam and tear down procedure shall be made in accordance with the Code of Federal Regulations, Title 21, Parts 100–199, April 1977, subpart D, part 113.60.

TABLE VII.—EXAMINATION OF PRODUCT [1]

Defenct	Category	
	Major	Minor
Raw, stringy or ungelatinized portion present	101	
Product does not have an even grain structure throughout when cooled and bisected vertically and horizontally with a sharp knife	102	
When bisected as above, product crumbles, shows compression streaks, gummy centers, or soggy areas, or is excessively dry or overprocessed	103	
Nut pieces and fruit pieces not evenly distributed throughout the sliced surface		201
Flavor not characteristic of fruitcake, or not palatable (i.e., burnt, raw, flat, acid, stale, or other off-odor or off-flavor present)	104	

[1] Presence of foreign material such as dirt, paint, wood, metal, insect, or insect part or other foreign material, shall be cause for rejection of the lot.

4.5.3.1 Examination of preservation, vacuum, packing and marking. Examinations shall be made in accordance with the applicable quality assurance provisions of PPP-C-26.

4.5.3.2 Examination of can labeling. Examination of can labeling shall be made in accordance with the quality assurance provisions of MIL-L-1497.

4.6 Test methods.

4.6.1 Chemical analyses. Chemical analyses shall be made in accordance with the following methods from Official Methods of Analysis of the Association of Official Analytical Chemists except for fat stability. (See footnote 1).

Test	Source	Method
Candied fruits: Soluble solids.	Chapter: Fruits and fruit products.	Soluble solids (by refractometer).
Shortening: Fat stability	([1])	Fat stability Cd 12–57.
Moisture	Chapter: Sugar and sugar products. Section: Sugars, syrups and molasses.	Moisture (vacuum drying).

[1] Official and Tentative Methods of the American Oil Chemists Society, Section C, Commercial Fats and Oils.

5. Packaging:

5.1 Preservation-packaging and packing. The product shall be unit packed in accordance with level A requirements and packed in accordance with level C requirements of PPP-C-26.

5.2 Labeling and marking.

5.2.1 Cans. Cans shall be labeled in accordance with MIL-L-1497.

5.2.2 Shipping containers. Shipping containers shall be marked in accordance with MIL-STD-129.

6. Notes:

6.1 Ordering data. Procurement documents should specify the following:

(a) Title, number and date of this specification.

(b) When a first article is required (see 3.1, 4.4, 6.2).

6.2 First article. When a first article is required, it shall be inspected and approved under the appropriate provisions of ASPR 7-104.55. The first article shall be a preproduction sample and shall consist of ten 4- or 5-ounce (113 to 142 g) cans of the product. The contracting officer should include specific inspections in all procurement instruments regarding arrangements for inspection and approval of the first article.

6.3 Metric equivalents. Metric equivalents, indicated in parentheses throughout this document, are based on practices, conversion factors, and symbols specified in AST, E 380 Standard for Metric Practice, and are for information only. In each instance, the value stated in US customary units shall be controlling.

6.4 Supersession data. The correlation between the types of product in the superseded MIL-P-1499E and the product specified herein is as follows:

MIL-P-1499E	MIL-F-1499F
Type I	Deleted.
Type II	Deleted.
Type III	Retained without type designation.

6.5 Changes from previous issue. The margins of this specification are marked with an asterisk to indicate where changes (additions, modification, corrections, deletion) from the previous issue where made. This was done as a convenience only and the Government assumes no liability whatsoever for any inaccuracies in these notations. Bidders and contractors are cautioned to evaluate the requirements of this document based on the entire content irrespective of the marginal notations and relationship to the last previous issue.

MILITARY SPECIFICATION—FRUITCAKE, CANNED

This amendment forms a part of Military Specification MIL-F-1499F, dated 20 August 1979, and is approved for use by all Departments and Agencies of the Department of Defense.

PAGES 1 AND 2

2.1, under "Specifications". Delete "Federal" and "PPP-C-26" and its title.

Under "Specifications, Military". Delete "MIL-L-1497" and its title and insert "MIL-C-43991—Canned Baked, Canned Steamed, Subsistence Items, Packaging of".

Under "Standards, Military". Delete "MIL-STD-129" and its title.

PAGE 4

3.2.5, line 3, after "hours". Insert "prior to the addition of antioxidant".

3.2.9, line 4, after "6.4 to". Delete "12.8 mm" and substitute "12.7 mm".

PAGE 5

Table I, footnote [1], after "ratio". Insert "(Liquid basis)".

PAGES 6 AND 7

Table II, line 3, after "Raisins". Insert", before soaking".

3.4 Delete this paragraph in its entirety and substitute the following: *"Processing.* The filled cans with loosely clinched lids shall be placed in an oven and baked at not more than 375°F (191°C) or shall be processed in saturated steam at atmospheric pressure for such time as is necessary for the finished product to meet the end item requirements of 3.5. The temperature at the center of the product at the time of sealing shall be not less than 195°F (91°C). Within 1 hour after the can is hermetically sealed, the center of the product shall be cooled to a temperature of less than 100°F (38°C) or less than 10°F (6°C) above the ambient temperature, whichever is higher. After cooling to room temperature, the internal vacuum of the oven baked product shall be not less than 25 inches of mercury gauge (not more than 16.7 kPa absolute pressure) and of the steam * * *

PAGE 10

Table V, defect 202. Delete this defect in its entirety.

Table VI, defect 201. Delete the defect and substitute: "Distance from edge of can to where cake touches the top lid exceeds ¾ inch (19 mm)."

PAGE 11

Table VIII, major defect 102. Delete this defect in its entirety.

Major defect 103, line 1. Delete "as above" and insert "vertically and horizontally with a sharp knife, the cooled".

PAGE 12

4.5.3.1 and 4.5.3.2. Delete these paragraphs in their entirety and substitute the following:

"4.5.3.1 *Packaging inspection.* The packaging inspection for the Section 5 requirements shall be in accordance with the applicable quality assurance provisions of MIL-C-43991."

Insert the following new paragraph:

"4.5.4 *Testing of finished product.* The finished product shall be tested for water activity in accordance with 4.6. Testing shall be on a unit basis. The sample unit for testing shall be one filled and closed can. Lot size shall be expressed in cans. The sample size shall be the number of sample units indicated by inspection level S-2. The AQL expressed as percent defective shall be 1.0. Results shall be reported to the nearest 0.01 unit. A test result not in conformance shall be scored as a defect."

4.6.1, lines 10-13. Delete *"Moisture"* and referenced *"Source"* and *"Method"* and substitute the following:

"Water activity.	Chapter: Vegetable Products, Processed. Section: Canned Products".	Water activity.

HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, we have had a very grim reminder of a terrible tragedy in the State of Georgia that happened about the time I came to the Senate, the so-called Alday murders. These murders occurred in the early 1970's. We recently had a decision of the Fifth Circuit Court of Appeals and that decision was reversed and remanded for a new trial of the people who were convicted of those murders 12 years ago.

I have been to the small graveyard near Donalsonville, GA, where six members of one family lie side by side in their graves. They were each brutally executed over a long period of hours, one by one, in a systematic and a sadistic manner.

There is no doubt about the guilt of the people involved. I do not think the court has even considered that that was in error. They were convicted. There were confessions in some of the cases. But there was a reversal because of so-called pretrial publicity.

The tragedy, to me, is not the merits of the case or the reasoning but the time element involved. I can think of no way to explain to the American people, the people of Georgia, and particularly to those remaining members of the Alday family and their friends how it can take a system like the American system of justice 12 years to be able to come to a definite conclusion, and the tragedy of it all is now they have to go back through the same thing again.

We have to find a way to streamline our system of justice. We have a two-tier system of appeals. First of all, the appeals go through the State system, and once that happens, they come back and go the habeas corpus route through the State system. They go all the way to the Supreme Court and then they come back another time and go through the Federal habeas corpus proceedings.

This is an intolerable burden on society. It is an intolerable burden on victims and families. It is an intolerable burden on the taxpayers of our country. We have to find a better way.

I have a statement here that goes into great detail about the habeas corpus reform proposal that several of us, including the chairman of the Judiciary Committee, Senator THURMOND, Senator CHILES, and others have been pushing for a long time. We have not been able to get it passed.

There are people who object to this proposal, but I would hope that the people who have studied this will take into account the larger question of justice, and that is whether the American people perceive that we really do have a criminal justice system that works and that deters and that protects society.

I particularly have a great deal of sympathy for the Alday family, the people who have gone through this terrible ordeal once and will now be forced to go through it again in a new trial.

Each court that reviews this matter can have its own explanation but the combined court system and judicial system simply has no adequate explanation for this kind of time delay in carrying out justice.

Mr. President, I have spoken in this Chamber on many, many occasions to urge congressional action on perhaps the most critical problem facing the American criminal justice system: the need for reform of our Federal habeas corpus laws. During the course of the 97th, 98th, and 99th Congresses, I have joined with Senator THURMOND and Senator CHILES, among others, in offering numerous proposals designed to reduce the proliferation of needless, repetitive, and often frivolous habeas corpus petitions which have overburdened our courts and seriously undercut the integrity of our judicial system.

I understand that the most recent of those proposals, S. 238, is now scheduled for markup by the Senate Judiciary Committee, bringing it that much closer to eventual consideration by the full Senate. Introduced on January 21, 1985, and substantially similar to legislation which Senator CHILES and I introduced in both 1982 and 1983, S. 238 would limit the ability of career criminals to continually defer their just punishment by litigating and relitigating sound judgments of the trial courts many, many years after conviction. That legislation would serve as a major step toward restoring some semblance of finality and credibility to the American system of justice.

Unfortunately, while we still await congressional action on that legislation, the glaring misuse and abuse of our habeas corpus laws continues to wreak havoc on the American concept of justice. I feel compelled to again bring to my colleagues' attention the sad fact that the American public is rapidly losing faith in the ability of our system to mete out justice to those responsible for criminal acts. This week I have seen public shock and outrage spread throughout the State of Georgia in response to a decision by the 11th Circuit Court of Appeals. On Monday, December 9, the court reversed the convictions of Wayne Coleman, George Dungee, and Carl Isaacs for the brutal and senseless murder of six members of an honest, hardworking, farm family, the Aldays, in the town of Donalsonville, GA, in 1973. In doing so, the Federal appeals court overturned three separate jury verdicts of guilty for what has been termed the "worst crime in Georgia history." Moreover, the court did so despite acknowledging that "overwhelming evidence of the petitioner's guilt that had been adduced at trial."

One need only recall the facts of the Alday murders to understand the justifiable public anger which the 11th circuit decision has generated. During the afternoon of May 14, 1973, four individuals, three of whom had recently escaped from a Maryland prison, bur-

glarized the Donalsonville home of Jerry Alday. While the burglary was in process, Jerry Alday and his father, Ned Alday, unsuspectedly arrived at Jerry's residence. Upon their arrival, Jerry and his father were taken into the house at gunpoint. They were then shot in the head at close range: Ned Alday was shot seven times while Jerry Alday was shot four times.

Shortly, thereafter, Jerry Alday's brother, Jimmy, also arrived at the Alday residence and was killed by a handgun fired at close range. Jerry Alday's wife, Mary, was the next family member to arrive at the residence. After being robbed of $1, she was locked in the bathroom of the house due to the arrival of yet two more members of the Alday family, Jerry's uncle Aubrey and brother, Chester, Aubrey and Chester were then taken into the Alday home and slain in similar fashion.

Mary Alday was then led from the bathroom into another portion of the house and raped while her husband, father-in-law, and other members of the Alday family lay dead. She was then taken to a wooded area where she was again raped by two of the individuals and physically tortured. She was then killed with two shots from a handgun.

Several days later, Carl Isaacs, Bill Isaacs, George Dungee, and Wayne Carl Coleman were apprehended and arrested for the slayings. Bill Isaacs confessed his role in the slayings and pled guilty while the remaining defendants pled not guilty. In January 1974, the three were found guilty of the Alday slayings in three separate jury trials. Additionally, the juries found the existence of statutory aggravating circumstances and fixed punishment in each case at death. The defendants immediately appealed their convictions and death sentences on a number of grounds, including an allegation that prejudicial pretrial publicity denied them of their right to a fair trial. In the summer of 1976, the Georgia Supreme Court affirmed the conviction and sentence of the defendants and in November 1976, the U.S. Supreme Court denied the defendants' application for a writ of certiorari. The defendants then filed an application for a State writ of habeas corpus and received an evidentiary hearing. In August 1977, the Superior Court of Georgia denied the defendants' petition for a writ and in April 1978 the Georgia Supreme Court affirmed the judgment of the superior court. In October 1978, the U.S. Supreme Court declined to review the State's denial of the defendants' application for a writ of State habeas corpus.

In 1979 and 1980, the defendants filed an application for a writ of Federal habeas corpus in Federal District Court for the Southern District of Georgia. In October 1981 the district court denied the requested relief. In December 1981, the defendants appealed this decision to the U.S. Court of Appeals in Atlanta, GA. In 1983 the court of appeals remanded the case back to the district court to receive further evidence on the issue of pretrial publicity, despite the fact that this was essentially the same issue which was raised, litigated, and decided prior to the 1974 trials. After an evidentiary hearing, the district court again reaffirmed its earlier denial of relief.

Reviewing the second district court decision, the 11th Circuit Court of Appeals has now reversed the convictions of all three defendants. Wayne Coleman, Carl Isaacs, and George Dungee, claiming that they were denied a fair trial, given extensive pretrial publicity in Seminole County, GA. The decision finds "presumed prejudice" despite noting the overwhelming evidence of the guilt of all three defendants. In so holding, the court differs from at least eight separate judicial rulings on this same issue in this case during the last 13 years: the Georgia trial court (1974); the Georgia Supreme Court—on direct appeal, 1976; the U.S. Supreme Court—cert. denied, 1976; the Georgia Superior Court—State habeas corpus petition, 1977; the Georgia Supreme Court—appeal of State habeas corpus, 1978; the U.S. Supreme Court—cert. denied on State habeas corpus, 1978; U.S. district court—Federal habeas corpus petition, 1981, and the U.S. district court again—on remand from the 11th circuit and after receipt of additional evidence, 1985. In each of those instances, the courts refused petitioners' claims for relief based on pretrial publicity.

Cases such as the Alday decision trouble me not only for the great personal tragedy and sorrow which they bring to victims and their families but also for the irreparable damage which they do to the public's faith in the criminal justice system. What does the American public see in these types of cases? They see a judicial system riddled with inconsistencies, overburdened with needless litigation, in which a crafty criminal often succeeds far more often than the honest, victimized citizen. They see a system which speaks of justice, but fails to deliver it. They see a system which denigrates the importance of a jury verdict by countless tiers of judicial review that seems to ignore, as in this case, "overwhelming" evidence of guilt.

I urge Congress to speak to this problem by considering the habeas corpus reform set forth in S. 238. Among other things, that bill imposes a 1-year statute of limitations on Federal habeas corpus proceedings brought by State prisoners. Under current law, there is no statute of limitations governing Federal habeas corpus proceedings. The bill also provides that a Federal court will not reopen issues if, in fact, the defendant had received a full and fair review of that issue in State court. Finally, the bill places rigid restrictions on the ability of a defendant to raise an issue in a Federal habeas corpus proceeding which was not previously raised in State court.

This type of legislation is one way to help insure that justice will, at least in future cases, be meted out fairly, effectively, and without years of unnecessary and costly delay. Beyond reform of the habeas corpus laws, it may well be time to seriously consider retructuring and hopefully streamlining the many avenues of criminal appeal which now exist in our legal system. Certainly the task will be a difficult one, but, in the wake of cases like the Alday murders, it is obviously an increasingly urgent and deserving one.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMAINING MATTERS

Mr. DOLE. Mr. President, I assume some of our colleagues may wonder how near we are to sine die adjournment.

Let me indicate that we are now trying to get a 30-minute time agreement on reconciliation. That will require a rollcall vote. We are trying to approve the nomination of Terrence Scanlon. I understand that will require a rollcall vote.

Once we finish the rollcalls, there will be other items that we will bring up in the evening. But with a little cooperation here, we could turn most Senators loose within the next hour and a half.

So, I hope we could have an agreement on reconciliation. I am sorry that there has been one Senator requesting a rollcall, but in any event, if we get a 30-minute time agreement, we could dispose of that very quickly.

Maybe while we are waiting to do that we could bring up the Scanlon nomination so we will not waste time.

Then we would be able to announce no more rollcall votes this year, and I assume most Members would take off. There would be a few of us stuck here for a while.

SECTION 506 OF THE CONFERENCE REPORT ON H.R. 2959

Mr. HARKIN. Mr. President, on October 17, the Senate approved the conference report on H.R. 2959, the energy and water development appropriations bill.

It has come to my attention that section 506 of that conference report contains a somewhat complicated provision that restricts the procurement by the Federal Power Marketing Administration and the Board of Directors of the Tennessee Valley Authority of certain types of extra-high-voltage power equipment manufactured abroad.

This provision is complex and because it is complex it should not be merely slipped in to the appropriation bill. This is the kind of issue on which there should be hearings and in which the authorizing committee or committees, be it Finance Committee, Government Operations, or Energy and Natural Resources, should have first jurisdiction and decide whether such a provision is applicable to this appropriations bill. As a member of the Appropriations Committee, I know of our ability to handle complex appropriations measures, but I still feel that the right and the jurisdiction of the authorizing committee should be protected as often as possible.

Another concern I have about the inclusion of this provision is that it is an example of what can happen when trade legislation is enacted on a piecemeal basis directed at one specific industry or one specific company or one specific area of the country. Trade legislation must be comprehensive, broad-based, in our national interest, and not destructive of our alliances with countries that are our strong friends and allies. In this instance, one of the countries that could be harmed is Sweden, a country that I understand has a balanced trade with respect to electrical equipment that favors the United States. Sweden, a small country, has recently permitted a United States company to successfully bid on one of its power projects. If Sweden were to enact a reciprocal provision, such as section 506 of the appropriations bill, then our trade deficit would be increased and not decreased by the appropriations conference report. This is the type of problem that is created when trade legislation is enacted on a piecemeal basis, in haste, and where adequate hearings are not held on the subject.

If there is a trade problem with respect to extra-high-voltage electrical equipment, and quite frankly I do not know if there is or not, then it is for the appropriate authorizing committee, and not the Appropriations Committee, to devise a legislative solution that will be in our country's best interest and reduce our trade deficit, and not as this provision may well do which is to increase our trade deficit.

THE UNITED STATES SHOULD STOP SENDING MIXED SIGNALS TO CHILE

Mr. HARKIN. Mr. President, many articles have been written over the last 12 years reviewing United States involvement in the overthrow of Salvador Allende and analyzing current United States policy toward Chile. However, I have recently read what I believe is one of the most thorough and valuable pieces written to date on the subject.

Peter D. Bell, now senior associate at the Carnegie Endowment for International Peace, was the Ford Foundation's representative in Chile from 1970 to 1974. In his writing and testimony before congressional committees, he has contributed enormously to a better understanding of the policy alternatives we face in Chile.

For a better understanding of how we can best promote a peaceful transition to democracy in Chile, I suggest that my colleagues read an article Peter Bell recently wrote for the fall 1985 edition of the World Policy Journal, "Democracy and Double Standards: The View from Chile."

Mr. President, I ask unanimous consent that this article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the World Policy Journal, Fall 1985]

DEMOCRACY AND DOUBLE STANDARDS: THE VIEW FROM CHILE

(By Peter D. Bell)

Twelve years after the bloody coup that resulted in the overthrow of the Popular Unity government and the death of Salvador Allende Gossens, Chilean President Augusto Pinochet Ugarte still clings to power. Despite growing opposition, he shows no willingness to permit a democratic opening. His intransigence is the central fact of political life in Chile. Both the Chilean people and U.S. policy toward Chile must confront this reality. The longer the United States supports Pinochet, the longer before his regime falls, and the most dangerous the aftermath will be—both for Chile and for U.S. interests in South America.

Although military regimes have been falling like dominoes throughout South America in recent years, Chile—with perhaps the proudest democratic tradition in the region—has been a tragic exception to this general trend. Pinochet's recalcitrant position is bolstered by the unity of the Chilean Army and the divisions within the political opposition, but it has also been reinforced by the Reagan administration's approach to anticommunist dictatorships in the Third World. The administration has stuck to a policy of "quiet diplomacy"; it avoids weakening anticommunist dictators with public criticism and instead tries using friendly persuasion to get them to mend their repressive ways. He has been able to treat U.S. policy as a show of political support, while turning a deaf ear to any private U.S. criticism of his regime.

The Reagan administration's recent touting of the "return to democracy" in Latin America is a belated effort to identify the United States with the South American trend toward political liberalization—a trend that began before Ronald Reagan's 1980 election and prospered in spite of his administration's "quiet diplomacy." This celebration of the "return to democracy" is also a way to gain greater support, particularly in Congress, for U.S. policy in Central America, which had been widely criticized for its insensitivity to abuses of human rights and civil liberties. By declaring the promotion of democracy to be a central U.S. foreign policy goal, the administration is trying to give moral purpose to the U.S. role on the isthmus and to justify its support for the overthrow of Nicaragua's Sandinista government.

Thus the administration now insists that—as Secretary of State George Shultz put it—"democracy is precisely what is at stake in Central America." In fact, however, the driving force behind current U.S. policy toward both Central and South America is not democracy but anticommunism. Democracy is promoted only when it is judged more effective than support for a particular dictatorship in fighting communism. By encouraging the primitive anticommunism of the Pinochet regime, the administration has actually set back the cause of democracy in Chile. Because he has polarized the country between the extremes of the right and the left, Pinochet has reduced the possibility of a transition to a more open and moderate government and has consequently increased the likelihood of a totalitarian solution.

U.S. INTEREST IN CHILE

Although remote from vital U.S. interests, Chile has occupied a disproportionately large place in U.S. relations with Latin America. What sets Chile apart from its neighbors is its politics. Among Latin American countries, Chile is notable for the length and continuity of its democratic tradition. From 1830 until the military coup of September 1973, Chile suffered only three momentary interruptions in that tradition—first in 1891, and then in 1924 and 1931. Cross-cultural studies of political development in the 1960s ranked Chile among the most advanced democracies in the world, comparable to the Scandinavian countries, England, and the United States. In the decades prior to the coup, Chile's vigorous democracy, with its multiple political parties, strong trade unions, regular elections, free press, open debate, and respect for the rule of law, was a source of national pride and international admiration.

The Chilean political system is further distinguished by the strength of its leftist parties, especially the Socialists and Communists, who probably still command the loyalty of one-quarter to one-third of the population. The fortunes of the Socialists have ebbed and flowed since the founding of the party in the 1930s, and the party has always contained multiple ideological currents in uneasy confluence. The Chilean Communist party, which has often been in bitter rivalry with the Socialists, is the oldest, strongest, and most disciplined communist party in South America. On international issues, it has hewed closely to Moscow's line. At the same time over most of the 50 years prior to the current military dictatorship, the party—despite its Marxist-Leninist rhetoric—abided by the rules of Chile's democracy and participated actively and openly in the political life of the country.

While the political left, with its base in the industrial belts, shantytowns, and mining areas of the country, has been un-

sually strong by Latin American standards, it has never dominated Chilean politics. During most of the period following World War II, Chileans have divided more or less evenly among the political left, right, and center, coming together in unstable coalitions to elect governments. Over the past 25 years, the centrist Christian Democrats, with a heavily middle-class constituency, have been by far the largest, most broadly based political party, their own orientation—either to the left or the right of center—has been a matter of internal competition and has played a crucial role in shaping Chilean politics as a whole. Prior to the 1973 coup, the conservatives, whose strength had rested in the traditional agrarian and financial sectors, had been losing ground to parties of the center and left; but with the coup, conservative economic interests again became dominant.

The very openness of Chilean democracy, when combined with this delicate balance among its political forces, has made Chile an ideological battleground for both domestic and foreign interests. Nowhere else in Latin America has the election of a Marxist government been a repeated possibility in the postwar period. But the United States, as a world power intent on maintaining a friendly environment in its own hemisphere, has persistently sought to prevent that possibility from becoming a reality.

If there has been any constant in U.S. relations with Chile since World War II, it is this implacable U.S. opposition to the Chilean left. Anticommunism was responsible for U.S. intervention in the political life of the country long before Ronald Reagan's inauguration. In 1964, for example, the Johnson administration sank $4 million into the presidential election of Christan Democrat Eduardo Frei and then committed $600 million in aid to make Frei's "Revolution in Liberty" a showcase for the Alliance for Progress.

In 1970, when President Richard Nixon and Secretary of State Henry Kissinger awoke to Salvador Allende's electoral plurality, they tried frantically to find a way to undo it—"to save the Chileans from their own irresponsibility" as Kissinger stated at the time. Disappointed by the outcome of the democratic process, they sought to subvert it. They first plotted to bribe Chilean congressmen into voting against Allende in a runoff election in Congress and then to goad the Chilean armed forces into a coup by kidnaping Commander of the Army René Schneider. When Allende was inaugurated despite U.S. efforts, Nixon vowed "to make the economy scream." The United States subsequently cut off almost all bilateral aid and blocked most multilateral assistance, thereby sending a message to commercial lenders as well. Finally, the Nixon administration secretly paid out $7 million—worth many times that amount on the Chilean black market—to fortify opposition groups and to subvert the Popular Unity government.

The military coup occurred with a virulence and a vengeance for which the Chileans were prepared. The bombing of the presidential palace and the killing of hundreds, and perhaps thousands, of suspected leftists marked a definitive break with the civil tradition of Chilean politics. Many Chileans who had opposed the Allende regime naively hoped that the military government would be a temporary tidying-up operations, but Pinochet and his military colleagues were committed to a thorough going cleansing of Chile's social and political institutions. They were ready for a war without quarter not only against political parties of the left, but also against an entire political system that, in their view, had permitted the intrusion of alien ideologies that had brought the country to the edge of chaos and civil war.

The military junta, with Pinochet at the head as commander of the army, moved swiftly to dismantle the old political order. Civil liberties were sharply curtailed. Tens of thousands of Chileans were detained without charges; many of them, tortured. Thousands more were dismissed from their jobs in public and private institutions and forced into exile. Congress was closed; leftist political parties were banned; other parties were declared "in recess"; all union activity was suspended; universities were given over to military officers; and the press and other media were heavily censored. In addition, Pinochet established a secret police agency, the dreaded DINA, capable of making political suspects "disappear" in Chile and of assassinating rivals abroad.

Throughout the 1970s, Chileans—traumatized by the economic and political chaos of the last months of the Allende government and, neutralized by Pinochet's show of force against all opponents—manifested little open resistance to the dictatorship. The Catholic Church was the only major institution with the conscience, the independence, and the strength to openly offer assistance to the oppressed. Many Chileans, especially from the middle class, longed only for a return to "normalcy." Thanks to the rapid economic growth of the late 1970s, the military enjoyed a measure of popular support through 1980. The vote of confidence for Pinochet in the plebiscite of January 1978 was undoubtedly "manipulated," as retired air force general and former junta member Gustavo Leigh has recently charged, but it was not a total fabrication.

The Nixon and Ford administrations were satisfied that the fate of the Popular Unity government had ended the Marxist threat to Chile. Their enthusiasm about the coup inured them to the massive human rights violations that were occurring under Pinochet. When U.S. Ambassador David Popper complained to the regime about its abuses, Kissinger recommended that Popper "cut out the political science lectures." At the same time, U.S. bilateral aid increased sixfold in 1974 and tripled again in 1975, and the United States rescheduled official loans of $201 million due in 1974 and $96 million due in 1975. The World Bank, which had closed its window to Chile during the Allende years, extended new loans in 1974 and 1975, as did the Inter-American Development Bank. U.S. commercial banks took their cues accordingly.

Thus U.S. policy in the years immediately before and after the coup linked the United States with the destruction of Chilean democracy. Whether or not the Central Intelligence Agency (CIA) actually participated in plotting the coup, U.S. policy had helped to destabilize the Allende government. The coup was provoked primarily by domestic events, but the United States abetted the deterioration of the Chilean economy and the polarization of Chilean society. After the coup, U.S. generosity toward the military regime suggested gratitude and approval—an impression made so deeply on most Chileans that it could not easily be erased, even if the United States so desired.

Members of the U.S. Congress did express concern about human rights violations in Chile—concern that turned into outrage over DINA's brutal murder of Orlando Letelier, a former Chilean ambassador to the United States and minister of defense under Allende, and Ronni Moffitt, an American friend, on the streets of Washington in 1976. By the beginning of the Carter administration, Congress had passed legislation terminating all military assistance to Chile and instructing U.S. directors to vote against loans to Chile in the multilateral financial institutions. But the impact within Chile of this shift in U.S. policy was dulled by the censorship of the Chilean news media and by the enormous influx of U.S. commercial lending that more than compensated for the decline in bilateral and multilateral aid.

CHILE SINCE 1980

Today, Pinochet's main claim to legitimacy is his contention that 67 percent of Chilean voters approved a new constitution in 1980, even though the plebiscite hardly met the standards of a fair election. The constitution was designed to perpetuate Pinochet's rule as president at least until 1989, to convert the other members of the junta into a "legislative" body, and to lay the groundwork for implementing Pinochet's concept of a "protected democracy"—a "democracy" in which, among other things, the left is excluded. A key provision, aimed at eliminating leftist parties and movements, "outlaws the propagation of doctrines that attack the family, advocate violence, or put forward a concept of society . . . based on the class struggle."

Under the terms of the constitution, which is impossible to amend without the agreement of the military, the first opportunity for a change in national leadership would not occur until 1989, when the junta is to name the sole candidate—quite likely Pinochet himself—for an eight-year term. Congressional elections would occur in 1990. In the interim, it is up to Pinochet and the junta to work out the specific steps toward the "transition," including, for example, the preparation of an electoral register and the formulation of a law governing political parties. The constitution contains provisions that, if observed, would protect many civil liberties and human rights; but it also contains several "'states of exception" and "transitory" powers that have become the norm under Pinochet, legalizing a panoply of repressive measures.

Although much of the current opposition in Chile is directed against Pinochet's repression, it was the deterioration of the economy that prompted the first wave of public demonstrations against the regime in mid-1983. The radical free-market economic policies of the junta's "Chicago boys" made Chile especially vulnerable to the world recession of 1981 and 1982 and to the debt crisis that engulfed all of Latin America. In Chile, as in neighboring countries, bankruptcies proliferated, unemployment soared, and public confidence in the government's capacity to manage the crisis waned. National income, which had been growing at 7 percent annually during the economic boom of the late 1970s, plummeted 14 percent in 1982. Disaffection with the regime was exacerbated by the renewal of widespread human rights abuses, including increased numbers of detentions and instances of torture. It was also bolstered by the popular pressures for the return to democracy that were manifested in Argentina, Uruguay, and Brazil.

A series of national days of protest between May 1983 and October 1984 demon-

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strated the extent of opposition to the military regime. The movement, which was started by the copper-workers' union to protest the government's economic policies, quickly broadened into a campaign to defend workers' and human rights and to demand the return to democracy. It enlisted the support of other labor unions, political parties, organizations of slum dwellers, student and professional associations, and human rights groups. What seemed most ominous for Pinochet, however, was not the tens of thousands of union members and Communist, Socialist, and Christian Democratic party militants in the streets, but the presence of groups previously supportive of the regime, including shopkeepers' and farmers' associations, the truckers' union, and several conservative political parties.

The protest movements of 1983 and 1984 also showed the depth of the divisions within the opposition and the intransigence of Pinochet. In retrospect, it is difficult to assess whether, if managed differently, the movement might have succeeded in bringing down Pinochet, or at least in forcing a significant political opening. What is clear, however, is that the political parties underestimated Pinochet's tenacity and overestimated their own strength. Their failure to conduct themselves more adroitly set back the momentum for political change. In the first, heady months of protest, leaders of the political parties acted as though Pinochet's resignation was a foregone conclusion and they turned to jockeying for advantage among themselves in anticipation of a provisional government. When the regime did not fall, the Communist and other parties of the left pressed for stepped-up confrontation in the streets; the conservatives pushed for negotiation with the regime toward a gradual transition; and the Christian Democrats, now at the center of a new Democratic Alliance, equivocated, eschewing leftist violence but advocating decisive change. Despite agreement on the urgency of returning to democracy, the leaders of the major parties were divided over how to get there.

Underlying the tactical differences within the opposition—on whether to seek confrontation or to avoid violence, to negotiate with the government or to demand its resignation—were concerns about substantive issues of vital importance. The left, which had borne the brunt of military repression and free-market economic policies, sought to make the state once again serve the workers. The conservatives, many of whom had been pushed to near ruin by the agrarian and economic policies of the 1960s and early 1970s, demanded assurances of private property and social stability. The Christian Democrats and their allies wanted a mixed economy based on a new social compact. Each of the major political groups distrusted the others, remembering how they had insisted on governing alone once in power in the past. It was difficult for them to adjust to a new reality, in which reconciliation and collaboration needed to precede competition.

Pinochet responded to the pressures for change in the manner that is by now characteristic—giving the minimum ground necessary and then taking back every inch possible as soon as he could regain the advantage. For example, he appointed Sergio Onofre Jarpa, a former president of the conservative National Party, as minister of the interior, and announced that he might advance the date for congressional elections, which had been scheduled for 1990. It was widely believed that Jarpa had been charged by Pinochet to initiate a dialogue with the leaders of the moderate opposition. But the "dialogue" proved short-lived. Pinochet pulled the rug out from under Jarpa by publicly stating that he had never authorized political negotiations and that he had changed his mind about congressional elections. For their part, the political parties—which Pinochet frequently denigrates as factions useful only to ambitious, self-serving politicians—had played into his hands by appearing more interested in doctrinal and tactical disputes than in pushing him from power.

While the opposition failed to close ranks, Pinochet maintained strict command over his real base of power, the armed forces. He relied on their loyalty to censor the media, to arrest opposition leaders, and to repress demonstrations—all in an attempt to keep the semblance of order. Air force officers, including General Leigh, who had been dismissed from the junta in 1978, and General Fernando Matthei, who succeeded him, had occasionally registered dissonant notes by suggesting the need for a political opening. But the army—by far the most powerful of the armed forces—appears to have maintained unity in support of Pinochet's hard line. Schooled in the Prussian tradition, the Chilean Army is accustomed to showing complete obedience to its commanders. Besides, all of the senior officers had been promoted to their posts by Pinochet. Their loyalty could only have been stiffened by neighboring Argentina's return to democracy in 1983, and the subsequent imprisonment and trials there of high-ranking officers for human rights abuses. Short of any direct threat to the integrity and survival of the army itself, the officer corps were very unlikely to abandon Pinochet.

Once Pinochet had regained the upper hand against the opposition, he quickly reasserted his dictatorial control in the name of "restoring order." In November 1984, Pinochet abandoned any remaining pretense of flexibility, and declared a 90-day state of siege. Citing increased terrorist attacks by leftist groups, some of which were actually staged by the armed forces, he began a harsher, more systematic crackdown against his opponents. Characteristically, he struck first at the Communists and their working-class strongholds, but he also targeted Christian Democrats and other moderates whom he views as stalking horses for the left.

During the ensuing seven months, Pinochet twice extended the state of siege and used his repressive authority to impose a strict curfew, close six opposition magazines, censor reporting on political or terrorist activities, and prohibit political meetings and demonstrations. The armed forces conducted predawn security sweeps through low-income settlements, detained some 40,000 young men suspected of "antisocial" behavior, and banished 600 political organizers to remote parts of the country. Besides such "lawful" repression, the state of siege signaled the resurgence of rightwing terrorist activity, linked to the armed forces, on a scale unequaled since the years immediately following the coup. By such repressive measures, Pinochet managed to derail the opposition's plans for a national strike and to intimidate and demoralize the democratic parties. He also further polarized Chilean society and gave credence to the extreme left's insistence that only violence could remove him from power.

"EVENHANDED" POLICY

The declaration of the state of siege catapulted Chile into problem status for the Reagan administration and provoked an interagency policy reassessment. For some members of the administration, Pinochet's repressive measures had begun to conjure up images of the Somoza regime in the late 1970s. They feared the possibility of "another Nicaragua"—an escalating struggle between leftist revolutionaries and a pro-U.S. but isolated dictator, with each side reinforcing the other's intransigence. Other participants in the administration's reassessment confirmed their support for Pinochet's obdurate anticommunism. They stressed the divisions within the opposition, the unity of the army, Pinochet's ability to maintain order, and the general uncertainty about who might succeed him. Three courses seemed open: to stand by Pinochet through thick and thin, to break openly with him in favor of the democratic opposition, or to edge toward a more "evenhanded" policy between him and the opposition.

Any searching reassessment would have had to conclude that the United States had received precious little in return for its friendship toward Pinochet. At the beginning of Reagan's first term, the White House had appointed James Theberge, an early public supporter of the coup, as U.S. ambassador, and dispatched several special envoys, including Vernon Walters and Jeane Kirkpatrick, to call on Pinochet. It also announced the renewal of Chilean participation in the UNITAS joint naval exercises and the resumption of U.S. support for loans to Chile from the multilateral banks.

What did these gestures achieve? Within 48 hours of Kirkpatrick's visit, the president of the respected Chilean Human Rights Commission, with whom Kirkpatrick had refused to meet, was forced into exile. Publicly, the administration responded with silence. When protests spread during 1983 and 1984, Theberge backed Jarpa and the move toward a democratic transition that Jarpa was supposed to represent—only to discover, belatedly, that Pinochet had no intention of relinquishing any power. Instead of the political opening that Washington had meekly encouraged, Pinochet declared the state of siege—on the very day that U.S. citizens were voting in the presidential election. If in 1983 and 1984 the administration had taken a more forthright stance, publicly backing the goals of the protest movement and pushing Pinochet to reduce his repression, it might have furthered the cause of political liberalization, or at a minimum deterred Pinochet from calling the state of siege. Instead, by befriending him, trying to nudge him toward an opening but taking care not to offend him, the administration sent mixed signals, which Pinochet used to his own advantage.

Despite the ineffectiveness of its previous approach, the administration's review of relations with Chile produced little real change in U.S. policy. That policy contained four principal elements: to advocate acceptance of the 1980 constitution, including its stipulation that Pinochet remain in power through 1989, as the framework for a "transition to democracy"; to encourage dialogue between the government and the conservative-to-centrist political parties, within that framework; to cut off the left from the democratic opposition, discrediting the Communists in particular as confirmed terrorists; and to press for reforms—termination of the state of siege, preparation of an

electoral register, and legalization of non-Marxist political parties—that would ready Chile for a gradual and peaceful political opening.

What did emerge from the administration's reassessment was a subtle shift from easy friendship with Pinochet to uneasy friendship. Although unwilling to risk an open break with him, the administration was no longer comfortable with being viewed as giving him unqualified support. It now knew that the credibility of its calls for democracy depended on putting more distance between itself and Pinochet. Yet—especially in view of Pinochet's worsening repression—major aspects of U.S. policy continued to reinforce the legitimacy of Pinochet's rule, to divide the opposition, and to justify both the violence of and the repression against the left.

This ambivalence has resulted in ineffective policy. U.S. actions have usually been too little, too late, and Pinochet has successfully maneuvered around them, as illustrated by his handling of the state of siege. After Pinochet's initial imposition of the state of siege, the administration issued a series of bland public statements, regretting the escalation of violence and the abridgement of human rights and calling for dialogue between the government and the democratic opposition. The White House also canceled a visit to Chile by General John A. Wickham, Jr., the U.S. army chief of staff, and disclosed Reagan's intention to replace Ambassador Theberge with Harry G. Barnes, Jr., a career diplomat then serving as ambassador to India. The impact of this last move—potentially the most important—was dissipated, at first by the efforts of conservatives to sidetrack the nomination and then by their success in delaying it. This past February, unimpressed by the U.S. pressures, Pinochet not ony extended the state of siege for a second 90-day period but also fired Jarpa as minister of the interior, thus completely closing the door on dialogue with the opposition.

The administration responded by instructing its directors as the multilateral banks to abstain from votes on loans to Chile. In none of these cases, however, did the United States actively lobby against the Chilean requests, which were approved without difficulty. The administration also sent Assistant Secretary of State A. Langhorne Motley and Deputy Assistant Secretary of Defense Nestor Sanchez on missions to Chile, but the effectiveness of their visits was questionable. What these two officials told Pinochet is still not a matter of record, but Motley's public statements seemed designed to assuage Pinochet and his most conservative U.S. supporters. Motley declared that Western democracies owed a "debt of gratitude" to Chile for carrying out the 1973 coup, downplayed the first of the U.S. abstentions on Chilean loans as a sop to congressional critics of administration policy, and assured the world that Chile's destiny was "in good hands."

In May, Pinochet extended the state of siege for yet a third 90-day period. In the words of one State Department official, this provoked the administration "to lower the boom" on the dictator. At that time, Chile had nearly completed critical negotiations with the United States, the multilateral lending institutions, and the commercial banks for a $1.4-billion package of loans to keep the Chilean economy afloat. Approval depended heavily on active U.S. support for three controversial requests to the World Bank—a $50-million loan for an energy development project, a $145-million loan for a highway construction program, and $150-million guarantee of commercial bank loans. By threatening to withhold its backing, the administration finally persuaded Pinochet to lift the state of siege in mid-June. A few days later, however, without taking time to ascertain whether the end of the state of siege meant a real reduction in repression, the administration backed World Bank approval of the Chilean requests—once again displaying the ambivalence that underlies its policy.

Although most opposition leaders in Chile welcomed the lifting of the state of siege, they were not long in realizing that, except for the return of the six previously proscribed magazines and the relaxation of the curfew, it did not mean much in practice. By declaring the continuation of a state of emergency and issuing several supplementary decrees, Pinochet effectively retained most of his repressive powers. Many Chileans wondered aloud not at the success of U.S. pressures but at how little they had actually achieved. The question was whether Pinochet had outmaneuvered the administration, whether the administration had mainly been trying to impress Congress, or whether the administration had indulged in wishful thinking. Each of those interpretations undoubtedly bears some truth.

The lifting of the state of siege—almost as much as its imposition—showed that the Reagan administration's much-vaunted "quiet diplomacy" was only half working in Chile. It had succeeded in reassuring Pinochet about the U.S. need for his friendship, but had not resulted in any significant improvement in human rights or in any movement toward a political opening. From the Chilean perspective, the shift in U.S. policy during the state of siege was scarcely noticeable. Pinochet is not a subtle man. He remained confidential that when push came to shove the Reagan administration would back his militant anticommunism. And although leaders of the democratic opposition might have detected the change from active support of Pinochet to a more ambiguous position, they were disappointed by Washington's indecisiveness. Shortly after the lifting of the state of siege, officials of the centrist parties were still asking when—and whether—the United States would come around to supporting democracy in Chile. In light of Pinochet's near monopoly over the use of force and his determination to remain in power, U.S. "evenhandedness" between the regime and the democratic opposition still looks like backing for Pinochet.

The inconsistencies in U.S. statements and actions concerning democracy in Latin America are not lost on Chileans. Many of them compare Washington's policies toward Chile today with its policies toward Chile during the Allende period and toward Nicaragua under the Sandinistas. Nixon set out to make the economy under Allende "scream" and Reagan wants to make the Sandinistas cry "uncle"—yet at the same time his administration has stressed its determination not to "muscle" into the internal affairs of Pinochet's Chile. The White House has declared unswerving support for the "restoration of democracy" in Nicaragua, a country without democratic tradition—and has made references to the "pendulum swings" between democracy and dictatorship in Chile, which governed itself democratically for more than four decades prior to 1973. Kissinger insisted on rescuing Chileans from their "own irresponsibility" (the choice they freely expressed at the polls in 1970)—while the current administration insists that Chile is in good hands today. Except on the left, Chileans have not reacted to these glaring examples of U.S. double standards with rabid anti-Americanism. But moderate Chileans do convey a deepening cynicism about the United States and about the moral basis of its claim to leadership of the "free world."

HARD LESSONS

The leaders of the democratic opposition have learned some hard lessons in the school of Pinochet's repression—lessons that make them question not just the effectiveness but also the sincerity of U.S. policy toward Chile.

First, the twelve years of Pinochets' dictatorship have made it clear that Pinochet will not negotiate a transition to democracy of his own accord. Under the pretext of fighting lefist terrorism and "protecting" democracy, he has persistently sought to dismantle and silence the entire opposition. He is implacably opposed both to the left and to democracy as such. He did not push through the 1980 constitution to pave the way for a return to democracy; rather, he was trying to legitimize the continuation of his repressive rule. When confronted with the 1983 protest movement, Pinochet designated Jarpa to negotiate a political opening with the opposition. Once he regained the upper hand, Pinochet turned his back on Jarpa, renounced dialogue, and slapped the state of siege on the country. Under U.S. pressure he finally lifted the state of siege, but then took advantage of Washington's indecisiveness by reimposing the state of emergency. The major obstacle to a democratic transition is not the constitution of 1980, deficient though it may be. The major obstacle is Pinochet himself.

Second, in order to overcome this obstacle, the opposition—now the overwhelming majority of Chileans—must forge a unified front. Throughout much of 1983 and 1984, the opposition seemed to be gathering strength. But rivalries and doctrinal disputes between political party chieftains slowed this momentum, and today opposition groups are still divided on important issues. For example, the parties of the left and center vehemently reject the 1980 constitution as a framework for a political transition. In contrast, the conservatives, though they question the constitution's legitimacy, accept it as a starting point for negotiation. The left, having suffered the most from Pinochet's repression, believes that political change will have to be forced by confrontation, whereas the conservative and centrist parties advocate peaceful resistance, refusing to ally themselves with groups committed to violence. Underlying these issues, of course, are basic conflicts of attitude toward the Pinochet legacy and the Communist party. To overcome these differences, the opposition must painstakingly construct a broad civic front, composed not only of political parties but also of the Catholic Church and organizations of workers, women, students, professionals, merchants, and farmers. In late August, with the blessing of Archbishop Juan Francisco Fresno Larrain, leaders from 11 conservative to left-of-center parties advance toward that goal in signing a "National Accord for the Transition to Full Democracy." Partisan dissension must be set aside if Chilean democracy is to be restored.

Third, in order to form the broadest possible democratic movement, the opposition must resolve the question of the Communist

party's current and future role—a question that is complicated by the party's present endorsement of "all means," including violence, to combat the dictatorship. In a letter to the central committee of the Communist party last April, Christian Democratic President Gabriel Valdes made it clear that his party would not ally itself with the Communists as long as they continue to espouse violent tactics. The Communists' response justified the use of arms primarily as a way for workers to defend themselves against the regime, but it also acknowedged that reaching an "accord among all democratic forces is fundamental." Despite Pinochet's commitment "to extirpating the Marxist cancer" from Chile, the Communist Party still has deep roots in the country and probably continues to command the loyalty of about 15 percent of the population. In light of the Communists' long adherence to the rules of Chilean politics before the 1973 coup, it is widely assumed—even by conservatives—that they will eventually participate in a restored democracy. But if they want to close ranks with the rest of the opposition, they must forswear violence. In exchange, the centrists and conservatives should recognized that Pinochet must be confronted by mass mobilization.

Fourth, the cause around which Chileans are most likely to mobilize is the holding of fair and open elections, as propounded in the National Accord of last August. Despite persistent ideological differences, Chileans across the political spectrum are now disposed toward compromise and pragmatism on questions of how to organize the economy. The left recognizes the importance of spurring private investment and guaranteeing private property, and the right understands the need to regulate personal wealth and to offer all Chileans a decent livelihood. And unlike Nicaragua or El Salvador, Chile has a long history of deciding its most important questions by democratic elections. Even with the state of siege, the principal labor, student, and professional organizations all held internal elections over the past year, and in almost every case opposition groups joined forces to elect their candidates, usually moderate Christian Democrats. Without question, in a genuine plebiscite on whether to continue the dictatorship or restore democracy, Pinochet would lose. So he rejects free elections in order to ensure his political survival. The more blatantly he is forced to circumvent elections, the weaker will be the perceived legitimacy of his rule.

Finally, once the military sees that the regime is isolated and that the Chilean people seek reconciliation, not retribution, the officer crops may begin to question their loyalty to Pinochet. The National Accord makes clear that the demands for justice during a democractic transition must be in keeping with "the spirit of national reconciliation." Within that spirit, it eschews special tribunals for human rights violations, relying instead on the existing court system. If the question of vengeance is put to rest, then the opposition may be able to convince the military—by unity, by mass mobilization, and by nonviolent resistance—that a political opening is preferable to endless repression. A year ago, just before Pinochet declared the state of siege, Air Force Commander Matthei warned that if a transition to democracy did not begin soon, "we will end up destroying the armed forces more efficiently than any Marxist infiltration can." There have been suggestions of breaches in the traditional unity of the armed forces. In August, General Cesar Mendoza, long regarded as a close ally of Pinochet, was forced to resign as chief of the National Police and member of the junta after policemen were implicated in death squad activities. It was widely speculated that this purge of Mendoza and other police officers resulted from rivalry between intelligence agencies. Matthei's warning may yet prove to have been prescient.

A NEW U.S. POLICY

These lessons, which Chile's opposition has had no choice but to learn, should also be studied by Washington. For they suggest that if the United States is serious about promoting democracy in Chile, it has to change its approach. To begin with, U.S. policymakers must recognize both Pinochet's intransigence and the interest of the United States in distancing itself from him. The administration should not be overly impressed by Pinochet's ability to impose order by force, but should steadfastly commit itself to democracy as the best guarantor of political stability in Chile.

Because the fashioning of a democratic transition is first and foremost a Chilean responsibility, the U.S. role should remain limited. Nevertheless, what the United States does and says matters in Chile—as throughout Latin America. The administration can demonstrate its commitment in a variety of ways; speaking out in favor of democracy, denouncing human rights violations, backtracking on its support for the 1980 constitution, and advocating free and fair elections at an early date. In doing so, the White House would send clear signals to both Pinochet and the opposition—that it was no longer willing to appear complicit in Pinochet's repression and that it was confident in the capacity of Chileans to decide their future for themselves. The United States does not have the power to persuade Pinochet to withdraw from the presidency, but it could pressure him to reduce his repression, which would create opportunity for Chileans to express their opposition and organize themselves for a democratic transition.

Although disappointing in important respects, the U.S. role in the lifting of the state of seige gives a hint of what Washington could do with the requisite commitment. Contrary to the administration's disclaimers, the United States has not lacked leverage in Chile; it has lacked the determination to use it. To exercise this influence, Washington need not threaten special economic sanctions. It must simply implement current U.S. law that requires U.S. opposition to multilateral loans for countries that grossly violate human rights, and it must refuse to go the extra measure on Chile's behalf, as it did in June when it mobilized for Chile in the World Bank.

With the highest foreign debt per capita in South America and with its export earnings down as a result of depressed world prices for copper, Chile is in deep economic trouble that will last into the 1990s. Despite the continued orderliness of its accounts, Chile should, by most objective standards, be considered uncreditworthy. As long as it obtains active U.S. backing, it will probably keep its commercial creditors in tow. But its entire package of international credit—multilateral and commercial—could quickly unravel if Washington became uncooperative. Pinochet has made improvement in the economy a high priority for consolidating his rule. He knows that even his most conservative support might crumble if his repression became a net liability to the economy.

In addition to economic pressures, the United States should use its relations with the Chilean military, the last bastion of Pinochet's power, to convey its advocacy for the return to democracy. For example, it should suspend Chilean participation in the annual UNITAS joint maneuvers—a collaborative activity that Pinochet regards as a symbol of U.S. political support. The administration should also stop making soundings in Congress about renewing military assistance to Chile. The rationale that this would furnish the United States with leverage over Pinochet seems disingenuous. If the real goal is to increase leverage over Pinochet, the U.S.-Chilean economic relationship should be used.

In moving away from Pinochet, Washington should become more accessible to the democratic opposition. The administration has indeed made some progress since its first months in office, when Ambassador Theberge invited only the most conservative, pro-Pinochet political figures to his residence. This past July, the assistant secretary of state for inter-American affairs, Motley, was replaced by Elliot Abrams. In his previous post as head of the Human Rights Bureau, Abrams had been more accessible to the Chilean opposition than any other senior official in the State Department. Neither Secretary Shultz nor National Securities Advisor Robert McFarlane, however, has met with opposition leaders. In May, Reagan denounced Chile as one of four dictatorships—along with Paraguay, Cuba, and Nicaragua—in Latin America. If he takes that position, then to be consistent he should invite the leaders of the 11 opposition parties who signed the National Accords to meet with him at the White House, just as he invited the leaders of the Unified Nicarguan Opposition last April.

Although the United States should forthrightly support the return to democracy and demonstrate its confidence in the democratic opposition, it must not try to engineer the terms of the transition. Specifically, the administration should not interfere in the democratic opposition's relations with the Communists and other leftist elements, as Motley did when he told the Chilean press: "A front or an alliance that includes Communists or Marxists, by definition, is prodemocratic." Including the Communist party within Chilean political system poses some risks, but most Chileans believe that the risks of excluding it are greater. Washington should respect the democratic opposition's efforts to persuade the Communists to renounce their support for armed struggle and to adopt a non-violent stance. By its current policy of adamantly opposing a role for the Communists in any political transition in Chile, the Reagan administration increases the rigidity of both Pinochet and the Communist party. It also impedes the unity among opposition groups that is cruicial to restoring democracy.

The Reagan administration may not be ready to put its full weight behind the return to democracy in Chile. In this case, Congress must make a bipartisan effort to strengthen the administration's resolve and to convey U.S. support for the democratic opposition. Last spring, a resolution of such support was narrowly defeated in the House of Representatives—and the deciding factors was not so much disagreement over Chile as Republican disgruntlement over the seating of an Indian Democrat whose election was in dispute. Since then, the

Western Hemisphere Subcommitee of the House Foreign Affairs Committee has held hearings on Chile at which even Congressman Henry Hyde, an outspoken conservative, declared that Pinochet had outlived his usefulness: "He has held power much too long, and the country is ready, has been ready for a long time for a democratic election." The subcommittee, though bitterly divided on Central American issues, is near a consensus on Chile. This should be crystallized in a congressional resolution calling for early elections and, in the interim, the suspension of joint naval exercises and of U.S. economic backing for Chile.

In addition, the United States should work in concert with its democratic friends in South America and its allies in Western Europe to curb human rights abuses and advance a political opening in Chile. Unlike most of its NATO allies, the United States has opposed the naming of a special human rights reporter on Chile at the United Nations, and it has voted against U.N. condemnation of Chilean abuses. The United States should back the efforts of both the United Nations and the Organization of American States to improve human rights in Chile. Washington should also coordinate its embassy in Santiago with those of its friends and allies, so that there is joint participation in such symbolic activities as the celebration of the tenth anniversary of the Catholic Church's human rights office—an event from which the U.S. Ambassador was noticeably absent last year.

Quasi-governmental and government-funded private organizations can help as well. For example, the Inter-American Foundation, an independent government agency, has a strong record of promoting democratic values and grass-roots organizations in Chile. Last year, instead of criticizing the foundation for not supporting groups close to the regime. Ambassador Theberge should have treated its program as an expression of the commitment to pluralism and democracy shared by the United States and the Chilean people. The private but government-funded National Endowment for Democracy recently made a boldly symbolic grant to La Prensa in Nicaragua, but in Chile its activity has been timid; it has bypassed opportunities to back human rights groups and democratic political organizations. Similarly, the government-funded AIFLD, the regional institute of the AFL-CIO, should stop dividing the labor movement, as it has been doing, and should try to strengthen the capacity of all workers to secure their rights.

In short, the United States should stop sending mixed signals to Chile. The Reagan administration must make it unmistakably clear to Pinochet and to all Chileans that peaceful political activities—across the political spectrum—should be legalized, that an early date for democratic elections should be fixed, and that the civil liberties essential to democratic participation should be respected. For now, Chileans have expressed their opposition to military rule with remarkable moderation and restraint. But the longer Pinochet remains in power, the greater will be the suffering of the Chilean people. Pinochet's intransigence only wears down the reasonableness of the moderate opposition and strengthens the appeal of the militant left, increasing the likelihood of political polarization and massive civil strife.

Earlier this year, in congressional testimony on Central America, Secretary of State Shultz admonished, "If we abandon those seeking democracy, the extremists will gain and the forces of moderation and decency will be victims." His warning would more aptly apply to Chile, with its large internal opposition committed to restoring civil, democratic government. The moderate opposition there does not ask that the United States organize a rebel force on the slopes of the Andes, mine the harbors of Valparaiso, or engage in military maneuvers in neighboring Argentina. They do not want, or expect, the United States to overthrow Pinochet. What they seek is strong, consistent, and public U.S. support for ending repression and reviving political freedom.

If there is to be a democratic transition, Chileans themselves will make it. They may need years to succeed. But our being soft on Pinochet now is both morally indefensible and politically short-sighted. It alienates the great majority of Chileans from the United States and pits us against Chile's future democratic leaders. It also puts us on the side of a regime that will ultimately be viewed as an aberrant chapter in Chile's history. Finally, it cheapens U.S. support for democracy in Central America. Support for democracy, like opposition to dictatorship, is vitiated by double standards.

Mr. HARKIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I am just sort of killing time here. We do not seem to be getting anywhere.

COMMENDING MICHAEL STERN

Mr. LONG. Mr. President, this is the last day of the Senate session on which Michael Stern will be an employee of the Senate. Mike Stern has served as a member of the Senate Finance Committee staff for a period of 17 years. He came with us in 1968 and has served continuously since that time.

In 1973, when the late Tom Vail passed away, it was my privilege to promote Mike Stern to be the staff director, at a time when I was the chairman of the Senate Finance Committee. As fortunes changed and the Republican minority became a majority, he became the minority staff director.

During much of the time while he was the staff director, we did not have a minority and majority staff. I would, as chairman, for example, consult with the ranking Republican and the senior Republicans generally, and we would employ our staff to work for the Democrats and Republicans as well, trying to provide both sides with the best information that was available. That is no longer the practice.

But Mike Stern is a veteran of that old system on the Senate Finance Committee where the staff, and particularly the chief of staff, had an equal responsibility to be helpful to both Republicans and Democrats. Mike Stern was admired and respected and beloved by those on both sides of the aisle in that capacity.

He will be leaving us to move into the lush fields of free enterprise at the end of this session. He will find it, from a financial point of view, far more rewarding than it is as a staff member of the U.S. Senate. But I know he will miss us, as we will miss him, because I for one, and I am sure many other Senators, have relied upon Mike and have complete confidence in him.

I have never known Mike Stern to have misrepresented the facts. Every time you asked for any information, you could depend upon an honest, sincere presentation of the information as he knew it. He carried in his head a tremendous wealth of information, particularly in the area of Social Security, unemployment insurance, and social welfare, that would come under the jurisdiction of the Finance Committee. You could ask Mike about almost anything along that line and he could tell you immediately off the top of his head what the answer was.

If he did not have it in his head, somewhat like a human computer, he would have a little chart in his pocket that would have the information. He could tell you how much money was raised and spent for each program in the social welfare area during the last 10 or 20 years, and how much we both raised and spent for all these different things.

Oftentimes, he would carry with him a briefcase. And if we were managing a bill that had to do with something not in his line of complete expertise, where one would need to be a tax lawyer, for example, he had pretty well mastered all of that as well. So we would ask him about something that was not involved at all or relevant to the bill pending before us but, because it may happen to occur to us that we would like to have that information, he would reach down in his briefcase and come up with almost any information one might desire. He seemed to keep all that information at his fingertips or in his briefcase, if not in his head or pocket, available to all Senators.

Mike Stern has one of the best organized minds of any person that I have ever been privileged to know. We will very definitely miss him in the U.S. Senate. At the same time, it is good to know that he will still be in Washington and he will still be available to us from time to time if we wish to call him and have his thoughtful suggestions as to answers to some of our problems.

Mr. President, I send to the desk a resolution which commends Mike Stern for his faithful service to the U.S. Senate and to the Nation and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 285) commending Michael Stern for his faithful and outstanding

service to the United States Senate and the Nation.

Mr. LONG. Mr. President, I ask unanimous consent that that resolution remain at the desk and that any Senator who wishes to do so may add his name to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished chairman of the Finance Committee, Senator PACKWOOD, be added as a cosponsor, along with the majority leader, if that is satisfactory.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, having worked with Mike Stern for a number of years on the Finance Committee, I certainly share the views expressed by the distinguished Senator from Louisiana. Mike is a friend. He is a man of total integrity. He has been very helpful to all of us on the Finance Committee over the years. Regardless of party, the information was always the same—straight. And we appreciate it. The Finance Committee has a reputation for working well in a bipartisan fashion. Much of the credit for this must go to professional staff members like Mike Stern who always seem to be able to gather the information and present the options necessary for us to make judgments on the merits. Mike is a modest man. I cannot recall seeing him quoted much in the papers and magazines. But no one should underestimate how much he added to the efficient operation of the Finance Committee. He has been a great help and he will be missed.

I wish him well as he goes into the private sector. I have kidded him. I said, "I hope you make enough money that you can contribute to my campaign."

But the joking does not mean I have not valued his counsel. He is an outstanding public servant. I know he will do equally as well in the private sector.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I be added as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I want to join in the comments of Senator LONG and Senator DOLE with respect to Mike Stern. By Mike Stern's standards and certainly by the standards of the Senator from Louisiana, I am a new kid on the block of the Finance Committee. I have only been on the committee a mere 9 years. But during that 9 years, I have found Mike Stern to be one of the most capable and decent public servants I have known.

During the time I have been on the committee, he was the chief counsel first of the committee staff and then he was the chief Democratic counsel, which he is today. So his role was not really bipartisan since I have been on the committee. He was really representing Senator LONG and the Democrats. However, he was always most helpful and most cooperative with all members of the Finance Committee, particularly in my younger years when I was doing crazy things like trying to tax State royalties, things I should have known better, until I was taught a lesson by the Senator from Louisiana.

Mike Stern was always very decent and very fair in all of my dealings with him and with the committee. So I am pleased to join in this resolution and wish Mike well in his future years.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 285) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 285

Whereas Michael Stern has faithfully served the Senate of the United States as Staff Director and as Minority Staff Director of the Committee on Finance, and the Senate wishes to express its appreciation for his seventeen years of dedicated service to the Senate and to the Nation;

Whereas Michael Stern has discharged the important duties and responsibilities of his position with great distinction;

Whereas Michael Stern has helped guide the Committee on Finance through an extraordinarily active and challenging period of its history;

Whereas the loyalty, judgment, exceptional service, and continuing dedication of Michael Stern have earned for him respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Michael Stern for his faithful and outstanding service to the Senate and the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of the resolution to Michael Stern.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MICHAEL STERN

Mr. PACKWOOD. Mr. President, the Senate is soon to lose one of its most valuable employees, Mike Stern, who is to leave the Finance Committee to go off into private enterprise.

I have known Mike since I went on the Finance Committee in January of 1973. As the most junior Republican member on the minority side, Mike would go out of his way to take time to come to my office to teach me about the goings on of the committee, to inform me about taxation, and to teach me about Medicare.

When he was then serving as the principal aid to the chairman, RUSSELL LONG, he could still find time to talk to the most junior Republican, and give him hours and hours of time. I have not met in my career a half a dozen, if that, people of his equal who worked for the Senate. I have not met any that are his superior.

I do not grieve his leaving because I understand why he is going, and after 17 years he is entitled to a respite that gives him a few opportunities to know at 9 o'clock in the morning what time he is going home at night, and a chance to share weekends with family that can be planned a week or two ahead of time.

I shall continue to count him as a close friend, and trusted adviser. I hope he will allow me without any limitation to continue to call upon him, and seek his counsel. There is no better in this town.

Mr. ARMSTRONG. Mr. President, I just want to rise to endorse what has been said by the chairman of the Finance Committee, Mr. PACKWOOD, and by the distinguished Democratic leader of the Finance Committee, Mr. LONG, about our friend and associate, Mike Stern.

I had exactly the same experience as Mr. PACKWOOD described coming on the committee as a junior Member during the time the Democrats were in the majority, and Mr. LONG was the chairman. And the way in which Mike Stern helped me as I know he has other generations of new Members on both sides of the aisle is really an example of the highest traditions of public service.

We serve on that committee as Republicans and Democrats, but I have observed over and over again under both Democratic and Republican leadership that when the chips are down the fundamental qualities of integrity and dedication to good policy, even though we may not always agree what that constitutes, run deep and strong. And one of the people who has kept those ideas alive for a long, long time in the staff and among the members of that committee is Mike Stern.

So I want to join in complimenting and congratulating Mike, and needless to say, wishing him much success as he enters the private sector.

FAREWELL TO MIKE STERN

Mr. BRADLEY. Mr. President, Mike Stern's departure is a genuine loss to the Senate and to the Finance Committee. Mike has served the committee for 17 years. He has been our institutional memory, our conscience, and our counsel all these years and we will truly miss him. His capacity for hard work, his unstinting devotion to the committee, his calm confidence under enormous pressure, and his loyalty

have made a lasting impression on all of us.

I am particularly appreciative for Mike's thoughtfulness to me and to my staff when I first arrived in the Senate and to this day. He has always been available to answer questions, explain procedure, give background information, and help me to better serve my constituents. In these respects, Mike is an excellent reflection of the standards of the former chairman and ranking minority member of the Finance Committee, Senator LONG.

I am sure that those same qualities will serve him well in his new profession and I join my colleagues in wishing him every success.

Mr. CRANSTON. Mr. President, I want to take this opportunity to pay special tribute to a member of the Senate staff who is leaving after over 17 years of service in this body. Michael Stern has worked for the Senate since 1968. He has served as a longtime assistant to Senator LONG; in that capacity he has served as the staff director of the Senate Finance Committee from 1973 through 1980, and since 1981 as its minority staff director.

Michael has been an invaluable resource to Members on both sides of the aisle on the Finance Committee and in the Senate at large. His breadth of knowledge, his wise counsel, and his patience in helping carry out the will of the Senate are well-known to many, if not all, Senators.

Michael has on many, many occasions assisted me and my staff in working out complicated problems within the jurisdiction of the Finance Committee. He has always been a true professional in every sense of the word, always willing to help in an objective and thorough way and lend his considerable expertise to the tasks that needed to be performed.

Michael has left his mark upon countless measures acted on by this body, but I recall perhaps most vividly his dedication and commitment to helping gain passage of the 1980 Adoption Assistance and Child Welfare Act—legislation designed to improve the lot of America's forgotten foster children. This legislation was of special interest to me and I recall that—in sharp contrast to the interest displayed as to many other issues before the Finance Committee—there were only a handful of outside groups lobbying for its passage. Nevertheless, Michael put in countless hours and boundless energy helping make sure that his landmark legislation became law.

Michael Stern has served the Senate and the Nation extraordinarily well. My staff and I will miss him deeply. I know that his exceptional legislative and analytical skills, his vast experience and knowledge in the extremely diverse subjects under the Finance Committee's jurisdiction, his keen and insightful mind, and his deep sense of public commitment and public trust will be missed by all who have worked with him.

We wish him all possible success in his new endeavors and have no doubt he will achieve the same success in the private sector that he has achieved in his long career in public service.

Mr. MOYNIHAN. Mr. President, Michael Stern is leaving the U.S. Senate today. May I say—without exaggeration, without hyperbole, as simple description—that it is hard to imagine the Senate Finance Committee, and in consequence the U.S. Senate, going on without him.

Or at least, not as well as it has for the past 17 years—which is to say, for 8 years before this Senator joined this body—while Mike has been here.

According to the fortunes of our great political parties, Mike has served as the committee's majority staff director, and as the minority staff director. Whatever the fortunes of our parties, it was our good fortune to have Mike near our side. He is the chief aide and help to RUSSELL LONG, a giant as well in this body; but he has been much the same to me and I daresay to every member of the Finance Committee.

He brought order; he brought calm; he brought the civility of his own personal integrity to a committee of 20 and a Congress of 100 beset oftimes by crass and grasping pressures on every side in the deliberation of the tax law. To paraphrase another, he was among those blessed and those able to confer blessings.

I will miss him, and so will many others.

HONORING MICHAEL STERN ON HIS LEAVING THE SENATE FINANCE COMMITTEE, U.S. SENATE

Mr. MATSUNAGA. Mr. President, it has been said by wiser men than I, that an ideal Government worker is one who never forgets that he is a public servant, hired to serve the public. Mike Stern has measured up to that standard in all the 9 years that I have served on the Finance Committee and during which time I have known him as staff director and in recent years as chief minority counsel. His proficiency in the performance of his duties and carrying out the responsibilities of his positions have been of the highest order.

Mike will be leaving Government service for more lucrative ventures in the private sector, as announced by the senior Senator from Louisiana [Mr. LONG]. Members of the Finance Committee, and I especially, will miss Mike, for he has been not only a valuable advisor and teacher to me in matters of taxes and finances, but also a dear friend.

I join my colleagues in wishing Mike the best that he deserves in his private ventures, in the hope that our friendship will continue unchanged.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT ON BUDGET RECONCILIATION

Mr. DOLE. Mr. President, I believe I am now prepared to make a unanimous consent request on the conference report on the budget reconciliation. It has been cleared with the distinguished minority leader, with one good suggestion.

Provided the Senate acts first, I ask unanimous consent that the conference report to accompany H.R. 3128, the budget reconciliation, be considered under the following time agreement: 30 minutes on the conference report, to be equally divided between the Senator from Colorado, Mr. ARMSTRONG, and the Senator from Louisiana, Mr. JOHNSTON, or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, that has been cleared on this side of the aisle. I also indicated earlier that I had a request from a Senator for a rollcall vote on this matter so that Senators might want to stick around.

Mr. DOLE. I have indicated there would be that vote and maybe a vote on a nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session in order to consider the nomination of Terrence M. Scanlon, to be Chairman of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

CONSUMER PRODUCT SAFETY COMMISSION

The bill clerk read the nomination of Terrence M. Scanlon, of the District of Columbia, to be Chairman of the Consumer Product Safety Commission.

Mr. SIMON. Mr. President, I rise in opposition to this nomination.

I regret taking the time of the Senate at this point in the session. But frankly, this is a nomination that does not bring credit to the administration, nor to the country. I have never met Mr. Scanlon. All I know is he is the wrong person for this kind of a job. It may very well be if he were up for some other spot, I would be standing here supporting him. I have no personal knowledge that questions his integrity. What I do know is that frankly he is to be Chairman of the Con-

sumer Product Safety Commission, and has evidenced an interest in protecting the consumers of this country.

It would be a little bit like—I see my good friend from Colorado here, Senator ARMSTRONG—naming Senator ARMSTRONG as chairman of the Democratic National Committee. He is a fine man. But he should not be chairman of the Democratic National Committee.

Mr. Scanlon has made amply clear he has absolutely no business being Chairman of the Consumer Product Safety Commission.

I note that he was approved by the committee barely. Two members of that side of the aisle voted against approving him in the committee.

My own experience is with the permanent amusement rides where we had some debate on this floor.

I see the chairman of the committee, with whom I debated that point, the Senator from Missouri, Senator DANFORTH, for whom I have great respect. But what happened in 1981 in that huge reconciliation bill was a little line put in there stating that the Federal Government would no longer inspect permanent amusement rides. Since that time fatalities and injuries in permanent amusement rides have gone up.

That I do not blame on Mr. Scanlon. But what did happen after that piece of legislation passed was the Chairman of the Consumer Product Safety Commission, Nancy Steorts, a Reagan appointee, said we ought to be having inspections, we ought to be providing safe rides, and a member of the Commission, Mr. Scanlon, said no. That is not the business of the Federal Government. That is not the business of the Consumer Product Safety Commission.

My friends, what is the business of the Consumer Product Safety Commission? The former Chairman of that Commission, Nancy Steorts, was right. The purpose of that Commission is to protect the consumers, not the manufacturers, not the people who provide the amusement rides, and the people in all the other functions. I think fundamentally we have to ask do we want to Consumer Product Safety Commission? Do we want to protect the public? Do we want to protect the public? If the answer is in the affirmative, then we ought to get someone who is interested in protecting the public, and this gentleman clearly is not. And it is not simply the amusement ride industry where he has been on the wrong side. The Washington Post had a story November 27, 1985, just a few days ago, saying that the Consumer Product Safety Commission does not want to do the job that it ought to be doing for toys.

I ask unanimous consent to insert this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 27, 1985]

NEW TOYS RELATIVELY SAFE, AGAIN

(By Leah Y. Latimer)

The chairman of the Consumer Product Safety Commission had no sooner said yesterday that this year's batch of Christmas toys poses no major new safety risks than one of the commission's members blasted the agency for not looking hard enough into the area of toy safety.

Commissioner Stuart Statler said the CPSC doesn't know about new risks because it has not been vigorously monitoring the toy industry and noted the number of toy-related accidents in 1984 is up over the previous year.

Stressing previous warnings that balloons, toy chests and certain crib toys continue to pose a serious hazard to children, Chairman Terrence Scanlon said, 'There is no number one major threat this year. I am not aware on any compelling problems at this time."

Scanlon credited the scarcity of problems to the recall of 78 hazardous children's products during fiscal year 1985, 10 more than the previous year.

But Statler said budget cutbacks have meant that the commission is not up to date on information about hazardous toys.

Scanlon, a Democrat, is "speaking the truth in terms of what he's not aware of," said Statler, a Republican whose term on the commission ends in 1986. "He would be more aware if we had more resources and more monitoring."

Meanwhile, Ann Brown, head of the consumer affairs committee of Americans for Democratic Action, said her committee had identified a number of hazardous toys and products that have gone unchecked and will name them next week.

Brown said the group will seek CPSC action on the items, currently in stores, that the group's toy experts found were dangerous during a year-long study it conducts annually.

At the kickoff of its annual toy safety campaign in the atrium of the Department of Agriculture, commission and toy industry officials said vigorous enforcement and voluntary standards helped reduce the number of toy-related injuries to 126,000 last year, down from 147,000 in 1977.

In 1983, however, there were 118,000 incidents, according to Statler. "It troubles me that somebody is trying to minimize what appears to be an increase."

The CPSC yesterday stressed the importance of selecting toys suitable for the child's age, supervising children playing with toys, storing toys out of the reach of children for whom they are not intended and keeping toys in good repair.

But its emphasis on parental awareness sparked criticism from some who said the group is leaving too much of the responsibility with parents and is not moving aggressively enough to remove unsafe toys from the market.

Brown called for more mandatory standards and criticized the CPSC for relying on recalls to assure safety. "It's mostly based on when there's a death," Brown said of the recalls, calling for "more anticipation" of problems.

Brown also challenged the voluntary warning labels in place of mandatory redesign of some products, such as balloons, that account for the most toy-related deaths among young children who choke on uninflated ones or pieces of broken balloons. "All they do is keep warning parents. Did you ever try to warn a group of kids at a birthday party?"

Amendments to the Consumer Product Safety Act four years ago limited the adoption of mandatory safety standards until voluntary standards have been tried.

CPSC's Scanlon called more mandatory standards "a foolish thing" because voluntary ones can be adopted much more quickly, assuring safety precautions sooner.

Mr. SIMON. The reality is—incidentally, the person who led the fight here, and I am quoting from the Washington Post, "Chairman Terrence Scanlon said, 'There is no number one major threat this year. I am not aware of any compelling problems at this time.' " That is the general record of the nominee.

I became interested in this question and in the nominee specifically when I was contacted by some people associated with the Commission who said, "If you are going to have a commission and if there is any purpose in having a commission, you ought to have someone who wants to protect the consuming public." Clearly this nominee is not interested in protecting the consuming public. He has demonstrated that over and over and over again. So I urge my colleagues to take a good close look.

I am aware of the phone calls that are being made to the Members of this body in behalf of this nominee. Frankly, the very fact that these phone calls are being made ought to raise some questions in the minds of some people as to why everyone is so interested in having this gentleman as the Chairman of the Consumer Product Safety Commission.

Well, I think I have an idea, and it is not because he is out there fighting for the consumers. I had a phone call on another matter just a couple of days ago from Ralph Nader, and while I was on the phone I asked him what did he think about this particular nominee. What he had to say was a long way from laudatory of this nominee. He suggested that nominee has no business being Chairman of the Consumer Product Safety Commission.

The fundamental question is, Mr. President and my colleagues, Do we want the Consumer Product Safety Commission just to be some icing out there so we look like we are doing something or do we want a Consumer Product Safety Commission that really protects the public? My vote—incidentally, I am going to ask for a rollcall, Mr. President. I ask for the yeas and nays on this nomination.

The PRESIDING OFFICER (Mr. GORTON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. The question for this body is, Do we want a vigorous Consumer Product Safety Commission?

My answer is yes. I am going to express that answer by voting "no" on the nomination of Mr. Scanlon, as did a substantial minority in the committee that approved him, including two on the other side who voted against him. If he were up for Ambassador to Luxemburg or something else, I might very well be for him. But in this kind of a position, the public ought to be protected. The public is not being protected by this nominee, who consistently is on the wrong side of things. I urge my colleagues to vote against this nomination.

Mr. PROXMIRE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent to lay aside temporarily the nomination of Mr. Scanlon.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from the further consideration of the nomination of Mary Walker. I ask unanimous consent for its immediate consideration.

Mr. BYRD. Mr. President, there is not only no objection to this request; I support it.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the nomination.

The assistant legislative clerk read the nomination of Mary L. Walker, of Maryland, to be Assistant Secretary of Energy (Environment, Safety and Health).

Mr. MATTINGLY. Mr. President, reserving the right to object, I would like to ask a question.

I have no objection to this nomination, but I wonder if there will be any further consideration given to the nomination for the GPO. I wonder if that has had any clearance yet at this time.

Mr. DOLE. I am not sure, Mr. President. I understand the Senator from Georgia has discussed it with the Senator from Ohio. Does he feel there might be some light at the end of the tunnel?

Mr. MATTINGLY. I hope so. I wonder if the Democratic leader may have any further information yet.

Mr. BYRD. Mr. President, what is the request?

Mr. MATTINGLY. Mr. President, I ask the Democratic leader if he has heard any more with reference to the GPO nominee, if there is any further objection to bringing his nomination up tonight?

Mr. BYRD. Mr. President, I shall have to say that that has not been cleared, so far as I know, on this side.

Mr. DOLE. There is still hope. We have not gone out yet.

Mr. MATTINGLY. Does the leader feel he might be able to make some contact toward that light at the end of the tunnel the majority leader was talking about with regard to Senator METZENBAUM'S agreement to consider this nomination?

Mr. BYRD. We will go through the normal processes and I shall be in a better position to discuss this with the Senator at that point.

Mr. MATTINGLY. I thank the Senator.

NOMINATION OF MARY L. WALKER

Mr. McCLURE. Mr. President, on December 12, 1985, the Committee on Energy and Natural Resources held a hearing to consider the nomination of Mary L. Walker to be Assistant Secretary for Environment, Safety and Health at the Department of Energy. She has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. I am prepared to recommend Ms. Walker's confirmation.

On September 18, 1985, Secretary Herrington announced a series of initiatives designed to strengthen the environmental protection, safety and health programs of the Department of Energy. One of his actions was to create this new position at the Department. The Assistant Secretary's overall responsibility will be the management of the Department's environmental and safety programs. This will involve compliance reviews with respect to existing standards and requirements, an appraisal of all DOE nuclear facilities to identify health and safety risks, a baseline survey of all DOE facilities to identify environmental problems, and the development of new departmental policies and standards. The Assistant Secretary will also provide technical assistance to the Department's field operations in such areas as new project review and liaison with states and Federal agencies.

Ms. Walker has served as a consultant in the area of environmental and safety matters to Secretary Herrington since June 1985. Prior to that, she was the Deputy Solicitor for the Department of the Interior. In 1982, she joined the Reagan Administration as Deputy Assistant Attorney General in the Land and Natural Resources Division of the Justice Department.

During her confirmation hearing, Ms. Walker stated her view of her role in this newly created position:

While ensuring that the Department's operations are safe and environmentally sound is the responsibility of every employee, the advice, technical assistance and oversight functions that the Assistant Secretary for Environment, Safety and Health will have are critical to ensuring a uniform Department-wide approach to environmental and safety requirements and a consistency in compliance.

She also expressed her philosophy about the use of our natural resources and the protection of the environment:

I believe in the wise use of our resources. We should strive to achieve economic development of our energy resources, while at the same time, being careful to minimize any impact on our natural environment. Development of our resources and protection of our environment are not, in my view, inconsistent. In order to be good managers, using the resources we have most effectively, we must know the scope of our existing and potential environmental and safety problems and the priorities among them. We can then be in a position to correct what is wrong in the proper order, giving our first attention to the most critical problems. Through careful and consistent audits and appraisals, we can also take steps to reduce any potential risks.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I recommend Senate approval of the Presidential nomination of Mary L. Walker for the position of Assistant Secretary for Environment, Safety and Health.

The PRESIDING OFFICER. Is there further debate on the nomination of Mary Walker to be an Assistant Secretary of Energy?

Without objection, the nomination is considered and confirmed.

Mr. DOLE. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISCELLANEOUS CHANGES IN LAWS AFFECTING THE COAST GUARD

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 276, H.R. 2466, the Coast Guard bill.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 2466) to make miscellaneous changes in laws affecting the United States Coast Guard, and for other purposes.

The PRESIDING OFFICER. Is there objection to considering the bill? Without objection, it is so ordered.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1431

(Purpose: To make an amendment in the nature of a substitute)

Mr. DOLE. Mr. President, I send an amendment to the desk in behalf of Senator DANFORTH in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. DANFORTH, proposes an amendment numbered 1431.

Strike all after the enacting clause and insert in lieu thereof the following:

That subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)-(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of a least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.".

(D) Strike "or a sailing school vessel," in clause (B).

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.".

(B) In item 3304 in the analysis of chapter 33, strike "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than".

(7)(A) Section 3503 is amended as follows:

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.".

(B) Until the regulations required by clause (7) of this section become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer".

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge".

(10) In section 7111, strike "Part" and substitute "part".

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited".

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches".

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of a continuing violation is a separate violation.".

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

(19) Chapter 111 is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section;

"S11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

SEC. 2. (a) The Coast Guard may enter into a lease in excess of one fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for construction of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in appropriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

SEC. 3. Notwithstanding any other law, the Coast Guard Yard, Curtis Bay, Maryland, and the Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina, are exempt from statutory and administrative personnel ceilings through September 30, 1988.

SEC. 3. The body of water know as Lawyer's Ditch located at block 5000 in the city of Newark, County of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 5. Notwithstanding the last sentence of section 81 of title 14 of the United States Code, the Coast Guard may not, except for the installation of fixed aids to navigation, carry out by contract the determination of the location, or the placement, of aids to maritime navigation in the Intracoastal Waterway in New Jersey.

SEC. 6. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District to provide electricity to a Coast Guard facility without complying with the provisions of section 14 of Public Law 98-557.

SEC. 7. (a) There is established a National Offshore Vessel Operators Safety Advisory Committee (hereinafter in this section referred to as the "Committee"). The Committee shall advise, consult with, and make

recommendations to the Secretary of the department in which the Coast Guard is operating (hearinafter in this section referred to as the "Secretary") on matters relating to the safety aspects of offshore oil, gas, and other mineral operations subject to regulation by the Secretary. The Secretary shall, whenever practicable, consult the Committee concerning proposed or desirable actions affecting the safety of such offshore operations. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b)(1) The Committee shall consist of fifteen members, who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration for, or the recovery of, offshore oil, gas, or other mineral resources, as follows:

(A) Two members representing enterprises engaged in the production of oil, gas, or other mineral resources, except that not more than one member may represent companies included on the list of restricted joint bidders prepared by the Department of the Interior;

(B) Two members representing enterprises specializing in offshore drilling;

(C) Two members representing enterprises specializing in the supply of offshore oil, gas, or other mineral exploration or recovery operations by water;

(D) Three members representing general support services for offshore oil and gas activities, including construction, diving, geophysical, and helicopter services;

(E) Two members representing individuals employed in offshore operations;

(F) Two members representing environmental interests; and

(G) Two members representing the general public.

(2) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(3) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(4) Terms of members appointed to the Committee shall be for three years, except that the terms of those members first appointed under subsection (c)(1) (A), (B), and (C) shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c)(1) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

(2) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this section.

SEC. 8. Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, Parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.)

SEC. 9. Notwithstanding sections 12105, 12106, 12107 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: MARILYN, Maryland registration number MD 3533 AA; ROYAL STAR, Michigan registration number MC 9707 J; ALASKAN SHORES, United States official number 603879; SHEARWATER, United States official number 260827; GYPSY ROSE, California registration number CF 4291 HF; ELIMINATOR, United States official number 507572; PUKA KAI, United States official number 677462; LOBSTER HOUSE, Panama registration number 494-PEXT; JANE E, Bahamian official number 315924; and DIANE M., Bahamian official number 315925, except that such vessels JANE E and DIANE M. may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

SEC. 10. Any use or expenditure of funds by the Coast Guard related to the alternation of the Burlington-Nothern Railroad Bridge at mile 6.9 on the Willamette River in Portland, Oregon shall be subject to the first six sections of the Act March 3, 1931 (40 U.S.C. 276a through 276a-5).

SEC. 11. Section 2(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes," approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following: ", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies".

SEC. 12. The Coast Guard may enter into a cost-sharing arrangement with the City of Cape May, New Jersey under which the City of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a nonrecurring basis.

SEC. 13. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting". The Secretary may prescribe regulations to carry out the provisions of this subtitle.".

SEC. 14. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C. 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under sections 12106 or 12107 of title 46, United States Code,"; and

(2) by striking "a vessel of foreign registry, or a vessel in distress," and substituting "a vessel in distress".

SEC. 15. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding at the end thereof the following: "except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semi-colon and substituting a period.

SEC. 16. (a) As used in this section, the term—

(1) "commercial fishing industry vessel" means a fishing vessel, fish processing vessel, or fish tender vessel, as those terms are defined in section 2101 of title 46, United States Code;

(2) "Committee" means the Commercial Fishing Industry Vessel Safety Advisory Committee established in subsection (b) of this section; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(b) There is established a Commercial Fishing Industry Vessel Safety Advisory Committee as an advisory committee of the United States Government reporting to the Secretary.

(c)(1) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to commercial fishing industry vessels, including—

(A) navigation safety;

(B) safety equipment and procedures;

(C) marine insurance;

(D) vessel design, construction, maintenance, and operation; and

(E) personnel qualifications and training.

(2) The Secretary, and the Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding commercial fishing industry vessels.

(3) The Committee shall meet at the call of the Secretary, but not less often than once during each calendar year.

(4) Any advice or recommendation made by the Committee shall reflect the independent judgment of the Committee on the matter concerned.

(5) The Committee may make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry, as follows:

(A) ten members from the commercial fishing industry who reflect a regional and representational balance, and have experience in the operation of commercial fishing industry vessels, or have experience as a crew member or processing line worker on a commercial fishing industry vessel;

(B) two members from each of the following:

(i) underwriters engaged in insuring commercial fishing industry vessels; and

(ii) the general public, including whenever possible, a member of a national organization composed of commercial fishing industry vessel and marine insurance interests; and

(C) one member from each of the following—

(i) naval architects or marine surveyors;

(ii) manufacturers of fishing industry vessel equipment; and

(iii) education or training professionals related to commercial fishing industry vessel safety or personnel qualifications.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee. After timely notice is published, the Secretary shall appoint the members of the Committee. A member may be reappointed to any number of terms.

(3) The term of a member is three years, except that—

(A) initially, one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

(B) initially, terms may be adjusted to coincide with the Government's fiscal year; and

(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to commercial fishing industry vessels under the jurisdiction of their respective departments. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties specified in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App. 10(c)).

(e)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee concerning the following actions affecting commercial fishing industry vessels—

(A) proposing legislation;

(B) proposing or publishing a regulation;

(C) authorizing or conducting research or a study; or

(D) taking any other major action of the United States Government relating to the Committee's purpose and duties as set forth in subsection (c)(1) of this section.

(2) Consultation with the Committee shall be deemed to satisfy all requirements of title 46, United States Code, for consulting with representatives of the private sector having experience in the operation of commercial fishing industry vessels.

(f)(1) Except as otherwise provided in paragraph (3) of this subsection, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, shall serve without pay. While away from their homes or regular places of business, members of the Committee may be allowed travel or transportation expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Any payment made under this subsection shall not render a member of the Committee, a member of the uniformed services (as defined in section 101(3) of title 37, United States Code), or an officer or employee of the United States for any purpose.

(3) A member of the Committee who is a member of the uniformed services or an officer or employee of the United States may not receive additional pay on account of such member's service on the Committee, but a member of the Committee who is a member of the uniformed services shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code, unless such member is otherwise entitled to such expenses under any other provision of law.

(4) The Secretary shall furnish the Committee an executive secretary and such secretarial, clerical and other services as are necessary for the conduct of the Committee's business.

(g)(1) The Committee shall terminate on September 30, 1991.

(2) Two years prior to the date of its termination, the Committee shall submit to the Congress its recommendation as to whether the Committee should be renewed and continued beyond such termination date.

(h) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

SEC. 17. Notwithstanding the provisions of the Act entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels PICTOR, United States official number 243529, PROCYON, United States official number 244022, and ZELIMA, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

SEC. 18. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels PAUL BUNYAN, United States official number 602272, and JOHN HENRY, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secretary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

SEC. 19. The Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas and the Houston Ship Channel is declared to be a lawful bridge for all proposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of a bridge, and for other purposes", approved June 21, 1940 (33 U.S.C. 511 et seq.). The Secretary of the department in which the Coast Guard is operating is authorized to reimburse the owner of the bridge for work done prior to the date of enactment of this section, that would be the responsibility of the United States under the Act of June 21, 1940 (33 U.S.C. 511 et seq.) if performed after the date of enactment of this section, except that such reimbursement shall not exceed $450,000.

SEC. 20. Notwithstanding any other provision of law or of prior contract with the United States, the United States flag tug MOIR, official Coast Guard number 60018, shall not be subject to the requirement of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156).

Mr. DANFORTH. Mr. President, I am offering today a committee amendment in the nature of a substitute for H.R. 2466, the Coast Guard miscellaneous provisions bill that passed the House on July 29, 1985.

The provisions of the committee amendment are the result of extensive discussions with representatives of the affected public and are supported by them. The text of the amendment also has been discussed and successfully negotiated with members of the House Merchant Marine and Fisheries Committee to ensure that it will be welcomed and considered favorably and expeditiously.

The first eight sections of the committee's substitute are those of H.R. 2466 as passed by the House with only minor changes. Similarly, section 19 of the committee's substitute is the same as section 10 of H.R. 2466, with only a minor modification.

Sections 9 through 18 and section 20 of the committee's substitute include new provisions relating to conversion,

scrapping, sale, and documentation of various vessels, Coast Guard drug enforcement efforts, commercial fishing vessel safety, and other matters which have been carefully negotiated and enjoy unanimous support from the interested public.

Mr. President, the committee amendment reflects a consensus and I ask my colleagues to support it.

Mr. HOLLINGS. Mr. President, there is one provision of this Senate amendment to H.R. 2466 that is of particular value to South Carolina and other States ravaged by the influx of illegal drugs from abroad. This provision, section 12 of the amendment, addresses a question raised in the courts regarding the Coast Guard's law enforcement practices with respect to foreign-flag vessels suspected of drug trafficking.

Under international law, a foreign vessel operating outside of the U.S. 12-mile contiguous zone and territorial sea is generally subject only to the jurisdiction of its flag country. However, U.S. law allows the Coast Guard to board and seize a suspicious foreign-flag vessel on the high seas if permitted to do so by treaty or "other arrangement" with the nation whose flag the vessel is flying.

The typical situation arises after the suspect vessel's master refuses a Coast Guard cutter's request to board. The captain of the cutter then must send his boarding request and supporting information up the chain of command to Coast Guard Headquarters and the State Department. This is usually done by telephone, followed by written message. State Department in turn, through the affected American Embassy, seeks the cooperation of the country whose registry is being claimed. The necessary special arrangement for boarding and possible seizure usually consists of oral communications by the flag nation, confirmed by subsequent messages or diplomatic notes.

Some lower courts have questioned the validity of these special arrangements, asserting that the underlying law calls for a more formal agreement.

The Justice Department, Coast Guard, and other Federal agencies involved in the fight against the illegal drug trade have urged enactment of the clarification contained in section 12. Even under the special arrangements procedure, U.S. law enforcement agencies have an awesome task. As is obvious from the description of this procedure, days can pass while the Coast Guard cutter awaits the flag-country's approval to board. In the meantime rapid weather changes can hamper the cutter's ability to keep in range of the suspect vessel, enough time may elapse to allow escape into a third country's waters, and contraband drugs and other evidence can be disposed of over the side.

Section 12 makes it clear that boarding and seizure authority granted by an agreement via telephone, radio, or other similar means qualifies as a legitimate arrangement under U.S. law. This change will further strengthen Public Law 96-350, which has been very successful in facilitating the convictions of maritime drug smugglers. Prior to the 1980 enactment of that law, which I supported, only 64 percent of those arrested by the Coast Guard were accepted for prosecution, and then only 45 percent of those tried were convicted. In contrast, Coast Guard Seventh District statistics for 1984 indicate that 76 percent of those arrested were accepted for prosecution, and of those cases 85 percent resulted in guilty verdicts in Federal court.

I urge approval of this and other provisions in the Senate amendment to H.R. 2466.

COASTAL ZONE LAW REAUTHORIZATION

Mr. BIDEN. Mr. President, I am pleased to see that the conferees on the budget reconciliation bill included a reauthorization of the Coastal Zone Management Act [CZMA] in the final bill. Although this action means the Senate will not get an opportunity for a separate vote on this important measure, I support the inclusion of the CZMA reauthorization in the reconciliation bill because I believe it removes any uncertainty that may have developed over the future of this program.

The Coastal Zone Act performs a valuable role in helping States develop management plans for their coastal areas—areas that frequently contain some of the most beautiful and environmentally useful but fragile lands in that State. Congress recognized in 1972, when the original Federal Coastal Zone Act was passed, that tremendous economic pressures can be brought to bear on coastal areas because of their value to industrial and commercial interests. These are pressures that reflect the short-term value of developing coastal areas, overlooking the long-term environmental and recreational values of these lands.

Mr. President, the people of Delaware were pioneers in putting into law the mechanisms to protect their coastal areas from unwarranted or damaging development. In 1971, at the initiative of then-Governor Russell Peterson, who has received national recognition for his commitment to environmental concerns, the Delaware Legislature passed a landmark law to provide some balance to the increasing but often conflicting industrial, commercial, and recreational demands on the State's coastline.

I can assure my colleagues in the Senate that Delawareans continue to support the goals of that law, in large part because the benefits of the Coastal Zone Management Act are enjoyed by many and clear to all. I don't think you could find anyone in the State who believes the beaches and marshlands of Delaware would be in nearly the condition they are today if it wasn't for the 1971 law.

When the Federal Government followed suit in 1972 with the CZMA we are reauthorizing today, the stage was set for joint efforts between the States and the Federal Government to work for the orderly development and protection of fragile coastal areas. This is a cooperative effort that has worked well over the years, despite the efforts of some to undermine its long-term goals.

Mr. President, a recent article in the Wilmington News Journal reviewed efforts, both commercial and protective, that have occurred along the roughly 115 miles of Delaware coastline. The impact of the 1971 law has varied from one stretch to another along the coast, but the overall effect, according to a representative of the Delaware Development Office, has been beneficial: "For the nature of Delaware, it's a good idea." Under the provisions of the act, even groups that might normally be in conflict over coastal resources have been able to reach agreement.

As a headline for the article stated, "Government regulation and benevolent owners protect much of the coastline, but development efforts continue." Clearly this is a law which has succeeded in balancing the opposing interests that often arise in coastal areas.

Mr. President, the Federal Coastal Zone Act and the State's coastal zone management plan receive bipartisan support in Delaware. As an example, earlier this year I received a letter from Delaware Governor Michael Castle that goes into more detail as to the benefits that have resulted from the cooperation between Federal, State, and local governments, and the need for a reauthorization of this program. I will ask that the letter be printed at the conclusion of my remarks.

Mr. President, there are some provisions in the reauthorization that I think could be made better, but I believe it has managed to retain the thrust of the original law, and is clearly an improvement over extended uncertainty about the future of the law. The State share of grant funding for research under this act will rise over the life of the bill, but the States should be able to plan and adjust to the gradual decrease in the Federal share.

In contrast to the sudden and draconian cuts proposed year after year by the administration, the terms of the reauthorization bill will allow States to avoid the postponement or cancellation of efforts that are needed to

better understand the intricacies of coastal environments, and to take the steps necessary to protect them for future generations.

Mr. President, this congressional recommitment to ensuring balanced use of our Nation's finite and fragile coastal resources will be cheered by Delawareans and more across the Nation.

Mr. President, I ask unanimous consent that the letter from Governor Castle be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF DELAWARE,
OFFICE OF THE GOVERNOR,
April 8, 1985.

Hon. JOSEPH R. BIDEN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: As you are probably aware, the federal Coastal Zone Management Act (CZMA, Public Law 92-583 as amended), was enacted in 1972 to promote the national interest through active state involvement in preservation, protection, wise development, and restoration or enhancement of coastal resources. The CZMA, reauthorized in 1980, provides for a unique partnership between the federal, state and local governments with the participation of the public in the development and implementation of coastal management plans. Federal approval of a state's coastal management plan offers financial assistance through a federal grant program and the promise that federal activities directly affecting the state's coastal zone will be consistent with the plan.

Coastal management plans have been successfully instituted in 35 eligible coastal states and territories, including Delaware (1979). These plans and the federal assistance program have produced new statutes and stricter regulations, and have supported special studies, such as the Governor's Inland Bays Task Force, to better protect critical wetlands, beaches, coastal waters, and public recreation areas. They have fostered important new research into the control of mosquitos and the spread of Phragmites, an undesirable reed which seriously reduces the value of our wetlands. State coastal programs have streamlined permitting processes, fostered closer federal-state coordination, and offered expanded opportunities for intergovernmental cooperation and public participation.

For these reasons, reauthorization of the Federal Coastal Management Program is crucial. Hearings are currently scheduled before Senate and House Committees, with reauthorization legislation before the full Congress this spring. On behalf of the State of Delaware, I urge your fullest support.

I am enclosing for your information a copy of a portion of a resolution adopted by the National Governors' Association on February 25, and a Fact Sheet prepared by the Coastal States Organization. Please contact me or Secretary Wilson if additional materials or information are needed.

Sincerely,

MICHAEL N. CASTLE, *Governor.*

COASTAL ZONE MANAGEMENT

I. THE FEDERAL/STATE PARTNERSHIP

The Coastal Zone Management Act [CZMA] of 1972 authorized the framework for the wise stewardship of our Nation's coastal resources. To accomplish this, the CZMA established a unique partnership between Federal, State, and local governments to ensure the balanced consideration among the myriad of competing coastal resource uses. The CZMA encourages coastal States to develop coastal management plans, subject to review and approval by the Federal Government. In addition to its oversight function, the Federal role in the partnership consists of a combination of financial assistance to States and the assurance of consistency of Federal activities with approved State management plans.

To date, the partnership established by the CZMA has been remarkably productive. More than 90 percent of our national coastal areas now fall under a federally approved State coastal management plan. Twenty-eight of thirty-five eligible coastal States and the territories have instituted these plans, and several other States are now in the process of doing so as well.

II. NEED TO CONTINUE THE FEDERAL/STATE PARTNERSHIP

Because of their experience in managing these programs, coastal States and territories have developed a unique expertise for dealing with coastal zone management issues. This expertise will become increasingly important as pressures upon the Nation's finite coastal resources continue to increase. The Nation's coastal areas now contain more than half of our population and that percentage is expected to grow to 80 percent by the year 2000. The coastal areas of the country are increasingly called upon to support a tremendous and often conflicting array of critically important activities: Fisheries development and enhancement; commerce and industrial port development; energy exploration and production; public access and recreation; waterfront restoration and housing; wetland preservation and coastal preservation; etc. In order to provide a national framework which fairly and efficiently considers and balances among all of the uses and users of coastal resources, the State-Federal partnership established by the CZMA must continue. The National Governor's Association believes that it is important for the States to continue to take primary responsibility for implementation and improvement of coastal zone management plans. However, to continue the workable partnership established by the CZMA, it is equally important for the Federal Government to continue to provide States with regulatory incentives and financial assistance.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 1431) was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2466), as amended, was read the third time and passed.

Mr. DOLE. I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF TITLES 5 AND 39, UNITED STATES CODE

Mr. DOLE. I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of the bill numbered S. 1840 and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection on this side.

The bill will be stated.

The assistant legislative clerk read as follows:

A bill (S. 1840) to amend titles 5 and 39, United States Code, to revise the authority relating to the payment of subsistence allowances to Government employees for periods of official travel, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1432

(Purpose: To revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel, to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts, and to amend the title)

Mr. DOLE. I send an amendment to the desk on behalf of Senator STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. STEVENS, proposes an amendment numbered 1432.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

SEC. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

SEC. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental

United States or an amount established by the President or his designee for travel outside the continental United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached: or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

SEC. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travel expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expenses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel.".

SEC. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) The requirements of paragraph (1) of this subsection shall expire upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

SEC. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu there of "maximum payment permitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

SEC. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service

"Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employees within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

SEC. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(d)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates"

and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

SEC. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"SEC. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

SEC. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 280 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

SEC. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Amend the title so as to read as follows: "To amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes."

Mr. STEVENS. Mr. President, today I am introducing, along with Senator JOHN WARNER, an amendment to my earlier bill dealing with the question of the proper per diem rate to be paid Federal employees. This bill is entitled the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985". This amendment incorporates my previous bill and several added features in a similar bill in the House. It revises certain provisions of title 5 relating to subsistence allowances by removing the statutory ceilings and revising the methods of reimbursement for official travel. Title 41 will also be amended to impose the limits established under title 5 for travel costs of contractors.

Currently, per diem rates for Federal travelers are set by the Congress. The last time these rates were changed was 1980. The present maximum rate of $75 for high cost areas, $50 for other areas, is woefully inadequate. The term "high cost" has lost its meaning as has the value of the $75 limit.

Inadequate reimbursement rates require many Federal travelers to cover some of their official travel expenses out of pocket. This is not the message we want to deliver to our work force. This is even more insulting considering that we are constantly asking Federal employees to help the Nation fight the budget deficit by maintaining their current pay.

Reimbursement for travel to high cost areas, which cover 402 of the 470 areas recently studied, requires using the actual expense method. To be reimbursed, employees must submit a detailed account, item by item, of each day's expenses along with receipts. Not only is this time consuming but it is also an irritant when employees prepare the vouchers.

In addition to lifting the statutory dollar ceiling, this legislation would also eliminate the actual expense reimbursement method for travel. This bill empowers the Administrator of the GSA to prescribe the methods for reimbursement. The GSA has projected an annual reduction of administrative costs of $54 million by using the lodgings plus per diem method contained in this bill, which is favored by the GSA. Because travel costs vary considerably from city to city, the GSA will periodically conduct a survey of travel costs allowing the Administrator to administratively set reimbursement costs. The rates would be locality based. This method would require only a lodgings receipt. In fact, several agencies have already been participating in experimental programs along these lines. This legislation would establish a uniform reimbursment system for all agencies. It provides for reimbursement of transportation expenses for employees who because of illness or emergency abandon official business travel prior to completion. Subsistence and travel expense for law enforcement personnel and immediate families who have to be evacuated from their homes because of job related threats may also be reimbursed.

The amendment affecting contractor employees is to be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations. And finally, it permits the Judicial Conference to set reimbursement rates considering the rates and amounts set by the Administrator of General Services and the President. This will also correct an oversight in existing law by giving executive agencies the authority to reimburse employees transferring from the Postal Service for their travel, transportation, and relocation expenses. Prior to 1970, postal employees had this entitlement.

In summary, I am convinced these changes proposed are long overdue. They are much fairer to the Federal employee, greatly reduce administrative processes, and send a positive message to our official travelers.

I ask that the sectional analysis be printed in the RECORD at this time.

The material referred to follows:

SECTION-BY-SECTION ANALYSIS

Section 1. This section provides for a short title of the bill. It may be cited as the "Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

Section 101. This section amends section 5701(4) of title 5, the definition of "per diem allowance" to mean a daily payment instead of actual expenses for subsistence and fees or tips.

Section 102. Section 102(a) amends section 5702 of title 5 by deleting subsections (a), (b), (c) and (d) and inserting the following:

(a)(1) provides for an employee traveling on official business away from his/her duty station to be entitled to one of the following:

(A) a per diem allowance at a rate set by the Administrator of General Services for travel within the continental United States and by the President or designee for travel outside the continental United States;

(B) reimbursement for the actual and necessary expenses not to exceed an amount established by the Administrator for travel within the continental U.S. or by the President for travel outside the continental U.S.; or

(C) a combination of (A) and (B).

(a)(2) provides that a per diem allowance or maximum reimbursement be established by locality, to the extent feasible.

(a)(3) requires the Administrator of General Services through regulation to prescribe the method of payment for travel of less than a full day.

(b)(1) provides for reimbursement for an employee on official business who abandons the travel assignment prior to its completion because of emergency situations.

(b)(1)(A) provides that an employee is entitled to reimbursement for transportation and subsistence expenses to the employee's duty post, home or place of business when travel is abandoned because of an incapacitating illness or injury not due to misconduct.

(b)(1)(B) provides for reimbursement to an employee for transportation and subsistence expenses to the employee's duty post, home or place of business when travel is abandoned because of a personal emergency such as an illness or death of a family member or flood or fire. Reimbursement is subject to approval by an appropriate agency official.

(b)(2) provides for an employee described in subparagraph 3(A) and (B) with agency approval to be reimbursed for transporta-

tion expenses to a location for medical services or where the emergency situation exists, payments for subsistence until the location is reached and reimbursements and payments for return to the assignment. It also provides that the amount of reimbursement shall be the employee's actual costs of transportation to the emergency location and return to assignment from such location less the costs of transportation which would have been incurred had the travel began and ended at the employee's post of duty, home, or place of business.

Section 102(b) further amends section 5702 by redesignating subsection (e) as (c).

Section 103(a) provides for amending subchapter I of Chapter 57 of title 5 by adding after section 5706 a new section:

Section 5706(a) Subsistence and travel expenses for threatened law enforcement personnel (a) provides that the head of an agency may approve subsistence payments for employees who serve in law enforcement, investigative or similar capacity, and their immediate families when moved to temporary living accommodations because of job related threats, (b) provides that the head of an agency may approve transportation expenses for an employee referred to in (a) when the employee and/or family is temporarily relocated from his/her post of duty.

Section 103(b) provides for amending the analysis for chapter 57 by adding the new item: "5706a. Subsistence and travel expenses for threatened law enforcement personnel."

Section 104 provides that regulations implementing section 5702 or 5706a shall be transmitted to appropriate committees of the Congress and shall not take effect for 30 days after transmittal. It further provides that the Administrator of General Service shall periodically report, at least every 2 years, to the Office of Management and Budget on costs for travel, transportation and relocation. The reporting requirements expire with the fiscal year ending September 30, 1991.

Section 105 provides for several technical and conforming changes to section 5724a.

Section 106(a) provides for amending Subchapter II of chapter 57 of title 5 to add a new section, "5734. Travel, transportation and relocation expenses of employees transferred from the Postal Service." This new section provides that travel, transportation, and relocation expenses may be authorized for employees who transfer from the Postal Service to executive branch agencies.

Section 106(b) provides for amending the analysis for chapter 57 to add the new item, "5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service".

Section 107 provides for several technical and conforming amendments to the Technology Assessment Act of 1972, Foreign Assistance Act of 1961, the Internal Revenue Code of 1954, title 31 and title 42. It also provides for the Director of the Judicial Conference of the United States to prescribe rates for subsistence expenses with the approval of the Judicial Conference taking into consideration the rates or amounts set by the Administrator of General Services.

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

Section 201 amends the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) by adding a new section 24, "Travel Expenses of Government Contractors", which provides that travel costs for contractor personnel under contract with any executive agency may not exceed the rates and amounts set by the Administrator of General Services or the President.

Section 202 provides for the Administrator of Federal Procurement Policy, in conjunction with the Administrator of General Services and the Secretary of Defense, to undertake a study to determine whether limitations should be placed on payments for costs for transportation and relocation for contractor employees.

TITLE III—EFFECTIVE DATE

Section 301(a) provides for the Administrator of General Services to promulgate regulations implementing sections 101, 102, 103, 104, and 106 no later than 150 days following enactment. The amendments made by Title I shall take effect on the effective date of the regulations or 180 days after enactment, whichever occurs first.

Section 301(b) provides for the amendments made by section 201 to take effect 30 days after the effective date of the Title I amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1432) was agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and the bill to be read a third time.

The bill (S. 1840), as amended, was read the third time and passed, as follows:

S. 1840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

SEC. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

SEC. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an inca-

pacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

SEC. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travel expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expenses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel.".

SEC. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) The requirements of paragraph (1) of this subsection shall expire upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

SEC. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu thereof "maximum payment permitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

SEC. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service

"Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employees within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

SEC. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(d)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

SEC. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"SEC. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

SEC. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 180 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

SEC. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Mr. DOLE. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' COMPENSATION AMENDMENTS OF 1985

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 1538.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and dependency and indemnity compensation [DIC] paid by the Veterans' Administration.

AMENDMENT NO. 1433

Mr. DOLE. Mr. President, I send an amendment to the desk in the nature

of a substitute on behalf of Senator MURKOWSKI, Senator CRANSTON, and others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. MURKOWSKI, Mr. CRANSTON, Mr. KERRY, Mr. HEINZ, and Mr. SPECTER, proposes an amendment numbered 1433.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Rate Increase and Job Training Amendments of 1985".

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 of title 38, United States Code, is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (m) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) of title 38, United States Code, is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "81";

(2) by striking out "$312" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 of title 38, United States Code, is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$491	W-4	$703
E-2	505	O-1	621
E-3	518	O-2	640
E-4	552	O-3	686
E-5	566	O-4	725
E-6	578	O-5	799
E-7	607	O-6	900
E-8	640	O-7	973
E-9	[1] 669	O-8	1,067
W-1	621	O-9	1,145
W-2	645	O-10	[2] 1,255
W-3	664	xl	xl

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $772.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147";

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 of title 38, United States Code, is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 of title 38, United States Code, is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect as of December 1, 1985.

TITLE II—VETERANS' JOB TRAINING AMENDMENTS

SEC. 201. EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) SHORT TITLE.—(1) The first sentence of section 1 of Public Law 98-77 (29 U.S.C. 1721 note) is amended to read as follows: "This Act may be cited as the 'Veterans' Job Training Act'.".

(2) Any reference in any Federal law to the Emergency Veterans' Job Training Act of 1983 shall be deemed to refer to the Veterans' Job Training Act.

(b) ELIGIBILITY.—Section 5(a)(1)(B) of the Veterans' Job Training Act, as redesignated by subsection (a), is amended by striking out "fifteen of the twenty" and inserting in lieu thereof "10 of the 15".

(c) COUNSELING.—Section 14 of such Act is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary—

"(1) shall provide for a program under which periodic (not less than monthly) contact is maintained with each veteran participating in a program of job training under this Act for the purposes of avoiding unnecessary termination of employment, referring the veteran to appropriate counseling if necessary, and facilitating the veteran's successful completion of such program; and

"(2) after consultation with the Administrator, shall provide for a program of counseling services designed to resolve difficulties that may be encountered by veterans during their training under this Act and shall advise all veterans and employers participating under this Act of the availability of such services and other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "and $65,000,000 for fiscal year 1986" after "1985"; and

(2) by striking out "1987" and inserting in lieu thereof "1988".

(e) TOLLING OF CERTAIN PERIOD.—Section 17 of such Act is amended—

(1) by striking out "Assistance" and inserting in lieu thereof "(a) Except as provided in subsection (b), assistance";

(2) in clause (1), by striking out "February 28, 1985" and inserting in lieu thereof "January 31, 1987";

(3) in clause (2), by striking out "July 1, 1986" and inserting in lieu thereof "July 31, 1987"; and

(4) by adding at the end the following new subsection:

"(b) If funds for fiscal year 1986 are appropriated for the purpose of making payments to employers under this Act but are not both so appropriated and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before February 1, 1986, for such purpose, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

"(1) applies for a program of job training under this Act within 1 year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

"(2) begins participation in such program within 18 months after such date.".

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (e)(2) shall take effect on February 1, 1986.

SEC. 202. COORDINATION.

(a) IN GENERAL.—In carrying out section 1516(b) of title 38, United States Code, the Administrator of Veterans Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible to have payments made on there behalf under such section, the development of training opportunities through programs of job training consistent with the provisions of the Veterans' Job Training Act (as redesignated by section 201(a)(1) of the Act so as to utilize programs of job training established by employers pursuant to such Act.

(b) DIRECTIVE.—In carrying out such Act, the Administrator shall take all feasible steps to ensure that, in the cases of veterans who are eligible to have payments made on their behalf under both such Act and section 1516(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the veteran's best interests, to make payments to employers on behalf of such veterans.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes."

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I rise in support of an amendment in the nature of a substitute to H.R. 1538, that would provide a 3.1-percent cost-of-living [COLA] for service-connected veterans and their survivors and dependents, effective December 1, 1985.

Where has the year gone? The first session of the 99th Congress is practically over and yet much remains undone. I am extemely disappointed that even though this session has lasted practically until Christmas, we have not accomplished many important goals.

The 3.1-percent COLA was originally passed by the Senate on December 2, 1985, in S. 1887, in the proposed Veterans' Compensation Benefits Improvements Act of 1985; however, unfortunately, the House and Senate were unable to resolve their differences on several provisions in this legislation. To avoid a further delay in the COLA, the House and Senate agreed to consider the provision of the 3.1-percent COLA in the proposed Omnibus Budget Reconciliation Act of 1985.

In a year when saving money has been at the forefront of everyone's mind, the conference report on the Omnibus Budget Reconciliation Act of 1985, has not been completed. Title XIX of this legislation contained provisions relating to veterans' programs which were projected to save more than $1.26 billion over the next 3 years.

Therefore, in order to expedite the provision of the COLA for service-connected disabled veterans, I am supporting the adoption of the 3.1-percent COLA in a separate bill. The House passed H.R. 1538, which would provide a 3.4-percent COLA for service-connected disabled veterans. This legislation was referred to the Senate and held at the desk, just in case a time such as this arose when the Congress might need to act expeditiously in order to ensure a COLA for service-connected disabled veterans before adjournment sine die. The House has agreed to a 3.1-percent COLA in our reconciliation conference report. The automatically indexed COLA for Social Security and VA pension recipients will also be 3.1-percent for fiscal year 1986.

In addition to the COLA, this amendment would also extend the Emergency Veterans' Job Training Act for a year beginning February 1, 1986. Both the House, in H.R. 1408, and the Senate, in S. 1887, have passed extensions of this veterans' job training program. This amendment reflects the compromise version of S. 1887. Employment for veterans is too important an issue to delay until next year. We are reminded of this by the November unemployment rates which show Vietnam veterans aged 30 to 44 with a rate three-tenths of 1 percent higher than their nonveteran counterparts.

It is with significant disappointment that I view the inability of the House and Senate to compromise on S. 1887, and related House-passed bills. The main stumbling block was the House's refusal to accept the VA loan guaranty reforms that I offered. The Loan Guaranty Program is, without question, in dire need of tighter credit underwriting standards, and other significant reforms to ensure that the program moves toward solvency. It is not the intent of this important benefit to allow a veteran to purchase a home he or she cannot afford. The numbers of foreclosures continues at approximately 2,500 a month. This year, the VA requested over $400 million to cover program losses. This practice must stop. The veteran home buyer is an important beneficiary who deserves a program that will protect his or her interests.

The Congressional Budget Office [CBO] estimated that my loan guaranty provisions would have saved over $300 million in fiscal year 1986-89. Although somewhat belatedly, this legislation was endorsed by the VA in a side-by-side submitted by the VA general counsel, as well as by the Housing Roundtable, and other housing and lending professional organizations. I intend to make the enactment of this legislation my highest priority for the second session of the 99th Congress.

The House indicated that the only reason they would not consider this legislation was because they did not have sufficient time to hold hearings. I trust that will not be the case next year.

Mr. President, I do regret that the COLA is not part of a comprehensive bill based on legislation contained in Senate-passed S. 1887; however, due to the circumstances, I endorse strongly the passage of H.R. 1538, as amended to provide, effective December 1, 1985, a 3.1-percent COLA for those veterans who are the highest priority group of VA beneficiaries—those with service-connected disabilities and their dependents and survivors.

VETERANS' COMPENSATION RATE INCREASE AND JOB TRAINING AMENDMENTS

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I rise in support of the pending amendment which Chairman MURKOWSKI and I are offering in the nature of a substitute to H.R. 1538. This amendment is derived from S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985", which the Senate passed on December 2, 1985. It would provide for a 3.1-percent increase in the rates of disability compensation paid to service-connected disabled veterans and the rates of dependency and indemnity compensation paid to the survivors of those who die from service-connected causes. It would also extend, improve, authorize additional appropriations for, and rename the Emergency Veterans' Job Training Act of 1983.

COMPENSATION AND DIC RATE INCREASES

The VA's service-connected disability compensation program is at the very heart of our Nation's system of veterans' benefits. The priority that is attached to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice is well-known and well-established. The more than 2.2 million veterans who suffer from disabilities resulting from their service and the 342,000 survivors of those who died from service-connected disabilities are and will remain our committee's No. 1 priority. They are certainly mine.

Thus, Mr. President, I'm delighted that the pending amendment would provide for a compensation and DIC COLA equal to the increase being made this year in Social Security and VA pension benefits—3.1 percent. Consistent with the precedent we established last year in the VA compensa-

tion COLA bill, Public Law 98-543, as well as in the Reconciliation bill, Public Law 98-369, this increase would be effective on December 1, 1985, the same date as the indexed COLA's for Social Security and VA pension. As our committee has noted many times in the past and throughout this year, we continue to be committed to maintaining this approach.

I also note that, by virtue of section 156(e)(1)(A) of Public Law 97-377, a fiscal year 1983 continuing appropriations measure enacted on December 21, 1982, the enactment of this COLA would automatically result in a 3.1-percent increase, effective on December 1, in survivors' reinstated, social-security-like benefits paid under section 156 of Public Law 97-377 to certain surviving spouses with minor children.

Mr. President, the House proposed this year, as is evidenced by the underlying measure, H.R. 1538, that we proceed with a 3.4-percent COLA, splitting the difference between the 3.7-percent increase passed by the House in H.R. 3128 and the Senate's 3.1-percent increase in S. 1887. By passing this amendment, the Senate will be insisting on a 3.1-percent increase.

It should be noted, Mr. President, that it is true that last year we did not, regrettably, increase compensation rates by exactly the same percentage as the Social Security COLA. The Social Security COLA turned out to be 3.5 percent and the compensation COLA we enacted before we knew the CPI amount was 3.2 percent.

However, at that same time we moved forward by 4 months the effective date of the COLA—from April 1, 1985, to December 1, 1984. This acceleration of the COLA was a major benefit to all compensation/DIC recipients in fiscal year 1985.

In the case of veterans with disabilities rated 10-, 20-, or 30-percent disabling, there was no dollar difference in the monthly rate between a 3.1-percent COLA and a 3.5-percent COLA. However, because the effective date was moved forward by 4 months, these veterans all received more in fiscal year 1985 than they would have otherwise had the date not been moved up. In the case of 30-percent disabled veterans, this meant $24 more in fiscal year 1985 than if the effective date had been left at April 1 and a 3.5-percent COLA had been enacted.

In the case of veterans rated 40- through 70-percent disabled, the difference between the two COLA percentages was $1 per month. However, in the case of a veteran rated 60-percent disabled, for example, the earlier effective date meant $55 more in fiscal year 1985 in compensation than would have been paid with a 3.5-percent COLA increase, effective on April 1.

One last example—in the case of veterans rated 100-percent disabled, the dollar difference between the COLA's was $4 a month. The earlier effective date, however, meant $140 more in fiscal year 1985 than if a 3.5-percent COLA had been granted effective April 1, 1985.

Thus, Mr. President, in light of the effect of the earlier effective date and in consideration of the great urgency to control Federal spending, I concur in the Senate position that a 3.1-percent COLA is the appropriate adjustment.

If, in future years, there is again a disparity between the amount of the Social Security COLA and the VA compensation COLA we enact before the amount of the Social Security COLA is known, I would certainly carefully and sympathetically consider the need and justification for a restoration of the percentage-point difference in establishing the rate of a subsequent compensation increase.

EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS

Mr. President, in addition to providing for these increases in VA compensation and DIC benefits, our amendment would extend, improve, rename, and authorize new appropriations for the Emergency Veterans' Job Training Act of 1983 (EVJTA) enacted as Public Law 98-77. A number of the provisions in the amendment are derived from legislation I introduced on October 3, S. 1733, the proposed "Veterans' Job Training Amendments of 1985." Joining with me as cosponsors of that measure—which was designed to extend, make improvements in, and authorize the appropriation of additional funds for EVJTA are the distinguished Senator from Massachusetts [Mr. KERRY] as well as three of my fellow members of the Veterans' Affairs Committee, the distinguished Senators from Hawaii [Mr. MATSUNAGA], Arizona [Mr. DECONCINI], and West Virginia [Mr. ROCKEFELLER], which were incorporated into an amendment that Chairman MURKOWSKI and I offered on the floor to S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985," which the Senate approved on December 2.

As the original Senate author of Public Law 98-77—along with the distinguished former chairman of the committee [Mr. SIMPSON]—and of the extension of the program enacted last year in Public Law 98-543, I am intensely interested in this job training program. Indeed, on July 30, I joined with the distinguished chairman of the committee [Mr. MURKOWSKI] in offering an amendment that was approved by the Senate in the veterans' health bill—S. 876—to extend the period of time that veterans have to enter training under this job training program. A provision derived from our amendment that would extend that period until July 1, 1986, was incorporated into S. 1671 and signed into law on Monday, September 30, as Public Law 99-108.

CURRENT STATUS OF PROGRAM

Mr. President, the EVJTA Program provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean-conflict veterans. It has at the present time expired in one respect. The period during which veterans could apply for participation in an EVJTA job training position expired on February 28, 1985. However, as I noted, the period during which veterans who have been certified as eligible for the program may enter training, which had expired on September 1, 1985, has been extended to July 1, 1986, by virtue of the enactment of Public Law 99-108, enacted on September 30, 1985.

EVJTA originally authorized the appropriation of $150 million for each of 2 fiscal years—1984 and 1985. However, only $150 million was appropriated for fiscal year 1984—approximately $142 million of which was made available for the implementation of the job training program itself. The program presently has a carryover balance from that $150 million appropriation of some $15-20 million, which is being used to place previously certified eligible veterans. Since September 30, when the program was reopened for previously certified veterans, more than 750 veterans have been placed in training positions through the use of these carryover funds.

Since its inception, more than 403,500 applications were received from veterans for participation in training under EVJTA, and almost 52,900 employers have been approved for more than 124,000 job slots. More than 37,000 veterans have entered into training under EVJTA. According to an evaluation of the program—carried out under contract with the Veterans' Administration—those who completed the program had an average hourly wage of $6.77; the completion rate for veterans who entered training under the program was estimated to be 44 percent; and the direct cost of training per participant was estimated to be $3,000.

NEED FOR LEGISLATION

During the Senate's consideration of S. 876 on July 30, the distinguished Senator from Massachusetts [Mr. KERRY] raised the issue of further extending and expanding the EVJTA Program, and the Chairman and I expressed certain reservations about proceeding with extension legislation at that time. (CONG. REC., S10395, July 30, 1985.) The result was an agreement which led to the Committee's September 12 hearing regarding the program. Senator KERRY testified very movingly and persuasively. All testimony, except for that of the Administration, urged extension of the EVJTA Pro-

gram. After careful consideration of the issues raised at that hearing, I concluded that more can and should be done under EVJTA but that certain program improvements were called for before we extend the program or provide further funding.

Thus, the measure we introduced on October 3 would reopen the program for new applications by eligible veterans and would also make a number of improvements in the program designed to overcome program weaknesses revealed by our hearings and the VA program evaluation—especially the high veteran drop-out rate—and to take into account empoyers' general satisfaction with the program.

On October 24, the distinguished Chairman introduced S. 1788, the proposed "Veterans' Benefits and Improvements Act of 1985", which contained his proposal for an extension of the program. We then worked together closely in developing the provisions that were, by virtue of our floor amendment to S. 1887, approved by the Senate on December 2.

Subsequently, during negotiations with the House Committee on Veterans' Affairs on S. 1887, H.R. 1408, H.R. 2343, and H.R. 2344, a compromise was developed, with respect to EVJTA, between the House-passed EVJTA bill, H.R. 1408, and the Senate's provisions. The amendment we are offering now embodies that compromise, which I would like to describe briefly.

AUTHORIZATION OF APPROPRIATIONS

First, Mr. President, our amendment would authorize the appropriation of $65 million for fiscal year 1986—to remain available through fiscal year 1988—for the EVJTA program. The House figure was $75 million and the Senate figure was $55 million. We split the difference. The Senate figure of $55 million when added to the President's fiscal year 1986 budget estimate for fiscal year 1986 outlays for the program, $35 million, approximated the amount estimated in that budget for fiscal year 1985 outlays under EVJTA, $88 million.

EXTENSION OF PERIODS TO APPLY FOR PARTICIPATION AND TO ENTER TRAINING

Second, the amendment contains the Senate-passed provisions from S. 1887 that would—effective on February 1, 1986—provide an additional year for veterans to apply for participation in the program and an additional 18 months for veterans to enter into job training programs under the Act. The amendment would further provide—as did the Senate bill—that in the event new funding for the program were not made available to the VA by OMB by February 1, these periods would be extended for a period of time equal to the period between that date and the date on which funds are made available.

PREVIOUSLY CERTIFIED ELIGIBLE VETERANS

One of the concerns I raised during the Senate's consideration of S. 876 and at the committee's hearings on September 12 was that a reopening of the program to new applicants would have the effect of causing those veterans already in the EVJTA pipeline who had not yet been placed in training—principally because they were more difficult to place—to be bypassed by VA and Department of Labor personnel involved with implementation of the program, including disabled veteran outreach specialists and local veterans' employment representatives, and by employers who would focus on veterans who are easier to place and more job ready. As I previously noted, under current law, veterans were required to apply for participation in the EVJTA Program by February 28, 1985, and, by virtue of the enactment of Public Law 99-108, have until July 1, 1986, to enter training. Setting the effective date at February 1 for the reopening of the program for new applicants, as our amendment would do and as the Senate bill did—coupled with permitting entry into EVJTA training by veterans who had certifications of eligibility but who have not yet been placed—is designed to enable the VA and the Department of Labor to direct their efforts for the next 2 months to assisting those veterans who are likely to be those most in need of employment assistance—those who are not job-ready and who have hardcore unemployment difficulties.

Mr. President, it should be noted that those veterans who have been certified for the program, who are still unemployed, and who have not yet been placed in training under EVJTA are quite likely to have special problems in obtaining and retaining employment. Not surprisingly, the VA's evaluation of the program found that employers tended to select the most employable among the veterans certified for program participation. Thus, I concluded that the VA and the Department of Labor needed to strengthen their efforts to assist veterans under EVJTA during the recently enacted extension and will need to explore ways to provide special types of assistance, particularly in the area of employment counseling to reduce the disturbingly high noncompletion rate. I have strongly urged both agencies to do a better job in this area.

Also, during an October 3 hearing of the Veterans' Affairs Committee I recommended to the VA's Chief Benefits Director, John Vogel, and he agreed with my recommendation that the VA send a letter to all certified veterans who had not yet been placed in training positions under EVJTA advising them the deadline for entering training had been extended and urging them, if they are still interested in the program, to contact the VA or the Department of Labor for assistance. Such an initiative was carried out and completed by the end of October. And as I previously noted, more than 750 veterans have been placed in training since the program reopened on September 30.

EFFORTS TO REDUCE THE "DROPOUT" RATE

Third, the amendment would, as did the Senate bill, respond to the unacceptably high drop-out rate for veterans placed in training positions by requiring the Labor Department to provide two new support activities: First, counseling services designed to resolve difficulties encountered by veterans during EVJTA training, and, second, a program under which periodic contact would be maintained with veterans placed in training in order to facilitate their successful completion of training.

In carrying out these new activities, the Labor Department would be required to advise all veterans and employers participating in EVJTA of the availability of the counseling services and encourage them to request appropriate services whenever necessary. In addition, the Labor Department would be required to advise each veterans placed in training of other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate. This information should include information on counseling services available through the VA—including the VA's readjustment counseling, Vet Center Program, for Vietnam-era veterans—and through other appropriate agencies in the community.

In connection with the requirement to maintain periodic contact with veterans placed in training, I want to point out that an individual assigned to maintain such contact need not be, in each case, a trained or professional counselor. Rather, efforts should be made in the selection of the individual assigned as a "contact person" to a particular veteran to base the selection on the particular needs of that veteran.

In this connection, I note that the Labor Department has the resources of more than 3,300 DVOP's and local veterans' employment representatives that could be asssigned responsibilities for implementing this requirement and am delighted that the Department has already taken steps to develop a case manager approach with respect to veterans placed in training. Also, I note that it may also be advantageous for the Secretary of Labor to arrange with the VA for use of a VA employee or employees to serve as the contacts in certain locations in appropriate circumstances.

Fourth, Mr. President, our amendment would, as did the Senate bill, reduce the period of unemployment required to establish eligibility for par-

ticipation in the program—from 15 of the 20 weeks immediately prior to making application to 10 of the 15 weeks.

Finally, Mr. President, our amendment would change the name of the program to the "Veterans' Job Training Act", as did the Senate bill.

INTEGRATION WITH VA VOCATIONAL REHABILITATION PROGRAM

In addition to these improvements in the EVJTA authority, the amendment contains another provision derived from my proposal contained in S. 1733 and passed by the Senate in S. 1887. With respect to the VA's program of vocational rehabilitation for service-connected disabled veterans under chapter 31 of title 38, the VA would be required—for the benefit of participants in that program who are eligible to have payments made to employers in their behalf, pursuant to section 1516(b) of title 38—to take all feasible steps, utilizing section 1516(b) payments, to establish and encourage the development of training opportunities that are consistent with the provisions of EVJTA.

The VA's chapter 31 Vocational Rehabilitation Program is designed to assist service-connected disabled veterans who have employment handicaps to become employable and to obtain and maintain suitable employment. Under the section 1516(b) authority, the administrator may make payments to employers for providing on-job training to service-connected disabled veterans who have been rehabilitated to the point of employability when such payments are necessary in order for the veteran to obtain needed training or begin employment.

Pursuant to this authority, the VA has established a special chapter 31 Employer Incentives Program to facilitate the placement of veterans who are generally qualified for suitable employment but who lack work experience required by an employer or who are difficult to place due to their disabilities. Under this program, an employer who hires an eligible veteran in an approved training position may be reimbursed for the direct expenses of hiring the veteran, up to one-half of the wages paid to the veteran.

Under the amendment, the Administrator would be required to utilize EVJTA-approved job training programs under this segment of the VA's chapter 31 Vocational Rehabilitation Program and to ensure that, in the case of a veteran who is eligible for participation in both programs, maximum efforts are made, consistent with the veteran's best interests, to utilize the title 38 authority. In this manner, the VA would be able to use a program, EVJTA, with which employers are already familiar, for the benefit of VA chapter 31 vocational rehabilitation trainees and to make maximum use of title 38 benefits in lieu of limited EVJTA funds.

DELETION OF VETERANS' JOB TRAINING FUNDING FROM THE CONTINUING RESOLUTION

Clearly, enactment of an authorization of fiscal year 1986 appropriations for EVJTA is now imminent. As a result of the fine work of the distinguished Senator from Arizona [Mr. DECONCINI], a member of both the Veterans' Affairs Committee and the Appropriations Committee, who succeeded in persuading the Appropriations Committee to adopt our amendment to provide $55 million in fiscal year 1986 funding for continued operations under EVJTA, the Senate had approved new funding for the program in the third continuing resolution, for fiscal year 1986, House Joint Resolution 465. Unfortunately, these funds were rejected by the House of Representatives.

I regret very much, Mr. President, that support for our funding provision to help unemployed veterans was not forthcoming from the other body and that the funds were, consequently, deleted from the conference agreement. By seeking to make the additional funds available in that continuing resolution, we were seeking to ensure that, when the program reopens on February 1, 1986, pursuant to this legislation, sufficient resources would be available to serve the eligible veterans who seek to participate. It is thus most unfortunate that the House and Senate conferees chose to drop the Senate amendment. However, I pledge to do all that I can to secure the necessary funding as soon as possible in the Second Session.

STATUS OF NEGOTIATIONS REGARDING OTHER VETERANS' LEGISLATION

Before concluding my remarks on this measure, Mr. President, I want to comment on the negotiations between the House and Senate Committees on Veterans' Affairs over the numerous differences between our compensation, education, and other VA benefit measures embodied in S. 1887 and H.R. 1408, H.R. 2343, and H.R. 2344. I regret to note that those negotiations have reached an impasse over certain provisions in the Senate bill—now endorsed by the administration—designed to improve, and enhance the fiscal stability of, the Home-Loan Guaranty Program. As a result of that impasse, it has become clear that further action on the remaining provisions of S. 1887 will not be possible this year.

Thus, Mr. President, there are a number of provisions in which I was deeply interested that are not included in any legislation to be sent to the President this year. These include the following provisions of S. 1887 as it was passed by the Senate on December 2.

Section 108 of S. 1887—which is derived from Senate Concurrent Resolution 20, which I introduced on February 26—would declare the sense of the Congress that VA compensation should remain exempt from Federal income taxation. A majority of the U.S. Senate—52 Senators, 11 from our committee—has now endorsed this measure.

Sections 203 and 204 of S. 1887—which were derived from S. 1509, which I introduced on July 26 with Senator COHEN and which is cosponsored by Senators BUMPERS, MITCHELL, and PRYOR—would permit "New GI Bill"—chapter 30 of title 38, United States Code—benefits to be used for home-study and would add responsibility for monitoring the "New GI Bill" Program to the responsibilities of the VA's Advisory Committee on Education. In addition, section 201 contains provisions derived from S. 962, which Sentor COHEN and I introduced on April 22 and which is cosponsored by Senators MITCHELL, BUMPERS, and ROCKEFELLER, to permit veterans training under the "New GI Bill" Program to use their benefits for VA on-job training and apprenticeship programs.

Section 501 of S. 1887—which is derived from S. 1397, the proposed "Veterans' Administration Reorganization Act of 1985," which I introduced on June 27 and which is cosponsored by Senator MATSUNAGA, DECONCINI, and ROCKEFELLER—would provide necessary clarification in section 210(b)(2) of title 38 regarding the "detailed plan and justification" that the VA is required to provide to Congress with respect to certain substantial proposed reorganizations in advance of implementing them.

Section 502 of S. 1887—which is derived from section 2 of S. 6, the proposed "Veterans' Administration Health-Care Amendments of 1985," my bill introduced on January 3, 1985—would expand the definition of the "Vietnam era" for the purpose of veterans benefits and services under title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time.

Section 503 of the S. 1887—which is derived from section 6 of S. 6—would specify that, effective with respect to VA pensions paid on or after January 1, 1986, any remuneration provided to veterans for participation in certain VA work-therapy programs will not be counted as income for purposes of VA pension programs.

Section 202 of S. 1887 incorporated an amendment I proposed to amend the "New GI Bill" to correct an inequity that would exist in the cases of individuals who were made eligible, by the recently enacted Department of Defense Authorization Act, 1986, Public Law 99-145, both for the chapter 34, Vietnam-era GI bill and for the "New

GI Bill' and who had left the service and reentered prior to the enactment of the "New GI Bill."

S. 1887 also included, in section 205, our suggestion to permit economically disadvantaged individuals training under the "New GI Bill" program or the chapter 32 VEAP Program to participate in the VA's Work-Study Program. As the original author in 1972 of the VA's Work-Study Program for disadvantaged, full-time veteran-students, I was and am particularly interested in getting this provision enacted.

Section 215 of S. 1887 would prohibit the implementation of any requirement for the submission of term-by-term enrollment certifications for educational assistance benefits. The OMB proposal that this provision would invalidate would, if implemented, be extraordinarily costly and time consuming for the VA and the educational institutions and would delay GI bill payments to hundreds of thousands of veterans. This year, we were proposing to put it to rest.

Section 216 of S. 1887 would establish a Commission on Veterans' Education Policy, comprised of representatives of the education community and veterans' service organizations, to be selected based on their expertise in pertinent fields, as well as ex officio representatives of the VA and the Congress. The purpose of the Commission would be to assist in identifying problem areas that need to be explored and in developing possible solutions to some longstanding, complex issues involving the VA's administration of education benefits.

Finally, at my request, section 306 of S. 1887 would provide permanent authority to transfer funds from the direct loan revolving fund to the loan guaranty revolving fund.

Mr. President, during the Senate's consideration of S. 1887, I discussed in detail each of these provisions, and my statement on that measure appears at page S16634 of the CONGRESSIONAL RECORD for December 2. At this time, I want to stress my intention to continue to pursue these matters at the earliest appropriate opportunity in the second session of this Congress and express my deep regret at our failure to be able to reach agreement on the larger package.

CONCLUSION

Mr. President, before closing, I want to take the opportunity again to note the leadership and commitment of the distinguished Senator from Massachusetts [Mr. KERRY] in the development of this legislation. As I previously noted, he first raised this issue in July and has been a vital participant in developing the EVJTA provisions.

I want especially at this time also to thank the minority staff of the Veterans' Affairs Committee, Babette Polzer, Ed Scott, and Jon Steinberg, for their fine work on this bill over the last few weeks and months. My gratitude also goes to the Senate majority staff, Chris Yoder, Julie Susman, and Tony Principi, for their hard work and cooperation on this measure.

I also wish to note the contributions of the staff of the House Committee on Veterans' Affairs, particularly Jill Cochran, Mack Fleming, and Rufus Wilson, in working with us to reach agreement on the EVJTA provisions.

Mr. President, I urge the Senate to approve the pending amendment.

Mr. THURMOND. Mr. President, I am happy to join Senator MURKOWSKI and others as a cosponsor of the Senate amendment to H.R. 1538. This important substituting amendment would make three changes to the House version of the bill.

The first change would be to give the legislation a new title. The bill would be referred to as the "Veterans' Compensation Rate Increase and Job Training Improvements Act of 1985."

The second change, more substantive than the first, would provide for a 3.1 percent cost-of-living adjustment for veterans' compensation and pension benefits as opposed to the House increase of 3.4 percent. The increase would be made retroactive to December 1, 1985. Now I don't desire for anyone to believe that the House of Representatives cares more for this Nation's veterans that I do, but the 3.1 percent increase in benefits, which the Senate has already passed once this session, is based on the Consumer Price Index and is equal to the increase agreed upon for Social Security recipients. I think that a 3.1 percent increase is fair and I am happy to see that we are able to provide it for our needy veterans.

Finally, the Senate amendment would provide for the extension and expansion of the Emergency Veterans' Job Training Act. I suggested to the chairman of the Veterans' Affairs Committee earlier this year that we move ahead with this measure. The Senate approved such action when it passed S. 1887 on December 2. Unfortunately, an agreement on that comprehensive piece of legislation has not been reached with the House. We have been able to agree, however, on the wisdom of expanding this program and providing for some type of cost-of-living adjustment.

Mr. President, I urge my colleagues to support our amendment in order that we can continue to provide our veterans with the benefits so many of them need and deserve.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1433) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title is amended.

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of S. Res. 278, dealing with the Office of Juvenile Justice and Delinquency Prevention, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 278) to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DENTON. Mr. President, I rise in strong support of Senate Resolution 278, a resolution introduced by the distinguished chairman of the Judiciary Subcommittee on Juvenile Justice, Senator SPECTER, which disapproves the current informal freeze of funds of the Office of Juvenile Justice and Delinquency Prevention [OJJDP]. I am pleased to join as a cosponsor of this effort.

Mr. President, on Friday, December 13, the very same day that President Reagan signed H.R. 2965 the Commerce, Justice and State Departments appropriation bill, which appropriated 1986 funds for OJJDP, the Justice Department upon the informal recommendation of the Office of Management and Budget, froze all OJJDP funds for a 45-day period at the end of which time a formal request for a rescission will be filed with the Congress.

In some quarters Friday the 13th is viewed as a very unlucky day. Little did we know how unlucky this particular Friday the 13th would be for the Nation's children.

Since Friday, my office has received countless calls from various organizations in Alabama and nationwide, which presently are recipients of

OJJDP grants. The calls relay the concern that a freeze of funds will lead to the destruction of numerous juvenile justice projects; a destruction which will slow, if not reverse, the tremendous strides made by the States in the deinstitutionalization of status offenders and the removal of juveniles from adult jail facilities. Officials in Alabama have indicated that the freeze will force the immediate shut down of approximately 90 percent of the juvenile justice projects in the State and will severely affect the State's compliance with the removal of juveniles from adult jail facilities.

Mr. President, in light of the current budget situation we are all fully aware of the need to trim individual budgets. I am sure that the juvenile justice community is willing to carry its share of budget cuts. But we must not balance the budget by disproportionately burdening juvenile justice. We must continue to keep the protection of this Nation's children a priority.

Therefore, I support Senate Resolution 278, and I commend Senator SPECTER for his leadership since 1981 in preventing the zero funding, rescission or deferral of OJJDP funds. I urge my colleagues to support the resolution and move for its expeditious consideration.

Mr. HOLLINGS. Mr. President, since 1971, I have been a member of the Appropriations Subcommittee that has jurisdiction over the funds for the Department of Justice. For the last 9 years, I have been either the chairman or the ranking minority member of the subcommittee and am well-acquainted with the Juvenile Justice, Regional Information Sharing, and the Justice Assistance Programs. This is not the first time that the Department has tried to cut off these programs but never before have we seen such a cruel impoundment procedure being instigated just before Christmas.

In view of the previous experience, we certainly expected the Department to propose that these funds be rescinded. It has been this administration's policy of proposing rescissions of appropriations that they did not originally request. But, with the Congress about to adjourn and the formal rescission not to come until the President's budget for 1987 is transmitted on February 5, 1986, the administration is proceeding in the most meanspirited manner possible. There are persons entirely dependent on these programs, such as the Regional Organized Crime Information Center that so ably serves our State and local law enforcement officials throughout the South and will be cut off on January 2 unless additional funds are granted.

Mr. President, Chief J.P. Strom of the South Carolina law enforcement division has told me many times of the vital assistance ROCIC provides. There are other multistate intelligence networks covering other parts of the Nation. ROCIC provides valuable intelligence, equipment and communications support to our police out on the front lines of the war on drug traffickers. These are the unsung heros of the daily battles against crime and they should have our full support. Instead, the Department of Justice is giving a Christmas present to the criminals by telling them to close their offices.

Congress may conclude that these programs must be reduced, but during the interim, these programs should be maintained until Congress can act. I recall that we continued the funding of the Department of Justice from October until December 13 when the President approved the fiscal 1986 appropriations bill. Fairness demands that provision be made for these grantees.

I have heard that some in the Department of Justice have indicated that this impoundment is due to Gramm-Rudman-Hollings. Nothing could be further from the truth. Gramm-Rudman-Hollings is based on reducing all programs, alike, and does not zero out some to preserve the funding of others.

Mr. HEFLIN. Mr. President, I join my colleagues in expressing my extreme concern about the Department of Justice's current freeze on funding for the Bureau of Justice Assistance, the Regional Information Sharing System, and other Department of Justice programs.

Congress has repeatedly rejected attempts by the Department of Justice to limit or eliminate these vital programs. It appears that the Reagan administration is now attempting to dismantle these programs through a back door method.

The Office of Justice programs is extremely valuable to the State of Alabama and the Nation. The Regional Information Sharing System provides funding for multijurisdictional investigations, specialized surveillance, investigative equipment sharing and a multitude of other programs. Without these funds, these and other necessary services would be unavailable to a great many local and State law enforcement agencies.

I urge the Department of Justice to comply with clear congressional intent and immediately release the funds for these vital programs before serious disruptions are created in our criminal justice system.

AMENDMENT NO. 1434

(Purpose: To amend S. Res. 278, to include programs coordinated by the Office of Justice Programs)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. BIDEN.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BIDEN, and Messrs. THURMOND, HEFLIN, HOLLINGS, DECONCINI, LEAHY, INOUYE, and STENNIS, proposes an amendment numbered 1434.

Mr BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The first section of the Resolution is amended by striking the period at the end thereof and inserting in lieu thereof:

"the Office of Justice Programs, the Bureau of of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, the Victims of Crime Act programs, and the Regional Information Sharing System Programs".

Mr. BIDEN. Mr. President, I commend Senator SPECTER's efforts to alert the Senate of this action taken by the Department of Justice. The Senate must strongly and quickly express its objections to the Department of Justice freezing funds for law enforcement and juvenile justice programs supported by the Congress.

The manner in which the Justice Department, in the closing days before the congressional recess proposes to terminate or stop funding for valuable law enforcement and juvenile justice programs is a slap in the face to Congress and State and local criminal justice agencies.

As the ranking member of the Judiciary Committee and strong supporter of the juvenile justice program, I have worked in committee and on the floor to block repeated efforts by the President to eliminate funds for the Office of Juvenile Justice and Delinquency Prevention and State and local law enforcement.

I propose to make clear to the Department of Justice and Office of Management and Budget that the Senate is strongly opposed to freezing funds to any of the State and local juvenile justice or law enforcement assistance programs.

Therefore, I offer an amendment supported by Senator THURMOND and others that expands this resolution to include all law enforcement and juvenile justice programs for which Congress has appropriated funds.

I ask all my colleagues to support this amendment and Senator SPECTER's resolution which will send a clear message to the Department of Justice and the Office of Management and Budget of the Senate's continued support for juvenile justice and law enforcement programs both State and local.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1434) was agreed to.

Mr. DENTON. Mr. President, I rise in strong support of S. Res. 278, a resolution introduced by the distinguished chairman of the Judiciary Subcommittee on Juvenile Justice, Senator SPECTER, which disapproves the current informal freeaze of funds of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). I am pleased to join as a cosponsor of this effort.

Mr. President, on Friday, December 13, the very same day that President Reagan signed H.R. 2965 the Commerce, Justice and State Departments appropriations bill, which appropriated 1986 funds for OJJDP, the Justice Department upon the informal recommendation of the Office of Management and Budget, froze all OJJDP funds for a 45-day period at the end of which time a formal request for a rescission will be filed with the Congress.

In some quarters Friday the 13th is viewed as a very unlucky day. Little did we know how unlucky this particular Friday the 13th would be for the Nation's children.

Since Friday, my office had received countless calls from various organizations in Alabama and nationwide, which presently are recipients of OJJDP grants. The calls relay the concern that a freeze of funds will lead to the destruction of numerous juvenile justice projects; a destruction which will slow, if not reverse, the tremendous strides made by the States in the deinstitutionalization of status offenders and the removal of juveniles from adult jail facilities. Officials in Alabama have indicated that the freeze will force the immediate shutdown of approximately 90 percent of the juvenile justice projects in the State and will severely affect the State's complance with the removal of juveniles from adult jail facilities.

Mr. President, in light of the current budget situation we are all fully aware of the need to train individual bedgets. I am sure that the juvenile justic community is willing to carry its share of budget cuts. But we must not balance the budget by disproportionately burdening juvenile justice. We must continue to keep the protection of this Nation's children a priority.

Therefore, I support S. Res. 278, and I commend Senator SPECTER for his leadership since 1981 in preventing the zero funding, rescission or deferral of OJJDP funds. I urge my colleagues to support the resolution and move for its expeditious consideration.

Thank you, Mr. President.

Mr. MCCONNELL. Mr. President, I join in the resolution of the Senator from Pennsylvania, and urge my colleagues to support it as well. In my judgment, the attempt by the administration to rescind the 1986 funding for the Office of Juvenile Justice and Delinquency Prevention should be soundly rejected. Similar attempts have been made in the past, and each has been disapproved.

Mr. President, last summer the members of the Subcommittee on Juvenile Justice, under the able leadership of Senator Specter, advised OJJDP that it was the unanimous judgment of the subcommittee members that all unspent funds from fiscal year 1985 appropriations for that office should be spent, as directed by the act. In a letter dated November 21, 1985, we advised the distinguished acting chairman of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, that we believed that all funds for OJJDP should be retained by the Senate conferees. In that letter, we noted as follows:

As you know, the conference report prepared by the Committee on Appropriations to accompany H.R. 2965, the Department of Commerce, Justice, and State, the Judiciary, and related agencies appropriation bill for fiscal year 1986, would provide for new appropriations to the Office of Juvenile Justice and Delinquency Prevention of only $62,100,000. This amount would be combined with some $7,900,000 in unobligated balances of funds previously appropriated to that office. In this way, the Administration seeks to provide a total appropriation for OJJDP of $70,000,000 for fiscal year 1986.

While this is characterized by the Administration as level funding for OJJDP, we see it as a cut of nearly $8,000,000 in the level of appropriations from the previous year, a significant and unwarranted cut in the funding for this important office.

When the Appropriations Committee's report on this bill goes to conference with the House, we respectfully request that you advise the Senate conferees that the Senate should concur with the House provision of the bill, providing for funding of the Office for fiscal year 1986 at the same level as 1985 and appropriate $70,000,000. In addition, we would ask that you advise the Senate conferees that it is the Subcommittee's belief that the $7,900,000 of funds previously appropriated and now available in unobligated balances should be redirected to the states, as currently provided for in the Senate report.

Mr. President, those letters represent the unanimous judgment of the members of the Juvenile Justice Subcommittee that the programs funded by OJJDP are vitally important, and are deserving of full funding. Happily, the Members of this body have uniformly agreed with that assessment.

Nevertheless, now the Office of Management and Budget has informally recommended to the Department of Justice the rescission of all fiscal year 1986 appropriations for the Bureau of Justice Assistance [BJA], OJJDP, and other programs. The Justice Department sought a reconsideration of the proposed rescission of appropriations for BJA. The Department did not, however, seek to avoid the rescission request as to OJJDP funds. As a result, the administration has ordered OJJDP not to spend any of its funds until the rescission issue is resolved, notwithstanding that Congress has not yet received a formal notice of a proposed deferral or rescission of OJJDP funds pursuant to the Impoundment Control Act of 1974. A formal rescission notice from the Administration is not expected to be received by Congress until the end of January 1986, at which time the 45-day time period begins for congressional action. Consequently, a variety of important programs nationwide stand to be disrupted, notwithstanding the clear congressional intent.

Mr. President, I understand the administration's position on funding for OJJDP, and while I support the administration whenever possible, on this issue I disagree most stridently. These programs are necessary, these funds are appropriate, and this resolution is a good one. I urge my colleagues to help defeat this latest attempt to delete these funds for children and adolescents who are in need.

Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 278), as amended, was agreed to, as follows:

S. RES. 278

Resolved, That the Senate hereby disapproves the current informal freeze, in the absence of a formal rescission request, on funds of the Office of Juvenile Justice and Delinquency Prevention, the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, the Victims of Crime Act programs, and the Regional Information Sharing System Programs.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE SCHEDULE

Mr. DOLE. Mr. President, it is my understanding that we are about to receive the papers on reconciliation. I can advise Members that there is a 30-minute time agreement, provided we receive the papers first. The yeas and nays have been requested on the conference report.

I also advise that there will be a rollcall vote on the Scanlon nomination, and I am not certain how much longer that will take. It was our hope that we could have the votes back-to-back, so that Members could catch airplanes and do other things. That may not be possible.

So Members are on notice that there will be another vote some time before we finish our business.

Mr. President, I understand that the distinguished Senator from Colorado is prepared to make his opening statement while we are waiting for the sig-

nature sheets, and that would save time, so I yield the floor.

Mr. ARMSTRONG. If that is agreeable to the majority leader and to the Senator from Louisiana, who I believe will be managing the conference report for the minority, while this does not technically count against the 30 minutes, my disposition is not to use the 30 minutes but to proceed as quickly as possible.

Mr. JOHNSTON. Mr. President, I agree with my distinguished colleague from Colorado.

OMNIBUS BUDGET RECONCILIATION—CONFERENCE REPORT

Mr. ARMSTRONG. Mr. President, I send to the desk a conference report on H.R. 3128, the Consolidated Omnibus Budget Reconciliation Act of 1985, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado [Mr. ARMSTRONG]?

There being no objection, the Senate proceeded to consider the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. ARMSTRONG. Mr. President, I have sent to the desk a conference report on the reconciliation bill for fiscal year 1986. I am pleased to do so on behalf of Senator DOMENICI, who is unavoidably away from the Chamber today, and to report to my colleagues that this legislation implements many of the savings proposed in the first concurrent budget resolution agreed to by Congress on August 1. It will save $20.5 billion in fiscal 1986 and $83 billion over the next 3 years.

Mr. President, this conference report actually comprises the work of 31 subconferences and the fruits of negotiations over the past several weeks—indeed, the past few hours—on literally hundreds of provisions covering the jurisdiction of virtually every committee of the House and Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD a table summarizing the major provisions of the conference report and the savings associated with each of the subconferences.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRELIMINARY BUDGET RECONCILIATION SAVINGS

[In millions of dollars]

	Fiscal year—			Total fiscal year 1986–88
	1986	1987	1988	
Conference totals:				
Reductions in outlays	−17,696	−22,577	−28,764	−69,036
Increase in revenues	2,819	5,011	6,172	14,002
Reduction in deficit	−20,515	−27,588	−34,936	−83,038
Subconference No. 1—Agriculture:				
Export sales of dairy products	−178	−188	−197	−563
Agricultural credit	−953	−2,413	−2,863	−6,229
Total, spending reduction	−1,131	−2,601	−3,060	−6,792
Subconference No. 2—Tobacco tax earmarking: Cigarette tax earmarking				
Subconference No. 3—Tobacco support program: Tobacco program improvements	−63	−70	−87	−220
Subconference No. 4—3d-party reimbursement: 3d party reimbursement		−160	−200	−360
Subconference No. 5—Champus/Champva: Medicare reimbursement for Champus patients		−85	−150	−235
Subconference No. 6—Banking and housing:				
Rural housing loans	−1,229	−1,801	−1,896	−4,926
Public housing operating subsidies	−144	−307	−342	−793
Sec. 108 loan guarantees	−12	−46	−78	−136
Public housing debt forgiveness	−1,807	−2,106	−3,157	−7,070
Total, spending reduction	−3,192	−4,260	−5,473	−12,925
Subconference No. 7—Railroads and USTTA:				
Amtrak	−98	−126	−140	−364
Local rail service assistance	−1	−4	−8	−13
Total, spending reduction	−99	−130	−148	−377
Subconference No. 8—FCC and CPB:				
Corporation for Public Broadcasting [CPB]	−(1)	−(1)	7	7
Federal Communications Commission [FCC]	1	−23	−37	−59
Total, spending reduction	1	−24	−29	−52
Subconference No. 9—Water/transportation programs:				
Ship construction differential subsidies	−200			−200
National Oceanic and Atmospheric Administration	−42	−59	−63	−164
Maritime Administration	−8	−10	−10	−28
Boat safety	−6	−5	−3	−14
Coastal block grants			50	50
Total, spending reduction	−256	−74	−26	−356
Subconference No. 10—Pipeline programs:				
Pipeline user fees	−9	−9	−10	−28
Pipeline safety	(1)	(1)	(1)	(1)
Total, spending reduction	−9	−9	−10	−28
Subconference No. 11—Energy programs:				
Strategic petroleum reserve	−1,359	−1,331	−1,313	−4,003
Synfuels	−96	−166	−234	−496
Shared-energy savings	(1)	−2	−4	−6
Biomass loan guarantees				
Total, spending reduction	−1,455	−1,499	−1,551	−4,505
Subconference No. 12—Uranium enrichment and FERC:				
Uranium enrichment	−120	−209	−267	−596
Subconference No. 13—OCS:				
Outer Continental Shelf [OCS]	−4,501	1,685	1,413	1,403
Subconference No. 14—Highway programs: Federal-aid highways	−200	−1,000	−1,300	−2,500
Subconference No. 15—NRC fees: NRC fees	−85	−97	−101	−283

PRELIMINARY BUDGET RECONCILIATION SAVINGS—Continued

[In millions of dollars]

	Fiscal year—			Total fiscal year 1986–88
	1986	1987	1988	
Subconference No. 16—Medicare pt. A and extended coverage:				
Spending reductions:				
Medicare pt. A	−1,613	−2,915	−3,735	−8,263
Revenue increases:				
Medicare pt. A	4	5	14	23
Extend medicare coverage for state and local workers (revenue increases)	53	191	293	537
Total, revenue increases	57	196	307	560
Subconference No. 17—Medicare pt. B: Medicare pt. B	−673	−942	−1,399	−3,014
Subconference No. 18—Medicaid and MCH: Medicaid and maternal and child health	25	−50	−50	−75
Subconference No. 19—Private health insurance: Extend private health insurance coverage				
Subconference No. 20—PBGC and ERISA:				
Pension Benefit Guarantee Corporation (PBGC)	−174	−231	−261	−666
ERISA				
Total, spending reduction	−174	−231	−261	−666
Subconference No. 21—Income security, trade, and other:				
Spending reductions:				
AFDC, TAA, and foster care	44	43	198	285
Customs fees	−70	−220	−230	−520
Additional customs personnel	55	34	26	115
Additional IRS personnel	43	43	43	129
ITC authorization	3			3
Total spending reduction	75	−100	37	12
Revenue increases:				
Increase Customs collections	150	450	615	1,215
Increase IRS collections	365	744	928	2,037
Total, revenue increases	515	1,194	1,543	3,252
Subconference No. 22—Revenues:				
Tobacco excise tax	1,543	1,697	1,701	4,941
Superfund excise tax	702	1,348	1,433	3,483
Limit income averaging	133	541	589	1,263
Research and development tax allocation moratorium	−191	−96		−287
Railroad unemployment insurance tax		101	98	199
Tax railroad retirement benefits like social security	34	62	65	161
Coal excise tax	43	46	47	136
Alternate minimum tax for insolvants	−15	−75	104	14
Trade adjustment assistance import tax			289	289
Gulf Coast waste disposal authority to issue IDB's	−1	−2	−3	−6
Social security tax treatment for American Samoa	−1	−1	−1	−3
Total, revenue increases	2,247	3,621	4,322	10,190
Subconference No. 23—General revenue sharing: General revenue sharing		−3,526	−4,955	−8,481
Subconference No. 24—Federal pay and benefits:				
Civilian agency pay	−2,136	−3,800	−4,618	−10,554
2,087-hour workyear	−80	−160	−170	−410
Postal Service programs	−45	−65	−27	−137
Federal employees health benefits programs	−973	−148	105	−1,016
Total spending reduction	−3,234	−4,173	−4,710	−12,117

PRELIMINARY BUDGET RECONCILIATION SAVINGS—Continued

[In millions of dollars]

	Fiscal year—			Total fiscal year 1986–88
	1986	1987	1988	
Subconference No. 25—Administrative savings: Motor vehicle fleet reductions	1	−132	−274	−405
Subconference No. 26—Procedural issues: New reconciliation rules				
Subconference No. 27—Education and labor programs:				
Walsh-Healey overtime provision	−60	−265	−490	−815
Guaranteed student loans	−319	−195	−292	−806
Total, spending reduction	−379	−460	−782	−1,621
Subconference No. 28—Graduate medical education: Graduate medical education	(1)	(1)	(1)	(1)
Subconference No. 29—SBA programs:				
SBA business programs	−301	−574	−590	−1,464
SBA disaster program	−129	−421	−457	−1,007
Total, spending reduction	−430	−995	−1,047	−2,471
Subconference No. 30—Veterans' programs:				
Health care reforms	−109	−420	−497	−1,026
Reduced compensation COLA	−76	−102	−104	−282
Studies	1	2	2	5
Total, spending reduction	−184	−520	−599	−1,303
Subconference No. 31—Restore retirement funds: Restore social security retirement funds				
ADDENDUM				
Total reconciliation savings	−20,515	−27,588	−34,936	−83,038
Differences between total reconciliation savings and savings in the conference bill:				
Interest impact of agricultural credit reforms [2]		105	348	453
Interest impact of debt forgiveness [2]	1,884	2,285	2,711	6,880
Ship construction differential subsidies [3]	200			200
Pay offsets in function 950 [4]	203	363	439	1,005
Walsh-Healey overtime provision [5]	60	265	490	815
SBA interest offset [2]		25	91	116
Total, difference	2,347	2,938	3,731	9,016
Savings in the conference bill	−18,168	−24,650	−31,205	−74,022

[1] Less than $500,000.

[2] Interest offsets related to agriculture credit savings, public housing debt forgiveness and SBA business loans were not assumed in the resolution reconciliation instructions and are therefore not counted in total reconciliation savings. These offsets are included in the scoring of the conference bill.

[3] Savings from ship construction differential subsidies were achieved through administrative action. However, these savings were assumed in the reconciliation instructions and both House and Senate reconciliation bills included language affirming the Secretary of Transportation's authority to receive CDS payments. Therefore these savings are included in total reconciliation savings but are not included in the scoring of the conference bill.

[4] Reconciliation instructions for provisions relating to pay adjustments and the extension of the 2,087-hour workyear calculation did not assume offsets in function 950, offsetting receipts. These offsets are therefore not included in total reconciliation savings but are included in the scoring of the conference bill.

[5] The Walsh-Healey overtime provision was contained in the Senate and House-passed reconciliation bills and in the defense authorization bill. It was enacted first in the defense authorization bill, Public Law 99–145. Because these savings were assumed in the reconciliation instructions, they are included in total reconciliation savings but are excluded from the estimate of the conference bill.

Note.—All outlay estimates on this table are based on preliminary estimates from the Congressional Budget Office. All revenue estimates are based on preliminary estimates from the Joint Committee on Taxation. Changes are measured against the fiscal year 1986 budget resolution baseline and assume a Dec. 31, 1985, effective date unless otherwise stated in the legislative language.

Mr. ARMSTRONG. In brief, Mr. President, when the Senate considered the reconciliation bill, we achieved a saving of $21.4 billion for 1986, $28.4 billion in fiscal year 1987, $35.9 billion in projected savings for fiscal year 1988—a total for the 3 years of $85.7 billion.

I would have to say a word of compliment to those who negotiated through the subconferences on behalf of the Senate because the final figures which we have achieved in this conference report are extraordinarily close to the targets set by the Senate. In total we are within $2 billion in 3 years of the sought-to-achieve reconciliation bill. We come up with the final total projected savings of $83 billion.

Let me just mention a couple of specific aspects of it.

Last May 10 at about 3:30 a.m. in the morning we passed the comprehensive budget resolution. The Senate sought to freeze the defense budget along with most of the cost-of-living adjustments. The budget resolution which was adopted that morning, as my colleagues will remember, eliminated about a dozen Federal programs and would have reduced deficits by $300 billion over 3 years.

This was a tough budget. It was a tough vote for most Senators. It was a plan which will withstand the test of time because it was fair. It was the right thing to do.

But as my colleagues know, the budget we passed on that morning has not come to pass and I am not going to go back and relitigate that or conjure up old demons, but after several difficult days in July the hope of deep spending cuts was dashed and the Senate was left with the task of trying to pick up the pieces.

I know that Senator DOMENICI particularly had hoped we would accomplish much more than we did this year, and I shared that hope, but under much less than optimum circumstance the decision was made to press ahead with the reconciliation process and get the most we could get and get something instead of nothing.

So I do not mean to minimize what we have. It is not everything we would like to have, but I do not believe it is either enough to fully accomplish the job ahead.

Mr. President, may I also observe that the reconciliation bill contains some provisions which I do not personally support and which I know that other Senators may not prefer, and indeed, which may not enjoy the support of the President, but it is like all major legislation, the product of negotiation and compromise among different interests. It is a product that while not perfect will save an extraordinary, indeed a stupendous amount of money over the next 3 years, $83 billion.

Now that the Gramm-Rudman Deficit Reduction Act is the law of the land, the stage is set for us to get the job done beginning in January, but this reconciliation bill is an important, indeed a critical prelude to that process because if we were to fail to enact this conference report there would be $83 billion more on the table against which Gramm-Rudman would have to operate. So this is really an important step for us, even though it is not in any sense the final step.

Mr. President, I see on the desk a stack of papers. May I inquire is that the final paperwork? If not, then let me just conclude my remarks and yield to my colleague from Louisiana.

I wish to close by recognizing the invaluable leadership and participation of our colleague, Mr. JOHNSTON, who has stepped forward to manage on behalf of the minority party in the absence of Senator CHILES, who we trust is recovering from his surgery and who we all hope will be back to pick up his role of leadership in this task next month.

I spoke to Senator CHILES a while back, and it sounded as though he was on the mend and doing well and probably doing better tonight, I would say to my colleagues, than we are. We miss him. But the Senate is fortunate that Senator JOHNSTON has been here to pick up this task.

I also wish to extend my personal thanks to the Budget Committee, especially the director, Steve Bell; the deputy director, Bill Hoagland; Richard Brandon; and many others who have worked literally day and night to bring us to this stage and deserve not only our thanks but indeed our compliments.

Mr. President, pending the arrival of the paperwork, I yield the floor and hope that my colleague from Louisiana will also have something to say about this conference report.

Mr. JOHNSTON. Mr. President, I thank my distinguished colleague for his generous remarks.

Mr. President, the distinguished Senator from Colorado [Mr. ARMSTRONG] has stepped in at a very crucial time in the reconciliation process and I think has played a key role in getting us to the point where we are.

Reconciliation has been in all its parts and in especially some of its parts like a child with a series of childhood diseases, life threatening each, and enough to make its parents despair as to whether it would pull through. Most recently it has had cancer from which we hope it will recover. It has been through diphtheria; it has been through pneumonia. It has been through the worst of diseases.

But we think finally, Mr. President, we are going to pass reconciliation here tonight and with it save $83 billion.

Mr. President, I do not speak tonight so much to my colleagues who I am quite sure will vote readily, enthusiastically, and eagerly for 83 billion dollars' worth of cuts which have been put together with such craftsmanship by those involved. I think it was a

monumental job. It is recognized as such and, as I say, it will be eagerly supported.

But my few remarks tonight, Mr. President, go really to the White House because there is a lingering rumor still that in spite of the fact that this saves $83 billion they might be so foolish as to veto this legislation.

Mr. President, I would strongly urge the President that he not do so. I think it would be a tragedy in so many ways for the country and certainly for the Gramm-Rudman process.

This does, in fact, save $69 billion over 3 years in outlay cuts and $14 billion in revenues, for a total of $83 billion or $5 in spending cuts for every $1 in revenues.

There are $69 billion in outlay cuts in domestic programs, and if this is not passed, Mr. President, and I say that to the President in this body and also to the other President also, that $69 billion has to come half from his defense and, Mr. President, he and you have both said constantly and repeatedly that national defense should not be cut by Gramm-Rudman. If this is vetoed, Mr. President, you are setting the scene for having to take half of $69 billion additionally from national defense which you would not have to do so.

Mr. President, the cuts in outlays come from all parts of the budget, $6 billion from agricultural credit, $5 billion from rural housing loans, $0.4 billion from Amtrak, $4 billion from the strategic petroleum reserve, $2.5 billion from highways, $11 billion from Medicare.

Congress has met its commitments to cut these programs in very difficult times. The revenues are not general tax increases. There are no changes in the rates. They are modest taxes at best and an extension of the tobacco tax, the excise tax; $4.9 billion is not a tax increase. It is a simple extension of that tax, and there is not anyone in this body that I know of who thinks that the tax should not at least be extended.

There are $3.5 billion for the Superfund tax. Mr. President, that is a very painful and difficult subject matter. Many of us from the petrochemical States whose States have double-digit unemployment right now think if you put the value-added tax to finance Superfund that it would take our States out of deep recession and put them directly into a depression.

If you were going to make that sacrifice for States like Louisiana and Texas for the good of the Nation it would be one thing; but it would not be for the good of the Nation, Mr. President, because it would make our whole petrochemical industry noncompetitive.

In any event, Mr. President, after a very long period of time, debate, and consideration in this Senate we came up with that modest $3.5 billion tax and certainly $83 billion in outlay savings should not be sacrificed because of some ideological disagreement with what is called a value-added tax if that in fact is what it is.

Mr. President, in January when we come back, we come back the last week in January, and by February 5 the President must submit his budget. In my judgment, when the President submits his budget for fiscal year 1987, it is going to be a very acrimonious time in this body, particularly if there are no increases in taxes in that budget and if there continue to be increases in national defense, because it is going to mean that the rest of the budget is absolutely savaged and it is not going to be that kind of atmosphere where Congress and the White House can sit down and quickly put back together this package of cuts. In fact, once Humpty-Dumpty falls off that wall, if this package is vetoed, it is going to be impossible, in my judgment, to put this Humpty-Dumpty back together again. Congress will say, "Let us let sequestration do it because half of this would come from national defense." I refer particularly to our friends in the other body. They think national defense should be cut a lot more.

And the way to do it is to do it automatically under Gramm-Rudman, under sequestration. So that is really what we are talking about at the bottom. If this bill is vetoed, then you change $69 billion in outlay domestic cuts to 50-50 domestic and defense cuts. And that is exactly what the White House is going to get if this is vetoed.

Mr. ARMSTRONG. Will the Senator yield?

Mr. JOHNSTON. I certainly will.

Mr. ARMSTRONG. Mr. President, I did not mean to interrupt the Senator's statement. It is not my desire to use further time, other than to comment briefly on the possibility that the President might veto this bill.

I have also heard the rumor around this Chamber and in the lobbies beyond this Chamber that the President might have some disposition to veto this bill. I want to say, without having any inside information and without having any real way to know this, other than just having watched Ronald Reagan's public life for a long time, that he is not going to veto this. In my judgment, it would be the most unlikely act of folly for any President, let alone President Ronald Reagan, to veto this bill. You will just never make me think he is going to do that.

I know that he does not like the value-added tax provision in here. I do not like it, either. I voted against it when it came through the Finance Committee, 16 to 2. But he is not going to veto this bill over that.

There are other things he does not like, nor do I. But, Mr. President, I associate myself with the remarks of the Senator from Louisiana in saying that what is good in this bill far outweighs those things about which we might disagree.

I am just confident that, when the President focuses on it, he is going to have his pen out to sign it and do so, I believe, not grudgingly, but, in fact, will be glad to do so, even though there may be things in there he does not fully endorse.

Mr. JOHNSTON. Mr. President, I am very pleased to see this conference report on H.R. 3128, budget reconciliation, presented to the Senate. Putting this package together of budget saving measures was a remarkable achievement for which the chairmen of the respective committees should be proud.

In particular I am pleased with the provisions in title VIII, subtitle A, which settle the longstanding and contentious dispute between the coastal States and the Federal Government over the division of the so-called 8(g) OCS revenues. This provision is a modified version of S. 1653, the Outer Continental Shelf Lands Act Amendments of 1985, which I introduced on September 17, 1985, with Senator MURKOWSKI as a cosponsor. Identical language was introduced on the same day in the House by Mr. BREAUX and Mr. HUCKABY.

Let me review what is contained in this conference report in subtitle VIII A, amendments to the Outer Continental Shelf Lands Act of 1985.

SECTION 8002, NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

This section simply adds an additional policy to those already contained in the OCS Lands Act. In effect, the policy states that the 8(g) revenues will provide coastal States and localities with funds which States or localities may in their discretion use to mitigate adverse economic and environmental effects related to the development of OCS mineral resources.

SECTION 8003. REVISION OF SECTION 8(g)

Paragraph (1) of section 8(g) of the OCS Lands Act is amended to clarify and expand the requirements on the Secretary of the Interior to provide information to the Governor of any coastal State where nominations are solicited for leasing lands wholly or partially within three nautical miles of the seaward boundary of such State.

Paragraph (2) of section 8003 revises the 8(g) provision in current law which provided for a fair and equitable disposition of certain OCS revenues to coastal States. After the date of enactment of this subtitle any bonuses, rents or royalties received by the Federal Government which are derived from any lease of any Federal tract lying wholly or partially within 3 nautical miles of the seaward bounda-

ry of a coastal State must be deposited in a separate account in the Treasury.

The conference report uses the term "all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease of any Federal tract. * * *"

The parenthetical phrase simply limits "other revenues" to include only the revenues from the current OCS bidding system and the alternative bidding systems that are set out in section 8(a)(1) of the OCS Lands Act as amended. The exclusion of Federal income and windfall profits taxes from distribution under this subtitle was already recognized in the committee report on the Senate version of this bill.

The use of the term "any Federal tract which lies wholly or partially within 3 nautical miles of the seaward boundary of any coastal State" throughout this subtitle is the means by which the Department of the Interior is foreclosed from prorationing the States' share of 8(g) revenues by surface acreage.

This paragraph also requires the States' share of the 8(g) revenues to be transmitted to the State not later than the last business day of the month following the month in which those revenues are deposited in the Treasury. While the statement of managers affirms that the Department must meet this deadline, it recognizes that the Department requires some time to process the reports from lessees to distinguish 8(g) revenues from non-8(g) revenues. We certainly expect that the Department will exercise its most diligent efforts to identify the 8(g) moneys and to either distribute the States' share immediately to the States or to invest these moneys in interest-bearing securities.

There is no question but that paragraph (2) applies to revenues derived from Federal tracts lying wholly or partially in the 8(g) zone regardless of when they were leased. The language on its face says "any lease" and makes no exclusion based on the date of the issuance of the lease itself. This is in contrast to paragraph (5) of this same section which is explicitly limited to lease sales occuring after September 18, 1978, and which addresses the situation where there is a boundary dispute between the Federal Government and the State under section 7 of the OCS Lands Act.

The legislative history on this provision confirms this logical interpretation of the plain meaning of the words on this point. On November 14, 1985, Senator EVANS offered an amendment No. 1040 to the provision on section 8(g) contained in the Senate's omnibus reconciliation bill, S. 1730. The Evans amendment would have limited the application of paragraph (2) to any lease "issued after September 18, 1978."

Senator EVANS explicitly noted that the State of Louisiana was claiming that this provision on section 8(g) in S. 1730 gives Louisiana the right to revenues in the 8(g) zone on tracts leased prior to September 18, 1978. He acknowledged, "S. 1730 supports the attempts of Louisiana to claim these additional revenues."

Senator METZENBAUM cosponsored the Evans amendment and sent out a "Dear Colleague" letter on November 12, 1985, which was devoted entirely to alerting members to Louisiana's claims that the section 8(g) provision as reported in the Senate's budget reconciliation bill would apply to revenues from leases issued before the 8(g) zone was first created by legislation, September 18, 1978. The Evans-Metzenbaum amendment was defeated by a tabling motion in a vote of 54 to 45. Furthermore, in my own statement on page S. 15437 of the CONGRESSIONAL RECORD of November 14, 1985, I acknowledged that the committee-reported provision applied to future bonuses and rents from leases whenever executed and that the provision also applied to future royalties from any leases, "whether executed before or after the 1978 amendments. . .".

So there can be no doubt about it, the Senate considered limiting the sharing of revenues with the States to only those revenues from leases executed after September 18, 1978, and declined to do so. On the House side, Representative BREAUX addressed this same point when the measure on 8(g) which he sponsored was considered on the floor on October 23, 1985, as part of the House budget reconciliation bill. He said,

> So it does provide for the past inadequate escrowing activities because of the prorationing scheme that the Interior Department came up with, including post-1978 royalties from the 8(g) tracts no matter when the lease was issued.

The same issue arose again in the House-Senate conference on budget reconciliation although the House and Senate had passed bills with essentially identical language on the point in question. Representative SHARP proposed to the House conferees that they add statement of managers language to the effect that the OCS subtitle would not apply to any revenues from tracts leased prior to September 18, 1978. The House conferees considered this and rejected it by a rollcall vote.

The statement of managers is dispositive on this issue.

> During the Conference, an issue was raised as to whether revenues received by the Federal Government from tracts located in what is now the 8(g) zone, but which were leased prior to the date of enactment of the OCS Lands Act Amendments of 1978 (September 18, 1978), should be excluded from the distribution of revenues to the States under this title. The uniform position of the Senate Conferees was that the issue had been settled by a roll call vote on the Senate floor and that all such revenues were subject to such distribution under this title. The House Conferees then considered and rejected a motion to adopt Statement of Managers language to exclude such revenues.

Therefore, the plain words of this conference report coupled with the legislative history on the House and Senate side leaves no doubt that paragraph (2)—as well as section 8006 on recoupment—applies to tracts whenever they were leased.

Paragraph (3) requires the Secretary of the Interior or the Governor to notify each other whenever either determines that an area which potentially contains hydrocarbons underlies the Federal-State boundary. The Secretary and the Governor are permitted to enter into a unitization agreement or other royalty sharing agreement. Whether or not such an agreement is achieved, the Secretary may lease the tracts in question, which is consistent with the provision in current law.

Paragraph (4) requires the Secretary of the Treasury to invest the revenues deposited under this section in securities backed by the full faith and credit of the United States having maturities suitable the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary. These securities will require a short maturity period as the Department is required to distribute the States' shares of the revenues by the last business day of the month following the date of deposit. Of course this time period is measured from the date the Federal Government first receives the revenues from the lessees, whether or not the 8(g) revenues are segregated from the non-8(g) revenues.

Paragraph (5) addresses the situation where a State has a boundary dispute with the Federal Government over the location of the Federal-State boundary. Section 7 of the OCS Lands Act, as amended, controls this situation. Only since the location of the Federal State boundary is settled can the location of the 8(g) zone be established and the State's share of 8(g) revenues determined. Section 8(g)(5) of this conference report governs how escrowed funds are to be treated in such a situation. The conference report explicitly limits the application of this paragraph to tracts from lease sales occurring after September 18, 1978.

Paragraph (6) provides that any OCS bonuses, rents, or royalties received by the Federal Government beginning October 1, 1985, shall be deposited and distributed to the States under section 8(g) as revised by this conference report. Thus, the revised

section 8(g) will have a retroactive effect back to October 1, 1985, for purposes of determining the amounts to be deposited in the separate Treasury account and the computation of the States' shares.

Paragraph (7) applies to the situation where Federal leases lie wholly or partially within three miles of the seaward boundary of 2 or more States. There are Federal tracts in the Sabine Pass between the States of Texas and Louisiana which fall in this category. Under this provision Texas and Louisiana will each receive 13½% of the 8(g) revenues from these tracts, and potentially an additional amount under recoupment in section 8006.

SECTION 8004. DISTRIBUTION OF 8(G) ACCOUNT

This section of the conference report determines how the funds currrently held in the 8(g) account shall be shared with the States including those 8(g) revenues which the Government receives between now and the date of actual distribution of such funds to the States.

Subsection (a) requires the Secretary of the Interior to distribute to the States prior to January 1, 1986, the States' shares of OCS revenues received beginning October 1, 1985, under the new 8(g) provision as revised by this conference report, plus the States' shares enumerated under subsection (b) from the current 8(g) escrow account held in the Treasury.

The statement of managers recognizes that some of the States' shares of 8(g) revenues have been invested in securities which will not mature until after January 1, 1986. In the past the Department has invested the escrowed 8(g) funds in 90-day Treasury notes. Therefore, there may well be some delay in paying the States all they are due by January 1, 1986. However, the Department is expected to use all available funds to pay the States their share prior to Janaury 1, 1986. As soon as the remainder of funds due becomes available as these notes mature, the States must be paid the balance they are due.

Subsection (b) determines the distribution of funds deposited in the special Treasury account through September 30, 1985, which were escrowed under the 8(g) provision as it existed prior to amendment by this conference report.

That original 8(g) provision called for a fair and equitable disposition of revenues among the States and the Federal Government. Subsection (b) is the legislative settlement establishing a fair and equitable disposition of the bonuses, rents, and royalties and accrued interest which are contained in the special Treasury account. Paragraph (1) mandates the State-by-State distribution of bonuses and rents and accrued interest royalties and accrued interest which were actually deposited into the 8(g) account through September 30, 1985.

Paragraph (2) refers to the distribution of the royalties derived from any lease of Federal "* * * lands within 3 miles of the seaward boundary * * *" of such State plus accrued interest. By this term paragraph (2) refers back to the original 8(g) language which gave rise to the need for a fair and equitable legislative settlement between the Federal Government and the States. Paragraph (2) provides each State 27 percent of the royalties plus accrued interest which were actually deposited into the 8(g) Treasury account with respect to each such State. The Treasury account currently keeps track of how much royalties were collected offshore each specific State, so the Treasury account provides the basis for identifying the amount of royalties plus interest to which each State respectively is entitled to a 27-percent share—and somewhat more in the case of recoupment.

Paragraph (3) simply gives the U.S. Treasury the balance of the moneys remaining in the 8(g) Treasury account as of September 30, 1985, after the States' shares have been distributed.

Paragraph (4) provides that a State's acceptance of the payment to which it is due under this section will satisfy and release all that State's claims against the United States under section 8(g) as it existed prior to amendment under this title. Obviously, the State's claims are not extinguished until it accepts the full payment it is due under this section. Thus, if the Federal Government pays the State in more than one installment as securities in which the 8(g) funds are invested reach maturity, then the extinguishment of the State's claim occurs only upon acceptance of the final installment.

It should be understood that section 8004 represents a fair and equitable disposition of only the funds which were actually deposited in the account or invested in securities held by the account as of September 30, 1985.

Section 8006 on recoupment addressed the remaining issue of what is a fair and equitable disposition to the States of funds which should have been escrowed by the Department of the Interior but which for a variety of reasons were not actually escrowed in the past.

SECTION 8005. IMMOBILIZATION OF BOUNDARIES

SECTION 8006. RECOUPMENT

The legislative history of the 8(g) provision in the budget reconciliation bill amply demonstrates that the Department of the Interior did not escrow all the 8(g) revenues which should have been placed in the separate Treasury account.

This section on recoupment establishes by legislation a fair and equitable disposition to the States of the revenues derived by the Federal Government between September 18, 1978, and September 30, 1985, which should have escrowed but which in fact were not placed or kept in escrow. This section accomplishes this objective by first entitling the States in section 8006(a)(2) to 27 percent of all bonuses, rents, and royalties and other revenues collected by the Federal Government plus accrued interest for the period September 18, 1978, through September 30, 1985, and which were derived from any lease of any Federal tract which lies wholly or partially within 3 nautical miles of the State. Then section 8006(a)(2) reduces the amount due the State by that which they were already paid under section 8004(b) in the distribution of the amounts actually held in escrow as of September 30, 1985. So the net amount the States receive under recoupment is that which they should have received but which they did not receive.

Here again the reference to "any lease of any Federal tract" in section 8006(a)(1) means that this section applies to any Federal leases regardless of the date of their execution.

The conferees added the term "excluding Federal income and windfall profits taxes" to ensure that these taxes are not treated as "other revenues." In fact, the term "other revenues" is limited to those revenues derived from any bidding system authorized in sectin 8(a)(1) of the OCS Lands Act.

Subsection (b) calls for establishment of a second separate Treasury account for recoupment which is funded as described in subsection (c). On the last business day of each month the total amount in this recoupment account is swept out and paid to the State's which are due recoupment payments under subsection (a). Each State receives a pro rata share—based on the amount of recoupment each State is due relative to the total amount of recoupment due to all the States—of the total amount swept out of the account.

Subsection (c) provides that an additional 10 percent share—over and above the 27 percent share the States receive under section 8003—of the revenues deposited after October 1, 1986, into the separate Treasury account established under section 8(g)(2) will be placed in the recoupment account described in section 8006(b).

Mr. President, the Congress has fashioned a legislative solution to the 8(g) controversy that is fair and equitable, which should end litigation over the issue, and which has been scored by the Congressional Budget Office as saving the Federal Government hundreds of millions of dollars. I urge my colleagues to support this conference report. I urge the President to sign

this bill to put an end to the 8(g) controversy.

Mr. President, the compromise reached on the question of the Uranium Enrichment Program deserves a few comments. The Senate took the position that the Department of Energy's Uranium Enrichment Program should be made to repay to the Treasury only those revenues, if any, that exceed the program's costs. The House took the position that the Uranium Enrichment Program's costs, if effect, should include specific required repayment amounts.

Based on the record we have now we simply cannot resolve the complex factual question of how much the program can, in fact, afford to repay to the Treasury or even how much the program actually owes to the Treasury. Therefore the compromise that is proposed by the conferees sets the repayment numbers of the House as goals, and authorizes the Secretary of Energy to determine the amount that the program will repay consistent with several criteria. The Secretary is not required to make any repayment.

The criteria in the bill assume that the continued viability of the Federal uranium enrichment enterprise is in the national interest. In our view in the Senate, this viability is severely threatened by proposals that the costs of the program be artificially increased. The price that the U.S. Department of Energy charges for uranium enrichment services is far above the prices charged by competitor governments and far above the prices charged on the secondary market for enriched uranium. If the United States is to remain in the enrichment business, the U.S. price simply must be lowered. This can only be accomplished by lowering the costs of enrichment, not by increasing them. We need to invest in new, lower-cost enrichment technology—like the laser-based technology currently under development. We do not need to impose new costs on the program that will delay the time when the United States can offer enrichment services at competitive prices.

So we think that the goals for repayment set out in this bill are way too high. We think the program should lower costs and prices. We are confident that an honest determination by the Secretary under the bill will find that the repayment amount that will not adversely affect the reliability of supply of uranium enrichment services at competitive prices to existing and potential customers will be a zero repayment. We are deeply concerned by recent press reports that the Office of Management and Budget is seeking even larger repayment amounts than those in the House bill.

The only conclusion that we can draw from these reports is that someone wants the United States out of the uranium enrichment business. This is not a new proposition. In the 1970's it was proposed by President Ford and dropped when the phrase "nuclear nonproliferation" began to appear regularly in the newspapers.

If privatization of the uranium enrichment business is what we are dealing with, we should face that issue squarely and debate it. There are lots of implications to such a notion that go far beyond the provision of enrichment services to the Nation's nuclear reactors. A reconciliation bill is not the place for such a debate. Budget proposals that purposely cripple the Federal enterprise in order to set up a situation where selling it off is the only option are not the way to make policy.

Under the bill we are approving, the Secretary of Energy is required to make a determination of the size of the Uranium Enrichment Program's debt and the amount of repayment that can now be made consistent with the continued financial integrity of the program over the long term. I hope that these determinations and the process by which they are made will provide the basis for a debate on the long-term future of the Department of Energy's enrichment program. No reasonable long-term planning is possible under a threat of an undetermined and possibly crippling repayment requirement. We should settle this issue. The program can be a source of cash to reduce the deficit or it can be competitive. It cannot be both.

The stakes of guessing wrong in this planning process are very high. We should be debating this issue, and soon. If the provision we are enacting today brings the beginning of that debate closer, our work will have been worthwhile.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I yield 5 minutes to the Senator from Texas, and more if he needs it.

Mr. GRAMM. Mr. President, I thank the distinguished Senator from Colorado. I rise to make several points about the conference report and about reconciliation.

I wish to begin, Mr. President, by saying that I am disappointed by the fact that reconciliation, which was a vehicle used so effectively in 1981 to reform entitlement programs, to change the spending patterns of the Federal Government, to change the direction of the American economy by changing the policies of the Federal Government, has become a catch-all vehicle for doing so many things that have nothing to do with saving money.

I am pleased that, under the Gramm-Rudman-Hollings proposal, points of order will lie against nongermane provisions; and by that we mean, in simple English that the general public understands, provisions that do not have anything to do with saving money in reconciliation. It saddens me a great deal to be forced to make a choice concerning the things in this bill that I strongly support and things in this bill that have nothing to do with saving money that I strongly oppose.

I oppose beginning a new entitlement program in this bill. And we have done that by expanding the base and reauthorizing trade adjustment assistance. We have imposed a new tax on imports, in clear violation of GATT. We have reauthorized more programs in this bill than any bill that has been adopted since I have been in Congress in 7 years. I thought reconciliation was about saving money, not reauthorizing programs.

So I believe that my strongest concern about this bill has nothing to do with how we ought to finance Superfund. In fact, I think the base of that tax has got to be a broad base if we are going to be able to afford the kind of cleanup that Congress seems committed to.

But my concern is that we have, in the process of this reconciliation bill, come very close to destroying the only vehicle that we have ever found to address the fundamental issues about Government spending. And I think that is a sad commentary on what has happened to the budget process in the 5 years that we have tried to make it work. I am hoping that next year, with a new framework, we can prevent this from happening.

Mr. ARMSTRONG. Will the Senator yield to me?

Mr. GRAMM. I am happy to yield.

Mr. ARMSTRONG. I share the concern that the Senator from Texas has expressed, because the extraneous provisions which have been added to this bill are a procedural outrage, whether you agree with the substance of them or not.

But, as reassurance, let me point out to the Senator that we have adopted a provision which will limit the addition of extraneous matter to future reconciliation bills. And it will be my purpose, following the adoption of this conference report, to offer a Senate resolution, which has been cleared on both sides, which will extend the same protection against extraneous material being added to reconciliation conference reports.

So I can say to the Senator, while the horse is out of the barn on this particular bill, I do not think we will ever again face the kind of wholesale legislation on a reconciliation bill that we have seen on this bill. I share his concern, but I think we have got that bottled up.

Mr. GRAMM. Mr. President, let me say to the Senator from Colorado that

I appreciate and wholeheartedly support that sense of the Senate. We, as a result of the Byrd amendment which has been incorporated into the Gramm-Rudman-Hollings proposal, have an additional vehicle in a point of order in the future. But I think it is unfortunate that a vehicle that was aimed at saving money has become the No. 1 reauthorization and spending vehicle in the Congress.

Finally, I would like to make an additional point that has nothing to do with whether you are for or against this bill. In the future, we have got to come up with a better accounting system so we all know what we are doing.

Let me give you an example. The biggest single savings in this reconciliation bill comes from Medicare—$11 billion. Now, you look at that $11 billion and you could say we could certainly use that $11 billion in the budget. But the truth is this reconciliation bill not only does not save any money in Medicare, it adds to spending in Medicare. And it does so because of an accounting system that really does not make sense, and I hope we will not use it in the future.

What we have done here is raised the reimbursement level for Medicare providers by 1 percent and we have scored that against the current services base to claim the largest single savings in this proposal. But there is one flaw in that process, or one hook before we run to the bank with the $11 billion, and that is, the administration, through HHS, froze the reimbursement level and, therefore, not only do we not save the $11 billion here, but we are raising spending above the level which would exist under Medicare in the absence of the adoption of this bill.

I appreciate all the work that has been done on this conference report. I do not know whether the President is going to sign it or not.

Quite frankly, I am strongly opposed to some of the provisions it contains, some of the new programs, and some of the new entitlements which we are starting on the spending bill. On the other hand, there are some savings in here.

But there are two points that I think ought to be reiterated.

No. 1, we need a vehicle, to stop reconciliation from being used to promote spending, rather than to stop it. As a result of the Byrd amendment, Gramm-Rudman-Hollings, and a resolution that will be offered here, we will prevent the abuse of reconciliation in the future.

Reconciliation is for saving money, and not for spending.

No. 2, it is vitally important in the future when we bring these kind of proposals to the floor for debate that we have an assessment by the Congressional Budget Office as to how much money is actually saved.

It is very diffcult to have any kind of meaningful debate on an issue when we have the largest single savings in a vehicle which represents not savings at all but a substantial increase in spending.

So I think, No. 1, we need to go back to use reconciliation for what it was meant to do. I just wish we were going to do it this year. I would have felt a lot better about this proposal.

No. 2, we need to have an effective way of accounting so we know whether we are saving money or not. While there are savings in this bill, and I know people have worked hard to get those savings, the truth is the savings are nothing like the figures we are showing here because they do not take into account the savings that have already been undertaken.

I thank the distinguished Senator from Colorado for yielding.

I yield back the balance of my time.

Mr. BENTSEN. I would ask the distinguished Senator from Louisiana, our very able ranking member on Energy and Natural Resources and the reconciliation subconference on Outer Continental Shelf matters, if he would enter into a brief colloquy regarding the section 8(g) OCS settlement in the conference report on reconciliation. Senator Johnston, it is my understanding that the 8(g) settlement in the reconciliation conference report was, in part, necessitated by the legal dispute between the States and the Federal Government over a "fair and equitable" disposition of revenues from the 8(g) zone and that the report among other things expressly intends to settle and extinguish that legal dispute. The legislative history of this measure is replete with references to the ruling by Judge Robert Parker in the eastern district of Texas.

Judge Parker, using a concept of bonus-enhancement, held that the State of Texas was entitled to the equivalent of 27 percent of the 8(g) bonuses in question as income to which the State was fairly and equitably entitled as a result of mineral development on State lands adjacent to the 8(g) zone.

This legislation implicitly recognizes that ruling and grants the States at least 27 percent of the bonuses, rentals and royalties as the basis for a permanent 8(g) settlement that benefits the entire Nation.

Mr. JOHNSTON. I would commend my distinguished colleague from Texas for his correct interpretation of out intent in this legislation.

Mr. BENTSEN. I would also like to ask the distinguished chairman of the Energy and Natural Resources Committee, Senator MCCLURE, if he agrees with my understanding as I have stated it.

Mr. MCCLURE. I do.

PENSION BENEFIT GUARANTY CORPORATION CONFERENCE REPORT TO THE RECONCILIATION BILL

Mr. THURMOND. Mr. President, in my capacity as a conferee on the Pension Benefit Guaranty Corporation [PBGC] subconference, I found my experience as chairman of the Judiciary Committee to be extremely valuable. Because the Judiciary Committee has jursdiction over bankruptcy law, I have developed an active interest in this area. As my colleagues are aware, initial PBGC reconciliation proposals dealt with bankruptcy issues, both directly and indirectly. I am pleased that this conference report has deleted all those provisions which would have directly affected bankruptcy law and principles. Specifically, the creditor status in bankruptcy of the PBGC based on 30 percent of an employer's net worth purposefully remains the same as under existing law. The conference does not address the question of whether or not a pension plan is an executory contract. That will be decided under the law as it existed prior to this conference report. However, to the extent a pension plan is an executory contract, it is covered by the voidance provisions of section 365 of the Bankruptcy Code. Absent the consent of all involved parties, no claim by PBGC survives bankruptcy.

The conferees wisely chose to stay neutral and simply maintain current law regarding these issues. However, we did see the need to create a larger sized claim by the PBGC. While maintaining a neutral position on the status of the 30-percent net worth claim, to the extent that 75 percent of the employer's pension asset insufficiency exceeds 30 percent of the employer's net worth—the PBGC was given a general unsecured claim in bankruptcy. It is clearly understood by the conferees that although this additional claim is unsecured, no inference whatsoever should be created as to the status of the 30-percent net worth claim. The status of this new, general unsecured claim adds no evidence—one way or the other—to the issue of what status in bankruptcy PBGC has to 30 percent of the employer's net worth.

I deeply appreciate the sensitivity which the conferees have shown to the concerns of the respective Senate and House Judiciary Committees regarding these bankruptcy issues.

The current estimated deficits for the PBGC in the amount of $1.3 billion illustrate the need for immediate reforms in this system. Several provisions in current law have contributed to this present state of affairs. The premium rate has been too low. Waivers of employer funding have been granted too generously. Although the dumping of pension plans with insufficient assets to pay retirees has not been encouraged, it has been facilitat-

ed under current law. Those companies which have taken advantage of this system have exacerbated the financial problems of the PBGC.

The reforms which are provided in this legislation will put businesses on notice that in the future, responsibilities to these pension plans cannot be so easily abandoned. As a matter of fairness, I firmly believe in the concept of reasonable notice. Too many citizens, financial institutions, and other creditors have in good faith relied on the existing law. Despite prospective application of these reforms, I fear that some creditors, especially small businesses, still may be unfairly impacted by this legislation. The small businessman who has extended credit to a distressed company has done so in reliance on existing law. If the credit customers of these small businessmen file for bankruptcy after January 1, 1986, the recovery of the small creditor in Bankruptcy Court may be greatly reduced due to the increased size of PBGC's claim as an unsecured creditor. This example clearly demonstrates that retroactive application would be blatantly unfair. Nevertheless, the majority of conferees have approved one exception to the prospective application of these reforms.

The exception to which I refer involves a provision in this legislation that only applies to pension plans that have posed no threat to the solvency of the PBGC. These pension plans are full funded and seek termination to regain excess assets. Many of these plans hope to use these assets to expand their business and hire new employees. They have applied for termination in compliance with current law and do not deserve this selective retroactive treatment. Over my strenuous objection, the majority of my colleagues on the conference have imposed a possible 90-day suspension of processing these currently pending terminations.

The challenge faced by the conferees was to provide reforms without discouraging the formation of pension plans. As I have stated, this legislation has its defects. However, I believe that in most respects we have succeeded in meeting this challenge. Accordingly, I am willing to support this conference report.

Mr. SIMON. The provisions of the reconciliation bill dealing with Department of Labor plan assets regulations only provide SEC registered real estate limited partnerships and other similar real estate entities with effective date relief if the Department of Labor fails to issue final regulations or issues final regulations which would subject such real estate entities to plan asset treatment. What assurance do we have that this section will solve the problems raised by the efforts of the Department of Labor to subject such real estate entities to ERISA jurisdiction?

Mr. NICKLES. The provisions you refer to and the related conference report language were worked out in advance with the Department of Labor. The cooperative attitude on the part of the Department was reason enough to limit this section to effective date relief and reason enough for us to refrain from substantive legislation at this time.

I share your concern that the Department's regulations come out right on this point. I suggest that we all be prepared to enact substantive legislation if the Department does not clearly exclude SEC registered real estate entities from plan asset treatment in its final regulations.

Mr. SIMON. Thank you. I am satisfied. It is particularly important that the Department not disturb the highly technical free transferability exceptions which have been crafted so carefully to reflect the myriad existing state blue sky and other requirements and the administrative practices of such programs. If those exceptions are tightened in final regulations without careful attention to the impact on SEC registered real estate entities, the regulations will be fatally flawed and a legislative solution may be necessary. The proposed requirement that public real estate offerings not be primarily marketed to plans which was in the January proposal but is absent fom this bill is inappropriate. It results in undue expansion of the Department's jurisdiction through a logically flawed shortcut. That requirement would avoid a more careful analysis based upon the similarity of the characteristics of a given investment vehicle to a typical investment management relationship which is the proper focus of ERISA.

I take comfort in the Department's cooperative approach to this legislation and hope that the Department's final regulations will contain standards applicable to SEC registered real estate entities which are not more stringent than those described in subsection (A)(1)(c) of this provision.

Mr. NICKLES. I agree with your observations.

A VICTORY FOR THE COAL INDUSTRY AND COAL MINERS

Mr. ROCKEFELLER. Mr. President, today a victory was won for the coal industry and coal miners. A major compromise was reached by the Senate and House regarding the financing of the black lung disability trust fund. In the reconciliation legislation we are acting on tonight, the compromise provision is included which will restore the fiscal solvency of the fund.

I have been actively involved in this issue since the President made his original proposal to increase the excise tax on coal by 50 percent. This tax increase would have had a disastrous effect on the coal industry. Even more jobs would have been lost and the industry would have had little choice but to raise the price of domestic coal—a move which would have inevitably hurt us in the international marketplace.

At the same time, I have recognized the urgent need to deal with the $2.5 billion deficit of the black lung trust fund. We simply had to take action this year to restore the fund's solvency if we were to ensure that miners and their families would continue to receive benefits entitled to them under the law.

In the recent weeks, I have concentrated on promoting an alternative to the tax increase as well as to a measure adopted by the Senate Finance Committee which would have ended the borrowing authority of the black lung trust fund. A number of my distinguished colleagues who represent States with signficant coal mining joined me in seeking a responsible response to the fiscal problems of the fund.

Today, we succeeded in winning the support of the reconciliation conferees for a responsible alternative. The compromise plan was developed by the Bituminous Coal Operators and the United Mine Workers of America. These two groups worked cooperatively to fashion and approach to solve the black lung trust fund deficit—namely, they suggested a one-time, 5-year forgiveness of the interest payments on the cumulative indebtedness of the trust fund and a 10 percent increase in the coal excise tax.

Mr. President, I am grateful to the reconciliation conferees for agreeing to this compromise proposal. By enacting the tax increase and the forgiveness of interest payments, we project that the $2.5 billion debt of the trust fund will be retired by the year 2007. This means that we will restore the integrity and stability of the Black Lung Program, which provides critical relief to the retired miners who suffer from the crippling disease of pneumoconiosis.

I extend my heartfelt thanks to all of my colleagues who listened to the views of those who are concerned about the future of the coal industry and the Black Lung Program. Specifically, I am indebted to the distinguished chairman and ranking minority leader of the Senate Finance Committee for listening to various points of view and recommendations on this critical matter. They appropriately felt an obligation to tackle the financial problems of the black lung trust fund, and in the end helped to enact a positive and responsible approach to reach this critical objective.

Finally, I commend my fellow colleagues representing West Virginia.

The minority leader of the Senate played an active role in developing the final compromise. And in the House of Representatives Congressman NICK JOE RAHALL was pivotal in enlisting the support of conferees on this matter.

I fervently hope that the provision included in the reconciliation legislation will quickly restore the financial health of the black lung trust fund. The current deficit threatens the ability of the program to meet its obligations under the law. I am proud that the parties most concerned about the fund—including representatives of coal producing States, the coal industry, and the United Mine Workers of America—have succeeded in winning congressional approval of an equitable plan for insuring the integrity and future of the Black Lung Program.

Mr. NICKLES. Mr. President, today I have the pleasure to discuss important reforms reported by the joint conference on single-employer pension plan termination insurance that are part of the budget reconciliation bill.

This important insurance program, which is administered by a self-financing Government corporation, the Pension Benefit Guaranty Corporation, was created in 1974 to assure that pension benefits earned by workers would be paid even if the employer terminated the plan in an underfunded condition. The program covers about 30 million retired and working Americans in over 100,000 defined benefit plans and is financed by premiums paid by those plans and by liability paid to the PBGC by employers that terminate underfunded plans.

Both the premium rate—currently $2.60 per plan participant—and the employer liability rules under current law have proven inadequate. The program is now responsible for benefit payments to about 160,000 current and future retirees in about 1,100 terminated plans and has a deficit of over $1 billion. The conference has agreed on a premium increase to $8.50 effective January 1, 1986, and reforms to protect this program against unwarranted claims.

A revision of the employer liability rule is central to the reform package. Under current law, an employer is liable to the PBGC for unfunded guaranteed benefits, but the amount of liability is limited to 30 percent of the employer's net worth. The PBGC has historically been able to collect only about 15 percent of plan underfunding through employer liability. The corollary is that the PBGC program affords companies with large unfunded pension obligations relative to net worth the opportunity to shift their pension funding obligations to other companies that keep their plans going and continue to pay PBGC premiums.

Several predecessor bills to increase the PBGC, employer liability recoveries and institute other needed reforms in the program have been introduced by me in the Senate and by various Members in the House over the last several years. One such bill, S. 1227, was ordered reported by the full Senate Labor and Human Resources Committee in June 1984. This proposed legislation was the basis for the reform package sent to the Budget Committee in September of this year for reconciliation purposes. The joint conference on PBGC insurance reforms had before it two employer liability formulations. The Senate bill and the House Education and Labor formulations are quite identical. They set employer liability at the full amount of unfunded guaranteed benefits. However, where the amount exceeded 30 percent of the employer's net worth, the excess unfunded guaranteed liability would be payable in annual installments equal to 10 percent of the employer's pretax profits. The profits payments would end after 10 years or upon payoff of the plan underfunding, if earlier. The profits interest payment schedule would enable uniform payment terms and minimize the need for PBGC and an employer to negotiate payment arrangements.

After consultation with bankruptcy experts, it became clear that the formulation would not produce sufficient savings for the program. In a bankruptcy proceeding the bankruptcy court is likely to liquidate the PBGC's profits interest claim using very conservative collectibility assumptions consistent with the "fresh start" principle favoring the debtor. Thus the profits interest could easily be undervalued, reducing PBGC's recovery. This is a serious problem with the proposal in view of the fact that about 75 percent of claims against the program occur in the context of bankruptcy proceedings.

Another problem with the proposal is that members of the bankruptcy bar and counsel representing bank lenders have mounted an attack on the status of PBGC's employer liability claim in bankruptcy proceedings. ERISA created an automatic lien in the PBGC's favor for the amount of employer liability that an employer neglects or refuses to pay and accorded this lien tax priority status in bankruptcy proceedings, which assures complete or very sizable recovery. The bankruptcy and bank bar members assert that the PBGC claim does not have tax priority status. They argue that changes in the Federal bankruptcy law which established the new Federal Bankruptcy Code in 1978, deny the PBGC the tax priority status that was intended under ERISA.

The Bankruptcy Code listed the specific types of taxes entitled to priority (see 11 U.S.C. §§ 503(b)(1)(B), 507(a)(7)), whereas ERISA did not specify that PBGC's claim would be treated in the same manner as a particular tax. Section 4068 was amended by the Bankruptcy Reform Act, changing it to conform to Bankruptcy Code language, but leaving the priority language as originally enacted in 1974. The PBGC therefore has continued to file those claims as tax priority claims under 11 U.S.C. §§ 503(b)(1)(B) and 507(a)(7).

The PBGC has never litigated the status of its employer liability claim under current bankruptcy law. Because 30 percent of net worth is generally a small figure, disputes over PBGC's recovery are settled through negotiation rather than litigated. PBGC did litigate the priority status of its claim in one case under prior bankruptcy law, however, and prevailed.

The conferees were concerned that PBGC's recovery would be reduced to unacceptably low levels if the profit interest were liquidated and discharged as a general creditor claim. We therefore adopted a different formulation by combining features of the Labor Committees' and Ways and Means Committees' proposals.

The conference agreement gives the PBGC, in addition to its current law tax priority claim for 30 percent of net worth, an additional claim for the excess, if any, of 75 percent of unfunded guaranteed benefits over the 30 percent of net worth amount. This additional claim has a general unsecured status in bankruptcy proceedings. Thus the conference agreement is a compromise between the House Ways and Means Committee bill, which would set employer liability at 100 percent of unfunded guaranteed benefits and apply the current law tax priority to the entire amount, and the profits formulation under the House Education and Labor and Senate bills.

The conference agreement does not alter the bankruptcy status of the claim PBGC makes, as plan trustee, for unpaid contributions. As under current ERISA law and the Bankruptcy Code, unpaid contributions that accrue after a bankruptcy petition have administrative expense priority; those that accrue within 180 days before the petition have employee benefit status—subject to the $2,000 per employee limit on priority employee wage and benefit claims—and remaining unpaid contributions have general unsecured status.

Finally, I would like to comment on the effect of ERISA and the Bankruptcy Code on an employer's right to terminate a plan in a distress termination under the conference agreement. In order to have a distress termination one of three tests must be met by each contributing sponsor and each substantial member of its controlled group. Each such person must be in a

liquidation proceeding, in a reorganization proceeding in which the bankruptcy court approves the termination, or in deep financial trouble as demonstrated to the PBGC under specified criteria. The conference agreement makes no change to the existing law regarding the appropriate forum to adjudicate disputes concerning such terminations. The Bankruptcy Amendments and Federal Judgeship Act of 1984 added section 157(d) to the Judicial Code providing that a U.S. District Court shall withdraw and hear disputes where consideration of both bankruptcy law and other Federal laws, such as ERISA, is required.

BUDGET RECONCILIATION

Mr. CHAFEE. Mr. President, the reconciliation package before us represents a great deal of hard work and careful discussion. It also contains an extraordinary number of provisions which might be called extraneous by some, but which are extremely important.

MEDICAID

For several years now, I have been working to reform the Medicaid system. Specifically, I have been working to change the program so that Medicaid funds can be used for community-based long-term care services to our citizens with mental retardation and developmental disabilities.

In the long run, I believe this system is in need of a major overhaul. The current system is biased toward the use of institutional facilities—but we should be working harder to keep handicapped citizens in the community.

True Medicaid reform, such as what I have proposed in my legislation, S. 873—the Community and Family Living Amendments of 1985—may take years to accomplish. In the meantime, there are several interim changes that should be made. We were able to include some of these changes during this reconciliation process.

LIFE SAFETY CODE

Earlier this year, I received complaints about the application of an outdated Life Safety Code by the Department of Health and Human Services from parents and residential providers across the country. Consequently, in the legislation before us there is a provision to require the Secretary of HHS to accept the 1985 Life Safety Code as an acceptable standard for fire safety. This code, while still striving for fire safety, offers greater flexibility in the use of resources within a residence to promote such safety. As a result of this action the Secretary of HHS has already acted to accept the new code.

PUBLICATION OF ICF/MR REGULATIONS

People concerned about intermediate care facilities for the mentally retarded [ICF/MR], have been waiting for 2 years to see new regulations for these facilities. In the reconciliation package, we have included a provision to require the Secretary to publish for comment the current draft of the new ICF regulations within 60 days of passage. These regulations have been more than 2 years in the making, and their publication is long overdue. With this provision, I hope we can move on to a new era of planning based on these new regulations.

MEDICAID WAIVER—DENIALS AND RENEWALS

Since 1981, HHS has offered home and community based care waivers to allow Medicaid moneys to be spent in specific non-Medicaid facilities. This program, called the Medicaid Waiver Program, has allowed many severely handicapped persons to live in the community rather than in institutions.

However, the process of applying for and receiving a waiver has been so unpredictable, that it discourages many States from applying for a waiver. In an effort to build greater permanence and predictability into the waiver program, I fought for the inclusion of two related provisions: First, a provision that calls for a moratorium on all denials of waiver renewal requests from States, and second, a provision that requires the Secretary to renew those waiver requests it approves for additional 5-year periods rather than the current 3-year periods.

ICF/MR PLANS OF CORRECTION

In recent years, many States have been confronted with the need to renovate old institutions for the developmentally disabled while at the same time trying to develop community based alternatives for those individuals. In many States, this choice between institutions and the community based services has presented a financial hardship. It has forced many States to renovate buildings that they had intended to close.

One of the provisions included in reconciliation would alleviate this problem—in very limited situations. This provision that would allow an institution with a building or wing that is out of compliance to submit a plan of correction that incorporates depopulation of the building or wing over a 3-year period. Among a variety of other limitations, this would be allowed only in situations where the violations are nonlife threatening, and only with the approval of the Secretary.

I do not believe that this option will be used in many situations. The intent here is simply to allow those States which have had successful experiences with community based services the option of expanding on that success. There are many States which simply would not ask for this option, and if they did ask would be denied because they do not have a positive history of community based services and to some extent deinstitutionalization.

Some people are concerned about this provision because they think that States are given too much power. This is not so. The State must request to implement this provision, but the Secretary of HHS must approve the request. This preserves the balance of power between the State and the Federal Government.

Some are also concerned that this provision will let States dump people out of institutions with no programs. I would never introduce such a provision. As it is framed there are a wide variety of requirements and limitations on the use of this provision. For those individuals who are affected, there are a number of safeguards and requirements which must be met throughout the operation of the plan.

MEDICAID DEMONSTRATION PROJECTS

Many critics of the Medicaid system have stated for years that we can do better and more creative things with the money we are spending. Unfortunately, the Medicaid system is so rigid that it prevents trial attempts at innovative programs.

For this reason, I supported in reconciliation a provision that would allow a "pilot project" in up to four States that would allow for greater flexibility in community residential expenditures. These demonstration projects will allow community based services to be set up on an experimental basis for both the elderly and the developmentally disabled populations.

There are many other provisions dealing with the Medicaid Program in this package. Those outlined above are simply the highlights. All in all, I believe that these provisions represent a substantial step in the attempt to provide a reasonable and rational method of providing long-term care services.

MEDICARE

There were also many changes made in the Medicare Program, most of them were reasonable changes. Some, however, I believe may come back to haunt us. Very few changes in the program were made which will have a direct economic impact on beneficiaries of the Medicare Program. Most of the savings were due to freezes or other restrictions placed on the providers of health care services—such as hospitals and physicians.

I am concerned that if we continue down this path, we will have a health care program for which there are many beneficiaries needing health care services, but few professionals available to deliver those services.

This package cuts the increase in payments to hospitals to a fraction of 1 percent. In addition, it substantially reduces—by close to 50 percent—the amount of reimbursement for indirect education costs to hospitals. I will be watching the effect of these combined reductions carefully to determine

whether hospitals are capable of absorbing them.

We also continued a freeze on physician payments, with the exception of a 1 percent increase to what are known as "participating physicians"—those who have agreed to accept assignment in 100 percent of their Medicare patients. I know that there is grave concern among the physicians in my State about the freeze especially because of incredible increases in malpractice premiums during the past year.

It is becoming harder and harder to offer quality health care at the same time reimbursement is reduced. This is just the beginning of the problems we will be encountering in the coming years.

I predict that this body will be spending more and more of its time debating health care issues in the coming years. The problems are just beginning to surface and they are complex and troubling. There simply are no easy answers.

Next year and the year after and the year after that, when the time comes to produce budget savings, we are going to be faced with some very difficult problems—a growing elderly population which is living longer, long-term care services for that population, rebellion among health care providers who can not continue to absorb the loss resulting from our actions to freeze reimbursement, and the list will get longer.

So, Mr. President, while I am satisfied, generally, with our recommendations in this package, I am also worried about the future. I believe these problems can be resolved, but only if all of us work together with a common goal in mind—quality health care at a reasonable price. It sounds simple, but those of us who are familiar with the problems know that it will not be simple to achieve this goal.

Mr. President, I am delighted to report that this bill includes a funding package for Superfund, the important program to clean up toxic waste sites. My colleagues and I worked long and hard to get this measure included in the bill. What we have is a tax that will raise $10 billion over the next 5 years. It is a broad-based manufacturers' excise tax. We rejected a waste end tax and have avoided the need to resort to general funds from the Treasury.

This step moves us considerably closer to our goal of completing the process of amending and expanding Superfund. My only regret, Mr. President, is that the funds collected will not be immediately available to revitalize the program. Superfund and all cleanup work has been brought to a virtual standstill since the old tax expired on September 30. These new funds will become available as soon as the House and Senate meet and complete work on a series of pending amendments to the underlying program. At best, that cannot be done until early February 1986. If that effort drags on too long, a short-term, emergency release of funds may become necessary. I am deeply worried that the Superfund Program is becoming a political football. The consequences of playing brinkmanship are unacceptable to me. While political posturing on the importance of Superfund continues, Federal cleanup work has stopped. Long-term cleanup of major sites requires long-term planning and assured funding. This bill will help and I am anxious to move forward with whatever steps are necessary to get the program for cleaning up toxic dumps back on track.

Mr. LAUTENBERG. Mr. President, I rise in support of the reconciliation bill. This bill will cut $20.5 billion from the deficit this year, $83 billion over 3 years. Those savings are significant. They are significant because they reduce the deficit. They are significant because Congress is making them.

Congress is making the decisions. It is making choices. I do not agree with every choice made. But, Congress is making them. It will have to make a great many more. The toughest decisions are yet to come. But, we have begun to make them.

Now, I was distressed to hear that Donald Regan, the President's Chief of Staff, has reportedly said he will urge the President to veto the reconciliation bill. The President is being urged to veto $83 billion in deficit reductions.

Mr. President, unfortunately, the prospect of a veto of the reconciliation bill is a sign of things to come. It is telling about what the Gramm-Rudman Act will mean.

Under Gramm-Rudman, the Congress gave its power to the President. It surrendered its prerogatives to make choices. For that reason and others, I opposed Gramm-Rudman. Because under Gramm-Rudman, the President can impose across-the-board cuts in spending, not just if Congress fails to cut the deficit, but also if Congress fails to cut the deficit the way the President would like.

Now, Congress has cut the deficit. We just passed a continuing resolution that is $18 billion below the President's request in budget authority. And now, we are about to pass an Omnibus Reconciliation Act, with program cuts and revenue measures, that will cut the deficit some $83 billion.

We will send that deficit cut to the President, and the President may veto it. If so, the President would veto deficit cuts made by the Congress, and substitute cuts made with all the care and discrimination of an electric meat slicer.

The President would veto a cigarette tax, as provided in reconciliation, and substitute across-the-board cuts in health care, cancer research, and Medicare.

If so, the President would veto a minimal tariff on imports, designed to support job training for displaced workers, and substitute across-the-board cuts in those very same.

He would veto a broad-based tax to support an enlarged and more effective Superfund, as provided in reconciliation, and substitute across-the-board cuts in toxic waste cleanup.

The President would veto cuts in what we pay banks to service guaranteed student loans, as provided in reconciliation, and substitute instead across-the-board cuts in the loans we pay students.

That is what we face, Mr. President. That would be Gramm-Rudman at work.

Mr. President, I support reconciliation because it is a significant step toward deficit reduction. It also includes changes in law that are critical to my State and to the Nation.

Mr. STAFFORD. Mr. President, I would like to say immediately that I am dismayed by the conference report on budget reconciliation as it affected Superfund. I refused to sign the conference report.

I am dismayed because of the provisions dealing with Superfund. Or, perhaps more accurately, not dealing with Superfund.

The tax which supports Superfund expired on September 30.

This bill will enact a new tax, designed to raise $10 billion over 5 years. But for reasons I do not understand, although the money will be collected it cannot be spent.

If this bill becomes law, not one red cent will be available to the Superfund Program tomorrow than is available at this very instant.

The conferees have chosen to prohibit the expenditure of that money, as it has been explained to me, to keep the pressure on the House and Senate conferees to produce a substantive reauthorization of the Superfund law. Supposedly an imminent deadline is needed to achieve this.

Mr. President, the Committee on Environment and Public Works reported a Superfund bill in September of 1984, when the taxing deadline was 1 year away. When that bill died in the Finance Committee, we reported a bill again on March 1 of this, when the deadline was 6 months away. The House last year passed a bill when the deadline was nearly 16 months away.

I suggest, Mr. President, that what is required is not deadlines, but action. The conferees had the chance to take that action, but didn't. It is a tragedy that the conferees had the opportunity to keep this program running but chose not to do so.

This unique approach of collecting taxes, but not spending them was, I

have been told, first suggested by the House conferees. In that context, Mr. President, I would like to observe that even though the House passed a Superfund bill 10 days ago and requested a conference, the conferees have yet to be appointed and the Senate is yet to receive the message from the House. Because of this, it is likely that the entire holiday recess will be lost. Reportedly, the appointments have been prevented because of a struggle for representation on the conference committee.

Mr. President, the Superfund Program is dead in the water. Contracts are in jeopardy, construction has been halted, and investigations have been slowed. All we are now paying for are emergencies and salaries.

If Superfund is defined as the program that the country had on August 1, 1985, then it no longer exists. This bill presented the opportunity to revive it, but the conferees not only failed to seize opportunity, but rejected it outright.

UNIFORM MINIMUM DRINKING AGE

Mr. LAUTENBERG. Mr. President, I rise to bring the attention of my colleagues a provision in this bill which I consider to be of national importance. That provision makes permanent the Uniform Minimum Drinking Age Act of 1984. This law, Public Law 98-363, requires that States raise their minimum drinking age to 21 by October 1, 1986, or risk the loss of Federal highway assistance.

The provision included in reconciliation makes the withholding of highway funds permanent. This amendment to existing law is made necessary by the attempts of a small number of States to evade the intent of the law by sunsetting their 21 laws in 1988 when Federal withholding is scheduled to end. This provision also ends the reimbursement of withheld funds at the close of fiscal year 1988. The provision also includes two lenient provisions. One allows States to phase in their 21 laws and be in compliance with Federal law provided they do so expeditiously. The other extends the availability of highway funds withheld so that States will not simply lose funds when they lapse under the normal procedures of the highway law.

The opponents of this law and the amendments to it, included in this legislation, have stressed the punitive aspects of the law. I want to emphasize the compassionate nature of this bill. The purpose of this law is not to withhold highway funds; it is to save the lives of hundreds of young Americans every year on our highways. Its purpose is to close the blood borders that separate States with differing minimum drinking ages which provide an incentive for young people to drive in order to drink. Far too many of them do not make it home and their parents, their brothers, sisters and loved ones suffer the pain. This law does not put an end to drunk driving, but it will help hundreds of families to avoid the loss of a son or daughter.

Mr. President, this week has been designated by President Reagan as "National Drunk and Drugged Driving Awareness Week." How fitting it is that the Congress has the opportunity to close the loopholes in the Uniform Minimum Drinking Age Act this week.

Reconciliation, Mr. President, is essentially an authorization bill. This provision belongs in an authorization bill. I have worked closely with the committee of jurisdiction, the Committee on Environment and Public Works, to craft this provision. This provision is a compromise worked out by the committees of authorization in the House and Senate.

Mr. President, this provision is of critical importance to such groups as the National Safety Council, Mothers Against Drunk Driving and PTA's throughout the Nation. This provision is supported by Secretary of Transportation, Elizabeth Dole, and the Reagan administration.

Mr. President, I introduced this provision in July with the cosponsorship of my friend and colleague, Senator JOHN DANFORTH, the able chairman of the Committee on Commerce, Science and Transportation. Senator DANFORTH has been steadfast in his support for this measure.

Finally, Mr. President, I want to recognize the contribution of the chairman of the House Public Works and Transportation Committee, Representative JIM HOWARD of my State of New Jersey, for his extensive efforts to bring about a uniform minimum drinking age of 21 in this Nation. Without him, this law would not be on the books and these amendments would not be possible.

I also extend my thanks to the staff of the House Public Works and Transportation Committee. Caryll Rinehart, Dick Sullivan and Clyde Woodle have lent their expertise to this effort and I thank them.

Mr. MURKOWSKI. Mr. President, I rise today in support of the adoption of the conference report and final passage of H.R. 3218, the Omnibus Budget Reconciliation Act of 1985. As chairman of the Committee on Veterans' Affairs, I am pleased that the conferees on title XIX of H.R. 3218 regarding veterans' programs have been able to work out a fair and equitable compromise, one which will meet the savings targets required under our reconciliation mandate and which will result in significant reforms in VA health care delivery.

The provisions contained in the conference agreement include the establishment of income eligibility criteria for VA health care, the authorization of reimbursement under health insurance contracts, a 3.1 percent—percent cost-of-living adjustment [COLA] for veterans in receipt of service-connected disability compensation and related benefits, an epidemiological study of the health of women veterans, and evaluation of the needs of native-American veterans including Alaska Natives and a waiver of congressional notice-and-wait period for administrative reorganization of certain automated data processing functions within the VA.

Both the House- and the Senate-passed bills contained the establishment of new eligibility criteria and income thresholds for certain non-service-connected veterans and third-party reimbursement for non-service-connected veterans who are furnished VA health care. Both the House- and the Senate-passed versions also contained a provision related to the service-connected disability compensation COLA.

Mr. President, I am extremely pleased with the spirit of cooperation and dedication to the resolution of these issues that was evidenced by all the conferees and their staff. I particularly want to thank G.V. (SONNY) MONTGOMERY, chairman of the House Veterans' Affairs Committee, and JOHN PAUL HAMMERSCHMIDT, ranking minority member of the House Veterans' Affairs Committee, and their staffs, as well as Senator CRANSTON, the ranking minority member of this committee and his fine staff.

The most significant differences in the House- and Senate-passed bills were found in the policies contained in the proposed income eligibility criteria. The differences were especially significant in how to treat eligibility for VA health care and the level of copayment that should be required for veterans who were deemed able to pay.

HEALTH-CARE ELIGIBILITY

Mr. President, the revisions proposed by the Senate-passed bill regarding eligibility for VA health care would have prioritized the care to indicate the Nation's commitment to service-connected disabled and impoverished veterans. Inpatient and outpatient care would have been prioritized in the same manner and nursing home care would have been prioritized to ensure that VA nursing care beds would be available first for those who need the highest level of care. The Senate-passed bill would have established an across-the-board income threshold of $25,000 for non-service-connected veterans and required the medicare deductible every 60 days for veterans being furnished hospital care or nursing home care within a 1-year period. Veterans who would have been furnished outpatient care and who exceeded the income threshold would have paid 20 percent of the average cost of VA outpatient visit.

Mr. President, I believe that although we have moved toward the House's position in many aspects of this bill, the House was also willing to modify its position regarding entitlement to health care as well as the copayment for those veterans who have non-service-connected disabilities and who do have the ability to contribute toward their care.

Under the conference agreement, nine categories of veterans "shall" be furnished needed hospital care in VA facilities and may be furnished such care, if currently authorized, in non-VA facilities. These categories of veterans would include all service-connected disabled veterans, so-called special statutory categories (including POW's, veterans exposed to Agent Orange or radiation and veterans of World War I and earlier conflicts) as well as other non-service-connected veterans with incomes not exceeding $15,000 for a veteran with no dependents and $18,000 for a veteran with one dependent, plus $1,000 for each additional dependent. By establishing a new "shall" category for these veterans seeking hospital care the Congress has indicated its strong feeling that these categories of veterans should have the highest priority and that they should be furnished needed care to the extent that beds are available and funds have been appropriated. The statement of managers indicates that the conferees clearly intend that for the above-mentioned categories, the VA's sole obligation is: First, if a veteran is in immediate need of hospitalization, to furnish and appropriate bed at a VA facility where the veteran applies, or if none is available there, to furnish a contract bed if authorized in section 603 or arrange to admit the veteran to the next closest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed; or Second, if the veteran needs nonimmediate hospitalization, to schedule the veteran for admission where the veteran applied, if the schedule permits, or refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there." That is the extent to which current law would be modified with respect to the word "shall". The reason that the conferees included this language in the statement of managers was to make perfectly clear that although we have taken a major step in requiring the VA to care for these high priority categories of veterans, the VA is not expected to plan additional or expanded services or space to care for such veterans. We believe the VA does have the capacity to treat these nine categories. If such a veteran applies and there is no space, the conferees expressed the view that the VA will make every attempt to ensure that such a veteran be treated at another VA facility that provides similar services. This legislation would not change current law or practice regarding the beneficiary travel program. I wish to emphasize that the intent of having veterans referred from one hospital to another was not to increase the cost to beneficiary travel but to increase the possibilities that veterans would receive needed care as soon as possible. There is no requirement that beneficiary travel be paid in such instances.

A concern has been raised that using the word "shall" would create an entitlement to VA care that would circumvent the appropriations process. The VA's general counsel has informed us that no such entitlement would be created. I ask unanimous consent that the general counsel's "white paper" on this eligibility issue be included in the RECORD at this point.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

PROPOSED AMENDMENTS TO SECTIONS 610 AND 612—IS AN "ENTITLEMENT" CREATED

Both the House and Senate versions of the Budget Reconciliation Act (H.R. 3500 and S. 1730) contain the so called "means test/third party reimbursement" legislation which would alter the eligibility of veterans to receive VA health care benefits. Both the House and Senate bills would amend 38 U.S.C. §§ 610 and 612, to provide that the Administrator "shall furnish" hospital care and outpatient medical services to certain veterans. The Senate bill also provides that nursing home care "shall" be furnished to those same veterans. Under existing law, the Administrator "may furnish" such care. Both bills also delete existing language in sections 610 and 612 providing that care may be furnished only within the limits of VA facilities. The changes made by these bills have given rise to the question: Will certain veterans be "entitled" to receive VA health care benefits, and what does that mean?

Generally, the term "entitlement" connotes a right to receive something, or to do something, with the scope of the right varying according to the legal authority creating it. See generally Words and Phrases, Volume 14A, pages 388-395 (1952 ed) and Supp. pg. 18 (1985). Entitlements may take many forms, but this paper is primarily concerned with what may be characterized as "statutory entitlements."

A review of case law reveals that the terms "entitlement" and "statutory entitlement" are used very loosely and imprecisely by the courts. Research has not revealed an instance of a court's defining the terms specifically. However, based on a review of cases using the term "entitlement," this paper posits the following definition. "Statutory entitlement" is a right, not subject to the discretion of an agency official, to receive a payment, a good, a service, or some other right from the government on the basis of meeting eligibility criteria established by statute or implementing regulations. As discussed below, however, the identification of an interest in a benefit as a statutory entitlement does not in itself indicate that the "entitled" parties have an absolute right to, and can enforce receipt of, that benefit.

The concept of a statutory entitlement appears to embody two principal elements: first, the right must be defined in a law or regulation, and, second, the law or regulation must leave little if any discretion to government officials to determine whether or not the benefit will be provided. The term "entitlement" is most commonly used in the case law in the context of constitutional procedural due process cases involving individuals or groups seeking to show the presence of a "property interest" which cannot be abridged except by due process of law. Thus in *Goldberg* v. *Kelly*, 397 U.S. 254 (1970), the court stated that welfare benefits "are a matter of statutory entitlement for persons qualified to receive them." Id. at p. 262. In *Board of Regents* v. *Roth*, 408 U.S. 564 (1972), the court states that to have a property interest, an individual must have "a legitimate claim of entitlement." Id. at 577. The *Roth* Court clearly stated that a property interest or "entitlement" is defined by the source that created the interest. Thus, the court stated:

Thus, the welfare recipients in *Goldberg* v. *Kelly*, supra, had a claim of entitlement to welfare payments that was grounded in the statute defining eligibility for them. Id. at 577.

There is some case law to suggest that a statute or regulation which vests significant discretion in government officials in connection with provision of the benefit does not confer an entitlement. In *Ingram* v. *O'Bannon*, 534 F. Sup. 385 (E.D. Pa. 1982), a case in which plaintiffs claimed an absolute right to benefits, the court held that no entitlement existed where, despite language in the state's regulation defining eligibility for services on the basis of specific financial and medical need, other regulatory provisions vested broad discretion in Agency officials to determine how benefits would be provided. Indeed, the statutory scheme and applicable regulations in that case allowed the state to define the entitlement as permitting the decision by State officials to determine provision of the benefit under priority list which, in fact, denied the benefit to individuals otherwise meeting eligibility criteria, Id. at 389. Consequently, the Court stated, "This regulations (sic) negates any allegation that when demand surpasses availability, applicants have a legitimate expectation that the state will increase funding of the program to ensure that all applicants receive the service." Id. The statutory scheme did "not create an entitlement to the service or at most, create[d] an entitlement to receive the service as it is available." Id. Similarly, in *Riverview Investments* v. *Ottowa Community Investment Corp.*, 769 F.2d 324, 327 (6th Cir. 1985), the court held that the substantial discretion vested in State officials to administer a program (municipal bond) defeated any claim to an entitlement to have such bonds issued, even though other applicants had received the benefits of the issuance of the bonds. See also *Moore* v. *Johnson*, 582 F.2d 1228 (9th Cir. 1978). Contrast *Alexander* v. *Polk*, 572 F. Supp. 605 (E.D. Pa. 1983), a case in which plaintiffs claimed an entitlement to benefits to the extent funding is available. There the court held that an entitlement existed in a statutory supplemental food benefit program, to the extent funds were available, even though officials had authority to limit the benefit when adequate funds were not available to provide the benefit to all eligible individuals. While the *Polk* case demonstrates that the law is by no means

certain with respect to what constitutes a property interest establishing a right to due process, it does not suggest that a statutory entitlement is an absolute right to that property.

The question has been posed as to whether the proposed amendments to sections 610 and 612 of title 38, United States Code, in the House and Senate Budget Reconciliation bills, create entitlements. In determining precisely what benefits are granted by the statute, and whether the individual is statutorily entitled to them, attention must be paid to all of the statutory limitations on the grant of the benefits. Existing sections 610 and 612 use the words "may furnish" in describing the Administrator's authority to provide health care benefits to veterans. Those words are susceptible to an interpretation that the Administrator has virtually unlimited discretion to determine whether or not to provide care or services to eligible veterans. That interpretation was supported in an opinion prepared by the Office of Legal Counsel, Department of Justice, dated December 7, 1982. The proposed changes to sections 610 and 612 would certainly alter and limit the Administrator's discretion to decide not to provide care to certain categories of veterans, but the changes do not foreclose all discretion, or "entitle" every otherwise eligible veteran (who "shall" be provided care) to receive whatever care or services are deemed desirable or even determined necessary. Generally speaking, we believe the proposed change from "may" to "shall" would only mandate that if VA facilities and resources are *available* and *capable* of providing *needed* care and services, the Administrator must furnish the care and services to any eligible veteran able to present himself or herself at the VA facility to receive the care.

The major limitation on the provision of benefits is the fact that VA facilities and resources are limited. At the present time, facilities simply do not exist to provide all types of health care benefits to all veterans eligible to receive those benefits, particularly under the House bill, and both the Senate and House bill continue to impose stringent limitations on the provision of contract care in non-VA facilities. Furthermore, VA's ability to acquire or construct new medical facilities is constrained by statutory provisions. For example, any significant VA construction project must be approved by the Congress pursuant to 38 U.S.C. § 5004, before money may be appropriated for the project. Finally, as discussed below, the proposed bills do not create new spending authority (entitlement authority) such that one might argue (not necessarily successfully) that Congress must appropriate funds to construct facilities to meet the needs of all eligible veterans. Accordingly, under the House bill, for example, VA will be able to provide care and services within the limits of its facilities and resources, and eligible veterans can have no clear assurance of receiving needed care in every instance.

In addition to the basic availability of resources limitation, both the House and Senate bills grant, or leave in place a significant breadth of discretion in the Administrator to determine whether to provide all eligible veterans with health care benefits. First, the care sought by a veteran must be "needed" by the veteran (House bill) or "reasonably necessary" (Senate bill). VA regulations and manual provisions treat this eligibility criteria in essentially absolute terms, i.e., a veteran either does or does not need medical care. However, the requirement that care be needed can also be viewed, particularly under the pending House bill, (which on its face places all but non-needy, non-service-connected veterans on an equal footing as to eligibility and priority for care in VA facilities) as permitting the Administrator to assess need in relative terms, e.g., degree of urgency of need in relation to VA capabilities. Thus, if resources are extremely limited, the Administrator could conceivably determine that only limited types of health care services can be said to be "needed." If an outpatient clinic is full, perhaps only emergency services could be deemed "needed" for a new applicant.

Additionally, neither the House nor the Senate bill alters the existing language of 38 U.S.C. § 621. That section grants the Administrator authority to promulgate regulations governing, and limiting, hospital, nursing home, and domiciliary care. Section 621 is generally thought of as granting necessary authority to allow efficient administration of the medical system. However, it grants significant discretion to the Administrator to determine that care will not be provided in certain instances. In instances where VA lacks the capacity or facilities to meet the demand for health care benefits, this authority would, for example, allow the Administrator, under the House bill, to deny immediate care to certain categories of veterans, and place them on waiting lists for care in the future. (The Senate bill provides specific priority provisions, of course.)

It should also be noted that the House bill proposes to add a new subsection (g) to section 610. This new provision would explicitly recognize the Administrator's existing discretion "to determine—

(A) The appropriateness of furnishing medical services, therapies, or programs under this chapter; or

(B) In what manner they will be furnished.

A veteran seeking care from the VA can only expect to receive the care and services authorized by the law. Clearly the "entitlement" to be enjoyed by the beneficiaries of these bills is encumbered by significant limitations. Although individuals have used the word "entitlement" to describe the benefit that the House-passed measure would provide, we find no basis to conclude that individual nonservice-connected veterans, e.g., can have more than a unilateral expectation of receiving VA care whenever they need it. Although we do not foresee the likelihood that service-connected veterans under the Senate bill would be denied needed VA care, it is not clear that veterans can compel the Agency to provide care as a matter of statutory entitlement.

As a final matter, we address the question of whether the proposed changes to sections 610 and 612 would invoke any legal requirement that the Congress appropriate funds sufficient to assure that VA facilities would be constructed and resources made available to provide health care benefits to all eligible veterans who seek them. We do not believe the changes invoke any such authority.

Under the Congressional Budget Act of 1974, Congress may create what is termed "entitlement authority." Entitlement authority is defined in section 401(c) of the Act (2 U.S.C. § 651(c)(2)(C)) as the authority:

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

The language in the above provision, "the United States is *legally obligated* to make such payments," (Emphasis added), implies that the funds must be paid to beneficiaries, and that funds for payment must be appropriated by the Congress. In our view, however, neither the proposed House or Senate changes to sections 610 and 612 would create entitlement authority, so no legal obligation can arise. The first element in the definition of entitlement authority is met in that VA health care benefits are authorized by sections 610 and 612, not by appropriations acts. However, the other statutory elements of entitlement authority are not. First, health care benefits are not payments, they are services. Second, there are limitations and areas of discretion on the provision of the health care benefits, as discussed above, not provided in the authorizing law. An individual cannot expect and is not assured of receiving the sought after benefits simply by meeting the statutory eligibility requirements.

Even if we assume that the amendments to sections 610 and 612 were to create entitlement authority, or a statutory entitlement, we question whether that would absolutely require the Congress to appropriate funds to meet the obligation. In fact, Congress might actually decide to terminate an entitlement program by failing to provide funds. Thus, in *Local 2577 AFGE* v. *Phillips*, 358 F. Supp. 60 (D.D.C. 1973), the court noted:

An authorization does not necessarily mean that a program will continue. Congress, of course, may itself decide to terminate a program before its authorization has expired, either indirectly by failing to supply funds through a continuing resolution or appropriation, or by explicitly forbidding the further use of funds for the programs . . . *Id.* at 75.

Relying on that case, our office has held that a statutory entitlement is limited by the availability of the necessary appropriations.

The Statement of Managers also includes language to highlight the intent that title XIX of the Congressional Budget and Impoundment and Control Act of 1974 would continue to apply. Under this legislation the use of the term "shall" is intended to enhance the eligibility of the specified veterans but not intended to diminish the status of all other categories of veterans eligible for care under current law. The VA would continue to be required to provide such needed care to all eligible veterans if resources have been appropriated and remain available. But the use of the term "shall" does not require that any specified level of appropriations be made and it is certainly my intent to underline that an entitlement as defined under the Congressional Budget Act has not been created.

Except for those deemed able to defray the cost of care, other non-service-connected veterans will continue to have the same eligibility for health care as under current law that for veterans age 65, and older, age would no

longer be the only factor in determining eligibility. The VA will continue to have discretionary authority to treat them on a space-available basis. Non-service-connected veterans with incomes above $20,000 for a single veteran and $25,000 for a married veteran with one dependend plus $1,000 for each additional dependent will be furnished care on the basis of an agreement to make a modest copayment, and if resources and facilities are otherwise available. The conferees categorically rejected the Administration's proposed means test and spend down theory in favor of a more equitable and less onerous approach which grants access to health-care irrespective of income.

Mr. President, under the conference agreement, outpatient care and nursing home care eligibility would remain the same as current law. I greatly regret that the House would not accept the Senate's provisions to prioritize eligibility for both inpatient and outpatient care. In my view, such an approach clearly would have provided service-connected and impoverished veterans with the highest priority for care.

Mr. President, in initiating a copayment for veterans who have been determined able to contribute a modest amount to the cost of their care, the conferees have taken a major step in redefining the parameters of VA care for certain non-service-connected veterans. It is important to remember that this country owes a great debt to veterans who served and sacrificed for their country. This legislation ensures care for veterans with service-connected disabilities and impoverished veterans. However, we also have to remember that resources are not unlimited and we face enormous deficits. The recent enactment of the so-called Gramm/Rudman balanced budget amendment certainly emphasizes the fact that the Congress and the country recognize the need to control spending and have taken an important step toward that end. I believe that this legislation responsibly meets the level of savings required of both the Senate and House Veterans' Affairs Committees.

The Administration's original proposal for a means test contained an $11,400 income cut-off for a single veteran and required a strict spend down of income by veterans above this threshold prior to becoming eligible for medical care. That approach was rejected by both the House and the Senate. Instead, we have income thresholds which are more realistic in terms of family income standards, and incorporated provisions which permit veterans with incomes over that threshold to use the VA if facilities and resources are available based on an agreement to contribute toward their care. The income threshold agreed to by the conferees combines both the Senate's across-the-board $25,000 threshold and the House's approach of having different thresholds for single and married veterans. These thresholds are clearly spelled out in the statement of managers accompanying the conference agreement.

Mr. President, under the conference agreement, a veteran being furnished hospital care and who is deemed not unable to defray the expense of care, would be required to pay the Medicare deductible, currently $492, for the first 90 days, and half of that deductible for each succeeding additional 90 days of care, within a 12-month period. The Medicare deductible would apply for each 90 days of care for veterans who are furnished VA nursing home care. The conference agreement does provide; however, that if the veteran had been transferred from a VA hospital to a nursing home, the veteran's initial $492 payment would apply for the nursing care until the expiration of the 90-day period. For outpatient and home-health care, veterans deemed able to pay would contribute a per visit payment of 20 percent of the VA average daily rate not to exceed the medicare deductible for each 90-day period. All of the inpatient payments during each 90-day period would count toward the outpatient cap. The same policy would apply regarding outpatient co-payments—they would count towards the inpatient care.

The adoption of income eligibility criteria is not only a reflection of the budgetary constraints facing the Congress, but also a commitment to continue to care for the nine categories of veterans defined by this legislation and an endorsement of the continuation of a comprehensive Va health-care system by allowing non-service-connected veterans with higher incomes to continue to have access to the VA system in return for a small partial payment.

THIRD PARTY REIMBURSEMENT

Mr. President, H.R. 3281 contains a provision, which for the first time, would achieve parity between the VA and private health care providers. This legislation would authorize prospectively reimbursement to the Federal Government under health-insurance contracts for the reasonable costs of health care and services furnished by the VA to non-service-connected veterans who have health insurance. Most health insurance plans and contracts contain exclusionary clauses which bar reimbursement to the United States for care provided by the VA. Recoveries under this provision are not intended in any way to reduce the annual appropriation for the VA health care system as all recoveries will be deposited into the U.S. Treasury. Both the House and the Senate have agreed on the basic policy on this issue and agree that a veteran who is otherwise insured must be allowed to use those insurance benefits for VA care as well as for private care.

The provisions contained in the Senate and House reconciliations bills were very similar. The conference agreement incorporates the essence of both the Senate and House provisions, several of which I would like to highlight.

The Administrator would be required to prescribe regulations which would govern the determination of the reasonable cost of care or services.

The regulations to be prescribed for determining the reasonable cost of care or services shall also provide that the determination of "reasonable cost" may not exceed an amount equal to that which the third party would pay for such care or services under prevailing rates of payment to non-Federal facilities in the same geographic area as the VA facility in which the care or services are furnished.

The establishment of a so-called third party reimbursement would not, in any way, restrict an eligible veteran's access to VA health-care, nor would it require a veteran to pay any deductible or copayment required under the terms of an insurance contract in order to receive care.

The law would also specify that a veteran's failure to pay a deductible or copayment required under the terms of an insurance contract would not preclude the Government from recovering from the third party; however, the amount of the recovery would be reduced by the amount(s) of the deductible or copayment. This provision would also authorize, subject to certain restrictions, a third party to inspect medical records of a health-plan beneficiary for whom recovery is sought, in order to enable the third party to verify that the care or services were furnished and meet the criteria generally applicable under the health-plan contract.

Finally, the VA would also be required to submit to the Congress reports on the implementation and results of the amendments made under this provision.

The third-party reimbursement provision contained in the conference agreement reflects certain recommendations made by private health insurers, concerning the constitutionality of such a provision with respect to existing insurance contracts, and the adequacy of cost-containment measures within the VA health-care system.

SERVICE-CONNECTED DISABILITY COMPENSATION COLA

Mr. President, the compromise would provide a 3.1-percent COLA to our Nation's service-connected disabled veterans and their dependents and survivors effective December 1, 1985. This COLA is the same as that provided to VA pension and Social Security recipi-

ents, also effective December 1, 1985. Due to the inability of the House and Senate to reach agreement on an omnibus compensation and veterans' benefits bill before adjournment sine die, the House and Senate Veterans' Affairs Committees have agreed to include the compensation COLA in the reconciliation bill in order not to delay any further the enactment of a COLA for service-connected veterans.

ADMINISTRATIVE REORGANIZATION

In April 1985, the VA Administrator selected McManis Associates Inc. to prepare an implementation plan for the modernization of DVB information management systems. Their plan was released on October 25, 1985. It suggested certain reforms for the modernization of the current benefits delivery system. Based on this report, the Administrator has proposed a reorganization of certain automated data processing functions. In a letter to me, as chairman of the Senate Veterans' Affairs Committee, dated November 1, 1985, (which I ask unanimous consent be inserted in the RECORD), the Administrator has requested a waiver of the "notice and wait" period required by section 210(B)(2) of title 38, United States Code. I believe giving those responsible for VA benefit payments authority over the data processing resources is a first step in the reforms necessary to improve VA data processing. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VETERANS ADMINISTRATION OFFICE OF ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, November 1, 1985.

Hon. Frank H. Murkowski,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to report a planned administrative reorganization within the Veterans Administration (VA) involving the transfer of certain functions from the Office of Data Management and Telecommunications (ODM&T) to the Department of Veterans Benefits (DVB).

As you are aware, under the Congressional "report and wait" requirements of 38 U.S.C. § 210(b)(2), a detailed plan and justification must be submitted to the appropriate committees of Congress for certain VA administrative reorganizations involving a reduction during any fiscal year by 10 percent or more in the number of full time equivalent employees (FTEE) at a VA covered office or facility. The report must be made not later than the date on which the President submits his budget for the next fiscal year. Thereafter, no action can be taken to implement the reorganization until the first day of that fiscal year. Thereafter, no action can be taken to implement the reorganization until the first day of that fiscal year. This letter is submitted in order to satisfy the above-reporting requirement for a planned VA organizational transfer of certain automated data processing (ADP) functions as described below.

As you are aware, in April 1985, the Veterans Administration selected McManis Associates, Inc., to prepare an implementation plan to modernize the DVB benefits and services delivery systems. This plan was to be consistent with my policy statement mandating the full moderization of the Agency's data processing and communications systems so as to improve the quality of service provided to veterans and their families. The McManis study among other things found that there was limited end-user involvement in system design and development, limited systems training, and that there were inconsistent system utilization management practices. Based on these findings, I approved the McManis recommendations that DVB should have the authority, resources and responsibility for the systems development and greater operational oversight within overall agency standards and policy guidelines. Implementation of this recommendation requires the administrative reorganization which is the subject of this letter.

We propose to reorganize in order to move ADP program specialists closer to the DVB program specialists, and give DVB a greater role in ADP decisions. By giving DVB control of ADP resources, they will be able to better focus ADP expenditures on service delivery priorities. This reorganization will involve 362 ODM&T full time equivalent employees (FTEE). These organizational transfers will occur at VA Central Office (VACO), and at the Austin, Texas; Hines, Illinois; and Philadephia, Pennsylvania VA Data Processing Centers (DPC). The number of FTEE transferred as the result of this reorganization and the base 1986 ODM&T FTEE at each facility, are as follows: VACO—81/441; Austin—75/663; Hines—146/406; and Philadelphia—60/197.

The functions performed in the positions to be transferred are unique to the support of DVB programs and, after this transfer to DVB, ODM&T will no longer perform these functions. These functions, and the stations at which they are performed, are as follows: VACO—Benefits Automation Service, which designs all ADP programming for DVB, and some administrative support personnel; Austin DPC—Benefits Delivery System Division, which does programming for DVB in the areas of loan guaranty, the Beneficiary Identification and Records Location Subsystem (BIRLS), and debt collection (beginning in fiscal year 1986); Hines DPC—System Support Divisions, which handle programming for DVB benefits programs, such as Compensation and Pension, Education, and Vocational Rehabilitation, and which prepare the computer tapes for the Department of the Treasury to use in issuing benefits checks; and Philadelphia DPC—Systems Division, which does programming for VA applications. There will also be transferred, at each of the above stations, the functions of that part of the systems verification and testing element which performs systems quality control for the programming done by the benefits delivery system staff at each of these stations.

It is clear from the foregoing that this reorganization is simply an organizational transfer of employees. These employees will not be relocated to other stations. The great majority of them will experience no change in their functions, personnel status, immediate supervision, or even in the location of their workspace. Accordingly, there will be little or no cost impact as the result of this reorganization.

We believe that this reorganization is appropriate and advisable, and that it will have the desired effect of improving and making more efficient DVB benefits delivery systems by giving DVB direct control over the resources used for its ADP support. This reorganization has already been the subject of DVB briefings with staff of the House and Senate Veterans' Affairs Committees. Of course, we would be pleased to provide any additional information which you may desire concerning this reorganization.

I request your assistance in introducing, and supporting enactment of, a legislative waiver of the 38 U.S.C. § 210(b)(2) waiting period for this reorganization, so that these improvements in our organizational structure can be made as soon as possible. Suggested language for such a legislative waiver is enclosed. Absent such a waiver, we must wait until fiscal year 1987 to implement this reorganization.

I appreciate your support for our efforts to improve benefits delivery for our Nation's veterans.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this letter and legislative proposal from the standpoint of the Administration's program.

Sincerely,

HARRY N. WALTERS,
Administrator.

Under current law the VA may not, in any fiscal year, implement a reorganization involving a more than 10-percent reduction in the number of full-time equivalent employees at any VA facility with more than 25 employees unless the Administrator, not later than the date on which the President submits the budget for that year, provides "A report containing a detailed plan and justification for the reorganization." The "notice and wait" provisions of section 210(b)(2) of title 38 would delay the implementation of the proposed reorganization until the next fiscal year. This bill would provide a waiver of the notice and wait requirement so that VA may proceed immediately with the proposed reorganization.

I strongly believe that DVB does have data processing problems which require immediate attention. This waiver would allow VA to reorganize immediately and to proceed with the process of implementing needed reforms. The General Accounting Office [GAO] is studying VA's data processing capabilities as well as the recommendations of McManis Associates. GAO has informally expressed concerns about hardware and software procurement plans recommended by the McManis study and the lack of comprehensive data processing planning on the part of the VA. I endorse the proposed reorganization in the belief that it will establish a structure conducive to reform. However, in doing so, I strongly urge the VA Administrator, Harry Walters, to work with the committee and the GAO to ensure that data processing reforms

are well thought out and carefully planned. I will be monitoring closely DVB's process in improving its data processing systems to meet the agency's and the Congress' needs for timely and accurate information in the most cost effective and efficient manner.

SAVINGS ESTIMATE

The Congressional Budget Office has indicated that total savings from the enactment of the income eligibility criteria third party reimbursement and the 3.1-percent COLA will be in excess of $1.26 billion over the next 3 years, which is more than $100 million more than our mandated reconciliation savings. These savings have been achieved without the reduction of any program or service to our Nation's veterans and will, in fact, serve as a model of the commitment to the Nation to continuing to provide needed health care to eligible veterans.

CONCLUSION

In closing, I want to note once again my thanks to my distinguished counterpart on the House Veterans' Affairs Committee, SONNY MONTGOMERY as well as the ranking minority member of this committee, ALAN CRANSTON and JOHN PAUL HAMMERSCHMIDT, the ranking members of the Senate and House Veterans' Affairs Committees. The staffs have worked hard and very closely to work through the small details as well as some rather large policy differences on certain issues, to come up with a very fair and well balanced compromise. I especially want to thank Mack Fleming, chief counsel of the House Veterans' Affairs Committee, his staff, Pat Ryan, Jack McDonnell, Victor Raymond, Arnold Moon, and Charles Peckarsky; as well as Rufus Wilson, the minority chief counsel of the House Veterans' Affairs Committee and Kingston Smith; Jon Steinberg, Senator CRANSTON's chief counsel and his fine staff, Ed Scott, Bill Brew, Babette Polzer, Nancy Billica, and Ingrid Post, who is one of the most dedicated workers I know of in the Senate. A special thanks to Bob Cover, House legislative counsel, who labored tirelessly to perfect the bill language. Last, but certainly not least, I want to thank my own fine staff headed by Anthony Principi, chief counsel, and including Julie Susman, Cathy McTighe, Cynthia Alpert, Chris Yoder, Lisa Moore, Judy Boertlein, Jody Sanders, and Kay Eckhardt. Mr. President, I urge the adoption of the conference report and final passage of the Omnibus Reconciliation Act of 1985.

Mr. President, I ask unanimous consent that the statement of managers of title XIX be included at the appropriate place in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TITLE XIX—VETERANS' PROGRAMS

On October 24, 1985, the House passed H.R. 3500, the proposed "Omnibus Budget Reconciliation Act of 1985". Title X of the bill included the provisions of H.R. 1538, ordered reported by the House Committee on Veterans' Affairs on September 11, 1985, to satisfy its reconciliation instructions contained in section 2 of the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32).

On November 14, the Senate passed H.R. 3128, the proposed "Deficit Reduction Amendments of 1985", after striking out the House-passed text and inserting in lieu thereof the text of S. 1730, title XI of which contained the legislation reported by the Senate Committee on Veterans' Affairs to satisfy its reconciliation instructions in section 2 of the FY 1986 budget resolution.

On December 5, the House amended the Senate-passed H.R. 3128 by inserting the House-passed texts of H.R. 3500 and H.R. 3128, and requested a conference with the Senate. Title X of H.R. 3500 as it originally passed the House was redesignated as Title X (sections 1951-1982) of Division A of the House amendment to the Senate amendment to H.R. 3128.

The following material refers to the Senate amendment to H.R. 3128 as the "Senate bill", to the House amendment to the Senate amendment as the "House bill", and to title XIX of the Reconciliation Act conference report as the "conference agreement".

SUBTITLE A—HEALTH CARE

Both the House bill (section 1972) and the Senate bill (sections 1101-07) would, as discussed below, amend chapter 17 of title 38, United States Code, to revise existing eligibilities for health care furnished by the Veterans' Administration, and to establish a "health-care income threshold" for purposes of determinations of eligibility based on "inability to defray" the cost of needed care.

The conference agreement (section 19011) contains such provisions as discussed below.

HOSPITAL CARE

House bill

The House bill would amend the eligibility requirements, set forth in present section 610(a) of title 38, for veterans seeking VA hospital care. The six categories of veterans eligible for such health care under current law would be revised and restated as nine separate categories, and the separate basis of eligibility for non-service-connected veterans 65 years of age or older (without regard to income) contained in current law would be eliminated.

Under the House bill, the Administrator would be required to furnish hospital care determined by the Administrator to be necessary to:

(1) any veteran for a service-connected disability;

(2) a veteran discharged for a disability incurred or aggravated in line of duty;

(3) a veteran entitled to receive disability compensation;

(4) a veteran disabled as a result of VA treatment or vocational rehabilitation;

(5) certain Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions;

(6) former prisoners of war;

(7) veterans of the Spanish American war, Mexican border period, or World War I; and

(8) veterans who are unable to defray the expenses of necessray care.

The current limitation on furnishing hospital care "within the limits of Veterans' Administration facilities" would no longer be applicable to these eight categories of eligible veterans.

A veteran would be eligible for necessary medical care under category (8) if the veteran's family's income in the 12 months preceding the application for care was not greater than 3.34 times the maximum annual rate of VA pension payable to totally disabled veterans (referred to below as the "health-care income threshold"). In determining the incomes of veterans for the purpose of this category, the administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility under chapter 15 of title 38, United States Code. The maximum income level for health care would be increased each year by the same percentage increase applicable to the maximum pension rate. Thus, as of the time the House passed the bill, the "health care income threshold" would be $19,068 for a veteran with no dependents and $24,977 for a veteran with one dependent, plus $3,233 for each additional dependent. On December 1, 1985, the VA pension income standard increased by 3.1 percent, by virtue of present section 3112(a) of title 38, United States Code, and reference to the consumer price index.

The House bill would establish, as a ninth category of veterans eligible for hospital care, those seeking care for treatment of non-service-connected disabilities who do not fall into one of the eight other categories. Thus, this last category would consist of those veterans whose income and assets exceed the health-care income eligibility threshold. They would be required to make an annual payment equal to the Medicare deductible ($492 in 1986) in order to receive needed care. Such care could be provided only "within the limits of Veterans' Administration facilities."

The House bill would also provide that nothing in these provisions would (1) require the Administrator to furnish hospital care in a facility other than a VA facility or to furnish care to a veteran to whom another agency of a Federal, State, or local government has a duty to provide care in an institution of that government, or (2) restrict the Administrator's discretion to determine the appropriateness of furnishing medical services, therapies, or programs under chapter 17 of title 38 or in what manner they will be furnished.

Senate bill

The Senate bill would create three categories of eligibility for hospital care. Under the first category, the Administrator would be required to furnish hospital care determined to be reasonably necessary for service-connected disabilities and for any disability of veterans who have service-connected disabilities rated at 50 percent or more. This care would be required to be furnished through VA facilities or, to the extent authorized, through non-VA facilities except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized.

Under the second category, which would remain essentially unchanged from current law (except that the separate basis of eligi-

bility for veterans 65 years of age or older would be eliminated), the Administrator would be authorized, through VA facilities or, to the extent authorized, through non-VA facilities, to furnish reasonably necessary hospital care to veterans with service-connected disabilities rated at less than 50 percent; veterans who, but for the receipt of retired pay, would be entitled to disability compensation; veterans who are eligible for compensation for disabilities incurred as VA patients or as participants in a VA vocational rehabilitation program; veterans who were discharged from military service for disabilities incurred or aggravated in the line of duty; former prisoners of war; Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions; Spanish American War, Mexican border period, or World War I veterans; and veterans unable to defray the cost of necessary care.

Under the third category, the Administrator would have the authority, through VA facilities or, to the extent authorized, through non-VA facilities, to furnish, to the extent facilities and resources are otherwise available, reasonably necessary hospital care for the non-service-connected disability of a veteran not included in categories one or two whose annual family income for the calendar year preceding the veteran's application for care exceeds $25,000 and who agrees to make certain payments to the United States in connection with such care. In determining the incomes of veterans for the purpose of this category, the Administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility. Further, the Administrator would be given authority to prescribe regulations defining the circumstances under which a non-service-connected veteran having an annual income or estate above a certain level would be ineligible for VA care

Conference agreement

The conference agreement (section 19011(a)) generally follows the House provision. It would establish two groups of VA health-care eligibilities. Under the first group, the conference agreement would require the Administrator to furnish needed hospital care through VA facilities, and authorize the Administrator to furnish needed hospital care in non-VA facilities as authorized, to the first eight categories from the House bill except that the third category from the House bill is subdivided into two categories—veterans with service-connected disabilities rated at 50 percent and above and any other veterans who have service-connected disabilities. The ninth category of veterans would consist of veterans who are unable to defray the expenses of necessary care—those who are receiving chapter 15 VA improved pension or are eligible for Medicaid or whose annual family incomes do not exceed the "Category A threshold" ($15,000 for veterans with no dependents and $18,000 for veterans with one dependent with an increase of $1,000—approximately equal to the amount of the VA pension) allowance ($999 as of December 1, 1985)—for each additional dependent). These amounts would be increased on January 1 of each year (beginning January 1, 1987) by the same percentage by which VA chapter 15 improved pension benefits are increased on the preceding December 1 (pursuant to section 3112 of title 38).

The conferees intend that, for the categories of veterans specified in section 610(a)(1) of title 38 (as revised by this section)—those to whom the Administrator is required to furnish hospital care—the VA's sole obligation with respect to needed hospital care for these veterans is (1) if a veteran is in immediate need of hospitalization, to furnish an appropriate bed at the VA facility where the veteran applies or, if none is available there, to furnish a contract bed (as authorized under current law as recodified in new section 603) or to arrange to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there. The VA, of course, as also noted above, would also retain any existing discretionary authority to furnish health-care to these veterans.

Also, if there are 2 or more veterans applying for the same bed at a particular facility on a non-emergent basis and one is seeking care for a service-connection disability or has a 50-percent-or-more service-connected disability, the conferees intend that that veteran should receive the bed. With respect to the remaining veteran, he or she, as noted above, would be scheduled for the next available bed at the VA facility where the veteran applies or, if none is available there, would be furnished a contract bed (as authorized under current law as recodified in new section 603) or arrangements would be made (1) to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilities the veteran's admission there. The VA, of course, as also noted above, would also retain any existing authority to furnish health-care to that veteran.

The conference agreement (section 19011(a)) would provide for a second eligibility group as to which the Administrator "may", through VA facilities and through non-VA facilities as authorized, furnish needed hospital care to the extent that resources and facilities are available, to non-service-connected veterans with incomes above $15,000 for those with no dependents and $18,000 for those with one dependent, plus $1,000 for each additional dependent. For those non-service-connected veterans with incomes above the "Category B" threshold ($20,000 for those with no dependents and $25,000 for those with one dependent, plus $1,000 for each additonal dependent), the Administrator "may", through VA facilities and through non-VA facilities as authorized, and to the extent that resources and facilities are otherwise available, furnish needed hospital care if the veteran agrees to make certain payments to the VA in connection with that care. Each of these amounts would be increased on January 1 of each year (beginning January 1, 1987) in accordance with the VA pension-COLA increase percentage.

The conference agreement further includes a provision specifying that nothing in section 610 of title 38, relating to eligibility for hospital and nursing home care (as revised by the conference agreement), requires the VA to furnish care to a veteran to whom another government entity has a legal duty to provide care in a government institution—for example, this would apply to an incarcerated veteran.

With respect to the revisions in hospital care eligibility, the conferees intend that care be furnished to service-connected disabled veterans, low-income veterans, and, to the extent resources are available, other eligible veterans.

The conferees note with approval the statements made by the Chairman and Ranking Minority Member of the Senate Committee on Veterans' Affairs during the debate on the Senate bill (pages 31955 and 31958 respectively, of the CONGRESSIONAL RECORD for November 14) with respect to the effect of the use of the word "may" in providing VA health-care eligibility (in current law and the revised eligibility provisions) from the standpoint that the term does not connote discretion, on the part of the Administration, to withhold funds appropriated for the furnishing of care or, on the part of the VA, to withhold needed care that the VA has the capacity to provide. As indicated there, and the conferees agree, the amount of care that the VA provides to eligible veterans necessarily depends upon the level of funds appropriated for that purpose.

The conferees further note that this legislation would not change current law or practice regarding the beneficial travel program.

The conferees recognize that in some cases it may not be readily determined with certainty, at the time that the veteran first applies for VA care during a calendar year, to which eligibility category the veteran belongs. Thus, where necessary to avoid delaying medical attention beyond the point at which it may be needed, the conferees intend that the VA make tentative eligibility-category determinations based on the available evidence at the time, subject to modification when a final determination can be made.

Also, in light of the uncertainties that may exist at the time of application and in view of the fact that even determination based on apparently sufficient information may need to be changed on the basis of new evidence, the conferees expect the VA to require at least those veterans applying for VA care for the first time during a calendar year to sign an agreement to make the payments required by law if it is ultimately determined, by reason of their income during the preceding calendar year and any other matters relating to eligibility, that their eligibility is contingent upon their agreeing to make such payments. Of course, the agreement should also state what those payment amounts are.

In a similar vein, the conferees note that veterans with annual incomes above the applicable income threshold for payments would generally be eligible for care or services only upon the veterans (or someone authorized to act for him or her) agreeing to pay for those services before they are furnished. However, the VA has full authority under current section 611(b) to furnish hospital care or medical services in emergency cases and to charge appropriately for such care, and the conferees stress that this

emergency authority would be applicable in the case of a veteran in this category of eligibility who is unable to execute such as agreement prior to the commencement of care. What, if any, payments the veteran would ultimately be required to make would, of course, depend on the eligibility determination made after the fact.

The conferees expect that the form used for the agreement to pay would clearly state eligibility criteria as well as potential liability.

NURSING HOME CARE

House bill

The House bill would provide that the VA "may within the limits of Veterans' Administration facilities" furnish nursing home care to the nine categories of veterans eligible for hospital care (as discussed above) under the House bill. Those veterans having incomes above the applicable "health-care income threshold" in the House bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Senate bill

The Senate bill would provide the Administrator, through VA facilities or through non-VA facilities as authorized, "shall" furnish nursing home care determined to be reasonably necessary for a service-connected disability and "may" furnish nursing home care determined to be reasonably necessary for any veteran having hospital care eligibility under the Senate bill (as discussed above). Those having incomes above the applicable health-care income eligibility threshold in the Senate bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Conference agreement

The conference agreement (section 19011(a)) makes no change in VA nursing home care eligibilities in current law except to provide that non-service-connected veterans with incomes above the "Category B threshold" would be eligible only upon agreeing to make certain payments in connection with their care.

DOMICILIARY CARE

House bill

The House bill contained no provision regarding eligibility for VA domiciliary care.

Senate bill

The Senate bill would authorize the Administrator to furnish reasonably necessary domiciliary care through VA facilities to veterans who are determined by the Administrator to be incapacitated from earning a living and to have no adequate means of support.

Conference agreement

The conference agreement makes no change in VA domiciliary care eligibilities in current law.

In leaving current law intact regarding domiciliary-care eligibility, the conferees are not expressing their satisfaction with the status quo. Both Committees on Veterans' Affairs plan to hold hearings next year to consider appropriate revisions to the eligibility for domiciliary care as provided by section 610(b)(2) of title 38.

OUTPATIENT TREATMENT AND HOME HEALTH SERVICES

House bill

The House bill would require the Administrator to furnish outpatient treatment to those veterans with outpatient treatment eligibility under current law, but would also specify that there is no requirement to furnish services to those non-service-connected disabled veterans with incomes that exceed the applicable health-care income eligibility threshold discussed above (under the heading "Hospital Care") unless they agree to make payment in connection with such services.

The House bill would make no change in eligibility for home health services except to provide that the eligibility of a non-service-connected veteran whose income exceeds the health-care income eligibility threshold would be contingent upon the veteran's agreement to make payment in connection with such services.

Senate bill

The Senate bill would amend current law to require the Administrator—"shall" rather than "may" as in current law—to furnish (directly or by contract) outpatient treatment and home health services determined to be reasonably necessary to any veteran for a service-connected disability and for any disability of a veteran with a service-connected disability rated at 50 percent or more, except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized. Otherwise, the Senate bill would not modify current eligibilities for outpatient treatment and (except to increase the maximum amount that may be expended for home structural alterations from $600 to $2,500 for a veteran with a 50-percent-or-more-service-connected disability) home health services except to specify that non-service-connected disabled veterans with incomes above the applicable health-care income eligibility threshold would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Conference agreement

The conference agreement (section 19011(b)) would make no change in current law eligibilities relating to outpatient treatment or home health services (except with respect to the cap on home health structural alterations payments, described above) except to provide that non-service-connected veterans with incomes above the Category B threshold (discussed below under the heading "INCOME THRESHOLDS") would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

AMOUNT OF PAYMENTS

Both the House and Senate bills contain provisions to specify the amounts that veterans with incomes above the income thresholds must agree to pay in order to be eligible for VA health care.

House bill

The House bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: During any 12-month period, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the applicable 12-month period ($492 in 1986).

Outpatient treatment: For each visit (except for outpatient services furnished to complete treatment following hospitalization), the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished.

During any 12-month period, a veteran would not be required to pay in total for any mode of care or combination of modes of care an amount greater than the amount of the inpatient Medicare deductible.

Senate bill

The Senate bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: For each 60 days of care during an episode of care (a period beginning on the first day of hospital or nursing home care and ending at the close of the first period of 60 consecutive days thereafter during which the veteran receives neither hospital nor nursing home care), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect when the care is furnished.

Outpatient treatment: For each visit, the amount equal to a percentage—the Percentage that Medicare generally does not pay for such treatment (20 percent at present)—of the estimated average cost of an outpatient visit in a VA facility during the fiscal year in which the treatment is furnished.

Conference agreement

The conference agreement (section 19011(a)(2) and (b)(2)(F)) contains provisions specifying, in the cases of veterans who must agree to make payments in order to be eligible for VA health care (those with incomes above the Category B level), the amounts that they must pay, as follows:

Hospital care: During any 365-day period (1) for the first 90 days of care (or part thereof), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the 365-day period, and (2) for each succeeding 90 days of care (or part thereof), the lesser of the cost of furnishing the care or one-half of the amount of that inpatient Medicare deductible.

Nursing home care: During any 365-day period, for each 90 days of care, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible.

Outpatient treatment: For each outpatient or home health visit, the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished, but not to exceed during any 90-day period the amount of the inpatient Medicare deductible in effect at the beginning of that period.

Combination of hospital and nursing home care: In the case of a veteran who pays the inpatient-Medicare-deductible amount in connection with VA-furnished hospital or nursing home care and who, before using 90 days of the initial mode of care (hospital or nursing home) within a 365-day period, is furnished the other mode of care, the veteran would not be required to make any payment for the second mode until either (1) the number of days of hospital and nursing home care combined exceed 90, or (2) the beginning of the next 365-day period, whichever occurs first. If the veteran pays an amount equal to one-half of the inpatient-Medicare-deductible amount in connection with receiving hospital care (as when the veteran is receiving more than 90 days of hospital care in a 365-day period) and, before using 90 days of hospital care within the applicable 365-day period, re-

ceives VA-furnished nursing home care, the veteran would be required to pay one-half of the deductible amount in connection with the number of days of nursing home care that, when added to the hospital days, do not exceed 90 within that 365-day period.

Payments for combinations of outpatient treatment and hospital and nursing home care: A veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and inpatient care furnished during any 90-day period.

The conferees stress that the legislation makes no change in current eligibility for contract hospital, nursing home, or outpatient care and the way that eligibility is applied and intend the Administrator to ensure that expenditures for veterans eligible for care by virtue of agreeing to make payment to the VA have the lowest priority for the use of funds available for contract care as well as the lowest priority for inpatient, outpatient, and nursing home care furnished through VA facilities.

PRIORITIES

House bill

The House bill would repeal the provision, section 612(i) of title 38, requiring the Administrator to implement through regulations the priorities specified in that section for the furnishing of outpatient treatment.

Senate bill

The Senate bill would require the Administrator to prescribe regulations to ensure the implementation of priorities specified in the Senate bill in the furnishing of hospital, domiciliary, and nursing home care and medical services and would require the Administrator to ensure that no guideline, regulation, or other VA issuance has the effect of encouraging the furnishing of care or services in any way inconsistent with such priorities to a veteran whose eligibility is based on agreement to make payments.

Conference agreement

The conference agreement does not contain any such provisions related to priorities except a provision (in section 19011(b)(4)) adding veterans in receipt of VA improved pension under chapter 15 of title 38, as a new, sixth priority for outpatient care under present section 612(i).

INCOME THRESHOLDS

House bill

The House bill would amend section 622 of title 38, relating to evidence of veteran's "inability to defray the cost of necessary expenses" in connection with establishing eligibility for VA health care, so as to provide that (in additon to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall generally be presumed to be "unable to defray" the cost of care if the veteran's family income for the 12-month period preceding the veteran's application for care was equal to or less than 3.34 times the maximum annual rate of improved pension payable to totally disabled veterans under chapter 15 of title 38 (as increased annually pursuant to section 3112 of title 38). Thus, this income threshold amount at the time the House bill was passed was $19,068 for veterans with no dependents and $24,977 for veterans with one dependent, plus $3,233 for each additional dependent. In determining a veteran's annual family income, the Administrator would consider the same items and sources of income and would allow the same exclusions as are considered and allowed under the improved pension program.

Senate bill

The Senate bill would amend section 622 to provide generally that (in addition to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall be determined to be "unable to defray" the cost of care if, during the calendar year preceding the date of the veteran's application for care, the veteran's family income is not greater than $25,000 and would provide for that amount to be increased by the same percentage and at the same time as each cost-of-living adjustment is made in chapter 15 VA improved pension benefits pursuant to section 3112 of title 38. In determining a veteran's annual family income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the improved pension program.

The Senate bill would also provide the Administrator with discretionary authority, in order to avoid hardship, to increase the above-mentioned income level for a specified geographic area.

Conference agreement

The conference agreement (section 19011(c)) would amend present section 622 to provide generally that a veteran shall be determined to be unable to defray the necessary expenses of hospital care if the veteran receives VA improved pension or is eligible for Medicaid, or if, during the calendar year immediately preceding the veteran's application for care, the veteran's family income is not greater than $15,000 for a veteran with no dependents or $18,000 for a veteran with one dependent, plus $1,000 for each additional dependent.

A veteran would be considered not unable to defray the necessary expenses of care and thus liable for making certain payments for care (discussed above under the heading, "AMOUNT OF PAYMENTS") if the veteran's family income exceeds the Category B threshold—is greater than $20,000 for a veteran with no dependents or greater than $25,000 for a veteran with one dependent, plus $1,000 for each additional dependent. Each of the above amounts would be increased on January 1 of each year (beginning January 1, 1987) by the percentage that chapter 15 VA improved pension benefits are increased, pursuant to section 3112(a) of title 38, effective the preceding December 1.

In determining a veteran's annual income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the chapter 15 VA improved pension program.

CONSIDERATION OF ASSETS IN DETERMINING ELIGIBILITY

House bill

The House bill would provide that the Administrator may refuse to determine that the veteran is unable to defray necessary medical expenses if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, it is reasonable that some part of those assets be consumed for the veteran's maintenance.

Senate bill

The Senate bill would provide that the Administrator shall not determine that a veteran is "unable to defray" the cost of care if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, the Administrator finds it unreasonable to make that determination. In determining the amount of assets, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 improved pension program.

Conference agreement

The conference agreement (section 19011(c)) follows the House bill. In determining a veteran's assets for this purpose, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 VA improved pension program.

CERTAIN ADJUSTMENTS OF INCOME ELIGIBILITY DETERMINATIONS

The conference agreement (revised section 622(b) of title 38) would enable the Administrator to adjust a veteran's income threshold status where necessary in order to avoid hardship to the veteran in certain cases in which the veteran's income has dropped off substantially from the preceding calendar year amount.

REPORTS

Both the Senate bill (section 1108) and the House bill (section 1975) would require the Administrator of Veterans' Affairs to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports relating to the furnishing of health care to veterans after the enactment of this Act.

The conference agreement (section 19011(e)) would blend the Senate and House reporting requirements, with three annual reports due by February 1 of 1987, 1988, and 1989, and require the Administrator to include in the reports information regarding the numbers and characteristics of, and health care furnished to, veterans (and amounts of payments by them where appropriate) who are eligible for VA care by reason of any of the proposed new income threshold criteria, and the numbers of and health care furnished to veterans in each of the other categories of eligibility, with breakdowns, in the case of such veterans with service-connected disabilities, for each percentile disability rating.

TECHNICAL REVISION OF AUTHORITY TO CONTRACT FOR HOSPITAL CARE AND MEDICAL SERVICES

The Senate but not the House bill (1) would delete section 601(4)(C) of title 38, which includes within the definition of "Veterans' Administration facilities"—and thus, in conjunction with provisions in section 610 and 612, authorizes the VA to contract for hospital care or medical services with—private facilities in certain cases when VA facilities are not capable for furnishing economical care because of geographical inaccessibility or of furnishing the care of services required, and (2) replace that provision with a new section 603, which would recodify current law under section 601(4)(C), for purposes of clarity, without making any substantive change.

The conference agreement (section 19012) follows the Senate provision.

RECOVERY BY THE UNITED STATES OF THE COST OF CERTAIN HEALTH CARE AND SERVICES

Both the Senate bill (section 1111) and the House bill (section 1973) would amend present section 629 of title 38, United States Code—relating to the United States' authority to recover under workers' compensation laws or plans, from automobile accident reparation (auto no-fault) insurers, and from

crime-victim compensation programs the reasonable costs of VA-furnished non-service-connected health care to the extent that the insurer or program would be liable to a non-Federal provider—so as (1) to add authority for the United States to recover from a third party under a health-plan contract (a defined term that includes, for example, health-insurance policies) the reasonable costs of VA care furnished to a veteran who does not have a service-connected disability and is entitled to care or reimbursement for care from the insurer; (2) to require the Administrator to prescribe regulations to govern determinations of the reasonable cost of care or services; (3) expressly to authorize the Administrator to compromise, settle, or waive claims of the United States under section 629; (4) specify that money collected under section 629 shall be deposited in the Treasury; and (5) to provide for the changes in existing law made by amendments to section 629 to apply prospectively, that is, only with respect to care furnished after the date of enactment and only with respect to health-plan contracts that are entered into, renewed, or modified after the date of enactment.

The conference agreement (section 19013) contains these provisions.

The conferees note that, in revising the wording of existing provisions of section 629 pertaining to recovery under workers' compensation laws or plans, from automobile accident reparation insurers, and from crime-victim compensation programs, the conferees do not intend to make any substantive revisions in current law or in its application or to overrule any judicial interpretations of these provisions.

The Senate bill, but not the House bill, would delete from section 629(b) provisions specifying that the amount that the United States may recover under that section may not exceed the lesser of (1) the reasonable cost of the care involved as determined by the Administrator, or (2) the maximum amount specified by applicable State or local law or by any relevant contractural provision.

The conference agreement (revised section 629(a)(1) of title 38) follows the Senate provision.

The conferees agree that, in light of the provisions in section 629(a) providing for recovery by the United States of the reasonable cost of the VA-furnished care "to the extent" that the veteran (or the provider of the care) would be eligible for payment for the care had it been furnished by a non-Federal provider, the provisions being deleted are surplusage.

The Senate bill, but not the House bill, would specify, in the case of a health-plan contract containing the requirement for payment of a deductible or copayment by the veteran, (1) that the veteran's not having paid the deductible or copayment with respect to VA-furnished care does not preclude recovery under section 629, (2) that the amount that the United States may recover under section 629 shall be reduced by the appropriate deductible or copayment amount, or both, and (3) that a veteran eligible for VA care shall not be required by reason of section 629 to make any copayment or deductible payments in order to receive such care.

The conference agreement (revised section 629(a)(3)) contains these provisions.

The Senate bill, but not the House bill, would (1) require the Administrator, before prescribing the regulations for determining the reasonable cost of care or services (discussed above), to consult with the Comptroller General of the United States; (2) require the Comptroller General, within 45 days after the regulations (or any amendment to them) are prescribed, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendments); and (3) require that the regulations provide that in no event may such reasonable cost exceed an amount equal to what the third party would pay for the care or services under the prevailing rates applicable under its contracts with non-Federal facilities in the geographic area in which the VA facility that provided the care or services is located.

The conference agreement (revised section 629(c)(2)) follows the Senate amendment.

The House bill, but not the Senate bill, would provide the Administrator with express authority to enter into agreements with health-plan contractors for the purpose of determining reasonable costs.

The conference agreement does not contain this provision.

The conferees note that the Administrator is already authorized by section 213 of title 38, relating to the Administrator's authority to enter into contracts for necessary services, to enter into such agreements.

Both the Senate and the House bills would require that the medical records of a health-plan beneficiary for the cost of whose care recovery is sought be made available for the purpose of enabling the third party to verify that the care for which recovery is sought was furnished. The Senate bill, but not the House bill, would also provide that the records shall be made available under such conditions to protect their confidentiality as the Administrator shall prescribe in regulations and that the records may also be made available to permit the third party to verify that the provision of the care involved meets criteria generally applicable under the health-plan contract.

The conference agreement (revised section 629(h)) follows the Senate bill.

The Senate bill, but not the House bill, would require the Administrator to submit to the Committees on Veterans' Affairs a 6-month report and annual reports on the process for and results of the implementation of the amendments to section 629.

The conference agreement would require two such reports, one due not later than 6 months after the date of enactment and the other, to provide information through at least the end of fiscal year 1987, due not later than February 1, 1988.

MEDICARE PROVIDERS' ACCEPTANCE OF VETERANS' ADMINISTRATION BENEFICIARIES AT MEDICARE RATES

The House bill (section 1974), but not the Senate bill, would amend chapter 17 of title 38, United States Code, relating to VA health care, to insert a new section 625 to require non-Federal providers of hospital services under the Medicare program to accept VA beneficiaries on a basis similar to that on which they accept Medicare beneficiaries; to require those providers to accept VA payments made in accordance with VA regulations as payment in full; to authorize the Administrator to report violations of these requirements to the Secretary of Health and Human Services; and to authorize the Secretary to terminate a provider's participation in the Medicare program on the basis of such violations.

The conference agreement does not contain this provision.

SUBTITLE B—COMPENSATION RATE INCREASES

DISABILITY COMPENSATION

House bill

The House bill (sections 1962 through 1964) would amend chapter 11 of title 38, United States Code, relating to compensation for service-connected disability, to increase by 3.7 percent, effective December 1, 1985, the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the dependents' allowances payable to veterans rated 30 percent or more disabled, and the annual clothing allowance for certain disabled veterans.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 disability compensation COLA to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its reconciliation recommendations to the Senate Budget Committee. Thereafter, on December 2, 1985, the Senate passed S. 1887 providing (in sections 101 through 103) for a 3.1-percent increase, the same percentage as the actual percentage increase for the Social Security/VA pension cost-of-living adjustments, effective December 1, 1985.

Conference agreement

The conference agreement (sections 19031 through 19033) would increase these rates and allowances, effective December 1, 1985, by 3.1 percent.

DEPENDENCY AND INDEMNITY COMPENSATION

House bill

The House bill (sections 1965 through 1967) would amend chapter 13 of title 38, relating to dependency and indemnity compensation (DIC) for service-connected deaths, to increase by 3.7 percent, effective December 1, 1985, rates of DIC payable to the surviving spouses and children of veterans whose deaths were service connected.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 DIC increases to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its recommendations to the Senate Budget Committee. S. 1887 as passed by the Senate provided for a 3.1-percent COLA.

Conference agreement

The conference agreement (sections 19034 through 19026) would amend chapter 13 to increase these rates, effective December 1, 1985, by 3.1 percent.

SUBTITLE C—MISCELLANEOUS PROVISIONS

EPIDEMIOLOGICAL STUDY OF FEMALE VIETNAM VETERANS

The House bill (section 1982), but not the Senate bill, would require the Administrator to provide for the conduct of an epidemiological study of any long-term adverse gender-specific health effects in female Vietnam veterans that may result from their exposure to Agent Orange or to other phenoxy herbicides and would authorize the Administrator to expand the scope of the study to evaluate any long-term adverse

gender-specific health effects in females resulting from other aspects of service in Vietnam. However, the Senate, on December 2, 1985, passed a similar provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985", (section 507), that would, unless determined not to be scientifically feasible, require the Administrator to provide for the conduct of a female Vietnam veterans health-experience study and permit investigation of any long-term adverse health effects which may have resulted from traumatic experiences, exposure to phenoxy herbicides (including Agent Orange), or other experience or exposure.

The conference agreement (section 19021) follows the Senate provision.

ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS

The House bill (section 1981), but not the Senate bill, would provide for the establishment of a VA Advisory Committee on American-Indian Veterans to examine and evaluate VA programs and activities with respect to the needs of American-Indian veterans and to transmit reports on its examinations and evaluations to the Administrator of Veterans' Affairs for subsequent transmittal to the Congress. However, on December 2, 1985, the Senate passed a comparable provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985" (section 505), which would provide for the establishment of a VA Advisory Committee on Native American Veterans (including Alaska Natives).

The conference agreement (section 19022) contains such a provision, blending together aspects of the two provisions, naming the Advisory Committee the "Advisory Committee on Native-American Veterans" and specifying that representatives of American Indians and of other Native Americans each would serve on the Committee.

WAIVER OF WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION AUTOMATED DATA PROCESSING ACTIVITIES

The conference agreement (section 19023) also contains a provision that would waive the waiting period prescribed by section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, submits a report containing a detailed plan and justification for the reorganization—with respect to a reorganization, described in letters dated November 1, 1985, that were submitted to the chairman and ranking minority members of the Committees, involving the transfer of certain functions from the VA's Office of Data Management and Telecommunications to the VA's Department of Veterans' Benefits and requesting a waiver of that waiting period.

The conferees have determined that the information contained in the November 1 letters, together with other information subsequently provided to the Committees, constitutes a sufficiently detailed plan and justification (as that term is proposed to be defined by section 501 of S. 1887, as passed by the Senate on December 2, 1985) for this proposed reorganization and that the reorganization will serve to improve the operations of the VA's service and benefits delivery system. Since, under the provisions of section 210(b)(2), the reorganization would not be permitted to be implemented prior to the beginning of fiscal year 1987, the conference agreement would waive the required waiting period in order to permit the Administrator to implement this reorganization prior to October 1, 1986.

In agreeing that this statutory waiver be granted, the conferees intend that the Administrator, as part of implementing the reorganization, develop and implement plans for better coordination and integration between the Department of Medicine and Surgery and the Department of Veterans' Benefits in automated data processing modernization, and are not necessarily expressing agreement with the recommendations of the October 25, 1985, report of McManis Associates. The conferees believe that the Administrator should proceed cautiously in adopting recommendations from that report (particularly those relating to procurement). In that regard, the conferees recommend that the Administrator take full cognizance of the review being conducted by the General Accounting Office, pursuant to a request from the Chairman of the House Veterans' Affairs Committee and the Ranking Minority Member of the Senate Veterans' Affairs Committee, pertaining to certain aspects of the report.

RATIFICATION OF CERTAIN TEMPORARILY-EXPIRED AUTHORITIES

VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE PHILIPPINES

The compromise agreement (section 19024(a)) contains a provision ratifying any action taken by the Administrator during the period beginning on November 1, 1985, and ending on December 3, 1985, in connection with the exercise of the Administrator's authority under section 230(b) of title 38, relating to the establishment of a regional office in the Republic of the Philippines. This authority to operate such an office expired on October 31, 1985, but was extended for three additional years by section 402 of Public Law 99-166.

CONTRACT CARE AUTHORITY IN PUERTO RICO AND THE VIRGIN ISLANDS

The compromise agreement (section 19024(b)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning on November 1, 1985, and ending on December 3, 1985, care described in subclause (v) of section 601(4)(C) of title 38, United States Code, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), including any waiver made by the Administrator of the applicability to the Commonwealth of Puerto Rico or the Virgin Islands of the restrictions described in that subclause for that period. This authority to provide such care and services also expired on October 31, 1985, but was made permanent in the case of the Virgin Islands, and was extended (with certain limitations) for an additional three years in the case of Puerto Rico, by section 102 of Public Law 99-166, enacted on December 3, 1985.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION CONTRACT PROGRAM

The compromise agreement (section 19024(c)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning November 1, 1985, and ending December 3, 1985, care described in section 620A of title 38, relating to contracts for certain care and treatment and rehabilitative services for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. This authority to provide such care and services also expired on October 31, 1985, but was extended for an additional three years by section 101 of Public Law 99-166.

TITLE XIX—COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I would like to explain and discuss the provisions of title XIX of the pending measure, which pertain to Veterans' Administration programs, so as to provide background for my colleagues and others with an interest in the actions of our committee and our counterpart committee in the House to satisfy our reconciliation instructions as set forth in the First Concurrent Resolution on the Budget for fiscal year 1986, Senate Concurrent Resolution 32.

At the outset, I note the very difficult task that our two committees had in developing this conference agreement. We were working with very complex subject matter, and the differences between the two Houses on some issues were great. However, by virtue of long and hard negotiations between conferees and the staffs of the two committees, we were finally able to reach a compromise which is reflected in the provisions in title XIX of the pending measure.

As with all compromises, the final agreement of the conferees is not completely satisfactory to either side, but I believe that the Senate's positions and concerns were fairly vindicated. I thank my fellow Senate conferees, our committee chairman [Mr. MURKOWSKI], and our former chairman [Mr. SIMPSON]. I congratulate our colleagues in the other body who served as conferees, particularly Representative MONTGOMERY, the House committee chairman, Representative HAMMERSCHMIDT, the committee's ranking minority member, and Representative EDGAR, the chairman of the Subcommittee on Hospitals and Health Care, for their steadfast dedication to the House position.

Mr. President, at the time the reconciliation legislation was before the Senate last month, I made a detailed statement on the legislation our committee developed to meet our reconciliation instructions. I refer my colleagues and others with an interest in this background information to those remarks which begin on page S15468 of the CONGRESSIONAL RECORD of November 14, 1985.

SUMMARY OF TITLE XIX AND RECONCILIATION SAVINGS

Mr. President, as I noted when the reconciliation legislation was before the Senate in November, our committee's proposed legislation—which was included in title XI of the Senate reconciliation bill, S. 1730—was composed

of three parts, one revising VA health-care eligibility criteria, one authorizing the VA to recover from third-party insurers for care provided to veterans with health insurance and with no service-connected disabilities, and the last, placing a cap on the amount of the fiscal year 1986 VA disability compensation COLA. In the conference agreement, subtitle A of the title XIX, entitled "Health Care", contains provisions derived directly from the first two parts, subtitle B, entitled "Compensation Rate Increase," contains a compensation COLA rate increase below the cap we had set, and subtitle C, entitled "Miscellaneous Provisions", contains four additional provisions, two of a technical nature and two derived from provisions in the House-passed reconciliation measure for which the Senate had passed a counterpart provision in another measure, S. 1788.

Briefly, title XIX consists of the following elements:

Subtitle A would revise certain health-care eligibility criteria and establish a requirement for certain non-service-connected disabled veterans to make modest payments for VA care, and provide for recovery from health insurers of certain reasonable costs of VA-furnished care and services for veterans with health insurance coverage and with no service-connected disabilities;

Subtitle B would provide, effective December 1, 1985, for a 3.1-percent cost-of-living increase for fiscal year 1986 in VA disability compensation and DIC rates; and

Subtitle C would (1) require the VA to provide for the conduct of a female Vietnam veteran health-experience study, (2) establish a VA Advisory Committee on Native-American Veterans, (3) waive a waiting period for an administrative reorganization within the VA, and (4) ratify certain temporarily-expired authorities.

More specifically, the three elements which result in cost savings (two in subtitle A and one in subtitle B) fulfilling—indeed, as I have noted, exceeding substantially—our reconciliation instructions would provide as follows:

REVISION OF HEALTH-CARE ELIGIBILITY

SUBTITLE A

First, would revise VA health-care eligibility so as to direct—by using the word "shall" in describing access to VA care rather than the word "may" as used in current law—that VA-furnished hospital care be furnished to specified categories of veterans: namely, first, any veteran for a service-connected disability; second, a veteran with a service-connected disability rated at 50 percent or more; third, a veteran with a service-connected disability rated at less than 50 percent (including a veteran discharged for a disability incurred or aggravated in the line of duty or a veteran disabled as a result of VA treatment or vocational rehabilitation); fourth, a veteran who is a former prisoner of war; fifth, Vietnam veterans exposed to certain toxic substances or veterans exposed to radiation from nuclear detonations; sixth, veterans of the Spanish American War, Mexican Border period, or World War I; and seventh a veteran without a service-connected disability who meets a new, first-level income threshold, to be called the "Category A Threshold," by virtue of having annual family income no greater than $15,000 for a veteran with no dependents, and $18,000 for a veteran with one dependent, with adjustments of $1,000 for additional dependents; and would eliminate the existing eligibility of non-service-connected veterans over age 65 without regard to their ability to defray the cost of their care.

Second, would generally maintain the current law authorities to furnish hospital care through contract or free-basis arrangements with non-VA facilities and nursing home and outpatient care, either in VA or non-VA facilities as authorized, to the extent of available resources and facilities, to veterans in the categories mentioned above.

Third, would generally maintain current law authorities to furnish hospital and other forms of care, to the extent of available resources and facilities, to veterans who meet a new, second level income threshold, to be called the "Category B Threshold," by virtue of having annual family incomes no greater that $20,000 for a veteran with no dependents, and $25,000 for a veteran with one dependent, with adjustments of $1,000 for additional dependents, either in VA facilities or, as currently authorized in certain circumstances, through non-VA facilities at VA expense.

Fourth, would authorize the VA to furnish, within otherwise available space and resource capacity, care to veterans without service-connected disabilities and whose annual family incomes exceed the category B threshold who agree to make certain payments—approximating payments made under Medicare—in connection with their care.

The Congressional Budget Office estimates that the provisions relating to health-care eligibility criteria in this subtitle would generate net reconciliation savings of $49 million in budget authority [BA] and $46 million in outlays in fiscal year 1986, $93 million in BA and $87 million in outlays in fiscal year 1987, and $102 million in BA and $95 million in outlays in fiscal 1988.

THIRD-PARTY REIMBURSEMENT

Subtitle A would also authorize the United States to collect from third-party insurers the reasonable cost of care provided by the VA to non-service-connected-disabled veterans to the extent that the insurer would be liable to pay for the care if it had been furnished by a private facility. These provisions would have the effect of invalidating the so-called "exclusionary clauses" in health insurance contracts, which currently preclude payment for care furnished by Federal facilities, and would make the VA eligible to receive payment from a third party on the same basis and to the same extent that a non-VA health-care facility would be eligible. The VA's right to recover would, therefore, generally be contingent upon the agency's compliance with the terms and conditions of the law, contract, or other arrangement under which the veteran would be eligible for payment by the third party.

CBO estimates that these so-called "third-party" provisions in subtitle A would generate net BA and outlay savings of $203 million in fiscal year 1986, $353 million fiscal year 1987, and $402 million in fiscal year 1988.

VA COMPENSATION COLA

SUBTITLE B

Would provide, effective December 1, 1985, for a VA disability compensation COLA of 3.1 percent in fiscal year 1986—the same percentage COLA that was provided in fiscal year 1986 for VA pension and Social Security—as compared to 4.1 percent, as assumed in the CBO baseline.

CBO estimates that the provisions in subtitle B would produce savings of $84 million in BA and $76 million in outlays in fiscal year 1986, $102 million in both BA and outlays in fiscal year 1987, and $104 million in both BA and outlays in fiscal year 1988.

TOTAL THREE-YEAR RECONCILIATION SAVINGS

Altogether, then, CBO estimates that title XIX would produce savings of $336 million in BA and $325 million in outlays in fiscal year 1986, or $548 million in BA and $542 million in outlays in fiscal year 1987, and $608 million in BA and $601 million in outlays for fiscal year 1988, for a total 3-year savings of $1.492 billion in BA and $1.468 billion in outlays, $342 million in BA and $318 million in outlays in excess of our reconciliation instructions to save $1.15 billion in BA and outlays over those 3 years.

BACKGROUND

Mr. President, I wish to emphasize, as I did during Senate debate on the reconciliation legislation last month, that I concur wholeheartedly that there is an absolutely critical need to restrain Federal spending so as to make major reductions in the deficit. Although I did not support the conference report on the budget resolution—I voted for an alternative that would have made a deeper cut in the deficit—a majority of my colleagues in both Houses did support the conference report.

Under the budget resolution that the Congress adopted, our committee and our counterpart committee in the other body were mandated to act to find ways to achieve a specified level of savings. It is essential, in understanding our two committees' actions, to appreciate that if we had not met our obligations in this regard, the Budget Committees in our respective bodies would have done so. I want to stress that point to my colleagues and to others with an interest in this legislation.

In light of this background, I did my best to work in a cooperative fashion with the seven other members of our two committees who served as conferees on this legislation, and I believe that we succeeded in developing legislation that allows us to satisfy our reconciliation instructions in an appropriate fashion. In fact, as I have indicated already, the legislation that we have developed would save $342 million more in BA and $318 million more in outlays than the required amounts over the next 3 fiscal years, and $176 million in BA and $171 in outlays more than in either version of the legislation. Those added savings are due to the lower than anticipated inflation rate reflected in the Consumer Price Index increase as calculated for purposes of the Social Security cost-of-living adjustment [COLA] and applied in this measure to the VA compensation COLA.

I want to stress, however, that this compromise, as did the Senate measure, would achieve the mandated savings without requiring reductions in VA programs.

Specifically, in fiscal year 1986, $227 million in BA and outlay savings would come from added revenues to the Federal Government—a net of $203 million of which would be from third-party health insurers and a net of $24 million from small copayments from non-service-connected veterans with annual family incomes over the $20,000/$25,000 category B threshold in connection with their being furnished VA care. In addition, the CBO estimates that net savings of approximately $26 million in BA and $23 million in outlays would be realized as a result of non-service-connected veterans with family incomes above this Category B threshold choosing alternative sources for their health care.

The remainder of the fiscal year 1986 savings—$84 million in BA and $76 million in outlays—would come from providing a COLA of 3.1 percent in fiscal year 1986, effective December 1, 1985, in the rates of VA disability compensation paid to service-connected-disabled veterans and disability and indemnity compensation (DIC) paid to the survivors of those who have died from service-connected causes. As I've indicated already, that is the same percentage increase as the Social Security and VA pension COLA.

Thus, I believe that our two Committees have met our fiscal obligations under the Budget Resolution while continuing with our best efforts to keep the VA—and particularly the VA health-care system—strong and vital so that it can continue to meet the needs of those who answered our country's call in its hours of need.

As I noted when the reconciliation measure was before the Senate last month, this is unquestionably the most important piece of veterans' health-care legislation brought before the Congress since at least 1973, and I believe there is a need to touch on a number of aspects of the legislation incorporated in title XIX of the pending measure.

SUBTITLE A: ENTITLEMENTS AND ELIGIBILITIES FOR HEALTH CARE FROM THE VETERANS' ADMINISTRATION

Mr. President, the greatest differences between the approaches of the two Houses was in the area involving eligibility for VA health care. In discussing the final compromise in this area, I would like briefly to discuss the two approaches, why I believed the Senate's approach in this area was the better course, and how the compromise takes my concerns in this regard into account.

SENATE APPROACH

The Senate-passed provisions modified the eligibility status of two categories of veterans and established some clear, consistent statutory priorities for VA hospital, outpatient, and nursing home care.

The first category of veterans affected by the Senate legislation consisted of those veterans to whom we have always owed the primary obligation—veterans being treated for their service-connected conditions and also those veterans with service-connected disabilities rated at 50 percent or more disabling. Veterans in this latter category have been given special recognition by the Congress since 1976 when they were accorded eligibility for unlimited outpatient care and were given a top priority for receiving that care ahead of all but veterans seeking care for their service-connected disabilities. These two groups of veterans would have been given a comprehensive entitlement to VA care, including both hospital and outpatient care as well as, in some instances, contract services where necessary.

Those veterans in this category needing nursing home care for their service-connected disabilities would also have been entitled to that care at VA expense.

The second category of veterans directly affected by the Senate legislation would have been those non-service-connected veterans age 65 and older who had family incomes over $25,000 in the preceding calendar year. Veterans in this category would no longer have been automatically eligible for VA care without reference to their ability to pay for that care. Rather, they as well as non-service-connected veterans under the age of 65 with such family incomes, would have still been eligible to receive VA care but would have had to make a modest payment to the VA for it. The eligibility of this latter category of veterans under the Senate legislation would have been expressly conditioned on there being space and resources otherwise available for their care.

For veterans presently eligible for VA care who were in neither of these categories, eligibility for VA care would have remained essentially unchanged; the VA would have been authorized to furnish them with such care to the extent of available VA resources and facilities. However, a new, objective standard of eligibility based on income for non-service-connected veterans would have been established.

In connection with the veterans' health care generally, the amount of health care that can be furnished by the VA is a function of the level of funds appropriated for the purpose by the Congress. All such funds must, under the Budget Act, be made available to be spent for such purposes. Thus, the eligibility of veterans—other than those in the new entitlement categories because of their contract care entitlements as well—for care under the Senate approach would have depended on the outcome of the appropriations process, an area where those of us with a strong interest in the VA health-care system have enjoyed considerable success in the past.

In fact, during my 17 years in the Senate, during which time I have been either the chairman—for 12 years—or the ranking minority member, for the last 5—of the subcommittee or full committee with jurisdiction over the VA health-care system, I have been deeply involved in an ongoing effort to equip the VA to provide first-quality, modern medical care to veterans. Over that period, we have, through the appropriations process, added 66,000 health-care workers to the VA system. Although the vast bulk of that increase occurred in the 1970's, we have continued with our efforts in support of the system. Just this October, Chairman MURKOWSKI and I, in connection with the VA's fiscal year 1986 appropriation, managed to restore $100 million to the medical care account. However, in this time of budget deficits it is very difficult to predict the future success of such efforts.

Thus, the Senate measure provided generally for a three-level approach—entitlement for care for the principal beneficiaries of the VA system, maintenance of current eligibility generally for all other veterans presently eligi-

ble for VA care except those non-service-connected veterans with family income above $25,000 for the preceding calendar year, and eligibility for care for those in that last group if space and resources are otherwise available and certain payments are made by the veteran. I believe that this struck an appropriate balance and represented, in the last analysis, a promise we in the Congress could reasonably strive to realize in the current time of fiscal restraint.

Together with the statutory priorities proposed in the Senate measure—with the first priority being accorded to service-connected veterans receiving care for their service-connected conditions—that approach should have ensured that the VA health-care system would continue, in its present configuration, to meet its principal mission of providing needed health care to service-connected veterans and other veterans made eligible for such care.

HOUSE APPROACH

In contrast, the approach taken in the House bill did not seem reasonable to me. The apparent purpose of the House approach was to create an entitlement to hospital and outpatient care for all veterans presently eligible for VA care except for non-service-connected veterans whose family incomes in the 12 months immediately preceding their application for care are more than 3⅓ times the VA pension income standard.

I believe that this approach was flawed in several fundamental ways. First, it appeared to promise an entitlement to VA health care, without limit, for all but one category of veterans—that is, non-service-connected veterans with incomes above certain levels—for example, incomes over $19,659 in the case of veterans with no dependents and family incomes over $25,751 in the cases of those with one dependent, with $3,233 more added for each additional dependent. Thus, a married non-service-connected veteran with two children would, under the House bill, have been accorded VA health-care entitlement based on inability to defray the cost of care if his income was not greater than $32,217.

The House Committee has described the effect and intent of its bill in conflicting ways. For example, the committee chairman, Representative MONTGOMERY, issued, as committee chairman, a press release, dated September 30, 1985, which states in part:

By approving the health care provisions of the House bill, the committee assured service-connected and needy veterans for the first time that, if they need health care from the VA, it will be provided. Period.

Also, the House Committee report (H. Rept. 99-300, 99th Cong. 1st Sess. 773) contained the following statement:

Under existing law, as well as under the administration's proposal, an eligible veteran is unable to predict whether care will be available when needed. This uncertainty arises by virtue of the fact that under current law and under the Administrator's proposed means test the Administrator "may" provide care "within the limits of Veterans' Administration facilities." There is no requirement that the Administrator do so. In contrast, the committee bill would require VA to provide health care to several categories of veterans.

In contrast, the committee report contained this statement of caution and limitation about the effect and content of the House bill:

The bill would require the Department of Medicine and Surgery of the VA to plan to care for all eligible veterans under a new section 610 of title 38, United States Code. The care would be provided in the VA facility where the veteran applied for admission, or another VA medical facility within a reasonable distance.

But, this language was nowhere brought out in the House debate during consideration of the reconciliation legislation. (CONGRESSIONAL RECORD, October 23, 1985, 28626-28628.)

So, most veterans would clearly have been led to believe by press reports and other information they received that they were being guaranteed VA care by the House legislation.

In contrast, I do not believe that we in Congress can today, in good conscience, purport to be guaranteeing the VA's ability to furnish inpatient and outpatient care to all those to whom the House bill would have seemed to extend entitlement to care. And, it seems even more clear that the VA will be unable to furnish the amounts of hospital care—let alone outpatient care which is oversubscribed now—seemingly promised by the House bill in either the near- or long-term future if any of the projections prove true regarding the anticipated increase in demand for VA care that will come in the 1990's from the growing population of older veterans.

The ability of the VA system to provide care is, as I noted 1 moment ago, a function of the level of appropriations made for VA medical care. The House proposal, by its terms, could not control the outcome of the appropriations process. Its purpose would seem to have been to influence that process.

I believe, however, that it would be very unwise for Congress to suggest to all of the veterans to whom the House bill would seem to have extended entitlement that, as a result of the House-proposed legislation alone, the VA health care system would be there for them, now and in the future, whenever they may seek care. Without providing the funds—both to operate the current system with such additional staff and resources as might be needed and to repair, renovate, and modernize existing facilities, as well as to construct new facilities in those areas of the country with the greatest potential for new demand—such a result cannot be guaranteed.

I also believe the House approach was flawed to the degree that it was based on a belief that substantial increases in funding for the VA system will be forthcoming in the near future. In this time of skyrocketing Federal deficits and harsh budget realities, made more intense by the Gramm-Rudman deficit reduction legislation that was enacted last week, we will have to do everything in our collective power in our two committees just to hold onto the present VA system—just to maintain its current capacities. We cannot realistically be suggesting to America's veterans that there is room for the creation of broad new entitlements for care in a system that will almost certainly be faced with reductions in the next few years and which may well be forced by the deficit reduction process now in law to reduce its personnel by more than 5 percent over the next 3 years and possibly much more thereafter.

Another factor which highlights the flawed nature of the House approach is the lack of any merchandise in the House legislation or under current law—such as review in court—by which a veteran might seek to enforce his or her new entitlement to care. In light of the bar in section 211(a) of title 38 to court review of claims for VA benefits— a bar I am certain would apply in the case of a veteran contesting a denial of health care—the "promise" of the House approach would be unenforceable and, for the veteran denied care, empty. In this regard, it is ironic to note that the purported establishment of this "right" without "remedy" was quite deliberate. The Senate has four times passed judicial review legislation to remove this section 211(a) bar, S. 367 on July 30, 1985, S. 636 on June 15, 1983, S. 359 on September 14, 1982, and S. 330, on September 17, 1979. In the case of the first three bills the other body refused to take up that legislation just as it has with respect to S. 367 for this first session of the 99th Congress up to this point.

Mr. President, although the compromise agreement follows in many respects the House approach in the area of entitlement and eligibility for care, it was modified in a number of important ways in response to the concerns I have just outlined.

CONFERENCE APPROACH ON HEALTH CARE ELIGIBILITY

First, and most importantly, although the word "shall," rather than "may" as in current law, is used in de-

scribing the eligibility for hospital care of various categories of veterans—largely derived from the House bill—the meaning of that change in eligibility is spelled out specifically, definitively, and unambiguously by both committees in the joint explanatory statement accompanying the conference report.

In that statement, the conferees have set forth their intention regarding those veterans as to whom the Administrator "shall furnish" hospital care—any veterans for a service-connected disability; a veteran with a service-connected disability rated at 50 percent or more; a veteran with a service-connected disability rated at less than 50 percent—including a veteran discharged for a disability incurred or aggravated in the line of duty and a veteran disabled as a result of VA treatment or vocational rehabilitation; a veteran who is a former prisoner of war; Vietnam veterans exposed to certain toxic substances or veterans exposed to radiation from nuclear detonations; veterans of the Spanish American War, Mexican border period, or World War I; and veterans who are Medicaid-eligible or in receipt of chapter 15 improved VA pension and those whose family incomes are no greater than the new, first level income threshold, the $15 to $18,000 category A threshold.

As to those veterans, the conferees have stated definitively and emphatically that "the VA's sole obligation," is such a veteran is in immediate need of hospitalization, is "to furnish an appropriate bed at the VA facility where the veteran applies for care" or, if no bed is available at that VA facility, "to furnish a contract bed—as authorized under current law as recodified in new section 603—or to arrange to admit the veteran to the nearest VA medical center [VAMC], or Department of Defense facility with which the VA has a sharing agreement, with an available bed." If the veteran in one of these shall furnish categories who is seeking care is not in need of immediate hospitalization, the VA's obligation would be either to "schedule the veteran for admission where the veteran applied, if the schedule there permits," or if it does not, to "refer the veteran to the nearest VA facility, or DOD facility with which the VA has a sharing agreement, with an available bed and to facilitate the veteran's admission."

Thus, Mr. President, the apparent promise of the House bill of an unlimited entitlement to both hospital and outpatient care for a wide range of categories of veterans, including those with no service-connected disabilities and with incomes of up to more than $25,000 for a veteran with one dependent—a promise which, as I indicated earlier, I do not believe can be kept—has been recast into a far more achievable pledge with respect to hospital care only.

ENTITLEMENT OF VETERANS MEETING CATEGORY A INCOME THRESHOLD

The other major changes that have been made to the House proposal in this area to make it more workable are, first, a lowering of the income levels for those nonservice-connected veterans who would be given this form of entitlement to care—from levels of approximately $20,000 for a veteran with no dependents and $25,000 for a veteran with one dependent in the House bill, to levels of $15,000 and $18,000, respectively, with $1,000 for each dependent; and second, limiting this new form of entitlement to hospital care only, rather than to hospital and outpatient care as was provided in the House bill. This latter change was necessary because it is already clear, in many areas of the country, that the VA is unable to meet the existing demand for outpatient care. There is simply no basis for suggesting that there will be resources available to the VA to furnish outpatient care to the categories of veterans that the House sought to entitle to such outpatient care.

VETERANS AGE 65 AND OLDER

As in both the Senate and House bills, the conference agreement would provide for a change in the eligibility for VA care of nonservice-connected-disabled veterans age 65 and older who have family incomes over a certain level. Under the compromise agreement, these veterans with annual incomes—for the preceding calendar year, as in the Senate bill—of over $20,000 for veterans with no dependent, and over $25,000 of family income for those with one dependent, would no longer be automatically eligible for VA care without reference to their incomes. Rather, they, along with nonservice-connected-disabled veterans under age 65 with incomes over these level, would be required to make a modest payment to the VA—in an amount generally comparable to a corresponding deductible or copayment requirement under Medicare—in order to receive VA care. As was provided for in the Senate bill, the eligibility of these veterans with incomes above this new category B income threshold would be expressly conditioned on there being space and resources otherwise available at the VA facility where they seek care.

Another provision relating to these veterans age 65 and over which was included in the Senate bill would have established a priority for care for veterans in this age group with incomes above the $20,000 to $25,000 level ahead of veterans below that age with such incomes. Unfortunately, our House colleagues would not accept that provision and it is not included in the final agreement.

INTERMEDIATE CATEGORY OF ELIGIBILITY

The conference agreement would establish a third, intermediate category of veterans eligible for VA care in addition to the two categories that I have already described—those two being veterans with incomes no greater than the category A threshold who would be entitled to VA hospital care, and veterans with incomes above the category B threshold who would be eligible for VA care upon agreeing to make a payment to the VA in connection with their care. This new, third category would consist of those veterans with annual incomes at or above the category A, but not greater than the category B, thresholds—for a single veteran, an income above $15,000 but no greater than $20,000 and, for a veteran with one dependent, an annual family income above $18,000 but no greater than $25,000, with $1,000 added for each additional dependent. The Administrator would be authorized to provide care to these veterans within available VA resources and facilities. These veterans would make no payments in connection with their care.

DETERMINING INCOME UNDER NEW THRESHOLDS

In determining a veteran's income for the purposes of eligibility under the two new income eligibility criteria thresholds—category A and category B—the Administrator would be required to determine a veteran's annual income—taking into account family income and other assets—generally using the same methods and criteria used to determine annual income for the purposes of VA chapter 15 improved pension eligibility. This income eligibility determination would be made upon a veteran's first application for care each year on a form including income questions similar to those used for determining VA pension eligibility and would be based on the veteran's family income for the calendar year immediately preceding the application for care. Such a determination would then be applicable for the balance of the calendar year.

As I noted a moment ago, if a veteran were eligible for care only by virtue of agreeing to make a payment to the VA in connection with the needed care, the payment required would be in an amount generally comparable to a corresponding deductible for hospital care—$492 beginning in 1986—or copayment requirement for outpatient care—20 percent—under Medicare. However, the payments required under the conference agreement would be substantially less than the required payments under Medicare for episodes of inpatient hospital care beyond 60 days.

Under the conference agreement, the payment schedule would be as follows:

HOSPITAL CARE

During any 365-day period; first, for the first 90 days of care—for part thereof—the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the 365-day period; and second, for each succeeding 90 days of care—or part thereof—the lesser of the cost of furnishing the care or one-half of the amount of that inpatient Medicare deductible.

NURSING HOME CARE

During any 365-day for each 90 days of care, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible.

OUTPATIENT TREATMENT

For each outpatient or home health visit, the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished, but not to exceed during any 90-day period the amount of the inpatient Medicare deductible in effect at the beginning of that period.

COMBINATION OF HOSPITAL AND NURSING HOME CARE

In the case of a veteran who pays the inpatient-Medicare-deductible amount in connection with VA-furnished hospital or nursing home care and who, before using 90 days of the initial mode of care—hospital or nursing home—within a 365-day period, is furnished the other mode of care, the veteran would not be required to make any payment for the second mode until either: first, the number of days of hospital and nursing home care combined exceed 90; or second, the beginning of the next 365-day period, whichever occurs first. If the veteran pays an amount equal to one-half of the inpatient-Medicare-deductible amount in connection with receiving hospital care—as when the veteran is receiving more than 90 days of hospital care in a 365-day period—and, before using the 90 days of hospital care for which that payment was made within the applicable 365-day period, receives VA-furnished nursing home care, the veteran would be required to pay one-half of the deductible amount in connection with the number of days of nursing home care that, when added to the hospital days, do not exceed 90 within that 365-day period.

PAYMENTS FOR COMBINATIONS OF OUTPATIENT TREATMENT AND HOSPITAL AND NURSING HOME CARE

A veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and inpatient care furnished during any 90-day period.

TWO SENATE PROPOSALS NOT IN CONFERENCE AGREEMENT

Mr. President, although I am generally satisfied with the conference agreement that we worked out with the House conferees as it relates to health-care eligibility and entitlement, there were two proposed changes in the law from the Senate bill as to which I regret we were unable to gain the House conferees' agreement.

CERTAIN SERVICE-CONNECTED OUTPATIENT AND CONTRACT-CARE ENTITLEMENTS

The first of these provisions would have established a clear, comprehensive entitlement to outpatient, as well as hospital, care for veterans for their service-connected disabilities rated at 50 percent or greater and entitlement to contract outpatient care for both categories and to contract hospital care to veterans for their service-connected disabilities. I have long believed that these categories of veterans are and should be the principal beneficiaries of the VA health-care system and, as such, deserve the entitlement to care and the statutory priority for receiving that care that the Senate bill would have provided.

As I noted, however—and I must confess my surprise at this result, even though the House bill would have achieved the same result for these two categories of veterans in terms of direct VA care—we were unable to secure the support of the House conferees for this result. As a consequence, these two categories of veterans are included along with the other categories of veterans as being given the form of limited entitlement that I described as being in the conference agreement.

SPECIAL OBLIGATION TO VETERANS WITH 50-PERCENT OR MORE SERVICE-CONNECTED DISABILITIES

Nevertheless, I am pleased to note that the conference agreement does contain provisions I strongly urged to emphasize our special obligation to those veterans with service-connected disabilities rated at 50 percent or more. Specifically, these veterans are included expressly in a separate category for the entitlement to hospital care in revised section 610(a)(1)(D) of title 38—the first time that they have been given this separate recognition in the context of hospital care—and are accorded outpatient care eligibility in the provision, revised 612(a), together with veterans being treated for their service-connected conditions rather than in section 612(f), as in current law, with veterans receiving care for their non-service-connected disabilities. Their placement in section 612(a) will provide these 50 percent or more disabled veterans with eligibility for structural alterations to their residences, in connection with the provision of home health services where necessary to enable the veteran to live at home, costing up to $2,500 as opposed to the $600 limit applied to nonservice-connected veterans generally under current section 612(f) and revised section 612(f)(2).

It is my strong hope that the heightened recognition being accorded to this category of veterans in the conference agreement will be reflected in VA practices and procedures, including establishing in VA regulations a priority—which current regulations, 38 CFR 17.49, do not contain—for these veterans when they seek hospital care.

STATUTORY PRIORITIES FOR CARE

The second issue as to which I regret the outcome in the conference agreement involves the establishment of statutory priorities for VA care. The Senate bill would have added a new section 612C to title 38, United States Code, to require the Administrator to establish statutory priorities for furnishing hospital, domiciliary, and nursing home care as well as, under current law in section 612(i), medical services. The Senate bill would also have required the Administrator to prescribe regulations to ensure the provision of care and services in that priority order.

Except in cases of a medical emergency, the priorities for hospital, domiciliary, and outpatient care would have been set forth, with the first two categories being as they currently are for outpatient care: First, veterans who require treatment for service-connected disabilities and, second, veterans with service-connected disabilities rated at 50 percent or more.

Establishing these priorities as proposed in the Senate bill would have constituted an expression of congressional policy as to which veterans should receive care in situations in which there may be a scarcity of resources, situations that may well be occurring with increasing frequency beginning by the end of the decade. Unfortunately, the only change to current law that the House conferees were willing to accept involved accepting my proposal to add one additional category of veterans—those in receipt of improved VA pension under section 521 of title 38—to the existing priority listing for outpatient care in section 612(i) of title 38.

Although this is far less than I wanted or believed appropriate in terms of statutory priorities for care, it is an important result in ensuring that truly needy war-time veterans in receipt of VA pension—those, for example, with incomes of no more than $5,885 for a veteran with no dependents and with family incomes of $7,709 for a veteran with one dependent—will be given a priority for outpatient care ahead of other nonservice-connected veterans with higher incomes. With further reference to veterans in receipt of pension, I note that they, as well as veterans in receipt of Medicaid, would be automatically placed in category A in terms of their eligibility for VA care and need not complete any

separate income form to establish this eligibility.

CONTRAST WITH THE ADMINISTRATION-PROPOSED LEGISLATION

Mr. President, the conferees' final agreement regarding health-care eligibility issues can perhaps be best understood in contrast to the legislation that the Administration first proposed in connection with the fiscal year 1986 budget and submitted formally in late April.

That proposal involved an $11,400 income cutoff for a single veteran and generally provided no opportunity for such a veteran above that income level to become eligible for VA care except by spending down major portions of his or her income above the cutoff line and then, each time—I repeat, each time—VA health care was sought, demonstrating to the VA that such expenditures had in fact been made. That approach could well have resulted in the VA turning away sick veterans who actually would have been unable to afford the care they needed and who would be cared for by the VA under current law.

The effect of that proposal would have been that each non-ervice-connected veteran seeking care on the basis of being unable to defray the cost of care would have been required to establish and then reestablish income eligibility each time he or she applied for care. Indeed, the House bill would have required similarly that veterans reestablish eligibility each time they applied for care. The Administration's proposal would have been both individually demeaning and extraordinarily burdensome for the veteran seeking to qualify for eligibility on the basis of income—including many very elderly veterans—and administratively costly and difficult for the VA.

That is why I announced this past spring when the Administration plan first surfaced that I categorically rejected that kind of administratively complicated and burdensome and generally debasing approach, and I am pleased to say that the legislation developed by the conferees bears no resemblance to that Administration proposal.

The approach we are proposing in the conference agreement thus must be viewed against the backdrop of knowing that the Administration has existing authority to establish a means test and that, should Congress take no action, the VA would certainly do so along the lines of the totally unacceptable proposal that the VA had previously made.

TECHNICAL MATTERS

Finally, as I did when this legislation was before the Senate last month, I want to touch briefly on some technical matters regrading the changes relating the VA health-care eligibility proposed in this subtitle.

CONTRACT-CARE ELIGIBILITY

The first such point to a proposed change in the wording of the title 28 sections setting forth eligibility criteria with respect to hospital care, nursing home care, and outpatient treatment. Those sections currently provide eligibility for care "within the limits of Veterans' Administration facilities," which is defined to include both the VA's own facilities and certain other Government facilities as well as private facilities with which the VA may contract for hospital and outpatient care in the circumstances specified in current section 601(4)(C) of title 38. The contract authority for nursing home care is in section 620.

The Senate bill would have replaced the phrase "within the limits of Veterans' Administration facilities" with the phrase "through Veterans' Administration facilities or through non-Veterans' Administration facilities to the extent authorized in section 603 of this title" and would have reenacted the contract-care eligibility in a new section 603, taking it out of its current-law location as part of the definition—quite anomalously—of "Veterans' Administration facilities" in present section 601(4)(C), thus providing a more direct reference to the VA's contract authority. The conference agreement generally incorporates this approach with a redrafting and relocation—for example, to sections 610(a)(3), 612(a)(3), and 612(f)(3)—of the reference. The use of the new terminology—and the shifting to a new section 603 of the provisions in current law section 601(4)(C) specifying the circumstances under which contract care may be furnished—are not intended to change the effect of current law but rather to achieve greater clarity on the face of the statute regarding the extent of eligibility for contract care—often referred to as fee-basis care.

This new drafting formulation is also intended to make clear—as is the drafting, in revised section 610(a)(3) relating to nursing home care, by the use of the phrase "or as provided in section 620 of this title"—that the extent to which any fee-basis authority is provided is determined solely by what is in section 603, or section 620 as to nursing home, in conjunction with other provisions of chapter 17, and that the Administrator's general authority to contract under current section 213 is not available with respect to any of these chapter 17 health-care authorities. As was pointed out in our committee's report language (S. Rept. No. 99-146, 99th Cong., 1st Sess. 591-92), the committee construes the words "within the limits" used in current law as providing the same limitation as to the nonavailability of section 213, but believes that the new formulation is more definitive and clearer in this regard.

EMERGENCY CARE

A second technical point that I want to note regarding the provisions relating to revisions in VA health-care eligibility involves the relationship between the new requirement that some veterans have to agree to make payments in connection with their care, on the one hand, and the VA's existing authority to provide care in emergency situations, on the other. Although a veteran with annual family income above the category B income threshold would generally be eligible for care or services only upon the veteran—or someone authorized to act for him or her—agreeing to pay for those services before they are provided, the VA has full authority under current section 611(b) to furnish hospital care or medical services in emergency cases and to charge the veteran for the approximate amount of the VA's costs for furnishing such care. This emergency authority would be applicable in the case of a veteran in this new category of eligibility who for any reason is unable to execute such an agreement prior to the commencement of care, thereby permitting the VA to furnish whatever care is necessary in an emergency situation and thereafter, as appropriate, to charge the veteran for such care in accordance with the new payment amounts specified in the law to be paid in connection with being furnished VA care.

RECOVERY OF THE COST OF CERTAIN HEALTH CARE AND SERVICES FURNISHED BY THE VA

Mr. President, turning to the second major element in subtitle A of the legislation in title XIX—the section which would provide for the VA to recover from third-party health insurers for the cost of care provided to insured non-service-connected disabled veterans—these provisions generally follow the Senate approach. As I noted in my remarks last month, my position on such legislation has been clear for many years, dating back to 1979. I believe that such legislation does not make any sense from the standpoint of sound public policy.

It is clear beyond any question that the enactment of this legislation will not reduce the overall cost of VA health care; in fact, the opposite is true because this legislation would have an inflationary impact. This is so both because each unit of health care provided by the VA for which third-party recovery is sought would now have two additional administrative components attached—each paid for by taxpayers ultimately, and because the third parties' costs of processsing and responding to the claims would be passed on to those who pay health-insurance premiums as well as taxes.

It is also clear to me that the legislation constitutes a totally unwarranted Federal Government intrusion into private contractual relationships by

rewriting some of the most basic terms and conditions of marektplace commercial insurance agreements.

In this regard, I refer my colleagues and others with an interest in this legislation to the excerpts I read into the RECORD last month from a letter written by Bernard Tresnowski, the president of the Blue Cross and Blue Shield Association, in response to a Washington Post editorial on VA third-party reimbursement legislation. As I noted then, this letter—the excerpts of which begin on page 31959 of the RECORD for November 14—is about as succinct an analysis as I've ever seen of the problems with such legislation.

Mr. President, the point that I believe is so well founded that is raised against this legislation—that it violates fundamental principles of insurance—could not be made more clear than by reading revised section 629(a)(3)(A) of title 38 in the conference agreement. This provision would permit the VA to collect under an insurance contract even where the policy is expressly contingent on the insured having satisfied a deductible or paid a copayment and the insured veteran has not satisfied those requirements. Plainly and simply, this provision proposes to rewrite insurance contracts to give the VA a right to collect in situations in which other health-care entities could not. Equally as clearly, without this provision, this third-party reimbursement legislation would not work at all as to most health insurance plans.

But the savings estimate attached to this legislation and the opportunity to point a finger at someone else, the health insurance companies, and say that they are not bearing their fair share of costs made this approach irresistible. On this latter score, as I have pointed out repeatedly, no one has been able to demonstrate to my satisfaction that insurance companies have received any windfall from the exclusionary clauses. Rather, these clauses reflect standard, sound insurance theory and practice.

However, our two committees were faced with very significant reconciliation instructions, and our being credited by CBO for savings, through third-party recoveries, of $960 million over 3 years—a hopelessly optimistic projection, I might add—through the enactment of such legislation made this an option our committee "simply could not refuse."

In view of the inevitability of the enactment of some kind of legislation in this area, I did my best to attempt to help craft it in such a way as to make it as workable and as fair as possible. In this effort, I consulted closely with the VA, representatives of various third-party insurers, and others with an interest in the legislation.

I would like to highlight two very significant points that are appropriately addressed in the conference agreement.

VA COMPLIANCE WITH CONTRACT TERMS

First, the language providing for the right of recovery of the cost of care to the extent that the veteran or a non-Federal provider would be eligible to receive payment generally leaves the Federal Government's right to recover contingent upon compliance with the terms and conditions of the law, contract, or other arrangement under which the veteran would be eligible for payment by the third party. Only where the proposed legilsation specifically overrides such terms or conditions—the provision in the legislation nullifying preclusions of liability for Va care and the provision I have just cited providing for recovery despite a deductible or copayment not being met—would such requirements be voided. Thus, contract requirements conditioning the third-party's liability—such as for pre-hospitalization screening for second opinions prior to surgery or other specified utilization review procedures—would apply. Likewise, provisions imposing general limitations on the third party's liability—such as contract clauses placing specific dollar limits on payments for certain procedures, limiting a carrier's liability to a percentage of certain charges, or, as in the case of health maintenance organizations, limiting coverage to care provided in specific facilities—would apply. Our committee report language—as printed on pages 577 and 578 and pages 627 and 628 of Senate Report No. 99-146—makes these points clear.

DEPOSITING COLLECTIONS IN MISCELLANEOUS RECEIPTS

Second, VA health care appropriations are not to be reduced in anticipation of collections. Rather, revenues received will be remitted directly to the Treasury to reduce the deficit. Without this provision, which was not contained in prior administration's legislative proposals, I could and would have never agreed to this legislation since deposit of the collected revenues in the VA medical care account would lead to reductions in that appropriation being made up front based on anticipated revenues. The effect of this approach would be to hold the system hostage for a result it could in no way guarantee—that insurers would agree to these payments and that the payments would be forthcoming at certain levels, both fairly readily and expenditiously. Indeed, there continues to be significant question in my mind as to whether any appreciable revenue will be produced by these third-party provisions for several years after enactment, if even that early.

SUBTITLE B—DISABILITY COMPENSATION COST-OF-LIVING ADJUSTMENTS

Mr. President, I also want to make mention of the provisions in the pending conference agreement, which are derived from S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985," which the Senate passed on December 2, 1985. These provisions include a 3.1-percent increase in the rates of disability compensation paid to service-connected disabled veterans and the rates of DIC paid to the survivors of those who have died from service-connected causes.

The VA's service-connected Disability Compensation Program is at the very heart of our Nation's system of veterans' benefits. The priority that is attached to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice is well known and well established. The more than 2.2 million veterans who suffer from disabilities resulting from their service and the 342,000 survivors of those who died from service-connected disabilities are and will remain our committee's No. 1 priority. They are certainly mine.

Thus, Mr. President, I'm delighted that the conference agreement would provide for a compensation and DIC COLA equal to the increase being made this year in Social Security and VA pension benefits—3.1 percent. Consistent with the precedent we established last year in the VA compensation COLA bill, Public Law 98-543, as well as in the reconciliation bill, Public Law 98-369, this increase would be effective on December 1, 1985, the same date as the indexed COLA's for Social Security and VA pension. As our committee has noted many times in the past and throughout this year, we continue to be committed to maintaining this approach.

I also note that, by virtue of section 156(e)(1)(A) of Public Law 97-377, a fiscal year 1983 continuing appropriations measure enacted on December 21, 1982, the enactment of this COLA would automatically result in a 3.1-percent increase, effective on December 1, in survivors' reinstated, Social Security-like benefits paid under section 156 of Public Law 97-377 to certain surviving spouses with minor children.

LAST YEAR'S COMPENSATION COLA SHORTFALL

Mr. President, the House proposed this year that we proceed with a 3.4-percent COLA, splitting the difference between the 3.7-percent increase passed by the House and the Senate's 3.1-percent increase. The Senate insisted on the 3.1-percent increase.

It should be noted, Mr. President, that it is true that last year we did not, regrettably, increase compensation rates by exactly the same percentage as the Social Security COLA. The

Social Security COLA turned out to be 3.5 percent and the compensation COLA we enacted before we knew the CPI amount was 3.2 percent.

However, at that time we moved forward by 4 months the effective date of the COLA—from April 1, 1985, to December 1, 1984. This acceleration of the COLA was a major benefit to all compensation/DIC recipients in fiscal year 1985.

In the case of veterans with disabilities rated 10-, 20-, or 30-percent disabling, there was no dollar difference in the monthly rate between a 3.2-percent COLA and a 3.5-percent COLA. However, because the effective date was moved forward by 4 months, these veterans all received more in fiscal year 1985 than they would have otherwise had the date not been moved up. In the case of 30-percent disabled veterans, this meant $24 more in fiscal year 1985 than if the effective date had been left at April 1 and a 3.5-percent COLA had been enacted.

In the case of veterans rated 40- through 70-percent disabled, the difference between the two COLA percentages was $1 per month. However, in the case of a veteran rated 60-percent disabled, for example, the earlier effective date meant $55 more in fiscal 1985 in compensation than would have been paid with a 3.5-percent COLA increase, effective on April 1.

One last example—in the case of veterans rated 100-percent disabled, the dollar difference between the COLA's was $4 a month. The earlier effective date, however, meant $140 more in fiscal year 1985 than if a 3.5-percent COLA had been granted effective April 1, 1985.

Thus, Mr. President, in light of the effect of the earlier effective date and in consideration of the great urgency to control Federal spending, I concur in the Senate position that a 3.1-percent COLA is the appropriate adjustment.

If, in future years, there is again a disparity between the amount of the Social Security COLA and the VA compensation COLA we enact before the amount of the Social Security COLA is known, I would certainly carefully and sympathetically consider the need and justification for a restoration of the percentage-point difference to their establishing rate of a subsequent compensation increase.

SUBTITLE C—MISCELLANEOUS PROVISIONS

EPIDEMIOLOGICAL OF FEMALE VIETNAM VETERANS

Mr. President, section 19021 of the conference agreement contains a provision that would require the Administrator, unless determined not to be scientifically feasible to do so, to provide for the conduct of an epidemiological study of the health of women Vietnam veterans—a so-called Vietnam-experience study. This section was derived from a provision in the House bill and from a Senate provision in section 507 of S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985." The Senate provision was derived from one that I first introduced in S. 1616, to require a study of any long-term adverse gender-specific health effects in female Vietnam veterans that may result from their exposure to agent orange or to other phenoxy herbicides and to authorize the Administrator to expand the scope of the study to include a so-called Vietnam-experience study evaluating any long-term adverse gender-specific health effects in females resulting from any aspect of service in Vietnam.

Mr. President, at the time I introduced S. 1616 and at the time of Senate passage of S. 1887, I discussed the need for such study in detail. I refer my colleagues to my remarks in the CONGRESSIONAL RECORD of September 10, 1985, 23229-23232, and of December 2, 1985, 33639-33641.

The Centers for Disease Control is currently conducting a large study designed to learn about the health status of Vietnam veterans in general. That study includes three major research components: An agent orange study, a Vietnam-experience study, and a selected cancers study. Although it is expected that a significant level of information regarding health issues for Vietnam veterans in general will result from this effort, the CDC-conducted study will not provide any information about the unique experiences and gender-specific concerns of women Vietnam veterans.

For this reason, since early 1984, I have been urging, along with other members of the Veterans' Affairs Committee, that the executive branch utilize existing authorities to design and undertake an appropriate study of women Vietnam veterans. I am pleased that this provision has been included in the pending legislation, and look forward to having this long-overdue study of the general and specific health status of women Vietnam veterans scientifically reviewed. If not scientifically infeasible to do so, study of health effects that may have resulted from specific factors in service—such as exposure to agent orange or other toxic substances, or traumatic experiences—would also be authorized, although not required by this provision in the conference agreement.

ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS

Mr. President, I also want to make special mention of the provisions of the conference agreement—in section 19032—that would establish within the VA an advisory committee on Native-American veterans. These provisions are derived from the provisions of section 505 of S. 1887 as it was passed by the Senate on December 2 as well as from the provisions of section 1981 of the House bill.

Native Americans have a long and distinguished record of service in the Armed Forces of the United States. Their service and subsequent readjustment, in many cases, has taken place in the context of cultural and economic conditions different from those of many other veterans. Yet no evaluation of the particular needs of native-American veterans has ever been undertaken by the VA.

I believe that the differences between native-American veterans and their nonnative veteran counterparts and the diversity within the native-American veteran population itself merit an indepth evaluation to identify situations or needs unique to native-American veterans and to assess the effectiveness of VA programs and services designed to meet those needs. This advisory committee will be charged with such an evaluation and with the responsibility of making two reports to the Administrator—on November 1, 1986, and November 1, 1987—on the committee's findings and recommendations. The Administrator, in turn, would be required to present those reports to the Congress, together with his findings and recommendations for administrative or legislative action.

Mr. President, as the Senator from the State where more native-American veterans reside than in any other State—over 27,100 American Indians reside in California, nearly 17 percent of the total U.S. native-American veteran population—and having initiated the provision in the Senate legislation for the evaluation to be carried out by an advisory committee with native-American veteran representation on it, I pressed for inclusion of this provision in the conference agreement. I look forward to receiving and reviewing with great interest the results of the advisory committee's evaluation.

WAIVER OF WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VA AUTOMATED DATA PROCESSING ACTIVITIES

Mr. President, section 19033 of the conference agreement contains a provision that would waive, with respect to a particular proposed VA reorganization, the waiting period prescribed by section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, provides a report containing a detailed plan and justification for the reorganization. The particular reorganization involves the transfer of certain functions from the VA's Office of Data Management and Telecommunications to the VA's Department of Veterans' Benefits.

Mr. President, as many Senators may know, on February 1 of this year, the Administrator submitted to the

committee letters giving notice of the VA's decision to close down a wide range of VA activities at its 59 DVB regional offices and to consolidate those activities in three processing centers. The Administrator stated that his letters were submitted in accordance with section 210(b)(2).

Mr. President, that proposal and the lack of detail in the February 1 letter raised questions—many of which still remain unanswered—regarding the impact of the consolidation on the furnishing of various types of benefits and services to veterans and their dependents as well as on the employees affected. The opinion was thereafter expressed in both the Senate and the House—by myself and the chairman and ranking minority member of the House Committee on Veterans' Affairs—that the February letter was so lacking in detail as not to constitute a valid section 210(b)(2) "detailed plan and justification." In an undated opinion addressing this issue, the Acting General Counsel of the VA declined to state whether it did or did not.

In order to resolve the question of what specifically constituted a "detailed plan and justification," I introduced on June 27, joined by Senators MATSUNAGA, DECONCINI, and ROCKEFELLER, S. 1397, the proposed "Veterans' Administration Reorganization Act of 1985." This legislation set forth a definition of precisely what type of information a detailed plan and justification for a proposed reorganization must contain under section 210(b)(2). Provisions derived from this measure were incorporated into section 501 of S. 1887 as reported from the committee and were approved by the Senate on December 2.

Thus, Mr. President, despite the fact that those provisions have not yet been enacted into law and the fact that the proposed reorganization involving DVB and ODM&T in no way relates to the poorly-conceived and ill-advised proposal to consolidate regional office, I believed it was appropriate and necessary that the proposed DVB and ODM&T reorganization be supported by the kind of detailed plan and justification that section 501 of S. 1887 would expressly require, and I so notified the Administrator in a December 6 letter to him.

It was in that context that I considered and examined the Administrator's letter. So that Members can also have an opportunity to understand this proposal, I ask unanimous consent that the texts of his December 4 letter to me which is identical to the November 1 letter and of my December 6 letter to him, together with the provisions of section 501 of S. 1887, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
Washington, DC, December 4, 1985.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: The purpose of this letter is to report a planned administrative reorganization within the Veterans Administration (VA) involving the transfer of certain functions from the Office of Data Management and Telecommunications (ODM&T) to the Department of Veterans Benefits (DVB).

As you are aware, under the Congressional "report and wait" requirements of 38 U.S.C. § 210(b)(2), a detailed plan and justification must be submitted to the appropriate committees of Congress for certain VA administrative reorganizations involving a reduction during any fiscal year by 10 percent or more in the number of full time equivalent employees (FTEE) at a VA covered office or facility. The report must be made not later than the date on which the President submits his budget for the next fiscal year. Thereafter, no action can be taken to implement the reorganization until the first day of that fiscal year. This letter is submitted in order to satisfy the above-reporting requirement for a planned VA organizational transfer of certain automated data processing (ADP) functions as described below.

As you are aware, in April 1985, the Veterans Administration selected McManis Associates, Inc., to prepare an implementation plan to modernize the DVB benefits and services delivery systems. This plan was to be consistent with my policy statement mandating the full modernization of the Agency's data processing and communications systems so as to improve the quality of service provided to veterans and their families. The McManis study among other things found that there was limited end-user involvement in system design and development, limited systems training, and that there were inconsistent system utilization management practices. Based on these findings, I approved the McManis recommendations the DVB should have the authority, resources and responsibility for the systems development and greater operational oversight within overall agency standards and policy guidelines. Implementation of this recommendation requires the administrative reorganization which is the subject of this letter.

We propose to reorganize in order to move ADP program specialists closer to the DVB program specialists, and give DVB a greater role in ADP decisions. By giving DVB control of ADP resources, they will be able to better focus ADP expenditures on service delivery priorities. This reorganization will involve 362 ODM&T full time equivalent employees (FTTE). These organizational transfers will occur at VA Central Office (VACO), and at the Austin, Texas; Hines, Illinois; and Philadelphia, Pennsylvania VA Data Processing Centers (DPC). The number of FTEE transferred as the result of this reorganization and the base 1986 ODM&T FTEE at each facility, are as follows: VACO—81/441; Austin—75/663; Hines—146/406; and Philadelphia—60/197.

The functions performed in the positions to be transferred are unique to the support of DVB programs and, after this transfer to DVB, ODM&T will no longer perform these functions. These functions, and the stations at which they are performed, are as follows: VACO—Benefits Automation Service, which designs all ADP programming for DVB, and some administrative support personnel; Austin DPC—Benefits Delivery System Division, which does programming for DVB in the areas of loan guaranty, the Beneficiary Identification and Records Location Subsystem (BIRLS), and debt collection (beginning in fiscal year 1986); Hines DPC—System Support Divisions, which handle programming for DVB benefits programs, such as Compensation and Pension, Education, and Vocational Rehabilitation, and which prepare the computer tapes for the Department of Treasury to use in issuing benefits checks; and Philadelphia DPC—Systems Division, which does programming for VA applications. There will also be transferred , at each of the above stations, the functions of that part of the system verification and testing element which performs systems quality control for the programming done by the benefits delivery system staff at each of these stations.

It is clear from the foregoing that this reorganization is simply an organizational transfer of employees. These employees will not be relocated to other stations. The great majority of them will experience no change in their functions, personnel status, immediate supervision, or even in the location of their workspace. Accordingly, there will be little or no cost impact as the result of this reorganization.

We believe that this reorganization is appropriate and advisable, and that it will have the desired effect of improving and making more efficient DVB benefits delivery systems by giving DVB direct control over the resources used for its ADP support. This reorganization has already been the subject of DVB briefings with staff of the House and Senate Veterans' Affairs Committees. Of course, we would be pleased to provide any additional information which you may desire concerning this reorganization.

I request your assistance in introducing, and supporting enactment of, a legislative waiver of the 38 U.S.C. § 210(b)(2) waiting period for this reorganization, so that these improvements in our organizational structure can be made as soon as possible. Suggested language for such a legislative waiver is enclosed. Absent such a waiver, we must wait until fiscal year 1987 to implement this reorganization.

I appreciate your support for our efforts to improve benefits delivery for our Nation's veterans.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this letter and legislative proposal from the standpoint of the Administration's program.

Sincerely,

HARRY N. WALTERS,
Administrator.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 6, 1985.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs, Washington, DC.

DEAR HARRY: Thank you for your letter of November 1 in which you gave notice of a planned administrative reorganization within the VA involving the transfer of the Office of Construction (OC) to the Department of Medicine and Surgery (DM&S) and in which you request a waiver of the waiting period prescribed by section 210(b)(2) of title 38, United States Code.

As you noted, section 210(b)(2) provides, in part, that the VA may not in any fiscal year implement a reorganization involving a

more-than-10-percent reduction in the number of full-time equivalent employees at any VA facility with more than 25 employees unless the Administrator, not later than the date on which the President submits the budget for that year, provides "a report containing a detailed plan and justification for the reorganization."

As you may know, in response, in part, to what I believed was an ill-conceived and potentially damaging plan to consolidate various activities of the Department of Veterans' Benefits 59 regional offices into 3 processing centers, I introduced legislation, S. 1397, the proposed "Veterans' Administration Reorganization Act of 1985", on June 27. A principal thrust of that measure was to define for purposes of section 210(b)(2) precisely what a "detailed plan and justification" for a proposed reorganization must entail.

Provisions derived from this legislation were incorporated into the compensation cost-of-living increase bill that was ordered reported by the Committee on October 31 and passed by the Senate, as S. 1887, on December 2. Specifically, section 501 (copy enclosed) of the bill as passed would define the term "detailed plan and justification" to include at a minimum a number of specific items, including—

(1) a specification of the number and responsibilities of the employees to be added to or removed from each affected office;

(2) a description of the changes in functions that would occur at the affected offices;

(3) an explanation of the reasons why it has been determined that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Veterans' Administration;

(4) a description of the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the VA not directly affected by the reorganization); and

(5) estimates of the implementation cost and the subsequent cost impact of implementing the reorganization.

Although this provision has not yet been enacted, I believe that it likely will be in the near future. In any event, I am not able to support a waiver of the requirement for a waiting period for a section 210(b)-covered reorganization unless the Committee is provided with at least the information that would be required under section 501 of S. 1887 as passed by the Senate. In this regard, I am particularly concerned by your statement, in requesting a waiver in your letter, that "[i]t is uncertain what the organizational change will be on FTEE and costs."

I urge you to provide the Committees with a report containing adequate detail and justification (consistent with section 501 of the Senate-passed bill) in order that we may have all the information necessary to consider meaningfully your request for a waiver of the section 210(b)(1) waiting period.

Finally, with respect to your December 4, 1985, letter reporting a planned reorganization of certain functions from the Office of Data Management and Telecommunications (ODM&T) to the Department of Veterans' Benefits (DVB), I find that letter substantially complete in terms of the information called for by section 501 of S. 1887. There are, however, a few areas that I believe require further clarification under clauses (III), (IV), and (V) of the statutory provision. These items have been called to the attention of Mr. John Vogel, Chief Benefits Director. In order for us to proceed with a legislative waiver for that DVB/ODM&T reorganization, we will need the additional information not later than Wednesday, December 11.

With warm regards,

Cordially,

ALAN CRANSTON
Ranking Minority Member

CLARIFICATION OF REQUIREMENT FOR A DETAILED PLAN AND JUSTIFICATION FOR ADMINISTRATIVE REORGANIZATION

SEC. 501. (a) Subparagraph (C) of section 210 (b)(2) is amended by inserting at the end the following new division:

"(iii) The term 'detailed plan and justification' means, with respect to an administrative reorganization, a written report which, at a minimum—

"(I) specifies the number of employees by which each covered office or facility affected is to be reduced, the responsibilities of those employees, and the means by which the reduction is to be accomplished;

"(II) identifies any existing or planned office or facility at which the number of employees is to be increased and specifies the number and responsibilities of the additional employees at each such office or facility;

"(III) describes the changes in the functions carried out at any existing office or facility and the functions to be assigned to an office or facility not in existence on the date that the plan and justification are submitted pursuant to subparagraph (A) of this paragraph;

"(IV) explains the reasons for the determination that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Veterans' Administration;

"(V) describes the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the Veterans' Administration not directly affected by the reorganization); and

"(VI) provides estimates of the costs of the reorganization and of the cost impact of the reorganization, together with analyses supporting those estimates.".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect with respect to administrative reorganizations proposed to be carried out in fiscal years beginning after fiscal year 1986.

(2) The amendment made by subsection (a) applies to the administrative reorganization referred to in the letters from the Administrator of Veterans' Affairs to the Committees on Veterans' Affairs of the Senate and the House of Representatives, dated February 1, 1985, relating to the consolidation of certain Veterans' Administration Department of Veterans' Benefits activities from 59 regional offices into three processing centers.

Mr. CRANSTON. Mr. President, the information contained in this letter was subsequently supplemented by information provided by Paul Ising, the VA's Deputy Chief Benefits Director for ADP Systems Management, to the committee's minority staff on December 9. Clarification was received regarding the statement that "[t]he great majority of them (VA employees) will experience no change in their functions, personnel status, immediate supervision, or even in the location of their workspace." In this regard, I was advised that no individual will experience a change in function or in personnel status, six individuals will experience a change in immediate supervision, and one individual will move from the second floor to the third floor within the VA's Central office.

With respect to the reasons for the determination that this reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the VA, the VA provided the following material extracted from a report prepared by McManis Associates, Inc., which developed and prepared the implementation plan to modernize DVB's service delivery systems;

In our judgment the Veterans' Administration has little choice but to undertake a major DVB modernization program. Without a major overhaul to its total information management capacity, DVB will not be able to continue to provide an acceptable level of service to veterans and their families. Uncoordinated, overlapping data bases complicate data entry and retrieval. Outmoded hardware, software, and telecommunications technologies are expensive and severely limit data access and analysis capabilities. The existing hardware in the regional offices has reached the point where it must be replaced. Over time, there has been such massive modification to the Compensation and Pension software that maintenance of that system is now enormously costly, and the agency is increasingly at risk in trying to maintain it in its present form. • • •

These recommendations were presented and approved in mid-July and provide the framework within which the modernization program will be carried out. Approval of the recommendations established the parameters to guide the implementation effort: a "modern" architecture should be developed, including appropriate decentralization of DVB systems; and DVB should assume authority and responsibility for its own benefits delivery systems. • • •

We identified two types of organization and management issues which have an impact on the effectiveness and efficiency of DVB service delivery systems. The first type relates to the process by which DVB ADP requirements have been defined and how DVB systems are designed and modified. DVB has had neither direct budget authority nor accountability for its use of ADP resources. It has been dependent upon the Office of Data Management and Telecommunications for all systems development initiatives. End users of the systems have not regularly been involved in the design or acceptance of new applications or modifications to existing applications. There has been no effective mechanism within DVB to establish priorities for systems development or enhancement, nor has there been an effective mechanism to assure ODM&T priorities were consistent with DVB priorities. Without control over the development and support of systems applications, DVB is hampered in its efforts to implement any ADP/telecommunications modernization strategy.

The second set of organizational and management issues identified are internal to DVB. Too rarely have the end users in the field offices been involved in the systems design and development process. New automated systems have been introduced and are utilized in the regional offices with limited user orientation and training. The limited involvement of field personnel in systems development has meant that the effectiveness of the system from the perspective of the veteran or the nontechnical end-user is often limited.

With respect to providing further clarification for the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans—including the provision of benefits and services through offices and facilities of the VA not directly affected by the reorganization—the VA further cited the McManis report as follows:

The aim of the proposed modernization effort is to utilize improved technologies on an economically justifiable basis to remove many of the obstacles to improved efficiency and service. With the changes in processing architecture and telecommunications, a number of significant changes in the way regional offices conduct business can be expected:

1. The veteran will be able to obtain information, resolve problems, and complete processing procedures with fewer stops and by dealing with fewer people.

2. Data related to the same event, procedure, or action will be recorded (entered) once. Data transfer to other systems and organizational elements will be effected electronically without the need to reenter or transcribe the data.

3. Permanent storage of most correspondence and documentation currently maintained manually on a decentralized basis (Claims Files) will be recorded electronically either in image form or as formatted data.

4. All work stations for processing, counseling, testing, and other interactions with the veteran will be supported by multifunction intelligent terminals. Direct concurrent access to the data maintained locally in the RO as well as the very large central data bases located on mainframes will be available at the workstation. This will mean that individuals will be able to perform a variety of procedures without moving from one piece of specialized computing hardware to another.

In addition, further regarding the relationship of the DVB reorganization to other components of the agency, the VA has advised that the elements of this reorganization are consistent with the three principal strategies of the VA's agencywide ADP modernization programmatic goals, including eventually providing each authorized VA employee with access to all VA data, regardless of its location in VA computer systems.

Finally, with respect to the cost of the reorganization and its cost impact, the VA has clarified that the only cost of the reorganization is the paperwork involved in processing these changes. It is not expected to be significant, but it is not measurable at this time. The VA has indicated that there may be some savings in the future in terms of increased productivity but they are long term and, at this point, unestimated.

After careful analysis of the VA's letter, together with the additional information subsequently provided by the VA, I have concluded that the VA had submitted what constitutes a sufficiently detailed plan and justification for this proposed reorganization and that the reorganization will serve to improve the operations of the VA's service and benefits system. However, since, under the provisions of section 210(b)(2), the reorganization would not be permitted to be implemented prior to the beginning of fiscal year 1987 on October 1, 1986, I have supported and the conference agreement includes a statutory waiver of the required waiting period in order to permit the Administrator to implement this reorganization at the earliest possible opportunity.

Finally, I want to express my appreciation to the VA, particularly John Vogel, Chief Benefits Director, and Paul Ising, the VA's Deputy Chief Benefits Director for ADP Systems Management, for their cooperation and assistance in providing the information necessary for the committees to consider the proposed DVB/ODM&T reorganization and act favorably to permit it to go ahead on an official basis in the near future.

STATUS OF NEGOTIATIONS REGARDING OTHER VETERANS' LEGISLATION

Before concluding my remarks on this measure, Mr. President, I want to comment on the negotiations between the House and Senate Committees on Veterans' Affairs over the numerous differences between our compensation, education, and other VA benefits measures embodied in S. 1887 and H.R. 1408, H.R. 2343, and H.R. 2344. I regret to note that those negotiations have reached an impasse over certain provisions in the Senate bill—now endorsed by the Administration—designed to improve, and enhance the fiscal stability of, the home-loan guaranty program. As a result of that impasse, it has become clear that further action on the remaining provisions of S. 1887 will not be possible this year.

Mr. President, during the Senate's consideration of S. 1887, I discussed in detail each of these provisions, and my statement on that measure appears at page S16634 of the CONGRESSIONAL RECORD for December 2 (daily edition). At this time, I want to stress my intention to continue to pursue these matters at the earliest appropriate opportunity in the second session of this Congress and my regret at our failure to be able to reach agreement on this package.

Lastly, with respect to the provisions of S. 1887 as it was passed by the Senate on December 2 that deal with the extension and improvement of the Emergency Veterans' Job Training Act of 1983 [EVJTA] I want to make special mention of the agreement that the distinguished chairman of the committee [Mr. MURKOWSKI] and I have reached with respect to these provisions. If we are not able to resolve our differences over the larger legislation early in the next session or to proceed in some other fashion to pass and enact—outside of S. 887—this EVJTA extension and improvement legislation, Senator MURKOWSKI and I have agreed to return the Senate-passed EVJTA extension legislation to the House in a separate bill by early February.

SUMMARY OUTLINE

Mr. President, for the information of my colleagues and the public, I ask unanimous consent that a summary outline of the cost-savings provisions of subtitles A and B of the conference agreement be printed in the RECORD at the conclusion of my remarks.

CONCLUSION

Mr. President, as I noted at the outset of my remarks, reaching a final compromise with out colleagues in the House on some of the issues in this legislation—especially those provisions relating to eligibility for VA health care—was a very difficult task. Together, we had a commitment to fulfilling our reconciliation obligations while protecting the VA as much as possible from harm. However, we had very different approaches as to how to reach that shared goal.

In the end, thanks to the efforts of Senators MURKOWSKI and SIMPSON and Representatives MONTGOMERY and HAMMERSCHMIDT and the other conferees—and many long hours of work by staff of both committees—we were able finally to hammer out the compromise which is before the Senate today and which I recommend to my colleagues.

I want especially to thank the minority staff of the Veterans' Affairs Committee, Bill Brew, Babette Polzer, Ed Scott, Nancy Billica, Ingrid Post, Charlotte Hughes, and Jon Steinberg, for their outstanding efforts on this bill over the last few weeks and months. My gratitude also to the Senate majority staff, Cathy McTighe, Julie Susman, and Tony Principi, for the extraordinary spirit of cooperation and dedication they exhibited in our work together over this very pressurized and trying time period.

I also thank the House staff who worked on this legislation—Pat Ryan, Jack McDonell, Vic Raymond, Arnold Moon, Jill Cochran, Mack Fleming, Rufus Wilson, and Kingston Smith from the House Committee on Veterans' Affairs, and also, Bob Cover, of the House legislative counsel's staff who, as usual, worked tirelessly and most effectively in helping to craft the final version of the legislation.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF COST-SAVINGS PROVISIONS FROM SUBTITLES A AND B

HOSPITAL CARE ELIGIBILITY

A. VA shall in VA facilities, and may in non-VA facilities as authorized in section 603, furnish needed hospital care to:

1. Veterans for service-connected disabilities
2. Service-connected disabled veterans rated at 50% or more
3. Other service-connected disabled veterans
4. POWs
5. Veterans exposed to Agent Orange or radiation
6. Veterans of World War I and earlier conflicts
7. Veterans with no service-connected disabilities who are "unable to defray the costs of needed hospital care—meaning those who are either VA improved-pension recipients or Medicaid eligible or who have incomes not exceeding $15,000 for a veteran with no dependents and $18,000 for a veteran with one dependent plus $1,000 for each additional dependent, called the "Category A" income threshold.

In connection with the foregoing, the Joint Explanatory Statement states that:

The conferees intend that care be furnished to service-connected disabled veterans, low-income veterans, and, to the extent resources are available, other eligible veterans.

The conferees intend that for categories 1-8, the VA's sole obligation is (1) if a veteran is in immediate need of hospitalization, to furnish an appropriate bed at the VA facility where the veteran applies or, if none is available there, to furnish a contract bed if authorized in section 603 or arrange to admit the veteran to the next closest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, (A) schedule the veteran for admission there if the schedule there permits, or (B) refer the veteran for scheduling and admission to the next closest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and then facilitate the veteran's admission there.

The conferees intend that, if there are two or more veterans applying for the same bed at a particular facility and one is seeking care for a service-connected disability or has a 50-percent-or-more service-connected disability, that veteran should receive the bed.

The conferees note that the legislation makes no change in the beneficiary travel program.

B. VA may, in VA facilities and in non-VA facilities as authorized in section 603, furnish needed hospital care to the extent that facilities and resources are available, to:

1. Non-service-connected veterans with incomes above the Category A income threshold.
2. Non-service-connected veterans with income above $20,000 for a veteran with no dependents and $25,000 for a veteran with 1 dependent plus $1,000 for each additional dependent—called the "Category B" income threshold—on the basis of an agreement to make a payment (similar to the Medicare deductible) in connection with such care.

In connection with the foregoing, the Joint Explanatory Statement states that the conferees intend that those veterans making payments in connection with their care would have lowest priority for inpatient, outpatient, and nursing home care.

C. In the case of a veteran whose income in the previous year is above the Category A income threshold or the Category B income threshold, the Administrator would be authorized to make an exception to place the veteran in a higher-priority category, as appropriate, on the basis of a recent, sharp drop in income to a level substantially below the Category A or B threshold.

OUTPATIENT ELIGIBILITY

Essentially no change in current law; eligibility based on hospital-care eligibility.

NURSING HOME AND DOMICILIARY CARE ELIGIBILITY

No change in current law.

PRIORITIES FOR CARE

No change in current law except to add veterans receiving VA improved pension benefits (under section 512) as a new last priority category (in section 612(i)) for outpatient care.

CONTRACT CARE

No change from eligibility in current law.

INCOME THRESHOLDS

Category A and B as set forth above with the dollar amounts increased, beginning 1/1/87, by the preceding year's Social Security/VA pension CPI.

PAYMENTS BY VETERANS

A. Hospital Care: Payment of the Medicare deductible for the first 90 days of care, and half of the deductible for each succeeding additional 90 days of care, within a 365-day period.

B. Outpatient Care: Per-visit payment of 20% of the VA average daily rate, not to exceed the Medicare deductible for any 90-day period.

C. Nursing Home Care: Payment of the Medicare deductible for each 90 days of care.

D. Combinations of Modes of Care: Payments made for either mode of inpatient care (hospital or nursing home) would be credited toward care in the other mode. Also, a veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and hospital or nursing home care furnished during any 90-day period.

COMPENSATION COLA

Provide for a compensation DIC/COLA at 3.1% for FY 1986.

HEALTH-INSURANCE RECOVERY

Provide for VA recovery for health insurers for non-service-connected VA care furnished to covered veterans generally to the same extent as recovery by non-federal providers would be permitted under the health insurance plan in question.

ADOPTION ASSISTANCE AND PRENATAL CARE PROVISIONS

Mr. CRANSTON. Mr. President, I am delighted that the conference committee subconference on Medicaid issues agreed to include, in the reconciliation bill, provisions relating to the adoption assistance program and the coverage of certain groups of low-income pregnant women who have previously been excluded from Medicaid. I proposed these provisions in legislation, S. 1628 and S. 7 respectively, which I introduced earlier in this session.

ADOPTION ASSISTANCE AMENDMENTS

Mr. President, the subconference included in the Finance Committee portions of the reconciliation measure three provisions relating to the adoption assistance program established under Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980.

As one of the principal Senate authors of the 1980 legislation, I have been deeply gratified by the difference that this law has made in the lives of thousands of children who might otherwise have been left to languish in foster care. HHS has reported that by fiscal year 1984 almost 12,000 children had been moved from foster care to adoptive homes under the new adoption assistance program authorized by Public Law 96-272. Experience in operating this new program, however, brought to light several problems of a technical nature with respect to continuing Medicaid coverage for these children as they moved from foster care placements into adoptive homes. Therefore, on September 11, I introduced with the distinguished Senator from Utah [Mr. HATCH] and others, legislation, S. 1628, which would make three changes in the adoption assistance program with respect to the availability of Medicaid assistance for these children. The three changes are: first, elimination of the requirement in existing law that a special-needs child receive a token adoption assistance payment that the State in which a special-needs adopted child resides, rather than the State where the adoption took place, provide Medicaid coverage; and third, clarification that Medicaid coverage can be continued during the care and an adoption decree is actually entered.

Mr. President, as I indicated in my introductory remarks on September 11—CONGRESSIONAL RECORD, 23334 on S. 1628, had the House accepted the Senate bill language in the conference in 1980, the problems relating to continuation of Medicaid between the end of foster care status and the adoption itself would not have occurred nor would the law have required a token adoption assistance payment in order for Medicaid to be available for a special-needs child whose only needs were medical. I am pleased, 5 years later, to have been able to help correct these particular problems.

Additionally, when the 1980 legislation was enacted, I had expressed my concern that it did not adequately deal with the needs of adoptive families who moved from one State to another. During hearings I chaired on the need for adoption reform legislation during the 95th and 96th Congresses, numerous witnesses testified about the problems that territorial limitations upon

then-existing State adoption assistance programs posed for their families. I was delighted when, earlier this year, the Reagan administration supported this change so that we could finally rectify this problem.

Mr. President, as I indicated at the time I introduced S. 1628, the growing, bipartisan support for these adoption initiatives begun more than a decade ago is indeed heartening. Many of those who once opposed Federal legislation to encourage adoptions have now become strong supporters and proponents of our efforts in this area. Even the Reagan administration which in 1981 and 1982 had proposed the repeal of Public Law 96-272, now supports its continuation and has launched its own special needs adoption initiative. Having been a principal author of both Federal statutes relating to adoption, Public Law 96-272 and Public Law 95-266, I welcome this support and new enthusiasm for adoption alternatives. In addition to the Senator from Utah [Mr. HATCH], S. 1628 has been cosponsored by Senators DODD, GRASSLEY, LEVIN, METZENBAUM, MOYNIHAN, RIEGLE, ROCKEFELLER, and HUMPHREY.

EXTENDING MEDICAID COVERAGE TO CERTAIN LOW-INCOME PREGNANT WOMEN

Mr. President, I am also exceedingly grateful to my good friend, the chairman of the Senate Finance Committee, the Senator from Oregon [Mr. PACKWOOD], for the Senate conferees' agreement to accept the House provisions extending Medicaid coverage to low-income pregnant women who are living with an employed spouse, but whose family income is below the AFDC income and assets eligibility standards. The Senator from Oregon and I had discussed these provisions privately when the reconciliation bill was before the Senate and he then assured me that he hoped to be able to include these provisions in the final legislation.

In January, I introduced legislation, S. 7, to close the gap in the Medicaid Program which resulted in these low-income pregnant women in a large number of States being denied the medical assistance necessary to carry their pregnancy to term and increase the likelihood of having a healthy baby. This has been an effort of mine which has gone on over a number of Congresses; each Congress we have made more progress in ensuring that low-income pregnant women are provided with the medical assistance they need during pregnancy. In the last Congress, we succeeded in Public Law 98-369 in extending Medicaid coverage to low-income pregnant women who have previously been excluded because they had no other dependent children or were living with an unemployed husband. However, provisions which would have extended the same coverage to low-income women living with an employed husband were not enacted. Enactment of the provisions in this reconciliation legislation which would extend Medicaid coverage to this group also corrects an inequity which I consider to be antifamily and antiwork. My statements explaining the history of these provisions, earlier versions of S. 7 which were introduced in the 95th, 96th, 97th, and 98th Congresses, and the cost effectiveness of providing medical assistance during pregnancy to low-income women are set forth in the CONGRESSIONAL RECORD of January 24, at 987 and July 23, 1985, at 19964. My July 23 statement includes the revised CBO cost estimates for enactment of S. 7.

Mr. President, I am very proud to say that S. 7 and my efforts in this area have always enjoyed strong support from a broad range of organizations, including child advocacy groups and health-care groups, as well as organizations with sharply differing positions on the issue of abortion. Those organizations which have endorsed S. 7 include the National Right to Life Committee, Planned Parenthood Federation of America, Children's Defense Fund, National Conference of Catholic Charities, Catholic Health Association, Association for Retarded Citizens, Family Service Association of America, Child Welfare League, National Association of Children's Hospitals and Related Institutions, California Association of Children's Hospitals, National Perinatal Association, and American Academy of Pediatrics.

Mr. President, I also want to express my appreciation to my colleagues from both sides of the aisle and with differing views on the issue of abortion, who have given their support to S. 7 and the principles it represents. Support for S. 7 represents support for an initiative that is prochoice, prolife, and profamily in a very meaningful sense. For those who support freedom of choice, nothing could be more central to that freedom of choice than the right of a low-income woman to choose to carry a pregnancy to term free from the economic pressures arising from her inability to pay for the costs of the medical care needed. For those who believe that abortion should never be permissible, making available the medical care necessary for a low-income women to carry a pregnancy to term is essential to alleviating economic pressures which might otherwise influence a decision to terminate a pregnancy.

Additionally, having been deeply involved with several of my colleagues in the efforts in the last Congress to develop the framework for a responsible and sensible approach to dealing with the so-called Baby Doe cases, I have also tried to point out the relationship between that issue and making adequate prenatal care available to all pregnant women. Although it may not be medically possible to eliminate entirely the incidence of high-risk births, there is absolutely no question that the availability of adequate care during pregnancy can be critical to reducing the likelihood that a child will be born with a serious disabling and life-threatening condition.

The cosponsors of S. 7 include Senators MOYNIHAN, MATSUNAGA, INOUYE, RIEGLE, METZENBAUM, DODD, LEVIN, KENNEDY, ANDREWS, SIMON, LEAHY, BOSCHWITZ, PROXMIRE, and ROCKEFELLER.

Again, I would like to express my appreciation to the Senator from Oregon [Mr. PACKWOOD] for his support and work on behalf of this provision, and for his commitment to helping ensure that reproductive choice includes the right to carry a pregnancy to term without the economic pressure that lack of access to medical assistance can create.

Finally, my thanks to the Senator from Texas [Mr. BENTSEN] for his efforts on the Finance Committee on behalf of both the adoption assistance provisions and the Medicaid coverage for low-income pregnant women and to the Senator from Louisiana [Mr. LONG], the ranking minority member for his support as well.

CONCLUSION

Mr. President, I am very pleased that these provisions relating to adoption assistance and medical care for low-income pregnant women have been included in this measure. I believe that both initiatives represent a significant step forward in our continuing efforts to improve the lives of countless numbers of infants, young children, and their families.

SOLE COMMUNITY HOSPITAL AMENDMENT

Mr. President, I am very pleased that S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985, as agreed to by the conference committee includes a provision to require that certain sole community hospitals be provided with adjustments in their Medicare payments to account for services instituted after the end of the so-called base year. This provision—which derives from an amendment, amendment No. 1032 to S. 1730, that I proposed with Senator BURDICK on November 13, 1985—would correct a very serious inequity affecting Redbud Community Hospital in Clearlake, CA—and possibly a number of other sole community hospitals.

Mr. President, Redbud Hospital has been engaged in litigation for a year and a half with the Health Care Financing Administration in HHS in an attempt to obtain a fair and equitable Medicare payment rate which would take into account the three new services—intensive and cardiac care units and a new pharmacy—that the hospital instituted after the end its base year, 1982-83. As I explained during

the debate on my amendment—which appears in the RECORD for November 13, beginning on page 31733—these services were instituted after many years of planning and development and are necessary for the hospital to meet the needs of the predominantly elderly community it serves. Without financial relief to meet its resulting increased operating expenses, the hospital could very well be forced to default on its State-issued bonds or reduce its services to those who depend on it for their care.

After 18 months of proceedings, the lawsuit is still pending. In the process, the hospital has nearly exhausted its resources for continued litigation.

With this legislation, Redbud will be able to bring the litigation to a close, and receive just compensation. And the residents of Clearlake Highland will be able to have access to a full range of needed life-saving hospital services.

I would like again to thank the chairman of the Finance Committee [Mr. PACKWOOD] and the ranking minority member [Mr. LONG] for their assistance when I, along with Senator BURDICK, offered the amendment and for their support of the provision in conference. My thanks also to Bob Hoyer and Michael Stern, two absolutely splendid professionals, for their help and expertise on this matter.

Mr. McCLURE. Mr. President, the Committee on Energy and Natural Resources reached conference agreements with the House on all matters within its jurisdiction. Specifically, subconference 11 on energy programs reached agreements on provisions regarding the Strategic Petroleum Reserve, Federal Energy Conservation Shared Savings, Biomass Energy and Alcohol Fuels Loan Guarantees, and synthetic fuels. Subconference 12 reached agreements on provisions regarding uranium enrichment. And, subconference 13 reached agreement on Outer Continental Shelf issues.

These conference agreements achieve savings of $6,162 million and $6,076 million in outlays in fiscal year 1986 and $6,124 million in budget authority and $6,504 million in outlays for the 3 fiscal years 1986 through 1988. The savings exceed the committee's original targets in its reconciliation instruction.

In summary, these conference agreements are consistent with the assumptions in the budget resolution in two areas: First, they achieve savings in DOE's Strategic Petroleum Reserve Program by reducing the minimum average annual fill-rate from 159,000 to 35,000 barrels per day. Second, the conference agreement includes provisions to settle the legal dispute between the Federal Government and several States regarding the disposition of certain bonuses and rents held in escrow as of March 31, 1985. As assumed in the Senate and House committee reconciliation instructions, the conference agreement distributes 27 percent of such bonuses and rents to the affected States as well as interest accrued thereon. However, as did the Senate and House passed measures, the conference agreement also includes the disposition of other OCS revenues in dispute, specifically, royalties, both retrospectively and prospectively.

In addition, the conference agreements achieve savings in budget authority and outlays in four areas not assumed in Senate and House reconciliation instructions, which are uranium enrichment, DOE energy conservation programs, DOE biomass loan guarantees, and synthetic fuels.

STRATEGIC PETROLEUM RESERVE

The Strategic Petroleum Reserve, which was authorized in 1976, continues to be the United States' principal line of defense in the event of another severe disruption of international energy supplies. When we began the new fiscal year on October 1 there were approximately 489 million barrels of crude oil in storage.

By comparison, the conference agreement provides for a minimum fill-rate of 35,000 barrels per day through fiscal year 1988. At this reduced fill-rate, at the end of fiscal year 1986 there will be approximately 500 million barrels in storage. However, the conference agreement specifically requires that a minimum average annual fill rate of 35,000 barrels per day be maintained until 527 million barrels of oil are stored in the SPR.

This change in the minimum fill-rate will achieve fiscal year 1986 outlay savings of $1,455 million. The corresponding outlay savings over the 3-year period of fiscal years 1986 through 1988 will be $4,003 million.

Similarly, the conference agreement regarding SPR facility construction, as did the budget resolution, provides for continued expansion of SPR capacity at all sites toward the objective of filling the SPR to 750 million barrels. Under the conference agreement the available SPR capacity is expected to increase to nearly 550 million barrels by the end of fiscal year 1986. By comparison, at a minimum fill-rate of 35,000 barrels per day, or 12.8 million barrels per year, the cumulative oil fill will be below 550 million barrels through fiscal year 1988. Therefore, this agreement will not constrain in the fill-rate of 35,000 barrels per day.

URANIUM ENRICHMENT

The Senate-passed bill, as did the recommendation of the Committee on Energy and Natural Resources, established an authorization for the Department of Energy's uranium enrichment program. The effect of this authorization was to require the program to operate at no additional cost to the Treasury. In addition, the Secretary of Energy is directed to make an initial repayment to the Treasury from current revenues, if any, of excess expenditures accumulated over the past several years.

By comparison the conference agreement authorizes uranium enrichment appropriations during fiscal years 1986 through 1988 at a level equal to estimated revenues less an amount determined by the Secretary of Energy, which is to be paid to the Treasury in partial repayment of unrecovered Federal investments. In addition, any revenues in excess of expenditures are to be deposited in the Treasury in repayment of the debt identified by the Secretary in accordance with the conference agreement.

The resultant budgetary savings under the conference agreement in fiscal year 1986 are $190 million in budgetary authority and $120 million in outlays. The savings over the 3-year period 1986 through 1988 are $724 million in budget authority and $596 million in outlays.

In addition, the conferees, as was the Senate, were concerned about the impact of the recent decision of the U.S. District Court for Colorado, which could have serious long-term implications for the program and its revenue flow. Therefore, the conference agreement requires a report from the Secretary within 60 days of enactment on the effect of such court decision on DOE's uranium enrichment program and steps that may mitigate those effects.

DOE ENERGY CONSERVATION PROGRAMS

The conference agreement, as did the Senate-passed bill, authorize Federal agencies to enter into certain contracts for energy efficiency improvements in Federal buildings. Under such contracts the contractors will be paid from money saved as a result of the energy efficiency improvements installed in Federal buildings.

According to the Congressional Budget Office, this shared savings program can save the Federal Government approximately $6 million over the next 3 years, with a potential of $350 million over the next 10 years.

OUTERCONTINENTAL SHELF 8(G) REVENUES

Mr. President, the conferees also agreed on language resolving the litigation over section 8(g) of the Outer Continental Shelf Lands Act. The statement of managers explains the result of the conference, and with respect to the 8(g) issue itself, I think the conference did a remarkable job given the time limitations we were under. The agreement will resolve with finality all issues with respect to the distribution of receipts from leases within the 8(g) zone.

The Senate was able to prevail in eliminating the instant recoupment provisions of the House measure. The Senate was also able to delete unac-

ceptable provisions of the House measure which would have placed limitations on how States could spend their share of these receipts and which would have mandated a 33-percent passthrough to localities. The Senate conferees agreed to a formulation on the sharing of information which we feel adequately protects the confidentiality of certain information and which also will avoid enormous paperwork.

Consistent with the report language which had been included in the Senate, the conferees agreed to specifically exclude Federal income or windfall profits taxes from the distribution of receipts. The House agreed with the Senate position which permits the Secretary to proceed with leasing in the absence of a unitization agreement and also with the Senate position which provides some flexibility to the Secretary of the Treasury in obtaining the highest return on invested funds. The House also agreed with the Senate language on section 7 disputes involving Alaska and on the extinguishment of all claims if a State were to accept payment.

In general, Mr. President, I am happy to report that the Senate position was maintained with respect to the real issue before the conference with respect to the budget. One issue which should perhaps be mentioned is the issue of whether pre-1978 leases are included. To a great extent, as the Senator from Louisiana pointed out in the conference, the issue, if there was one, was settled in the Senate by the defeat of the Evans-Metzenbaum amendment. The House conferees raised the question as to whether the statement of managers should indicate that such leases were not included. Since the bill language was identical, statutory change was not possible. The House conferees considered and then rejected a motion to adopt such report language. As a result there should be no misinterpretation over what the language of the measure means.

There were two unrelated issues which were raised in the conference. The House had adopted an amendment to section 19 of the OCSLA with respect to State review of leasing plans. The House position would have provided an effective State veto over and Federal activities by requiring the Secretary to comply with a substantial-evidence test in rejecting any State recommendations, and then only if he were to find that the damage to the national interest outweighed the environmental consequences. It is clear that any single lease could hardly meet that test.

I regret that the Senate accepted any amendment on this section. I believe that we went further than we should have back in 1978. Because the dynamics of this budget process required it, however, we did agree to language which makes it clear that when rejecting a State recommendation, the Secretary should make a point-by-point response with his reasons. I think that is useful. The present arbitrary and capricious standard has been retained for review of the Secretary's decisions. We agreed to move the standard to section 19(c) for clarity and to specifically reference the Administrative Procedures Act so that there could be no misunderstanding. The decision is strictly that of the Secretary and there should be no implication that anyone—a Governor or a court—is to substitute its judgment for that of the Secretary, especially given the present situation in the Mideast. As a substantive matter, this amendment does not change existing law. I do agree with the procedural change which requires a point-by-point response. I think that could be read into existing law in any event, and it also seems to me to be a matter of simple courtesy.

The second nongermane issue was the so-called Buy America provision. I regret to say that the Senate conferees receded to the House on this issue. I think this is a bad amendment. It violates our international trade obligations. It will cost Americans jobs. It will increase the deficit. It will jeopardize our already imperiled energy security. It will complicate and further delay our leasing program. It will cost the taxpayers and consumers of this country money. Unfortunately once again emotion came out ahead of common sense. I think the sponsors and the rest of us will regret it.

Mr. President, with the sole exception of the last two amendments, I think that the Senate conferees have done an outstanding job and I urge my colleagues to support the work of the conference.

Under the conference agreement the resultant budget savings from this action in fiscal year 1986 are $4,501 million in budget authority and outlays, which is comparable to the committee's action and the Senate-passed bill.

SYNTHETIC FUELS

Mr. President, as I noted earlier today in my remarks on the continuing resolution for fiscal year 1986, on numerous occasions since the 1973 oil embargo I have risen to address the need for the development of a commercial synthetic fuels capability in the United States. I would refer my colleagues to that statement, rather than repeat those remarks at this time.

As we are all aware, Mr. President, the United States Synthetic Fuels Corporation was established in 1980 by the Energy Security Act to create a domestic synthetic fuels capability as an alternative to oil imports. However, the House-passed Omnibus Reconciliation Act for 1985 contained provisions terminating the Corporation, as did the House-passed continuing resolution. The Senate-passed reconciliation measure did not contain comparable provisions.

Moreover, this conference agreement contains similar provisions to those in the continuing resolution, terminating the Synthetic Fuels Corporation. As I said earlier, after considerable debate and repeated attacks by its critics, the Synthetic Fuels Corporation under this conference agreement and the continuing resolution will finally fall before the budgetary axe, at the very time that it is about to successfully achieve its statutory mission.

As I noted earlier, the position of the House prevailed in the conference, following change in the administration's position in favor of abolition of the Synthetic Fuels Corporation. The conference agreement as well as the continuing resolution, as of the date of enactment, would restrict the Board of Directors of the Corporation from making any new awards for financial assistance under the Energy Security Act after enactment of this provision, except that the Corporation and its successor (Department of Treasury) is to perform and complete the undertakings of the Corporation's existing, legally binding, awards or commitments. By the statutory terms of the conference agreement, nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board of Directors, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment.

As I discussed in my remarks on the continuing resolution, this restriction also applies to changes in existing financial assistance awards or commitments of the Corporation. It is not intended, however, that this limitation on changes or modifications to existing financial awards or commitments restrict changes which may be necessary as part of normal contract monitoring or administration activities. This restriction on changes, in coordination with the rescission of funds in the Energy Security Reserve, does however limit the authority of the Board (or the Secretary) to make changes which would increase the maximum obligations authority established by the Corporation with respect to any such award or commitment.

The Corporation has entered into a legal binding financial assistance award for the Union Oil Parachute Creek Oil Shale Project which obligates the Corporation to pay up to $500 million in price guarantee payments for the production of shale oil from new improved facilities to be constructed by Union Oil Company at its

existing oil shale facility in Colorado. This award also legally commits the Corporation to use its best efforts to complete documentation of the terms of a loan guarantee, and execute the loan guarantee agreement, of up to $327 million within the $500 million in obligational authority available for the price guarantee payments. The language of the provision preserves the Corporation's obligation to complete the terms of the Union Oil loan guarantee agreement. Further, it recognizes the need for consultation with the Secretary of the Treasury on the interest rate and timing, and substantial terms of the loan guarantee and requires that the Secretary provide such consultation within 30 days of enactment of this provision.

The Board of Directors of the Corporation is continued for 60 days after the date of enactment in order to perform these and other functions, including transmission to appropriate authorization committees of the Senate and House of a report containing a review of implementation of the Corporation's business plan, which also fulfills the requirements of section 126(b)(3) of the Energy Security Act.

A further indication of the effect of these provisions on the Union agreement is reflected in my colloquy with Senator ARMSTRONG on the continuing resolution, and I refer you to those remarks earlier today.

Under both this conference agreement and the continuing resolution, within 120 days of enactment the Corporation shall terminate and transfer all its functions to the Secretary of the Treasury in accordance with the provisions of existing law.

Because the Corporation is being terminated earlier than originally envisioned by the Congress, the conference agreement provides, first, that, respect to the salaries and benefits of Directors, officers and employees of the Corporation, no officer or employee shall receive a salary in excess of the rate of basic pay payable for level IV of the executive schedule.

Second, the Director of the Office of Personnel Management shall determine the amount of compensation Directors, officers, and employees shall be legally entitled to under contracts in effect on the date of enactment. With respect to compensation and benefits not covered by contract, no change shall thereafter be allowed or permitted unless the Director of the Office of Personnel Management agrees that such change is reasonable.

While the Corporation's by-laws and written policies and procedures in effect on the date of enactment of the Act will remain in effect until changed, the Corporation will not be permitted to waive any of their requirements which are necessary for a Director, officer or employee to qualify for pension or termination benefits under the Corporation's by-laws or written personnel policies and procedures in effect on the date of enactment.

Mr. President, as I discussed earlier on the continuing resolution, this abolition of the Synthetic Fuels Corporation will go down in history as one of the major breaches of faith between the Federal Government and American industry. The losers, however, are the American people.

Because of an extraordinary national need, we asked American industry to step out to the frontier of energy development in the United States and undertake the significant technological and financial risks necessary to advance the commercial development of synthetic fuels. It was recognized that this was to be a joint effort in recognition of the risk involved. What was at stake was greater control of our energy future, and the resultant national security benefits energy independence would provide.

By our action today we may well be sacrificing the security of our energy future. Just as important, we are clearly sacrificing significant private sector investment that has been made and would likely not have been made at this time if it were not for the Federal synthetic fuels initiative that led to the creation of the Synthetic Fuels Corporation. Once again the Federal Government has failed to fulfill its commitment to the American people and to the companies that have relied on it.

Mr. President, a table summarizing these savings appears at this point in my remarks.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS COMMITTEE ON ENERGY AND NATURAL RESOURCES

[Changes from resolution baseline, in million of dollars]

	1986	1987	1988	Total
Direct spending:				
Synthetic fuels:				
BA				
OL	−96	−166	−234	−496
Alcohol fuels:				
BA				
OL				
OCS receipts:				
BA	−4,501	1,685	1,413	−1,403
OL	−4,501	−1,685	1,413	−1,403
Authorizations:				
Strategic petroleum:				
BA	−1,471	1,185	−1,335	−3,991
OL	−1,359	−1,331	−1,313	−4,003
Shared-savings:				
BA		−2	−4	−6
OL		−2	−4	−6
Uranium enrichment:				
BA	−190	−248	−286	−724
OL	−120	−209	−267	−596
Total:				
BA	−6,162	250	−212	−6,124
OL	−6,076	−23	−405	−6,504

CONCLUSION

Mr. President, these conference agreements appear in titles VIII and VII of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Mr. MATTINGLY. Mr. President, I rise to express my deep concern over a provision in this reconciliation conference report relating to the recalculation of the Federal Medical Assistance Percentage [FMAP] for the Medicaid Program. I do so primarily because my home State of Georgia is seriously hurt by the provision.

Under current law, the Federal matching rate is calculated biannually. Between October 1 and November 30 of even-numbered years, the Secretary of Health and Human Services is required to promulgate the FMAP which will be in effect for the next 2 years, beginning in October of the odd-numbered years. In other words, Medicaid matching rates for fiscal years 1986 and 1987 were promulgated in the fall of 1984, to be implemented in October of this year, and it was on the basis of these rates that States have planned their budgets.

The Consolidated Omnibus Budget Reconciliation Act of 1985 as passed by the Senate contained a provision which would provide for annual recalculation of FMAP rates, beginning in 1988. Mr. President, I did not object to this provision. It was fair, it treated all States equitably, and it would not have disrupted the current calculation and budget-planning cycle, since FMAP rates were scheduled for recalculation in 1988. Unfortunately, the House-Senate conference tampered with the provision by rolling back the effective date of the recalculation to 1987. The effect of this, in my opinion, is disastrous. For one thing, it is anticipated that this alteration in the effective date costs the Federal Government about $64 million. Twenty-six States gain by this recalculation. Their windfalls vary from over $30 million to $280,000 in 1987. Thirteen States lose Federal matching dollars. My home State of Georgia, for example, is denied $13.38 million.

I want to reiterate, Mr. President, that I have no quarrel with the concept of an annual recalculation of the FMAP or of implementing the change in 1988. But I believe that this issue has been dealt with in an inappropriate and unfair manner. As I have said, this change comes in the middle of a calculation cycle, essentially changing ground rules in midcourse. States which lose substantial funding could not have anticipated that they were at risk of losing funds. They had no opportunity to present their case on this issue. But they must live with the results. I have heard from the Governor of Georgia, Joe Frank Harris, who has stressed the hardship this will be to the Medicaid Program in Georgia. He has already prepared his budget for fiscal year 1987 which he presents to the Georgia general assembly in January. This budget, of course, was based on current FMAP rates. Because of

precipitous action by the conferees, he can no longer count on the $13 million currently due the State.

Furthermore, the recalculation issue was not addressed in the House prior to conference, and the Senate did not deal with the 1987 date prior to that time. Given those facts, I question the appropriateness of the conferees' action.

The proponents of the change have argued that we must provide adequate Federal assistance to those States which benefit by the change, that is, those States whose economies have declined over the past year. I believe that equal consideration should be given to all States, based on their individual Medicaid Programs and population needs. Consider this fact, Mr. President: of the 26 States which gain from the recalculation provision—over one half of those States—14 continue to have per capita income levels higher than that of the State of Georgia. Georgia has traditionally had a per capita income level below the national average, and although the State's economy is improving, it still lags behind other States.

I want to point out as well that Georgia has always had a modest Medicaid Program. Georgia provides only 17 optional services, while other States provide as many as 31. In addition, the State has made serious and successful efforts to make its program fiscally responsible. Georgia instituted a prospective payment plan for Medicaid before the Federal Government considered and implemented such a system for the Medicare Program; it was one of the first States to have home and community-based care, a cost-effective alternative to nursing home care; and Georgia has implemented a number of other cost-containing practices such as the requirement of prior approval for elective surgery, mandatory outpatient surgery for certain procedures, restriction on emergency room use, limitation of weekend admissions to emergencies, and establishment of a cost avoidance system which anticipates ineligible claims prior to payment. Several of these practices are now being adopted by the private sector in its effort to contain rising health care costs. The point I am making, Mr. President, is that the Georgia Medicaid Program does not have fat to trim in order to compensate for the sudden, unanticipated loss of over $13 million. I find it difficult to find fairness in a half-time rules change which provides additional funding to States with more generous Medicaid Programs and higher per capita income levels while penalizing a State such as Georgia.

In 1984 I urged the Senate, and particularly my colleagues on the Finance Committee, to consider approaches which treat all States equitably and fairly when considering the Medicaid Program. In addition, I urged the initiation of a discussion of our national goals and objectives for the Medicaid Program. I vigorously renew that appeal today.

This recalculation provision is onerous for my State and for others. It is my sincere hope that we can rectify this problem next year by giving consideration to the adversely affected States and by committing ourselves to a fair-minded, even-handed treatment of all States when we deal with the Medicaid Program in the future.

Mr. BYRD. Mr. President, the conference report on the reconciliation bill on which the Senate is about to act represents a significant step toward reducing the record budget deficits created over the past 4 years. The conference agreement will reduce spending by about $69 billion over the next 3 years and raise about $14 billion in revenues over the same period. For a total deficit reduction of $83 billion over the fiscal year 1986-88 period.

This bill represents real deficit reduction, arguably the only significant, real deficit reduction bill that the Senate has enacted this year.

Mr. President, this reconciliation bill alone will not solve the deficit problems that the Nation faces. But it does show that Congress is capable of taking the necessary actions.

However, I would caution my colleagues that the budget cuts envisioned by the Gramm-Rudman amendment will be about three times greater next year than those contained in this bill. Thus, this reconciliation bill is not the end of the road, it is merely one more milestone in reducing the deficit. There is a much longer and harder road ahead of us next year.

Mr. President, there are a number of specific issues in the reconciliation bill which are of particular concern to the people of West Virginia. In general, these issues have been resolved in ways that will benefit the people of my State.

One of the provisions in this bill that especially pleases me and many of my constituents is that pertaining to the Employee Retirement Income Security Act [ERISA]. Several loopholes in the current law are closed, and additional, needed resources are provided to the pension insurance system, specifically the Pension Benefit Guaranty Corporation to care for pension beneficiaries whose plans are assumed by the PBGC due to distress of the companies for which they work or have worked.

Most important to West Virginia, the ERISA amendments are crafted in such a way that they will not disrupt the delicate steps now being taken by the Wheeling-Pittsburgh Steel Corp. to reorganize and emerge from bankruptcy. Over 4,000 jobs in West Virginia hang in the balance. I am relieved, as are those 4,000 workers, their families, and their communities, that this situation was resolved satisfactorily.

I wish to thank the conferees who were part of resolving this issue, especially the distinguished junior Senator from Ohio, Mr. METZENBAUM, and the senior Senator from Pennsylvania, Mr. HEINZ.

I would also like to thank my colleague from West Virginia, Mr. ROCKEFELLER, for helping to assure this outcome.

The conferees also adopted a provision that is a fair, reasonable, and workable solution to restore solvency to the Black Lung Trust Fund.

This compromise was developed by the joint BCOA-UMWA industry committee—composed of representatives of the major coal industry companies and the United Mines Workers of America—as an alternative to the original House and Senate proposals. It provides for a 10-percent increase in the coal excise tax coupled with a 5-year moratorium on the trust fund's interest payments.

This legislation is a responsible approach in achieving solvency of the Black Lung Trust Fund in light of the changes made in the 1981 act. The consensus legislation adopted in 1981 tightened the eligibility criteria for claims and doubled the excise tax on coal. Those amendments resulted in the rate of claims being approved dropping from 40 percent to just 3.3 percent in 1985.

I wish to commend the Senate and House conferees for their fine work this issue. In particular, I wish to commend Congressman SAM GIBBONS. I also wish to commend Senator ROCKEFELLER for this fine work in pursuit of this compromise. It is imperative to return the Black Lung Trust Fund to solvency, and I am pleased that we have taken the steps to do this in a fair and reasonable manner.

The reconciliation bill also contains provisions relating to the funding of the Superfund Program, a program designed to clean up the Nation's abandoned toxic waste dumps. Those provisions establish an equitable distribution of the burden of financing the superfund through a broad-based manufacturing excise tax and a petroleum and chemical feedstock tax. This tax structure will provide adequate resources to fund the Nation's toxic waste cleanup program without jeopardizing the competitiveness of the American chemical industry in world markets.

Mr. LAUTENBERG. Mr. President, I rise to oppose the fencing of the Superfund funding in the reconciliation bill. The funds would be collected, but not spent. They would be held back until the Superfund conference is concluded sometime next year. They would be held back from use to clean

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up the hundreds of toxic wastesites that plague my State and States across the country. They could be used as leverage against those members of the conference favoring strong Superfund but concerned about the fund-starved program to swallow a weaker bill. The outcome of the reconciliation conference on Superfund is very disappointing to me for these reasons.

Mr. President, while I would have preferred to see a $10 billion Superfund, I supported the taxing mechanism included in the Finance Committee's funding package. I believe in this instance that a broad-based tax is justified, because a broad-based spectrum of industry contributes to the toxic waste problem across this Nation. I withheld pushing for the inclusion of temporary Superfund tax extension pending the outcome of the reconciliation conference on the Finance package. And now, I can only express my sincere disappointment that the reconciliation conference failed to provide temporary funding for the program until we conclude the conference on the reauthorization of Superfund.

On December 10, I introduced a bill to temporarily extend the expired taxes for Superfund with the chairman of the Environment and Public Works, Senator STAFFORD, and Senators DURENBERGER, MITCHELL, BAUCUS, and MOYNIHAN. Since introduction, another nine Senators have cosponsored this measure.

Mr. President, I had planned to push the measure had the reconciliation conference failed to include a Superfund tax. In effect, the conference did fail to include a tax that will benefit the program at this critical time. By fencing the funds, the program will continue to suffer from funding constraints over the months ahead.

I am very concerned about the state Congress leaves the Superfund program in as we go home for the holidays. On September 30, the Superfund tax expired, and the program has been brought almost to a standstill. EPA has funding for the minimum of duties: administration of the program, emergency response actions and a limited number of site remedial investigation and feasibility studies. The Agency has had to fund these activities primarily by pulling back funds from site cleanups, studies, interagency agreements, and other activities.

As a result, EPA has stopped all cleanup activities at 16 New Jersey sites and over 100 sites nationwide. Because less than $180 million of the original $1.6 billion fund remains, more sites will be affected until we complete action on the Superfund conference. The Superfund tax included in the reconciliation bill does nothing to change this dismal situation, and I restate my opposition to the fencing of the tax in reconciliation and my disappointment that I did not have the opportunity to bring a temporary extension of the Superfund tax before the full Senate.

Mr. ARMSTRONG. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Colorado has 5 minutes and 32 seconds remaining. The Senator from Louisiana has 14 minutes, and 44 seconds remaining.

Mr. ARMSTRONG. Mr. President, it is my understanding that the senior Senator from Louisiana wishes to speak. I would like to save a little time for the majority leader in the event he wishes to speak. Other than that, I have no further need to use time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, my senior colleague is on the way, and will be here shortly.

If no one else wants to speak at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TRIBLE). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield to my senior colleague such time as he may desire. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 10 minutes and 15 seconds remaining.

The distinguished senior Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I do not agree with everything that is in this conference report, and I doubt many Senators agree with everything in it.

There are so many diverse provisions here, some of which even cost the Government money, though most of them will save money. On balance, this bill does what a reconciliation bill is supposed to do. It reduces the deficit by many billions of dollars.

I regret to say that it does have some provisions that are not deficit reduction provisions or reconciliation provisions. But that is a fact of life.

We have had to live with that situation in years gone by. I am sure we will have to live with it in years to come.

All factors considered, Mr. President, this bill advances the national interest, and I will be pleased to vote for the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, if no further colleague wishes to be heard, I yield back the balance of my time.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, I will be ready to yield back in just a moment. We are awaiting the pleasure of the leader to determine if he wishes to say a word before we go to a vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I am advised that the leader does not require time to speak.

Mr. PROXMIRE. Mr. President, will the Senator yield me 30 seconds?

Mr. ARMSTRONG. I am pleased to do that.

VAT AMENDMENT

Mr. PROXMIRE. Mr. President, the principal dispute between House and Senate reconciliation conferees concerns Senate efforts to include the Superfund's value-added tax in the conference agreement. Why did the House Members wisely object to inclusion of this tax? The answer is simple.

The House has already passed a far superior Superfund revenue provision, the Downey-Frenzel amendment, which relies primarily on increased oil and chemical feedstock taxes and a new waste-end tax for funding the program.

This amendment puts the burden right where it belongs—on the companies which generate the waste. Now I can hear my colleagues ask, "Isn't that what we did with the VAT?" No way.

The VAT is a sneaky tax, hidden from public view but real nonetheless. Yet, it adds to the cost of every product taxes but it is hard for consumers to identify. Even worse, it risks taxing industries whose processes and products are benign, causing no hazardous waste.

In contrast the Downey-Frenzel amendment adopted by the other body is perfectly straightforward—the polluters pay. And why should they not? After all, they created the mess.

But while considerations of tax fairness alone should be enough to block this provision, there are other reasons for opposing inclusion of the Superfund tax in reconciliation.

First, once Congress adopts a taxing mechanism impetus disappears for conferencing on other Superfund items. Unfortunately, many needed program reforms embodied in the House and Senate bills and could disappear.

Even worse, we risk losing the benefit of the wisdom of those of our colleagues who know this program best, but were members of the Environment

and not the Finance Committee and so did not participate in the conference.

Mr. President, I hope when the Superfund conference meets early next year this section can be improved and made more environmentally and economically sensitive.

Mr. ARMSTRONG. Mr. President, I thank the Senator from Wisconsin and the Senator from Louisiana. We are ready to go to a vote. I urge all Senators to support the motion.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Oregon [Mr. HATFIELD], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut [Mr. WEICKER] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arkansas [Mr. PRYOR], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. STENNIS], and the Senator from Nebraska [Mr. ZORINSKY], are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 1, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—78

Abdnor	Bumpers	Dixon
Andrews	Byrd	Dole
Armstrong	Chafee	Eagleton
Baucus	Cochran	Evans
Bentsen	Cranston	Exon
Biden	D'Amato	Ford
Bingaman	Danforth	Garn
Boschwitz	DeConcini	Glenn
Bradley	Denton	Gore
Gorton	Leahy	Proxmire
Gramm	Levin	Quayle
Grassley	Long	Riegle
Harkin	Lugar	Rockefeller
Hart	Matsunaga	Roth
Hatch	Mattingly	Sasser
Hawkins	McClure	Simon
Hecht	McConnell	Simpson
Heflin	Melcher	Specter
Heinz	Metzenbaum	Stafford
Helms	Mitchell	Stevens
Hollings	Moynihan	Symms
Inouye	Nickles	Thurmond
Johnston	Nunn	Trible
Kasten	Packwood	Wallop
Kerry	Pell	Warner
Lautenberg	Pressler	Wilson

NAYS—1

Goldwater

NOT VOTING—21

Boren	East	Murkowski
Burdick	Hatfield	Pryor
Chiles	Humphrey	Rudman
Cohen	Kassebaum	Sarbanes
Dodd	Kennedy	Stennis
Domenici	Laxalt	Weicker
Durenberger	Mathias	Zorinsky

So the conference report was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

THE SCANLON NOMINATION

Mr. DOLE. Mr. President, may I have the attention of my colleagues?

Some of my colleagues have asked about what we are going to do for the balance of the evening, tomorrow, and the balance of the week. I need to find out first from the distinguished Senator from Illinois and the distinguished Senator from Wisconsin how soon we might vote on the Scanlon nomination.

Mr. PROXMIRE. I say to my good friend the majority leader that I certainly do not want to detain the Senate, but I feel very, very strongly that we should not vote on this nomination this year. I say that because, as I understand it, there has been an investigation of Mr. Scanlon requested of the Justice Department. We should have that investigation before us. It is a very serious charge, a charge of perjury; as a matter of fact, allegedly committed before a Senate committee.

For us to act on a nominee under those circumstances, it seems to me, would be a serious mistake. For that reason, I would expect to talk at very great length tonight and tomorrow until we can have some opportunity to at least get an understanding that we would try hard to get that investigation.

I say to my good friend, once we get the investigation from the Department of Justice, I would have no objection to a time limitation and a vote. But I think we ought to have that first.

Mr. DOLE. Mr. President, maybe I should know this, but I am not certain what happens to his nomination in the meantime. May I address that question to the Chair?

The PRESIDING OFFICER. The nomination will remain on the calendar.

Mr. DOLE. Would it take unanimous consent——

Mr. BYRD. Mr. President, is that the case? Would not a nomination that is before the Senate for 30 days, during a recess or otherwise, be returned to the President?

The PRESIDING OFFICER. The nomination would be returned to the executive branch unless unanimous consent is granted to keep it here.

Mr. DOLE. I did not hear the first part of the Chair's statement.

The PRESIDING OFFICER. The nomination would be returned to the executive branch unless unanimous consent is granted to keep it on the calendar of the U.S. Senate.

Mr. DOLE. Mr. President, I wonder if the distinguished Senator from Wisconsin, who has indicated we are not going to vote on it in any event, would have any objection to that, at least to keep it here to remain on the calendar to give the Senator an opportunity to look at whatever report it is? Otherwise, it goes back to the executive branch and has to be resubmitted.

Mr. PROXMIRE. Would the majority leader permit a very brief quorum? I would like to consult with Senator SIMON.

Mr. DOLE. Maybe while the Senator is doing that, I could ask another Senator a question.

THE RECONCILIATION CONFERENCE REPORT

Mr. DOLE. Mr. President, I ask of the distinguished chairman of the Committee on Finance: We have just passed the reconciliation conference report by an overwhelming vote. It is my understanding that the House side, there will be separate vote on the value-added tax which finances superfund. If they were successful in striking out whatever tax it is—maybe not value-added tax—and it came back to the Senate, what would be the Senator's disposition? I know it would be bad.

Mr. PACKWOOD. Mr. President, first, the Senator is correct. He will recall the Senate adopted the resolution and the Senator from North Carolina said we would not adopt a value-added tax and we have not.

Second, this conference conclusion was arrived at in good faith, as all conferences, and the Senate gave a great deal. We gave up coverage of Medicare employees by the States, $4 billion. We gave a great deal on black lung—more than, in my judgment, I thought we should have given—in exchange for adopting, interestingly, what is basi-

cally the House Ways and Means Committee position on the Superfund.

If the House were to accept a conference report that has been arrived at in good faith and take out the part that they did not like to give to us and keep the parts that we were not wild about giving to them but did in a bargain for exchange, then it is my intention, Mr. Leader, to stay on the floor tonight, tomorrow, and the next night, and there will be no reconciliation, period—not on this, not on Medicare, not on Medicaid, not on Outer Continental Shelf, not on anything, and reconciliation is dead.

Mr. DOLE. Is the Senator firm? [Laughter.]

Mr. President, I think those answers are fairly decisive.

THE SCANLON NOMINATION

Let me go back now to the Senator from Wisconsin and the Senator from Illinois. Since it has been made clear that we will not act on the Scanlon nomination, can we get unanimous-consent to leave it on the calendar so we might reach that agreement early next year once they have had a chance to look at the Department of Justice report?

Mr. PROXMIRE. Mr. President, I have discussed this with my colleague from Illinois. Our decision is that we have no objection, if the majority leader will agree that the nomination will not be taken up until we get the report from the Justice Department.

Mr. DOLE. Obviously, I will not have any problem with that, if that is the desire of the Senator from Wisconsin and the Senator from Illinois.

Mr. SIMON. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. SIMON. First, I want to thank my colleague from Wisconsin.

I say to the majority leader, who is in touch with the White House, that I hope that, even aside from the Justice Department, they would take another look at this nomination.

Mr. DOLE. Mr. President, I ask that further proceedings on this nomination be set aside, and I ask unanimous consent that the nomination not be returned to the President.

Mr. BYRD. What is the request?

Mr. DOLE. Mr. President, if my request did not include the implication that we would get unanimous consent to hold that nomination for more than 30 days, I intend to imply that we would hold the nomination in the remaining status quo until the Senate reconvenes on January 21 and we would not proceed to the consideration of the nomination until both Senators have had an opportunity to review the Justice Department's report.

Mr. BYRD. Mr. President, will the distinguished majority leader withhold that part of his request? Part of it was to set this aside. Will he withhold that, with respect to holding this nomination in a status quo position? Would he withhold that for now? It might be that we would agree to that, but not right at this moment.

EXECUTIVE SESSION

Mr. McCLURE. Mr. President, I understand this has been cleared on both sides of the aisle.

I ask unanimous consent that the Senate go into executive session to consider a nomination.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of the nomination of Donna R. Fitzpatrick, and I ask for the immediate consideration of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of Donna R. Fitzpatrick, of the District of Columbia, to be Assistant Secretary for Conservation and Renewable Energy.

Mr. McCLURE. Mr. President, on December 12, 1985, the Committee on Energy and Natural Resources held a hearing to consider the nomination of Donna R. Fitzpatrick to be Assistant Secretary for Conservation and Renewable Energy of the Department of Energy. She has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. I am prepared to recommend Ms. Fitzpatrick's confirmation.

Ms. Fitzpatrick was appointed Acting Assistant Secretary for Conservation and Renewable Energy on March 11, 1985. Prior to her appointment, she served as the Principal Deputy Assistant Secretary. Miss Fitzpatrick has also served as a consultant for the Department of Energy, and as a member of the transition team for the National Science Foundation.

The Assistant Secretary for Conservation and Renewable Energy administers research and development programs relating to alternative fuels, energy efficiency in end-use consumption, and renewable energy supplies. During her testimony before the committee, Ms. Fitzpatrick described her view of her role at the Department:

While I believe that the most effective means of obtaining real gains in energy efficiency and the use of renewable energy is through the mechanism of the marketplace, I also believe that it is important that we as a nation pursue a stable program of research and development in these fields, while retaining the flexibility to address changing needs. I am committed to providing leadership within the government and for the public to pursue every economical opportunity to improve our energy efficiency, to conserve rather than waste, and to utilize our abundant renewable resources.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I recommend Senate approval of the Presidential nomination of Donna R. Fitzpatrick for the position of Assistant Secretary for Conservation and Renewable Energy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1985 FARM BILL

Mr. ARMSTRONG. Mr. President, the success of our farming families in feeding this Nation and the world is one of the most outstanding achievements of our Nation.

America is the healthiest Nation on Earth. That's because our farmers provide us with the most abundant and varied food supply in the world. Not only do we give thanks for our efficient, well-developed agricultural system, the entire world does so as well. American farmers feed the world's hungry.

Producing, processing, packaging, transporting, and distributing food comprises America's single largest industry. The production of crops and livestock account for one-fifth of the Nation's gross national product and employs 23 million people, or one out of every 5 jobs in the private sector. Farming employs 3 million workers, accounting for more jobs than the combined work forces of the transportation, steel, and automobile industries. Agriculture is also the single greatest contributor to our merchandise trade balance; last year, agriculture added $19 billion to our balance of payments.

American agriculture is also one of the most technologically advanced and productive sectors of the economy. At the turn of the century, the average farmer produced enough food to feed 7 people here and abroad. By 1974,

that number had climbed to 59. Today, each farmer produces enough food for 79 people. One hour of farm labor produces 16 times as much food as it did in 1920.

As astounding as these accomplishments are, even greater progress is near. A recent report by the Office of Technology Assessment summarized the impact of technological advances that agriculture may soon adopt:

Before the turn of the century, cattle ranchers in Texas may be able to raise cattle as big as elephants. California dairy farmers may be able to control the sex of calves and to increase milk production by more than 100 percent without increasing feed intake. Major crops may be genetically altered to resist pests and disease, grow in salty soil and harsh climate, and provide their own fertilizer. And computers and electronics will be used to increase management efficiency. . . . While it may sound like science fiction, advances in biotechnology and information technology will make these technologies a reality in the next 10 to 20 years.

This tremendous agricultural system and the productivity of our farmers stands in the stark contrast to the economic conditions in agriculture today.

American agriculture is in serious trouble. Commodity prices have declined every year this decade. Land values have plummeted so low there is hardly a variable market for land sales. Export markets that once bought 40 percent of all commodities and two-thirds of the wheat crop are being lost to foreign competition. These market conditions only exacerbate farmers' greate problem: debt. nationwide, farmers hold a staggering $200 billion in debt.

For many farmers, the root of the present difficulties lie in the events of the 1970's. First, farmers, who are great energy users, suffered energy prices that tripled in a decade. Next, the soaring, double-digit inflation, the legacy of the Carter administration, further increased operating costs. Then, interest rates hit a record 21½ percent. The only protection farmers had against this triple threat was rising land prices and, in droves, farmers, on the advice of their Government and their bankers, borrowed heavily against their land.

In 1980, agriculture was dealt a severe blow by the embargo on agricultural exports to the Soviet Union, our largest export market for wheat. The United States share of the Soviet market went from 70 percent to 20 percent, and other importing nations suddenly viewed the United States as an unreliable supplier and altered their dependence on United States crops. Other food exporting nations, naturally, increased their production.

Federal farm policy hindered farmers, rather than helped them. Federal policy set in 1981 encouraged farmers to produce for the Government and not for the market. The 1981 farm bill set price and income supports at levels anticipating inflation would continue unabated. Instead, inflation fell. Congress was wrong and our loan rates and target prices were set without consideration of market supply and demand conditions. High price and income supports encouraged production here and abroad. Acreage reduction programs also sent a signal to other exporting nations to increase their production. The result has been surpluses that depress market prices. The U.S. farmer sells his product to the Government and the foreign producer takes over markets we used to serve.

If someone designed a way to kill an industry, there probably could be no more lethal way than through our commodity programs. In no other industry do we announce production and price decisions to the rest of the world and, in effect, let foreign producers systematically undercut these prices and, thereby, take over U.S. share of the markets.

A shriveled export market, excess production, high costs and high interest rates rapidly eroded farmer's cashflow. Once cash-flow eroded, many farmers could not meet mortgage payments, triggering a precipitous and unprecedented decline in the value of farmland. Today, many farmers are experiencing a debt/credit crunch caused by falling land values, high real interest rates and declining commodity prices. Lenders, painfully aware of the declining value of farm assets, are carefully weighing further extension of credit.

To find out how bad conditions are today in agriculture, one only needs to ask the farmers and ranchers themselves. A survey of farmers in Yuma and Washington counties in eastern Colorado was presented to my office last spring and showed these sample responses to the conditions in agriculture today:

It has been bad for three years, and it is not getting any better.

Depressed family life. It affects our health; can't buy enough food; forced into land and livestock sales.

We have had to borrow more on our land to pay operating expenses and we're barely hanging on by the skin of our teeth.

There is no incentive for our young people to work all their life without a future to build on.

Colorado agriculture is in trouble. A spring 1985 survey showed 17 percent of the respondents said they would not be able to remain in farming another year. Some 35 percent said they probably would be able to remain in farming another 2 to 5 years. Two-thirds of the receipts in Colorado agriculture are in the cattle industry and the livestock sector of agriculture which operates without Government support has suffered depressed economic conditions longer than other sectors of agriculture.

A more recent tragedy for agriculture in Colorado was the loss of the sugar beet industry this year due to the bankruptcy of five beet processing plants in Colorado. Sugar beets have been an integral part of Colorado agriculture since the turn of the century. Their niche was particularly important as feed for the large cattle industry, and a high value alternative crop for an agriculture dependent on too few crops. In a good year, the sugar beet crop and processing plants has added as much as $90 million to Colorado's economy. Now, rural northeastern Colorado has lost this income at the worst possible time.

Cold, hard statistics offer no insight, however, into the personal suffering farming families are experiencing. The strains and emotions of people who work so hard, with little reward or recognition, to give us an abundant, varied, and inexpensive food supply are difficult for most of us to fully understand. Now, some of these families are facing the prospect of losing their farms. The most crushing reality to the farmer may not be the impact on himself, but the knowledge that his sons and daughters may not be able to continue in farming.

What can Congress do to improve economic conditions in agriculture?

For one, it is imperative that the Federal budget deficit be reduced in order to reduce the cost of interest. The deficit requires the Federal Government to borrow money from the same markets that private citizens borrow in and thus drives up the cost of borrowing for everyone. For many farmers, the greatest cost is his interest payments and for each one point drop in interest rates, net farm income increases by 10 percent. Congress has finally taken action to insure that Federal budget deficits are reduced to zero by 1991 with the passage of the Gramm-Rudman deficit reduction bill. Congressional inaction on the budget deficits the last several years has hurt farmers more than anyone else, but now at least there is hope that deficits will ultimately be brought under control.

While providing a healthy, growing economy is the most important way the Government can help farmers, the focus in Congress is specific Federal farm policies. There are huge problems and inequities with the Federal farm program.

Rather than being part of the solution, Federal farm program create problems. For one, we have programs for such commodities, but not for others. Livestock is the largest segment of agriculture, but there is no program and, more often than not, the livestock sector suffers from the Federal farm programs for other crops. There are programs for nutritionally important crops like corn and wheat.

But, we also have programs for peanuts and honey, which have many important and nutritious uses, but are not food staples. Some programs, like dairy, we justify because of a particular quality, such as perishability, yet we don't necessarily extend programs to eggs or other commodities that are perishable. We even have programs for cotton, wool, and tobacco, which can't be eaten or what consumptive qualities they do have are harmful.

On another level, we have an entire agency at USDA to preserve our valuable soil resources in the recognition of the soil's importance to our bountiful agricultural system. The Soil Conservation Service does a good job, but their every effort is defeated by the commodity programs and the credit programs that extend benefits to farmers who plow the least productive land and the land most prone to erosion.

Even with all the talk about farm programs, they only support 25 percent of agriculture commodities. Although participation rates will be much higher this year, the fact remains that a considerable amount of agriculture production is not under a farm program. So, even if we designed the most perfect farm program we would not be able to solve the problems of most farmers.

The farm bill we are considering today does not take several steps to improve the farm programs. First, the bill contains a "sodbuster" provision that I feel is especially important in discouraging the plowout of fragile grasslands in Colorado and throughout the Nation. Over 650,000 acres of native sod, highly sensitive to wind and water erosion, have been plowed in Colorado since 1978. A typical spring in Colorado has seen 50,000 acres of fragile grasslands plowed. Even if allowed to "go back" to grass, the arid conditions make the reestablishment of sod an agonizingly slow process and not likely to be seen in our lifetime. I have introduced this legislation in Congress in each of the last 4 years and had it approved by the Senate on several different occasions, only to have the House of Representatives kill the measure or add controversial amendments that had the effect of killing it. The delay has caused thousands of acres of our soil resources to be irreparably damaged. But there are hundreds of thousands more acres that are still susceptible to damage, so I am pleased at last to see the enactment of this much needed legislation.

Next, the bill will allow loan rates to adjust to market conditions. For wheat, the loan rate will be $3 bushel in 1986 and for corn the loan rate will be $2.40 bushel. Thereafter, the loan rates can eventually drop to between 75 to 85 percent of the 5-year average market price, but cannot drop by more 5 percent a year. In general, this approach means that loan rates will not immediately drop to market clearing levels. In order to get our crops moving in the market and keep them from being stored by the Government, two special features have been added to move the crops:

The first feature is a modification of the so called "Findlay Amendment" that will allow loan rates to drop an additional 20 percent if the loan rate exceeds 110 percent of the market price. This will help move wheat and other commodities dependent on the export market and will not come at the expense of the farmer's income, since the payment limitation for deficiency payments will not be subject to this 20 percent drop in the loan rate.

The second feature, known as the marketing loan, will be employed if the the Findlay amendment is not sufficient to move our crops onto the market. This feature will allow a loan to be repaid at an amount that is as low as 70 percent of the market price. Again, this will benefit the farmer and agriculture by increasing sales, and benefit the farmer since he will not have to repay the difference between the loan rate and the market price.

The most contentious aspect of the farm bill has been the level of the target price because it is the most important aspect affecting the cost of the farm bill and it sets the level of income payments to farmers. The cost of the 1977 farm bill was $16 billion, or about $4 billion a year. Since 1981, the cost of the commodity programs has been $55 billion, or over $13 billion a year. Thus, we now almost spend in 1 year what we used to spend in 4 years on agricultural programs. In 1983 alone, we spent $19 billion on commodity programs and an additional $9 billion on the PIK Program—that's $27 billion in 1 year to support agriculture! The cost this year is about $19 billion. Under the farm bill before Congress today, the cost is estimated at $52 billion over just the first 3 years of the bill, or about $18 billion a year.

As could be expected, the debate ended up somewhere in the middle with the final bill freezing target prices for 2 years. Thereafter, the Secretary of Agriculture would have authority to reduce target prices by 2 percent in 1988 and 3 percent in 1989. For the 1990 crop, the target price could drop another 5 percent, but not go below $4 for wheat and not below $2.75 for corn.

The acreage reductions for wheat would be a maximum of 25 percent in 1986, 27.5 percent in 1987, and 30 percent for the 1988-90 crops. The minimum would be 15 percent in 1986 and the 20 percent in the remaining years of the bill. For corn and the other feed grains, the maximum acreage reduction would be 20 percent and the minimum would be 12.5 percent throughout the life of the bill.

For dairy, the program would set dairy prices in relation to the level of dairy purchases by the Government. For the first year, the price support would stay at the current level of $11.60 per hundredweight. There would also be a whole-herd buyout initiated that would last 18 months and be funded by a 40-cent-per-hundredweight assessment. After 1 year, the price support would drop by 25 cents and the assessment would drop by 25 cents. On October 1, 1987, the price support would drop another 25 cents and the assessment would end. Thereafter, if Government purchases exceed 5 billion pounds in 1 year, the price support would drop 50 cents and if Government purchases were under 2.5 billion pounds, the price support would increase by 50 cents per hundredweight.

Sugar and wool price support programs will be maintained at the current levels. For the sugar program, the 1986 sugar quota would be extended an extra 3 months. Thereafter, the sugar program would have to be operated with sugar quotas at levels to insure a "no cost" program.

There are many other important features in the bill that will help agriculture. The bill clarifies cargo preference laws in light of the court ruling earlier in the year that canceled $500 million of agricultural exports. I cosponsored legislation to exempt commercial agricultural export programs from cargo preference requirements, and am pleased to see that the bill does this. This will be of great benefit to several new export promotion programs that are included in the bill, including the export PIK and new authority for intermediate credit programs.

Beef and pork promotion boards will also be established aimed at allowing these important products to battle back from declining sales in recent years. Few realize the importance of livestock to the long-term health of agriculture. Not only does livestock account for 60 to 65 percent of agriculture income, the feeding of livestock consumes enormous quantities of feed grains that would otherwise move into surplus and add substantially to the cost of agriculture programs. Both programs will begin immediately with a refunding provision. A referendum will be held for each program within approximately 2 years to determine whether they should be continued.

Also of importance to many livestock producers and others who commonly purchase agricultural products is the inclusion of "clear title" legislation in the farm bill. This will allow the buyers of farm products to purchase an agricultural commodity without encountering the situation of paying twice for a commodity that was used to secure a loan.

A measure that I helped cosponsor to end farm program payments for 5 years for persons convicted of growing

marijuana and other controlled substances is also included in this bill. Situations now occur where a person will plant illegal crops in between rows of legal crops and qualify for Federal farm program benefits. Under current law, a person convicted for harvesting the illegal crop can be denied payments for 1 year. The 1985 farm bill expands the definition to include persons convicted of growing and planting illegal crops and lengthens the penalty period to 5 years.

Finally, a matter of importance to Colorado is a program to assure the availability of funds to control grasshoppers and Mormon crickets on Federal rangeland. Under current law, the mechanism is simply not in place to make funds available when an outbreak occurs. After Congress fights with the different agencies for several weeks to get the funds, insects have already damaged crops.

It is clear that there is much good that can result from the bill, but it will also require a record amount of spending by the Federal Government for agriculture. The cost of not approving or enacting this farm bill would be far greater, however. Without a new 4-year reauthorization of the farm programs, permanent legislation enacted in 1938 and 1949 would automatically go into effect and govern most of the agriculture commodities. This permanent law would cost the Government an estimated $50 billion a year—compared to the $50 plus billion that this bill would cost over 3 years.

The permanent legislation would also wreak havoc on agriculture. Many programs, such as the research and extension service activities would expire. Commodity programs would require Government to replace the farmer and the market in just about every decision in agriculture from pricing decisions to production and marketing decisions. Agriculture would become so dependent on the Government for its income that it would be virtually impossible to ever regain an independent agriculture based on market demand for its product. This is an alternative agriculture should not have to choose, and I believe the old laws should be repealed.

In summary, agriculture faces great financial difficulties today for reasons largely beyond the farmer's control. Forces in the economy, whether high interest rates, low commodity prices, or declining markets have worked against the farmer. Federal farm programs have also contributed to these difficulties by sending conflicting and false signals to the American farmer, while simultaneously aiding the ability of foreign producers. The 1985 farm bill removes disincentives to sodbusting, adds some flexibility to our loan rates and targets prices, and clarifies cargo preference laws. These changes will provide greater protection for our agriculture resources, help increase sales of agricultural products, and makes these changes in a slow, deliberate manner in order to protect farmer's from abrupt changes in the short-run, while heading our farm programs in the direction of a stronger, more profitable agriculture in the long run. I support the 1985 farm bill.

I wish to conclude by saying, Mr. President, that while I support this legislation and voted for it, we should be under no illusions that it will solve the serious and far-reaching financial problems that threaten the producers of nearly one-half of total U.S. agricultural production. The best that this bill can do is lend some stability to some portions of the agriculture industry during an extremely severe crisis that is afflicting virtually all of the industry.

Next year we can expect the largest participation in Government programs that we have ever had as farmers attempt to assure at least minimal profitability for their operations. This will increase production of supported commodities and aggravate the surplus problems that continue to depress commodity prices. We can also expect the costs of the program to continue to escalate as a result.

The search for a program for agriculture that really works must continue. Experience of the past indicates that Government has a poor track record in solving the problems and its programs almost inevitably lead in the direction of a socialized agriculture managed from Washington. It is my hope that the farmers themselves, through their organizations and commodity groups, will redouble their efforts to find a more practical and workable approach to restoring our most basic industry to health and vitality. Every citizen of this country has a great stake in a strong and healthy agriculture.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

NOMINATION OF TERRENCE M. SCANLON TO BE CHAIRMAN OF THE CONSUMER PRODUCT SAFETY COMMISSION

Mr. DOLE. Mr. President, again I renew my earlier request with reference to Mr. Scanlon, that the nominations be set aside, and I ask unanimous consent that the nomination remain in the Senate.

Mr. President, let me approach it a different way. I think we can accomplish the same result.

Mr. President, I ask unanimous consent that all nominations received by the Senate as of adjournment of the 99th Congress, 1st session, remain in the Senate status quo, with the following exceptions:

Raymond D. Lett (CCC); Raymond D. Lett, Assistant Secretary of Agriculture; Wayne Angell, Federal Reserve Board of Governors; Manuel Johnson, Federal Reserve Board of Governors; Kenneth Hill, NTSB; Richard Francis, Solar Bank; James Malone, Ambassador to Belize; William McGiness, FLRA; Barry Schreiber, Postal Board of Governors; Jeffrey Zuckerman, EEOC; Albert Moon, Federal judge; Danny Boggs, U.S. Circuit Court; Jefferson Sessions, Federal judge; Thomas McAvoy, Federal judge; Sidney Fitzwater, Federal judge; David Hansen, Federal judge; Walter Gex, Federal judge; Miriam Cederbaum, Federal judge; and Robert Bryan, Federal judge.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. BYRD. Mr. President, reserving the right to object, and I shall not object, this request means that the nomination of Albert Moon, to be Federal judge, will be for all intents and purposes dead because it would go back to the White House and would have to be resubmitted by the President for any action to be taken on it. Am I correct?

Mr. DOLE. The Senator is correct.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, this would also by indirection take care of the request of the distinguished Senator from Wisconsin, the Senator from Illinois, and so on that basis they have no objection that he be retained in status quo pending review of the Justice Department report and then we can work out some agreement on when to bring it up depending on what may be in the report.

So on that basis, I ask unanimous consent that further——

Mr. DANFORTH. Mr. President, reserving the right to object, I do not think it is the understanding that there has to be some specific Justice Department report to trigger Senate consideration of the Scanlon nomination. There may or may not be. But, as I understand the unanimous-consent request, it is simply that the status quo be retained with respect to Mr. Scanlon.

I know that the Senator from Wisconsin is interested in an investigation that has been requested by two House Members and that investigation may or may not take place, may or may not lead to the report, probably will lead to at least some response by the Justice Department I would think to two Members in Congress.

But I would hope that it would be our understanding that there would be no formal action which would necessarily trigger action on the Scanlon nomination.

Obviously, beginning next year, if we ever try to take it up again, assuming we do, the Senator from Wisconsin would be able to object to consideration of his nomination or speak against it at that time.

Mr. PROXMIRE. Mr. President, may I say to the Senator from Missouri, I understand that argument that he is making. I feel that after all we do have a little leverage now, not very much, but a little bit, and I think we ought to get more than acknowledgement that we got a letter from the Department of Justice. It seems to me we should get the results of their investigation. They have been requested to make an investigation.

This is a very serious charge, perjury. They are in a position to give expert advice to the Senate far better than the GAO could. This is their job in the Justice Department. It seems to me that it is very reasonable for us to say we want a report, not just to say we got your letter and we have no objection, or something of that kind. We want a report. We want them to look into it and give us their best legal judgment.

Mr. DOLE. Mr. President, as I understand the nomination has been set aside and we are still in executive session.

The PRESIDING OFFICER. We are.

Mr. DOLE. Mr. President, I ask that we consider the nomination of Ralph E. Kennickell, Jr. to be Public Printer.

The PRESIDING OFFICER. The nomination will be stated.

GOVERNMENT PRINTING OFFICE

The assistant legislative clerk read the nomination of Ralph E. Kennickell, Jr., of Virginia, to be Public Printer.

Mr. MATTINGLY. Mr. President, I rise in support of the nomination of Ralph E. Kennickell, Jr., to be Public Printer of the United States. He has been serving in that position for more than 1 year and during that time he has clearly demonstrated that he has the necessary skill, talent, and energy to warrant confirmation by the Senate.

Ralph Kennickell is a native of Savannah, GA, and represents the third generation of his family to work at the family-owned printing company in Savannah. He proudly speaks of being reared in the tradition of a "printer's devil."

Mr. Kennickell has served this administration and this President in posts at the Treasury Department and at the Small Business Administration prior to assuming the Public Printer's duties at the Government Printing Office in December 1984. Further, as a graduate of the Citadel Military College in Charleston, SC, he served our country as a combat commander in the Mekong Delta of Vietnam during his 4-year Army tour of duty from 1967 to 1971. He was awarded both the Vietnamese Cross of Gallantry and the Bronze Star.

He has sought to create a service-oriented, cost-effective atmosphere at GPO. He is a man who takes pride in the job he does and he brings to the Public Printer's post a unique combination of experience, ability, and leadership.

I congratulate Ralph, his wife Barbara and their two sons, Ralph III and Jason, on his nomination and urge the consent of the Senate.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the majority leader yield?

Mr. DOLE. I yield the floor.

Mr. PROXMIRE. I just wanted to ask the majority leader if there will be any more votes tonight.

Mr. DOLE. There is a possibility. I hope I can make a judgment on that in the next few minutes.

In my view, reconciliation is very important, notwithstanding the statement by Senator PACKWOOD that he would discuss it at length if a certain provision is excluded on the House side. That is $2 billion out of $83 billion. So it seems to me we have to consider that seriously.

I intend to make a call to the White House to see what their hope or intention might be. I will try to make an announcement by 8:15 or 8:20.

Mr. PROXMIRE. I thank the Senator.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET VIOLATIONS OF EXISTING ARMS CONTROL TREATIES

Mr. WILSON. Mr. President, I am reliably informed that early next week the administration is going to release the latest in the annual reports which Congress requires of the President certifying as to Soviet violations of existing arms control treaties. I am advised that the report that will be released will examine a new issue. In addition to updating all of those that were reported in the last of these reports, that, which was issued last February, I am told that there will be violations reported in nine separate cases, as well as two probable violations, a likely violation and a potential violation.

Of the nine cases involving certifiable violations, one SALT II issue, that of Soviet concealment of the association between missiles and their launchers, will be examined for the first time. The Soviet Union apparently also has violated the SALT I interim agreement.

In addition, Soviet deployment of SS-25 ICBM's during 1985 constitutes a further violation of the SALT II prohibition on a second new type of ICBM.

Mr. President, what this report makes clear, in reaffirming the findings of the February 1985 report, is a pattern of ongoing Soviet violation of existing arms control agreements. It will also make known new potential violations. This report will relate to some substantial changes in three issues that have been examined: That relating to the Soviet SS-16 ICBM, to the Backfire bomber aerial refueling probes, and to the Backfire bomber production rate. These first two issues, you will recall, had been judged to be probable violations in the report of last February.

In these most recent studies, there is support for the conclusion, the inescapable conclusion, the tragic conclusion, that there is an ongoing pattern of Soviet noncompliance.

This report, as have those in the past, documents the Soviet Union's violation of its legal obligations, its political commitments to the SALT I ABM Treaty, and interim agreement, to the SALT II agreement, to the Limited Test Ban Treaty of 1963, to the Biological and Toxic Weapons Convention, the Geneva Protocol on Chemical Weapons, and the Helsinki Final Act. It also appears that the Soviet Union has violated provisions of the Threshold Test Ban Treaty.

Mr. President, this is true, notwithstanding the fact that the administration has sought the most unambiguous evidence before making these reports. They have concluded from the evidence that, with regard to the Biological and Toxin Weapons Convention and the Geneva Protocol on Chemical Weapons, the evidence is clear and compelling.

Mr. President, the significance of Soviet noncompliance is, I believe, painfully obvious. It is obvious that deliberate Soviet violations cast absolute doubt upon the ability of the Soviet Union to enter into, in good faith, any agreement. It is clearly a darkening of the atmosphere in which current negotiations are being conducted in Geneva and elsewhere.

These Soviet violations are calculated to produce military advantage for the Soviet Union. In short, they are violations which seek an advantage by allowing the Soviets to engage in activity which those very treaties being violated require the United States to forbear from engaging in.

It may be argued that some of these individual violations are of less importance than are others. And that is true. What is clear, Mr. President, is that any substantive violation calls into question the ability of the Soviet Union to be trusted.

And the plain fact, Mr. President, is that the Soviet Union cannot be trusted. That has not exempted us from the duty of having to go to Geneva, and elsewhere to negotiate with them. We are obliged to do so. They are the other superpower armed with the nuclear capability. But it absolutely underscores the necessity that we enter into no agreements under which Soviet performance is not absolutely verifiable. It makes emphatic the requirement that we insist that the verification by whatever means can be relied upon, and it makes clear, Mr. President, that we dare not enter into any agreements in which trust is required rather than verification.

We are well aware that ambiguities have existed in these treaties, and, of course, a mechanism was created to attempt to deal with and resolve ambiguities. The administration repeatedly reported its findings, not only to the Congress, but also to that mechanism, the standing consultative commission where SALT-related issues, including ABM issues, are to be discussed by the Soviet and the American representatives as well as through other diplomatic channels.

Indeed, the President as we all know expressly expressed not just concern to the Secretary-General at their recent meeting in Geneva. I think he made clear that the United States is chronicling these violations by the Soviet Union not as an academic exercise because Congress has insisted that the administration do so.

Our own ability to continue to abide by existing agreements is called into most serious question by Soviet violations. Tentatively we have decided that we forbear from outright repudiation but reserve the right through the doctrine of proportionate response to take whatever action is requried to safeguard American interests.

Mr. President, those who are shocked by these violations undoubtedly will ask what response have the Soviets made when we have gone to Geneva to the standing consultative commission and asked for explanation? Well, the answer is that with respect to all of the violations, the probable violations, the ambiguous situations, the Sovet Union has provided no sufficient explanation to alleviate our concerns. Instead, what they have done is continued to stonewall. They have asserted that they are in complete compliance with their obligations under existing treaties.

Mr. President, the Soviets must understand clearly that there will be a cost to them for violation of any agreement. We have not yet made clear to them that there will be, and we must do so.

Just as it does no good to enter into agreements, however high flown the language, however optimistic the thoughts expressed therein, if we cannot verify performance, so it does no good to monitor and verify performance if when there is in fact Soviet violation we impose no cost.

Indeed, if we exact no cost, agreements can prove a dangerous trap inviting Soviet violation. They can allow the Soviets impunity to violate treaties, virtually at will, at such time as they choose while we unilaterally abide by their constraints.

If the value to the Soviets in entering an agreement is to secure our forbearance from a particular activity, then the cost for their violations should be our abandonment of their obligation, and our resumption of that prohibited activity.

Mr. President, I hope that when we return in January, we will very early on give the most intense scrutiny, the most serious consideration to the full implications of this latest administration report.

Clearly, the implication is that at a time when they are urging us to enter into new agreements, the Soviets continue to violate existing treaties, and existing agreements. Their word, Mr. President, is not good. The subject matters of these treaties is too important for us to take them lightly. Indeed, they are matters of life and death. They are matters of survival of civilization as we have known it. And we cannot simply dismiss this latest report. We cannot ignore these violations. There must be a cost to the Soviet Union. And they must learn that very soon, and very emphatically.

Mr. President, I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRAMM-RUDMAN-HOLLINGS

Mr. HOLLINGS. Mr. President, while we are pending the leadership decision to move to the next item in the Senate, we all recognize that there has been much talk relative to the budget next year and the Gramm-Rudman-Hollings balanced budget legislation.

It is understandable. Most Members of Congress don't act like they are interested in a balanced budget. So much misinformation has come out about Gramm-Rudman-Hollings that it is understandable that there is a lot of talk about cuts, frugal budgets, budgets trying to conform to pare back or to be eliminated in order to meet the requirements of Gramm-Rudman-Hollings. The phones ring off the hook that you have to cut or eliminate a particular item, like we heard and read earlier today with respect to parts of the Justice Department.

Arguing each one of those items adds to the confusion. There could well be eliminations. That would not be all bad. The President of the United States certainly has indicated that he would like to do away with agencies such as the Department of Education. That is no mystery. He indicated when he came to office that he would like to eliminate the Department of Energy; he would like to do away with the Small Business Administration. You can go on down the list of particular departments and agencies. The first budget every year is his budget. He is the one to submit it. No one should gawk in amazement that the Gramm-Rudman-Hollings initiative would require the abolition of the Departments of Education or Energy. That's Ronald Reagan—vintage 1980, and 1986.

I think the best way to bring this discussion into focus and for the understanding of the colleagues, and for the public generally who may be interested, is to place before us one particular budget approach entitled "The Deficit Reduction Plan for Fiscal Year 1987-88." I ask unanimous consent at this point to print it in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFICIT REDUCTION PLAN FISCAL YEAR 1987–88

[In billions of dollars]

	1987	1988
Estimated deficit	190	180–190
Maximum deficit levels in Hollings-Rudman-Gramm	144	108
Required Deficit Reduction Levels	46	70–80
Potential reduction items:		
1. Freeze gross level of tax expenditures for 1 year [1]	−36	−37
Potential revenue savings:		
Freeze indexing	(−5)	(−13)
5 percent minimum corporate tax	(−8)	(−12)
Reform ITC	(−15)	(−28)
2. Defense: Allow for inflation only in fiscal year 1987 and 3 percent real growth in fiscal year 1988 [2]	−18	−18
3. Nondefense discretionary: Allow for inflation only in fiscal year 1987 and fiscal year 1988 [2]	+8	+10
4. 2-yr hiring freeze in Federal civilian levels (by attrition only; no firings)	−2	−3
5. Interest savings	4—	10
Total, reductions	−52	−58

[1] Assumes freeze in gross level of tax expenditures—not a freeze on each tax expenditure item.

[2] Assumes CBO August inflation projectons of 4.4 percent in fiscal year 1987 and 4.2 percent in fiscal year 1988.

Note.—(1) Assumes full COLA's and no reductions in means-tested programs. (2) Proposal would provide for increases in defense as follows: 1987 budget authority +13, outlays +7; 1988 budget authority +21, outlays +18. In nondefense discretionary as follows: 1987 budget authority +7, outlays +8; 1988 budget authority +7, outlays +10. (3) Budget figures based on CBO August update. (4) Estimated deficit levels assumes general programmatic assumptions in 1986 budget resolution.

Mr. HOLLINGS. Mr. President, what I have is a table that illustrates an estimated deficit for 1987 of $190 billion. You must understand that in February or by the first of March there will be a sequester, the first cut under Gramm-Rudman-Hollings, of some $11.6 billion. When you reduce the deficit now estimated for fiscal year 1987 of some $200 billion, we will sequester this $11 billion, thus resulting in the best estimate now around for a fiscal year 1987 deficit of $190 billion.

The fiscal year 1987 deficit level we must reduce that to under Gramm-Rudman-Hollings is $144 billion, which means we must reduce by $46 billion.

How do you accomplish that? In a general sense I have outlines, without trauma, an approach that would bring not just the $46 billion but some $52 billion in savings. Further, this approach would provide a reduction in fiscal year 1988 of some $58 billion, bringing our deficits into conformance with the maximum deficit levels required by the statute.

Let me talk about the specifics of reducing the deficit. We can freeze the gross level of tax expenditures and save at least $36 billion.

Everyone is talking about the pain and devastating effect of $200 billion deficits. The way the Government must borrow to exist means we are giving $1 worth of government for 75 cents. If the deficits are truly painful—and they are—we must act now to restore credibility to the economy—and to ourselves.

We can freeze that level of tax expenditures. We can freeze tax indexing, require a minimum corporate tax of 5 percent, plus a reform of the investment tax credit which was overwhelmingly agreed to—it was not in dispute between Republicans and Democrats on the House side and pretty well agreed to by our Finance Committee. We can save over $30 billion here with no agony. Now mind you, when I say freeze tax expenditures, I mean the gross level of these, not each individual tax expenditure, because right away we would hear about home mortgage interest payments, State and local taxes, charitable contributions, and the like. I favor these deductions and would oppose actions to scuttle them. So my freeze on tax expenditures would not touch all of these items.

With respect to the Department of Defense, we could allow for inflation—estimated at 4 percent.

You can talk about the 3-percent real growth goal. Perhaps at this particular time when we are waiting for further business to be conducted on the floor of the Senate, I might remind you of a conversation we had on a Sunday afternoon 4 days before we passed Gramm-Rudman-Hollings. At that time, I got the signal that we were meeting in the Vice President's room. Senators GRAMM, RUDMAN, and myself met with the distinguished Director of the Office of Management and Budget, Mr. Jim Miller.

Mr. Miller said:

OMB wants to go along with your particular program.

We had been imploring the people in the executive branch to do that all week long.

He said:

The President is going along with Gramm-Rudman-Hollings but we have to be assured of the 3 percent real growth for defense. We have to be guaranteed that is protected in this plan.

I spoke up immediately and said it was not protected in this plan. We had to politically put Social Security off limits because this Congress cannot workout its will where Social Security is concerned.

I had proposed the Social Security freeze with other distinguished colleagues over the past 3 years in our balanced budget freeze plan and that was the end, we heard, of economic sense or realistic economic plans.

To prove my point, David Broder in late November said there was a way to balance the budget rather than to adopt the traumatic Gramm-Rudman-Hollings. That way was under a Chiles-Gorton proposal. Chiles-Gorton in July was nothing more than Hollings-Exon in January, along with our distinguished Republican colleagues, Senator ANDREWS of North Dakota, and Senator KASSEBAUM from Kansas. We had a bipartisan approach of a deliberate budget freeze across the board to hold the line and stop the unresponsible run down the road to a $2 trillion debt. But no one would listen.

Well, it took 3 years but finally my friend, Mr. Broder woke up—but gave credit to others. In any event, we made it clear on that Sunday afternoon, that 3 percent for defense could not pass. Senator GRAMM also spoke up, that we would lose 40 to 45 votes and lose this chance. I said, "I know you could not pass it as far as this Senator is concerned because I will take my name off and go outside and start opposing it."

So we had a clear understanding in the Vice President's room on a Sunday afternoon before we passed Gramm-Rudman-Hollings for the first time in October. Defense spending was in the package. Thus, one proposal for defense would allow for inflation in fiscal year 1987 and 3 percent real growth in fiscal year 1988.

The executive branch knew all along from the authors themselves that there was no protection for defense, so there should not be any of that talk.

Now the President wants to put in a 10-percent increase in fiscal year 1987 for defense. He is the President. It is his budget. He has to stand behind the credibility of that budget and the rationale therein. I understand that. No one is saying he cannot do it. I am just saying he cannot put in an amount on a pledge from the Congress on Gramm-Rudman-Hollings because the pledge was otherwise and the understanding was clear.

You can have a defense budget with increases. It will be running at about $290 billion in fiscal year 1986 after sequester so you can add $12 billion or more for inflation. How one asks? By holding the line and taking on initiatives that have been directed in a rather static fashion by the Armed Services Committee, by the Budget Committee, by the Defense Appropriations Subcommittee and by the House side.

I have seen many of these exercises. There is a new procurement plan, there is a new caveat here, or there. I say with great certainty that we can cut significantly the civilian bureacracy in the Pentagon and throughout the DOD and throughout Government we can establish cost-efficiency procedures.

We have the Packard Commission appointed to do these things. But the distinguished Secretary of Defense, Mr. Weinberger, does not have to wait. He can use Gramm-Rudman-Hollings as the pressure to bring order out of chaos in the Pentagon.

Mr. President, for entitlements, my plan would allow all the COLA's—whether in the retirement programs or in means-tested programs. In other words, we can have growth in aid for dependent children, women infants and children's feeding, child nutrition, food stamps, veterans pensions, veterans compensation and all the means-

tested programs that were exempted by Gramm-Rudman-Hollings and everybody will gladly support that on both sides of the aisle.

Under my proposal, the Social Security would be taken care of.

For the nondefense discretionary programs, I believe we could allow for inflation in 1987 and 1988—thereby assuring at least the programmatic levels adopted in 1986. This means no cuts in education, training, science, space, law enforcement, transportation, highways below the levels of 1986. Unlike the President, we proceed with Government at a conservative pace—we don't eliminate it.

Finally, we could have a hiring freeze for civilians with no layoffs or firings. The total savings we would achieve after all of these actions would be $52 billion. Since we need only $46 billion—we could make a decision on whether to give the extra $6 billion to programs of high priority such as infants feeding. That is a way to save money. I know for every dollar expended on women infants' and children's feeding I save the Government $3.

It only covers half of the women and children in America that are eligible under the program. If the President were wanting to increase defense by 4 or 5 percent, it would be my move to come along and to increase some of these other programs in education and technology and hold the line on others.

But the point I want to make by this discussion is to let my colleagues know it is not impossible. Don't blame Gramm-Rudman-Hollings for big cuts because they are not necessary. But you can blame us for the discipline on the one hand and the truth on the other, because if we do not adopt the discipline, the truth will speak up for us after October 1.

We are going to have truth in budgeting. But we can kid ourselves and get all the headlines the media will give us all year long. But if it is not done, whatever we end up with is going to be cut or sequestered, in an even percentage across the board.

So the proposal I am discussing tonight assumes a freeze in the gross level of tax expenditures and not a freeze on each tax expenditure item. We assume the CBO August inflation projections of 4.4 percent in fiscal year 1987 and 4.2 percent in fiscal year 1988. We assume full COLA's and no reduction in means-tested programs. The proposal would provide for increases in defense, a budget authority increase in 1987 of $13 billion, and outlays increase of $7 billion; in 1988, a budget authority increase of $21 billion and outlays increase of $18 billion.

In nondefense discretionary, we would have a 1987 increase in budget authority of $7 billion and outlays increase of $8 billion; in 1988, budget authority increase of $7 billion and outlays increase of $10 billion. These figures are based on the CBO August update.

There is a plan. There is a target, I have not had a chance to consult with those who have been so diligent, particularly my colleague from Nebraska, whom I admire so much.

The Senator from Nebraska was facing a tough fight for reelection in 1984, but he bit the bullet and he voted for fiscal responsibility. He knew the role. He did not just come to it. As Governor, that was his track record. That has been his track record in the U.S. Senate. It was not a good political judgment to make at that time because it brought down the wrath of many of the voters and misunderstanding of what he was doing. But he has been a colleague in the front ranks here throughout our struggle on the Budget Committee to try to bring the Government back into the black.

I yield at this time to the Senator from Nebraska, Mr. President.

Mr. EXON. Mr. President, I really appreciate the kind remarks about this Senator's activities. Since a copy is being made, I would very much appreciate a copy of the Senator's suggested means of reaching Gramm-Rudman goals in the upcoming years. I suspect that the record would show that there probably are no other two Senators than my distinguished colleague from South Carolina and myself who have offered more realistic budget proposals to bring the budget into line. I think the record would also show that I parted company with my colleague and friend on Gramm-Rudman. If it works, fine. I suspect it will not work. Maybe I am wrong. I have been wrong before.

However, one of the faults I see with Gramm-Rudman is the false premise that it seems to hold, at least from the position of reality.

I would like very much if my friend could expand a little bit more on the meeting that was held at the White House yesterday when a prominent picture was taken with the main supporters and advocates of Gramm-Rudman.

If I read the newspapers correctly, and I ask my friend from South Carolina to correct me if I am wrong, in the newspaper reports I read of that meeting at the White House yesterday, the President of the United States further complicated what I thought was clearly understood as the discipline of Gramm-Rudman by saying there yesterday that there was no way he was going to stand for defense cuts, that we have to build up the defense of this country and that he had his veto pen in the top drawer as far as any revenue increases are concerned.

Was that the message that the President was giving to the Nation yesterday? If so, it was a message that was not used here, on the floor of the U.S. Senate, when the majority voted for Gramm-Rudman.

Is that what the President said yesterday? If so, is there some way that we can begin to reconcile that as a Christmas gift of understanding and appreciation for the people of America?

Mr. HOLLINGS. Well, the Senator is right, that was the message that the President gave. I would not allocate any different message other than to elaborate upon it. As I interpret it, it is much like an insurance company we had fighting for a winning slogan as they organized down in South Carolina. We came up with the slogan that "The Capital Life would surely pay if the small print on the back doesn't take it away."

The President of the United States on the matter of revenues talks just that way. He is very bold in print about "Make my day" when he is not for revenue increases. At the same time, he is praising DANNY ROSTENKOWSKI's tax reform bill which calls for $140 billion in new revenues. How does he think you lower the brackets if taxes aren't raised elsewhere?

So what they are saying, if you know how to read these insurance contracts, if you know how to read these political statements, they say I am for $140 billion for my purposes—namely, to lower the brackets; I am not for the $140 billon for your purposes, for expanded Government—or for paying our bills.

The Senator from South Carolina comes down not for a $140 billion increase in taxes but for $25 to $30 billion, as shown here, that is to get rid of the deficit—not for more government. We need the $25 to $30 billion not for tax reform but to maintain and pay for that inflationary increase in defense and generally hold the line on these other programs.

Another Senator and another President would have a different view of it, but I believe if we get a strong enough consensus we can do it—you see now what is happening with the discipline already with respect to reconciliation. Seventy-eight to one and we are falling into a discipline now of realism, because the cover of rhetoric has been removed because of Gramm-Rudman-Hollings. We are all now speaking from the same text, the same vocabulary, and we do not have to run around with Rose Garden figures, OMB figures, and all these others. We are going to have the same point of reference on these budgets and with respect to revenues, the Senator is right. The President reiterated, he said his pen was ready to do away with revenues, but he was also praising the wonderful progress that had been made in tax reform and now that we

have gotten it to the Senate side, he hopes to proceed with it.

You look at it from the Senate side or the House side or any side—inside, outside. You find the tax reform calls for $140 billion in revenues. And, yes, it calls for decreases. It is supposed to end up tax neutral. I am not trying to misrepresent tax reform. Whether it ends up that way or not is another question.

I think Congress has now put the priority on the deficit with Gramm-Rudman-Hollings. I stated so at the time we passed it. I stated it all day that Saturday when we debated it and stayed here on Sunday in September, later in November when we argued it, and also in the conference committee, I know that Senator GRAMM, for example, believes that there will never be any need for revenues. I think one of those budgets can be drawn—but it won't be passed.

But I think looking at the considered judgment, the consensus judgment of the U.S. House of Representatives and the U.S. Senate and the President of the United States about where we have been over this 5-year period of turmoil or whether to abolish the Department of Education or give an 11-percent increase to the defense budget or give it all to cost-of-living adjustments, or just what—this is pretty well in the center.

Where the Senator and I break down finally is when we get down to the bottom line of having to promulgate a budget.

I think it is a rational kind of target to aim at and you can increase it or decrease it both ways. My point is Gramm-Rudman-Hollings does not make you do it. It is your own doing. Gramm-Rudman-Hollings only triggers after the fiscal year has passed and if you pass a budget that is not in balance in accordance with the projected revenues, then comes the Gramm-Rudman-Hollings trigger which says here are the revenues for your expenditure. If the expenditures are beyond the revenues, and the deficits exceeds the maximum deficit targets then the sequester takes place. Not now; but in March of this year and October of future years.

Mr. EXON. I really appreciate the excellent explanation that has been given by the Senator from South Carolina. I am looking down the list, and I am very interested and intrigued by some of this. However, when I look at this and when I compare this with what the President is saying, it will not wash.

Mr. HOLLINGS. Will the Senator yield at that particular point about not washing?

Mr. EXON. Yes.

Mr. HOLLINGS. The Senator is right. Last year, the President's budget did not wash in the Budget Committee. It was voted down 18 to 4. The Senator and I were there and the chairman of the Budget Committee and the Republican majority voted it down the year before, 1984, when the President was running. His budget was voted down in the Hall of the House of Representatives by a vote 420 against and only 1 for it. So it did not wash in 1984. The President's budget did not wash in 1985. And as you look at this sheet of paper here in December 1985, at Christmastime, yes, the Senator is right. If the President presents a similar budget to his eliminate the Government concept it will not wash, again.

Mr. Exon. I thank my friend. It was this Senator who made the motion in the Budget Committee, as the Senator will remember, to vote on the President's budget, and the vote came out exactly as the Senator just stated on the floor of the Senate.

Mr. HOLLINGS. The Senator is right.

Mr. EXON. In looking down this list, the President certainly would not be for cutting $18 billion out of the defense budget. I suspect that he would not be in favor of freezing indexing because I am sure he would consider that a tax increase. And certainly he would not be for a 5-percent minimum corporate tax because he said his veto pen is already out. What this does, though, above everything else, it shows that during the deliberations in the Budget Committee and on the floor of the Senate, as we come up against those snapshots or triggering mechanisms that Gramm-Rudman-Hollings forces on us, there is going to be confrontation on top of confrontation, possibly misunderstanding upon misunderstanding, as to what we are or are not doing. It is going to be an interesting year next year, is it not?

Mr. HOLLINGS. It is going to be an interesting year, and I think unfortunate but very necessary confrontation. The Senator is right. The intent was to put us all in a box—the House, the Senate, the President. The Senator could not get away with this in Lincoln, NE; they would run the Senator out of town and they would run me out of town in Columbia, SC, if we as Governors had presented budgets and the activity that we have been presenting here the last 5 years in the U.S. Capitol. We just could not get away with it, and I hope Gramm-Rudman-Hollings now will have everybody into that sort of lockstep and with these various guideposts they can measure us down the budget roads to see whether we are really adhering to the discipline on the one hand or truth in budgeting on the other.

Mr. EXON. I thank my friend from South Carolina once again. Indeed, we have constructed a very interesting box. Whether it is going to be good or bad remains to be seen. I will be equally interested in the budget presentation that is made by the President in about 60 days to see how that compares with this. I suspect it will be significantly different, but I will be interested in looking at those because if we are going to give any credence to Gramm-Rudman-Hollings at all at least we have to set the parameters. And I congratulate my friend from South Carolina for being out front, as he usually is, in coming up with the first information that I have seen with regard to how one Senator, at least the Senator from South Carolina, would meet the responsibilities that he undertook as a prime mover in the Gramm-Rudman-Hollings proposal. I only say in conclusion that I agree we have constructed a box. The question comes whether the box is going to be explored.

I thank my friend from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED SALE OF CONRAIL

Mr. PRESSLER. Mr. President, when we resume in late Janaury, the order of business will be Conrail. The Midwestern railroads have a great deal of difficulty with the Conrail proposal.

I speak as one Senator who is very much in favor of somehow selling Conrail. But the Midwestern railroads have been concerned with the present plan because it would basically mean that a monopoly east of the Mississippi would exist. The Chicago and North Western Railroad at least has been unable to negotiate acceptable agreements for Chicago and other Midwestern gateways. The result will be that our railroads will lose traffic through diversions, and competition will decline in the Midwest if Norfolk Southern acquires Conrail.

Therefore, many of us have taken a look at the Morgan Stanley proposal, and other proposals regarding the sale of Conrail. It has been my strong feeling that the Department of Transportation and the FRA have been somewhat inflexible and insensitive to some of the problems of the smaller railroads which would be put into the position of dealing with an eastern monopoly railroad.

I am proud to say that during the upcoming recess, I shall have a series of railroad meetings in my home State; and I am happy to say that my good friend Mr. Jerry Conlon of the

Chicago and North Western Railroad will be in South Dakota to talk about some of the rail problems we have in our State.

However, aside from our particular problems, there is an overall transportation problem in moving grain out of the Midwest and moving machinery and supplies into the Midwest, and that problem involves dealing with a monopoly railroad east of the Mississippi River.

Mr. President, it is my strong feeling that railroads are best run by private enterprise; but if that private enterprise is going to be monopoly, I have a problem. There is no reason why there cannot be viable competition east of the Mississippi.

So I will join in efforts to move toward a resolution that would either provide for gateway agreements, Midwestern divestitures, or some other competitive solution.

I hope that next year we will be able to resolve this matter and be able to move toward the sale of Conrail and reach a resolution in the public interest. However, there are also some other unanswered questions about some of the related matters with Conrail.

Mr. President, the able majority leader has made it clear that Conrail will be a priority item on the Senate's agenda when we return next year. Although I objected to bringing this issue to a vote earlier this month, I made it clear that I am prepared to debate the issue when we have adequate information on the anticompetitive impacts of a Norfolk Southern/Conrail merger and the viability of the proposed divestiture.

We have explored this issue in some detail in the Commerce Committee. Chairman Danforth has done an outstanding job. But I have yet to receive an adequate answer from my continued inquiries to the Department of Justice and others. Also, because the divestiture proposal continues to change, it has been impossible to fully assess its effectiveness and viability.

Norfolk Southern and the Department of Transportation have now made a third attempt to remedy the anticompetitive consequences of the acquisition by providing for divestiture of certain lines and the grant of trackage rights to the Pittsburgh and Lake Erie Railroad and to the Guilford Transportation Industries. So far, the details of the agreements relating to the divestitures and trackage rights have not been provided to Congress or to any interested parties. Norfolk Southern has offered no explanation of this failure. The Congress cannot give its approval to a concededly anticompetitive transaction unless it has had an opportunity to examine the divestiture and trackage rights agreements that will allegedly solve the competitive problems.

There is little evidence that the divestitures and trackage rights described in the November 11, 1985, memorandum of Norfolk Southern, GTI and P&LE will solve the competitive problem created by the merger in the Midwest. Information brought to my attention shows that even after the divestitures the merger will still result in massive traffic diversions that will imperil the ability of midwestern roads to provide service, and lead to the same type of rail monopoly in the Midwest that now exists in some parts of the East. This is unacceptable to me as a midwestern Senator, and to such railroads as the Chicago and North Western which presently supplies efficient, competitive service in our part of the country.

Although they ignored the anticompetitive consequences of the merger in the Midwest, the Justice Department did, early on in the process, identify some anticompetitive problems in the Conrail service area and called for a solution by divestitures. However, even with respect to the problem markets identified by the Department of Justice last January, Congress simply has not been provided with the type of detailed information about the divestitures, or about the financial strength and plans of P&LE and Guilford which are essential in deciding whether those carriers will provide vigorous and viable competition.

I have already noted that Congress does not have the underlying divestiture and trackage rights agreements. That is only the beginning of the missing information. We have not been supplied with the detailed operating and marketing plans of Guilford or P&LE for the lines and rights to be acquired. Divestitures would be a charade if the operating and marketing plans did not contemplative vigorous competition for business in the newly acquired markets.

Perhaps most importantly, no one has come forward with detailed information regarding the financial requirements of either P&LE or Guilford, reconciled with their operation and marketing plans. Similarly, we have only the vaguest information about where P&LE and Guilford will obtain money to acquire and operate the divested properties.

Mr. President, the Department of Transportation told us that one of the principal reasons it supports the NS offer is that a stand alone Conrail, a company that has over $800 million in cash and last year earned about $500 million, is not viable in the long run. Before the Senate accepts assurances that P&LE and Guilford can provide long term viable competition to a merged Norfolk Southern/Conrail, it must inquire carefully into the financial condition and resources of these companies.

The finances of the P&LE remain a mystery. In the case of Guilford we are reassured that the estimated $55 million required will be financed by $35 million in bank debt, and a $20 million infusion of cash from its principal stockholder, Mr. Timothy Mellon.

We need to know what the present profit picture is for these companies. Are they profitable? Is the profit real, or is it the result of creative bookkeeping? We need to know the extent of the financial commitment of the backers of these companies, and about any other claims on their resources. Before the Senate accepts these divestitures as a solution to the competitive problems of the Norfolk Southern/Conrail merger, it should be sure that it is getting real rail competitors rather than a map exercise by the Justice Department.

Mr. President, I was recently provided with a disturbing article entitled "Derailing the Maine Central." It appeared in the Maine Times on November 29, 1985. Maine Central is one of three carriers owned and operated by Guilford. According to the Maine Times the Maine Central Railroad has fallen upon hard times since the Guilford acquisition in 1981. The conclusion of the article is that Maine Central profits are not based on expanding traffic but rather on substantial abandonments and circumvention of labor agreements.

The Maine Times article describes Mr. Mellon's activities, discusses Guilford's management of the Maine Central, and raises serious questions regarding the "deep pocket" commitment of Guilford to the Maine Central. In fact, the article implies that the "deep pockets" of the Maine Central have been used to support Guilford rather than the other way around.

I have no idea whether the allegations regarding Guilford management of the Maine Central are accurate. I have no personal knowledge of Mr. Mellon's other interests or activities, or what resources he is prepared to commit to the viability of an expanded Guilford system. This divestiture is relying on the personal resources and commitment of Mr. Mellon. As is the usual regulatory practice in such cases, the Senate must require disclosure to the resources from the P&LE, Guilford and Guilford's principal stockholder which are available to be committed to ensure viable competition. I intend to pursue these questions when the Senate returns.

The priniciple divestiture issue is the viability of the rail system that will be created by this divestiture. The day is long past when Congress can believe that tracks or trackage rights, and locomotives and freight cars make a viable railroad. The Penn Central had

all of that when it went into bankruptcy in June 1970. These divestitures will not solve any competitive problems if the recipients of the properties become the Penn Centrals of the late 1980's.

Mr. President, I am writing a letter to Mr. Mellon today asking him to provide Congress with a full range of information on the resources that will be available to support the expanded Guilford System. This will include past and contemplated future financial arrangements among Mr. Mellon, Guilford, the rail operations and rail supply operations controlled by Mr. Mellon. I am also requesting information on arrangements between Mr. Mellon, Guilford, the Mellon Bank and other sources of financing for the Guilford enterprises. It is my intention to report back to the Senate on these matters prior to our consideration of a Norfolk Southern acquisition of Conrail.

I ask unanimous consent that the Maine Times article entitled "Derailing the Maine Central" be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Marine Times, Nov. 29, 1985]

DERAILING THE MAINE CENTRAL?

Earlier this month, Maine Central Railroad took the United Transportation Union to court after the union threatened to strike over plans to lease track maintenance and switching operations to Boise Cascade at its Rumford paper mill, thus removing the jobs from the trainmen's union. The night before the court date, George Lawson, a young official of the local union, stood outside a meeting and said, "If they win tomorrow, you can kiss this railroad good-bye. Every piece of equipment they own will be leased out to non-union operators."

A few days after the strike had been averted by a court injunction, Lawson's prediction was repeated to David Fink, president of both Maine Central and its parent company, Guilford Transportation Industries. "If that's how it has to go, I'll do it," said Fink. "If economics dictate it."

In the eyes of labor, Guilford is bleeding Maine Central in order to revive its anemic sister lines, the Boston & Maine and the Delaware & Hudson. They maintain that Guilford has embarked on a program of abandoning branch lines, laying off employees, and leasing out switching operations with the ultimate aim of reducing Maine Central to a single main line railroad. Management insists that tying the three railroads together and the cost-cutting measures they have taken are simply matters of economic survival. Business is business and whatever doesn't pay for itself goes. The romance of the rail is over.

Labor and management don't agree on much these days, but one thing they might agree on is that everything changed in 1981.

Two things happened in 1981 that drastically altered the rail industry. First, the Staggers Act deregulated the railroads in the United States. Accustomed to slow change by years of Interstate Commerce Commission (ICC) protection, railroads suddenly found themselves in a free market going head-to-head with a deregulated trucking industry. Second, in June 1981, Timothy Mellon purchased Maine Central. Labor and management would probably argue whether Staggers or Mellon has had the greater effect on the new Maine Central.

At first, the publicity-shunning Mellon, then 38, was viewed by some as a wealthy do-gooder. Son of philanthropist Paul Mellon and grandson of financier Andrew Mellon, Timothy Mellon might turn out to be just the sort of deep-pocket owner who could stabilize Maine Central in the volatile new age of deregulation. Long on capital, but short on railroad experience, Mellon brought with him David Fink, his Guilford, Connecticut, neighbor and his partner in Perma Treat, a Connecticut-based railway tie firm. Mellon also brought with him a reputation as radical rich. His Sachem Fund (named after Sachem Head, where Mellon lives on the Guilford gold coast) helped finance a hospital in North Vietnam during the Vietnam War, and had supported such enterprises as a feminist law firm, the American Civil Liberties Union, and various alternative energy projects. In Burton Hersh's dynastic saga of "The Mellon Family," Timothy Mellon's stepmother described the young man as "soppy, kind-hearted, and the robber baron mixed in."

After paying $18.5 million in cash for Maine Central in 1981, Timothy Mellon then purchased the bankrupt Boston & Maine (B&M) for $24.25 million in June, 1983. In January, 1984, he picked up the ruins of the Delaware & Hudson (D&H) for a mere $500,000. All three lines were then consolidated as the rail division of Guilford Transportation Industries, Mellon's holding company based in North Billerica, Massachusetts. And it was quite a train set Timothy Mellon managed to put together in just three years; 350 locomotives, 10,000 boxcars, 4,000 employees, and 4,000 miles of track stretching from Maine to Buffalo and Washington, D.C.

Back in 1981 when Mellon took over, then-president John L. Gerity, a veteran railroad man, broke the news gently in a memo to Maine Central employees:

"Mr. Mellon . . . stated that at this time he anticipates no changes in Maine Central's management or operations. He said that he is interested in running a railroad as a railroad and it is his present intention to maintain Maine Central's identity.

"It is my belief that our new association with Mr. Mellon is good for Maine Central and Portland Terminal, our employees and customers."

It is the belief of a lot of union men that Gerity, now vice chairman of the Maine Central board, should be eating his words. The new association with Mellon, the union people say, was good for Mellon and Guilford, not Maine Central, and certainly not Maine Central employees.

As Guilford expands, Maine Central contracts. Some angry union members will insist that 2,000 jobs have been lost since Guilford took over, but there haven't been 2,000 jobs on Maine Central since before 1960, the year Maine Central stopped passenger service. Through the 1960s and 1970s, employment levels on the railroad remained steadily in the 1,200 to 1,500 range. Some union officials estimate as many as 750 jobs lost during the Guilford tenure. But company officials report a drop in Maine Central employment from 1,265 in 1981 to a projected 868 by the end of this year, 400 jobs representing a 30 percent reduction in workforce. The 30 percent cut in employment is about evenly matched by a 30 percent reduction in track mileage. This year Maine Central is abandoning some 250 of its 800 miles of track in Maine including unprofitable runs from Brunswick to Rockland, Brewer to Calais, and Steep Falls to the New Hampshire border on the so-called Mountain Division.

The job losses that most outrage union employees are those resulting from the company's new practice of leasing operations to paper mills. Last June, Maine Central turned over switching operations at Woodland to Georgia Pacific, replacing Maine Central crews with crews from Springfield Terminal Company. Springfield Terminal, though represented by the United Transportation Union, does the Woodland switching at almost half the labor cost of Maine Central Springfield Terminal is a Guilford subsidiary.

This month, Maine Central turned over switching at Boise Cascade's Rumford mill, displacing 12 Maine Central employees. Under the terms of the court action taken to avert a strike, the 12 Maine Central jobs will be protected until Federal Judge Edward Gignoux issues his final decision on the merits of the case. The company maintains that the leasing arrangement constitutes a so-called "minor dispute" under union contracts and is subject only to arbitration. The unions counter that the maneuver is a "major dispute," subject to job action.

Naturally, the leasing of track and operations looks like classic union-busting to union members and officials. Ernest Phillips, the burly boss of the United Transportation Union local, charges the leasing arrangements with paper companies are "just Guilford coming through the back door." Guilford and Maine Central officials defend such actions as necessary if the railroad is to compete in a deregulated transportation market.

"It's not the same business it was three or four years ago with the great poohbahs sitting in their offices smoking cigars and the ICC protecting them," says Guilford president David Fink.

On November 5, as Maine voters went to the polls to narrowly approve an $850,000 bond issue to purchase the track Maine Central is abandoning, David Snyder, Maine Central's general supervisor, sat in his office at the South Portland Rigby Yard and explained the economic climate that forces cutbacks, lay-offs, lease-outs, and track abandonments.

"It's a Catch-22 situation," explained Snyder. "When the Staggers Act deregulated the industry, it allowed railroads the freedom to raise and lower rates at will, but this coincided with the deregulation of the trucking industry. Rate setting in all transportation areas became very volatile. Maine tracks have always had a good traffic base from pulp and paper, but also in the '60s and '70s railroad management agreed to substantial wage increases without a commensurate increase in productivity. Because the industry was regulated [then], we were able to pass the cost along to the shippers. At that time, railroad rates were lower than truck rates.

"The big turnaround in 1980–81 when deregulation took effect was that truckers were free to haul anything, anytime, at any rate. Railroad and trucking rates were coming closer together. Labor continued to negotiate for higher wages, but the railroad is unable to recoup these increases."

All labor wants to know is, Is this company making money? And, if it is, why are union members losing their jobs? The answer to the first question is yes, Maine Central is making money. Maine Central has always been profitable, primarily because it is an origination line, hauling paper and forest products to market from the source. Origination lines traditionally make more money than over-head lines, which simply pass freight along. In the four years that Guilford has owned Maine Central, the railroad has earned $18.2 million (according to its own report, as of June, 1985).

In 1980, Maine Central showed a profit of $2.4 million; in 1981, $4.4 million; in 1982, $5.1 million; in 1983, coupled with six months of B&M operations, Guilford reported a profit of $8.6 million; in 1984, all three Guilford lines showed an overall profit of $5.2 million despite the fact that the D&H lost nearly $7 million.

But Guilford officials say these statements of earnings are not what they seem. They explain that in 1983 the ICC mandated an industry-wide accounting system change in which capital expenses are no longer deducted from earnings, but are depreciated over 30 to 40 years. What that means, they say, is that the $5.1 million Maine Central profit in 1982 is a restatement of a figure that would have been closer to $1.27 million under the old ICC accounting system.

Union officials complain that Guilford plays with these numbers to its own advantage, crying poverty at contract time, but reporting glowing success when it suits their purposes, for example when little Guilford (with net assets of $66.6 million) put in a bid of $1.2 billion for Conrail last year.

David Fink still maintains that the bid for Conrail was realistic, but many in the rail industry felt the Guilford bid was a little like Jonah proposing to swallow the whale. Still, Guilford has committed $88 million to acquiring 1,000 miles of divested track if and when Norfolk Southern (the federal Department of Transportation's choice to take over Conrail) acquires Conrail. Guilford's proposed acquisition of the so-called Western Extension (lines to Chicago and St. Louis) is a result of Justice Department concerns about anti-trust violations when Norfolk Southern and Conrail merge.

Both Maine Central and Guilford have always been profit makers. In explaining Maine Central lay-offs, Guilford management cites the high cost of railway labor, suggesting that rail unions are pricing themselves out of jobs. David Fink states that the average Maine Central employee has a salary and benefit package worth $40,000 a year. He cites cases (admittedly exceptions) of engineers making $80,000 a year, janitors making more than the Governor of Maine ($35,000).

Colin Pease, Guilford's youthful vice president for government affairs, multiplies the 400 lay-offs by the average $40,000 compensation package and comes up with $16 million, a big piece of the $18.2 million Maine Central has earned in four years. Pease says the lay-offs and cutbacks are simply a matter of "adjusting expenses to revenues." In the past, Maine Central had a reputation for making a profit by deferring maintenance. The new Maine Central appears to be making a profit by cutting labor costs. In other words, Maine Central is showing a profit because people are losing their jobs.

"Unless you take the course of sacrificing the few for the many, you're not going to be around," says Guilford's David Fink.

From the point of view of Maine Central union employees, it's more a matter of sacrificing the Maine Central to the B&M, the D&H, and perhaps the Western Extension. Union leaders and union members say that de factor or by design the leasing of switching operations and the abandonment of branch lines will result in Maine Central running just a main line operation in Maine. Since even Fink acknowledges "the spine is only as good as the vessels feeding it," Guilford is obviously gambling that the state will not allow the feeder lines it abandons to wither and die. The plan is for the state to find independent short line operators for branches like the Rockland run where there is still life. Some Maine Central employees refer to this tactic of laying responsibility for feeder lines onto the state as "corporate blackmail." Despite the fact that it would be in everyone's best interests to keep branch lines alive, many Maine Central union employees voted against the recent bond issue out of spite.

Eugene Lyden, a soft-spoken former Maine Central brakeman who is now international vice president of the United Transportation Union, is perhaps the most articulate spokesman for the labor view that Guilford has weakened Maine Central in order to strengthen the B&M and the D&H.

"I think what they've done," says Lyden, "is simply streamline the railroad. It has been dramatic in Maine because of the common ownership of the three lines. I don't think it would have happened if they owned only Maine Central."

In trying to make the case that Maine Central is essentially carrying the weaker railroads, union leaders cite statements in Guilford's own June, 1985, proposal to take over the Western Extension:

"Maine Central has a strong base of originating traffic which is moving across the Guilford System in increasing volumes to the benefit of rail customers and of B&M and D&H as well.

"Affiliation with [Maine Central] has provided access to additional, profitable traffic . . .

"Thus, Guilford has taken one profitable railroad, combined it with two larger and previously unprofitable (but completely reorganized) railroads and produced a system which is providing efficient rail service and realizing profits."

Guilford president Fink adamantly denies that Maine Central is carrying the two other lines.

"Without the long haul," says Fink, "without B&M and D&H, the maine Central would be in dire straits today. It would be at the whim of every one of its connectors.".

Staggers favors the long haul," echoes vice president Colin Pease. "Business under deregulation is long haul."

Fink and Pease characterize the consolidation of the Maine Central, Boston & Maine, and Delaware & Hudson as the consummation of an idea put forth by the ICC in the 1930s and ardently pursued in the 1970s by Frederic C. (Buck) Dumaine of the Amoskeag Corporation and the Bangor & Aroosatook Railroad. Dumaine's advances were repeatedly thwarted by Maine Central's president E. Spencer Miller.

"It was [Mr. Miller's] belief that a New England railroad—the Maine Central tied to less viable railroads—would be the downfall of the Maine Central," maintains the union's Eugene Lyden. "I think his opinion was correct."

Railroad employees claim that Guilford is bleeding Maine Central by paying overhead costs for all three lines out of Maine Central revenues—buying fuel for the D&H and locomotives for the B&M, paying Guilford executive salaries. David Fink says he is one of the few executives who are on the Maine Central payroll.

Guilford officials explain the cutbacks and layoffs as functions of mechanization and lost business, not consolidation. Business is down in 1985, says Fink, primarily because production is off in the paper industry. Paper and forest products account for roughly 60 percent of Maine Central's traffic.

"It has been business," says Fink of the lay-offs. "You've got a 20 percent loss of business. If you have no business, you don't need the labor."

Railroad jobs lost to transactions such as mergers, consolidations, and abandonments are subject to a variety of job protection agreements, so it is important that lay-offs be justified in terms of mechanization and lost business, economic forces to which job protection measures do not apply. Job protection measures such as the New York Dock Agreement and Oregon Short Line Agreement call for employers to continue the salaries of discharged employees for up to six years. The ICC has imposed the conditions of the Oregon Short Line Agreement on Maine Central's abandonment of the Rockland and Calais lines, but as those abandonments have not yet actually occurred, it remains to be seen whether employees will be terminated or transferred. Bradley Peters, Maine Central's director of human resources, will say only that job protection compensation has been and is now being paid to an unspecified number of people.

Union leaders believe that some of Maine Central's lay-offs are due to the consolidation and should be subject to job protection. Again, they cite the text of Guilford's proposal to acquire trackage from Norfolk Southern:

"In addition to consolidating the management," the document states, "Guilford has given significant attention to upgrading the physical condition and facilities of the three railroads. This upgrading has been carried out in conjunction with a program to eliminate or reduce redundant or obsolete facilities."

The document does not say redundant or obsolete jobs, but Guilford is trying to eliminate jobs they view as unnecessary through contract negotiations and arbitration. The caboose will soon be a thing of the past. The company is fighting the unions over crew size, the carrier maintaining that three men (engineer and two ground crew) are sufficient to run a train, the unions trying to hold onto four and five men to a crew. Firemen, who haven't been needed in their nominal capacities since steam gave way to diesel in the 1950s, have been kept on as engineers-in-training, but the latest trainmen's national contract allows for their eliminations through attrition. (Guilford has elected this year to deal with the union rather than abide by national agreements.)

It is axiomatic in the rail industry that economies and efficiencies are achieved following mergers or consolidations either by increasing revenues (finding more business) or reducing costs (laying people off). Labor feels that Guilford has done too much of the latter and not enough of the former. Some of the company's severest critics insist that Maine Central has actively discouraged business on lines it wants to abandon by upping rates, reducing services, or by divert-

ing and rerouting existing traffic, as in the case of the Calais branch line where Maine Central (with authorization) diverted Georgia Pacific traffic (60 percent of the line's volume) to the Canadian Pacific Railway. In such cases, labor will insist that the company didn't want to serve the customer; the company will argue that it couldn't afford to serve the customer.

David Fink says Maine Central has gone out after new business, but not always with great success. He was unable, for example, to convince Aroostook County potato farmers to ship by rail. He does believe, however, that extending Guilford's reach to Chicago and St. Louis will both create new markets for Maine goods and bring increased traffic into Maine.

Down the line, Fink sees the future of rail transport in terms of containerized cargo that can be conveniently shipped by sea, rail, and over the road (or all three). He also sees a future in intermodal transportation (rail-truck combinations) and to that end has diversified Guilford into trucking. If you can't beat'em, join'em. Traitor, say the trainmen. But then the phrase most repeated on both sides of this rail labor-management dispute is that Guilford officials "are businessmen, not railroad men," Labor uses it as condemnation. Management uses it as a statement of fact.

Guilford also operates the Boston MBTA commuter rail line on a contractural basis, and David Fink says restoring some form of passenger service to Maine is not out of the question. Guilford is currently lobbying to have Boston's North Station and South Station linked via rail (in conjunction with a major highway project aimed at relieving Boston's gridlock) in hopes of luring Amtrak (which operates out of South Station up over its lines. But to restore Boston to Main passenger service, Fink says, some form of state or federal subsidies would be required.

Despite the fact that Fink attributes most of Guilford's austerity measures to competition from truckers, he does not expect railroads to receive the kinds of government subsidies the trucking industry does ("We'd just like to see truckers pay their fair share," says Fink.

Yet Guilford is subsidized one way or another in most of the other states in which it operates, possibly to the detriment of Maine. In Massachusetts, Guilford does not have to pay fuel tax and the state maintains all overhead bridges. In Connecticut, Guilford pays no fuel tax, sales tax, right of way tax, has branch line rehabilitation subsidized, and does not have to compete with tandem trailers.

In New York, the Delaware & Hudson has received $50 million in state aid over the past 10 years. Two years ago, the D&H was awarded a $20-million grant to rehabilitate track and construct a locomotive facility. In Massachusetts, Guilford received $7 million this year to expand and improve its yard and locomotive facility in East Deerfield. Meanwhile, Maine Central's Bangor yard is gone, the Waterville yard is being phased out, and there are continuing lay-offs at the Rigby yard in South Portland.

Tied to New York's $20 million subsidy is a job protection provision that obligates Guilford to maintain the level of employment on the D&H in New York at between 800 and 1,100. New York's Department of Transportation (DOT) reports that Guilford has scrupulously met these job quotas. And in Massachusetts, a DOT spokesperson explained that the idea behind that state's $7-million aid is "keeping jobs that might have moved elsewhere."

In Maine, the recently passed bond referendum sets in motion a new state rail policy by which the state is committed to finding short line operators to lease and run abandoned feeder lines. The state will also assume half the cost of maintaining bridges and grade crossings and railroads will be exempted from a five percent sales tax on track materials.

William Fernald, who oversees all nonhighway transportation for Maine's DOT, says that Maine's efforts on behalf of rail are small compared to what some states are doing, but he feels Maine has gone as far as it should go considering that the state has no dedicated tax for rail as it does for highways.

Whether Maine Central will eventually abandon all branch lines, William Fernald can't say, but what he does say is eerily consistent with such a scenario.

"Theorizing about the future of railroads," says Fernald, "you can easily come to the conclusion that the future of railroads is high speed, frequent trains operating between major population centers, and the rest all trucking."

Currently, Maine Central has begun proceedings to abandon both a section of the Lewiston Lower Road (from Lisbon to Lewiston) and the branch line to Dover-Foxcroft. How many more lay-offs will there be on Maine Central?

"How much business am I going to lose?" replies David Fink.

Mr. PRESSLER. Mr. President, I note that my speech has not drawn Senators to the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RADIOACTIVE WASTE COMPACTS

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1083.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 1083) entitled "An Act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes.".

Resolved, That the House agree to the amendment of the Senate to the text of said bill, with an amendment as follows:

Page 33 of the Senate engrossed amendments, strike out all after line 14 over to and including line 13 on page 36.

BARNWELL SITE CLOSURE

Mr. THURMOND. Under the terms of the Southeast Interstate Low-Level Radioactive Waste Management Compact, the commercial disposal facility at Barnwell, SC, is scheduled to close by December 31, 1992. Is it the understanding of the chairman, that this closure date is preserved by this legislation?

Mr. SIMPSON. Yes. It is my understanding that the Barnwell facility will be closed by December 31, 1992, and that nothing in this legislation could be construed to prevent its closure on that date.

HIGHER THAN CLASS C WASTES

Mr. THURMOND. Is it the understanding of the Senator from Wyoming that under the terms of this legislation, higher than Class C low-level radioactive wastes are not to be disposed of in commercial low-level radioactive waste disposal facilities such as Barnwell, Beatty, or Richland and are not to be disposed of in unlicensed Federal facilities such as the Savannah River Plant, the Hanford Reservation, or the Beatty weapons arsenal?

Mr. SIMPSON. Yes. That is my understanding. (Higher than Class C low-level radioactive wastes are to be disposed in an NRC licensed facility that is not one of the commercial low-level radioactive waste facilities subject of this legislation.)

DISPOSAL CAPACITY

Mr. THURMOND. Is it the understanding of the chairman that the phrase "shall make disposal capacity available" as used in section 5(a) (1) and (2) means only that, other than as provided in other parts of section 5, the States cannot take actions intended to interfere with the disposal of the volumes of waste stated in section 5(b). Further, the phrase does not mean that the States must act affirmatively to provide for disposal of waste generated within their borders or elsewhere. Nor does it preempt the enforcement of otherwise valid State laws and regulations, undertaken for some other purpose, that incidentally restrict access—for example, clean air and water laws, packaging and inspection requirements, tax laws, et cetera.

Mr. SIMPSON. Yes. That is exactly the meaning of that phrase as used in this legislation.

Mr. SIMPSON. Mr. President, I would like to add a couple of remarks about the action taken this evening on the House side, in passing the legislation that is now pending before us.

In considering this bill, some Members raised questions about the constitutionality of the provisions contained in the Senate-passed bill, requiring States to take title and possession of low-level radioactive waste no later than January 1, 1996, if such State, or a compact region in which such State is a member, fails to provide low-level radioactive waste disposal. I should emphasize that, in my judgment, there are no constitutional defects with this approach. If, however, a State declines

to take title and possession under this provision, and asserts that the provision is unconstitutional, I should point out that the failure to comply voluntarily with the requirement that title and possession be taken—one of the principal conditions of consent to any regional compact—means that the entire compact in which such State is a member will be null and void, invalid, and cannot be implemented. Thus, a State that refuses to take title and possession under this provision does so at considerable risk that the compact will be invalid as a result.

I wonder if I could ask for the assurances from my colleagues that this is their understanding of this provision?

Mr. McCLURE. I agree with that interpretation, Mr. President.

Mr. THURMOND. That is consistent with my understanding, as well, Mr. President.

Mr. JOHNSTON. I, too, agree with the statement of the Senator from Wyoming.

Mr. SIMPSON. I should also clarify, Mr. President, the confusion that has arisen in the other body over the meaning and requirements of the language in this bill on wastes that are a Federal responsibility and the issue of the "class C institutional control rulemaking." The Senate rejected the proposal that the NRC be required to reopen its regulations for the purpose of considering whether the hazards associated with class C wastes exceeded the period of institutional control. The Senate reached the conclusion, and that conclusion is reflected in this bill, that the States are responsible for class A, B, and C wastes, and more importantly, that the Commission's existing regulations in 10 CFR part 61 provide an adequate regulatory framework for all class A, B, and C wastes. We do not intend, and in fact specifically reject in approving this bill, any implication that those regulations are inadequate or that they should be reconsidered. The Federal responsibility provision in section 3 of this bill has nothing to do with class C wastes. It is limited to those wastes above class C. Moreover, the study under section 3 is to be conducted by DOE, not the NRC, and has nothing to do with the wastes that are the responsibility of the States under this bill. Again, I reemphasize, Mr. President, that we rejected the concept of a "class C institutional control rulemaking" in this bill, and in passing this bill, disagree that any reconsideration need be given by the NRC to the part 61 regulations.

Mr. McCLURE. I concur in that statement, Mr. President.

Mr. JOHNSTON. I, too, agree with that interpretation.

Mr. THURMOND. I concur in that understanding, as well, Mr. President.

Mr. SIMPSON. Finally, Mr. President, I should emphasize that the bill before the Senate tonight, and approved earlier this evening by the House, originated in the Committees on Environment and Public Works and Energy and Natural Resources. Accordingly, the relevant legislative history for this bill are the two reports filed by these two committees, and not, as was suggested earlier this evening in the House, the reports on the House bills. In addition, I should note that the governing legislative history on this bill that we consider this evening has now been established in the respective bodies of the Congress. Any further remarks, including revised and extended remarks filed in either body, are not, in our judgment, part of the legislative history on this legislation, and should not be construed as contemporaneous legislative history, governing the manner in which this legislation should be construed. Thank you, Mr. President.

Mr. McCLURE. With respect to the House provision that was rejected by the Senate with respect to an institutional rulemaking for certain categories of class C low-level radioactive wastes, I wish to remind my colleagues that the Nuclear Regulatory Commission already has the authority—and, I might add, uses this authority—to revise any of its regulations that it judges at any time to be inadequate to protect the public health and safety.

Mr. LAUTENBERG. It is my understanding that the Environment Committee came to no conclusion regarding the adequacy of the NRC's regulatory framework under 10 CFR part 61 governing low-level radioactive waste disposal facilities.

It is also my understanding that there were remarks made in the other body this evening on this legislation suggesting that the NRC should conduct a review of its part 61 regulations. Since this provision is not included in the legislation the House passed earlier tonight, nor is it in the legislation we are now considering, I do believe we are neither requiring the NRC to conduct such a study nor suggesting that such a study is unnecessary. Is this consistent with the view of the distinguished chairman of the Environment and Public Works Committee?

Mr. STAFFORD. The distinguished Senator from New Jersey is correct. We have made no judgment as to the adequacy of these regulations. The NRC has the authority to review such regulations as it deems advisable.

Mr. EVANS. I would like to make a few additional remarks about the emergency access provisions.

I understand that the intended limitation on the use of emergency access in section 6 is to allow only one grant and one extension per generator for any particular incident related to the public health and safety. It is my understanding that if incidents which may be a threat to the public health and safety are of a substantially similar nature, the NRC should not be required to provide another grant of emergency access at another point in time. In effect, any generator or any State must choose carefully when to request the NRC for emergency access.

Mr. SIMPSON. The Senator is correct in his understanding.

Mr. EVANS. Fundamentally, it is my understanding that emergency access should be used only in rare circumstances. It should not be allowed to indirectly or directly violate the volume limitations in section 5 or to be used indiscriminately after January 1, 1993.

Furthermore, it is my understanding that the four alternatives to emergency access listed in section 6(c)(1)(B) are coequal, including the alternative of ceasing to generate low-level radioactive waste. It is my understanding this means that making a voluntary agreement with a disposal facility in a sited State should be considered fully as an alternative. Also, it is my understanding that price for disposal should not be a factor which leads the Commission to determine that a voluntary agreement is not achievable.

Mr. SIMPSON. The Senator is correct in his understanding.

Mr. LAUTENBERG. Mr. President, I thank the chairman of the Senate Environment and Public Works Committee for his reassurances. I would simply like to follow up our discussion by saying that it is my hope the NRC will review 10 CFR part 61 in regard to the guidance and licensing of a range of alternative disposal methods.

I am concerned that the current regulations are biased toward shallow land burial, which may be environmentally unsound for States with high water tables such as the States in the Northeast Compact. For that reasons, I offered an amendment when the committee took up the low-level Radioactive Waste Policy Amendments Act of 1985 that requires the NRC to publish technical guidance on alternative disposal methods within 1 year and to publish licensing requirements for these disposal methods within 2 years. This amendment, included in the bill before us, will provide the States with an unbiased full range of disposal methods from which to choose in constructing a disposal facility within their compacts.

In addition, Mr. President, I am concerned about the issue of institutional controls. It may also be appropriate for the NRC to provide additional guidance or regulation, or change the current 10 CFR part 61, to address a balance of institutional controls and engineering factors in order to adequately protect the public health and the environment for the duration of the hazard of the low-level waste deposited at waste disposal facilities.

I am particularly concerned that the NRC review the institutional control requirements for alternative disposal methods, which may require a different balance than that called for in 10 CFR part 61. I would like to point out that my concern about the NRC review of institutional control requirements in regard to alternative methods was included in the report of the Senate Environment and Public Works Committee, and was not addressed in the report of the Senate Energy and Natural Resources Committee.

Mr. SIMPSON. I move, Mr. President, that the Senate concur in the House amendment.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, once again earlier today I expressed my gratitude and admiration to the distinguished Senator from Wyoming, and to my senior colleague, Senator THURMOND, for the outstanding job that was done.

There is no question I started with this some 30 years ago. The Savannah River plant is located in Tuscaloosa aquifer right near an earthquake fault, and over 30 years ago I served on the regional advisory council on nuclear energy. At the time the Honorable R.M. Cooper was chairman, and later I served as Governor trying to dispose of nuclear wastes.

At that particular time we were told that due to the danger of the location that the temporary storage would only be for a period of 2 years; 2 years became 5, 5 became 10, 10 became 20, and it is now 30.

I never dreamed it would take 30 years and Christmas Eve to bring this about. So it is with tremendous admiration, respect, and gratitude that I hail the distinguished Senator from Wyoming on his leadership, and our senior Senator, Senator THURMOND, on bringing about this reconciliation and this magnificent initiative to bring about a responsible program for the storage of low-level nuclear waste in America.

Mr. THURMOND. Mr. President, it is a great day for America. This matter has been pending and worked on now for a number of years. I am very pleased that it has finally come to culmination and has been enacted into law.

Again, I want to thank Senator HOLLINGS for his kind words and his fine cooperation. I also again want to express to Senator SIMPSON and others who have been so active in this matter and providing such outstanding leadership, my deep appreciation. Without all the people who have worked on this bill, it would not have become law.

This is a wise step the Congress is taking. I am sure as time goes by, Congress will be pleased that it did take this action and it will be to the benefit of the whole Nation.

Mr. SIMPSON. Mr. President, I thank both Senators from South Carolina for their generous remarks. I thank Senator HOLLINGS for his consistent interest and support.

Let me just say one more word about Senator THURMOND. Senator THURMOND authorized me to hold the first hearing on this matter in Seattle, WA, some 3 years ago. Because of his great interest and his support, we started at the Judiciary Committee level and tonight, at this moment, we bring all that process to fruition. It could not have been done without the generous support and the continual interest and the extraordinary persistence of the Senator from South Carolina, who is a dear and generous friend. I appreciate that very much.

Mr. THURMOND. Mr. President, I wish to thank the able Senator for his kind remarks.

WILDLIFE REFUGE CENTERS

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 494, H.R. 1404, dealing with the Eastern Shore of Virginia National Wildlife Refuge.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1404) to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, Virginia.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, H.R. 1404 and identical legislation (S. 585) introduced by Senator PAUL TRIBLE would establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, VA.

Establishment of a refuge in this area began in 1984 when the General Services Administration approved transfer of the 174-acre Cape Charles Air Station to the U.S. fish and Wildlife Service. H.R. 1404 will expand these refuge boundaries to include 396 acres owned by the Chesapeake Bay Bridge Tunnel Authority, 297 acres owned by the Wise Point Corp., plus other adjacent lands currently in State, county, and private ownership.

The lands included within this newly created Eastern Shore of Virginia National Wildlife Refuge are located on the southern end of the Delmarva Peninsula. Construction of the Annapolis Bay Bridge and Chesapeake Bay Bridge Tunnel during the past 40 years has made this area readily accessible to the populations of Washington, DC, Baltimore, and Norfolk. This increased accessibility and relatively low land prices, in turn, have made the area an attractive one for development, and recently, the Chesapeake Bay Bridge Tunnel Authority placed its 396 acres of land on the market. Fortunately, the Nature Conservancy has signed a contract to buy this property for $2.64 million to ensure that the area is preserved in its natural state. The Nature Conservancy intends to hold this land for the FWS pending authorization and appropriations of funds by Congress.

The continuing resolution, House Joint Resolution 465, provides $2.64 million in fiscal year 1986 to purchase the Bay Bridge Tunnel property. H.R. 1404 will provide the necessary authorization for the Fish and Wildlife Service to go forward with this acquisition.

The proposed refuge site is used by migrating birds to wait out unfavorable weather conditions before crossing large expanses of open water to the south. It is one of only two such major stop-over areas along the Atlantic Coast—the other is Cape May, NJ. Additionally, endangered or threatened species, such as peregrine falcons, bald eagles, and brown pelicans, utilize this habitat. Other species found in the area include least terns, black ducks, snow geese, and Atlantic brant. The proposed refuge boundaries also encompass an abundance of tidal wetlands and marshes which are important to the protection of other estuarine resources.

The National Fish and Wildlife Service Training Center will utilize, in part, facilities constructed in conjunction with the Cape Charles Air Station. It is expected that the training facility will support a broad range of Fish and Wildlife Service and non-Fish and Wildlife Service functions. The Service is the only Federal land management agency without such facilities. Annual capacity of the training center when completed is estimated at approximately 12,000 trainee-days. Current Fish and Wildlife Service training needs will require more than half of this capacity. The remaining center capacity may be used by other agencies, private organizations and educational institutions. Several major universities, including the College of William and Mary and Old Dominion University, have expressed interest in conducting environmental education programs at the refuge.

Mr. President, I believe this area will make an excellent addition to our Na-

tional Wildlife Refuge System and I urge my colleagues to support it.

Mr. WARNER. Mr. President, I rise today to associate myself with the remarks of my distinguished Virginia colleague, Senator TRIBLE, in support of his legislation, which I have cosponsored, to establish the Eastern Shore of Virginia National Wildlife Refuge in Northampton County, VA.

The purpose of this legislation is to expand the existing boundaries of the Cape Charles National Wildlife Refuge on Virginia's Eastern Shore and to utilize as a Fish and Wildlife Training Center the facilities remaining from a former Air Force base.

The continuing appropriations resolution for fiscal year 1986 which incorporates the Department of Interior and Related Agencies appropriations bill for fiscal year 1986, recommends $2.64 million to purchase additional land for the refuge to preserve the area in its natural state.

The legislation before us today authorizes the expansion of the current boundaries and utilization of existing facilities for an educational, research and training center for environmental programs.

The Secretary of Interior is authorized to acquire remaining lands and waters for the refuge by donation, easement, exchange or purchase with funds from the land and water conservation fund.

I strongly support this legislation because the Cape Charles National Wildlife Refuge preserves critical fish and wildlife habitat along the Atlantic flyway.

Specifically, the area offers food and resting habitat and acts as a "staging area" for migratory birds before they cross the Chesapeake Bay enroute south for the winter.

Endangered species, such as the peregrine falcon, bald eagle, and the brown pelican use this area.

The establishment of the Training Center utilizing existing Air Force buildings will encourage needed environmental programs that will prove valuable in aiding migratory birds, waterfowl, fish, and other endangered species native to the area or that use the refuge along their migratory route.

I congratulate my colleague Mr. TRIBLE for his hard work which led to the passage of this important legislation and urge my colleagues to support it.

Mr. TRIBLE. Mr. President, I am pleased to bring before the Senate a measure which will grant a congressional charter to the Eastern Shore of Virginia National Wildlife Refuge and National Fish and Wildlife Training Center in Northhampton County, VA.

This refuge is a unique facility. First, it protects irreplaceable migratory waterfowl habitat. Second, it will utilize the abandoned Cape Charles Air Force Base to provide a training facility for Fish and Wildlife Service personnel after renovation.

The Fish and Wildlife Service recognized the value of the base as a refuge for various species of migratory birds and acquired the property in 1984.

Cape Charles is among the most important habitats on the east coast for migratory waterfowl, raptors and songbirds, and is home for endangered and threatened species such as the peregrine falcon, bald eagle, brown pelican and five species of marine turtles. In addition, the Delmarva Peninsula is a primary flight corridor during the annual southern migration. The peninsula narrows in the south, creating a funneling effect on the birds which culminates at Cape Charles. Because of the variety of marsh and upland habitat, the area provides excellent cover and forage for the large variety and high concentration of migratory species.

In addition to the natural attributes of the area, the former air base has a variety of buildings in relatively good condition. These are being converted to refuge use.

The Fish and Wildlife Service is examining the possibility of establishing a national training center for Service personnel and a refuge law enforcement refresher course training center utilizing some of the existing buildings at the former base. Various colleges and universities have indicated interest in using these facilities for environmental studies under contract or cooperative use agreements with the Service. The bill I bring up today will establish this center in law and facilitate its development.

The Eastern Shore of Virginia National Wildlife Refuge represents an important link in the ongoing establishment of protected wildlife habitat along the east coast's barrier island chain. It will provide shelter and forage for migratory birds, unique opportunities for training and environmental studies, and economic benefits for the citizens of the Commonwealth of Virginia. I am pleased to be able to assist in the establishment of this refuge, and I welcome my colleagues' support on the measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading.

The bill was ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROCEDURE FOR THE DISPOSITION OF EXTRANEOUS MATERIAL IN RECONCILIATION CONFERENCE REPORTS

Mr. SIMPSON. Mr. President, I send a resolution to the desk on behalf of Mr. ARMSTRONG, Mr. ROTH, and Mr. DOMENICI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 286) to authorize a procedure for the disposition of extraneous material in reconciliation conference reports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. PACKWOOD. What was it? I did not hear the clerk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 286) to authorize a procedure for the disposition of extraneous material in reconciliation conference reports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROTH. Mr. President, the purpose of this resolution is to remedy a possible unintended result of the Byrd amendment to the reconciliation bill, section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985. That provision imposes a discipline upon this body which is not imposed on the other body. Basically, it requires that Senators not place extraneous provisions in reconciliation bills and resolutions.

However, if Members of the other body are free to load up their bills and resolutions with extraneous provisions, I fear that our body will be at a disadvantage with respect to the other body. Since we cannot tell the other body how to conduct its business, the solution is to create a new Senate procedure for handling extraneous material originating in the other body and coming to us as part of a House amendment or a conference report. The situation is analogous to that in the other body when we send provisions to them which would violate their rule on germaneness if offered there rather than here.

The other body's response to that situation has been to adopt clauses 4 and 5 of rule XXVIII of the House rules. The remedy proposed here is similar. It would permit a point of order to be raised against the extraneous material in House amendments or conference reports. With respect to a House amendment, if such point of order is sustained, the effect will be like that of a successful motion to strike out the offending language, and

the Senate will be able to consider and act upon the remainder, if any, of the amendment.

With respect to a conference report, if such point of order is sustained, the effect will be like that under rule XXVIII of the House rules; the Senate will be able, for example, to request further conference or to insist on its disagreement or to recede and concur in the House amendment with an amendment incorporating the remainder of the text of the conference report or any other permissible variation which does not revive the provision deemed stricken by the successful point of order.

It should be noted that points of order may be made only with respect to two of the four categories of extraneous material in section 1201. This is because the two categories omitted are not applicable to matters to be transacted between the Houses. Moreover, it is intended that the remaining two categories be applied without reference to any instructions that may have been given to committees. Thus points of order may be raised against a provision which does not produce a change in outlays or revenues or which produces a change which is merely incidental to the nonbudgetary components of the provision.

I believe that this resolution is a necessary step to protect the prerogatives of this body. With this protection, the Byrd amendment will be able to achieve a necessary reform without disadvantaging this body.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 286) was agreed to, as follows:

S. RES. 286

Resolved, That when the Senate is considering a conference report or House amendment with respect to a reconciliation bill or reconciliation resolution pursuant to section 310 of the Budget Act, upon a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) and (d)(1)(D) of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and such point of order is sustained, any part of such report or amendment containing such material shall be deemed stricken, but it shall be in order to continue consideration of the remainder under the Rules and practices of the Senate and applicable law. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resolution, as well as to waive or suspend the provisions of this resolution.

The provisions of this resolution shall remain in effect until the date of termination of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF THE CAPTAIN JOHN FOSTER WILLIAMS COAST GUARD BUILDING, IN BOSTON, MA

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3931, the John Foster Williams Coast Guard Building.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3931) to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts, as the "Captain John Foster Williams Coast Guard Building."

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time at length and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3931) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be discharged from further consideration of H.R. 2651, to amend section 504 of the Alaska National Interest Land Conservation Act to promote the development of mineral wealth in Alaska, and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2651) to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time at length and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. MURKOWSKI. Mr. President, today I rise in support of H.R. 2651, legislation which amends section 504 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). The basic thrust of this legislation is to extend for a period of 1 year the statutory authorization to conduct mineral exploration in the Greens Creek unit of Admiralty Island National Monument, Alaska.

Section 504 of ANILCA provided a limited authorization for the exploration and development of prior existing valid mining claims in the Greens Creek area. Since 1980, the Noranda Mining Co., as lead operator in a joint venture with other major mineral companies, has been exploring those claims under the terms and conditions of section 504. That exploration has demonstrated that Greens Creek is an extraodinarily rich deposit of zinc, lead, silver, gold and other associated minerals; and that as much as 50 percent of the deposit lies outside the area left open for exploration in section 504. Five years of exploration has also shown that full exploration of the entire deposit can not be accomplished within the 5-year period provided by section 504. Thus the need to amend section 504 is apparent.

Earlier this session, Senator STEVENS and I introduced a bill to amend ANILCA to permit full exploration and development of the Greens Creek deposit in an environmentally sound manner. Congressman DON YOUNG sponsored companion legislation in the House. This legislation was necessary because the authorization in ANILCA to conduct mineral exploration at Greens Creek expired on December 2, 1985. It was our hope that Congress would address the merits of this issue and provide the relief needed prior to the December 2, 1985 deadline.

Action on that legislation has been held up, however, by the insistence of some that it be linked to the resolution of other perceived resource management issues on Admiralty Island. One of those issues involves 23,000 acres of prime timber land owned in fee by Shee Atika, Inc., an Alaska Native corporation created pursuant to the Alaska Native Claims Settlement Act. Since August, Shee Atika, Noranda and other parties with varied interests in Admiralty Island have been negotiating in an attempt to arrive at a comprehensive settlement of all resource management issues concerning the island.

While these negotiations have been occurring the December 2 expiration date has passed. The participants in the Greens Creek mining venture now find themselves in the position of not being able to continue exploration of

the deposit. Moreover, claims which had been staked prior to passage of ANILCA, but which had not been perfected because of the lack of time, are now invalid. To rectify this situation, albeit temporarily, the House has passed H.R. 2651.

H.R. 2651 does two things. First, it permits the Noranda joint venture to continue to hold and explore its unperfected mining claims in the Greens Creek area for an additional year. It does not, however, permit any additional claims to be perfected during this year. Consequently, the effect of the bill is to maintain the status quo as of December 1, 1985, as far as the Greens Creek deposit is concerned. Second, it authorizes, subject to several conditions, the Secretary of Agriculture to begin negotiations with Shee Atika, Inc., aimed at an agreement whereby Shee Atika would refrain from taking any action with respect to its lands on Admiralty Island, which would render those lands inappropriate for wilderness designation at some future date. In this regard, the Greens Creek issue remains linked to at least one other resource management issue on Admiralty Island.

Mr. President, I do not like the linkage that has been established between these two issues. The need to provide for full exploration and development of the Greens Creek deposit is an issue that can and should be addressed on its own merits. Nevertheless, I recognize the desire of others who insist that any interim relief for Noranda occur in conjunction with legislation which also addresses the Shee Atika issue.

In this regard I think it is important to express my views of the provisions in H.R. 2651 which concern Shee Atika. Those provisions authorize the Secretary of Agriculture to enter into an agreement with Shee Atika under which Shee Atika would refrain from logging or otherwise economically developing its lands on Admiralty Island. In essence they authorize the Secretary to buy timber harvesting rights.

The 1971 Alaska Native Claims Settlement Act [ANCSA] granted to Shee Atika, and approximately 160 other Native village corporations created by that Act, the right to select Federal lands in Alaska for fee ownership. To fulfill its entitlement, Shee Atika selected some 23,000 acres on Admiralty Island. Because Shee Atika's right to select on Admiralty Island was viciously challenged, Congress, in 1980 through section 506(c) of ANILCA, specifically conveyed the Admiralty Island acreage to Shee Atika. The point to be made here is that on two separate occasions, Congress has expressed its intent that Shee Atika should be permitted to own land on Admiralty Island. Despite this clear indication of congressional intent, Shee Atika's attempts to develop this acreage have been subject to unrelenting litigation by parties who believe that those lands should be part of the Admiralty Island National Monument.

It is these parties who now insist that the authorization to negotiate for timber harvesting rights be included in H.R. 2651. I do not favor this provision, especially in this time of deficits and budget reductions, because it suggests the Federal Government spend tax dollars to pay a private corporation to refrain from developing its privately owned land.

Nevertheless, despite serious reservations, I support H.R. 2651 and ask my colleagues to do likewise. I do this for the following reasons. First and foremost, the bill does provide much needed relief to the mining operation at Greens Creek and that is my primary objective. Second, I am convinced that the provision authorizing the purchase of timber harvesting rights will not result in any substantive agreement with Shee Atika.

That provision is not binding on Shee Atika. It merely obligates the Secretary of Agriculture to "undertake negotiations" with Shee Atika and then only if sufficient funds have actually been appropriated for that specific purpose. It does not obligate the Secretary to reach an agreement with Shee Atika. It does not require him to use Federal dollars from some other source, such as the Tongass Timber Fund, to fund any agreement. Nor does it require him to explore any means other than the payment of money for purposes of reaching such an agreement. Finally, by enacting this provision, we do not intend to prohibit Shee Atika from developing its lands or harvesting its timber on Admiralty Island during the time it may be negotiating with the Secretary. Likewise, this provision is not intended to provide any group or entity with a cause of action by which to challenge actions of the Secretary of Agriculture or Shee Atika on this issue or any other issue. In short, the provision is entirely voluntary on Shee Atika's part and only binds the Secretary to sit down at the negotiating table.

Mr. President, there is one other reason why I support H.R. 2651, By passing it we are keeping alive the process of attempting to craft a long-term settlement of resource management issues in Southeast Alaska. This is a commendable goal and one to which I am committed. I urge the Members of the Senate to support passage of H.R.2561.

Mr. METZENBAUM. Mr. President, over the last few months there has been an effort among a variety of diverse interests to achieve a settlement of several resource management issues on Admiralty Island. It is my understanding that while that effort has made enormous progress, a final agreement remains elusive.

The pending bill deals with concerns of two of the parties to the settlement talks, the Noranda Mining Co. and Shee Atika, Inc. Frankly, I am extremely reluctant to support passage of this limited bill absent a more comprehensive agreement involving all parties.

However, I understand that Noranda and Shee Atika, along with all other parties to the recent negotiations, have agreed to continue their efforts to achieve a comprehensive settlement in the coming months. Thus, I will not oppose this bill. But I would appreciate it if my colleagues from Alaska would give an assurance that there will not be an effort to pass additional legislation involving Admiralty Island until the ongoing negotiations I mentioned earlier are given a chance to succeed.

Mr. MURKOWSKI. I appreciate the concerns of the Senator from Ohio. While I do not favor linkage of the Admiralty Island issues, I recognize that these talks have been proceeding. It would not be my intention to push for additional legislation beyond the pending bill until those talks have had a chance to come to a positive conclusion. However, it goes without saying that I retain the right, indeed the obligation, to offer any legislation at any time which I believe is necessary to protect the rights and interests of the people of my State.

Mr. STEVENS. I agree with the remarks of my colleague from Alaska.

Mr. METZENBAUM. I thank the Senators for their comments.

Mr. MURKOWSKI. What is the purpose of this legislation? Does not the Secretary have adequate authority to acquire property when deemed necessary to protect the Monument?

Mr. McCLURE. The Secretary has a variety of authorities to acquire lands and this legislation does not affect those authorities. The purpose of section (k) of the legislation is simply to protect the wilderness character of the Shee Atika lands at Cube Cove while there is an ongoing process to develop a mutually acceptable exchange. The authority in section (k) is in addition to any other authority which the Secretary may have and the section (k) authority is intended to be used at the discretion of the Secretary to facilitate the use of the other authorities such as the section 1302(h) exchange provision of ANILCA.

Mr. MURKOWSKI. It is my understanding that Shee Atika has already harvested some of the timber at Cube Cove but has been precluded by ongoing litigation from removing the harvested material from the site. Would a protection agreement under section (k) allow the removal of this material?

Mr. McCLURE. There is nothing in the act which would preclude the Secretary from allowing the removal of

the already harvested material subject to reasonable requirements.

Mr. MURKOWSKI. What effect would a protection agreement with Shee Atika have on any third party interests in the Shee Atika lands at the Cube Cove?

Mr. McCLURE. A protection agreement with Shee Atika would be subject to any third party interests in existence at the time of the agreement. Also, while not expressly stated in the act, I would expect that any protection agreement negotiated with Shee Atika would (1) recognize existing third party interest; and (2) prohibit Shee Atika from further encumbering the land during the life of the agreement. The potential impact of third party interest would be one of the things that the Secretary would probably want to look at in deciding whether or not it would be in the public interest to enter into a protection agreement with Shee Atika. It would probably not be in the public interest for the Secretary to enter into a protection agreement where it is likely that a third party action will thwart the purpose of the agreement.

Mr. MURKOWSKI. From where would the Secretary obtain any funds which might be required by a protection agreement with Shee Atika?

Mr. McCLURE. The funding would be subject to appropriation by the Congress. None of the funding sources currently available to the Secretary could be used as sources of funds unless specifically appropriated by the Congress.

Mr. MURKOWSKI. I note that the last paragraph in subsection 2(b) authorizes the Secretary to negotiate protection agreements with private land owners other than Shee Atika. What is the likely impact of these additional agreements?

Mr. McCLURE. I would expect very limited additional use of this authority by the Secretary if any. As I stated earlier, it is intended that the authority granted in section (k) will be used as an adjunct to other more traditional land acquisition processes. It is intended to facilitate the use of these other authorities; not to replace them.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2651) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING THE ENROLLMENT OF H.R. 2100

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 264, correcting the enrollment of the farm bill.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 264) to correct the enrollment of H.R. 2100.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res 264) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLMENT CORRECTION

Mr. SIMPSON. Mr. President, finally, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 263, directing the enrollment of the Compact of Free Association.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 263) to rescind the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution H.J. Res. 187.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

Mr. SIMPSON. Mr. President, I move the adoption of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. 263) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. SIMPSON. Mr. President, I thank the Democratic leader for his presence so we could continue our business. He is always very thoughtful.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader for his charitable remark.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVENING OF THE SECOND SESSION OF THE NINETY-NINTH CONGRESS

Mr. DOLE. Mr. President, I send a join resolution to the desk and ask for its immediate consideration with reference to convening the second session of the 99th Congress.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A Senate joint resolution (S.J. Res. 255) relative to the convening of the second session of the 99th Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

The Senate joint resolution (S.J. Res. 255) was considered, ordered to a third reading, was read the third time, and passed as follows:

S.J. RES. 255

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the Ninety-ninth Congress shall begin at 12 o'clock meridian on Tuesday, January 21, 1986.

Mr. DOLE. Mr. President, I move to reconsider the vote on the resolution.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. DOLE. Mr. President, I send a resolution to the desk concerning appointing a committee to notify the President of our proposed adjournment.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

S. RES. 287

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of

the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution Senate Resolution 287 was considered and agreed to.

Mr. DOLE. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair appoints the Senator from Kansas [Mr. DOLE] and the Senator from West Virginia [Mr. BYRD] to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. DOLE. Mr. President, I send a resolution to the desk expressing our thanks to the Vice President for presiding over the Senate.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 288) tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 288) was considered and agreed to as follows:

S. RES. 288

Resolved, That the thanks of the Senate are hereby tendered to the Honorable George H. W. Bush, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

Mr. DOLE. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THANKS TO THE PRESIDENT PRO TEMPORE

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 289) tendering the thanks of the Senate to the President pro tem for the courteous, dignified and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HOLLINGS. Mr. President, my distinguished senior colleague has been here and on duty in the most deliberate, persistent and dignified fashion. We in South Carolina are extremely proud of our senior Senator for the way he has conducted his duties. It is no surprise to us. As the President pro tem of the U.S. Senate, we think he has been absolutely outstanding, and I join in urging adoption of the resolution.

Mr. DOLE. Mr. President, let me indicate that the resolution came from the distinguished minority leader, Senator BYRD.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 289) was agreed to.

The resolution reads as follows:

S. RES. 289

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Strom Thurmond, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I wish to express my deep appreciation to the able majority leader for this resolution, and I also thank my distinguished colleague from South Carolina for his kind words, and the distinguished Democratic leader for his cooperation and the opportunity we have had to work together.

Mr. BYRD. I thank the distinguished President pro tempore.

EXPRESSION OF ADMIRATION FOR DISTINGUISHED CAREER OF SENATOR JOHN C. STENNIS

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 290) expressing the Senate's admiration for the long and distinguished career of the Senator from Mississippi, the Honorable JOHN C. STENNIS.

The PRESIDING OFFICER. Is there objection to the presentation of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 290

Whereas, the Honorable John C. Stennis, of Mississippi, holds the honor of being the second longest-serving Senator in the history of the United States;

Whereas, the Honorable John C. Stennis, of Mississippi, has served ably and effectively as Chairman of the Armed Services Committee from 1969 to 1981;

Whereas, the Honorable John C. Stennis, of Mississippi, served on the Senate Aeronautic and Space Committee and had an integral part in moving the United States toward putting a man on the Moon and competing in interplanetary exploration;

Whereas, the Honorable John C. Stennis, of Mississippi, has shown great courage, strength, and dignity in the face of personal hardships and has been an inspiration to the Members of this Chamber and the public at large: Now, therefore, be it

Resolved, That the Senate now recognizes the long and notable career of the Honorable John C. Stennis in this Chamber, during which he has proved his reputation as a statesman of integrity and fairness and a gentleman of dignity and strength, and expresses its appreciation and gratitude for his long, faithful and outstanding service to the Country.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

PRINTING OF PUBLIC LAW 93-344 WITH THE RULES OF THE SENATE

Mr. BYRD. Mr. President, I ask unanimous consent that the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344, as amended, be printed as a Senate document together with the rules of the Senate, so that all these will be in one place, in one volume.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF APPOINTMENTS AFTER SINE DIE ADJOURNMENT

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 291) authorizing the President of the Senate and the President of the Senate pro tem to make certain appointments after the sine die adjournment of the present session.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 291) was agreed to.

The resolution reads as follows:

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate and the President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

APPOINTMENT OF MEMBERS TO THE NATIONAL GROUND WATER COMMISSION

Mr. DOLE. Mr. President, pursuant to Public Law 98-616, upon the recommendation of the Democratic leader, I appoint to be members of the National Ground Water Commission the following Senators: Senator MAX BAUCUS of Montana and Senator GEORGE MITCHELL of Maine.

COMMENDATION OF THE MAJORITY LEADER AND MAJORITY WHIP

Mr. THURMOND. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 292) commending the exemplary conduct of the distinguished majority leader and majority whip.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 292) was agreed to.

The resolution reads as follows:

Resolved, That the exemplary conduct of the distinguished Majority Leader, the Senator from Kansas, the Honorable Robert Dole, is deserving of the highest commendation of the Senate. The fair and just and able manner in which Senate business has been scheduled and managed is a source of pride to the Senate as a whole and the thanks of the Senate are hereby tendered to the Honorable Robert Dole, Majority Leader, United States Senate, and the majority whip, Senator Simpson for his able assistance.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

COMMENDATION OF THE MINORITY LEADER AND MINORITY WHIP

Mr. THURMOND. Mr. President, I send to the desk another resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 293) commending the extraordinarily cooperative conduct of the distinguished minority leader and the minority whip.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 293) was agreed to.

The resolution reads as follows:

S. RES. 293

Resolved, That the Senate extends its thanks to the distinguished Minority Leader, the Senator from West Virginia, the Honorable Robert C. Byrd. The extremely cooperative and able manner in which the Minority Leader has approached his duties as protector of the rights of the minority has been duly noted and the Senate commends the Minority Leader for his understanding, his devotion to the rules of the Senate, and for his outstanding leadership, and the minority whip, Senator Cranston, for his able assistance.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSION OF THANKS TO THE PRESIDENT PRO TEMPORE

Mr. BYRD. Mr. President, I wish to thank the distinguished President pro tem for his thoughtfulness in offering the resolution. And while I am on the floor, I also wish to thank him again for the extraordinary service that he performed during this past September upon the occasion of the visit of the Senate delegation to Moscow, where the delegation spent 3½ hours in discussions with the General Secretary, Mr. Gorbachev. I feel that the work of that delegation, indeed, helped to pave the way for the President at the subsequent summit, and also gave to the Senate a better understanding of the attitude of the new Soviet leader, and hopefully gave the Soviet leader an understanding of the attitudes of the U.S. Senate and the American people.

Mr. THURMOND. Mr. President, I wish to thank the ably Democratic leader for his kind remarks. We had a very fine trip to the Soviet Union. We gained insights. We spent 3½ hours with Mr. Gorbachev, and our delegation was ably led by the distinguished Democratic leader, Senator BYRD. He did a fine job on that trip. I think the information that we gained there and passed on to the President was very helpful to him.

Mr. BYRD. Mr. President, I think that the presence of the President pro tem of the U.S. Senate, Mr. THURMOND, added much to the stature of the delegation, and certainly helped in making an impression upon the General Secretary of the Soviet Union. I personally thank him.

APPRECIATION OF THE SENATE STAFF

Mr. THURMOND. Mr. President, I send another resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 294) tendering the thanks of the Senate to the Senate staff for the courteous, dignified and impartial manner in which they have assisted the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 294) was agreed to.

The resolution reads as follows:

S. RES. 294

Resolved, That the thanks of the Senate are hereby tendered to the Senate Sergeant at Arms, the Secretary of the Senate, the Secretary for the Majority, the Secretary for the Minority, and the floor staff of the two parties for the courteous, dignified, and impartial manner in which they have assisted the deliberations of the Senate during the first session of the Ninety-ninth Congress.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to table the resolution to reconsider.

The motion to lay on the table was agreed to.

ROBERT A. PECK

Mr. MOYNIHAN. Mr. President, this day I welcome and regret; welcome, because the business of the 1st session of the 99th Congress is at last over; regret, because it is the last day in which I will have Maj. Robert Peck near my side in the Senate.

Bob came to my staff 7 years ago, by way of the Yale Law School, the Loeb Fellows of Harvard University, the Green Berets, the National Endowment for the Arts, the Office of Management and Budget, and the White House. All necessary and perhaps even ample preparation for what he would face here in the Congress.

He was first my counsel to the Environment and Public Works Committee. There he served me and New York proudly and well; there he served our national heritage, as the chief staffer in the U.S. Senate concerned with the business of historic preservation and public buildings. The avenues of cities across this country are more beautiful, display their history more proudly, because Major Peck was here.

Two years ago, Bob became my administrative assistant, and he ran my office in the way I did not believe possible for the U.S. Senate: orderly, intelligently, and well.

I will miss him; I know that, and I know why. Others in the Senate, and across the Nation, will too; without appreciating why.

HARVESTING FEAR

Mr. GRASSLEY. Mr. President, we all are aware of the evil that is spread by various hate groups throughout the world, as well as in America. These groups exploit the fears and troubles of honest, well-meaning and innocent people who are struggling for answers for their problems. The hate groups transform these fears and anxieties into a violent energy that is directed upon easily distinguished groups, classes and races. History is littered with shameful, horrifying episodes resulting from this form of evil perpetrated by hate groups.

Therefore, Mr. President, you can understand my alarm and dismay to learn that a number of hate groups are working their way through my State of Iowa, exploiting the deep depression among rural communities and farm families. They are selling a simplistic, deadly answer that completely misses the reasons for Iowa's farm economy problems. They say that the farm economy is hurting because of an international Jewish conspiracy or because blacks and Jews are importing our former enemies—the Japanese, Chinese, and Vietnamese."

I have worked hard trying to explain to my colleagues in Washington the real causes for economic problems in rural America. It is true, farmers are hurt when their markets are destroyed by grain embargoes. They are hurt by trade policy that refuses to counter the unfair practices of foreign competitors. Farm markets are blasted when the U.S. Treasury Department allows the Customs Service to create loopholes to allow Brazilian ethanol into the United States without having to pay the legal tariff. Farmers are hurt by their spendthrift Congressmen and Senators who for years have let deficits pile higher and higher, helping to drive interest rates through the roof.

Farmers are hurt when OPEC drives the price of oil up, increasing the cost of the fertilizer and tractor fuel. Farmers are hurt by monetary policy that tries to restrict too severely the supply of money. Farmers are hurt by misguided consumer activists who scare Americans into thinking that our wholesome food supply causes diseases when in reality our scientists can't even come to a consensus. The nitrite fiasco and similar food scares cost Iowa pork producers billions of dollars. And this is only a fraction of the hurt caused by Federal policies.

Iowa's farm economy has not seen such turmoil since the Great Depression. People are desperate. They are struggling to make ends meet. They are distressed and angry, and they have a right to be. The only life they have ever known is crumbling before their eyes. It's no wonder they start believing the persuasive rhetoric of these hate groups. They want answers; but they must be given the truth, not lies.

So today I list the real causes for our farm problems to help Iowa farmers and small businessmen, as well as those throughout the country, recognize the propaganda fed to them by manipulative hate groups. If we lose our focus on the real sources of our problems then we lose all hope of ever recovering. We must resist the tempting, simplistic message offered by hate groups.

The conspiracies they tout are not the cause, and violence and hatred are not the answer. This is only poison to life in rural America and we must be aware of the damages that the purveyors of hate introduce to the heartland. We must speak out, just as responsible citizens and farm, church and government leaders have done.

We cannot remain silent while bigotry and hatred steal our hopes of recovery. They divert the much needed energy for positive solutions and divide communities and people who need so much to work together.

I am not ready to give up on Iowa's farm families and main street businesses. And I never intend to give up. I am going to continue to work hard at every possible opportunity to help improve our economy. Recovery is possible if we all work together. There is something, no matter how big or small, that everyone can do to make a positive contribution toward economic recovery in rural America. Let's not let unfounded conspiracy theories and hatred take that hope away from us.

THE PRIVILEGED ELITE THAT CONTROLS THE FOREIGN SERVICE

Mr. HELMS. Mr. President, it is evident to many of us in this body that there is a crisis in the career Foreign Service officer corps. That crisis is in part responsible for the difficulties which attended the passage of the FSO promotion list yesterday. The particular problem with that list, however, was only symptomatic of a broader problem which has been festering for some time.

That problem is whether the Foreign Service is a democratic institution, or whether it is controlled by an in-bred, self-serving clique that excludes the vast majority of Foreign Service officers from significant participation in decisions involving promotion, assignment, bonuses, and awards. There is disturbing evidence that such a clique exists, based upon social standing, family wealth, and personal connections—not only for advancing careers, but for protecting the careers of those among the elite group who falter.

It is ironic that the minority FSO elite, highly visible in the media and Government councils, likes to attack the few diplomatic appointments made from non-FSO ranks. The elite likes to complain that the Nation's diplomatic representation is somehow being compromised by the unprofessional conduct of supposedly amateur diplomats appointed from private life, rather than from the Foreign Service.

They like to portray non-FSO's who are appointed Ambassadors as purely political nominees who are appointed on the basis of wealth and social position, and not real competence. In contrast, we are told, the career officers corps is a group of especially talented individuals who are appointed and promoted solely on the basis of merit and proven performance. But there is evidence that what might be termed "the Ambassadorial Class" within the Foreign Service is open to the very criticism made against the outsiders.

MOST FSO'S ARE OUTSIDERS

Yes; Mr. President, the crisis is inside the Foreign Service. What the self-appointed spokesmen never point out is that the vast majority of members of the Foreign Service Corps are themselves outsiders when it comes to high level promotions, fat bonuses, and key posts. Appointments and promotions in the Foreign Service presumably are received for merit; but there is a pattern and practice in the Foreign Service which seems to ex-

clude hundreds, indeed thousands, of qualified and experienced Foreign Service officers from the principal positions of power, influence, and high remuneration in the State Department.

It is true that the Foreign Service Corps is selected by examination, and intended to be an elite group of exceptional merit. The real question is whether the promotion and posting of the officers actually proceeds on a true merit basis or whether the intention of the Foreign Service Act has been distorted by an "Old Boy and Old Girl" network constituting an elite within the elite. In other words, is the Foreign Service run by a clique that promotes, supports, and protects its members in preference to vast majority of members of the corps?

AN IVY LEAGUE RULE?

This question can perhaps be answered best by studying the most recent FSO promotion list that the State Department has sent us via the President. Of the nominees to the rank of career minister—a rank by the way that is higher both in salary and in protocol status than any other career office—71 percent were graduates of only three elite, highly expensive Ivy League universities—Princeton, Yale, and Harvard.

Similarly, the list of the most recent recipients of $20,000 cash bonuses from the State Departments has the same pattern. Five out of seven of those recipients were also graduates of the Ivy League universities—three from Harvard and one each from Dartmouth and Princeton. The recipients of the lesser awards showed a more democratic and representative distribution of undergraduate schools, with only one out of three being graduates of the Ivy League universities.

According to statistics provided to me by the State Department, of those who were certified for appointment between 1957 and 1962—the age group that is now holding the top jobs in the Department—only 6.4 percent attended Harvard and only 4.7 percent attended Princeton. But fully 29 percent of the career FSO's serving as Ambassadors attended those two schools.

Looking beyond Harvard and Princeton, we see that other statistics published by the Department of State show that 20 percent—a figure which is probably exaggerated—of the FSO's entering the corps between 1954 and 1960 were from all Ivy League schools combined. Yet 47 percent of career officers serving as Ambassadors in 1984 were graduates of those schools.

Roughly speaking, Ivy League undergraduates in the Foreign Service are two and a half times more likely to be selected as Ambassadors than their fellow junior officers who took the same rigorous written and oral examinations.

Now, of course, the Ivy League universities are considered to be very fine schools. Many of our colleagues here in the Senate are graduates of these schools. It is not my purpose to cast aspersions on these graduates. But not even graduates of the Ivy League schools would be so arrogant as to assert that only the sons and daughters of the Ivy League are qualified to serve in leadership positions in the U.S. Government.

Nevertheless, the imbalance in the distribution of top positions in the State Department suggests a situation akin to inbreeding and nepotism that is repugnant to our democratic institutions. The only other explanation would be the existence of a reverse quota system requiring a disproportionate representation for those belonging to the academic and social elite of the Eastern prestige universities. Is there some kind of unwritten Ivy League rule?

The discrimination applies not only to the competition for Ambassadorships, but to the competition for the important or more pleasant postings. For example, Ivy League graduates accounted for 67 percent of the Ambassadors in European assignments. This would be an extraordinary result to come about simply from the impartial siftings of promotion and placement panels.

THE MANAGEMENT HAMMERLOCK

In investigating this system, I was struck by the hammerlock hold that the Ivy League has on the management of the State Department. When the Under Secretary of State for Management, a Princeton man, gathers around him the six Assistant Secretaries or equivalents that comprise his top management team, only two persons in the room are not graduates of an Ivy League university.

And when the Under Secretary for Management takes their recommendations to the special secret committee of FSO's that selects their fellow FSO's for Ambassadorships, only one person in the entire room is not an Ivy League graduate. For a while earlier this year, the control of the top Foreign Service assignments at the State Department was in the following hierarchy:

The Under Secretary for Management, Princeton.

The Director General, Harvard.

The Director of Foreign Service Career Assignments, Princeton.

The Deputy Director of Foreign Service Career Assisgnments, Princeton.

It is fair, therefore, to ask: Was merit the only criterion in making their recommendations?

With that sort of personnel team in place, it is easier to understand the common impression that FSO's who went to Ivy League schools tend to do better in personnel assisgnments—and in the promotions which result from better assignments—than do FSO's who went to other schools.

If a newly appointed FSO is a graduate of Princeton, then the new FSO will be assigned as a Special Assistant to the Ambassador, or to an Assistant Secretary, or even to the Secretary, while his or her non-Ivy League colleagues are assigned the less visible, but important day-to-day work of the Department. It seems to many that—with rare exceptions—the graduates of other fine schools from the South, the Midwest, and the West are being assigned to the low visibility, perhaps deadend jobs in the consular or administrative sections, while the graduates of the Eastern elite colleges are placed on the fast track to the top of the Foreign Service.

How does this happen? The Congress has demanded from the State Department over the past three decades that it change to meet the new reality of this country. Congress has required that the real America—the America of 50 States where over 3,000 colleges and universities are educating the rising generations—be fully and equitably represented among the diplomats we send abroad to represent our country.

Apparently, pressure from Congress has resulted in an opening up of the recruitment process. But this change is only a change in the the career point at which the discrimination appears. The discrimination against those who do not have wealthy parents of the Eastern establishment bent still occurs. Now, rather than keeping out entirely the graduates of the great universities of North Carolina, or of any other State lacking the noble geographic criterion of easternliness, the gnomes of the State Department simply bring them in and then treat them as second class citizens.

ALL FSO'S CHOSEN BY EXAMINATION

Let me emphasize, Mr. President, that all Foreign Service officers are selected on the basis of a rigorous written and oral examination that, according to the State Department itself, selects only the best candidates to enter the Service.

Why, then, are the ultimate rewards of the system going overwhelmingly to such a small, self-selected and self-promoting clique? Should we rename the State Department "The Princeton Club of Foggy Bottom?"

With less than one out of four FSO's making Ambassador having attended the hundreds of fine non-Ivy League colleges and universities, perhaps it's time for real America to be represented overseas. It is time for the deserving and talented sons and daughters of American taxpayers to get a fair break in the State Department.

This is not only a question of discrimination in the public service

against American citizens who did not inherit their wealth or come from a well-to-do family; there are other discriminations inherent in the domination of a few private elite institutions over the State Department personnel system. If you are a graduate of one of these schools for the period up to the mid-1960's, an inquirer is already well informed about your sex, your race, and to a large extent your religion.

WAYS TO INDUCE REFORM

It should be our goal to open up the careers in the Foreign Service to citizens of all States and to talented individuals for all socioeconomic backgrounds and families. There are several ways to induce change in the Department of State and its inbred personnel system.

One way would be for the President to take advantage of the recent changes in the law that allow him to appoint as Chairman of the Board of the Foreign Service someone from outside the system. Such an individual could function outside of established cliques, and without implied or actual commitments to such cliques. Such a person could give a fair shake to all of the available talent within the Foreign Service. Certainly, there will be no reform if the ruling FSO cliques are allowed to sit in judgment upon themselves.

Another way to encourage reform would be to increase significantly the number of appointments of outside specialists to be Ambassadors, Assistant Secretaries, and Under Secretaries—men and women who do not represent this inbred elitist and undemocratic clique. We must not forget that there are career Foreign Service officers in the Department of Agriculture, and in Commerce, and in USIA who could contribute effectively as Ambassadors. As chairman of the Agriculture Committee, I am familiar with the work, in particular, of the agriculture attachés. Yet none of these have ever been chosen except for a very limited number of USIA officers—normally held to no more than two—who are chosen from time to time.

And of course, there are thousands of foreign policy specialists outside the Foreign Service—businessmen with experience in dealing with foreign countries, professors with particular expertise in foreign policy, and others form the various nonprofit groups involved in foreign policy and development activities—who are often better qualified than those in the Foreign Service who are being recommended to the President. To their failing, then, that they did not go to the right universities—an apparently unpardonable offense, whether caused by a youthful mistake in judgment or a lack of financial resources.

It is not too late, Mr. President, to reform the State Department to make it do its job of representing America overseas. What we have now, though, is not representative of our country's diversity nor, in fact, representative of the American social and political system. We are not an aristocracy, and we do not take well to those who aspire to the pretention of aristocrats.

Mr. President, the aristocrats of England have been forced, in most cases, to turn their mansions over to the public and to allow the public into the homes they inherited; perhaps it is time for the elitists at the State Department to turn the Department over to the American people.

JERUSALEM FELLOWSHIPS PROGRAM

Mr. MOYNIHAN. Mr. President, I am pleased to report that the Jerusalem Fellowships Program held its first reunion meeting on Monday, November 4, in New York City. The Jerusalem Fellowships Program brought over 100 North American college and graduate students to Israel this past summer. My distinguished colleague from Pennsylvania, ARLEN SPECTER, and I had the privilege of serving as honorary chairmen of the advisory committee that selected these fellowship recipients from over 1,000 worthy applicants.

The Jerusalem Fellows spent 6 weeks touring and studying in Israel. Their first night in Israel was celebrated with a gala private reception given by President and Mrs. Herzog at their Jerusalem residence. During the weeks that followed, they met individually with Prime Minister Shimon Peres, Defense Minister Yitzchak Rabin, former Defense Ministers Moshe Arens, Ariel Sharon, and Ezer Weizman, and half a dozen other leading Knesset members including former Israeli Army Chief of Staff Raphael Fitan; the first Israeli Ambassador to Egypt, Eliahu Elisear; Minister of Health Mordecai Gur; Deputy Foreign Minister Roni Milo; and Interior Minister Yitzchak Peretz. In almost every case, there was an opportunity for in-depth dialog with these individuals—an unprecedented opportunity for a study mission for college-age students to question Cabinet Ministers. In addition, the fellows met with Israeli citizens from every walk of life and from every group in that diverse society.

Eighty of the hundred Jerusalem Fellows had never been in Israel before. They had been selected on the basis of intellectual and leadership skills and I am confident that they will articulate the insights developed during this tour now that they have returned to their campuses throughout North America.

The Jerusalem Fellowships Program was sponsored by Aish HaTorah Yeshiva in Jerusalem, a unique educational institution headed by Rabbi Noach Weinberg, a leading contemporary Jewish philosopher and educator. The program's executive director was Rabbi Philip Shore. The chairman of the advisory committee is Richard Horowitz of Los Angeles, president of the North American Board of Governors of Eish HaTorah-Jerusalem. Members of the advisory committee who interviewed and selected the fellows and helped develop their itinerary include New York State Supreme Court Justice Miryan Altman; the chairman of the New York State Board of Regents, Martin Barrell; former U.S. Assistant Attorney General Alice Daniel; former chairman of the New York City Board of Higher Education, Dr. Harold Jacobs; New York attorney and communal leader, Lydia Kess; the president of Touro College, Dr. Bernard Lander; and a distinguished Member of the House of Representatives, Congressman HENRY A. WAXMAN of California.

It is obvious from the response to this summer's program that the Jerusalem fellowships has made a significant contribution toward furthering understanding of Israel among North American young people. I salute all who were involved in this magnificent project.

THE CONSTITUTIONAL CONVENTION ACT OF 1985

Mr. MOYNIHAN. Mr. President, last week, the Congress passed, and the President signed, our latest—and most ill founded—attempt to remedy the disastrous deficits given us by fiscal policies of the present administration. I am certain that few of us had in mind the Gramm-Rudman bill when we talk of Christmas folly, but that is what we have had this season.

I am not so certain that once the full implications of what we have done become clear, that the Congress will not revisit another, equally ill-conceived, idea to address the deficit: a constitutional writ requiring that every annual budget be balanced.

Such a requirement also could be imposed by a constitutional convention proposing such and its subsequent ratification by the States. To date, 32 State legislatures have called for a convention for proposing amendments, as provided for under article V of the Constitution, for just this purpose.

The earliest application on hand is from the State of Mississippi; it is more than a decade old, dated April 29, 1975. In all, 19 applications are more than 7 years old; 16 are more than 8 years old; and 4 are 10 years old or more.

(In case of fire, or other mishap, perhaps I should record that the 32 applications are stored in the third drawer of a black, four-drawer filing cabinet, in room S-221 of the Capitol, under

the supervision of the Secretary of the Senate.)

Of late, we go through the now annual exercise to see whether another two States will apply and so meet the required two-thirds of the States necessary to invoke such a convention. I make no prediction. For one thing, I do not know how long a legislature's application remains valid. Indefinitely? Article 5 is silent.

It is also important to note, Mr. President, that while these petitions for a constitutional convention nominally are part of a campaign to write a balanced budget amendment, article 5 speaks of "amendments"—plural—and there could be no containing such a convention should it take place.

We might well remember that the Philadelphia Convention assembled in 1787 because New York State was taxing firewood imported from Connecticut and other related matters. It went on to address the universe of concerns that comprise our way of government.

These are only two of the uncertainties surrounding the convening of a constitutional convention. The framers clearly believed that under certain circumstances, such a convention should have a place in our constitutional system. Unfortunately, they provided us little guidance as to what those circumstances might be.

Would it not be wise to try to address some of these matters, in a reasoned and dispassionate manner, before such answers become a political need of the moment. In this regard, I call my colleagues' attention to a bill reported by the Judiciary Committee on July 23 of this year, S. 40, the Constitutional Convention Act of 1985.

This bill provides that Congress shall call for a constitutional convention 8 months after at least two-thirds of the States have submitted, within a 7-year period, valid applications calling for a convention on the same subject. The bill also would bar the convention from proposing any amendment concerning matters different from those stated in the petitions and the concurrent resolution. S. 40 further would require the convention's presiding officer to submit any proposed amendment to Congress, which could disapprove of the amendment by concurrent resolution.

The Members of this body understand just how important are procedures in determining outcomes. Even if one disagrees with the provisions of S. 40, it is right to address the issues it raises. That is why we must consider carefully the question of how to amend the Constitution.

AFFIRMATIVE ACTION

Mr. CRANSTON. Mr. President, last week I outlined in some detail the deep concerns that I and many others in both parties, in the private sector, and in various Federal agencies, share over the future of Executive Order 11246, the 20-year-old Presidential directive mandating affirmative action efforts on the part of Federal contractors.

In my statement of December 9, 1985, at 35380 of the CONGRESSIONAL RECORD, I noted that the opposition to efforts led by the Attorney General of the United States, Edwin Meese III, to weaken critically the Executive order is bipartisan and increasingly broad in the U.S. Senate. At that time, almost two-thirds of this body had made clear such opposition. Now, 68 of my colleagues have expressed that view. I also note that our distinguished minority leader, Senator BYRD, has this last week written to the President urging that no revision to the Executive order be made.

At the end of my statement of last week, the text of a letter I coauthored to President Reagan with my good friend and colleague from California, Representative GUS HAWKINS, along with Representative JIM JEFFORDS, the chairman and the ranking minority member, respectively, of the House Committee on Education and Labor, expressing our deep concerns over the proposed amendments to the Executive order was printed in the RECORD. Our letter, dated September 17, 1985, strongly urged Mr. Reagan to take no action regarding the Executive order until there has been a full public review of any proposed changes, and an opportunity to assess their potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights. The text of two subsequent letters endorsing the statements and recommendations in the September 17 letter were also printed in the RECORD at that time.

I now request, Mr. President, that a third letter of endorsement, which has since been sent to the President, be printed in the RECORD at the conclusion of my remarks.

As I emphasized last week, the proposed revisions to the Executive order threaten to destroy the tools of progress responsible for providing to qualified minority and women workers employment opportunities that had historically been denied them. I deeply hope that the President will by rejecting these proposed revisions reaffirm the commitment of the Federal Government to ending employment discrimination.

The letter follows:

HON. RONALD W. REAGAN,
President of the United States,
Washington, DC

DEAR MR. PRESIDENT, we wish to express our support for the statements and recommendations in the letter of September 17, 1985, endorsed by 222 members of the House of Representatives and the United States Senate, strongly urging "that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights."

Sincerely,

RUSSELL B. LONG.
EDWARD ZORINSKY.
DALE BUMPERS.
GEORGE J. MITCHELL.
DAVID PRYOR.
HOWELL T. HEFLIN.

INDIANA GOODWILL AMBASSADORS

Mr. LUGAR. Mr. President, Karl Anderson, Wendy Golder, and David Large, from Frankfort Senior High School in Frankfort, IN have been invited to participate in a Youth Cultural Exchange Program in Hong Kong and the People's Republic of China in December and January. During this excursion they will run in a cross-country meet in Canton, People's Republic of China.

Programs such as this serve to improve understanding between youth in the United States and other countries. I am proud to have Karl, Wendy, and David representing the State of Indiana in their roles as goodwill ambassadors, and I want to wish each the best of luck in the cross-country meet.

AFGHANISTAN: IS IT GENOCIDE?

Mr. PROXMIRE. Mr. President, reports accusing the Soviet Union of committing genocide in Afghanistan have been circulating for some time. Now, a new United Nations report, prepared by Austrian parliamentarian and academic Felix Ermacora, entitled "Situation of Human Rights in Afghanistan," adds credence to these accusations. For the first time in the history of the United Nations, the General Assembly went on record, by a vote of 75 to 23, expressing its "profound concern" for Soviet conduct in Afghanistan well beyond what is ordinarily called human rights violations.

The Washington Post writes, "the word that comes to mind when one reads this report is genocide."

Mr. President, is the Soviet Union committing genocide in Afghanistan? This Senator would like to know.

Sadly, reports like Professor Ermacora's prove that genocide tendencies are not things of the past. These events continue to occur today. The gruesome details of murder, massacre, and mutilation remind of man's savagery and the need to prevent such human disasters from occurring in the future.

Ratification of the Genocide Convention will provide the United States with the legal authority we now lack to invoke the treaty's provisions and to call the Soviet Union to account for its behavior that is outlined in this

report. No other nation has the ability to stand up to the Soviet Union and demand accountability other than this superpower and we have a moral duty to do just that.

Mr. President, I ask unanimous consent that the editorial from the Washington Post be reprinted in the RECORD and urge my colleagues, after reviewing it, to join me in seeking prompt action to ratify this important human rights treaty.

[FROM THE WASHINGTON POST]

AFGHANISTAN: THIS IS GENOCIDE

"Human rights violations" is a phrase used so often and so casually that even the most compassionate among us can take it as routine. The quick meaning in most people's minds, we suspect, centers on police abuses, roughing and locking people up, perhaps killing some of them. Something like that is what you may expect to find in a new United Nations report entitled "Situation of Human Rights in Afghanistan."

But it's different. The second report on Afghanistan by Austrian parliamentarian and academic Felix Ermacora and a companion report on Iran mark the first time the United Nations had debated human rights in those countries on the basis of official U.N. reports. By a vote of 75 to 23 with 33 abstentions—India, lamentably, was the lone democracy holding Moscow's hand—the General Assembly registered its "profound concern." Afghanistan was singled out not just because a Third World Moslem country is the victim of aggression but also because of the terrible and deepening intensity of its ordeal.

Soviet troops with their Afghan clients have driven 4 million people out of the country and perhaps another 2 million out of their homes. Massively and indiscriminately, they bomb civilians—they bomb funerals. They destroy villages, crops and agricultural facilities. For the children, they drop cute, limb-shattering booby traps disguised as harmonicas and birds. Torture is "commonplace" and the operation of the judicial system "creates an atmosphere of insecurity and anguish." "There is apparently no health care for the majority of the population. As a consequence, the infant mortality rate has reached 300 and 400 per 1,000." Civilian deaths number "approximately 500,000."

When half the population is uprooted and a third driven into exile, when infant mortality reaches plague levels, when half a million civilians die and uncounted millions of others are maimed and malnourished, when, as Prof. Ermacora reports, the situation is getting worse, all this moves Soviet conduct well beyond what is ordinarily called "human rights violations." The word that comes to mind when one reads this report is genocide.

Soviets who talk about Afghanistan with foreigners sometimes solicit a certain sympathy for their policy dilemma and their costs. This is callous and arrogant. The people who deserve the sympathy are the Soviet Union's victims. Says a desperate Prof. Ermacora, "every hour lost is detrimental to the population"—the Afghan population. Moscow is committing one of the great crimes.

MYTH OF THE DAY: WOMEN SHOULD NOT BE REQUIRED TO REGISTER FOR THE DRAFT

Mr. PROXMIRE. Mr. President, the myth of the day is that women should not be required to register for the draft. Five years ago Congress chose to require only males to register with the selective service, thereby ignoring the clear military necessity of drawing on all available manpower resources in time of emergency. Now we are beginning to pay for allowing emotionalism to carry the day in the debate over registration. We are paying with military readiness.

Today's Army faces critical shortages in medical personnel. Reserve and National Guard units also face critical shortages of surgeons and nurses. In a military emergency, we would have no mechanism for inducting medical personnel to fill the shortage. The reason for this crisis in military readiness: 98 percent of nurses in the United States are women, and women cannot be registered for the draft.

The current policy of excluding women from draft registration is rooted in the combat exclusion policy. The logic of not registering women goes something like this: In a military emergency, demand is greatest for combat personnel; women cannot serve in combat, therefore they need not be registered for the draft.

Mr. President, this is faulty logic. We face manpower shortages in areas traditionally filled by women. In addition to drafting men for combat, we would have to draft and train additional men to serve in positions for which an already trained pool of female talent exists. Registering women to serve in noncombat positions which they are qualified for would be cost-effective, save training time, and release men for combat.

The policy of registering only men is also rooted in the misconception that general mobilization would require induction of equal numbers of men and women, thus impairing military readiness. This fear is unfounded. Congress retains the power to set requirements for conscription as well as define the exemptions for compulsory service. The Armed Forces have the authority to assign individuals according to his or her qualifications and the needs of the service.

A final great underlying fear remains regarding the impact of registering women for the draft. This fear is that registering women will send the wrong signal to the Soviets. Mr. President, it is far more likely that the Soviets, who require women to register for the draft, interpret U.S. reluctance to register women as a sign that the United States does not take womanpower seriously in times of emergency. Given our increasing reliance on women in the Armed Forces, we are sending the wrong signal to our allies and the Soviets about our confidence in the capability of our standing Armed Forces by not requiring women to register.

Mr. President, both the Soviets and our allies will recognize our commitment to a strong defense if we are willing and able to draw upon the outstanding talents and patriotic dedication of young men and women in times of crisis.

THE QUINTESSENTIAL ROLE OF THE STANDING CONSULTATIVE COMMISSION IN ARMS CONTROL

Mr. PROXMIRE. Mr. President, the Standing Consultative Commission can play a crucial role in making arms control agreements with the Soviet Union work. Why is the Standing Consultative Commission so crucial to arms control? And why should arms control be a prime reliance of the United States when we have to negotiate with a hostile and sometimes treacherous adversary? Is arms control our only option? How about it?

Should the United States forget about arms control and proceed ahead with an all-out effort to surpass and stay ahead of the Soviet Union in military capability? Should we rely on our superior economic strength, the far greater strength of our NATO allies compared to the Warsaw pact, and the sharply superior competence of United States and NATO scientific capability compared to the Soviet Union and the Warsaw pact? Or should we stop the arms race? Should we strive to negotiate arms control agreements with the Soviet Union that would end the enormous explosion of military spending on both sides? Which course is most likely to prevent the supreme catastrophe of a superpower war? What's the answer? The answer is that we have to continue to spend hundreds of billions each year on building military strength. Military strength is necessary. But it's not enough. An arms race will steadily increase hostility on both sides. And that's not all. It will impose an immense burden on our economy. It will bring us closer to war and bankruptcy so we also have to work far more effectively to negotiate arms control agreements that will win mutual compliance by both superpowers. Can we negotiate effective arms control agreements without negotiating from strength? No. We cannot. Can we afford to build a military force that will stay ahead of the Soviet Union without relying on any arms control agreement? No. In fact, no way. Arms control offers the one way we can increase our chances of preventing nuclear war without crushing our economy under an impossible burden of ever exploding military spending. Arms control also offers the

one basis of peaceful cooperation with our great potential adversary that can permit steady progress toward a reduction of the heavy burden of armaments. It can do more. Arms control can gradually build an increasing confidence in the compliance behavior of the adversary. Arms control can do this. But how? Here is the crucial question. If the Russians will cheat and violate arms control agreements, we obviously cannot and should not enter into them. Few Americans believe in unilateral disarmament. Certainly not this Senator.

For the United States to agree to an arms control treaty with the Soviet Union which the Soviet Union violates in a way that gives the Soviets a military advantage has precisely the same effect as unilateral disarmament. The agreement becomes worthless. The United States can become vulnerable. The Soviets may achieve a major, even a decisive military advantage. The cause of peace is not advanced. It is set back.

What does this mean? It means that compliance is absolutely quintessential to arms control. If the Soviet Union and the United States both comply with arms control treaties, arms control provides the way to greater national security, to a far greater chance of avoiding nuclear war and to a much lower burden of military spending. If the Soviet Union cheats the arms control agreement becomes a dangerous illusion that can undermine our national security. So how do we achieve compliance with arms control agreements? First, we must recognize that the strongest sanction for compliance with an arms control agreement with the Soviet Union is a recognition by both sides that the agreement is in the mutual interest of both countries. Second, both sides must also fully believe that the price of continuing the treaty is compliance. Both sides have to understand that the verification technology of the adversary will detect cheating. Both have to understand that the ultimate sanction against violation of the treaty is renunciation of the agreement. And both sides have to understand that the other side will renounce the treaty if it detects violations, confirms them, and is unable to persuade the other superpower to desist in its cheating.

So how do we resolve the violations or alleged violations that can bring a renunciation of the agreement? What is required? The first requirement is that both sides believe the agreement is in their national security interest. The second requirement is that both sides put their effective political power behind compliance with the treaty.

Third, both sides must develop reliable and effective verification technologies that can detect any cheating by the adversary. The fourth and final requirement is that the two parties create an agency manned by persons representing each super power with the authority to investigate alleged violations of the treaty. The United States and the Soviet Union created such an agency in 1972 in the Standing Consultative Commission or SCC. The SCC consists of 10 American members and 10 Soviet members. It has functioned in the 13 years since December of 1972 with varying success. Until 1981, it generally succeeded in either terminating violations or in allaying suspicions of violations. It has been less successful in the past 5 years. The reason for the early success and the later failure is instructive. Until 1981 both the Soviets and the United States referred allegations of violations of arms control treaties to the SCC. Both countries supported the findings of the SCC. In the past 5 years there have been much more frequent public allegations of cheating without attempting to secure compliance through the SCC. Nevertheless, even under these circumstances the SCC has served a useful purpose. It has permitted the exchange of information. It has provided a common ground for discussion of compliance behavior. But the SCC cannot enforce compliance with arms control agreements unless both superpower governments want to preserve the agreement sufficiently so they will respond constructively to charges of violations.

This Senator is convinced that the economic interests and the national security interests of both Russia and the United States can only be served in this nuclear world by arms control. Arms control requires compliance. Compliance requires a verification technology that can detect violations on either side. It also requires an investigative agency like the Standing Consultative Commission. The SCC must have the full support of both governments. If the SCC has that support, it can make the verification capability of both super powers not only a mutually respected instrument of detection, but an effective force to secure compliance.

Mr. President, the Air Force has published an extraordinary perceptive analysis of the Standing Consultative Commission in its December 4, 1985, Current News Special edition. That article was written by Sidney N. Graybeal who served as U.S. Commissioner at the Standing Consultative Commission from 1973 to 1977 and Michael Krepon, a senior associate at the Carnegie Endowment for International Peace and Director of its verification project. I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAKING BETTER USE OF THE STANDING CONSULTATIVE COMMISSION

(By Sidney N. Graybeal and Michael Krepon)

Unresolved compliance problems have accumulated to the point where they have become a major impediment to the maintenance of existing agreements and the negotiation of new accords. While progress in compliance diplomacy has recently been made, major problems, such as the construction of the Krasnoyarsk radar, have not been satisfactorily resolved in the forum created by the strategic arms limitation talks [SALT] to address SALT compliance questions—the Standing Consultative Commission [SCC].

Like other negotiating bodies, the SCC has no powers of enforcement and it cannot impose sanctions; it can succeed only when the political leadership in the Soviet Union and the United States seek mutually satisfactory solutions. The SCC is a tool for Moscow and Washington to use as each sees fit. Its utility depends on effective use by both governments. Given proper instructions, high-level political support, problem-solving tactics, and sound bilateral relations, the Soviet and U.S. Commissioners can work together quite effectively. However, even the most efficacious tactics in the SCC will not bear fruit if either Commissioner is operating under unhelpful instructions, if the superpowers question each other's intentions toward past agreements, and if they do not wish to maintain the viability of those agreements.

it should therefore come as no surprise that, during the past five years, the SCC has fared no better than the general state of U.S.-Soviet relations. Nevertheless, both governments have taken care to keep the SCC channel open during periods of harsh public exchanges. Useful discussions on sensitive military subjects continued even after the Soviet Union walked out of negotiations on strategic and intermediate-range nuclear forces in 1983.

Despite its importance, very little is known about the SCC, and many misconceptions have arisen about its activities. The object of this essay is to explain the nature of the SCC and to suggest steps to improve the utility and effectiveness of its operations.

THE SCC'S MANDATE AND OPERATIONS

No arms control agreement can be written so carefully and so clearly as to prevent ambiguities and compliance questions from arising. In some instances, parties to an agreement may not wish or may not be able to arrive at precise treaty language. They may have different interpretations of their obligations under an agreement, or new military technologies may create circumstances that were not anticipated during negotiations.

Early in the SALT I negotiations, both sides recognized the need for a private forum to implement treaty provisions and to deal with ambiguities and compliance questions. As a result, there were few difficulties in drafting Article XIII of the ABM Treaty creating the SCC. The ABM Treaty, and thus the SCC, are of indefinite duration. A Memorandum of Understanding formally establishing the SCC in December 1972 extended its jurisdiction to include the Accidents Measures Agreement signed the previous year, and regulations governing the

Footnotes at end of article.

SCC's operations were drawn up the following May.

The SCC's charter, as spelled out in both the ABM and SALT II treaties, is quite broad. It empowers representatives of the U.S. and the Soviet Union to consider, among other topics, treaty compliance questions and "related situations," questions involving interference with national technical means of verification, "possible changes in the strategic situation which have a bearing" on treaty provisions, additional measures to increase the viability of existing agreements including amendments to treaty provisions, and proposals for "further limiting strategic arms." In addition, the SCC Commissioners are authorized to exchange relevant information and to draw up procedures for dismantling or destroying offensive and defensive weapon systems.[1]

The Memorandum of Understanding establishing the SCC clarifies basic organizational matters while leaving considerable discretion to the two delegations on how the SCC shall actually operate. Each side is represented by a Commissioner, a Deputy Commissioner, an Executive Officer, and members of the delegation. Commission meetings are held no less than two times per year, and may also be convened "as soon as possible, following reasonable notice, at the request of either Commissioner." The SCC makes its own regulations, and may amend them "as it deems appropriate."[2]

In current practice, the U.S. Commissioner is chosen by the unanimous recommendation of the President's National Security Adviser, the Secretaries of State and Defense, Chairman of the Joint Chiefs of Staff, Director of Central Intelligence, and Director of the Arms Control and Disarmament Agency. Since the Commissioner is granted the title of ambassador, the Senate also passes judgment on the nomination. Sessions are usually held in Geneva during the spring and fall, each session generally lasting two months in length. Special sessions can be held at any time.

While the charter of the SCC enables it to conduct negotiations and arrive at new arms control agreements, to date neither side has chosen to operate in this fashion. New areas of negotiation generate their own negotiating teams and acronyms. Nor have the two sides used the SCC to amend agreements under its jurisdiction. The SCC has concerned itself primarily with implementation and compliance questions for the SALT accords.

Implementation, of course, can be a form of negotiation, but the SCC delegations usually operate within a narrower framework than their colleagues who actually draft provisions. The primary responsibility of the SCC delegations is to make sure that basic objectives and purposes of existing agreements within their jurisdiction are being met properly. The SCC delegations are not free agents in carrying out their responsibilities. Like other negotiating agents, SCC Commissioners are on a tight rein from their capitals. Neither side is empowered to establish government policy or to go off and solve problems on its own. SCC delegations, no less than delegations negotiating new agreements, operate under carefully drafted instructions coordinated—sometimes with considerable dispute—among the relevant government agencies.

When friction within the executive branch is pronounced, instructions tend to become increasingly rigid. If, for example, government agencies can not agree on a proposed course of action, the U.S. Commissioner at the SCC is not free to suggest one to his Soviet counterpart. What flexibility the U.S. Commisisoner has relates to his choice of tactics to implement negotiating instructions.

THE SOVIET PERSPECTIVE

The Kremlin views the SCC as an important channel of government-to-government communication. Its high level of regard for the SCC has been reflected by the quality of representation on the Soviet delegation. The Soviet Union has had two Commissioners during the entire existence of the SCC, both military officers from the General Staff—General-Majors G.I. Ustinov and Viktor P. Starodubov. Neither man has been accorded the rank of Ambassador (perhaps because of their military backgrounds) although both made it clear that they were spokesmen for the U.S.S.R., like other representatives of the Soviet government abroad.

Starodubov, the Commissioner since 1979, is an adept and highly accomplished negotiator who has also served on Soviet delegations in the SALT, START, and prior SCC negotiations. The Deputy Commissioner has always come from the Ministry of Foreign Affairs. The head of the Soviet delegation in the current Geneva talks, Viktor P. Karpov, served as Deputy Commissioner for six years, followed by Vadim S. Chulitsky in 1979. The Kremlin expects issues that fall within the purview of the SCC to be raised in this forum and not elsewhere. It clearly prefers to work within the confines of the SCC rather than to engage officials with higher rank who are less suited to the tasks at hand. The Soviet Commissioner must, of course, receive authorization to proceed from Moscow, but once authorization is received, the Soviet delegation has demonstrated its willingness to have constructive exchange and to resolve compliance questions expeditiously.

AMERICAN PERSPECTIVES ON SOVIET COMPLIANCE AND THE SCC

In contrast to the official Soviet view, American attitudes toward the SCC vary greatly, usually according to one's view of the value of arms control agreements with the Soviet Union. With experts so sharply divided on this fundamental question and with the SCC operating as a closed shop, it is difficult for even interested citizens to reach an informed judgment on the SCC's effectiveness or utility. Subjective judgments come into play on both sides of these issues, with the SCC caught in the cross fire.

The Nixon, Ford, and Carter administrations were supportive of the SCC's activities and did not denigrate its effectiveness. All three Presidents declined to assert Soviet violations in their assessments of issues reviewed in the SCC during their tenure.

For example, Secretary of Defense James Schlesinger testified before the Senate Armed Services Committee in March 1975 that "We believe that the Soviet Union has been, and today is, in compliance with the terms of the SALT agreements." Schlesinger characterized problems then the subject of considerable controversy as "ambiguities which needed to be resolved," not as violations.[3] President Gerald Ford affirmed this judgement in a June 25, 1975 press conference.[4] The Carter Administration's report—issued in the context of defending the SALT II Treaty—asserted that "in every case (of a questionable practice raised by the U.S. in the SCC) the activity has ceased, or subsequent information has clarified the situation and allayed our concern."[5] SALT critics, such as Assistant Secretary of Defense Richard N. Perle, have taken a diametrically opposed view:

I have put emphasis on the failure of the SCC to resolve compliance concerns because previous Administrations, in efforts to sell unverifiable arms control agreements to Congress, have created a virtual mythology about it. The fact of the matter is that serious compliance problems have generally not been resolved by the SCC or in any other manner.[6]

Confusion about the role of the SCC is compounded by widely varying lists of Soviet "violations and circumventions" of past agreement. For example, the State Department's 1978 assessment of compliance questions and the Arms Control and Disarmament Agency's 1984 General Advisory Committee [GAC] Report cover four common SALT compliance issues, arriving at different judgments on every one of them. By the GAC's definition of what constitutes "material breaches" of binding arms control obligations, the Soviets cheated, and the SCC failed to resolve these problems. By the State Department's assessment in 1978, no material breaches took place, and the SCC played a positive role.[7]

A SALT I compliance question relating to what constituted permissible modernization of existing ICBM launchers provides a case study of how compliance judgments vary. During the SALT I negotiations, the U.S. attempted to constrain new Soviet "heavy" ICBMs by suggesting limits on missile throw-weight and volume to which the Soviet Union would not agree. Both sides eventually agreed to an imprecise formula on silo dimensions, which the U.S. hoped to strengthen by means of a unilateral statement using a volume constraint to distinguish between "light" and "heavy" ICBMs. The Soviets proceeded to disregard this interpretation by replacing SS-11 missiles with larger and far more capable SS-19s—as they had indicated they would do in the course of negotiations.

The Ford Administration did not characterize this Soviet activity as cheating. As Secretary of Defense Schlesinger testified, "If one reads the words of the agreement, the Soviets are doing something that is not precluded. It is inconsistent, quite clearly, I think, with our understanding of our own unilateral statement. But the Soviets do not feel bound by that unilateral statement."[8] The Carter Administration provided a similar explanation in its 1978 report. The GAC, however, cited the deployment of SS-19s as a "circumvention defeating the stated U.S. object and purpose of limiting the throw-weight of Soviet ICBMs."[9] According to the GAC's analysis, the U.S. intention behind the disputed provision was clear—to limit the growth of ICBM throw-weight—as was the Soviet circumvention.

THE RESULTS OF THE SCC'S WORK

The detailed records of SCC sessions remain closed to all but those with the proper clearances and the "need to know." These sensitive deliberations, along with other arms control negotiations, have been quite properly fenced off from public view. No American President, including Woodrow Wilson, has seen fit to pursue open covenants publicly arrived at. Unlike arms control negotiations, however, the principle of privacy also extends to the products of the SCC's deliberations.

A primary responsibility of the SCC has been to establish procedures for the destruc-

tion or dismantlement of certain strategic forces. Two Protocols on Procedures were agreed upon in the SCC in June 1974 governing the SALT I Interim Agreement and the ABM Treaty. A third Protocol was agreed upon in October 1976, relating to the ABM Treaty's Protocol that reduced permitted ABM sites from two to one per side.

For the most part, these classified procedures have not generated criticism, although the Reagan Administration's February 1985 noncompliance report expresses concern that the Soviets may not comply with the Interim Agreement's implementing procedures in the future.[10] In the past, these procedures prompted a compliance flap over the dismantlement of Soviet land-based missile launchers to compensate for the introduction of new sea-based launchers. In 1976, it became clear to American analysts that the Soviet Union was not going to meet this requirement. According to the 1984 GAC Report, this constituted a violation of the SALT I Interim Agreement: "Upon U.S. Inquiry, the Soviets admitted this excess, but failed to accelerate their dismantling activities." The GAC concluded that "the violation was probably not inadvertent, but rather was part of a deliberate Soviet effort to challenge U.S. arms control verification capabilities." [11]

In contrast, the 1978 State Department Report on SALT I compliance issues found that Soviet actions did not warrant the GAC's conclusions:

. . . the United States decided to raise this question with the Soviets, but before we could do so, * * * the Soviet side in the SCC acknowledged that the dismantling of 41 older ICBM launchers had not been completed in the required time period. The Soviet side explained the situation and predicted that all the dismantling actions would be completed by June 1, 1976, and agreed to the U.S. demand that no more submarines with replacement SLBM launchers begin sea trials before such completion. Both conditions were met.[12]

A fourth classified protocol worked out in the SCC implements the Accident Measures Agreement. This understanding, which was updated and expanded in June 1985, facilitates and speeds the transmission of information by means of pre-positioned messages.

Another product of SCC deliberations is known as the Agreed Statement of 1978. It was prompted by a controversial Soviet practice that may have involved testing of a Soviet air-defense system radar in an ABM mode. The ABM Treaty stipulates that parties to the agreement are not to give radars other than ABM radars the capability to counter strategic ballistic missiles or their elements in flight trajectory and not to test them in an ABM mode. However, the U.S. delegation issued a unilateral statement in the SALT I negotiations that radars used for range safety or instrumentation would be permitted.

Intermittent Soviet tests of an SA-5 radar during 1973 and 1974 eventually prompted the United States to raise this issue in the SCC in February 1975. Secretary of State Henry Kissinger explained the time lapse as due partly to the necessity to protect sources and methods of intelligence but primarily to the need to have a clear picture of Soviet practices:

The first information about any event is usually extraordinarily illusive and ambiguous, and one part of the process of the government is to refine the information until we reach a point at which senior officials can make a reasonable decision. I believe it is a good working hypothesis to assume that government is not run by conspiracy but by serious people trying to come to serious conclusions about difficult topics, especially when the charge of a violation of a formal agreement is not a minor matter to be introduced into the diplomatic discourse.[13]

According to Kissinger, seventeen days after the U.S. raised the issue at the SCC, this activity stopped, and was not resumed.[14] The SCC's 1978 Agreed Statement clarified treaty obligations regarding the use of radars in an ABM mode as well as for range safety and instrumentation purposes.[15] These obligations were further clarified in June 1985.

Supporters of the SCC cite the SA-5 radar case and the 1978 Agreed Statement as an example of the Commission's working effectively to maintain the viability of the ABM Treaty and to clarify the meaning of its provisions. President Ford and Carter did not consider Soviet SA-5 radar tests to be a violation of the ABM Treaty. Nor did the GAC Report include this episode in its bill of particulars listing seventeen "material breaches." In contrast, a number of severe critics of the ABM Treaty have concluded that Soviet SA-5 radar tests constituted a clear-cut violation of the ABM Treaty. In Richard Perle's view, "I don't think you have to be a genius to conclude they were cheating. The Standing Consultative Commission never came to that conclusion and they never would have because of their desire not to face the realities." [16]

SCC Performance Standards

The purpose of this essay is not to arbitrate the validity of contending judgments of Soviet noncompliance, but to suggest ways in which compliance questions can be handled more effectively. For those most skeptical of arms control agreements and Soviet intentions toward them, the SCC's ineffectiveness is beyond repair. For those who are more positive about the role of arms control agreements and the SCC to advance national security, there are at least two important standards to apply when gauging the SCC's effectiveness. First, the proper functioning of the SCC should result in common interpretations of binding obligations where there are none or where both sides interpret these obligations differently.

An arms control agreement, like the American Constitution, is a living document. It requires constant interpretation in order to remain viable under unforeseen circumstances or to meet unanticipated events. This is particularly true with respect to agreements governing weapon systems in fields of rapid technological advance. The Soviet Union compounds these problems by exploiting grey areas when opportunities arise.

Both sides should be playing by the same rules; otherwise, existing agreements and support for them in the United States will continually be undermined. If both sides wish to reaffirm their obligations under existing agreements and if both sides use the SCC properly, there is every reason to expect the Commissioners to be able to hammer out agreements that resolve questionable activities and establish ground rules under which both sides may operate.

Second, the public has a right to expect that common understandings reached in the SCC should clearly affirm the basic objectives and purposes of the agreement in question. In practical terms, these remedies will vary depending on the circumstances in each case. In some instances, a return to the status quo ante might be called for; in others, a complete cessation of the practice in question might be necessary; in still others, the imposition of new barriers—such as verifiable limitations on developmental and operational test practices—might preclude military advantages deriving from troubling Soviet behavior.

In the much discussed case of the SA-5 radar, for example, as soon as the evidence suggested the need for action, the SCC succeeded in bounding the problem by prompting the cessation of concurrent testing, and later by securing common understandings on permissible uses of radars in conjunction with ABM tests and for range safety and instrumentation purposes. Critics have argued that, in the time it took to raise this issue in the SCC, the Soviets could have gained the knowledge needed to give the SA-5 system an ABM capability.

This critique overlooks two important considerations. First, whatever the Soviets may have accomplished with the SA-5 radar in question, there have been no reports in the press that the SA-5 system (i.e., its radar, interceptor missile, and launcher) has been tested against any target in an ABM mode. Second, if there had been serious concern about an upgraded SA-5 system possessing a significant ABM capability, one would wonder why more resources were not devoted at the time to penetration aids for U.S. strategic ballistic missiles.

As in the case of the SA-5 radar, damage assessments and proposed SCC remedies for Soviet testing at the margins will undoubtedly vary from one observer to the next. Thus, the professional judgment of senior military officers and national security officials will be critical to an administration's selection of appropriate countermeasures, within the SCC and elsewhere.

Improving the SCC

Improvements in the SCC's operations do not require changes in the Commission's charter and regulations. These provisions are broadly drawn to provide both sides the latitude to work constructively. Since the Commission's modus operandi will always vary somewhat due to the style and personality of its Commissioners, there is no single correct way to proceed in the SCC. Numerous roads can lead to success when both parties wish to maintain the viability of existing agreements. Conversely, when each side questions the other's intentions, even brilliant tactical decisions are unlikely to produce satisfactory results.

One way to improve the utility and effectiveness of the SCC is to clarify to whom the U.S. Commissioner reports in Washington. The SCC is a bureaucratic oddity: it was created by a treaty, not by an Act of Congress. The Commissioner's role was established by the SCC's charter. He is nominated by the unanimous consent of many different bureaucracies; therefore, he has no single patron. The nature of his responsibilities as well as the interagency character of his appointment suggests that the Commissioner report directly to the President's National Security Adviser. If other responsibilities do not require the U.S. Commissoner's presence elsewhere, his office should be located with the National Security Council [NSC] staff.

The NSC's authority is critical to minimize the lengthy delays and confusion that invariably result from deep or enduring interagency disputes over the Commissioner's instructions. A direct link to the NSC would also ensure better coordination be-

tween the SCC's work and ongoing negotiations. Interested agencies would continue, as at present. to play a central role in SCC activities by participating in the formulation of the Commissioner's instructions and by being represented on the SCC delegation.

In addition, the utility and effectiveness of the SCC can be further advanced by the following list of "do's" and "don'ts."

STAY IN THE SCC CHANNEL; LOOK FOR REINFORCEMENT, NOT ESCALATION

Compliance questions should be raised first at the SCC, not at higher levels or in other forums. The SCC is best suited to address SALT compliance questions, and the Soviets can work constructively in this arena. The U.S. does not need to raise issues in back channels in order for the Kremlin to see that the U.S. government attaches extraordinary importance to those issues, since the Soviet government already attaches considerable importance to the SCC's operations. Nor would the U.S. wish to imply that issues raised first in the SCC channel are relatively unimportant.

A different set of problems can arise if issues first raised at the SCC are escalated to higher levels for resolution. These tactics can undermine the effectiveness of the SCC, occupy officials who have less time and technical expertise than the SCC staff, and result in a hardening of positions, making ultimate resolution more difficult. The flexibility of the SCC to resolve these issues is then impaired if and when de-escalation occurs.

A far better approach for the U.S. is to look for reinforcement at higher levels if problems or delays are encountered in the SCC. Private interventions by cabinet-level officials or even by the President should underline the importance the U.S. places on a satisfactory resolution, while keeping the problem within the channel best suited to resolve it.

Whenever possible, the Soviet Commissioner should be advised by his counterpart in advance of the session when a new compliance question will be raised. There is little to be gained by "surprising" the Soviets and monitoring their reactions since the Soviet delegation will have to report back to Moscow anyway and then wait for instructions. Advance notification can save time and facilitate constructive exchanges.

AVOID USING THE SCC AS A DUMPING GROUND FOR PROBLEMS THAT CAN NOT BE RESOLVED IN NEGOTIATIONS

Compliance questions will arise even when treaty partners are acting on their best behavior. Unforeseen events and technological change will generate these questions even if the practice of Soviet crowding at the margins does not. In other words, the SCC will have enough to do without becoming the depository of disputes that could not be solved in the course of treaty negotiations. Treaty texts should be as precise as possible. Where agreement can not be reached, the American Congress and public should be so advised, and Soviet deviations from the preferred U.S. interpretation should not be characterized as violations.

WHENEVER POSSIBLE, USE THE U.S. SCC DELEGATION'S EXPERTISE TO HELP AVOID TREATY LANGUAGE THAT CAN GENERATE COMPLIANCE QUESTIONS

The Soviet delegation in strategic arms control negotiations usually includes either its SCC Commissioner or his Deputy. In contrast, the American SCC delegation does not normally have the opportunity to comment on the drafting of treaty texts. The Soviet practice makes far more sense than the American system of not utilizing the expertise the U.S. has at its disposal.

The SCC Commissioner can review draft treaty texts from a unique perspective. Unlike other members of the U.S. delegation, he has had operational experience in compliance controversies that ensue from various treaty formulations. As such, the U.S. Commissioner is in a position to provide helpful suggestions to avoid potential ambiguities and compliance problems.

AVOID RAISING ISSUES IN THE SCC UNTIL THE U.S. HAS ITS FACTS STRAIGHT, AND AVOID CHARACTERIZING PROBLEMS AS VIOLATIONS UNTIL THE SCC CHANNEL HAS BEEN THOROUGHLY EXPLORED

Sometimes the collection of adequate evidence requres a maddening length of time. Once enough facts are known and can be utilized without jeopardizing sensitive intelligence "sources and methods," the issue should be raised promptly and pursued vigorously in the SCC channel. The Soviets like the U.S., will respond one way to the presentation of questions concerning compliance and another to the receipt of a bill of particulars asserting noncompliance or "violations." Once the U.S. government frames an issue as a possible, potential, or clear violation, the Kremlin will be reluctant to take positive steps that might be construed as affirmaiton of these charges. On the other hand, the Kremlin has had little difficulty explaining whatever action it takes to its own people. The choices Kremlin leaders make will hinge on their calculation of the benefits derived from the activity in question and the risks of not taking positive steps to respond to U.S. concerns. These calculations will in turn bear directly on Soviet assessments of U.S. intentions toward existing agreements and motives for raising the issue in a particular manner.

Precisely for these reasons the context of public assessments by government authorities on Soviet noncompliance is of central importance. As will be discussed below, official reports of SCC-related activities are at this point inescapable; they can also be helpful, but only if they meet far more stringent standards than those applied by individuals with political axes to grind.

The content of noncompliance reports will have much to do with Soviet reactions in the SCC and elsewhere. The Kremlin will read into premature or overstated reports an intent to set the stage for eventual withdrawal from existing agreements, rather than to contain domestic political damage and to shore up the erosion of previous agreements.

CATEGORIZE COMPLIANCE QUESTIONS WITHIN THE SCC AS TO THEIR DEGREE OF IMPORTANCE

Some compliance questions will always raise more serious concerns than others, and thus merit focused attention. Every compliance question, regardless of its military significance, should be raised in the SCC, but the Soviet side should be made aware of the relative importance the U.S. attaches to various issues. The SCC regulations expressly permit the establishment of working groups. This device can enable the Commissioners to concentrate on issues of greater importance while allowing working groups to address subsidiary questions. If technical questions can not be resolved at the working group level, they can be addressed by the Commissioners in the usual fashion, and reinforced by higher authorities as deemed appropriate.

AVOID LINKING THE RESOLUTION OF UNRELATED COMPLIANCE QUESTIONS

As former SCC Commissioner Robert W. Buchheim and Dan Caldwell have noted, "horse-trading" is a common practice in negotiating new agreements. It may also be a useful device for amending agreements. But in implementing existing agreements, very little horse-trading is desirable.[17] Sometimes linking unrelated issues may work out satisfactorily, but other times it may not. A far better approach is to address each compliance question on its merits. By adopting this standard, each side will better serve its self-interest, and the SCC will work more effectively as a result.

For the same reason, the Soviets work against themselves when they adopt a "scorecard" approach to compliance questions: whenever the U.S. raises a compliance issue, they raise a comparable issue. In private exchanges in the SCC, this tactic has little bearing on the outcome of deliberations since both sides can usually distinguish between real and cosmetic concerns. In public accusations of noncompliance, this Soviet tactic obfuscates somewhat the Reagan Administration's charges, but it also devalues the Kremlin's position on those issues about which it feels strongly.

U.S. AND SOVIET COMPLIANCE CONCERNS MAY USEFULLY BE LINKED WHEN THEY RELATE TO THE SAME OBJECTIVE OR PURPOSE OF AN AGREEMENT

When comparable Soviet allegations of U.S. noncompliance reflect serious concerns on their part, it makes sense to link the resolution of them with U.S. concerns. It will not be possible to isolate common problems in any event.

For example, both sides have raised ABM Treaty compliance issues relating to the construction of modern large phased-array radars. Each side has a common concern that these radars can undermine the objective and purpose of Article I prohibiting the parties from providing a base for a territorial defense.

Each side has also expressed concerns about the other's development of futuristic technologies that might be applicable for ballistic missile defense. Article V of the ABM Treaty prohibits each party from developing or testing ABM systems or components that are sea-based, air-based, space-based, or mobile land-based (i.e., all mobile systems). This prohibition applies to both conventional and future ABM systems or components (i.e., systems based on other physical principles). Agreed Statement D requires amendments to the treaty to accommodate the deployment of ABM systems or components based on other physical principles. However, both sides can pursue these objectives while stipulating that their development and test programs constitute less than a complete substitute for traditional ABM components—thereby making them permissible under the treaty. Test practices of this sort can raise continuous compliance questions. Unless ground rules are established governing these tests, they could undermine the objective and purpose of Article V.

In these and similar cases, common problems relating to the same treaty provisions might usefully be addressed together in the SCC. If both sides wish to reverse the erosion of the ABM Treaty, new common understandings and agreements will become necessary governing the development and testing of certain advanced technologies with direct ABM applications. Common un-

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derstandings and agreements will also be necessary for modern large phased-array radars.

RELEASE MORE INFORMATION ABOUT THE SCC'S ACTIVITIES AND PRODUCTS

The regulations establishing the SCC contain the stipulation that the Commission's proceedings shall be conducted in private and should not be made public "except with the express consent of both Commissioners." This provision has been adhered to by both sides, and is still valid today. SCC deliberations must remain confidential if this forum is to produce diplomatic remedies. American Commissioners have repeatedly stressed, however, that neither the U.S. nor Soviet Commissioner has a veto power over his government. In a democratic society, American Presidents have a responsibility to inform the public and the Congress of the SCC's activities in some way. While the proceedings have remained private, limited summaries of certain SCC deliberations have been released in the past.

At the start of the SCC's operations, a strict policy of secrecy was probably wise. The Soviets were unsure of the utility of this forum and wary of confidential exchanges on sensitive subjects. At this point, however, popular misconceptions about the role and record of the SCC as well as public concern over unresolved compliance problems have reached the point at which constructive factual public reports would be useful.

Reports would be constructive if they are offered in the context of problem-solving efforts in the SCC and serious negotiations to conclude new agreements. If government reports follow thorough efforts to resolve satisfactorily compliance questions in the SCC—including the use of reinforcements when necessary—and if those reports characterize compliance problems judiciously, their publication need not impair the SCC's activities. If, on the other hand, government verdicts of noncompliance are premature or based on ambiguous evidence, U.S. intentions will be widely questioned, cases where evidence is strong of Soviet misconduct will be devalued, and the SCC's ability to resolve issues will be impaired.

At this point in time, annual government reports summarizing the Soviet record of compliance should be released to the public, after the U.S. advises the Soviet Union of its intention to do so. More detailed classified versions should be transmitted to the relevant Congressional committees. These reports should indicate where the record of Soviet compliance has been good as well as where it has been problematic. The relative significance of issues raised in the SCC should be noted, and summaries of the SCC's handling of each issue should be provided. The proceedings of SCC sessions should remain classified, thus maintaining the principle of confidentiality. These reports should be prepared and transmitted to the Congress by the President's National Security Adviser, with the assistance of the U.S. Commissioner and coordination by the usual interagency process. Annual reports of this kind could defuse speculation over the purposes behind public disclosure and substitute for ad hoc compliance reporting requirements levied by the Congress.

In some cases, the public release of new SCC common understandings or agreed statements would be unwise. The products of SCC deliberations that involve sensitive weapon system characteristics, operations, and performance—such as approved dismantling or destruction procedures—should remain classified since they could raise security problems and impair fruitful private communication on other sensitive issues. However, unclassified summaries of these understandings that do not divulge sensitive information could be released. The contents of pre-positioned messages associated with the Accident Measures Agreement should also remain secret since they could be misused and pose security problems.

On the other hand, the fruits of the SCC's labors clarifying the objectives and purposes of existing agreements should be unclassified. For example, the 1978 Agreed Statement apparently does not involve any sensitive information and provides essential meaning to ABM Treaty provisions governing tests "in an ABM mode" and the uses of air-defense radars at test ranges. Anyone attempting to interpret properly treaty obligations in these areas should have access to the SCC's 1978 Agreed Statement. Similar clarifications worked out in the future should be available in their entirety to the Congress and the public.

CONCLUSION

The Standing Consultative Commission is an indispensable channel of communication between the superpowers over SALT implementation and compliance. Other channels could be used for these purposes, but none would be as ideally suited, unencumbered, or specifically authorized to do so. If something like the SCC did not exist, it would have to be created; if it falls into disrepair, existing strategic arms control agreements with the Soviet Union will be jeopardized.

Public reports of the SCC's activities and the other suggestions offered here can help the SCC delegations carry out their responsibilities for existing agreements. No suggestions will be of much value, however, if the U.S. and the Soviet Union are ambivalent about affirming the objectives and purposes of past agreements. During periods of strained political relations, negotiations over new agreements rarely proceed smoothly. While the SCC is somewhat more insulated from the ups and downs of superpower relations, it has not been immune from them. But when political relations between negotiating partners deteriorate to the point where intentions toward existing treaty obligations are called into question, the SCC cannot be an effective, problem-solving forum. If and when bilateral relations improve and both superpowers clearly signal their desire to reaffirm existing SALT commitments, the SCC can again resolve difficult compliance problems.

FOOTNOTES

[1] *Arms Control and Disarmament Agreements, Texts and Histories of Negotiations* (Washington, D.C.: United States Arms Control and Disarmament Agency, 1982), pp. 141-142.

[2] *Documents on Disarmament—1972* (Washington, D.C.: United States Arms Control and Disarmament Agency, 1974), pp. 868-869.

[3] United States Senate, "Soviet Compliance with Certain Provisions of the 1972 SALT I Agreements," Hearing before the Subcommittee on Arms Control of the Committee on Armed Services, 94th Congress, First Session, March 6, 1975, p. 3.

[4] *Documents on Disarmament—1975* (Washington, D.C.: United States Arms Control and Disarmament Agency, 1977), p. 202.

[5] "Verification of SALT II Agreement" (Washington, D.C.: United States Department of State, Special Report No. 56, August 1979), p. 3.

[6] United States Senate, "Soviet Treaty Violations," Hearing before the Committee on Armed Services, 98th Congress, 2nd Session, March 14, 1984, p. 39.

[7] See "SALT ONE: Compliance, SALT TWO: Verification" (Washington, D.C.: United States Department of State, Selected Documents No. 7, February 21, 1978), and "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983" (Washington, D.C.: General Advisory Committee on Arms Control and Disarmament, October 1984, Unclassified Summary).

[8] "Soviet Compliance with Certain Provisions of the 1972 SALT I Agreements," p. 6.

[9] "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983," p. 8.

[10] "The President's Unclassified Report to the Congress on Soviet Noncompliance with Arms Control Agreements" (Washington, D.C.: The White House, Office of the Press Secretary, February 1, 1985), p. 5.

[11] "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983," p. 10.

[12] "SALT ONE: Compliance, SALT TWO: Verification," p. 7.

[13] *Documents on Disarmament—1975*, p. 747.

[14] Ibid., p. 752.

[15] For a listing of the Standing Consultative Commission's agreements and a brief unclassified summary of them, see "SALT II Treaty: Background Documents," United States Senate Committee on Foreign Relations, 96th Congress, 1st Session, 1979, pp. 79-80.

[16] "Soviet Treaty Violations," p. 19.

[17] Robert W. Buchheim and Dan Caldwell, "The US-USSR Standing Consultative Commission: Description and Appraisal," Working Paper No. 2 (Providence, R.I.: The Center for Foreign Policy Development, Brown University, May 1983), p. 7.

U.S. JUJITSU TEAM WINNER

Mr. BYRD. Mr. President, on November 2, 1985, the U.S. jujitsu team won the 1985 world karate jujitsu championships that were held in Trinidad. This is the first time that this world title has been won by the United States. On the way to gaining this world title, members of the team collected 11 trophies and medals.

The head coach and team physician for the U.S. team is Dr. L. Bruce Holbrook, a West Virginian. The following is a list of those members that make up the U.S. team and the results of the competition.

Mr. President, I congratulate the U.S. jujitsu team on winning the 1985 world karate jujitsu championship.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

U.S. JUJITSU TEAM AND RESULTS FROM THE 1985 WORLD CHAMPIONSHIPS

1. Billy Blanks, VFW Parkway, Rockland, Massachusetts 02370, Heavyweight World Champion in Fighting.

2. Curtis Jordan, 7219 McKnight Road, Pittsburgh, Pennsylvania, Middleweight World Champion in Fighting.

3. Kevin "Little K.A." Thompson, 362 South 10th Street, Newark, New Jersey, 1.

Lightweight World Champion in Fighting; 2. World Champion in Hard Style Kata.

4. John T. Jenkins, 75 Park Street, Lewiston, Maine, 1. Second Place Soft Style Kata; 2. Third Place in Heavyweight Division in Fighting; 3. Fourth Place in Weapons Kata; 4. Fifth Place in Hard Style Kata.

5. Seroj Bejanian, 23 Brighton Ave., Apt. #2, Boston, Allston, Massachusetts, First Place in Soft Style Kata.

6. James McKeough, 25 Turkey Hill Lane, Hingham, Massachusetts, Competitor.

7. Robert "Sugar" Crosson, 1106 Clarkson Ave., Brooklyn, New York, World Champion in Weapons Kata.

8. Darryl Weston, 849 Inwood Street, Pittsburgh, Pennsylvania, Team Manager.

9. Dave Weston, 849 Inwood Street, Pittsburgh, Pennsylvania, Coach.

10. Dr. L. Bruce Holbrook, 1601-A MacCorkle Ave., St. Albans, West Virginia, 1. Head Coach; 2. Team Physician; 3. International Delegate for the United States of America.

The U.S. Team also won the overall championships and was awarded the team trophy for the World Karate Jujitsu Championships.

SENATE DEMOCRATS IN 1985

Mr. BYRD. Mr. President, as the first session of the 99th Congress draws to a close, I would like to take a moment to review the contributions which Senate Democrats have made to the national debate on the critical issues facing our Nation and our world.

THE BUDGET

Perhaps no more important issue confronted the Congress in 1985 than that of reducing the record deficits amassed over the past 5 years. Since 1981, there have been three record deficits, the last being in fiscal year 1985 when $211.9 billion in red ink was added to the National Ledger.

When the Senate considered the fiscal year 1986 budget resolution, Democrats offered two major budget alternatives, both of which reduced the deficit by more than did the budget supported by the majority party. The Democratic budget proposals achieved their deficit reduction in a way that encouraged economic growth and investment in the future, while providing a strong national defense and ensuring that all persons, including some major profitable corporations that currently escape Federal income taxes, would bear their fair share of the deficit reduction burden.

Beyond offering budget alternatives, as the budget debate continued, Democrats also sought to reorder the spending priorities of the Republican budget by persistent strong support for such programs as Social Security and Medicare, education, child nutrition, economic development, basic research and scientific efforts, and assistance to family farmers. While these efforts did not always meet with complete success, they often helped to moderate excessive or misdirected spending reductions advanced by the majority. As a result, the budget that ultimately passed the Senate was fairer, more progressive, and better for our Nation's future than it otherwise would have been.

HELP FOR FARMERS

The Nation's farmers entered 1985 suffering their worst distress since the Depression of the 1930's. This distress threatened—and continues to threaten—not only individual farmers and their families, but also the entire economy of those regions of our Nation where agriculture is a central economic component. Further, we are faced with the disappearance of the family farm and with the concentration of our food and fiber production in the hands of large corporations, which may pose significant and unwelcome changes in the lifestyle and well-being of many if not all of our Nation's citizens.

Democrats first came to the aid of our farmers in February with a proposal for emergency credit assistance. The administration and its allies in Congress at first resisted the need for such aid. Yet, following nationwide media attention, and the Democratic threats to delay confirmation of Presidential Assistant Edwin Meese as Attorney General, the Republicans relented and a farm credit assistance bill finally passed the Senate.

Unfortunately the President vetoed that bill, claiming that there was no need for such assistance. But before the President's veto, Democrats had succeeded in obtaining for farmers concessions in existing credit programs that the administration previously had been unwilling to provide. Thus, Democrats were successful in prodding the administration into providing at least some needed help to farmers who were in danger of losing their farms.

Democrats demonstrated their resolve to aid America's farmers later in the session during the consideration of the 1985 farm bill, the conference report on which we just acted on Wednesday. Democrats succeeded in the Agriculture Committee in resisting the administration's and Republican Senators' efforts to bring immediate reductions in Government support—by reducing crop target prices after a 1-year freeze of current targets. The bill reported from the Agriculture Committee provided for a 4-year freeze in target prices. While this would not be a panacea for distressed farmers, it would give them some time in which to help themselves out of the economic mess created by the last 4 years of this administration's farm policies.

On the Senate floor, Democrats again successfully prevented the administration and its Senate allies from dropping back to their original plan that would cut farm income after only 1 year—at a time when many farmers already are having difficulty meeting their financial commitments. Eventually, recognizing that Democrats would not be overcome, the Republican-controlled Senate passed a more nearly adequate 2-year freeze.

DEFENSE AND ARMS CONTROL

Senate Democrats began the 99th Congress by establishing that their paramount priorities in national security would be in reforming the Pentagon's wasteful procurement process, strengthening our conventional forces, modernizing our nuclear deterrent in a manner contributing to nuclear stability and arms control, and pressing our allies to bear a fairer share of the common defense burden.

Democrats have been concerned that, over the last few years, the Soviet-American relationship has been overly characterized by harsh rhetoric and unproductive finger pointing. We have made every effort to be helpful in putting that relationship back onto a more productive track.

On the first day of the 99th Congress, the Senate demonstrated the importance it attaches to the achievement of mutual, equitable and verifiable nuclear arms control agreements between the United States and the U.S.S.R. Majority Leader ROBERT DOLE and I joined in proposing, and the Senate created, a bipartisan Senate arms control observer group to monitor the Geneva negotiations on a regular basis. It was—and remains—my hope that this group will help us to avoid a repetition of the problems of the 1970's, when three successive arms control treaties were signed by three Presidents, but never ratified by the Senate.

Through the observer group's monitoring activities, the full Senate will become more knowledgeable about the many complex issues surrounding nuclear arms control, and American negotiators will have the benefit of the Senate observer group's advice and counsel, when appropriate. I believe this will contribute subtantially to the fulfillment of the Senate's constitutional role of advice and consent with respect to any treaty that emerges from the negotiations.

The group has traveled three times to Geneva to confer with our negotiators, and to meet with the negotiators from the Soviet side, and has met weekly with representatives of the executive branch while the Geneva negotiations have been underway.

In furtherance of the effort to help build a more constructive relationship with the Soviet Union, along with President pro tempore of the Senate, Mr. THURMOND, as the vice chairman of the delegation. I led a bipartisan group of Senators—six Democrats and two Republicans—to meet the new Soviet leader, General Secretary Mikhail Gorbachev. It was our goal to help prepare President Reagan for the summit meeting—which occurred last

month in Geneva—to assess the viewpoints of the new Soviet leader, and to bring to his attention viewpoints, strongly held in the Senate, on a variety of important questions currently in dispute with the Soviets. I believe the trip was successful in accomplishing these specific goals. I was convinced before the summit that the channels of communication with the Soviets should be expanded if we are to make any progress on such vital issues as arms control, and I believe the trip to Moscow made a contribution to that end.

Too often, Mr. President, efforts to promote reasonable arms control have been viewed as contradictory to pursuit of a strong defense. I do not accept this interpretation, and I am confident that my Democratic colleagues share my view that prudent defense programs and careful arms control arrangements both are important components of our national security posture.

Senate Democrats underscored this principle in 1985 when they led this body simultaneously to support reasonable strategic nuclear modernization and a continuation of proarms control policies.

Senators GORE, BOREN, NUNN, and I and other Senators won Senate approval to deploy no more than 50 MX intercontinental ballistic missiles [ICBM's] in a vulnerable basing mode and to shift the administration's land-based missile priorities toward more survivable and effective forces.

The full Senate also endorsed my amendments to ensure full funding for the advanced technology [Stealth] bomber and advanced cruise missile, and to cap the B-1B bomber program at 100 aircraft. These amendments will result in wiser expenditure of taxpayer dollars by ensuring that they produce the most effective strategic weapons available, and that our weapons will be suitable and effective for the longest possible period of time.

Under the leadership of Democratic Senators LEAHY and BUMPERS, the Senate emphatically urged the President to continue in 1986 the United States policy of refraining from actions which would undercut the strategic arms limitation [SALT] accords as long as the Soviets show similar restraint and continue to negotiate in Geneva. That action also urged the President to pursue vigorously the issues surrounding Soviet noncompliance with some aspects of these accords.

In leading this effort, Senate Democrats recognized that abandonment of the no undercut policy in 1986 would hurt United States security more than Soveit security in the next year—because the U.S.S.R. no longer would be required to dismantle more strategic warheads than the United States as they are under SALT.

The 1st session of the 99th Congress found Senate Democrats pushing hard to eliminate waste, fraud, and abuse in defense programs. The long trail of cost overrun scandals and questionable budgeting procedures at the Pentagon has served to erode much of the national consensus underlying a vigorous defense program. Major weapons procurement process reforms were crafted under the leadership of Senators LEVIN and PRYOR. It is my hope that the reforms we secured will enhance our national security by stretching the defense dollar further and achieving better results.

Democrats also supported improvements to our conventional forces, including increases in our combat readiness accounts for aircraft flying hours, ship steaming days, unit field exercises, depot maintenance, and real property maintenance. These activities are critical to maintaining and improving our daily combat readiness.

Colleagues on this side of the aisle, especially the distinguished senior Senator from Mississippi, JOHN STENNIS, were instrumental in adding funds to strengthen our national guard and reserve forces. My own initiatives were adopted to increase funding for the Coast Guard, and to fund the important activities of the National Commission on the Merchant Marine and National Defense, established last year, in part, to study problems relating to transportation, cargo, and personnel for national defense purposes in time of war or national emergencies, and the capability of the U.S. merchant marine to meet the Nation's transportation needs in such crisis.

Led by our Democratic colleagues, Senators KENNEDY and GLENN, the full Senate rejected the administration's proposal to freeze military pay in fiscal 1986 at last year's level. A 3-percent increase was granted, effective October 1, 1985, in basic pay, basic allowance for subsistence, and basic allowance for quarters for military personnel. Our patriotic and capable military men and women deserved this pay raise for their sacrifices in the defense of our country.

There are few larger problems facing United States defense policy than the dilemma of how Americans can convince our allies, especially the Japanese, to shoulder an increased share of our mutual security burden. Our taxpayers are becoming increasingly impatient with the poor burden-sharing performances of several of our NATO allies and Japan.

This year, Senate Democrats focused their concerns on Japan, and, at my suggestion, the full Senate approved some of the strongest language to date—urging Japan to increase significantly its contributions to our security, and to its own self-defense, and requiring that Congress be notified annually of Japan's progress toward that goal.

FOREIGN POLICY

During 1985, Senate Democrats were in the forefront of initiatives to address the security and foreign policy challenges America faces in the Philippines, the Middle East, and Central America.

Senators SASSER and KERRY were early, thoughtful critics of the policies of the Philippine Government which prevent that Nation from defeating a growing Communist insurgency. That insurgency threatens the long-term existence of two of the United States most important overseas military bases.

Regarding the Middle East, Senators KENNEDY, DIXON, and CRANSTON highlighted the lack of a convincing national security justification for proposals by the administration to sell additional sophisticated weapons to Jordan and Saudi Arabia.

American policy in the Middle East must be guided by the need to build on the success of the Camp David process, and the hope it offers for comprehensive solutions in the region. The arms sales that this administration has been promoting for several years do not represent a policy which can contribute to this process.

Senate Democrats have been increasingly concerned over the activities of the Sandinista regime in Nicaragua. We believe that every effort must be made on both the political and diplomatic fronts to find a peaceful solution to our differences between the United States and Nicaragua—and, indeed, between that government and its own people. Therefore, we have consistently supported the Contadora process, and encouraged the reopening of negotiations between the United States and Nicaragua. Military options, we believe, should be kept on the back burner, and used only as a last resort. It is our hope that the Sandinista government will recognize the extreme foolishness of a military adventure leading to a direct confrontation with the United States.

During 1985, Democrats tried to negotiate with the White House on a reasonable program of overt humanitarian aid to those forces in Nicaragua that oppose the repressive Sandinista regime. Unfortunately, the administration rejected efforts to reach a reasonable compromise.

In 1985, South Africa was beset with tragic, growing violence. Senate Democrats sought actions that would focus that nation's leadership on the importance of remedial action. Democratic legislation was frustrated when Senate Republicans removed the conference report from the Senate Chamber in an unprecedented one-Senator veto. Senate Democrats successfully pressed for a return of those papers.

In the meantime, however, the administration accepted substantially all of the points raised in the Democratic legislation, and issued them as an Executive order. Thus the South African leaderhsip was made aware of the degree to which the United States hopes that nation will make meaningful remedial progress in resolving its underlying problems.

ENERGY AND ENVIRONMENT

Legislation expanding and reauthorizing the Nation's "Superfund" law was passed overwhelmingly by the Senate on September 26 of this year. The Senate bill contained a $7.5 billion program to protect the American public from the health threat posed by the thousands of abandoned toxic waste dumps located around the Nation. Democrats played an important role in improving and strengthening the Superfund legislation during deliberations in the committees, and during consideration on the floor.

Legislation reauthorizing and improving the Nation's Clean Water Act and the Safe Drinking Water Act was passed by the Senate in 1985. Democrats strongly supported these bills and made important contributions to their preparation and consideration both in committee and on the floor.

HUMAN SERVICES

The Major Child Nutrition Programs—the women, infants and children [WIC] feeding program, the summer school feeding programs, and parts of the school lunch and breakfast program—had been operating without authorization through most of the second session of the 98th and the first session of the 99th Congresses because the majority party that chairs the Agriculture Committee and determines the Senate floor schedule would not schedule the bill for action. During this time, the House of Representatives passed and sent to the Senate three bills in an attempt to prod the Senate into action. Finally, late this session, after several Democratic attempts to secure action on the bill, Senators HARKIN and KENNEDY were able to spotlight the issue sufficiently on the floor so that the Republicans agreed to offer a simple bill reauthorizing the programs. That bill passed the Senate and is in conference with the House-passed bill.

During consideration of the 1986 congressional budget, Democrats demonstrated unequivocally that it was necessary for any budget to meet Democratic objectives for education, employment, and other human resources programs if it were to receive any Democratic support. This push by Democrats assured that the budget passed by the Senate would not contain the very serious cuts in education and employment programs proposed by the President.

During the first session, also, a proposal surfaced to cut Social Security benefits by freezing its cost of living adjustments, in order to provide funds to reduce the budget deficit. Likewise, the administration proposed severe changes and cuts in the Medicare Program which would have drastically increased the amount beneficiaries must pay in order to participate in the program. All these changes were efforts to balance the budget on the backs of America's elderly.

Due to the degree of Democratic resistance in both the Senate and the House to cuts in Social Security benefits, it was clear that no conference agreement on the budget would include those cuts, and so the issue was removed from the list of budget cuts under consideration. Later, when the Gramm-Rudman-Hollings proposal was developed, the strength of Democratic support for protecting Social Security resulted in that proposal's sponsors excluding Social Security from automatic cuts. In Medicare, Democrats successfully assured removal from the Republican leadership budget of the most onerous proposals affecting out-of-pocket health care costs for the elderly and disabled.

On several occasions during the fall when we came close to exhausting the debt limit, the administration disinvested Social Security trust funds in order to provide operating cash for the Government. In reaction, Democrats acted to instruct the Treasury to restore to the trust funds any moneys and interest amounts which were lost during the time the funds were disinvested.

TRADE

In 1985, the trade deficit may reach $150 billion—beyond the record $123 billion of last year and by far the largest trade shortfall of any nation at any time in history. In 1985, the Reagan administration's high dollar and high deficit policies resulted in our becoming a debtor nation for the first time since World War I. Taken in conjunction, these grim records reveal this administration's fundamental failure to maintain America's global economic leadership. This failure translates into a loss of jobs, and a decline in our industrial base. Over the past year, traditional industries such as steel, textiles, autos, and footwear continued to suffer from administration indifference, but new technologies such as computers and related technologies have begun to feel the pinch. Instead of talking about competitiveness, the administration clings to tired rhetoric about free trade versus protectionism.

Senate Democrats made major contributions to the trade debate this year. Early in the year, I appointed Senator LLOYD BENTSEN to head a Democratic working group to examine current trade policy alternatives and recommend actions to his colleagues. That working group called for a strategic approach to trade in its April preliminary report entitled "The New Global Economy: First Steps in a United States Trade Strategy." Senator BENTSEN and his colleagues on the working group presented the case for an aggressive, realistic response to the current trade crisis. Their report was followed by introduction of "the Trade Policy Act of 1985." That legislation—endorsed by the Democratic caucus and cosponsored by all Senate Democrats—offers the framework for a tough, comprehensive approach to the challenge of global competition.

During 1985, also, Senators HOLLINGS and THURMOND brought the plight of our domestic textile industry, and the damage it has endured from foreign competition, forcefully to the attention of the Senate. Senator HOLLINGS provided persistent leadership in refusing to allow the issue to be forgotten, and remedial legislation passed both Houses of the Congress. Unfortunately, this bill—which also aided the hard-pressed domestic shoe industry—was vetoed by the President, who failed to offer any other means to help these industries and their workers who are confronting stiff foreign competition.

Through the actions of the working group and the initiatives of many Senate Democrats, we have forced the White House to begin to respond to the trade crisis. Senators MOYNIHAN, BAUCUS, and BRADLEY have introduced legislation to require adjustment in the over-valued dollar that acts as a tax on American exports. Over Republican objections, the Senate passed Senator BRADLEY's resolution calling for coordination in macroeconomic policy and concerted action with our allies to reduce the artificially bloated dollar. Within months of passage of the Bradley resolution, the administration announced that it had begun negotiations with major trading partners to realign the dollar to improve American competitiveness. Senate Replicans, responding to the pressure of Democratic legislative initiatives, have included bills by Senators BRADLEY, MOYNIHAN, LAUTENBERG, BINGAMAN, BAUCUS, and others in a new omnibus trade law bill, thus joining the Democratic call for action on trade.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States

submitting a nomination which was referred to the Committee on Commerce, Science, and Transportation.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 18, 1985, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bill was signed on December 18, 1985, during the recess of the Senate by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week";

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine"; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 2:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1918. An act to change the date for transmittal of a report; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

At 3:48 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate bill to the bill (H.R. 3974) to amend title X, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 months housing allowance.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 98. Concurrent resolution to recognize the historical significance of the former Presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 263. Concurrent resolution to rescind the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution H.J. Res. 187.

The message also announced that pursuant to the provisions of section 276d of title 22, United States Code, the Speaker appoints as members of the United States Delegation to the Canada-United States Interparliamentary Group the following Members on the part of the House: Mr. BARNES, chairman, Mr. BOLAND, Mr. FASCELL, Mr. GIBBONS, Mr. HAMILTON, Mr. OBERSTAR, Mr. DONNELLY, Mr. BROOMFIELD, Mr. HORTON, Mr. STANGELAND, Mr. MARTIN of New York, and Mr. MILLER of Washington.

The message further announced that pursuant to title V of Public Law 99-180, the Speaker appoints as members of the Commission on the Ukraine Famine, the following Members on the part of the House: Mr. MICA, chairman, Mr. HERTEL, Mr. BROOMFIELD, and Mr. GILMAN.

At 4:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

At 6:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 264. Concurrent resolution to correct the enrollment of H.R. 2100.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 7:15 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes;

H.R. 1603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, Utah, as the "Wallace F. Bennett Federal Building";

H.R. 2698. An act to designate the United States Courthouse in Tuscon, Arizona, as the "James A. Walsh United States Courthouse";

H.R. 2903. An act to designate the Federal Building and United States Post Office in Philadelphia, Pennsylvania, as the "Robert C. Nix, Sr., Federal Building and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958;

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the United States Sentencing Commission, and for other purposes;

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week";

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine"; and

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes.

The enrolled bills and joint resolutions, except the bill S. 1884, were subsequently signed by the President pro tempore [Mr. THURMOND].

At 8:16 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 1083) to amend the Low-Level Radioactive Waste Policy Act to improve procedures for

the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes, and that the House agrees to the amendment of the Senate to the text of the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

ENROLLED BILL SIGNED

At 10:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker pro tempore [Mr. WRIGHT] has signed the following enrolled bill:

H.R. 2100. An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 10:27 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to the provisions of House Resolution 349, the House rejects the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, and that the House recede from its disagreement to the amendment of the Senate to the text of the bill, and agrees thereto, with an amendment, in which it requests the concurrence of the Senate.

At 11:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration, and for other purposes.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985; and

H.J. Res. 496. Joint resolution providing for the convening of the 2d session of the 99th Congress.

At 1:23 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its clerks, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 267. Concurrent resolution providing for a sine die adjournment of the 1st session of the 99th Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 1404: A bill to establish the Eastern Shore of Virginia National Wildlife Refuge and National Fish and Wildlife Service Training Center at Cape Charles in Northamption County, Virginia (Rept. No. 99-226).

By Mr. ROTH, from the Committee on Governmental Affairs:

Report to accompany the bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds. (Rept. No. 99-227).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO:

S. 1986. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WALLOP (for himself and Mr. SIMPSON):

S. 1987. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Finance.

By Mr. MELCHER (for himself, Mr. INOUYE, Mr. DECONCINI, Mr. BURDICK, Mr. ANDREWS, Mr. ABDNOR, and Mr. BINGAMAN):

S. 1988. A bill to establish a program for the prevention and control of diabetes among native Americans; to the Select Committee on Indian Affairs.

By Mrs. HAWKINS (for herself, Mr. THURMOND, Mr. HATCH, and Mr. DIXON):

S. 1989. A bill to open Japanese markets for United States semiconductors and establish fair conditions of trade in semiconductors; to the Committee on Finance.

By Mr. QUAYLE (for himself and Mr. KENNEDY):

S. 1990. A bill to establish an Education and Training Partnership to administer the Wagner-Peyser Act, the Job Training Partnership Act, and the Carl D. Perkins Vocational Education Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ANDREWS (for himself, Mr. MELCHER, Mr. ABDNOR, Mr. BURDICK, Mr. DECONCINI, Mr. INOUYE, Mr. MURKOWSKI, and Mr. GOLDWATER):

S. 1991. A bill to extend programs under the Native American Programs Act of 1974 through fiscal year 1990; to the Select Committee on Indian Affairs.

By Mr. STEVENS (by request):

S. 1992. A bill to preserve rights of certain parties with an interest in certain vessels or fishing facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1993. A bill to preserve the rights of certain parties with an interest in aircrafts, aircrafts parts, or vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS:

S. 1994. A bill for the relief of Pedro M. Bertulfo and his wife Amalia M. Bertulfo; to the Committee on the Judiciary.

S. 1995. A bill for the relief of David Ford; to the Committee on the Judiciary.

S. 1996. A bill for the relief of Romeo Manabat and his wife Grace Manabat; to the Committee on the Judiciary.

By Mr. WALLOP (for himself and Mr. BENTSEN):

S. 1997. A bill to amend the Internal Revenue Code of 1954 to impose a tax on the importation of crude oil and refined petroleum products; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. BYRD, Mr. LONG, Mr. PACKWOOD, Mr. ZORINSKY, Mr. BENTSEN, Mr. KERRY, Mr. WARNER, Mr. LUGAR, Mr. BAUCUS, Mr. LEAHY, Mr. DURENBERGER, Mr. BRADLEY, Mr. BOSCHWITZ, Mr. HATCH, Mr. THURMOND, Mr. HOLLINGS, Mr. HEINZ, Mr. INOUYE, Mr. LAXALT, Mr. COCHRAN, Mr. HATFIELD, Mr. JOHNSTON, Mr. MATTINGLY, Mr. NUNN, Mr. PRYOR, Mr. COHEN, Mr. D'AMATO, Mr. DIXON, Mr. EXON, Mr. SIMON, Mr. HEFLIN, Mr. STAFFORD, Mr. DOMENICI, Mr. TRIBLE, Mr. MOYNIHAN, Mr. EAST, Mr. MATSUNAGA, Mr. ARMSTRONG, Mr. SYMMS, Mr. ROCKEFELLER, Mr. GORE, Mr. MCCLURE, Mr. RIEGLE, Mr. HELMS, Mr. MURKOWSKI, Mr. BURDICK, Mr. GOLDWATER, Mr. DENTON, Mr. CRANSTON, Mr. HARKIN, Mr. ANDREWS, Mr. SPECTER, Mr. KASTEN, Mr. GRASSLEY, Mr. BIDEN, and Mr. GORTON):

S.J. Res. 254. Joint resolution to designate the year of 1987 as the "National Year of

Thanksgiving"; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 255. Joint resolution relative to the convening of the second session of the Ninety-Ninth Congress; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 280. Resolution expressing the sense of the Senate regarding support by the United States for the National Union for the Total Independence of Angola (UNITA); to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. D'AMATO, Mr. DODD, Mrs. HAWKINS, Mr. WILSON, Mr. MATTINGLY, Mr. SYMMS, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. WALLOP, Mr. GRASSLEY, Mr. PRYOR, Mr. ROTH, Mr. CHAFFEE, Mr. BRADLEY, Mr. HEINZ, Mr. MITCHELL, Mr. BAUCUS, Mr. BOREN, Mr. KASTEN, Mr. KERRY, Mr. DOMENICI, Mr. ABDNOR, Mr. CRANSTON, Mr. GARN, Mr. SIMPSON, Mr. DENTON, Mr. THURMOND, Mr. DECONCINI, Mr. NICKLES, Mr. LAXALT, Mr. SPECTER, Mr. WARNER, Mr. HOLLINGS, Mr. HECHT, Mr. ANDREWS, Mr. LUGAR, Mr. BOSCHWITZ, Mr. QUAYLE, Mr. HEFLIN, Mr. TRIBLE, Mr. HARKIN, Mr. COHEN, Mr. DIXON, Mr. COCHRAN, Mr. RUDMAN, Mr. WEICKER, Mr. MCCONNELL, Mr. ZORINSKY, Mr. HELMS, Mr. STENNIS, Mr. EAST, Mr. BUMPERS, Mr. LEVIN, Mr. HATCH, and Mr. FORD):

S. Res. 281. Resolution relating to a prospective effective date for tax reform; considered and agreed to.

By Mr. HEINZ (for Mr. DOLE (for himself and Mr. BYRD)):

S. Res. 282. Resolution to direct the Senate Legal Counsel to intervene in Representative Mike Synar v. United States of America; considered and agreed to.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 283. Resolution relating to the Bipartisan Group of Senators designated pursuant to S. Res. 19 and S. Res. 86, 99th Congress, to act as Observers of Arms Reduction or Control Negotiations; considered and agreed to.

By Mr. STEVENS (for Mr. ROTH (for himself and Mr. NUNN):

S. Res. 284. Resolution to authorize the inspection and receipt of tax records by a subcommittee of the Committee on Governmental Affairs; considered and agreed to.

By Mr. LONG (for himself, Mr. PACKWOOD, Mr. DOLE, Mr. BYRD, Mr. DANFORTH, Mr. MOYNIHAN, Mr. BENTSEN, Mr. PRYOR, Mr. MATSUNAGA, Mr. BAUCUS, Mr. CRANSTON, Mr. DURENBERGER, and Mr. ARMSTRONG):

S. Res. 285. To commend Michael Stern for his faithful and outstanding service to the United States Senate and the Nation; considered and agreed to.

By Mr. SIMPSON (for Mr. ARMSTRONG (for himself, Mr. ROTH and Mr. DOMENICI)):

S. Res. 286. Resolution to authorize a procedure for the disposition of extraneous material in reconciliation conference reports, and for other purposes; considered and agreed to.

By Mr. DOLE:

S. Res. 287. Resolution appointing a committee to notify the President concerning the proposed adjournment of the session; considered and agreed to.

S. Res. 288. Resolution tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. DOLE (for Mr. BYRD (for himself and Mr. DOLE)):

S. Res. 289. Resolution tendering the thanks of the Senate to the President Pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 290. A resolution expressing the Senate's admiration for the long and distinguished career of the Senator from Mississippi, the Honorable John C. Stennis; considered and agreed to.

By Mr. BYRD:

S. Res. 291. A resolution authorizing the President of the Senate and the President of the Senate pro tempore to make certain appointments after the sine die adjournment of the present session; considered and agreed to.

By Mr. THURMOND:

S. Res. 292. A resolution to commend the exemplary conduct of the distinguished Majority Leader and Majority Whip; considered and agreed to.

S. Res. 293. A resolution to commend the extraordinarily cooperative conduct of the distinguished Minority Leader, and the Minority Whip; considered and agreed to.

S. Res. 294. A resolution tendering the thanks of the Senate to the Senate Staff for the courteous, dignified, and impartial manner in which they have assisted the deliberations of the Senate; considered and agreed to.

By Mr. KERRY (for himself, Mr. SIMON, Mr. PELL, Mr. KENNEDY, Mr. DODD, Mr. HOLLINGS, Mr. CRANSTON, Mr. SARBANES, Mr. RIEGLE, and Mr. HARKIN):

S. Con. Res. 100. A concurrent resolution expressing the sense of the Senate that the civil and political rights of Kim Dae Jung be restored and that true democracy be instituted in the Republic of Korea; to the Committee on Foreign Relations.

By Mr. SPECTER:

S. Con. Res. 101. A concurrent resolution calling for full freedom and independence for the Baltic States; to the Committee on Foreign Relations.

S. Con. Res. 102. A concurrent resolution expressing the sense of the Congress that the United States should seek, through diplomatic channels, the withdrawal of certain personnel of the Soviet Union from Estonia, Latvia, and Lithuania and the release by the Soviet Union of political prisoners of Estonian, Latvian, or Lithuanian descent; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 1986. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

EQUITY IN FOREIGN AND DOMESTIC CREDIT ACT

Mr. D'AMATO. Mr. President, in response to the Federal Reserve Board's [Fed] recent proposal to apply the margin requirements of section 7 of the Exchange Act to certain purchases of securities—commonly referred to as junk bonds, I introduce the "Equity in Foreign and Domestic Credit Act." This legislation is needed because the Fed cannot presently require that the provisions of the proposed interpretation be made applicable to foreign investors who acquire U.S. securities with foreign credit. The legislation is designed to end the unfair advantage presently enjoyed by foreign persons who acquire substantial positions in, or entire American corporations and are not subject to the margin requirements imposed by the Fed. These foreign purchasers are presently able to purchase U.S. securities by borrowing 100 percent of the cost of these securities from foreign lenders. At present, domestic persons and firms are at a distinct disadvantage because of the 50-percent margin requirements imposed upon them by the Federal Reserve Board under current law.

The legislation that I introduce today was discussed in the Securities Subcommittee of the Senate Banking Committee during hearings conducted in July, 1981. Little has changed since that time. Therefore, the legislation we considered then and the legislation that I introduced today arises out of a concern that these margin requirements do not reach transactions, where the acquiror of securities is not a U.S. citizen. This is troublesome both because of the potential disruption which could result from excess credit, and the fact that such investors have a competitive advantage over U.S. investors in corporate takeovers. It is my belief that if the margin requirements for U.S. investors are beneficial and are necessary, to protect the American investing public, then those same requirements are necessary to protect the U.S. investing public even if a foreign corporation is making an acquisition or tender offer.

The present inadequacy of the margin requirements was revealed by the FED's recent proposal regarding the application of margin requirements to certain transactions also prompted this legislation. On December 6, 1985, the FED approved for public comment a proposed interpretation of regulation G that would affect the financing of certain tender offers. This interpretation is scheduled to become effective December 31, 1985. Although I am not certain that I agree with the FED's interpretation which applies the margin requirements to junk bonds, I do not dispute the FED's authority to issue this interpretation. The Board's interpretation broadens considerably the scope of the existing

margin rules and therefore may be viewed as more of a rule change than a mere interpretation. The FED's action may be premature in this area because of the lack of information concerning the impact of junk bond financed transactions on the economy. I am also concerned about the FED's reversal of an initial interpretation that has such dramatic implications on the financing of certain transactions without adequate notice and with a minimal comment period. The FED should not contemplate such a major policy shift without providing adequate notice and time for comment.

I also take time issue with the FED because in some respect its proposal may go too far and in others it does not go far enough. The FED's proposed interpretation may go too far because the language of the proposal does not necessarily reflect the intent to limit the proposed interpretation to a relatively limited factual situation; specifically, shell corporations that issue debt securities in order to acquire margin stock. While the intent of the rule may be narrow, the language of the proposed interpretation is not as narrowly confined. The language of the proposal is somewhat vague and ambiguous and as a result, the proposal is potentially applicable to a broad range of transactions. I do not consider it appropriate for the FED to be empowered to determine whether the margin rules apply to takeover financing on a case-by-case basis. The FED's use of its authority in this manner imposes undue burdens on the ability to execute transactions and will have an adverse effect upon financial markets.

The FED was not able to go far enough in its proposed interpretation because a statutory change is needed to apply the margin rules to foreign purchasers who use foreign credit to purchase U.S. Securities. The legislation remedies a glaring deficiency by applying the margin rules to foreign purchasers. The effect of the FED's proposal and the present unequal application of the margin rules may be to drive corporate takeover activity off-shore beyond the reach of the FED's existing margin rules. In order to prevent the circumvention of the existing margin rules, and the FED's proposed interpretation and to correct the inequities of a system that discriminates against domestic corporations and investors, I am compelled to introduce the Equity in Foreign and Domestic Credit Act.

I ask unanimous consent that the bill, and the explanation of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This title may be cited as the "Equity in Foreign and Domestic Credit Act".

SEC. 2. (a) Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. (78g) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f)(1) It is unlawful for any person to obtain, receive, or enjoy the beneficial use of a loan or other extension of credit from any lender (without regard to whether the lender's office or place of business is in the State or the transaction occurred in whole or in part within a State) for the purpose of (A) purchasing or carrying United States securities, or (B) purchasing or carrying within the United States any other securities, if under this section or rules and regulations prescribed thereunder, the loan or other credit transaction is prohibited or would be prohibited if it has been made or the transaction had otherwise occurred in a lender's office or other place of business in a State.

"(2) For purposes of this subsection, the term 'United States security' means a security (other than an exempted security) issued by a person incorporated under the laws of any State, or whose principal place of business is within a State.

"(3) The Board of Governors of the Federal Reserve System may, in its discretion and with due regard for the purposes of this section, by rule or regulation exempt any class of persons from the application of this subsection.

"(g)(1) Any issuer of securities that are being purchased or carried in violation of this section, or of any rule or regulation promulgated under this section, and any other person who is injured or threatened with injury by reason of such a violation by any other person, in connection with—

"(A) the acquisition or carrying of the beneficial ownership of more than 5 per centum of any class of an equity security, or

"(B) any tender offer for, or request or invitation for tenders of, any class of equity security, if after consummation thereof, such other person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class,

may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States to recover damages arising from such violation or for such injury or to enjoin such a violation.

"(2) No action shall be maintained to enforce any liability created under this subsection or to rescind any contract the making or performance of which involves a violation of this section unless brought within one year after the discovery of facts constituting the violation, and three years after the occurrence of the last substantial element of the violation.

"(3) For the purposes of this subsection—

"(A) The term 'person' has the same meaning provided such term by section 13(d)(3) of this title; and

"(B) the determination of the percentage of any class of security shall be made in the same manner as is required by section 13(d)(4) of this title.".

(b) Except for purposes of section 32 of the Securities Exchange Act of 1934, the amendment made by this section takes effect on December 19, 1985, and the provisions of section 7(f) of the Securities Exchange Act of 1934, as so amended, shall apply to any purchase of securities occurring on or after such date and to the carrying of such securities on or after such date if the loan or extension of credit therefor originated on or after such date or if the loan proceeds used to purchase or carry such securities were disbursed on or after such date.

EXPLANATION OF THE BILL

The provisions of this bill seek to ensure equal application of credit and borrowing restrictions in connection with foreign acquisitions of United States securities.

Section 1 of the bill states that this Act may be cited as the "Equity in Foreign and Domestic Credit Act."

Section 2(a) strikes out subsection 7(f) of the Exchange Act and inserts a new subsection (f) and new subsection (g). Section 7(f)(1), as amended, would make it unlawful for any person (including any foreign person) to obtain, receive or enjoy the beneficial use of a loan or other extension of credit from any lender for the purpose of purchasing or carrying United States securities, or purchasing or carrying within the United States any other securities, if under the margin provisions or rules issued under those provisions, the loan or other credit transaction is prohibited or would be prohibited if it had been made to the transaction had otherwise occurred in a lender's office or place of business in the United States.

The new provision is similar to the current section 7(f)(1), except that it applies to "any person" rather than "any United States person, or any foreign person controlled by a United States person or acting on behalf of or in conjunction with such person."

Currently, Section 7 of the Exchange Act authorizes the Federal Reserve Board to set limits on the amount of margin credit that may be extended in connection with securities transactions. However, the law currently applies only to persons who borrow in the United States, or to Americans who borrow abroad for the purpose of purchasing United States securities. It does not apply to foreign purchasers of United States securities who finance their purchases with funds from foreign lenders.

Testimony in previous Congresses revealed that, in some instances, foreign firms were borrowing from foreign lenders 100 percent of the acquisition costs of U.S. securities. This placed domestic persons and firms at a distinct disadvantage, because of the 50 percent margin requirements imposed on them by the Federal Reserve Board under current law.

Although the number of foreign takeovers of United States companies has remained fairly constant since 1981, the objective of this legislation and earlier legislative proposals addressing this issue remain valid: to correct an obvious gap in current law by imposing United States margin requirements on foreign firms that borrow from foreign lenders to purchase U.S. securities.

New section 7(f)(2) defines the term "United States security" as any security issued by a person incorporated under the law of any State, or whose principal place of business is within a State. Accordingly, any security issued by a foreign corporation whose principal place of business is within the United States would be a "United States security" for purposes of this subsection.

This definition is the same as that in current section 7(f)(1)(B).

New section 7(f)(3) grants to the Federal Reserve Board, in its discretion and with due regard for the purposes of section 7, the authority to exempt any class of persons from the application of section 7(f). This new paragraph maintains existing Federal Reserve Board authority under current section 7(f)(3). Pursuant to this authority, the Federal Reserve Board would be empowered to exempt those borrowers who, because of the small size of their transactions of the insignificant impact of their transactions on United States issuers or securities markets, should not be obligated to bear the burden of assuring their compliance with margin provisions.

New subsection (g)(1) provides a private right of action on behalf of any issuer of securities that are being purchased or carried in violation of section 7 or of any rule or regulation promulgated under section 7. A private right of action also is granted on behalf of any other person who is injured or threatened with injury by reason of such violation by any other person. Application of the express private rights of action established by the new provision is limited, however, to violations in connection with: (1) the acquisition or carrying of more than 5 percent or more of any class of an equity security; or (2) any tender offer for class of equity security if, after consummation of the tender offer, such other person would, directly or indirectly, be the beneficial owner of more than 5 percent of such class.

Subsection (g)(2) specifies the statute of limitations for actions brought under new subsection (g). An action must be brought within one year after the discovery of the facts constituting the violation and within three years after the occurrence of the last substantial element of the violation.

The creation of an express private right of action under this provision should not be interpreted as impairing in any way existing implied private rights of action under other sections of the Exchange Act, including sections 13 and 14. Private rights of action may still be implied for violations of the Exchange Act, including sections 13 and 14, even though no private right of action is expressly provided. Private rights of action are a necessary supplement to Commission action to enforce these provisions.

Some courts have held that a target company may have a right of action under sections 14(d) or (e) of the Exchange Act, if there is a failure to disclose that the financing plan of the offeror may be illegal because of a violation of the margin requirements of section 7 of the Exchange Act. New section 7(g) specifies that a target company and other persons injured or threatened with injury by margin violations in connection with the acquisition of more than 5 percent of the issuer's equity securities have standing to maintain an injunctive or other action seeking relief from an acquiror's violations of the margin requirements of section 14 is also alleged. On the other hand, the legislation is not designed to accord to any potential plaintiffs a presumption of injury.

This legislation is not designed to regulate the conduct of foreign lenders. The regulation of their conduct raises a number of questions regarding the limits of U.S. jurisdiction and the consequences of such a provision on international relations. Accordingly, the bill has placed the burden of compliance on those persons who actually effect transactions in securities issued by U.S. companies—foreign borrowers. Consistent with the exclusion of foreign lenders from the scope of section 7(f), the legislation is not intended to create any new express private right of action against foreign lenders.

Section 2(b) provides that the amendments made by this bill will take effect on the date of introduction except for application of the criminal provisions of section 32 of the Exchange Act which shall be effective immediately on enactment. The amended provisions of section 7 shall apply to any purchase of securities on or after that date. In addition, they will apply to any securities carried on or after the date of introduction, if a loan or extension of credit for the securities originated on or after that date or if the proceeds of a loan used to purchase or carry the securities were disbursed on or after the effective date.

By Mr. WALLOP (for himself and Mr. SIMPSON):

S. 1987. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Finance.

DUTY RATES FOR SODIUM BICARBONATE

● Mr. WALLOP. Mr. President, today I am introducing legislation to impose a 20-percent tariff on imports of sodium bicarbonate. This legislation is needed to place American producers on an equal footing with foreign manufacturers and ensure the continued health of the U.S. sodium bicarbonate industry.

Sodium bicarbonate is a food and chemical product familiar to most of us as the baking soda we use in our homes. But sodium bicarbonate also has hundreds of other industrial and pharmaceutical applications, such as fire extinguishers, tanning, animal feed, and oil and drilling rigs. In addition, two programs currently underway use sodium bicarbonate to alleviate environmental damage caused by acid rain.

Unequal international trade rules are hurting U.S. sodium bicarbonate producers. American manufacturers can't sell in foreign countries because of high import taxes and other import barriers, yet foreign manufacturers can sell freely in the United States without paying any duties.

As a result, imports of underpriced sodium bicarbonate, primarily from Mexico and West Germany, have been seriously damaging our domestic industry in recent years. Between 1981 and 1984, the volume of U.S. imports has increased over fivefold from 3,410 to 17,376 tons, and imports are projected to increase further in 1985. Imports from Mexico and West Germany, which account for nearly three-fourths of imported sodium bicarbonate, consistently undersell domestically produced material by as much as 35 percent.

Nations such as Mexico watch the United States markets in sodium bicarbonate, as some other products, to see what prices can guarantee sales in the United States and what amount of product they can ship here. The objective of earning foreign exchange can be as important as return on investment. In Mexico the capability to follow such an approach is enhanced because production comes from one producer.

The dramatic increase in imports of sodium bicarbonate has been assisted by duty-free entry into the United States. By contrast, Mexico imposes a 25-percent duty, West Germany collects a 10.1-percent duty, Canada imposes a 11-percent duty, and many Latin American countries impose duties of 30 percent and 35 percent. More seriously, Mexico also excludes almost all imports by denying the required import permits.

Because of this flood of duty-free imports, our domestic industry is suffering. U.S. manufacturers are sophisticated, efficient and competitive with producers throughout the world. Yet, because of increasing duty-free imports, U.S. producers have suffered from declining production, sales, revenues, prices, and employment at a time when the American economy as a whole has experienced a recovery.

Church & Dwight—the Nation's largest sodium bicarbonate producer and one of America's oldest companies—is a highly specialized operation whose growth has been based on this one basic product. Church & Dwight employs 600 people at its operations in New Jersey, New York, Ohio, and Wyoming, and has produced the familiar Arm & Hammer brand baking soda for almost 140 years. Its Green River, WY, plant is the world's largest. Other producers include Stauffer Chemical, which has operations in southwest Wyoming and Riverside Chemical Products in Georgia.

With the world's largest deposits of raw materials and with modern plants and technology, American sodium bicarbonate producers make the highest quality sodium bicarbonate in the world and sell it at low prices. They can compete in the United States and abroad if they are given fair treatment. However, because of unequal trade rules, U.S. producers are penalized in the world market.

The bill I am introducing today will restore fairness, encourage reciprocity, and ensure the continuation of a strong U.S. industry. By bringing U.S. duties in line with those of our competitors, a 20-percent import duty will allow U.S. companies to compete on an equal footing in the world market. In addition, a 20-percent duty will send a message to our competitors that we will not be taken advantage of, and will encourage them to open their markets and treat us fairly. Finally, a 20-percent duty will ensure the continued health of an important U.S. industry threatened by unfair trade rules.

Even with a 20-percent duty, the United States will still be more open than many other countries.

Congressman DELBERT LATTA of Ohio is introducing a similar bill in the House. I have contacted the U.S. Trade Representative's office to ask for his assistance. American sodium bicarbonate producers need our help to ensure that they are not hurt by unfair trade rules.●

By Mr. MELCHER (for himself, Mr. INOUYE, Mr. DECONCINI, Mr. BURDICK, Mr. ANDREWS, Mr. ABDNOR, and Mr. BINGAMAN):

S. 1988. A bill to establish a program for the prevention and control of diabetes among native Americans; to the Select Committee on Indian Affairs.

NATIVE AMERICAN DIABETES PREVENTION AND CONTROL ACT

Mr. MELCHER. Mr. President, today I am introducing legislation to address one of the most serious and far-reaching health problems affecting Indians, Alaskan Natives, and native Hawaiians. The incidence and prevalence of diabetes among these native Americans substantially exceeds the incidence and prevalence of diabetes among the general population in the United States. In many tribes, the incidence of diabetes exceeds 40 percent compared with 3 percent in the general U.S. population.

The consequence of this problem among the native populations is serious and long-term. Failure to prevent and control diabetes results in kidney failure, amputations, and blindness. Unless more intense and immediate steps are taken to prevent and control this disease, the costs to the Federal Government to treat the disease's long-term complications will skyrocket. Fortunately, the U.S. Indian Health Service has in place a model diabetes care program, which will be significantly strengthened and enhanced by this legislation.

The purpose of this bill is: First, to expand and coordinate Federal research programs aimed at diabetes and related complications among native Americans; second, to strengthen the Indian Health Service efforts in the treatment, prevention, and control of diabetes and related complications; and third, to achieve a reduction in the incidence of diabetes among our native populations. This bill is based upon a study conducted at the direction of the Select Committee on Indian Affairs. This study provides a preliminary sketch of the problem of diabetes among the native populations in this country, the extent of existing research programs underway to understsand the disease, and identifies ways to improve the efforts to treat, prevent and control diabetes.

The bill requires a comprehensive study by the Secretary of the Department of Health and Human Services of diabetes among the native populations, and requires the Secretary to identify and implement a program within the Indian Health Service which will, among other things, reduce the incidence of diabetes among the native populations. Further, the bill acknowledges the existing model diabetes program within the Indian Health Service and builds on this program.

The bill identifies ways to assure that prevention and treatment strategies developed by the program are disseminated widely enough to benefit all native Americans. Outreach programs, health education activities, special training for health care providers, and a uniform and comprehensive data collection system are all key parts to curbing the spread of the disease and controlling its long-term complications.

Finally the bill directs to the Department of Health and Human Services to develop a cohesive and comprehensive research program regarding diabetes and its related complications among native Americans.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native American Diabetes Prevention and Control Act of 1985".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the incident of diabetes among Native Americans (which for purposes of this Act includes Indians, Native Alaskans, and Native Hawaiians) is significantly higher than in other population groups within the United States;

(2) in several Indian tribes over 40 percent of the adults have diabetes compared with approximately 3 percent of the overall United States adult population;

(3) diabetes has become the second leading reason for outpatient visits by Native Americans to Indian Health Service facilities nationwide;

(4) serious complications of diabetes, such as kidney failure, hypertension, amputation, and blindness, are increasing in frequency among Native Americans;

(5) health care costs for treatment of diabetes and related complications among Native Americans will increase significantly in the long term unless the Department of Health and Human Services (hereinafter referred to as the "Department")—

(A) determines the cause of diabetes among Native Americans,

(B) develops early diagnosis, treatment, and prevention programs to reduce the incidence of diabetes among Native Americans, and

(C) trains, or provides for the training of, Federal and Native American health care providers in the diagnosis, treatment, and control of diabetes and related complications;

(6) a Model Diabetes Control Program exists within the Indian Health Service, consisting of seven project sites which serve only 10 percent of the Indian Health Service patients; and

(7) outreach services and the conveyance of effective treatment strategies from the model project sites need to be implemented.

(b) The purposes of this Act are—

(1) to broaden the research program of the Department relating to diabetes and related complications among Native Americans;

(2) to strengthen the efforts of the Indian Health Service for the treatment of diabetes through the implementation of a program for the prevention and control of diabetes and related complications on each Indian Reservation, for each Alaskan Native Village, and in Hawaii; and

(3) to achieve a reduction in the incidence of diabetes among Native American populations to a rate comparable to that of the general United States population.

STUDY ON DIABETES AMONG NATIVE AMERICANS

SEC. 3. (a) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall determine—

(1) the incidence of diabetes among Native Americans;

(2) activities the Indian Health Service should take—

(A) to reduce the incidence of diabetes among Native Americans,

(B) to provide Native Americans with guidance in the prevention, treatment, and control of diabetes,

(C) to provide early diagnosis of diabetes among Native Americans, and

(D) to ensure that proper continuing health care is provided to Native Americans who are diagnosed as diabetic; and

(3) the fiscal impact to the Federal Government of treating the long-term complications of diabetes based upon the existing prevalence and incidence of diabetes among Native Americans.

(b) The Secretary shall prepare an inventory of all health care programs and resources (public and private) within the United States that are available for the treatment, prevention, or control of diabetes among Native Americans.

(c) Within 18 months after the date of enactment of this Act, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made under subsection (a), containing the inventory prepared under subsection (b), and describing the research activities conducted under section 6.

DIABETES CARE PROGRAM

SEC. 4. (a) Within 18 months after the date of enactment of this Act, the Secretary shall implement a program designed—

(1) to strengthen and expand the diabetes control program of the Indian Health Service;

(2) to enable all service units of the Indian Health Service to treat effectively—

(A) newly diagnosed diabetics in order to reduce future complications from diabetes,

(B) individuals who have a high risk of becoming diabetic in order to reduce the incidence of diabetes, and

(C) short-term and long-term complications of diabetes;

(3) to conduct, for Federal, tribal, and other Native American health care providers (including community health representatives), training programs concerning cur-

rent methods of prevention, diagnosis, and treatment of diabetes and related complications among Native Americans;

(4) to determine the appropriate delivery to Native Americans of health care services relating to diabetes;

(5) to develop and present health education information to Native American communities and schools concerning the prevention, treatment, and control of diabetes; and

(6) to ensure that proper continuing health care is provided to Native Americans who are diagnosed as diabetic.

(b) The Secretary shall—

(1) promote coordination and cooperation between all health care providers in the delivery of diabetes related services; and

(2) encourage and fund joint projects between Federal and tribal health care facilities and Native American communities for the prevention and treatment of diabetes.

(c)(1) The Secretary shall continue to maintain each of the following model diabetes clinics which are in existence on the date of enactment of this Act:

(A) Claremore Indian Hospital in Oklahoma;

(P) Fort Totten Health Center in North Dakota;

(C) Sacaton Indian Hospital in Arizona;

(D) Winnebago Indian Hospital in Nebraska;

(E) Albuquerque Indian Hospital in New Mexico;

(F) Terry, Princeton, and Old Town Health Centers in Maine; and

(G) Bellingham Health Center in Washington.

(2) Within 2 years after the date of enactment of this Act, the Secretary shall establish and maintain a model diabetes clinic in each of the following locations:

(A) the Navajo reservation;

(B) the Papago Reservation;

(C) Montana;

(D) Minnesota; and

(E) Hawaii.

(3) The Secretary shall develop and implement an outreach program to ensure that the achievements and benefits derived from the activities of the model diabetes clinics maintained under this section are used by all service units of the Indian Health Service in the diagnosis, prevention, and treatment of diabetes among Native Americans.

(d) The Secretary shall maintain appropriate personnel within the Indian Health Service to develop and implement the provisions of this Act and to manage and coordinate the diabetes care program of the Indian Health Service.

(e) The Secretary shall submit to the Congress an annual report outlining the activities, achievements, needs, and future goals of the diabetes care program of the Indian Health Service.

DATA COLLECTION AND ANALYSIS

SEC. 5. The Secretary shall develop and maintain a comprehensive standardized system within the Indian Health Service to collect, analyze, and report data regarding diabetes and related complications among Native Americans. Such system shall be designed to facilitate dissemination of the best available information on diabetes to Native American communities and health care professionals. Such system shall be operational within 2 years after the date of enactment of this Act.

RESEARCH

SEC. 6. The Secretary shall require each agency and unit of the Department which conducts research relating to diabetes—

(1) to give special attention to research concerning the causes, diagnosis, treatment, and prevention of diabetes and related complications among Native Americans; and

(2) to coordinate such research with all other agencies and units of the Department which conduct research relating to diabetes and related complications.

REGULATIONS

SEC. 7. The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. DECONCINI. Mr. President, I join my distinguished colleague from Montana in introducing today a bill which addresses one of the most serious chronic health problems to plague our native American communities.

On June 1, 1985, I chaired a Senate Select Committee on Indian Affairs hearing on the need for disease prevention and health promotion programs on Indian reservations. The testimony of tribal, Federal, and medical research representatives spoke of an excessive incidence of diabetes among Indian peoples. This disease and its related complications wreak havoc upon a people whose physiology apparently may not be conditioned to safeguard itself against this dreaded disease. The failure to control this chronic health condition leaves in its trail devastating effects which are long term and frequently fatal. Those who are unfortunately affected by this health problem can suffer kidney failure, blindness, and limb amputations.

This bill is long past due. Enacting this legislation will mean the expansion and coordination of Federal research programs designed to study diabetes and its related complications among native Americans. We will also be strengthening the Indian Health Services capability to prevent, treat, and control the disease and its related complications. Most importantly, we will be taking steps to assure the reduction of the incidence of diabetes in the Indian community.

We need to enhance the fine work of the Indian Health Services as exemplified by the Model Diabetes Program. Our proposed legislation provides the Indian Health Services with numerous avenues for developing preventive and curative program strategies. The bill also includes provisions for a cohesive and comprehensive research program which will place emphasis on the cause, diagnosis, treatment and prevention of diabetes and related health problems among Indian peoples.

The long-term benefits of this bill are tremendous. The payback for the individual and for the Federal Government justify the immediate commitment of resources. We have made great strides in improving the health status of Native Americans in the past decade. However, we cannot overlook the simple fact that one in every five Indian person suffers from this terrible health problem. I urge my colleagues to join the Senator from Montana and me in responding to this critical need in the Native American community.

By Mrs. HAWKINS (for herself, Mr. THURMOND, Mr. HATCH, and Mr. DIXON):

S. 1989. A bill to open Japanese markets for U.S. semiconductors and establish fair conditions to trade in semiconductors; to the Committee on Finance.

SEMICONDUCTOR TRADE FAIRNESS ACT

● Mrs. HAWKINS. Mr. President, in an effort to promote the future competitiveness of the U.S. semiconductor industry and to assure our national security, today I am introducing the Semiconductor Trade Fairness Act. This much needed trade legislation provides congressional findings regarding unfair trade practices by Japan, and directs the President to take specific action to enforce the trade rights of U.S. semiconductor manufacturers.

The Government of Japan, through its anticompetitive market structure, has prohibited United States semiconductor manufacturers fair access to its market. While United States manufacturers have held 55 percent of the semiconductor market in Europe, 83 percent of the United States market, and 47 percent in all other markets, United States market share in Japan has been steadily held to 10 percent over the last 10 years. This has had a tremendous impact on the future of our semiconductor industry and our national security.

For their most recent quarters, U.S. semiconductor companies reported operating results which ranged from marginal profitability at best to major losses at worst. In aggregate, Advanced Micro Devices, Inc., reported operating losses of $180.1 million, as compared with profits of $355.8 million in the comparable quarter last year. These losses—which, on an annualized basis, would total $720.4 million—are attributable both to a substantial drop in semiconductor demand, and to the severe decline in semiconductor prices which has occurred. The semiconductor price reductions in turn can, to a large extent, be attributed to Japanese companies' pricing patterns. As W.J. Sanders III, the chairman of the board and president of Advanced Micro Devices, stated in his company's "Second Quarter Report, Fiscal Year 1986," issued November 8, 1985:

Unfortunately, we are not able to enjoy the profits of our success [as innovative developers of EPROM's]. The reason is predatory pricing by Japanese manufacturers who have targeted this market segment for domination. These companies, parts of huge conglomerates, seem prepared to "buy" market share by setting prices extremely

low—even below manfacturing costs—in order to squeeze U.S. manufacturers out of the market. This practice is called "dumping" and it is a violation of U.S. trade law. The effect of Japanese dumping has been, for example, to force the price of 256k EPROM's down from $17 at the beginning of 1985 to less than $4 in August. That is well below manufacturing cost and, as a consequence, EPROM's were responsible for more than half of AMD's operating loss during the part quarter.

The Intel Corp. "Third Quarter Report 1985," also reported that:

The most acute problem we face is in memory components. Japanese manufacturers have targeted the EPROM market and have driven prices down in an effort to capture market share without regard to profit. For example, the price of a 256K EPROM has fallen 75 percent this. . . . low prices also caused us to announce recently our withdrawal from the dynamic random access memory (dram) market.

Another reason for the losses posted by United States semiconductor companies is their lack of full access to the Japanese market. In National Semiconductor's "1985 Annual Report," Charles E. Sporck, chairman of the board of directors, noted:

[W]e support the U.S. semiconductor industry's petition for action under section 301 of the Trade Act of 1974. We ask that the President of the United States adopt as policy specific objectives, including a dramatic improvement in U.S. sales in Japan commensurate with those in other world markets. . . . U.S. producers must have fair access to that important market, if they are to remain competitive and viable in the long term.

One result of these operating losses has been a substantial decline in employment by U.S. semiconductor manufacturers. In the 10 months from December 1984 to October 1985, Dataquest, Inc., estimates that employment by U.S. semiconductor companies declined by 14 percent or 63,846 workers. The attached report by Dataquest details the extent of this employment decline by individual companies and provides similar information for Japanese semiconductor producers.

Because of the increased reliance by the U.S. Department of Defense on sophisticated systems, semiconductors have become central to our national security. Increasingly, super computers, which are the heart of our national defense, rely upon foreign manufactured high-speed semiconductors.

Because the electronics portion of the U.S. defense budget is increasing, semiconductor defense sales are projected to increase from $1 billion in 1983 to $2.45 billion. Military procurement is estimated to represented 10 percent of the end-use semiconductor market.

When the United States becomes increasingly dependent upon foreign sources for vital defense assets, our national security is in jeopardy. In the event of war, our semiconductor source and supply routes could be easily disrupted. Without domestic research and development and production of the most sophisticated semiconductors, the United States is a nation at risk with regard to our national security and international competitiveness.

I would like to invite my colleagues to join me in this effort by cosponsoring my legislation, which I am pleased to indicated has been endorsed by the Semiconductor Industry Association.●

By Mr. QUAYLE (for himself and Mr. KENNEDY):

S. 1990. A bill to establish an Education and Training Partnership to administer the Wagner-Peyser Act, the Job Training Partnership Act, and the Carl D. Perkins Vocational Education Act, and for other purposes; to the Committee on Labor and Human Resources.

EDUCATION AND TRAINING PARTNERSHIP ACT

● Mr. QUAYLE. Mr. President, today I am introducing a bill to establish an independent agency in the executive branch of the Federal Government called the Education and Training Partnership. The Partnership will administer the Job Training Partnership Act, the Wagner-Peyser Act, which authorized the Employment Service, and the Carl D. Perkins Vocational Education Act. Senator ROTH, chairman of the Committee on Governmental Affairs that has jurisdiction over this bill, has agreed to let the Subcommittee on Employment and Productivity which I chair, hold hearings on it.

My objective is to examine the administrative structure that carries out the Federal role in the labor market. Various agencies share responsibility for carrying out the Federal role. They set Federal policy, mainly through regulations, and they have related responsibilities, such as research and data collection. I am exploring how to get these Federal agencies to work more closely together, in conjunction with the private sector.

Since 1982, Congress has revised the laws governing job training, vocational education, and the Employment Service to improve the administration of these programs. The rationale for administrative reform was to make these programs more responsive to our Nation's labor market needs by increasing the involvement of the private sector and by promoting coordination among related activities at the State and local levels. Although, these changes were mandated at the State and local levels, they did not affect Federal administration.

On April 3, Senators HATCH and KENNEDY issued statements in support of my proposal to study whether the principles underlying those State and local changes also apply to the Federal Government. We want to examine whether it is desirable to improve communications among Federal agencies with related responsibilities and increase private sector involvement at the Federal level. If so, how can we do it?

Now I am coming forward with a specific plan that I hope will serve as a focal point for discussing these issues. I am pleased to have Senator KENNEDY as a cosponsor of this proposal.

The Education and Training Partnership will be headed by a Board of Directors that will be composed of nine members. Five of the nine members will be private sector representatives who will be appointed by the President with the advice and consent of the Senate. Three of the five will be representatives of employers and two will be representatives of labor. They will serve staggered, 5-year terms. One of these five private sector members will be appointed by the President to serve as Chairman.

The remaining four representatives will be the Secretaries of Labor, Education, Commerce, and Health and Human Services.

The Partnership will assume the responsibilities assigned to the Secretary of Labor under the Job Training Partnership Act [JTPA] and the Wagner-Peyser Act and the responsibilities assigned to the Secretary of Education under the Carl D. Perkins Vocational Education Act.

I would like to emphasize that this ageny will not create a new bureaucracy because the Board of Directors may delegate administrative responsibilities back to either the Secretary of Labor or to the Secretary of Education or to both. However, in order to give the Board substantial authority, it is prohibited from delegating the approval of State grant applications for JTPA, vocational education, and the Employment Service.

I plan to conduct hearings at the beginning of the next session. Comments from all interested parties are welcome and invited. To discuss this bill with a member of my staff, please contact Renee Coe at 224-6306. Her mailing address is Labor and Human Resources Committee, 428 Dirksen Senate Office Building, Washington DC 20510.

I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education and Training Partnership Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to establish an Education and Training Partnership to be headed by a Board of Directors to involve the private sector in the Federal ad-

ministration of certain education and training programs.

ESTABLISHMENT OF EDUCATION AND TRAINING PARTNERSHIP

SEC. 3. (a) There is established an Education and Training Partnership as an independent agency in the executive branch of the Federal Government.

(b)(1) The Education and Training Partnership shall be headed by a Board of Directors to be composed of 9 members as follows:

(A) Three individuals appointed by the President, by and with the advice and consent of the Senate, who are representative of employers in the United States.

(B) Two individuals who are appointed by the President, by and with the advice and consent of the Senate, who are representative of labor.

(C) The Secretary of Labor.

(D) The Secretary of Education.

(E) The Secretary of Commerce.

(F) The Secretary of Health and Human Services.

(2) The President shall select one of the members of the Board who was appointed under clause (A) or (B) of paragraph (1) to serve as Chairman.

(3) Each Secretary specified in paragraph (1) may delegate the responsibility of serving on the Board under this Act only to an officer of the Department who is appointed by the President, by and with the advice and consent of the Senate.

(c) The terms of office of the members of the Board appointed pursuant to clause (A) and (B) of subsection (b)(1) shall be 5 years, except that—

(1) members of the board first taking office shall serve as designated by the President 1 for a term of 1 year, 1 for a term of 2 years, 1 for a term of 3 years, 1 for a term of 4 years, and 1 for a term of 5 year, and

(2) any member of the Board appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(d)(1)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed, without regard to the civil service and classification laws, by the President, including traveltime, for each day they are engaged in the performance of their duties as members of the Board. Such members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this Act.

(B) Members of the Board who are employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this Act.

(2)(A) The Chairman of the Board selected pursuant to subsection (b) of this section shall be a full-time employee of the United States.

(B) The President shall, without regard to the civil service and classification laws, fix the compensation of the Chairman of the Board.

FUNCTIONS OF THE EDUCATION AND TRAINING PARTNERSHIP

SEC. 4. There are transferred to the Education and Training Partnership, and the Board of Directors of the Education and Training Partnership shall perform, the functions of—

(1) the Secretary of Labor—

(A) under the Wagner-Peyser Act; and

(B) under the Job Training Partnership Act; and

(2) the Secretary of Education under the Carl D. Perkins Vocational Education Act.

DELEGATION

SEC. 5. (a) The Board of Directors of the Education and Training Partnership shall exercise all powers necessary to carry out the functions of the Eduction and Training Partnership under this or any other Act.

(b) The Board of Directors may delegate any function under this Act to the Secretary of Labor or to the Secretary of Education, or to both the Secretary of Labor and the Secretary of Education, except the approval of applications for grants under the provisions of law described in clauses (1) and (2) in section 4.

PERSONNEL OF THE BOARD OF DIRECTORS

SEC. 6. (a) The Board of Directors is authorized, without regard to civil service and classification laws, to appoint and fix the compensation of such officers and employees and describe their functions and duties as may be necessary to carry out the provisions of this Act.

(b) The Board of Directors may obtain the services of experts and consultants in accordance with provisions of section 3109 of title 5, United States Code.

TRANSFERS

SEC. 7. (a) All assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of section 4 are transferred to the Education and Training Partnership.

(b) Only such personnel engaged in administering the provisions of law described in clauses (1) and (2) of section 4 as the Board of Directors determines are necessary to carry out its functions under this Act may be transferred by the Director of the Office of Management and Budget under this Act.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Board of Directors may delegate and redelegate authority to exercise the functions transferred to the Education and Training Partnership by this Act, except as provided in section 5(b), to any officer or employee of the Education and Training Partnership as the Board of Directors may designate.

(b) In order to carry out the functions of the Education and Training Partnership prescribed by this Act, the Board of Directors is authorized—

(1) to adopt, alter, and use a seal;

(2) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel, and the performance of the powers and duties granted to or imposed upon it by law;

(3) to accept gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(4) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(5) to make advance, progress, and other payments which the Board of Directors deems necessary under this Act without regard to the provisions of section 3324 of title 31, United States Code; and

(6) to take such other action as may be necessary to carry out the provisions of this Act.

(c) The Secretary of Labor and the Secretary of Education are each authorized to take such action to reduce the size of each agency, office, and division of the Department of Labor and the Department of Education, as the case may be, as necessary by reason of the transfers made by section 4 of this Act.

ANNUAL REPORT

SEC. 9. The Board of Directors shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Education and Training Partnership during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 10. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any agency or office, or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board of Directors, by any court of competent jurisdiction, or by operation of law.

(b)(1) This Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Board of Directors.

(2) To the extent that such proceedings do not relate to functions so transferred, such proceedings shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer.

(3) In the case of paragraph (1) or (2) orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Board of Directors, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (3)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(2)(A) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against

any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(B) Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Education and Training Partnership as may be appropriate. In any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(3) If before the date on which this Act takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part there of, is transferred to the Board of Directors; or

(B) any function of such agency, office, or part thereof, or officer is transferred to the Board of Directors;

then such suit shall be continued by the Board of Directors (except in the case of a suit not involving functions transferred to the Board of Directors, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Board of Directors of the Education and Training Partnership in which such function is vested pursuant to this Act.

(e) This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function transferred under this Act.

(f) Orders and actions of the Board of Directors in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Board of Directors.

(g) In the exercise of the functions transferred under this Act, the Board of Directors shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and actions of the Board of Directors in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DEFINITIONS

SEC. 11. For the purpose of this Act—

(1) the term "Board" means the Board of Directors of the Education and Training Partnership established under section 3 of this Act; and

(2) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

EFFECTIVE DATE

SEC. 12. (a) This Act, other than this section, shall take effect 90 days after the date of enactment of this Act or on such prior date after the effective date of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a) of this section, any of the officers provided for in clauses (A) and (B) of section 3(b)(1) of this Act may be appointed for in the manner provided for in this Act at any time after the date of enactment of this Act. Such officer shall be compensated from the date they first take office at the appropriate rates provided for in this Act. Such compensation related expenses of such officers shall be paid from funds available for the functions to be transferred to the Education and Training Partnership under this Act.●

By Mr. ANDREWS (for himself, Mr. MELCHER, Mr. ABDNOR, Mr. BURDICK, Mr. DECONCINI, Mr. INOUYE, Mr. MURKOWSKI, and Mr. GOLDWATER):

S. 1991. A bill to extend programs under the Native American Programs Act of 1974 through fiscal year 1990; to the Committee on Indian Affairs.

NATIVE AMERICAN PROGRAMS ACT EXTENSION

● Mr. ANDREWS. Mr. President, I am pleased to introduce today a bill to extend through 1990 authorization for funding of programs under the Native American Programs Act of 1974. I introduce this legislation for myself and for Senators MELCHER, ABDNOR, BURDICK, DECONCINI, INOUYE, and GOLDWATER.

Mr. President, this legislation will assure continuation of a valuable program that enhances the ability of off-reservation groups, including rural, urban, Native Alaskan, and native Hawaiian organizations, as well as reservation based Indian tribes to engage in social and economic self-sufficiency. Under the Native American Programs Act, each tribe or off-reservation native American group has the opportunity and the responsibility to decide for itself what its major social and economic priorities are, and how they will address these areas. ANA is truly a program that promotes and endorses self-determination for native Americans.●

By Mr. STEVENS (by request):

S. 1992. A bill to preserve the rights of certain parties with an interest in certain vessels or fishing facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1993. A bill to preserve the rights of certain parties with an interest in aircrafts, aircraft parts, or vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADMINISTRATION OF THE TITLE XI LOAN GUARANTEE PROGRAM

● Mr. STEVENS. Mr. President, I am introducing two bills on behalf of the administration designed to reinstate the previous authority of the Secretaries of Transportation and Commerce to to protect the interests of the Federal Government under the Loan Guarantee Program of Title XI of the Merchant Marine Act of 1936.

Under the Title XI Loan Guarantee Program, the Federal Government guarantees obligations to finance the construction, reconstruction or reconditioning of U.S.-flag commercial vessels and fishery facilities. The Secretary of Transportation administers the program for U.S.-flag commercial vessels, and the Secretary of Commerce has similar authority with respect to fishing vessels and fishery facilities.

Prior to enactment of the Bankruptcy Reform Act of 1978, both the Secretaries had the authority to foreclose on the mortgages of debtor shipowners who had filed for bankruptcy if the foreclosure were found to be in the best interest of the United States.

As a result of the enactment of the bankruptcy reforms, the Secretary of Transportation and the Secretary of Commerce are now blocked by the automatic stay provisions of the Bankruptcy Code from foreclosing on title XI securities for vessels, and must seek relief from a stay in a formal bankruptcy procedure.

We intend to schedule hearings early next year to review both the form and the substance of these bills. A preliminary analysis indicates that Congress may need to act swiftly to remove the serious disadvantage under which the Secretaries have been operating in the administration of the Title XI Loan Guarantee Program.

Mr. President, I ask unanimous consent that the text of the bills be inserted in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end thereof the following:

"§ 1308. Fishing Vessels and Facilities.

"(a) The right of a secured party with an interest arising from a preferred ship mortgage under the Ship Mortgage Act, 1920 in, or of a lessor or conditional vendor of, whether as trustee or otherwise, a vessel as defined by section 1101(b) of the Merchant Marine Act of 1936 (46 U.S.C. § 1271(b)), or the right of a secured party with an interest arising from a mortgage on, or other security interest in, a fishery facility as defined by section 1101(k) of the Merchant Marine Act of 1936 (46 U.S.C. § 1271(k)), to take possession of and foreclose on such equipment or facility in compliance with the provisions of the preferred ship mortgage, such other mortgage, security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession or disposition, unless—

"(1) before 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to preform all obligations of the

debtor that became due on or after such date under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be; and

"(2) any default, other than a default of a kind specified in section 365(b)(2) of this title under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be—

"(A) that occurred before such date is cured before the expiration of such 60-day period; and

"(B) that occurs after such date is cured before the later of-

"(i) 30 days after the date of such default; and

"(ii) the expiration of such 60-day period.

"(b) Any cure under subsection (a)(2) may only be established by payment to the secured party, lessor, or conditional vendor in full in cash of an amount equal to all sums owed, plus payments of all applicable interest.

"(c) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section may agree subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.".

(b) The chapter analysis of chapter 13 of title 11, United States Code, is amended by adding at the end of subchapter I the following: "1308. Fishing vessels and facilities.".

S. 1993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1110(a) of title 11, United States Code, is amended to read as follows:

"(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, aircraft, aircraft engines, propellers, appliances, or spare parts as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, a debtor that is an air carrier operating under a certificate of convenience and necessity issued by the Department of Transportation under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371), to take possession of and foreclose on such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, or the right of a secured party with an interest arising from a preferred ship mortgage as defined under the Ship Mortgage Act, 1920, in, or of a lessor or conditional vendor of, whether as trustee or otherwse, a vessel as defined by section 1101(b) of the Merchant Marine Act of 1936 (46 App. U.S.C. 1271(b)), or the right of a secured party with an interest arising from a mortgage on, or other security interest in, a fishery facility as defined in section 1101(k) of the Merchant Marine Act of 1936 (46 App. U.S.C. 1271(k)), or of a party with a security interest under any state law applicable to such vessel or facility while under construction, including, but not limited to equipment and appurtenances relating thereto, to take possession of and foreclose on such vessel or facility, or vessel or facility under construction, in compliance with the provisions of the preferred ship mortgage, such other mortgage, other security interest, lease or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession or disposition, unless—

"(1) before 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after such date under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be; and

"(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be—

"(A) that occurred before such date is cured before the expiration of such 60-day period; and

"(B) that occurs after such date is cured before the later of—

"(i) 30 days after the date of such default; and

"(ii) the expiration of such 60-day period.

"Any cure under subsection (a)(2) may only be established by payment to the secured party, lessor, or conditional vendor in full in cash of an amount equal to all sums owed, plus payment of all applicable interest."●

By Mr. STEVENS:

S. 1994. A bill for the relief of Pedro M. Bertulfo and his wife, Amalia M. Bertulof; to the Committee on the Judiciary.

RELIEF OF PEDRO BERTULFO AND HIS WIFE, AMALIA M. BERTULFO

● Mr. STEVENS. Mr. President, I am introducing today a private relief bill for Pedro and Amalia Bertulfo.

Pedro served honorably on behalf of the Allied Forces in the Philippines during World War II. In return for this service, Mr. Bertulfo was promised U.S. citizenship for himself and his family. Congress passed the Second War Powers Act of 1942 expressly to liberalize the requirements for citizenship for aliens, such as Mr. Bertulfo, who served honorably on behalf of the Allied cause. However, due to incomplete efforts to implement the legislation, Mr. Bertulfo was never able to take advantage of this opportunity.

Amalia and Pedro have been residents of Alaska for several years, but are not eligible for citizenship. This bill is necessary to fulfill the promise of citizenship made to Mr. Bertulof in return for his service in the Philippines in World War II.●

By Mr. STEVENS:

S. 1995. A bill for the relief of David Ford; to the Committee on the Judiciary.

RELIEF OF DAVID FORD

● Mr. STEVENS. Mr. President, I rise today to introduce a private bill for the relief of David Ford.

Mr. Ford has been a resident of the United States for 5 years. When he entered this country, he was married to a U.S. citizen. His application for resident status was denied, however, because he falls within a statutory exclusion. An uncontested charge—brought against him in a New Zealand court in 1973—which resulted in only a $300 fine, has defeated his efforts. The difficulties he experienced in trying to obtain resident status eventually led to the dissolution of his marriage.

There is no administrative remedy available to Mr. Ford. He will not be able to achieve resident status without a private bill. He provides a useful service to the small community in which he lives—being a trained holistic health practitioner. Many people in his community have written me praising David's moral character, and his contributions to their community. I feel it is appropriate to grant Mr. Ford permanent resident status.●

By Mr. STEVENS:

S. 1996. A bill for the relief of Romeo Manabat and his wife Grace Manabat; to the Committee on the Judiciary.

RELIEF OF ROMEO MANABAT AND HIS WIFE GRACE MANABAT

● Mr. STEVENS. Mr. President, I am introducing today a private relief bill for Romeo and Grace Manabat.

This couple is being threatened with deportation because they were married when they immigrated to the United States. Romeo was allowed to immigrate to this country under the second preference—as an unmarried son of a legally admitted resident alien. During the delay between his application and the date Romeo was allowed to immigrate he and Grace were married. Romeo entered the United States in 1980. Grace followed shortly. Their resident status is now being challenged, however, because they were married at the time of their entry.

Many members of both of their families have immigrated to the United States. Romeo and Grace have provided valuable contributions to their community. They have proven hard-working, and, in fact, provide support for Romeo's father.

Removing them from the community would prove a great hardship to both themselves and their family. Without the relief which would be provided by this bill, however, this result is almost inevitable. I feel that the Manabats deserve this assistance.●

By Mr. WALLOP (for himself and Mr. BENTSEN):

S. 1997. A bill to amend the Internal Revenue Code of 1954 to impose a tax on the importation of crude oil and refined petroleum products; to the Committee on Finance.

EXCISE TAX ON IMPORTED CRUDE OIL AND REFINED PETROLEUM PRODUCTS

● Mr. WALLOP. Mr. President, today as a matter of energy policy, and not

as a matter of revenue, I rise to introduce a formula for an imported energy excise tax. I have long struggled with the merits and difficult problems which may result from taxation of energy imports. It seems that, in Congress, there is never a good time to develop thoughtful and lasting energy policy: When energy is in plentiful supply, we won't focus on energy policy; when there is a shortage, we move too quickly to fix blame and punish whatever wrongdoer the witch hunt turns up.

Through the introduction of this bill, my cosponsors and I call for hearings and careful consideration of our energy policies at this time of temporary energy price volatility. The formula presented in this bill I feel makes more sense as a matter of energy policy than do many other alternatives. I am not yet convinced that an energy excise tax is the only, nor even an appropriate, course for implementation of energy policy. I am certain, however, that unless we address such policy in the discussions regarding taxation of energy imports, we will cause the Federal Government to enter an abyss from which it will be difficult to retreat. It could cause economic and energy inefficiencies from which our people may never recover.

The United States of America currently imports about 30 percent of its total energy needs. For a time after the Iranian energy crisis, development of new domestic production and conservation measures, along with the development of alternative sources of energy, caused a reduction in the percentage of our imports. From a peak of 47 percent import reliance in 1977, we were able to reduce reliance to a low of 28 percent in 1982. Once again, imports are increasing and, all estimates are that import reliance in the year 2000 will be upward of 45 percent. This trend, and falling world oil prices, indicate that we are again slipping into the blissful quagmire of undue reliance on imported energy sources.

Forty-two percent of America's energy needs are supplied by oil. The oil industry, from exploration to product delivery, is a high-risk, capital-intensive business, a business where multimillion-dollar investments become worthless overnight. It is a popular windmill for many of the tilting knights whose kingdom is Congress hallowed chambers. But it is an industry whose success in the development and delivery of energy, impacts the everyday lives of each citizen of this great Nation.

The current trends in government taxation and regulation will not advance energy security. In fact they apparently are designed, if at all, to increase reliance on foreign sources. During the tax reform hearings we learned the oil industry bears the highest tax burden among all other industries, when you combine the tax impacts of the income and Superfund taxes, the deceitfully named windfall profits tax, and the various State environmental and severance taxes. Compounding this, the current tax reform proposal now before the House proposes to eliminate percentage depletion, and impinge on the deductibility of intangible drilling costs. Thus, the costs of discovering reserves to replace our depleting proven resources will increase, boding ill for our Nation's continued energy independence.

Last week we read about the divisions and dessension within OPEC. Americans, I think heaved a sigh of relief as we watched the cartel, that has since the early 1970's had so much influence in our everyday lives, fall in disarray. Our preferred perception is that OPEC's demise is forever. Americans are an optimistic people and chose not to look forward and plan for the avoidance of future crises, but rather assume that the future will take care of itself, comforted by a bizarre twist of logic which says in effect "the future is not what it used to be!" Today, now, is the time to enter into far reaching energy policies. Policies which will protect our ability to provide the American people with the future energy independence which is so key to our everyday life, the stability of our economy and our ability to protect our cherished democracy.

OPEC's impotence is temporary. It will reign strong again. I commend for your reading the warning of Mohammed Akacem, an economist at the Saudi Fund for Development in Riyadh, which appeared in the Wall Street Journal, November 11, 1985. In that article, Mr, Akacem outlined a strategy for the recovery of OPEC. As early as the end of this decade, the poorer oil producing countries will have depleted their resources to the point that six Persian Gulf petroleum producing countries will possess a significant portion of the world oil reserves. He states that these gulf producing states will then be in a position to better control the market through "strategic flooding" if necessary. In addition, the new unity which will result among the remaining OPEC powers because of common religion and natural resource-based economies, will make it easier for them to agree on policy and share information that will allow a "relatively slow depletion rate" and "a stable growth of oil prices over time."

To ignore both the disruptive and inflationary results of our past failures in energy planning and the current warnings from OPEC and our own energy experts would be irresponsible. To the extent we jeopardize the security of our freedoms, I believe it to be criminally negligent. The structure of our Government makes it difficult to define long-term policy in terms of more than a few years. But energy policy demands statesman-like forward thinking.

There are many reasons to believe that the current world oil markets present us with a rare opportunity to develop a strategic and innovative long-term energy policy for our Nation. Our failure to examine and take advantage of opportunities now available to us assure that we will again see the time when foreign powers restrict the freedoms and economic opportunities of our people by restricting access to energy.

Today, I introduce an imported oil excise tax which is designed to assist in the implementation of sound energy policy. I personally adamantly reject any import fee whose purpose is merely revenue. All our experience indicate we will find ourselves incapable of weaning the money spenders from the energy policy cow—whatever wisdom indicates to the contrary.

Under the formula presented in this bill, an energy policy price will establish the minimum survival value which a barrel of crude oil, or refined product equivalent should bring on the domestic market. Maintaining a survival price on oil, the building block of energy pricing, has the potential benefits of sustaining reasonable levels of exploration, production, and refining of our traditional energy sources, as well as providing the economic incentives necessary to stimulate further development of alternative sources of energy, fuel switching and conservation. This excise tax seeks to be a stabilizing influence on the supply reliability of energy in America. We hope to prevent the crises in which inevitably we find ourselves when there are large fluctuations of price and supply in the markets of a basic commodity.

For purposes of the bill, I have approximated the energy policy price at $22. Hearings should indicate the appropriate survival standard. $22 is a good deal lower than the current price and perhaps lower than prices may fall though estimates vary considerably lower than that. At this moment no price standard should be fixed in concrete.

Once the energy policy price is established, the oil excise tax would float with the world price of oil. The excise tax would be collected in an amount equal to the difference between the energy policy price and the world oil price.

Thus, if the energy policy price were determined to be $22 and the world price was $20, then the oil excise tax would be $2 per barrel, adjusted for weight and quality.

There should be a differential for imported petroleum products. America's refiners are subjected to environmental requirements not placed on their foreign competition, and to the

extent that these can be quantified and equalized within the excise tax we should do so. In addition we will need to consider how and if application of the fee should be adjusted to encourage retrofitting of our domestic refineries.

I propose this excise tax now because oil prices are weak and will, for a time, continue to fall. Some estimates are that the price of oil will drop to below $20 per barrel by spring and that there will be an oil glut during the foreseeable future as the OPEC members fight economic and domestic problems, and indeed wars, with petrodollars, and the Third World producers try to resolve their debts with increased production.

A carefully structured survival price stabilized by this import fee could be an important tool in the development and implementation of a sound domestic energy policy. But such an excise tax is not without its potential problems. The excise tax must be designed in a fashion which will not result in continued and direct involvement of the Government in regulation of energy prices, nor should it result in a windfall to our domestic energy—be they oil, coal, or alternative—producers or refiners. Under the terms of my bill, the excise tax would automatically terminate when survival targets are reached in the world market. If not carefully designed an oil import fee should be attacked as inflationary or protectionist, both being unacceptable results.

We will need to consider the impact of such a tax on the world oil markets, upon which many of our allies depend. I should also point out that many of those same nations are now considering oil import fees themselves. In addition, as the world's largest energy importer, we must be concerned for the excise tax's impact on OPEC itself and on the debtor nations many of which are our close allies and friends.

Some exemptions may be merited. The bill provides for an exemption for heating oil, to well help minimize regional distortions but that is not without risk. The determination and definition of what heating oil should be exempt will not be an easy task, and I expect the hearing process to aid us in this area. In my judgment, we should consider exemptions for feedstocks used in exports, process fuels, and liquid natural gas.

Energy policy is beginning to get the attention of many of our colleagues and several oil import fee structures have been introduced. I will adamantly oppose any fee that may be enacted because of its revenue-raising abilities, and whose structure is not based on sound energy policy. I intend to chair hearings in the Energy and Agriculture Taxation Subcommittee of the Finance Committee and join Senator BOREN in requesting that the chairman of the full Finance Committee hold hearings. This matter is jointly within the jurisdiction of the Finance and Energy and Natural Resources Committees, the latter, chaired by my good friend Senator MCCLURE. I would welcome the involvement of members of both committees, and other interested Members in discussing and designing sound policy. Mr. President, I call upon this body to join me and my most welcomed cosponsors in consideration of our current energy planning opportunities, and our responsibilities in providing for America's future energy security.●

● Mr. BENTSEN. Mr. President, I am pleased to join the distinguished Senator from Wyoming [Mr. WALLOP] in introducing this bill to improve the energy policy of our country.

The essential import of this bill is to establish a floor price for energy in this country. It accomplishes such a price by levying an import fee on oil that varies according to the prevailing world oil price. The bill sets a trigger price of $22 per barrel under which the U.S. oil price would not be permitted to fall. When the world price falls below that price, the import fee would become effective and would be equivalent to the difference between the world price and $22 per barrel.

It is essential for American energy producers and users to be able to rely on stable energy prices. If energy producers know that prices in this country will not plummet, they will not be deterred from undertaking the risky investments in new production that are necessary to make our country energy independent. Similarly, if energy users know that prices will not plummet, they will be willing to undertake investments in energy conservation and in energy-saving machinery and processes.

This bill will help ensure that our economy will not be at the mercy of foreign energy producers. The more we rely on someone else's oil, the more we allow them to influence and even direct our own economy. Even though we are experiencing a temporary surplus in oil production, the United States continues to import nearly one-third of our domestic energy needs. If we fall into the trap of relying on foreign supplies for our oil needs, we will once again be subject to dramatic swings in oil prices set by others.

Another aspect of this approach to energy policy is its possible effects on the world oil market. The normal expectation over the past several decades is that when the oil market is glutted and prices are soft, U.S. demand will pick up, thereby firming up prices. Under this bill, that won't happen. When world oil prices fall below $22, that decline will not be felt in this country. That could mean that world prices could continue to decline instead of being firmed up by an increase in demand, and that could spell further trouble for OPEC.

It is particularly important to proceed with legislation of this type at this time. The oil market is glutted, OPEC is in disarray, and prices are falling. We cannot allow the whole market to be propped up by a large increase in U.S. demand in response to falling prices. Rather, we must prevent that from happening and do what we can to contribute to the decline in world oil prices.

We of course cannot ignore the effect of legislation like this on the budget deficit. It has been estimated that a $10 per barrel tax on crude oil and oil products would raise about $18 billion per year for the Treasury. Senator WALLOP and I certainly do not expect this tax to reach that magnitude, but the point is that for every dollar of tax, a substantial contribution is made toward reducing the Federal deficits.

Last Mr. President, let me say that we will continue to refine our efforts in proposing an oil import fee. This bill leaves many of the specifics undecided. We will have to have hearings on this early next year. I am pleased that the Senator from Wyoming is taking a lead on this matter and I look forward to working with him and others in the months ahead on this issue.●

By Mr. DOLE (for himself, Mr. BYRD, Mr. LONG, Mr. PACKWOOD, Mr. ZORINSKY, Mr. BENTSEN, Mr. KERRY, Mr. WARNER, Mr. LUGAR, Mr. BAUCUS, Mr. LEAHY, Mr. DURENBERGER, Mr. BRADLEY, Mr. BOSCHWITZ, Mr. HATCH, Mr. THURMOND, Mr. HOLLINGS, Mr. HEINZ, Mr. INOUYE, Mr. LAXALT, Mr. COCHRAN, Mr. HATFIELD, Mr. JOHNSTON, Mr. MATTINGLY, Mr. NUNN, Mr. PRYOR, Mr. COHEN, Mr. D'AMATO, Mr. DIXON, Mr. EXON, Mr. SIMON, Mr. HEFLIN, Mr. STAFFORD, Mr. DOMENICI, Mr. TRIBLE, Mr. MOYNIHAN, Mr. EAST, Mr. MATSUNAGA, Mr. ARMSTRONG, Mr. SYMMS, Mr. ROCKEFELLER, Mr. GORE, Mr. MCCLURE, Mr. RIEGLE, Mr. HELMS, Mr. MURKOWSKI, Mr. BURDICK, Mr. GOLDWATER, Mr. DENTON, Mr. CRANSTON, Mr. HARKIN, Mr. ANDREWS, Mr. SPECTER, Mr. KASTEN, Mr. GRASSLEY, Mr. BIDEN, and Mr. GORTON):

S.J. Res. 254. Joint resolution to designate the year of 1987 as the "National Year of Thanksgiving;" to the Committee on the Judiciary.

NATIONAL YEAR OF THANKSGIVING

Mr. DOLE. Mr. President, the distinguished minority leader, Mr. BYRD and I are introducing a joint resolution to proclaim 1987 as the "National Year

of Thanksgiving." We are joined in this effort by 55 of our colleagues on both sides of the aisle. This joint resolution has been of great interest to the National Committee on the Year of Thanksgiving. A similar joint resolution was introduced in the House earlier this year, and has strong bipartisan support in the other body.

ANNIVERSARY OF THANKSGIVING AS A NATIONAL HOLIDAY

The New Year, 1986, represents the 45th anniversary of Thanksgiving as a national holiday. The timing of Thanksgiving Day in the United States varied a great deal until, on December 26, 1941, Congress declared that it should be celebrated on the fourth Thursday of November each year.

Since that time, all Americans have joined together on this day in giving thanks for the rich national heritage that we share. The United States is a land blessed with almost unlimited personal freedom, unknown in some parts of the world. Believe it or not, the idea of setting aside a special day once a year to express gratitude and give thanks did not originate with the Pilgrims, who survived the winter of 1620 in Plymouth Colony in Massachusetts. Actually, the celebration of a regular day of Thanksgiving can be traced back to early Greek and Roman history.

However, Thanksgiving Day has special meaning for people in this country. Compared to other nations, we are a young country that has grown with the passage of time into one of the most powerful nations on Earth. We are also blessed with a great abundance of human talent and natural resources. Our form of Government has weathered the vicissitudes of history with great adaptability. It has been emulated by other nations, who have watched its success from abroad.

BICENTENNIAL OF THE U.S. CONSTITUTION

Mr. President, the year 1987 will be the 200th anniversary of the U.S. Constitution. On September 17, 1987, the convention of the Constitution of the United States adjourned with a document ready to be ratified by the States. A Commission on the Bicentennial of the Constitution was established by the Congress in 1983 (Public Law 98-101).

The Constitution of the United States remains a living document, capable of adapting to the changes of a modern world and historical events that were probably beyond the foresight of our Founding Fathers. However, they still planned well for this country's future 200 years later. Twentieth century political developments have, at times, tested the resilience of the Government of this country at home and abroad, but the inherent balance of powers has weathered the storms well.

If anything, the provisions of the Constitution, have been clarified and strengthened over the centuries. It is time to celebrate the lasting legacy given us by Thomas Jefferson, John Quincy Adams and the other men who helped create our form of government, 1987 will include a year-long celebration, with local communities celebrating the bicentennial of the U.S. Constitution in their own way.

The year 1987 will also mark the beginning of the 100th Congress. We look forward to the next 2 years and all that can be accomplished to further enhance the history of this great Nation.

I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordred to be printed in the RECORD, as follows:

S.J. Res. 254

Whereas the celebration of a Thanksgiving season has been a national tradition observed by the people of the United States from the days of the early settlers to the present time;

Whereas many of the great leaders of the Nation, including Presidents George Washington and Abraham Lincoln, recognized the importance of setting aside a time of Thanksgiving, and Presidential proclamations have established the last Thursday of November as a day of Thanksgiving;

Whereas in 1941, Thanksgiving was established as a permanent national holiday;

Whereas in 1987, the United States will celebrate the bicentennial of the United States Constitution and the opening of the one-hundredth Congress;

Whereas The United States Constitution has adapted to changing times and remains a living document;

Whereas it is appropriate to give thanks for the everyday freedom that the people of the United States so often take for granted;

Whereas the people of the United States should take time to appreciate a land of plenty, a Nation of vast human and natural resources; and

Whereas the people of the United States should better understand the history of the rich American heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1987 is designated as the "National Year of Thanksgiving", and the President is authorized and requested to issue a proclamation calling upon the governors of the several States, the chief officials of local governments, and the people of the United States to observe such year with appropriate ceremories and activities.

ADDITIONAL COSPONSORS

S. 837

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 837, a bill to amend the Social Security Act to protect beneficiaries under the health care programs of that act from unfit health care practitioners, and otherwise to improve the anti-fraud provisions of that act.

S. 1134

At the request of Mr. COHEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1134, a bill to amend title 5, United States Code, to provide administrative civil penalties for false claims and statements made to the United States by certain recipients of property, services, or money from the United States, by parties to contracts with the United States, or by Federal employees, and for other purposes.

S. 1544

At the request of Mr. ROTH, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1544, a bill to extend the Trade Adjustment Assistance Program to place such program on a sound financial basis and to reform such program to emphasize the retraining of workers.

S. 1647

At the request of Mr. ROTH, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1647, a bill to amend the Tariff Act of 1930 to enhance the protection of intellectual property rights.

S. 1855

At the request of Mr. QUAYLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1855, a bill to revise the provisions of the Public Health Service Act relating to health planning.

S. 1860

At the request of Mr. DANFORTH, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote U.S. exports, and for other purposes.

S. 1919

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

At the request of Mr. ANDREWS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mr. DOLE], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 1919, supra.

S. 1923

At the request of Mr. THURMOND, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

S. 1948

At the request of Mr. WEICKER, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of S. 1948, a bill to assure that high quality services are furnished to developmentally disabled

individuals and mentally ill individuals in residential facilities and by providers of home and community-based services which receive funds under the Medicare or Medicaid Programs, and to amend the Developmental Disabilities Assistance and Bill of Rights Act to require that residential programs meet Medicaid standards.

S. 1966

At the request of Mrs. KASSEBAUM, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of S. 1966, a bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes.

SENATE JOINT RESOLUTION 220

At the request of Mr. MATTINGLY, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day."

SENATOR JOINT RESOLUTION 241

At the request of Mr. DOLE, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Indiana [Mr. LUGAR], the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 241, a joint resolution designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. DECONCINI, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 244, a joint resolutoin to designate October 8, 1986, as "National Fire Fighters Day."

SENATE JOINT RESOLUTION 252

At the request of Mr. PELL, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KERRY], and the Senator from Colorado [Mr. HART] were added as cosponsors of Senate Joint Resolution 252, a joint resolution requesting the President of the United States to negotiate controls upon and the early prohibition of nuclear explosions.

SENATE RESOLUTION 276

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Resolution 276, a resolution expressing the sense of the Senate regarding the Federal air traffic control system.

SENATE RESOLUTION 278

At the request of Mr. SARBANES, his name was added as a cosponsor of Senate Resolution 278, a resolution to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention.

At the request of Mr. BYRD, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. NUNN], the Senator from Tennessee [Mr. SASSER], the Senator from Arkansas [Mr. BUMPERS], the Senator from New York [Mr. MOYNIHAN], the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. INOUYE], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Resolution 278, supra.

At the request of Mr. SPECTER, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Mr. MATHIAS], the Senator from Florida [Mrs. HAWKINS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. GLENN], the Senator from Missouri [Mr. EAGLETON], the Senator from Massachusetts [Mr. KERRY], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. LEVIN], the Senator from Nevada [Mr. LAXALT], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Michigan [Mr. RIEGLE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Connecticut [Mr. DODD], the Senator from Maine [Mr. MITCHELL], the Senator from Iowa [Mr. HARKIN], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Resolution 278, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of Senate Resolution 278, supra.

SENATE CONCURRENT RESOLUTION 100—RELATING TO THE CIVIL AND POLITICAL RIGHTS ON KIM DAE JUNG

Mr. KERRY (for himself, Mr. SIMON, Mr. PELL, Mr. KENNEDY, Mr. DODD, Mr. HOLLINGS, Mr. CRANSTON, Mr. SARBANES, Mr. RIEGLE, and Mr. HARKIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 100

Whereas, the Senate finds that one of the primary purposes of the foreign assistance programs of the United States shall be that of fostering the growth of democratic institutions, the holding of free, fair and honest elections, the respect for freedom of speech and freedom of the press, and the protection of individual civil rights and liberties through the functioning of an independent judiciary;

Whereas, the people of the United States have been more than generous in their commitment to the security and economic well-being of the Republic of Korea since its founding in 1948;

Whereas, this commitment resulted in the loss of the lives of 54,346 Americans servicemen and 103,248 American wounded during the Korean War;

Whereas, the American people have contributed more than $19 billion in economic and military assistance to the Republic of Korea since 1948 and continue to provide financial resources to support the presence of 40,000 American servicemen on Korean soil;

Whereas, recent developments including the indictments of Members of the National Assembly and a resurgence in the use of torture against prominent journalists and other democratic leaders are cause for grave concern over the government's commitment to basic democratic principles;

Whereas, the right to due process for the people of the Republic of Korea is virtually non-existent and an independent and impartial judicial system, for all intents and purposes, does not function; and

Whereas, the prospects for any relaxation in tensions between the North and South is undermined by political instability in the Republic of Korea; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress finds and declares that the primary purpose of United States assistance to the Republic of Korea shall be to promote the return to true democracy in the Republic of Korea and to that end Congress places the highest priority on:

(1) replacing the current climate of intimidation, abuses of basic human rights and civil liberties, and other anti-democratic actions with an atmosphere of dialogue and trust between the Government of the Republic of Korea and the democratic opposition in that country in an effort to place events of 1980 behind the people of the Republic of Korea;

(2) the full restoration of the political and individual rights of Kim Dae Jung and all others whose political rights are being restricted; and

(3) the peaceful and fully democratic transfer of Presidential power in the Republic of Korea in the 1988 elections should be open to all who are committed to the democratic process.

Mr. KERRY. Mr. President, considerable attention has been focused throughout this year on the deteriorating social, economic, and political situation in the Philippines. The harshness and repression of the 20-year rule of Ferdinand Marcos has sown the seeds of a Communist insurgency which continues to gather strength with each passing day.

For those of us committed to the flourishing of democracy around the world, The Philippines crisis is cause for grave concern. Equally disconcerting is the growing crisis in the Republic of South Korea where yet another dictatorship continues its crackdown on legitimate democratic forces in that country. While the situation in the Republic of Korea has not commended the attention as has the Philippines, that country could be the next crisis area in the Far East. This will be par-

ticularly so if the democratic forces of that country continue to be frustrated by that government's continued crackdown on democratic rights.

That is the reason for my submission today of this concurrent resolution expressing the sense of the Congress that the civil and political rights of Kim Dae Jung be restored and that true democracy be instituted in the Republic of Korea. I am pleased to be joined in this effort by Senators PAUL SIMON, CLAIBORNE PELL, EDWARD KENNEDY, CHRISTOPHER DODD, FRITZ HOLLINGS, ALAN CRANSTON, PAUL SARBANES, DONALD RIEGLE, and TOM HARKIN.

As was reported in the October 20, 1985, edition of the New York Times, the political situation in the Republic of South Korea has taken a turn for the worse in recent months, precipitating expressions of concern on the part of the administration.

According to the Times report:

> In recent months, the authoritarian Government of President Chun Doo Hwan has swung away from relatively tolerant policies of the previous two years toward a new crackdown on dissidents. Students accused of being pro-Communist have been arrested. Teachers have been dismissed for writing magazine articles labeled as seditious. Three journalists were detained and beaten recently by security agents. Judges deemed overly sympathetic to activists have been reassigned.
>
> Perhaps the most vivid example of the Government's hard line was a plan to create reorientation centers for students regarded as left-wing radicals. This idea smacked of re-education camps to many people, and Mr. Chun was forced to back down before fierce political opposition. Among the critics—tactful in public, more aggressive in private—were United States diplomats and State Department officials in Washington. . . .

This crackdown comes at a time when Korean democratic opposition leader, Kim Dae Jung, continues to be denied his basic rights. Kim Dae Jung is a great friend of the United States who is staunchly anti-Communist and one of the greatest advocates of democracy we have in that area of the world.

Kim returned to his homeland in February of this year to rejoin the Korean democratic leadership and to help build a new democratic opposition party. Since his return, he has intermittently been under house arrest; he can neither become a member of a political party nor encourage others to do so; and he cannot vote, campaign, nor run for political office. He remains under a suspended 17½-year sentence on charges that the State Department maintains were fabricated in 1980.

Several hundred other political prisioners and former political prisoners suffer from the same fundamental restrictions which have been imposed on Kim Dae Jung. Until they are lifted, democracy has no genuine opportunity in the Republic of South Korea.

That is why we are submitting this concurrent resolution which details our concerns for democracy in a country which has been a close ally of the United States since its founding in 1948. We believe it is important for the millions of Koreans striving for democracy to have a clear message from the American people that we share their convictions and their aspirations.

Just as it is important for United States credibility around the world that democracy be restored in the Philippines, we believe that the democratic forces in the Republic of Korea deserve our support as well. As is the case with the Philippines, the United States has had a unique relationship with the Republic of South Korea. Some 54,346 American servicemen gave their lives in the Korean war to prevent a Communist takeover of that country and 103,248 of our countrymen were wounded in that struggle. The American people have contributed more than $19 billion in economic and military assistance to the Republic since 1948 and we continue to provide financial resources to support the presence of 40,000 American servicemen on Korean soil. Our commitment to the security of the Republic has been unswerving.

Because of this unique relationship, we believe the United States has a particular obligation to support the democratic forces in the Republic of South Korea—forces which share our own values and aspirations. And we believe the most important contribution the Congress can make at this time is to call upon the Government of the Republic of Korea to reinstate the political and individual rights of Kim Dae Jung.

If there is one thing I learned from my experience in Vietnam it is that the United States cannot save governments which are unwilling to save themselves. We cannot create legitimacy for elites whose own people are given little reason to accord them ligitimacy.

There are so many parallels between the Philippines and the Repubic of Korea. The Philippines crisis was born in 1972 when President Ferdinand Marcos, denied by the Constitution from seeking another term in office, declared martial law. The pretext was a Communist threat, allegedly exacerbated by politically chaotic conditions of the time. Washington even welcomed—as necessary to combat the threat of communism—the demise of what at one time was to have been America's "showcase for democracy" in the Far East.

In 1972, the Communist New People's Army could field only a handful of poorly armed guerrillas in the field. Yet, in the intervening 13 years, as the Marcos regime moved systematically to dismantle most democratic institutions and set about plundering the Philippines economy for the benefit of a few cronies, the insurgency grew commensurate with the abuses. Yet, as long as the illusion of stability prevailed, four American administrations ignored this unconscionable betrayal of the Filipino people.

While it is disturbing and cause for alarm, it is also understandable that the Filipino variation of Marxism/Maoism has increasing appeal, just as it has had in so many other Third World countries. In the status quo, the average Filipino sees only a future of corruption, repression, and grinding poverty. It is small wonder that by capturing the moral high ground of social and economic reform, and individual justice, that the NPA has become an increasingly attractive alternative for a growing number of Filipinos.

It has been a hard lesson to learn, but perhaps we may yet gain something from the Philippines experience that can assist us in addressing the growing crisis in the Republic of Korea. We should have realized from the very beginning that our security interests in the Philippines should have been secondary to what should have been our priority concern 13 years ago—the maintenance of democracy in that country.

In the Republic of South Korea, the democratic opposition fights for free and fair elections in a country whose survival we have guaranteed for 36 years. To sit idly by in silence while the democratic opposition in that country is crushed under the heel of authoritarian rule only invites a Korean version of the Philippines crisis.

Now is the time to act in the case of the Republic of South Korea. The democratic forces in that country need to hear us loud and clear that their well-being is of priority concern for the American people. We need to be unequivocally clear that we have not turned our back on the forces of democracy and have not abandoned them to the vissitudes of a repressive regime. To make our voices heard now will not be soon enough. But at least it will not be too late.

Mr. President, I intended to use this concurrent resolution as the vehicle for pursuing major hearings on the Senate Committee on Foreign Relations on the situation in the Republic of Korea when we return in January.

I ask unanimous consent that a number of articles addressing the situation in the Republic of Korea be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 7, 1985]

AFTER PAUSE, SEOUL RENEWS CRACKDOWN ON DISSENT

(By Clyde Haberman)

SEOUL, South Korea—The authoritarian Government of President Chun Doo Hwan has begun a new crackdown on dissidents, with a long string of political arrests, indictments, dismissals and even beatings in the last few months.

Officials insist they have not abandoned "liberalization" policies begun more than a year ago. Nevertheless, foreign diplomats and political analysts say the Government has clearly swung toward a hard line after a period in which it seemed to show a greater tolerance for dissent.

Opponents of President Chun say they fear he may tighten controls still further and possibly even go back to the harsh policies that characterized his Government after he seized power in a military coup five years ago.

Perhaps the most graphic symbol of the latest crackdown is a bill that was drafted in early August to create special "reorientation" centers for South Korean college students judged to be left-wing radicals.

SIX MONTHS OF 'GUIDANCE'

The detention centers were to operate outside the normal judicial system. Committees of lawyers and professors would determine whether students should be sent away for up to six months of "guidance and enlightenment" on acceptable political behavior.

"Students should not be active in politics," Education Minister Sohn Jae Suk said in an interview. "They should study and prepare themselves for the future."

But the reaction against the proposal was angry and swift.

The chief political opposition party denounced the bill as an "evil law" and pledged to fight against it in the National Assembly. Dissident activists likened the reorientation centers to the "re-education camps" set up in some Communist countries. One young man in the southwestern city of Kwangju immolated himself in protest.

Even members of Mr. Chun's ruling Democratic Justice Party were unhappy. Two prominent critics, one of them the party's legislative floor leader, were replaced.

BILL WITHDRAWN, BUT NOT DEAD

Because of the unexpectedly harsh criticism, the Government soon withdrew the legislation. But officials say the proposal is not dead, and Mr. Sohn warns that it will be reintroduced if student protests surge again this fall.

Demonstrators are not the only Government targets, however.

At the end of August, two senior editors and a reporter for the newspaper Dong-A Ilbo were detained and beaten by officers of the National Security Planning Agency, formerly known as the Korean Central Intelligence Agency. They were picked up after publication of an article the Government considered "diplomatically sensitive." The incident was widely interpreted as a warning to all journalists.

During the summer, the Government branded a student group called Sammintu as pro-Communist, and arrested or charged 86 of its members. Thirteen were charged with violating the severe National Security Law. If convicted they could be sentenced to death.

STUDENTS ACCUSED OF SPYING

Twenty-two other people, most of them students, were arrested this month and accused of belonging to two North Korean espionage rings. Separate raids led to the arrest of 66 others in June.

For five days in August, the police put South Korea's best-known dissident politician, Kim Dae Jung, under house arrest to keep him from attending a convention of the main opposition party.

In August, Mr. Sohn's ministry ordered local education boards to dismiss 15 elementary- and high-school teachers for writing "seditious" magazine articles. Hundreds of books and other publications have been banned as subversive.

The Education Ministry also removed Lee Hyu Jae as president of Seoul National University, South Korea's most prestigious, after he refused to expel seven student activists.

Three judges regarded as too "soft" on demonstrators were transferred from Seoul to provincial posts.

In the most recent incident, two opposition members of the National Assembly were indicted two weeks ago on charges of inciting anti-Government demonstrators at Korea University.

ALTERNATING TOUGHNESS

For many years successive South Korean governments have alternated between relatively hard and soft policies toward political opponents, although tolerance for dissent has never been high, even in the best of times. That tendency has continued under President Chun.

When he seized control in 1980, he imposed martial law, arresting dissidents, banning hundreds of politicians and virtually forbidding any criticism of him or his policies. Over the last two years, however, some of the more stringent controls had been lifted.

Officials withdrew police officers from campuses, which are traditional havens of protest, and announced that they would return only if school administrators said demonstrations were out of control. Recently, however, the police have begun again to enter campuses to stop student protests.

University professors and journalists who have been forced out of their jobs soon after Mr. Chun took over were permitted to go back last year. Ousted college students were readmitted.

Gradually, blacklisted politicians were reinstated.

GAINS BY OPPOSITION PARTY

Last January many of them formed the New Korea Democratic Party, a hard-line opposition force compared with its relatively tame predecessors. Only a few weeks after it came into existence the party won a surprisingly large number of seats in National Assembly elections.

The elections did not alter the true balance of power in South Korea; essentially, the legislature remains a rubber-stamp body. But its character changed. An emboldened opposition has turned it into a forum for demands for change, and Mr. Chun seems willing to allow many critical comments to appear in the regulated press.

But lately, hard-liners seem to have won out once more in the Blue House, the official presidential residence. Now, Mr. Chun seems prepared to allow criticism if it stays in the National Assembly.

Mr. Chun's critics say his policies toward dissidents keep changing because his main interest in finding ways to keep things quiet as he approaches several critical deadlines.

This week South Korea, which has a $45 billion foreign debt, is acting as host to a meeting of the World Bank and the International Monetary Fund. Next year, the Asia Games will be held in Seoul, and in 1988 the Olympic Games are to take place here. Domestic tranquillity, or the appearance of it, is essential, many South Koreans say.

"Chun has continuously failed to control South Korean politics," Kim Dae Jung said. "So now he is not confident enough to deal with our politics in a moderate way."

A Protestant clergyman put it more bluntly. "I think the Government is panicking," he said.

RALLYING POINT FOR OPPOSITION

If Mr. Chun chooses to press the Campus Stabilization Bill, some analysts feel he could create a rallying point for disparate opposition camps.

The Government position is that the proposed law is "lenient" because it provides for reorientation, not jail or expulsion. It is "designed not to control and punish students subject to its provisions but to properly guide and protect them," an official statement said.

But even usually sympathetic people reject this argument. Among those who attacked the legislation, albeit obliquely, was the United States Ambassador Richard L. Walker.

In remarks made in mid-August, on the anniversary of Korea's liberation from Japan in 1945, the Ambassador said, "The opinions of men are not a legitimate subject for rule by civil government."

[From the New York Times, Oct. 20, 1985]

SOUTH KOREA ACCUSED OF TORTURING DISSIDENTS

(By Kendall J. Wills)

A London-based human rights organization and members of a South Korean opposition group accused South Korean Government officials last week of torturing political prisoners in order to obtain false confessions of espionage and antistate activities, crimes that carry the death penalty.

Relatives of some of the prisoners made similar assertions in a tape recording that was brought out of South Korea last week by a member of the opposition group, the National Youth Alliance for Democracy.

The State Department spokesman, Bernard Kalb, said Friday that the Reagan Administration was aware of "credible reports" that three Korean journalists and a youth activist had been subjected to torture by Korean security officials. Calling the incidents "deplorable," Mr. Kalb said, "We have made known to the Korean Government our concern."

A spokesman at the South Korean Embassy in Washington, Park Johngseh, said he could not comment on the allegations of torture.

Amnesty International, the human rights organization, said in a statement that 23 South Koreans were detained in September for purportedly instigating protests and other activities against the Government.

Since the arrests, the group said it had received "frequent reports that political suspects are ill-treated after their arrest to force them to sign 'confessions' that are used in court to secure their conviction, although both torture and the use of statements obtained under duress as evidence in

court are prohibited by the 1980 Constitution."

Sim Kisop, a member of the Youth Alliance who recently returned to the United States from South Korea, said he visited prisoners' relatives at the National Council of Churches' office in Seoul, where the allegations of torture were recorded. Mr. Sim said that lawyers for some of the prisoners had asked that the cases be brought to trial while the torture wounds were still visible. He said the defendants were arrested under the National Security Act, but that most of them had not been publicly charged with a crime.

According to a transcript of the tape recording, In Jae Keun, the wife of one of the prisoners, said she saw her husband at the prosecutor's office in Seoul on Sept. 26. The husband, Kim Keun Tae, was being helped by prison guards because he was having difficulty walking, Mrs. In said. She said her husband told her he was beaten, tied up, given electric shocks and forced to swallow water laced with red peppers and salt.

Mr. Kim, 38 years old, was arrested Sept. 4 by the Police Anti-Communist Bureau and was forced to sign a statement saying he was an agent for North Korea's President, Kim Il Sung, according to Mr. Sim. Mr. Kim is a founder and former chairman of the National Youth Alliance for Democracy, which has been critical of President Chun Doo Hwan.

Other prisoners who were reportedly tortured include Ho In Hoe, a 23-year-old student activist; Ahn Sang Gun, 35, a former resident of Frankfurt, where he edited a Korean-language newspaper; Lee Chin Suk, 35, an assistant professor at Taegu University and several students who attended universities in the United States.

SOUTH KOREA POLICE DETAIN KIM

SEOUL, South Korea, Oct. 19 (Reuters)—The police today confined a leading opposition politician, Kim Dae Jung, to his home to prevent him from attending a news conference where colleagues charged that South Korean dissidents had been tortured, his aides said.

They said more than 100 police officers were posted outside Mr. Kim's house. A police official had told Mr. Kim that the action was to stop him from breaking the law.

The former presidential candidate, 59 year old, who returned from two years of exile in the United States in February, is barred from political activity because of a suspended 20-year jail sentence for sedition.

CHUN MOVES TO CURB S. KOREAN DISSENT

(By Sam Jameson)

SEOUL, South Korea.—There are more than 400 political prisoners, the police have returned to college campuses and government agents are raiding bookstores and art galleries.

For four years after seizing power in 1980, President Chun Doo Hwan relied on repression to stay in power. Then, early last year, he began to tolerate a measure of dissent. Now, a new crackdown is under way.

A test of how far the confrontation between Chun and his critics might go will probably come this month, when more than 8,000 bankers, central bank presidents and finance ministers from around the world gather here for an International Monetary Fund conference. Chun's critics see the meeting as a chance to discredit him.

The chief targets of the new crackdown are on the campuses—the 2,000 to 3,000 activists among the nation's 950,000 college students. Also feeling the lash are teachers, artists, writers and workers.

Even Chun's supporters have not been spared. He fired Justice Minister Kim Suk Hui after disorder broke out in a courtroom where 20 students were on trial for taking part in the seizure last May of the U.S. Information Service library here. The students are scheduled to be sentenced Wednesday.

Chun also ousted Lee Hyun Jae, president of Seoul National University, after Lee—before the court reached a verdict—refused to expel the eight students from his university who were among the 20.

Foreign analysts are not sure why Chun has changed tactics again.

Last year, student demonstrations erupted in February when Chun withdrew plainclothes policemen from the campuses freed 360 jailed students and reinstated 1,373 others who had been expelled. This year the demonstrations increased and became more violent.

Still, they had not involved great numbers of people, usually fewer than 50. Nor had they disrupted the studies or other students or led to public unrest.

A longtime foreign resident here, who asked not to be identified by name, said he believes that the generals Chun relies on for support insisted on the crackdown to choke off demands that the military get out of politics. But a Western diplomat, who also requested anonymity, said the reason is simpler than that.

"Chun lacks a strategic plan and has no political ability," the diplomat said, "so when things got heated up, the only thing left to fall back on was the hard-line approach."

A year ago, after Chun had loosened the screws, human-rights advocates said there were only 91 dissenters in prison, the lowest number since 1972. Recently, as South Korea's prisons have been filled with political prisoners, repression has returned to the level of 1980, when Chun seized power.

The crackdown has given the students a rallying point—demanding the release of their colleagues. Most observers think it also has increased the chance of more violence.

Chun's new, hard-line approach was underscored on Sept. 19 when two opposition members of the National Assembly, Park Chan Jong and Chough Soon Hyung, were charged with violating a law that bans unauthorized assemblies. Park was also charged with inciting an illegal demonstration; he could be sent to prison for up to 10½ years.

The charges brought the ruling party into sharp confrontation with the opposition New Korea Democratic Party, which immediately began a boycott of the National Assembly, demanding that the government withdraw the charges. But Chun's party insisted that the two legislators apologize for what it called attempting to instigate student unrest.

The turning point in Chun's policy came with the seizure of the U.S. library by 72 students, who demanded that the United States apologize for allegedly authorizing Chun's use of South Korean troops in May, 1980, to put down an insurrection in the city of Kwangju. The students finally agreed to leave the library after three days, without receiving a U.S. apology, and the government released all but 20.

Then, in June and July, the government arrested 137 students in the first mass arrests since 1980. It also instructed the courts to resume stiff jail sentences after a year and a half of relative leniency; demonstrators had been getting off with only a few days in jail.

Two judges who persisted in showing leniency for student demonstrators were reassigned to minor rural courts.

In August, it appeared that Chun was ready to declare all-out war on the students. His Democratic Justice Party announced plans to convene a special session of the National Assembly to enact a "campus stabilization bill" calling for ideological "reorientation" of campus troublemakers without formal arrest or trial.

The party described the bill as an effort to avoid stigmatizing students with formal arrest records. But Chun's critics assailed it as a pretext for establishing what they called concentration camps.

The bill would also have authorized seven-year sentences for adults guilty of instigating unauthorized student activity, a provision that was widely regarded as giving carte blance for the arrest of opposition politicians.

In the end, Chun ordered the bill set aside. A forceful speech on Aug. 15 by U.S. Ambassador Richard L. Walker is believed to have played a role in his decision. Walker said, in part: "Americans insist that intellectual and religious freedom must be the foundation for legitimate rule."

Western diplomats said they think that allowing direct election of Chun's successor—as opposed to the present electoral college arrangement—would defuse campus unrest, if not eliminate the demonstrations altogether. So far, however, Chun has shown no sign of yielding to, or compromising with, the opposition on its demands for free elections.

DOCUMENT: PROTEST STATEMENT OF THE DONG-A REPORTERS; SEPT. 1, 1985

DEFINITION OF OUR POSITION

We, the members of the editorial bureau of the DongA Daily, rise against the recent violence done by the government authorities over our colleagues. Between August 30 and September 1, our chief editor, Lee Chae-Kyu; the editor on political affairs, Lee Sang-Ha: a reporter on political affairs, Kim Chung-Sik, were dragged by intelligence agents and beaten up. This fact stirred our rage.

Here, we define that the Korean government's violating reporters' human rights is no other than a serious threat to the Press itself. We also accept that part of the responsibility is our pessimism of a long time toward free press and expression.

Therefore, we demand to stop this illegal action, to provide an understandable explanation of the recent series of events, and to take a proper step. In addition, we confirm our determination to report immediately any illegal action officially executed like the present case.

Finally, we are fully determined to protect and improve our right of self-defense for Free Press and Free Expression.—The Whole Personnel of the Editorial Bureau of DongA Daily Newspaper.

SENATE CONCURRENT RESOLUTION 101—FULL FREEDOM AND INDEPENDENCE FOR THE BALTIC STATES

Mr. SPECTER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 101

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its Constitution, a voluntary federation of autonomous republics;

Whereas the three Baltic Republics (the Republic of Lithuania, the Republic of Latvia, and the Republic of Estonia) did not become member republics of the Union of Soviet Socialist Republics voluntarily, but rather were occupied militarily by Russian Armed Forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics and have since been governed by governments approved by, and subservient to, the Government of the Union of Soviet Socialist Republics;

Whereas the ethnic makeup of the Baltic peoples (the Lithuanians, Latvians, and Estonisans) is distinctly foreign in language, culture, common traditions, and religion from that of the Russian people;

Whereas, by deportation and dispersion of the native populations of the Baltic States of Siberia and by a massive colonization effort in which Russian colonists replace the displaced native peoples, the Soviet Union threatens complete elimination of the Baltic peoples as a culturally, geographically, and politically distinct and ethnically homogeneous population;

Whereas, despite such treatment, the spirit of the citizens of the Baltic States is not broken and the desire of the citizens of the Baltic States for national independence remains unabated;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of the people of those countries in Asia and Africa that are, or have been, under foreign imperialist rule: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President and the Secretary of State should take all necessary steps to bring the Baltic States question before the United Nations and to urge that the United Nations request the Soviet Union—

(A) to withdraw all Russian and other non-native troops, agents, colonists, and controls from the Republics of Lithuania, Latvia, and Estonia, and

(B) to return all Baltic exiles from Siberia and from prisons and labor camps in the Soviet Union;

(2) until the Baltic States become independent, the Secretary of State should, through such channels as the United States Information Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications;

(3) the United States should not agree to the recognition, by any international conference, of the Soviet Union's unlawful annexation of Lithuania, Latvia, and Estonia, and it should remain the policy of the United States not to recognize in any way the annexation of the Baltic States by the Soviet Union;

(4) the President should require that all government map publishers, and should request that all private map publishers, show, on all maps of Europe, the Republics of Lithuania, Latvia, and Estonia as independent states, with footnote explaining that the military occupation and forced incorporation into the Soviet Union of Lithuania, Latvia, and Estonia has never been recognized by the United States;

(5) the right of self-determination should be returned to the peoples of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations after Soviet withdrawal from the Baltic States; and

(6) the right of self-determination should be made a prime political objective of the United Nations and should be accorded through free elections under the auspices of the United Nations to all peoples now involuntarily subjugated to Soviet communism.

SENATE CONCURRENT RESOLUTION 102—RELATING TO WITHDRAWAL OF SOVIET PERSONNEL FROM THE BALTIC STATES

Mr. SPECTER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 102

Whereas the United States does not recognize the illegal annexation by the Soviet Union of the Baltic nations of Estonia, Latvia, and Lithuania;

Whereas the United States as a member of the United Nations has pledged to uphold the ideals of the United Nations Charter and "to take joint and separate action" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion";

Whereas during the 83rd Congress, the Select Committee to Investigate Communist Aggression of the House of Representatives thoroughly investigated the seizure of the Baltic nations by the Soviet Union and, in its Third Interim Report, concluded that the "evidence is overwhelming and conclusive that Estonia, Latvia, and Lithuania were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics";

Whereas the United States, as a signatory to the Final Act of the Conference on Security and Cooperation in Europe, endorsed Principle VIII, concerning equal rights and self-determination of peoples, which states "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development" and the "participating States . . . also recall the importance of the elimination of any form of violation of this principle"; and

Whereas the House of Representatives in the 96th Congress, by adopting H. Con. Res. 200, reaffirmed the United States policy concerning the Baltic nations and thereby urged positive actions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) enter into discussions with the Soviet Union—

(A) for the withdrawal of all non-Estonian, non-Latvian, and non-Lithuanian military, political, administrative, and police personnel from Estonia, Latvia, and Lithuania, respectively, and

(B) for the release of political prisoners of Estonian, Latvian, or Lithuanian nationality from prisons, labor camps, psychiatric institutions, and other detention centers within the Soviet Union and their return to Estonia, Latvia, and Lithuania, respectively;

(2) instruct the United States delegation to each review meeting of the Conference on Security and Cooperation in Europe to seek consideration of the following matters:

(A) the illegal annexation of Estonia, Latvia, and Lithuania by the Soviet Union, and

(B) the denial of self-determination and territorial integrity of Estonia, Latvia, and Lithuania by the Soviet Union; and

(3) make every effort to gain the support and cooperation of all nations to achieve the objectives of the discussions under paragraph (1) and the consideration of the matters under paragraph (2).

Mr. SPECTER. Mr. President, today, I am offering two concurrent resolutions which are the companions of House Concurrent Resolutions 65 and 66 submitted by Congressman YOUNG of Florida.

I submit these concurrent resolutions in response to an initiative by the Pennsylvania House of Representatives. The Pennsylvania House of Representatives' resolution poignantly expresses the hopes of thousands of Estonian, Latvian, and Lithuanian Americans that their homelands may one day be free of Soviet domination, and urges the United States Congress to express these hopes to the U.S.S.R.

The first concurrent resolution I am submitting today calls for full freedom and independence of the Baltic States. The second one expresses the sense of the Congress that the United States should seek, through diplomatic channels, the withdrawal of certain personnel of the Soviet Union from Estonia, Latvia, and Lithuania, and the release by the Soviet Union of political prisoners of Estonian, Latvian, and Lithuanian descent.

Since the United States has pledged to uphold and promote the ideals of universal respect for, and observance of, human rights, fundamental freedoms and the self-determination of all peoples, it is important that we try to eliminate any form of violation of these ideals.

SENATE RESOLUTION 280—EXPRESSING SUPPORT FOR THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA (UNITA)

Mr. DOLE submitted the following resolution; which was referred to the Committee on Foreign Relatons:

S. RES. 280

Whereas the National Union for the Total Independence of Angola (hereafter in this resolution referred to as "UNITA") led by Dr. Jonas Malheiro Savimbi, represents the view and wishes of a large part of Angolans;

Whereas UNITA was denied the legitimate role in the politicial life of Angola envisioned for it in the Alvor Accord of 1975, an agreement among all political elements in Angola which called for free and fair elections in Angola, when the Marxist Popular Movement for the Liberaton of Angola (hereafter in this resolution referred to as the "MPLA") faction, backed by the Soviet and Cuban troops, illegally seized power in Angola;

Whereas since that time UNITA has waged a courageous and effective guerrilla war, with the support of a large part of the Angolan population, aimed at pressuring the MPLA to live up to its commitments under the Alvor Accord, permit free and fair elections in Angola, and remove Soviet and Cuban forces from Angola;

Whereas that struggle has achieved such success that many independent observers have concluded that, in free and fair elections, UNITA and Savimbi would likely enjoy the support of a large part of the Angolan population;

Whereas the MPLA, faced with the possibility that the popularly supported forces of UNITA could militarily defeat the forces of the MPLA, has introduced even larger numbers of Soviet and Cuban forces, so that more than 35,000 such troops and advisers are now in Angola;

Whereas this Cuban and Soviet intervention represents the most blatant foreign intervention in the post-colonial history of Africa;

Whereas the civil war in Angola, caused primarily by the illegal acts of the MPLA and waged increasingly by Cuban and Soviet troops, has led to widespread suffering for the people of Angola;

Whereas the MPLA, at the urging and with the extensive involvement of Soviet and Cuban troops and advisers, has recently undertaken a major offensive utilizing massive new shipments of modern arms from the Soviet Union and Cuba, aimed at wiping out UNITA;

Whereas UNITA has temporarily blunted that offensive, reestablishing a practical stalemate in the military situation;

Whereas the MPLA nonetheless may seek and obtain even more modern and extensive armaments and perhaps even more combat troops from its Communist suppliers and will launch further attacks on UNITA, leading to more suffering among, and greater suppression of, the Angolan people;

Whereas the MPLA, despite being offered the opportunity to seek a solution to these problems through negotiations in which the United States Government has sought to play a facilitating role, has refused to take any meaningful steps to lessen its dependency on Soviet and Cuban forces, to end the civil war, or to grant UNITA and its followers their legitimate place in the political life of Angola;

Whereas the only practical way in the foreseeable future to achieve a viable solution to the problems within Angola would be for the MPLA to effect the removal of Soviet and Cuban forces and to enter into direct and meaningful negotiations with UNITA concerning the political future of Angola; and

Whereas the main barrier to such a solution has been and is the refusal of the MPLA and its Communist allies to agree to meaningful negotiations aimed at bringing it into effect: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the legitimate aspirations of the people of Angola for democracy, justice, peace, and freedom from foreign interference deserve the support of the United States;

(2) UNITA and its leader, Dr. Jonas Malheiro Savimbi, which represent the political aspirations of a large number of the Angolan people, have the right to play a commensurate role in the political life of Angola;

(3) UNITA and Savimbi deserve the political and moral support of the people of the United States and freedom-loving people everywhere, in demanding and struggling for that right;

(4) the MPLA has violated the rights of the Angolan people through its illegal seizure of power and suppression of the population;

(5) the MPLA, further, has compromised the sovereignty of the Angolan nation by introducing large numbers of Cuban and Soviet forces into Angola;

(6) the growing intensity of the civil war, suffering of the Angolan people, presence of foreign forces in Angola, and failure of the MPLA to respond to diplomatic initiatives calling for the elimination of foreign forces and free and fair elections in Angola have given new urgency to efforts to deal effectively with the Angolan situation;

(7) the MPLA should agree promptly to a process of meaningful negotiations, to include direct and good-faith negotiations with UNITA, aimed at ending the presence of Soviet and Cuban forces in Angola, terminating the civil war, and setting up an administration which respects the rights and reflects the wishes of the Angolan people, with a mandate to organize free and fair elections for a new government; and

(8) if the MPLA, during the current rainy season in Angola, continues to be intransigent, by—

(A) refusing to engage in good faith negotiations, including negotiations with UNITA, aimed at eliminating the presence of foreign forces and reaching a just political settlement in Angola, or

(B) continuing its preparations for a new military offensive,

then the Senate would support the provision early in 1986 of material assistance to UNITA and would impose economic sanctions against those sectors of the Angolan economy which provide resources to support the Cuban troop presence.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

SENATE RESOLUTION 281—RELATING TO THE PROSPECTIVE EFFECTIVE DATE FOR TAX REFORM

Mr. DOLE (for himself, Mr. D'AMATO, Mr. DODD, Mrs. HAWKINS, Mr. WILSON, Mr. MATTINGLY, Mr. SYMMS, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. WALLOP, Mr. GRASSLEY, Mr. PRYOR, Mr. ROTH, Mr. CHAFEE, Mr. BRADLEY, Mr. HEINZ, Mr. MITCHELL, Mr. BAUCUS, Mr. BOREN, Mr. KASTEN, Mr. KERRY, Mr. DOMENICI, Mr. ABDNOR, Mr. CRANSTON, Mr. GARN, Mr. SIMPSON, Mr. DENTON, Mr. THURMOND, Mr. DECONCINI, Mr. NICKLES, Mr. LAXALT, Mr. SPECTER, Mr. WARNER, Mr. HOLLINGS, Mr. HECHT, Mr. ANDREWS, Mr. LUGAR, Mr. BOSCHWITZ, Mr. QUAYLE, Mr. HEFLIN, Mr. TRIBLE, Mr. HARKIN, Mr. COHEN, Mr. DIXON, Mr. COCHRAN, Mr. RUDMAN, Mr. WEICKER, Mr. MCCONNELL, Mr. ZORINSKY, Mr. HELMS, Mr. STENNIS, Mr. EAST, Mr. BUMPERS, Mr. LEVIN, Mr. HATCH, and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 281

Whereas the Senate will require adequate time to consider tax reform legislation proposed by the President and the House of Representatives, and to prepare legislation which will maximize fairness and long-term economic growth and minimize short-term economic disruption; and

Whereas, it is likely that such action will not be completed before August 1986; and

Whereas, the tax legislation as prepared in the House of Representatives by the Committee on Ways and Means contains effective dates of January 1, 1986 and earlier; and

Whereas, it is unreasonable to expect taxpayers to comply with fundamental changes in the tax laws before they are enacted and they can be certain what those changes will be; and

Whereas, uncertainty as to the future of particular tax provisions is causing taxpayers either to delay decisions that they otherwise would make or to rush into transactions that, absent tax considerations, they would enter into at a more appropriate time: Therefore, be it

Resolved that it is the sense of the Senate that the effective date of any fundamental tax reform legislation should generally be January 1, 1987 while recognizing that appropriate transition rules may be necessary to avoid unintended adverse effects both on taxpayers and the United States Treasury and recognizing further that retroactive effective dates may be necessary to extend certain provisions which expire before January 1, 1987.

SENATE RESOLUTION 282—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. HEINZ (for Mr. DOLE, for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 282

Whereas, in the case of *Representative Mike Synar* v. *United States of America*, Civil Action No. 85-3945, pending in the United States District Court for the District of Columbia, the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, has been placed in issue;

Whereas, the statement of the President, on signing the Balanced Budget and Emergency Deficit Control Act of 1985, questions the constitutionality of several of its provisions of expresses the hope of the President that these constitutional questions will be promptly resolved;

Whereas, pursuant to section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 each House of Congress shall have the right to intervene in an action to determine the constitutionality of the Act;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C §§ 288b(c), 288e(a), and 288*l*(a) (1982), the Senate may direct the Senate Legal Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Representative Mike Synar* v. *United States of America*.

SEC. 2. That during the adjournment of the Congress the Senate Legal Counsel is authorized to intervene or to appear as amicus curiae in the name of the Senate in other cases in which the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to intervene or to appear as amicus curiae in the name of the Senate in such other cases.

SENATE RESOLUTION 283—BIPARTISAN OBSERVERS TO ARMS REDUCTION OR CONTROL NEGOTIATIONS

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 283

Resolved, That S. Res. 86, agreed to February 28, 1985, is amended as follows:

(a) Page 2, line 2, add: "The Chairman for Administrative purposes is the Senator from Alaska, Ted Stevens. The other members of the Senate Observer Group shall include the Senator from Massachusetts, Edward Kennedy; the Senator from Wyoming, Malcolm Wallop; the Senator from New York, Daniel Patrick Moynihan; the Senator from Virginia, John Warner; the Senator from Oklahoma, Don Nickles; the Senator from Tennessee, Al Gore; the Majority Leader, Robert Dole, ex officio; and the Minority Leader, Robert C. Byrd, ex officio. Only Senators appointed as members of the Group may participate in official travel and activities of the Group. In the event that the Majority Leader or Minority Leader does not travel on an official trip of the Observer Group, he may designate one other Senator not a member of the Group to travel and participate in the activities of the Group in his stead. Any vacancy occurring in the Senate Arms Control Observer Group shall be filled in the same manner in which the original appointment was made."

(b) Page 2, line 11: After the period, insert "Payments made under this section for receptions, meals and food-related expenses shall be authorized, however, only for those actual expenses incurred by the Senate Observer Group in the course of conducting its official duties and functions: *Provided*, That notwithstanding any other provision of this Resolution, such amounts received as reimbursement for such expenses shall not exceed $6,000 in any fiscal year. Amounts received as reimbursement for such food expenses shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction under Title 26 of the U.S. Code."

(c) The amendment made by subsection (a) is effective with respect to expenditures incurred on or after February 28, 1985.

Page 3, line 9, add the following new section: "(d) All foreign travel of the Group shall be authorized solely by the Majority and Minority Leaders, upon the recommendation of the Administrative Chairman. Participation by staff, members in authorized foreign travel by the Group, access to all official activities and functions of the group during such travel, and access to all classified briefings and information made available to the Group during such travel, shall be limited exclusively to delegation members with appropriate clearances. No travel or other funding shall be authorized by any Committee of the Senate for the use of staff other than delegation staff, in regard to above mentioned activities, without the written authorization of the Majority Leader and the Minority Leader to the Chairman of such Committee."

SENATE RESOLUTION 284—RELATING TO INSPECTION OF TAX RECORDS BY A SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS (for Mr. ROTH, for himself and Mr. NUNN) submitted the following resolution; which was considered and agreed to:

S. RES. 284

Whereas, the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is conducting an investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a Labor fraud investigation of Jackie Presser, president of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America;

Whereas, allegations have been made that various federal agencies, including the Internal Revenue Service, may have conducted other investigations involving Mr. Presser and other individuals that may related to the handling of the recent investigation and declined prosecution of Mr. Presser;

Whereas, in order to conduct its investigation of the handling of the labor fraud investigation of Mr. Presser it is necessary for the Permanent Subcommittee on Investigations to inspect and receive tax returns, return information, and tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to certain named individuals;

Whereas, information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas, under sections 6103(f) and 6104(a)(2) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns and return information if such committee is specifically authorized to investigate tax returns and return information by a resolution of the Senate: Now, therefore, be it

Resolved, That the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is specifically authorized, in conducting its investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, to inspect and receive for the tax years 1970-1985 and tax return, return information, or other tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to Jackie Presser, William Presser, Frank Fitzsimmons, and Harry Hall, aka Haler, aka Haller, aka Helfgot.

SENATE RESOLUTION 285—COMMENDING MIKE STERN FOR HIS SERVICE TO THE SENATE

Mr. LONG (for himself, Mr. PACKWOOD, Mr. DOLE, Mr. BYRD, Mr. DANFORTH, Mr. MOYNIHAN, Mr. BENTSEN, Mr. PRYOR, Mr. MATSUNAGA, Mr. BAUCUS, Mr. DURENBERGER, and Mr. ARMSTRONG) submitted the following resolution; which was considered and agreed to:

S. RES. 285

Whereas Michael Stern has faithfully served the Senate of the United States as Staff Director and as Minority Staff Director of the Committee on Finance, and the Senate wishes to express its appreciation for his seventeen years of dedicated service to the Senate and to the Nation;

Whereas Michael Stern has discharged the important duties and responsibilities of his position with great distinction;

Whereas Michael Stern has helped guide the Committee on Finance through an extraordinarily active and challenging period of its history;

Whereas the loyalty, judgment, exceptional service, and continuing dedication of Michael Stern have earned for him respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Michael Stern for his faithful and outstanding service to the Senate and the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of the resolution to Michael Stern.

SENATE RESOLUTION 286—RELATING TO EXTRANEOUS MATERIAL IN RECONCILIATION CONFERENCE REPORTS

Mr. SIMPSON (for Mr. ARMSTRONG, for himself, Mr. ROTH, and Mr. DOMENICI] submitted the following resolution; which was considered and agreed to:

S. RES. 286

Resolved, That when the Senate is considering a conference report or House amendment with respect to a reconciliation bill or reconciliation resolution pursuant to section

310 of the Budget Act, upon a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) and (d)(1)(D) of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and such point of order is sustained, any part of such report or amendment containing such material shall be deemed stricken, but it shall be in order to continue consideration of the remainder under the Rules and practices of the Senate and applicable law. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resoution, as well as to waive or suspend the provisions of this resolution.

The provisions of this resolution shall remain in effect until the date of termination of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SENATE RESOLUTION 287—COMMITTEE TO NOTIFY THE PRESIDENT OF THE PROPOSED ADJOURNMENT OF THE SENATE

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 287

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

SENATE RESOLUTION 288—EXPRESSING THE THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 288

Resolved, That the thanks of the Senate are hereby tendered to the Honorable George H.W. Bush, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

SENATE RESOLUTION 289—EXPRESSING THE THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. DOLE (for Mr. BYRD, for himself, and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 289

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Strom Thurmond, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

SENATE RESOLUTION 290—EXPRESSING THE ADMIRATION OF THE SENATE FOR THE LONG AND DISTINGUISHED CAREER OF SENATOR JOHN C. STENNIS

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas, the Honorable John C. Stennis, of Mississippi, holds the honor of being the second longest-serving Senator in the history of the United States;

Whereas, the Honorable John C. Stennis, of Mississippi, has served ably and effectively as Chairman of the Armed Services Committee from 1969 to 1981;

Whereas, the Honorable John C. Stennis, of Mississippi, served on the Senate Aeronatic and Space Committee and had an integral part in moving the United States toward putting a man on the Moon and competing in interplanetary exploration;

Whereas, the Honorable John C. Stennis, of Mississippi, has shown great courage, strength, and dignity in the face of personal hardships and has been an inspiration to the Members of this Chamber and the public at large; Now, therefore, be it

Resolved, That the Senate now recognizes the long and notable career of the Honorable John C. Stennis in this Chamber, during which he has proved his reputation as a statesman of integrity and fairness and a gentleman of dignity and strength, and expresses its appreciation and gratitude for his long, faithful and outstanding service to the Country.

SENATE RESOLUTION 291—AUTHORIZING CERTAIN APPOINTMENTS AFTER SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 291

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate and the President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 292—COMMENDING THE CONDUCT OF THE MAJORITY LEADER AND THE MAJORITY WHIP

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. RES. 292

Resolved, That the exemplary conduct of the distinguished Majority Leader, the Senator from Kansas, the Honorable Robert Dole, is deserving of the highest commendation of the Senate. The fair and just and able manner in which Senate business has been scheduled and managed is a source of pride to the Senate as a whole and the thanks of the Senate are hereby tendered to the Honorable Robert Dole, Majority Leader, United States Senate, and the majority whip, Senator Simpson for his able assistance.

SENATE RESOLUTION 293—COMMENDING THE CONDUCT OF THE MINORITY LEADER AND THE MINORITY WHIP

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. RES. 293

Resolved, That the Senate extends its thanks to the distinguished Minority Leader, the Senator from West Virginia, the Honorable Robert C. Byrd. The extremely cooperative and able manner in which the Minority Leader has approached his duties as protector of the rights of the minority has been duly noted and the Senate commends the Minority Leader for his understanding, his devotion to the rules of the Senate, and for his outstanding leadership, and the minority whip Alan Cranston, for his able assistance.

SENATE RESOLUTION 294—TENDERING THE THANKS OF THE SENATE TO THE SENATE STAFF

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. RES. 294

Resolved, That the thanks of the Senate are hereby tendered to the Senate Sergeant at Arms, the Secretary of the Senate, the Secretary for the Majority, the Secretary for the Minority, and the floor staff of the two parties for the courteous, dignified, and impartial manner in which they have assisted the deliberations of the Senate during the first session of the Ninety-ninth Congress.

AMENDMENTS SUBMITTED

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACTS

THURMOND (AND OTHERS) AMENDMENT NO. 1429

Mr. THURMOND (for himself, Mr. SIMPSON, Mr. STAFFORD, Mr. BENTSEN, Mr. MCCLURE, Mr. JOHNSTON, Mr. EVANS, Mr. HELMS, Mr. HART, Mr. DOMENICI, Mr. HOLLINGS, Mr. HECHT, Mr. BRADLEY, Mr. GOLDWATER, and Mr. DENTON) proposed an amendment to the bill (H.R. 1083) to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes; as follows:

TITLE I—LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

SEC. 101. SHORT TITLE.

This Title may be cited as the "Low-Level Radioactive Waste Policy Amendments Act of 1985."

SEC. 102. AMENDMENT TO THE LOW-LEVEL RADIOACTIVE WASTE POLICY ACT.

The Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.) is amended by striking out sections 1, 2, 3, and 4 and inserting in lieu thereof the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Low-Level Radioactive Waste Policy Act'".

"SEC. 2. DEFINITIONS.

"For purposes of this Act:

"(1) AGREEMENT STATE.—The term 'agreement State' means a State that—

"(A) has entered into an agreement with the Nuclear Regulatory Commission under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021); and

"(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

"(2) ALLOCATION.—The term 'allocation' means the assignment of a specific amount of low-level radioactive waste disposal capacity to a commercial nuclear power reactor for which access is required to be provided by sited States subject to the conditions specified under this Act.

"(3) COMMERCIAL NUCLEAR POWER REACTOR.—The term 'commercial nuclear power reactor' means any unit of a civilian light-water moderated utilization facility required to be licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 or 2134(b)).

"(4) COMPACT.—The term 'compact' means a compact entered into by two or more States pursuant to this Act.

"(5) COMPACT COMMISSION.—The term 'compact commission' means the regional commission, committee, or board established in a compact to administer such compact.

"(6) COMPACT REGION.—The term 'compact region' means the area consisting of all States that are members of a compact.

"(7) DISPOSAL.—The term 'disposal' means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

"(8) GENERATE.—The term 'generate', when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

"(9) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

"(A) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 11e.(2) of the Atomic Energy Act of 1984 (42 U.S.C. 2014(e)(2))); and

"(B) the Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

"(10) NON-SITED COMPACT REGION.—The term 'non-sited compact region' means any compact region that is not a sited compact region.

"(11) REGIONAL DISPOSAL FACILITY.—The term 'regional disposal facility' means a non-federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(13) SITED COMPACT REGION.—The term 'sited compact region' means a compact region in which there is located one of the regional disposal facilities at Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

"(14) STATE.—The term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Section 3. *Responsibilities for Disposal of Low-Level Radioactive Waste.*

SECTION 3(a)(1) STATE RESPONSIBILITIES.—Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

(A) low-level radioactive waste generated within the State (other than by the federal government) that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983;

(B) low-level radioactive waste described in subparagraph (A) that is generated by the federal government except such waste that is—

(i) owned or generated by the Department of Energy;

(ii) owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy; or

(iii) owned or generated as a result of any research, development, testing, or production of any atomic weapon; and

(C) low-level radioactive waste described in subparagraphs (A) and (B) that is generated outside of the State and accepted for disposal in accordance with sections 5 or 6.

(2) No regional disposal facility may be required to accept for disposal any material—

(A) that is not low-level radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983, or

(B) identified under the Formerly Utilized Sites Remedial Action Program.

Nothing in this paragraph shall be deemed to prohibit a State, subject to the provisions of its compact, or a compact region from accepting for disposal any material identified in subparagraphs (A) or (B).

(b)(1) The federal government shall be responsible for the disposal of—

(A) low-level radioactive waste owned or generated by the Department of Energy;

(B) low-level radioactive waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy;

(C) low-level radioactive waste owned or generated by the federal government as a result of any research, development, testing, or production of any atomic weapon; and

(D) any other low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

(2) All radioactive waste designated a federal responsibility pursuant to subparagraph (b)(1)(D) that results from activities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, shall be disposed of in a facility licensed by the Nuclear Regulatory Commission that the Commission determines is adequate to protect the public health and safety.

(3) Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Congress a comprehensive report setting forth the recommendations of the Secretary for ensuring the safe disposal of all radioactive waste designated a federal responsibility pursuant to subparagraph (b)(1)(D). Such report shall include—

(A) an identification of the radioactive waste involved, including the source of such waste, and the volume, concentration, and other relevant characteristics of such waste;

(B) an identification of the federal and non-federal options for disposal of such radioactive waste;

(C) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

(D) a description of the projected costs of undertaking such actions;

(E) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of such radioactive wastes bear all reasonable costs of disposing of such wastes; and

(F) an identification of any statutory authority required for disposal of such waste.

(4) The Secretary may not dispose of any radioactive waste designated a federal responsibility pursuant to paragraph (b)(1)(D) that becomes a federal responsibility for the first time pursuant to such paragraph until ninety days after the report prepared pursuant to paragraph (3) has been submitted to the Congress.

"Section 4. Regional Compacts for Disposal of Low-Level Radioactive Wastes.

"(a) IN GENERAL.—

"(1) FEDERAL POLICY.—It is the policy of the federal government that the responsibilities of the States under section 3 for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis.

"(2) INTERSTATE COMPACTS.—To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

"(b) APPLICABILITY TO FEDERAL ACTIVITIES.—

"(1) IN GENERAL.—

"(A) ACTIVITIES OF THE SECRETARY.—Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of any low-level radioactive waste designated in section 3(a)(1)(B) (i)(iii).

"(B) FEDERAL LOW-LEVEL RADIOACTIVE WASTE DISPOSAL OF AT NON-FEDERAL FACILITIES.—Low-level radioactive waste owned or generated by the federal government that is disposed of at a regional disposal facility or non-federal disposal facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the federal government.

"(2) FEDERAL LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITIES.—Any low-level radioactive waste disposal facility established or operated exclusively for the disposal of low-level radioactive waste owned or generated by the federal government shall not be sub-

ject to any compact or any action taken under a compact.

"(3) EFFECT OF COMPACTS ON FEDERAL LAW.—Nothing contained in this Act or any compact may be construed to confer any new authority on any compact commission or State—

"(A) to regulate the packaging, generation, treatment, storage, disposal, or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or inconsistent with the regulations of the Department of Transportation;

"(B) to regulate health, safety, or environmental hazards from source material, byproduct material, or special nuclear material;

"(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

"(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the federal government, or to inspect classified information related to such areas or operations; or

"(E) to require indemnification pursuant to the provisions of chapter 171 of title 28, United States Code (commonly referred to as the Federal Tort Claims Act), or section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly referred to as the Price-Anderson Act), whichever is applicable.

"(4) FEDERAL AUTHORITY.—Except as expressly provided in this Act, nothing contained in this Act or any compact may be construed to limit the applicability of any federal law or to diminish or otherwise impair the jurisidiction of any federal agency, or to alter, amend, or otherwise affect any federal law governing the judicial review of any action taken pursuant to any compact.

"(5) STATE AUTHORITY PRESERVED.—Except as expressly provided in this Act, nothing contained in this Act expands, diminishes, or otherwise affects State law.

"(c) RESTRICTED USE OF REGIONAL DISPOSAL FACILITIES.—Any authority in a compact to restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the compact region shall not take effect before each of the following occurs:

"(1) January 1, 1986; and

"(2) the Congress by law consents to the compact.

"(d) CONGRESSIONAL REVIEW.—Each compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent.

"Section 5. Limited Availability of Certain Regional Disposal Facilities During Transition and Licensing Periods.

"(a) AVAILABILITY OF DISPOSAL CAPACITY.—

"(1) PRESSURIZED-WATER AND BOILING WATER REACTORS.—During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by pressurized water and boiling water commercial nuclear power reactors in accordance with the allocations established in subsection (c).

"(2) OTHER SOURCES OF LOW-LEVEL RADIOACTIVE WASTE.—During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by any source not referred to in paragraph (1).

"(3) ALLOCATION OF DISPOSAL CAPACITY—

"(A) During the seven-year period beginning January 1, 1986 and ending December 31, 1992, low-level radioactive waste generated within a sited compact region shall be accorded priority under this section in the allocation of available disposal capacity at a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) and located in the sited compact region in which such waste is generated.

"(B) Any state in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located may, subject to the provisions of its compact, prohibit the disposal at such facility of low-level radioactive waste generated outside of the compact region if the disposal of such waste in any given calendar year, together with all other low-level radioactive waste disposed of at such facility within that same calendar year, would result in that facility disposing of a total annual volume of low-level radioactive waste in excess of 100 per centum of the average annual volume for such facility designated in subsection (b): *Provided, however,* That in the event that all three States, in which regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) act to prohibit the disposal of low-level radioactive waste pursuant to this subparagraph, each such State shall, in accordance with any applicable procedures of its compact, permit, as necessary, the disposal of additional quantities of such waste in increments of ten per centum of the average annual volume for each such facility designated in subsection (b).

(C) Nothing in this paragraph shall require any disposal facility or State referred to in paragraphs (1) through (3) of subsection (b) to accept for disposal low-level radioactive waste in excess of the total amounts designated in subsection (b).

"(4) CESSATION OF OPERATION OF LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY.—No provision of this section shall be construed to obligae any State referred to in paragraphs (1) through (3) of subsection (b) to accept low-level radioactive waste from any source in the event that the regional disposal facility located in such state ceases operations.

"(b) LIMITATIONS.—The availability of disposal capacity for low-level radioactive waste from any source shall be subject to the following limitations:

"(1) BARNWELL, SOUTH CAROLINA.—The State of South Carolina, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Barnwell, South Carolina to a total of 8,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986 and ending December 31, 1992 (as based on an average annual volume of 1,200,000 cubic feet of low-level radioactive waste).

"(2) RICHLAND, WASHINGTON.—The State of Washington, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Richland, Washington to a total of 9,800,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986 and ending December 31, 1992 (as based on an average annual volume of 1,400,000 cubic feet of low-level radioactive waste).

"(3) BEATTY, NEVADA.—The State of Nevada, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Beatty, Nevada to a total of 1,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 200,000 cubic feet of low-level radioactive waste).

"(C) COMMERCIAL NUCLEAR POWER REACTOR ALLOCATIONS.—

"(1) AMOUNT.—Subject to the provisions of subsections (a) through (g) each commercial nuclear power reactor shall upon request receive an allocation of low-level radioactive waste disposal capacity (in cubic feet) at the facilities referred to in subsection (b) during the 4-year transition period beginning January 1, 1986, and ending December 31, 1989, and during the 3-year licensing period beginning January 1, 1990, and ending December 31, 1992, in an amount calculated by multiplying the appropriate number from the following table by the number of months remaining in the applicable period as determined under paragraph (2).

Reactor type	4-yr. transition period		3-yr. transition period	
	In-sited region	All other locations	In-sited region	All other locations
PWR	1,027	871	934	685
BWR	2,300	1,951	2,091	1,533

"(2) METHOD OF CALCULATION.—For purposes of calculating the aggregate amount of disposal capacity available to a commercial nuclear power reactor under this subsection, the number of months shall be computed beginning with the first month of the applicable period, or the sixteenth month after receipt of a full power operating license, whichever occurs later.

"(3) UNUSED ALLOCATIONS.—Any unused allocation under paragraph (1) received by a reactor during the transition period or the licensing period may be used at any time after such reactor receives its full power license or after the beginning of the pertinent period, whichever is later, but not in any event after December 31, 1992, or after commencement of operation of a regional disposal facility in the compact region or State in which such reactor is located, whichever occurs first.

"(4) TRANSFERABILITY.—Any commercial nuclear power reactor in a State or compact region that is in compliance with the requirements of subsection (e) may assign any disposal capacity allocated to it under this subsection to any other person in any such State or compact region. Such assignment may be for valuable consideration and shall be in writing, copies of which shall be filed at the affected compact commissions and States, along with the assignor's unconditional written waiver of the disposal capacity being assigned.

"(5) UNUSUAL VOLUMES.—

"(A) The Secretary may, upon petition by the owner or operator of any commercial nuclear power reactor, allocate to such reactor disposal capacity in excess of the amount calculated under paragraph (1) if the Secretary finds and states in writing his

reasons for so finding that making additional capacity available for such reactor through this paragraph is required to permit unusual or unexpected operating, maintenance, repair or safety activities.

"(B) The Secretary may not make allocations pursuant to subparagraph (A) that would result in the acceptance for disposal of more than 800,000 cubic feet of low-level radioactive waste or would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire seven-year interim access period.

"(6) Limitation.—During the seven-year interim access period referred to in subsection (a), the disposal facilities referred to in subsection (b) shall not be required to accept more than 11,900,000 cubic feet of low-level radioactive waste generated by commercial nuclear power reactors.

"(d)(1) SURCHARGES.—The disposal of any low-level radioactive waste under this section (other than low-level radioactive waste generated in a sited compact region) may be charged a surcharge by the State in which the applicable regional disposal facility is located, in addition to the fees and surcharges generally applicable for disposal of low-level radioactive waste in the regional disposal facility involved. Except as provided in subsection (e)(2), such surcharges shall not exceed—

"(A) in 1986 and 1987, $10 per cubic foot of low-level radioactive waste;

"(B) in 1988 and 1989, $20 per cubic foot of low-level radioactive waste; and

"(C) in 1990, 1991, and 1992, $40 per cubic foot of low-level radioactive waste.

"(2) MILESTONE INCENTIVES.—

"(A) ESCROW ACCOUNT.—Twenty-five per centum of all surcharge fees received by a State pursuant to paragraph (1) during the seven-year period referred to in subsection (a) shall be transferred on a monthly basis to an escrow account held by the Secretary. The Secretary shall deposit all funds received in a special escrow account. The funds so deposited shall not be the property of the United States. The Secretary shall act as trustee for such funds and shall invest them in interest-bearing United States Government Securities with the highest available yield. Such funds shall be held by the Secretary until—

"(i) paid or repaid in accordance with subparagraphs (B) or (C); or

"(ii) paid to the State collecting such fees in accordance with subparagraph (F).

"(B) PAYMENTS.—

"(i) JULY 1, 1986.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning on the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and ending June 30, 1986, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(A) is met by the State in which such waste orginated.

"(ii) JANUARY 1, 1988.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning July 1, 1986 and ending December 31, 1987, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(B) is met by the State in which such waste originated (or its compact region, where applicable).

"(iii) JANUARY 1, 1990.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1988 and ending December 31, 1989, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(C) is met by the State in which such waste originated (or its compact region, where applicable).

"(iv) The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if, by January 1, 1993, the State in which such waste originated (or its compact region, where applicable) is able to provide for the disposal of all low-level radioactive waste generated within such State or compact region.

"(C) FAILURE TO MEET JANUARY 1, 1993 DEADLINE.—If, by January 1, 1993, a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region—

"(i) each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, shall be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1993 as the generator or owner notifies the State that the waste is available for shipment; or

"(ii) if such State elects not to take title to, take possession of, and assume liability for such waste, pursuant to clause (i), twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992 shall be repaid, with interest, to each generator from whom such surcharge was collected. Repayments made pursuant to this clause shall be made on a monthly basis, with the first such repayment beginning on February 1, 1993, in an amount equal to one thirty-sixth of the total amount required to be repaid pursuant to this clause, and shall continue until the State (or, where applicable, compact region) in which such low-level radioactive waste is generated is able to provide for the disposal of all such waste generated within such State or compact region or until January 1, 1996, whichever is earlier.

If a State in which low-level radioactive waste is generated elects to take title to, take possession of, and assume liability for such waste pursuant to clause (i), such State shall be paid such amounts as are designated in subparagraph (B)(iv). If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated provides for the disposal of such waste at any time after January 1, 1993 and prior to January 1, 1996, such State (or, where applicable, compact region) shall be paid in accordance with subparagraph (D) a lump sum amount equal to twenty-five per centum of any amount collected by a State under paragraph (1): *Provided, however,* That such payment shall be adjusted to reflect the remaining number of months between January 1, 1993 and January 1, 1996 for which such State (or, where applicable, compact region) provides for the disposal of such waste. If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region by January 1, 1996, each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996 as the generator or owner notifies the State that the waste is available for shipment.

"(D) RECIPIENTS OF PAYMENTS.—The payments described in subparagraphs (B) and (C) shall be paid within thirty days after the applicable date—

"(i) if the State in which such waste originated is not a member of a compact region, to such State;

"(ii) if the State in which such waste originated is a member of the region, to the compact commission serving such State.

"(E) USES OF PAYMENTS.—

"(i) LIMITATIONS.—Any amount paid under subparagraphs (B) or (C) may only be used to—

"(I) establish low-level radioactive waste disposal facilities;

"(II) mitigate the impact of low-level radioactive waste disposal facilities on the host state;

"(III) regulate low-level radioactive waste disposal facilities; or

"(IV) ensure the decommissioning, closure, and care during the period of institutional control of low-level radioactive waste disposal facilities.

"(ii) REPORTS.—

"(I) RECIPIENT.—Any State or compact commission receiving a payment under subparagraphs (B) or (C) shall, on December 31 of each year in which any such funds are expended, submit a report to the Department of Energy itemizing any such expenditures.

"(II) DEPARTMENT OF ENERGY.—Not later than six months after receiving the reports under subclause (I), the Secretary shall submit to the Congress a summary of all such reports that shall include an assessment of the compliance of each such State or compact commission with the requirements of clause (i).

"(F) PAYMENT TO STATES.—Any amount collected by a State under paragraph (1) that is placed in escrow under subparagraph (A) and not paid to a State or compact commission under subparagraphs (B) and (C) or not repaid to a generator under subparagraph (C) shall be paid from such escrow account to such State collecting such payment under paragraph (1). Such payment shall be made not later than 30 days after a determination of ineligibility for a refund is made.

"(G) PENALTY SURCHARGES.—No rebate shall be made under this subsection of any surcharge or penalty surcharge paid during a period of noncompliance with subsection (e)(1).

"(e) REQUIREMENTS FOR ACCESS TO REGIONAL DISPOSAL FACILITIES.—

"(1) REQUIREMENTS FOR NON-SITED COMPACT REGIONS AND NON-MEMBER STATES.—Each non-sited compact region, or State that is not a member of a compact region that does not have an operating disposal facility, shall comply with the following requirements:

"(A) By July 1, 1986, each such non-member State shall ratify compact legislation or, by the enactment of legislation or the certification of the Governor, indicate its intent to develop a site for the location of a low-level radioactive waste disposal facility within such State.

"(B) By January 1, 1988—

"(i) each non-sited compact region shall identify the State in whch its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed, and each compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application and shall delegate authority to implement such plan; and

"(ii) each non-member State shall develop a siting plan providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application for a low-level radioactive waste disposal facility and shall delegate authority to implement such plan.

"(iii) The siting plan required pursuant to this paragraph shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in this Act. Such plan shall include a description of the objectives and a sequence of deadlines for all entities required to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning facility operation. Such plan shall also identify, to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate sites; and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State."

"(C) By January 1, 1990—

"(i) a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State; or

"(ii) the Governor (or, for any State without a Governor, the chief executive officer) of any State that is not a member of a compact region in compliance with clause (i), or has not complied with such clause by its own actions, shall provide a written certification to the Nuclear Regulatory Commission, that such State will be capable of providing for, and will provide for, the storage, disposal, or management of any low-level radioactive waste generated within such State and requiring disposal after December 31, 1992, and include a description of the actions that will be taken to ensure that such capacity exists.

"(D) By January 1, 1992, a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State.

"(E) The Nuclear Regulatory Commission shall transmit any certification received under subparagraph (C) to the Congress and publish any such certification in the Federal Register.

"(F) Any State may, subject to all applicable provisions, if any, of any applicable compact, enter into an agreement with the compact commission of a region in which a regional disposal facility is located to provide for the disposal of all low-level radioactive waste generated within such State, and, by virtue of such agreement, may, with the approval of the State in which the regional disposal facility is located, be deemed to be in compliance with subparagraphs (A), (B), (C), and (D).

"(2) PENALTIES FOR FAILURE TO COMPLY.—

"(A) BY JULY 1, 1986.—If any State fails to comply with subparagraph (1)(A)—

"(i) any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning July 1, 1986, and ending December 31, 1986, be charged 2 times the surcharge otherwise applicable under subsection (d); and

"(ii) on or after January 1, 1987, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(B) BY JANUARY 1, 1988.—If any non-sited compact region or non-member State fails to comply with paragraph (1)(B)—

"(i) any generator of low-level radioactive waste within such region or non-member State shall—

"(I) for the period beginning January 1, 1988, and ending June 30, 1988, be charged 2 times the surcharge otherwise applicable under subsection (d); and

(II) for the period beginning July 1, 1988, and ending December 31, 1988, be charged 4 times the surcharge otherwise applicable under subsection (d); and

"(ii) on or after January 1, 1989, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(C) BY JANUARY 1, 1990.—If any non-sited compact region or non-member State fails to comply with paragraph (1)(C), any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(D) By January 1, 1992.—If non-sited compact region or non-member State fails to comply with paragraph (1)(D), any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning January 1, 1992 and ending upon the filing of the application described in paragraph (1)(D), be charged 3 times the surcharge otherwise applicable under subsection (d).

"(3) DENIAL OF ACCESS.—No denial or suspension of access to a regional disposal facility under paragraph (2) may be based on the source, class, or type of low-level radioactive waste.

"(4) RESTORATION OF SUSPENDED ACCESS; PENALTIES FOR FAILURE TO COMPLY.—Any access to a regional disposal facility that is suspended under paragraph (2) shall be restored after the non-sited compact region or non-member State involved complies with such requirement. Any payment of surcharge penalties pursuant to paragraph (2) for failure to comply with the requirements of subsection (e) shall be terminated after the non-sited compact region or non-member State involved complies with such requirements.

"(f)(1) ADMINISTRATION.—Each State and compact commission in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located shall have authority—

"(A) to monitor compliance with the limitations, allocations, and requirements established in this section; and

"(B) to deny access to any non-federal low-level radioactive waste disposal facilities within its borders to any low-level radioactive waste that—

"(i) is in excess of the limitations or allocations established in this section; or

"(ii) is not required to be accepted due to the failure of a compact region or State to comply with the requirements of subsection (e)(1).

"(2) AVAILABILITY OF INFORMATION DURING INTERIM ACCESS PERIOD.—

"(A) The States of South Carolina, Washington, and Nevada may require information from disposal facility operators, generators, intermediate handlers, and the Department of Energy that is reasonably necessary to monitor the availability of disposal capacity, the use and assignment of allocations and the applicability of surcharges.

"(B) The States of South Carolina, Washington, and Nevada may, after written notice followed by a period of at least 30 days, deny access to disposal capacity to any generator or intermediate handler who fails to provide information under subparagraph (A).

"(C) PROPRIETARY INFORMATION.—

"(i) Trade secrets, proprietary and other confidential information shall be made available to a State under this subsection upon request only if such State—

"(I) consents in writing to restrict the dissemination of the information to those who are directly involved in monitoring under subparagraph (A) and who have a need to know;

"(II) accepts liability for wrongful disclosure; and

"(III) demonstrates that such information is essential to such monitoring.

"(ii) The United States shall not be liable for the wrongful disclosure by any individual or State of any information provided to such individual or State under this subsection.

"(iii) Whenever any individual or State has obtained possession of information under this subsection, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

"(g) NONDISCRIMINATION.—Except as provided in subsections (b) through (e), low-level radioactive waste disposed of under this section shall be subject without discrimination to all applicable legal requirements of the compact region and State in

which the disposal facility is located as if such low-level radioactive waste were generated within such compact region.

"SEC. 6. EMERGENCY ACCESS.

"(a) IN GENERAL.—The Nuclear Regulatory Commission may grant emergency access to any regional disposal facility or nonfederal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste, if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. The procedure for granting emergency access shall be as provided in this section.

"(b) Request for Emergency Access.—Any generator of low-level radioactive waste, or any Governor (or, for any State without a Governor, the chief executive officer of the State) on behalf of any generator or generators located in his or her State, may request that the Nuclear Regulatory Commission grant emergency access to a regional disposal facility or a non-federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste. Any such request shall contain any information and certifications the Nuclear Regulatory Commission may require.

"(c) DETERMINATION OF NUCLEAR REGULATORY COMMISSION.—

"(1) REQUIRED DETERMINATION.—Not later than 45 days after receiving a request under subsection (b), the Nuclear Regulatory Commission shall determine whether—

"(A) emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security; and

"(B) the threat cannot be mitigated by any alternative consistent with the public health and safety, including storage of low-level radioactive waste at the site of generation or in a storage facility obtaining access to a disposal facility by voluntary agreement, purchasing disposal capacity available for assignment pursuant to section 5(c) or ceasing activities that generate low-level radioactive waste.

"(2) REQUIRED NOTIFICATION.—If the Nuclear Regulatory Commission makes the determinations required in paragraph (1) in the affirmative, it shall designate an appropriate non-federal disposal facility or facilities, and notify the Governor (or chief executive officer) of the State in which such facility is located and the appropriate compact commission that emergency access is required. Such notification shall specifically describe the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration, not exceeding 180 days, necessary to alleviate the immediate threat to public health and safety or the common defense and security. The Nuclear Regulatory Commission shall also notify the Governor (or chief executive officer) of the State in which the low-level radioactive waste requiring emergency access was generated that emergency access has been granted and that, pursuant to subsection (e), no extension of emergency access may be granted absent diligent State action during the period of the initial grant.

"(d) TEMPORARY EMERGENCY ACCESS.—Upon determining that emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security, the Nuclear Regulatory Commission may at its discretion grant temporary emergency access, pending its determination whether the threat could be mitigated by any alternative consistent with the public health and safety. In granting access under this subsection, the Nuclear Regulatory Commission shall provide the same notification and information required under subsection (c). Absent a determination that no alternative consistent with the public health and safety would mitigate the threat, access granted under this subsection shall expire 45 days after the granting of temporary emergency access under this subsection.

"(e) EXTENSION OF EMERGENCY ACCESS.—The Nuclear Regulatory Commission may grant one extension of emergency access beyond the period provided in subsection (c), if it determines that emergency access continues to be necessary because of an immediate and serious threat to the public health and safety or the common defense and security that cannot be mitigated by any alternative consistent with the public health and safety, and that the generator of low-level radioactive waste granted emergency access and the State in which such low-level radioactive waste was generated have diligently though unsuccessfully acted during the period of the initial grant to eliminate the need for emergency access. Any extension granted under this subsection shall be for the minimum volume and duration the Nuclear Regulatory Commission finds necessary to eliminate the immediate threat to public health and safety or the common defense and security, and shall not in any event exceed 180 days.

"(f) RECIPROCAL ACCESS.—Any compact region or State not a member of a compact that provides emergency access to non-Federal disposal facilities within its borders shall be entitled to reciprocal access to any subsequently operating non-federal disposal facility that serves the State or compact region in which low-level radioactive waste granted emergency access was generated. The compact commission or State having authority to approve importation of low-level radioactive waste to the disposal facility to which emergency access was granted shall designate for reciprocal access an equal volume of low-level radioactive waste having similar characteristics to that provided emergency access.

"(g) APPROVAL BY COMPACT COMMISSION.—Any grant of access under this section shall be submitted to the compact commission for the region in which the designation disposal facility is located for such approval as may be required under the terms of its compact. Any such compact commission shall act to approve emergency access not later than 15 days after the receiving notification from the Nuclear Regulatory Commission, or reciprocal access not later than 15 days after receiving notification from the appropriation authority under subsection (f).

"(h) LIMITATIONS.—No State shall be required to provide emergency or reciprocal access to any regional disposal facility within its borders for low-level radioactive waste not meeting criteria established by the license or license agreement of such facility, or in excess of the approved capacity of such facility, or to delay the closing of any such facility pursuant to plans established before receiving a request for emergency or reciprocal access. No State shall, during any 12-month period, be required to provide emergency or reciprocal access to any regional disposal facility within its borders for more than 20 percent of the total volume of low-level radioactive waste accepted for disposal at such facility during the previous calendar year.

"(i) VOLUME REDUCTION AND SURCHARGES.—Any low-level radioactive waste delivered for disposal under this section shall be reduced in volume to the maximum extent practicable and shall be subject to surcharges established in this Act.

"(j) DEDUCTION FROM ALLOCATION.—Any volume of low-level radioactive waste granted emergency or reciprocal access under this section, if generated by any commercial nuclear power reactor, shall be deducted from the low-level radioactive waste volume allocable under section 5(c).

"(k) AGREEMENT STATES.—Any agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) shall not be applicable to the determinations of the Nuclear Regulatory Commission under this section.

"SEC. 7. RESPONSIBILITIES OF THE DEPARTMENT OF ENERGY.

"(a) FINANCIAL AND TECHNICAL ASSISTANCE.—The Secretary shall, to the extent provided in appropriations Act, provide to those compact regions, host States, and nonmember States determined by the Secretary to require assistance for purposes of carrying out this Act—

"(1) continuing technical assistance to assist them in fulfilling their responsibilities under this Act. Such technical assistance shall include, but not be limited to, technical guidelines for site selection, alternative technologies for low-level radioactive waste disposal, volume reduction options, management techniques to reduce low-level waste generation, transportation practices for shipment of low-level wastes, health and safety considerations in the storage, shipment and disposal of low-level radioactive wastes, and establishment of a computerized data-base to monitor the management of low-level radioactive wastes; and

"(2) through the end of fiscal year 1993, financial assistance to assist them in fulfilling their responsibilities under this Act

"(b) REPORTS.—The Secretary shall prepare and submit to the Congress on an annual basis a report which (1) summarizes the progress of low-level waste disposal siting and licensing activities within each compact region, (2) reviews the available volume reduction technologies, their applications, effectiveness, and costs of a per unit volume basis, (3) reviews interim storage facility requirements, costs, and usage, (4) summarizes transportation requirements for such wastes on an inter- and intra-regional basis, (5) summarizes the data on the total amount of low-level waste shipped for disposal on a yearly basis, the proportion of such wastes subjected to volume reduction, the average volume reduction attained, and the proportion of wastes stored on an interim basis, and (6) projects the interim storage and final disposal volume requirements anticipated for the following year, on a regional basis.

"SEC. 8. ALTERNATIVE DISPOSAL METHODS.

"(a) Not later than 12 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Nuclear Regulatory Commission shall, in consultation with the States and other interested persons, identify methods for the disposal of low-level radioactive waste other than shallow land burial, and establish and publish technical guidance regarding licensing of facilities that use such methods.

(b) Not later than 24 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commission shall, in consultation with the States and other interested persons, identify and publish all relevant tech-

nical information regarding the methods identified pursuant to subsection (a) that a State or compact must provide to the Commission in order to pursue such methods, together with the technical requirements that such facilities must meet, in the judgment of the Commission, if pursued as an alternative to shallow land burial. Such technical information and requirements shall include, but need not be limited to, site suitability, site design, facility operation disposal site closure, and environmental monitoring, as necessary to meet the performance objectives established by the Commission for a licensed low-level radioactive waste disposal facility. The Commission shall specify and publish such requirements in a manner and form deemed appropriate by the Commission.

"SEC. 9. LICENSING REVIEW AND APPROVAL

"In order to ensure the timely development of new low-level radioactive waste disposal facilities, the Nuclear Regulatory Commission or, as appropriate, agreement States, shall consider an application for a disposal facility license in accordance with the laws applicable to such application, except that the Commission and the agreement state shall—

"(1) not later than 12 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, establish procedures and develop the technical capability for processing applications for such licenses;

"(2) to the extent practicable, complete all activities associated with the review and processing of any application for such a license (except for public hearings) no later than 15 months after the date of receipt of such application; and

"(3) to the extent practicable, consolidate all required technical and environmental reviews and public hearings.

"SEC. 10. RADIOACTIVE WASTE BELOW REGULATORY CONCERN.

"(a) Not later than 6 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commission shall establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

"(b) The standards and procedures established by the Commission pursuant to subsection (a) shall set forth all information required to be submitted to the Commission by licensees in support of such petitions, including, but not limited to—

"(1) a detailed description of the waste materials, including their origin, chemical composition, physical state, volume, and mass; and

"(2) the concentration or contamination levels, half-lives, and identities of the radionuclides present.

Such standards and procedures shall provide that, upon receipt of a petition to exempt a specific radioactive waste stream from regulation by the Commission, the Commission shall determine in an expeditious manner whether the concentration or quantity of radionuclides present in such waste stream requires regulation by the Commission in order to protect the public health and safety. Where the Commission determines that regulation of a radioactive waste stream is not necessary to protect the public health and safety, the Commission shall take such steps as may be necessary, in an expeditious manner, to exempt the disposal of such radioactive waste from regulation by the Commission.

"SEC. 11. REGULATION OF COMMERCIAL LOW-LEVEL WASTE SITES UNDER RCRA.

"(a) Not later than 90 days after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Nuclear Regulatory Commission and the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as 'the Administrator') shall jointly identify and publish in the Federal Register a list of all substances identified or listed as hazardous waste under section 3001 of the Solid Waste Disposal Act and subject to regulation under that Act that are low-level radioactive waste subject to section 3(a) of this Act or are being disposed of at low-level radioactive waste disposal facilities licensed by the Commission or by an Agreement State pursuant to an agreement with the Commission under section 274 of the Atomic Energy Act (42 U.S.C. 2021). For each such substance, the Commission and the Administrator shall jointly identify the source of generation, the volume, concentration, composition, hazard, and other relevant characteristics of such substance, and the facility or facilities at which such substance is currently or has recently been disposed of. Such list shall be periodically reviewed and revised as necessary.

"(b) If the Nuclear Regulatory Commission and the Administrator determine that disposal (or treatment and disposal) of a substance identified under subsection (a) at a facility meeting only—

"(1) the requirements of subtitle C of the Solid Waste Disposal Act, or

"(2) the requirements established by the Nuclear Regulatory Commission for the licensing and regulation of the disposal of low-level radioactive waste;

is adequate to protect public health and safety and to protect human health and the environment, disposal (or treatment and disposal) of such substance at such a facility shall constitute compliance with the requirements for proper disposal of such substance and for the licensing and regulation of such facility with respect to the disposal (or treatment and disposal) of such substance under both subtitle C of the Solid Waste Disposal Act and the Atomic Energy Act.

"(c)(1) Not later than 180 days after the date of publication in the Federal Register of the list of hazardous wastes identified pursuant to subsection (a) that may not be disposed of (or treated and disposed of) at a facility identified pursuant to subsection (b), the Administrator shall identify what specific requirements, if any, based on subtitle C of the Solid Waste Disposal Act, in addition to those established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities, are necessary for the disposal (or treatment and disposal) of each such substance to protect human health and the environment. The Administrator shall promptly transmit such identification to the Nuclear Regulatory Commission, together with a statement of the basis for such judgment and the views of the Administrator on the consistency of such requirements with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act.

"(2) Not later than 90 days after receipt of information transmitted under paragraph (1), the Nuclear Regulatory Commission shall review and evaluate such information and, after considering the views of the Administrator, shall make a determination as to whether the requirements identified under paragraph (1) are not inconsistent with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act. Where the Commission determines that such requirements are not inconsistent with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act, not later than 90 days after such determination, the Commission shall take such steps as might be necessary, either in rulemaking or in individual licensing procedures for specific facilities, to impose such requirements on each such facility that proposes to accept any substance identified pursuant to subsection (a) for which such requirements are applicable. A facility in compliance with such modified requirements shall be deemed to be in compliance with subtitle C of the Solid Waste Disposal Act.

"(3) If the Commission determines under paragraph (2) that any requirements identified by the Administrator under paragraph (1) cannot be applied at a particular facility in a manner not inconsistent with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act, the Commission is authorized to prohibit the disposal of substances for which such requirements are identified by the Administrator as necessary at such facility or in any low-level radioactive waste disposal facility licensed and regulated by the Commission or by an Agreement State.

"(d) For the purposes of judicial review, the identification of a facility under subsection (b), the imposition of requirements or failure to impose requirements in accordance with subsection (c)(2), and the prohibition of disposal under subsection (c) shall be considered final agency actions.".

TITLE II—OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

SEC. 201. SHORT TITLE.

This Title may be cited as the "'Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act".

Subtitle A—General Provisions

SEC. 211. CONGRESSIONAL FINDING.

The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

The consent of the Congress to each of the compacts set forth in subtitle B—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended; and

(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

SEC. 213. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to any compact set

forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

Subtitle B—Congressional Consent to Compacts

SEC. 221. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

The consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

"ARTICLE I—POLICY AND PURPOSE

"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

"ARTICLE II—DEFINITIONS

"As used in this compact:

"(1) 'Facility' means any site, location structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

"(2) 'Low-level waste' means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

"(3) 'Generator' means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

"(4) 'Host state' means a state in which a facility is located.

"ARTICLE III—REGULATORY PRACTICES

"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within it borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

"(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority impose additional or more stringent standards on generators or carriers than those required under this article.

"ARTICLE IV—REGIONAL FACILITIES

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

"(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

"(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

"(A) The generator's name and address;

"(B) A description of the contents of the low-level waste container.

"(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable Federal regulations and such additional requirements as may be imposed by the host state;

"(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

"(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

"(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generations in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

"(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are not, including adequate bonding.

ARTICLE V—NORTHWEST LOW-LEVEL WASTE COMPACT COMMITTEE

"The governor of each party state shall designate one (1) official of that state as the person responsible for administration of his compact. The officials so designated shall together comprise the northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two thirds (⅔) vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

"ARTICLE VI—ELIGIBLE PARTIES AND EFFECTIVE DATE

"(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

"(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session its legislature or July 1, 1983, whichever occurs first, unless the com-

pact has by then been enacted as a statute by that state.

"(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in public law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

"ARTICLE VII—SEVERABILITY

"If any provision of this compact, or its application to any person or circumstances, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable."

SEC. 22. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows:

"CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

"ARTICLE I. POLICY AND PURPOSE

"The party states recognize that each state is responsible for the management of its non-Federal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573) has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states.

"ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a. 'Commission' means the Central Interstate Low-Level Radioactive Waste Commission;

"b. 'disposal' means the isolation and final disposition of waste;

"c. 'extended care' means the care of a regional facility including necessary corrective measures subsequent to its active use for waste management until such time as the regional facility no longer poses a threat to the environment or public health;

"d. 'facility' means any site, location, structure or property used or to be used for the management of waste;

"e. 'generator' means any person who, in the course of or as incident to manufacturing, power generation, processing, medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. 'Generator' does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

"f. 'host state' means any party state in which a regional facility is situated or is being developed;

"g. 'low-level radioactive waste' or 'waste' means, as defined in the Low-Level Radioactive Waste Policy Act (Public Law 96-573), radioactive waste not classified as: High-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954, as amended through 1978.

"h. 'management of waste' means the storage, treatment or disposal of waste;

"i. 'notification of each party state' means transmittal of written notice to the Governor, presiding officer of each legislative body and any other person designated by the party state's Commission member to receive such notice;

"j. 'party state' means any state which is a signatory party to this compact;

"k. 'person' means any individual, corporation, business enterprise, or other legal entity, either public or private;

"l. 'region' means the area of the party states;

"m. 'regional facility' means a facility which is located within the region and which has been approved by the Commission for the benefit of the party States;

"n. 'site' means any property which is owned or leased by a generator and is contiguous to or divided only by a public or private way from the source of generation;

"o. 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands or any other territorial possession of the United States;

"p. 'storage' means the holding of waste for treatment or disposal; and

"q. 'treatment' means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safe for transport or management, amenable for recovery, convertible to another usable material, or reduced in volume.

"ARTICLE III. RIGHTS AND OBLIGATIONS

"a. There shall be provided within the region one or more regional facilities which together provide sufficient capacity to manage all wastes generated within the region. It shall be the duty of regional facilities to accept compatible wastes generated in and from a party state, and meeting the requirements of this Act, and each party state shall have the right to have the wastes generated within its borders managed at such facility.

"b. To the extent authorized by Federal law and host State law, a host state shall regulate and license any regional facility within its borders and ensure the extended care of such facility.

"c. Rates shall be charged to any user of the regional facility set by the operator of a regional facility and shall be fair and reasonable and be subject to the approval of the host state. Such approval shall be based upon criteria established by the Commission.

"d. A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to section c. of this Article, for any regional facility within its borders. Such fees shall be reasonable and shall provide the host state with sufficient revenue to cover any costs associated with such facilities. If such fees have been reviewed and approved by the Commission and to the extent that such revenue is insufficent, all party states shall share the costs in a manner to be determined by the Commission.

"e. To the extent authorized by Federal law, each party state is responsible for enforcing any applicable Federal and state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders and shall adopt practices that will ensure that waste shipments originating within its borders and destined for a regional facility will conform to applicable packaging and transportation laws and regulations.

"f. Each party state has the right to rely on the good faith performance of each other party state.

"g. Unless authorized by the Commission, it shall be unlawful after January 1, 1986, for any person:

"1. To deposit at a regional facility, waste not generated within the region;

"2. to accept, at a regional facility, waste not generated within the region;

"3. to export from the region, waste which is generated within the region; and

"4. to transport waste from the site at which it is generated, except to a regional facility.

"ARTICLE IV. THE COMMISSION

"a. There is hereby established the Central Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one voting member from each party state to be appointed according to the laws of each state. The appointing authority of each party state shall notify the Commission in writing of the identity of its member and any alternates. An alternate may act on behalf of the member only in the absence of such member. Each state is responsible for the expenses of its member of the Commission.

"b. Each Commission member shall be entitled to one vote. Unless otherwise provided herein, no action of the Commission shall be bonding unless a majority of the total membership casts its vote in the affirmative.

"c. The Commission shall elect from among its membership a chairman. The Commission shall adopt and publish, in convenient form, by-laws and policies which are not inconsistent with this compact.

"d. The Commission shall meet at least once a year and shall also meet upon the call of the chairman, by petition of a majority of the membership or upon the call of a host state member.

"e. The Commission may initiate any proceedings or appear as an intervenor or party in interest before any court of law, or any Federal, state or local agency, board or commission that has jurisdiction over any matter arising under or relating to the terms of the provisions of this compact. The Commission shall determine in which proceedings it shall intervene or otherwise appear and may arrange for such expert testimony, reports, evidence or other participation in such proceedings as may be necessary to represent its views.

"f. The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of waste.

"g. The Commission may employ and compensate a staff limited only to those persons necessary to carry out its duties and functions. The Commission may also contract

with and designate any person to perform necessary functions to assist the Commission. Unless otherwise required by the acceptance of a Federal grant, the staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the Federal government and shall be compensated from funds of the Commission.

"h. Funding for the Commission shall be as follows:

"1. The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Party states shall equally contribute to the Commission budget on an annual basis, an amount not to exceed $25,000 until surcharges are available for that purpose. Host states shall begin imposition of the surcharges provided for in this section as soon as practicable and shall remit to the Commission funds resulting from collection of such surcharges within 60 days of their receipt; and

"2. Each state hosting a regional facility shall annually levy surcharges on all users of such facilities, based on the volume and characteristics of wastes received at such facilities, the total of which:

"(A) Shall be sufficient to cover the annual budget of the Commission; and

"(B) shall be paid to the Commission, provided, however, that each host state collecting such surcharges to cover the administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

"i. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by this Article.

"j. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services, conditional or otherwise from any person and may receive, utilize and dispose of same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

"k. (1) Except as otherwise provided herein, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any casual or other relationships. Generators, transporters of waste, owners and operators of facilities shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto.

"(2) The Commission herein established in a legal entity separate and distinct from the party states and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken by them in their official capacity.

"l. Any person or party state aggrieved by a final decision of the Commission may obtain judicial review of such decisions in the United States District Court in the District wherein the Commission maintains its headquarters by filing in such court a petition for review within 60 days after the Commission's final decision. Proceedings thereafter shall be in accordance with the rules of procedure applicable in such court.

"m. The Commission shall:

"1. Receive and approve the application of a non-party state to become a party state in accordance with Article VII;

"2. submit an annual report, and otherwise communicate with, the Governors and the presiding officers of the legislative bodies of the party states regarding the activities of the Commission;

"3. hear and negotiate disputes which may arise between the party states regarding this compact;

"4. require of and obtain from the party states, and non-party states seeking to become party states, data and information necessary to the implementation of Commission and party states' responsibilities;

"5. approve the development and operation of regional facilities in accordance with Article V;

"6. notwithstanding any other provision of this compact, have the authority to enter into agreements with any person for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import or export waste requires the approval of the Commission, including the affirmative vote of any host state which may be affected;

"7. revoke the membership of a party state in accordance with Articles V and VII;

"8. require all party states and other persons to perform their duties and obligations arising under this compact by an approprite action in any forum designated in section e. of Article IV; and

"9. take such action as may be necessary to perform its duties and functions as provided in this compact.

"ARTICLE V. DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

"a. Following the collection of sufficient data and information from the states, the Commission shall allow each party state the opportunity to volunteer as a host for a regional facility.

"b. If no state volunteers or if no proposal identified by a volunteer state is deemed acceptable by the Commission, based on the criteria in section c. of this Article, then the Commission shall publicly seek applicants for the development and operation of regional facilities.

"c. The Commission shall review and consider each applicant's proposal based upon the following criteria:

"1. The capability of the applicant to obtain a license from the applicable authority;

"2. the economic efficiency of each proposed regional facility, including the total estimated disposal and treatment costs per public foot of waste;

"3. financial assurances;

"4. accessibility to all party states; and

"5. such other criteria as shall be determined by the Commission to be necessary for the selection of the best proposal, based on the health, safety and welfare of the citizens in the region and the party states.

"d. The Commission shall make a preliminary selection of the proposal or proposals considered most likely to meet the criteria enumerated in section c. and the needs of the region.

"e. Following notification of each party state of the results of the preliminary selection process, the Commission shall:

"1. Authorize any person whose proposal has been selected to pursue licensure of the regional facility or facilities in accordance with the proposal originally submitted to the Commission or as modified with the approval of the Commission; and

"2. require the appropriate state or states or the U.S. Nuclear Regulatory Commission to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed application is submitted.

"f. The preliminary selection or selections made by the Commission pursuant to this Article shall become final and receive the Commission's approval as a regional facility upon the issuance of license by the licensing authority. If a proposed regional facility fails to become licensed, the Commission shall make another selection pursuant to the procedures identified in this Article.

"g. The Commission may, by two-thirds affirmative vote of its membership, revoke the membership of any party state which, after notice and hearing, shall be found to have arbitrarily or capriciously denied or delayed the issuance of a license or permit to any person authorized by the Commission to apply for such license or permit. Revocation shall be in the same manner as provided for in section e. of Article VII.

"ARTICLE VI. OTHER LAWS AND REGULATIONS

"a. Nothing in this compact shall be construed to:

"1. Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any Federal agency expressly conferred thereon by the Congress;

"2. prevent the application of any law which is not otherwise inconsistent with this compact;

"3. prohibit or otherwise restrict the management and waste on the site where it is generated if such is otherwise lawful;

"4. affect any judicial or administrative proceeding pending on the effective date of this compact;

"5. alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions; and

"6. affect the generation or management of waste generated by the Federal government or federal research and development activities.

"b. No party state shall pass or enforce any law or regulation which is inconsistent with this compact.

"c. All laws and regulations or parts thereof of any party state which are inconsistent with this compact are hereby declared null and void for purposes of this compact. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to enactment of this compact shall not be affected.

"d. No law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

"ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a. This compact shall have as initially eligible parties the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota and Oklahoma. Such initial eligibility shall terminate on January 1, 1984.

"b. Any state may petition the Commission for eligibility. A petitioning state shall become eligible for membership in the com-

pact upon the unanimous approval of the Commission.

"c. An eligible state shall become a member of the compact and shall be bound by it after such state has enacted the compact into law. In no event shall the compact take effect in any state until it has been entered into force as provided for in section f. of this Article.

"d. Any party state may withdraw from this compact by enacting a statute repeating the same. Unless permitted earlier by unanimous approval of the Commission, such withdrawal shall take effect five-years after the Governor of the withdrawing state has given notice in writing of such withdrawal to each Governor of the party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

"e. Any party state which fails to comply with the terms of this compact or fulfill its obligations hereunder may, after notice and hearing, have its privileges suspended or its membership in the compact revoked by the Commission. Revocation shall take effect one year from the date such party state receives written notice from the Commission of its action. The Commission may require such party state to pay to the Commission, for a period not to exceed five-years from the date of notice of revocation, an amount determined by the Commission based on the anticipated fees which the generators of such party state would have paid to each regional facility and an amount equal to that which such party state would have contributed in accordance with section d. of Article III, in the event of insufficient revenues. The Commission shall use such funds to ensure the continued availability of safe and economical waste management facilities for all remaining party states. Such state shall also pay an amount equal to that which such party state would have contributed to the annual budget of the Commission if such party state would have remained a member of the compact. All legal rights established under this compact of any party state which has its membership revoked shall cease upon the effective date of revocation; however, any legal obligations of such party state arising prior to the effective date of revocation shall not cease until they have been fulfilled. Written notice of revocation of any state's membership in the company shall be transmitted immediately following the vote of the Commission, by the chairman, to the Governor of the affected party state, all other Governors of the party states and the Congress of the United States.

"f. This compact shall become effective after enactment by at least three eligible states and after consent has been given to it by the Congress. The Congress shall have the opportunity to withdraw such consent every five-years. Failure of the Congress to withdraw its consent affirmatively shall have the effect of renewing consent for an additional five-year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this Article and to the power to ban the exportation of waste pursuant to Article III.

"g. The withdrawal of a party state from this compact under section d. of this Article or the revocation of a state's membership in this compact under section 3. of this Article shall not affect the applicability of this compact to the remaining party states.

"h. This compact shall be terminated when all party states have withdrawn pursuant to section d. of this Article.

"ARTICLE VIII. PENALTIES

"a. Each party state, consistent with its own law, shall prescribe and enforce penalties against any person for violation of any provision of this compact.

"b. Each party state acknowledges that the receipt by a regional facility of waste packaged or transported in violation of applicable laws and regulations can result in sanctions which may include suspension or revocation of the violator's right of access to the regional facility.

"ARTICLE IX. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.".

SEC. 223. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

ARTICLE I

POLICY AND PURPOSE

There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party States recognize and declare that each state is responsible for providing for the availability of capacity either within or outside the State for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

It is the policy of the party states to: enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort; provide sufficient facilities for the proper management of low-level radioactive waste generated in the region; promote the health and safety of the region; limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region; encourage the reduction of the amounts of low-level waste generated in the region; distribute the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states; and ensure the ecological and economical management of low-level radioactive wastes.

Implicit in the Congressional consent to this compact is the expectation by Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations, and laws;

2. imposing sanctions against those found to be in violation of federal rules, regulations, and laws;

3. timely inspection of their licensees to determine their capability to adhere to such rules, regulations, and laws;

4. timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act, as amended.

ARTICLE 2

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction;

1. 'Commission' or 'Compact Commission' means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

2. 'Facility' means a parcel of land, together with the structure, equipment, and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

3. 'Generator' means any person who produces or processes low-level radioactive waste in the course of, or as an incident to, manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This does not include persons who provide a service to generators by arranging for the collection, transportation, storage, or disposal of wastes with respect to such waste generated outside the region.

4. 'High-level waste' means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted, and other high-level radioactive waste as defined by the U.S. Nuclear Regulatory Commission.

5. 'Host state' means any state in which a regional facility is situated or is being developed.

6. 'Low-level radioactive wastes' or 'waste' means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e, (2) of the Atomic Energy Act of 1954, or as may be further defined by Federal law or regulation.

7. 'Party state' means any state which is a signatory party to this compact.

8. 'Person' means any individual, corporation, business enterprise, or other legal entity (either public or private).

9. 'Region' means the collective party states.

10. 'Regional facility' means (1) a facility as defined in this article which has been

designated, authorized, accepted, or approved by the Commission to receive waste or (2) the disposal facility in Barnwell County, South Carolina, owned by the State of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982, but in no event shall this disposal facility serve as a regional facility beyond December 31, 1992.

11. 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

12. 'Transuranic wastes' means waste material containing transuranic elements with contamination levels as determined by the regulations of (1) the U.S. Nuclear Regulatory Commission or (2) any host state, if it is an agreement state under Section 274 of the Atomic Energy Act of 1954.

13. 'Waste management' means the storage, treatment, or disposal of waste.

ARTICLE 3

RIGHTS AND OBLIGATIONS

The rights granted to the party states by this compact are additional to the rights enjoyed by sovereign states, and nothing in this compact shall be construed to infringe upon, limit, or abridge those rights.

(A) Subject to any license issued by the U.S. Nuclear Regulatory Commission or a host state, each party state shall have the right to have all wastes generated within its borders stored, or disposed of, as applicable, at regional facilities and, additionally, shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to article 4(e)(9). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal law and regulation.

(B) If no operating regional facility is located within the borders of a party state and the waste generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host state or states and approved by a two-thirds vote of the Commission.

(C) Each party state must establish the capability to regulate, license, and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent post-closure observation and maintenance, and the extended institutional control of their regional facilities in accordance with the provisions of Article 5, Section (b)

(D) Each party state must establish the capability to enforce any applicable federal or state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

(E) Each party state must provide to the Commission on an annual basis any data and information necessary to the implementation of the Commission's responsibilities. Each party state shall establish the capability to obtain any data and information necessary to meet its obligation.

(F) Each party state must, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volumes of waste requiring disposal.

ARTICLE 4

THE COMMISSION

(A) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission ('Commission' or 'Compact Commission'). The Commission shall consist of two voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the Commission in writing of the identity of its members and any alternates. An alternate may act on behalf of the member only in the member's absence.

(B) Each commission member is entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

(C) The Commission must elect from among its members a presiding officer. The Commission shall adopt and publish, in convenient form, bylaws which are consistent with this compact.

(D) The Commission must meet at least once a year and also meet upon the call of the presiding officer, by petition of a majority of the party states, or upon the call of a host state. All meetings of the Commission must be open to the public.

(E) The Commission has the following duties and powers:

1. To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(b).

2. To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(c).

3. To submit an annual report and other communications to the Governors and to the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

4. To develop and use procedures for determining, consistent with consideration for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

5. To provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities.

6. To develop and adopt, within one year after the Commission is constituted as provided in Article 7(d) procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this article. In accordance with these procedures and criteria, the Commission shall identify a host state for the development of a second regional disposal facility within three years after the Commission is constituted as provided for in Article 7(d), and shall seek to ensure that such facility is licensed and ready to operate as soon as required but in no event later than 1991.

In developing criteria, the Commission must consider the following; the health, safety, and welfare of the citizens of the party states; the existence of regional facilities within each party state; the minimization of waste transportation; the volumes and types of wastes generated within each party state; and the environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

The Commission shall conduct such hearings, require such reports, studies, evidence, and testimony, and do what is required by its approved procedures in order to identify a party state as a host state for a needed facility.

7. In accordance with the procedures and criteria developed pursuant to Section (e)(6) of this Article, to designate, by a two-thirds vote, a host state for the establishment of a needed regional facility. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facility. The Commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility.

8. To require of and obtain from party states, eligible states seeking to become party states, and nonparty states seeking to become eligible states, data and information necessary to the implementation of Commission responsibilities.

9. Notwithstanding any other provision of this compact, to enter into agreements with any person, state, or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. The authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of both representatives of a host state in which any affected regional facility is located. This shall be done only after an assessment of the affected facility's capability to handle such wastes.

10. To act or appear on behalf of any party state of states, only upon written request of both members of the Commission for such state or states as an intervenor or party in interest before Congress, state legislatures, any court of law, or any federal, state, or local agency, board, or commission which has jurisdiction over the management of wastes. The authority to act, intervene, or otherwise appear shall be exercised by the Commission, only after approval by a majority vote of the Commission.

11. To revoke the membership of a party state in accordance with Article 7(f).

F. The Commission may establish any advisory committees as it deems necessary for the purpose of advising the Commission on any matters pertaining to the management of low-level radioactive waste.

G. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel, or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the Commission. If the Commission has a headquarters it shall be in a party state.

H. Funding for the Commission must be provided as follows:

1. Each eligible state, upon becoming a party state, shall pay twenty-five thousand dollars to the Commission which shall be used for costs of the Commission's services.

2. Each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of wastes disposed of at such facilities, the total of which:

a. must be sufficient to cover the annual budget of the Commission;

b. must represent the financial commitments of all party states to the Commission;

c. must be paid to the Commission;

Provided, however, That each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection and that the remainder be sufficient only to cover the approved annual budgets of the Commission.

3. The Commission must set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities must begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states and must remit to the Commission funds resulting from collection of such special fees and surcharges within sixty days of their receipt.

I. The Commission must keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursement of Commission funds and submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by Article 4(e)(3).

J. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state, or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount, and condition, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor, or lender shall be detailed in the annual report to the Commission.

K. The Commission is not responsible for any costs associated with:

(1) the creation of any facility,

(2) the operation of any facility,

(3) the stabilization and closure of any facility,

(4) the post-closure observation and maintenance of any facility, or

(5) the extended institutional control, after post-closure observation and maintenance of any facility.

(L) As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within nonparty states when authorized by the Commission pursuant to the provisions of this compact. After January 1, 1986, the Commission may prohibit the exportation of waste from the region for the purposes of management.

M. 1. The Commission herein established is a legal entity separate and distinct from the party states capable of acting in its own behalf and is liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not personally be liable for action taken by them in their official capacity.

2. Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators and transporters of wastes and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

ARTICLE 5

DEVELOPMENT AND OPERATION OF FACILITIES

A. Any party state which becomes a host state in which a regional facility is operated shall not be designated by the Compact Commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the Commission, to have a regional facility operated within its borders.

B. A host state desiring to close a regional facility located within its borders may do so only after notifying the Commission in writing of its intention to do so and the reasons therefor. Such notification shall be given to the Commission at least four years prior to the intended date of closure. Notwithstanding the four-year notice requirement herein provided, a host state is not prevented from closing its facility or establishing conditions of its use and operations as necessary for the protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines that Congress has materially altered the conditions of this compact.

C. Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

D. No party state shall have any form of arbitrary prohibition on the treatment, storage, or disposal of low-level radioactive waste within its borders.

ARTICLE 6

OTHER LAWS AND REGULATIONS

(A) Nothing in this compact shall be construed to:

(1) Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress.

(2) Abrogate or limit the regulatory responsibility and authority of the U.S. Nuclear Regulatory Commission or of an agreement state under Section 274 of the Atomic Energy Act of 1954 in which a regional facility is located.

(3) Make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact.

(4) Make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective, except that any such facility shall comply with Article 3, Article 4, and Article 5 and shall be subject to any action lawfully taken pursuant thereto.

(5) Prohibit any storage or treatment of waste by the generator on its own premises.

(6) Affect any judicial or administrative proceeding pending on the effective date of this compact.

(7) Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions.

(8) Affect the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the Secretary of the United States Department of Energy or federal research and development activities as defined in Public Law 96-573.

(9) Affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

B. No party shall pass any law or adopt any regulation which is consistent with this compact. To do so may jeopardize the membership status of the party state.

C. Upon formation of the compact no law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

D. Restrictions of waste mangement of regional facilities pursuant to Article 4 shall be enforceable as a matter of state law.

ARTICLE 7

ELIGIBLE PARTIES; WITHDRAWAL; REVOCATION; ENTRY INTO FORCE; TERMINATION

A. This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

B. Any state not expressly declared eligible to become a party state to this compact in Section (A) of this Article may petition the Commission, once constituted, to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to such provisions of this section. Upon satisfactorily meeting the conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the manner as those states declared eligible in Section (a) of this Article.

C. Each state eligible to become a party state to this compact shall be declared a party state be declared a party state upon enactment of this compact into law by the state and upon payment of the fees required by Article 4(H)(1). The Commission is the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

D. 1. The first three states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by Article 4(H)(1) shall immediately, upon the appointment of their Commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission; shall cause legislation to be introduced in Congress which grants the consent of Congress to this compact; and shall do those things necessary to organize the commission and implement the provisions of this compact.

2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of Section (C) of this Article.

3. The consent of Congress shall be required for the full implementation of this compact. The provisions of Article 5 Section (D) shall not become effective until the effective date of the import ban authorized by Article 4, Section (L) as approved by Congress. Congress may by law withdraw its consent only every five years.

E. No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the Compact Commission for eligible state status or party state status.

F. Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the Commission, including suspension of its rights under this compact and revocation of its status as a party state. Any sanction shall be imposed only upon the affirmative vote of at least two-thirds of the Commission members. Revocation of party state status may take effect on the date of the meeting at which the Commission approves the resolution imposing such sanction, but in no event shall revocation take effect later than ninety days from the date of such meeting. Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the Commission imposing the sanction.

The Commission must, as soon as practicable after the meeting at which a resolution revoking status as a party state is approved, provide written notice of the action, along with a copy of the resolution, to the Governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states, as well as chairman of the appropriate committees of Congress.

G. Any party state may withdraw from the compact by enacting a law repealing the compact; provided, that if a regional facility is located within such a state, such regional facility shall remain available to the region for four years after the date the Commission receives notification in writing from the governor of such party state of the rescission of the compact. The Commission, upon receipt of the notification, shall as soon as practicable provide copies of such notification to the Governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states as well as the chairman of the appropriate committees of Congress.

H. This compact may be terminated only by the affirmative action of Congress or by the rescission of all laws enacting the compact in each party state.

ARTICLE 8

PENALTIES

A. Each party state, consistenly with its own law, shall prescribe and enforce penalties against any person not an official of another state for violation of any provisions of this compact.

B. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

ARTICLE 9

SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any State participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

SEC. 224. CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"ARTICLE I, POLICY AND PURPOSE

"There is created the Central Midwest Interstate Low-Level Radioactive Waste Compact.

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that Congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

"a) It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

"1) providing the instrument and the framework for a cooperative effort;

"2) providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

"3) protecting the health and safety of the citizens of the region;

"4) limiting the number of facilities required to manage low-level radioactive waste generated in the region effectively and efficiently;

"5) promoting the volume and source reduction of low-level radioactive waste generated in the region;

"6) distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste;

"7) ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste; and

"8) promoting the use of above-ground facilities and other disposal technologies providing greater and safer confinement of low-level radicactive waste than shallow-land burial facilities.

"b) Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

"1) expeditious enforcement of federal rules, regulations and laws;

"2) imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

"3) timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a) 'Commission' means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

"b) 'Decommissioning' means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

"c) 'Disposal' means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"d) 'Eligible state' means either the State of Illinois or the Commonwealth of Kentucky.

"c) 'Extended care' means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or clean-up necessary to protect public health and the environment from radioactive releases from a regional facility.

"f) 'Facility' means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"g) 'Generator' means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste.

"h) 'Host state' means any party state that is designated by the Commission to host a regional facility, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state.

"i) 'Institutional control' means those activities carried out by the host state to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator to the state or federal government. These activities must include, but need not be limited to, environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state, and administration of funds to cover the costs for these activities. The period of institutional control will be determined by the host state, but institutional control may not be relied upon for more than 100 years following transfer of control of the disposal site to the state or federal government.

"j) 'Long-term liability' means the financial obligation to compensate any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and to provide for the costs for accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility.

"k) 'Low-level radioactive waste' or 'waste' means radioactive waste not classified as (1) high-level readioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) byproduct material as defined in Section 11e. (2) of the Atomic Energy Act of 1954.

"1) 'Management plan' means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

"m) 'Manifest' means a shipping document identifying the generator of waste, the volume of waste, the quantity of radionuclides in the shipment, and such other information as may be required by the appropriate regulatory agency.

"n) 'Party state' means any eligible state which enacts the compact into law and pays the membership fee.

"o) 'Person' means any individual, corporation, business enterprise or other legal entity, either public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"p) 'Region' means the geographical area of the party states.

"q) 'Regional facility' means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

"r) 'Shallow-land burial' means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface; however, this definition shall not include an enclosed, engineered, strongly structurally enforced and solidified bunker that extends below the earth's surface.

"s) 'Site' means the geographic location of a facility.

"t) 'Source reduction' means those administrative practices that reduce the radionuclide levels in low-level radioactive waste or that prevent the generation of additional low-level radioactive waste.

"u) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

"v) 'Storage' means the temporary holding of waste for treatment or disposal.

"w) 'Treatment' means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

"x) 'Volume reduction' means those methods including, but not limited to, biological, chemical, mechanical and thermal methods used to reduce the amount of space that waste materials occupy and to put them into a form suitable for storage or disposal.

"y) 'Waste management' means the source and volume reduction, storage, transportation, treatment or disposal of waste.

"ARTICLE III. THE COMMISSION

"a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting members from each state eligible to be a host state, one voting member from any other party state, and an ex officio non-voting member who is a member of the County Board of or who is a County Commissioner of each host county. The Governor of each party state shall notify the Commission in writing of its members and any alternates.

"b) Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership casts its vote in the affirmative.

"c) The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, by-laws and policies that are not inconsistent with this compact, including procedures that conform with the provisions of the Federal Administrative Procedure Act (5 U.S.C. ss. 500 to 559) to the greatest extent practicable in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

"d) The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or a Commission member.

"e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any member or the presiding officer.

"f) The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management, waste generation and source and volume reduction.

"g) The Office of the Commission shall be in the first state eligible to be a host state. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

"h) All files, records and data of the Commission shall be open to reasonable public inspection and may be copied upon payment of reasonable fees to be established where appropriate by the Commission, except for information privileged against introduction in judicial proceedings. Such fees may be waived or shall be reduced substantially for not-for-profit organizations.

"i) The Commission may:

"1) Enter into an agreement or contract with any person, state or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. No person may use a regional facility for waste generated outside the region unless both a majority of the members of the Commission and all members from the host state in which any affected regional facility is located vote in favor of permitting such use. No person in the region may use a storage, treatment or disposal facility outside the region without prior Commission approval. No such agreement or contract shall be valid unless specifically approved by a law enacted by the legislature of the host state.

"2) Approve the disposal of waste generated within the region at a facility other than a regional facility.

"3) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"4) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"5) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"6) Suspend the privileges or revoke the membership of a party state.

"j) The Commission shall:

"1) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

"2) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"3) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

"4) Adopt an annual budget.

"k) Funding of the budget of the Commission shall be provided as follows:

"1) Each state, upon becoming a party state, shall pay $50,000 to the Commission which shall be used for the administrative costs of the Commission.

"2) Each state hosting a regional facility shall levy surcharges on each user of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

"A) be sufficient to cover the annual budget of the Commission; and

"B) be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficent to cover its administrative costs of collection.

"1) The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds and to submit an audit report to the Commission. The audit report

shall be made a part of the annual report of the Commission required by this Article.

"m) The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state of the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall establish guidelines for the acceptance of donations, grants, equipment, supplies, materials and services and shall review such guidelines annually.

"n) The Commission is not liable for any cost associated with any of the following:

"1) the licensing and construction of any facility;

"2) the operation of any facility;

"3) the stabilization and closure of any facility;

"4) the extended care of any facility;

"5) the institutional control, after extended care of any facility or

"6) the transportation of waste to any facility.

"o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Members of the Commission are not personally liable for actions taken by them in their official capacity.

"p) Except as provided under Sections (n) and (o) of this Article, nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any casual or other relationships.

"q) Any person aggrieved by a final decision of the Commission, which adversely affects the legal rights, duties or privileges of such person, may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decision.

"ARTICLE IV. REGIONAL MANAGEMENT PLAN

"The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

"a) Adopt procedures for determining, consistent with consideration of public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

"b) Develop and adopt policies promoting source and volume reduction of waste generated within the region.

"c) Develop alternative means for the treatment, storage and disposal of waste, other than shallow-land burial or under ground injection well.

"d) Prepare a draft regional management plan that shall be made available in a convenient form to the public for comment. The Commission shall conduct one or more public hearings in each party state prior to the adoption of the regional management plan. The regional management plan shall include the Commission's response to public and party state comment.

"ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

"a) Each party state shall act in good faith in the performance of acts and courses and conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

"b) Other than the provisions of Article V(f), each party state has the right to have all wastes generated within borders managed at regional facilities subject to the provisions contained in Article IX(b) and IX(c). All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III(i)(1).

"c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III(i)(1).

"d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this Section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"e) Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

"f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to the regional facility for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and shall not be subject to the provisions of this compact.

"ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

"a) Any party state may volunteer to become a host state, and the Commission may designate that state as a host state.

"b) If all regional facilities required by the regional management plan are not developed pursuant to Section (a), or upon notification that an existing regional facility will be closed, the Commission may designate a host state.

"c) A party state shall not be selected as a host state for any regional facility unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"d) Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, engineering and economic viability of possible facility locations.

"e) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

"f) After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

"g) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

"h) The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determined that an additional regional facility is or may be required to meet the needs of the region.

"i) Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is shorter. Upon request of a host state, the Commission may modify the period of its designation.

"j) A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to the planning, siting, licensure, operation, preclosure corrective action or clean-up, monitoring, inspection, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may provide for payment to units of local government affected by a regional facility for costs incurred in connection with such facility. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. The fee system shall include incentives for source or volume reduction and may be based on the hazard of the waste. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission.

"k) A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the extended care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured, unless, pursuant to the federal Nuclear Waste Policy Act of 1982, the federal government has assumed title and custody of the regional facility and the federal government thereby has assumed responsibility to provide for the extended care of such facility.

"l) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"m) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded

on low-level radioactive waste manifests for any year which is less than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"n) A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

"o) The host state shall create an 'Extended Care and Long-Term Liability Fund' and shall allocate sufficient fee revenues, received pursuant to Article VI(j), to provide for the costs of:

"1) decommissioning and other procedures required for the proper closure of a regional facility;

"2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

"3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility; and

"4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Section shall in no manner limit the financial responsibilities of the site operator pursuant to Article VI(p) and the party states, or any other states which contract to dispose of wastes at the regional facility, pursuant to Article VI(q).

"p) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(o) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.

"q) All party states, or any other states which contract to dispose of wastes at the regional facility, shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(o) and from the property and third-party liability insurance as set forth in Article VI(p). A party state may meet such liability for costs by levying surcharges upon generators located in party state. The extent of such liability for such party state shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year.

"ARTICLE VII. OTHER LAWS AND REGULATIONS

"a) Nothing in this compact:

"1) abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

"2) prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

"3) prohibits any storage or treatment of waste by the generator on its own premises;

"4) affects any administrative or judicial proceeding pending on the effective date of this compact;

"5) alters the relations between the respective internal responsibility of the government of a party state and its subdivisions;

"6) affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as defined in 42 U.S.C. 2021;

"7) affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;

"8) requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission; or

"9) alters or limits liability of transporters of waste and owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

"b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

"c) No law, rule, regulation, fee or surcharge of a party state, or of any of its subdivisions or instrumentalities, may be applied in a manner which discriminates against the generators of another party state.

"d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal for waste generated outside the region shall be allowed to dispose of such waste at a regional facility unless specifically approved by the Commission pursuant to the provisions of Article III(i)(1).

"ARTICLE VII, ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a) Eligible parties to this compact are the State of Illinois and Commonwealth of Kentucky. Eligibility terminates on April 15, 1985.

"b) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(k)(1).

"c) The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provision of this compact.

"d) Other than the special circumstances for withdrawal in Section (f) of this Article, either party state may withdraw from this compact at any time by repealing the authorizing legislation, but no withdrawal may take effect until 5 years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of the other state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

"e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region pursuant to Article III(i)(1).

"f) A state which has been designated a host state may withdraw from the compact. The option to withdraw must be exercised within 90 days of the date the governor of the designated state receives written notice of the designation. Withdrawal becomes effective immediately after notice is given in the following manner. The governor of the withdrawing state shall give notice in writing to the Commission and to the governor of each party state. A state which withdraws from the compact under this Section forfeits any funds already paid pursuant to this compact. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

"ARTICLE IX PENALTIES

"a) Each party state shall prescribe and enforce penalities against any person who is not an official of another state for violation of any provision of this compact.

"b) Unless otherwise authorized by the Commission pursuant to Article III(i), after January 1, 1986 it is a violation of this compact:

"1) for any person to deposit at a regional facility waste not generated within the region;

"2) for any regional facility to accept waste not generated within the region;

"3) for any person to export from the region waste which is generated within the region; or

"4) for any person to dispose of waste at a facility other than a regional facility.

"c) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules or regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"d) Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.".

SEC. 225. MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

The consent of Congress is hereby given to the States of Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin to enter into the Midwest Interstate Compact on Low-level Radioactive Waste Management. Such compact is as follows:

"ARTICLE I. POLICY AND PURPOSE

"There is created the Midwest Interstate Low-level Radioactive Waste Compact.

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021 to 2021d), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that the Congress has declared that each state is responsible for providing for availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

"a. It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

"1. Providing the instrument and framework for a cooperative effort;

"2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

"3. Protecting the health and safety of the citizens of the region;

"4. Limiting the number of facilities required to effictively and efficiently manage low-level radioactive waste generated in the region;

"5. Encouraging the reduction of the amounts of low-level radioactive waste generated in ther region;

"6. Distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states, and among generators and other persons who use regional facilities to manage their waste; and

"7. Ensuring the ecological and economical management of low-level radioactive wastes.

"b. Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

"1. Expeditious enforcement of federal rules, regulations and laws;

"2. Imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

"3. Timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

"ARTICLE II DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a. "Care" means the continued observation of a facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.

"b. "Commission" means the Midwest Interstate Low-Level Radioactive Waste Commission.

"c. "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

"d. "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"e. "Eligible state" means a state qualified to be a party state to this compact as provided in Article VIII.

"f. "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"g. "Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste. Generator does not include a person who provides a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region.

"h. "Host state" means any state which is designated by the Commission to host a regional facility.

"i. "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"j. "Management plan" means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

"k. "Party state" means any eligible state which enacts the compact into law.

"l. "Person" means any individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"m. "Region" means the area of the party states.

"n. "Regional facility" means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

"o. "Site" means the geographic location of a facility.

"p. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

"q. "Storage" means the temporary holding of waste for treatment or disposal.

"r. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, covertible to another usable material, or reduced in volume.

"s. "Waste management" means the storage, transportation, treatment, or disposal of waste.

"ARTICLE III. THE COMMISSION

"a. There is hereby created the Midwest Interstate Low-Level Radioactive Waste Commission. The Commission consists of one voting member from each party state. The Governor of each party state shall notify the Commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each Commission member shall be the responsibility of the member's respective state.

"b. Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership cast their vote in the affirmative.

"c. The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, bylaws, and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of federal law on administrative procedure compiled at 5 U.S.C. 500 to 559 in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

"d. The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or a Commission member.

"e. All meetings of the Commission shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all

Commission actions and decisions shall be made in open meetings and appropriately recorded.

"f. The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management.

"g. The office of the Commission shall be in a party state. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

"h. The Commission may:

"1. Enter into an agreement with any person, state, or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the Commission, including the affirmative vote of the member of the host state in which any affected regional facility is located.

"2. Approve the disposal of waste generated within the region at a facility other than a regional facility.

"3. Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"4. Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected.

"5. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with Article VIII.

"i. The Commission shall:

"1. Receive and act on the petition of a nonparty state to become an eligible state.

"2. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

"3. Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"4. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to Article IV, a regional management plan which designates host states for the establishment of needed regional facilities.

"5. Adopt an annual budget.

"j. Funding of the budget of the Commission shall be provided as follows:

"1. Each state, upon becoming a party state, shall pay $50,000 or $1,000 per cubic meter of waste shipped from that state in 1980, whichever is lower, to the Commission which shall be used for the administrative costs of the Commission;

"2. Each state, hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

"(a) Be sufficient to cover the annual budget of the Commission; and

"(b) Represent the financial commitments of all party states to the Commission; and

"(c) Be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

"k. The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds, and to submit an audit report to the Commission. The audit report shall be made part of the annual report of the Commission required by this Article.

"1. The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

"m. The Commission is not liable for any costs associated with any of the following:

"1. The licensing and construction of any facility,

"2. The operation of any facility,

"3. The stabilization and closure of any facility,

"4. The care of any facility,

"5. The extended institutional control, after care of any facility, or

"6. The transportation of waste to any facility.

"n. 1. The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the Commission are not liabilities of the party states. Members of the Commission are not personally liable for actions taken by them in their official capacity.

"2. Except as provided under sections m. and n.1. of this article, nothing in this compact alters liability for any act, omission, course of conduct or liability resulting from any casual or other relationships.

"o. Any person aggrieved by a final decision of the Commission may obtain judicial review of such decision in any court of competent jurisdiction by filing in such court a petition for review within 60 days after the Commission's final decision.

"ARTICLE IV. REGIONAL MANAGEMENT PLAN

"The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

"a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region;

"b. Develop and consider policies promoting source reduction of waste generated within the region;

"c. Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In developing these criteria, the Commission shall consider all the following:

"1. The health, safety, and welfare of the citizens of the party states.

"2. The existence of regional facilities within each party state.

"3. The minimization of waste transportation.

"4. The volumes and types of wastes generated within each party state.

"5. The environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

"d. Conduct such hearings, and obtain such reports, studies, evidence and testimony required by its approved procedures prior to identifying a party state as a host state for a needed regional facility;

"e. Prepare a draft management plan, including procedures, criteria and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the Commission shall conduct a public hearing in that state prior to the adoption of the management plan. The management plan shall include the Commission's response to public and party state comment.

"ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

"a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

"b. Each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in Article IX.c. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III.

"c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III.

"d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"e. Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

"ARTICLE VI. DEVELOPMENT AND OPERATION AND FACILITIES

"a. Any party state may volunteer to become a host state, and the Commission may designate that state as a host state upon a two-thirds vote of its members.

"b. If all regional facilities required by the regional management plan are not developed pursuant to section a., or upon notification that an existing regional facility will

be closed, the Commission may designate a host state.

"c. Each party state designated as a host state is responsibile for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental and economic viability of possible facility locations.

"d. Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

"e. After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

"f. To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

"g. The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region. The Commission shall make this designation following the procedures established under Article IV.

"h. Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the Commission may modify the period of its designation.

"i. A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any cost, including but not limited to the planning, siting, licensure, operation, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may also include reasonable revenue beyond costs incurred for the host state, subject to approval by the Commission. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission. the fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

"j. A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.

"k. A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"l. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational.

"m. A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

"ARTICLE VII. OTHER LAWS AND REGULATIONS

"a. Nothing in this compact:

"1. Abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

"2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

"3. Prohibits any storage or treatment of waste by the generator on its own premises;

"4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

"5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

"6. Affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as described in section 31 of the Atomic Energy Act of 1954 (42 U.S.C. 2051); or

"7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

"8. Requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"9. Alters or limits liability of transporters of waste, owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

"b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

"c. No law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

"ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia and Wisconsin. Eligibility terminates on July 1, 1984.

"b. Any state not eligible for membership in the compact may petition the Commission for eligibility. The Commission may establish appropriate eligibility requirements. These requirements may include but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the Commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the Commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.

"c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III.j.1.

"d. The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by three party states. The Governor of the first state to enact this compact shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provision of this compact.

"e. Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the Governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the Governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

"f. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligatons may have its privileges suspended or its membership in the compact revoked by the Commission in accordance with Article III.h.6. Revocation takes effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the Commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote for the Commission to the governor of the affected party state, all other Governors of the party states and the Congress of the United States.

"g. This compact becomes effective upon enactment by at least three eligible states and consent to this compact by Congress. The Congress shall have an opportunity to withdraw such consent every five years. Failure of the Congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this article and to the power of the Commission to ban the shipment of waste from the region pursuant to Article III.

"h. The withdrawal of a party state from this compact under section e. of this article or the suspension or revocation of a state's membership in this compact under section f. of this article does not affect the applicability of this compact to the remaining party states.

"i. A state which has been designated by the Commission to be a host state has 90 days from receipt by the Governor of written notice of designation to withdraw from the compact without any right to receive

refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. of this article. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

"ARTICLE IX PENALTIES

"a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

"b. Unless otherwise authorized by the Commission pursuant to Article III.h. after January 1, 1986, it is a violation of this compact:

"1. For any person to deposit at a regional facility waste not generated within the region;

"2. For any regional facility to accept waste not generated within the region;

"3. For any person to export from the region waste which is generated within the region; or

"4. For any person to dispose of waste at a facility other than a regional facility.

"c. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"d. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.".

SEC. 226. ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact.

Such compact is substantially as follows:

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

ARTICLE I. FINDINGS AND PURPOSE

(a) The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. Moreover, the party states find that the United States Congress, by enacting the "Low-Level Radioactive Waste Policy Act" (P.L. 96-573), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(b) It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

(a) "Board" means the Rocky Mountain low-level radioactive waste board;

(b) "Carrier" means a person who transports low-level waste;

(c) "Disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;

(d) "Facility" means any property, equipment or structure used or to be used for the management of low-level waste;

(e) "Generate" means to produce low-level waste;

(f) "Host state" means a party state in which a regional facility is located or being developed;

(g) "Low-level waste" or "waste" means radioactive waste other than:

(i) Waste generated as a result of defense activities of the federal government or federal research and development activities;

(ii) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

(iii) Waste material containing transuranic elements with contamination levels greater than ten (10) nanocuries per gram of waste material;

(iv) By-product material as defined in Section 11e.(2) of the "Atomic Energy Act of 1954," as amended November 8, 1978; or

(v) Wastes from mining, milling, smelting or similar processing of ores and mineral-bearing material primarily for minerals other than radium.

(h) "Management" means collection, consolidation, storage, treatment, incineration or disposal;

(i) "Operator" means a person who operates a regional facility;

(j) "Person" means an individual, corporation, partnership or other legal entity, whether public or private;

(k) "Region" means the combined geographic area within the boundaries of the party states; and

(l) "Regional facility" means a facility within any party state which either:

(i) has been approved as a regional facility by the board; or

(ii) is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

ARTICLE III

RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS

(a) There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one (1) regional facility shall be open and operating in a party state other than Nevada within six (6) years after this compact becomes law in Nevada and in one (1) other state.

(b) Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

(c) Each party state which, according to reasonable projections made by the board, is expected to generate twenty percent (20%) or more in cubic feet except as otherwise determined by the board of the low-level waste generated within the region has an obligation to become a host state in compliance with subsection (d) of this article.

(d) A host state, or party state seeking to fulfill its obligation to become a host state, shall:

(i) Cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in Article IV before allowing site preparation or physical construction to begin;

(ii) Ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

(iii) Subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

(iv) Solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

(v) Submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

(vi) Notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the board.

(e) Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under subsection (c) of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

(f) Each party state:

(i) Agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

(A) Periodic inspection of packaging and shipping practices;

(B) Periodic inspections of waste containers while in the custody of carriers; and

(C) Appropriate enforcement actions with respect to violations.

(ii) Agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations,

it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

(iii) May impose fees to recover the cost of the practices provided for in paragraph (i) and (ii) of this subsection;

(iv) Shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

(v) May impose requirements or regulations more stringent than those required by this subsection.

ARTICLE IV. BOARD APPROVAL OF REGIONAL FACILITIES

(a) Within ninety (90) days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

(b) A regional facility shall be approved by the board if and only if the board determines that:

(i) There will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and

(ii) The facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

ARTICLE V. SURCHARGES

(a) The board shall impose a "compact surcharge" per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

(b) A host state may impose a "state surcharge" per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

ARTICLE VI. THE BOARD

(a) The "Rocky Mountain low-level radioactive waste board", which shall not be an agency or instrumentality of any party state, is created.

(b) The board shall consist of one (1) member from each party state. The governor shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

(c) Each party state is entitled to one (1) vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the board is necessary for the board to take any action.

(d) The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting; provided, however, that nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline or termination of any of its employees.

(e) The board shall pay necessary travel and reasonable per diem expenses of its members, alternates, and advisory committee members.

(f) The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with the compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone; provided, however, that any action taken by telephone shall be confirmed in writing by each member within thirty (30) days. Any action taken by telephone shall be noted in the minutes of the board.

(g) The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

(h) The board may establish its offices in space provided for that purpose by any of the party states, or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

(i) Consistent with available funds, the board may contract for necessary personnel services to carry out its duties. Staff shall be employed without regard for the personnel, civil service, or merit laws of any of the party states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

(j) The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

(k) The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the board.

(l) The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

(m) Upon legislative enactment of this compact, each party State shall consider the need to appropriate seventy thousand dollars ($70,000.00) to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to subsection (a) of article V of this compact.

(n) The board may accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

(o) In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

(i) Shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

(ii) May assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

(iii) Shall keep a current inventory of all generators within the region, based upon information provided by the party states;

(iv) Shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

(v) May keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

(vi) Shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

(vii) May develop a regional low-level waste management plan;

(viii) May establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

(ix) May contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

(x) Shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

(xi) Shall prepare contingency plans, with the cooperation and approval of the host state, for management of low-level waste in the event any regional facility should be closed;

(xii) May examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

(xiii) Shall have the power to sue; and

(xiv) When authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

ARTICLE VII. PROHIBITED ACTS AND PENALTIES

(a) It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility; provided, however, that a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

(b) After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) The economic impact of the export of the waste on the regional facilities;

(ii) The economic impact on the generator of refusing to permit the export of the waste; and

(iii) The availability of a regional facility appropriate for the disposal of the waste involved.

(c) After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which said management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) the impact of importing waste on the available capacity and projected life of the regional facilities;

(ii) the economic impact on the regional facilities; and

(iii) the availability of a regional facility appropriate for the disposal of the type of waste involved.

(d) It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) the impact of allowing such management on the available capacity and projected life of the regional facilities;

(ii) the availability of a facility appropriate for the disposal of the type of waste involved;

(iii) the existence of transuranic elements in the waste; and

(iv) the economic impact on the regional facilities.

(e) Any person who violates subsection (a) or (b) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which would have been charged for disposal of the waste at a regional facility.

(f) Any person who violates subsection (c) or (d) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which were charged for management of the waste at a regional facility.

(g) The civil penalties provided for in subsections (e) and (f) of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

(h) Out of any civil penalty collected for a violation of subsection (a) or (b) of this article, the board shall pay to the appropriate operator a sum sufficient in the judgment of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

(i) Any civil penalty collected for a violation of subsection (c) or (d) of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

(j) Violations of subsection (a), (b), (c), or (d) of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

(k) No state attorney general shall be required to bring any proceeding under any subsection of this article, except upon his consent.

ARTICLE VIII. ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

(a) Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

(b) An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor adopting this compact; provided, however, a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

(c) This compact shall take effect when it has been enacted by the legislatures of two (2) eligible states. However, subsections (b) and (c) of article VII shall not take effect until Congress has by law consented to this compact. Every five (5) years after such consent has been given, Congress may by law withdraw its consent.

(d) A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but no such repeal shall take effect until two (2) years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five (5) years after the effective date of the withdrawal; provided, however, this provision shall not apply to the existing facility in Beatty, Nevada.

(e) A party state may be excluded from this compact by a two-thirds (⅔) vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligation under this compact. Such an exclusion may be terminated upon a two-thirds (⅔) vote of the members acting in a meeting.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY

(a) The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

(b) Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

(c) If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, the consent of the Senate is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

There is hereby created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government, as defined in the Low-Level Radioactive Waste Policy Act (P.L. 96-573, "The Act"), or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste. The party states recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

In order to promote the health and safety of the region, it is the policy of the party states to: enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort, provide for proper transportation of low-level waste generated in the region, minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits, and obligations of proper low-level radioactive waste management equitably among the party states, and ensure the environmentally sound and economical management of low-level radioactive waste.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "commission" means the Northeast Interstate Low-Level Radioactive Waste Commission established pursuant to Article IV of this compact;

b. "custodial agency" means the agency of the government designated to act on behalf of the government owner of the regional facility;

c. "disposal" means the isolation of low-level radioactive waste from the biosphere inhabited by man and his food chains;

d. "facility" means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level waste, but shall not include on-site treatment or storage by a generator;

e. "generator" means a person who produces or processes low-level waste, but does not include persons who only provide a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region;

f. "high-level waste" means 1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentration; and 2) any other highly radioactive material determined by the federal government as requiring permanent isolation;

g. "host state" means a party state in which a regional facility is located or being developed;

h. "institutional control" means the continued observation, monitoring, and care of the regional facility following transfer of control of the regional facility from the operator to the custodial agency;

i. "low-level waste" means radioactive waste that 1) is neither high-level waste nor transuranic waste, nor spent nuclear fuel, nor by-product material as defined in section 11e(2) of the Atomic Energy Act of 1954 as amended; and 2) is classified by the federal government at low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities;

j. "party state" means any state which is a signatory party in good standing to this compact;

k. "person" means as individual, corporation, business enterprise or other legal entity, either public or private and their legal successors;

l. "post-closure observation and maintenance" means the continued monitoring of a closed regional facility to ensure the integrity and environmental safety of the site through compliance with applicable licensing and regulatory requirements; prevention of unwarranted intrusion, and correction of problems;

m. "region" means the entire area of the party states;

n. "regional facility" means a facility as defined in this section which has been designated or accepted by the Commission;

o. "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territory subject to the laws of the United States;

p. "storage" means the holding of waste for treatment or disposal;

q. "transuranic waste" means waste material containing radionuclides with an atomic number greater than 92 which are excluded from shallow land burial by the federal government;

r. "treatment" means any method, technique or process, including storage for decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or disposal, amendable for recovery, convertible to another usable material or reduced in volume;

s. "waste" means low-level radioactive waste as defined in this section;

t. "waste management" means the storage, treatment, transportation, and disposal, where applicable, of waste.

ARTICLE III. RIGHTS AND OBLIGATIONS

a. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made available to the region, will provide sufficient capacity to manage all wastes generated within the region.

1. Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the Commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the Commission and the affected host state(s).

2. After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the Commission and the affected host state(s).

b. The rights, responsibilities and obligations of each party state to this compact are as follows:

1. Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to Article IV(i)(11). The right of access by a generator within a party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact.

2. To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided, however, that these practices shall not impose unreasonable, burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper, or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that such violations do not recur.

3. Each party state may impose reasonable fees upon generators, shippers, or carriers to recover the cost of inspections and other practices under this compact.

4. Each party state shall encourage generators within its borders to minimize the volume of waste requiring disposal.

5. Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provisions of facilities for regional availability and their use in a manner consistent with this compact.

6. Each party state shall provide to the Commission any data and information necessary for the implementation of the Commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligation as herein defined.

7. Each party state shall have the capability to host a regional facility in a timely manner and to ensure the post-closure observation and maintenance, and institutional control of any regional facility within its borders.

8. No non-host party state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the transportation of waste to a regional facility; however, if the host state itself is the operator of the regional facility, its liability shall be that of any private operator.

c. The rights, responsibilities and obligations of a host state are as follows:

1. To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, post-closure observation and maintenance, and institutional control of any regional facility within its borders.

2. In accordance with procedures established in Articles V and IX, the host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of a regional facility. It may also establish surcharges to cover the regulatory costs, incentives, and compensation associated with a regional facility; provided, however, that without the express approval of the Commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact.

3. To the extent not prohibited by federal law, a host state may establish requirements and regulations pertaining to the management of waste at a regional facility; provided, however, that such requirements shall not impose unreasonable impediments to the management of low-level waste within the region. Nor may a host state or a subdivision impose such restrictive requirements on the siting or operation of a regional facility that, along or as a whole, they serve as unreasonable barriers or prohibitions to the siting or operation of such a facility.

4. Each host state shall submit to the Commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operations, and other information as may be required by the Commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states shall furnish such information as may be required on the facilities still subject to their jurisdiction.

5. A host state shall notify the Commission immediately if any exigency arises which requires the permanent, temporary, or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the Commission. The Commission may conduct studies, hold hearings, or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

ARTICLE IV. THE COMMISSION

a. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one member from each party state to be appointed by the Governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional facility. The Governor shall notify the Commission in writing of the identity of the member and one alternate, who may act on behalf of the member only in the member's absence.

b. Each Commission member shall be entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative.

c. The Commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The Commission shall adopt and publish, in convenient form, such rules and regulations as are necessary for due process in the performance of its duties and powers under this compact.

d. The Commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member.

e. All meetings of the Commission shall be open to the public with reasonable prior public notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer.

f. The Commission may establish such committees as it deems necessary.

g. The Commission may appoint, contract for, and compensate such limited staff as it

determines necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

h. The Commission shall adopt an annual budget for its operations.

i. The Commission shall have the following duties and powers:

1. The Commission shall receive and act on the application of a non-party state to become an eligible state in accordance with Article VII(e).

2. The Commission shall receive and act on the application of an eligible state to become a party state in accordance with Article VII(b).

3. The Commission shall submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

4. Upon request of party states, the Commission shall mediate disputes which arise between the party states regarding this compact.

5. The Commission shall develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to Article V.

6. The Commission may conduct such legislative or adjudicatory hearings, and require such reports, studies, evidence and testimony as are necessary to perform its duties and functions.

7. The Commission shall establish by regulation, after public notice and opportunity for comment, such procedural regulations as deemed necessary to ensure efficient operation, the orderly gathering of information, and the protection of the rights of due process of affected persons.

8. In accordance with the procedures and criteria set forth in Article V, the Commission shall accept a host state's proposed facility as a regional facility.

9. In accordance with the procedures and criteria set forth in Article V, the Commission may designate, by a two-thirds vote, host states for the establishment of needed regional facilities. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facilities.

10. The Commission may require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary for the implementation of Commission responsibilities.

11. The Commission may enter into agreements with any person, state, regional body, or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. This shall be done only after the Commission and the host state have made an assessment of the affected facilities' capability to handle such wastes and of relevant environmental, economic, and public factors, as defined by the appropriate regulatory authorities.

12. The Commission may, upon petition, grant an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. Such grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the Commission and approved by the affected host states.

13. The Commission may appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes. Such authority to intervene or otherwise appear shall be exercised only after a two-thirds vote of the Commission. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation as it deems necessary.

14. The Commission may impose sanctions, including but not limited to, fines, suspension of privileges and revocation of the membership of a party state in accordance with Article VII. The Commission shall have the authority to revoke, in accordance with Article VII(g), the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the Commission.

15. The Commission shall establish by regulation criteria for and shall review the fee and surcharge systems in accordance with Articles V and IX.

16. The Commision shall review the capability of party states to ensure the siting, operation, post-closure observation and maintenance, and institutional control of any facility within its borders.

17. The Commission shall review the compact legislation every five years prior to federal congressional review provided for in the Act, and may recommend legislative action.

18. The Commission has the authority to develop and provide to party states such rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.

j. There is hereby established a Commission operating account. The Commission is authorized to expend monies from such account for the expenses of any staff and consultants designated under section (g) of this Article and for official Commission business. Financial support of the Commission account shall be provided as follows:

1. Each eligible state, upon becoming a party state, shall pay $70,000 to the Commission, which shall be used for administrative cost of the Commission.

2. The Commission shall impose a "commission surcharge" per unit of waste received at any regional facility as provided in Article V.

3. Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under paragraphs (1) and (2) of this section are unavailable or insufficient to cover the approved annual budget of the Commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

(a) 20 percent in equal shares;

(b) 30 percent in the proportion that the population of the party state bears to the total population of all party states, according to the most recent U.S. census;

(c) 50 percent in the proportion that the waste generated for management in each party state bears to the total waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the Commission.

k. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission accounts and funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by Article IV(i)(3).

l. The Commission may accept, receive, utilize and dispose for any of its purposes and functions any and all donations, loans, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation, loans, or grant accepted pursuant to this paragraph, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services. This shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the Commission.

m. The Commission herein established is a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the Commission shall not be deemed liabilities of the party states, nor shall members of the Commission be personally liable for action taken by them in their official capacity.

1. The Commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, post-closure observation and maintenance, and institutional control of any regional facility, or any associated regulatory activities of the party states.

2. Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission, or course of conduct. Generators, shippers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

n. The United States district courts in the District of Columbia shall have original jurisdiction of all actions brought by or against the Commission. Any such action initiated in a state court shall be removed to the designated United States district court in the manner provided by Act of June 25, 1948 as amended (28 U.S.C. § 1446). This section shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the Commission as set forth in the paragraph below.

o. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the Commission.

1. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 60 days after the Commission's final decision.

2. In the event that review is sought of the Commission's decision relative to the

designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed.

3. The courts shall not substitute their judgment for that of the Commission as to the decisions of policy or weight of the evidence on questions of fact. The Court may affirm the decision of the Commission or remand the case for further proceedings if it finds that the petitioners has been aggrieved because the finding, inferences, conclusions or decisions of the Commission are:

a. in violation of the Constitution of the United States;

b. in excess of the authority granted to the Commission by this compact;

c. made upon unlawful procedure to the detriment of any person;

d. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

4. The Commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

ARTICLE V. HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

a. The Commission shall develop, adopt, maintain, and implement a regional management plan to ensure the safe and efficient management of waste within the region. The plan shall include the following:

1. a current inventory of all generators within the region;

2. a current inventory of all facilities within the region, including information on the size, capacity, location, specific waste being handled, and projected useful life of each facility;

3. consistent with considerations for public health and safety as defined by appropriate regulatory authorities, a determination of the type and number of regional facilities which are presently necessary and projected to be necessary to manage waste generated within the region;

4. reference guidelines, as defined by appropriate regulatory authorities, for the party states for establishing the criteria and procedures to evaluate locations for regional facilities.

b. The Commission shall develop and adopt criteria and procedures for reviewing a party state which volunteers to host a regional facility within its borders. These criteria shall be developed with public notice and shall include the following factors: the capability of the volunteering party state to host a regional facility in a timely manner and to ensure its post-closure observation and maintenance, and institutional control; and the anticipated economic feasibility of the proposed facility.

1. Any party state may volunteer to host a regional facility within its borders. The Commission may set terms and conditions to encourage a party state to volunteer to be the first host state.

2. Consistent with the review required above, the Commission shall, upon a two-thirds affirmative vote, designate a volunteering party state to serve as a host state.

c. If all regional facilities required by the regional management plan are not developed pursuant to section (b), or upon notification that an existing facility will be closed, or upon determination that an additional regional facility is or may be required, the Commission shall convene to consider designation of a host state.

1. The Commission shall develop and adopt procedures for designating a party state to be a host state for a regional facility. The Commission shall base its decision on the following criteria:

a. the health, safety and welfare of citizens of the party states as defined by the appropriate regulatory authorities;

b. the environmental, economic, and social effects of a regional facility on the party states;

The Commission shall also base its decision on the following criteria:

c. ecomonic benefits and costs;

d. the volumes and types of waste generated within each party state;

e. the minimization of waste transportation; and

f. the existence of regional facilities with the party states.

2. Following its established criteria and procedures, the Commission shall designate by a two-thirds affirmative vote a party state to serve as a host state. A current host state shall have the right of first refusal for a succeeding regional facility.

3. The Commission shall conduct such hearings and studies, and take such evidence and testimony as is required by its approved procedures prior to designating a host state. Public hearings shall be held upon request in each candidate host state prior to final evaluation and selection.

4. A party state which has been designated as a host state by the Commission and which fails to fulfull its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

d. Each host state shall be responsible for the timely identification of a site and the timely development and operation of a regional facility. The proposed facility shall meet geologic, environmental and economic criteria which shall not conflict with applicable federal and host state laws and regulations.

1. To the extent not prohibited by federal law, a host state may regulate and license any facility within its borders.

2. To the extent not prohibited by Federal law, a host state shall ensure the safe operation, closure, postclosure observation and maintenance, and institutional control of a facility, including adequate financial assurances by the operator and adequate emergency response procedures. It shall periodically review and report to the Commission on the status of the post-closure and institutional control funds and the remaining useful life of the facility.

3. A host state shall solict comments from each party state and the Commission regarding the siting, operation, financial assurances, closure, post-closure observation and maintenance, and institutional control of a regional facility.

e. A host state intending to close a regional facility within its borders shall notify the Commission in writing of its intention and reasons therefore.

1. Except as otherwise provided, such notification shall be given to the Commission at least five years prior to the scheduled date of closure.

2. A host state may close a regional facility within its borders in the event of an emergency or if a condition exists which constitutes a substantial threat to public health and safety. A host state shall notify the Commission in writing within three days of its action and shall, within 30 working days, show justification for the closing.

3. In the event that a regional facility closes before an additional or new facility becomes operational, the Commission shall make interim arrangements for the storage or disposal of waste generated within the region until such time that a new regional facility is operational.

f. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the Commission.

1. A host state shall, according to its lawful administrative procedures approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, such fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, institutional control of the regional facility. The host state shall determine a schedule for contributions to the post-closure observation and maintenance, and institutional control funds. Such fee schedules shall not be approved unless the Commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules.

2. A host state may, according to its lawful administrative procedures, impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for waste management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge.

3. The Commission shall impose a commission surcharge per unit of waste received at any regional facility. The total monies collected shall be adequate to pay the costs and expenses of the Commission and shall be remitted to the Commission on a timely basis as determined by the Commission. The surcharge may be increased or decreased as the Commission deems necessary.

4. Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited to, host community compensation and host community development incentives. Such surcharges shall be reasonable and shall not be imposed unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharge. Such surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.

ARTICLE VI. OTHER LAWS AND REGULATIONS

a. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission or of an Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended.

b. The laws or portions of those laws of a party state that are not inconsistent with this compact remain in full force.

c. Nothing in this compact shall make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective.

d. No judicial or administrative proceeding pending on the effective date of the compact shall be affected by the compact.

e. Except as provided for in Article III(b)(2) and (c)(3), this compact shall not affect the relations between and the respective internal responsibilities of the government of a party state and its subdivisions.

f. The generation, treatment, storage, transportation, or disposal of waste generated by the atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities are not affected by this compact.

g. To the extent that the rights and powers of any state or political subdivision to license and regulate any facility within its orders and to impose taxes, fees, and surcharges on the waste managed at that regional facility do not operate as an unreasonable impediment to the transportation, treatment or disposal of waste, such rights and powers shall not be diminished by this compact.

h. No party state shall enact any law or regulation or attempt to enforce any measure which is inconsistent with this compact. Such measures may provide the basis for the Commission to suspend or terminate a party state's membership and privileges, under this compact.

i. All laws and regulations, or parts thereof of any party state or subdivision or instrumentality thereof which are inconsistent with this compact are hereby repealed and declared null and void. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to the enactment of this compact, or not in conflict with it, shall not be affected.

j. Subject to Article III(c)(2), no law or regulation of a party state or subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

k. No law, ordinance, or regulation of any party state or any subdivision or instrumentality thereof shall prohibit, suspend, or unreasonably delay, limit or restrict the operation of a siting or licensing agency in the designation, siting, or licensing of a regional facility. Any such provision in existence at the time of ratification of this compact is hereby repealed.

ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

a. The initially eligible parties to this compact shall be the eleven states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Initial eligibility will expire June 30, 1984.

b. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to host a regional facility in a timely manner, and upon payment of the fees requred by Article IV(j)(1). An eligible state may become a party to this compact by an executive order by the governor of the state and upon payment of the fees required by Article IV(j)(1). However, any state which becomes a party state by executive order shall cease to be a party state upon the final adjournment of the next general or regular session of its legislature, unless this compact has by then been enacted as a statute by the state and all statutes and statutory provisions that conflict with the compact have been repealed.

c. The compact shall become effective in a party state upon enactment by that state. It shall not become initially effective in the region until enactment into law by three party states and consent given to it by the Congress.

d. The first three states eligible to become party states to this compact which adopt this compact into law as required in Article VII(b) shall immediately, upon the appointment of their Commission members, constitute themselves as the Northeast Interstate Low-Level Radioactive Waste Commission. They shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the Commission and implement the provisions of this compact.

1. The Commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and of the laws of the party states relating to the enactment of this compact.

2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section (b) of this Article.

e. Any state not expressly declared eligible to become a party state to this compact in section (a) of this Article may petition the Commission to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact pursuant to the provisions of this section, including a public hearing on the application. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of the representatives of the host states in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in section (a) of this Article.

f. No state holding membership in any other regional compact for the management of low-level radioactive waste may become a member of this compact.

g. Any party state which fails to comply with the provisions of this compact or to fulfill its obligations hereunder may have its privileges suspended or, upon a two-thirds vote of the Commission, after full opportunity for hearing and comment, have its membership in the compact revoked. Revocation shall take effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact shall cease upon the effective date of revocation, except that any legal obligations of that party state arising prior to revocation will not cease until they have been fulfilled. As soon as practicable after a Commission decision suspending or revoking party state status, the Commission shall provide written notice of the action and a copy of the resolution to the governors and the presiding officer of each body of the state legislatures of the party states, and to chairmen of the appropriate committees of the Congress.

h. Any party state may withdraw from this compact by repealing its authorization legislation, and all legal rights under this compact of the party state cease upon repeal. However, no such withdrawal shall take effect until five years after the governor of the withdrawing state has given notice in writing of such withdrawal to the Commission and to the governor of each party state. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to that time.

1. Upon receipt of the notification, the Commission shall, as soon as practicable, provide copies to the governors and the presiding officer of each body of the state legislatures of the party states, and to the chairmen of the appropriate committees of the Congress.

2. A regional facility in a withdrawing state shall remain available to the region for five years after the date the Commission receives written notification of the intent to withdraw or until the prescheduled date of closure, whichever occurs first.

i. This compact may be terminated only by the affirmative action of the Congress or by the repeal of all laws enacting the compact in each party state. The Congress may by law withdraw its consent every five years after the compact takes effect.

1. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections (b) and (e) of this Article.

2. The withdrawal of a party state from this compact under section (h) or the revocation of a state's membership in this compact under section (g) of this Article shall not affect the applicability of the compact to the remaining party states.

ARTICLE VIII. PENALTIES

a. Each party state, consistent with federal and most state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right to access to the facility in the host state.

b. Without the express approval of the Commission, it shall be unlawful for any person to dispose of any low-level waste within the region except at a regional facility; provided, however, that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.

c. Unless specifically approved by the Commission and affected host state(s) pursuant to Article IV, it shall be a violation of this compact for: 1) any person to deposit at a regional facility waste not generated within the region; 2) any regional facility to accept waste not generated within the region; and 3) any person to export from the region waste generated within the region.

d. Primary responsibility for enforcing provisions of the law will rest with the affected state or states. The Commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in Article IV.

ARTICLE IX. COMPENSATION PROVISIONS

a. The responsibility for ensuring compensation and clean-up during the operational

and post-closure periods rests with the host state, as set forth herein.

1. The host state shall ensure the availability of funds and prodecures for compensation of injured persons, including facility employees, and property damage (except any possible claims for diminution of property values) due to the existence and operation of a regional facility, and for clean-up and restoration of the facility and surrounding areas.

2. The state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this article alters the liability of any person or governmental entity under applicable state and federal laws.

b. The Commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance, or other means.

1. The Commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the Commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulation; to contract with this company or other entity for coverage; or to take any other measures, or combination of measures, to implement the goals of this section.

2. The existence of this fund or other means of compensation shall not imply any liability by the Commission, the non-host party states, or any of their officials and staff, which are exempted from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company, or other entity, unless the Commission, by regulation, directs otherwise.

c. Not withstanding any other provisions, the Commission fund, insurance, or other means of compensation shall also be available for third party relief during the operational and post-closure periods, as the Commission may direct, but only to the extent that no other funds, insurance, tort compensation, or other means are available from the host state or other entities, under section a. of this Article or otherwise; provided, that this Commission contribution shall not apply to clean-up or restoration of the regional facility and its environs during the operational and post-closure period.

d. The liability of the Commission's fund, insurance entity, or any other means of compensation shall be limited to the amount currently contained therein; provided that the Commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

Amend the title so as to read: "To amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes.".

DISTRICT OF COLUMBIA REVENUE BONDS

METZENBAUM AMENDMENT NO. 1430

Mr. BYRD (for Mr. METZENBAUM) proposed an amendment to the bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds; as follows:

On page 3 strike lines 17 through 20.

On page 3 strike "5" on lines 121 and 24 and insert in lieu thereof "4".

On page 4 strike "5" on line 2 and insert in lieu thereof "4".

CHANGES IN LAW AFFECTING COAST GUARD

DANFORTH AMENDMENT NO. 1431

Mr. DOLE (for Mr. DANFORTH) proposed an amendment to the bill (H.R. 2466) to make miscellaneous changes in law affecting the U.S. Coast Guard, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)-(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.",

(D) Strike "or a sailing school vessel," in clause (B).

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.".

(B) In item 3304 in the analysis of chapter 33, strike, "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than".

(7)(A) Section 3503 is amended as follows:

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.".

(B) Until the regulations required by clause (7) of this section become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due

primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer".

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge".

(10) In section 7111, strike "Part" and substitute "part".

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited".

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches".

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of a continuing violation is a separate violation.".

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

(19) Chapter 111 is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section:

"S11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

SEC. 2. (a) The Coast Guard may enter into a lease in excess of one fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for construction of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in apporpriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

SEC. 3. Notwithstanding any other law, the Coast Guard Yard, Curtis Bay, Maryland, and the Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina, are exempt from the statutory and administrative personnel ceilings through September 30, 1988.

SEC. 4. The body of water known as Lawyer's Ditch located at block 5000 in the city of Newark, County of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 5. Notwithstanding the last sentence of section 81 of title 14 of the United States Code, the Coast Guard may not, except for the installation of fixed aids to navigation, carry out by contract the determination of the location, or the placement, or aids to maritime navigation in the Intercoastal Waterway in New Jersey.

SEC. 6. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District to provide electricity to a Coast Guard facility without complying with the provisions of section 14 of Public Law 98-557.

SEC. 7. (a) There is established a National Offshore Vessel Operators Safety Advisory Committee (hereinafter in this section referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") on matters relating to the safety aspects of offshore oil, gas, and other mineral operations subject to regulation by the Secretary. The Secretary shall, whenever practicable, consult the Committees concerning proposed or desirable actions affecting the safety of such offshore operations. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b)(1) The Committee shall consist of fifteen members who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration for, or the recovery of, offshore oil, gas, or other mineral resources, as follows:

(A) Two members representing enterprises engaged in the production of oil, gas, or other mineral resources, except that not more than one member may represent companies included on the list of restricted joint bidders prepared by the Department of the Interior;

(B) Two members representing enterprises specializing in offshore drilling;

(C) Two members representing enterprises specializing in the supply of offshore oil, gas, or other mineral exploration or recovery operations by water;

(D) Three members representing general support services for offshore oil and gas activities, including construction, diving, geophysical, and helicopter services;

(E) Two members representing individuals employed in offshore operations;

(F) Two members representing environmental interests; and

(G) Two members representing the general public.

(2) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(3) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(4) Terms of members appointed to the Committee shall be for three years, except that the terms of those members first appointed under subsection (c)(1)(A), (B), and (C) shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c)(1) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

(2) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this section.

SEC. 8. Bayou Lafourche, in the State of Lousiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, Parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.)

SEC. 9. Notwithstanding sections 12105, 12106, 12107 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Marilyn, Maryland registration number MD 3533 AA; Royal Star, Michigan registration number MC 9707 J; Alaskan Shores, United States official number 603879; Shearwater, United States official number 260827; Gypsy Rose, California registration number CF 4291 HF; Eliminator, United States official number 507572; Puka Kai, United States official number 677462; Lobster House, Panama registration number 494 Pext; Jane E., Bahamian official number 315924; and Diane M., Bahamian official number 315925, except that such vessels Jane E. and Diane M. may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

SEC. 10. Any use of expenditures of funds by the Coast Guard related to the alternation of the Burlington, Northern Railroad Bridge at mile 6.9 on the Willamette River in Portland, Oregon shall be subject to the first six sections of the Act of March 3, 1931 (40 U.S.C. 276a through 276a-5).

SEC. 11. Section 2(a) of the Act entitled "An Act to facilitate increase enforcement by the Coast Guard of laws relating to the

importation of controlled substances, and for other purposes", approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following:", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies".

SEC. 12. The Coast Guard may enter into a cost-sharing arrangement with the City of Cape May, New Jersey under which the City of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a nonrecurring basis.

SEC. 13. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting". The Secretary may prescribe regulations to carry out the provisions of this subtitle.".

SEC. 14. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under sections 12106 or 12107 of title 46, United States Code,"; and

(2) by striking "a vessel of foreign registry, or a vessel in distress," and substituting "a vessel in distress".

SEC. 15. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding at the end thereof the following: "except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semi-colon and substituting a period.

SEC. 16. (a) As used in this section, the term—

(1) "commercial fishing industry vessel" means a fishing vessel, fish processing vessel, or fish tender vessel, as those terms are defined in section 2101 of title 46, United States Code;

(2) "Committee" means the Commercial Fishing Industry Vessel Safety Advisory Committee established in subsection (b) of this section; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(b) There is established a Commercial Fishing Industry Vessel Safety Advisory Committee as an advisory committee of the United States Government reporting to the Secretary.

(c)(1) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to commercial fishing industry vessels, including—

(A) navigation safety;

(B) safety equipment and procedures;

(C) marine insurance;

(D) vessel design, construction, maintenance, and operation; and

(E) personnel qualifications and training.

(2) The Secretary, and the Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding commercial fishing industry vessels.

(3) The Committee shall meet at the call of the Secretary, but not less often than once during each calendar year.

(4) Any advice or recommendation made by the Committee shall reflect the independent judgment of the Committee on the matter concerned.

(5) The Committee may make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry, as follows:

(A) ten members from the commercial fishing industry who reflect a regional and representational balance, and have experience in the operation of commercial fishing industry vessels, or have experience as a crew member or processing line worker on a commercial fishing industry vessel;

(B) two members from each of the following:

(i) underwriters engaged in insuring commercial fishing industry vessels; and

(ii) the general public, including, whenever possible, a member of a national organization composed of commercial fishing industry vessel and marine insurance interests; and

(C) one member from each of the following—

(i) naval architects or marine surveyors;

(ii) manufacturers of fishing industry vessel equipment; and

(iii) education or training professionals related to commercial fishing industry vessel safety or personnel qualifications.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee. After timely notice is published, the Secretary shall appoint the members of the Committee. A member may be reappointed to any number of terms.

(3) The term of a member is three years, except that—

(A) initially, one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

(B) initially, terms may be adjusted to coincide with the Government's fiscal year; and

(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to commercial fishing industry vessels under the jurisdiction of their respective departments. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties specified in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App. 10(c)).

(e)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee concerning the following actions affecting commercial fishing industry vessels—

(A) proposing legislation;

(B) proposing or publishing a regulation;

(C) authorizing or conducting research or a study; or

(D) taking any other major action of the United States Government relating to the Committee's purpose and duties as set forth in subsection (c)(1) of this section.

(2) Consultation with the Committee shall be deemed to satisfy all requirements of title 46, United States Code, for consulting with representatives of the private sector having experience in the operation of commercial fishing industry vessels.

(f)(1) Except as otherwise provided in paragraph (3) of this subsection, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, shall serve without pay. While away from their homes or regular places of business, members of the Committee may be allowed travel or transportation expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Any payment made under this subsection shall not render a member of the Committee a member of the uniformed services (as defined in section 101(3) of title 37, United States Code), or an officer or employee of the United States for any purpose.

(3) A member of the Committee who is a member of the uniformed services or an officer or employee of the United States may not receive additional pay on account of such member's service on the Committee, but a member of the Committee who is a member of the uniformed services shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code, unless such member is otherwise entitled to such expenses under any other provision of law.

(4) The Secretary shall furnish the Committee an executive secretary and such secretarial, clerical and other services as are necessary for the conduct of the Committee's business.

(g)(1) The Committee shall terminate on September 30, 1991.

(2) Two years prior to the date of its termination, the Committee shall submit to the Congress its recommendation as to whether the Committee should be renewed and continued beyond such termination date.

(h) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

SEC. 17. Notwithstanding the provisions of the Act entitled "An Act to authorize the

Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels Pictor, United States official number 243529, Procyon, United States official number 244022, and Zelima, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

SEC. 18. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels Paul Bunyan, United States official number 602272 and John Henry, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secrtary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

SEC. 19. The Port of Huston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas and the Houston Ship Channel is declared to be a lawful bridge for all purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such a bridge, and for other purposes", approved June 21, 1940 (33 U.S.C. 511 et seq.). The Secretary of the department in which the Coast Guard is operating is authorized to reimburse the owner of the bridge for work done prior to the date of enactment of this section that would be the responsibility of the United States under the Act of June 21, 1940 (33 U.S.C. 511 et seq.) if performed after the date of enactment of this section, except that such reimbursement shall not exceed $450,000.

SEC. 20. Notwithstanding any other provision of law or of prior contract with the United States, the United States flag tug Moir, official Coast Guard number 60018, shall not be subject to the requirements of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156).

CIVILIAN TRAVEL EXPENSES

STEVENS (AND WARNER) AMENDMENT NO. 1432

Mr. DOLE (for Mr. STEVENS, for himself and Mr. WARNER) proposed an amendment to the bill (S. 1840) to amend titles 5 and 39, United States Code, to revise the authority relating to the payment of subsistence allowances to Government employees for periods of official travel, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

SEC. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

SEC. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

SEC. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travel expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expenses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel.".

SEC. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) The requirements of paragraph (1) of this subsection shall expire upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

SEC. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu thereof "maximum payment permitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

SEC. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.

"Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employees within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

SEC. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(d)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

SEC. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"SEC. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

SEC. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 180 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

SEC. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Amend the title so as to read as follows: "To amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes.".

VETERANS' COMPENSATION RATE INCREASE AND JOB TRAINING AMENDMENTS OF 1985

MURKOWSKI AMENDMENT NO. 1433

Mr. DOLE (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4 percent increase in the rates of compensation and dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Rate Increase and Job Training Amendments of 1985".

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 of title 38, United States Code, is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "$2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsection (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289";

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) of title 38, United States Code, is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43" respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147";

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124";

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 of title 38, United States Code, is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	*$491*	*W-4*	*$703*
E-2	*505*	*O-1*	*621*
E-3	*518*	*O-2*	*640*
E-4	*552*	*O-3*	*686*
E-5	*566*	*O-4*	*725*
E-6	*578*	*O-5*	*799*
E-7	*607*	*O-6*	*900*
E-8	*640*	*O-7*	*973*
E-9	*[1] 669*	*O-8*	*1,067*
W-1	*621*	*O-9*	*1,145*
W-2	*645*	*O-10*	*[2] 1,255*
W-3	*664*		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $722.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 of title 38, United States Code, is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 of title 38, United States Code, is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect as of December 1, 1985.

TITLE II—VETERANS' JOB TRAINING AMENDMENTS

SEC. 201. EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) SHORT TITLE.—(1) The first sentence of section 1 of Public Law 98-77 (29 U.S.C. 1721 note) is amended to read as follows: "This Act may be cited as the 'Veterans' Job Training Act'.".

(2) Any reference in any Federal law to the Emergency Veterans' Job Training Act of 1983 shall be deemed to refer to the Veterans' Job Training Act.

(b) ELIGIBILITY.—Section 5(a)(1)(B) of the Veterans' Job Training Act, as redesignated by subsection (a), is amended by striking out "fifteen of the twenty" and inserting in lieu thereof "10 of the 15".

(c) COUNSELING.—Section 14 of such Act is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary—

"(1) shall provide for a program under which periodic (not less than monthly) contact is maintained with each veteran participating in a program of job training under this Act for the purposes of avoiding unnecessary termination of employment, referring the veteran to appropriate counseling if necessary, and facilitating the veteran's successful completion of such program; and

"(2) after consultation with the Administrator, shall provide for a program of counseling services designed to resolve difficulties that may be encountered by veterans during their training under this Act and shall advise all veterans and employers participating under this Act of the availability of such services and other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "and $65,000,000 for fiscal year 1986" after "1985"; and

(2) by striking out "1987" and inserting in lieu thereof "1988".

(e) TOLLING OF CERTAIN PERIOD.—Section 17 of such Act is amended—

(1) by striking out "Assistance" and inserting in lieu thereof "(a) Except as provided in subsection (b), assistance";

(2) in clause (1), by striking out "February 28, 1985" and inserting in lieu thereof "January 31, 1987";

(3) in clause (2), by striking out "July 1, 1986" and inserting in lieu thereof "July 31, 1987"; and

(4) by adding at the end the following new subsection:

"(b) If funds for fiscal year 1986 are appropriated for the purpose of making payments to employers under this Act but are not both so appropriated and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before February 1, 1986, for such purpose, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

"(1) applies for a program of job training under this Act within 1 year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

"(2) begins participation in such program within 18 months after such date.".

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (e)(2) shall take effect on February 1, 1986.

SEC. 202. COORDINATION.

(a) IN GENERAL.—In carrying out section 1516(b) of title 38, United States Code, the Administrator of Veterans Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training consistent with the provisions of the Veterans' Job Training Act (as redesignated by section 201(a)(1) of this Act) so as to utilize programs of job training established by employers pursuant to such Act.

(b) DIRECTIVE.—In carrying out such Act, the Administrator shall take all feasible steps to ensure that, in the cases of veterans who are eligible to have payments made on their behalf under both such Act and section 1516(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the veteran's best interests, to make payments to employers on behalf of such veterans.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes."

DISAPPROVING THE FREEZE ON FUNDS FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

BIDEN (AND OTHERS) AMENDMENT NO. 1434

Mr. BYRD for Mr. BIDEN (for himself, Mr. HEFLIN, Mr. HOLLINGS, Mr. DECONCINI, Mr. NUNN, Mr. LAUTEN-

BERG, Mr. SASSER, Mr. BUMPERS, Mr. MOYNIHAN, Mr. LEAHY, Mr. INOUYE, and Mr. STENNIS) proposed an amendment to the resolution (S. Res. 278) to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention; as follows:

The first section of the resolution is amended by striking the period at the end thereof and inserting in lieu thereof:

"the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, the Victims of Crime Act programs, and the Regional Information Sharing System Programs".

EXTENSION OF CERTAIN TAXES

PACKWOOD AMENDMENT NO. 1435

Mr. PACKWOOD proposed an amendment to the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "and before December 20, 1985" and inserting in lieu thereof "and before March 15, 1986".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "March 14, 1986".

SEC. 4. EXTENSION OF MEDICARE PHYSICIAN PAYMENT PROVISIONS.

Section 5 of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out subsection (a), and by striking out "December 19, 1985" in subsection (c) and inserting in lieu thereof "March 14, 1986".

Amend the title by striking out "December 14, 1985" and inserting in lieu thereof "March 14, 1986".

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a current budget scorekeeping report brought up to date as of December 18, 1985, prepared by the Congressional Budget Office. This report also serves as the scorekeeping report for purposes of section 311 of the Congressional Budget Act.

Since the last report, Congress has cleared for the President's signature the Food Security Act of 1985, H.R. 2100. Also, the President has vetoed the Textile and Apparel Trade Enforcement Act of 1985, H.R. 1562.

I ask that the material be printed in the RECORD.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 19, 1985.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Seante scorekeeping of Section 5 of S. Con. Res. 32 and is current through December 18, 1985. The report is submitted under Section 308(b) and in aid of Section 311(b) of the Congressional Budget Act.

Since my last report Congress has cleared for the President's signature the Food Security Act of 1985, H.R. 2100, changing budget authority and outlay estimates. The President has vetoed the Textile and Apparel Trade Enforcement Act, 1985, H.R. 1562, changing estimated revenue.

With best wishes,
Sincerely,

JAMES BLUM
(For Rudolph G. Penner.)

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 18, 1985

[Fiscal year 1986—In billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,070.0	986.3	793.1	1,899.7
Budget resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over resolution by	.3	18.7		
Under resolution by			2.6	179.0

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in Senate Concurrent Resolution 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billions.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 18, 1985

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous session:			
Revenues			792,800
Permanent appropriations and trust funds	717,617	631,009	
Other appropriations		185,348	
Offsetting receipts	−162,006	−162,006	
Total enacted in previous sessions	555,610	654,351	792,800
II. Enacted this session:			
Famine relief recovery in Africa (Public Law 99-10)		421	
Federal supplemental compensation phaseout (Public Law 99-15)			10
Appropriations for the MX Missile (Public Law 99-18)		368	
Contemporaneous recordkeeping repeal bill (Public Law 99-44)			13
United States-Israel Free Trade Act (Public Law 99-47)			−8
Statue of Liberty—Ellis Island Coin Act (Public Law 99-61)	−15	31	
International Security and Development Cooperation Act (Public Law 99-83)	−25	−25	
Supplemental Appropriations Bill (Public Law 99-88)	36	3,138	
State Department authorization (Public Law 99-93)			2
Emergency Extension Act of 1985 (Public Law 99-107)	−49	−230	210
Simplification of imputed interest rules (Public Law 99-121)			−31
Health professions educational assistance (Public Law 99-129)		−8	
Amendments-Special Defense Acquisition (Public Law 99-139)	100		
Energy and water appropriations, 1986 (Public Law 99-141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (Public Law 99-145)	280	−5	
Legislative branch appropriations, 1986 (Public Law 99-151)	1,599	1,385	
Temporary debt limit increase (Public Law 99-155)	−34	−156	140
Agricultural extension, tobacco provision (Public Law 99-157)	−20	−20	
HUD-Independent Agencies appropriations, 1986 (Public Law 99-160)	56,909	36,247	
Offsetting receipts	−4,185	−4,185	
Military construction appropriations, 1986 (Public Law 99-167)	8,498	2,151	
NASA Authorization Act of 1986 (Public Law 99-170)		107	
Labor, HHS, Education appropriations, 1986 (Public Law 99-178)	94,862	81,406	
Offsetting receipts	−19,816	−19,816	
Commerce, State, Justice appropriations, 1986 (Public Law 99-180)	11,926	9,711	
Offsetting receipts	−118	−118	
Further temporary extension (Medicare) and tobacco excise tax provisions (Public Law 99-181)		−20	12
Total enacted this session	165,199	118,627	347
III. Continuing resolution authority:			
Continuing Appropriations, 1986 (Public Law 99-184)	348,779	212,985	
Offsetting receipts	−4,449	−4,449	

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 18, 1985—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total continuing resolution authority.	344,330	208,536	.....
IV. Conference agreements ratified by both Houses:			
Food Security Act of 1985 (H.R. 2100).	2,525	2,549	.....
Compact of Free Association (H.J. Res. 187).	87	71	−3
Total conference agreements.	2,612	2,620	−3
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund.	10	10	.....
Claims, defense	7	3	.....
Payment to the foreign service retirement trust fund [1].	(1)	(1)	.....
Range improvements	1	.....	.....
BLM: Miscellaneous trust fund.	([2])	.....	.....
Payment to air carriers, DOT.	18	17	.....
Retired pay—Coast Guard	21	19	.....
Maritime, operating-differential subsidies.	.....	3	.....
BIA: Miscellaneous trust funds.	([2])	([2])	.....
Retirement pay for PHS	3	.....	.....
Medical facilities loan guarantee.	2	.....	.....
Payment to health care trust funds [1].	(907)	(907)	.....
Child nutrition programs	250	230	.....
Child support enforcement	3	3	.....
Advances to unemployment trust fund [1].	(51)	(51)	.....
Federal unemployment benefits and allowances.	65	64	.....
Black lung disability trust fund.	46	46	.....
Special benefits (disabled coal miners).	36	36	.....
Assistance payments	544	544	.....
Supplemental security income.	52	52	.....
Veterans readjustment benefits.	180	137	.....
Veterans pensions	10	.....	.....
Payment to civil service retirement [1].	(214)	(214)	.....
National wildlife refuge fund.	([2])	([2])	.....
Defense pay raise—military.	925	897	.....
Compact of Free Association.	92	92	.....
Total entitlements	2,267	2,154	.....
Total current level as of December 18, 1985.	1,070,019	986,287	793,144
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution.	319	18,687	.....
Under budget resolution.	.....	2,556	.....

[1] Interfund transactions do not add to budget totals.
[2] Less than $500 thousand.

Note—Numbers may not add due to rounding.●

IMPACT OF GRAMM-RUDMAN

● Mr. HART. Mr. President, today's newspapers are full of evidence that the real impact of Gramm-Rudman is likely to differ greatly from the expectations of those who voted for it, and likely to meet or even exceed the fears of those of us who opposed it. First there is the report the President is intent on using Gramm-Rudman—not to achieve balanced cuts in Federal spending, not to achieve the budget priorities most Americans share—but to eliminate essential domestic programs while allowing his defense buildup to continue without limit.

Even more instructive is the excellent editorial that appears in today's New York Times by Mark Green, president of the Democracy Project, a public policy institute in New York City. Mr. Green details how Gramm-Rudman's so-called sequester budget cuts are likely to affect vital programs in New York: 166 fewer buses, 2,800 apartments not rehabilitated, 15,700 poor students unable to obtain Pell grants for attending the City University of New York, the State University of New York, or other schools. Most of all, Mr. Green achieves the difficult task of explaining in clear, human terms the central flaw of Gramm-Rudman: Its failure to establish budget priorities and then pay for them. Mr. Green writes:

Money from spina bifida research will be cut by the same percentage as money for F-16 aircraft. Imagine if your bank, trying to limit your family's debts, chopped a fixed percentage from each of your checks, whether they went to pay the rent or buy fine wines. Priorities are now a thing of the past, having given way to the cool calculus of political deniability.

Mr. President, I heartily recommend Mr. Green's analysis to my colleagues, and I ask that his article be printed in the RECORD.

The material follows:

WHY THE BUDGET LAW IS "HORRENDOUS"—BAD FOR NEW YORK

(By Mark Green)

America is now a nation governed by clerks and computers. In perhaps the greatest abdication since the Duke of Windsor chose Wallace Simpson over the throne, Congress last week turned the power of the purse over to the Federal bureaucracy by passing the Gramm-Rudman deficit reduction plan. The consequences for New York State will be harsh.

Gramm-Rudman requires a five-year series of spending slashes. Congress approved the plan with no Senate hearings and without any official estimates of its impact. Most Senators and Representatives—including Senator Alfonse M. D'Amato and 14 members of the New York Congressional delegation—said, in effect, "Don't tell me what the damage is, just show me where to sign."

In less than four months, the first automatic cut, of $11.7 billion, will take place. A preliminary calculation by the staff of the House Budget Committee shows that some 4.6 percent of the nonexempt domestic programs will have to go. Let's assume that New York State's share of the Federal budget remains constant. What will Gramm-Rudman do to programs New Yorkers care about?

Mass transit. Our state, which gets nearly 16 percent of all Federal mass-transit money, will lose more than $26.5 million, the equivalent of 166 new buses, in 1986. By 1987, we'll lose $133 million.

Housing. In 1986, at a time when the failure of New York's housing market is apparent for all to see, we stand to lose enough Federal low-rent-housing funds to rehabilitate 2,800 apartments. By 1987, the costs will be $166 million.

Education. The first automatic cut alone will threaten Pell Grant financing for more than 15,700 poor college students, 90 percent of whom attend the City University of New York or the State University of New York. By 1987, $88 million will be lost.

The effect on national and international programs will be equally severe. Vital military training and manpower programs will be salvaged to protect the Pentagons favorite hardware purchases. Israel stand to lose roughly $172 million this spring along.

Instead of owning up to the choice they made, lawmakers have concocted a scheme to render their budget decisions untraceable. Under Gramm-Rudman, the Federal bureaucracy will now automatically impose across-the-board budget cuts in nonexempt programs. So money for spina bifida research will be cut by the same percentage as money for F-16 aircraft. Imagine if your bank, trying to limit your family's debts, chopped a fixed percent from each of your checks, whether they went to pay the rent or to buy fine wines. Priorities are now a thing of the past, having given way to the cool calculus of political deniability.

Who will do this arbitrary cutting? America's Government of clerks and computers is lead by a troika—the heads of the Congressional Budget Office, the Office of Management and Budget and the General Accounting Office—which will now program computers with the Gramm-Rudman five-year plan.

How many City University students will get college loans next year? Don't ask your Senator, talk to a bureaucrat at the General Accounting Office. Who will decide how much trade adjustment money there is for Buffalo workers hit by foreign competition? Don't write to your Congressman, he can't run the numbers. What about the city's bridges and tunnels? Sorry, the computer is down.

The worst thing about Gramm-Rudman is that it obscures Congress's misguided choices about the next five years. Thus, if Congress had the guts to slow or reverse the $30 billion to $40 billion annual increase in tax preferences for special interests, it could avoid some of the harshest medicine it is making New York swallow.

"To govern is to choose," said President John F. Kennedy. Next year, instead of choices, the automatic budget-gutting machine will go into high gear. Senators and Representatives have authorized a program of devastating cuts that they would never have signed for their names to if they had to own up to what was really in the bill. Accountability has given way to arithmetic.●

ANTITRUST EXEMPTIONS FOR NATIONAL FOOTBALL LEAGUE

● Mr. GORE. Mr. President, during the past few weeks the Senate has begun to address the issue of proposed new antitrust exemptions for the National Football League, embodied in S. 259.

As I have stated on the floor of the Senate, and during hearings of the Commerce and Judiciary Committees, the fundamental problem we face in expanding NFL antitrust immunity is the league's unwillingness to expand

to those cities which are clearly ready to support an NFL team.

During this debate, the proponents of S. 259 have cited a resolution signed early this year by a number of mayors in support of the bill. Memphis is one of the cities represented on that resolution. However, noting that the resolution was issued long before the implications of the bill and later revisions became entirely clear, Memphis Mayor Richard C. Hackett has clarified for the record the position of Memphis on S. 259.

I would like to take this opportunity to provide my colleagues with Mayor Hackett's December 6 clarification on this matter, and I ask that his letter to me be printed in the RECORD.

The letter follows:

CITY OF MEMPHIS,
Memphis, TN, December 6, 1985.

Hon. ALBERT GORE, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORE: I am in complete agreement that Senate Bill 259 should not be passed without a commitment by the National Football League to expand in a reasonable timeframe.

Any inference that my position is not in complete support of your actions is inaccurate. I did sign a petition earlier this year offered to me by Mayor George Latimer of St. Paul to encourage support of legislation to "clarify federal law with respect to team stability and revenue sharing within professional sports leagues." But, at no time did I understand the legislation to address the issue of expansion. I think it is entirely appropriate the legislation aimed at addressing the problems of cities faced with the potential loss of major league sports operations to include a promise of expansion to some of those markets not currently served by professional sports leagues.

Please let me know of anything I can do to be of assistance to you on this matter.

Sincerely,

RICHARD C. HACKETT.●

SALUTE TO SHELDON CAMPBELL

● Mr. WILSON. Mr. President, my home town of San Diego recently grieved at the passing of Sheldon Campbell, the president of the Zoological Society, which operates the world famous San Diego Zoo and Wild Animal Park. Mr. Campbell's love affair with the San Diego Zoo began when he was a boy and continued all his life; indeed, he was attending a meeting on zoo business at the time of his death on Monday.

I will miss Sheldon Campbell. He personified the "spirit of giving," that greatest of virtues of which we are so often reminded during this holiday season. For decades, Mr. Campbell selflessly volunteered his time and energy to the zoo.

Sheldon Campbell loved wildlife for its own sake, as well as for the joy that it can bring to people, and in no small part because of his devotion and his guidance, the San Diego Zoo has brought joy to the lives of millions, as it did to his.

At this point I would like to have printed in the RECORD the San Diego Union's account of Mr. Campbell's life and death, by staff writer Gina Lubrano, which appeared on December 17, 1985, and the Union's editorial tribute to Mr. Campbell which appeared on the following day:

The article follows:

SHELDON CAMPBELL COLLAPSES, DIES

Sheldon Campbell, whose love affair with the San Diego Zoo began when he was a boy and took him to the presidency of the Zoological Society, died yesterday after collapsing at a finance meeting of the society. He was 66.

Zoo officials said Campbell was about 15 minutes late for the noon meeting, explaining that he had been delayed by a phone call, and collapsed shortly afterward. Trustees and employees applied cardiopulmonary resuscitation and called paramedics, who took him to Mercy Hospital. Doctors worked on him for 27 minutes before pronouncing him dead at 1:27 p.m.

Norman Greene, a hospital spokesman, said Campbell died of cardiopulmonary arrest.

Campbell was to have stepped down this month after three years as president of the society, which operates the Zoo and the San Diego Wild Animal Park. Tonight, he was to preside at his last board meeting. He also was to be presented with a "declaration of appreciation" lauding his accomplishments on behalf of the Zoo and the Wild Animal Park.

Zoo officials canceled a party last evening for donors in celebration of a new society publication, "Wild in the City, the Best of Zoonooz." They also canceled the social portion of tonight's board meeting and ordered the flag flown at half staff.

Douglas Myers, the Zoological Society's executive director, described the San Diego native as a tireless worker on behalf of the society. Although he was not paid for his work, Campbell devoted full time to the role, Myers said.

"That's the love he had for this place," he said. "I think the Zoo probably brought him some of his happiest moments."

"He's one of the legends that makes the San Diego Zoo great," Myers said. "He definitely will be missed and remembered by all."

Campbell, a retired stockbroker, a writer and a natualist, often regaled Zoo employees of his escapades at the Zoo as a youngster, said Carole Towne, director of marketing, and Marjorie Shaw, editor of Zoonooz.

One of his favorite stories was about how he and the late Charles Shaw, who later was to become curator of reptiles and assistant director of the Zoo, climbed a fence to get into the Zoo and were evicted. The two young men were taken under wing by C.B. "Si" Perkins, then curator of reptiles, who "reformed" them, putting them to work scrubbing the backs of tortoises. The youngsters apparently were hooked on zoo work.

Campbell also told about how he was expelled from the Zoo in the late 1930s by former Zoo director Belle Benchley over an article he wrote for The San Diego Sun, which was purchased in 1939 by the Evening Tribune, now The Tribune. The story was about a lizard and was accompanied by a photograph showing it to be much larger and more threatening than it was, Towne explained.

Although Campbell was blamed for that photograph he was innocent, according to author Robert Wade, a longtime friend. "Even then, he would bend over backward to be accurate about wildlife," said Wade, explaining that someone else selected the photograph.

By 1966, all was forgotten and long forgiven. That year, Campbell was appointed chairman of ZOO50, a citizens committee that worked on the society's golden jubilee.

Events that year included the serious—an international conservation conference—and the whimsical—the world's longest birthday cake.

Two years later, he was named a trustee of the society, and in his 17 years on the board he served on and was chairman of numerous committees.

In the declaration of appreciation prepared for tonight's meeting, Zoo officials had planned to honor Campbell for devoting his "considerable speaking and writing talents in representing the society at all levels, from international wildlife conferences to mass media interviews to one-to-one consultations with our members and the public."

They also noted his journeys around the world on behalf of the society, particularly to China in 1984 to establish a relationship with Chinese zoos and wildlife organizations. Those efforts resulted in a loan to the San Diego Zoo of Chinese golden monkeys, their first exhibit outside Asia. He hoped one day to obtain the loan of the endangered giant pandas.

Myers and other Zoo officials also credited Campbell with making major contributions toward changes at the Zoo. Under his leadership, the society developed its "Diamond Edge" plan that calls for sweeping changes by 1991, the society's 75th anniversary. The proposal addresses the philosophy and structure of the Zoo and the park.

Campbell was a graduate of Roosevelt Junior High School and San Diego High School and had a short career as a newspaperman. He served in the U.S. Army Signal Corps during World War II and earned his bachelor's degree at what is now San Diego State University and his master's at Stanford University.

In 1951, after working as an assistant instructor in English at Stanford while doing graduate work, he joined Rohr Corp. as a personnel assistant. When he left in 1960, he was director of manager development and training. He then became an account executive at the securities firm of Lester, Ryons and Co. He was a general partner when he left in 1967 to become vice president and then senior vice president at Roberts, Scott and Co.

In 1974, he became vice president of Wagenseller and Durst, retiring in 1980, when he decided to devote full time to writing.

Working with notes left by his friend Shaw, who died in 1971, Campbell completed "Snakes of the West." The book was published in 1974. Four years later, Campbell's book, "Lifeboats to Ararat," was published.

In 1979 he was named SDSU alumnus of the year in arts and letters. Two years later he was elected to Phi Beta Kappa as an alumnus of SDSU.

He was a member of numerous wildlife organizations, a fellow of the Explorer's Club, served on the board of the Wildlife Preservation Trust International and a former trustee of the San Diego Natural History Society.

Campbell is survived by his wife, Florence, a daughter, Kim Molina of San Diego, a son, Gregory of Portland, and a grandson.

Cremation is planned and services at the Zoo are pending. The family suggests donations to the Zoo.

SHELDON CAMPBELL

For much of his life, Sheldon Campbell worked tirelessly for the San Diego Zoo. Hence, there is a tragic appropriateness that he should suffer a fatal collapse during his last day as president of the Zoological Society.

A native of San Diego and a graduate of Roosevelt High and San Diego State, Mr. Campbell was appointed to the Zoo board in 1968 following his outstanding contributions to the society's golden jubilee.

Mr. Campbell proved to be an indispensable member of the board during his 17-year tenure, helping the Zoo gain increasing prominence through his public relations savvy and considerable zoological knowledge.

He was instrumental, for example, in arranging an exchange program between the Zoo and the China Wildlife Conservation Association. And enduring legacy is his book *Lifeboats to Ararat*, a seminal work on captive breeding.

Not content to rest on the laurels of the internationally acclaimed Zoo, and eager to build toward the future, Mr. Campbell made significant contributions to "Diamond Edge," a strategic five-year plan for the continued economic and zoological development of the Zoo.

Most significantly, Mr. Campbell's devotion to the Zoo since his teens personifies the dedicated volunteer spirit that is a major factor in the Zoo's world renown. His selfless, tireless efforts have placed him among a select group of San Diegans whose contributions of time, money, and self have crated a wondrous civic landscape that includes Balboa Park, Mission Bay, our museums, symphony, and opera.

The Zoo in particular and our community in general are much better places because of Sheldon Campbell. His death diminishes San Diegans in a special way.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. David Hill, a member of the staff of Senator PHIL GRAMM, to participate in a program in Taiwan, sponsored by the Chinese Culture University, in early January 1986.

The committee has determined that participation by Mr. Hill in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Senator PETE WILSON to participate in a conference in Geneva, Switzerland, entitled "Security and Prospects for Disarmament in Europe," sponsored by the French Institute of International Relations, from December 16–18, 1985.

The committee has determined that participation by Senator WILSON in the conference in Geneva, Switzerland, at the expense of the French Institute of International Relations, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Ms. Valerie Baldwin, a staff member of the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation and Government Processes, to participate in a program in Taiwan, sponsored by Soochow University, from December 27, 1985 through January 6, 1986.

The committee has determined that participation by Ms. Baldwin in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Ms. Ruth Cymber of the staff of Senator PHIL GRAMM and Ms. Eve Lubalin of the staff of Senator FRANK LAUTENBERG to participate in an educational seminar, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem in conjunction with Project Interchange, in Israel, from January 6 through January 16, 1986.

The committee has determined that participation by Ms. Cymber and Ms. Lubalin in the seminar in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Alexander Polinsky-Lav, a member of the staff of Senator DAVE DURENBERGER, to participate in a program, sponsored by Soochow University, in Taiwan, from December 27, 1985 through January 7, 1986.

The committee has determined that participation by Mr. Polinsky-Lav in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Tod O. Neuenschwander, a member of the staff of Senator JAMES A. MCCLURE, to participate in a program, sponsored by Tunghai University, in Taiwan, from December 31, 1985 through January 9, 1986.

The committee has determined that participation by Mr. Neuenschwander in the program in Taiwan, at the expense of Tunghai University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Claude Allen, a staff member of the Foreign Relations Committee, to participate in a program, sponsored by Soochow University, in Taiwan, from December 27, 1985 through January 7, 1986.

The committee has determined that participation by Mr. Allen in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Patrick J. Sullivan, a staff member of the Committee on Energy and Natural Resources, to participate in a program, sponsored by Tunghai University, in Taiwan, from December 31, 1985 through January 9, 1986.

The committee has determined that participation by Mr. Sullivan in the program in Taiwan, at the expense of Tunghai University, is in the interest of the Senate and the United States.●

ELDERLY ABUSE ACT OF 1985—S. 1919

● Mr. BUMPERS. Mr. President, I am pleased to lend my support to S. 1919, a bill to establish a 17-member task force to investigate elderly abuse. The need for the task force is clear. Although several congressional committees have held fact-finding hearings on elderly abuse, we still have only rough estimates of the amount of abuse that occurs annually, and public awareness of this nationwide problem is limited.

The simple introduction and discussion of his legislation improves public awareness of the physical, psychlogical, and financial mistreatment of the elderly by family members or other caretakers. Although women are the most frequently abused senior citizens, no race, class, or sex is immune from elderly abuse. Detection of elderly abuse is especially difficult because of the fear of reprisal, shame, and guilt of the elderly.

The proposed task force is valuable because it is a partnership of public and private sector and States and the Federal Government. The task force would be comprised of the Secretary of Health and Human Services, the Director of the National Institute on Aging, five representatives from health and senior citizen organizations having experience in elderly abuse

matters, and one representative from each of the 10 regions in the United States as set forth by the Office of Management and Budget. The 10 individuals would currently be involved with the administration of a State aging services program.

The task force would make a final report on its findings and recommendations in 9 months. The report would include recommendations on what can be done to address the problem of elderly abuse both administratively and legislatively.

The task force will provide us with a comprehensive body of information on elderly abuse and will suggest solutions to this tragedy. I believe this is a wise first step for the Congress to take to combat the abuse of America's senior citizens.●

JOHN J. CREEDON: HEED THE TEACHER

● Mr. DURENBERGER. Mr. President, John H. Creedon, chairman of the board of Metropolitan Life Insurance Co., is a business leader who understands the importance of investing in the future. In the following interview with the journal, Financier, Mr. Creedon reflects the concerns of a growing number of thoughtful Americans about the declining quality of the Nation's schools, and the need to address this problem while there is still time.

At Mr. Creedon's direction, Metropolitan recently surveyed teachers for their views on the educational system's ills. What they found was a profession demoralized by low pay and a growing reputation for mediocrity. According to Creedon, "Experienced teachers are leaving. Often they are being replaced and if they are, it is not by the caliber of teacher we require if our children are to have the best possible education."

But more than just talking about the problem, Creedon and Metropolitan are doing something about it. As an outgrowth of its survey, Metropolitan's foundation has initiated a Future Teacher and Scholarship Program to attract promising college students into the teaching profession. It has also joined the New York City Partnership in which a company adopts a local school and provides teaching and administrative help. The partnership's goal is to provide every high school graduate with a job.

Clearly, our children are our most important economic resource. This year's youngsters will be the workers we will depend upon tomorrow to keep America competitive in an increasingly global economy, to finance the massive retirement needs of the baby boom generation, and to pass on to future generations the American dream of upward economic mobility. The education of children, whose growing distress has been well documented of late, should be of vital concern to any farsighted businessman. It is heartening to see men such as John Creedon leading the corporate community toward a greater acceptance of responsibility in this essential area.

Mr. President, I ask that Williard Rappleye's interview with Mr. John J. Creedon in November's Financier be printed in the RECORD.

The material follows:

[From the November 1985 Financier]

JOHN J. CREEDON: HEED THE TEACHER

(By Willard C. Rappleye Jr.)

Amid heightened national concern over the quality of public education, Metropolitan Life has focused on the teacher as key to the solution, through its second annual survey of the profession, President John Creedon explains in an interview. Attracting better personnel, keeping them, and above all, raising the level of respect for the vital contribution they make, he insists, is essential for the health and progess of the country's school system.

The primary interest of the Metropolitan Life Foundation has long been health care, Mr. Creedon says, with education a second area of major interest, along with United Way, civic affairs, and cultural affairs. Until fairly recently, most of its activity in education had been in matching gifts and specific activities with universities and medical schools.

"But we felt that we might do more, creatively, in education, since there seemed to be so many problems," he recalls. "As you probably know there have been 180 different studies undertaken in the last three years on different aspects of the problem of education in this country, especially at the primary and secondary school levels; but we found that one of the areas where there had not been enough attention paid was among the teahers themselves."

Metropolitan had already had considerable exposure to problems of the schools, stemming from its concern with health, focused on drug abuse among the young. It supported three programs by WQED in Pittsburgh, called The Chemical People, that revealed the extent of the use of drugs and alcohol in the schools, and offered suggestions on how to deal with them by forming community groups.

"It all kind of ties in," he suggests. "We got from health care into alcohol and drugs in the schools. And then, as part of the same thrust, we got into the question of just how much business can do. It is really only a limited amount. After all, it is a public school system, paid for by taxpayer dollars. The business community can't support the system.

"On the other hand, it can't ignore it, either," he maintains. "I think it has to be supportive and helpful."

One way Metropolitan thought it could be helpful would be to learn about the problem from a primary source—the teachers themselves.

IMPORTANT PERSPECTIVE WAS MISSING

"Any rush to reform carries its own dangers," Mr. Creedom explains. "One danger is that we overlook important considerations. Not many of us—legislators, business executives, even deans of schools of education—can understand the problems of the schools from the inside. Well-informed and well-intended as we may be, it is the teachers who are on the front lines. And as the debate over what should be done to improve our schools went on, it became clear that an important perspective was missing—that of the classroom teacher.

"Nobody had done a survey to ask them their opinions on what needed to be done. So, almost two years ago, we decided to ask them.

"In back of all this is a conviction on my part that the public-school education system is a critical factor in the success of our country. If that system goes down, we're all going down.

"Aside from my strong personal conviction about its importance, in our national competitiveness in the world environment, I felt it was something to which Metropolitan Life, as leading company in New York and in the country, should contribute—a big issue we should do something with. So we decided to do the survey, hired the Lou Harris Organization, and went to it.

"Inherent in the approach we took is a recognition that the teacher is the key to a successful school system. Nothing profound about that—it is obvious.

"But if you look at what has happened to the teaching profession in the last 25 years, it has come way down. You can reflect on your own experience.

"When I was a boy I went to Catholic schools, where they had nuns, who if they were paid anything were paid very little, but who were devoted teachers. And in the public schools you had mostly women teachers, and relatively few really dedicated men—but all of them wanted to teach, more than anything else.

"For the women, they had practically no other career opportunities. They really could not go anywhere else. So if you had a bright daughter, you encouraged her to become a teacher.

"Today, a whole world has opened to women, and they are not a captive group any more. To a great extent that is what has happened to the teaching profession. They don't have the same supply of motivated bright people, and the system started to take what it could get. I think the standards have gone way down.

ONLY ADVANCE IS ON LEAVING

"The bitter truth," Mr. Creedon declares, "is that, while we may call teaching a profession, we treat teachers as if they signed on for a rather low-level job where the only hope of advancement comes with leaving.

"Experienced teachers are leaving. Often, they are not being replaced and if they are, it is not by the caliber of teacher we require if our children are to have the best possible education.

"I think what business can do—and maybe the Survey will encourage more of us to do it—is to be supportive of teachers, and their professional aspirations, and recognize how important that is.

"Most other competitive countries don't have the problems that we do in our school system. In Japan teachers are up on a pedestal, very highly regarded. So are they in Europe.

"A big part of the problem here is that they don't feel respected. There is some speculation to the point that in our day the teacher tended to be better educated than the parents of the children, so she would be respected because she had done something that the parents hadn't done.

"Today that frequently is not true. The level of education of many people has improved, and the parents tend generally to be

more critical of teachers, whom they believe come from the lower college ranks."

The Survey, he believes, contributes to understanding, "and helps focus on the problem. It is significant, I think, that 74% of teachers who have seriously considered leaving the profession report that they stayed because they derive great satisfaction from their work. Clearly, we have a core of dedicated, caring professionals. We cannot discuss educational reform without listening to the teachers. To do so would be an injustice to them—and to us. They recognize that the system is in trouble and they want to do what they can to help."

INDEPENDENCE AND RESPONSIBILITY

The results indicate that teachers "are worried about a lot more than just low pay," he notes. "They are worried about not having the materials they need to do their jobs well, they are worried about working conditions that hamper their efforts, and they are worried about a lack of independence and responsibility commensurate with professional standing.

"The fact is that we are facing a severe teacher shortage," Mr. Creedon emphasizes. The recent Committee for Economic Development report estimates that we will need 1.3 million teachers by the 1990.

"Al Shanker, President of the American Federation of Teachers, told me the other day, that in order to meet the needs we face for teachers between now and 1990, the public school system would have to get at least 50% of all college graduates who had SAT scores in excess of 1,000.

"He also said that there won't be a teacher shortage, because what will happen is that they will put anybody in the job."

One outgrowth of the Survey, Mr. Creedon says, is a Metropolitan Life Foundation Future Teacher and Scholarship program. "We are trying to identify bright young people who have completed two years of college and are thinking about becoming teachers. We will support them for their final two years if they agree to become teachers when they graduate."

"Another is a program of roundtables with the CED in five major cities for members of the teaching professions, the political administrations, and members of business, just to have a dialugue about the problems of the schools in that city, and what can be done.

NOT HUGE SUMS OF MONEY

"One thing we are doing through the New York City Partnership is to arrange for every high school to have a company adopt it—in some way establish a relationship where they will either go in and teach, or help with the administration—above all, go in and find out what the problems are, find out what they can do to help. There are not huge sums of money involved—just taking an interest, recognizing the importance of it, trying to do something about it."

He accepts the fact that the results will be "very hard to measure. How can we say whether it has improved or not? The Surveys themselves, as we continue them, will give us some indication of whether or not the situation is improving, whether or not teachers begin to feel better about themselves.

"I don't think the Survey itself will attract more teachers," Mr. Creedon acknowledges. "I think a lot of other things have to be done.

"It seems to me that part of the effort on the part of business has to be a recognition that our schools are important to business as such, not only as a matter of corporate responsibility, but also as a matter of economics, because the people who will be our employees in the future are the people who will be coming out of the public schools. That's our market, and if they are not given the skills and training and the ability to learn in those schools, they won't have it.

"So it's a matter of self-preservation, in a way.

"It's a multifaceted problem that has to be approached in many ways. Look at what Ross Perot has done in Texas. He's changed the whole school system down there—changed the curriculum, compensation levels, career ladders. I don't know how that's going to work out, how far one should go.

"And it's not just one individual or one company. Bill Woodside at American Can is interested (Financier, May).

"The New York Partnership is interested. I was Chairman of their Summer Jobs program this year, which is certainly related. We got 31,462 young people into Summer jobs, almost all of them out of the city's high schools. And what we're talking about in the Partnership is whether we could guarantee a job to every graduate of a New York high school. We're working on it, and we feel it's within reach.

"Now, that sounds greater than it is," Mr. Creedon points out, "because not an awful lot of kids graduate; and among those who do, many go on to college. But this program—and I think it's a great approach—is that to every graduate of a high school in New York who wants a job, we will guarantee a job.

PARTICIPATION IN DIFFERENT FORMS

"What I am saying is that I don't view this as just Metropolitan going out alone to solve this problem; but I do view our work as a recognition that corporations both as a matter of conscience—corporate responsibility—and as a selfish matter, have to recognize the problem and be willing to participate in the solution in some way, and that can take different forms.

"I think it needs to take the form that the teacher is key. Unless we can attract teachers into the profession, and keep them in the profession, our public school system is in real trouble."

SUMMARY OF THE METROPOLITAN LIFE SURVEY

The findings of the 1985 Survey reveal that schools will lose many more teachers in the near future, unless effective measures are taken to attract talented people into the profession and contain the nationwide exodus of teachers to other professions:

51% of all teachers currently teaching in American schools say they have seriously considered leaving the profession to enter some other occupation.

74% of those who have seriously considered leaving the profession say the main reason they have stayed is the satisfaction of teaching. That satisfaction is derived mainly from their relationship with students (40%) or from seeing students mature (23%).

The main reason why teachers consider leaving are poor salaries and poor working conditions, 62% and 41%, respectively.

The most serious problem secondary school teachers confront is a lack of basic skills among students (80%). Majorities of secondary school teachers also cite drinking and drugs.

The most serious problem cited by elementary teachers is overcrowded classes, by 49%.

Teachers experience great stress. 36% of teachers say they experience great stress several days a week in comparison to 27% of all American adults (according to another Louis Harris survey).

Majorities of teachers also believe that the educational system would benefit from having business organize campaigns to build public and legislative support.●

GUADALCANAL REUNION: A COLORADAN'S REMEMBRANCE

● Mr. HART. Mr. President, this year marks a number of historically significant anniversaries. Many of them commemorate times of celebration or despair which occurred during the Second World War.

In August, for example, we remembered an event which ended an era of death and destruction. It was 40 years ago that the bombing of Hiroshima and Nagasaki brought the war in the Pacific Theatre to a long-awaited conclusion and ushered in the permanent peril of the nuclear age.

Recently, in my own State of Colorado, a group of marines, airmen, and sailors who helped wage and win the battle of Guadalcanal gathered in Colorado Springs 43 years later to remember that fierce and difficult engagement. This immensely important victory, in the minds of many, represented a turning point in the Pacific war.

One veteran of Guadalcanal, my friend Jim Ward, recorded his thoughts, and the experiences of others with whom he fought, in an evocative remembrance titled, "Guadalcanal Revisited." Jim was gracious enough to share with me his salute to the bravery, courage and patriotism of the soldiers who fought that battle with him. It is a lively account of a part of our history with which many of our colleagues are, of course, familiar.

In tribute, Mr. President, to the acts of heroism and valor which made that victory possible, and with thanks to Jim Ward for his creative work, I ask that the full text of "Guadalcanal Revisited" be printed in the CONGRESSIONAL RECORD at this point.

The statement follows:

GUADALCANAL REVISITED

(By Jim Ward)

They were the apotheosis of courage, hope and salvation for a nation and world tired of brave defeats and senseless retreats.

They were the Marines of Guadalcanal who stormed ashore on August 7th, 1942 rifles at high port and laughed at themselves when no enemy challenged their assault.

They were much older Marines when they turned the island over to their Army buddies some two months later after enduring a continuous man killing struggle against overwhelming odds. But they were never overwhelmed.

They were the sailors of the American fleet who stood up against a vastly superior Navy and lost more men than any other service in the battle.

They were the Cactus Air Force who flew round-the-clock missions off Henderson Field and defeated an alleged invincible Japanese air force.

They were the motley crew of Navajo radio men who transmitted front line information in a language indicipherable to the enemy.

They were the PT boat skippers, the bomber and fighter crews, the valiant coast watchers, the Melanisian scouts and saviours of downed pilots. These were the men who won the battle that ended Japanese domination of the Pacific in World War II and sealed their doom.

Some 600 of these veterans, who had gotten the word, came together early this week to commemorate their participation in a battle that historians now declare was a turning point in World War II. It was the beginning of the end of the Japanese dream to establish a Greater Eastern Sphere of Prosperity which meant control by the Japanese over the Pacific.

They came to Colorado Springs for this 43rd Anniversary of their battle and told tall tales, remembered old friends and looked for familiar faces of people they knew so many years ago.

Including the ghost of their own younger selves who seemed as remote as the island they conquered and whose presence conquered them forever.

Names sprang to mind and touched long dead memories.

Kahili, Tenaru, Savo Bay, Kolombangara, the Slot, Henderson Field, Bloody Ridge.

Other names filled the air of warriors worth remembering . . . Chesty Puller, Lou Diamond, the Sullivan Brothers, Ching Lee, Archy Vandergrift, Old Patch, Manilla John Bassilone, Mitch Paige and a hundred more.

And they remembered the hardware of that battle . . . The Springield .03, the Avengers, Dauntless and Wildcats and the Higgins boats and LST's and LCIs and many more.

Historian Samuel Eliot Morrison said "Guadalcanal was not so much a name as an emotion evoking a sense perception of the putrescent reek of the jungle, the sharp ache of hunger or the pulpy feeling of water-logged flesh, or those clanging, bellowing, stuttering battles—land, sea and air which were fought, night and day, to determine whether America or Japan would possess a ramshackle airfield set in the middle of 2500 square miles of malarial wilderness."

The aging men who attended the reunion in Colorado Springs could identify with what Morrison said. Malaria struck more than fifty percent of all the land soldiers and marines who served there.

"I got 70-20 vision in one eye and am damn near blind in the other" said one aging Marine, "they say it could have been caused by the high malaria fever but who knows?"

Did they realize that their victory at Guadalcanal was the linchpin to the greater victory that followed over the Japanese armed forces. Some did, but most reacted like an ex-Marine who said, "All you think of is staying alive and covering your butt." One of the men who fought through the desperate hours of near defeat and uncertain victory was Sergeant Robert Leckie whose histories of the Guadalcanal Campaign and the war in the Pacific are models for future historians.

He wrote: "Guadalcanal was the place at which the tide in the Pacific War turned against Japan." "After Coral Sea and Midway, I still had hope," said Captain Toshikazu Ohmae, operations officer of the Japanese Eighth Fleet," but after Guadalcanal I felt we could not win."

The Admiral commanding the Guadalcanal Reinforcement Force summed up the battle more succinctly, "There is no question that Japan's doom "was sealed with the closing of the struggle for Guadalcanal."

The larger question that intrigues historians today is how it was possible for a raggedy band of American marines, airmen and sailors, ill equipped and outnumbered, to beat the Japanese who had spread terror throughout the Allied forces and had defeated and destroyed the best that Britain, the Dutch and French could throw at them?

The men who attended the reunion of Veterans of the Guadalcanal Campaign did not have any answers to these heavy questions. They were content to let the chair-bound military historians figure it out.

They were mainly interested in finding a familiar face or hearing a familiar story.

"I was there when Lou Diamond dropped a mortar down the stack of a Japanese destroyer," said one Marine recalling the legendary Congressional Medal of Honor winner who was the model of the go-to-hell battler. He refused to salute officers because he claimed the Nation's highest award as a privilege above rank.

There were stories of ships being sunk under sailors and planes that were cannabilized to get planes in the air to stave off the incessant bombing raids of the enemy.

And there was humor which became a kind of hidden weapon for the besieged Marines.

"I was a machine gunner and my Sergeant assigned me the job of picking bugs out of the rice we captured," recalls Duke Hallock from Detroit, then after a few days he said, "Duke just dump it in the pot the way it is cause it might be nutritious."

Hallock watched with other Marines as the Navy withdrew and Japanese ships smashed their precious supplies to smithereens on the beach.

There was a dramatic reunion at the Antlers Hotel in Colorado Springs when Patsi Lee, a Chinese matron married to an American named Fusano from St. Louis, met the two men who saved her life when she was found by natives as a six year old in the battle of the Canal.

"How lucky I am to meet and thank these men who saved my life," said the tear stained nurse as she embraced former Navy corpsmen Glen Holzer and Don Herrett.

The story was lost amid the larger carnage of Guadalcanal but it remains a poignant episode of now even the horrors of war cannot obliterate the larger well springs of humanity.

Father Gehring, the Padre of Guadalcanal, tells the story. "The natives found this little Chinese girl who was badly wounded by the Japanese and brought her to the Marines with the message, "Give her to priest man". She was turned over to Corpsman Glen Holzer who gave her first aid and then turned her over to Don Herrett who was assigned to the medical tent where she was treated and turned over finally to Father Gehring.

The priest partitioned off part of his tent and tended the young girl and finally had her shipped to a mission in one of the rear islands out of harm's way. He eventually adopted her and provided for her education in America where she became a nurse and married an American citizen.

The two corpsmen who saved her were lost in the hubbub of war. There was a picture of the two corpsmen and little Patsy shortly before the August 1st reunion. The picture was carried by a California newspaper with the caption, "Who are these two Marines?"

When Holzer saw it he called his buddy Don Herrett and said, "Those Marines are now taking credit for this action so let's go there and give them the word." And so the reunion occured before hundreds of teary veterans.

It is hard for today's average John Citizen to appreciate what Guadalcanal meant to Americans in that historic date of August 7, 1942 when the Marines landed at the Canal and her sister Island Tulagi.

A measure of this emotion was expressed when the vets were attending a dinner at the Flying W Ranch and the owner took the microphone to welcome them. He explained that he rarely does that chore, leaving it to his trained entertainment staff, but had to tell how he felt. "Nobody who was alive then will ever forget the boost we got when those young Marines landed on Guadalcanal and how it gave us all heart to believe we could win that war. So I welcome these brave men and ask you to cheer them on."

The crowd responded heartily and later when guests were asked to identify where they came from, a young Japanese family stood up and proudly declared they were from Japan, causing some wry exchanges between the veterans.

How did they beat the most formidible army then challenging the combined military forces of three nations and winning?

"We did not even have flight training when we reached Ewa, Hawaii and trained in dive bombers for the Canal invasion," said one airman from VMTB 232 which was the first element of the Cactus Air Force to land on Henderson Field in August of 1942.

The pilots were recent graduates of flight school and their commander, Major Richard Mangrum was an Old Corps pilot who inspired his raw recruits by his own courage and devotion to the squadron.

"He was like God and we would have followed him anywhere," said one aging ex-Marine aerial gunner who recalled the time Mangrum joined up with the flight after a raid on enemy shipping and his fellow airmen informed him his bomb was still in its rack. Mangrum turned back and made a single handed attack against the Japanese fleet.

Time and the largeness of other military operations have dwarfed the significance of the Battle of Guadalcanal and this irritates some of the participants.

They point out that it was the lessons learned in amphibious warfare that made possible other campaigns including the invasion of Europe.

They tell you that the survivors of the Canal became the nucleus of the expanding Marine divisions, naval fighting ships, air squadrons and specialized forces that conquered Japan.

The Japanese proudly boasted of their special spiritual strength with a dedication to the Emperor as the element that made them invincible in 350 years of battle. The Marines and other fighters on the Island proved that a more potent force of democratic belief in humanity coupled with tough training could triumph.

"The duty of a soldier is not to die for his country but to help the other so-and-so die for his" was the motto of the Marines. They were most accommodating to the frenzied horde of enemy soldiers attacking pell mell with cries of "Banzai."

Guadalcanal destroyed the superman image of the Japanese who faced defeat after an incredible string of victories against the British in Singapore, Burma and the China Sea. Against the Dutch in the East Indies and the French in Indo China. And against the Americans at Pearl Harbor and the Philippines.

The Japanese soldier was being touted as a superior warrior. The Japanese Zero was said to be the best fighter in the air. The Japanese fleet was experienced and better equipped than the American fleet, and assumed the Master of the Pacific.

All these things were partially true but Americans responded with ingenuity and courage at Guadalcanal and changed all that.

Their victory was the psychological edge that inspired the forces of a nation staggering after a series of unremitting defeats and started them on the road to victory that never changed.

Looking over the crowded ballroom as former Coastwatcher Martin Clemens regaled the troops with his reminiscences, on the final night of the reunion, the picture was that of a special kind of men.

They were all white because that is the way wars were fought then. The Honor Guard from Ft. Carson was made up of two black soldiers and they seemed right in place with the old vets.

They were hesitant to a point of shyness as many had never attended a reunion before and they acted like guests trying to find their host. It might have been a trick of memory of who these men had been and what they had accomplished, but they looked more handome, more courageous and proud and more grateful for the blessings of freedom and liberty which they helped salvage and enshrine.

Ambassador Clemens reached for the meaning of the day by paraphrasing Shakespeare's King Henry V exhortation to his troops which says that future generations would be deprived of the glory of serving with such valiant company.

But maybe the meaning of the boys of Guadalcanal was summed up by Colonel Thomas who passed on the definition of courage to Clemens during the battle when he said, "Courage is doing the thing that has to be done."

And the marines, soldiers, airmen and sailors who served in that fierce battlefield between August 7, 1942 and February 17, 1943 did what had to be done with grand style.

(Jim Ward, was part of the relief force at Guadalcanal and participated in campaigns in New Georgia, Bouganville and New Britain. He is now a private investigator in Denver, Colorado.)●

BARRIERS TO U.S. EXPORTS

● Mr. CHAFEE. Mr. President, the U.S. Trade Representative, in a report last summer to the Congress on foreign industrial targeting, concluded that our existing trade laws do not give the President adequate authority to seek the elimination of foreign anticompetitive practices which prevent market access for U.S. exports.

On November 20 I introduced S. 1862, measures to eliminate barriers to and distortions of trade, to address this very concern. This bill would amend section 301 of the Trade Act of 1974 to define unreasonable practices in that statute to include anticompetitive practices which serve as barriers to our competitive exports.

Nontariff barriers in the form of nonenforcement of antimonopoly laws are the reason some U.S. exports have long had difficulty penetrating the Japanese market. This has been true for U.S. exports of textiles and apparel, steel, semiconductors, soda ash and no doubt countless others.

The case of soda ash, the basic raw material for glass, is illustrative. In 1983 the Japan Fair Trade Commission, at the urging of the U.S. Government, found that their domestic soda ash producers had clearly violated their own monopoly laws. The major Japanese trading companies maintain an intricate link between producers and distributors. Many Japanese marketing companies refuse to represent U.S. suppliers. No punishment, damages or other measures have been taken to enforce the findings of the Japan FTC.

The Japanese system of marketing, which gives the trading companies power in selling finished products and buying raw materials, places the U.S. soda ash industry in an impossible position unless Japan's antimonopoly laws are enforced. This occurs despite the competitiveness of our industry. We have the largest reserves, the lowest costs, the world's most efficient production methods using half the energy, half the manpower required by plants elsewhere in the world and state-of-the-art technology.

Anticompetitive practices have also served as a barrier to access for the U.S. semiconductor industry in Japan. Japanese semiconductor firms—essentially a cartel—have a long history of acting collectively to block foreign penetration. The Japanese Government targeted and formally protected its semiconductor industry in the 1960's and 1970's, in order for the industry to achieve technological parity with the United States. After heavy pressure from the U.S. Government, the Japanese Government agreed in the 1970's to liberalize semiconductor and computer imports and investment.

At the same time, however, that this so-called liberalization was taking place, the Japanese Government encouraged the industry to form collusive interfirm relationships for the research, development, production, and sale of semiconductors and computers, essentially to nullify the practical effect of liberalization. This restrictive market structure remains in place today and continues to restrict U.S. semiconductor sales in Japan. U.S. market share in Japan is about the same today as it was when the industry there was formally protected.

The situation has been similar for the steel and textile industries for years. Despite market liberalization in the 1960's, trading companies refused to handle imports from the United States, Korea, Taiwan, and other countries because of the pressure they received from Japanese steel and textile manufacturers. As a result, developing-country producers like Taiwan, Korea, and Hong Kong, which have natural markets in Japan for their steel, textile, and apparel production, have always had to concentrate their marketing efforts on the United States, resulting in the tremendous import penetration and job loss complained of by our domestic industries today.

The legislation I introduced is designed to deal with these practices when we discover them, prevent irreparable damage to American industry, and ensure us market access. The bill requires the U.S. Trade Representative to take action—either negotiation of a settlement with the offending government or retaliation—in response to a finding of burdensome anticompetitive practices. As a nation we must respond swiftly to these types of nontariff barriers which prevent our products access to lucrative markets. This legislation would accomplish that goal.

In recent testimony before the Finance Committee on the distinction between fair and unfair trade, Prof. Harry First of New York University Law School discussed anticompetitive practices as unfair trade practices. Another recent article in the Journal of Commerce discusses the way in which Japan uses cartels to protect weak industries from stronger foreign competition. I ask that this testimony and the article be printed in the RECORD.

The material follows:

DISTINGUISHING BETWEEN "FAIR" AND "UNFAIR" TRADE PRACTICES OF FOREIGN COUNTRIES

(By Harry First)

Mr. Chairman and members of the Committee. I am submitting this Statement in the hope that I can assist the Committee in its effort to set an overall framework for United States trade policy. My area of specialization is antitrust law,[1] and over the past several years I have become increasingly concerned about the application of antitrust principles in an increasingly internationalized economy. In 1983-1984 I was a Fulbright Research Fellow in Japan and a Visiting Professor on the Faculty of Law of Sophia University in Tokyo. During that period I engaged in research on the content and enforcement of Japan's antitrust law; this study enabled me to gain a greater appreciation of how antitrust enforcement relates directly to US concerns over foreign trade and trade policy.

My research subsequently came to the attention of the American Natural Soda Ash Company ("ANSAC"), a Webb-Pomerene Association whose purpose is to enable US soda ash firms to compete more effectively aboard. ANSAC believes, as do I, that greater attention to the enforcement of foreign antitrust laws must be an important component of US policy. Accordingly, ANSAC requested that I prepared this Statement to elaborate on this view.

My statement is divided into three parts. In Part I, I discuss the importance of focusing on private unfair trade practices and the failure of foreign governments to invoke their own laws to stop these activities. In Part II, I suggest that US antitrust law offers some useful guidance in determining what practices should be considered "unfair." In Part III, I offer some tentative suggestions on how the United States might increase the enforcement of foreign antitrust law by foreign governments.

I

I begin with an often neglected point. Trade is carried out by business firms, not by governments. Although there is, in each country, a varying amount of governmental involvement with these firms, including, of course, outright ownership, this should not obscure the importance of examining the behavior of business firms as distinct from the behavior of government. Business firms around the world make numerous decisions which may have a significant impact on the ability of US firms to compete: these decisions can involve the purchasing of inputs, the pricing and distribution of outputs, mergers and consolidations, point ventures, the acquisition and licensing of technology, the participation in industry groups which set standards or establish the "rules of trade."

In recent years our trade policy has been concerned with such activities mainly to the extent that we could connect them to government action. Indeed, the press release calling for these hearings requests comment on how to distinguish between "fair" and "unfair" trade in the context of a legislative focus "on the 'unfair' trade practices of foreign nations" (emphasis added). This focus leads us, first, to overestimate the importance of foreign government ministries in controlling trade; and, second, to underestimate the significance of collusive behavior by private firms, which can at times effectively control foreign markets to the detriment of US firms and all consumers. The result is a deflection of our trade policy. When ministries like Japan's Ministry of International Trade and Industry (MITI) bemoan their lack of power to control today's markets we are left with no remedy other than to disagree with their assessment and ascribe to government a power which it might not have.

This brings me to my second, and even more neglected, point. To say that the conduct of foreign private firms might be at least as significant a barrier to foreign trade as foreign government policy does not mean that government policy is irrelevant to private action. On the contrary, there is a very significant relation between government policy and private firm behavior, but it is a relation we miss because it does not occur. This is the failure of foreign governments to enforce their own antitrust-type laws, laws which, if enforced, could open markets to competition. Governmental willingness to allow cartels to, for example, exclude foreign competitors, or fix high resale prices, or jointly cut prices to gain control of an industry, is just as much government policy as any decision to grant the industry a subsidy or tariff protection. Indeed, the economic benefits to the private firms are precisely the same.

Our disinterest in foreign antitrust enforcement springs from a number of factors. For one, I think we underestimate how many governments have adopted antitrust provisions. Antitrust laws have been adopted by a majority of the twenty-four members of the Organization for Economic Cooperation and Development (OECD), a group which includes not only Western European countries, but Japan, Australia, and New Zealand. The European Community has a transnational antitrust law, established in the Treaty of Rome in 1957. Other members of the antitrust club include countries as diverse as Korea, Taiwan, Argentina, Brazil and India.[2] Although many of these laws may have been adopted with US encouragement, we should not therefore assume that these antitrust laws must be legal orphans in their new foreign countries. The opposite, in fact, is true. Each country has placed its own stamp on its antitrust laws; in some countries, such as Japan, the legislatures have strengthened the original provisions. We thus need not feel embarrassed about urging these countries to enforce their own laws.

Another reason for our disinterest is that we have lost sight of how the antitrust laws can be used *for* business. The growth in foreign antitrust legislation was in part a post-World War II phenomenon, responsive to the lessons learned at the time. We saw that the private cartel movement had been allied with the growth of totalitarianism;[3] and that cartels hurt not only consumers but also deprived businesspeople of economic autonomy.[4] These concerns have faded from our view. Today, US antitrust enforcement policy views antitrust as being more often harmful than helpful to the economy or to business firms.

Current devotion to a laissez-faire antitrust policy, however, assumes a relatively open economic system. Whatever the truth of that in the US, foreign economic systems are often not vary open, particularly to outside competition. A case in point is the soda ash market in Japan. In 1983 Japan's Fair Trade Commission brought a proceeding against four Japanese firms which manufacture synthetic soda ash and import natural soda ash into Japan (the "Soda Ash Cartel case").[5] This was one of those rare cases in which Japan's government, after prodding from the US Embassy in Tokyo, took antitrust action against a cartel of Japanese competitors. This cartel had been restricting imports of natural soda ash for a decade. In the year following entry of the FTC's order, soda ash imports increased from 58,000 tons to 126,000 tons. This was testimony to the usefulness of foreign antitrust law enforcement to US business in opening markets—as well as the usefulness to Japanese consumers who were now able to buy the preferred product.

The Soda Ash Cartel case is one of the few examples where we have forced a foreign government to alter its policy of weak antitrust enforcement and police the conduct of private firms. It is also an example of how it may be as difficult to get an uncooperative government to enforce its antitrust laws as it is to get it to change other government policies which protect markets and hinder competition. It turns out that the relief order the FTC entered in the case was distressingly inadequate. The United States Trade Representative's most recent National Trade Estimates Report shows that the US industry's share of the market will decline from 17 percent in 1984 to 15 percent in 1985, and the US government must once again ask Japan's FTC to enforce adequately its antitrust law in this area. Thus, the Soda Ash cartel case stands as continuing testimony to how the combination of clearly private cartel behavior can interact with passive government enforcement, thereby creating an "unfair trade practice of a foreign nation."

II

We have spent nearly 100 years in the United States trying to distinguish "fair" and "unfair" trade practices, trying to decide what might be beyond the bounds of permissible competition. All too often in this debate the term "fair" has been a code word for protectionism. There were twenty-three volumes of Codes of "Fair Competition" adopted between 1933 and 1935 under the National Industrial Recovery Act, codes which reflected "the businessman's ethical principle that the price cutter is a 'chiseler.'[6] The "Fair Trade" movement sought to relieve small retailers from price competition by allowing resale price fixing; this departure from normal antitrust principles lasted nearly 40 years.[7] Thus, the usual antitrust view is that what some sellers perceive as "unfair" competition is really only hard competition.

"Fairness" having been given a bad name, some would perfer to delete the concept from antitrust consideration. I would take a different view. I believe that our antitrust experience shows the importance of retaining some concept of "fairness" in the operation of our economic system; but this experience also suggests the limits of the concept. More to the point here, both lessons may usefully be applied on the international level, where the concept of "fairness" similarly is threatening to become a code word for protectionism.

1. We have not had notable success in formulating a generic difinition of "fairness" in domestic antitrust legislation. When Congress enacted the Federal Trade Commission Act in 1914 it gave the FTC power to enjoin "unfair methods of competition," preferring this broad approach to specifically designating certain practices as illegal. Our experience indicates, however, that the FTC has stayed fairly close to business practices considered "anticompetitive" under traditional antitrust standards. Even when the Supreme Court affirmed the Commission's power to apply its mandate "like a court of equity" and consider "public values" beyond those of the antitrust laws, the Commission did not seize the opportunity.[8]

2. Rather than a broad generic approach to "fairness," we do better with a focus on fairness as it relates to specific practices in a system of marketplace competition. Of course, we still need some overall guidance for the concept of fairness. Dirlam and Kahn, in their book *Fair Competition*, suggest that "[f]air competiton is supposed to promote efficiency, and it is hoped that rules of fairness will ensure the preservation of competition itself."[9] This guide thus encompasses two benchmarks for fairness—the promotion of efficiency and the maintenance of a competitive process. The rules we adopt for international competition should seek efficient outcomes through the competitive process. They should be directed at providing the opportunity for all sellers to reach the market, so that competition "on the merits" can occur and the most efficient producers succeed.[10]

3. Without providing a laundry list of every practice which U.S. courts have found to be anticompetitive, I think that there are certain practices which have historically been condemned because they "deprive . . . rivals of a fair opportunity to compete."[11]

a. Boycotts—where members of an industry try to exclude competitors by jointly refusing to deal with them or by jointly using their power to coerce others to refuse to deal with them;[12]

b. Exclusive Dealing—where a significant percentage of a market is foreclosed to outside suppliers by virtue of longterm supply contracts,[13] or by virtue of ownership integration;[14]

c. Tying and Reciprocal Dealing—where sellers (tying) or buyers (reciprocity) condition sales or purchases on the acceptance of a less-desired additional product;[15]

d. Bottleneck and Monopolistic Refusals to Deal—where a monopoly buyer or seller uses it market power in the monopolized segment of the market to adversely affect competition at a potentially competitive level;[16]

e. Predatory Attempts to Monopolize—where a monopoly seller, or group of sellers, attempt to exclude an equally efficient competitor from the market, with the intent thereafter to obtain monopoly profits.[17]

4. There are, of course, many governmental policies affecting trade which do not deal directly with opportunities to compete, but can give protected firms and advantage over U.S. competitors; examples include tariffs, subsidies (whether through direct expenditures or indirectly through the tax system), access to technology, and government procurement. Whether these advantages are "unfair" often depends on the extent to which US firms receive similar advantages in US markets; this is the subject of much dispute, and our own practices often weaken our arguments against them in other countries. The antitrust view of fairness is not subject to a similar charge. All firms operating in the US are entitled to, and receive, these protections. Private cartels face severe restrictions if they attempt to exclude competitors from markets. Application of antitrust rules in foreign countries, under legislation similar to our own, can produce a fairer trading system in which we ask only the same opportunity to compete that we offer others here.

III

"Fair trade" is trade in markets where private firms are adequately policed by government to insure all the opportunity to compete. Fairness relates to the process of competition. It does not insure results.

Once we see the connection between private anticompetitive behavior and governmental policy which tolerates such behavior, several approaches suggest themselves. At a minimum, US trade negotiators must put antitrust enforcement on the agenda of trade talks. I am pleased to see that this is being done in Japan with regard to several specific issues. This approach should now be generalized by paying greater attention to private firm behavior in those countries whose markets have been difficult to penetrate.

The step after trade negotiations is trade legislation. Obviously, this presents difficult problems, both in assessing the adequacy of foreign antitrust enforcement in light of concerns over excessive intrusion into sovereign law enforcement prerogatives; and in deciding what U.S. sanctions are appropriate. Proposals to include inadequate antitrust enforcement under Section 301 of the Trade Act of 1974 are certainly one possibility. Whatever the approach, however, care must be taken to write legislation directed at specific practices rather than a generalized directive that foreign countries enforce their antitrust laws. The core unfair competitive practices described above would be a good start, and would avoid the trap of condemning nothing while appearing to condemn all.

Concentrating attention on private cartels and foreign antitrust enforcement will not solve all unfair trade problems. Industries which find it difficult to compete—whether because of unfavorable exchange rates, high labor costs, or inferior technology—will not be helped by being given a fair opportunity to compete in foreign markets. This approach will help only those U.S. firms whose products can be successful in foreign markets. These are our winners. We should give them all the help we can.

FOOTNOTES

[1] A copy of my curriculum vita is attached.

[2] Foreign antitrust legislation is described in 2 W. Fugate, "Foreign Commerce and the Antitrust Laws" 359-401 (3d ed. 1982).

[3] See, e.g., G. Stocking & M. Watkins, "Cartels or Competition?" 286-89 (1948).

[4] This point is made with great force in E. Hadley, "Antitrust in Japan" (1970).

[5] The case is explored more fully in First, "Japan's Antitrust Policy: Impact on Import Competition, in Fragile Interdependence: Economic Issues in the Japan-U.S. Relationship" (T. Pugel & R. Hawkins, eds., forthcoming); a relevant excerpt from this paper is attached to this Statement, infra.

[6] J. Dirlam & A. Kahn, "Fair Competition: The Law and Economics of Antitrust Policy" 5 (1954).

[7] The Miller-Tydings Act, passed in 1937, was repealed by the Consumer Goods Pricing Act of 1975.

[8] See "FTC v. Sperry & Hutchinson Co.," 405 U.S. 233, 244 (1972).

[9] Dirlam & Kahn, supra, at 18.

[10] Compare, e.g., Northern Pac. Ry. v. United States," 356 U.S. 1, 6 (1958) (evil of tying is that "[c]ompetition on the merits with respect to the tied product is inevitably curbed").

[11] "Brown Shoe Co. v. United States," 370 U.S. 294, 324 (1962).

[12] See, e.g., "Montague & Co. v. Lowry," 1903 U.S. 307 (1904).

[13] See, e.g., "Standard Oil Co. of California v. United States," 337 U.S. 293 (1949) (exclusive dealing).

[14] See, e.g., "Brown Shoe Co. v. United States," 370 U.S. 294 (1962) (vertical integration).

[15] See, e.g., "Jefferson Parish Hosp. Dist. No. 2 v. Hyde," 104 S. Ct. 1551 (1984) (tying); "Betaseed, Inc. v. U.&I. Inc.," 681 F.2d 1203 (9th Cir. 1982) (reciprocity).

[16] See, e.g., "Otter Tail Power Co. v. United States," 410 U.S. 366 (1973).

[17] See, e.g., "Borden, Inc. v. Federal Trade Comm'n, 674 F.2d 498 (6th Cir. 1982); R. Posner Antitrust Law: An Economic Perspective" 188 (1976).

JAPAN'S ANTITRUST POLICY: IMPACT ON IMPORT COMPETITION

(By Harry First*)

The thesis of this paper is that the failure of Japan's Fair Trade Commission to more vigorously enforce Japan's Antimonopoly Act has adversely affected the ability of imports to compete effectively in Japan. This policy of inaction is government policy. Just like tariffs or targeting, it deserves the attention of those interested in opening Japan's markets to U.S. firms as fully as U.S. markets are open to Japanese firms.

On March 11, 1983, the Fair Trade Commission issued a "Recommendation Decision" involving four firms which manufacture synthetic soda ash and import natural ash. Under the Antimonopoly Act, a Recommendation Decision is the minimal formal level of FTC procedure; it represents a "finding" by the FTC that the Act has been violated, but this finding is made prior to the initiation of any formal complaint or hearing. The decision sets out recommended appropriate remedial measures, along with the facts supporting the Commission's findings.

The FTC found that the four soda ash companies had violated Section 3 of the Antimonopoly Act, which prohibits unreasonable restraints of trade, that is, agreements which affect price or limit output. These are the facts according to the FTC: The four defendants are the only soda ash manufacturers in Japan. In 1973, following liberalization of soda ash imports, the defendants entered into a memorandum agreement to prevent "disorderly importation" of inexpensive natural soda ash. They established a joint venture, along with seven trading companies, to build and operate a silo facility to receive and store natural soda ash. They then agreed to import natural soda ash, appointing four of the trading companies to handle the actual import arrangements, and the other three to distribute the ash from the silo to the defendants. The silos were made available only for soda ash imported by the four defendants through the trading companies. Equal commissions were paid to each of the trading companies regardless of the actual amount of import and domestic sales. The silo company, with a 30,000 ton capacity, began operations in 1975.

Although the four defendants agreed on an initial allocation of imports among themselves, they also met each December to set the total imports for the following year. Further, the 1973 memorandum provided that in the event additional U.S. companies wished to export natural soda ash to Japan "as new entrants," the four defendants "would cope with the problem jointly." Such an event occurred in 1979. At that time the defendants caused an alternation in the import-distribution system, switching trading company assignments around so that two new entrants could be served by one of the trading companies which was currently acting as importer (and was part-owner of the silo company).

The Recommendation Decision required the defendants, inter alia, to end the agreement on import quantities, allocations, price, and distribution channels. They were also required to "not unreasonably restrict" usage of the silos. The defendants accepted the decision. Data provided by the FTC show that imports of soda ash went from approximately 58,000 tons in 1982 to 126,000 tons in 1983; another report predicted an additional 40 percent increase for 1984.

On its face, the Soda Ash case demonstrates how a decision to require Japanese firms to follow Japanese law can aid foreign firms, giving them the opportunity to compete in Japan's markets that Japanese law is supposed to guarantee. If all the case showed, however, was a vigorous FTC policing an aberrant situation by knocking a few firms back into line, then the case would not deserve much examination. In fact, what this case shows is the timidity of antitrust enforcement. What it suggests is an unwillingness to really deal with restraints on import competition, restraints which go far beyond the soda ash agreement.

To see this point, we need to return to the beginning of the story. The memorandum was signed in 1973; the Recommendation Decision was not entered until 1983. What finally triggered FTC interest? It was not the use of its substantial investigative power. Rather, it was a complaint from the U.S. Embassy acting on complaints voiced by U.S. producers.

Next, we need to look at who was not charged—the trading companies. It is hard to avoid the conclusion that they were

Footnotes at end of article.

active co-conspirators. They were co-venturers in the silo company. They were importing soda ash on behalf of U.S. firms, and then selling it to the U.S. firms' competitors (all the defendants were manufacturers of synthetic soda ash). The importing trading companies accepted the import quota agreed upon by the four defendants. Each of the seven then split commissions equally without regard to individual sales, thereby diminishing incentive to increase the sales of any particular U.S. competitor. Finally, when new U.S. entrants appeared, the trading companies simply swapped clients rather than break the quota system.

Next, we need to examine the competition story set out in the FTC complaint. Why was the agreement among the four companies effective in restraining import competition? After all, the four were not the only consumers of natural soda ash; in fact, only two of them used soda ash in their manufacturing processes. Soda ash is used in a variety of industries—bottle and window glass, soap, crude oil refining. All these manufacturers were required to pay higher factor prices; presumably, they would have preferred the lower prices offered by U.S. importers. Why could not the U.S. firms have simply avoided the four defendants (and their trading companies) and dealt directly with these customers?

One explanation might be the silo facility.[2] Perhaps it was an "essential facility," access to which would be required to compete effectively. Although it seems likely that use of the facility would have made it easier for new firms to enter the Japanese markets, there is no indication either that seller-provided storage was a requirement for successful sales, or that it would have been impossible for importers to build their own storage facility.

The more likely explanation lies outside the story told in the FTC decision. Apparently, the defendants, producers of synthetic soda ash, threatened their customers with a future refusal to deal, telling them that they would not sell to those who now purchased from the importers, if import supply became unstable in the future. Without this threatened refusal to deal, the defendants could not have controlled the actions of their customers, whose normal business interests would have led them to seek cheaper supplies. These joint refusals to deal violate Section 19 of the Antimonopoly Act.[3] Failure to specifically charge the defendants on this ground, like the failure to charge the trading companies, weakens the impact of the decree. The defendants were left free to employ their most effective weapon against their competitors.

There is a final important gap in remedy. The 1977 amendment to the Antimonopoly Act made a surcharge mandatory under the following circumstance: Whenever a firm "effects an unreasonable restraint of trade . . . which pertains to the price of goods . . . or results in affecting the price of such goods . . . by curtailing the volume of supply. . . ." This, of course, is exactly what the FTC found in the Soda Ash case. But it did not impose the mandatory surcharge, nor did it explain its reasons for ignoring this statutory requirement.

Given all that the FTC did *not* do, it should not be surprising that complaints are again surfacing about the behavior of the soda ash companies. In the year following entry of the decree, Japanese newspaper reporters began telling the Commission of renewed threats by the defendents to refuse to deal with those who buy imports; the U.S.-Japan Trade Study Group made a similar report.[4] So far, however, the FTC has not done anything to deal with these allegations.

The Soda Ash case suggests the role which antitrust enforcement could play in assuring competitive access to Japan's markets. It also shows how, even in a case in which enforcement appears vigorous, enforcement is in fact far short of what the law would allow. Of course, often the FTC is not even this vigorous. It is prone to allow defendants to escape with a warning, as it did in its 1984 decision regarding an agreement among domestic synthetic rubber manufacturers to restrict imports of synthetic rubber from Taiwan.[5] Further, there is a strong belief in the business community in Japan that agreements to restrict imports, backed by threatened refusals to deal, are quite prevalent. The U.S.-Japan Trade Study Group Report states that "Japanese businessmen acknowledge that such pressure is fairly commonly applied by Japanese firms. . . ." [6] Published reports of this pressure have surfaced in the petro-chemical, fertilizer, and caustic soda industries.[7] So far, the FTC has not acted.

As important as this kind of enforcement would be, however, concerted refusals to deal with low-priced imports is not the only area of weak enforcement which affects import competition. I would like to suggest several other areas in which a change in FTC behavior could have a procompetitive effect which could benefit the position of imports.

First is the Commission's failure to pay more attention to the market for legal services, especially with regard to foreign lawyers. At present, Japan's government has attempted to deflect U.S. criticism of Japan's refusal to allow U.S. lawyers to advise clients in Japan by taking the position that this question is one for the Japan Federation of Bar Associations, a private trade association of lawyers. As might be expected, the Federation has not embraced the principle of opening its markets to new competitors.

The problem of allowing foreign lawyers to "practice law" in Japan has become enmeshed in issues of reciprocity, in the debate over whether having more lawyers in Japan will have an adverse effect on Japanese society, and even in negotiations over trade frictions. Lost in this debate has been concern with competition policy. Near total exclusion of foreign lawyers and law firms not only adversely affects these sellers of legal services. Decrease in the number of competitors affects consumer choice. All lawyers' services are not a deadweight loss to society despite the usual criticisms of lawyers, it should not be forgotten that they do act to facilitate economic transactions, and that they can be useful in assisting clients who wish to achieve their business objectives. If foreign lawyers are most likely to serve the submarket of international business clients, it may well be that an increase in supply and competition in this market will lead to an increased ability of these firms to engage in economic transactions in Japan, and to penetrate Japan's markets.

Whether new entrant law firms would assist the entry of new imports, or represent current competitors (whether Japanese or foreign) intent on blocking them, is not clear. What is clear, however, is that the FTC has not articulated the policies favoring competition in this area. Normal competitive analysis would at least be skeptical of cartel control over entry of competing lawyer and would predict gains at least in the primary lawyers market.[8] The Federation of Bar Associations does not appear to have any legally granted antitrust immunity. An investigation of the Federation's behavior might at least prod the Federation to adopt a more procompetitive policy. Instead, the FTC has left the matter to the parties "for negotiation."

This leads to a broader category of economic policy areas in which the FTC could improve the access of foreign firms to Japan's markets. It could act as "advocate for competition" in those matters of economic policy which have been given to other Ministries. This role would represent a change from the FTC's current posture of being a ministry which directs business, whether through guidance or orders, to end anticompetitive behavior; but it would not be inconsistent with the Commission's willingness to study issues of market structure and economic behavior. The role of "advocate for competition" should not be narrowly conceived in terms of advocate for foreign competition; rather the FTC should pursue a mission of seeking to increase competition generally in Japan's economy in much the same way that the U.S. Department of Justice's Antitrust Division does. Pursuit of this affirmative role, of course, would include import competition. Indeed, in many areas, imports are the most likely potential entrants.

There are many recent examples of policy issues in which an active FTC role might affect the competitive position of imports. These examples include: legislative battles over the proper structure for a privatized NTT and Japan Tobacco and Salt Monopoly Corporation; foreign access to VAN systems; the entry of commercial banks and securities brokers into the trust banking business; the type and length of protection for computer software programs. These are significant economic issues over which the FTC does not have direct jurisdiction; but the FTC's institutional posture as an advocate for competition might lead others to pay more attention to the impact on competition of their decisions.

The Commission has occasionally taken such an approach,[9] but, unfortunately, rather than acting as advocate for competition, the Commission's usual approach has been to close ranks with other Ministries when foreign criticism arises relating to opportunities to compete. This approach is exemplified by the Commission's 1983 Report on "Trade Frictions," in which it found virtually no competitive problems which particularly face foreign firms. The FTC's approach was one of looking for discriminatory barriers, rather than asking more general questions relating to the degree of competition in the markets studied. The general approach of advocate for competition, however, would have uncovered competitive problems, whose solution could benefit foreign and domestic competitors.

FOOTNOTES

* Professor of Law, New York University School of Law. The author would like to thank Richard W. Rabinowitz, Esq., for his helpful comments on an earlier draft.

[1] See U.S.-Japan Trade Study Group, Progress Report: 1984, at 69 (1984).

[2] The importance of the silo facility is developed in Rapp, infra.

[3] Pursuant to section 19, which forbids "unfair trade practices," the FTC has designated sixteen types of practices which fall into this category. Designation 1 covers concerted horizontal refusals to deal "without proper justification." Designation 2

covers unilateral refusals to deal under circumstances which are "unjust." Designation 11 forbids "unjustly dealing" with another party on condition that the party "shall not deal with a competitor, thereby tending to reduce transaction opportunities" for the competitor. Although it is not clear the extent to which the FTC requires proof of anticompetitive impact in such refusals (judged, for example, by the market share of the firms threatening the refusal), it would appear that the Soda Ash cartel did have sufficient market power to adversely affect competition through its threatened refusal to deal.

[4] See U.S.-Japan Trade Study Group, Progress Report: 1984, at 69.

[5] See "Warning to Synthetic Rubber Manufacturers," FTC Press Release, July 25, 1984.

[6] U.S.-Japan Trade Study Group, Progress Report: 1984, at 70.

[7] Id. at 69. See also The Japan Law Letter, Jan. 1985, at 21 (reporting that Japanese petrochemical makers are considering an arrangement whereby they would handle sales and marketing in Japan of petrochemicals soon to be produced by Saudi Arabia); id., Nov. 1984, at 41-42 (reporting MITI backing for such an arrangement, despite problems of legality under Antimonopoly Act).

[8] Note, in this regard, that restraints on entry and competition in the legal services market go far beyond restrictions on the ability of foreign lawyers to maintain offices in Tokyo. As one observer has noted, "The Japanese legal services industry is subject to a wide variety of severely anticompetitive restraints, of which the barrier to foreigners are only one segment—and an incidental one at that." Ramseyer, Rethinking Regulation in the Legal Services Industry: The Relevance and Irrelevance of Culture, at 8-9 (1985) (unpublished manuscript).

[9] See The Japan Law Letter, Jan. 1985, at 16-17 (reporting FTC opposition to Ministry of Posts' announcement that it might require Class 1 telecommunications applicants to unify their facilities prior to authorization of service).

JAPAN'S CARTELS PROTECT WEAK INDUSTRIES

(By A.E. Cullison)

TOKYO.—Ever since the Japanese began to accumulate massive annual surpluses with their trading partners early in this decade, government officials and economists in the United States and Europe have been criticizing Japan for maintaining a wide range of industrial cartels to protect their weaker sectors from foreign competition. Such criticism is bound to increase in the future as Japan's surpluses continue to expand.

Whether or not it is an accurate view, U.S. and European economists insist that if it were not for Japan's 431 officially recognized and highly protective cartels, their countries would be in a position to sell more of their manufactured goods in Japanese markets. This seems a reasonable assumption.

Therefore, the argument goes, if only Japan's Fair Trade Commission would assert itself and exercise its authority by eliminating some of the more blatant cartels it just might prove possible to provide somewhat greater access to foreign products. Another reasonable assumption.

Nevertheless, most economic analysts in Tokyo agree that it would prove diabolically difficult for the FTC, such as it is, to remove a reasonable number of domestic cartels that today protect 103 different products and services throughout the country.

Unfortunately for the FTC's authorities, the Japanese government has never permitted them to enjoy an adequate budget. Their investigative staff is always seriously undermanned and this is no accident. From the point of view of Japanese business and the country's business-oriented bureaucrats, the FTC—if not done away with entirely—should be kept as weak as possible.

Further aggravating for those who would like to see the cartels removed, is the fact that most of these defense mechanisms are not based upon Japan's Anti-Monopoly Law but on other commerical laws that provide for the Anti-Monopoly Law's exceptional applications.

If these together were not sufficient to discourage the FTC as it attempts to promote fair competition in the marketplace, it should be noted that in the past certain completely illegal cartels have turned up, leading some foreign economists to suspect that a number of secret industrial arrangements exist right now in Japan to further restrain competition.

Not all of these cartels—both legal and illegal—restrict the possibilities of foreign manufactured goods becoming competitive in Japan's markets. But a considerable number do.

And it is particularly those cartels, which defend the Japanese industries involved from competitive imports, that stand the best chance of surviving for a long time, despite the best efforts of the nearly impotent FTC.

However, FTC officials have been bitterly stung by charges in Washington and other Western capitals that they are at best ineffective. As a result, they now claim that they intend to tighten controls on the cartels. But it is duly noted that the FTC talks of tightening controls on the cartels and not phasing them out one by one as they should.

Certainly, Japan's FTC is not talking about clamping down on those cartels outside the Anti-Monopoly Law, at least not just yet. This is mainly because these laws outside the Anti-Monopoly Law are aimed at promoting stabilized growth or structural reforms in those industries that remain uncompetitive and are more or less marginal.

In effect, most of the industries in Japan protected by these notorious cartels are being bailed out by the Japanese government despite the fact that this policy is contradictory to Tokyo's insistence on the values of free trade and elimination of protectionist policies in other countries.

Put another way, by permitting so many cartels, the Tokyo government is massively intervening in the market mechanism and preventing foreign imports from gaining a foothold in those specific sectors where non-Japanese goods are most competitive, and have the best chance of gaining market penetration. ●

HEALTH FAIRS

● Mr. GORE. Mr. President, I am an enthusiastic supporter of Health Fairs and have sponsored the House and Senate Health Fairs for the last 5 years. Health Fairs give people an opportunity to gain vital health screening and health education services at no cost. It is a program that benefits all through a partnership of corporations, the media, and volunteer organizations.

In a recent edition of the AMA Journal, an article was interpreted by some to be critical of the Health Fair movement. The author of that article was deeply concerned that his article might have given a false impression and set the record straight in a letter to the president of the Health Fair organization, Jack Marshall. I ask to have the letter reprinted below.

Health Fairs have been of enormous benefit to Capitol Hill employees and millions of Americans across the country. The Health Fair movement has enormous potential and is worthy of our strong endorsement.

The letter follows:

INSTITUTE FOR HEALTH RESEARCH,
HARVARD COMMUNITY HEALTH
PLAN, HARVARD UNIVERSITY,
Boston, MA, November 4, 1985.

JACK A. MARSHALL,
President, National Health Screening Council for Volunteer Organizations, Kensington, MD.

DEAR MR. MARSHALL: Thank you very much for your letter of October 30. I am, indeed, distressed to learn that my analysis of health fairs, published in the Journal of the American Medical Association last month, has resulted in any negative impressions of NHSCVO or of the health fair movement in general. This letter is intended to help correct any such misimpression.

Throughout my research on health fairs, I remained greatly impressed with NHSCVO and with other major leaders and sponsors in the health fair movement. The professionalism, enthusiasm, caution, and willingness to engage in self-examination that I saw especially at NHSCVO marks, in my view, an organization of the highest integrity. In what I regard as the first major phase of development for health fairs—the growth phase—your organization's leadership has been creative and highly effective, and has doubtless resulted in improved health for many participants. It is all the more remarkable that this growth has been achieved with basically volunteer workers and on a minimal budget. Your contributors' dollars have gone farther with NHSCVO than they could have in most other health-related enterprises.

During this important developmental phase, I believe that NHSCVO has been appropriately broad in searching for forms of education and screening which engage people's attention in health fairs. My research was directed toward the future development of health fairs, now that they constitute an enterprise of sufficient magnitude to focus efforts more clearly on the most efficacious procedures.

Concern over the amount of screening that is now being done at health fairs did not originate with my research. Indeed, your own staff have been attempting for some time to refine guidelines for screening based upon the best available medical research. I intended my research to support, and be continuous with, NHSCVO's own efforts to improve health fairs based on your extensive experience and sound goals. My conclusions are not far from those which I heard from many leaders in the health fair movement; namely, that it is now time to focus health fair screening efforts on a smaller number of tests and conditions, while, at the same time, continuing to develop health fairs as settings for effective health education and life-style interventions.

The exact choice of screening procedures to retain in health fairs involves difficult judgments, and depends strongly on the demographics of the participant populations. In many cases, we do not have enough information in health care research to make strong recommendations, and I see NHSCVO as potentially able and willing to play a key role in facilitating the collection of screening and follow-up data permitting us all to learn more about when and how to screen. Here, too, I found during my re-

search a supportive and intellectually rigorous set of interests within your staff.

In understanding the thrust of my evaluation, it is also important to realize that I did not deal at all with the most significant role that health fairs play; namely, the education of participants in matters related to their own life-style and health care choices. We badly need sound educational vehicles in this country to supplement the admittedly low level of effort in education that is currently present in much of our health care system. NHSCVO has been, and should remain, a key player in developing community-based health education efforts.

NHSCVO is probably the finest volunteer organization which I have ever had the pleasure of getting to know, and I regard its efforts in the health fair movement to date with the highest respect. My *JAMA* paper was meant to stimulate some detailed scrutiny of screening strategies in health fairs—which NHSCVO had already begun on its own—and not at all to decrease the level of interest in or support for the health fair movement in general. Your sponsors should continue their good work, your contributors can be proud of what you have done and will do, and your participants will benefit from the education and, in the future, targeted screening which they can receive at the fairs you sponsor. Anyone who construes my paper to constitute an assault on the health fair as a concept is the victim of gross misinterpretation.

Please feel free to share this letter with anyone you wish, including those whose comments on my paper suggest that they have misinterpreted me. In addition, I hope that you will feel free to call on me in the future for advice or clarification.

Best wishes,

DONALD M. BERWICK, M.D.,
Vice President, for Quality of Care Measurement.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. W. Proctor Jones, a member of the staff of the Committee on Appropriations, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 1, 1986, to January 10, 1986.

The committee has determined that participation by Mr. Jones in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. David Griswold, a member of the staff of Senator JOHN H. CHAFEE, to participate in a program in Taiwan, sponsored by Soochow University, from December 27, 1985, to January 5, 1986.

The committee has determined that participation by Mr. Griswold in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Mark Haynes, a member of the staff of the Committee on Environment and Public Works, to participate in a program in Taiwan, sponsored by Tunghai University, from January 5, 1986, to January 12, 1986.

The committee has determined that participation by Mr. Haynes in the program in Taiwan, at the expense of Tunghai University, is in the interest of the Senate and the United States.●

THE THREAT OF NUCLEAR WAR

● Mr. LEVIN. Mr. President, prior to the Geneva summit, the Washtenaw County, MI Women's Action for Nuclear Disarmament [WAND] presented me a copy of a letter they sent to President Reagan, and a petition signed by over 5,000 people deeply concerned by the threat of a nuclear war.

During this season of hope and good will, I want to share with my colleagues the letter and message WAND sent to the President. While their message is one of hope, it is also one of deep anxiety. As their letter states, the signers are united in their "concern for the lives of our children and the future of their world."

The summit has been concluded, but the ongoing effort to find a path to a safer world must continue. During these holidays, we should rededicate ourselves to seeking ways to ensure our planet's survival.

The text of the letter follows:

WASHTENAW COUNTY WOMEN'S ACTION FOR NUCLEAR DISARMAMENT, INC.,
Washtenaw County, MI.

President RONALD REAGAN,
The White House,
Washington, DC.

DEAR PRESIDENT REAGAN: These petitions were signed as a gesture of hope and extreme concern. They were circulated by the Washtenaw County chapter of the national organization of WAND, Women's Action for Nuclear Disarmament. Our group is made up of several hundred people, mainly women with children, all of us united in our concern for the lives of our children and the future of the world. Most are not what we would have called radicals in the 60's: many have never done anything "political" in their lives until they found WAND and realized many people were sharing their fears.

Over the course of two and a half months more than 5,000 people signed this petition to send to you. People of all ages signed and, since Ann Arbor is a place where visitors come from all over, people from all over the country signed. We decided to make this a brief project. Otherwise we could have collected many thousands of signatures, but we felt the message would be the same either way. Almost everyone who was asked was very eager to sign. In addition, our children made a wonderful 40-foot long illustrated petition of their own. They are extremely concerned about nuclear war and wanted you to know. We can't bear to part with the banner but plan to make a book of photographs based on their drawings and will send you a copy when it is done.

Our group is fairly new and we have found that many people just do not realize the threat to us all that is posed by nuclear weapons. No one would be unaffected in a nuclear war, no one would be safe. Our food, our atmosphere, our way of life would not survive. Many millions would be killed. These are facts which we believe all Americans should understand and we feel our leaders should be the ones to explain them to us. It is so easy to listen to comforting messages, and so very dangerous. We will lull ourselves right into oblivion.

You have the most important job that any American president has ever had, and that is to save our planet. When you and Secretary General Gorbachev meet in November, we pray that your meeting will be the beginning of some concrete steps to reduce and finally eliminate nuclear weapons. We now have enough to destroy life on earth 67 times over. Just one Trident submarine has the firepower of 6 World War IIs. We don't need any more submarines or any more nuclear weapons.

WAND's motto is "Children Ask the WORLD of Us." This world is shared by all of us, ours to use for as long as we are here, entrusted to our care to preserve for future generations. It is not ours to destroy just as life is not ours to destroy. We think again and again about our children, children of people we love. All those children who did not choose to be born into a world of nuclear weapons. American and Russian, man and woman, we must do what we can for them and for ourselves or we will surely all perish together.

Respectfully,

SHARRON SINGLETON,
President,
Washtenaw County WAND.
SUSAN ELSE WYMAN,
Chairperson,
Petition Campaign.●

RETIREMENT FUND SAFEGUARDS

● Mr. ROTH. Mr. President, this morning's Washington Times carried a column by the chairman of the Subcommittee on Civil Service, Post Office, and General Services of the Governmental Affairs Committee, TED STEVENS, dealing with the impact on the financial community of the recently passed Senate bill providing a retirement system for those Federal employees hired after December 31, 1983.

I commend this column to you for I believe it will put to rest the concern of some that the financial structure of this Nation may be unduly influenced by the sizable amount of funds contained in the retirement thrift plan. I submit for the RECORD the complete text of the column by the senior Senator from Alaska which appeared in the

December 19 edition of the Washington Times.

The material follows:

RETIREMENT FUND SAFEGUARDS

(By Ted Stevens)

In early November the Senate voted 96-1 to pass legislation establishing a new federal retirement program.

The legislation generally calls for a three-tiered retirement program for new federal employees.

The third tier is a tax-deferred voluntary savings program where employees who contribute to the plan find their contributions matched by the government. This is similar to a 401(k) plan provided by private industry, which is a form of tax-deferred savings.

The monies from the third tier are pooled in one large fund, managed by a board, composed of government and employee representatives, much like any private-company pension plan, and invested in private industry.

Recently, arguments have surfaced that the board potentially could manipulate assets of the retirement fund for political purposes. Clearly, such arguments show that their proponents do not understand the legislation.

The structure of the investment plans in the retirement legislation precludes any possibility of political manipulation. The Senate would not have passed the legislation which near-unanimity if manipulation of monies were possible.

Currently all federal retirement funds are invested in government securities. In the new federal retirement plan, the thrift-plan fund can be invested in three separate funds: a government-securities fund; a fixed-income fund; and a stock-index fund.

Who chooses where the monies are invested?

The board?

No.

Individual employees?

Yes.

Employees essentially choose how much of the total fund is allocated to the specific investment funds, but can the board manipulate where monies are invested within the individual funds?

No.

The government securities fund is composed of special issues of the Treasury. The fixed-income fund will include non-federal securities that guarantee a fixed-rate of return, such as guaranteed interest contracts with insurance companies or certificates of deposit with banks.

The stock-index fund operates by allocating funds to individual stocks within a stock index, at a ratio which is identical to the value of a particular stock to the value of the index as a whole.

For example, if the board chose the Standard & Poor's 500 Index for the fund, monies would be allocated to individual stocks, not by the board's—or anyone else's—discretion, but rather by the value of individual stock compared to the whole index. As the stocks in the index changed in value, so would the allocations from the fund.

The committee report accompanying this legislation stated the following: "Hence no individual or group of individuals [is] capable of manipulating investments. The committee finds the innate structure of the investment funds precludes political manipulation. In each case, the fund is essentially self-managed."

An alternative approach to investing pension-plan funds was proposed which would have permitted employees individually to choose their investment vehicles, comparable to individual retirement accounts (IRAs). The committee that reported the legislation considered this approach and rejected it for a number of reasons.

First: No known private-sector employer provides such a free-wheeling scheme. Instead, the approach in this legislation is patterned after private practice.

Second: Because individual institutions occasionally go bankrupt, employees investing their retirement accounts in such institutions could lose their benefits. An employer who provides a retirement plan for employees bears some responsibility for assuring the plan's integrity. That is why Congress enacted the Employee Retirement Income Security Act, applicable to private pension programs. Under the legislation, pooling employee money and diversifying such money among fixed-income instruments and through a stock index ensures its protection.

Third: There are literally thousands of qualified institutions which would bombard employees with promotional advertising for their services.

Fourth: It would be difficult to administer.

Fifth: This "retail" or "voucher" approach would give up the economic advantage of this group's wholesale purchasing power derived from the group's large size. In that case, employees individually would get less for their money.

Investment of pension funds through the vehicles provided in this legislation is common practice. The investment scheme precludes potential manipulation of pension monies, while granting employees a secure and flexible approach to retirement planning.●

MARTIN LUTHER KING, JR.

● Mr. SARBANES. Mr. President, on January 20, 1986, Americans all across the country will mark the first observance of the Martin Luther King, Jr., birthday national holiday. This marks the culmination of almost 18 years of effort to recognize Dr. King as one of our Nation's great leaders, a giant figure in the evolving history of the United States.

As a cosponsor of the legislation enacted in 1983 which authorized the holiday, I am proud that the State of Maryland has celebrated January 15, the actual birthday of Martin Luther King, as a legal holiday since 1974. This year for the first time, citizens in every State will join in observing the birthday as a time of commemoration, reflection, and peace.

Also this year, I hope to see enactment of legislation which I have introduced to authorize the establishment of a Martin Luther King Memorial on Federal land in the District of Columbia. I urge my colleagues who have not already done so to join in cosponsoring this measure.

The memorial is a project of Alpha Phi Alpha, Inc., the oldest black fraternity in the United States, and as such, will be established at no cost to the United States. Alpha Phi Alpha, of which Dr. King was a member, having joined on June 22, 1952, at Sigma chapter in Boston, MA, will coordinate the design and funding of the monument. The Department of the Interior, in consultation with the National Capital Park and Planning Commission and the Commission on Fine Arts, shall select the site and approve the design. The Secretary of the Interior's National Capital Memorial Advisory Committee, on November 14, 1985, voted unanimously to recommend approval of the project, after hearing testimony from representatives of Alpha Phi Alpha and receiving my statement.

The idea of a Martin Luther King, Jr. Memorial in the Nation's Capital is entirely fitting. What we hope visitors to the monument, and especially the thousands of young people who come to the District of Columbia every year, will come to understand is that it recognizes not only the enormous contribution of this great leader, but also two very basic principles for the healthy functioning of our society.

One is that change, even very fundamental change, is to be achieved through nonviolent means; that this is the path down which we should go as a nation in resolving some of our most difficult problems.

And the other basic principle is that the reconciliation of the races, the inclusion into the mainstream of American life of all its people, is essential to the fundamental health of this Nation. Dr. King preached, taught, and practiced these essential principles.

The memorial, like the holiday we will observe in January, will serve to remind us of the importance of Martin Luther King's dream which he articulated so dramatically in August 1963 in the march on Washington speech at the Lincoln Memorial, one of the most significant events in our Nation's history:

I have a dream that one day on the red hills of Georgia, sons of former slaves and sons of former slaveowners will be able to sit down together at the table of brotherhood.

He went on to say:

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

Eighteen years after his death, America is still striving toward the fulfillment of Martin Luther King's vision. The national holiday we observe in 1986 and the National King Memorial we are working to establish not only pays tribute to him but also confirms the Nation's commitment to rededicating itself to the principles of justice and equality which Dr. King's life exemplified.●

INDIANA SMALL BUSINESSES

● Mr. LUGAR. Mr. President, today, I would like to share with the Senate the outstanding achievements of nine Indiana small businesses as reported in the December 1985, issue of Inc. magazine. These nine businesses are among a list of the 500 fastest growing private companies in the United States, and three of the companies are among the top 25 fastest growing companies. The significant growth of these companies is an indication of their commitment to quality and service and also reflects upon Indiana's favorable business climate and high level of small business support.

Every year, Inc. ranks the 500 fastest growing private companies in America on the basis of sales, employment, profitability, and growth. Nine Indiana businesses are included in this ranking. These include America Trans Air, Indianapolis, IN; North American Roofing, Carmel, IN; General Microcomputer, South Bend, IN; E&A Industries, Indianapolis, IN; DISC, Indianapolis, IN; PURE, Indianapolis, IN; Ram Graphics, Alexandria, IN; Fastec Industrial, Elkhart, IN; and Diversified Systems, Indianapolis, IN.

Two of these companies deserve special mention. America Trans Air was founded in 1973 by its current president, Capt. J. George Mikelsons, who built the company into one of the world's most successful private carriers. In 1981, ATA became a charter airline-operating flights both domestically and worldwide. In their continuing efforts to meet the travel needs of the marketplace, ATA recently received approval to serve certain commercial domestic routes. ATA did more than $139 million in sales in 1984, and experienced almost 21,000 percent growth in sales between 1980 and 1984. America Trans Air ranked seventh overall on the list.

North American Roofing, a roofing contractor in Carmel, IN, has also experienced dramatic growth and was ranked 10th on the list overall. North American Roofing has grown from a 12-person operation in 1980 to 200 employees in 1984. Their sales of $11 million in 1984 represents almost an 11000-percent growth in sales from 1980.

Critics have charged that America's job-generation reflects the replacement of high-productivity jobs with low-productivity, low-wage jobs. However, with respect to these Hoosier business concerns, the dramatic growth in employment has been accompanied by an equally dramatic increase in labor productivity. Average sales per employee for these Hoosier businesses rose from $49,426 in 1980 to $250,720 in 1984, a gain of over 500 percent.

Last year, small business provided a livelihood for over half our population and jobs for 45 percent of the Nation's total non-farm work force. That translates into jobs for over 45 million Americans. The quality management and dedicated work force of these diverse Indiana companies have strengthened our country's economic base. Their entrepreneurial spirit has fostered economic growth and job creation, and exemplifies the success of our competitive free enterprise system.

The success of these companies also demonstrates the favorable business climate Indiana has developed. In October, 1984, another Inc. article chose Indiana as the No. 1 State for business community support and implementation of measures to create a better environment for the growth and development of small businesses. State support was defined in terms of whether or not the States had small business assistance offices, ombudsmen, Governor's advisory councils, legislative committee's, statewide conferences, and procurement set-asides for small business. Indiana ranked near the top in all these areas and first overall.

This unmatched excellence exhibited by the Indiana State government and these Indiana businesses merits attention. I applaud their efforts and wish them continued success.●

THE 25TH ANNIVERSARY OF THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY

● Mr. BRADLEY. Mr. President, I am pleased to offer my congratulations to the University of Medicine and Dentisty of New Jersey as they celebrate their silver anniversary. As a State institution, the UNDNJ has provided educational opportunities in dentistry and dental care to all New Jersey residents. Education is the chief priority. Their services range from continuing education for practicing dentists to toothbrush training for school age youngsters. The UMDNJ was the first successful dental program in New Jersey and it has grown into the State's greatest resource for dental education and research. With its new facilities in Newark, the New Jersey Dental School's prestige and population has increased throughout its 25 years. Today, this reputable institution offers doctoral degrees in dental medicine in addition to postgraduate specialty training. I hope the UNDNJ-New Jersey Dental School continues to expand in their research and educational capabilities. I applaud their efforts and their remarkable achievements on the occasion of their silver anniversary.●

JUVENILE INDIAN DRUG AND ALCOHOL ABUSE PREVENTION

● Mr. MURKOWSKI. Mr. President, I am gratified that S. 1298, the juvenile Indian drug and alcohol abuse prevention bill has passed the Senate. As an original cosponsor of this bill, I am convinced that it is a much needed piece of legislation. S. 1298 authorizes the Indian Health Service to implement needed programs to treat and prevent alcohol and drug abuse among American Indians and Alaska Natives.

In hearings held in Washington, DC, and throughout the country including Alaska, the devastating impact of drugs and alcohol has been clearly underscored. At the hearing held in October of this year in Anchorage, AK, the Alaska Federation of Natives testified that alcohol and drug abuse threatens the very survival of Alaska Native people and the traditional way of life. The latest Indian Health Service statistics show that Indian and Alaska Native mortality related to alcoholism is 5.6 times higher than the national average. The manifestations of substance abuse are also revealed in very high incidences of domestic violence, suicides, accidental deaths, and child abuse.

Despite overwhelming evidence that alcohol and drug abuse is the No. 1 health problem of American Indians and Alaska Natives, our hearings also revealed that there are embarrassingly few Federal programs in place to deal with this problem. I learned through our hearing in Alaska that the Indian Health Service does not operate a single juvenile drug treatment center in Alaska. In fact, the Alaska Area Indian Helath Service allocates less than 1 percent of its resources for substance abuse.

Because of the seriousness of this health problem and because it is glaringly evident that neither the Indian Health Service nor the Bureau of Indian Affairs has adequately responded to it, I am very pleased that the juvenile Indian drug and alcohol prevention bill is going to receive favorable consideration in the Senate and I intend to keep working to insure that it becomes law.

Mr. President, I commend the able efforts of the Chairman of the Select Committee on Indian Affairs, Senator ANDREWS, for pursuing this legislation. I also take this opportunity to express my appreciation of Mary Jane Wrenn of the committee staff who worked so hard on this bill, and who assisted me in our Anchorage hearing.●

MARTIN LUTHER KING DAY

● Mr. BUMPERS. Mr. President, on October 19, 1983, I spoke on the Senate floor and asked my colleagues to endorse, without further delay, the bill that would name a holiday in honor of Dr. Martin Luther King, Jr. I was a proud cosponsor of the bill we enacted. As we near the first official observance of the holiday, I rise to

challenge my colleagues, and the Nation as a whole, to remember Dr. King and the principles for which he stood.

Dr. King's struggle was an American struggle, a patriotic quest for social justice and racial equality. He challenged Americans to realize that the promises of "justice" and the "blessings of liberty" guaranteed by our great Constitution are meaningless unless applied equally to all. Moreover, in an era of turmoil and frustration, he steadfastly advocated nonviolent resistance to bring about change. Dr. King appealed to the decency of America and his words brought out the best in all of us. One life, even one that tragically lasts only 39 years, can dramatically change the course of human events. Dr. King sharply changed the course of American history.

On the coming first observance of the King Holiday, it is not enough simply to remember Dr. King. We must commit ourselves to the principles for which he stood—equality, peace, justice and compassion. Mr. President, the Martin Luther King, Jr. Federal Holiday Commission is circulating a pledge card, asking that on January 20, 1986, we pledge ourselves to "Loving, not hating; Showing understanding, not anger; Making peace, not war." I have signed and submitted my pledge card, and I ask every American to join me in this commitment. If somehow we could all make and keep such a pledge, our world would be a radically different place in which to live.

I also want to take the opportunity to commend Arkansas Cultural Enterprises, Inc., for its effort to make the Dr. Martin Luther King, Jr. Holiday a success.

A.C.E. is a nonprofit group organized in 1985 to foster cultural and ethnic identity and pride. On the first official observance of the King Holiday, the organization will hold a commemorative brunch, the first of what will become an annual event. Georgia State Senator Julian Bond will give the Keynote address, and A.C.E. will give awards to three Arkansans for their contributions to promoting equal rights.

A.C.E. is working with Arkansas' Martin Luther King, Jr. Holiday Commission. I am a member of the Arkansas Commission, and we are working in close concert with the Federal Holiday Commission which was also established this year. I am certain that Arkansas Cultural Enterprise's commemorative brunch will be a success, and I want to congratulate them for this fine event.●

RECOGNIZING CONTRIBUTIONS OF CARL TURNER

● Mr. BINGAMAN. Mr. President, as you know, during 1985 the 50th anniversary of the Rural Electrification Administration was observed with great acclaim and gratitude for all the good things which have been made possible because of its creation. It seems appropriate to me, Mr. President, that as this year closes, I should offer a few words of praise for one of Rural Electric's most deserving workers, Carl Turner of New Mexico.

Mr. Turner is the executive manager of the New Mexico Rural Electrification Cooperative Association. Because of his untiring efforts on behalf of the work of the association, he was recently given the Pioneer Award and Medallion by the National Rural Electrification Cooperative Association. This award is recognition not only of his service to the people of New Mexico but to the people of rural America for his years of work on their behalf. The people who work with him know of his devotion and tenacity in the cause of those issues involving all rural electric cooperatives. We in Congress who have heard him as an advocate for the movement know those same qualities in him and respect his earnest and forthright approach.

The Pioneer Award acknowledges work well done and I am very pleased to add my voice to those which have been raised to congratulate Carl Turner. His professional life has been dedicated to the goal of providing service to the people who need it the most—a goal we all appreciate.●

ANNIVERSARY OF THE BHOPAL DISASTER

● Mr. LAUTENBERG. Mr. President, December marks the anniversary of the Bhopal chemical disaster. One year ago, over 2,000 Indian citizens perished and another 200,000 sustained frightening injuries in what was the worst industrial accident in history.

In the year that has followed, chemical accidents have received front page attention, and the chemical industry, Congress, EPA, and local officials have struggled to understand the implications of Bhopal.

Mr. President, Bhopal was not an aberration of Third World management and technology. There is a common thread linking Bhopal to the United States in the many investigations and reports that have followed the Bhopal disaster. The message in these reports is quite simple: More attention must be paid to safety considerations in process design, operating procedures, and proper maintenance of equipment. Workers, residents, and emergency response personnel must be better informed about the chemical hazards that surround them.

Unfortunately, these chemical hazards are present across our country. A draft EPA report reported on this fall by the New York Times lists nearly 7,000 significant chemical releases over the past 5 years in just a handful of States. These releases have taken a tremendous toll: 139 deaths, 1,500 injuries, and the evacuation of over 200,000 citizens.

As a result, public support is growing for full disclosure of chemical hazards through the enactment of strong community right-to-know programs.

Congress has responded to this concern. Both the Senate and the House Superfund bills include provisions addressing community right-to-know and emergency planning and response. Provisions that I sponsored as a member of the Senate Environment and Public Works Committee would establish the first national inventory of chemicals handled by plants across the country. An important, and controversial, requirement of the inventories in both the Senate and House bills is the reporting of routine, as well as accidental, releases of toxic chemicals into the environment. While I anticipate spirited debate on these provisions, I am hopeful that the Senate-House conference on Superfund will include strong right-to-know and emergency response provisions, and look forward to beginning the conference when Congress returns in January.

Mr. President, the provisions included in Superfund represent important progress, but they are only the first steps in what promises to be a debate that will continue for years. More difficult questions remain to be answered. How do we come to grips with the factors causing these chemical releases? To what extent will industry voluntarily take on the responsibility to put a stop to dangerous accidental and routine chemical releases? To what extent must Congress step in and enact new legislation to regulate the chemical industry. These are all questions that we must tackle next year when we turn our attention to reauthorization of the Clean Air Act and other environmental legislation.

Mr. President, EPA has just formally released a list of 400 acutely hazardous chemicals and guidance for community right-to-know and emergency response programs. This is an important first step, but it must not be the last. More must be done.

EPA proposes to turn this list over to the States and localities without requirements that business disclose information about these chemicals. EPA expects communities to take it from there, and find out what safety equipment or emergency response plans exist at a plant. EPA expects communities to find out how chemicals are handled and transported, and find out

where they are stored on-site and if they are released into the environment.

This program is entirely voluntary. It leaves the locks on the plant gates. It deprives communities of their right-to-know what chemicals exist within their borders. And it deprives us of a national data base.

There is an important role for the Federal Government. And that is why I have pursued amendments to the Superfund that would call on EDP to share these responsibilities with our communities.

Mr. President, I would like to take this opportunity to recognize the excellent contribution that Stuart Diamond of the New York Times has made to this debate over the past year. Stu traveled to India immediately after the Bhopal disaster. He traveled to Institute, WV, following the aldicarb oxime release in August at Union Carbide's sister plant. Since then, he has continued to pursue related issues, soliciting response from a broad cross-section of those involved in and affected by the chemical industry. Through his reporting and insight, we have a clearer picture of what happened in Bhopal and Institute. We can better understand how these accidents relate to chemical hazards across our country. And we have a balanced portrayal of the response in Congress and the Environmental Protection Agency.

Mr. President, I inserted an excellent series of articles on Bhopal by Stuart Diamond into the CONGRESSIONAL RECORD during the Superfund debate earlier this year. Today I ask unanimous consent that a more recent series of articles by Mr. Diamond, written by November and December, associated with emergency response and community-right-to-know issues be printed in the RECORD at the conclusion of my remarks. The focus of the first three articles is on a list of acutely hazardous chemicals and emergency response guidance proposed by EPA. The last article addresses issues related to safety in the chemical industry.

U.S. NAMES 403 TOXIC CHEMICALS THAT POSE RISK IN PLANT ACCIDENTS

(By Stuart Diamond)

The Environmental Protection Agency has concluded that 403 highly toxic chemicals, produced, sold and used throughout the United States, pose potentially serious health dangers to the public in a chemical plant accident.

At least 577 companies at thousands of locations handle these chemicals, according to an analysis of chemical industry data by The New York Times. Some of these chemicals are produced and stored in the billions of pounds near populated areas, while some are so toxic that leaks of only a few pounds could cause injuries to people near plants, the agency said.

The E.P.A. list and its associated documents, obtained from Government officials, are the first major step in a Federal effort to measure the potential for toxic chemical accidents. The documents which took months to prepare, explain how municipalities can determine whether these chemicals are handled in their midst, and offer suggestions for minimizing the prospects of major chemical accidents like those in Bhopal, India, and Institute, W.Va., in the last year.

Some of the material is to be made public this morning in a four-hour teleconference among Federal, state and local government officials and chemical company executives.

"For the first time, people will be able to identify where chemical risk exsits in their communities," Lee M. Thomas, the E.P.A. Administrator said in an interview.

Just how much risk lease substances pose to the public is as yet uncertain. Federal officials stress that the list of chemicals alone is not sufficient to assess the chance of a serious accident. The agency leaves it to residents to determine how much of the chemicals are stored at nearby plants, what the safety equipment and emergency response plans are and whether people live close enough to be harmed in an accident.

"A community should not be unduly alarmed if it funds, within its boundaries, chemicals which meet the criteria" for danger, the agency says. Nonetheless, it says, all the chemicals on the list are considered "immediately dangerous to life and health," and "can cause death or injury in the event of an accidental release into the air."

Moreover, the list does not contain all the important toxic chemicals used in the United States, Government officials say. Only chemicals for which health studies have been conducted—perhaps 20 percent of all the chemicals in commerce—appear on the list, E.P.A. officials said. The agency provided criteria to be used in further investigations of chemicals.

A spokesman for the Chemical Manufacturers Association, Thomas J. Gilroy, said last night, "The agency's objectives, protecting the public, are the same as ours." He said he could not comment on the list because he had not seen it.

MANY SUBSTANCES ON LIST

The substances identified by the agency include cyanides, acids, industrial gases, medical products, metals solvents, plasticizers and chemical intermediates—those used in the manufacture of other chemicals.

Some are widely used materials like sulfuric acid, chlorine and formaldehyde. But others are not usually thought of as toxic materials: pharmaceuticals like vitamins D and K, amphetamine and bacitracin, which are very toxic in large manufacturing quantities.

There are also chemical warfare and tear gas agents; compounds of lead mercury and cadmium; pesticides like parquat, endrin and lindane, and chemical intermediates like methyl isocyanate, which leaked at Bhopal, killing more than 2,000 people and injuring more than 200,000.

The heaviest concentrations of plants that handle the toxic chemicals are in New Jersey, Texas, Louisiana, West Virginia, the Midwest and California. But plants that handle these substances are situated in almost all parts of the country, from Connecticut to Nevada, New Hampshire to Washington State. Some of the companies that handle the largest numbers of the toxic chemicals are in the New York metropolitan area, including some on Long Island, in Brooklyn and northern New Jersey.

LARGE AND SMALL COMPANIES

Large companies like the Dow Chemical Company, Du Pont and the Union Carbide Corporation, whose pesticide plants in Bhopal and Institute caused the widely publicized accidents, often manufacture large volumes of toxic materials, but the handlers of the widest variety of toxic chemicals include many small and medium-sized companies.

The Aldrich Chemical Company in Milwaukee, with $35 million in annual sales, handled the widest variety, 97 of the toxic chemicals. The Aceto Chemical Company in Flushing, Queens, was second with 67, and four of the top 10 were in the Plainview and Smithtown region of Long Island. The Crescent Chemical Company in Hauppauge, L.I., handles more pesticides than any other company on the list, according to the analysis of chemical industry data.

Some of those companies produce relatively small quantities of toxic chemicals for sale to research and high technology concerns. But chemical experts said in interviews that some companies produced dozens of those chemicals, which together pose a significant threat in an accident.

MEASURING RISK OF CHEMICALS

Equations provided in the E.P.A. documents to determine what constitutes a potentially dangerous amount for each chemical make it clear that very small quantities may still pose threats. With chlorine, for example, as little as two-and-a-half pounds could be dangerous to someone 200 feet from a leak.

Some of the chemicals on the list are 10 times as toxic as chlorine, and many are highly unstable.

The E.P.A. suggests that municipalities form groups of local officials, experts, industry executives and ordinary citizens to seek out facilities where toxic chemicals may be used. Cooperation by chemical companies is voluntary, but Mr. Thomas said toxic waste legislation now pending in Congress will require companies to provide information on chemical storage if needed for emergency planning.

Mr. Gilroy of the Chemical Manufacturers Association said yesterday that his group would urge chemical companies to cooperate in such inquiries.

But interviews with chemical company executives last week revealed disparities in how much the companies would disclose about their operations. David R. Harvey, the president of Aldrich, said, "Our general policy is we don't make statements on chemicals we produce."

By contrast, Dr. Ervin Colton, the president of Cerac Inc., which is just down the street from Aldrich in Milwaukee, disclosed the amounts at his plant of each of the 18 chemicals on the E.P.A. list that Cerac handles. That included a few hundred pounds each of cobalt and nickel, 100 pounds of vanadium pentoxide and 15 pounds each of various mercury compounds. "We will absolutely share such information with the public," he said.

CARBIDE REDUCING INVENTORIES

Some of the large chemical companies have begun programs to reduce the amounts of very toxic chemicals they store. Robert E. Pyle, vice president at Union Carbide for chemicals and plastics, has recently reduced companywide inventories of very toxic chemicals by 74 percent. Company officials had independently identified nearly all of the 37 chemicals on the E.P.A. list that Carbide handles, he said.

But industry and Government sources said the E.P.A.'s criteria for potentially dangerous amounts of chemicals may create

some difficulties. Few producers of chlorine, for example, can store as little as two-and-a-half pounds, they said. About 27.7 billion pounds of chlorine are produced each year in this country at more than 60 locations, according to SRI International, a research concern, and at least that many additional companies store it. Commercial quantities may be 100 times greater than the danger level cited by the E.P.A.

Mr. Pyle said it may be necessary to add safety equipment or even stop making some chemicals in certain locations. "We're all going to have to share in mitigating the risk," he said.

The E.P.A. also advises communities to search for toxic chemicals in outside the chemical industry. Many of the toxic materials are purchased from producers by relatively small distribution companies that sell them to users. Some utilities handle toxic chemicals, like the Tennessee Valley Authority, which deals with three sulfur compounds, and Commonwealth Edison in Illinois, which handles vanadium pentoxide.

Bell Laboratories handles the pesticides warfarin and zinc phosphite, according to the analysis of the chemical industry data. The General Electric Company deals with hydrochloric acid and phosgene, a World War II weapon now used in production of pesticides, plastics and dyes, among other products.

STEPS FOR MUNICIPALITIES

The agency suggests that municipalities seek such information by consulting several industry sourcebooks, each listing thousands of chemicals and hundreds of producers and distributors.

They also urge municipalities to ask how the chemicals are handled, what safety precautions are taken, how close they are to the edges of the plant and how they are shipped to or from the site.

The agency also plans to distribute detailed profiles of the chemicals on its list, including handling procedures.

For each chemical, the agency provided equations so that localities can calculate what quantity would pose a lethal threat to areas surrounding a plant based on distance from a leak.

State officials say they are concerned that the high number of chemicals on the list will overwhelm local resources in seeking out the most important risk. "We just don't think we can go to all 168 towns in Connecticut and provide help to each of them," said Charles J. Zieminski, an official in the state's Department of Environmental Protection.

Mr. Thomas of the E.P.A. also expressed some concern that localities will lose momentum as time passes. "This must be more than one-time effort," he said.

LARGE NUMBER OF PESTICIDES

The largest group of chemicals on the list, about 140, are pesticides and pesticide components. Included on the list is nicotine, used in various pesticides as well as in tobacco products.

There are about 15 cyanide compounds on the list, including potassium cyanide, acrylonitrile (vinyl cyanide) and hydrogen cyanide. Acryinotrile is handled in about 50 places, including several locations in New Jersey. About 2.2 billion pounds is produced each year, largely in Texas.

Besides sulfuric acid, the mostly widely produced chemical in the United States, the list also includes ammonia, the third most widely produced, and nitric acid, which ranked 11th. Common industrial gases like bromine, fluorine, phosphine and sulfer dioxide are also on the list.

There are about 90 chemical intermediates, which are used to make other substances. Many are relatively unknown, as was methyl isocyanate, the chemical that leaked at Bhopal. Some of the more well-known intermediates on the list are hydrogen peroxide, nitrobenzene and phenol. The E.P.A. said in its document that some of the most widely used substances were included even though they are less toxic than some other chemicals because of the greater potential for leaks.

The list also contains some food, flavor and fragrance chemicals, and seven chemical warfare agents.

EPA Program on Toxic Chemicals Is Criticized

(By Stuart Diamond)

The Environmental Protection Agency's program for safer handling of dangerous chemicals came under fire yesterday from some legislators who attacked its voluntary nature and from some companies that said they sold quantities too small for concern.

The program includes the identification of 403 toxic chemicals that could cause injury or death from chemical plant accidents. At least 577 companies handle those chemicals at thousands of locations, according to an analysis of the list by The New York Times. The agency relies on municipalities to find the plants handling the chemicals and on chemical plants to disclose the information and make any changes to reduce excessive risks.

James J. Florio, Democrat of New Jersey, criticized those voluntary aspects. "This program hopes for the good will of the people running the plants and that people in the towns will have enough expertise to understand the chemicals," said Mr. Florio, chairman of the House Energy and Commerce Subcommittee on Commerce, Transportation and Tourism, which oversees the enforcement of various major environmental laws.

DIFFERING STANDARDS FEARED

In an interview, he said that even if such programs worked, they would result in different safety standards in different communities. "There will be no uniformity," he said.

E.P.A. officials and chemical industry executives have said that the chemical industry is so large and diverse that it is difficult, if not impossible, to have uniform standards, as there are with nuclear power plants. The Chemical Manufacturers Association, an industry group, has a program to encourage companies to cooperate with local communities in emergency planning.

Some of the companies that handle the most toxic chemicals are small concerns that sell sample quantities to laboratories and universities. Chemical experts said that the total inventory of the many small individual quantities could be significant in an explosion or fire. But some of the companies said they should not be lumped with the giant concerns that often store millions of pounds of toxic chemicals.

"We are more like a drugstore than a giant chemical plant," said Arthur J. Turco, president of the Crescent Chemical Company in Hauppauge, L.I.

Problems at Chemical Plants Raise Broad Safety Concerns

(By Stuart Diamond)

The type of management, training, equipment and response problems that characterized last December's gas leak disaster in Bhopal, India, exist in many American chemical plants, according to recent inspections and studies of the American chemical industry by a variety of experts.

These problems, confirmed in interviews with 130 people over the past six weeks, have prompted growing apprehension about safety compromises at hundreds, perhaps thousands, of places handling toxic chemicals.

Such concern is rising even as the Government and chemical industry are taking steps to improve. Last week, for example, it was disclosed that the Environmental Protection Agency had identified 403 highly toxic chemicals that could cause injury or death in a major accident, although not all are so potent as the one at Bhopal. The list was meant to help states and localities find potentially hazardous sites, prepare for emergencies and reduce risks.

An analysis by The New York Times found that 577 companies in thousands of locations handle such chemicals.

Just to measure the risks of major accidents, let alone reduce them, is a task beyond the resources of many localities, and concern has increased as a result, government officials said.

DIFFICULTIES IN THE DETAILS

The experts interviewed recently—industry consultants, government regulators, company executives and others—said there was insufficient information available to say precisely where the most serious problems might be, how likely a major accident was, or how many deaths or injuries might result. But they agreed that there were more safety weaknesses at smaller companies than at the larger ones.

Some of these problems came to public attention in August, when The Times disclosed new research concluding that emergency relief equipment was inadequate to handle an uncontrolled reaction in as many as 50,000 production processes at chemical plants.

It has since become clear, however, that the shortcomings go well beyond emergency relief equipment and touch nearly all aspects of the industry's operation, many chemcial experts said.

This broad new concern is a significant change from the weeks after the Bhopal accident, when most American chemical executives and experts pointed to the best worker safety record in manufacturing and thousands of leaks that did not result in injury as proof that neither the industry nor the public need to be alarmed about a disaster here. United States chemical facilities, they said, were generally more advanced than those in developing countries.

But many experts now believe that the safety record has masked important problems, creating a false sense of security.

"This country has been very lucky it has not had a major chemical accident killing a lot of people," said Roger J. Batstone, a chemical engineer who developed lists of hazardous chemicals for Britian and the World Bank and was consulted by American officials.

"There have been many warnings," he said. "Those who try to minimize the hazards are totally wrong. And if there aren't many changes in the next couple of years,

there probably will be a major accident here."

Industry executives, while objecting to the tone of such remarks, acknowledge safety weaknesses. "We have an outstanding worker safety for record, but we have been weakest in protecting against a major accident involving the public," said George J. Sella, chairman of the Chemical Manufacturers Association and of the American Cyanamid Company.

"In the past, such accidents' were considered so improbable that it was not believed necessary to build in the protection mechanisms for them," said Mr. Sella, a chemical engineer. He said there was now "great awareness" about the need to improve emergency plans and add safety equipment.

The recent rise in concern began on Aug. 11, when a chemical leaked at a Union Carbide pesticide plant in Institute, W.Va., injuring 135 people. The accident, while not nearly so severe as the one in Bhopal, where more than 2,000 people died, showed the same kinds of human and equipment failures in a similar plant, and it happened while the Institute plant was under intense scrutiny by regulators and the industry.

Since then, audits of plants by companies and government officials have found patterns of accidents and failures that experts say pose a previously unforeseen risk to the public.

Many of the troubles have been relatively small: values operating incorrectly; overpressurized tanks; broken gauges left unrepaired. But there have been thousands of failures, often leaking toxic chemicals into the air, sometimes injuring dozens of nearby residents.

"Institute was a turning point, especially on top of Bhopal," said Robert D. Kennedy, president of Union Carbide's chemicals and plastics group. "A year ago, a one-in-a-million shot was unthinkable," he said. "Now it's thinkable. It can happen here; it can happen anywhere. It causes us to rethink everything we do."

Mr. Sella agreed, "Mr. Kennedy is 100 percent accurate," he said.

As a result of such concern, the Federal Government has expanded its interest in chemicals beyond longstanding public concerns about toxic waste sites and small, routine leaks that could cause cancer or other disease. In the past, Federal inspectors say, they almost never seriously considered the possibility of major accidents.

"Our concern about acute hazards has heightened considerably in the past year and especially since Institute," Lee M. Thomas, the E.P.A. Administrator, said in an interview. He urged "far greater awareness on the part of plant management about process system safety."

How can the risks of accidents be reduced? Those interviewed said improvement was needed in these areas:

Information. Many chemical companies have been reluctant to tell the public what hazards their plants contain. "In case after case, employers have claimed that every substance they make is a trade secret," said Margaret Seminario, a safety expert for the American Federation of Labor and Congress of Industrial Organizations.

Emergency plans. Most chemical plants and the communities around them are ill-equipped to cope with toxic accidents. John M. Jones, an official of the Dow Chemical Company who heads an industrywide effort to formulate emergency plans, said it would take two years for the average community to make adequate preparations for chemical emergencies.

Management. Safety varies widely among chemical plants because of management; cost is a main factor. "For too many companies, there is no profit in safety," said Richard H. Mays, who heads enforcement at the Environmental Protection Agency.

Training. Few chemical plants have training simulators, common among airlines and in some other industries. "In some companies, training frankly stinks," said A. Ben Clymer, a New Jersey training consultant who recently surveyed 77 plants.

Risk analysis. Relatively few chemical companies do detailed risk assessments to find and improve equipment and procedures most likely to fail. Thus while the industry says intuitively that the risk of a major accident is very small, there is little information to settle the issue.

Audits this year by Illinois officials found that 8 percent of the state's biggest chemical facilities were poor in hazard control, management, operations and emergency planning. "Too many facilities did poorly," said Roger A. Kanerva, a state environmental manager. He added, however, that some plants were clearly excellent.

Regulation. No Federal agency is charged with preventing major chemical plant accidents. There is wide disagreement on the use of regulations.

ACCIDENT HISTORIES: EXPERTS WORRY

A search through accident histories turns up many mishaps that worry experts.

In October 1982, for example, human error and equipment failure sent chlorine arching into the sky from a plant in Niagara Falls, N.Y., owned by E.I. du Pont de Nemours & Company. It came down on a crowded stadium a mile away, where a high school football game was being played. There were 76 injuries and one death, a Federal report said. "A lot of football players were falling down on the field," said Robert A. Armbrust, a state engineer familiar with the mishap.

Arthur J. Fossa, air toxics director for New York State, said plant operators did not discover the leak for 30 minutes, after which they properly operated valves they earlier misused.

Improvements were made at that plant, but accidents happen almost daily around the country. An unreleased E.P.A. study obtained last month by the New York Times listed 6,928 chemical accidents since 1980, involving 139 deaths and nearly 1,500 injuries. It was a partial listing.

Among the accidents, a pesticide leak injured 161 people in New Jersey. A nitric acid explosion killed 3 people and injured 61 in Mississippi. A solvent leak injured 40 in Queens. Ammonia, widely used for cooling, killed 4 people in San Antonio and injured more than 270 in bakeries, ice cream factories, warehouses and other businesses in many states.

About 35 incidents had important elements of Bhopal: a toxic chemical leak from a storage tank involving operator error. Other American accidents had one or more other Bhopal failures: inadequate instruments, relief equipment, training, emergency planning and safety expenditures; and workers who disbelieved or ignored alarms.

As recently as Oct. 21 a storage tank leak at an Exxon plant in Bayway, N.J. spread dilute hydrogen sulfide over hundreds of square miles. Temperature and pressure gauges that could have issued warnings were not tied to the control room. Safety devices did not destroy all the toxic gas, which caused some nausea. County officials did not reach the site for 30 minutes; state officials were not reached for two and a half hours, Exxon's chronology shows. Hydrogen sulfide is on the E.P.A. list of toxic chemicals.

SIZE OF INDUSTRY HAMPERS EFFORTS

Efforts to monitor chemical plants and reduce the chances of a major accident have been hampered by the industry's sheer size.

The United States has 12,000 chemical manufacturing plants, 400,000 major chemical storage facilities and several million businesses that use or store smaller but still potentially dangerous amounts of toxic chemicals, including hospitals, dry cleaners, paint outlets and food warehouses.

A study by the Congressional Research Service earlier this year found that there were more than 6,300 plants that manufacture chemicals and allied products in the 25 largest metropolitan areas and that 75 percent of Americans lived in these areas. Northern New Jersey had the most plants: 800. There were also 92 in Manhattan, 101 in Brooklyn, 28 in the Bronx, 79 in Queens, 68 in Nassau County, 77 in Suffolk County, 54 in Westchester County and 68 in Fairfield County, Conn.

Yet little or nothing is publicly known about two-thirds of the 54,000 chemicals in commercial use, according to the National Academy of Sciences. This is particularly true of chemicals created in intermediate stages of manufacturing, such as the methyl isocyanate that leaked at Bhopal and the aldicarb oxime at Institute. Many are not specifically regulated.

"We just can't get everything," said John B. Miles Jr., head of field inspection at the Federal Occupational Safety and Health Administration. "We try to start with the highest risk, but we may not get to a plant for 10 years. It's a big, difficult problem."

The chemical industry has started programs to improve safety voluntarily. One is the Community Awareness and Emergency Response program of the Chemical Manufacturers Association, which urges companies to work with localities to develop emergency plans. Another is the Center for Chemical Plant Safety of the American Institute of Chemical Engineers, involved in distributing technical information to improve safety in processing.

"There is a sharing of knowledge, and also peer pressure," said Gordon D. Strickland, deputy technical director of the manufacturers' association.

But such chemical risk experts as Joseph R. Fiksel of the consulting concern Arthur D. Little Inc., say the commitment to safety and improvements varies widely across the industry.

"The dozen top companies are all pretty much taking aggressive action to control risks," Mr. Fiksel said. "But most of the second-tier companies are taking a wait-and-see attitude. Many don't have the financial clout to make changes. And the mom-and-pop shops are generally doing nothing."

Most experts said better information is the starting point in reducing risks.

The E.P.A. list of 403 chemicals aims to help localities collect information on where the materials are stored, and in what amounts, and thereby assess the risks. But many companies have routinely refused to disclose such information, and some still balk at doing so, saying that the information could give competitors an economic advantage.

A New Jersey law that requires inventory disclosure, among other things, has been

fought in court this year by that state's chemical producers.

"We are probably not willing to share inventory information" with the public, said Kent R. Davis, safety director of Dow Chemical U.S.A.

In contrast, Bruce W. Karrh, vice president for safety at Du Pont, said, "Our policy is to tell localities what materials we produce, the amounts and the hazards." Otto Sturzenegger, chairman of the Ciba-Geigy Corporation's United States operations, agreed: "If communities wish to be properly prepared, they have to know what amounts we have."

Today the Occupational Safety and Health Administration begins requiring companies to provide health information to workers. But efforts in Congress to force companies to provide more data have stalled.

Meanwhile, local battles continue. In Montgomery Township, N.J., Johnson & Johnson Baby Products declined for several months this year to publicly identify the 300,000 gallons of chemicals it planned to store, saying the information was proprietary.

Town experts identified the major one as acrylic acid by studying the chemical properties the company provided. The acid is common and toxic.

In response to local pressure, said Robert V. Andrews, a company spokesman, Johnson & Johnson acknowledged last month that it would store the chemical and two others.

LOCALITIES SEEK EMERGENCY PLANS

Once toxic chemicals are identified, the next step, planning for emergencies, is also a new topic for many localities, said Robert S. Wilkerson, chief of technological hazards for the Federal Emergency Management Agency. "A relatively small percentage of localities sought training in hazardous chemicals before last December," Mr. Wilkerson added. "A lot of fire departments subscribe to the saying 'If you don't know, don't go.'"

The task includes amassing and understanding complex information, developing models of chemical dispersion, buying equipment and holding drills. The estimated cost ranges from a few thousand dollars for a small site to more than $1 million for a large one.

Federal officials say localities will have to pay for much of it, but local officials say money is scarce. "Many areas will not be able to afford what is needed," said S. William Becker of the Association of Local Air Pollution Control Officials.

DEPENDING ON MANAGERS

Prevention, experts say, is better than the best emergency response plan, which only helps reduce the damage after an accident. But that depends on plant managers. Some companies, such as Du Pont, the Monsanto Company and the Union Carbide Corporation, have decreased risk by drastically cutting storage of toxic chemicals. Some plants have vapor recovery systems, double-walled tanks and computers that continually adjust reactions.

But Dr. J. Charles Forman, executive director of the American Institute of Chemical Engineers, said the problem was considerably more difficult for small companies. "A marginal plant facing a safety improvement of 15 to 20 percent of its original cost can quickly drop into a negative position," he said. "Every time you want something, you have to submit it to the cold light of financial review."

A study by Mr. Clymer, the training consultant, found that only 22 of 77 plants had full computer control of their production processes to help curb runaway reactions.

Dr. Forman's point is borne out by Elmer A. Fike, a partner of Fike Chemicals, Inc., a 45-employee company in Nitro, W.Va. "Computer process controls are out of the question," Mr. Fike said. "We just can't spend that kind of money."

But not all safety is costly. Frank B. Friedman, vice president for safety at the Occidental Petroleum Corporation, said the workers who operate plant equipment were often unable to get safety concerns to executives because of bureaucratic barriers. "That has nothing to do with resources or size, but how you manage," he said.

Irwin S. Zonis, president of Essex Industrial Chemicals, remembered a runaway reaction in a storage tank at one of its plants in Baltimore. The reaction blew out some equipment, causing a leak that injured 15 nearby residents in September 1984. The chemical, benzyl chloroformate, becomes very reactive as temperatures rise, but the tank holding it had no temperature gauge and was in fact being heated by mechanical stirring. "We were very fortunate that no one was killed," Mr. Zonis said. "The operation should never have been approved by management."

The variation in management is evident in worker training.

The best company programs, experts say, include a month of classes in safety principles and two-week refresher courses yearly. The worst have no classroom or refresher training, said David C. Pathe, a chemical engineer and training expert in Sea Girt, N.J. "They say, 'Here's your safety gear—we wear it when things go wrong,'" Mr. Pathe said.

Mr. Clymer said his survey of 77 plants using chemical processing equipment had found that only 10 percent of operators got annual refresher courses. Some plants, such as the Mobil Oil Corporation's in Paulsboro, N.J., have 100 days of training for new operators, he said, while others have less than 5 days.

Richard E. Edgington, chairman of the health and safety committee of the A.F.L.-C.I.O. in Oregon, asserted that such a plant is operated in Portland, Ore., by the Pennwalt Corporation.

Mr. Edgington, a member of the plant's labor-management safety panel, said it had three days of training for new operators, including a 90-minute safety briefing. Safety procedures are followed only about 60 percent of the time, he said, largely because of the press of production, worker inexperience and failure of middle management to enforce the rules. Some mishaps have resulted in injuries, he said.

A Pennwalt spokesman contended that the plant was safer than Mr. Edgington indicated but did not dispute the training figures.

A union survey of 400 locals last year at various companies' plants throughout the country indicated wide concern over training.

"This union believes that a Bhopal-type disaster could occur in this country in a chemical plant employing our union members," said David W. Ortlieb, health and safety director of the International Chemical Workers Union. He said intensive operator training for runaway reactions was unusual. The union has 65,000 members.

A big problem at some plants, several experts said, is work on overnight shifts and weekends. The Bhopal and Institute accidents and a 1974 cyclohexane explosion that killed 28 people in Flixborough, England, all occurred on such shifts.

One way often used to improve training is with simulators: full-size control consoles on which accident scenarios are posed for operators to control.

"With a simulator, you can let an operator practice handling an accident over and over," Mr. Clymer said. "Response becomes quicker and more accurate. It is practice an operator could not get otherwise, and in a real accident he is calmer and less frightened, because he has seen it before."

But simulators, common in the airline and nuclear power industries, are rare in the chemical industry. Lawrence P. Ricci of Atlantic Simulation, the largest supplier of chemical training simulators, said there were only about 150 plants with simulators for operators of chemical process equipment. That covers less than 10 percent of the major facilities, he said.

Mr. Davis of Dow Chemical said, "More of our resources must be directed toward training people."

Of a dozen experts interviewed on training, only one, Mr. Strickland of the Chemical Manufacturers Association, said training was adequate. "There is no serious problem with training in the industry," he said.

DEBATE ON ROLE OF GOVERNMENT

Factoring all the elements of chemical plant safety into one equation is called risk analysis. It involves calculating the failure rates of each part of the system—equipment, procedures and humans—and determining possible sequences of failure.

Risk analysis has been practiced for years by airlines and nuclear plants, said Alvin M. Weinberg, a former director of the Oak Ridge National Laboratory who is a risk expert. But the chemical industry, he said, "is way way behind."

In Britain, by contrast, the analysis is done by even small chemical plants using personal computers, said Mr. Batstone of the World Bank. "Europe is 10 years ahead of this country in hazard evaluation," he said.

The World Bank requires safety equipment more advanced than in the United States for the plants the bank finances in developing countries.

Mr. Mays of the Environmental Protection Agency says chemical companies should be required to audit their plants and analyze their risks, particularly in order to force weaker companies to improve. Such a requirement was part of a settlement earlier this year with the Diamond Shamrock Corporation under which the company agreed to pay a $900,000 fine for violating Federal notification procedures on the introduction of new chemicals.

"These audits are too important to leave to the voluntary action of individual corporate management," he said. New Jersey officials are starting to require audits of risk, and the Occupational Safety and Health Administration has begun a pilot program to inspect 80 plants for potential runaway reactions. Some governmental officials propose criminal penalties for violations involving leaks.

Fred Millar of the Environmental Policy Institute, a Washington-based lobbying and research group, suggests a tax on chemical plants to pay for inspection programs. Los Angeles has just started such a program and plans to collect $1.5 million a year.

But neither the industry nor top officials of the Environmental Protection Agency have come out in favor of mandatory pro-

grams. Milton Russell, the agency's Assistant Administrator for Policy, said it was hard to regulate plant safety in an industry with thousands of different processes and substances. He said the threat of increased liability from lawsuits was a powerful factor in persuading chemical companies to improve.

Mr. Thomas, the E.P.A. Administor, said be was considering ways to force more safety through existing regulations, such as requiring more detailed reporting of accidents or ordering safety reviews at higher levels in chemical companies.

Indeed, many experts say that regulation cannot guarantee safety, only a will to be safe can. "You can't regulate or legislate a management commitment to safety," said Mr. Karrh of Du Pont. "The company must value it."

But some say a broad commitment will not be easy to secure.

"The Institute accident occurred with hundreds of regulators looking at the plant and top management obsessed with it," said Thomas N. Gladwin, a chemical management expert at the New York University Graduate School of Business Administration. "It was where all the industry's capabilities and motivation should have been applied. It tells me that commitment to plant safety does not reach the whole industry."

"The culture of many companies must be changed," he added. "What they value, what they pay attention to, how they promote. One would have thought Bhopal would have caused those changes. It is clear that it will take a lot longer."

[The New York Times, Nov. 19, 1985]

E.P.A. Issues Advice on Avoiding Toxic Accidents

(By Stuart Diamond)

East Rutherford, NJ.—The Environmental Protection Agency today began an effort to help states, municipalities, chemical companies and unions avoid a major chemical accident like the one in Bhopal, India, last December.

Ten thousand officials, watching television monitors here and in 200 other cities, heard detailed instructions from officials in Washington on how localities can find highly toxic chemicals in their midst, assess and reduce excessive risks and plan for emergencies.

A total of 403 toxic chemicals "immediately dangerous to life and health" have been identified by the E.P.A., and the agency plans to disclose these chemicals next month along with detailed information on how to handle them. An analysis by The New York Times of the list, obtained from Government officials, indicates that at least 577 companies in thousands of locations around the nation produce, store or use the substances.

Many of the 75 people here praised the initiative, although some expressed concern that state and local governments would need a lot of extra money for training, equipment and personnel.

"The E.P.A. program, with all its publicity, will give a lot more impetus and vigor to efforts by state and local officials to plan for chemical emergencies," said Lieut. James A. Arena, chief of the Emergency Services Bureau for the New Jersey State Police.

But James F. Ross, chief of Emergency Response Preparedness for the New Jersey Department of Environmental Protection, said, "Without funding, some townships will find it particularly difficult" to locate the toxic chemicals and devise appropriate emergency plans.

E.P.A. officials said they had no money to offer for items like extra emergency equipment, but said they would provide more than 120 aids to train state and local personnel around the country. "We realize that everybody would like to have additional dollars, but the money just is not available," said Jack W. McGraw, the E.P.A.'s Deputy Assistant Administrator for emergency response.

Some of the chemical company officials who attended the session said they are especially interested in the identities of the 403 chemicals, so they can perform more detailed inspections of their plants and prepare for public questions about them. Most praised the program.

PEOPLE WANT TO KNOW

"It's almost inevitable that people today want to know what's happening in local chemical plants," said Dr. David R. Gaskill, a safety expert from the Mobil Chemical Co. "And it's prudent for us to look at our inventories of these chemicals, and perhaps reduce them."

The E.P.A. document contained methods for measuring dangerous quantities of various chemicals in an accident, and tables for determining how far from chemical plants those dangers would extend. It urges that municipalities form committees that would include local officials, fire marshals, residents near chemcial facilities, workers, medical personnel, journalists, educators, company executives and chemical experts.

The document also gives localities lists of questions to ask chemical companies like. "If you have a leak, what do you do?" In addition, it suggests people ask what measures plants have taken to prevent chemicals accidents, how their toxic chemicals are stored, and how they ship chemicals to and from the site.

The agency recommends that localities find out what kind of medical and emergency preparations chemical companies have made on their sites, as well as the quality of their systems for notifying surrounding areas of emergencies.

EMPHASIS ON COORDINATION

At various intervals, viewers from around the country expressed concern by telephone about monetary help.

But Mr. McGraw said in an interview that the success of the agency's program depended less on money than on improving coordination among officials preparing for chemical emergencies.

The need for coordination was echoed by Leonard Ledbetter, commissioner of the Department of Natural Resources for Georgia. He said that while his agency had two helicopters and 24 trained people, "the nitty-gritty is that we have not properly coordinated with local officials who responds first to a local emergency."

Mr. Ledbetter also said the importance of the E.P.A. program was to enable states and localities to begin determining the areas with the most toxic chemicals.

He said it would be "irresponsible" for municipalities to try to close down operating facilities, since, he contended, their operation had been officially sanctioned. But he added that new knowledge of the most toxic chemicals would enable zoning officials to reduce the risks from current chemcal facilities and to situate future plants in areas where they would pose much less risk.

MESHING WITH EXISTING PLANS

Mr. Ross, the New Jersey environmental official, said his state already had an extensive emergency response system, as do some other states, particularly in areas around nuclear plants. He said he was concerned whether the E.P.A. toxic chemical program could be properly integrated into New Jersey's existing program, but added that other areas without such extensive plans could benefit greatly from the E.P.A.'s suggestions.

He expressed additional concern that under the plan the chemical companies can voluntarily decide whether to give localities information about the toxic chemicals they produce. Some companies may simply refuse, he said.

"We have found that the smaller companies, the one or two tanker companies, are more defensive," Mr. Ross said. "Unlike the Du Ponts and the Exxons, they don't have large communications and safety structures. They are interested only in moving stock and saving expenses."

Mr. McGraw said the E.P.A. hopes that amendments attached to toxic waste legislation, which would require chemical companies to provide such information, will be approved by Congress.

E.P.A. Lists Dangers of More Than 400 Chemicals

(By Stuart Diamond)

The Federal Government today is to release for the first time detailed information on just how dangerous more than 400 highly toxic chemicals could be to communities in the event of an accident.

A New York Times analysis of the information shows that dozens of chemicals produced in the millions of pounds each year could pose serious health risks if only a few pounds escaped from a plant as gas, dust or droplets that carried to nearby homes or businesses.

Many chemicals on the list, compiled by the Environmental Protection Agency, are at least as dangerous as methyl isocyanate, the substance that leaked in Bhopal, India, last December, killing more than 2,000 people and injuring 200,000, the analysis found. Some of the chemicals, including some of the most widely used acids and industrial gases, can be dangerous in amounts of less than a pound at a distance of 200 feet after an accident, the data show.

A list of the 403 very toxic chemicals was obtained and was published last month by The Times, which found that at least 577 companies in nearly every state handled the substances. But without the new data, which also describe uses of the chemicals and guidelines for evacuation, communities were unable to assess the danger posed by quantities stored locally or to reduce risk, officials said.

The list, which reduces the number of chemicals to 402, is being officially released today. The health data, which run 900 pages, were obtained Friday by The Times.

MILLIONS LIVE NEAR SITES

Although millions of people live near plants handling those chemicals, experts say, few would be exposed to dangerous quantities unless an accident occurred under conditions in which wind and humidity would cause the chemical to move toward populations and disperse slowly. Those risks are considered quite small by most chemical experts and Government officials. But after the accident at Bhopal and many much

smaller ones in the United States, the industry, the Federal Government and communities have begun a major attempt to identify the risks and reduce them.

The chemicals posing health problems in quantities of less than five pounds include sulfuric acid, the nation's most widely produced chemical. Manufacturers in the United States have the capacity to produce 111 billion pounds of that chemical a year, trade publications say. Also in that range of potency are chlorine and formaldehyde, both widely produced.

The list also includes many less familiar that can pose great risks. Among the most toxic is phosgene, a dye and pesticide component used as a weapon in World War I. It is now stored widely by the ton, and more than two billion pounds can be produced each year. A leak of 6.5 ounces of phosgene is considered dangerous at 200 feet, and a leak of six pounds would probably be fatal at that distance under some circumstances, the documents show.

A solvent, carbon disulfide, is so flammable "vapors may be ignited by contact with an ordinary light bulb," the report says. Lithium hydride, a catalyst used in making ceramics and electronic tubes, forms dust clouds that can spontaneously catch fire in air and "may explode on contact" with heat, the report says.

The new data enable communities to calculate the amount of various chemicals that the E.P.A. calls "immediately dangerous to life and health." That amount would help officials to judge whether quantities produced or stored are enough to justify more rigorous prevention or emergency planning, the E.P.A. said.

The report recites health problems for hundreds of pages: nerve, lung and eye damage; vomiting; kidney and liver damage; muscle collapse; coma; death. Damage can occur by inhalation, absorption through the skin, ingestion or all three. "A small drop in the eye may cause death," it says of TEPP, a rat poison.

"May cause death or permanent injury after very short exposures to small quantities," it says of selenium oxychloride, a solvent.

The materials can be spread widely by fire or explosion, it says.

"This document will enable communities to learn more about what's in their midst, how to handle it and how to lower the risk of catastrophe by emergency response and planning," said George F. Wirth, an engineer who headed the E.P.A. program.

Community officials have said they are unprepared for a major chemical accident, and some of the E.P.A. data sheets underscore that thought. "The normal full protective clothing and breathing apparatus available to the average fire department," it said, "will not provide adequate protection" against many chemicals.

COMPOUND CAN PENETRATE CLOTHING

One of them, acrylonitrile, a common plasticizing compound, can penetrate the typical protective clothing of firefighters and cause death, the report said. So can hydrogen cyanide, used in photographic processes, and nickel carbonyl, used in electronics. For each of these chemicals the report said: "Material is too dangerous to expose firefighters. A few whiffs of vapor could cause death."

For dozens of the substances, evacuations within a half mile are required after a leak, the report says; for some others, the evacuation zone is more than two miles.

The knowledge of the potential for severe health damage from relatively tiny amounts of chemicals often produced in huge quantities is bound to produce conflicts between communities and nearby chemical companies, chemical experts said.

"I think when people learn about these things, they will become very upset," said Peter F. Green, a staff member of the Oregon Legislature's committee on hazardous materials.

Dr. Eileen K. Silbergeld, director of toxic chemicals at the Environmental Defense Fund, a research and litigation group based in Washington, said localities would probably pressure companies to reduce inventories even further than they have since Bhopal.

"The natural call by the public will be to ban these chemicals as the realization grows around the country that the storage depots are everywhere," said Dr. Silbergeld. Redesigning plants to reduce inventories would be a cheaper alternative, she said.

The chemical industry has offered to help communities reduce risks, but some say it would be virtually impossible to change production processes so that the amounts of toxic chemicals are reduced to anywhere near the lowest danger levels.'

"If we have a plant producing 300 tons of chlorine a day, we can't very well operate with a two-pound inventory," said Frank B. Friedman, a vice president of the Occidental Petroleum Corporation.

Occidental has three major chlorine facilities, in Niagara Falls, N.Y., Tacoma Wash., and Taft, La. The typical tank car is 100 tons, he said. "You have to be able to fill several of those each day," Mr. Friedman said.

Of particular conern is phosgene. Its delayed symptoms may leave victims unaware for 24 hours than they have inhaled a serious or lethal dose. In Lockport, N.Y., the Van De Mark Chemical Co. has a capacity of eight million pounds. In Deepwater, N.J., the Du Pont Co. has a capacity of 80 million pounds.

"If someone next door to me had phosgene, I'd be concerned," said Mr. Wirth of the E.P.A. "A community might say it had no idea so much was stored. Well, they will now. It will be up to local industries to negotiate satisfactory solutions with communities."●

CANADA'S ACID RAIN PROGRAM

● Mr. STAFFORD. Mr. President, earlier this week, the Province of Ontario announced a major new acid rain program requiring acid-causing emissions in Ontario to be reduced by 67 percent from 1980 levels. This program implements Ontario's portion of the Comprehensive Acid Rain Control Program that the Canadian federal government announced earlier this year.

The new Ontario program will require dramatic reductions in emissions at the Inco Smelter at Sudbury, the Falconbridge Smelter at Sudbury, the Ontario Hydro utility, and the Algoma iron plant. Under the program, the Inco plant would be required to cut sulphur dioxide emissions from its 1984 level of 683 kilotons to 265 kilotons by 1994, a reduction in actual emission levels of more than 63 percent. Ontario Hydro's 1984 emissions of 444 kilotons of sulphur dioxide will be cut to 175 kilotons over the next 10 years, more than 60 percent. Similar controls will be imposed on Falconbridge, Algoma, and other emission sources in the province.

These reductions are in addition to those achieved earlier in the province. At Inco, for example, emissions at the Sudbury smelter dropped between 1965 and 1983 from 6,500 tons of sulphur dioxide per day to 1,950 tons per day, a cut of 62 percent. The further reductions announced yesterday will mean that by 1994 Inco will be emitting sulphur dioxide at less than 11 percent the level it emitted in the late 1960's.

I am told by the government of Ontario that the program is a hard and fast commitment backed by provincial regulations adopted by the government last week. The government says these regulations are not appealable, so the affected companies have no choice but to comply. I also am informed that the negotiations leading up to adoption of the new program were extremely tough, with long, hard hours of bargaining.

Mr. President, if what I am told is accurate, not only is the new program good news for Canada; it is also good news for the United States. The Ontario cuts alone will mean a reduction of some 5 to 10 percent in acidic deposition that affects the New England region, according to their estimates. When the entire Canadian federal program is taken into account, they project that the benefits to New England are approximately twice that level.

Beyond the tangible emissions reductions for the Northeast, I believe there are other reasons to be cheered by the new Ontario program. Early next year, the Senate Committee on Environment and Public Works will continue hearings on the control of acid rain. I hope the committee can complete action on and report acid rain control legislation to the Senate floor early in the year. The Canadians have committed to a strong and comprehensive Acid Rain Control Program. I very much hope that the United States will do the same.

Mr. President, I request that the article on this program which appeared in the December 18, 1985, New York Times be printed in the RECORD.

The article follows:

ONTARIO ANNOUNCES PROGRAM TO SHARPLY CURTAIL ACID RAIN

(By Philip Shabecoff)

WASHINGTON, Dec. 17.—Ontario Province in Canada, in a step that would significantly reduce acid rain in New York State and New England, announced a program today to curtail sulfur dioxide pollution sharply.

At a news conference in Toronto that was shared with Washington by closed circuit television, Environment Minister Jim Brad-

ley of Ontario, said the province's four biggest industrial sources of sulfur dioxide had been ordered to reduce their emissions to 665,000 metric tons by 1994 from 1.9 million metric tons.

Ontario's action is part of an overall Canadian program to reduce the sources of acid rain. In Canada, the provinces have the major responsibility for environmental protection.

Sulfur dioxide is a major cause of acid rain, the name given to air pollution caused by the burning of fossil fuels that changes chemically in the atmosphere and falls to earth, often far from its point of origin, as acidic rain, snow, fog or dust. Acid rain has been found to destroy freshwater life in some lakes and streams, particularly in the eastern United States and Canada. There is debate on whether it damages forests and threatens human health.

LARGEST SOURCE IS CITED

The four sources ordered to reduce sulfur emissions include the Inco Ltd. smelter in Sudbury, which is known to be the largest source of sulfur dioxide pollution on the continent.

The other companies involved are Ontario Hydro, which operates coal-fired power plants in southern Ontario, the Falconbridge Ltd. smelter in Sudbury, and the Algoma Steel Corporation facility in Algoma.

Mr. Bradley said that the program would reduce acid rain in New York's Adirondack Mountains and in New Hampshire by about 8 percent and to a somewhat lesser extent in other parts of the northern United States.

He also said: "The effects of Ontario's acid rain production on U.S. states and other parts of Canada is minimal when compared to the effect U.S. acid rain has on us. Half of all the acid rain destroying Ontario's environment came from the U.S."

Complaints from Canada over acid rain originating in the United States have been a sore point in relations. The two Governments appointed special envoys this year to negotiate a solution to the problem and their proposal is expected early next year.

Industry officials in the United States and some Government officials here have complained that Canada has done less than this country to reduce the pollution that causes acid rain.

The Edison Electric Institute, a trade association of the private power industry, has issued a statement saying that power plants in this country have spent many billions of dollars and have made significant reductions in sulfur emissions despite a dramatic growth in the burning of coal.

Environmental groups praised Ontario's program as an important step.

Senator George J. Mitchell, Democrat of Maine, said that Ontario "has now done more in a single day to reduce acid rain than the Reagan Administration has done in five years."

The Administration has said that more needs to be learned about the causes and effects of acid rain before costly controls are mandated.●

GRAY MARKET LEGISLATION

● Mr. INOUYE. Mr. President, I am pleased to join my colleague from New Hampshire in rising to announce we have reached an agreement on legislation to regulate the automobile gray market. Extensive negotiations have gone into this compromise, and the assistance of the Commerce Committee has been invaluable. This legislation is quite comprehensive in an attempt to provide a solution to the diverse issues involved in the gray market. I feel it is the best approach practicable and addresses the major problems which plague the gray market, especially with regard to motor vehicle safety. It also assures that gray market importers are put on an even playing field with authorized auto dealers by requiring that they pay the gas guzzler tax and CAFE penalty. It also provides that the setup and maintenance of the gray market system does not cost the taxpayer anything, as all costs are borne by the gray marketers through user fees.

Mr. RUDMAN. The Senator from Hawaii is accurate in stating that after hours of negotiation we have agreed to a workable compromise with respect to the automobile gray market. I would like to thank my colleague for his assistance and contribution in this matter. As with all compromise packages, probably no one is completely happy with all the provisions contained therein. Nonetheless, I am pleased that we have arrived at a satisfactory resolution of this matter. By keeping the gray market open, I feel this legislation maximizes consumer choice and preserves competition in this market. This proposal also addresses the concern of the Senator from Hawaii that clear and enforceable safety guidelines be established which cover the gray market.

Mr. INOUYE. My colleague and I have worked long and hard to reach this compromise, and I have been informed by Senator RUDMAN that with this agreement as a substitute to the gray market provision in the NHTSA authorization bill, he is willing to move to expeditious floor consideration of this bill. Senator DANFORTH informs us that he will push for prompt consideration of the bill when the Senate reconvenes in January, and I am certain we will do all we can to assist him in this regard.

Mr. RUDMAN. My colleague is correct that, based on this agreement, a summary of which follows this colloquy, I would be pleased to bring the NHTSA bill to the floor for prompt consideration.

I ask that the summary be printed in the RECORD.

The summary follows:

RUDMAN-INOUYE GRAY MARKET COMPROMISE

I. Vehicle may be imported into US under bond if:

A. Importer and modifier are registered with DOT:

Fees to be assessed annually by DOT as necessary to cover costs of this program.

Facilities doing modifications must be registered with DOT. DOT shall assess fees to cover costs.

Secretary to establish requirements for registration and for revocation of registration for failure to meet requirements. Requirements include: record keeping, inspection of records and facilities, payment of gas guzzler tax and CAFE penalty. (Importer to be treated as manufacturer in both cases except that the importer is not eligible for the small volume exemption. Thus, with respect to CAFE, penalty to be assessed based soley on the fleet of the importer.)

B. Vehicle is determined to be capable of meeting safety standards:

Secretary to make determinations as to whether car is capable of meeting standard either because:

It is substantially similar to U.S. model car and can be readily modified to meet all applicable Federal safety standards; or

Importer provides test data clearly demonstrating that car is or can be modified to meet all applicable safety standards—this option only available in the case where there is no substantially similar U.S. model vehicle.

An importer will petition the Secretary to make a determination with respect to a particular model. Once a determination is made for any vehicle, any importer can bring in that car under that determination so long as it is modified in accordance with procedures described in the petition and importer certifies that to be the case.

Secretary to establish by regulation the information required in such petitions including a description of the modification to be made and evidence that such modification does not appear to create a safety defect.

Each petition will not be subject to rulemaking, however, the Secretary shall make petitions public and shall consider any information submitted by any interested parties.

Determinations published in Federal Register. Any appeal by a petitioner in the case of a negative determination also published in Register with an opportunity for further input by interested parties.

II. Importer may not sell or register vehicle until:

A. Importer certifies that vehicle was modified in accordance with procedures described in a petition for an approved determination and meets all applicable federal safety standards;

B. Importer has labeled vehicle stating its gray market status and obligations of importer;

C. Secretary has approved certification (Secretary must act within 30 days); and

D. Importer has established fuel economy rating and labeled vehicle regarding gas guzzler tax assessed for that vehicle.

III. Inspections/tests: Secretary to periodically conduct inspections and tests (including destructive tests) of vehicles to determine compliance, and shall inspect all facilities within one year from effective date.

IV. Recall:

A. Importer responsible for notice, recall and repair. A gray market car will be presumed to have any safety defect that is reported in a car to which it is substantially similar—unless proven otherwise

B. Secretary to establish by regulation requirements to ensure that the importer is financially able to carry out his responsibilities

C. Procedure established to ensure that original manufacturer provides necessary information and parts for recall

V. Exemptions:

A. Military and foreign service employees: except that such individuals must still bring cars into compliance with safety standards

B. Foreign diplomats

V. Study/tests/evaluation:
A. Annual GAO study beginning July 1987
B. DOT study after 36 months
C. Congress to make any appropriate modifications based on findings
VI. Effective date:
A. Secretary to promulgate regulations within 8 months from enactment. If the Secretary has not promulgated regulations within 8 months, civil action may be brought against the Secretary
B. Once regulations are effective, there is a 3-month grace period during which determinations will be made. Within 3-month period, once a determination is made, it is effective for that model vehicle.●

ACTION VITAL TO U.S. TRADE DEFICIT

● Mr. LEVIN. Mr. President, once againg, the Reagan administration has failed to take aggressive action to safeguard U.S. interests in international trade. The Wall Street Journal reported on December 7, 1985, that the Reagan administration had decided to retaliate against Japan for refusing to eliminate barriers against American leather and leather footwear goods. But when my staff contacted the U.S. Trade Representative's office to inquire what specific actions the President was going to take, we were told that the President had backed away from retaliatory action after receiving a personal plea from Prime Minister Nakasone. That inaction is a double negative: If President Reagan will not take strong measures on a single trade barrier costing the United States approximately $277 million, how can we expect him to take comprehensive action to attack the massive $50 billion deficit in United States-Japan trade?

At the same time, the Congress has not done nearly enough, either. Our only action on this issue this session was passage of the textile and shoe legislation, which the President vetoed yesterday. I am deeply disappointed the Senate did not consider broad trade legislation this session, although everyone seems to agree that the escalating trade deficit is a major threat to the health of the U.S. economy. And while we wait, the trade deficit continues to grow.

On the plus side, the majority leader this week delivered a rousing speech on the trade imbalance with Japan in which he said:

> This Senator believes it is time to take stronger action to address the problem. We indicated to the officials we met with in Japan that there was a brief window of opportunity to take meaningful action to open Japanese markets and to address the concerns we raised. That window is about to slam shut and no real measurable improvement has been achieved.

This was not just another trade speech delivered by a Member of Congress. It was a commitment by the most powerful Member of the Senate to enacting strong legislation which attacks the trade deficit with Japan, and it should shake up the Japanese.

But the Japanese have so far successfully disregarded warnings by Members of Congress that legislation will be enacted to reduce the trade deficit. The most recent example was last week's report that the Japanese Government has decided to allow Japanese automobile manufacturers to ship an unlimited number of cars to the U.S. market next year. This decision, if the report proves to be accurate, would follow a year of explosive growth in Japanese exports to the United States, coupled with foot dragging in the negotiations to open up Japanese markets to our goods. Japan's automobile exports to the United States have increased by nearly 25 percent this year over last year, which means that $4 billion more of additional cars and trucks made in Japan have entered our markets in 1985 than last year.

Japan cannot be so naive as to believe that the United States will continue to be taken advantage of like this. Trade is supposed to be a two-way street, but Japan is overloading its side of the street and they've got "ONE WAY" signs on the other. The Japanese, while talking two-way trade, have increasingly flooded our markets and maintained barricades around their own. Prime Minister Nakasone of Japan has declared his determination to lower the United States-Japan trade deficit and exhorted his countrymen to buy American. But, if all restraints on their auto exports are dropped, the lopsided nature of our trading relationship is bound to get worse.

An estimated 25,000 U.S. jobs are lost for every $1 billion of our trade deficit. The estimated $50 billion trade deficit with Japan this year thus has cost 1.25 million United States jobs. Concrete steps to reduce our trade deficit are long overdue. Our trade policy must concentrate on eliminating other countries' unfair barriers against our products and on restricting imports into this country if necessary to reduce the trade deficit. We must take the kind of tough action recently embodied in an amendment I introduced to the textile bill which would have required the 1986 trade deficit with Japan to be reduced by the amount of United States exports blocked by Japan through unfair trade barriers. Legislation such as this would force the administration to reduce the trade deficit regardless of its free trade philosophy.

This focus on Japanese barriers against United States products is more than justified. Japan has unfairly erected many direct and indirect barriers against our products. If ever there was any doubt on this point, a recent report prepared by the U.S. Trade Representative on National Trade Estimates of 1985, which is required by section 303 of the Trade and Tariff Act of 1984, should have erased it. The report gives an extensive list of trade barriers used by other countries against American exports. Although this report does not give an aggregate cost of the barriers, it highlights the major barriers and the estimated cost whenever possible.

The elaborate structure of mechanisms employed by Japan to restrict the exports of the United States and other countries continues to evolve. Not only are there many formal trade barriers which the Japanese fiercely protect, but also a maze of product approval standards and procedures which potential United States exporters find terrible frustrating. These include product requirements that emphasize design characteristics rather than performance qualities, inadequate advance knowledge of the standards and inspection procedures to be applied, exclusion of foreign manufacturers from participation in the establishment and promulgation of product standards, requirements that product approval be obtained through resident Japanese companies, and a general requirement that all product testing and approval occur in Japan.

Although some progress has been made in reducing formal trade restrictions such as tariffs and quotas, Japan stubbornly resists a comprehensive reduction in its informal trade barriers. Not long ago I asked the Japanese Embassy why the Japanese pay $1,227 per ton for domestically grown rice when United States farmers can produce and export rice to Japan for about $390 per ton. Prime Minister Nagasone replied that rice is a very special product in Japan and that Japan, for national security reasons, should produce enough rice domestically to satisfy its own demand. He recognized that this policy involved certain costs and the costs are very high. For example, the cost of food is 70 percent higher in Tokyo than in New York City, and there is overproduction of rice but a scarcity of other foods.

Beef, timber, and citrus products are prime examples of United States products facing Japanese barriers. A combination to tariff quotas and product-standard requirements have severely reduced the potential for sales of these products in Japan. Tariffs have averaged as high as 40 percent on United State beef and citrus exports to Japan. This is particularly troublesome since the United States has a pronounced comparative costs advantage in these products.

Japan's Government-controlled tobacco and salt monopoly has managed to restrict the United States share of tobacco to 2 percent of the Japanese market through a combination of high tariffs, distribution and advertising restrictions and investment restraints. Inconsistencies in product-additive

regulations have curtailed U.S. dried fruit exports, and excessively strict product-packaging requirements have been used to restrict the exports of fruit juice concentrates. Processed food exports have had to meet excessive ingredient and product formula disclosure requirements. United States apples, apricots, cherries, peaches, nectarines, pears and plums have been totally excluded from Japan on the grounds of plant health requirements. Such exclusions are especially restrictive in cases where identical plant diseases already exist in Japan.

Although the United States has a favorable balance of trade with Japan in pharmaceutical and medical devices, United States companies continue to complain about Japan's requirements that research studies be conducted only with Japanese citizens, and that United States companies undergo expensive duplicate tests on their products. United States firms face interminable delays in gaining the required government approvals, and unclear notification procedures for product modifications.

United States telecommunications companies are fed up with Japan's procurement and product testing requirements which make it extremely difficult for United States companies to break into Japan's telecommunications market. One of the major problems has been that the testing is conducted by an association of Japanese companies, Nippon Telegraph and Telephone [NTT], the Communications Association of Japan, and Kosuai Denshin Denwa [KDD]. No foreign members have been permitted to participate in the process of equipment testing, and thus far, the United States share of the Japanese telecommunications market has been insignificant and limited to less sophisticated technological exports. And the same is true with electronics, forest products, and so forth, and so forth—the list is very long.

What has been the cost of Japan's unfair trade barriers? The most recent estimate by the Department of Commerce indicates that the combined cost in lost sales opportunities in Japan is approximately $18.7 billion. Excluding the costs of unrealized investments and services, the most significant merchandise trade costs are: Wood products ($3.4 billion); tobacco ($2.2 billion); refined oil ($2.3 billion); computers ($1.8 billion); electronic components ($1.4 billion); and chemicals ($1.5 billion).

In my judgment, the trade deficit is such a serious problem that it calls for a combination of aggressive internal and external economic adjustments which should be addressed both bilaterally and multilaterally.

The magnitude of the U.S. merchandise trade deficit—which will most likely exceed $150 billion in 1985—means that the United States cannot afford the luxury of ignoring trade restrictions placed on U.S. exports by our primary trading partners.

Some argue that market forces alone will in the long-run correct our international trade imbalances. Unfortunately, if the U.S. passively waits for long-run market corrections, more U.S. auto, steel, the textile workers will be thrown into unemployment lines, the legion of dislocated producers and bankrupt farmers will grow, and even high-technology industries will not escape the ravages of unfair international trade.

The time is long past for the United States to take actions that will send an unmistakable message to our major trading partners who continue to protect their domestic markets, a message that the United States intends to protect itself from unfair trade practices and the out-of-control trade deficit. Indeed, a major contribution of the United States since the 1930's has been to gradually move the free world toward a free trade environment. However, when free trade is not practiced by all of our major trading partners, those countries that practice free trade are penalized. That is exactly the position the United States finds itself in today.

Mr. President, we must continue to press for effective action to reduce the trade deficit. I am hopeful that the majority leader's assurances about early action on trade legislation in the second session of the 99th Congress will mean that process has finally begun in earnest.●

PASTOR AND MRS. THOMAS COURTS

● Mr. RIEGLE. Mr. President, on Friday, November 29, 1985, Pastor and Mrs. Thomas Courts, of my hometown of Flint, celebrated their retirement after 40 years of service to the Vermont Christian Church.

In 1945, Pastor Courts founded the Vermont Christian Church in the home of friends. In 1951, as the result of untiring efforts and dedication by Pastor and Mrs. Courts, the church moved into their permanent home. Since then, the building has been remodeled and expanded. In 1979, their new church was built.

Mr. President, Pastor and Mrs. Courts are very special people, deserving of our thanks. For over 40 years, both have given completely of themselves to their church, their family and their community. They have enriched the lives of thousands of Flint citizens with their caring, love, and dedication. On this joyous occasion, I wish them every happiness.

THE EFFECT OF GRAMM-RUDMAN

Mr. BYRD. Mr. President, last Thursday, the Congress adopted the Gramm-Rudman amendment to the debt limit bill. In its eagerness of disguise the fact that it was raising the Nation's debt ceiling to over $2 trillion—double what it was when this administration took control of the Federal budget—the Congress created a Pandora's box.

Unfortunately, the realization of what may be contained in that box is only now beginning to dawn on many of Gramm-Rudman's supporters. I would like to review for my colleagues one of the more serious implications of the Gramm-Rudman process that will begin next month.

Early next year, the Defense budget—a budget on which an enormous amount of time and effort has been spent—will be rewritten by a mathematical formula specified in the Gramm-Rudman amendment. That formula requires a reduction in defense outlays of up to $5.8 billion in the current fiscal year.

That means that after laboring to decide the best way to appropriate nearly $300 billion in Pentagon spending this year, the automatic sequestering process established by Gramm-Rudman could reduce that amount as much as $15 billion or more in obligational authority in order to achieve the nearly $6 billion reduction in outlays that is required.

But it does not stop there, Mr. President. At the very time that these cuts are going into effect, the Congress will begin the complex task of determining the appropriate level of defense spending for fiscal year 1987. Unless Congress has reduced the deficit projected for that year to $144 billion or lower by September 1986, the Gramm-Rudman sequestering process again kicks in—only this time with potentially more serious consequences.

While no one currently can predict with any accuracy the fiscal year 1987 deficit, it is hardly inconceivable that it could range between $180 billion and over $200 billion. To a considerable degree, whether it reaches that level or not depends on actions that may occur between now and then, such as enactment of a reconciliation conference report for fiscal year 1986—and of a reconciliation bill for fiscal year 1987.

But if the projected deficit for fiscal year 1987 is within that range next September, then the amount of the Gramm-Rudman sequestration could be $40 to $70 billion. That amount is required by the statute to be divided evenly between defense and nondefense programs. Thus, the fiscal year 1987 Defense budget could be subjected to $20 to $35 billion in outlay reductions. This could translate into a re-

duction in budget authority of perhaps $40 to $70 billion that year. This enormous cut could yield as much as 10 percent negative real growth, or more.

The magnitude of these reductions is highlighted by the following observations:

The Gramm-Rudman cuts in fiscal year 1986 could mean 7 to 9 percent negative real growth in defense spending this year;

The amount of budget authority that might be cut by Gramm-Rudman in fiscal year 1987 is two to four times greater than the average annual reduction of $17.9 billion that Congress has made in the five Defense budgets submitted by this administration;

If cuts of this magnitude are made in fiscal year 1987, the resulting level of budget authority for Defense activities could be substantially lower than the level President Carter projected he would spend in fiscal year 1985 (about $296 billion).

The prospect of large negative real growth should be contrasted with a recent authoritative report by retired military and civilian Defense officials. That report concluded that, even if there were 1.5 percent positive real growth in defense spending each year through 1990, the military would have to choose between expanding its force structure as planned—with a severe reduction in daily combat readiness and a return to the days of the alleged "hollow" army—or cutting back the overall size of our forces to maintain combat readiness.

WHAT DO THE GRAMM-RUDMAN CUTS MEAN FOR NATIONAL SECURITY?

Reductions in the fiscal year 1987 Defense budget which might be required under Gramm-Rudman are so large that they pose fundamentally different questions about the Nation's defense posture than those usually faced by Congress in annual budget deliberations. The issues no longer principally will be whether we buy 150 or 180 F-16 fighter aircraft, or whether we freeze or raise military pay, in any one budget year. The questions raised by Gramm-Rudman in fiscal year 1987, and thereafter, may challenge the very military, foreign policy and philosophical foundations of our present national security posture.

At the very least, Congress may have to address the following questions:

First, can this Nation maintain its present treaty and historical commitments to defend so many regions throughout the world, or will it have to reduce those commitments, and if so, which ones? For example, can we afford a credible defense of the Persian Gulf? Is an expanded military involvement in Central America affordable? Are we foreclosing involvement in Africa, particularly Angola—or in Southeast Asia, particularly Thailand? Can we maintain our troop levels even in the NATO theatre?

Second, can we afford to maintain our strategic triad or will we be required to reconfigure those forces by placing more reliance on certain nuclear delivery systems and less on other such weapons? Can we afford Midgetman? Can we afford two new manned bombers? How can we afford SDI without abandoning other major strategic weapons? By reconfiguration, will we have to rethink our traditional deterrence doctrine?

Third, can we continue to afford the All Volunteer Force, or will we have to return to some form of conscription as part of a universal national service plan? Should we reduce our active forces, or continue to restrain their growth, and rely even more on our National Guard/Reserve components?

Fourth, can we obtain increased defense contributions from our allies to relieve us of certain defense missions?

Fifth, can arms control reduce our military requirements while maintaining our security?

I wonder if any of the sponsors or supporters of the Gramm-Rudman plan envisioned the kinds of choices its enactment may force the Nation to make about its national security. As I said at the outset, the Congress has created a Pandora's box, the contents of which are only beginning to emerge.

This is but one example of the basic flaw in the Gramm-Rudman approach to budgeting. There are a number of others already coming into view, and over time, I predict many more will emerge. But it is even clearer to me now than it was a few days ago that the Congress will rue the day that it ever saw, much less passed, the Gramm-Rudman amendment.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will call the roll.

The assistant legislative clerk proceded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS REPORT

Mr. ARMSTRONG. While we are waiting, I am not quite sure what business will transpire next. But while the leader works on that, I thought I might take a moment to explain to my colleagues what has transpired in the House, and make a couple of observations about the proceedings there.

As you all know, the House has adopted a rule the effect of which is to alter the conference report on the reconciliation bill previously agreed to by the Senate, and has returned the bill to us in an amended form.

In my view this is a most improvident action for the other body to take for a couple of reasons: First of all, because they run a heavy risk that the ultimate effect of this action will be to make it impossible to pass a reconciliation bill in which case some $66 billion in savings will be lost.

In my judgment there are two reasons why the other body took this action.

I was in the Chamber when it occurred and talked to a number of our colleagues in the other body. I discussed it with them for I guess an hour or so in little informal groups around the Chamber. There were two major themes that I heard raised over and over again.

One was they did not like the value-added tax. Well, as Senators will recall, I do not like the value-added tax either. I tried to explain to Members of the House that this was a package. There were some good things in there, some things I did not care for, but that on balance there was a lot more good than bad, and they were making a big mistake to pass up savings of a very large magnitude because of a disagreement over a relatively small element of the package which is the value-added tax.

The other great theme running through the Chamber as this was under discussion was, well, it is all moot because the President is going to veto the bill.

Since this is a matter that the Senator from Louisiana and I discussed briefly in the early evening, I want to say my assurance was that the President would not veto that based on my evaluation that the field position, Presidential history, the economics of the bill, and other considerations were not shared by others apparently including the Director of OMB who spent most of the evening calling Members of the other body and telling them if indeed this bill were passed that the President would veto it, and would do so with great enthusiasm and relish.

I am still not so sure that is true because were this bill to be presented to him either in the form that it has now been adopted by the Senate or in the form passed by the House, it would in my estimation be a foolishly irresponsible act for the President to veto it.

I do not think when he actually looked at it and focused on it that he would do such a thing.

I do not want to take too much time. I want to explain why because this is a matter when this thing all falls apart there are going to be a lot of people who will go back and try to decide who is at fault, who is to blame, what happened, where did things go off the rails after we spent all year trying to get savings, ane end up with some $66

billion savings in it. Why did we not finally get it enacted?

The reason I do not think the President personally would have ever vetoed this bill is very simple, because the savings which are made by this reconciliation bill will occur anyway. Ultimately, they will occur under Gramm-Rudman, but under the Gramm-Rudman formula half of those savings will be made out of the defense function. I do not think that is what the President would want. I think he would feel, if he reflected upon it carefully, the savings as they are made in this reconciliation bill are not only far more responsible but far more in accord with his sense of priorities.

So despite what the Director of OMB may be telling people, I do not believe in the ultimate analysis the President will veto the bill.

In any case, I judge the leader is now ready to proceed. I do not want to delay any further. I want to express my regret to what has happened, the hope we are going to be able to retrieve it, and somehow arrive at an agreeable reconciliation bill that the two Houses can pass and send to the President. And, if that happens, I for one will contact the White House and urge it be signed.

OMNIBUS BUDGET RECONCILIATION ACT

Mr. PACKWOOD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3128.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That pursuant to the provisions of H. Res. 349, the House rejects the conference report on the bill (H.R. 3128) entitled "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.".

Resolved, That the House recede from its disagreement to the amendment of the Senate to the text of the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the provisions of the conference report on the bill, with the provisions of Subtitle B of Title XIII (Superfund and Its Revenue Sources) stricken.

Mr. PACKWOOD. Mr. President, I move that the Senate concur in the House amendment with the language of the conference report on said bill as a substitute.

The PRESIDING OFFICER. The question is on the motion.

Mr. CHAFEE. Could the Senator explain exactly what that means?

Mr. PACKWOOD. Yes. We are sending back to the House the conference report as passed by the Senate.

Mr. CHAFEE. Sending back to the House the Senate——

Mr. PACKWOOD. We are sending back to the House the conference report that the House and the Senate originally agreed upon, and that we passed.

Mr. CHAFEE. Thank you.

Mr. EXON. One further question. If I understand it—and I direct my question to the Senator—this reportedly in essence is taking the same measure that we sent them before, and sending it back over to them.

Mr. PACKWOOD. Exactly.

Mr. EXON. That is another way to state it.

Mr. DOLE. They did not understand it the first time. [Laughter.]

Mr. EXON. The majority leader said they did not understand it the first time. Let us hope that is not the result.

Mr. PACKWOOD. I can assure my good friend from Nebraska that I hold the other body in the highest esteem but the majority leader's explanation of the problem carries some greater improvement.

Mr. JOHNSTON. Will the Senator yield for a question?

This reconciliation has the so-called extenders in it.

Mr. PACKWOOD. That is correct.

Mr. JOHNSTON. And the Senator is aware that the freestanding extenders are not likely to pass in this body tonight. Did the Senator get that hint from the drift of things?

Mr. PACKWOOD. Is that a drift I get from the Senator from Louisiana or somebody else?

Mr. JOHNSTON. The Senator may get it directly from me.

Mr. PACKWOOD. I do not know if any freestanding extenders are going to pass tonight or not. I think there will be some freestanding extenders offered. If the Senator from Louisiana is saying there will be no other bills passed tonight other than this report that we now sent out or are about to send out, that is in the power of the Senator from Louisiana to achieve.

Mr. JOHNSTON. I just wanted the message really to get to the House, that turning down reconciliation will not be quite as cheap as some may think it might be.

Mr. PACKWOOD. I thank my good friend from Louisiana. I hope that his psychology works.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate to my colleagues that I am not in a position to indicate what we are going to be doing a little later on.

I hope we can come to some resolution. Let me also indicate to my House colleagues, not that they do not understand it, but we hope they understand it better——[Laughter.]

The second time because we believe we have an opportunity here to send the President a rather large savings package.

I am not excited about the tax on finances either. But neither am I excited about being here at 20 minutes to 11 with not much light at the end of the tunnel at this point. I hope that we can resolve our difference. I hope also that we can indicate to our colleagues in the next 20 or 30 minutes how much longer we will be here this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and, at 11:31 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:49 p.m., when called to order by the Presiding Officer [Mr. HELMS].

EXTENSION OF CERTAIN TOBACCO EXCISE TAXES AND OTHER EXTENSIONS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 4006, a tax extension bill at the desk.

The PRESIDING OFFICER. Is there objection? Hearing none——

Mr. JOHNSTON. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1435

(Purpose: Extension of certain expiring provisions)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 1435.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "and before December 20, 1985" and inserting in lieu thereof "and before March 15, 1986".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "March 14, 1986".

SEC. 4. EXTENSION OF MEDICARE PHYSICIAN PAYMENT PROVISIONS.

Section 5 of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out subsection (a), and by striking out "December 19, 1985" in subsection (c) and inserting in lieu thereof "March 14, 1986".

Mr. PACKWOOD. Mr. President, this is a total substitute for the extension that the House sent to us. It extends four existing programs through March 15, 1986: Cigarette tax at 16 cents a pack, trade adjustment assistance, Medicare physician freeze, and railroad unemployment borrowing authority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1435) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed for a third reading and the bill to be read a third time.

The bill (H.R. 4006), as amended, was read the third time, and passed.

The title was amended so as to read:

Amend the title so as to read:

To extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to and at 11:53 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 2:02 a.m., when called to order by the Presiding Officer (Mr. ARMSTRONG).

[The following proceedings occurred after midnight:]

Mr. DOLE. Mr. President, parliamentary inquiry. This is Friday, December 20.

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 11 A.M.

Mr. DOLE. Mr. President, I move that the Senate stand in recess until 11 a.m. today.

The motion was agreed to; and, at 2:03 a.m., the Senate recessed until 11 a.m., today, Friday, December 20, 1985.

NOMINATIONS

Executive nominations received by the Senate December 19, 1985:

INTERSTATE COMMERCE COMMISSION

Paul H. Lamboley, of Nevada, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1989, reappointment.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 1985:

GOVERNMENT PRINTING OFFICE

Ralph E. Kennickell, Jr., of Virginia, to be Public Printer.

DEPARTMENT OF THE INTERIOR

James R. Richards, of Virginia, to be Inspector General, Department of the Interior.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Thomas A. Bolan, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF ENERGY

Donna R. Fitzpatrick, of the District of Columbia, to be an Assistant Secretary of Energy (Conservation and Renewable Energy).

Mary L. Walker, of Maryland, to be an Assistant Secretary of Energy (Environment, Safety and Health).

EXTENSIONS OF REMARKS

A THREAT TO THE DENVER & RIO GRANDE RAILROAD

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WIRTH. Mr. Speaker, I would like to share with our colleagues an article published in the Denver Post on December 4 telling the story of the Denver & Rio Grande Western Railroad [D&RG]. The D&RG is a regional rail carrier in Colorado and Utah that finds its very existence threatened by a proposed merger of two of the Nation's largest rail lines.

As the article describes, the proposed merger of the Southern Pacific and the Atchison, Topeka & Santa Fe Railroads directly threatens to leave the D&RG "landlocked." With track in only two States, the D&RG must have track usage rights from other, larger railroads to compete.

For many years, the Rio Grande has served the State of Colorado with distinction. It provides my home State with a crucial linkage, allowing Colorado shippers to transport their goods to the west coast efficiently and affordably. The Rio Grande and its future health and competitiveness is essential to the long-term economic well-being of Colorado.

I recommend the article to my colleagues, and request that it be reprinted below:

[From the Denver Post, Dec. 4, 1985]

RIO GRANDE TACKLES BIG BOYS

The Denver & Rio Grande Western Railroad would like to remain the little railroad that could.

Faced with a proposed merger of two giant lines that might threaten its existence as a regional carrier, the Rio Grande is leading a fight that could have repercussions for the rest of the industry.

With its own track in just two states, Colorado and Utah, the Rio Grande has branched out to serve shippers as far away as California and Oregon to the west and Kansas City, Mo., to the east.

The trick, familiar to many smaller railroads, was to find larger carriers that would agree to share their track.

LIFELINE JEOPARDIZED

But now the lifeline to the west provided by one of those bigger carriers, the Southern Pacific Transportation Co., may be jeopardized.

Southern Pacific's proposed merger with the Atchison, Topeka & Santa Fe Railway could result in much higher charges for using the track, says the Rio Grande, making its rates uncompetitive.

The merged carrier might even neglect portions of the track in consolidating its own operations, the Rio Grande fears.

And the Southern Pacific might also stop routing most of its own shipments over the smaller line's tracks, cutting an important source of revenue.

The Rio Grande has responded to the threat in novel ways.

It has petitioned the Interstate Commerce Commission, which must rule on the merger, for the right to buy more than 1,200 miles of Southern Pacific track.

And it has attracted the support of an unusually large number of major shippers, concerned about the increasing concentration of the industry and the impact that is having on the rates they pay.

Without the right to buy Southern Pacific track—and a related request to the ICC for the right to continue to use other portions of the Southern's line—the Rio Grande would die a slow death, top executives of the Denver-based carrier contend.

They cite a number smaller regional railroads, including the Milwaukee Road, that were dealt fatal blows by mergers.

Among other advantages the bigger carriers can offer discounts on large-volume shipments.

"If we don't get the rights, we're in the meat grinder," said W.J. Holtman, chairman and president of Rio Grande Industries, parent of the scrappy railroad.

The company is privately owned by Phillip F. Anschutz, a Colorado industrialist who made his fortune in oil and gas and acquired the railroad last year.

The line, the nation's 18th-largest, had operating revenues of $358.4 million and net income of $23.1 million in 1984.

TOUGH CHALLENGE

Holtman added that even if the commission gave the railroad what it wanted it faced a tough challenge:

It would still have to compete with the Union Pacific, the huge carrier in the West that was formed in 1982 by the merger of the Union Pacific with two other lines, the Missouri Pacific and the Western Pacific.

Holtman and his staff were worried about that merger, too.

The ICC, however, ended up giving the Rio Grande a key part of its request for track-usage rights, granting it the right to use the Missouri Pacific's line from Pueblo to Kansas City, Mo.

This enabled the smaller carrier to continue to offer service to shippers from the West Coast to the Middle West through what is known as the central rail corridor.

In the new proposed merger, the Rio Grande and three other smaller railroads that have failed requests for track-usage rights—the Kansas City Southern, the Missouri-Kansas-Texas, and the Texas-Mexican—are in a stronger position to get what they want from the ICC than in the past.

One reason is that many large corporations that are major shippers have become more concerned about keeping the smaller railroads viable.

Michael D. Petruccelli, the general traffic manager at PPG Industries of Pittsburgh, said that since 1980, when the Staggers Act deregulated the railroad industry, the number of major railroads has shrunk from 13 to 7.

As these giant systems emerge, he said, the smaller railroads sometimes provide their only "head-to-head competition."

Besides being supported by PPG, the Rio Grande's ICC petition is backed by such large companies as United States Steel Corp., American Home Foods, Cargill Inc., Ford Motor Co., and Miller Brewing Co.

The unusual nature of the proposed merger has added to the shippers' concern.

Most previous rail mergers involved systems that connected end to end.

But the 12,319-mile Sante Fe and the 13,270-mile Southern Pacific are largely parallel lines, often serving the same markets.

In addition to other routes, both carriers have lines running from southern California to the Southwest, through the southern rail corridor, and from the Southwest to the Midwest.

The two are owned by the Sante Fe Southern Pacific Corp., a holding company formed in December 1983 from the merger of the railroads' parent companies. The railroads are being operated separately pending the ICC's decision.

Because of the parallel lines, the proposal has brought the first opposition from the Justice Department to a rail merger since 1970.

In a brief filed with the ICC, the department argues that a merger will create a monopoly situation in many markets.

The Rio Grande contends that if the merger is allowed without conditions, the Southern Pacific no longer will have an incentive to use it as a connecting route in the central corridor.

Instead, the small line argues, the Southern Pacific would route its traffic by way of the southern corridor.

Such a fear is unwarranted, said Robert E. Gehrt, director of public relations for the Sante Fe Southern Pacific Corp., who added that the Southern Pacific would continue to route shipments from the Northwest over the Rio Grande lines because it is the more efficient route.

TEYON McCOY WELCOMED TO THE UNIVERSITY OF MARYLAND BASKETBALL PROGRAM

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYSON. Mr. Speaker, I would like to bring to the attention of my colleagues the upcoming addition of Teyon McCoy to the University of Maryland basketball program.

While some of us in Maryland may not be familiar with Teyon's sharp shooting and dominating defense, his heroics are well known by high school basketball players and coaches throughout the State of Indiana. At 6'1", Teyon plays point guard—a position well-suited to his extraordinary quickness and superb ball-handling skills.

Hailing from Bishop Noll High School in Hammond, IN, Teyon is the proud recipient of the BC All-Star Camp Outstanding Player Award and the leading candidate for "Mr. Basketball" in Indiana.

As Teyon prepares to tackle both books and basketball at the University of Maryland, I wish him, as well as his future teammates, great success.

Congratulations Teyon. And congratulations Coach Driesell for providing the people of Maryland with so many years of exciting basketball. The University of Maryland basketball program has been Maryland and the Washington, DC area.

THE BAHA'IS NEED OUR HELP

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. PORTER. Mr. Speaker, last week at a special White House program commemorating International Human Rights Day, President Reagan cited Iran's religious persecution of Baha'is as one of the saddest and most serious human rights violations in the world today. He referred to the tragic experience of the Baha'is in condemning religious and racial discrimination, genocide, and torture.

The U.N. General Assembly also recently condemned Iran's human rights record in a resolution citing the Islamic regime's actions against the Baha'is. This action was the first time the United Nations debated and voted on Iran's human rights practices.

Mr. Speaker, I would like to commend the President and the U.N. General Assembly for the attention they have recently given to the Baha'is. Hundreds of Baha'is have suffered at the hand of the dangerous Khomeini regime and the community of 300,000 is living in constant pressure and fear. Time is essential and it is time that we go forward with all actions condemning the Iranian Government until the Baha'is are able to practice their own religion freely and are entitled to their basic human rights.

I would like to share with my colleagues the text of the speech that the President delivered commemorating International Human Rights Day and a statement made by Los Angeles Judge James F. Nelson, chairman of the American Baha'i community, upon presenting the President with a commemorative plate for his support of the Baha'is in Iran.

REMARKS OF THE PRESIDENT AT SIGNING CEREMONY FOR INTERNATIONAL HUMAN RIGHTS DAY

The PRESIDENT. Thank you very much. (Applause.) Thank you. Please, sit down. And I wish I knew where the light on this thing turned on. I can't find it, so I'll do it in the dark. (Laughter.) Well, good afternoon and welcome to the White House.

Today we mark the 37th anniversary of the signing of the Universal Declaration of Human Rights, a document to which virtually every nation on Earth subscribes. It's a day for us to take stock, to survey the globe with an eye not so much in—to words, as to actual deeds; to measure the world against the noble assertions of the Universal Declaration and to reaffirm our commitment to the cause of human dignity.

America has, since its founding, been a refuge for those suffering under the yoke of oppression. A belief in the dignity of man and government by the consent of the people lies at the heart of our national character and the soul of our foreign policy. I had the pleasure of explaining that to a gentleman in Geneva not too long ago. (Laughter.) But, here, the difference is our documents, such as the Constitution, say we, the people, will allow government to do the following things.

Today more than ever we're proud to be champions of freedom and human rights the world over. So in observing Human Rights Day, we celebrate our commitment to the beliefs and moral teachings on which our own nation is founded; a belief in liberty, in the dignity of man, and in the inalienable rights of free men and women to choose their destinies. We have not hesitated when these rights and freedoms have been threatened.

Last month on Veteran's Day, I visited the graves of our soliders who gave their lives so that the rest of us might know the blessings of peace and freedom. Our sons, brothers, and fathers also lie in cemeteries and fields from Flanders to Manila under undying testimony to our determination that these rights shall not perish.

We've learned from history that the cause of peace and human freedom is indivisible. Respect for human rights is essential to true peace on Earth. Governments that must answer to their peoples do not launch wars of aggression. That's why the American people cannot close their eyes to abuses of human rights and injustice, whether they occur among friend or adversary or even on our own shores. And we must be particularly appalled that, on the threshold of the 21st Century, when man has made gigantic strides in opening the universe of space and finding cures for dread diseases, millions of our fellow men still suffer the grossest abuses. There are regimes, some friendly, some adversarial, that engage in frequent violations of human rights. There are other regimes which by their very nature are built upon the denial of human rights and the subordination of the individual to the state.

In Afghanistan and Cambodia, for example, alien dictatorships with the support of foreign occupation troops, subject their peoples to unceasing warfare. Today, six years after the Soviet invasion of Afghanistan, up to 120,000 Soviet troops remain. They have slaughtered innocent women and children. They have employed poison gas. And they have loaded toys with small explosives, an attempt to demoralize the people by crippling Afghan children. Some 3.5 million Afghans, fully one-fourth of the pre-war population, have been forced to flee to Pakistan and Iran.

The communist rulers of Vietnam have launched vicious attacks upon Cambodian refugees, refugees who were fleeing a communist regime in Cambodia itself, which led to the deaths of up to one-quarter of the entire Cambodian population.

In Ethiopia, a Marxist government has used famine to punish large segments of its own population. Vice President Bush visited a camp for Ethiopian refugees in the Sudan last March. Men and women of all ages were dying. But the Vice President told me, there's something unbearably painful about seeing the eyes of the children, the huge, sad eyes of starving children. And the peoples and governments of the democracies have responded generously to those pleas with tangible evidence of our concern.

In the Western Hemisphere, where so much progress toward democracy has been made, Cuba stands out as the country where institutionalized totalitarianism has consistently violated the rights of the citizens.

Unfortunately the Sandinista regime in Nicaragua seems determined to embark on the same course.

On three continents we see brave men and women risking their lives in anti-communist battles for freedom. We cannot and will not turn our backs on them. This year the House of Representatives has heeded their call and voted aid to the freedom fighters in Cambodia, Afghanistan, and Nicaragua, and repealed a ban on aid to freedom fighters in Angola.

Elsewhere we have seen considerable progress toward observance of human rights. In El Salvador, Grenada and Honduras freely selected—or elected governments, I should say—represent the best hope of their peoples for the future.

And just over the last weekend, a new civilian president was elected in Guatemala—that's the first time in 15 years. We laud those achievements. But our concern remains for those who are still captive and oppressed. This is where our voices just speak for justice, for the force of world opinion can and does make a difference.

One of the more tragic cases today is that of the Baha'i, whose leaders are with us today. The government of Iran is engaged in rampart religious persecution, especially against the Baha'is. Since 1979, 198 Baha'is have been put to death, 767 are imprisoned, some 10,000 made homeless, and over 25,000 forced to flee their country. Only the continued world outcry can help bring an end to their suffering.

In South Africa the inhuman policy of apartheid continues. The declaration of a state of emergency has given the police in that country essentially unlimited powers to silence critics of the government. Thousands of South African citizens have been detained without cause—or charge, I should say, and denied even elementary judicial protection. I have said that apartheid is abhorrent, it's time that the government of South Africa took steps to end it, and to reach for compromise and reconciliation to end the turmoil in that strife-torn land.

In Chile and the Philippines too, we've shown our strong concern when our friends deviate from established democratic traditions. In Eastern Europe, the hopes and aspirations of millions of people for religious freedoms, civil rights, remain alive despite years of repression. The Solidarity Labor Union is still outlawed in Poland and the Polish regime has once again moved to restrict the few freedoms that its people still enjoy. In Romania, religious persecution includes the destruction of Bibles, while in Bulgaria, the repression of the Turkish minority and the Islamic faith are witness to the unyielding denial of the basic freedoms of speech, assembly, religion in this region.

I addressed human rights in my meetings with General Secretary Gorbachev, and I made it very clear to him that human rights are an abiding concern of the American people. We had a long and confidential discussion and at the conclusion of our meetings, we declared in a joint statement that humanitarian issues would be resolved in a humanitarian spirit. Americans will be

watching hopefully to see whether that pledge is observed.

Make no mistake about it, human rights will continue to have a profound effect on the United States-Soviet relationship as a whole, because they are fundamental to our vision of an enduring peace. President Lincoln once called America the last, best hope of man on earth. Mr. Lincoln's remark has special poignancy today when American determination and strength are central to the peace and freedom of the entire democratic world. It is therefore incumbent upon us to work for the expansion of freedom throughout the world.

In this great effort, my friends, I deeply believe we have a good cause for hope. Evidence of the triumph of the ideal of freedom and respect for human rights can be seen in every corner of the globe, and this is because freedom is not only morally right, but practical and beneficial.

Indeed, governments that rest upon the consent of the governed and the rule of law are more successful in fulfilling their people's aspirations for a better life.

Democratic government and economic freedom have turned a number of small nations into economic giants. It even appears to have roused a giant nation from its economic slumber.

Permit me in closing to return to Mr. Lincoln:

"What defined America, what gave our nation its purpose and mission," he once said, "was something in that Declaration of Independence giving liberty not alone to the people of this country, but hope to the world. It was that which gave promise that in due time, the weights should be lifted from the shoulders of all men."

Well, let us always be true to that distinctly American cause. Let us never cease to work and pray that the weights should be lifted from the shoulders of all men.

Thank you and God bless you, and I will now sign the proclamation designating December 10th as Human Rights Day and December 15th, 1985 as Bill of Rights Day, and the week beginning today is now recognized officially as Human Rights Week. (Applause.)

(The bill is signed.)

Judge NELSON. Mr. President, you have mentioned in your remarks the relentless persecution of the Baha'is in Iran, and though the Mullahs of that country may choose to perpetuate these atrocities, they must know that because of you and the voices that you will encourage to speak out against it, these cannot now be perpetrated, except in the full light of public opinion. For this, we are deeply and eternally grateful.

We are aware also, Mr. President, that this is not a one-dimensional commitment; that in addition, you are morally and spiritually committed to the establishment of the peace we all want among the nations of the world—peace, the most pressing of all issues facing humanity today and for which the Baha'is ardently pray and that this country will help lead the world out of its current predicament.

Therefore, Mr. President, in recognition of your devotion to human rights, the National Spiritual Assembly presents to you on behalf of the 100,000 American Baha'is, a commemorative plate, and in recognition of your continuous commitment to world peace, we have the honor, Mr. President, to transmit to you from the Universal House of Justice, the international governing body of the Baha'is of the world, a statement on world peace.

Thank you, Mr. President.

The PRESIDENT. Thank you very much. Well, thank you very much and thank all of you for what you're doing in this.

I had the pleasure of quoting a statement of Thomas Jefferson to my colleague there in Geneva and he called it after he had heard it, "Very profound," when Thomas Jefferson said, "If the people know all the facts, the people will never make a mistake." So you, the people, and all of us together I think can continue to be a tide that will prove irresistible. Thank you all very much. (Applause.)

HELPING OUT ARGENTINA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GARCIA. Mr. Speaker, in yesterday's New York Times, Mr. Jefferson Morley of the New Republic wrote an excellent essay on why the United States should loudly praise Argentina for bringing to trial former military leaders. His point that the Argentina example is a good one for all Latin American nations, particularly those in Central America trying to establish democracy, is well taken. Hopefully, the White House will heed Mr. Morley's message.

I am inserting his essay in the RECORD for my colleague's perusal:

ARGENTINA'S TRIAL, LATIN TRIBULATIONS

(By Jefferson Morley)

The conviction last week of five Argentine military commanders for waging a "dirty war" against their own people is obviously an encouraging precedent for democracy in Latin America. But democrats elsewhere in the hemisphere, especially in Central America, who have endured similar reigns of terror still find hopes of human rights trials elusive. Not the least of their burdens is the legacy of Reagan Administration policy.

The Argentine death squads bequeathed their modus operandi to the death squads of Central America. The wave of state violence that began in Argentina in 1976—and killed at least 9,000 people before it ran its course—struck El Salvador and Guatemala in 1979 and after. The cars without license plates, the kidnappings, the assassinations, the torture and the disappearances—all were methods tried first in Argentina and later borrowed by the Central Americans.

The arraignment of high-ranking military officers who oversaw this Central American terrorism would go a long way toward establishing democracy in the region. From the start, there has been plentiful evidence that the violence in Central America—as in Argentina—has been largely directed from the highest levels of government. The problem is that many of the prime suspects have enjoyed the blessings of the Reagan Administration.

In February 1981, Secretary of State Alexander M. Haig, Jr., called for resumption of United States aid to Argentina on the grounds that it had made "dramatic, dramatic improvements" in human rights. Jeane J. Kirkpatrick, the United States' chief delegate to the United Nations, held friendly meetings with a host of Argentine officers. Gen. Roberto Eduardo Viola, who was one of the five sent to prison last week, was warmly welcomed at the White House in March 1981.

General Viola's counterparts in Central America received similar aprobation in the first half of President Reagan's term. The Reagan Administration seemed to have no qualms about doing business with Roberto D'Aubuisson, the right-wing leader said to have close ties to the Salvadoran death squads. The Administration allowed Argentine Army advisers to train anti-Sandinista insurgents in kidnapping, assassination and torture. In December 1982, President Reagan himself downplayed the death squad rampages in Guatemala.

None of this softness on terrorism has been lost on the democrats in Central America—and it surely gives them pause. After all, if President Reagan regarded mere criticism of the Guatemalan generals as a "bum rap" three years ago, how could he possibly believe that a formal indictment of those same generals would be justified today?

In some cases, the attitude in Washington may even endanger Central American moderates. A Central American who publicly calls for prosecution of military officers involved in death squads knows in any case that he may be their next victim. On top of this, indifference, if not hostility, from the United States makes it all the more prudent to keep silent.

The Assistant Secretary of State for Inter-American Affairs, Elliott Abrams, has told foreign reporters that the Administration will support Central Americans whether they "decide to have a 100 percent amnesty" for officers involved in rights abuses or "decide to try everyone." The trouble—as Mr. Abrams himself has admitted on other occasions—is that Central American leaders have not been able even to discipline their military subordinates, much less put them on trial.

A Congressional resolution, supported by the Administration, could clarify the United States' position. Such a resolution would hail Argentina for its impartial and unflinching approach to its own trial. The resolution should also state that any Latin American government that followed the Argentine example would enjoy the support of the people of the United States and, if desired, the assistance of their Government. This would underline the United States position that democracy consists not just of elections but of the rule of law.

TOM WINEBRENNER—32 YEARS OF VALUABLE SERVICE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. EDWARDS of California. Mr. Speaker, Republican House Members do not have a monopoly on affection and admiration for Tom Winebrenner. We Democrats consider him one of us too, and we shall miss him very much.

In a partisan, adversarial atmosphere, which of necessity the House of Representatives must be, there is always need for the peacemaker, the reliable person both sides like and trust. Having such a person dulls the partisanship, makes the legislature work better, to the benefit of the public.

Tom Winebrenner has been that sort of person for all of his 32 valuable years of service in the House of Representatives. I can personally certify this truth for 23 of the 32 years, because that's how long I have had the privilege of knowing Tom.

Those of us whose offices are in the Rayburn Building or whose committees meet in Rayburn always seem to wait until the last minute to rush over to the House Chamber when the bells ring for a vote. We always look for Tom as we hurry through the entrance doors, and in a few succinct words Tom describes the vote. When the issue is clear and, if asked, Tom will politely say "Your vote is Aye, Mr. Edwards" and he's never been wrong yet.

Mr. Speaker, it's always poignant when we lose a fine institution around these historical rooms, and Tom is an institution, a useful and creative one, and so we'll be sad.

But we're sad for ourselves, not Tom, because he leaves us for exciting new work, and he leaves us with happy memories and a warm feeling for a dear friend who gave us so much.

CELEBRATING DAVID KARP'S BIRTHDAY AND HIS LOVE OF AMERICA

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. MCHUGH. Mr. Speaker, the end of a congressional session is a time of frenetic activity, a time which requires great commitment and dedication. During these last days of the present session, I have become aware that on January 14, 1986, while Congress is not in session, a wonderful gentleman—who has in abundance those qualities of commitment and dedication—will be celebrating his 91st birthday.

I am speaking of my dear friend David Karp of Kerhonkson, NY, a man who has spent a lifetime loving America, honoring her achievements, and celebrating her freedoms and possibilities. During World War I, David served with distinction as a radio officer in the North Atlantic theater at a time when wireless telegraphy was in its infancy, and he was honored for his meritorious service. In later life, he remained proud of his service experiences and participated in veterans organizations and activities. He has been active in civic affairs, and is a former president of the Kerhonkson Lions Club.

As he and his devoted wife Lillian prepared to celebrate America's Bicentennial Year in 1976, David decided to sum up his vision of America's place in history by writing a stirring poem entitled "The American Spirit of Freedom." It is his beautiful gift to America, and in this season of grateful gift giving, I would like to share his gift with my colleagues by reprinting it in the RECORD. I know my colleagues join me in wishing David Karp a birthday celebration filled with great happiness and a future filled with many blessings for him and his family.

"THE AMERICAN SPIRIT OF FREEDOM"

Arise, America! . . . —Time does not wait,
Vigilance holds your freedom's fate.
Stand by your leaders in this global strife,
Alert to the noblest adventure in life.
Remember the great immortals of yore.
Behold their truths, lest ye march to war!

First came the Prophet, all-wise and divine,
Whose ethics remain an eternal shrine.
He preached this law on Sinai the Mount,
From "The Commandments," most sacred fount;
But the wrath of Cain re-echoed deeper
The cry, "Am I my brother's keeper?"

"I WAS,

Then from the East, a Shepherd appeared,
With doctrines sublime, beloved, revered:
Of a Golden Rule and Brotherhood,
Of a Kingdom come, through earthly good,
Whose precepts helped lay the cornerstone,
"Man does not live by bread alone."

Take Heed, America! . . . —Pause to reflect
Nature's immutable cause and effect.
Study man's struggle on history's page,
From Genesis, to the Space-Nuclear Age.
Outlaw, conquer, and forever eclipse
"The four horsemen of the Apocalypse."

I AM

Now, you are summoned to Judgement Hall,
Where Statesmen gathered to Freedom's call.
May your decisions wipe out all tears,
Heralding Peace for the next thousand years:
A Peace with honor, for those 'neath the sod,
Who died to uphold "Liberty under God."

Have Faith, America! . . . —Lift up thy gaze,
To His mysterious heavenly ways.
Probe "Man's inhumanity to man."
Question Destiny's ultimate plan.
Thus, as you ponder its purpose and scope,
Reason reveals this "rainbow of hope!"

I WILL BE,"

Democracy's heart shall ever be strong,
With courage to smite an aggressor's wrong.
Each citizen will have, a duty and right,
With training, directed, preserving its might;
That nations may keep "Four Freedoms" unfurled,
The symbols of Justice,—ONE GOD,—ONE WORLD!

STATE DEPARTMENT'S NEW ASSISTANT SECRETARY FOR HUMAN RIGHTS, RICHARD SCHIFTER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GILMAN. Mr. Speaker, along with several Members of Congress, I have called attention to the ceremony held in the White House this year commemorating Human Rights Day on December 10. Among other things I have inserted into the CONGRESSIONAL RECORD the full text of President Reagan's speech to assembled White House guests on that occasion. And I have called attention to the contrast between that ceremony and the scuffle which occurred in Moscow's Pushkin Square when a few heroic activists in that city tried to celebrate Human Rights Day peacefully. As set forth in the graphic eyewitness account provided by the Washington Post of December 11, the KGB moved in quickly taking the demonstrators away for interrogation. The vivid contrast between those two Human Rights Days speaks volumes as to the state of human rights in the U.S.A. and the U.S.S.R.

There has since come to my attention another Human Rights Day speech which also merits our consideration, the remarks delivered during the December 10th White House ceremony by the State Department's new Assistant Secretary for Human Rights and Humanitarian Affairs, Richard Schifter. Secretary Schifter took over his new human rights assignment about 2 months ago, after serving as head of the U.S. delegation to the U.N. Human Rights Commission and deputy U.S. representative in the U.N. Security Council and a distinguished career in the private practice of law.

As his remarks reveal, Mr. Schifter arrived here as a boy, a refugee from Hitler, in 1938. His parents hoped to follow him, but they never made it. I found his speech a moving testament to the cause of human rights, worldwide. I believe Dick Schifter is eminently qualified to hold his present position, not only from the viewpoint of his education and professional experience, but also as a tragic human rights victim very early in his life. His remarks should be welcome news to those who fear that our Nation does not adhere to a uniform human rights policy, applicable to all parts of the world.

Accordingly, I urge my colleagues, interested in the human rights cause, to read Dick Schifter's speech, keeping in mind his words: "It is my objective that my performance in this position will serve as a fitting memorial for my father and mother."

I know that many of my colleagues join with me in wishing Dick Schifter the best of success in his new undertaking, and that we look forward to continuing to work with him to achieve our common goals.

Mr. Schifter's speech follows:

REMARKS OF RICHARD SCHIFTER, ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, ON HUMAN RIGHTS DAY AT THE WHITE HOUSE, DECEMBER 10, 1985

The custom of celebrating the anniversary of the adoption of the Universal Declaration of Human Rights by holding a ceremony under White House auspices has by now become so well established that we may consider it a tradition. It has become equally traditional that remarks by the incumbent Assistant Secretary of State for Human Rights and Humanitarian Affairs are part of the ceremony.

I want at the outset to pay tribute to the accomplishments of my predecessor. Under the guidance of Elliott Abrams, United States human rights policy crystallized and became an essential, coherent and consistent ingredient of the United States Government's approach to foreign affairs. My task in that office, as I see it, is to build on the foundation laid by Elliott Abrams.

The position of Assistant Secretary of State for Human Rights and Humanitarian Affairs is a truly unique one. No other coun-

try in the world has elevated the person responsible for conducting human rights policy on the international scene to so high a level in its foreign policy establishment. Given the significance thus accorded to the position and, further, given the fact that this is my first opportunity to speak at an event of this kind, I want to use this opportunity to say a few words about the views and convictions which I have brought to this job.

Reporters who have interviewed me since my nomination was announced have asked whether my background has something to do with my decision to accept this position. The answer is: "Of course."

If you were to proceed to a reference library for newspapers and periodicals and were to get the New York Times of December 16, 1938, you will find in it a story on the arrival in New York harbor of yet another boatload of refugees from Hitler's Germany. The story is illustrated with a photograph. It was taken on the deck of the arriving ship. It is a picture of a group of these refugees looking out at the Statue of Liberty. One of these refugees gazing out at that great symbol of American freedom was a youngster who decades later was to become the third person to serve in the United States Government as Assistant Secretary of State for Human Rights and Humanitarian Affairs.

Many such boatloads arrived in those days. Another one of them, which had reached the United States a few weeks earlier, had numbered among its members a younster of about the same age who was then known as Heinz Kissinger.

I had come to the United States alone. Under the immigration laws then in effect, my father and mother had been placed on the visa waiting list. They had bid me good bye as I had embarked for my journey to the United States, in the expectation that we would see each other again soon.

That was not to be. Their last message to me, dated July 1942, and transmitted through the International Committee of the Red Cross, came from a place called Maidan-Tatarski. According to available records, the ghetto of Maidan-Tatarski was, to use the terminology of that period, liquidated in November 1942.

I recall reading a poem once about the victims of those times. It speaks of the millions for whom there was no funeral ceremony, no grave, no monument to mark their final resting place. The poem speaks of the cloud that emanates from the smoke stack near the crematorium and of the grave, the final resting place, in the sky.

It is my objective that my performance in this position will serve as a fitting memorial for my father and mother.

Let me also add in this context, that the President has called for Senate action on the Genocide Convention. It is my hope that the important symbolic act of United States adherence to that Convention will indeed take place in the near future.

What I believe I am able to bring to the job of Assistant Secretary of State for Human Rights is an ability to look at the world through the eyes of a victim. What a victim looks for is help, rescue, improvement in the conditions of life. What the victim does not need are pious declarations or thundering denunciations whose only effect is to make the persons uttering these declarations or denunciations feel psychologically satisfied. It is essential, I believe, that we continue a human rights policy which is result-oriented and avoids grandstanding.

Though the head of the Human Rights Bureau has the opportunity to influence policy and to exercise a certain amount of discretion, it is clear that his performance must harmonize with the general policy outlook of the Administration in which he serves.

As I have had the opportunity to represent the United States since January 1981 in international organizations concerned with human rights, I am well acquainted with our policy approach and have no doubt that my own inclinations are in full harmony with the human rights policy of this Administration. These policies, in turn, reflect the deeply-felt beliefs of the American people. My experience in recent years has served only to confirm the impression which I have held heretofore, that no other country exceeds ours in its altruism in the field of international affairs.

I would not want to suggest that we do not weigh our security interests or economic concerns as we make our foreign policy decisions. We must, and we do. But I believe that we, more than anyone else, are prepared to subordinate these narrower objectives to purely humanitarian considerations and that we do so irrespective of the political outlook of the government which is guilty of human rights violations.

Let me underline this last point most emphatically. Only this morning, on a television show, I was asked the question that is posed so often, whether we limit our human rights concerns to countries in the Soviet sphere and look the other way when human rights violations take place in countries with which we have better relations. The answer to this question, as I have already said, is that we concern ourselves with human rights violations everywhere. Now that I am no longer in the private practice of law, I do not keep a precise record any more as to the matters on which I spend my time minute-by-minute. But I can tell you nevertheless that in the six weeks that I have been on my present job, I have spent more time working on human rights problems in countries outside the Soviet sphere than on the problems that emanate from the Soviet bloc.

The reason for that difference is simple to explain. We naturally gravitate in our activities toward those situations where we can do some good in the near future. We can obviously do the greatest immediate good in a country that is likely to pay attention to an intercession on our part. Our time is then spent setting forth the fact as to the violation in question, formulating our expression on concern, determining the proper channel for communicating that concern and then communicating it. That is what is known as "quiet diplomacy." It is quiet only in that it is not made public. But it can be most emphatic and I can assure you it most often is just that. All along in choosing the words and in choosing the channel, we keep a single goal in view: to achieve the desired result.

Only where quiet diplomacy has failed or where there is no chance of even starting such a process do we resort to publicity. Obviously, the less friendly a country is toward us, the less likely that it will listen to our private entreaties. That is why it might indeed appear as if our human rights activities focus on the Soviet bloc when, in truth, we are concerned with all human rights violations.

As to this concern, there are no partisan divisions in our country. I have noted earlier that our government acts the way it does on human rights issues because in our democracy government expresses the will of the people and an affirmative human rights policy is what the American people expect of their government. The United States human rights policy, unique as it is on the international scene, truly reflects the spirit of the great civilization which the founders of this country built on the North American continent.

A final comment would be appropriate about the man from whom you will soon hear in person, the man whose word is the last word in setting our country's human rights policy. What the great majority of our people has recognized, what the world is increasingly recognizing, is that President Reagan represents the essence of the American character of decency and humanitarianism.

I have no doubt that in placing human concerns ahead of bureaucratic concerns in the exercise of our official responsibilities, we in the Bureau of Human Rights and Humanitarian Affairs carry out the policies of the President of the United States.

COUNTY COUNCIL OF HARFORD COUNTY, MD, ADOPTS RESOLUTION IN OPPOSITION TO THE REPEAL OF FEDERAL DEDUCTIBILITY OF STATE INCOME AND LOCAL PROPERTY TAXES

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYSON. Mr. Speaker, I would like to share with my colleagues in Congress a resolution adopted by the Harford County Council expressing their unanimous opposition to the proposed repeal of Federal deductibility of State income and local property taxes.

At a time when policymakers across the Nation are addressing the need to reduce the Federal deficit, many of us see the deductibility of State and local taxes as a central component of our campaign to provide our citizenry with essential services.

Passed on November 12, 1985, this resolution represents but one of the many strong expressions being heard across the country in favor of retaining this vital tool of effective government.

Resolution 49–85, as introduced by Council Member Fielder, follows:

WHEREAS, the County Council of Harford County, Maryland, recognizes the need to make the Maryland State income tax more progessive in order to finance the prospective growth in government expenditures and to achieve a more equitable sharing of the costs of government among income groups; and

WHEREAS, the federal government has encouraged states to assume greater responsibilities as part of the "New federalism" during a time when federal funds have been reduced for the kinds of programs of particular interest to the people and local governments in our region; and

WHEREAS, we believe that states properly have a claim to their citizens' income which is prior to that of the federal government and that the proposed changes would

represent an unwarranted intrusion into states' rights; and

WHEREAS, income taxes should not be considered part of one's income, so no tax authority should include in its income tax base the taxes its citizens pay to other authorities; and

WHEREAS, state and local property taxes provide basic support for essential governmental and educational services and the lack of federal deductibility would impact local revenue-raising capacities, and the basis on which state and local governments' credit ratings are determined; and

WHEREAS, interstate transfers arising from deductibility may simply offset transfers created by the exportation of other state taxes, such as severance taxes; and

WHEREAS, deductibility improves the tax system's overall neutrality by ameliorating the bias against saving and investment; Now, therefore, be it

Resolved, That the County Council of Harford County, Maryland, wishes to go on record in opposition to the current proposal to end the federal deductibility of state and local taxes; and be it further

Resolved, That a copy of this Resolution be sent to each member of the Maryland delegation in Congress.

THE PRESIDENT'S VETO OF THE TEXTILE BILL

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. CHANDLER. Mr. Speaker, last night, the President vetoed H.R. 1562, the Textile and Apparel Trade Enforcement Act of 1985. I strongly support the President's position on this issue and I congratulate him for his actions.

I remain convinced that protectionism of the type envisioned by H.R. 1562 is bad for the country and bad for each and every American. This bill would fuel inflation, put thousands of Americans out of work, and profoundly threaten the economies of many of our trading partners to whom we look for purchase of our exports.

For a bill that advertises itself as the protector of certain domestic industries, H.R. 1562 quite curiously exempts from its coverage many of the countries which account for significant levels of foreign imports. Conversely, the bill would apply to such nations as Sweden, Norway, and Finland, which collectively account for less than one-quarter of 1 percent of the U.S. market for textiles and apparel, and which, as a group, import more textiles and apparel from the United States than they export.

I received a letter today from Sweden's Ambassador to the United States, Mr. W. Wachtmeister. His comments testify to some of the inequities caused by this bill and are, I believe, deserving of inclusion in this RECORD.

EMBASSY OF SWEDEN,
THE AMBASSADOR,
Washington, DC, December 11, 1985.

Hon. ROD CHANDLER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CHANDLER: I noticed with pleasure a reference that you made to my country in the House debate last week on textiles and wanted to write to thank you for presenting our points of view so well. You noted that several major exporters to the United States of textiles and apparel would be exempted from the proposed restrictions while Sweden, Norway and Finland would not be, even though we hold only a minute share of the U.S. market and import more textiles and apparel from this country than we sell to you.

My government certainly feels that additional restrictions on world textile and apparel trade would be unfortunate in view of the forthcoming negotiations on a new Multifiber Agreement. Any new measures introduced should, in our view, take into consideration the conditions for production that exist in our country, where the textile industry pays high wages and in no way could be perceived as a threat to the corresponding U.S. industry.

Sincerely yours,

W. WACHTMEISTER.

THERE WAS NO NEED TO RUSH ON THE TAX BILL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GAYDOS. Mr. Speaker, once again we in the House have been pressured into acting with undue haste on a bill, H.R. 3838, the Tax Reform Act of 1985, that will have a tremendous impact on the lives of all Americans.

Once again, we have another example of what I call legislation by crisis. Only, as far as I can tell, no crisis exists.

There has been no clamor from my constituents for this bill or, for that matter, for any of the tax reform proposals that have been floating around this Congress for the past several months. So there was no real rush, except in the minds of some here, for dealing with this bill now while racing to adjourn.

One of the things that bothered me most as we rushed into this vote was that I really don't know what this bill contains. I only received my copies of the bill, the Ways and Means Committee report, and the committee summary last week.

And, when you consider that the bill itself is almost 1,400 pages—about the thickness of a good-sized telephone book—and weights more than 4 pounds, it's going to take more than just a couple of days to examine it thoroughly and to understand all of the implications.

But, in my cursory reading so far, I have found some good things in the bill, items that will benefit people, and I have found proposals that are so detrimental that it is impossible for me to support this measure.

I am very concerned about the provisions to tax some retirement benefits of Federal employees while exempting Members of Congress and their staffs. It's too bad the crafters of H.R. 3838 couldn't be straightforward with us by just using simple and understandable language in the bill rather than the typical convoluted language we have before us. At least then we and our constituents would know what we were dealing with.

I am concerned about the elimination of accelerated cost recovery that exists under current law. This program is a real benefit to many capital-intensive industries, such as steel and other manufacturing entities, and its elimination will do serious harm to those companies suffering most from the impact of import competition.

I am concerned about the repeal of the investment tax credit program on industry because, again, it will hurt most those companies that are struggling to regain the degree of competitiveness necessary to stave off pressure from imports.

I am concerned also about the treatment of industrial development bonds in this tax bill, bonds that are vital to depressed areas as a means of attracting new industries that will create jobs in parts of this country that have not been blessed with the fantastic recovery this adminstration says exists.

All in all, Mr. Speaker, while this tax bill may provide some benefits for some people, the negatives I have already found lead me to stand in opposition to the bill.

Further, as there seems to be no immediate need to rush into action, no pressure from the citizenry to pass the bill, I believe it would have been in our own interests to wait and look at the package more carefully before we put our seal of approval on it.

Our colleagues in the Senate are in no rush. In fact, they can't act on the tax bill until we do. Given that as a fact, there is no need for the House to rush into action on this measure when we have had only a short time to look it over.

Besides, despite the efforts by the President to convince Members to support H.R. 3838, he has already said that if the final bill contains many of its provisions, he will veto it!

Are we so involved in the political struggle that we can't see that we are being used? Let's wait, take our time and produce a tax package that will really mean something to the American people.

Quite frankly, there are too many unknowns in a measure of this size and import. I, for one, would rather say that I voted no because of not fully knowing what was in the bill rather than be criticized by my constituents later for failing to see some minor paragraph that has a negative impact on people.

I believe we should have waited rather than consider H.R. 3838. This is far too important an issue to do in a hurry. The danger now is that we have lost control and the Senate will be free to do what it is the President wants them to. After that, only the conferees will know what shape the final version will take.

RETIREMENT OF GEN. ROSCOE ROBINSON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. CLAY. Mr. Speaker, it is with a great deal of pride and pleasure to bring to the attention of my colleagues the retirement of Gen. Roscoe Robinson, Jr., from the U.S. Army.

General Robinson, a constituent from the First Congressional District of Missouri, and a contemporary of mine, was retired from the military with honors on November 27, 1985 at Fort Meyers, Virginia with more than 30 years of dedicated service to our country. I am indeed honored to know him and to be his Representative in Congress. But, I do have some regrets about his retirement for I am no longer able to state that two of the top ranked black officers in the Armed Forces claim residence in my district.

Mr. Speaker, I submit for insertion into the CONGRESSIONAL RECORD a portion of the program from General Robinson's retirement ceremony.

The information follows:

ROSCOE ROBINSON, Jr., General, United States Army

General Roscoe Robinson was born in St. Louis, Missouri on 11 October 1928. He was commissioned a second lieutenant and awarded a Bachelor of Science degree in Engineering in 1951 from the United States Military Academy. He also completed a Masters program in International Relations from the University of Pittsburgh. His military education includes completion of the Infantry Basic and Advanced Courses, the United States Army Command and General Staff College, and the National War College.

He has held a wide variety of important command and staff position culminating in his final assignment as United States Representative to the North Atlantic Treaty Organization Military Committee. Other key assignments held recently include Commanding General, 82d Airborne Division, Fort Bragg, North Carolina; Deputy Chief of Staff for Operations, United States Army Europe and Seventh Army; and Commanding General, United States Army Japan/IX Corps.

General Robinson also served as Personnel Management Officer, Infantry Branch, Officer Personnel Directorate, Office of Personnel Operations, Washington, DC. In Vietnam, he was Deputy Chief of Staff, G4 (logistics), 1st Cavalry Division, and subsequently Commander, 2d Battalion, 7th Cavalry, 1st Cavalry Division. After completion of the National War College at Fort Lesley J. McNair, Washington, DC, he became Plans Officer, later Southeast Asia Special Actions Officer, J5 (Plans), United States Pacific Command, Hawaii and executive to the Chief of Staff, CINCPAC. He was Commander, 2d Brigade, 82d Airborne Division at Fort Bragg, North Carolina and then departed for Okinawa where he became Deputy Commander of the United States Army Garrison, later becoming Commanding General, United States Army Garrison, Okinawa.

Awards and decorations which General Robinson has received include the Distinguished Service Medal, Silver Star (with Oak Leaf Cluster), Legion of Merit (with two Oak Leaf Clusters), Distinguished Flying Cross, Bronze Star Medal, Air Medals, Army Commendation Medal, Combat Infantryman Badge (2d Award), Master Parachutist Badge, and the Joint Chiefs of Staff Indentification Badge.

He is married to the former Mildred E. Sims (Millie). They have two children: Carol Robinson Royal and Bruce (US Army).

Mr. Speaker, I ask that my colleagues join me in thanking General Robinson for his many years of dedicated and unselfish service to our nation and extend to him and his wife and family our best wishes.

PROGRESSIVE DISCIPLINE

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. KINDNESS. Mr. Speaker, we are probably all sorely aware of the depth of discipline problems in our Nation's schools. I want to call the attention of my colleagues to an innovative program meant to deal with such problems in a constructive manner.

John Lazares, assistant principal of Wilson Junior High School in Hamilton, OH, has developed a "progressive discipline code" which has received a lot of attention over the past few months. To date, the code has been implemented by schools systems in Cincinnati and Harrison, OH, as well as a school system in North Carolina.

John Lazares and his colleagues at Wilson Junior High School are to be commended for their efforts in developing this idea, which emphasizes parent-teacher communication in an era where such communication may often be lacking.

I'm sure that there are many of us who share Mr. Lazares' hope that the increased involvement of parents in the discipline of their children will be helpful in translating discipline problems into better academic performance and increased parent awareness.

The following article by Mr. Lazares explains the "progressive discipline code" in greater detail:

HAMILTON CITY SCHOOL DISTRICT,
Hamilton, OH.

At Wilson Junior High School in Hamilton, Ohio, a progressive discipline code is utilized. A minor offense by a student results in a representative punishment. As a student continues to break school rules, the punishment becomes more severe. As the severity of offenses increases, the student may eventually be suspended out of school. We have decided to add one more step to our code before a student is suspended out of school.

In this additional step, a student who has continued to exhibit undesired behavior will receive a suspension until his/her parent comes to school for a conference. At that meeting, the parent is told the next time their child is involved in an infraction of the discipline code, the parent will be required to attend school with his/her child for the entire day(s).

The rationale for this procedure is as follows:

1. Students are embarrassed by having their parents with them at school. Several students, who when faced with the prospect of having their parents attend school, have pleaded with me to do anything else. This addition to our code has drastically reduced repeat-student problems. Students see parents in the building and realize that they could be next. Thus a great "preventive discipline" factor develops.

2. If a student receives a suspension, but the parent is willing to accompany him/her to school for an entire day, the suspension will be rescinded. Because the procedure is used in lieu of an out-of-school suspension, instruction time is not lost.

3. The parents observe the school day first hand. The lines of communication between the parent and teacher are greatly improved.

This is a good way for parents to actually see what type of education their children are receiving. One parent stated, "I finally realize what a hard job teachers have". Our schools need improved public relations and this can be another method of attaining this goal.

In conclusion, this program will help to decrease discipline problems and make parents more aware of their youngster's behavior and academic progress in school.

JOHN LAZARES, *Assistant Principal,*
Wilson Junior High School.

U.S. RELATIONS WITH EASTERN EUROPE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GARCIA. Mr. Speaker, the Secretary of State has just completed a visit to three Eastern European nations. It is important to note that not all Eastern bloc nations are identical. There are some important differences between both the domestic and foreign policies of these nations.

Our relationship with the nations of Eastern Europe has always been overshadowed by our relationship with the Soviet Union. While it is important not to diminish the control the Soviet Union has over these nations, it is equally important not to lump them together, ignoring their differences. In that light, I am inserting in the RECORD an article from the December 15 edition of the New York Times on Secretary Shultz' trip and on United States-Eastern European relations in general.

[The New York Times, Dec. 15, 1985]

SHULTZ HEADS FOR THE OTHER SIDE OF EUROPE

(By Bernard Gwertzman)

WEST BERLIN.—The Reagan Administration is showing renewed interest in Eastern Europe, spurred by last month's Reagan-Gorbachev meeting and the knowledge that a thaw in Soviet-American relations often produces openings as Moscow's allies made the most of a Russian smile. After stopping in this Western enclave, Secretary of State George P. Shultz planned to visit Rumania and Hungary today and tomorrow. He was

to spend a day in Yugoslavia before returning to Washington.

The longstanding American objective in dealing with the East Europeans has been both simple and complex. Any weakening of Communist cohesion is a military plus for the West, and—more important—a serious problem for the Russians. And beyond the security aspect, there is the perhaps sentimental hope that somehow, freedom can be brought to Eastern Europe by means short of war. But policy toward these governments has long seemed riddled with inconsistencies and dilemmas. Questions are again being asked about how to deal with the region.

Should the United States continue to follow President Lyndon Johnson's policy of "building bridges" in the hope that the East Europeans could turn westward? Or is it misleading and cynical to encourage seeds of independence, which only make clear Western importance in the face of Soviet-forced crackdowns and repression, as in Hungary in 1956, Czechoslovakia, 1968, and Poland, 1981? Would it not be more productive in the long run to treat the Soviet Union and the other European Communists as being in the same boat, perhaps with country-by-country adjustments? If relations with Moscow improved, ties with the others would, too. This might strengthen Moscow's veto over its allies but could also foster East European self-interest in change in Moscow.

The United States does not accept the incorporation of Eastern Europe "into a Soviet sphere of influence," Mr. Shultz said yesterday in West Berlin.

The Reagan Administration calls its policy "differentiation." As defined by Vice President Bush in 1983 after a similar quick trip to the region, it explains why Mr. Shultz is visiting Rumania and Hungary while leaving Bulgaria, Czechoslovakia, East Germany and Poland off his itinerary. Yugoslavia's Communist Government, which left the Soviet bloc in 1948, is a special case, while Albania belongs to no bloc and has resisted repeated American overtures.

"We look to what degree countries pursue autonomous foreign policies, independent of Moscow's direction," Mr. Bush said, "and to what degree they foster domestic liberalization, politically, economically and in their respect for human rights." He added: "The United States will engage in closer political economic and cultural relations with those countries such as Hungary and Rumania, which assert greater openness or independence."

Hungary has permitted private enterprises to flourish alongside moribund state farms and factories and has been relatively tolerant of individualism in the arts. But on foreign policy, it dutifully follows the Soviet line. The opposite is true of Rumania. Under President Nicolas Ceausescu, intellectuals and evangelical Christians are severely repressed. Living standards are the lowest in East Europe. But in foreign policy, Mr. Ceausescu has been the most independent leader in the Warsaw Pact, even refusing to participate in joint military maneuvers outside of Rumania. He also allows Jews and Germans to emigrate fairly freely, meeting United States conditions for preferential status on tariffs.

But some United States officials are concerned that Rumania's independence may not outlast Mr. Ceausescu, who will be 68 next month and is said to be in poor health. Rumania, which is in severe economic difficulty, may be tempted to return to the Soviet fold, they say, if independence is not materially encouraged.

Hungary is the only other Warsaw Pact member approved for Most Favored Nation tariff treatment. In Administration parlance, Mr. Shultz is "rewarding" Hungary, for its relative domestic leniency, and Rumania, for foreign policy independence, by singling them out on his first visit to the region.

But many critics would like to end the reward. Bills now before Congress would strip Rumania of its tariff preference because of its shoddy human rights record. And Senator Alfonso D'Amato says he may seek to revoke Hungary's preferred status because free debate was stifled during the recent forum on East-West cultural relations in Budapest.

Moreover, given the renewed concerns about espionage, there is concern that all the East Europeans may be helping Moscow gather information. Some officials, however, say the Hungarians and Rumanians are less active in spying than the other Communists. That is why they were left off the list when the Bulgarians, Czechoslovaks, East Germans and Poles were recently told to book their travel in the United States through the State Department, a procedure that helps the Federal Bureau of Investigation keep close tabs on their whereabouts.

CITY COUNCIL OF BALTIMORE ADOPTS RESOLUTION URGING SUPPORT FOR ELDERLY CITIZENS WHO NEED NURSING CARE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYSON. Mr. Speaker, I would like to share with my colleagues in Congress a resolution adopted by the City Council of Baltimore pertaining to nursing care for the elderly.

Introduced by council members DiBlasi, Murphy, Myers, Ambridge, and Mfume on November 18, 1985, the resolution is entitled, "Federal and State Assistance for Elderly Citizens in Need of Nursing Care."

The resolution follows:

For the purpose of requesting the Federal and State governments to study the need for extended benefits for elderly citizens in need of nursing care.

Whereas, Elderly citizens experience a higher incidence of illnesses and accidents that require short term or long term nursing care as a course of medical treatment; and

Whereas, The cost of this nursing care has accelerated over the past 10 years and now, after a short period of time, exhausts the income and assets of all but a few; and

Whereas, People who work hard all their lives to be secure in their senior years are entitled to their personal dignity in spite of incapacitation; and

Whereas, Persons in need of nursing care should be able to rely on Medicare for this treatment but under the present rules they become economic pawns of State and Federal governments; and

Whereas, The Federal and State governments should study the issue of nursing care for elderly citizens and seek ways to build in protection for the nursing care needs of elderly citizens; now, therefore, be it

Resolved, That the President and the U.S. Congress and the Governor and General Assembly be urged to investigate the need for expanded Medicare and State support for elderly citizens who need nursing care; and be it further

Resolved, That copies of this Resolution be sent to the President of the United States, the Maryland delegation to the U.S. Congress, the Governor and the Baltimore City delegation to the General Assembly.

AFTER GENEVA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HAMILTON. Mr. Speaker, I insert my Foreign Affairs Newsletter for December 1985 into the CONGRESSIONAL RECORD:

AFTER GENEVA

President Reagan deserves the praise of Americans for his "fresh start" at Geneva. Although the November summit produced nothing concrete on the central issues of arms control and arms reduction, it improved the mood in U.S.-Soviet relations, reducing tension and signalling a return to diplomacy. The summit's significance depends on what happens next. It is up to the U.S. and the Soviets to try to build on its momentum.

The second summit, likely to be held next June or July, will be much tougher. It was easy this time for the leaders to meet, shake hands, exchange smiles and pledge to accelerate arms control talks. Next time the summit will be called a failure if it does not produce real movement on arms control. A summit can spur bureaucracies into action, but it can also obscure inaction. Painstaking diplomacy is not always advanced by highly visible public meetings. A second or third summit, if unproductive, could unsettle Europe and increase East-West tension.

The President has his work cut out for him. Preparation for the next meeting needs to begin now. The President must quickly assemble an arms control consensus within his own Administration, something he has so far been unable to do. He must give his negotiators guidance if progress is to occur before the next summit. He must resist pressure to compromise, which our allies will apply in coming months. He must choose whether to observe existing treaties while he accuses the Soviets of violating them. Most importantly, he will have to decide whether to accept limits on his Strategic Defense Initiative (SDI) to achieve deep cuts in Soviet nuclear weapons.

Mr. Gorbachev has his own set of problems. He must consolidate his power at the Party meetings in Moscow in February, 1986. He must decide if NATO or the Congress will induce President Reagan to make concessions, or whether Soviet compromises will be needed.

Under the domestic limits each leader faces, neither side can credibly threaten sharp increases in military spending. The outlook here is for more cuts in the President's defense budget. Mr. Gorbachev does not hide his preoccupation with the stagnating Soviet economy, or his reluctance to see

military spending go up to keep pace with U.S. technological efforts.

Observers are alert for early signs of movement in superpower relations. U.S. allies have already put forward a proposal at the Vienna talks on Mutual and Balanced Force Reductions. It calls for a small reduction in U.S. and Soviet forces to precede an agreement on verification measures. U.N.-sponsored talks on Afghanistan will resume soon and could provide a post-summit test of Soviet intentions. At the Stockholm Conference on Disarmament in Europe, each side has pledged to work on "confidence building" measures and the principle of non-use of force. Bilateral talks are also planned on preventing the spread of nuclear weapons and establishing centers to reduce the risk of nuclear war.

In Geneva, nuclear and space arms talks will resume in mid-January. Both sides agreed at the summit to seek progress in areas of common agreement, including cutting strategic arms by 50% and working out an interim agreement on intermediate range weapons in Europe. Neither side budged on the central issue of spaced-based defense, but there is some room in U.S. and Soviet positions to discuss the acceptability of SDI research.

There are major differences, however, in the terms defining the reduction of U.S. and Soviet arsenals. The Soviet proposal would include U.S. weapons in Europe, and apparently allows the deployment of Soviet SS-24 and SS-25 missiles while prohibiting our MX, Trident II and the future Midgetman missile. The U.S. proposal would ban all Soviet mobile missiles including SS-24s and SS-25s and the proposed U.S. Midgetman, but permit other U.S. systems. These terms of definition alone will be difficult to negotiate.

A further difference is compliance with past arms control agreements. In June, President Reagan announced a "no undercut" policy of adhering to SALT I and II to the extent that the Soviets did. He contends, however, that the Soviets have violated SALT II by deploying two new types of land-based missiles—SALT II allowed only one new type—and by encoding data from missile tests. Some cite these as reasons for U.S. abrogation of the SALT II Treaty. Others argue that without U.S. compliance the Soviets could "break out" rapidly from SALT II, which would complicate arms talks and undermine the effectiveness of defense systems contemplated under SDI.

Another critical compliance issue concerns the Anti-Ballistic Missile (ABM) Treaty of 1977. The U.S. charges that Soviet construction of a large new radar system at Krasnoyarsk in Siberia violates the ABM Treaty. The Administration also decided this October that the testing and development of SDI technologies is not a legal violation of the ABM Treaty, reversing the U.S. position of the previous 13 years. This change led to an outcry here and in Europe, and the U.S. decided for policy reasons to return to the original Treaty interpretation. How compliance disputes such as these are resolved will greatly affect the future of arms control.

The summit's outcome on arms control has yet to be written. Will we be able to reach agreements that for the first time really cut arsenals, or will we begin an accelerated arms race? Can we keep both nations on the track started at Geneva or will the next international incident derail us? Can we translate the moment of Geneva and what the President calls American new strength into specific agreements which will manage the arms competition?

The summit did not give us a breakthrough arms control or the difficult relationship between the United States and the Soviet Union. But in an improved climate it does give us a chance to keep trying.

LIMITING ARMS TRANSFERS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LEVINE of California. Mr. Speaker, today I am introducing a bill to limit the sale of sophisticated conventional arms and technology to the Third World. It is identical to a bill introduced today by Senator BINGAMAN and several of his colleagues in the Senate. The bill asks the President to undertake negotiations with governments of the key arms suppliers to establish a consultative commission for multilateral arms restraint. The consultative commission would be comprised of the United States and the Soviet Union, historically the largest arms suppliers, as well as France, the United Kingdom, Italy, and West Germany.

The functions of the consultative commission would be: First, to establish guidelines to regulate the effect of multilateral limitations on arms sales on the national economies of its member countries, and second, to address other areas pertinent to limiting the sale or transfer of arms including the adoption of mechanisms to safeguard against the circumvention of the arms restraint regime by its member countries and the establishment of a procedural timetable for the purpose of creating an additional forum to facilitate deliberations between member countries of the consultative commission and other developed, as well as newly industrialized, countries on the limitation of arms transference.

This bill would also require an annual arms sales report to include certain information enumerated in section 3 of the bill.

Mr. Speaker, the need for this legislation is clear. Over the past two decades, arms sales worldwide have increased tenfold from $3 to $4 billion a year to $30 to $35 billion a year. Some $25 to $30 billion of this annual amount represents arms transfer agreements with countries of the Third World. The Congressional Research Service reports that from 1977 to 1984. Third World countries doubled their purchases of arms. Between 1980 and 1984, Third World countries contracted to buy arms from the United States, the Soviet Union, and the major West European countries totaling $40,249,000, $40,201,000, and $33,328,000, respectively.

The proliferation of arms in developing countries tends to undermine geopolitical regional balances, which have direct implications for North-South and East-West relations. Experts agree that military confrontation between the United States and the Soviet Union is most likely to result from a regional conflict in the Third World. Even as we meet here today, conflicts continue in Afghanistan, the Persian Gulf, Southeast Asia, Africa, and Central America—all fueled by a supply of new and more sophisticated arms, and all possibly provoking wider wars that could involve the two superpowers.

Consider these facts, presented in the April 19, 1985 Congressional Research Service report, "Trends in Conventional Arms Transfers to the Third World by Major Supplier, 1977–84":

Both the Soviet Union and France substantially increased their shares of Third World arms transfer agreement values between 1983 and 1984. The value of the Soviet Union's agreements with the Third World increased to $10.4 billion in 1984 from $4.8 billion in 1983.

Arms transfer agreements with Latin America became much more polarized during 1981–84 than they had been during 1977–80. The United States and the Soviet Union, which collectively accounted for 24% of the arms transfer agreements with Latin America in the earlier period, were responsible for 53% of these agreements between 1981–84. The United States' share increased from 3% to 15%, and the Soviet Union's share increased from 21% to 38%.

The real issue of all non-Communist nation's arms transfer agreements with, and arms deliveries to, the Third World have exceeded that of such agreements by all Communist nations every year since 1977.

It should be of concern to us all that an increasing number of countries participate in the arms trade, and in selling arms to the Third World. Brazil, Israel, India, North and South Korea, Taiwan and China have developed arms industries.

Mr. Speaker, sophisticated conventional arms are dangerous instruments of war, made more dangerous by the fact that conflicts using conventional weapons can escalate into those using nuclear weapons. Clearly, it is in the best interest of our own country, indeed in the interest of all countries in the world, to establish a system of multilateral controls on the export and proliferation of conventional arms.

As evidence of the House Foreign Affairs Committee's and Congress' recognition of the need to control arms transfers, a provision was included in Public Law 99–83, the International Security and Development Cooperation Act of 1985, calling for discussisons with the Soviet Union and France aimed at beginning multilateral negotiations to limit and control the transfer of conventional arms to less developed countries. In addition, the law calls for a report to examine certain aspects of these arms transfers.

The bill I am introducing today goes a step further, not only by requirng an even more detailed report, but by actually establishing a formal body to consider this important problem.

The proliferation of sophisticated conventional arms is something over which all responsible nations must gain control. These weapons can and do create instability in various regions of the world, they can lead to the use of even more dangerous weapons, and their purchase is draining the scarce resources of many Third World countries—resources which could be more

productively used to foster their economic growth. Surely arms exporting nations would better serve all humanity by trying to achieve a concensus on halting the proliferation of these dangerous weapons. Enactment of this bill would be a solid contribution toward this goal.

The complete text of my bill follows:

H.R. 3987

A bill to provide for multilateral limitations on arms sales, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) arms sales worldwide have increased from $3-4 billion per year to $30-35 billion per year over the past two decades;

(2) $25-30 billion of this annual amount represents arms transfer agreements with countries of the Third World;

(3) the accelerating pace of arms transfers to developing countries absorbs resources which could be more productively utilized to foster economic growth;

(4) the proliferation of arms in the developing world tends to undermine geopolitical regional balances;

(5) the deterioration of regional balances has direct implications for North-South relations and East-West relations;

(6) experts agree that any military confrontation between the United States and the Union of Soviet Socialist Republics, and thus another global war, is most likely to stem from a regional conflict in the Third World; and

(7) between 1980-1984, Third World countries contracted to buy arms from the United States, the Union of Soviet Socialist Republics, and the major West European suppliers totaling $40,249,000, $40,201,000, and $33,328,000, respectively.

SEC. 2. CONSULTATIVE COMMISSION FOR MULTILATERAL ARMS RESTRAINT.

(a) CALL FOR NEGOTIATIONS TO ESTABLISH.—It is the sense of the Congress that the President should undertake negotiations with governments of the key arms suppliers in order to establish a consultative commission, modeled after the Coordinating Committee for Multilateral Security Export Controls and the nuclear suppliers group, which should be called the Consultative Commission for Multilateral Arms Restraint (hereafter in this Act referred to as the "Consultative Commission").

(b) MEMBERSHIP.—The Consultative Commission should be comprised of the United States and the Union of Soviet Socialist Republics, historically the largest arms suppliers, as well as France, the United Kingdom, Italy, and the Federal Republic of Germany.

(c) FUNCTIONS.—The Consultative Commission should meet in Geneva, Switzerland, at intervals to be determined by its members in order to negotiate restrictions on sophisticated combat weaponry and the technology of conventional arms production. The Consultative Commission should—

(1) establish guidelines to regulate the effect of multilateral limitations on arms sales on the national economies of its member countries; and

(2) address other areas pertinent to limiting the sale or transfer of arms, including—

(A) the adoption of mechanisms to safeguard against the circumvention of the arms restraint regime by its member countries; and

(B) the establishment of a procedural timetable for the purpose of creating an additional forum to facilitate deliberations between member countries of the Consultative Commission and other developed, as well as newly industrialized, countries on the limitation of arms transfers.

SEC. 3. ANNUAL ARMS SALES REPORT.

Paragraph (5) of section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraphs:

"(C) the aggregage dollar value and quantity of defense articles, defense services, and design and construction services furnished by the United States to each foreign country and international organization, by category, for the preceding fiscal year, specifying whether such articles and services were furnished—

"(i) by sale under chapter 2 of this Act,

"(ii) by sale under chapter 2A of this Act,

"(iii) by commercial sale licensed for permanent export under section 38 of this Act (including separate listings for the value and quantity of the defense articles and defense services which were licensed for permanent export during that fiscal year and for the value and quantity of the defense articles and defense services which were actually exported on a permanent basis during that fiscal year), or

"(iv) by other authority;

"(D) the aggregate dollar value of all commercial manufacturing license agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization;

"(E) the aggregate dollar value of all commercial technical assistance agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization; and

"(F) the aggregate dollar amount of all offset agreements (as defined for purposes of section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099)) associated with commercial licensed sales or government-to-government sales under this Act, which were entered into during the preceding calendar year by the United States suppliers of the defense articles, defense services, or design and construction services sold, listed by foreign country and international organization;".

THE TRADE ACT OF 1962

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mrs. KENNELLY. Mr. Speaker, I am today introducing legislation to correct a serious deficiency in the Trade Act of 1962, a deficiency that affects both our international trade and our national security. My bill would set a 120-day time limit on Presidential decisions under section 232, the national security provisions of this law.

Section 232 of the 1962 Trade Act provides for import relief if these imports threaten our national security. Once a petition for this relief is filed with or by the Secretary of Commerce, the Secretary has 1 year to forward his findings and to recommend whether and what type of relief should be granted. However, there is no time limit on how long the President may take to act or not act on these recommendations. As a result, trade cases with national security implications may languish for months, even years once they reach the President's desk.

At least one such case is before the President now. The machine tool industry has waited for nearly 2 years for a decision in their import relief case, despite the fact that machine tools are responsible, directly or indirectly, for almost every manufactured product; despite the fact that even in peacetime, up to 20 percent of our Nation's use of machine tools is linked directly or indirectly to our national defense, and despite the fact that no manufactured product—a tank, a gun, or even another machine can be made without a machine tool.

In the past few years, the import penetration into the machine tool market has increased and increased dramatically—from 27 to 47 percent of the market. Employment in the industry has dropped by 40 percent and is continuing to shrink. In late November of this year, I had the opportunity to tour the Pratt and Whitney Machine Tool plant in West Hartford. It was a festive occasion—the 125th anniversary celebration of Pratt and Whitney Machine Tool. Yet there was a lingering shadow over this visit: Employment had dropped from almost 1,000 people a few years ago to approximately 350 employees now.

It is difficult to say what kind of future the machine tool industry will have unless it receives some kind of relief. But at a minimum, we owe the industry, and this administration owes the industry, a decision one way or another. For this reason, my legislation also requires the President to make a determination within 120 days on pending recommendations that have been forwarded by the Secretary of Commerce, including the recommendations on machine tools.

Another industry of importance to the security of this Nation, the ball bearing industry, could also be benefited by this legislation. In early January, the International Trade Commission will send to Congress a report on the state of the ball bearing industry. Although this study is not yet available, I have seen figures that lead me to believe that we may be losing our ball bearing industry in this country to foreign imports. If that is indeed the case, and if the ball bearing industry does seek relief under the national security provisions of our trade laws, this legislation will ensure that the ball bearing industry, as well as other industries vital to our national security, will not continue to decline while their cases languish on the President's desk.

My legislation ensures that section 232 cases are decided in an expeditious manner. This legislation fills a gap in our national trade laws. I urge my colleagues to join me in supporting it.

51-059 O-87-37 (Pt. 27)

THE NEW AMERICAN FRONTIER

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. BLAZ. Mr. Speaker, imagine that the American frontier did not end in 1890, but instead set sail from our west coast, reaching to Hawaii and Alaska and then advancing toward the Asian rim of the Pacific. Imagine that far, far western American frontier exists today.

Envision that frontier transformed into an oceanic State as large as the 48 contiguous United States, covering 3 million square miles between Hawaii and the Philippines. Envision 2,100 tropical islands strung in necklaces of archipelagoes along strategic lines within that expanse.

Picture a 51st State at the doorway to East Asia, a lynchpin in America's front line of defense in one of the most vital and dynamic regions of the world. Picture a new member of the American political family astride our major lines of communication to Asia during the century of the Pacific.

If you can see these images in your mind's eye, then you can appreciate how strongly I feel about the potential of Guam and Micronesia and the historic importance of the Compact of Free Association. When President Reagan signs the historic compact at a White House ceremony, he will be doing much more than ratifying a complex geopolitical agreement, paving the way for an end to our Pacific island trusteeship.

Those are the images I often see when I wing my way west from Hawaii by commercial jet, following the Sun across the vast expanse of the western Pacific to reach my congressional district, the Territory of Guam—the hub of the American presence in Micronesia.

True, the compact negotiated with the Federated States of Micronesia and the Republic of the Marshalls will fulfill our sacred international responsibility to promote the development of the farflung islands toward self-government. The President's signature will also secure our Nation's strategic interests and responsibilities in the region, ensuring that the region will be closed to the machinations of third powers and guaranteeing the continued peaceful development of the Freely Associated States' 150,000 residents.

But more importantly, the agreement paves the way for a continuing, closer and more mature relationship between the United States and these Freely Associated States. It will allow them the freedom of initiative to chart and work toward their continued social, economic, and political development. But it will also cement the bonds of friendship we have created with the Micronesians.

Indeed, one of the island groups—the Northern Marianas—has chosen to join the American family as a commonwealth. And I submit that the strong pro-American feelings of the Micronesians leave open the clear and present possibility that in time, the Freely Associated States may choose to join our family.

I offer you these images because I see them and feel them. As a Micronesian, a man born and raised in the region, I feel a unique closeness to the people of Micronesia. When I reflect on my Micronesian friends and brothers, I think of the times we sat in the rubble of our homes after World War II had swept across our lives. Then I think of the opportunities afforded me when my land became a U.S. territory and my people became American citizens. I pause, I hope not presumptuously, to ponder the opportunity that would be offered to our neighbors as full fledged members of the American political family.

I dream and I see this. And if we can see it, the philosophers say, it can be. And for those who would ask, why?, I would answer, Why not?

On this, the eve of the century of the Pacific, our country—the champion of freedom—has welcomed new friends not in aggrandizement but in association. When future authors write a sequel to James Mitchner's marvelous "Tales of the South Pacific," they will do so with the knowledge that dreams do come true. They do. They do.

EDUCATION VOUCHERS: NO SALE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HAWKINS. Mr. Speaker, once again the Reagan administration is trying to sell the American public on an idea which, if put in place, would seriously jeopardize our system of free public education. I am speaking of the proposal, announced earlier this year by Education Secretary William J. Bennett, to replace the successful chapter 1 compensatory education program for educationally disadvantaged children with a system of "education vouchers." Instead of funds going directly to eligible school districts for remedial programs, the Government would give vouchers to parents of children receiving chapter 1 services, with which they could "purchase" an education at the school of their choice.

The administration has embarked on a full-scale marketing effort to sell its idea. Its advertising campaign is full of catchy phrases designed to win the support of any American who values freedom and equality. The voucher system, the administration claims, would promote equality between poor children and wealthy children by giving the former an opportunity to attend "better" schools they might not otherwise have been able to afford. Vouchers, we are told, will give poor children a "choice" as to which school they will attend. And if you're not sold on choice and equality, perhaps the administration can convince you that a voucher system will promote "healthy competition" between public and private schools.

Not a bad way to try and sell an idea. Unfortunately, the product up for sale is fatally defective. Fortunately, many 'consumers' have realized that even the most rhetorically appealing promotional campaign will not save an idea that is unworkable, misleading, and will, in reality, undermine the one national institution which can best fulfill the promise of equality—the Nation's public school systems.

I would like to share with my colleagues the November 15 Clarion-Ledger Mississippi newspaper editorial in reaction to the education voucher proposal. This editorial demonstrates that it is not so easy to sell a flawed idea to the public with worn-out slogans and hollow promises. From around the country, the response is clear: No sale!

WRONG TRACK—EDUCATIONAL VOUCHER ARGUMENT FALLACIOUS

The Reagan administration, through Secretary of Education William J. Bennett, has renewed its attempt to authorize the use of vouchers that some parents could use to choose the school, public or private, their children will attend.

Congress was not persuaded to enact the proposal when an earlier version of it was proposed in 1983 and it should remain unpersuaded now.

Bennett Thursday asked Congress to give vouchers worth an average of $600 yearly to parents of poor children so they can shop for "the best possible schools for their children." He predicted approval of the plan would spur a "healthy rivalry" among public and private schools to provide a better education for disadvantaged children.

He is wrong on several counts.

For starters, private school enrollment has been going up for years, and the "rivalry" has caused public schools to suffer without noticeably improving the private schools. The competition is more for money than educational excellence.

In addition, there is the constitutional problem with using tax money for private education, particularly when the private institution is a church school.

Perhaps most important, the vast majority of Americans are educated in public elementary and secondary schools, and these schools badly need strengthening. Mississippi public school backers are especially familiar with the problems of adequately supporting public schools, financially and otherwise.

Private schools already have an advantage because they are generally well financed and can limit their enrollment. They don't have to take every student of school age, including many with serious problems.

Further, parents who pay high bills for private schools are usually cool to school bond issues and tax rates sufficient to provide the quality needed in the public school systems.

Bennett said the vouchers would be "a ticket to find the best possible schools." However, not more than a small percentage of students can get in "the best possible schools." Better to upgrade the "disadvantaged" schools educating the masses than to send some of the "disadvantaged" children to the "best schools."

Congress should give short shrift to Bennett's proposal. It's inequitable, illogical, unsound and very likely unconstitutional.

H.R. 1083, THE LOW-LEVEL RADIOACTIVE WASTE DISPOSAL ACT OF 1985

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DASCHLE. Mr. Speaker, I am very pleased with the strong support shown recently for H.R. 1083, the Low-Level Radioactive Waste Disposal Act of 1985. This legislation has been offered to address the nationwide disposal of low-level nuclear waste.

Nearly all low-level radioactive waste is disposed in sites located in three States—Washington, Nevada, and South Carolina. In 1980, legislation was signed into law—the Low-Level Radioactive Waste Policy Act of 1980—which encouraged States to dispose of waste generated within their own regions by entering into disposal compacts. Because these compacts were considered to be agreements covering interstate commerce, and thus a possible violation of consitutional prohibitions against States regulating interstate commerce, Congress must ratify these compacts.

While nuclear plants are responsible for most low-level radioactive contaminents, waste is generated through medical supplies, protective clothing, and mildly contaminated trash. It is estimated that 53 percent of waste is deposited in Washington, 46 percent in South Carolina, and 1 percent in Nevada.

Through adoption of this legislation, continued access to existing sites is guaranteed through 1992, provided progress is made in developing regional sites.

Progress is determined through the adherance to certain milestones, including:

By July 1, 1986, States are required to have joined a regional compact, or indicate by State legislation that the State will establish a single-State disposal site by December 31, 1992.

By January 1988, the compact must have prepared a plan describing the location of the disposal site.

Finally, a NRC license request must be filed by each compact with respect to the operation of a low-level radioactive waste site, or the single site State must certify to the NRC that it will have its own disposal site ready by December 1992.

Existing operating sites are allowed additional surcharges for acting as the host sites during this interim period. These surcharges include: maximum of $10 per cubic foot in 1986 and 1987; $20 per cubic foot in 1988 and 1989; and $40 per cubic foot in 1990 and 1992.

This legislation is necessary to continue the development of a coordinated, nationwide plan for the disposal of low level waste. Above all, H.R. 1083 provides this framework at the same time it remains sensitive to the needs and requirements of specific States. Above all, it provides States with flexibility in dealing with the disposal of low-level nuclear waste. Because it preserves the flexibility of States rights, it deserves the support of this body.

TRIBUTE TO BEN NORDMAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LAGOMARSINO. Mr. Speaker, I rise today to take special note of the passing of one of the most prominent individuals of the legal community in Ventura County, CA.

Born in San Francisco in 1913, Benjamin Emil Nordman was the founder of one of the county's most influential law firms. He graduated from Oxnard High School, the University of California at Berkeley, Boalt Hall, and Hastings Schools of Law. At the onset of World War II, he joined the Army, went to Officers Candidate School and joined the Air Corps. He served in intelligence and counterintelligence functions in Britain, Switzerland, Italy, France, and Germany. For his work, he received the Bronze Star, the Legion of Merit, the Croix de Guerre and the Order of the British Empire. He left the Army as lieutenant colonel and returned to Ventura County to practice law.

A community leader, Ben Nordman served as director of United Fund, the Ventura County Economic Development Association, Seaboard Lemon Association, Bank of A. Levy, Real Estate Investment Trust of California, the Livingston Memorial Foundation, the Achille Levy Foundation, Ventura County Taxpayers Association, the Ojai Valley School District Board of Trustees, Board of Review of Oxnard and the Ventura County and California Bar Associations.

I ask all my colleagues to join me in expressing our deepest sympathy to his wife Joan, son Mark, and daughter Leslie. I will remember Ben Nordman as a good friend and one who cared about his community and about justice.

A TRIBUTE TO GORDON McKAY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. MOAKLEY. Mr. Speaker, a few days ago Gordon McKay, senior vice president, celebrated his 20th year with the Public Affairs Department of New England Life, a Boston-based company with a solid reputation for integrity, commitment to community concerns, and a deep involvement with the critical economic and social issues facing the Nation and the Congress.

As is often said, the success of an effort relies on the achievements and efforts of many individuals. Gordon McKay has played a strategic role for these past many years in New England Life's Public Affairs Department, forming its own goals, guiding its principles and assuring that his department continues contributing significantly to the positive place New England Life has assumed in the region, on Capitol Hill, and throughout the Nation.

Gordon McKay, a resident of Lexington, MA, graduated from Ohio State, joining New England Life virtually right out of college. It was his vision, aims, and sense of purpose that were the genesis of New England Life's first Public Affairs Department 20 years ago. It is his knowledge, commitment to quality, his expertise, and superb managerial skills that are underpinning of the public affairs staff's drive for excellence. Gordon is, as well, one of the most personable, pleasant, and good-humored individuals I've ever met. I think most all of my New England colleagues would agree. Amazingly, I've seen him retain his goodnature even when the strange unknown fates that guide golf balls across the greens have conspired to drive him mad.

But with all seriousness, Mr. Speaker, I am pleased for our good friend Gordon McKay, who celebrates his 20th year with New England Life's Public Affairs Department, a department that gives substance and vigor to the concept of corporate responsibility to the community and the Nation. I add my praise to those of my colleagues from both sides of the aisle and both Chambers who sent Gordon letters praising his anniversary with the Public Affairs Department.

I am reminded of the wise old saying that the definition of an institution is merely the lengthened shadow of one man. For the Public Affairs Department at New England Life that man is and always will be Gordon McKay.

MARY TWITTY COMPLETES 24 YEARS OF GOVERNMENT SERVICE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYMALLY. Mr. Speaker, in 1961 when our esteemed colleague AUGUSTUS HAWKINS was completing his last year in the California State Assembly, he hired Mary Twitty to run his office. That began a career in government for Mary that has now spanned 24 years. Mary has spent 14 of those 24 years here in Washington, serving first in Mr. HAWKIN's office and then in mine. Mary has countless dear friends among Hill staffers and Members of Congress. It is, therefore, with distinctly mixed emotions that I inform her friends that Mary will be retiring from full-time government service at the end of this year. It is with great sadness that my staff and I realize we must say goodbye to Mary as a coworker. Her effervescence has always brightened the office. And her sense of caring for her fellow workers has soothed many a ruffled staffer. She is one of those people who has put in countless hours of overtime unquestioningly year in and year out. She leaves when the work is done, not

before. To Mr. HAWKINS and to myself she has been much, much more than a staffer. She has been a warm, close, and trusted friend.

Her friends know that for some time now it has been Mary's ambition to found a magazine aimed at women in their middle years. In the little free time that she has had while working for me, she has laid the groundwork for the magazine, but her full-time career in government has prevented her from devoting sufficient attention to this project of the heart. Mary is leaving government service. But those who know Mary know she could never retire. She has too much energy, too much of a zest for activity for that. When I say that we say goodbye to her with mixed emotions, I have to acknowledge our sadness at losing her daily presence in the office, but I also have to acknowledge that we are happy for Mary. She now can dedicate herself to a project that fills her with excitement.

While Mary will no longer be on the Hill, she will continue to be associated with activities that are close to my interests and the interests of a number of my colleagues. Mary has agreed to work part time for the Caribbean American Research Institute. The institute is based at Shaw University in North Carolina. But Mary will be opening a Washington office for the institute. Like I said, Mary has too much energy to retire in the way most people think of retirement. For Mary, retirement is more like transition, an opportunity to use her many talents in new and creative ways. Mary, we love you and we wish you spectacular successes in your new careers.

GRAMM-RUDMAN IS A STEP TOWARD SOLVING THE DEFICIT CRISIS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WIRTH. Mr. Speaker, I want to express my support for the conference agreement on the so-called Gramm-Rudman deficit reduction bill. Although there are some problems with this legislation, I firmly believe that sustained, multiyear deficit reduction must begin this year.

The deficit is no longer just a problem—it is a national crisis requiring immediate attention. We simply cannot afford to postpone the tough choices which must be made to bring the deficit under control.

In 1980, the national debt was about $900 billion. Today, we are considering legislation to raise the debt ceiling to $2 trillion—which means that we have borrowed more in the past 5 years than in the first 200 years of our national history.

Borrowing of that magnitude crowds out private borrowing and puts upward pressure on interest rates. Today, the Federal Government consumes about 64 percent of this country's net private savings, making it harder for businesses to expand, homeowners to pay their mortgages, and parents to send their children to college.

High interest rates also attract foreign investors, and as foreign savings are converted into dollars, the value of the dollar rises. Since 1980, the dollar has risen 60 percent against other foreign currencies and is now overvalued by 30 percent. This overvaluation acts like a 30-percent tax on American products shipped overseas and a 30-percent discount on foreign goods sold here.

The result is a record trade deficit of $130 billion added to the budget deficit of $200 billion. By 1990, we will be paying $245 billion a year just in interest on these debts—a national economic bounty of $1,000 for every man, woman, and child in the United States.

Mr. Speaker, 3 years ago as a member of the House Budget Committee, I argued that the only way to solve the deficit problem was for leaders of the House, the White House, and the Senate to negotiate a comprehensive 5-year deficit reduction plan aimed at balancing the budget. The Congress is finally getting around to doing just that. The long-term approach I have advocated has been incorporated into the Gramm-Rudman legislation. With the 5-year deficit targets agreed upon, the President and the Congress must now operate within the constraints of responsible fiscal policy.

I intend to vote for this conference agreement because we must begin cutting the deficit now, and because our country desperately needs a multiyear plan to solve this crisis. I do, however, have some serious reservations about its automatic spending reduction mechanism. Not only does this mechanism exclude half of the budget from supposedly across-the-board reductions, it also takes the pressure off Congress to conduct the critical program-by-program reviews which have always been the keystone of responsible budget policy.

As a result, many of the programs which have been scaled back substantially by past budget cutting may end up taking a disproportionate share of the cuts in the future—including those key investments in education, infrastructure, and research and development which are so vital to our long-term economic growth.

I am also concerned that the automatic cuts would fall too heavily on military readiness accounts, while wasteful procurement spending like the famous $7,600 coffee pot would go untouched. By some estimates, 70 percent of the savings in defense spending will come from reductions in training, spare parts, maintenance, and other readiness accounts. These have been the most neglected areas of the administration's defense buildup—yet they are the most important elements in winning the kind of conflict we are most likely to face.

Despite these reservations, I believe that Gramm-Rudman represents an important first step in solving the deficit crisis. It is not completely clear what affect this bill will have on this Nation; it is very much an imperfect experiment in budget policy. One thing we do know for sure, however, is that the alternative—doing nothing—is considerably worse.

Ultimately, the impact of Gramm-Rudman will depend on the actions of this and future Congresses. If we act responsibly by carefully reviewing the budget and making the tough decisions, we can meet the specified targets, and automatic spending reductions will never occur. Only if we fail will we abdicate our responsibility to the budgetary robot.

Gramm-Rudman has raised the public's expectations. Our task is to follow through on this beginning and develop a consensus on the specific changes in budget policies which will be required to meet the deficit reduction targets. No less than the future of our Nation's economy is at stake.

ECONOMIC OUTLOOK

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 18, 1985, into the CONGRESSIONAL RECORD:

ECONOMIC OUTLOOK

Despite recent economic growth, there is increasing uneasiness and uncertainty about our ability to sustain it. The current economic expansion is now in its fourth year, about the time most upswings begin to falter. The American economy has been listless with relatively slow and erratic growth for the last year and a half. Most signs point to modest gains again next year, with no recession, but not much vigor either.

Despite early optimism, economic performance in 1985 was a disappointment. The economy grew about 2.5%, a below average year, and lower than expected. Unemployment fell slightly from 7.2% to 7.0%, though the number of unemployed (8.2 million) remained unchanged. 2.5 million new jobs were created, most of them in service industries, but manufacturing employment declined by 250,000 jobs. The inflation rate fell from 4.0% to about 3.2%. Some goods—gasoline, dairy products, and vegetables—are cheaper than they were last year, but the cost of services is up by almost 5%. Interest rates have been relatively stable, but they are almost 3% lower than a year ago. The bad news for the year was the burgeoning trade deficit and the largest budget deficit in U.S. history.

Predicting the future of the U.S. economy is always chancy, but uncertainty about tax reform and budget deficits makes the process even riskier today. Most estimates are that the economy will do no better than continue moderate growth—about 3%—for another year, with some increase in both unemployment and inflation.

There are several promising signs for the year ahead. The stock market sets a new record almost daily. The dollar has declined by about 20%, and may slide more, making our exports more competitive in world markets. Oil prices continue to fall. With a new intensity of competition in the economy, the outlook on inflation is good. That is welcome news for consumers, but it also means that workers should expect small pay hikes and that savers will not find high interest rates. There is also hope that smaller federal deficits targeted by the recently-passed

Gramm-Rudman deficit reduction plan will lead to lower interest rates and stimulate long-term economic growth.

Several potential sources of weakness in the economy bear watching.

INTEREST RATES

Despite this year's decline, real interest rates are still high. A drop in oil prices and progress against the federal deficit could lead to further drops. Lower interest rates would ease the debt burden of developing nations, reduce the dollar's value, and encourage business investment. If real interest rates go up, the prospects for growth would suffer. Falling rates would also hurt those who rely on interest earnings; personal interest income dropped by $10 billion in the last year, the only source of household income except farm income to decline.

FARM PROBLEMS

The farm depression continues. Farm prices and income have plunged in the last 12 months. Some prices improved recently, but it is too early to tell if this trend will last. The recent drop in the dollar's value may increase exports of U.S. farm products, but if farm bankruptcies continue and land prices drop further, farm areas will continue to decline. Farm problems cannot alone cause a recession, but, by undermining banks and consumer buying in the midwest, they could lead to a general downturn in 1987.

INVESTMENT

Business investment—a major source of the recovery's strength—seems to have peaked. Spending on new equipment and factories in 1984 and 1985 grew at its fastest pace since World War II. But output has not caught up. In 1985, manufacturers met demand with factories running at only 80% of capacity. Some businesses plan to invest less in 1986, the first reduction ever in a nonrecession year. Uncertainty about tax reform is one reason: businesses are waiting to see how funds spent for new investments will be taxed.

DEBT

Another worry is the degree to which debt—in the home, on the farm, at banks and businesses, in Washington, and abroad—permeates the economy. Even with record consumer debt, buying continues, but at the cost of savings which recently fell below 3% of disposable income. The worry is that debt buildup will inhibit future purchases and hurt the economy, with large-scale defaults, inflation, or a combination of both the only remedy.

TRADE DEFICIT

In 1985, the U.S. imported some $150 billion more than it exported, our worst trade deficit ever. Imports brought lower prices, but cost jobs, especially in manufacturing. Protectionist pressure is mounting. If enacted, more jobs might result. But if other nations retaliate, a dangerous contraction of world trade could occur. A major trade war could have severe repercussions in the U.S. and abroad.

BUDGET DEFICIT

The federal budget deficit hit a record-breaking $211.9 billion last year. The deficit inhibits capital formation, leads to higher interest rates, makes us depend on foreign capital, and, by driving the dollar up, puts us at a disadvantage in world markets. Growth in the federal debt also increases the government's payments for interest on the debt, reducing federal spending on other programs. So far, the economy has suffered little from huge federal deficits. If it had, the deficits would be dealt with. Instead, their effect is long term, a gradual erosion of U.S. living standards as investment and productivity slacken.

In 1986, the economy will be sustained by massive government spending (especially on defense), lower oil prices, and generally low inflation and inventories. But high interest rates, an overvalued dollar, low savings rates, weak profits, and high excess capacity suggest only modest growth. The balance of these factors will determine if 1986 is a good year. There is a frustrating gap between what we produce and what we could produce. My impression is that the economy will limp along, but that trouble looms. While a recession is unlikely before 1987, so is sustained growth.

TRIBUTE TO THE NATIONAL CONFERENCE ON SOVIET JEWRY

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FOWLER. Mr. Speaker, as a cochairman of the Congressional Coalition for Soviet Jews, it has been and is my privilege to work with the leaders of the National Conference on Soviet Jewry. Every time that I have been in touch with the Washington staff of the national conference, I have been extremely impressed by their professionalism and competence. Without their assistance and guidance, the numerous important achievements of the coalition would not have been possible. I am looking forward to continuing our vital work of helping to improve the sad plight of Soviet Jews.

An article in the December 12, 1985 edition of the New York Times aptly describes the fine work of the National Conference on Soviet Jewry and of its Washington Representative, a man whom I am proud to have had the opportunity to work with, Mr. William Keyserling. I am submitting it for your review.

The text of the article follows:

CONFERENCE ON SOVIET JEWRY REACHES OUT

(By Irvin Molotsky)

WASHINGTON, Dec. 11.—For many years, American activity in behalf of Jews in the Soviet Union has been largely centered in places like New York and Los Angeles, where there are large Jewish populations.

In recent months, however, the National Conference on Soviet Jewry has been reaching out from its Washington office to broaden its constituency, gaining allies in such regions as the South and Middle West and from people of other religious faiths.

The effort is led by William Keyserling, a former political operative who is applying many lessons learned in both winning and losing campaigns.

According to Mr. Keyserling, one consequence of this effort, at least in part, was the message that the Rev. Jesse Jackson delivered to the Soviet leader, Mikhail S. Gorbachev, at the recent summit meeting in Geneva.

The message was the one that the National Conference on Soviet Jewry has been trying to get out since 1971: that the 2.5 million Jews in the Soviet Union ought to be given the freedom to practice their religion openly and that, if they choose, they ought to have the right to emigrate.

"Jesse Jackson, without being asked specifically, chose this as the issue he selected when he met Gorbachev, and that something we appreciate," Mr. Keyserling said. "He had been given material from individuals in our organization."

It was, of course, a bit of consensus-building as well for Mr. Jackson, the black leader who offended many Jews in last year's Presidential campaign by an offhand remark that many considered anti-Semitic.

A SOUTH CAROLINIAN

Consensus-building is familiar to Mr. Keyserling, who brought his skills in that field to the national conference in 1984, after having worked for such politicians as Senator Ernest F. Hollings and former Representative John W. Jenrette Jr., both Democrats from South Carolina, as well as for Robert F. Drinan when he was a Representative from Massachusetts.

"I was reluctant to take the job at first because my past experience had been the excitement of the political campaign," said Mr. Keyserling, who is a South Carolinian himself. "This does not have the day-to-day thrill and there's not the sense of satisfaction because, when you achieve a goal, you don't take credit for it."

Politics, of course, had its frustrations, including Senator Hollings' ill-fated campaign for the Presidency, which Mr. Keyserling headed for a time.

But, Mr. Keyserling said, a political campaign always had a definable goal: election day. The campaign for the rights of Soviet Jews, Mr. Keyserling said, "has no end—it will have to go on."

Another difference, Mr. Keyserling said, is that there is no relationship between money and success in his current job, while success in politics could often be directly related to the amount of money spent.

"There is no way to spend it," Mr. Keyserling said. "You don't need a slick campaign. It is an educational effort."

An example of this lack of a need to spend large amounts of money could be seen this week when representatives from groups around the country gathered here for a meeting of the National Conference on Soviet Jewry. One of their main activities was a protest rally near the Soviet Embassy that cost little more than the rental of buses to take the participants downtown from their hotel.

Most of those participants appeared to have come from Jewish groups, but the conference has recently also received backing from the United States Conference of Catholic Bishops and the Baptist Church, from John Cardinal O'Connor of New York and fundamentalist churches. "They said that this issue was absolutely fundamental to their constituencies and the American public," Mr. Keyserling said.

Mr. Keyserling did not get into politics by accident. His mother is a member of the South Carolina Legislature, and an uncle, Leon, is familiar to many in Washington for having served as chairman of the Council of Economic Affairs in the Truman Administration.

HE KNOWS CAPITOL HILL

Because of his work in the House and Senate, Mr. Keyserling knows his way around Capitol Hill, and he knows how to win the support of Government leaders.

The National Conference on Soviet Jewry held briefings recently, for example, for most members of Congress before they took trips to the Soviet Union, and it got all 100 members of the Senate to sign a letter to President Reagan declaring that the treatment of Jews in the Soviet Union was a fundamental human rights issue.

One result of this work, Mr. Keyserling said, was an emphasis on that matter when Mr. Reagan met privately with Mr. Gorbachev in Geneva, according to reports he has received on the summit meeting.

"It's a campaign that didn't begin yesterday and won't end tomorrow." Mr. Keyserling said. "As long as Jews in the Soviet Union can't get on an airplane and leave when they want to, it cannot end."

HAROLD STEARNS—MONTANA'S TEACHER OF THE YEAR

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WILLIAMS. Mr. Speaker, 10,000 Montanans teach in the public schools of our State. Their responsibility is great and their achievements vital. In their classrooms, young folks are gaining the curiosity, wisdom, and hope necessary for informed citizenry.

Each fall, one of the 10,000 is chosen as Montana Teacher of the Year and graced with the respect and recognition due but not often enough accorded in their profession.

Harold J. Stearns is this year's Montana Teacher of the Year, and his selection is truly deserved. For 20 years, Harold Stearns has displayed the very best of the commitment and caring spirit that marks teaching as special.

He grew up on the wide plains and high hills of eastern Montana, the son of Harold G. and Jean Stearns. They were newspaper folks, running the Harlowton Times and Ryegate's Clarion. Now retired in Helena, they always have had a love of learning and a need to share the knowledge gained. It was a wonderfully infectious upbringing that helped lead their son to a career in teaching. He went off to the University of Notre Dame for a bachelor's degree and then returned to Missoula's University of Montana for a master's and then a doctorate.

He married Sheila MacDonald of Glendive and, together, teaching has been a shared pursuit. For 3 years, they taught at the American Dependents School in Wiesbaden, West Germany.

She now is executive director of the University of Montana Alumni Association. He now teaches history and sociology at Missoula's Sentinel High School and instructs in the Department of Education at UM. Their two children are Scott, 13, and Malin, 8.

Mr. Speaker, Harold Stearns has earned the admiration of his students and their parents, of his community and of his many teacher colleagues. It is recognition much deserved. We are proud of Harold Stearns—our Teacher of the Year.

THANK YOU, OFFICER MONTERA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GREEN. Mr. Speaker, on December 24, 1985, Mr. Vincent Montera, community affairs officer for the 17th precinct, will be leaving the police department to serve as a recruiting officer in the armed services.

As the Representative from the precinct's district I should like to offer my thanks to Officer Montera for a job well done. Having spoken before the officers of the 17th precinct on several occasions, I know first hand of his efforts to improve relations between the community and the police department. His work on the various problems that often arise has helped my staff to be more responsive to the needs of my district. I know that any Member of Congress would have been happy to have had Officer Montera performing such work in his district.

My warmest regards to Officer Montera in his future endeavors. He will be sorely missed.

WINE EQUITY ACT

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. THOMAS of California. Mr. Speaker, I wish to discuss a subject of serious concern to California winemakers. The U.S. wine industry has matured over the last decade, becoming one of the world's best. Currently, the quality and purity of U.S. wines and particularly California wines go unchallenged. While we read of contamination and adulteration of wines by the Austrians, Germans, Italians, and Japanese, where chemicals like diethylene glycol are added to wine at a risk to the health of the consumer, the United States winemaking industry produces high quality wine that it has been unable to sell in many foreign markets because of foreign tariff and nontariff barriers. The consumers of the world do not have the free and open opportunity to make a choice between their domestic brands and U.S. wines.

The passage of the Wine Equity Act in 1984 empowered the President to study and review barriers restricting U.S. wine sales abroad and to negotiate with designated countries for reductions in trade barriers. On September 9 of this year, six countries, including Japan, were designated under the provisions of that act. Negotiations have been conducted with officials from those countries and were concluded as of October 31, the deadline set by Congress. The President must now report to this body discussing his progress, or in the event the barriers have not been reduced, actions he proposes to take in order to seek their removal. Because of our continued interest in this subject, I have followed the development of these negotiations and it is with great regret that I have heard informally the Japanese have not responded in any meaningful way to the requests of our negotiators for a reduction in Japanese barriers restricting sales of United States wine.

Japan has only a small number of wine grape growers and the bulk of Japan's grapes are used as table grapes. Japanese producers blend the remaining portion with predominantly imported bulk wines that the Government has chosen to make eligible for tariff preference that frequently allow the importation of the bulk wines free of duty.

The nature of the Japanese tariff and taxing system discriminates against United States importers of finished wine in favor of the domestic bottlers or fillers at a time when Japanese producers are enjoying open and free access to our alcoholic beverage and other markets.

Our primary intent in passing the Wine Equity Act was to obtain greater access for U.S. wine products in foreign countries, not to impose restrictions on alcoholic beverages entering the United States. It is my hope that officials in Japan will seriously reconsider their position and at least make some positive response to the request of our negotiators. The President has authority under the Wine Equity Act to use any of his existing authorities including section 301 of the 1974 Trade Act and section 854 of the 1979 Trade Act. Certainly we would encourage the President to use these powers against those countries that do not respond in any positive way to our desire to have an open and free trading system.

We have many trade bills that have been introduced and are awaiting consideration and passage by this body. While I am sympathetic to the desire of many of my colleagues to seek new legislation, here is a case of existing legislation that can be used to improve the current trade imbalance that is of such great concern to all of us. I feel confident that you will join with me as you have in the past when we approved this legislation, to encourage the President to exercise his authority under this statute to its fullest.

THERE IS NO CHRISTMAS HOLIDAY IN ROMANIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WOLF. Mr. Speaker, on December 25, 1983, in a Christmas message, Father Geza Palfy, Roman Catholic priest of Hungarian minority in Romania, made the following statement: "I believe in Romania, Christmas should be an official holiday."

For that, he was arrested by secret police, interrogated, severely beaten, and left the police station two days later unconscious. He died 2 months later in a hospital, Tirgu-Mores. Romanian officials say he died of cancer of the liver; however, all evidence

gathered by Christian Response International indicated: "Father Palfy died of internal injuries sustained during police beatings."

This is the same country to which we give preferential trade status—most favored nation. Can we support such religious repression and violation of human rights? As we reflect during this Christmas season on our own liberties, won't you join me and 60 of our own colleagues in supporting a 6-month suspension of the MFN trade status to Romania to make a moral statement that Americans will have no part in the economy or support of such a repressive regime?

Please cosponsor H.R. 3599 to suspend MFN for 6 months in Romania.

DIVINE CHILD HIGH SCHOOL IS CLASS B STATE CHAMPION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LEVIN of Michigan. Mr. Speaker, my colleague, JOHN DINGELL, and I have the privilege of representing those young men and women who attend Divine Child High School in Michigan. Divine Child has a long reputation of offering an exceptional academic curriculum and a most respectable athletic program. This year, they provided one of the best high school football records ever in class B competition here in Michigan. The season was exciting and even more memorable than the school's last State championship in 1975.

This year's Falcons, who finished a near perfect season that registered only one game in the loss column, allowed their opponents only 41 points. They were ready when the State finals began. In the playoff games, not one team was able to score against them, and in the final's they allowed only 76 offensive yards.

Throughout the season and the playoffs, the Falcons demonstrated the poise and humility that are the marks of true champions. Mr. DINGELL and I extend our heartiest congratulations to the new class B State champs, Coach Wishart, the faculty and administration of Divine Child High School, and the Dearborn—Dearborn Heights—community on this "Divine Season."

HUMAN RIGHTS VIOLATIONS IN IRAN

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LOWRY of Washington. Mr. Speaker, recently, two Iranian women visited my office. Each escaped from their native country after being imprisoned and tortured. Their stories—and the physical evidence of the torture that they suffered—are appalling. I do not endorse the political views of any Iranian opposition group. But I think it is important for us to make it clear that we find no possible justification for the brutal acts described by these two women.

Mrs. Narges Shayesteh, now 27 years old, was a high school teacher. She was arrested in September 1980. During her imprisonment, her nose was broken and her knees suffered permanent damage because she was tied up and hanged from the prison ceiling for 48 hours. Prison guards also tortured her with lit cigarettes; the resulting wounds are still clearly visible. She was also forced to watch the execution of 150 other prisoners.

Ms. Mojgan Homayounfar, aged 24, was a math teacher and fine arts student. She was arrested in September 1981 and beaten severely. She lost part of her left leg when she was attacked with a matchete, and her right knee was shattered when her captors drove a car over it. She will be confined to a wheelchair for the rest of her life.

Obviously, the United States Congress has little influence on the Iranian Government. But Mrs. Shayesteh and Ms. Homayounfar are convinced that Iranian prisoners benefit from the worldwide outcry against these cruelties. If only for a while, they believe, conditions in the prisons improve in response to protests. For this humanitarian reason, I wish to add my own voice to that of the U.N. General Assembly, which has voted to condemn Iranian human rights violations, and others who have protested these violations.

AT&T'S WALT DAVIS RETIRES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FLORIO. Mr. Speaker, at the end of this month, New Jersey will lose one of its most dedicated and effective spokesmen for our State's industry when Walter J. Davis retires from AT&T after completing a successful multifaceted career with AT&T and the Bell System.

Walt Davis began his career at New Jersey Bell as a messenger in March 1937 and, except for his service in the U.S. Navy during World War II, has spent his entire working career in the Bell System and AT&T. During this time Walt held over 20 different positions with the company including installer, repairman, line foreman, and plant service supervisor.

In March 1971, Walt became manager of public affairs for New Jersey Bell, and I began a long and productive working relationship with him during my service in the State legislature. Following my election to Congress and the House Energy and Commerce Committee, I continued to work with Walt and his colleagues in the Bell System on the important Federal aspects of telecommunications policy.

Walt even found time to serve as mayor of Bloomfield from 1966 through 1971, supplementing this experience with service as first vice president of the New Jersey Council of Mayors.

In the past 14 years, Walt Davis has developed and earned a reputation as a visible and capable advocate for a key part of our State's business community. When Walt retires he will be missed by the entire New Jersey congressional delegation. We wish him all the best.

GRAMM-RUDMAN: AN EXERCISE IN CONGRESSIONAL SHAME

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. STOKES. Mr. Speaker, I am inserting in the CONGRESSIONAL RECORD an insightful article which appeared in the Cleveland Plain Dealer regarding the debt limit/Gramm-Rudman bill, adopted by Congress last week. This commentary, written by columnist David Broder, mirrors my own sentiments about the shameful situation Congress has wrought upon itself by the abrogation to the President of the power to determine congressional priorities.

I commend this article to the attention of my colleagues.

GRAMM-RUDMAN: AN EXERCISE IN NATIONAL SHAME

(By David S. Broder)

WASHINGTON.—The biggest gap in elective politics these days is not between Republicans and Democrats. It is between state-level officials who are meeting responsibilities and gaining confidence and federal officials who are falling down in their jobs and suffering a loss of self-esteem.

To move from a meeting of Republican governors in Wilmington, Del., to the sessions of Congress in Washington, D.C., as I did last week, was to travel backward in time and downward in scope. The governors were talking in straightforward terms about concrete achievements in their states and their hopeful plans for the future.

The legislators, debating and passing the Gramm-Rudman budget bill, were confessing their past failures in fiscal policy and warning of worse confusion and dire consequences ahead.

The spectacle of Congress voting to strip itself of the power of the purse, which has been the hallmark of legislative supremacy since the origins of Parliament, was remarkable but not reassuring.

For those with any sense of institutional history, the most poignant moment in the House debate came when Rep. Peter Rodino, D-N.J., said "This is a flagrant abdication of congressional responsibility."

Rodino gave the House one of its proudest moments, 11 years ago, as he guided the Judiciary Committee to the painful but profoundly necessary impeachment of President Richard Nixon for his violation of the Constitution and his oath of office. Now, Rodino came forward again in what he knew to be a vain effort to slow his colleagues' headlong rush to discard their own constitutional authority.

Rodino and such Republican elders as Rep. Silvio Conte, R-Mass., said they could

not understand how the Congress could vote "to bring itself to its knees."

Why did it? Not because the proponents believed in the process they were creating.

"I'm going to get into specifics," said Rep. Trent Lott, R-Miss., the minority whip, speaking for Gramm-Rudman, "because I'm afraid what we might find out."

"Gramm-Rudman is going to tie the Congress in knots," said Rep. Richard Gephardt, D-Mo., chairman of the House Democratic caucus and one of the principal architects of the final compromise. "It could be a disaster."

There were ample reasons for thinking it so. Gramm-Rudman adds a whole new layer of decision-making to an already complex budget process. It sets tough and arbitrary deficit targets for each of the next five years, exempts large parts of the budget from any cuts, significantly increases the president's leverage over Congress in determining how scarce resources are spent, but ultimately subjects both the president and Congress to mandated cuts imposed by the calculations of unelected civil servants.

The reason—the only reason—that Congress voted this irresponsible and possibly unconstitutional procedure was its shame at its inability to force itself and the president to pay the bills for the defense and domestic programs both support.

Because they know that to be true, there was more embarrassment than exultation in Congress over the passage of Gramm-Rudman. By contrast, the atmosphere among the governors in Wilmington was genuinely upbeat.

It was not because they were Republicans; if anything, Republicans have reason to be hangdog about their status in the states. They control just 16 of the 50 governorships and only a baker's dozen of them were on hand for the meeting.

But, like their more numerous Democratic counterparts, these governors speak as people who measured up to their responsibilities when times were hard, and now are enjoying the benefits of that courage.

Their current hero is Gov. Tom Kean of New Jersey, who was reelected last month with 70% of the vote. Kean's first election—the closest in state history—four years ago coincided with the onset of the recession. Like many other governors of both parties, he cut spending and raised taxes in that crisis, kept his budget balanced, and now is reaping the rewards of a surging economy.

Kean said that his objection to Gramm-Rudman is that "it's a straitjacket and an avoidance of responsibility."

He is right, and because he and his fellow-governors have met their responsibilities while Washington officials from the President on down have ducked, the gap in their performance and their morale continues to grow.

IN MEMORY OF EDWARD JOSEPH: SIR KNIGHT

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. PICKLE. Mr. Speaker, Edward Joseph of Austin was the perfect example of the American dream come true. A son of immigrant parents from Syria, Edward Joseph became an accountant, attorney, businessman, and one of the Austin's leading citizens.

Many of Edward Joseph's friends referred to him as "Sir Knight" because he had been knighted by Pope John XXIII in 1960. And indeed he was a "Knight in Shining Armor" to those less fortunate than him and who had benefited from his philanthrophy.

I am proud to say that he was one of my closest friends. There was no one I respected more in my community than Edward Joseph. Over the years, he has been a strong and loyal supporter of this office, and he never once asked for something for himself. All he wanted was good government for this country which he loved so much.

Last week, we laid Edward Joseph to rest. I would like to include in the RECORD the following remembrance of Edward Joseph's life and accomplishments.

EDWARD WILLIAM JOSEPH, OCTOBER 19, 1901 TO DECEMBER 12, 1985

Edward William Joseph was born in Austin, Texas on October 19, 1901. He attended St. Edward's University and The University of Texas at Austin.

Formerly the owner of a chain of indoor and outdoor theatres, Edward Joseph served on the Board of National Theatre Owner's Association. He was the Founder and Chairman of the Board of Edward Joseph Developments, Inc. which has developed many Texas properties.

Throughout his life, Edward Joseph gave unselfishly of his time to community and charitable organizations. For thirty-two years he served on the Board of Directors of the Home of the Holy Infancy. In addition, he served on the following Boards of Directors: Goodwill Industries, Child and Family Services (President for three terms), Chairman of the Board of Catholic Charities, the Catholic Student Center, United Fund, and the United States Small Business Administration. He was most recently serving on the Board of Directors of the Seton Fund, the Board of Directors of Marywood Maternity and Adoption Services, and the Board of Directors of the Institute of Texan cultures.

Edward William Joseph, baptized a Roman Catholic, was involved in religious affairs for several decades. He was honored by Pope John XXIII as a Papal Knight in 1960. He was a Knight Commander of the Order of St. Sylvester, a Private Chamberlain with Cape and Sword, a Knight of the Grand Cross (elevated by Pope Paul with Silver Cross) and a Knight of Columbus of the 4th Degree.

Education was always important to Edward Joseph. He was a life member of the Texas Ex-Student's Association and past President of the University of Men's Business Association. He was a member of the University of Texas President's Associates, the Chancellor's Council, a Bronze Member of the University of Texas College of Business Administration's Century Club, and a member of the Board of Trustees of the California College of Podiatric Medicine. He was awarded an Honorary Doctor of Science Degree from the College of Podiatric Medicine in 1984.

WALLISVILLE SALT WATER BARRIER PROJECT

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WILSON. Mr. Speaker, I would like my colleagues to be aware of an editorial that appeared in the December 1 issue of the Houston Post and two letters that were written as rebuttal to the editorial. The issue under discussion in the editorial and the letters is the Wallisville salt water barrier project for the Trinity River in Texas. The first letter was sent to the editor of the Post by the Honorable Price Daniels, former Governor of Texas. The second was written to the editor by the Honorable C. Scott Parker, mayor of Liberty, TX.

Former Governor Daniels and Mayor Parker argue a solid and reasonable case in support of completion of the Wallisville project, and I agree with them entirely. Accordingly, I insert the editorial and letters be entered at this point in the CONGRESSIONAL RECORD.

The material follows:

[From the Houston Post, Dec. 1, 1985]

DAMMED IF WE DO

If the story of the Wallisville Reservoir project were made into a film, it would have to be titled The Boondoggle That Would Not Die.

First authorized by Congress in 1962, the original project was halted by a 1973 injunction due to a faulty Army Corps of Engineers environmental review. A scaled-down $28.5 million version, less than one-third the acreage of the original, was brought back before Congress. In 1983 it won approval. This was based in part on preliminary raw data that mysteriously—and possibly illegally—found its way from the Corps to Congress.

The Corps wants the project completed. So do, among others, the Trinity River Authority and the City of Houston, which has a thirsty eye on the potential drinking water. To this end, they are asking U.S. District Judge Carl O. Bue to lift his 1973 injunction.

Congress cannot authorize a water project whose benefits do not exceed the costs. And the Corps contends this one has a yearly positive margin of $800,000, largely from controlling salinity of the Trinity River. The difficulty with the analysis is, it follows a long Corps tradition of being long on physics and short on biology.

In fact, the project appears to spell environmental trouble both above and below the dam. The lake that Houston wants would be so shallow it would soon choke with weeds, posing huge water treatment problems. The Corps plans to control the plants with a herbicide well known for its foul taste. So much for drinking.

In Galveston Bay, the U.S. Fish and Wildlife Service expects the changes in salinity and nutrients to wreak havoc on fishing. So, how big a deal is that? Only $40 million a year at dockside commercially. Only half the state's annual sport boat fishery harvest. So much—and this crucial—for the benefit-cost ratio.

If Congress had all the facts, odds are it could never have authorized this project at

all. As for Houston, if our water consumption doubled we still would be within our allotment from Lake Livingston. There is plenty of time to explore alternatives.

Judge Bue's injunction is fine with us. We hope he sticks by it.

PRICE DANIEL,
Liberty, TX, December 3, 1985.

To the EDITOR,
The Houston Post,
Houston, TX.

DEAR SIR: As a boy I delivered the *Post* in Liberty, Texas and was proud of it. Under the Hobby ownership, Liberty and Chambers Counties were not ignored. Now at 75, with the *Post* in Canadian ownership, it has fallen in circulation in Liberty County from the most popular daily to the lowest circulation of any Houston paper, according to the Audit Bureau of Circulation for 1984. I predict it will fall lower if you continue your vigorous opposition to our life-saving Wallisville Reservoir and Salt Water Barrier on the Trinity River.

You stress only the objections of environmentalists and possible damage to commercial fishermen, ignoring completely the great damage to a 40 million dollar rice crop in Liberty and Chambers Counties and the immeasurable damage to the City of Houston if the salt water barrier is not constructed.

Your environmentalist writer, Harold Scarlett, has been fairly presenting both sides of the recent hearings in Judge Bue's court. However, your special feature by Dr. B.C. Robinson in the November 30 issue and your editorial of December 1 entitled "Damned if we do" are grossly one-sided and contain several major errors. So much so that I hope you will permit me the space to state the other side and correct one or two errors.

Having been born and reared on the Trinity in Liberty County and having served in the U.S. Senate when the salt water barrier was first conceived, I know some of the history and facts which Dr. Robinson and your editorial writer have ignored. One of my saddest days in Washington was when then Senator Lyndon Johnson and I were told by the late Guy Cade Jackson, Jr. of Anahuac that all work on the Trinity Channel would have to stop lest salt water from Trinity Bay would begin intruding upstream into the rice irrigation pumping plants at Moss Bluff and Moores Bluff, which were then watering a 50 million dollar annual rice crop in Chambers and Liberty Counties.

Also we were told that the salt water encroachment would threaten the then planned CIWA canal which would pick up Houston's allotment of water from Lake Livingston at a point on the Trinity between the two rice irrigation canals. All three of these sites are only a few miles north of Trinity Bay and the mouth of the Trinity River, and all were under dire threat of salt water intrusion which could destroy the rice crops and ruin the water which the City of Houston needed.

Thus, then Senator Johnson and I supported the construction of a salt water barrier at the mouth of the Trinity. After it was authorized, the City of Houston and the Trinity River Authority later advocated the building of the Wallisville Reservoir in connection with the salt water barrier so as to contain within the project a lake of about 19,700 acres. It was to increase the amount of water available for Houston and the Trinity River Authority. This was authorized by Congress and was three-fourths completed when stopped by Judge Bue's injunction in 1973. The environmentalists won this case after millions of dollars were spent on the nearly completed dam which now stands in Trinity Bay as a monument to the Sierra Club and the commercial fishermen.

If the same group had opposed the Houston Ship Channel when it was first conceived, it is possible that ships would never have navigated Buffalo Bayou to Houston. No one can doubt that the deepening of the Houston Ship Channel and Buffalo Bayou damaged some fish, crabs, shrimp and oysters and altered the ecology of Galveston Bay even more than the redesigned 5,600 Lake Wallisville would do. Dr. B.C. Robinson, the naturalist, if he had been around when the ship channel was being planned, would probably have railed against it as an "idiotic venture" of a "pack of troglodytes" playing engineers. At least those are his "impartial" designations of the U.S. Corps of Engineers, which built the Houston Ship Channel and maintain it for the benefit of Houston and its world-wide ocean going commerce. The Posts' predecessor supported this great project of the Corps of Engineers, and while it changed the marine environment and caused some damage in that regard, the benefits to the people of Houston have far out-weighed any such damage.

So will the redesigned smaller Wallisville Reservoir and Salt Water Barrier now authorized by Congress be a great boon to Trinity River barge line traffic to Anahuac and Liberty as well as a lifesaver for Liberty and Chambers Counties and a protection for Houston's water supply from the Trinity.

Whatever damage this causes to fish, shrimp, crabs and oysters in Trinity Bay has been reduced by nearly three-fourths (from 19,700 down to 5,600 acres) by the latest act passed by Congress as an accommodation of the conflicting interests. Yet, the environmentalists are not satisfied, and they probably would not be even if the project killed a single crab, a single fish or a single oyster. In fact, they seem to be making this fight a precedent for stopping all dams, dredging and further progress at the mouth of any stream or estuary.

Both Dr. Robinson's article and your editorial speak of the scaled-down project as though it was harmful to all of Galveston Bay. This project does not touch Galveston Bay. The Trinity River empties into Trinity Bay, which is marked on coastal maps between Smith's Point on the south and Umbrella Point on the north. Only Trinity Bay and the wetlands, north thereof, are affected by this barrier and reservoir.

The worst error in your editorial is the statement that Houston has plenty of water allotted to it from Lake Livingston, as though you could get it directly without going through the Trinity River. Do you realize that the city has no way of getting one drop of water from Lake Livingston except through the Trinity River at the CIWA lift station near the mouth of the river and just a few miles north of salt water in Trinity Bay? The Trinity River Carries your water allotment from Lake Livingston to the Houston pump station for a distance of over 100 miles before it is lifted into your canal. As heretofore stated, without the Wallisville Reservoir and Salt Water Barrier, Houston's water supply from Lake Livingston via the Trinity is in as much danger as our two rice growers pumping plants at Moss Bluff and Moores Bluff.

You write well about protection of crabs, fish, oysters and shrimp, but say nothing about protecting the people in these adjoining counties who depend upon a fresh water supply for jobs in a 40 million dollar annual rice crop or the possible threat of immeasurable damage to the City of Houston if the salt water barrier is not constructed. Congress has reached the fairest accommodation possible between environmentalists and fishermen on the one hand and the main income crop for Chambers and Liberty Counties and Houston's need for industrial water on the other hand.

Why should you or the Court express so much concern over what reports Congress had on this latest bill before it was enacted? As a former legislator and judge I have never known of any Court going behind a legislative act except to see if it is constitutional or for help in interpreting terms of the act itself. Neither issue is raised in this case. It is time the Court and your newspaper allow the latest expression of Congress to be carried out unless you want to see the economy of this area stifled and your Houston industrial water supply endangered.

Yours very truly,

PRICE DANIEL.

CITY OF LIBERTY,
Liberty, TX, December 10, 1985.

Mr. LYNN ASHBY,
Editor, Houston Post,
Houston, TX.

DEAR LYNN: The editorial of December 1, 1985, entitled "Damned if we do" was disconcerting to say the least. I have been intimately involved with the efforts to control flooding, provide additional fresh water for consumers, prevent saltwater intrusion, and effect the economic development of the lower Trinity River for over 20 years. I have traveled to Washington, at my own expense, every year for the past 15, to testify before House and Senate Subcommittees on funding requests for dredging, snag removal, studies, and construction of various projects on the Trinity.

The Trinity River is, in my opinion, the most important river in the State of Texas. This opinion is shared by many others also. When you consider the fact that its watershed affects over one half of the entire population of the state, I believe you will understand the truth in that belief. I have attended too many local and regional hearings to recount them, and have given oral testimony at most of them. I have heard environmental experts such as Ned Fritz and Dr. B. C. Robinson testify time after time that we must not allow one change to occur in the ecological structure. That floods are "God Made" and we should move out of flood prone areas and leave them to nature. That we should legislatively prevent additional persons from coming into an area if the natural environment will not support them through natural means. One is led to wonder which side of the advocacy they would take if a move were started to drain Lake Livingston and/or Lake Houston and return those areas to their original natural habitat. Both sides would have legitimate basis from an environmental purist's standpoint.

Certainly the construction of the Wallisville Saltwater Barrier would change that specific area, but the change would be minimal and the resulting change would better serve all interests and conditions. I cannot believe that a status quo serves anyone. We cannot continue to allow land subsidence through removal of ground water to continue unchecked. There are only a certain number of ways to obtain fresh water and not a one of these is through wishful think-

ing or hoping. The water from Lake Livingston that is dedicated to the City of Houston comes from the CIWA canals and pump stations located in the area that would be protected by Wallisville. An extended drought would effect the complete shutdown of this source without the protection of the barrier.

The thousands of acres of land that have subsided and are subjected to flooding by rain water or saltwater tidal surges have been adversely affected from an ecological perspective. We have learned to live in concert with nature and the pluses of these proposed changes will far outweigh the speculative negatives of these changes. Water need is real. Saltwater encroachment is real. Flooding is real.

The issue is not a narrow scoped or parochial one. Literally millions of lives are affected. The issue is not a boondoggle for some local land owner. The facts are well documented in the reams of testimony available to all interested persons as to the far reaching economic advantages and the minimal environmental impact. We all must plan for and look to the future and stop being tunnel visioned or knee-jerking reactionaries. The development of the Wallisville Barrier is vital and must be allowed to proceed within the confines of good sense and judgement.

I offer this letter as a rebuttal to your editorial. I would further be pleased to submit a more detailed and factual rebuttal to Dr. Robinson's article if you would allow such.

Sincerely yours,

C. SCOTT PARKER,
Mayor.

LANDMARK NEW JERSEY SUPREME COURT RULING WILL HELP PROTECT WORKERS FROM ASBESTOS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FLORIO. Mr. Speaker, a ruling made earlier this month by the New Jersey Supreme Court will likely have profound effects in terms of protecting workers from the hazards of asbestos. The ruling will enable injured workers in certain cases to sue their employers for damage. The ruling will likely provide greater compensation to afflicted workers while making employers more responsible regarding employee exposure to hazardous substances like asbestos.

It is estimated that as many as 750,000 public buildings contain potentially friable asbestos. Friable or flaking asbestos is a known human carcinogen which can cause lung cancer, asbestosis or mesothelioma, among other deadly diseases.

The court ruled that injured workers can sue their employers for exposure to asbestos or other hazardous materials when they can prove that the employers intended to harm them. The plaintiffs who bought the class action suit are 32 former or current Du Pont employees And their spouses. They argued that Du Pont and the company's doctors intentionally and deliberately exposed them to asbestos, concealed the risk of exposure and fraudulently concealed medical information that revealed diseases contracted by the workers.

The court's ruling enables workers to demand one of their most basic rights—the ability to work under safe conditions. Employers have been put on notice that knowingly exposing workers to hazardous substances, like asbestos, will no longer be tolerated in the State of New Jersey.

I commend to my colleagues a most informative article in the Camden Courier-Post detailing this most recent New Jersey Supreme Court ruling.

[From the Courier-Post, Wednesday, Dec. 11, 1985]

COURT OK'S SUITS FOR ASBESTOS ILLS—DU PONT FACES FIVE CIVIL CASES

TRENTON.—A New Jersey Supreme Court ruling that opened the door for injured workers in certain cases to sue their employers for damages will provide greater compensation and make employers more responsible, an attorney who represented injured workers said yesterday.

"This is another step in the line of protecting workers," said attorney David Jacoby, the Haddonfield lawyer who represented 32 current and former Du Pont workers and their spouses.

"It potentially affects every man and woman in the state who works for an employer."

The Supreme Court decision came on five lawsuits filed by workers against E.I. du Pont de Nemours & Co. of Wilmington, Del., its company doctors and asbestos manufacturers.

The employees worked at Du Pont's Chambers Works in Deepwater, Salem County, or Repauno plant in Gibbstown for more than 20 years. They contracted asbestos-related ailments from inhaling asbestos fibers from insulation that at one time coated pipes, the court said.

Jacoby explained that it will send a message to employers that they face the threat of civil damages if they are cavalier about workers' health and safety.

The ruling court could affect every worker in the state by giving injured employees a new forum to seek substantial damages for injuries beyond the "miserly" benefits provided in workers compensation court, Jacoby said.

The workers initially filed a civil suit against Du Pont four or five years ago, he said. In that time, some of them have died, but some are still working for Du Pont, Jacoby said.

"They have varying stages of asbestos-related disease. Because it (the disease) takes 15 to 20 years to show itself, the men generally are in their late 40s and older."

Until yesterday's decision, Du Pont did not have to legally answer the lawsuit, he said. The case will be scheduled sometime in the future in Superior Court in Camden County, he said.

The plaintiffs argued that Du Pont and company doctors intentionally and deliberately exposed them to asbestos, concealed the risk of exposure and fradulently concealed medical information that revealed diseases contracted by the workers.

The justices said workers can sue their employers and company doctors for concealing that the workers had contracted health problems associated with asbestos exposure and sending them back into the workplace, where their conditions were aggravated.

Only courts in California and Ohio have allowed such suits, Jacoby said.

But New Jersey's high court said inured workers cannot sue their employers for exposure to asbestos or other hazardous substances unless they can prove that the employers intended to harm them.

At issue was whether the employees' only remedy was collecting workers' compensation. The state Workers' Compensation Act usually serves as an employee's exclusive remedy for work-related injuries.

But under the law, workers can sue in civil court if they can prove an "intentional wrong."

The Supreme Court narrowly interpreted the exception to the law. While "defendants' conduct in knowingly exposing plaintiffs to asbestos clearly amounts to deliberately taking risks with employees' health," the mere knowledge and appreciation of a risk is not intentional, said Associate Justice Robert Clifford, who wrote the majority's 39-page opinion.

"We acknowledge a certain anomaly in the notion that employees who are severely ill as a result of their exposure to asbestos in their place of employment are forced to accept the limited benefits available to them through the Compensation Act," Clifford said.

Four other justices sided with Clifford while two agreed in part and dissented in part.

But the court said the Legislature could not have intended to insulate corporate doctors who deceive employees about their health. The court said workers could seek damages from the doctors because it was proper that they "be held to answer for their misconduct."

Likewise, Du Pont was also subject to be sued, the court said.

LAUREL GIRLS CROSS COUNTRY TEAM—STATE CHAMPIONS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HOYER. Mr. Speaker, there are a group of young women in my congressional district who are superstars. They are the members of the Laurel High School Girls Cross Country Team, and this fall they experienced what Bruce Springsteen would call their glory days. They went from underdog status to the Maryland Class AA State Championship. For the first time since 1980, and for the first time ever in cross country, Laurel High has a State championship, and the whole community is very proud.

After a perfect 9–0 season, the Laurel cross country squad won the Prince Georges County Championship, the Region II AA Championship, and finally, on November 9, the State AA Championship. On the way, the team also won three invitational meets—Broadneck/South River, Palotti, and Salesianum—and came in second in the Hereford Invitational.

The Community of Laurel has every reason to be proud of this group which has worked so very well together. One most frequently thinks of cross country as a sport of individuals, but these young women have operated truly as a team. Always, they run

together in practice and support each other through their various competitions.

The squad's coach is Peter Adams, and he is obviously an inspiring, innovative, and gifted leader. This year, his team was made up of young women who, as he said, "have what it takes." Coach Adams is a lucky man as well, because only one team member is a senior. The community of Laurel can expect to hear much more from the cross country team next year.

The following young women make up the 1985 Laurel High School Cross Country Maryland State Championship Team: Cocaptain Diane Huber, Cocaptain Carole Anne "E.T." Parish, Jenny Athey, Donna Driver, Christy Peters, Catherine Repass, Jodi Shindle, and Kenice U'ren.

Coach Adams' three able assistant coaches are: Jim Sampson, Eric Morton, and Nancey Rose.

Mr. Speaker, I know all of the Members of the House will want to join me in extending congratulations to the team on their championship season.

HARRIS POLL SUPPORTS VOLUNTARY FAMILY PLANNING

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. PORTER. Mr. Speaker, I would like to bring to the Members' attention the remarks by Dr. Louis Harris, chairman of Louis Harris & Associates who recently conducted a public opinion survey of teen pregnancy, family planning, and abortion.

The survey results overwhelmingly support family planning efforts both in the United States and abroad, and show exceptional support for relevant education on television and in schools. Dr. Harris presented his findings last week to the members and staff of the Congressional Coalition on Population and Development. The following are his remarks for the benefit of those Members of Congress who did not attend:

REMARKS OF LOUIS HARRIS, CHAIRMAN, LOUIS HARRIS & ASSOCIATES, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

In many ways, we live in an era of quick and easy poll results. Members of Congress, people in politics, reporters grab a couple of poll numbers and run. Thus, a common experience is to get the results of 3 or 4 quick questions on abortion, sex education, and birth control. This survey does not just ask 6 or 10 questions. It asks more than 60 different questions and is the most detailed and comprehensive analysis of a wide range of issues relevant to these subjects. It includes many questions never before even asked.

This survey is not only comprehensive. I believe any reasonable person will find it fair and unbiased. Our firm has stringent rules about all surveys on important public issues. They insist that all of the relevant questions must be asked, no matter how tough the answer for our own clients. We are adamant about including tests of questions and arguments used by both sides. In this study, for example, you will find a question that equates abortion with murder. Our hope is that anyone going over this study in fine detail would not be able to tell whether our clients were Planned Parenthood, the Right-to-Life movement, or a group which might have avoided partisanship on any of these issues.

Here is what we set out to test in this study:

What exactly do parents feel must be done to prevent their teenage children from becoming pregnant or causing pregnancy?

To what extent parents have discussed sex and birth control with their kids?

What are attitudes toward the proposed so-called Squeal Law?

How do people feel about television programing on the subject of birth control, specifically giving information on how to avoid pregnancy?

What about sex education in the schools, including a requirement that a link should be established between the schools and family planning clinics where young people can find out about and can obtain contraceptives?

How do people feel about the proposed constitutional ban on abortion and the 1973 U.S. Supreme Court decision legalizing abortion?

Do the American people favor or oppose the U.S. providing aid for developing countries with birth control programs?

Given this roster of questions, it is unlikely that any single group, including our own clients in this case, will be pleased with all of the results. In all, we surveyed a representative cross-section of 2,500 adults across the nation in August and September of this year.

Well, what about public attitudes about teenage pregnancy, sex education, and contraception?

An overwhelming majority of 84 percent of the American people recognize that teenage pregnancy is a serious problem in this country. In the view of 64 percent the problem arises fundamentally from the fact that parents have little or no control over their teenagers' sexual activity. As a consequence, they are convinced that something needs to be done. Help is needed.

One key, of course, is what parents can do themselves? And the answer there overwhelmingly is that they can have frank and open communications with teenagers about sex and birth control. But in the past, such discussion has not taken place for the most part. Only one in four adults recall having learned about sex from their own parents. Most learned from friends or sexual partners, which may have been a bit late.

Today's parents want to change that pattern. A substantial 76 percent with children 6-18 years of age say a parent has talked to their children about sex. The median age for this is 10. But note: only 1 in 3 say the subject of birth control has been part of the discussion. That casts some doubt about just how candid those discussions have been.

In fact, many parents seem to be crying out for outside help when it comes to dealing with teenage pregnancy and informing children about birth control. At the same time, many also want to keep some control over what their children learn and do. That is why they are so deeply divided over the so-called "Squeal Law." This would prohibit family planning clinics from giving contraceptives to anyone under 18 without written permission from their parents. The country now splits right down the middle: 48 percent favoring such a law and 47 percent opposing it. This latest result shows a four point, modest drop in opposition to the Squeal Rule and a comparable pick-up in support of it.

You see, parents would like to know about these things and be in on the decisions governing them. But, at the same time, a clear 53-47 percent majority also hold the view that "if it became more difficult for teenagers to obtain contraceptives," there would be more teenage pregnancies.

Perhaps the most decisive findings of this study emerged on the subject of sex education. A substantial 62 percent are convinced that more open discussion of sexual subjects would lead to fewer teenage pregnancies. And two of the chief channels of communication they want to see change on are television and the schools.

TV is widely believed to give a biased, wholly unreal portrayal of sex, of pregnancy, and of contraception. By 68-18 percent, a big majority think TV gives an exaggerated picture of people making love. Some 45 percent say that TV just doesn't deal with the subject of pregnancy and the consequences of sex. A higher 68 percent believe television ignores family planning to prevent pregnancy and to control family size. And 63 percent are convinced that television also just doesn't deal with information about sexually transmittal diseases, although this might be changing with the furor over AIDS. Put bluntly, television is heavily criticized for either ignoring or romanticizing the consequences of sex and of birth control. By an overwhelming 78-18 percent, a big majority give a powerful mandate that there be messages on TV about birth control. The reason for this strong feeling is that the very young people who are least inclined to be influenced by home life or the classroom are precisely the ones who are most likely to be reached through television.

Now if the networks and TV stations say there is simply no mandate out there for their carrying targeted and effective birth control messages, as we understand they have told prominent medical professional groups, then the answer is that such a claim is patent nonsense.

Indeed, by an overwhelming 85-14 percent, a big majority of adult Americans believe that sex education should be taught in the public schools. And by 54-45 percent, a clear majority are convinced that elimination of sex education in the schools woud lead to more pregnancies among teenagers not fewer.

The American people are playing for keeps on this one. They want sex education to be not only blunt and to the point, but they want it to be practical. By 67-29 percent, better than 2-1, a substantial majority want to require that public schools establish links with family planning clinics, so that as our question read "teenagers can learn about contraceptives and obtain them." This is the first time any poll has ever asked this question. Mark it well, it is a clear and decisive mandate for sex education in the schools that both explicitly informs students about contraceptives, but also refers sexually active students to sources to contraceptives.

The incredible part of these results is that they are not even close. They are decisive and overwhelming. They are not controversial. They indicate a broad and growing consensus, born at least in part of the quiet desperation of parents of all types and stripes of family backgrounds in America today. Those who oppose sex education and birth control are at best a highly vocal but very

small minority in the USA today. Instead, the desire, the demand for real leadership out of the establishment in this area is widespread, real and abiding.

By contrast, abortion is by any measure highly controversial. In fact, there is some evidence of slippage in support of the 1973 U.S. Supreme Court decision (*Ros* v. *Wade*). The current division is 50–40 percent in support of that decision nationwide, but that is down 6 points from our previous measurement. The slippage may not be as great as this, however, since the biggest shift on this trend question is among Blacks. And there is other Harris evidence that Blacks have veered from having high faith in the Supreme Court in the past to showing a massive erosion in faith in the High Court, as, indeed, Blacks have come to distrust most of the Washington Governmental establishments these days—a complete turnabout compared with the 1060's and 1070's. On other measures of pro or con on abortion, for example, Blacks are slightly more pro-abortion than Whites. But not on the Supreme Court measurement.

A more accurate measure of the slippage in pro-abortion sentiment can be obtained on the issue of constitutional ban on abortion. A majority of adults nationwide oppose such a ban by a decisive 55–37 percent. However, a year ago, as slightly higher 58–33 percent majority opposed such a ban. Thus, slippage of 3–4 points.

A key reason for the slight slippage may well be the exposure given to the film, "The Silent Scream." Fully 42 percent say they have read about or heard about the film, and 44 percent have seen it. Of those who saw it, 45 percent say it made them more opposed to abortion. That adds up to 6 percent of all adults in the country. Of course, it is dangerous to therefore conclude that 6 percent have in fact shifted their views. There is no way of telling how may of these people were opposed to abortion in the first place, and merely had their underlying convictions reinforced. On the other side, by 56–39 percent, a sizable majority of those who saw the "Silent Scream" felt it was biased and not mostly objective.

In fact, when the negative consequences of particular types of pregnancies are discussed with people, then to opposition to any ban on abortions rises to over 7 in every 10 adults across the USA. For example, if a women's life or physical health were endangered by a pregnancy, then sizable majorities would oppose a ban on abortion. Similar majorities feel the same if pregnancy results from rape or incest, or if a woman might have to go on welfare if she had the child, or when a child would be unwanted or unloved. Or if a woman's mental health were endangered or if the child was found to be deformed or retarded or if a teenage mother's future life would be seriously affected by having the baby.

Of course, as time goes by, an increasing number of people know someone who has had an abortion. Half the country now reports knowing someone and 3 in 10 say that someone is close to them, meaning in their own family or in a friend's family. As it becomes a more personalized experience, then the consequences of not allowing abortions troubles people all the more. A bottom line, therefore, is that 58 percent of the public rejects the claim that abortion is an immoral act. Indeed, by 74–19 percent, a big majority are now convinced that society in this country has decided this issue and they doubt that abortion will ever be outlawed again.

Finally, allow me to dwell on yet another important issue we tested for the first time: U.S. Governmental aid for birth control overseas. That is a subject you have heard much heat and controversy on. By an overwhelming 74–23 percent, a sizable majority favors this government helping with birth control in developing countries. And when the smoking gun is added, "even if those countries have abortion programs," a substantial 61–35 percent majority still would favor our sending the aid and assistance on birth control. The sadness and shock of the Ethiopean famine and the consequences of birth rates out of control have dismayed the American people and touched them deeply.

Perhaps the most striking result of all in this in-depth and comprehensive survey is that the American people do not want the highly serious problems of teenage pregnancies swept under the rug or made the object of selective attention by religious or parents along, but instead they want society as a whole, including the government, including the schools, including the media to open doors of candor and to spell out the consequences and also to take the load in explaining pragmatically what can be done to relieve the problem. They are saying the job must be done today not tomorrow and that procrastination is no longer acceptable. The highest irony is that most of what I have reported are broad consensus findings. I would not stand here and say that because large numbers of the American people want something, you must therefore automatically do it. But, I do say to you that if you do not do something in this area, then you will find that your own constituents will increasingly want an explanation of why you did oppose action. For these are not subjects and are not attitudes that are likely to disappear or to change or to grow less concerned any time soon. Mark that well.

ENHANCEMENT OF LOBSTER CONSERVATION LAWS

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. MCKERNAN. Mr. Speaker, today, along with my colleagues, Mr. STUDDS and Mrs. SCHNEIDER, I am introducing legislation which will help to preserve the integrity of our fishery conservation laws. Specifically, it is a bill to enhance the enforcement of laws and regulations conserving American lobster—Homarus americanus.

This legislation is intended to make the conservation measures imposed upon the domestic fishermen by the American lobster fishery management plan [FMP] (50 C.F.R. 649) more enforceable by stopping the trade in sublegal-sized, egg-bearing, and "scrubbed" lobsters which currently takes place in the United States. It is action necessary because of a "loophole" in United States law which permits foreign exporters, primarily Canadian, to ship into this country lobsters which fishermen and dealers in producing States are prohibited from handling.

This legislation is not an attempt to avoid the legal obligations of the United States under the General Agreement on Tariffs and Trade [GATT]. Article XX(g) of the GATT allows for the kind of trade restrictions that would be imposed by the bill because of the relationship of those restrictions to the domestic production and consumption restrictions which are imposed on fishermen and dealers by the conservation laws of the producing States and the lobster FMP.

By January 1, 1987, all of the States with fishermen who harvest American lobster will have enacted laws which coincide with the possession standards of the Federal lobster management plan. Although some American lobster is legally harvested in Canada at a size smaller than the minimum size allowed by the FMP, the laws of the producing States and the Lacey Act combine to create a Federal prohibition against a trade in small lobsters in the Northeast and Middle-Atlantic regions. These laws also work to restrict a trade in egg-bearing and scrubbed lobsters in these States. However, because other States, which import but do not produce lobster, have not enacted similar possession laws, the Lacey Act restrictions do not apply and a trade exists in these States which is illegal in the producing States.

Lobster fishermen believe that this situation decreases the effectiveness of the conservation laws and regulations they are required to abide by. Further, they are concerned that this has encouraged an illegal or "black market" trade in lobster harvested by domestic fishermen in violation of State possession laws and the lobster FMP. While others argue that such a black market trade does not exist, and that no U.S.-harvested illegal lobster is being sold in this country, it is very difficult to obtain data on the amount or origin of the sublegal-sized, egg-bearing, and scrubbed lobsters that are sold here.

It is for this reason that we are introducing this legislation today. By restricting the importation of all American lobster that does not meet the standards of the FMP, the bill would strengthen domestic laws that are designed to conserve a valuable, exhaustible natural resource. The legislation that we are introducing today is a straightforward approach to solving this problem and is a remedy that is available to the lobster industry through our international trading agreements. I urge the House to expedite its passage.

HELPING OUR TOBACCO GROWERS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. ROGERS. Mr. Speaker, I recently came across an article which I think really shows how committed the people of my region are to the preservation of the tobacco program.

I recently visited several tobacco warehouses on the opening day of the annual burley sales in Kentucky, including one in London, KY, run by Graham Cole. Thanks

to his work and those of men like him, this year's tobacco sales are going extremely well under trying circumstances.

I enclose the article for my colleagues, so that they too can come to understand the warmth of feeling for tobacco which permeates Kentucky and the tobacco belt. And I salute Graham Cole for his leadership in keeping our proud tobacco tradition alive.

[From the Lexington Herald-Leader, Dec. 18, 1985]

WAREHOUSEMAN'S EFFORT HAS KEPT BURLEY FROM "POOL"

(By Roger Nesbitt)

LONDON.—A burley tobacco warehouseman—by cutting his profit to benefit growers and the federal price-support program—has helped London compile the most impressive statistic of the 1985-86 market season.

The London market is the only one in Kentucky—and four other states—that has had no burley go to the program's surplus "pool" of leaf that fails to bring a price above the government support level, according to government statistics.

And the success at the small London market can be traced to Graham Cole's crusade to improve sales.

Cole, a co-owner and general manager of London's three auction warehouses, has kept tobacco out of the pool by buying it on behalf of the warehouse.

If tobacco buyers fail to bid the required price of at least 1 cent above the support rate, Cole makes the bid. He then resells the leaf at a later auction or stores it until he can find a buyer.

Thus far, Cole has bought 1.2 million pounds, or about 20 percent of leaf sold in London. He estimates a loss of between $25,000 and $30,000 on the resale of that burley. But he says that's a small price to pay to satisfy his customers and help preserve a tobacco program threatened by a huge debt on surplus leaf.

"If the farmer sees you're doing the very best you can to help him get top dollar, then you've got a satisfied customer who will come back. We lost a little money, but it's good public relations," he said yesterday.

It's not uncommon for a warehouse to buy tobacco to protect customer interest. But few warehouses take 20 percent of the offerings, said Ben Crain, the president of the Burley Auction Warhouse Association.

Crain said he would buy from 10 percent to 12 percent at his two Lexington warehouses. "But with the high (priced) grades you find in this area, you can't afford to buy much more," he said.

Before yesterday, pool receipts were 32.3 million pounds, or 10.6 percent of sales in Kentucky, Indiana, West Virginia, Missouri and Ohio.

"We've taken tobacco from every market except London," said A.R. Beckley, the executive secretary of the Burley Tobacco Growers Cooperative Association of Lexington, which handles the surplus in those states.

Cole, 51, has been in the warehouse business for 26 years in Moultrie and Pelham, Ga. This is his second year as co-owner of the London warehouses and, under his leadership, customers have come to expect a strong sale.

"I've seen years when most of the crop went to the pool around here, but not with Cole. I don't know of any grower who has left here dissatisfied with what he got," said Lonnie Robinson, a warehouse employee for 15 years.

Last year, when 30 percent of the nation's burley crop went into surplus, London's 8 percent was the lowest among the 80 markets throughout the eight-state Burely Belt, Cole said.

"And most of that went after Christmas. I was trying to keep it all out (of the pool), but there was just too much for me," he said.

Cole said he wants to do his part to help the program because "it has served us well for nearly 50 years."

In sales volume, London ranks 22nd among Kentucky's 30 markets. Its customers come from 15 counties in the region, with most from Laurel, Clay, Knox and Whitley counties, said Chester McCracken, a warehouse employee for 30 years.

Charlie Chappel, a 76-year-old Jackson County grower, said he had sold tobacco for 38 years in London and never had much go to the pool.

"These boys have always stuck with me," he said. "I've been satisfied. I wouldn't be here today if I wasn't."

Cole acknowledged that he buys a lot of lower-grade leaf and that the quality of tobacco from the area pales in comparison with the Bluegrass region.

Statistics, however, indicate that London has its share of good burley. Its average market price of $180.46 a hundredweight is slightly above the state average.

"Our overall quality doesn't match some other areas, but most of our growers are at a disadvantage because they are small, part-time farmers," Cole said. "This is not like the Lexington area, where you have a lot of big growers who are in this for most of their income. That makes a difference."

Cole said he hopes to keep his "pool record" intact for the Christmas recess that follows Thursday's sales. But he doubts he can go through the whole market season this way.

"It gets harder (to resell the burley) after Christmas," he said. "You can't cut your own throat, you know."

OPPOSITION TO THE McCLURE-VOLKMER BILL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. STOKES. Mr. Speaker, Federal gun control legislation has been debated in each succeeding Congress since the 91st session. With the McClure-Volkmer bill working its way through Congress, it has come to my attention that our Nation's law enforcement community has been misrepresented by certain lobbying organizations concerning their views on this issue. Contrary to information you may have received, our Nation's law enforcement community is unanimously opposed to the McClure-Volkmer bill.

As individuals charged with the responsibility of ferreting out crime, it is the law enforcement communities view that passage of this bill will result in easier accessibility to these weapons by criminals, juveniles, and other high risk individuals. Every day, members of the law enforcement community place their lives in peril so that you and I might enjoy a safer community. By opposing the McClure-Volkmer bill we have an opportunity not only to assist our friends in law enforcement, but to help ourselves in providing for the safety of our communities.

I fully support the right of responsible individuals to keep and bear arms. However, legislation such as that passed by the Senate and presently before the House of Representatives, will seriously undo many of the recent advances made in the area of curbing handgun violence, and will result in easier accessibility to these weapons by criminals and irresponsible citizens.

I strongly encourage members of this body to oppose the McClure-Volkmer bill and vote for the safety of our communities and our law enforcement officers. With these concerns in mind, I commend the following Cleveland Plain Dealer article on the Fraternal Order of Police and their views on the McClure-Volkmer bill, to my colleagues in Congress.

FOP HEAD HOLDS GUN BAN A BOON

(By Robert Boyd)

At a time when killing of police officers is on the increase, it would be wrong to weaken federal handgun laws. But legislation now before Congress would do just that, and a strong gun lobby is pushing hard for enactment—even to the extent of misrepresenting the stated positions of law-enforcement groups.

Most Law-enforcement organizations believe that law-abiding citizens have the right to own handguns. But at the same time, there must be legislative safeguards to keep handguns from falling easily into criminal hands. Retaining current federal laws regarding handguns is vital to effective law enforcement. Laws to protect the police and the public from the threat of additional handguns in the hands of criminals, such as waiting periods and criminal records checks for handgun purchasers and a ban on armor-piercing bullets, will make society safer.

In recent months, the Fraternal Order of Police, which represents more than 170,000 American police officers and other law-enforcement leades have been misused by gun lobbyists who are spearheading a drive to allow interstate sale of handguns and permit the continued sale of armor-piercing bullets.

Leading the gun lobbyists' attack is the National Rifle Association, with which law enforcement has a history of strong ties. In our relationship over current federal legislation, however, the views of the law-enforcement community, and the Fraternal Order of Police in particular, have been distorted and misrepresented.

In the House of Representatives, gun lobbyists are crusading for quick passage of the McClure-Volkmer bill, which would allow interstate handgun sales. The bill, sponsored by Sen. James A. McClure, R-Idaho, and Rep. Harold L. Volkmer, D-Mo., was pushed through the Senate without any public hearings, and is now lodged in a House Judiciary subcommittee on crime. Supporters in the House are petitioning to have the bill discharged from the subcommittee and brought to the House floor; its sponsors say that could happen by spring.

The NRA portrays the bill as a pro-law-enforcement measure and has convinced members of Congress and the public that

police are for the bill. While aware of our opposition, the NRA sent material to Capitol Hill erroneously stating that both the Fraternal Order of Police and the National Sheriffs' Association were in favor of the bill.

As president of the Fraternal Order of Police, I attempted to set the record straight several times. Every major law-enforcement organization in America solidly opposes the McClure-Volkmer bill. Yet the NRA and other proponents of the bill have persisted in naming our group as one of its supporters. The fact that law enforcement opposes the bill appears to make little difference to the NRA.

Our reasons for involvement in this legislative debate are simple. As law-enforcement officers, we are charged with enforcing the law. We live with that responsibility every day. Despite the NRA's claims to the contrary, this bill is against our interests. McClure-Volkmer will make it easier for criminals to get handguns.

In 1968, Congress passed the Safe Streets Act to aid state and local law enforcement in their fight against violent crime. The centerpiece of the act was the prohibition on the interstate sale of handguns, which enhances the ability of states and localities to keep handguns out of criminal hands. McClure-Volkmer would authorize gun dealers to sell to out-of-state customers if the sale would be lawful under the laws of the buyer's and seller's states. As a practical matter, this provision is unenforceable and would only serve to encourage illegal handgun sales.

Because handgun laws vary not only from state to state but city to city, it would be virtually impossible for a dealer to make sure that sales to out-of-state purchasers conform to law. Local laws are constantly changing and although several states may have similarly worded provisions, the actual application of those statutes may vary greatly according to individual state court decisions. Allowing interstate handgun sales destroys the ability of law enforcement to enforce state and local handgun laws.

Gun lobbyists also are working against law enforcement on another front, by campaigning for the continued availability of armor-piercing ammunition—bullets that easily penetrate bulletproof vests. Every day, officers risk their lives protecting citizens from criminal attack, and yet the NRA refuses to support these officers by working to ban the sale of such bullets. In fact, NRA lobbyists have blocked the bill for nearly four years.

As officers, we look to Congress to give us the tools to make society safer. To that end, the law-enforcement community, especially the Fraternal Order of Police, is asking members of Congress to resist the pressure to make our jobs more difficult. We want armor-piercing bullets banned. We need the continued prohibition on interstate handgun sales. And we want a national waiting period and background check for handgun purchases to help screen out those criminals who are buying handguns, and to eliminate the possibility of the heat-of-passion purchase of handguns.

Our legislators have heard the views of the Fraternal Order of Police, the National Sheriffs Association, the International Association of Chiefs of Police, the National Troopers Coalition, the Police Executive Research Forum, the Police Foundation, the National Organization of Black Law Enforcement Executives and the Major City Police Chiefs Association. We all hope that Congress will listen to the law-enforcement community and put the interests of a safer society ahead of the goals of the National Rifle Association.

STATES ACTIVE ON CHEMICAL DISASTER LEGISLATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FLORIO. Mr. Speaker, as my colleagues know, the Superfund legislation just passed by the House (H.R. 2817) contained landmark provisions designed to encourage local officials and industry to develop emergency preparedness plans for possible chemical disasters.

The tragedy in Bhopal, India, a little over a year ago raised the Nation's consciousness about the need to institute comprehensive emergency response plans to cope with potentially catastrophic accidents. Dozens of smaller-scale incidents across the country over recent months have underscored the importance of such planning. Many State legislatures are beginning to recognize the need to establish disaster prevention and response programs.

My own State of New Jersey has been in the forefront of such developments and the State senate recently passed a bill entitled the "Toxic Catastrophe Prevention Act." I commend a recent article from the Philadelphia Inquirer describing the legislation to my colleagues' attention.

SENATE APPROVES BILL AIMED AT AVERTING A CHEMICAL DISASTER

(By Paul Horvitz)

TRENTON.—Legislation designed to prevent a disastrous chemical leak at New Jersey manufacturing plants received final legislative approval yesterday in the state Senate.

The bill, titled the Toxic Catastrophe Prevention Act, calls for chemical plants that generate, store or handle certain extraordinarily hazardous chemicals to develop plans demonstrating what safety steps they would take to prevent a minor accident from turning into a chemical disaster like the one that occurred last year in Bhopal, India. In that accident, 2,000 people were killed when methyl isocyanate leaked from a Union Carbide plant.

The bill won Senate approval on a vote of 38–0, without debate, and now goes to Gov. Kean.

Its Senate sponsor, Sen. Paul Contillo, a Bergen County Democrat, said that, under the legislation, the state Department of Environmental Protection could impose its own risk-reduction plan if it believed the one submitted by the manufacturer was inadequate. The companies would have 18 months to submit a plan.

Contillo said the bill applied only to certain highly toxic substances, including phosgene, a poisonous liquid that has been used in chemical warfare. It also is used in some chemical-manufacturing processes and in dye-making.

LAUNCHING OF VOYAGER SPACECRAFT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HOYER. Mr. Speaker, 1986 will be a truly momentous year in space exploration. NASA will launch a Voyager spacecraft which will travel past Uranus, and a Galileo spacecraft destined to explore Jupiter. Our Nation can be especially proud of NASA's contribution to this latest step by the United States in the "Age of Discovery."

To highlight these events our colleague Congressman WYCHE FOWLER of Georgia, on October 8–10, 1985 sponsored the Space Caucus Conference on the Future of Space Science. Many eminent scientists from all space science disciplines participated, sharing their insights with Members and congressional staff. One conference participant of particular note was Dr. Noel Hinners, Director of NASA's Goddard Space Flight Center which is located in my congressional district. Dr. Hinners has a Ph.D. in Geochemistry and Geology and is a specialist in planetary geology. From 1979 to 1982 he served as the Director of the National Air and Space Museum and in 1982 began his tenure as the Director of the Goddard Space Flight Center.

I would like to share the remarks made by Dr. Hinners at the conference for the benefit of my colleagues:

STATEMENT OF NOEL W. HINNERS

I welcome this opportunity to address the topic of Space Science in an atmosphere of inquiry and desire to learn. That is, after all the basis of the scientific endeavor—a quest for knowledge. That quest is unbounded and never ending, attributes inherently harmless, yet the world of budget constraints, competing societal and individual needs, and occasional misgivings about the practical value of scientific inquiry result in the establishment of limits and priorities. My challenge is to provide you with views of space science relevant to your decision process, a process crucial to creating the means by which space science progresses.

I worry about whether or not I am up to the task; what can I bring to you today that couldn't better be done by my colleagues actively involved in the hands-on conduct of space research? Perhaps a different perspective, for though trained as a scientist I have made a career of science management and administration, the rewards of which flow from helping create the opportunities for "practicing" scientists to be innovative and productive. That career has seen a progression of incarnations ranging from student to technical contractor to NASA to NASA Associate Administrator for Space Science to Goddard Center Director. In that time I've been exposed to a spectrum of scientific, budgeting, political, and social issues associated with space science and which span its history as measured from the launch of Sputnik in 1957.

I also had the good fortune to spend (1979–1982) a rather pleasant and informative interlude as Director of the National Air and Space Museum, an unparalleled op-

portunity to assess and contribute to public knowledge of and interest in space science and exploration. A side-benefit, or possibly a side-effect, was the acquisition of think-time, in which to dwell on what had transpired over the past 20 years and to sort out what in my career to do next. The end result was a re-commitment to space exploration. I just could not think of anything more rewarding, exciting or worthwhile. Let this pre-amble be fair warning that you are listening to a devotee, albeit one tempered with a conviction that it is our obligation to assure quality science and to share the excitement and fruits of our ventures with those who pay for it—the U.S. public through you, its representatives.

I will give you my thoughts on the essential character of space science, examples of its contributions to knowledge and national well-being, its role vis-a-vis technology, and international cooperation and competitiveness. Along the way, I'll also given my assessment of future trends and needs. This could be dismissed as interesting, but just another look into a cloudy crystal ball. Possibly, but I believe that the future is largely under our control rather than subject to whims of "random events" or the wiles of nature: many things will happen because the initial steps are already in motion or because someone wants them too; let us therefore plan determinedly for our future.

Best to begin with a definition of Space Science: as stated by Homer Newell in his excellent book "Beyond the Atmosphere", space science consists of . . . "those scientific investigations made possible or significantly aided by rockets, satellites and space probes." Thus it is that existing scientific disciplines and more narrowly focused subdisciplines in astronomy, physics, and earth and planetary science gained opportunity to expand by dint of new technology enabling escape from the earth-bound laboratory.

For astronomy the vantage point of space opened up new regions of the spectrum quite simply by astronomers ridding themselves of the obscuring effect of earth's atmosphere. Completely new discoveries involving basic physics and hard-to-believe phenomena commenced immediately and continue to this day to come forth as we peer into new parts of the spectrum with detectors of increasing sensitivity and resolution. There appears to be no end in sight for the potential of yet further discoveries, ones helping elucidate answers to such basic questions as how did the universe and its features begin and how did it evolve, what are quasars and black holes, do black holes really exist?

For what use, you say? "Knowledge for sake of knowledge" might be a typical response but I personally find that to be a flip answer, repugnant, and providing fuel for those who accuse scientists of elitism. Rather, there is incredible excitement and elation involved in learning about the power, complexities and wonders of nature on such a cosmic scale; this is mimicked no less on the other end of the size scale by today's discoveries in the biological sciences. Obviously there is emotion involved in this; excellent! D. H. Lawrence in his 1931 "Apocalypse" rightly complained "Men are far more fools today, for stripping themselves of their emotional and imaginative reactions, feeling nothing." While Lawrence bemoans the loss of the sun as the mythological entity of old civilizations . . . . "All we see is a scientific little luminary, dwindled to a ball of blazing gas", had he today's knowledge and scientific understanding I think he could have found a new awe and mystery far more satisfying than the make-believe of old. It is our imperative to bring the excitement and emotion of discoveries about nature to the masses who by necessity participate second-hand. My museum experience convinces me that it is possible to do so, that the public wants to understand and will support our research if we but successfully convey to them the results and their inherent excitement.

For space physics, space platforms have provided not only new places from which to peer but they allow immersion and measurement in the new medium of magnetic and electrical fields, particles, solar wind, cosmic rays and the like. The picture we now have of earth's envelope in the solar system is one for which there was only a hint pre-1957. Basic discoveries abounded in the 1960's; in the 70's and 80's the challenge has changed from one of discovering "what's there?" to a greater one of deciphering and understanding details of how the physical processes work. A mature science, some would call it, sometimes with a hint of derision. If realizing that a topic is complex, that interactions among components are strong, and that the easy discoveries are over defines maturity, so be it. But to some of us near the age of 50, maturity means wisdom, careful selection and prioritization of tasks, calling upon experience to select a fruitful experiment, and recognition of the broader implications and significance of what we do.

The results of space physics studies are, like those of astronomy largely of pure scientific interest. However, because our earth is embedded in the magnetosphere, phenomena occuring there have direct bearing on closer-in events such as aurora, disturbances in the ionosphere which disrupt radio communications, radiation damage to satellites, and quite possibly on long-term weather and climate trends. To obtain a better understanding of the environment in which we live is an added inducement for the study of space physics. So is the fact that basic processes occur there which cannot be duplicated in the laboratory but which are of great interest for such things as fusion energy research—in this sense we can use the space environment as an in-situ laboratory.

The study of space physics also occurs in our planetary exploration program. The detailed knowledge built up by studying the earth's physical environment has allowed us to greatly increase our understanding of similar phenomenon at Jupiter and Saturn where the data has been limited mostly to that obtained by a few transits by the Voyager and Pioneer spacecraft. In a grander extrapolation, we are beginning to see in astronomical data that some of the phenomenon observed near earth may be occurring on a galactic scale.

Earth science—geology, planetology, call it what you will. If space physics is mature, earth science by the same measures would be senile, being over 200 years old by any accounting. We know the earth to be exceedingly complex and in contrast to the space physics environment, most of the solid earth is hidden from direct view. Yet the last twenty years have seen a revolution in our understanding of the earth, how it may have formed and evolved, how its engine is fueled and moves major chunks of crust about willy-nilly. Rebirth? Rejuvenation? Yes. Made possible by several factors: the tedious buildup of immense detail over the years by many plodders (and far fewer big thinkers), detail waiting for the integrating framework of: plate tectonics; new technology allowing us to "see" the ⅔ of the earth's surface hidden under the oceans and to peer into the interior via geophysical probing; meteorite studies; and remote and in-situ investigations of the other planets of the solar system.

The latter is a unique contribution from the space science program. Just as physical laws seem to be the same everywhere in the universe, so do fundamental geological and geophysical processes. But what we see in the earth and planets is a summation of billions of years of evolution and of a multitude of processes working at different rates on different starting materials. The ability to decipher the history of any one of the resulting complex bodies in isolation is not as good as one might wish. Our overall understanding can be enhanced however, if one has a spectrum of planets to study, each of which has evolved in a different manner. You can think of this as analagous in some sense to mathematics which requires multiple equations to solve for multiple unknowns. This approach has some times been termed comparative planetology and brings renewed focus to thinking of our earth in a planetological sense. It is not only the study of the origin and evolution of the earth that benefits from the use of space techniques; over two decades of evolution of earth-orbiting weather, atmospheric and oceanic research satellites has led to a dependence on them for making progress in eventually, obtaining a global-scale comprehension of earth systems.

Just as one learns about the general properties of terrestrial evolution from planetary studies, so too do atmospheric scientists gain greater insight into earth's atmospheric circulation and chemistry from planetary data. One does not, however, study the planets primarily to understand the earth. It is to arrive at a comprehension of the basic origin and evolution of planets per se; planetary studies are complementary to meteorite studies and to space-and ground-based astronomical investigations which are just beginning to tell us how stellar origins involve the formation of planets. For example, NASA's Infrared Astronomy Satellite has detected what is probably a disc of dust or rocky material surrounding a young star and which appears to be a progenitor of planetary formation.

The convergence of the astronomical and geological lines of evidence regarding planetary or solar system formation is a bonus of our times, brought to us solely because of our new capabilities in space. Equally astonishing is the sheer beauty of the discoveries from our planetary exploration—the scientific beauty of the likes of the volcanism of Io, the canyons of Mars, the Red Spot on Jupiter, the rings of Saturn. Likewise, their aesthetics. Human artistry pales when compared to what nature produces—so much so that we often seem linguistically incapable of expressing adequately the impact on our senses and emotions, reducing ourselves to primitive, feeble utterances of "wow, gee-whiz."

Where are we headed in the space sciences? Is anything new really happening or is it just more of the same thing? Not at all. In astronomy, we see that the traditional approach of labelling and behaving as "wavelength bin" astronomers (e.g., IR astronomers, X-ray astronomers) makes less and less sense. The attack on fundamental problems more and more requires observing the same event or object in a multitude of wavelengths. Our goal, then, is to create a

set of long-life space observatories (physics dictates multiple detectors and telescopes) complemented by ground-based facilities, which will enable an astronomer to pick a problem, easily access any of the telescopes and make the coordinated observations. We would like those to be made from the home university or laboratory location, where the scientist interacts with the students and where the environment is most conducive to scientific productivity. The Hubble Space Telescope, to be launched in 1986, is the first of the long-life observatories, with gamma-ray, X-ray and Infrared observatories to follow. We are making progress on distributed or remote access to space observatories, the International Ultraviolet Explorer and the Upper Atmospheric Research Satellite leading the way. The remote access advances are enabled by the technology of modern communications and computers; the advent of the Space Shuttle and the Space Station make or will make possible the long-term maintenance, repair and experiment up-grade of our space observatories. The conduct of space science is rapidly evolving in style towards that traditional for other sciences.

In space physics, we clearly see that one part of the environment interacts or is closely coupled with other parts. The opportunities for major advancement in understanding thus arises in the possibility of making multiple, simultaneous space measurements in the various regions: the solar wind, the auroral zones, the electrical arcs, the radiation belts and magnetic tail. The types of measurements needed are well known, guided by the previous experiments and by a firmer theory and computational modeling than existed in the past. Theory and computational modeling are deeply rooted in work going on in understanding basic plasma (fully ionized gas) physics for purposes additional to the direct needs of space science (e.g., fusion research).

The earth sciences present a special challenge which we are beginning to comprehend: that is, interconnections, feedbacks, cause and effect dominate the behavior of the atmosphere and oceans. For very practical reasons we are trying to understand the global dynamics of earth's environment sufficiently well that we can construct predictive models of its behavior. To do so requires global-scale multiple and sumultaneous observations of the atmosphere, hydrosphere, ice caps, biota, and land masses. Space techniques using polar orbiting satellites and space station polar platforms are the sine qua nons to accomplish our objectives.

It is evident by now that technology has been and will always be key to new discoveries in space or anywhere else. Space science has not just benefitted from technological developments but has been a puller of technology. The scientist has a need and looks to the engineer to provide him with the means. The resulting new basic discoveries then become part of our store of basic knowledge from which future technologies and applications will evolve—the two are connected and the eventual health of our U.S. technology, which inarguably is necessary to a healthy U.S. economic competitiveness, demands a healthy scientific underpinning. Where does space science fit into the overall scheme of U.S. science?

Space science is a forefront science. By that I mean it involves the making of fundamental new discoveries or significant advances in understanding non-trivial physical processes. Obviously judgments are involved here and differences of opinion abound about what is significant and what is trivial. One measure among many however, impresses me: where do the young bright students go? Science students are pretty smart—they'll go where the intellectual action is (given reasonable financial return.)

Space science and exploration has historically attracted excellent students and researchers. It excites youth at an early age and is a stimulant to the career choices into science and engineering. It continues to do so but there are strom warnings: the U.S. historically has been a world leader. The rest of the world has progressed rapidly and collectively may pass the U.S.

Should we care? After all, science is universal, and international cooperation is traditional and has paid dividends in terms of more science results than if we were to go it alone. And science results from other free-world nations are available to us.

Mr. Chairman and Members of the Subcommittee: I do care and am worried. I favor international cooperation and healthy open national endeavors from other countries. In structuring future cooperations, however, and in prioritizing our own programs we need to look carefully at how to maintain a strong element of U.S. space science leadership. We need to assess the pace of our programs and to think more about how scientific leadership relates to technological leadership and eventual economic competitiveness. Competition is inherently healthy and stimulating and, because we cannot do everything, we must assess our national strengths and weaknesses and put our resources behind the winners. I believe that U.S. space science has served the country well both intellectually and in bringing about practical applications. Prospects are excellent for continuing to do so. It is gratifying to work with you towards that goal.

INTRODUCTION OF UNITARY TAX LEGISLATION (H.R. 3980) ON BEHALF OF THE ADMINISTRATION

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DUNCAN. Mr. Speaker, I am introducing today, at the request of the administration, legislation designed to deal with a long-standing issue: the unitary tax.

As of now, I have not had a chance to complete an examination of this bill; therefore, I am in no position to comment specifically with respect to its merits. After I have reviewed it carefully, it may well be that I will be able to endorse the legislation. The reverse, also, might be true. My purpose in introducing the bill today is to get it before the House prior to the close of this session of the Congress. Members will be able to judge it, as I will, after a close look at its provisions.

Generally, the legislation introduced today would: First, prohibit States from imposing a corporate income tax on a worldwide unitary basis; second, limit the ability of States to tax dividends received by U.S. companies from foreign corporations; and third, provide States with Federal assistance in gathering information necessary to administer their tax laws relating to multinational businesses. The legislation has been prepared in cooperation with the Treasury Department and at the express direction of the President.

Over the past 2 years, the administration has worked closely with States and affected businesses in an attempt to arrive at a voluntary resolution of the unitary tax problem. The Treasury Department organized a worldwide unitary taxation working group which, in 1984, agreed on principles for the voluntary resolution of the unitary issue at the State level. A number of States responded by ceasing to use the worldwide unitary method. Other States have not yet acted.

The absence of voluntary compliance by all States with the working group principles, plus increasing international difficulties caused by continued adherence by a few States to the worldwide unitary method, have combined to cause this Federal legislation.

While leading foreign commerce issues raised by State worldwide unitary taxation would be resolved if States were to agree that they would not impose such a tax on foreign controlled entities, that kind of limited resolution would cause other serious problems. If a "foreign only" solution were adopted, domestically controlled businesses could be disadvantaged. For this main reason: the foreign income of foreign controlled multinationals would not be subject to tax by the States, whereas the foreign income of domestically controlled multinationals would continue to be subject to tax at the State level, either on a worldwide unitary combination basis or when repatriated in the form of dividends. The working group recognized expressly the need for competitive balance for domestic multinationals, foreign multinationals and purely domestic businesses in any resolution of the unitary issue. That principle requires that legislation restricting State worldwide unitary taxation also must address the question of equitable State taxation of foreign source dividends.

This legislation does not require that any specific method of dividend taxation be imposed by the States. Arguments of State fiscal sovereignty strongly indicate that States should have leeway to tailor their own systems of taxing to the extent that they do not cause serious foreign commerce difficulties and do not result in systematic overtaxation and double taxation of U.S. business in contravention of strong Federal policy. The legislation, therefore, provides in broad terms for the equitable taxation of dividends and suggests certain guidelines that States could follow in satisfying that standard. Many States, including a number of former worldwide unitary States, already comply with these guidelines.

I hope the legislation will be scheduled for prompt consideration in the second session of the 99th Congress.

NORTON, MA, LANCERS SCORE BIG WIN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FRANK. Mr. Speaker, December 7 was a day to remember for the residents of Norton, MA. The Norton High School Lancers rose to the occasion to win the Eastern Massachusetts State Division 5 Superbowl championship when they defeated the Dorchester High School football team by a score of 25–20.

Head coach Larry Larocque, a member of Norton's first football team, is to be congratulated for putting together an excellent squad that distinguished itself by its tenacity, sportsmanship, and mental toughness. This victory clearly affirms the faith that the Town of Norton has had in its football program.

The following article from the Taunton Daily Gazette tells the story well:

[From the Taunton Daily Gazette, Dec. 9, 1985]

THE LANCERS PREVAIL IN DIVISION 5

LANCERS ENJOY A 'SUPER' SATURDAY—NORTON BATTLES BACK IN 4TH PERIOD TO RALLY PAST THE BEARS, 25–20

(By Ron Lancaster)

BOSTON.—At approximately 12:15 on Saturday afternoon, the years of frustration suffered on the football field by the Lancers of Norton High School were vindicated.

Head coach Larry Larocque's Purple and White, enjoying only their second winning season in their 20-year history, became champions by defeating Dorchester High, 25–20, in the EMASS state Division 5 Super Bowl match-up staged here at Boston University's Nickerson Field.

"Our kids played just super today," an elated Larocque stated after the game. "What really surprised me was how our guys kept their composure throughout the game. They never got down and never gave up on themselves. This is definitely a 'team' win in the true sense of the word."

A contest, pre-game, built up to be a match-up that would feature two of the toughest teams to score on in the division, both teams displaying their hard-hitting style throughout the morning. Add that to the subfreezing temperature at game time and you had the setting for a ball game that would be hampered by turnovers.

In all, the Lancers coughed up the ball a total of three times, all via fumbles while the Bears relinquished control of the pigskin to their foe seven times. Four of those came on fumbles and three by way of interceptions.

"There were a lot of bodies hitting each other pretty hard out there today," noted Larocque. "That, along with the conditions, contributed to the high number of turnovers both teams made."

Linebacker David Shaw and defensive ends Rich Defreitas led in the takeaway department for the Lancers with the former picking off two passes, running one back for a touchdown while the latter recovered two fumbles.

A light covering of snow coupled with a gametime temperature of 30 degrees made the field more like the ice surface at Walter Brown Arena. This gave the Lancers a slight advantage as they relied on the balance and straight-ahead running of Jim Sicard.

The senior managed to lead all rushers in the half with 36 yards, before an injury forced him to sit out the rest of the game. The Bears meanwhile, who relied on speed and quick cuts, found the field not to their liking and managed a total of only 13 yards in the half.

After shutting down Dorchester on the game's opening series, Norton put together a respectable drive moving the ball all the way down to the Bear 27. However, on a third down play, defensive end Nate Johnson stormed in and dropped quarterback Scott Shambre for a eight yard loss, forcing the locals to surrender the ball.

Late in the opening quarter, Dorchester's Reggie Usher recovered a fumble on the Lancer 26 to give the Bears its first great field position of the day. The Boston District champions ventured as far as the eight yard line, but on fourth down, quarterback Jerome Davis' pass fell incomplete to kill the drive.

The Red and White defense then managed to keep the Lancers deep in their own territory and after forcing the Mayflower League champs to punt, regained possession of the football on the Norton 40.

The Bears went to the halfback option with success as Tony Norman fired a 29-yard strike to Johnson which put them back in scoring distance at the 11. A bad snap dropped them back to the 15, but a Davis-to-Ivan Caesar pass put the ball on the two yard line where they faced a fourth down situation.

Dorchester decided to hand the ball to the usually-reliable Norman, but the Lancers read the play perfectly and led by Bill Burgess, dropped the senior back for a yard loss and once again prevented them from scoring.

Norton turned the game's first big break into a score with some three-and-a-half minutes to play in the first half.

Davis went back to pass and after getting some pressure from the Lancer line, underthrew the ball right into the arms of Shaw. The Lancer linebacker moved left and sped down the sideline and into the endzone untouched for the game's first score. Steve Peck added the extra point and that would prove to be all of the scoring that would be done in the first half.

The second half saw the temperature rise a bit, allowing the field to thaw out. It also saw a rejuvenated Bear team take the field and dominate the entire third period, scoring 14 points to vault into the lead.

It started on the opening series, with the Red and White traveling 60 yards in just three plays for their first points of the game. After two runs netted a total of six yards, Davis rolled left on a keeper and rambled down the field all the way to the endzone to make it 7–6. The Bears tried for a two-point conversion, but Davis' pass was knocked down by defensive back Steve Nuttall to keep the Lancers out in front.

The Lancers gave the ball right back to their foe as Johnson recovered a fumble at the Lancer 22. Once again, the Bears would nearly travel the distance. They got as close as the four yard line, but on a crucial fourth down situation, the Norton defense came up with the big play to keep them out of the endzone. This time, on an attempted reverse to Derek Wright, Shaw came up and hammered him for a two-yard loss.

However, another fumble recovery by Jason Randall later in the period, put the Red and White back into scoring position at Norton's 27. This time the Bears would not be denied. It took four plays and a little bit of luck, but they were able to reach the endzone and take the lead.

The drive's first play saw Norman gain five yards and also saw Norton's Sicard leave the game on a stretcher (it was reported after the game that he suffered a hip pointer, with a possible bruised kidney).

Then, from the six, Norman ran left fumbled, but Caesar pounded on the ball in the endzone for the touchdown. Davis rushed in the two point conversion to put Dorchester out on top 14–7 and it stayed that way through period three.

The next 11 minutes would be a living nightmare for the Bears and their faithful. It seemed that the Boston District champ wanted to give their Mayflower League counterpart every opportunity to stage a comeback.

It started on the period's opening play, when Caesar, after catching a pass, coughed up the ball and Defreitas fell on the pigskin at the Bear 48. Norton could not move the ball and was forced to punt, but got the ball back when Davis pitched the ball to no one and Dave Rich came up with the recovery.

Still the Purple and Gold could not move the ball and was forced to punt it away again. This time however, the Lancers got down the field and forced the punt returner to fumble, with Chris Gaddy recovering on the Bears' 12 yard line.

Two plays later, Shambre borrowed a play from the Steve Grogan bag of tricks, by faking a handoff, bootlegging left and rambling eight years for the touchdown. But, a bad snap from center made the usually automatic Peck miss and kept the Bears on top, 14–13.

Now it was time for the Lancer defense to rise to the occasion and they did so getting the ball back into the offense's hands. Led by two fine plays by Rich and John Finch, Dorchester's three plays netted a loss of three yards and forced the Bears to punt. That exchange left the Lancers the ball on their own 38.

A five yard penalty was negated by a seven yard run by Shaw, putting the ball at the 40. Then came surprise play No. 2 from Shambre.

The senior signal-caller took off on a quarterback draw and after breaking several would-be tackles, found his way into the clear before turning on the afterburners. he streaked 60 yards for the score to stake Norton to a 19–14 advantage with just over four minutes left to play.

TRAGEDY IN NEWFOUNDLAND

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FORD of Tennessee. Mr. Speaker, the 248 men and women of the 101st Airborne Division who were lost tragically in Gander, Newfoundland, had just finished 6 months of peacekeeping as part of the Multinational Force in the Sinai Desert. They contributed greatly toward maintaining the peace, a thankless job in a faraway land. The 101st represented their country admirably.

Words cannot express the deep grief I feel about this loss of life, particularly

during the holiday season. These men and women were on their way home to spend a special time with loved ones. They never had a chance to defend themselves, their fate sealed when they stepped on that charter plane. I only hope the families can take some solace in the fact that all Americans grieve with them. Their sadness is shared by all of us.

Out of this tragedy, we should start thinking about how to prevent similar disasters in the future. There is no reason for our service people to be traveling on inferior aircrafts. While it may be cheaper to move military personnel on charter flights, we have learned too late that it is safety, and not price, that must remain the bottom line when the Pentagon plans future troop movements.

ANOTHER TEST OF TRUTH FOR THE ARMY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LEVINE of California. Mr. Speaker, for the last 3 years, I have attempted to get the Pentagon to conduct realistic live-fire tests on the Bradley fighting vehicle. I have been concerned about whether the Bradley could, under actual battlefield conditions, perform the tasks which the Army has used to justify the program.

The Bradley results are in, although the jury is still out as to whether the tests were accurate and meaningful.

In an editorial entitled "Another Test of Truth for the Army," the New York Times provides an exceptionally insightful summary of the situation.

I commend this editorial to the attention of my colleagues and ask that it be printed in the RECORD.

ANOTHER TEST OF TRUTH FOR THE ARMY

Another major weapons program seems to be in serious technical trouble. It's the Army's $13 billion program to buy an armored troop carrier known as the Bradley Fighting Vehicle. With almost 2,000 Bradleys already produced, the Army has discovered they are extremely flammable when hit by a standard Soviet antitank round.

An armored truck is a good way to transport infantry to a battle zone. But the Army wanted much more than a battle taxi. It intended the Bradley to go right into battle, fighting and shooting alongside its new M-1 tank. So it put on a roof, and a gun turret on the roof, and a missile launcher to back up the gun. Combined effect: A rolling fortress that costs $1.6 million and is so crammed with ammunition and equipment it holds only seven riflemen.

Even before the Bradley went into production, critics worried that it would be a mobile powder keg. They noted that its fuel tanks and ammunition are located in and around the tightly packed occupants. Also, its armor is made of aluminum, which, when hit, creates explosive vapor and hazardous fragments inside.

The Army ignored these warnings. It refused even to conduct a realistic test of the Bradley by firing live Soviet ammunition at a combat-laden vehicle. When required to do so last year by an Air Force colonel in the Pentagon's testing program, it rigged the test to avoid discovering how flammable the Bradley is. The colonel said shots were changed from agreed positions to "the only-possible entry point where the shaped charge would not penetrate stowed ammunition containers" and the test dummies and their sleeping bags "were watered down with a hose to prevent any fires." The colonel was notified he would be posted to Alaska.

Sickened by the Army's behavior, Representatives Mel Levine of California and Denny Smith of Oregon won an amendment requiring that the Bradley be tested realistically. Last week Lieut. Gen. Louis Wagner announced the Army's interpretation of the tests, but not the results.

He said the critics had been proved wrong but that half a billion dollars' worth of safety improvements would be made. That sounds like the critics had a point. Some say the results are even more damning—so serious that the Army has decided to keep the Bradley off the battlefield.

"It would be a pretty dumb commander who would . . . have his Bradleys right behind his tanks." That's what Maj. Gen. John Foss, the Army's chief of infantry, now says. But the Bradley was sold to Congress on just that premise. "The Army feels rather strongly there is an urgent requirement for [Bradley] Fighting Vehicles to fight side by side with the XM-1 tank," Brig. Gen. Stan Sheridan told Congress in 1978.

If the Bradley is now to be just a battle taxi, it doesn't need to cost $1.6 million. An armored truck, costing $100,000, would do the job just as well—in fact much better. Closed vehicles intensify blast, fire and injury when hit by shaped charges or mines, and they can't be easily evacuated. The Bradley is half battle taxi, half light tank, a hybrid inadequate in either role.

Like the inadequate Sergeant York gun, which Secretary Weinberger canceled in August, the Bradley should never have gotten so far into production. As with the Sergeant York, realistic tests, honestly conducted, would have stopped it cold. When will the Army learn? A habit of evading the truth guarantees disaster in battle.

A MOST TRAGIC LOSS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GAYDOS. Mr. Speaker, today in this Chamber we, the House, adopted a resolution expressing our sorrow at the tragic loss of those members of the 101st Air Assault Division who died while returning home from their duty stations in the Middle East.

This resolution expresses the sorrow not only of the Congress, but also that of the American people and their condolences to the families of those soldiers who were returning home from their tour of peacekeeping duty in the Sinai Peninsula where, as part of the multinational force and observers, under the constant threat of terrorist attacks, they labored to insure peace for the peoples of Israel and Egypt.

One of the young people who died in that tragic crash on December 12 after taking off from Gander International Airport in Newfoundland, Canada, was Sgt. Peter Schremp, whose family lives in my congressional district.

To Mrs. Schremp, David, Lisa, and the family and friends of Sgt. Peter Schremp, I extend my condolences, those of my colleagues, and, through this resolution passed by the Congress, those of the American people.

Normally, the death of a loved one is a private affair, a time when family and friends gather together to comfort and strengthen one another.

But, a tragedy of the magnitude which claimed the life of Sergeant Schremp and the more than 200 of his comrades in arms knows no such boundary. At such a time, all America grieves.

Yet no one has the words to ease your pain; no one has the means to fill the void that has suddenly occurred in your lives.

And, the anxiety you feel comes at a time when most of the world is preparing to observe the most joyous of seasons—Christmas—and the birth of Christ.

However, it is through His birth that Christians find the words, find the means, and find the faith that sustains them through any crisis, including the death of a loved one.

"I am the resurrection and the life," Christ said, "he who believes in me though he die, yet shall he live and whoever lives and believes in me shall never die."

Sergeant Schremp died serving his country; he lives again serving his God.

CONGRESSIONAL SALUTE TO RABBI DR. EUGENE MARKOVITZ IN COMMEMORATION OF THE 50TH ANNIVERSARY OF OUTSTANDING SERVICE TO THE JEWISH COMMUNITY OF CLIFTON, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. ROE. Mr. Speaker, on Saturday, January 11, 1986, residents of the city of Clifton, my congressional district and State of New Jersey will join with the Jewish community and congregation of the Clifton Jewish Center in testimony to the most distinguished Rabbi Dr. Eugene Markovitz in commemoration of the 35th anniversary of his outstanding service as the spiritual leader of this most prestigious synagogue center. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitation to Dr. Markovitz, his good wife Klara, daughters: Rachel Lea and husband Sandford Lurie; Geraldine and husband Cantor Morris Wolk; Heidi Markovitz and husband Steven Stern; and Susan Barbara and husband Brett Walver; son Raphael Sam; and grandchildren: Michael Stefan Wolk; Stephanie Marie and Morgan Stern;

Calanit and Margaret Sarah Walver on this most joyous occasion and join with his family in great pride of his lifetime of achievement in devotion and dedication to the Jewish community and to all of our people.

Mr. Speaker, Dr. Eugene Markovitz has served with distinction in promulgating, enhancing, and preserving the richness of the Hebrew religious and cultural heritage redounding to the spiritual and moral integrity of those of his religious belief as well as materially contributing to the ecumenical spirit of brotherhood, the truth of knowledge, and cultural enrichment of all of our people.

Rabbi Markovitz was ordained at Rabbi Isaac Elcanan Theological Seminary in 1946. He received his B.A. degree from Yeshiva University, his M.A. degree from the University of New Hampshire, and his doctorate from the Bernard Revel Graduate School of Yeshiva University. He also received a postmaster's degree in gerontological practice from Wurzweiler School of Social Work. His advanced degrees in education were acquired in history and political science with American and American-Jewish history as specialties.

As an author and educator, he has earned the highest respect and esteem of all of us. Rabbi Markovitz has served as instructor in American history at Fairleigh Dickinson University and is adjunct professor in history at Seton Hall University. The thesis he advanced as a candidate for his academic degree is entitled, "Henry Pereira Mendes, Architect of Modern Orthodox Judaism in America." Among his many scholarly papers which have been published in national periodicals, we are especially proud of his publications entitled, "The American-Jewish Historical Quarterly," "Jewish Life," and the "Jewish Experience in America" edited by Abraham J. Karp, five volumes.

A gifted speaker, he has lectured before a variety of synagogue centers as well as non-Jewish groups in the field of American-Jewish history as well as current Jewish problems. He has read scholarly papers before the American Jewish Historical Society of Rhode Island, the American Jewish Historical Society and many other prominent institutions of learning and higher education.

Mr. Speaker, there is so much that can be said about Rabbi Markovitz as an ordained spiritual leader and his outstanding record of service to his congregational families, to the entire Jewish people, to Israel, and to the larger community. He served as rabbi at Temple Israel, Dover, NH, for 3 years and has been with the Clifton Jewish Center since September 1949. As a member of Rabbinical Council of America, he has served on many of its committees including: the Israel Commission, Family Life Commission as well as college youth. As a member of the Rabbinic Alumni of Yeshiva University, he has served as vice president and currently as treasurer. He served as chairman of Special Conference on College Youth and is a member of New York Board of Rabbis.

During the three decades-plus that Rabbi Dr. Eugene Markovitz has been with the Clifton Jewish Center he has guided its growth increasing its stature as a fledgling congregation to a strong, unified and prestigious congregation. Two building campaigns during his tenure saw the center's development from a modest edifice at its present site to an imposing beautiful building housing every conceivable Jewish and communal activity.

Dr. Markovitz has been a staunch supporter and active participant in many civic and community programs and we applaud his leadership endeavors in the vanguard of service to people's needs. He is senior chaplain of the police and fire departments in Clifton. He served as a member of the juvenile conference committee and is a founding member and former president of the Family Mental Health Clinic, Clifton. He is a member, human relations commission, the social studies commission for planning sex education for the school system in Clifton, the board of directors of the Senior Citizens Housing Corp., of Clifton, served as vice chairman of the bicentennial commission for the city of Clifton and is a member of the Historical Commission of Clifton.

Mr. Speaker, with the deepest respect and admiration for the honoree, it is a pleasure to call to the attention of you and our colleagues this gala celebration that is taking place in my congressional district in testimony to the good works of Dr. Markovitz whose richness of wisdom and quality leadership have immeasurably contributed to the spiritual, cultural and educational endeavors of our community, State, and Nation. In commemoration of his 35th anniversary as a distinguished spiritual adviser with the Clifton Jewish Center, we do indeed salute a good friend, outstanding community leader, distinguished rabbi and great American—Rabbi Dr. Eugene Markovitz of Clifton, NJ.

REDUCING THE FEDERAL DEFICIT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. MANTON. Mr. Speaker, when President Reagan took office in 1981, the annual Federal deficit was $78 billion. The deficit for fiscal year 1985 which just ended was a whopping $211.9 billion, up from $185 billion last year. The total Federal debt of almost $2 trillion has more than doubled from $914 billion in 1981. The 1985 Federal deficit is larger than the entire Federal budget was just 14 years ago. this uncontrolled growth in the Federal deficit is a serious threat to the continued economic health of this nation.

On December 11, after months of negotiations, Congress approved legislation that is designed to bring our serious deficit crisis under control. The balanced budget measure signed into law by the President establishes maximum allowable deficits declining by $36 billion each year to reach zero by 1991. If the President and the Congress fail to enact a budget that meets the annual deficit targets, the bill requires automatic across the board spending cuts to reach the deficit goal.

I strongly opposed the original version of the Gramm-Rudman proposal passed by the Senate in October. Under that legislation, the President would have been given broad discretionary power to rework congressional spending priorities, dismantle vital domestic programs, and shield the Defense Department from its fair share of cuts.

The final compromise version of the balanced budget measure passed by Congress closely resembles the first Democratic alternative to Gramm-Rudman overwhelmingly approved by the House in a number of important areas.

First, like the Democratic alternative, the compromise bill requires that one-half of any automatic cuts come from defense programs. Second, the measure exempts the following important domestic programs future automatic cuts: Social Security cost-of-living adjustments; Medicaid; Aid to Families with Dependent Children; Child Nutrition; Food Stamps; Supplemental Security Income; Veterans' Pensions; Veterans' Compensation; and the special supplemental food program for women, infants, and children. Finally, the agreement requires that any automatic cuts must be uniform and across the board. The measure specifically states that it is not intended to give the President any authority to alter budget priorities established by Congress.

Mr. Speaker, I voted for the final compromise version of the balanced budget measure because I believe we must take immediate action to reduce the Federal deficit.

These huge deficits have forced massive borrowing by the Federal Government. As a result, real interest rates have remained far too high, restricting the ability of businesses to expand, modernize, and create jobs. These high interest rates have also contributed to a dramatic decline in homeownership. In addition, high real interest rates have resulted in an extraordinary increase in the value of the U.S. dollar on foreign exchange markets. The overvalued dollar is the primary cause of last year's recordbreaking $123 billion trade deficit which cost approximately 2.5 million Americans their jobs.

Furthermore, interest payments on the Federal debt have risen dramatically over the past several years due to growing deficits. In fiscal year 1986, interest payments on the Federal debt will cost $142 billion, or 15 percent of the entire Federal budget. Barring action on the Federal deficit, interest payments are expected to rise 77 percent between 1985 and 1990, making it the fastest growing item in the Federal budget. These rising interest payments mean fewer Federal dollars are available to fund important domestic programs.

Mr. Speaker, the growing Federal deficit is one of the most serious economic issues

facing the Nation. Failing to address the deficit crisis could result in an economic catastrophe that would cost millions of American jobs and impact each and every Federal program. I believe that the threat of automatic budget cuts will force President Reagan and the Congress to take action to reduce the Federal deficit.

One way to meet these reductions is to bring runaway defense spending under control. I believe in a strong national defense. But defense spending must be based on a sound and consistent policy aimed at assuring our military readiness while modernizing vital strategic forces. Nevertheless, despite the largest ever peacetime increase in defense spending, there are serious questions pertaining to our military readiness. Furthermore, the administration has failed to effectively prioritize our defense needs while allowing defense contractors to waste taxpayers' dollars. We cannot afford to throw billions of dollars at wasteful and needless weapons systems like the MX missile. Nor can we afford to pay contractors $7,000 for a coffee pot or $600 for a toilet seat.

However, another way for Congress to reach the deficit targets established by the balanced budget measure is to provide for revenue enhancement along with reductions in defense spending. In that regard, I support a tough minimum tax on profitable corporations and wealthy individuals that have escaped paying their fair share of taxes over the past several years.

Over the past several years, the Federal tax burden has dramatically shifted from the wealthy and corporations to the middle class. In the 1960's when the economy grew at record levels, corporate taxes accounted for 25 percent of Federal revenues. Last year corporate taxes financed just 8.8 percent of Government spending. As a percentage of GNP, corporate income taxes fell from 4.3 percent in 1960 to 1.6 percent in 1984.

Between 1981 and 1984, almost half of the Nation's 275 most profitable companies paid no taxes at all or actually received cash rebates from the Treasury for at least 1 year. In fact, 50 major U.S. corporations not only paid no income taxes from 1981 to 1984, but actually received $2.4 billion in tax refunds even though they made $57 billion in profits during that period. In order to reduce the Federal deficit, these profitable corporations must be required to pay their fair share of taxes. If the Congress will close tax loopholes for wealthy corporations and individuals, and bring defense spending to a more realistic level, the Federal Government will not be forced to cut important domestic programs.

Mr. Speaker, I will continue to work closely with my colleagues to develop a realistic and compassionate Federal budget that brings the deficit under control without imposing unfair cuts on important safety net programs. The Nation's elderly and less fortunate are not responsible for our existing deficit crisis, and they should not be forced to bear the brunt of further budget cuts.

The President and the Congress have an opportunity and a duty to make meaningful reductions in the Federal deficit without resorting to automatic budget cuts. We must take advantage of this opportunity.

THE AMERICAN INSTITUTE FOR FREE LABOR SPEAKS THE TRUTH ABOUT THE SANDINISTAS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. BROOMFIELD. Mr. Speaker, I commend Mr. William C. Doherty of the American Institute for Free Labor Development [AIFLD] for his frank comments on what the Sandinistas are doing to freedom in Nicaragua. I salute Mr. Doherty for his deep commitment to the development and promotion of free labor in Central America.

In a recent Washington Times article, Mr. Doherty noted that the Sandinista regime has co-opted the revolution and has completely oppressed the people of that poor country. The original goals and democratic orientation of the Sandinista revolution are gone. The Communists in that revolution pushed out the real democrats after the Sandinistas came to power. Those true democrats who backed the Sandinista revolution are now with the Contras and other democratic groups actively opposing the Sandinista government. It is clear that the early revolution was betrayed.

What do the Sandinistas think about a free labor movement? After coming to power, they expelled all AIFLD personnel from that country. The Communist junta then proceeded to take over the entire labor movement. They ordered all workers to become members of a government-sponsored union. Those who refused to join that government union have reportedly been harassed, and others imprisoned.

All of us know of the fine work of AIFLD. It was founded in 1962 with the goal of training and developing Central American labor union leaders. Also included in AIFLD's efforts are the development of labor-related programs and community improvement efforts. That organization supports the concept of letting workers organize freely. AIFLD supports the international free trade union movement, and has promoted its growth. Much progress has been made in Central American countries. In El Salvador, progress in free trade union development has been particularly noteworthy. Unlike the Sandinistas, the Duarte government in El Salvador has welcomed free union development in that country.

I believe that the evidence is abundant. The Sandinistas in every respect are consolidating their Communist revolution in nearby Central America. By any standard, Nicaragua is becoming another Cuba. It is ready, willing, and able to deprive its people of human rights as it undermines neighboring governments and U.S. interests in the region.

With these concerns in mind, I commend the following Washington Times article to my colleagues in the House:

[From the Washington Times, Dec. 16, 1985]

AFL-CIO LEADER HITS SANDINISTA ABUSES

(By Tom Diaz)

Nicaragua's Marxist Sandinista regime is worse than the dictatorship it replaced, says the head of the AFL-CIO's operating arm in Central America.

"The Sandinista dictatorship is even worse than the [Anastasio] Somoza dictatorship," William C. Doherty, executive director of the American Institute for Free Labor Development [AIFLD], said in an interview.

"Slowly but surely . . . day by day the Sandinistas are closing down what few freedoms remain," he said.

Mr. Doherty, who has been active in labor union organizing in Central America for more than 30 years, said he gives the Sandinista regime a grade of "F," compared to a "high C or B" for the Christian Democrat government of Jose Napoleon Duarte in El Salvador.

"Somoza was a bad guy . . . no question about that," Mr. Doherty said of the ruler who was toppled in 1979 by a broad-based revolution and later assassinated in Paraguay by a Sandinista death squad. "He was a selfish, gluttonous and evil person. He denied democracy to his people. There was good reason to have a Sandinista revolution."

But, he said, Marxist-Leninist elements in the Sandinista directorate that now rules the country co-opted the revolution and "completely oppressed the people."

"The majority of the people who were in that revolution were democrats, they believed in democracy," Mr. Doherty said.

Now, he said, "There are more Sandinistas, the true Sandinistas, fighting in the freedom forces than there are in the Sandinista militia. . . . Most of the people who fought in the mountains against Somoza are back in the mountains, fighting against the new Somoza."

The AIFLD, founded in 1962, trains central American labor union leader and works with them in developing labor-related programs, such as community development and credit projects.

The organization, and its officials, from time to time have been thrown out of Central American countries by both right- and left-wing governments offended by its activities.

The Sandinista government expelled AIFLD in 1980, even though the organization worked with labor unions oppressed by then-dictator Somoza.

"We're against fascism . . . and we're very much against communism or any other form of 'ism' that deprives workers of their rights to associate freely," Mr. Doherty said.

The AFL-CIO—which is the parent of the AIFLD—adopted a resolution at its biennial convention in October that asked the international free trade union movement to "condemn the Sandinista regime's violations of trade union rights" and compared Sandinista treatment of labor unions to "Fidel Castro's subjugation of Cuba's trade union movement."

The resolution also condemned "the Nicaraguan government's censorship of the media, its establishment of 'block commit-

tees' to enforce political conformity, its massive military buildup, its alignment with Soviet foreign policy, and other activities leading to the consolidation of totalitarian power."

Mr. Doherty said that "within 24 hours of coming into power" the Sandinista government "did what all communists do."

"They took over the whole labor movement and said, now all workers will by order of the government be a member of a government-sponsored union," he said. "Typical communism, in the same way there are no unions in the Soviet Union. They're appendages of the state . . . apparatus."

Mr. Doherty said in recent months the Sandinista government increased pressure on labor organizations and workers who refused to join the official state unions.

"There are hundreds of workers in jail today, the only accusation against them being that they have been disloyal because they're members of free trade unions," he said. "They have been tortured, they have been beaten, their human rights have been totally violated."

On the subject of El Salvador, Mr. Doherty said the country has "evolved into a legitimate, true democracy" led by a popular president, Mr. Duarte.

"The people have spoken and elected their leader," he said. "He continues to try to improve the economic and social conditions of his people and guarantee them liberty, while fighting a full scale civil war which is supported by Nicaragua, Cuba, and the Soviet Union."

He said the "right-wing death squads have been mostly eliminated" in El Salvador and "terrorism in 1985 is coming from the left . . . the communists."

"Labor leaders . . . have to travel with bodyguards and security protection [because of] . . . threats and almost daily signs that the communists would like to knock them off," Mr. Doherty said.

He said the communists are "making new attempts" to take over the Salvadoran trade movement" to "strike politically against the Duarte regime."

Although he generally praised the Duarte government, Mr. Doherty said the country still has a "totally corrupt" judicial system.

Two AIFLD workers—Michael Hammer and Mark Pearlman—were gunned down in a San Salvador coffee shop in January 1981. Mr. Doherty blamed judicial corruption for the country's failure to bring to justice military officers he said are responsible for the slayings.

"The judges are either intimidated by the oligarchy or bought off by them," he said. "That's why no Army officers have ever been convicted."

The labor leader said the United States should continue the Reagan administration's policy of giving aid to El Salvador conditioned on continued progress in human rights and representative government.

He said he opposed a military solution in Nicaragua and called for a world-wide economic and political boycott of Nicaragua.

"If the Sandinistas were revealed to be the pariah that they are . . . the government would fall and you wouldn't have to have any type of outside armed intervention," he said.

Mr. Doherty said the Sandinistas have an effective propaganda organization, and that "some well-intentioned but misguided religious groups in this country," along with a "very strict minority" in the labor movement have been used by the Sandinista regime to promote its cause.

The record of the government in Guatemala still is under study, he said. But the country has made enough progress in its recent election of Christian Democrat Vinicio Cerezo to merit U.S. aid if the president-elect actually is installed, he said.

WATCH ON SURINAME

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. COURTER. Mr. Speaker, Libya is an African country of modest size and only 3 million people, but its reigning dictator has used oil money surpluses and Soviet bloc support to build international networks of global proportions. Sponsorship of international terrorists and the provision of military training to citizens and armies of the Third World are Colonel Qadhafi's two specialties.

The colonel may now be reaching across the Atlantic into the small coastal country of Suriname, according to reports of recent months. The reigning dictator in former Dutch Guiana is a pro-Castro military officer like Qadhafi; his name is Lt. Col. Desi Bouterse. In spite of continuing and generous Dutch assistance—$100 million a year until 1990, according to Jack Anderson—Bouterse is apparently incapable of carrying on without other aid, and has recently been promised $100 million by Qadhafi.

According to Michael van Notten, a consultant to a Surinamese opposition party based in Holland, money is only part of a Libyan package for the Governor of Suriname. He states that there are 243 Libyans in the country, some of whom are training troops and others who may be training non-Surinamese guerrillas. The United States State Department is aware of 14 Surinamese training in Libya at present, though for unknown purposes.

While these charges are extremely important, none of them is very surprising. We all recall the varied internationalist mix of Eastern Europeans, Cubans, Soviets, North Koreans, and so forth, present in Grenada when that Caribbean country was ruled by Marxist-Leninists. Colonel Qadhafi has been involved with radical movements and guerrilla and terrorist organizations in Central America, and once praised the revolutionaries there "who are going to follow the Vietnamese and Nicaraguan precedents and destroy the bases of U.S. fascism." The President of Costa Rica has complained of both Libyan and PLO interference in his democratic country. Qadhafi's relations with the Sandinistas are particularly warm, and have been the subject of a State Department study of last August; they include weapons transfers to Nicaragua.

The recent reports about Suriname thus deserve to be taken with gravity. Allow me to introduce into today's RECORD two articles detailing some of them in order that my colleagues will notice this quiet geopolitical change. The first is by the columnist Jack Anderson, as carried by the Washington Post. The second was an exclusive report by Vicki Rivera of the Washington Times.

The articles follow:

[From the Washington Post, Dec. 2, 1985]

SURINAME BECOMING ANOTHER CUBA

(By Jack Anderson and Dale Van Atta)

Suriname is developing into another Cuba-style dictatorship in the Western Hemisphere. Marxist strongman Desi Bouterse, desperate for cash to keep his repressive regime afloat, has turned to two tainted sources of money: Libya's dictator and Colombia's drug dealers. But he's learning that there's no free lunch in foreign aid.

When the Netherlands granted its South American colony independence in 1975, the Dutch promised $100 million a year in aid until 1990. The stipend continued even after Bouterse's military coup in 1980 and his growing leftward tilt.

Bouterse cultivated and modeled himself after Maurice Bishop, then the Marxist prime minister of Grenada. At Bishop's suggestion, Bouterse succumbed to Fidel Castro's overtures and welcomed a Cuban ambassador to Paramaribo in September 1982.

Cuban aid soon followed, as did the quid pro quo, Dozens of Cubans arrived in Suriname to assist Bouterse in setting up a Marxist dictatorship—which would be under Castro's control. The Cubans trained Bouterse's bodyguards, and even acted in that capacity themselves. Surinamese officials were sent to Cuba for indoctrination.

Both the Dutch and U.S. governments (the United States was also sending Suriname some modest aid) grew increasingly uneasy at the blossoming Bouterse-Castro relationship. In December 1982, when Bouterse rounded up and executed 15 opposition leaders, Dutch and American aid was cut off.

Castro, himself dependent on Moscow gold to bolster the shaky Cuban economy and his foreign adventures, proved slow in providing the money he had promised Bouterse. So, according to our CIA sources, the Surinamese dictator accepted the offer of a loan from Colombian marijuana and cocaine traffickers.

Meanwhile, Brazil, which borders Suriname on the south, woke up to the danger of this Castro foothold and sent a military force across the border in April 1983. Literally under the gun, Bouterse agreed to decrease the Cuban presence in his country in return for a $300 million aid deal with Brazil.

Bouterse dragged his feet on the bargain, until Bishop was deposed and murdered by Cuban-backed Grenadan Marxists. Blaming Castro for the death of his friend and mentor, and fearing for his own neck after the U.S.-led invasion of Grenada, Bouterse sent his Cuban advisers packing. Though he had previously claimed that there were only 15 Cubans in Suriname, about 100 were kicked out (leaving only eight, according to our sources).

This left Bouterse with nothing but his own poverty-stricken populace and the Brazilians to support his dictatorship. He needed more money, and gratefully accepted a promise of $100 million from Libyan dictator Muammar Qaddafi.

What does Qaddafi expect for his money? Our sources say he hopes to expand his influence in South America. He also wants Surinamese passports for Libyan assassination squads, and hopes to supply them to his Palestinian terrorist sidekicks as well.

[From the Washington Times, Oct. 24, 1985]

LIBYA REPORTED DRILLING TERRORISTS IN SURINAME

(By Vicki Rivera)

In return for the promise of $100 million in badly needed aid, Suriname strongman Desi Bouterse is permitting Libya to train terrorists in his country to use against other Caribbean nations, according to a Dutch political analyst.

With the cutoff of Dutch aid after the 1982 execution of 15 prominent opposition leaders and the falloff in revenues from bauxite, the main export commodity of Suriname, Bouterse's regime is desperate for cash, said Michael van Notten, a consultant to the Council for the Liberation of Suriname, based in the Netherlands.

Mr. van Notten was to accompany a delegation of Surinamese resistance leaders in exile on a visit to Washington, but the members of the delegation were apparently intimidated after seeing some of Mr. Bouterse's men in New York and decided to return to the Netherlands.

Mr. Bouterse, a former sergeant who took power in a 1980 coup, addressed the U.N. General Assembly in New York on Tuesday.

The agreement between Libya and Suriname was reached in February, Mr. van Notten said, and a Libyan's People Bureau was set up in July. A total of 243 Libyans are now reported to be in Suriname, 30 of whom came from neighboring Guyana, where they were believed to have conducted training in subservice activities, and 50 from Chad.

However, the State Department said it had no information to verify what it characterized as "rumors" of Libyan activities in Suriname.

"The Surinamese government is well aware of our concern about the development of relations with Libya," a State Department official said. "We made a point of saying that we don't want to see Libya using Suriname as a base of operations. They appear to be taking our concerns into consideration."

"The Libyans had learned to speak the local language, so they obviously planned a long stay," Mr. van Notten said.

About 40 Libyans are training Surinamese troops in the main airport, and another 200 set up a military camp in the midwestern part of the country where they are reported to be training non-Surinamese, he said.

"Most likely they are training rebels from [neighboring] French Guiana who are opposed to French rule. We also assume they're in contact with the independence movement in Guadeloupe."

A number of terrorist bombings have occurred in Guadeloupe in the past year.

The Libyans have established contacts with sympathizers in Aruba and Curacao and are believed to be building up a network that would use Aruba (an island off the Venezuelan coast) as a springboard from which to launch operations in Venezuela and Colombia, Mr. van Notten said.

A BULLISH PERSPECTIVE ON THE ECONOMY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KEMP. Mr. Speaker, the critics of Reaganomics are confused and in disarray. Despite their dire warnings of economic catastrophe, the U.S. economy keeps growing, generates record new jobs, and reaches closer to full employment without inflation. Tax rate reductions have begun a sea change in economic thinking about incentives and economic growth—a change in thought as sweeping as in 1932.

In a recent speech, William F. Gorog, president of the Magazine Publishers Association, has contributed to this revolution in economic thinking. His speech not only reviews the strength of this recovery, but he also punctures some common myths about jobs, interest rates, and deficits. My colleagues will be interested in Mr. Gorog's predictions of 5 to 5½ percent economic growth next year, and will find persuasive his reasons for optimism.

Bill Gorog's speech is an insightful, lucid, and intelligent look at today's economy, and I insert it into the RECORD for the attention of my colleagues and others.

REMARKS OF WILLIAM F. GOROG, PRESIDENT, MAGAZINE PUBLISHERS ASSOCIATION BEFORE THE 1985 AMERICAN MAGAZINE CONFERENCE

THE MAGAZINE INDUSTRY IN 1986 AND BEYOND

Several months ago, two of our board members suggested that it might be valuable for me to devote my time at this magazine conference to a forecast for the magazine industry for the year 1986. It brought to mind a comment that I frequently hear from my friends in Washington concerning the need for economists to cloak themselves in Heller's law—which simply stated is, "Never put a forecast and a date in the same sentence".

I find myself trapped in this instance by the title of the speech and will be forced to look at the specific time frame of 1986 but first will spend some time trying to analyze the confusing factors that must be considered before we can say that 1986 will be rare, medium, or well-done for the magazine industry.

It is apparent from recent published articles that the state of the art of economic forecasting is in total disarray. To show you what I mean, let's examine what we have read over the last few years concerning federal deficits, strength of the U.S. dollar, debtor nation status, and the problem of our international trade imbalance. We have been hearing doom and gloom for over three years on all of these subjects, and yet as my friend, Sid Jones, Under Secretary for Economic Affairs at Commerce said recently, "The U.S. economy appears to be running on an empty tank and has been doing so for three years—but without any impairment".

Let's first look at the issue of the deficit. Our leading prognosticators, both inside of the administration and out, stridently told us that huge government deficits would cause an inflation crowding-out, high interest rates, lack of funds for private capital investment and high unemployment. What in truth has happened? Inflation is now down to the lowest point since 1972, crowding-out has not happened—apparently because of the massive influx of foreign investment, interest rates have dropped, and the unemployment rate, rather that rising, has been falling. All of which is unexplainable in normal economic terms.

We have also read a great deal about the problems of the U.S. dollar. Everyone wants to bring its value down and no one quite seems to understand why it's staying up. At one point we were told that the dollar was strong because of high inflation and high interest rates, sucking investment dollars from the rest of the world to the United States for treasuries and other commercial paper.

Strangely enough, when inflation rates went down and treasury rates went down accordingly, the dollar ascended to an all-time high, blowing that theory of why the dollar is overvalued. It's interesting to point out that many of these analysts seem to adapt their theories to the current situation, because there was a time when the strength of the dollar was based on sound U.S. fiscal and monetary practices, low inflation rate, and high GNP growth—the reverse of the explanation that is now being given for the same situation.

Let's look for a moment at the confusion picture concerning the U.S. trade imbalance. Again many analysts tell us that we're on the verge of absolute disaster because of the trade deficit. The imbalance should be pulling massive numbers of manufacturing jobs out of the United States creating high unemployment. A short trip through history, however, points at some unusual statistics. Our worst unemployment picture in history was during the great depression of the '30's when we had a relatively high trade surplus and the dollar was very competitively positioned. The largest trade deficit in history occurred in recent months and interestingly enough, unemployment has gone down. We have actually added nine million new jobs since 1979. In the same time period Japan added three million and Europe lost one million. In August of this year, the total number of manufacturing jobs rebounded in a major way.

Let's talk for a moment about our debtor nation status. Columns have been filled with the story of our sudden shift not only to a debtor nation status but they also predicted that we will shortly become the biggest debtor nation in the world—with the insinuation that the United States has suddenly become a banana republic with credit stature similar to many of the lesser developed nations. But what do those numbers really mean? The numbers reflect what foreigners have invested in the United States, and what we have invested overseas—in plant, equipment and properly as well as in commercial paper. Part of the underlying story, however, hasn't been told. Most major capital investments on the part of U.S. companies overseas were made several decades ago. These numbers represent our book value dollar investments made 10, 20 or 30 years ago. It's interesting to note that the major foreign investment in the United States has taken place in the last 10 years, with the bulk of the investment in the last 6. Which means on the basis of calculating value, what's carried at book two or three decades ago does not reflect the huge appreciation in value of those assets. When balanced to current value, we probably have a positive balance in the range of 300 billion dollars rather than being a debtor nation.

What does all this analytical confusion mean, as far as 1986 is concerned? Attempting to forecast for our industry on the basis of the prediction we've just discussed would be futile. I fully expect anytime now to hear Irving R. Levine state on the evening news that "There's bad economic news tonight—in the last quarter meaningless statistics were up five percent!" I would, then, suggest that the current econometric models don't work, that looking at any single piece of the picture can be very dangerous, and that we are entering a period of global economics that will require us to reevaluate our entire system for predicting the future.

Interestingly enough, with much talk about looking at the world economy, almost all of the issues that I have discussed, result from forecasts based on historical data from the sample of the American economic system. Our experts tell us, for example, that we can't have a strong economy if we don't have a strong base of manufacturing jobs. If this is true on a national and international scale, why wouldn't it also be true state by state? Why is it possible for North Dakota, Idaho and Wyoming to be relatively prosperous states without a manufacturing base? The answer given quickly of course, is that the U.S. economy is an entity; it works together and balances. But if this is true and we have truly entered a global economic environment, what's wrong with manufacturing in Taiwan, using the product at a lower price, providing a higher standard of living or U.S. consumers and moving U.S. workers to service industries? I am not proposing this as a solution and an answer. But I am suggesting that there are forces at work defining our future that are much too complex for mere computers looking at historical statistics to solve.

Let's forget the meaningless statistics and try to apply some common sense to estimate the 1986 business environment. Looking at the economy, '86 and beyond, and specifically what it means to our industry, I would suggest that if we're going to have a good 1986, we need three fundamentals: (1) a continued low rate of inflation, (2) interest rates which are lower than they are today, and (3) a major resurgence in a major sector of our economy.

Let's ask ourselves the question before we forecast 1986—What are our chances that these fundamentals can be in place? First, let's consider inflation. Contrary to predictions of some significant forecasters, I cannot believe that we're going to see an increase in inflation in 1986. These forecasts, I believe, are based on all of the fears we just discussed: the deficit, crowding-out, strength of the dollar, our international trade imbalance and our so-called debtor nation status. But going back to the fundamentals we spoke of before, let's really think through the inflation issue. How can we have accelerated inflation in 1986 when there is a world abundance of everything: beef, cotton, corn, soy beans, copper, steel, automobiles, VCR's telephones, semi-conductors, oil, gas, coal, and an international over-supply of labor. There is also an abundance of money and banks are shopping for loans. Think about our own industry, there is not a single thing that we purchase that isn't terrifically competitive and even our fears of a paper shortage have disappeared.

Therefore, basic #1 for 1986 says to me, forget the econometric models—we will continue to have a low inflation rate through the entire year. We may see deterioration of corporate profits of manufacturing companies but in the sea of oversupply, the inflation rate will remain steady.

This in turn, means that we should see a drop in long-term interest rates. Historically, long-term rates should not be more than 3 to 3½ percentage points above the inflation rate, but for a long period of time, we have experienced artificially high rates because of national concern about the resurgence of inflation. If the prognosticators are wrong and I am right, we should see a drop in long-term rates as early as the beginning of the first quarter 1986. When those rates descend below 11½ percent, I believe we'll see the third needed factor for 1986 falling into place—and that is, we will experience a major housing boom. The 11½ percent point seems to be a psychological barrier for many and a real barrier for most concerning the ability to either up-grade or buy new housing. When that barrier passes, the pent-up demand for housing will energize the forest products, appliance, plumbing, electrical, and the construction industries. This in turn will accelerate GNP growth in all other segments of the economy. Now, I am not suggesting that 1986 is going to be a boom year. As a matter of fact, I would hope that it's not, for what we need more that anything is a continued period of stability without major fluctuations. But if I have to pin myself to a GNP forecast for 1986, I would suggest that we will see between a 5 and a 5½ percent growth for the year.

Now that I have stuck my neck out on the subject of the economy as a whole, what can we expect for magazines in 1986? We've done a lot of hand-wringing in 1985 with the current outlook being a flat year for lineage and no more than a 5 percent increase for advertising revenues. Again you have to be careful about being too pessimistic about these results. The numbers are flat, but compared to what? You have to remember that we have just come off two incredible years. 1983 and 1984 represented a 33 percent increase in ad revenues for our industry—up 1 billion, 200 million in total dollars. 1984 also had the Olympics and the elections, causing a major lift in ad lineage. So in perspective, '85 is slightly up over '84 but it is still going to be the best year in magazine history in revenues.

More important, however, is how we can position ourselves as an industry to put ourselves back on the growth track of 10 to 12 percent a year. I suggest we can only accomplish that objective if we reevaluate our marketing programs, recognize the major change that has taken place in consumer demographics, and seize the opportunities that this change offers our industry.

We were recently present at a sales meeting of a major consumer magazine that happens to be #1 in pages and ad revenue in its field. The sales manager was complaining about a slight loss in pages for the first seven months and exhorted his sales people to get after the competition to make up the deficit. Think just a moment about that kind of solution to his problem. He's already #1 on everybody's schedule, and a reduction in pages probably means that his advertisers were reducing expenditures for media across the board. His opportunity for improving his position is not in growth at the expense of other magazines in his class—the opportunity for growth is in convincing major clients and advertising agencies that they need to spend a larger portion of their total media budget in magazines. Our research has shown that when clients increase their print budget, everybody wins, the schedule gets longer and the original magazines get additional pages. When budgets are cut, schedules are shortened, and pages diminish. The bottom line is that we must place more emphasis on greater use of magazines and then everyone wins.

MPA's efforts and emphasis in 1985 have been devoted to major presentations to clients who have the potential of making major changes in their media mix. Included have been presentations to Pontiac, Oldsmobile, Kraft Foods, Tandy/Radio Shack, IBM, and Compaq. Our message is simple—consumer demographics have changed dramatically. 51 percent of the adult women are now in the work force. Women in the 35 to 44 age group, have reached the phenomenal level of 67 percent in the work force. These families have more discretionary income—are watching less television and reading more magazines. When this message reaches clients, they can be convinced that more effective use of their advertising dollar can be made if they change their media mix to reach their lost audience through magazines. In the case of Kraft for example, we pointed out that a shift in media mix from 20 percent magazines and 80 percent television to 50/50 would create a major increase in gross rating points at no additional dollar cost.

These messages are powerful and effective. As you know 18 months ago we made major presentations of this nature to 24 cosmetics and toiletries companies. We tracked their magazine expenditures very carefully over the following 12 month period and some startling facts were apparent. The companies who heard our presentations on media mix increased their magazine spending by 25 percent—a total of 34 million dollars in the 12 month period. A control group of companies that did not have the presentation had less than a 5 percent increase in the same period. The story is loud and clear. If we all start to sell magazines generically, we'll not only get more pages for our own books but the results will increase schedules down the line.

In 1986, MPA will continue to emphasize presentations to major package good manufacturers, continue efforts in the computer field, and start a new effort in financial services. You have to understand, however, that MPA's resources are limited, and while we have a better opportunity to reach clients who may be cautious of individual sales reps, everyone has to start selling above the level of the print buyer. The story of the new American consumer demographics has to reach advertising executives who make media planning decisions and the client's major advertising executives.

This is our challenge for 1986 and beyond. We can expect a 5 or 6 percent growth if we just roll with the economy but if we want to get up to the 10 to 12 percent range in 1986, we're going to have to do it by creative selling and by understanding that we need to sell as an industry.

We have the best research, authentic audience data, and the best trained sales force in the media business. I'm not satisfied with a 21 percent share of total national media revenue. Let's make it change in 1986.

REDUCING FEDERAL SPENDING

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CHENEY. Mr. Speaker, earlier this year, Mr. James Rouse of Saratoga, WY, came up with the idea of sponsoring an essay contest with cash prizes for the best essays on what the average citizen can do to reduce waste of the Government's money. Using his own money, Mr. Rouse paid $1,000 for the first prize, $500 for the second, and $250 for the third prize, to three young people in his community who researched and wrote essays on this important subject.

I am pleased today to submit for publication in the RECORD an essay entitled, "What the Average American Can Do to Reduce Our National Debt," by Alysia Andrikopoulos of Encampment, WY, who received first prize for her work. I hope it serves as an inspiration to others to take an interest in the affairs of their Government.

WHAT THE AVERAGE AMERICAN CAN DO TO REDUCE OUR NATIONAL DEBT

(By Alysia Andrikopoulos)

Can you fathom 90 million miles? In inches, that is 5.5 trillion—or the number of dollars our federal goverment will spend in the year 2000 if it maintains its present policies. The result of spending more than the government takes in means that by the year 2000 our federal deficit could reach $2 trillion. That affects each American taxpayer—$18,000 a year in interest alone. Government waste and spending inefficiency has contributed to a present deficit of $195.4 billion.

If the government continues to spend as it currently does, it will erode the American social and economic systems. The deficit burden will effect future generations; if nothing is done now, the deficit will cause higher taxes, inflation, interest rates and unemployment. To resolve these problems, the government must assess priorities and make government programs more efficient. This essay will discuss the Grace Report and the ways that we, as average citizens, have the opportunity to influence these problems by publicizing them and organizing pressure groups, keeping in mind the resources available to us and the progress that has been made, remembering that hard work, sacrifice and perserverance will be absolutely necessary.

In 1982, President Reagan appointed J. Peter Grace head of the President's Private Sector Survey on Cost Control to suggest ways to eliminate excessive federal expenditures. The Grace Commission Report produced ninety-eight pounds of reports and 2,478 proposals for reducing waste, overspending and inefficiency. Their main recommendations were: correcting organizational defects, reducing program waste and inefficiency, improving management of federal work force, overcoming systems management. If implemented, these programs would save $424.4 billion in only three years.

Now that the Grace Report has been concluded, the urgency to resolve this Armageddon of spending, waste and inefficiency is extremely tangible. The American people need to realize this urgency and work toward stimulating government action. The average American citizen has a responsibility to demand a halt to wasteful government operations and spending.

The United States has a democracy that works of, by and for its people; and people should become more involved in making the government work! This must occur through a return to active communication with our local representatives. As the central portion of our federal government seems so distant, Americans don't always think of how they can influence it. Before the Grace Commission reported its findings, Americans thought their government worked efficiently. Now we know better, and can, from the local level, demand greater efficiency and governance in the spending of our tax dollars. Our federal government consists of representatives from states; the state governments consist of local representatives. It works like nature's good chain pyramid; therefore, if we demand action at the base, the top will be effected and know how to represent us. Let us cultivate at our local levels an attitude and a desire to save and be more efficient. More directly in this pyramid, we can elect the representatives and officials that we know will work toward our demands; with the present problem at hand, we can make the government deficit, spending waste and inefficiency a major part of campaigns. As seventy-three percent of the Grace Report's proposals will require direct congressional action, and the remaining proposals can be influenced by Congress, the citizens of this country need to take advantage of the freedom to voice their opinions.

The people aware of the Grace Commission's survey need to increase public awareness of the report. One can do this in many ways: essay contests, book and resource distribution, public speaking, letters to news editors, etc. There is no end to the things an individual can do to increase public awareness of the Grace Report. Organizing pressure groups will have a snowballing effect and make a greater impact on Congress to reduce the federal debt. Our Constitution provides us with many means of communicating our thoughts: petitioning, lobbying, freedom of speech and press. Organizations should take advantage of these freedoms in working toward their common goal.

One thing to keep in mind, is the fact that much has been accomplished in working toward reducing government inefficiency: Don't reinvent the wheel. First of all, the Grace Commission has already researched everything one need to know on the subject; use their pamphlet, books and leaflets—they are for us. Next, groups have already been formed; become directly involved with them to make their force stronger. Peter Grace and Jack Anderson formed a group in which one goal is a petition of 50 million signatures urging fiscal discipline. Citizens Against Waste is another Grace-inspired pressure group. Finally, economists have proven advice that could better our economy and eliminate a deficit; read about such outside information to direct yourself or organization toward accomplishment. Creative use of available resources will expediate work toward government efficiency.

People need to be prepared to sacrifice something to put this country on the right track. Whether this sacrifice be social security, farm subsidies, defense spending, welfare or food stamps, we all know that something will inevitably have to be given up. However, what an individual gives up is small compared to the good it will do the national economy.

A large federal debt has been pinpointed as an economic problem to the U.S.; this is something that we cannot afford to be apathetic about; this is something that in a democracy we can do something about. There are many things one can do to work toward the reduction of this debt: demand government efficiency through our representatives, elect people to represent our ideas, publicize our ideas, join groups, use available resources.

As a Taxpayer Survey of the Grace Commission Report says, "If everyone who read this book did just one thing to help implement the Grace proposals, the impact on Congress would be overwhelming."

This is the problem, this is a democracy, we are the people, and we can help.

JAPAN-TARGET OF UNFAIR TRADE PRACTICES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DORNAN of California. Mr. Speaker, we are all concerned about the unfair trade practices of other countries that rob American manufacturers of overseas markets. But I was recently reminded of one particular case of unfair trade being practiced by one of our closest allies, Japan, against another of our closest allies, Israel. It has very little to do with trade and everything to do with blackmail, cowardice, and anti-Semitism.

Our former colleague, Mayor Ed Koch of New York City, for whom I have strong admiration and respect for his guts and plain talk, recently wrote me a letter outlining what surely is Arab blackmail of Japan, which imports all its oil, is engaging in a boycott of Israeli made products at the request—read "demand"—of Arab oil countries. That this also adversely affects American companies put on an Arab boycott list for doing business with Israel is reason enough for American anger and action. But that Japan, our close friend and ally, remains content to submit to this blackmail—as it did during the Arab oil embargo of our country—is a source of great disappointment and frustration. It is my fervent hope that our Japanese friends will soon realize that Israel is our most reliable ally in the Middle East and have the guts to end their embargo against Israel.

Mr. Speaker, I urge all my colleagues to read the following remarks by Mayor Koch and the transcript of his conversation with Norishige Hasegawa, vice chairman of the Keidanren, the Japanese equivalent of the Chamber of Commerce.

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, NY, December 6, 1985.

Hon. ROBERT K. DORNAN,
U.S. House of Representatives,
The Capitol,
Washington, DC.

DEAR BOB: I just returned from eight days in Japan. While there I met with a number of government officials, from Yasuhiro Nakasone, the Prime Minister of Japan, to Shunichi Suzuki, the Governor of Tokyo. I

also met with a number of businessmen including members of the economic business council known as Keidanren.

On every occasion there was a discussion about free trade and Japan's fear that the United States might in some way restrict access to its markets through protectionist legislation. In each instance I was asked for my opinion on the subject. In sum, I responded as I think many other Americans would with the opinion that I do not believe Japan practices what it preaches. Japan, itself, does not engage in free trade. I pointed out the following three illustrations to underscore that point, although I am sure there are others.

First, Japan engages in cartel operations where businesses receive substantial government support. Indeed, government/bank financing is arranged in a way that would not only be unacceptable practice in the United States but indeed would be an illegal restraint of trade. This support structure gives Japanese companies inordinate advantage in their competition with United States firms.

Second, there is an inbred predisposition among the Japanese to buy Japanese made goods, in preference to foreign made goods whenever they are available. Culturally, the Japanese aren't moved by the concept of free trade and open markets when it comes to their own buying decisions. This is not meant to be a criticism of the Japanese, in fact to the contrary, I wish more Americans felt the same way about our own products.

Third, the Japanese government allows, and I believe engages in, a boycott of Israel at the request of Arab oil countries. The boycott has been extremely effective in limiting purchases by Japanese firms of Israeli-made merchandise to minimal proportions. It has also had the effect of severely limiting the sale of high-technology products produced by Japanese firms, which are available for sale to other countries of the world.

I raised these three illustrations with Norishige Hasegawa, who is the Vice Chairman of the Keidanren, which is the counterpart of the National Association of Manufacturers here in the United States. It is perceived as the most important business group in Japan. Mr. Hasegawa conceded that all three of my accusations had substance. He personally believed that these circumstances should be addressed and corrected. The actual conversation that I had was recorded, and I'm attaching a transcript which I believe you will find of interest.

I raised the subject the next day with Prime Minister Nakasone. While he was willing to concede the need to address the first two issues, he was adamant in his refusal to take any action to eliminate Japan's support of the Arab boycott against Israeli firms.

The brazenness of the Japanese companies was recently demonstrated when Mazda, a major Japanese automobile company, announced that since the Ford Motor Company had been removed from the Arab boycott list, it would now work with Ford in some collaborative effort.

What we are now seeing by Japanese companies, and I believe it is with the full support of the Japanese government, is not only a boycott of Israeli manufacturers, but a boycott of American companies complying with American law prohibiting submission to such Arab blackmail. Such a circumstance must enter into any consideration of our trade relations with Japan. American companies should be protected against unfair competition and it is hypocritical for the Japanese to hide behind the principles of free trade in opposing such legislation, when their business practices are quite the opposite.

If to date you have been guided by your beliefs in free trade or were undecided on the issue of protectionism vis-a-vis the Japanese, I urge you to consider what I have said.

All the best.

Sincerely,

EDWARD L. KOCH,
Mayor.

ED KOCH AND KEIDANREN

First let me say to you Mr. Hasegawa, and the members of the various firms who are here: I appreciate the opportunity to talk to you and answer a few questions. Let me also say at the outset that most people of America by virtue of Japan's economy believe that Japan won the war.

Secondly, let me say about the strength of the dollar when I'm in New York City, I get so upset that the dollar is so strong and so adversely affects our exports—but when I am in Japan as a tourist I am so upset that the dollar is so weak.

Just a word on the relationship that affects the United States from my vantage point. Obviously I am not a member of the federal government, but I think I know the thinking of a lot of people in the United States just by being mayor of the largest city in the United States.

People are upset, rightly or wrongly, that the United States has such an adverse balance of trade with Japan and what they see is that unlike the U.S. where we have true total free economy that the economy we believe that Japan is so organized with the government—with the banks and with the industry, that you are able to use business methods, cartels, dumping of products, subsidizing of products that we are not able to do under our law. We may be wrong about it but that's the general feeling.

That may be totally wrong and probably the true answer is that the Japanese businessman happen to be the best businessman in the world. But you're going to have to get us a little handicap. If in fact it is only attributable to your business ability even though you would believe that that's simply an asset we have to deal with vis-a-vis you, the perception is that it is not the reason—perceptions are the prior reasons I gave you, and you have to deal with that.

Two other things that affect the Congress as it now discusses taking measures that relate to our export/import relations with Japan are: One, the perception that in Japan the Japanese citizen is conditioned to just buy Japanese whereas in America the American citizen is conditioned to buy foreign. The American citizen when he buys a piece of junk (never from Japan because Japan does not sell junk)—but when he buys a piece of junk that has the name of a foreign country on it, he shows it off with pride. So you have to condition Japanese citizens not to buy American junk but to buy American good things and show them off with pride.

The third thing that is on the minds of a number of people in the Congress and elsewhere, mine included, is the lack of rationality in the argument that the Japanese use to support free trade. They say free trade is food for the world and you in America should not be protectionists.

We say that the argument of the Japanese is flawed because they don't engage in free trade yet some people will say—look at the boycott they have of Israel. They don't buy Israeli products in any large amount nor do they sell the top line technology to Israel because of the Arab boycott. That's unacceptable to Americans who believe that you may not, if you believe in free trade, engage in anti-free trade with a friendly country like Israel with which you have diplomatic relations and with which we have diplomatic relations.

I would urge you to ask your government to address all of those issues because I think it is important to the good relations between Japan and the United States from an economic point of view.

One last word by way of invitation coming from the City of New York and then if you have questions I will be delighted to respond.

I, as Mayor of the City of New York, have established a climate in that City that is helpful to business.

Alair Townsend, who is the deputy mayor on economic development, each and every day does what she can with my support to cut business taxes, to reduce the price of energy and to make it easy for you to acquire large plots of land cheaply where you can build factories.

Let me give you one industry that if you could get people to come to New York City to create you have no competitors in a lot of businesses.

We have in New York City a vacancy rate for residential buildings of less than 2 percent. We need private, one or two family homes to be built and apartment houses, not necessarily skyscrapers, but 6–8 stories high and to be built cheaply.

We do not have in New York City a factory that creates prefabricated housing. We need one. If you came there and built such a factory, it's unlimited the number of apartment units that we would be able to buy if you sold them cheaply.

Why don't I stop there and take questions:

Firstly, we have in the City of New York foreign trade zones where you can build a factory, and you're not taxed on what you create there unless you bring it in to the country for sale. But if it's for sale in other countries—there's no tax—and the benefit we get out of it is that you use our workers.

If you want to build a real factory not in a foreign trade zone for transmission to some other country, but because you want to sell in our country it's not just simply in the north part of the city that you referred to that land is available. The most attractive property in the City of New York today was formerly the Brooklyn army base which is right along the water, has wharves that your ships can come to and has 5 million sq. ft. of vacant space that is available today, and she has got the lease to it. Four dollars a square foot.

In the same Brooklyn army base you can get 5 million sq. ft. or any part you want at $4.00 a ft. The energy costs have been reduced for the first 5 years by 48 percent of what anybody else pays in Manhatten and then after 5 years it's 30 percent. That's a real bargain, and I don't know how long I'm going to be able to offer it.

Now I want to turn to the subject of the boycott of Israel which you can see is in effect here in Japan, and I know it to be so. It is unacceptable from an American point of view that the great country of Japan would knuckle under. The western European countries have not knuckled under. They do not permit the boycott. In addition,

there may have been a time when Japan worried about the purchase of Arab oil. Today the Arab counties beg you to buy their oil, because there is a world surplus of oil. So today is the day when you should say to the Arabs—we have the same courage—we have the same philosophy as our allies in America and as our allies in Europe. They did not submit to your blackmail. We will not any longer.

HASEGAWA. We feel that the requests that you mentioned are very correct and that you wisely mentioned the oil situation has been changed so I think this gives a good chance at present to make that sort of assertion which you mentioned.

So we will work on our part to talk to our colleagues and also work on the Japanese government. I am embarrassed to confess that we were not aware of some of the points that you have mentioned so we would like to relay the points that you mentioned to our colleagues and like to give it serious thought.

When are you next coming to New York? I want to take you to a nice Japanese restaurant.

PROFILE: GERALD GIDWITZ

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday December 19, 1985

Mr. HYDE. Mr. Speaker, one of America's most patriotic and energetic citizens is Gerald Gidwitz of Chicago, IL.

I am proud to know him and count him as a good friend and to provide for my colleagues a profile of his career that appeared in the Chicago Tribune of December 16, 1985:

GIDWITZ CLAN GENERATES GOOD BUSINESS

(By Sally Saville Hodge)

Gerald Gidwitz speaks with mock self-pity. He has started various businesses—most notably Helene Curtis Industries Inc. and Continental Materials Corp.—and brought his family into them, as any good father would.

"I let them run the companies," he said of his sons Ronald, 40, chief executive of Helene Curtis, and James, 39, who, along with his uncle Joseph, 80, runs Continental Materials. "And they took my jobs away."

But he shrugs it off with a grin: "So I just start something else."

At 79, when most men have long since given up the grind for a life of leisure in the Sun Belt, the patriach of these old-line Chicago businesses is actively pursuing business and civic interests.

On the business end, he has bought several small, ailing farm equipment companies, consolidating them in one plant for better operating margins or greater productive efficiencies.

On the civic side, his interests range from fighting Communism—through pamphlets he writes and his involvement in the Jamestown Foundation, an organization dedicated to helping Communist defectors—to education, particularly to help people get off welfare.

It keeps Gidwitz busy enough that he's trying to hire an assistant.

In his office at the downtown headquarters of Helene Curtis, a hair care product firm, he gestures at a pile of books and papers cluttering a table. They all relate to a farm equipment company, whose sales have plummeted to $8 million from $25 million and is verging on reorganization under Chapter 11 bankruptcy laws.

Gidwitz is trying to decide whether the company is salvageable.

Why the interest in farm equipment companies? "I look at things all the time, farm machinery among others," he said.

Besides, Gidwitz added with a smile, he has not lured his youngest son, Tom, into business. He expresses exasperation that his persuasive powers have not budged the 32-year-old aspiring novelist but modest pride that some of his literary leanings have been passed on. Two other children, Nancy 37, and Peter, 35, also aren't in family-related business.

Gidwitz got into the farm machinery business several years ago when he acquired a Mankato, Minn., manufacturer. He later acquired a second company and consolidated operations in one plant in Minnesota.

He's undecided whether the latest manufacturer to come to his attention will join the fold. "This company doesn't have the margins," he said. "The question is what has to be done to improve them. Maybe their prices are too low. If so, a 10 percent increase might help. Could they cut costs? Is it an efficient plant?"

He doesn't sound optimistic. He has seen the plant and considers it efficient. Most farm-related companies have cut their costs to the bone, and low prices are about the only way to achieve the little selling done by the industry, he says.

Gidwitz's interest in such companies is part of his larger concern for the country, including its defense posture, economy, competitive edge and social consciousness.

"You can't get off the world," he said, explaining his efforts. "We [the U.S.] don't have a plan. And unless we find a way to cure our problems, we're going to be in real trouble—like England, only they weren't as bad off in the educational area as we are."

Education, or the nation's shortcomings in that area, has long been a concern of Gidwitz.

Thirty or 40 years ago, he said, Helene Curtis held after-hours educational programs for workers. At first, he said, classes were established in any subject in which enough people expressed an interest.

"One year, though, they asked for tap dancing and pastry making classes," he said. "After that, we made it more restrictive."

When the Russians launched Sputnik and the space race in the late 1950s, workers developed an interest in Russian language lessons. Twenty-seven signed up for classes. Roosevelt University, which saw a similar interest among its students, contacted Gidwitz to see if its students could be sent to Helene Curtis' class.

At the same time, Gidwitz began a national organization known as "Education for Survival Foundation." According to press clippings from 1957, he said the purpose was "to make every school district in the nation aware of the grim fact that we are engaged in a battle of the classroom with Russia."

"Education for Survival" has long since died. "You need money for these things, Gidwitz said. "How much could I afford to spend?"

His interest in education, however, still is going strong.

He combined his concern over education with his concern over the welfare population to devise a program under which welfare recipients would be re-educated by their peers to gain basic qualifications to join the work rolls.

His literacy program, conducted with Roosevelt University, has been in pilot stages since 1982. Gidwitz is attempting to cut through bureaucratic red tape to expand it.

"His basic thrust is that those on welfare will always be on it unless we can re-educate them," said Michael Woelffer, director of the Illinois Department of Commerce and Community Affairs, which has funded Gidwitz's program in the past.

"Everything points to education as being the No. 1 priority of business in the future," Woelffer said.

Gidwitz's program sprang from an article he read in 1977 that said 50 percent of welfare recipients boasted high school degrees. It got his creative juices running.

"I went to Roosevelt Univesity—I'm on the board—and asked if they could take these high school graduates on welfare and teach them to be tutors, so they would work with others on welfare, those who didn't learn when they went to poor schools," he said.

The answer was positive, and Gidwitz worked to get the funding for a pilot. As he explained in a 1982 proposal to Gov. James Thompson and Peter Fox, then Commerce and Community Affairs director: "Both groups are on the welfare rolls. The talents of the educated would be better applied than in ordinary social service work or charity work.

"The [proposed] 100 hours of learning time would not only improve the skills of the uneducated, but would keep them off the streets. Emphasis should be on teaching ordinary skills . . . and the need to participate in our democracy in order to make it work," he said.

The program showed mixed results the first year with 60 tutors overseeing 5 students. The state budget crunch in 1983 disrupted the program, because some tutors and students stopped attending sessions when their workfare funds were cut off and didn't return when the funds were released.

Even including the dropouts, though, the average student showed a median two-year gain in reading proficiency, in keeping with the program's goals.

Curtis, C. Melnick, the late dean of Roosevelt's College of Education, pointed out in a memo to Gidwitz that literacy gains—or, in some cases, losses—were correlated to attendance, as one might expect.

Gidwitz said, however, that many students discovered they would receive their workfare payments whether they attended the program or not. "It underscored to me the fact that you really need a carrot-and-stick approach," he said. "There was no check on truancy and no threat if they didn't attend."

Now, after several years of pilot programs, Gidwitz and Roosevelt would like to see the literacy program expanded outside of the university.

As George Olson, dean of the College of Education, said in a recent memo, the city's community colleges are undertaking literacy programs, and he would like to see the efforts linked.

The program recently received another $50,000 from the state for another six months of operations.

Gidwitz is appreciative but his plans for the program are bigger than another pilot. He is seeking $30 million to $40 million of funding.

"Well, sure," he says in defense of such numbers. "We need enough money to raise the general level of education of our population to meet the competition that we're now

facing from better educated countries such as Japan."

HAZARD MANAGEMENT

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mrs. LLOYD. Mr. Speaker, in a separate entry in the RECORD, I voiced my concern over the growing problems of effective decisionmaking with regard to public risks and pointed to the increasing costs of this problem and its close association with science and technology. For an excellent perspective on the generic nature of this critical situation, I recommend to the Members' attention the section entitled "Managing Hazards" in the fall issue of Issues in Science and Technology. In this series of four thoughtful essays, geographer Robert Kates, physicist Alvin Weinberg, attorney and engineer Peter Huber, and psychologist Baruch Fishchoff, discuss the increasing intensity of the stresses being placed on science to identify hazards and assess their associated risks, the difficulties of our judicial and regulatory institutions in responding to the physical and economic realities of public risks with balanced rational procedures, and the barriers to obtaining meaningful resolution of conflicts between the public and technical experts.

The costs of this dilemma to society, which include the unintentional increases of public exposure to hazards through inadequate appreciation of the relative risks presented by various alternatives, and relatedly, the deterrence of risk-reducing technology through fear of inappropriate judicial decisions on liability and compensation, are high. In my opinion, the challenge of resolving the imperative for public management of public risks with the current problems of public decisionmaking institutions is today's key issue in tranferring the benefits of science and technology to society.

The activities associated with the Superfund bill, including the development and application of technologies to clean up toxic waste sites, the setting of standards for cleanup, and the allocation of costs and of present and future liabilities among the involved parties, furnish a timely example of these complex and generic problems. The escalating frequency with which these problems occur in an increasingly technical world will soon foreclose on the luxury of dealing with them on the ponderous case-by-case basis characteristic of our current efforts. An active search for generic approaches to improving the efficiency with which we address these issues must, in my opinion, be given our highest priority in all three branches of Government.

EDDIE BOLAND, THE HOUSE'S "MR. INTELLIGENCE," RECEIVES WELL-DESERVED CIA RECOGNITION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HAMILTON. Mr. Speaker, on Monday, our colleague EDDIE BOLAND, who chaired the Permanent Select Committee on Intelligence from its inception in 1977 until the end of the 98th Congress, was presented the CIA's Agency Seal Medallion by Director William J. Casey. The seal medallion is the Agency award presented to those from outside the Agency who render distinguished service to the U.S. intelligence effort. The Agency could not have presented this award to a more deserving American than EDDIE BOLAND.

Quite simply, EDDIE BOLAND made the House Intelligence Committee what it is today. His leadership, integrity, fairness, and understanding of the need for secrecy firmly established the excellent reputation of the Permanent Select Committee on Intelligence in the House and in the intelligence community for good judgment and good security. He recognized early that to be effective, the committee's work, which must remain secret, would have to be trusted implicitly by House Members. He recognized further that the intelligence community would not cooperate with a congressional oversight committee that did not pay strict attention to security and whose judgments were not based on a firm factual predicate. EDDIE BOLAND gave the committee that legacy. He was, as the CIA recognized, a firm supporter of the need for strong U.S. intelligence effort, but at the same time, he was never a captive of the intelligence community. When he disagreed with intelligence policy, he said so and he led the committee very effectively in making important improvements in our U.S. intelligence planning and capabilities. Oversight got a good name from EDDIE BOLAND and from the committee that he led.

Mr. Speaker, the award EDDIE BOLAND received on Monday was recognition by intelligence professionals of the real contributions that the Permanent Select Committee on Intelligence made under EDDIE BOLAND's leadership. But, it is not the intelligence community alone which recognized his contributions. The Vice President of the United States, GEORGE BUSH, attended the ceremony. His presence and his praise of EDDIE BOLAND showed that he and the President recognize that, while there may be disagreement at times, by far the greater share of issues raised in the oversight process result in agreement and strong congressional support. This administration, with whom EDDIE has had his disagreements, recognizes bipartisan support was the rule under his chairmanship. The administration recognizes that its emphasis on improvements in intelligence capabilities received steady, strong support from the House Intelligence Committee under the leadership of a man whose Democratic credentials cannot be challenged but whose bipartisan support for every President since Eisenhower is unquestioned.

As his remarks in accepting the award reflect, EDDIE continues to be a strong supporter of intelligence oversight and remains the committee's ambassador to the intelligence community in explaining the important and useful role that intelligence oversight can play within our frame of government.

Mr. Speaker, I ask unanimous consent to insert at this point the citation that accompanied the award of the CIA's Seal Medallion and a copy of EDDIE BOLAND's remarks.

CENTRAL INTELLIGENCE AGENCY CITATION

Edward P. Boland is hereby awarded the Agency Seal Medallion in recognition of his outstanding accomplishments as Chairman of the House Permanent Select Committee on Intelligence from 27 July 1977 to 29 January 1985. His superb leadership established oversight of intelligence which was and is today in the finest spirit of bipartisan government. Consistently adhering to the highest standards of personal and professional integrity in furtherance of the national security interests of the United States, Congressman Boland clearly demonstrated that effective oversight of intelligence can be realized in a democratic nation without risk to the intelligence process. Serving with full knowledge that his achievements would never receive public recognition, he chose to align himself with the thousands of men and women who have devoted their lives to support the intelligence needs of our country. Congressman Boland's extraordinary contributions and exemplary dedication as the first Chairman of the House Permanent Select Committee on Intelligence reflect great credit on himself and the Congress of the United States.

REMARKS OF THE HONORABLE EDWARD P. BOLAND

Thank you for those kind remarks.

I am delighted to be able to bring some Christmas cheer to Langley.

It is the season of joy and thanksgiving after all, and I want you to know that your joy over the fact that Congress will adjourn tomorrow or the next day, nearly matches my thanksgiving at the same prospect.

I am thankful as well for the honor you have accorded to me this evening.

The United States intelligence service is the finest in the world, and your good opinion is something that I deeply appreciate.

In fact, the good opinion of the intelligence community is an indespensible element of good congressional oversight.

You can't do one without the other, and that reminds me of a story the bishop of Springfield tells.

He was flying to Rome. As his flight was nearing Rome, the pilot reported that one of the engines had quit and that they were operatiing on only three. There would be no problem, however, because, Rome wasn't too far away.

So he said he would keep them informed. A little while later, he said that they were still going strong. They only had the three engines, but there was no problem, they would land safely. "In fact," he said, "I have some good news. There are four bishops aboard. We'll get to Rome all right." Bishop

McGuire then heard a woman sitting behind him say, "I'd feel better if we had four engines and only three bishops."

Some would say we haven't been running on all four engines in the intelligence community lately.

We have been rocked by espionage scandals, confused by two-way defectors, and genuinely concerned about serious leaks.

I understand that leaks lead some in the community to suggest we would be better off without congressional oversight.

I truly believe that sentiment is mistaken—intelligence needs oversight.

Oversight which is sensitive to the extraordinary difficulty of intelligence work and the need for secrecy in it but oversight which is nonetheless independent!

Sir William Stephenson, the wartime head of British intelligence, summarized the great conundrum of intelligence oversight in two questions: How can we wield the weapons of secrecy without damage to ourselves? How can we preserve secrecy without endangering constitutional law and individual guarantees of freedom?

Stephenson knew that the resolution of the inherent conflicts between the need for secrecy in intelligence and the dictates of a free society was essentially a human problem noting with respect to intelligence that "as in all enterprise, the character and wisdom of those to whom it is entrusted will be decisive."

I believe that if I did anything in 7 years as chairman of the Permanent Select Committee on Intelligence, I helped put the committee in a posture of good, honest inquiry, good security, and hopefully, good judgment.

There will be those who question the committee's record in one or more of these areas.

Today, security looms as the largest legitimate concern.

What isn't legitimate is undermining the institution itself.

I don't see critics of the oversight committees suggesting the elimination of the NSC staff or the State Department.

This isn't because they have impeccable security.

They clearly don't.

Rather, they are thought to be permanent. If not always useful, institutions of Government.

Well, the intelligence committees are also permanent institutions.

Further, they can be very useful.

Theirs is a broad overview shared by few outside the Director's Office.

They are small and they can, given the kind of leadership Lee Hamilton and Bob Stump now exercise, provide the necessary security for the very sensitive matters they review.

It is my judgment that, in balance, oversight has been good for the intelligence community, for this Agency.

Your numbers and your budget have increased in time of fiscal austerity.

You are now more capable and more confident to perform an ever broadening array of intelligence tasks.

Congress played a major, supportive role in that build-up.

It did so with its eyes wide open.

Sometimes opponents of covert action provided resources to conduct covert action.

And critics of some intelligence operations supported many others.

I believe members and staff of the Intelligence Committees deserve the recognition that they too are part of the national intelligence community.

As to the difficulties that now confront the intelligence community, I have no doubt that you'll come through in good shape.

Perhaps on only three engines from time to time, but you'll land safely.

You'd better, because the Congress is now on board.

RISK ASSESSMENT AND PUBLIC DECISIONMAKING

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mrs. LLOYD. Mr. Speaker, I would like to share with my colleagues my growing concern regarding the effectiveness with which we, as a society, are addressing the issue of risks in our decisions on the development and applications of technology. A list of topics which have or will require some form of risk assessment and subsequent public decision would include: The release of genetically engineered microorganisms for agricultural disease control, nuclear plant safety, siting of a nuclear waste repository, selection of an acid rain abatement strategy, food irradiation in lieu of chemical perservatives, and the establishment of standards for toxic waste cleanup projects. The benefits of new technologies seem inevitably accompanied by some degree of risk and our technological health depends increasingly on the skill with which we are able to address and resolve such issues.

There is a broad feeling in the technical community that the general public, including many public opinion and decisionmakers, is hampered in arriving at meaningful resolutions of questions in this critical area by an unfamiliarity with the fundamental concepts employed in scientific risk assessment. The emphasis here is not on an understandable lack of specific technical knowledge or theoretical insight in a particular instance, but rather, the generic lack of a qualitative appreciation for the significance, implications, and limitations of the methodology for rational treatment of risks.

As an illustration, I quote the following excerpt taken from an editorial by Daniel E. Koshland, Jr., entitled "Scientific Literacy," which appeared in a recent issue of Science magazine:

*** * * scientists in every discipline understand that certain decisions that must be made are associated with some level of risk, but we watch with consternation as society acts as if zero risk could be achieved. The same parents, for instance, who drive their children to school without seat belts demand a flat statement of certainty about the risk posed to their children by being in school with a child with AIDS. The ever-rising levels of malpractice awards are based on the premise that if doctors are punished enough they will become perfect, but ignore the possible outcome that the consequent fee increases will inhibit those with marginal incomes from going to the doctor. Living near a nuclear powerplant may be safer than attending a rock concert, but what television viewer would believe that?**

There is a diversity of opinion among competent technical authorities on many of the specific issues I have mentioned. However, the framework in which they are discussed by the technical community is qualitatively different from that used in the media, in many public forums, and often in the courts, and is significantly more effective in leading to balanced, rational, and productive decisionmaking. The costs of our inability to follow a similar approach in the public decisionmaking process on these same issues are increasingly high. In my opinion, this represents one of the most formidable generic problems facing us today and one which pervades essentially all areas of science and technology. As such, it is clearly a problem of intense concern to me as chairman of an energy subcommittee, and I feel that we must assume the responsibility to actively seek and encourage responsible approaches to its alleviation.

REDUCING FEDERAL SPENDING

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CHENEY. Mr. Speaker, earlier this year, Mr. James Rouse of Saratoga, WY, came up with the idea of sponsoring an essay contest with cash prizes for the best essays on what the average citizen can do to reduce waste of the Government's money. Using his own money, Mr. Rouse paid $1,000 for the first prize, $500 for the second, and $250 for the third prize, to three young people in his community who researched and wrote the best essays on this important subject.

I am pleased today to submit for publication in the RECORD an essay titled, "The Deficit Budget," by Stephanie Bartholomew of Saratoga, WY, who received the third place prize for her work. I hope her essay serves as an inspiration to other young people to take an interest in their affairs of their Government.

THE DEFICIT BUDGET

(By Stephanie Bartholomew)

Irresponsibility has led the American economy into its most serious crisis ever: massive deficits. The deficit is the gap between what the government spends and what it takes in. If this irresponsibility in government spending is allowed to continue, the high standard of living Americans have grown accustomed to could easily become a part of the past. We are at a critical point affecting the future of the American economy, and the federal deficit must be reduced now.

In 1960 and 1970 the United States had a balanced budget. The federal deficit now stands at approximately $222 billion. That is approximately $1,000 for every man, woman, and child in the United States. Without action, the deficit will continue to rise, and will reach almost $300 billion by the end of the decade. How did such preposterous deficits, that were unimaginable just a few years ago, come to exist? The irresponsibility of the politicans, local, state,

and federal governments, and all those who benefit from government-sponsored programs have carried us into such a debt. This irresponsibility must be corrected. Reduction in spending, cutbacks on government programs, and a structured change in the tax rules are all possibilities that could help reduce the deficit.

The first step in reducing the deficit is the most obvious and most necessary; the United States must cut back on government spending. Total government spending has increased ridiculously within the last ten years. If this spending rate is allowed to continue, the government will be spending more than $1 trillion by 1990; an increase in spending that in this decade alone is greater than the entire increase in the 200 years our nation has prospered.

Americans will find that there are no easy cuts left; these cuts are federal programs that most often benefit the middle class. One proposed budget, that includes only slight defense trims, contains $40 billion in cuts in domestic programs. These domestic programs that are being considered for budget cuts are housing loans, community services programs, general revenue sharing (provides funds to local governments), Job Corps, library grants, student loans, the Small Business Administration, federal farm subsidies, and research and education grants. Unfortunately, this deficit package is still $175 billion short of a balanced budget.

President Reagan claims that the deficit can be treated without raising taxes, without altering social security benefits, and without tampering with the monies alloted for the United State's massive defense program. I believe it is necessary to make a cut, or at least a freeze, in social security benefits. Lately, there has been a rapid rise in social security and medicare benefits; in the past decade, social security benefits have tripled. Currently, $175 billion is spent on social security. These benefits are being paid without regard to financial need, though; and much of this money goes to individuals who are certainly not poor.

Cuts being made on government spending should not be restricted to non-defense programs such as social security benefits and the domestic programs as mentioned above. In recent years there has been a sharp increase in defense outlays. The fact is that although Congress wishes to continue military spending, the need to reduce the deficit has become very great. We cannot have it both ways; reduced government spending means reduced defense spending. Our present deficit situation cannot be resolved otherwise, as Washington Senator Slade Gorton states, "We simply can't get from here to there without a defense freeze."

The above actions of tough domestic program cuts, a reduction in defense spending, and a freeze of social security benefits could create a savings of up to $160 billion. After Congress has completed a thorough search for federal spending cuts, it will be time to turn to the responsibility of raising revenue.

New sources of revenue have to be found if the budget is ever to come closer to being balanced. I believe it is inevitable that taxes will have to go up. Some well-structured changes in the tax rules will become necessary. President Reagan firmly states that a tax increase need not be a part of the deficit reduction plan. The American economy has reached a critical point, though; and what we want may be in contradiction to what we need to do. Taxes, as a source of revenue, will not be used until all the loopholes can be closed by a simplified tax program. There is much talk, and perhaps much need, about and for new taxes; but there is poor probability of any action soon. Are we shirking yet another responsibility?

One possibility for an increased revenue is a proposed 5 percent tax on energy. This relatively small tax could produce, by the end of the decade, an annual $15 billion. Another way to increase revenue would be a tax that places an extra ten cents on each gallon of gasoline. This increase in price only offsets half of the twenty cents per gallon decline in price that has occurred over the past four years. A gasoline tax such as this would produce a revenue of approximatley $10 billion a year.

The Great Budget Battle of 1985, a political battle, has begun. Characteristic of all battles, it will result with "winners" and "losers." The "losers" include the poor, middle-income families with children in elementary school through college, the elderly, federal workers and retirees, school systems and libraries, city dwellers, suburbanites, rural residents, farmers, veterans, subway riders, Amtrak passengers, small businesses, and the list goes on until each and every one of us is included. This battle will cause pain, but a pain that must be endured. A loss of benefits for each of the above mentioned groups is small in comparison to the losses that would be caused by the destruction of our economy. "It's a burden on future generations," says Jack Albertines, president of the American Business Conference in Washington, D.C. "If deficits are not reduced, we will leave our children with a legacy of high taxes, reduced federal services, and slower growth."

The deficit problem cannot be solved overnight. Gradually, though, with the response of the people, the ugly deficit can be controlled, and our children can continue to live prosperously. "I am proud of the state of the economy," President Reagan declares. The President and all Americans do indeed have the right to be proud of the present economy. What Americans don't realize is that while the present seems comfortable, the future economy could be destroyed because of the irresponsibility surrounding the national debt. We, the people of the United States, need to take the above actions to cure the ills caused by years of fiscal irresponsibility.

AIR POLLUTION AND ACID RAIN

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1985

Mrs. LLOYD. Mr. Speaker, and Members, I would like to call your attention to a recent editorial appearing in Science magazine entitled, "Air Pollution and Acid Rain." In this editorial, Philip Abelson gives an excellent sketch of the direction of our evolving understanding of the complex chemistry associated with acid rain—a phenomenon which has been popularly perceived almost entirely in the context of sulfur emissions from the combustion of coal. In his comments on ongoing research, Abelson points out the increasing refinement this work is providing in demonstrating the importance of NO_x emissions and ozone, both as significant pollutants in their own right and because of their key roles in the overall atmospheric chemistry associated with deleterious effects. As he notes, this emerging picture seriously questions the effectiveness of an acid rain control strategy which focuses exclusively on limiting the SO_x emissions from coal-fired electric utility plants.

In the past, many of us have joined in opposing an immediate mandate for such a simplistic strategy and instead have vigorously supported the accelerated assessment program whose benefits, in terms of improved understanding of critical acid rain phenomena, are now beginning to be realized. While this understanding is still far from complete, it is clear that our improved knowledge already suggests the possibility of more effective avenues for addressing this issue than by the imposition of costly SO_x controls on coal-fired boilers as has been prematurely proposed as a solution to the acid rain problem. It is my opinion that only continued research can proivde the crucial guidance necessary for developing a balanced and affordable strategy for acid rain abatement.

The effectiveness of an acid rain control strategy will necessarily be dictated by the degree to which it recognizes the effects of all relevant pollutants and all sources in balancing the benefits of given levels of emissions control against the cost of achieving those levels. I am confident that the current research will ultimately provide a firm basis for such an assessment.

I recommend Dr. Abelson's editorial to all Members as an authoritative and balanced perspective on these issues.

[From Science Magazine, Nov. 8, 1985]

AIR POLLUTION AND ACID RAIN

(By Philip H. Abelson)

Research being conducted on air pollution and acid rain is leading to a changing picture of the relative importance of SO_2 and NO_x. Political and regulatory efforts have been focused on sulfur oxides because they produced about twice as much acid as NO_x. However, that emphasis disregards the role of NO_x in the formation of toxic photochemical oxidants. Controlled studies at experimental facilities and observations in the field have identified effects of ozone and NO_x as more damaging to vegetation than SO_2 alone.

In sunlight a complex series of reactions occurs in the troposphere, including photolysis of NO_2 to produce excited atomic oxygen and thence ozone. Additional reactive species formed include hydrogen peroxide, methyl hydroperoxide, peroxyacetic acid, and reactive free radicals, including OH, NO_3 and HO_2. Maxima in the amounts of these species usually occur between 9:00 a.m. and 4:00 p.m. in midsummer. Monitoring has revealed considerable variability in concentrations of the oxidizing pollutants related to abundance of the input substances. Some oxone may be present that originates in the stratosphere.

It has been know that SO_2, NO_x and O_3 can have toxic effects on plants. In the early days, experiments tended to be performed "scientifically"; that is, plants were exposed in chambers in which the chemicals were tested one at a time. Under those circumstances, it was noted that concentrations of SO_2 and NO_2 greater than ambient were required to produce notable pathology.

Indeed, low concentrations of NO_2 were sometimes beneficial (perhaps a fertilizer effect). However, in the real world, pollutants are present together. When experiments were conducted with ambient midday levels of ozone present (for example, 50 to 100 parts per billion), toxicity was noted. When the ozone was supplemented with NO_2, there was usually a substantial additional toxicity attributable to NO_2. Similar results were noted when ozone was supplemented with SO_2.

The deleterious effects of ozone on agricultural crops has been documented and analyzed in a report issued by the Environmental Protection Agency. It is estimated that a reduction in ambient ozone levels of 25 percent would produce nearly $2 billion in benefits, while a 25 percent increase in ozone would lead to an additional $2.3 billion in crop losses.

The photochemical oxidants, particularly OH, have an important role in the oxidation of SO_2 leading to H_2SO_4. In the summer, with abundant OH present, the oxidation proceeds much more rapidly than in winter. Sulfur dioxide emissions in winter and summer are about the same, but the total deposition of sulfate in January and February at stations in northeastern states was found to be a third or less than what it was in midsummer. Deposition of nitrate showed little seasonal effect. Thus, at the critical time of the spring runoff, the contribution of nitric acid was about equivalent to that of sulfuric acid.

Initiatives to reduce acid rain tend to be centered on the electrical utilities and on their emissions of SO_2. When new coal-fired plants are built, they are required to include facilities for flue gas desulfurization. This adds substantially to the cost of the plant, decreases the efficiency of energy conversion to electricity, and diminishes overall reliability. While the process is effective in capturing SO_2, it is ineffective in removing NO. Any program aimed at reducing acid rain should take into consideration the total air pollution problem, including NO_x. Efforts to reduce SO_2 emissions should be accompanied by a corresponding emphasis on reducing NO_x, whatever the source. For the electrical utilities, this would mean providing more flexibility to use technologies that reduce both SO_2 and NO_x. But in addition, the other large contributors to NO_x, such as motor vehicles, should come under scrutiny.

REENGAGING IN GUATEMALA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BARNES. Mr. Speaker, we have been presented with a historic opportunity in Guatemala. Because of the election of Vinicio Cerezo to the Presidency, that unfortunate country has its first opportunity in a generation to insitute truly democratic government. And if Guatemala succeeds in developing a stable democracy that is responsive to its people, that will be the best possible guarantee of U.S. security in the area.

Whether President Cerezo and the Guatemalan people succeed in this historic endeavor will depend a great deal on the policies of the United States. There is an enormous danger that we will fail to understand that the crucial contribution that we must make is, above all, to give political support—and I emphasize the word "political"—to President Cerezo as he attempts to consolidate his power, exercise authority, and produce benefits for his people. "They—the military—will give us the office," he said at a news conference the other day. "We are going to have to recover the power." In doing so, President Cerezo will require the support of fellow democrates throughout the region and the world. But, as he also said at the news conference, "If you are a leftist you can get support, and if you are a rightist you can get support, but the hardest thing to get support for is democracy."

Mr. Speaker, there is a lot of talk of increasing aid to Guatemala, and I am for that. But we can double, triple, quadruple aid, but if we do not do it in a way that helps President Cerezo politically, it will do no good. An insightful editorial in today's Washington Post captured the importance of keeping "full solidarity with the democratic cause," and "taking—our—cues in these matter directly from Mr. Cerezo." There is going to be a temptation in the administration to punish Mr. Cerezo for failing to line up behind U.S. Nicaragua policy. But, as the Post correctly points out, "No direct support that Guatemala might conceivably lend to U.S. policy in Nicaragua could serve Americans more than stability within Guatemala itself."

I urge my colleages to pay careful attention to this editorial which follows:

REENGAGING IN GUATEMALA

Guatemala defies the common image of Central America as a place where nothing important happens without an American hand. On its own—true, with a viciousness that repelled the United States—Guatemala beat down a guerrilla challenge in the 1970s. Again on its own—and with a promise that is attracting the United States now—Guatemala is putting an elected civilian government atop the country's military-run power structure. The question is how the United States ought to reengage in this dominant Central American land.

The prime requirement is to keep full solidarity with the democratic cause. President-elect Vinicio Cerezo, 42, a man of courage and vision, won a huge popular mandate, and his Christian Democratic party controls the legislature. This gives him a foundation on which, necessarily by degrees, to assert the claims of democracy and law against a military unaccustomed to acknowledging either.

Some suggest the armed forces are ready to yield their traditional privileged but demeaning role as the far right's gendarme and to become a self-respecting professional army. But it's a long way from happening. The United States can help a bit by taking its cues in these matters directly from Mr. Cerezo—in particular, by deferring all talk of military and police aid until he indicates interest. In Washington this week, he put this matter off. The United States also needs to be responsive to Guatemala's economic needs. Brazil's drought, pushing up Guatemalan coffee prices, won't be enough.

The second requirement for Washington is to subordinate its concern about Nicaragua to the American interest in a democratic Guatemala. A country whose whole modern history was bent by the American-directed coup of 1954, Guatemala has pursued neutrality in Central America's raging conflicts. Mr. Cerezo visited Managua before coming to Washington. He looks to a policy of "active neutrality," a vague concept but one that the apparent eclipse of the Contadora process may leave a little room for. Guatemala shares no border with Nicaragua, feels beyond the reach of its guerrillas, and hopes to gain both in trade and in regional standing by keeping lines open to Managua. In any event, no direct support that Guatemala might conceivably lend to U.S. policy in Nicaragua could serve Americans more than stability within Guatemala itself.

Guatemala has been a metaphor for state violence. Four hundred members of Mr. Cerezo's party have been assassinated, and yet men and women like him are still willing to put their lives on the line. His election is a moment of rare potential to a country that desperately needs democracy and peace. The United States must help him, carefully, to use it well.

SOME WELL-DESERVED PRAISE FOR GUATEMALA'S DEMOCRATS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GARCIA. Mr. Speaker, today's Washington Post ran an editorial on Guatemala, saying that the recent election of Vinicio Cerezo, as that nation's President, "is a moment of rare potential."

In an article in yesterday's New York Times, reporter Stephen Kinzer called Guatemala's recent elections, "one of the most orderly * * * ever held in Central America."

All of this praise is not undeserved, nor should it go unnoticed. This is a historic opportunity for Guatemala, a chance to establish an authentic, indigenous democracy. Certainly, one election does not a democracy make. Nonetheless, Mr. Cerezo's victory is auspicious, if for no other reason than an honest election actually took place, and a popular political leader has been allowed to claim victory.

This is a tribute to Mr. Cerezo's tenacity and to the tenacity of those who have believed in the possibility of democracy taking root in Guatemala. Both the democrats in Guatemala and members of the staff at the Guatemalan Embassy in Washington have held on to that belief, asking over the past few difficult years only that others listen to them. They too must share in their new President's victory.

None of this is to say that suddenly all will be well in Guatemala, that the military will suddenly behave like the U.S. military, that the oligarchy will suddenly be open to taxation and land reform. It is only to say that this is an abertura, or opening, for those democrats in Guatemala who have never lost sight of or veered from their worthy purpose.

I am submitting the Post editorial and the Times article for the RECORD.

[From the Washington Post, Dec. 19, 1985]

REENGAGING IN GUATEMALA

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[From the New York Times, Dec. 18, 1985]

AFTER 30 YEARS, GUATEMALA TESTS DEMOCRACY

(By Stephen Kinzer)

GUATEMALA, Dec. 15.—Just five years ago, Francisco Villagrán Kramer resigned his post as Vice President of Guatemala and fled the country.

"Death or exile is the fate of those who fight for justice in Guatemala," he said at the time.

Today, Mr. Villagrán's apartment in the capital is a gathering place for young activists eager to discuss what the future holds for Guatemalan democracy. He himself is said to be a possible candidate to head the Supreme Court.

The military has run Guatemala for more than 30 years, and during that period Guatemalans have suffered some of the harshest repression in Latin America. Tens of thousands of people, many of them Indians descended from Mayan tribes, have died violently. During some periods, street-corner killings of students, businessmen, political organizers, university professors and trade unionists were common.

Yet Guatemalans elected a President last week in one of the most orderly elections ever held in Central America. They overwhelmingly chose an attractive young leader of the center-left Christian Democratic Party, Marco Vinicio Cerezo Arévalo, who has built his career on demands that the military return to their barracks and leave the task of governing to civilians.

The dramatic evolution of Guatemalan politics over the last three years, according to diplomats and other political analysts here, was the product of antimilitary sentiment that was becoming explosive and of the recognition by senior officers that the army was losing popular support.

The trend toward civilian governments in Latin America, which has all but eliminated rightist military dictatorships on the continent, was also said to have strongly, if belatedly influenced Guatemalan generals to call elections.

"What Guatemala is living through now is almost a miracle, and what a thrill it is," wrote a newspaper columnist who reflected the excitement many people felt after last week's election. "This process of being able to choose the candidate one prefers after a free election like we have never seen before, and of being sure that the one who wins will actually take over the presidency, is completely new to us, but we love it!"

There have been voices of caution amid the self-congratulations. The afternoon newspaper La Hora, which has been critical of the military, warned that the nation was facing "a long and slow process" in establishing democracy, but agreed that moderate optimism" was justifiable.

NEW CHORUS OF HISTORY

With Guatemala about to inaugurate a civilian President, only two Latin American countries, Paraguay and Chile, remain under the rule of rightwing generals. A decade ago, the group included the Dominican Republic, Honduras, El Salvador, Ecuador, Argentina, Bolivia, Uruguay and Brazil, all of which have since elected civilian governments.

"Beginning in 1983, there has been a new democratic opening in Guatemala," wrote Julio Godoy, one of the country's rising young political commentators, in a recent analysis.

"The opening was made necessary by the new chorus of history in Latin America," Mr. Godoy wrote. "Fascist military regimes have become unthinkable in the region, their basis eroded by their isolation from the people they sought to rule. Corruption and official crime turned them into violators of the very state of law they were supposed to represent.

For Guatemala, the darkest period of recent history was the regime of Gen. Fernando Remeo Lucas García, who held the presidency from 1978 to 1982. He was the third general in a row to have been chosen in elections generally considered fraudulent, and during his presidency political terror reached levels that drove many Guatemalans to despair for their country's future.

In 1982, General Lucas tried to impose his Defense Minister, Gen. Angel Aníbal Guevara, as President in yet another rigged election. But a group of young officers, sensing the level of public frustration and outrage, deposed General Lucas in March 1982 and declared the election results null. They named Efrain Ríos Montt, a retired general who had been cheated of the presidency in 1974, to head the Government.

General Ríos Montt pledged to hold free elections and in a step that was to prove decisive he called on law school deans and bar association officials to nominate 20 distinguished jurists for an electoral tribunal that would supervise the transition to democracy. From the list of 20, the Supreme Court chose 10—5 members and 5 alternates.

HERO OF ELECTORAL PROCESS

The tribunal's president, Arturo Herbruger Asturias, who had been Guatemala's Chief Justice during the civilian governments that ruled in the late 1940's and early 1950's, was to become one of the heroes of the electoral process.

"I took on the job as a kind of adventure," Mr. Herburger said. "We didn't know how serious Rios Montt was, but we decided at the beginning that we would all resign if anyone in power tried to obstruct our work."

General Rios Montt revealed himself as a religious visionary and something as an eccentric, and he alienated many officers with his moralistic crackdown on corruption. He also began to hint that he wanted to stay in power for many years before holding elections. On March 23, 1983, he was overthrown by his Defense Minister, Gen Oscar Mejia Victores, who as his first official act visited the electoral tribunal and pledged his full support for its plan to hold early elections.

"I think General Mejia was taking into account that the country was at a real turning point," Mr. Herbruger said in an interview. "He wants to leave a good name in the history books. I think he has been able to convince his comrades that their job is not to govern anymore."

In many ways, the Mejia Government was not unlike its predecessors. Political killings and kidnappings continued, many thousands of peasants were kept in protective villages, corruption was said to be rampant, and human rights and church workers reported continuing abuses in the countryside. But in his determination to allow free elections, General Mejia proved different from previous military leaders.

PRESSURE FROM ABROAD

The civilian adviser closest to the Mejia Government, Foreign Minister Fernando Andrade Diaz-Duran, said last week that General Mejia was very much affected by the continental trend toward democracy.

"Rios Montt was behaving like a Savonarola who wanted to burn all the sinners, and the officers were horrified when he started to say he would need seven or eight years in power to set the country right," Mr. Andrade said in an interview. "After Mejia took over and said he would call elections, people assumed he would support his own candidate and them impose him, as had been done in the past.

"But Mejia traveled a lot, and he was received by people like Alfonsin, Belisario, Felipe Gonzalez and de la Madrid," said Mr. Andrade, referring to the elected leaders of Argentina, Colombia, Spain and Mexico.

"They treated him like a statesman and impressed upon him what a historic responsibility he had. It made a great impact on him.

The trend toward democracy in Latin America, which began in the mid-1970's, was the product of various factors, including public discontent, economic crisis and international pressure.

"You can't discount the contribution of Jimmy Carter while he was President," said Edgar Ponce Villela, a political activist who ran for Mayor of the capital city in municipal elections last month. "Carter was very firm against dictatorships, and he helped to set this process in motion."

NICARAGUAN INFLUENCE FEARED

Mr. Ponce said the consolidation of a leftist regime in nearby Nicaragua has also contributed to fears among some Guatemalan officers that if they refused to allow a transition to democracy, Marxist revolutionaries aligned with Nicaragua might grow in strength here.

Guatemalans voted for a constituent assembly in July 1984 and the election went remarkably smoothly. But twice this year, once in April and again in September, right-wing politicians linked to entrenched business interests tried unsuccessfully to seize power and disrupt the political process.

"The most serious attempt was in April, when there was street violence protesting new tax laws," Mr. Andrade recalled: "These groups actually reached the point of appealing to certain commanders to join them in a coup, but the commanders remained loyal to Mejía."

General Mejía has been traveling to military bases in all parts of the country to meet with officers. This weekend he was at bases in the eastern provinces of Zacapa and Jutiapa. Aides said he was urging his men to support the incoming Government.

"Let us hope the army never again has to participate in rescue actions because of problems in the government," the general said at a news conference after last week's election. Some took his choice of words to imply a warning that the military was not abandoning politics altogether.

GENERAL TO RETIRE

General Mejía will automatically pass into retirement when he turns power over to Mr. Cerezo on Jan. 14.

Mr. Cerezo has warned repeatedly that there will be constraints on his freedom to act. Diplomats say there are certain steps, such as beginning broad prosecutions of officers implicated in human rights abuses, that the army might view as provocative.

"There are groups in this country which are insatiable," said Mr. Andrade. "No one can assume anything, but I myself doubt there will be any adventure by the military."

Diplomats in Guatemala had high praise last week for the efficiency of the electoral process, and expressed guarded hope for the country's future.

SECURITY COUNCIL RESOLUTION ON HOSTAGE-TAKING

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. YATRON. Mr. Speaker, it is with special pride that I join in the chorus of praise for the outstanding work done by our colleagues, the Honorable DANTE B. FASCELL, chairman of the House Foreign Affairs Committee, and the Honorable DAN MICA, chairman of the Subcommittee on International Operations, in mobilizing the international community against terrorism and the taking of innocent hostages.

Their action in this cause resulted yesterday in a historic vote by the United Nations Security Council to unanimously condemn hostage-taking, which follows the recent action on a resolution voted unanimously by the United Nations General Assembly which condemns all acts of terrorism wherever they are committed and by whomever. Our U.N. Ambassador, Vernon Walters, credited our two colleagues with the success of this effort. He praised their initiatives and the meetings they arranged with the representatives of 36 member states for mobilizing the resolve of the civilized nations to condemn such criminal acts.

I certainly share Ambassador Walters' appreciation of their great work, and I have inserted the full text of the Ambassador's statement and resolution as well.

STATEMENT BY AMBASSADOR VERNON A. WALTERS

We are extremely pleased that the Security Council has unanimously gone on record in condemning all acts of hostage-taking. This is a historic step, almost without precedent in the entire 40 years of the United Nations. This resolution reflects positively on the United Nations organization; it is an act in which all members states can take pride. It is a fitting climax to this important 40th Anniversary year of the United Nations.

By condemning unequivocally all acts of hostage-taking, the Security Council has clearly stated the world community's abhorrence of such criminal acts. We can only hope that all states, all parties, that have any influence over groups now holding hostages, will take to heart today's clear and unanimous message and work for the immediate and safe release of all hostages, wherever and by whomever held.

We also hope that this Security Council resolution bodes well for improved cooperation between and among states, an essential condition for combatting terrorism. Only by concerted worldwide action can we hope to put an end to the repugnant practice of hostage-taking. It is clear from the resolution that no "cause," no "excuses," can justify such threats to human rights and human lives.

My government fully supports the Security Council's call for all states to consider, promptly and favorably, becoming parties to the International Convention Against the Taking of Hostages and other related international conventions. The United States will continue its efforts to have the world community adopt additional effective measures to protect the innocent lives of all people. As recent history has so sadly proven, international terrorism knows no boundaries.

Today's resolution re-inforces the October 9 Security Council statement on terrorism and the December 9 General Assembly resolution condemning all acts of terrorism. Together, these texts place the entire United Nations firmly on record against all terrorist crimes. While we cannot expect the lunatic fringe to desist from such acts, we do expect all law-abiding states to take all practicable measures to prevent terrorism, and to prosecute and punish all terrorists, wherever they are, in the spirit of these clear statements by the United Nations.

The United States is proud of its leadership role in today's action by the Security Council. It could not have been done without the broad support of all Security Council members which represent every sector of the globe. I thank my colleagues on the Council for the essential role they played with us in accomplishing this historic act. And let me pay special tribute to Congressman Dante Fascell, Chairman of the House Foreign Affairs Committee, and Congressman Daniel Mica, Chairman of the Subcommittee on International Operations and member of the U.S. Delegation to the 40th General Assembly, for their strong initiatives in the United States Congress and in meetings here at United Nations Headquarters toward this end. We look forward to concrete actions by all states to put into effect the resolution adopted today.

I cannot close without saying one word of thanks to my colleagues of all countries on the Security Council: The permanent members of the Security Council—China, France, the United Kingdom, the Soviet Union—for their help and cooperation in achieving this result today. Obviously, to achieve the kind of unanimous result which we achieved required a high degree of cooperation and work, work at all levels, work between the staffs of the representatives and the staffs from the non-permanent members, who also cooperated in making possible this quite extraordinary resolution passed unanimously in less than three minutes. Needless to say, a lot of work went before. But we were able to achieve the kind of agreement that enabled us this morning to produce this document, which I think represents the conscious of all mankind. Thank you.

TEXT OF U.N. SECURITY COUNCIL RESOLUTION PASSED UNANIMOUSLY DECEMBER 18

Deeply disturbed at the prevalence of incidents of hostage-taking and abduction, several of which are of protracted duration and have included loss of life;

Considering that the taking of hostages and abductions are offenses of grave concern to the international community, having severe adverse consequences for the rights of the victims and for the promotion of friendly relations and cooperation among states;

Recalling the statement of 9 October 1985 by the President of the Security Council (S/17554) resolutely condemning all acts of terrorism, including hostage-taking;

Recalling resolution 40/61 of December 11, 1985 of the General Assembly;

Bearing in mind the international convention against the taking of hostages adopted on 17 December 1979, the convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents, the convention for the suppression of unlawful acts against the safety of civil aviation, the convention for the suppression of unlawful seizure of aircraft, and other relevant conventions.

1. Condemns unequivocally all acts of hostage-taking and abduction;

2. Calls for the immediate safe release of all hostages and abducted persons wherever and by whomever they are being held;

3. Affirms the obligation of all states in whose territory hostages or abducted persons are held urgently to take all appropriate measures to secure their safe release

and to prevent the commission of acts of hostage-taking and abduction in the future;

4. Appeals to all states that have not yet done so to consider the possibility of becoming parties to the international convention against the taking of hostages, convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents, and other relevant conventions;

5. Urges the further development of international cooperation between states in devising and adopting effective measures which are in accordance with the rules of international law to facilitate the prevention, prosecution and punishment of all acts of hostage-taking and abduction as manifestations of international terrorism.

WHY I VOTE AGAINST GUN CONTROL

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KASICH. Mr. Speaker, as the House continues to debate the gun control issue, I call to the attention of my colleagues an outstanding article from Outdoor Life entitled "Why I Vote Against Gun Control" by Congressman FRED ECKERT of New York.

I urge my colleagues and anyone else concerned with the gun control issue to take a few minutes to read this thoughtful article. Congressman ECKERT has written a clear and concise piece that uses commonsense reasoning to show why gun control does not work. If you read nothing else on gun control, I urge you to read this excellent piece

[From Outdoor Life, May 1982]

WHY I VOTE AGAINST GUN CONTROL

(By Fred J. Eckert, New York State Senator)

No, I'm not a gun nut. Sure, I do own one shotgun. Yes I do hunt—on opening day of deer season, sometimes the next day, on opening day of duck season and, once in a great while, I do some pheasant hunting. I never hunted until I was 22 years old, and I started mainly to be sociable with my wife's family. I didn't become interested enough in hunting to buy a gun of my own until I was 33 years old. I grew up in an urban area in a fairly liberal community. I am a native Northeasterner, reasonably well educated, and I collect books, not guns.

I make these points because hostile news media foster the inane notion that those who oppose gun control are pistol-packing fanatics with next to no brains while all crusaders for gun control are intelligent, sophisticated and reasonable.

Let me tell you something. Some of the least intelligent and unreasonable arguments I have come across in nine years as a state legislator were and are made by gun-control fanatics.

A lawmaker who opposes gun control? It must be because I live in fear of the "gun lobby." That's the usual (and simplistic) explanation. Can't hang that on me. In 1978, the National Rifle Association sent out a circular just before election day portraying me as sympathetic to gun control. I was re-elected with 67 percent of the vote. They were wrong—the NRA, not the voters—but the mistake was not caught until after election day. In 1980, the NRA correctly portrayed me as an opponent of gun control, I was re-elected again with 67 percent of the vote. The point is that gun control isn't a big issue in my district and the "gun lobby" isn't a potent political force here.

Now we can look at the real issue. And just what is the real issue? The gun-control zealots see the real issue as gun control; I see it as *crime* control. It's an important distinction.

The zealots would have the public believe that gun control and crime control are the same. It is this myth that makes gun control so attractive to liberal politicians, whose soft views on such real crime-control issues as capital punishment, stiffer sentences and preventive detention are so squarely at odds with the strong views of the public. Favoring gun control is their way of appearing tough on something they falsely label as crime-fighting.

In nine years as a state legislator, I have seen volumes of conflicting statistics, witnessed plenty of emotional outbursts and sat through hours of arguments—but I have yet to find any convincing evidence that gun-control laws ever have or could effectively curb crime.

Is there any convincing evidence that gun control laws curb crime?

There isn't. There are claims, arguments and speculation but not real evidence.

Let me share with you the arguments that I hear and my answers.

"We've got to do something!" That's the emotional plea. Any reasonable person can understand the anxiety caused by crime.

Isn't it awful that so many people are killed with guns in America? Of course it's awful.

Aren't you concerned about violence and crime? Of course I'm concerned about violence and crime.

Then do something! Pass a gun control law! Simple? No, it's simplistic. The stark reality is that the great bulk of crimes do not involve guns. For instance, guns are not involved in most burglaries, muggings or rapes.

Well, they sure are used in a lot of murders! True. But do you really believe that the kind of person who commits murder would hesitiate to obtain a gun illegally?

Am I saying that gun-control laws don't deter anyone from obtaining a gun? Not at all. They do deter some people. People like honest shopkeepers who have been repeatedly robbed by gun-carrying thugs; innocent people who fear for their lives and property and need a gun for security and protection. But gun-control laws do not deter nuts bent on assassination; dangerous terrorists or professional criminals and organized crime. Gun control is no threat to them.

They will always know how to obtain guns illegally. And it's a safe bet that they relish laws that make it more difficult for law-abiding citizens to obtain the protection a gun provides.

Senator, that's the "gun lobby" line. You should listen to the facts. Do you realize it is a proven fact that in many murders involving the use of a gun, the killer and the victim knew each other, that lots of them involve friends or relatives, that some of them are caused by lovers' quarrels? Don't you see that a lot of these spontaneous killings would be prevented if guns were not so readily available? Isn't that a good reason for gun control laws? No and no again. Why should we be surprised because many killers know their victims? Why should we assume that a murder was "spontaneous" rather than planned just because the killer knew the victim? Shouldn't we expect a killer to claim he didn't plan to kill his friend or relative or sweetheart? Would we expect a killer to ask for a stiffer sentence by admitting premeditation?

But crimes of passion do occur and some people do shoot people during a rage! Gun-control laws would stop some of this! The would-be killer would have time to cool off if a gun wasn't so handy!

I realize that some people temporarily lose control of themselves, and that they may cool off and not kill or harm if a weapon is not available. But that is not a case for gun control. It's a case for praying that no lethal weapon is handy. An enraged person does not care if he kills with a gun or a knife or a baseball bat or whatever. And you can't prevent such killings unless you can guarantee the absence of anything that could help him kill. That can't be done.

Senator, be reasonable! Certainly you must realize that controlling guns just has to help prevent killings and other crimes? When gun-control proponents are hard pressed, they invariably fall back on repeating this unsubstantiated claim in a way that suggests it is a self-evident truth. What does seem obvious to me is that gun-control laws do not control the criminal use of guns. If gun control works, how do you explain the extremely high rate of firearms killings and other crimes in a place that has had the most strict gun-control law and the most strict gun-control enforcement in the nation for decades—New York City?

You don't think New York City is a fair example? OK. What about Detroit, Boston, Washington, Los Angeles, Miami, Newark, St. Louis? They all have very strict gun laws. Yet each of these cities has an extremely high homicide rate and an extremely high robbery rate. If gun-control laws curb crime, how do you explain that?

They're big cities? Is that why? Then how is it that many other big cities that do not have strict gun control laws—Denver, Milwaukee, San Diego, Jacksonville—have considerably lower homicide and robbery rates?

You want proof that gun control works? Just compare us with some of the foreign countries. Fine. Go right ahead.

Great Britain has gun laws more strict than the strictest American laws. And the rate of violent crime involving firearms is far less in Great Britain than in the United States, right? If Great Britain has strict gun control and a low rate of violent crime involving firearms, and the United States has far less restrictive gun control and a higher rate of firearms violence, doesn't that tell us something? Sure, it tells us that England has fewer violent crimes involving firearms. Period. It makes no more sense to jump to the conclusion that Great Britain's lower rate of violent crime is caused by its strict gun-control laws than it would to believe that New York City has a higher rate of violent crime than Great Britain just because it has stricter gun laws.

There is absolutely no proof that Great Britain's lower rate of firearms violence is a result of its gun laws. It is far more reasonable to conclude that it is a result of cultural differences between Americans and Englishmen.

Oh, yeah, then how do you explain Japan? Japan has strict gun control and a far lower rate of firearms violence than we do. True, but, there is no evidence that the reason for the lower rate is gun control rather than cultural differences, just as the fact that the rate of firearms violence among Japa-

nese-American citizens is lower than the rate in Japan itself certainly does not prove that living in a country with less restrictive gun laws makes persons of Japanese descent even less prone to violence.

Both Great Britain and Japan, incidentally, have criminal justice systems that produce a significantly greater conviction rate than ours. Certainly that has to be considered a factor in their lower crime rates.

Senator, think! Doesn't it stand to reason that the more guns there are in private hands, the more gun-related crimes we are going to have? No. Gun-control advocates who like to point to the experiences of foreign countries should try explaining why the country with the highest per capita possession of guns in the world—Switzerland—has one of the lowest rates of violent crime. Israel, too, has extremely high per capita possession of firearms and a very low rate of violent crime. Despite the nearly universal availability of firearms in both Switzerland and Israel, those two countries have crime rates comparable to that of Great Britain.

Senator, at least admit that more and more people are buying guns and we are having more and more crime. Doesn't that mean something to you? Sure it does, but not what you think it means. I don't believe there is more and more crime because more and more people are buying guns. The reverse is true—more and more people are buying guns because they are scared by more and more crime.

What about the statistics? What about the studies? There are mountains of statistics and volumes of studies on the subject of gun control—much of it conflicting. I have ploughed through a great deal of it. My conclusion is that there are no statistics or studies to prove that the imposition of gun control can reduce the rate of violent crime. Indeed, the well-known Cambridge University study of the early 1970s concluded that gun-control laws have had no effect on the crime rate in Great Britain. And the University of Wisconsin study (1975) also concluded that ". . . gun control laws have no individual or collective effect in reducing the rate of violent crime."

What about the police? Isn't it true that many heads of law-enforcement agencies support gun control? Yes, just as true as it is that many of them *oppose* gun control. Neither the proponents nor the opponents of gun control can honestly claim that law-enforcement leaders stand squarely on their side. Look at Los Angeles, where the sheriff of Los Angeles County spoke out *for* gun control at the same time the chief of police of the City of Los Angeles was speaking out *against* it. If we want to cite law-enforcement leaders, why not point out that the superintendent of Scotland Yard has said that gun control in the United States is not practical.

How about this compromise? Let the people retain their ownership of guns, but let's secure all guns in safe places such as armories. The gun owners can check them out when they want to go hunting or target shooting. Next to the idiotic claim that gun owners are trying to prove their masculinity, the most foolish idea about guns is the push to round up thousands and thousands of guns and place them all in central loations where screwballs or terrorists could instantly acquire a massive arsenal that could be used against our ill-equipped police and a totally disarmed public!

Senator, are you going to stand there and say that gun control laws are not necessary? I am going to stand here and say that gun-control laws are futile and that they are totally impractical. They are only a minor inconvenience to the criminal and they are an unconstitutional infringement on the rights of law-abiding citizens.

Let's deal with the constitutional issue for a moment. The Constitution of the United States specifically states, in the Second Amendment, part of our Bill of Rights, that the right of the people to keep and bear arms shall not be infringed.

Senator, you know what the Second Amendment says! It says: "A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed." Now certainly you know what that really means? Yes, I do. It means that the Founding Fathers deliberately withheld monopolistic power over firearms from the government as part of their brilliant system of checks and balances against excessive power in the hands of the government. The Second Amendment was conceived in order to preserve and protect our individual liberties.

No! No! All it means is that a militia—like the National Guard—can have guns. I think that if the Founding Fathers meant that, they would have said that. To them, the militia meant the people. I believe that they included the Second Amendment in the Bill of Rights as a check against domestic tyranny.

Even if I did not object on constitutional grounds, I would still oppose gun control because it is no more than a totally impractical illusion.

Do you know there are from 125 million to 200 million firearms in the United States today, depending on whose estimate you choose to believe? Anyone who honestly believes that we would have less violent crime if only guns were not so readily available has to believe in taking away 125 million to 200 million firearms from the citizens.

Generally speaking, gun-control proponents avoid saying that, but the views they hold logically compel them to take such a position sooner or later. How could we round up 125 million to 200 million firearms? It's impossible!

How much do you think it would cost for the government to buy up all the guns, even just all the handguns, in the country? Billions! Imagine the massive bureaucracy it would require. And who among us doubts for an instant that most guns would never be surrendered? No wonder the superintendent of Scotland Yard said that gun-control is just not practical in the United States!

Gun-control proponents usually fall back to a position that holds, in effect, that we can at least make a start by restricting possession of guns, or at least handguns, but their real long-range goal is to ban private possession of all firearms. That is a threat to individual liberty.

We know from experience and from common sense that gun-control laws don't work. We can make it impossible for the law-abiding citizen to obtain a gun, but there is no possible law that could prevent criminals from obtaining guns illegally. We can restrict cheap guns, but all that accomplishes is to increase the profits of gun dealers. We can ban short-barrel guns, but what's to prevent people from buying long-barrel guns and cutting them down? We could totally outlaw the manufacture of firearms in the United States, but that would simply create a massive gun-smuggling industry. We could severely restrict sale and possession of ammunition, but illicit ammunition makers would flourish.

Given the enormous number of firearms in private hands in the United States and the widespread support for the private ownership of firearms, real gun control in the United States today is about as practical as abolition of free speech.

I vote against gun control for three basic reasons:

(1) It is an unconstitutional infringement on a basic American right.

(2) There is no convincing evidence that gun control reduces crime.

(3) It is totally impractical.

Massachusaetts passed the kind of gun-control law that many of my colleagues tried to pass and are continuing to try to pass here in New York State. Their law imposes a minimum mandatory jail sentence for illegal possession of a handgun. The legislators who voted for these laws claimed they did so to fight crime. Interesting! Massachusetts did not impose a mandatory minimum sentence for armed robbery, burglary, rape, or even murder! Ask a gun-control proponent to explain that.

Crime—that's what we need to control. We need tougher crime-control laws, tougher courts and tougher corrections systems.

The answer to crime in America today isn't to take guns away from law-abiding citizens who feel a gun affords them protection. The answer is to put more criminals where they belong.

ESCALATION IN NICARAGUA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BARNES. Mr. Speaker, during the past several years many of us have lamented the fact that the Reagan administration seems determined to keep United States-Nicaraguan relations on a escalatory cycle. Our entreaties have not yet been successful in changing administration policy to one of seeking peaceful settlements in the region. But we must continue to speak out on this matter. I continue to hope that some way can be found to stop the escalation and seek peace.

In that spirit, I wish to share with my colleagues a recent column on the subject by the respected columnist of the Christian Science Monitor, Joseph C. Harsch. There is much calm wisdom in this column, in marked contrast to the administration's overheated rhetoric. I hope my colleagues will give Mr. Harsch's column their careful attention:

STRUGGLE FOR NICARAGUA: ESCALATION

According to the back files of the International Institute for Strategic Studies (IISS), there were 200 Cuban soldiers deployed in Nicaragua in 1981 when Ronald Reagan came to Washington and took over American foreign policy.

The number went to 1,000 in 1983 and then to 3,000 in 1984. The latest edition of the annual IISS report on "The Military Balance" again carries the figure of 3,000.

In other words, the presence of Cuban troops in Nicaragua in support of the present Sandinista government of Nicaragua is not new. But it climbed as the Reagan administration in Washington organized and deployed a counterrevolutionary

force against that Sandinista government in Nicaragua.

There was a flurry of excitement in Washington last week over those Cuban troops in Nicaragua. United States Assistant Secretary of State Elliott Abrams, testifying before a congressional committee on Dec. 5, said that the Cubans were, and had been for some time, taking part in combat. Surprisingly, he used the figure of 2,500 for Cubans in Nicaragua. Normally in such matters, United States government officials use the highest figure available, particularly when they want more money from Congress.

The flurry of renewed interest in the story of the United States vs. Nicaragua had started earlier in the week, on Monday, Dec. 2, when the U.S.-backed rebels, or "contras," successfully shot down a Soviet-built helicopter. The contras used a Soviet-built SA-7 guided missile for the shooting.

The Soviet SA-7 is a lightweight handheld anti-aircraft weapon. It has been deployed for over 10 years. It is widely used in the armed forces of the Soviet Union and its clients worldwide. Apparently it can be bought on the open market. The story offered in Washington of how the contras obtained a Soviet built SA-7 is that it was probably bought in Portugal.

The use of the SA-7 by the contras was apparently a shock to the Nicaraguans. Nicaraguan President Daniel Ortega Saavedra promptly denounced it as an act of "escalation."

That takes us back a ways. There has been steady escalation in and around Nicaragua for some time. It began with the 1981 decision of the Reagan administration to organize and mount an anti-Sandinista force. Deployment of that force in Honduras began in 1982. It reached its peak of effectiveness in mid-summer of 1984. At that time, contra raids penetrated within some 40 miles of the capital.

That phase of contra activity had been made possible by light planes capable of supplying the rebels well inside Nicaragua. They could, with supply by air, stay "inside" for days, even weeks at a time. But in war there is often a new answer to a new move.

The United States supplied the supply planes to the contras. The Soviets responded by sending helicopter gunships to the Sandinistas. Those gunships put the contras into a winter lull. Their supply planes fell easy victim to the Sandinista gunships. The contras have had a quiet season in which to regroup.

They were revived when Congress reluctantly authorized $27 million for "humanitarian" help. How "humanitarian" help got translated into Soviet SA-7 weapons is a story that lies hidden in that realm of action called covert in the current jargon of Washington. But obviously the SA-7s are an answer to the gunships.

So there has been steady escalation back and forth ever since 1982. The United States built the contra force. The Cubans sent 3,000 soldiers to help the Nicaraguans. The United States provided the contras with the capability of supply by air. The Soviets answered with gunships. The contras got SA-7s.

Where does it lead? U.S. Secretary of State George P. Shultz has gone off on a trip to Europe, leaving behind a hint that he might come back and ask Congress to provide overt United States military aid to the contras on the ground that the Cubans have escalated their role by going into combat with the Nicaraguans.

It begins to look as though the Sandinista regime in Nicaragua can be brought down only by actual overt use of U.S. troops. So long as United States aid is supposedly "clandestine" and "covert," it is possible for Moscow and Havana to countermove by a new move.

At some point, Mr. Reagan will probably either have to give up in Nicaragua or send in the United States Marines, plus a big chunk of the United States Army. The Sandinistas now have about 60,000 men under arms, with steadily improving training and equipment.

REDUCING FEDERAL SPENDING

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CHENEY. Mr. Speaker, earlier this year, Mr. James Rouse of Saratoga, WY, came up with the idea of sponsoring an essay contest with cash prizes for the best essays on what the average citizen can do to reduce waste of the Government's money. Using his own money, Mr. Rouse paid $1,000 for the first prize, $500 for the second, and $250 for the third prize, to three young people in his community who researched and wrote essays on this important subject.

I am pleased today, Mr. Speaker, to submit for publication in the RECORD an essay entitled, "To Spend or Not To Spend?" by Miss Jennifer Justice of Encampment High School in Encampment, WY. Jennifer received $500 for her excellent work. I hope it serves as an inspiration to other young people to take an interest in the affairs of their Government.

TO SPEND OR NOT TO SPEND?

(By Jennifer Justice, Encampment High School, Encampment, WY)

We live in a time period that has been called the "Me Generation". The Eighties are an era in which people have come to realize the importance of personal incentive and the consequential profits. Unfortunately, this success can result in greed. This applies to the United States' government as well as individual citizens. By 1984, the U.S. government had built up a $184 billion deficit. There are three essential factors in reducing this incredible deficit: identification, information, and interest.

J. Peter Grace, prominent businessman and author of "Burning Money," a report on government waste, found in his recent research that nearly every governmental operation has an element resulting in waste and inefficiency. Grace claims that we can "'fix it' (excessive government spending) by identifying and eliminating that waste and inefficiency." Throughout his report, Grace identifies the problems with specific examples:

1. He tells of routine Social Security payments made to some 8,000 American people who are deceased.

2. Grace says that the Veteran's Administration spends twice as much per hospital bed and four times as much per nursing home bed as the private medical sector.

3. The Pentagon purchases 3-cent screws for $91, 25-cent compressor caps for $100, 9-cent batteries for $114, and 60-cent light bulbs for $511. The government pays $436 for a $7 hammer. A retired Air Force officer I know describes waste in the military. He tells the story of a large quantity of new street lights being buried at the base dump before an inspection. They were not listed on the inventory and therefore caused a problem. Two years later, a contest was held to get suggestions on how to light the missile complex parking lot at low cost. This officer turned in the suggestion to dig up the "unknown" streetlights. Not only did the officer win $100, the parking lot was lit entirely by the "problem" lamps. Had it not been for one scavenger officer, the government would have again succeeded in abusing taxpayers' money.

4. Repeatedly, we see absurd waste of the taxpayers' money. Federal travel expenses for 1984 were $4.8 billion. Had the government taken the time to centralize travel procurement and take advantage of large-business accounts, it would have saved taxpayers $984 million over a period of three years.

5. There are 4,000 military bases in the United States, but only 312 of them are considered significant; the rest are considered support facilities with less than 150 employees each. If efforts to close unecessary bases were successful, it would result in a potential savings of $2 billion per year.

6. The formula used to calculate food stamp benefits has not changed since 1971, though the American economy has. This results in $1 billion a year of taxpayers' money again being abused.

The abuse and waste goes on and on. Simply stated in the words of J. Peter Grace, "The problem is too much Federal spending, and neither ignoring it nor covering it up will make it go away."

The next factor in reducing government waste involves information. The problems lie in Federal operations. The information that is necessary for efficiency is usually inaccurate, out-of-date, unavailable, or incomplete. For the American people to really make a difference on the issue of government waste, they have to be informed as to how their government is spending their money. Unfortunately, usable data is hard to come by because of the lack of organization in the United States government. For instance, the Veterans' Administration pays $15 billion per year to six million claimants, and while they know that over $500 million is paid in error, they have no formal system to correct the problem and therefore the American people pay once more for the government's misuse of information. To truly make the American people aware of the huge waste of funds in the U.S. government, hence causing them to take steps to make a change in policy, careful study must be done on the subject of governmental waste and abuse. The citizens of the United States need to be familiar with the things taking place in their "democratic" government.

The third and final step toward reducing government waste is to peak the interest of the people. The United States government was founded on the democratic ideals; ideals that said that the people took a strong interest in their government and its operation. Grace calls for a "crusade of the people" to form a more efficient and productive government by forcing Congress to get rid of government waste and abuse. Congress is the key toward making these improvements because the legislature has the power to control spending. It is the American people who lose when the government misuses its finances. The people must show their concern for the future of America by demanding that their Congress waste less in its

functioning. Grace claims that one of the most important ways to do this is by requiring Congress to grant the President the item veto. Millions of dollars are wasted each year on "riders" attached to larger bills that the President has no control over without the item vote. This step starts with personal letters from the people.

Wyoming Congressman Dick Cheney said at a recent youth leadership seminar that one of the most effective ways to influence the government is to write personal letters to members of the Congress. Cheney stressed the significance in government, so the people should become personally involved and interested in the government of their country.

Identification, information, and interest; three important steps toward reducing government waste and abuse. The concerned citizens of the United States must first identify where the problem lies, become informed on the problem subjects, then act on what they know because of their genuine interest in the stability of the American government. If the question really is, "To spend or not to spend?", I choose not to spend and follow through by making a commitment to be a conscientious, well-informed voter, voting only for those politicians whom I have seen in action in events such as political forums, and who will recognize my concerns as a voter and taxpayer.

I commit myself to the task of writing my representatives to express those concerns. In the words of J. Peter Grace, "By taking action as an individual citizen, voter, and taxpayer, you reject the fashionable cynicism that says that the American democracy is no longer workable. We have the best, most envied form of government in the world. It is so, precisely because it does respond to the will of the people."

PROTECTIONISM COULD LEAD TO WORLD WAR III

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FRENZEL. Mr. Speaker, a noted former professor of political science at the University of Minnesota and consultant to the well-respected Minnesota International Center, Mr. William C. Rogers, has written a short paper which paints a rather stark scenario on how passage of extreme protectionist bills, such as the textile bill, could lead to a major trade war that could actually result in isolation of the United States, a turn by our allies toward the Soviet Union and possibly the start of World War III.

I would recommend the paper to my colleagues as one worth reading.

PROTECTIONISM AND THE COMING OF WORLD WAR III

(By William C. Rogers)

For the last year the possible dire economic consequences of the current rise of protectionist pressures in the United States Congress have been trumpeted from the administration in Washington, from the media, and from practically every university economics department in the country. The message is: new barriers to U.S. imports would harm consumers, especially the poorest of our people, as well as hurt the economy of other countries including our allies and many recipients of American aid programs.

One example of this danger can be drawn from the textile bill passed by Congress. It is one of over 300 protectionist bills before Congress. Estimates are that each American textile job saved would cost our economy $42,000 for every $11,000 a year job saved. Lower income people would have to pay more for their clothes and would have less money to spend on other consumer goods, thus hurting industries such as agriculture and manufacturing. More serious, would be the inevitable retaliation from other countries injured by the proposed new barriers. Would they continue to be willing to buy U.S. products in these circumstances? Not if they could help it, we are told. Multiply the damage of the textile bill by 50 or 100 and the U.S. might find itself in the place it occupied in the 1930s when it had the dubious honor of having the highest tariffs in the world after Spain.

The Great Depression can be traced in a very direct way to the Smoot-Hawley Tariff of 1930, the highest in our history. It was signed by President Hoover to satisfy the demands of farmers and scores of industries which blamed "foreign devils" for their economic plight. Farmers who benefited from World War I food shortages which increased U.S. exports from $2.5 billion in 1913 to $8.2 billion in 1920, wanted the good days to continue. But after the war Europe began to grow its own food again and U.S. agriculture slumped. Far from helping, the new tariffs helped bring on a farm depression.

While the economic arguments against protectionism are fairly well known, against protectionism, a far more dangerous military argument against protectionism is seldom voiced. It must be faced, however. World War III could well result from a new tariff war. Bad as World War II was, it would be child's play compared to nuclear warfare. World War II had some of its deepest roots in the protectionism that developed in the 1920s and the 1930s and we shall suggest trade barriers could fuel World War III.[1] We will attempt to trace the relationship between protectionism and war as it worked in the past before examining the possible path from today's protectionism to tomorrow's disaster.

The years immediately before and after World War I are probably about as well known to most of us as the rise and fall of the Assyrian Empire. World War II is this generation's war. Yet the decade before 1914, when "the lights went out all over Europe," saw a great expansion and improvement in the world economy. Trade was very free and open as was the movement of people. The United States and Venezuela were among the few countries which even bothered with passports. The world banker was London and the British luxuriated in their vaunted free trade policy. The United States and Japan were becoming world powers. Unfortunately the search for military power and the rise of nationalism triumphed over the relatively harmless pursuit of profits. The Kaiser's Germany wanted her "place in the sun." The Czar's Russia was pursuing Pan Slavism. France wanted revenge for her 1870 humiliation and America happily isolationist and nearly disarmed after the Civil War was content to "twist the lion's tail" at election times while enjoying the open world economy, protected by the British Navy and our two oceans.

The period immediately after World War I saw a revival of high tariff policies among the victorious allies but most notably in the United States. High tariffs had been a fixture in the USA since after the Civil War when the cry was raised to protect our newly developed "infant industries." They were finally effectively opposed by Woodrow Wilson when he was elected. The needs of World War I made them obsolete. But after the war in 1920 the high tariff Republicans were in office again. According to Morrison and Commager's classic American history text, "Within a month of his accession to the Presidency, Harding announced "the urgency for an instant tariff cannot be too much emphasized."[2] Congress responded with the Emergency Tariff of 27 May, 1921, historically important because of its prohibitive agricultural schedules. "More important was the Fordney-McCumber Tariff of September, 1922, which established rates higher than ever before in our history. Duties on sugar, textiles, pig iron, rails, and chinaware were restored to the old Paine-Aldrich level while increases on toys, hardware, chemicals, dyes and lace ranged from 60-400%." The United States led the way to a protectionist world after the first world war. (Do these protectionist triumphs have a familiar ring to them? Sugar, textiles, and steel are certainly items that Congressmen in the 1980's are eager to protect once again).

Meanwhile, across the Pacific, Japan's military, which had been on the Allied side against Germany, was willing to give the newly developed Japanese business classes a try at governing. In a respite from its Samurai inspired military adventures, Japan gave peaceful economic growth a chance, but the going was hard. Britain was recovering from the War and passed an Empire Preference Trade Act in 1923. The U.S. fearing both the "yellow peril" of Japanese immigration and a flood of "cheap Japanese goods" enacted an humiliating Japanese exclusion act. The Japanese military fumed with anger but stayed confined to barracks, waiting and hoping that the business interests would fail in their peaceful commercial methods of improving the Japanese economy.[3] The army hoped to solve Japan's economic problems by conquest.

Violent reaction to the impact of protectionism across the Atlantic came from two militaristic demagogues in central Europe. Mussolini had triumphed in Italy in 1922 with his "March on Rome." He called for a new Roman Empire to meet Italy's economic needs. Adolph Hitler, frothing at the mouth in a prostrate Germany had launched his famous "beer hall pustch" in 1923 and ten years was Chancellor. Neither dictator had any faith in peaceful trade and commerce as a cure for their nations ills—quite the contrary. Hitler scorned the attempts of "bourgoise" leaders to restore Germany's economy after the war, and when they had nearly succeeded after the Locarno Pact and the first London Economic Conference he continued to demand "lebensraum" and "autarki" instead of a restored world economy. While the world economy was beginning to recover in the 1920's the Wall Street crash of 1929 gave powerful new support for the protectionist route. This tariff war eventually led to the seizure of power by military tyrants in Italy, Japan and Germany. The invasions of Manchuria, Ethiopia and Poland, and eventually the bombing of Pearl Harbor followed. If

[1] Some details about Annie Wilson and her run into Mexico have been altered to protect her anonymity.

the world had regained a free and open trading system after 1919, such as we have had for the last 40 years since World War II, there is a good chance World War II could have been prevented. And what does all of this have to do with today?[4] The Allies in 1945 were determined to avoid the economic disasters following World War I. The Bretton Woods Conference of 1944 established a new open world economic order which has made the world more prosperous than at anytime in history. But will it last?

The current alarming trade protectionist developments aimed by Congress at the Pacific Basin must remind us of the march of events which took Japan from being a peaceful trader in 1919 to taking the road to military conquest in 1931. American and European protectionism was a major cause of this tragedy.

What is the scenario by which protectionism could lead to World War III? The Soviet Union's main objective since the end of World War II has been to split the United States from its allies in Europe and from Japan. This would isolate the United States and make the Soviet Union the dominant world power. Would Soviet world hegemony lead to world peace? Some might hope so, but most would doubt it. A recent issue of the Naval Institute "Proceedings" examines the possible American military response to such a Soviet triumph in the Pacific.[5] Some may reply that this is a typical militaristic Pentagon response to an imaginery threat used as a ploy to gain bigger appropriations, yet a trade war which would cause Japan's standard of living to drop precipitously could cause her to look elsewhere than to America and Europe for economic salvation. For a long time the Russians have been wanting technical help to develop Siberia. They could get it from Japan. China, of course, remains a natural market for Japan and indeed is a large trading partner already. An arrangement of this sort would be on China's terms now, unlike the period of Japanese dominance ending in 1945. The potential of a Japanese-Chinese-Russian relationship in the Pacific should be a cause of apprehension in California at least! (See Edwin P. Hoyt's new book "The Militarists: The Rise of Japanese Militarism Since WWII" for just such a scenario).

Even more alarming than the possibility of losing our strongest and oldest ally in the Pacific is the damage we may be doing to a new friend in the area—China. Singapore Prime Minister Lee Kuan Yew spelled it out in an October 1985 speech to a joint session of Congress. He said "China is seeking growth through trade, not territorial aggrandizement . . . For nearly 30 years . . . China was a ceaseless spoiler of other countries' economic plans as she undermined their stability. She was an exporter of revolution". He pointed out that China had reduced her army by one million men to take advantage of trade with the West. He then asked "Is America willing to write off the peaceful and constructive developments of the last 40 years that she has made possible . . . when she has nearly won this contest for the hearts and minds of the Third World?"

And what about Europe? Europe in modern times has always lived on exports. Without being to able to sell to America she would have difficulty buying many of the things that are necessary for her standard of living. Again Russia and Eastern Europe beckon as a market place of last resort, again on Communist terms. Much has been written over the years about the possible "Finlandization" of Europe. A trade war would certainly make this much more of a possibility. If the Europeans were faced with the possibility of maintaining their own defenses and their own economies without the participation of the United States and with a loss of our trade there would certainly be a temptation to neutrality. A Soviet offer for a united and disarmed Germany might under these conditions have great appeal.

A growth in anti-Americanism would feed nationalism and its twin brother militarism in the Third World where the impact of a protectionist America can only be imagined. If Cuba and Nicaragua are a problem now, what would be the effect on the rest of Central America and Mexico of a new America protectionist wall?

The bogey man of world communism has been used to explain many excesses of U.S. foreign policy, but in a protectionist world it is reasonably clear which of the two super powers would benefit the most. The Soviets have lived with protectionism since the Stalin years. Their market has been virtually closed to the world for 50 years and they now have learned to live with this situation.

Would the United States accept a Soviet dominated world without resistance? Certainly the "Fortress America" concept of former President Hoover would have overwhelming support. The Strategic Defense Initiative would also be looked to for salvation. But would a purely defensive posture be acceptable to the American people even when faced with Armageddon? Would not some incident or groups of incidents trigger small armed conflicts before this scenario of "America Isolated" came to pass? With American troops in Europe and our navy in the Pacific, would we stand by as one former ally after another was absorbed willingly or unwillingly into the Soviet sphere of influence? The fate of the 300 protectionist bills in the U.S. Congress may hold the answer to the question which we failed to ask ourselves in the 1930s—"can protectionism lead to war"?

CHRONOLOGY

1921—"Emergency Tariff" in U.S.A.
1920's—Victorious allies raise tariffs.
1922—U.S. Fordney-McCumber Tariff.
1923—British Imperial Preference Act.
1924—End of rise of PW Trade barriers (Kirk and Sharp, Contemporary Politics, 1940).
1925—Locarno Pact.
1927—French-German commercial treaty.
1927—League of Nations International Economic Conference report ("excellent but not adapted").
1928—French troops leave Rhine.
1929—Midsummer "extremely promising"—U.S. German Young Plan.
1929—October—Wall Street crash.
1930—London Economic Conference I—moratorium.
1930—Smoot-Hawley Tariff Act passes.
1931—Manchuria invaded by Japan.
1933—Hitler becomes Chancellor.
1934—London Economic Conference failure partly due to U.S.'s refusal to cooperate.
1934—Ethiopian invasion by Italy.
1936—Italy, Japan and Germany in Anti Comintern Pact against USSR.
1936—German troops in Rhineland.
1941—Pearl Harbor.
1944—Bretton Woods Conference establishing Bank and Fund and new post-World War 11 open world economic order.
1945—Surrender of Axis Powers.
1985—300 protectionist bills before Congress.

FOOTNOTES

[1] Of course there is a case for "the level playing field" approach to selective protectionism. Other countries take advantage of America with their own trade barriers. The Reagan Administration has a new and aggressive policy to "even the tile" although some say it is mainly for show to stop the protectionist excesses of the Congress. The arguments for protecting our basic industries voiced by the AFL-CIO in strident terms is less convincing. (See any issue of "AFL-CIO NEWS" 815 16th Street, Washington, D.C. 20006).

[2] Morrison, Samuel Eliot Morrison and Comager, Henry Steel, The Growth of the American Republic, Vol. II, Oxford University Press, (1962) New York, N.Y. p. 635.

[3] Shigenori, Togo, The Cause of Japan, Simon and Schuster, (1956) New York, N.Y. "Already in the years 1918 and 1932—the 'period of normal government'—three premiers and assorted other public figures had met death by violence" and by 1931 "any who opposed aggrandizement and militarism were stigmatized as "corrupt politicans" or "selfish financial magnates," who must be silenced."

[4] In the modern age, few if any wars have been fought for purely economic reasons, Marxist explanations to the contrary. Wars are fought for many reasons. Chief among them in contemporary times has been nationalism and ideology. Nevertheless, economic reasons have been used to justify armed conflict and real and genuine economic injustices and hardships which can be used to justify acts of force. (See Quincy Wright, A Study of War, for a definitive treatment of the causes of war). Other factors and fancies used by the Axis powers to gain power and mobilize public opinion for war included the desire for revenge, fear of Communism, racial hatred, "Socialism," and "population pressures." On this last point, the Japanese military complained that a nation of 75 million in 1930 could not exist without colonies. Now Japan has 100 million people living in astonishing prosperity.

[5] Proceedings," U.S. Naval Institute, August, 1985. The first article states "The Soviets have increased the size of their Pacific Ocean Fleet by more than 50 ships and submarines since 1983." Other articles deal with Japan, Oceania, New Zealand, Southeast Asia, Guam and the Pacific Coast. It warns of a world in which U.S. influence is not felt past the mid-Pacific.

NATIONAL ASSOCIATION OF HOUSING COOPERATIVES

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HAWKINS. Mr. Speaker, nearly 500 housing cooperators from around the Nation convened in my city of Los Angeles to hold the 25th Annual Conference of the National Association of Housing Cooperatives, October 16–20. The theme of the conference was "a celebration of knowledge and experience."

Housing cooperatives are the cornerstone of providing economic democracy to our Nation, affordable, nonprofit, housing ownership. NAHC is the primary professional and consumer association for housing cooperatives in the United States. NAHC members share a belief in the principles of cooperative enterprise, and a dedication to the interests of cooperative housing communities.

NAHC's annual conference consisted of 3 days of intensive workshops designed to improve the operation and quality of life of housing cooperatives. Among the 34 workshops were such interesting subjects as cooperatives for the elderly, crisis in commercial insurance, disaster planning and recov-

ery, newsletters for your co-op, and energy conservation and rehabilitation.

At the NAHC annual meeting, members of the board of directors were elected or re-elected. These were: Charles Flannagan of Brooklyn, OH; Peter Merrill of Portland, ME; Paul Fisher of Bronx, NY; Roger Willcox of Norwalk, CT; and Lydia Joseph of Sausalito, CA. At the board of directors organizing meeting the following officers were elected: chairman emeritus, Charles Rappaport of Queens, NY; president emeritus, Roger Willcox; chairman, Marlene Cooper, Atlanta, GA; president, Herbert H. Fisher of Chicago, IL; executive vice president, Terry Lewis of Ann Arbor, MI; treasurer, Paul Fisher, secretary, Dean McKennon of Beverly, MA; immediate past president, Lydia Joseph, and members of the executive committee, Bill Magee of Chicago, IL and Kenneth Mordaunt of Brooklyn, NY.

Mr. Speaker, the keynote speech at the NAHC annual conference was delivered by the association's president, Herbert H. Fisher, a Chicago attorney. In his address he stated:

NAHC exists to serve, to provide leadership and to maintain integrity in today's cooperative housing market based upon the interests of the housing cooperators and their need and desire for decent housing operated on a democratic basis.

I commend Mr. Fisher's keynote speech to my colleagues, for it contains many words of wisdom.

KEYNOTE SPEECH (EXCERPTS), BY HERBERT H. FISHER, PRESIDENT, NATIONAL ASSOCIATION OF HOUSING COOPERATIVES

It is with utmost pleasure, pride and satisfaction that I am called upon to welcome you to this 25th Annual Conference of the National Association of Housing Cooperatives being held in this, its 35th year of organizational existence.

It is only with recognition of the significant contributions of those who have served this organization and the housing cooperative community of our Nation in the past, both housing cooperators and professionals serving housing cooperatives, many still making their contributions, that we are today able—without reservation and with legitimate recognition—engage in a "A Celebration of Knowledge and Experience" the theme of this Conference.

There is no place else in this country that anyone interested in housing cooperatives or needing information or support can turn for reliable knowledge and experience than to the National Association of Housing Cooperatives and its members.

NAHC exists to serve, to provide leadership and to maintain integrity in today's cooperative housing market based upon the interests of the housing cooperators and their need and desire for decent housing operated on a democratic basis. NAHC is dedicated to that service and to the protection of those interests—protection of housing cooperatives and you, their cooperators—present and future. As was the slogan of the labor movement of the 30's—"In Unity There is Strength", we must face the future with such strength as comes from our unity. We must soothe dissesion and avoid disunity by common and mutual efforts.

Also, with pride I can review what we have accomplished during the past year—since our most successful conference in Boston. We have contributed 4 NAHC members to the National Cooperative Bank Board. We have called our member's attention to the eligibility of GNMA certificates as investment vehicles. We have called attention to pending legislation which would require housing cooperatives to report the pass-through of mortgage interest. We warned of content in the FNMA drafted recognition agreements used by the Share Loan Service Corporation. We have sought to contribute to housing cooperatives generally by offering a definition for housing cooperatives. We have allied ourselves with the Low Income Coalition to find a solution to our Nation's housing problems. We co-sponsored with the Cooperative Housing Foundation a dinner in recognition of attendees at the International Cooperative Alliance Meeting in Washington, DC. We reinstituted our Cooperative Housing Newsletter competition. We made input into HUD's evolvement of Section 203 (n) (insured share loan program) regulations. We are seeking a definition or allowable expenses for Board functioning, conference attendance and education which all HUD offices will recognize. We published Alex Miller's work on Marketing Cooperative Memberships. We perpetuated the memory of Jerry Voorhis by continuing the Jerry Voorhis Award. We reminded cooperatives of the increased penalties for failing to provide 1099 forms for non-employees doing contracted work for the cooperative and if patronage dividends of over $10 are declared. We also got our Cooperative Housing Bulletin back on a regular bi-monthly publication and distribution schedule.

Of greater long term significance is our having reinstituted the publication of the Cooperative Housing Journal after a few years of suspended publication. We are proud of that accomplishment in reducing to writing our Knowledge and Experience into articles of lasting value for leaders of housing cooperatives—and for the entire membership.

In a most important legislative activity, NAHC took the initiative, not to dictate, but to secure the consensus upon which we can eventually defeat threatening Federal Legislation and secure the modernization of Section 216 of the Internal Revenue Code through which housing cooperatives pass through the Cooperative's mortgage interest and real estate tax expense to their cooperators' individual tax returns.

It is only NAHC, together with its affiliated associations, which is trying to find a solution to the attempts of IRS to tax reserve interest income under Section 277 of the Internal Revenue Code.

You have all proven you can survive against the most adverse economic conditions to be imposed upon housing—inflation, unemployment, utility and fuel costs escalating, increasing employee wage levels, and even internal member/shareholder dissension. Your cooperatives remain as bastions of democratic economic entities providing safe, sanitary and decent housing for your member/shareholders. You are now being asked to look outward and truly join with other housing cooperatives and their housing cooperators to fight some common battles which transcend whether or not you are a cooperative related to HUD programs or not; whether you provide housing for upper income families or for families of modest incomes; whether you are located in suburban dales or in inner city canyons.

The Internal Revenue Service and proposed changes in the Internal Revenue Code now threaten all of us. Low and moderate income families, who may not now be concerned about reserve income being taxed or about the pass through of the cooperative's real estate tax and interest expense on individual cooperator's tax returns, may be facing the day when now depleted reserves are replenished or when economic integration of their cooperatives may be their only chance at survival; or the upwardly mobile member/shareholders may desire, to remain in the cooperative and are willing to pay surcharges in order to do so because of the pass through of deductions to their own individual tax returns. Cooperatives with Section 8 contracts must plan for the day those Housing Assistance Payments contracts will expire.

Cooperators must recognize that we must all work to finding a solution to our Nation's ignored housing problems to avoid cooperatives from becoming fortresses striving to survive against the onslaughts of the housing disadvantaged. All cooperators must support NAHC's effort to find solutions, cooperative or otherwise, to the housing shortage facing the majority of our nation—a shortage due to the lack of affordable housing available today.

It is only NAHC, knowing the increased educational needs of housing cooperatives and of groups seeking to create housing cooperatives for individually tailored educational and training programs, which has in place training programs in Los Angeles and Philadelphia. We have the knowledge and experience with our own expanding resources, together with our membership and our regional associations, to do what is needed.

DICK SULLIVAN

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOWARD. Mr. Speaker, Members of Congress often rise to recognize an act of bravery, eulogize a patriotic constituent or pay tribute to the heroic or unselfish acts of good samaritans. But all too often, we overlook the heroes with whom we work every day.

We owe a great debt of gratitude to the individuals who staff our personal offices and the committees on which we serve. These public servants do much of the work in this institution but get little of the recognition.

For 29 years, the Public Works and Transportation Committee has benefited from the loyal and enlightened leadership of its chief counsel, Dick Sullivan. Five full committee chairmen before me relied on Mr. Sullivan's sound advice to steer landmark legislation through hearings, markups, floor debate, and often arduous conferences. Dick Sullivan has never shrunk from a showdown and is always eager and willing to defend the jurisdiction of the Public Works and Transportation Committee.

The phrase, "fiercely loyal" was never more appropriately applied than to describe Dick Sullivan. He has been loyal to his staff and to me without exception, he

has been loyal to Congress and its traditions and he has been loyal to our country.

It is for these reasons that I would like to share the attached Wall Street Journal article which provides a rare and I think, accurate, insight into Dick Sullivan as a man and as a great professional. The article follows:

[From the Wall Street Journal, Dec. 12, 1985]

A CHANGING CONGRESS IS SHOWN BY STORIES OF TWO STAFF MEMBERS

(By David Rogers)

WASHINGTON. Richard J. Sullivan remembers Jack Benny at New York's palace theater, the Ninth Infantry in World War II and the old Bronx Democratic machine. "I survived Cathopic School," reads a sign on his cluttered desk.

James D. Bond's war was Vietnam; his home, North Dakota. From the first came a certain fatalism; from the second, a Midwest Republican loyalty nurtured by his late grandfather, a Fargo newspaper publisher. "I believe in burning communist crops," he jokes, puffing on a Cuban cigar.

Generations apart, Mr. Sullivan and Mr. Bond symbolize two eras of Congress.

As the veteran counsel to the House Public Works Committee, the 68-year-old Mr. Sullivan reached the zenith of his power during a period when ambitious legislation—for public works or social policy—was Washington's agenda. Today, though, times are tougher for Mr. Sullivan; and it is the 40-year-old Mr. Bond, clerk to the Senate Appropriations subcommittee for foreign operations, who is ascendant. He is a creature of leaner times; the limits on resources in recent years have given his panel extraordinary clout because of its power to allocate those resources.

The Gramm-Rudman budget bill, that Congress passed last night, both dramatizes and accelerates the change in political eras. With its progressively lower deficit targets and mandatory spending cuts, the measure assures that limited resources will be the reality for the foreseeable future. And if Mr. Sullivan represents an era that said "yes," Mr. Bond's job more often is to say "no."

SHIFTING POWER

Together, the two men offer an unusual portrait of a changing Congress in the age of deficit politics. Their story shows how power within the institution has shifted—from the authorizing committees that set policy to the appropriations committees that control the purse strings, and from a generation of builders to one of budgeteers.

On a more personal level, a close look at the two men offers a glimpse of the little-known world of House and Senate staffers, men and women who both influence power and are its instruments.

White-haired and irascible, Dick Sullivan is the model of an urban, ethnic Democrat. His expansive style matches his view of an activist New Deal government. In nearly three decades as chief counsel, he has served six chairmen; with his gruff, theatrical manner, he has dominated the panel as few staff members ever have.

Says Frederick Salvucci, Massachusetts' transportation secretary, who has sometimes dealt with Mr. Sullivan: "This guy could be called a committee staffer, but I wish to hell he was a senator. He is a guy who has been around a long time and believes in public investment."

Mr. Sullivan's committee career stretches back to 1957, corresponding with the period in which landmark highway, water and environmental legislation was enacted. Those years of federal commitment and largess suited not only Mr. Sullivan's own political skills but also the ambitions of influential members.

SIGN OF THE TIMES

Today, however, the committee must struggle simply to protect its basic jurisdiction, let alone initiate huge new projects. A pending water bill, for instance, would mark the first major authorization of new projects in a decade. Another sign of the times: neither Public Works Chairman James Howard, a New Jersey Democrat, nor any other chairman of a major authorizing committee could initially get a seat on the House-Senate conference on the Gramm-Rudman bill.

Mr. Sullivan "is one of the finest politicians I know, but in a sense he is out of style," says George Mead, a North American Van Lines lobbyist. "When you can't get big highway and water legislation through. Dick doesn't know what to do."

The son of a New York City policeman, Mr. Sullivan went from World War II and Fordham Law School into the Bronx Democratic clubhouses. There, he "met the judges," a ritual for a politically minded young attorney, and ultimately won a job as counsel to Democratic Rep. Charles Buckley, the Bronx political chieftain who was then Public Works chairman.

Mr. Sullivan never fulfilled his ambition of succeeding Mr. Buckley in the House, but today he sometimes almost unconsciously slips into the phrasings of a congressman in floor debate. Once, during an angry meeting over the 1982 Environmental Protection Agency scandals, he delivered a long attack on uncooperative Justice Department lawyers and then exploded: "I yield back the balance of my time!"

"His flipping into member's parlance was accepted by everyone," remembers Stanley Brand, then counsel to the House clerk. "It illustrated his deep feelings about the committee. The members expected that of him—to be so committed to their position . . . to fall into that role."

Mr. Sullivan's sway within his domain can make him many friends. Back in 1975, for instance, he almost singlehandedly rewrote a legislative amendment that has since been worth hundreds of millions of dollars to mass transit systems such as the one in Boston, the home of House Speaker Thomas O'Neill. The committee had already cleared the provision, but aides drafting its precise wording differed with the phrasing sought by Massachusetts officials. In the final minutes before the bill was filed for action on the House floor, Mr. Sullivan made changes to meet the State's concerns. "It was literally Sullivan who saved that," says Mr. Salvucci, the Massachusetts transportation secretary.

Mindful of such influence, private interests sometimes have paid to hear Mr. Sullivan's views. House disclosure forms from the past six years show that Mr. Sullivan has received frequent honorariums from appearances before trade and corporate groups with a stake in legislation before Public Works. This income, though, has declined from approximately $9,490 in 1978 to $1,000 in 1984, the most recent year for which disclosure reports have been filed. "Part of it was for charity, part of it was for educating six kids," says Mr. Sullivan, who now earns $71,050 but went through years of salary freezes because of Congress's reluctance to raise its own pay or that of senior staffers.

Today, Mr. Sullivan's power is challenged by younger, specialized subcommittee chairmen. The House and Senate changes that brought about this decentralization of committee power coincided with the emergence of a formal budget process. The net effect of all these changes is a more technical, less emotional staff, and because of budget constraints, a greater preoccupation with oversight than new legislation. The attraction of higher salaries outside adds to the turnover among staff members.

Even Mr. Sullivan's hard-charging style seems a bit old-fashioned. "I have not yet gotten a call from Dick that was not 'urgent' or 'important,'" says Chairman Howard. The same impatience can chafe others.

If Mr. Sullivan seems a legend past his time, his knowledge of the past may remain his greatest asset. "He has the institutional memory that is lacking in many of the staff people," says Rep. James Oberstar, a Minnesota Democrat who once worked with him on the Public Works staff and who now chairs the investigations and oversight subcommittee. "When he retires it will be the end of an era, the once dominant staff power figure [giving way] to a network of selfless professionals."

Rep. Oberstar's description notwithstanding, Jim Bond is no wallflower. He is a man of arched eyebrows and his own peppery brand of bluster, with a taste for the good life. "He starts at the top of the menu," says one lobbyist who knows him.

In other ways, though, Mr. Bond typifies the new breed of congressional staffer. He is self-conscious about bending his activism to the wishes of the senators he serves. "To the extent I'm out front. I'm nervous," he says, and this hesitancy reflects the perils of the power he enjoys in the budget wars. In fractioning out foreign aid, he walks between what he calls the "Rambo" and "misery" lobbies of the right and left.

Mr. Bond earns $66,350 a year as an Appropriations Subcommittee clerk, a role that has grown vastly more important since the 1980 Republican takeover of the Senate and the wave of budget crises since. Officially, the far better known Senate Foreign Relations Committee is responsible for authorizing foreign-aid programs. But to an extraordinary degree, it is the Appropriations Subcommittee, whose chairman is Wisconsin Republican Robert W. Kasten, that has taken the lead in pushing the Reagan administration's policies

Indiana's Richard Lugar, the new Foreign Affairs chairman, is seeking to reassert his panel's importance, most recently in private talks on foreign aid last week. But in an era of limits, the budget process works to the advantage of the appropriations panel. "The botton line really in foreign assistance is not authority," says William Schneider, the undersecretary of state for security assistance. "The problem is resources, and this has focused on the appropriations committees."

A former House aide, Mr. Schneider knew both Mr. Bond and Sen. Kasten before they knew each other. Now, they form an unusual three-man axis that has had marked success in shaping foreign aid. Working together, they pushed the subcommittee to take the lead in directing military aid to El Salvador during the administration's first years. While satisfying Sen. Kasten's—and Mr. Bond's—pro-Israel stance the committee's annual bills have reshaped foreign-aid

priorities, nearly tripling the level of security assistance abroad since 1981.

"Jim has been very good at holding the ladder steady while Kasten climbs to success," says one Democratic observer. After eight years, he has learned the budget rules—and accounting tricks—he needs to serve his panel's interests.

His boldest ploy came this fall. To stay below budget, the panel eliminated all financing for new Export-Import Bank loans to U.S. exporters. But it then moved forward more than $3 billion in unused money from last year, spreading it over fiscal 1986 and 1987 to keep the bank in business. The maneuver allowed Sen. Kasten to please the business interests that support the Ex-Im Bank. And it even left him enough leeway to forge an alliance with Hawaii Democrat Daniel Inouye to provide up to $531 million to help Israel meet its debt costs on past U.S. loans.

In both cases, the subcommittee ultimately retreated, but only after first winning approval from the full appropriations panel and making its point with the administration. Senate financing for Ex-Im loans is still twice the House-passed level, and the State Department has promised to expedite its review of the debt problems facing Israel.

Mr. Bond's style in these dealings is often combative and impatient. But some call him "the Iron Marshmallow." His gruff exterior belies a compassion and good humor, and he has matured with the job after walking with what one colleague calls "heavy shoes" in his first years. After being so long in the minority, Republicans had to relearn the intricacies of governing, and there is a certain irony that a Vietnam infantry veteran should be the staffer to help lead foreign-aid appropriations.

His stated policy—"to reflect the views of the people I work for"—is easier said than done. Though Mr. Kasten is his immediate superior. Mr. Bond has a longer-standing relationship with Appropriations Committee Chairman Mark Hatfield of Oregon, who appointed him to his job. The two senators come from separate wings of the party, and Mr. Bond feels tugged by conflicting personal and political loyalties.

"Kasten is a political guy who will carry the administration's water on things that Mark Hatfield is flat-out opposed to," says a Senate GOP aide. There have been deeply felt differences on issues ranging from El Salvador arms to financing for aid to small farmers in developing nations.

At a 40th-birthday party at Mr. Bond's home last spring, though, such conflicts seemed far away. Guests included not just staff and administration friends, but also representatives of the American-Israel Public Affairs Committee and lobbyists representing major beneficiaries of U.S. aid.

One of Mr. Bond's gifts was a limerick celebrating the power of his panel to vote money each year after having brushed aside the old authorizing panels with the magic words, "notwithstanding any other provision of law."

Says Mr. Bond of the Appropriations Committee: "It's where all the action is."

JUSTICE REBORN IN ARGENTINA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BARNES. Mr. Speaker, the sentencing of five former junta leaders and the acquital of four others by the Argentine courts has completed the first stage of the crucial and sensitive process by which the Government and people of Argentina must come to terms with their own past. Some in Argentina are pleased with this outcome and some are not, and some are more confident than others that justice will continue to be done with respect to the many other cases of abuse of authority by previous military governments. There is ample scope for legitimate disagreement on these matters which, of course, must ultimately be worked out by the Argentine people themselves. But all friends of Argentina must rejoice at the process itself—the rebirth of justice under the leadership of a courageous and skillful democratic government. I know all my colleagues, on both sides of the aisle, join me in paying tribute to the government of President Raul Alfonsin for its dedicated work to return justice in Argentina.

I wish to share with the House the following three sensitive editorials on this subject:

[From the New York Times, Dec. 11, 1985]

JUSTICE REBORN IN ARGENTINA

Formal justice played little role in Jorge Videla's dictatorship in Argentina. Those who offended his regime were abducted, tortured or murdered. In the new Argentina of President Raul Alfonsin, justice is back. After a fair trial, Mr. Videla, along with Adm. Emilio Massera, was sentenced to spend the rest of his life in prison. Three other military collaborators drew lessser sentences.

During a seven-year dictatorship, General Videla and his military accomplices demoralized and bankrupted Argentina. Then, the army that had fought a dirty war against its own population launched a foolish war against Britain and ended in humiliating defeat. Mr. Alfonsin, the elected civilian successor to three military juntas, boldly ordered those junta leaders to trial for sowing "terror, pain and death throughout Argentine society."

That was a remarkably brave step. Even in retreat, the military apparatus of conspiracy and repression frightened the country. Of all the elected Presidents since World War II, the army had permitted only the ex-soldier Juan Perón to complete a full term. And he too was overthrown before completing his second mandate. When Mr. Alfonsin assumed office two years ago this week, the structures of military power were intact. In similar situations, other democrats have equated survival with deference to the generals.

Mr. Alfonsin understood that democracy would have to be audacious to survive. When military courts stalled the junta trials, they were transferred to civilian jurisdiction. He moved boldly on other fronts as well, challenging the unelected and anti-democratic labor bosses of the Peronist opposition and applying successful shock treatment to an economy previously thought incurable.

There have been some wobbles too, including a 45-day state of siege that ended this week. And more tests lie ahead in the four remaining years of Mr. Alfonsin's term: further trials and appeals and a second-stage economic strategy among them. Still, those practical challenges seem more manageable because of what underlies the sentencing of Mr. Videla and four of his military collaborators: the return of justice and self-respect to Argentina.

[From the Washington Post, Dec. 11, 1985]

VERDICT ON THE JUNTA

The Argentine court's verdict is a ringing assertion of the rule of law and the standards of public morality. It found five defendants guilty of crimes committed when they were running the country and sentenced two of them, including a former president of the country, to life imprisonment. The acquittal of four other defendants is generating further cotroversy in Argentina; in seven years, from 1976 to 1983, some 9,000 people disappeared, most of them murdered in military prisons. But the court showed discrimination in assessing the evidence against each of these men as individuals, and the salutary influence of this example of justice will reach far beyond Argentina.

The generals and admirals claimed, by way of defending themselves, that they were saving the country from communism and from revolution at the hands of urban guerrillas and subversives. The urban guerrillas and subversives were not a figment of the generals' imagination. They killed dozens of people in the early and middle 1970s. And they succeeded in bringing revolution of a sort to Argentina—one that carried to power their enemies in the military, who embarked on a hysterical and vengeful campaign against not only radical gunmen but, as time passed, against almost anyone who held any opinion that the generals and admirals took to be unorthodox. To defend even the most rudimentary concept of civil rights brought a person into dire jeopardy. The junta thought of all opposition as communism, and to stamp it out they engaged in endless brutality, torture and murder. Among the great achievements of this long trial is full and accurate public record of all that had happened.

One of the enduring inanities of politics is the assertion that, whatever its defects in principle, authoritarian government is at least strong and efficient. Is it? In Argentina, over seven years, the junta mindlessly ran down a national economy that is potentially one of the world's richest. It rolled up the gigantic foreign debts with which the country is now struggling. It spent lavishly on its own armed forces and started a war in the Falklands in which it was rapidly defeated.

In heartening contrast, there is the current democratic government under President Alfonsin. It has led the country into a series of necessary but drastic economic reforms, of a sort that the junta always dodged on grounds that they would be unpopular. The current government has now given its predecessors a fair trial with scrupulous regard to its own high standards of justice under the junta's standards, all of these men would have been shot in a barracks basement without so much as a magistrate's hearing. Argentina's democracy is

providing a memorable demonstration of moral courage and strength.

[From the Christian Science Monitor, Dec. 11, 1985]

ARGENTINA'S DEMOCRATIC PROGRESS

This week's conviction of five former top junta leaders is the latest—and most dramatic—example of the extraordinary progress Argentina has made in the two years, this week, since Raúl Alfonsín became its President.

Civilian rule then replaced military dictatorship; the armed forces, preeminent for eight years, are held in check at present. The rule of law has superseded state-led terrorism. Labor unions, previously able to defeat, anti-inflation efforts, have been faced down. And inflation, running last June at an annual rate of 1,000 percent, has been chopped to 25 percent.

From being considered a pariah in the Western Hemisphere, for human rights and economic reasons, Argentina has become an example to the world's many troubled nations of the progress that can be achieved, given strong national support for change and a determined leader with well-considered programs.

This week's convictions also sent a second message—that the day of judicial judgment may lie ahead for repressive regimes in any nation, no matter how secure they may now consider themselves. In numerous countries of the third world the armed forces have long operated with near-impunity to violating human rights, offering security reasons as an excuse. An insidious concept takes root in many nations that the demand for order justifies such repression; but this view is false.

The Argentine court's president correctly said that the military effort to combat insurgency "should never have overstepped the bounds of law."

The five junta leaders were essentially convicted of responsibility for human rights crimes by the military, passed off then as part of an effort against left-wing urban terrorists. The trial of the former top leaders, which graphically depicted torture and kidnapping, was virtually unprecedented in Latin America.

In human rights, other nations can, and should, follow Argentina's model.

Argentina's economic progress stems in large measure from having followed its own program, rather than just the more-restrictive IMF approach. Other nations should also consider devising their own programs, then gaining the confidence of the international financial community.

CORNELL UNIVERSITY'S COMMITMENT TO MERIT REVIEW

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. McHUGH. Mr. Speaker, I would like to call to the attention of my colleagues the following telegram that I received from Dr. Frank H.T. Rhodes, president of Cornell University.

As my colleagues will see, Dr. Rhodes and the faculty of Cornell University continue to support independent, merit review for all projects for which Federal funds are available. Even though the university is an indirect beneficiary of earmarked research and development funds, it remains the policy of the university to accept funds only for those projects on which a merit review has been conducted.

DECEMBER 19, 1985.

DEAR MATT: Amendment No. 1378 to the Continuing Resolution for the Department of Defense provides $10 million for supercomputer development. These funds were later identified in the Conference Report with Cornell University. Cornell respects the responsibility of Congress to set priorities in broad policy areas such as access to supercomputers and restoring U.S. leadership in supercomputer technologies. The University attaches equal importance to the merit review processes used by funding agencies to select specific projects for support.

Cornell University will not accept funding awards which bypass normal review procedures. We are told that Amendment No. 1378 was intended to help restore U.S. leadership in supercomputer technology, a purpose we fully support, and was not intended to circumvent such merit review. The University did not develop or support any initiative intended to bypass merit review.

With all good wishes.

Sincerely yours,

FRANK H.T. RHODES,
President, Cornell University.

DEFENSE INTELLIGENCE COMMERCIAL ENTITIES ACT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WHITEHURST. Mr. Speaker, on December 16, 1985, I introduced H.R. 3963, the Defense Intelligence Commercial Entities Act. To assist those who review the legislation, I am inserting the section-by-section explanation of the legislation in the CONGRESSIONAL RECORD:

DEFENSE INTELLIGENCE COMMERCIAL ENTITIES ACT

SECTION-BY-SECTION EXPLANATION

The bill consists of three sections. Section 1 provides that the short title of the Act is the "Defense Intelligence Commercial Entities Act." Section 2 enacts a new chapter 19, entitled "Department of Defense Intelligence Commercial Entities," in part I of Subtitle A of title 10, United States Code, and makes conforming amendments to tables of chapters in title 10. Section 3 provides that the amendments made by the legislation to title 10 take effect ninety days after enactment of the legislation.

The provisions of chapter 19 of title 10 enacted by Section 2 of the bill are explained below:

Section 391

Subsection 391(a)(1) grants to the Secretary of Defense the authority, with the concurrence of the Attorney General and the Director of Central Intelligence, to establish and operate commercial entities to provide cover for foreign intelligence collection activities of the Department of Defense.

The requirement for the concurrence of the Attorney General ensures an independent high-level legal review of plans for establishment and operation of a DOD intelligence commercial entity, and ensures the harmony of the plans with the intelligence, counterintelligence, and law enforcement functions of components of the Department of Justice. The requirement for the concurrence of the Director of Central Intelligence ensures that the plans will be consistent with national intelligence needs and ensures the harmony of the plans with the intelligence, counterintelligence and special activities of other elements of the United States Intelligence Community.

To exercise his authority to establish a commercial entity, the Secretary of Defense must certify in writing that establishment and operation of that entity is essential to the conduct of an authorized foreign intelligence collection activity of the Department of Defense. Thus, the Secretary may authorize establishment of a commercial entity only when no reasonable and effective alternative method exists for carrying out an authorized DOD foreign intelligence collection activity.

The Secretary may initially authorize the establishment and operation of a commercial entity for any period not to exceed two years.

Subsection 391(a)(2) permits the Secretary of Defense to renew the authority to operate a commercial entity at the expiration of the previous period for which he has authorized its operation. The renewal requires the concurrence of the Attorney General and the Director of Central Intelligence and the written certification of the Secretary of Defense that the operation of the entity is essential to the conduct of an authorized foreign intelligence collection activity of the Department of Defense. The Secretary may renew the authority to operate the commercial entity for any period not to exceed two years. The number of successive periods for which operation of the commercial entity may be authorized is not limited.

Subsection (b) provides that the Secretary of Defense may terminate a commercial entity at any time. His authority to terminate a commercial entity is not conditioned upon any concurrence or certification.

Section 392

Section 392 grants to the Secretary of Defense authority to acquire, use and dispose of items needed in the establishment, operation and termination of DOD intelligence commercial entities. The broad authority granted ensures that the Secretary can provide the necessary administrative support for such commercial entities.

In addition to requiring administrative support comon to any governmental organization, such as workspace, equipment, and personal services, a DOD intelligence commercial entity will require special administrative support due to its commercial functions and appearance. Thus, for example, the entity may require private legal services, commercial, and occupational licenses from a State or foreign government, private liability insurance, and private banking services. Section 392 ensures that the Secretary of Defense can meet the administrative support needs of a defense intelligence commercial entity, including its unusual needs stemming from its ostensibly commercial status.

The authority granted by Section 392 is independent of, and in addition to, any other acquisition, use or disposal authority which the Secretary of Defense possesses.

Section 393

Section 393 ensures that the handling and use of funds in connection with defense intelligence commercial entities will be con-

sistent with the ostensible commercial status of those entities. Section 393 displaces several limitations contained in Section 3302 of title 31, United States Code, on governmental use of funds. Observance of the limitations contained in Section 3302 of title 31 would be inconsistent with the ostensible commercial status of defense intelligence commercial entities.

Subsection 393(a) permits the Secretary of Defense to establish and maintain commercial banking accounts in the establishment, operation, and termination of defense intelligence commercial entities. The authority to use commercial banking services applies both with respect to appropriated funds used in connection with a defense intelligence commercial entity and with respect to funds generated by the commercial activities of that entity.

Subsection 393(b) permits use of funds generated by the commercial activities of a defense intelligence commercial entity to offset the necessary and reasonable expenses incurred by that entity. The funds generated by a particularly entity may only be used to offset the expenses of that particular entity.

Subsection 393(c) provides that funds generated by a defense intelligence commercial entity that are no longer needed for the conduct of the activities of that entity shall be remitted to the Treasury as miscellaneous receipts.

Subsection 393(d) provides for the disposition of the proceeds generated by termination of a defense intelligence commercial entity. After all outstanding obligations of the entity are met, the remaining proceeds revert to the Treasury.

Section 394

Section 394 provides that the establishment, operation, and termination of a defense intelligence commercial entity; any acquisition, use or disposition with respect to such entity; and any deposit, withdrawal or use of funds with respect to such entity, will be carried out in accordance with prevailing commercial practices, consistent with the protection of intelligence sources methods and activities from unauthorized disclosure, and without regard to certain requirements of federal statutes.

To maintain its usefulness as a cover for foreign intelligence collection activities, a defense intelligence commercial entity must maintain commercial credibility. The entity must appear to anyone who scrutinizes it to be a bona fide commercial entity, rather than an entity of the United States Government. Accordingly, the entity must conduct all aspects of its activities in the same manner as would a private sector commercial entity. Circumstances may arise, however, in which observing prevailing commercial practices would not be consistent with the protection of intelligence sources, methods or activities from unauthorized disclosure, and in such cases prevailing commercial practices would not be observed.

The section grants extraordinary authority to waive the applicability of requirements in a broad spectrum of federal statutes to the extent necessary to protect intelligence sources, methods and activities from unauthorized disclosure. Without the waiver authority, a defense intelligence commercial entity would be obliged to observe federal statutes that normally apply to U.S. Government entities but do not apply to a bona fide commercial entity. Such inconsistency between the conduct of an entity and its ostensible status might reveal to an interested observer that the entity is not what it claims to be, risking the compromise of commercial cover and of the intelligence activities conducted by the entity.

A federal statute within one of the enumerated categories (federal appropriations, federal receipt and use of funds other than appropriated funds, federal acquisitions, federal property management, federal services management, federal information management, federal tort claims, federal employment or federal government corporations) ceases to apply if, and to the extent that, the Secretary of Defense certifies that compliance with the statute would be inconsistent with the protection of intelligence sources, methods and activities from unauthorized disclosure. The section provides that a statute is waived only to the extent that compliance would be inconsistent with such protection. Thus, the Secretary's authority extends not to blanket waiver of the applicability of the statute, but only to the waiver of the applicability of the particular requirements of that statute which would be inconsistent with the protection of intelligence sources, methods and activities from unauthorized disclosure (which may in some circumstances amount to waiver of the applicability of the entire statute).

The section makes clear that the Secretary's waiver authority does not apply with respect to the chapter enacted by this legislation (chapter 19 of title 10, United States Code), Title V of the National Security Act of 1947 (which relates to congressional oversight of intelligence activities) and the War Powers Resolution. Thus, nothing in the statute in any way limits the role of the Congress in oversight of intelligence activities and military activities.

Section 395

Subsection 395(a) makes clear that the chapter enacted by the legislation (chapter 19 of title 10, United States Code) provides authority only for establishment and use of commercial entities as cover for DOD foreign intelligence collection activities, and does not provide the authority for those underlying foreign intelligence collection activities.

Subsection 395(b) establishes clear limitations on the activities of defense intelligence commercial entities and their personnel within the United States. They may engage within the United States only in (1) training, (2) administration, and (3) recruitment of non-U.S. persons to serve outside the United States as intelligence sources. Administration includes the full range of support activities necessary to establish, operate and terminate a commercial entity, such as finance, logistics, and procurement, which may be performed by establishment and operation within the United States of defense intelligence commercial entities solely to provide such support. The subsection ensures that the activities of defense intelligence commercial entities will have a foreign focus and will not be used to conduct domestic intelligence activities.

Subsection 395(c) provides that no defense intelligence commercial entity may have as its overt activity communications media activity, religious activity, or traffic in arms or security-related services.

The prohibition against establishing a defense intelligence commercial entity to engage in communications media activity protects against the possibility of media activity by such an entity having an accidental or intentional effect on the domestic political processes of the United States. The prohibition prevents establishment of defense intelligence commercial entities to engage in radio broadcasting, television broadcasting, newspaper publishing, book or magazine publishing, wire services and similar activities. The prohibition against the overt activity of a defense intelligence commercial entity being communications media activity does not prevent incidental commercial use of communications media by such an entity if prevailing commercial practices so require. Thus, for example, if a defense intelligence commercial entity is engaged in a cover business of a type in which one would normally place commercial advertisements or solicitations in a local newspaper, the entity may do so.

The prohibition against establishing a defense intelligence commercial entity to engage in religious activity protects the integrity of religious freedom and religious institutions.

The prohibition against establishing a defense intelligence commercial entity to engage in traffic in arms or security-related services prevents the possibility of using defense intelligence commercial entities to circumvent United States arms transfer policies or to implement those policies. The Arms Export Control Act, the Foreign Assistance Act, and the statutory mechanisms for covert arms transfers govern the transfer of arms and defense services. The prohibition does not in any way prohibit the personnel of a defense intelligence commercial entity from defending themselves, nor does it prevent the use of such personnel on detached duty in military operations, consistent with the War Powers Resolution.

Subsection 395(d) requires that every U.S. person employed by, or assigned or detailed to, a defense intelligence commercial entity be informed prior to employment, assignment or detail that the entity as an entity of the United States Government engaged in intelligence activities. The provision thus prohibits unwitting employment, assignment or detail of United States persons.

Section 396

Subsection 396(a) authorizes and directs the Secretary of Defense, after consultation with the Attorney General and the Director of Central Intelligence, to issue regulations to implement the legislation, and specifies a number of requirements which those regulations must satisfy.

The Secretary's regulations must provide for effective centralized Department of Defense oversight of activities related to defense intelligence commercial entities. The requirement for centralization of the internal oversight role promotes consistency among DOD components in establishing policies and practices involving defense intelligence commercial entities and also facilitates oversight of defense intelligence commercial acitivities by non-DOD entities, such as the Congress. The requirement that the internal oversight role occur at the departmental level, rather than at the lower level of individual DOD components, ensures appropriate high-level attention within the Department of Defense to any problems which may come to light in the course of internal oversight activities.

The Secretary's regulations must provide effective management, operational, security, legal, and accounting controls for all matters relating to defense intelligence commercial entities. The Secretary's careful design and establishment of strict controls will be of critical importance, especially given that such controls often will replace statutory controls which the legislation authorizes

the Secretary to waive in certain circumstances.

The Secretary's regulations must provide for coordination of defense intelligence commercial entity activities with the Department of State, the Federal Bureau of Investigation, and the Central Intelligence Agency.

The Secretary's regulations must ensure compliance with the chapter enacted by the legislation (chapter 19 title 10, United States Code), Title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities), and the War Powers Resolution.

Subsection 396(b) authorizes and directs the Department of Defense Inspector General to conduct, at least annually, a program and operations review and evaluation and a financial audit of all activities relating to defense intelligence commercial entities and to report thereon to the Secretary of Defense and the intelligence committee of the Congress.

Section 397

Subsection 397(a) provides that defense intelligence commercial entities are entities of the United States Government. As such, defense intelligence commercial entities will enjoy within the constitutional scheme any immunities and privileges enjoyed by the other federal entities. Thus, for example, the sovereign immunity of the United States Government to suit, to the extent not otherwise waived by statute, will extend to defense intelligence commercial entities.

Subsection 397(b) explicitly preempts the applicability of State laws to, and the jurisdiction of State courts over, defense intelligence commercial entities. Thus, defense intelligence commercial entities will be subject exclusively to federal law. Subsection 397(b) provides that, although defense intelligence commercial entities are not subject to State laws and State court jurisdiction, they may engage in conduct which appears to comply with State laws and State court jurisdiction if the Secretary of Defense determines that doing so is necessary to protect intelligence sources, methods and activities from unauthorized disclosure or is necessary in the interests of justice.

Under the authority granted in subsection 397(b), with the appropriate certification, a defense intelligence commercial entity may engage in conduct which appears to comply with State laws in the same manner as would a bona fide commercial entity. Thus, for example, if the Secretary of Defense certifies that protection of intelligence sources, methods and activities requires doing so, he might authorize a defense intelligence commercial entity to incorporate within a particular State, even though that State's incorporation laws do not provide for incorporation by federal entities. Similarly, even though federal agencies are not subject to State taxation, the Secretary of Defense, based upon the appropriate certification, may authorize the entity to file State tax returns and remit State taxes.

Also, under the authority granted in subsection 397(b), a defense intelligence commercial entity may engage in conduct which appears to submit to State court jurisdiction in the same manner as would a bona fide commercial entity. Thus, for example, if the Secretary of Defense certifies that protection of intelligence sources, methods and activities or the interests of justice require doing so, he might authorize a defense intelligence commercial entity to participate in a lawsuit in a State court based on breach of a commercial contract in the same manner as would a bona fide commercial entity.

The Department of Defense may well make substantial use of the authority to authorize defense intelligence commercial entities to engage in conduct appearing to comply with State commercial laws, since it may become the Department's practice to establish such entities by incorporation or registration under the laws of the several States. In contrast, the Department should only rarely need to use the authority to authorize defense intelligence commercial entities to engage in conduct appearing to submit to the jurisdiction of a State court, as the authorized activities of such entities within the United States are quite restricted, and thus are not likely to give rise to many situations in which submission to State court jurisdiction would be appropriate.

Section 398 provides that the Secretary of Defense may delegate only to the Deputy Secretary of Defense the Secretary's authority, functions and duties under subsections 391(a), 394(b), 396(a) and 397(b) of title 10, United States Code, as enacted by this legislation. By requiring the Secretary or Deputy Secretary of Defense to exercise the authority, duties, and functions set forth in these subsections, the legislation ensures high-level attention to sensitive decisions involving defense intelligence commercial entities.

Under Section 398, the Secretary of Defense may delegate only to the Deputy of Secretary of Defense the authority to authorize and renew authorization for the establishment and operation of defense intelligence commercial entities based upon the requisite certification (§ 391(a)); the authority to waive the applicability of certain federal statutes based upon the requisite certification (§ 394(2)); the authority to issue implementing regulations (§ 396(a)); and the authority to authorize defense intelligence commercial entities to appear to comply with State commercial laws and court jurisdiction to which they are not subject. Authorities, duties and functions provided in the legislation, other than in the subsections specifically cited by Section 398, are subject to delegation in accordance with subsection 133(d) of title 10, United States Code.

The limitation on delegation of certain specified authorities, duties and functions will not place an inordinate administrative burden on the Secretary and Deputy Secretary. Exercise of the authority to authorize establishment and operation of a commercial entity will occur only once for each entity, and subsequent renewals to operate will occur only occasionally. Exercise of the authority to waive various federal statutory requirements applicable to an entity, to authorize apparent compliance with State statutes, and to authorize apparent submission to State court jurisdiction, will often accompany the authorization to establish and operate the entity, although changes may be necessary with respect to an entity from time to time. Exercise of the authority to issue implementing regulations should occur once, with changes to such regulations thereafter occurring only occasionally, as experience demands. The greatest burden upon the Secretary and Deputy Secretary will thus occur at the time of creation of a defense intelligence commercial entity, when the nature and scope of its activities and the legal regime governing it are established. Cabinet-level involvement in decisions of such sensitivity at that time is appropriate.

Section 399

Section 399 defines the terms "commercial entity," "foreign intelligence collection activities," "intelligence activities," and "United States person" used in the new chapter 19 of title 10, United States Code, enacted by the legislation.

The definition of "commercial entity" comprehends all forms of non-governmental legal entities, within or outside the United States, established and operated solely to conceal DOD foreign intelligence collection activities under cover of its overt function. The definition makes clear that the legislation authorizes establishment of DOD commercial entities only to provide cover for DOD foreign intelligence collection activities. The legislation does not authorize establishment of such entities to engage in any intelligence activities other than foreign intelligence collection activities, nor to provide cover for any intelligence activities other than foreign intelligence collection activities. Thus, for example, DOD may not establish such entities to engage in the conduct of, or to provide cover for, counterintelligence operations (as distinguished from the collection of counterintelligence information) or covert action. The term "commercial entity" is used throughout the legislation.

The definition of "foreign intelligence collection activities" comprehends only collection by the Department or Defense or the armed forces of foreign intelligence or counterintelligence information, and related support activities. It does not include any other types of intelligence activities, such as counterintelligence operations or covert action. The legislation authorizes the establishment of defense intelligence commercial entities only to provide cover for "foreign intelligence collection activities." The term "foreign intelligence collection activities" is used in Sections 391, 395, and 399.

The definition of "intelligence activities" comprehends all intelligence and intelligence-related activities of the United States Government. The term "intelligence activities" is used in Section 395.

The term "United States person" means only citizens of the United States and aliens admitted to permanent residence in the United States. The term "United States person" is used is Sections 395 and 399.

IMPACT OF INSURANCE CRISIS WIDESPREAD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FLORIO. Mr. Speaker, the crisis in the unavailability of liability insurance is widespread, affecting all kinds of activities. I am inserting in the RECORD an article from the Newark Star-Ledger regarding the impact of the crisis on charter and fishing boats.

[From the Newark (NJ) Star-Ledger, Dec. 8, 1985]

BOAT INSURANCE CRISIS TRIGGERS INDUSTRY SOS

(By Vincent R. Zarate)

Up to now the state officials had thought their insurance liability crisis existed only on land.

Not so, they have learned.

The state's insurance problem has now gone to sea.

The owners and skippers of 200 charter and fishing boats fear they are heading for rough waters because soaring insurance costs and a scarcity of firms offering the coverage.

The problem with the charter and fishing boats was revealed to state officials and legislators by the United Boatmen of New Jersey, representing party and charter boatmen from Hoboken to Cape May.

They have asked the insurance commissioner and the Legislature to come to their aid to do something about rates and to pass laws protecting them from cancellations and nonrenewal of existing policies.

Further, the Independent Agents Association of Somerset County has urged Insurance Commissioner Hazel Gluck to include ocean marine policies in the new emergency rules that require state approval before companies can cancel or refuse to renew existing liability insurance policies for commercial land-based operations and municipalities.

"We need help immediately with some sort of a retroactive price ceiling because our insurance rates have increased from 50 to 90 percent in one year, and we expect that next year it will get worse." David Bramhall of Brielle, executive director of the United Boatmen, wrote in a letter to state officials.

"Within the past six months the rates being charged have gone right through the ceiling, with no end in sight," wrote Bramhall.

And he warned, "The premiums have already reached the point where they will be driving many of us out of business."

Bramhall estimates the charter and fishing boat industry in New Jersey is a $120 million a year industry, but he fears that if the state ignores the insurance plight, "Many skippers will be unable to afford the costs."

In their letter to the officials and legislators, the boatmen complain the average rates for typical liability and hull coverage on a 24-year-old, 65-foot boat has gone up $5,000 in one year.

The group contends the insurance costs for a 20-year-old boat that is 70 feet long was $7,750 in 1984 and now costs $11,250 and will increase substantially next year. A 70-footer built in 1984 costs $18,000 to insure, an increase of $5,000 from a year ago.

The boatmen contend that while premiums continue to rise, companies have reduced the liability coverage from the once average $500,000 an incident down to $300,000.

Bramhall and Howard Bogan, the other executive director of the boatmen's group, wrote:

"When you attempt to shop and find another company it is always the same story—no one is writing policies, or the rates are sky high."

Many Luftglass, an insurance broker from Somerville who handles insurance coverage for 30 charter boats, said, "New business is very hard to place for ocean marine coverage and it is becoming extremely expensive."

He added, "We are afraid the second shoe may drop and companies will refuse to renew or pull out of the business entirely."

Luftglass estimated that average insurance on party boats can range from $15,000 all the way to $100,000 a year depending on how much liability protection a shipowner wants.

He said he feared, "A lot of boats are going out that are uninsured because the skipper cannot afford it, or cannot find any company to sell it to them . . . particularly the older boats built 20 to 50 years ago."

He said that five to six years ago when companies "wrote almost anything to get money for high investments," the company paid the bill for the appraisal of the boat before it was insured.

"Now that there is a tight market again, the boatowner must pay the usual $500 fee to have his boat appraised," said Luftglass.

The boatmen's association directors said all the charter and party boats undergo strict U.S. Coast Guard inspection every year to 18 months.

They noted that if a boat does not pass a Coast Guard or survey inspection, "It should not be insurable."

But they contended that if a boat does pass the strict examination standards of the Coast Guard then the boat should be "insurable at a realistic rate."

Gluck said she has been made aware of the problem but noted that ocean marine insurance historically has been unregulated in the state because of the special nature of that type of insurance.

She said the department is "very concerned" about companies refusing to renew existing policies or threatening cancellation of existing policies. She said the department would investigate the complaint of the boatmen.

If the Legislature finds there is a major crisis in insurance coverage for the charter fishing fleet of the state, the Legislature could pass laws to give the department greater authority over the ocean marine insurance business, she said.

Several insurance company executives said that the rising prices for premiums for the boatmen is part of the entire national problem of commercial insurance and its availability.

Officials from CIGNA and Hartford Insurance Co. said the cost of that type of insurance was underpriced but was sold so companies could obtain cash for the high investment returns dominant in the market about five years ago.

James Beatty of CIGNA said that companies are being more selective in writing new business. But many are keeping existing business but at higher rates.

LATIN DEBT DILEMMA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FASCELL. Mr. Speaker, I would like to bring to the Members' attention a series of editorials on the external debt crisis facing Latin America which appeared in December 1985, issues of the Miami Herald.

These editorials succinctly point out the extent which the Latin debt crisis imperils, not just the political and economic stability of the Latin debtor nations, but also our own interests here in the United States. Their political and economic prosperity is linked to our own financial and economic prospects—as we learned all too well when the economic retrenchment in Mexico and other Latin countries in 1983–84 resulted in a significant fall-off in U.S. exports to the region—and also to our foreign policy interests in promoting democracy in Latin America. The series also points out that the success in dealing with the debt crisis in 1982–83 unfortunately was only a temporary solution and did little more than postpone the day of reckoning, which increasingly looks to be just around the corner.

The impending igniting of the debt timebomb has increased the urgency of taking action to preempt that explosion. The editorials suggest such measures as writing off debt which is clearly uncollectable, further reschedulings on equitable terms, and new infusion of foreign capital. They also suggest a process for reinvesting debt service payments. Consideration should be given to other proposals, such as a limitation on debt service payments, a World Bank role in commercial lending, and pooling of commercial lending. What is needed now is open, innovative thinking—open even to radical solutions—and goodwill by all parties—the debtors, the commercial lenders, and Western governments—in order to arrive at mechanisms that will protect the interests of the existing order: That will permit the debtor nations to service the debt, while rekindling economic growth, and permit the lending institutions to secure their financial stability.

I have enclosed also a companion editorial from the December 17, 1985, New York Times which notes the role being played by the decline in international commodity prices and the need for the principal industrial countries to implement their unfulfilled decision to coordinate economic policy, with the United States reducing its budget deficit and Japan and Western Europe reducing taxes and increasing Government spending and economic expansion.

What we have to date on the debt situation and economic malaise is rhetoric and proposed action plans, but no concrete measures. We must act soon before the political/economic cost becomes unsustainable.

[From the Miami Herald, Dec. 2, 1985]

U.S. BUYS TROUBLE

Much of Latin America is bankrupt. Euphemistic "reschedulings" and "renegotiations" of the region's $380-billion foreign debt no longer can conceal these debtors' near-insolvency or the precarious state of the U.S. banks to which most of the money is owed. So far, the lenders' bookkeeping ingenuity in disguising unsound loans as healthy assets has allowed Federal banking authorities to look the other way. But investors are not so easily fooled: Depressed bank-stock prices reflect the market's anxiety about the biggest lenders' long-term solvency.

If the fallout from an abrupt bursting of the Latin debt bubble could be confined to a few thousand bank stockholders and a handful of tinhorn *generalissimos,* the U.S. Government's *laissez-faire* policy might seem reasonable enough. After all, the banks and the debtor governments share responsibility for their current debacle. Why not let them play out their mutual hostage crisis, and may the fittest survive?

But fate is not so just as that. In the mid-1970s, banks eager to recycle petro-dollar deposits from history's largest oil-price hike embarked on a Latin American lending

binge. The aggregate Latin debt has grown since then until no one in this hemisphere is immune to its disastrous potential consequences.

In the United States, questionable loans on their books exceed the total capital of some of the largest money-center banks. Most U.S. regional banks maintain large deposits and correspondent relationships with one or more of these "megabanks." That interdependency means that the collapse of one or two megabanks would reverberate throughout the land. If Federal regulators interceded to avert such a failure, taxpayers would foot the bailout bill.

In Latin America, the debt crisis already has spawned or aggravated widespread suffering. Most debtor countries have sacrificed a full decade of domestic economic growth in their largely unsuccessful efforts to keep current on interest payments. Several military regimes that accepted massive loans during the '70s—and invested the money imprudently or stole it outright—have given way to democratically elected governments. Those governments now face a double burden: bankrupt domestic economies and a population demanding compensation after years of privation. In 1985, several newly elected Latin American leaders have warned that their people will not tolerate indefinite economic hardships if their only reward is to see their nation's scant wealth transferred abroad.

Ordinary Americans will share in the costs whether the debtor countries repudiate their debts to U.S. banks, oust democratic leaders in favor of anti-U.S. regimes, or continue to trade long-term economic growth for marginal short-term solvency. The relevant question is not whether, but when and under what circumstances, the American people and their elected national leaders will confront a crisis that has become inescapable.

[From the Miami Herald, Dec. 3, 1985]

MEXICO STRUGGLING

Although analysts should have seen trouble coming much earlier, the Latin debt crisis can be said to have begun officially in August 1982. That's when Mexico suspended payments of principal on its $86-billion foreign debt. Within days, financial markets from New York to Tokyo were buzzing with rumors that Latin America's second-largest debtor was about to go bankrupt—and trigger the biggest banking disaster since the Depression. Jolted from their complacency, U.S. banks, Federal regulators, and the International Monetary Fund (IMF) joined to rescue Mexico from insolvency.

The elements of the Mexican rescue plan, and of the avalanche of similar plans designed for other troubled debtors, were straightforward enough. With IMF assistance, banks extended short-term loans to enable the debtor country to resume paying interest on its debts. Amortization of principal typically was postponed or stretched out. In return, the debtor country pledged to implement economic reforms—starting by immediately reducing government spending—designed to produce a trade surplus. By exporting more than it imports, a debtor country would earn the foreign exchange—principally dollars—needed to make debt payments.

In lending strapped countries money for interest payments, U.S. banks of course were effectively digging themselves—and troubled debtors—into a deeper hole. But perpetuating the fiction that Latin loans are being repaid allows banks to skirt Federal regulations that require them to set aside loss reserves sufficient to cover any "troubled" loan—and to subtract the amount of those reserves from current earnings.

By 1984, Mexico had imposed harsh austerity measures, and the Mexican trade surplus increased sooner than expected. Those signs were being heralded as evidence that the IMF's prescription was working—and that the worst of the Latin debt crisis was over.

The underlying reality was not so sanguine. Mexican exports did grow modestly, but most of the improvement in Mexico's trade surplus resulted from a sharp drop in imports. The resulting scarcity of imported goods fueled a 59-percent rise in Mexico's inflation. That in turn prompted outraged cries from Mexicans already reeling under austerity's impact.

In 1985, moreover, a worldwide economic slowdown and tumbling oil prices have curtailed the growth of Mexican exports. In the first seven months of the year, Mexico's trade surplus plunged 47 percent from the year-ago level. September's catastrophic earthquake quashed all hopes that Mexico might be able to meet its newly rescheduled debt payments. Even before that, however, it was evident that the IMF's "magic formula" for ending the Latin debt crisis had only postponed the day of reckoning for U.S. banks.

[From the Miami Herald, Dec. 4, 1985]

SMALL DEBTORS PINCHED

Borrow $1,000, goes the old saw, and the bank owns you. Borrow $1 billion, and you own the bank. Thus it sometimes seems in Latin America, where large debtors have been able to demand favorable rescheduling terms while uncompromising lenders force smaller borrowers to the wall.

Four nations—Brazil, Mexico, Argentina, and Venezuela—account for about four-fifths of U.S. banks' outstanding Latin loans. A default by any of these "megadebtors" could send several lenders into a tailspin. So U.S. bankers have been quick to back off, if only temporarily, whenever any of the Big Four appeared to be near the breaking point. But debtors such as Peru and Bolivia, whose loan balances don't imperil any major U.S. bank, have found their negotiations with lenders more difficult.

The consequences of that discriminatory treatment have so far been short of catastrophic—at least for the lenders. In May 1984, Bolivia claimed the dubious distinction of being the first Latin debtor to announce formally that it would no longer pay interest on its foreign debt. That event passed "almost unnoticed. Peruvian President Alan Garcia made a bigger splash last July when he declared that his country henceforth would limit debt payments to 10 percent of its foreign-exchange earnings. But Peru hasn't paid that much in years.

Even so, the perils of continuing to give small debtors short shrift are many. For creditors, the danger is that one desperate debtor's decision to repudiate its obligations will trigger a chain reaction of small-debtor defaults whose cumulative impact is far from insignificant. For the U.S. Government, the much-greater risk is that long-suffering Latin peoples will replace democratic governments with militant regimes hostile to the International Monetary Fund's dictates—and to the interests of the lending nations generally.

Americans need look no further than Cuba or Nicaragua to be reminded of how much political mischief such economic bantams can stir up. Countries that constitute only a small blip on the major lenders' balance sheets may prove menacing to neighbors whose security is threatened by the activities of a revolutionary government in their midst.

Lenders have consistently downplayed the political risks inherent in holding small-debtor governments to unrealistic payment schedules. But Peru's President Garcia, whose own government's stability is imperiled by a continuing struggle with Maosit guerrillas, scarcely overstates the perils. For the smaller Latin nations, he argues, the choice is simple: debt, or democracy.

[From the Miami Herald, Dec. 5, 1985]

FLAWED FIXES

In prescribing stringent austerity measures for Mexico and other troubled Latin American debtors, U.S. banks and the International Monetary Fund (IMF) made two critical mistakes. Unless both are rectified soon, lenders will forfeit the last opportunity to salvage their investment in Latin America. Worse, the debtor nations will be doomed to another decade of negative economic growth and political upheaval.

The first flaw in the lenders' quick-fix scheme was its failure to anticipate the political risks inherent in any effort to reduce government spending. When the debt crisis began, standards of living in many debtor countries already had been plummeting for years. Lenders ought to have foreseen that no government—much less democratic regimes dependent on broad popular support—could exact many more sacrifices from constituents already ravaged by economic adversity.

Even if their people remained stoic about their sacrifices, however, the debtor nations' recovery would founder on the second serious deficiency in the lenders' rescue plan. The plan siphons away in interest payments 6 to 8 percent of the region's gross domestic product. That simply smothers what little productive capacity the debtor countries retained. Deprived of new investment, these debtors' existing export industries languish. Thus the debtors' ability to meet their interest obligations in the years ahead grows ever more doubtful.

Encouragingly, more and more policy makers are recognizing the obvious: Latin America cannot starve itself out of debt. After preaching the gospel of austerity for years, the Reagan Administration recently did an abrupt about-face. It declared that henceforth growth would be the watchword of U.S. economic policy toward the region.

In an October speech before the annual meeting of the World Bank in Seoul, Treasury Secretary James Baker outlined a new U.S. plan. It de-emphasizes short-term lending to finance debt-service payments in favor of longer-term loans to foster export-oriented productive enterprises. Like the IMF's balance-of-payments loans, these longer-term development loans would require debtor governments to make lender-prescribed changes in economic policy.

But no multilateral lending agency boasts resources sufficient to revive Latin economies constrained to export more than half of their foreign-exchange earnings as interest payments. With new foreign investment dwindling, domestic capital fleeing to industrialized countries, and import restrictions choking supplies of raw materials, spare parts, and machinery, many debtor countries simply are wasting away. For Latin America, any hope of resuming economic

growth or achieving political stability hinges on initiatives far more dramatic than any yet proposed by this country's bureaucrats and bankers.

[From the Miami Herald, Dec. 6, 1985]

REDUCING THE BURDEN

In an ordinary corporate bankruptcy, creditors have two options:

They can liquidate the debtor's assets and divide the proceeds, or they can give the debtor breathing room to restore its profitability. Latin America's primary assets—land, labor, and natural resources—do not lend themselves readily to liquidation. Therefore, U.S. creditors and Latin debtors inevitably must sink or swim together.

But the handful of banks whose lending exposure exceeds their total capital aren't the only players with vital interests in Latin America's economic viability. The collapse of one or more money-center banks would jeopardize smaller financial institutions' own solvency. U.S. manufacturers sell nearly one-fourth of their exports to the Latin debtor countries. Industrialized nations import the region's commodities. The ability of democratically elected Latin leaders to govern is being undermined by lender-mandated austerity measures. The physical security of ordinary Americans is diminished whenever extremism takes root in the hemisphere. All of these interests thus have a stake in solving the debt conundrum.

There are ways out. As in a Chapter 11 reorganization, the creditors' first priority should be to preserve and enhance the debtor countries' productive capacity. Existing loans must be rescheduled to permit longer repayment periods and lower interest spreads. Small debtors must be accorded terms no less generous than those extended to the Big Four. Where no reasonable scenario for eventual repayment exists—Bolivia is one example—a negotiated debt cancellation may be the best alternative to a sudden, unilateral repudiation. The U.S. Government should take the lead in determining where writeoffs are appropriate, and the Treasury Department should be prepared to take necessary steps to protect the integrity of banks whose balance sheets are affected.

Reducing the burden of debt-service payments is only half of the solution though. To expand its productive sector, Latin America needs new infusions of foreign capital. But how can banks already suffering from overexposure be persuaded to extend new loans? And wouldn't that amount to throwing good money after bad?

On Sunday, in concluding this series on Latin debt, *The Herald* will outline one scholar's bold plan to recycle foreign investment in productive enterprises calculated to return the region to long-term solvency.

[From the Miami Herald, Dec. 8, 1985]

A NOVEL SOLUTION

Before a bank lends money to an individual or a business, it ordinarily wants to know how the loan will be used and how the debtor will raise sufficient funds to pay it back. But in the mid-1970s, when U.S. banks made most of their bad loans in Latin America, many lenders ignored these fundamental precepts. For most banks, any ranking minister's signature was deemed sufficient to guarantee that a sovereign government's debt would be repaid.

Today those lenders can only guess at where their money went. But it seems safe to conclude that only a fraction of it was invested in enterprises calculated to yield a return, much less profits sufficient to support any debtor country's soaring interest "nut."

Robert Wesson, director of Latin American studies at the Hoover Institution, says that much of the money lent in Latin American simply has been lost—through inefficient subsidies, bloated bureaucratic salaries, and outright theft. Suppose there were a way, over time, for banks and debtor countries to make those funds reappear. Wouldn't it be in everyone's best interest to pursue it?

Dr. Wesson proposes a way. His plan would require each Latin debtor to make payments into a fund held and managed by creditors and restricted to reinvestment within the debtor country. Lenders have learned the price of sloppy loan supervision the hard way. They could be relied upon to support only the most promising enterprises. "It would mean putting money where it should have gone in the first place," Dr. Wesson says, "into productive undertakings, instead of largely covering goverment deficits and state enterprises."

As Dr. Wesson sees it, political realities preclude debtor countries from imposing harsh austerity measures solely to make money available for interest payments. But fiscal self-discipline might appear more attractive if the fruits of their sacrifices were reinvested in these debtor's own economies.

The banks of course would demand part of any profits from their compulsory investments. And it might be prudent to give each debtor government a small equity stake in its reinvestment fund. Debtors whose forturnes were tied explicitly to the success of private enterprises would be far likelier to undertake the structural changes—in trade policy, banking practices, exchange rates—needed to enhance those enterprises. And new jobs and improved living standards would allow democratic leaders to disarm nationalist critics waiting to make political hay of lender-inspired reforms.

In concert with the Reagan Administration's plans for increased World Bank participation, this reinvestment scheme offers the best hope for restoring Latin America to solvency. The Administration has at its disposal many levers to encourage the lenders' participation—its bank-regulating authority and ability to influence interstate-banking laws come readily to mind—and it should not hesitate to work them. As all parties move toward an inevitable reckoning of the Latin debt crisis, it's past time for the U.S. Government to assert its citizens' own overriding interest in an equitable resolution.

[From the New York Times, Dec. 17, 1985]

A WORLD ECONOMY IDLING IN NEUTRAL

The prices of raw materials—rubber, copper, sugar—are in a worldwide nosedive. It's the 1970's in reverse: OPEC can't hold the line against declining oil prices. The international cartel that guarded the price of tin collapsed in a flurry of uncollectible i.o.u.'s in October.

It's hard not to cackle over chickens coming home to roost, but commodity deflation is a mixed blessing. The gains for the industrialized economies are mirrored by the losses of raw-materials exporters, many of them very poor and deeply in debt to Western banks. Common decency and self-interest require something better than gloating.

An array of raw materials that cost $100 in 1980 now costs only $74.30. Even after adjusting for the distortions created by a strong dollar, most commodity exporters' purchasing power has plummeted. According to The Economist, the decline in one year saved the industrialized economies $65 billion. Part of that is at the expense of wealthy oil producers. But oil prices have fallen less than those of most metals and farm products. The big losers include Bolivia, Ghana and the Philippines.

One direct consequence is a shorter fuse on the debt bomb. Interest rates have declined by a third in the last three years. But declining commodity prices have offset the debtors' gain. Some, including Peru, Chile, the Ivory Coast and Morocco, owe more of their export earnings for debt service than in 1982. Their living standards are declining. Worse, they must reduce imports of capital equipment, losing the growth route out of debt.

If low commodity prices are the problem, why not just raise them? In theory, both producers and consumers could benefit from "buffer stock" agreements that soak up commodity surpluses when prices are low and relieve shortages when prices are high. The Carter Administration was inclined to cooperate in their creation. Even more market-oriented Reaganites have quietly blessed a buffer-stock agreement in coffee. But it is rarely possible to satisfy both buyers and sellers for very long; these arguments usually fall apart.

Treasury Secretary Baker suggests that the quickest remedy is to reopen the loan windows of Western banks. That makes sense for debtors like Brazil and Argentina, which could use the extra capital productively. But loading more debt onto overburdened economies is a palliative at best. More effective relief requires more demand for third-world commodities, and lower interest rates.

The Federal Reserve could serve those objectives by liberalizing credit. But relying only on America's monetary policy runs the risk of re-igniting inflation. The more prudent path would be for the advanced nations to coordinate economic policies. The United States' contribution would have to be to reduce its budget deficit markedly, easing the Government's demand for private capital and letting interest rates fall. Japan and Western Europe would have to reduce taxes or increase government spending, stimulating imports of raw materials from the third world.

The industrial countries agreed in principle to this division of responsibility last fall. But their good intentions have not been translated into policy. That's understandable; the Japanese Diet is as reluctant to increase spending as Congress has been to reduce ours. But with half the world's economy idling in neutral, the inaction by all is indefensible.

GUATEMALAN ELECTIONS—A FIRST NOT A FINAL STEP TOWARD DEMOCRACY

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MRAZEK. Mr. Speaker, the recent elections in Guatemala truly represent a positive step toward that nation's return to democratic government. While I believe we in Congress should make every possible

effort to support the new leader, Mr. Vinicio Cerezo, the recent elections are not, as this administration has claimed, the "final step in the reestablishment of democracy."

Thousands upon thousands of Guatemalans were killed or disappeared since the imposition of military rule in 1954. Thousands of people have been uprooted from their native homes—especially the Indians in the highlands. We should not expect civilian trust of Guatemala's new leaders to become embedded in the society overnight—especially because we should not anticipate that the military will readily abrogate its immense power over Guatemalan society to civilian leaders.

Guatemala's return to democracy will be a slow and arduous process, which can be hastened—or stalled—by United States policy. Mr. Cerezo has declared that Guatemala will continue its policy of neutrality toward the war in Nicaragua, and will actively seek resolution of all the conflicts in the region. If the United States tries to push Mr. Cerezo into supporting the United States position regarding Nicaragua, or if we drop millions of dollars of military aid into Mr. Cerezo's hands while the military still retains control over key elements of the government, we will only exacerbate tensions in Guatemala and impede Mr. Cerezo's efforts to establish real democratic rule in his beleagured nation.

Joseph Aldridge, director of the Washington Office on Latin America, a human rights and foreign policy educational organization, has written an excellent piece in Newsday on the significance of the Guatemalan elections. Mr. Eldridge has been following events in Guatemala for years and his observations should be taken into account by any one who truly believes that the recent elections signify the final stage—rather than an important first stage—of Guatemala's return to civilian, democratic rule.

GUATEMALA AND CIVIL RULE

(By Joseph T. Eldridge)

On Sunday, Guatemala elected its first civilian president in almost two decades. Christian Democrat Vinicio Cerezo, in an overwhelming electoral mandate, won the final round of voting by a landslide. In defeating the candidate of a center-right party, he and his center-left party garnered 68 percent of the votes, more than any other candidate in Guatemalan history.

The Reagan administration, in its briefing documents for Guatemala elections, declared the voting the "final step in the re-establishment of democracy." Unfortunately, this optimistic view seems to be limited to the White House and its faithful followers. At the very best, the Nov. 3 general election and Sunday's runoff represent only the first step. When he assumes the presidency in January, Cerezo will face the daunting task of asserting control over the military, improving the abominable human rights situations and stabilizing a disastrous economic decline.

The elections themselves were reluctantly permitted by the armed forces—who still control Guatemala—for several compelling reasons. First, the military government's dismal human rights record has eroded internal and international legitimacy. According to a British parliamentary group's findings, "The Guatemalan military has created a nation of widows and orphans. Over the past 30 years, over 100,000 people have been killed and 38,000 [have] disappeared."

Nowhere has the violence been more insidious than in the highlands. Every aspect of the Indians' lives is watched and supervised by military-appointed "interinstructional coordinators." Almost 1 million Indian males have been regimented into civil patrol, extending the military's eyes and ears into almost all rural communities.

The most pressing factor in the military's decision to convene elections, however, was that the Guatemalan economy has been verging on total collapse. Over the past year, the *quetzal* has been devalued by 300 percent, inflation is rampant and unemployment soaring. The downward spiral of the economy has sparked generalized popular unrest. In September, the government's decision to increase bus fares from the equivalent of 10 U.S. cents to 15 provoked large spontaneous demonstrations. Ten days of protests left two dead, close to 2,000 were arrested and about 60 "disappeared."

In addition, the bulk of Guatemala's short-term debt, currently estimated at $700 million, comes due by the middle of next year. At least $300 million in foreign assistance will be required for Guatemala to meet its financial obligations. Conservative business sectors, acutely affected by the economic crunch and realizing that outside help would not be forthcoming without an improvement in Guatemala's image, joined unions, political parties and religious, neighborhood and professional organizations in urging elections.

All of the presidential candidates, however, refrained from tackling issues directly related to the military. There was virtually no discussion about the need to establish an effective system of justice or to bring to trial those responsible for tens of thousands of civilian murders over the last several years. Nor did the candidates broach the subject of civilan supervision of the military's sophisticated mechanism of surveillance and control of the large Indian population in the highlands. In fact, Guatemala's new constitution institutionalizes the military's control over the rural development programs as well as the ministries of defense and communications.

Whether the results of Sunday's elections can begin to reverse decades of human rights abuses and patch up a hemorrhaging economy has yet to be determined. The Reagan administration, however, is clearly optimistic that Guatemala has reached a watershed, and is hoping that the elections will convince a skeptical Congress that Guatemala will now be a worthy recipient of military aid and more substantial economic assistance. Former U.S. Ambassador to the UN Jean Kirkpatrick observed that "a confident democratic Guatemala can be expected to play a far more important role on the Central American political scene."

Despite repeated pressure from administration officials, the Guatemalan military has remained aloof from the White House's efforts to join in the crusade against the Sandinista government of Nicaragua.

Clearly the Reagan administration feels that military and economic aid programs would give them more leverage with Guatemala's prideful military. Congress, however, has resisted repeated White House pressure to renew military aid, suspended in 1977.

In his new job as president, Cerezo will have to summon up all the skill he has accumulated in 20 years of public life to coax the military into relinquishing aspects of its monopoly power. Whatever authority he may succeed in grasping, he will have no possibility of addressing the country's urgent need for sweeping economic and social changes. Issues as basic as tax reform and land tenure were prudently, never discussed by candidate Cerezo.

The United States can, however, assist this fragile beginning. Congress must resist the Reagan administration's pressure to give Guatemala immediate and unconditional aid. Guatemala's generals do not merit even consideration of military aid.

All economic assistance, except emergency aid for basic human needs, should be made available only after the newly elected civilian government curbs human rights violations, moves toward establishing an independent judiciary, and othewise demonstrates effective control over the military. Cerezo wants and needs nothing less.

WOMEN OF THE SANCTUARY MOVEMENT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TOWNS. Mr. Speaker, as we move through the holiday season it is important to remember those who have made a personal sacrifice to ensure the safety and freedom of others. Many Americans throughout the Southwest have made a personal decision to protect the rights of refugees from El Salvador by assisting them in a modern-day version of the "Underground Railroad." Most of the people involved in the "sanctuary movement" are women. Just as the Quakers and black American leaders like Harriet Tubman who risked imprisonment and/or a return to slavery, these women risk imprisonment to smuggle refugees to the United States.

Because of the administration's refusal to grant "extended voluntary departure" to Salvadorans or Guatemalans, these American women feel compelled to smuggle and harbor these refugees to prevent them from being deported to an uncertain fate and possible death in violation of the U.N. Protocol on Refugees. Glamour magazine recently featured an article by Claudia Dreifus, "Women of the Sanctuary Movement," which described the movement and the women who participate in this extraordinary struggle which has become "one of the largest demonstrations of civil disobedience since the Vietnam war." In this season, where we will share the holidays with family and friends, I commend this article to my collegues as an example of Americans who have chosen to struggle for the freedom of others at great personal risk to themselves. Their commitment only provides more impetus for the Congress to move forward with the Moakley-DeConcini legislation, H.R. 822, to protect the rights of these refugees.

WOMEN OF THE SANCTUARY MOVEMENT

The twenty-eight-year-old woman we'll call "Annie Wilson" does not want to tell me very much about her life.

"Just tell your readers that I'm not very different from them," she suggests as we motor along the dirt roads of Northern Mexico on a warm spring morning. "I am a fulltime homemaker, a practicing Presbyterian, a college graduate, the mother of three children, the wife of a businessman. It's not that I'm coy about myself—it's just that I have young children and, for their sake, I try to be careful. Oh sure, I know that at some point I'm going to get caught at what I do, but when you have a four-year-old at home, you try to make sure that date comes later rather than sooner. So, yes, I've agreed to let you come along on this trip to show you what we do and what it means—but no, I don't want to be interviewed." [1]

What Annie Wilson does is illegal and dangerous: She crosses political refugees from Central America into the United States. A member of the Sanctuary Movement, she is one of a network of religious activists and layworkers who are risking imprisonment by running a modern-day Underground Railroad, smuggling aliens into the country, harboring them in churches and synagogues near the border, and then transporting them north where other Sanctuary workers help them settle into new lives. One of the largest demonstrations of civil disobedience since the Vietnam War, the movement is composed primarily of male clerics and women volunteers.

"The family we're picking up today is from El Salvador," says Annie Wilson as we head toward a "safe house" in a certain Mexican town approximately a hundred miles from Tucson. "The Quaker who's been leading them up through Mexico says they're 'high risk.' The husband was a union organizer in San Salvador, and he's on death lists. The wife's brother was accused of being a guerrilla, and he was picked up by the police and 'disappeared.' They had a difficult trip. The wife contracted tyhoid en route, and the baby is sick, too. We have a church in the north lined up to take responsibility for them. But first we have to get them into the United States, and that's always complicated. Over the years, I must have brought seventy people through, and on each run something goes wrong."

We arrive at the safe house where the refugees are waiting. "Ah, you have come for us," a thin dark man says in halting English. He is Carlos Diaz, thirty, a former teacher and father of the family. "We have waited many days for you, and now we must leave at once. Some men have been following us, perhaps since Mexico City."

"I'm not sure I can cross you today," Annie answers. "Maybe tomorrow. Driving down, we saw many Border Patrol cars. I've never seen so many. You know it's best for all if we don't take unnecessary risks."

"No, no . . . we must go soon," demands Carlos Diaz. "To stay is dangerous."

Annie looks outside and spots a spooky-looking stranger, loitering and watching. "Okay, we'll try it," she says to Carlos. "I'll have to check the holes in the fence first to find the best route."

For the next hour, Annie drives her borrowed yellow Datsun station wagon along the U.S.-Mexico frontier, searching for the safest point of entry. Though the ten-foot-high-steel-mesh barrier is loaded with electronic sensors that trigger alarms when jarred, the fence has many gaping holes. Annie picks an opening concealed from a nearby road, then drives to the official border checkpoint.

"What was the purpose of your visit to Mexico?" a U.S. Customs official inquires.

"Shopping," Annie answers nonchalantly.

Back in the U.S. Annie checks the road on the other side of her crossing spot. Noting that a Border Patrol squad car cruises by every three minutes or so, she concludes that her move will have to be fast. "I'd rather not be doing this here and in this way, but going seems to be safer than staying," she says. She telephones a Sanctuary supporter in Mexico, informs him in code of the location of the crossing point and asks him to guide the group there.

At the appointed moment, Annie is waiting on the American side of the border, her car's motor running. With lightning speed, five refugees dash through the fence and into the small Datsun with the tinted windows. Annie takes off. She is no more than a hundred yards down the road when a Border Patrol paddy wagon speeds toward her.

"La Migra! La Migra!" the refugees scream, calling the slang name of the immigration police.

"Down, back there!" Annie shouts in Spanish. "Get to the floor."

The paddy wagon roars past the Datsun, ignoring Annie and her passengers.

"The Lord protects . . ." Annie exclaims. It is as much a wish as a hope.

To smuggle or harbor an illegal alien is a crime punishable by up to five years in prison per count. Nevertheless, Sanctuary has brought more than three thousand Central Americans into the United States. Officially, the congregations of two hundred churches and synagogues from coast to coast—nearly fifty thousand individuals—have committed themselves to this act of conscience.

Who are the Sanctuarians?

"They are individuals who do not agree with United States policy in Central America and who have found an effective and media-attractive way of publicizing their opinions," charges Ambassador H. Eugene Douglas, U.S. coordinator for Refugee Affairs. "While some supporters' motivations may be innocent and nonpolitical, others are not."

"Quite the contrary," countercharges New Mexico Congressman Bill Richardson, chair of the Hispanic Caucus. "The Sanctuary Movement is a religious and moral reaction to a grave injustice—the deportation of Central American refugees back to conditions of civil war."

Sanctuary founder John Fife, forty-five, pastor of Tucson's Southside Presbyterian Church, describes his group more simply: "We are citizens who saw refugees in our midst, who saw that the laws were being administered unfairly against them, and who realized that to save lives we had to become civilly disobedient against the administration of those laws."

The Sanctuary Movement is one response to the civil and military disorders currently shaking Central America. In Guatemala, El Salvador and Nicaragua, where civil wars rage, nearly a million and a half people, by conservative estimate, have left their countries as refugees or been displaced. Many of them exist in refugee camps within their own countries or in Mexico and Honduras; hundreds of thousands have made their way to greater safety within the United States. Though overt acts of war have created part of the refugee problems, severe human rights violations, particularly in Guatemala and El Salvador, have also contributed; death squads, torture and disappearances of citizens are everyday facts of life in those countries. The Sanctuarians say that international law and human compassion require Americans to provide safe harbor for these refugees. The official voice of the U.S. government contends that most Central Americans come to the U.S. not as political refugees, but as economic ones.

Speaking against a law that would ban deportations to El Salvador, Elliott Abrams, Assistant Secretary of State for Human Rights and Humanitarian Affairs, recently stated: "El Salvador is a country troubled by poverty, violence, overpopulation and a history of oppression. For a number of years, Salvadorans have looked for economic opportunity elsewhere. . . . Some groups argue that illegal aliens who are sent back to El Salvador meet persecution and often death. Obviously, we do not believe these claims or we would not deport these people."

But Annie Wilson, who risks prison on a weekly basis to bring Salvadorans into the United States, believes the claims. "The refugee issue has become politicized," she says. "Our government welcomes the victims of communist regimes, but it turns a blind eye to the Guatemalans and Salvadorans because we are friends with their governments. In Sanctuary, we try only to bring across Central Americans who have been threatened and who stand a good chance of being killed if they remain at home—dissenters, peasants who have witnessed massacres, church workers serving the poor. Almost none of these people can get into the United States legally because our government rarely grants political asylum to the victims of terror committed in countries that we're aligned with. About 3 percent of all Salvadorans and fewer than one percent of all Guatemalans who apply are granted political asylum and are able to remain in the U.S., as compared with 12 percent of Nicaraguans and 33 percent of Poles. I'm not a partisan political type. I've helped refugees who came here escaping Southeast Asian communism. I . . . we . . . do this as caring human beings, as Christians who put our faith into action. As neighbors."

The Sanctuary Movement developed under the burning Arizona skies in 1980 after thirteen middle-class Salvadorans died in the desert just west of Tucson. After walking from Mexico, they had been abandoned there by a "coyote," a professional smuggler. This incident brought to the surface something that Tucsonans had long been suspecting: Thousands of Central Americans were suddenly flooding into the United States, some of them literally appearing on Tucsonans' own front lawns.

"What can we do to help these sojourners?" Tucson's clerical community asked. Different people came up with different answers. Jim Corbett, a retired rancher and a Quaker, responded by assisting Central Americans across the border; Rev. John Fife visited the prisons and provided funding for legal aid to captured Salvadorans and Guatemalans hoping to remain in the United States as political refugees.

Fife saw countless Central Americans deported back into war zones. It wasn't that the U.S. didn't have legal provision for the admission of these refugees, he decided it was that the laws were being administered without regard to the realities of the lives of Guatemalans and Salvadorans. "In a situation of routinized terror, Central Americans

[1] Some details about Annie Wilson and her run into Mexico have been altered to protect her anonymity.

were being asked to provide detailed documentation of threats against them," Fife recalls. "It wasn't unusual to hear of cases where a Salvadoran would be asked to produce a copy of the 'death list' he was supposed to be on. It struck me that Central Americans stand a better chance of surviving in the United States, and of not being deported, if they don't apply for political asylum."

Thus, Fife joined Corbett's smuggling operation. Together, the two men went out and organized a movement that was nonviolent, ecumenical, and staffed by male clergy and women—dozens of women.

"Women are Sanctuary's unsung heroes," says John Fife. "Oh, the newspapers give a lot of attention to clergymen like myself, but those who've done the riskiest jobs, at the border have been the women." (Of sixteen indicted in January, eleven were women.) "Our women are particularly heroic because they have the most to lose—the young mother with children risking jail."

Annie Wilson herself often ponders the dilemma of putting her liberty on the line for a moral issue. "Sometimes, what I'm doing scares me," she says."In church the other day, I wondered, 'Am I being selfish? Will my children have to pay for my conscience?' Sometimes my husband says, 'Stop—it's too dangerous.' But then I think about what the refugees are going through, that they could be killed if they are deported to their home countries. Besides, I'm not the only woman in this situation doing this."

Mary K. Doan-Espinoza, thirty-one, mother of four, coordinator of religious education of the Sacred Heart Parish of Nogales, Arizona, daughter of the former mayor of that border town, wife of a diesel parts salesman, joined Sanctuary precisely because she is a woman and a mother. One morning in 1983, Mary K. was sitting in her church office when she was approached by a sad, foreign woman, who appeared out of nowhere.

"May I kindly have a glass of water for myself and my two children?" this woman asked. When Mary K. returned with milk and cookies, the woman burst into tears.

"Do you see these little ones?" she asked. "I used to have five. One day, some people came to my house and told me to come to the school right away. They said something had happened to my children. When I got there, I saw many, many children's bodies stacked up in a row. The soldiers had shot them because someone said the son of a guerrilla was going to that school. They did not know which child they were looking for so they killed many children—including mine."

Full of impassioned anger, Mary K. contacted a Sanctuary member who'd visited her church. "I've lived in Nogales all my life and the border is nothing to me," she said. "Call me whenever you need help."

Mary K. Doan-Espinoza soon became a kind of underground legend. She "helped" in a thousand ways, legal and illegal: bringing food and clothing to Central Americans detained in Mexican jails, making trips into Mexico for refugees, offering shelter to all who appeared at the door of her church.

With time, rumors of Mary K.'s clandestine activities began to circulate. A clerk working at the Sacred Heart quit rather than labor alongside the notorious Mrs. Doan-Espinoza. The Brownie Scouts asked Mary K. to resign as troop leader. Mary K.'s husband complained: "My friends are making fun of me because of you. If we ever get a divorce, you'll know why. You shouldn't be doing this. You should just do your job and come home."

"If these people were your cousins and your brothers, you'd want me to do this," Mary K. answered. "If there were a war here, we would want strangers to act like Christians and to help us. Try to understand."

And when neighbors refused to understand, she told them this: "If you knew that your wife and your children were going to be killed, you'd look for a safe haven, too. If we all start wondering about what everybody thinks, then we'll never do what's right."

Doing the moral thing was also the roof of Peggy Hutchison's motivation. Hutchison, thirty, a Methodist layworker, graduate student at the University of Arizona and staff member of Tucson Metropolitan Ministries, became involved with Sanctury in the early 1980's. She went to the local prisons to interpret for attorneys aiding captured Salvadorans and Guatemalans. "Working in the prisons was shattering," Peggy Hutchison recalls. "I'd help these innocent, frigthened people with their applications for political asylum and nothing happened. I witnessed a lot of rights abuses—terrified Guatemalans not knowing what they were doing, signing papers agreeing to voluntary departure. I was working with an awful lot of people who told me that they'd be killed if they got deported to Salvador or Guatemala and, of course, they were deported."

After visting the prisons for several months, Peggy began to have nightmares. Finally: "I felt I had no choice. If I was to be true to my faith and my morals, then I had to go beyond the paralegal ministry." Peggy joined Jim Corbett's underground railroad.

The smuggling was hard for her: Between a full-time job, graduate school and an ongoing relationship with her fiance, Michael Elsner, no week ever had enough hours in it. Despite the hardship, Peggy felt an obligation to continue to help the refugees: On one of the first trips, we were rescuing young people from El Salvador, people my age, and they began to talk about everyone they knew back home. 'Did you know Manuel?' 'Oh, yes he was found dismembered with his eyes gouged out.' 'And did you know Carmen?' 'Oh, yes, she was the pregnant woman the National Guard picked up and disappeared.' These people moved me so much I came to feel that no exertion was too great for them."

Meanwhile, the government had begun to act against the Sanctuary Movement. "There is no provision in American law for 'sanctury,' "Ruth Ann Meyers, district director of the Immigration and Naturalization Service in Phoenix says. "The law does not say that it's okay for good people to violate the law for 'good reasons,' but not okay for bad people."

In 1983, Jesus Cruz, a citizen of Mexico and now a lawful permanent resident of the U.S. was hired by the Immigration and Naturalization Service as an informant, and infiltrated the Sanctuary Movement. His body wired with a hidden tape recorder, Cruz began to attend services at Tucson's Southside Presbyterian Church and to drive down to Nogales where he spent time with Mary K. Doan-Espinoza. He expressed his extreme concern for clandestine activities on behalf of Sancturay. "I thought he was a very kind man," Mary K. says, but there was always something strange about him—he was always pushing things that meant trouble. He was always asking questions about who was involved—and how."

On January 14, 1985, Donald Reno, Special Assistant U.S. Attorney in Phoenix, announced indictments against sixteen Sanctuarians on seventy-one separate charges of smuggling, harboring and conspiracy; twenty-four other members of the movement were named as unindicted co-conspirators. Of those indicted, most had spoken with Jesus Cruz—Mary K. Doan-Espinoza, Jim Corbett, several other women and the Reverend John Fife were among those named. Peggy Hutchison, who'd never worked with Cruz, was also indicted.

Mary K.'s reaction was fiery: "How dare the government go into churches to spy on people? Churches are for shelter and peace. We did what the Lord wanted us to do. There's protection in that." But just in case the Lord did not protect, Mary K. began to make provision for her children, in the event she had to go to prison.

For Peggy Hutchison, the indictment brought on a period of introspection. What would happen to her if she had to do a long prison term? ("It's hard to think of myself as a criminal.") Would she be able to marry Michael and have children with him? ("I'm thirty years old—what if the sentence is long?") Was there a way to make the best of a prison experience? ("Perhaps I could use the time to finish my master's degree?")

Two weeks after her indictment, Peggy flew out to Los Angeles to give a speech on Sanctuary at L.A. City College. After her talk, she was approached by a young Salvadoran woman, who asked, "Peggy, do you remember me?" Peggy did. Years ago, when she had first begun to make her runs into Mexico, Peggy had brought this woman, her mother, aunts and sisters into the United States. Theirs was a heartbreaking story. They were catechists—religious teachers using the catechism to instruct the poor—persecuted for their religion. The father of the family had been taken away, tortured and killed; soldiers had raped the mother in front of the children. After six months of wandering from convent to convent in El Salvador and Mexico, the family was finally sent to Sanctuary. "I came here today because you must know what has happened to us," said this young Salvadoran as she hugged Peggy Hutchison in the college lecture hall. "We are safe. The babies are well. And we want you to know that we will never forget what you've done for us. We want you to know that we love you and that we are your sisters."

When Peggy returned to Tucson later that week she was cheerful, optimistic. "My friend reminded me of something that the refugees all know," Peggy says. "That it's important to feel pain, but also important to celebrate joy—and most of all, it's urgent to make connections, no matter what is in the way." It was in that spirit that, on May 26, 1985, Peggy married Michael Elsner.

When Peggy Hutchison, John Fife, Mary K. Doan-Espinoza and their colleagues go to trial in Phoenix this month, Peggy will particularly remember something her Salvadoran friend told her that afternoon in Los Angeles: "To have courage. Because in Central America, the last part of a person to die is their hope."

SUPERFUND REAUTHORIZATION

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KINDNESS. Mr. Speaker, last week the House considered a compromise Superfund reauthorization bill. I, for one, was pleased that we finally brought this critical legislation to the floor and wish to compliment those members and staff of the committees involved for the excellent work that was done. Within the parameters of what we were able to consider on the Judiciary Committee, I felt we made significant progress in addressing several key issues. However, I would be remiss if I did not mention those areas in which I believe additional work could still be done.

Perhaps one of the most important issues within the entire Superfund Program was the establishment of a citizen suit provision. Although I supported the compromise bill on this and all other points, I feel the House might want to call special attention to certain portions of this provision in its conference negotiations with the other body. Although the Commerce and Public Works Committees, along with Judiciary, all reported citizen suit provisions, they were vastly different in scope and impact. The substitute bill contains portions of each of the three committee versions and attempts to balance the rights of citizens with the need to have prompt cleanup of sites without needless and expensive litigation.

Despite the substantial efforts of those involved in the compromise negotiations to encourage and facilitate greater use of preenforcement settlement negotiations as an element of the Government's cleanup program, the substitute approach still could leave some question as to whether citizens can bring their actions during active negotiations by the Federal Government or by a State which has given notice of its intent to bring suit. States and private citizens are not obliged to observe the negotiation procedures applicable to the Federal Government. Time prohibited us from adding appropriate language in the compromise substitute to address this issue, but I would hope language to solve the problem could be worked out in conference with the Senate.

Mr. Speaker, you will recall that there was at least one remaining area of disagreement concerning the critical issue of the claims being created by this new citizen suit language. The Judiciary amendment to the orginal bill provided grounds for citizens suit against any person is "has contributed or is contributing to the actual or threatened release of any hazardous substance from a facility, if such release may present an imminent and substantial endangerment to health or the environment." The compromise version provides for suit against any person who "has contributed or is contributing to the release or threatened release of any hazardous substance from a hazardous waste disposal site, if such release or threatened release may present an imminent and substantial endangerment to public health or the environment." Our colleague from Kansas, Mr. GLICKMAN, offered an amendment to return to the original language as reported by the Judiciary Committee. Unfortunately, I had to oppose his amendment as I believe the compromise approach better serves the interests of balancing the rights of citizens with the need to assure prompt cleanup of waste sites.

The substitute bill also included several bars to citizens suits. These bars would wisely prohibit suit in cases where they would impede prompt cleanup. Although the substitute bill makes constructive changes from the citizen suit provision reported by the Judiciary Committee, it still may present the opportunity for abuse based on the "imminent and substantial endangerment" language. I believe the House conferees should attempt to limit any attempts to expand the readings of what may present an "imminent and substantial endangerment," A mere risk of injury to health or the environment, which need not be immediate or irreparable, has been held sufficient to substain a cause of action for mandatory injunctive relief. Clearly, such readings should be discouraged in light of the potential impact they have on Federal court case load and on the parties involved.

Absent this, such precedents might be used under the substitute citizens suit language to bring claims involving very limited, attenuated or remote environmental dangers posing no significant or even potential danger to human health. Various estimates of the number of unpermitted, uncontrolled waste sites in the United States—many or most of which pose no danger to health—run as high as 25,000 to 30,000. I am concerned that these sites will afford a ready vehicle for frivolous or vague Federal claims to which pendent State personal injury claims, requiring jury trials in Federal courts, might also be added.

My second principal concern is that of liability affecting response action contractors—those people who clean up our Nation's hazardous waste disposal sites.

At present, insurance availability for contractors is diminishing, limits of coverage have been reducing, and premium rates have been increasing—some by as much as 50 to 200 percent. Insurance industry sources estimate that only 10 percent of contractors market needs are currently being met and that by January 1986 no insurance will be available at all. The present lack of insurance is already causing a reduction in the number of qualified contractors willing to participate in Superfund cleanups. As insurance becomes increasingly unavailable over the next year, availability of qualified contractors could diminish to the point of being acute. As a result, the Superfund Cleanup Program could come to an abrupt halt.

Although the substitute bill still requires fine tuning, it goes a long way toward addressing most of the concerns I have and it is still my hope, as well as my understanding, that what is in the bill will be maintained through conference with the Senate. The substitute bill would authorize the EPA Administrator to indemnify contractors—including subcontractors—against any liability arising out of the contractor's performance, provided that reasonable efforts are made to obtain liability insurance. The indemnification covers only liability which was not the result of gross negligence, or intentional misconduct on the part of the contractor. Therefore, the amendment allows EPA to provide contractors with indemnity coverage equivalent to liability insurance. This provision in combination with the existing standard of liability for contractors contained in the substitute should provide adequate incentive for contractors to continue to participate in Superfund cleanups.

Furthermore, numerous safeguards are built in to insure the provision does not become a serious drain to the Treasury, including mandatory deductibles and ceilings on indemnification.

Mr. Speaker, during the recent House consideration of the bill, my good friend from Nebraska, Mr. DAUB, offered an amendment which attempted to put some teeth into the causal nexus requirements in Superfund. Although I was constrained to vote against the amendment, I felt, given the way in which courts around the country have interpreted Superfund's existing causal nexus requirements, this amendment had special importance if Superfund's liability scheme is to be brought into line with traditional notions of American tort law.

Two especially important and widely quoted cases, U.S. versus Wade and U.S. versus South Carolina Recycling & Disposal, Inc. set forth the notion that traditional causal nexus is not required under section 107 of Superfund. In the introduction to the court's opinion in South Carolina Recycling, it was noted that direct causal connection between a generator's substances and the costs was not required. In Wade, the court stated that:

> The only required nexus between the defendant and the site is that the defendant have (sic) dumped his waste there and that the hazardous substances found in the defendant's waste are also found at the site.

Inasmuch as traditional notions of proximate cause require a far greater connection than this, I have concern that innocent parties—especially small business—could be held unfairly liable under such a scheme given the combination of it with joint and several liability. Such liabilty schemes can serve to frustrate, rather than encourage, proper waste disposal. Such a burden is particularly harsh when it is imposed on small businesses who do not have the resources to maintain long and costly court battles. This is unfair, Mr. Speaker, and should be addressed in conference.

Finally, Mr. Speaker, I must state my strong opposition to a Federal cause of action for personal injury and property damage. Our colleague from Massachusetts, Mr. FRANK, offered an amendment to pro-

vide such a cause of action and I was pleased to see this House again reject this ill-conceived notion as it did in last year's Superfund legislation.

To begin, my opposition to a Federal cause of action is based on the fact that Superfund is a cleanup law, not a compensation law. The bill being considered by the House today is focused on cleanup activities and all of the committees which worked on the bill specifically excluded a Federal cause of action. Such a proposal should have had an airing in the Committee on the Judiciary.

Additionally, I might just note a couple of other points I consider important for the House to examine:

First, proponents fail to recognize that liability under the Frank proposal would be triggered by such nonevents as the mere deposit or storing of a hazardous substance. Consequently, given the liability standard of near absolute, joint and several liability imposed by the amendment, liability could attach to a party without that party having contributed to the event that actually causes the harm.

Second, one of the so-called defenses provides relief from liability if the defendant established by a preponderance of the evidence that it took precautions against foreseeable acts or omissions of any (such) third party and the consequences that could foreseeably result from such acts or omissions.

This effectively casts each party to a site in the role of insurer of all other site users/participants. This is almost certainly an impossible task to meet and provides absolutely no meaningful relief. In fact, each site user not only becomes liable for the actions of all concurrent users but all past users—over which control is absolutely impossible.

Third, persons held liable under the amendment include:

Any person who owned or operated the facility at which the release occurred at the time any hazardous substance was disposed of at such facility.

This means that past site owners/operators can be held liable for damages for substances that were not even disposed of when they owned or operated the site.

Fourth, pain and suffering are compensable except to the extent that they are a result of an individual's unreasonable fear of physical injury, illness, or death. This departs from long-established tort law which has never granted relief for speculative damages. The Frank amendment language would cast Federal courts into the role of determining what reasonable fear might be in any given circumstance, hence requiring them to speculate as to what any persons damages may or may not be.

Fifth, the Frank amendment would effectively repeal rule 23 of the Federal Rules of Civil Procedure. By requiring that actions under the title arising from the same release be certified as a class, differences between each individual's condition "in the class" are ignored.

Sixth, lastly, proponents of this cause of action have specifically exempted the United States, States and local governments from liability under this statement. The Congressional Budget Office last year stated that the potential liability of the United States under such a cause of action would be impossible to estimate and could add significantly to the costs of the Federal Government. By specifically removing the United States, States and local governments from this liability, the proponents have admitted that liability under this title is essentially indefensible given its scheme of near absolute, joint, several and noncausal nexus liability. Given this admission, can Congress truly entertain such a proposal?

Thank you, Mr. Speaker.

S. SGT. THOMAS DAVIS' LOSS FELT BY MANY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FLORIO. Mr. Speaker, 1 week ago today the airliner carrying members of the Sinai Peacekeeping Force crashed in Newfoundland, Canada. On that plane was S. Sgt. Thomas E. Davis of Woodbury, NJ.

Thomas Davis was a constituent of mine in the First Congressional District of New Jersey. He had joined the Army 12 years ago and was a proud member of the 101st Airborne Division, the "Screaming Eagles" based at Fort Campbell, KY. The loss of 28-year-old S. Sgt. Davis will be felt by many of us in the First District and I, too, want to offer my condolences to the Davis family. All of us, here in this House and in south Jersey share their grief in these difficult times.

Mr. Speaker, I would like to share the following article with my colleagues. It is from the Gloucester County Times. The words offer a small insight into the sacrifices and pain being felt by the many who loved Thomas Davis. He was a soldier on a mission of peace and we all share in his family's feelings.

The article follows:

[From the Gloucester County (NJ) Times, Dec. 15, 1985]

FOR DAVISES, TIME TO GRIEVE

(By Jim Six)

WOODBURY.—An officer and a sergeant from Fort Dix knocked on the door of Donnell Davis' Ford Avenue home here about 1:30 a.m. Friday bearing the sad news they had been waiting for.

Many hours after a woman at the Army Casualty Desk had told them Thursday afternoon their son, Staff Sgt. Thomas E. Davis, has been on the Arrow Airlines DC-8 that crashed in Newfoundland, the Army representatives had come to confirm the news personally.

Since then, the family has heard no more from the military.

"It's just a matter of waiting," Davis said Saturday. "We have a phone number to call, but they said they'd contact us within 72 hours, so I guess I'll wait until Sunday to call."

The only news he's heard about the arrival of the crash victims at Dover Air Force Base in Delaware has come from television, Davis said.

"We're playing everything by ear," he admitted. He does not know whether the family will go to Dover when the time comes. The bodies of those killed in the accident are not expected to begin arriving at the military base until at least Monday.

Media attention had subsided by Saturday, he said.

"The television people were very nice. They admitted it was terribly awkward to come here," he said.

Davis, who is vice president of the Woodbury Board of Education, said he and his wife and four other sons had been keeping as busy as possible.

"It has taken our minds off it to talk. We've had people at the house since Thursday. By the time we go to bed, we're very tired. It's better than sitting around alone," Davis said.

Rep. James J. Florio, D-1st Dist., called to offer condolences on Saturday, Davis said.

Davis' 28-year-old son, Thomas, joined the Army almost 12 years ago and served about eight of those years in Germany. Davis said he called his son's finance, Marian Lanio, in West Berlin Thursday night to break the news to her.

Thomas had been stationed in a remote outpost in the Sinai Desert for five months as part of a peace-keeping mission. Members of the 3rd Batallion, 502nd Infantry, 101st Airborne Division's "Screaming Eagles" were being returned to Fort Campbell, Ky., in three groups. One flight arrived more than a week ago, and another is scheduled to arrive in Kentucky on Wednesday.

Thomas Davis had called his parents only 35 minutes before the chartered jetliner crash on takeoff at Gander International Airport Thursday morning. In his letters, Thomas wrote that the Sinai duty had been frightening and that servicemen often had to remain armed everywhere they went.

Davis last saw his son on July 4 for a party before he left for Egypt. He had sent his son a plane ticket so he could return from Kentucky on Dec. 21.

TIME FOR THE UNITED STATES TO GET SERIOUS ABOUT NAMIBIA

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SILJANDER. Mr. Speaker, United States policy in Africa in general, and in southern Africa in particular, appears to have blown in the direction of every fresh burst of oratory in the United Nations. U.S. interests, both national and strategic, appear to have been ignored at every turn. Given the fact of increasing chaos and impotence of the United Nations as well as its tilt toward the Communist world, it is increasingly apparent to all that it is high time for a change. It is certainly to be hoped that President Reagan and his administration will take a new look at Namibia and see where United States interests lie and alter our foreign affairs approach accordingly. Among these interests are the rich mineral wealth of the areas as well as the strategic port of Walvis Bay. For that

reason, I include at this point in the RECORD a letter I received from a Cabinet minister of Namibia's Government of National Unity on the subject of Namibia which I think bears repeating to the American people.

MINISTRY OF INFORMATION,
Windhoek, December 18, 1985.

Hon. MARK SILJANDER,
Member of Congress, Washington, DC.

DEAR CONGRESSMAN SILJANDER: The people and government of Namibia appeal to you and other members of Congress, who, like yourself, have achieved positions of power and leadership. We know the leadership position you enjoy did not happen by chance—the American political system distributes its rewards and honors only to those who earn them.

South Africa transferred to Namibia's Multi-Party Conference of internal political leaders all its governmental powers over the territory, on June 17, 1985, and Namibia's people exercised their God-given and inalienable right of self-determination, established their own legislative assembly and established a cabinet of ministers to administer Namibia's Transitional Government of National Unity (TGNU).

Namibia needs your help and advice. That is why I make bold to write this letter to you. We believe U.S. national security and, to some extent, American prosperity are linked to the fate of our country. Such matters are too important to be left exclusively in the hands of the United Nations and the diplomatic bureaucracy.

The United Nations General Assembly in recent years has become dominated by the mob rule of a Third World majority in close alliance with the Soviet bloc. U.S taxpayers contribute 25 percent of the annual U.N. budget (over $6 billion for this year).

The noted Washington Post editorialist Philip Geyelin, in a column captioned "United Nations: An Outrage" (Wash. Post, Aug. 19, 1980), described the United Nations as:

". . . a brawling, sprawling global bureaucracy whose governing bodies routinely violate their own rules—an institution in which a full two-thirds of its 159 General Assembly votes represents less than 10 percent of the world population and for which a small minority of 30 practicing democracies contributes more than two-thirds of its financial support. The United Nations, in short, is an institutional outrage, a moral swamp. It operates much of the time by the mob rule of a Third World majority in close alliance with its Communist bloc."

The U.N. helps finance (using in part U.S. dollars) the South West Africa People's Organization (SWAPO), a Soviet bloc terrorist force based in Marxist Angola across our North border.

SWAPO was once a legitimate internal liberation movement, but has become a senseless anachronism. SWAPO, armed by Russia, is trying to seize Namibia (and its vast uranium, gold, diamond, copper, zinc, gas and other mineral resources) by violence and terrorist attacks. The deep water port on our West coast could be used as a base for Russian nuclear submarines to bisect the oil lifeline from the Persian Gulf to the U.S. and NATO countries in Europe. Namibia is clearly the target of a Soviet takeover campaign. SWAPO terrorists use Russian land mines and automatic rifles to commit violent atrocities against the black civilian population of Namibia. Murder and abduction are standard SWAPO methods of operation. If SWAPO succeeds, Namibia will be dragged behind the Soviet "iron curain" which has fallen around Angola and other countries in Africa.

Nothing better illustrates the moral bankruptcy of the U.N. than its current obsessive and racist campaign to force a U.N. supervised election in Namibia rigged so that SWAPO, the Soviet-bloc terrorist cat's paw and surrogate, can win control in Namibia. U.S. taxpayers and the free world will be the losers if Namibia is forced by violence into the Russian orbit. Namibians prefer their existing government to SWAPO and the Russians, pending the time when a truly impartial U.N. can supervise the election of a constituent assembly. Namibia's 11 major population groups (who speak 8 languages, 29 dialects, and of whom the white group is only 11 percent of the total) are all proportionally represented in the present government and will never accede to a U.N. election which favors SWAPO. Ultimately we want full independence and international recognition.

As Churchill once said to Hitler, we say to SWAPO and its Soviet surrogates: "We will have no truce or parley with you or the grisly gang who work your wicked will. You do your worst, we will do our best, until in God's good time the U.S. and the West come, in their own interest, to our aid and support."

Namibia was first colonized by Germany in the 1880's, then taken over by the British in 1915 during World War I, later in 1920 mandated by the League of Nations as a trust territory to South Africa. The U.N. has no lawful jurisdiction over Namibia, any more than it has jurisdiction over U.S. territories, except as we Namibians may agree. Neither the U.N. charter nor the League of Nations Covenant provides any mechanism for involuntary transfer of a League trust territory to the U.N. which nonetheless for years has sought such control. Our interim government has all legislative and executive powers enjoyed by American territories.

Vital national security interests of Namibia as well as the United States are being seriously endangered by the last ditch effort of the United Nations General Assembly to stage a "human rights spectacular" at the U.N. by threatening sanctions unless Namibia agrees to a U.N. supervised election "rigged" for a victory by the South West Africa People's Organization (SWAPO). We refuse to be a pawn in the game of Soviet geopolitics.

We say, wake up, America! Today it is Namibia, yesterday Central America, Cuba, Afghanistan, and Vietnam, tomorrow—where next? U.S. taxpayers in aiding SWAPO are financing their own destruction. The United Nations General Assembly to some extent has become an enemy of the United States, as it is of Namibia. It is time to blow the whistle on the U.N.—and save millions a year for U.S. taxpayers.

Can you discuss with your colleagues in the U.S. Congress our hope that they will stop the flow of U.S. tax dollars through the U.N. to SWAPO? By helping our people and government, you will be serving the national security interest of the U.S. and all Americans. We are your friends. We admire the U.S. as a symbol of hope and freedom in the world. God bless America and its good works.

Sincerely yours,

——— ———.

THE ASBURY PARK PRESS ON THE SAKHAROV CASE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, I would like to call my colleagues' attention to the following editorial from the Asbury Park (NJ) Press, which concerns the treatment of the Andrei Sakharov and Yelena Bonner at the hands of the Soviet KGB. The Sakharov case is a shocking demonstration of perhaps the most inhuman aspect of an inhuman regime: the systematic denial of freedom of internal movement and departure from the Soviet Union. The Soviet commentator, Georgi Arbatov, recently admitted, in a rare moment of candor, that this policy is necessary to prevent a large-scale exodus from the Socialist paradise. The Soviet defector comedian, Yakov Smirnov, jokes about this situation when he asks his audience to compare American and Soviet credit cards: the advertisement for the American Express card is "Don't leave home without it," but with the Soviet Express Card, it's simply "Don't leave home." It is black humor, to be sure, but it helps to ensure that we never forget the 300 million unfortunate souls who are prisoners in their own homeland.

[From Asbury (NJ) Park Press]

A CHILLING PICTURE: SOVIET "HUMANITARIAN" ACT IS A SHAM

The Soviet government, which has always controlled its own domestic media, has discovered the art of manipulating the world press to its own benefit. Among a number of actions instigated by Mikhail Gorbachev prior to his summit meeting with Ronald Reagan, was the announcement that Yelena Bonner Wife of Nobel Prize winner Andrei Sakharov, would be released from exile in Gorky to receive medical treatment in the West.

The world community was supposed to be favorably impressed by this 'humanitarian' gesture, even though the permission to travel had been granted only after frequent hunger strikes by Dr. Sakharov and was long overdue by any standard of civilized decency. The fact that the action was taken in conjunction with the summit meetings only underscores the blatant attempt by the communists to influence world opinion.

While part of the agreement for Mrs. Bonner to travel includes a ban on speaking to the press, the couple's relatives in the West have been able to give a chilling picture of Sakharov's life in Gorky. The KGB monitors every move, and during hunger strikes he is force-fed by holding his nose shut until his mouth opens, an excruciatingly painful procedure. Witnesses say he looks greatly aged and has lost more than 40 pounds.

Despite the recent cosmetic attempts to improve thier totalitarian image, the Soviets still preside over one of the most repressive governments in the world, unable to tolerate dissident opinions from even the most distinguished of its citizens. If they really want the trust of the world community, let them release Dr. Sakharov and give more than lip service to the issue of human

rights. Only then will the West begin to take seriously the rectitude of Soviet intentions.

A TRIBUTE AND FAREWELL TO TOMMY WINEBRENNER

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. HAMMERSCHMIDT. Mr. Speaker, I am pleased to join with my colleagues in expressing my deep appreciation for the valuable assistance Tommy Winebrenner has given to many of us over the years. Throughout his service of 32 years, Tommy has proven to be loyal, hardworking, and dependable. He could always be counted on to keep us abreast of the latest floor action and to give his insightful predictions as to when other matters would be coming up. Always able to provide an explanation, his comprehensive understanding of floor procedure so often helped us to get done what needed to be done. And when faced with a barrage of questions amid the ongoing, complex and sometimes harried floor activity and a multitude of conversations flowing about the room, Tommy's worthy answers were always offered with much patience and a pleasant demeanor.

During my period of service on the hill—being 13 years shy of Tommy's 32—I have never known a day on Capitol Hill without him. Indeed, I hold a personal respect for Tommy, both as a human being and a coworker, who so willingly guided me through moments of uncertainty, which, I think, every Member encounters, especially during those early years. Tommy, I will be forever appreciative of your stabilizing, but unimposing, presence over the past 19 years. I wish you much luck in all you endeavor. You will be missed.

A BILL TO CREDIT YEARS OF SERVICE TO THE CIVIL SERVICE RETIREMENT SYSTEM FOR SERVICE IN AGRICULTURE EXPERIMENT STATIONS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WOLF. Mr. Speaker, during my tenure in Congress, I have been a strong supporter of fair and equitable retirement benefits for all Federal employees. It is extremely important that we reward our career Federal employees for their contribution and dedication to the operation of this great Nation's Government.

In this spirit, I am introducing legislation today which would permit Federal employees and retirees to receive Federal retirement credit for years of employment in Department of Agriculture agricultural experiment stations. These Federal employees received little, if any, retirement credit of any type for their vital service to the Federal Government.

The eligible Federal employees and retirees who would be able to take advantage of this legislation join other groups, such as members of the Peace Corps, Radio Free Europe employees, and County Agricultural Stabilization and Conservation Committee members in receiving this type of credit. This group, like predecessor groups who have received civil service retirement credit, were funded by, supervised by, and given assignments by Federal agencies and employees to such an extent that they were treated as Federal employees. This legislation would help correct the benefit deficiency situation encountered by these Federal workers during noncreditable service periods of employment for the Federal Government.

I urge my colleagues to join me in this important effort.

SECTION-BY-SECTION ANALYSIS

(A bill to credit years of service to the Civil Service Retirement System for Service performed in Agriculture Experiment Stations.)

SECTION 1—SERVICE FOR WHICH CREDIT MAY BE ALLOWED

This bill credits, under coverage of the Civil Service Retirement System, years of service done in Agriculture Experiment Stations.

The Office of Personnel Management will request confirmation of service for persons covered in this act from the employing state agenices. Service performed before January 1, 1984, will be entitled to receive Civil Service Retirement Credit.

SECTION 2—ANNUITY REDUCTION

This section explains annuity reductions and calls for offset of any retirement funds received from other retirement fund sources as a result of years of service credited under this legislation.

SECTION 3—EFFECTIVE DATE

The section designates the effective date of this legislation as the first day of the first month after expiration of the 30-day period beginning on the date of enactment of this legislation. It also explains computation of annuities commencing before, on, or after the effective date.

H.R. 4005

A bill to amend section 8332 of title 5, United States Code, to allow periods of certain service performed as an employee of a State or an instrumentality of a State to be creditable for civil service retirement

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERVICE FOR WHICH CREDIT MAY BE ALLOWED.

(a) SERVICE MADE CREDITABLE.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (12);

(2) by striking out the period at the end of the second paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding after such paragraph (13) the following:

"(15) subject to sections 8334(c) and 8339(i) of this title and subsection (n)(2) of this section, service performed before January 1, 1984, by an individual in the employ of a State whose principal duties related to the carrying out of a Federal-State cooperative program described in subsection (n) of this section, only if he later becomes subject to this subchapter.".

(b) CERTIFICATION.—Section 8332(b) of title 5, United States Code, is further amended by adding at the end thereof the following new sentence: "The Office of Personnel Management shall accept the certification of the head of the appropriate State employing agency, or his designee, concerning the service referred to in paragraph (15) of this subsection.".

(c) FEDERAL-STATE COOPERATIVE PROGRAM.—Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following:

"(n)(1) The Federal-State cooperative program described in this subsection for which creditable service is allowable under subsection (b)(15) of this section is the Federal-State cooperative program of agricultural experiment stations authorized by the Act entitled 'An act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an act approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto, approved March 2, 1887 (7 U.S.C. 361a-361i).

"(2) Service creditable under subsection (b)(15) of this section with respect to any employee shall not exceed the lesser of—

"(A) the aggregate period of creditable service performed by such employee under this section before the effective date of this subsection; or

"(B) ten years.

"(3) For the purpose of this subsection and subsection (b)(15) of this section, 'State' includes the fifty States and Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territories of the Pacific Islands, the territories of Hawaii and Alaska prior to statehood, and the District of Columbia.".

SEC. 2. ANNUITY REDUCTION.

Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) An annuity which is computed in part on the basis of service described in section 8332(b)(15) of this title shall be reduced by the portion of any annuity the annuitant or his survivor receives from a State on account of such service or by that portion of any social security benefits the annuitant or his survivor receives on account of such service.".

SEC. 3. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect the first day of the first month which begins after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(b) COMPUTATION OF ANNUITIES COMMENCING ON OR AFTER EFFECTIVE DATE.—An annuity or survivor annuity—

(1) which is based on the service of an individual who performed service described in section 8332(b)(15) of title 5, United States Code, as amended by this Act, and

(2) which commences on or after the effective date of the amendments made by this Act,

shall be computed in accordance with such amendments.

(c) COMPUTATION OF ANNUITIES COMMENCING BEFORE EFFECTIVE DATE.—

(1) An annuity or survivor annuity—

(A) which is based on the service of an individual who performed service described in

section 8332(b)(15) of title 5, United States Code, as amended by this Act, and

(B) the commencement date of which is before the effective date of the amendments made by this Act.

shall be recomputed in accordance with the amendments made by this Act, if application therefor is made to the Office of Personnel Management within 12 months after the date of the enactment of this Act.

(2) Any change in an annuity or survivor annuity resulting from a recomputation under paragraph (1) shall be effective beginning on the first day of the first month which begins after the expiration of the 30-day period beginning on the date such application is made.

(d) TERMS.—For purposes of this section, a reference to an "annuity" or "survivor annuity" shall be considered to be a reference to an annuity or survivor annuity under subchapter III of chapter 83 of title 5, United States Code.

NATIONAL FETAL ALCOHOL SYNDROME AWARENESS WEEK

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COATS. Mr. Speaker, the week of January 12 will be commemorated as "National Fetal Alcohol Syndrome Awareness Week." Fetal alcohol syndrome is the name given to the combination of birth defects seen in those newborns suffering from the effects of the high levels of alcohol absorbed into their developing systems directly from their mother's bloodstream. It is the third most common cause of mental retardation. It increases both the risk of a baby being born at low birth weight, and of that baby's failure to catch up during the entire developmental process. It affects thousands of babies born each year, and tens of thousands more are born suffering from less severe fetal alcohol effects. Millions of dollars each year are spent caring for the infants born suffering from this syndrome, and for the children who carry the effects of these births defects with them throughout their lives. And yet, it is entirely preventable.

Representatives from several national groups that are concerned with women's and children's health have formed a coalition to bring greater attention to this problem. Just as recent efforts that have publicized the dangers of drinking and driving have helped to reduce the number of alcohol related traffic accidents, so too can public awareness help to prevent the high incidence of babies born suffering the tragic effects of fetal alcohol syndrome.

As the House sponsor of this legislation, I would like to commend the representatives of the National Council on Alcoholism, the National Institute on Alcohol Abuse and Alcoholism, the National Clearinghouse on Alcohol Information, the American Academy of Pediatrics, the American Medical Association, the March of Dimes, the Healthy Mothers/Healthy Babies Coalition, the Public Health Service of the Surgeon General's staff, the Center for Science in the Public Interest and all of the people who have worked in this effort to reduce the incidence of alcohol related birth defects.

Many efforts are underway to highlight the importance of alcohol awareness for pregnant women. Public service announcements will be aired, information pamphlets will be distributed to doctors' offices, and, in some States, warning signs, similar to those seen on cigarette packages, will be posted in bars and liquor stores. This is one instance where, simply by calling attention to the problem, we can do much to solve the problem itself.

A TRIBUTE TO ANTONIO MEUCCI

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DIOGUARDI. Mr. Speaker, it is with immense pride and pleasure that I rise today to pay tribute to a great American, Antonio Meucci, an Italian immigrant scientist.

The telephone is undoubtedly one of the greatest inventions of the 19th century. Picturing the United States and the world today without telephones is unfathomable. And when Americans ponder this invention's development, usually only one name comes to mind: Alexander Graham Bell. However, I believe that the name Antonio Meucci should ring a bell.

According to the Italian Historical Society, on December 28, 1871, Antonio Meucci visited the patent office and filed a temporary patent for his "telefono" invention, 5 years before Alexander Graham Bell. In 1874, Meucci did not have the money for renewal, and his temporary patent expired. Twelve years later, in 1886, it was ruled by the Supreme Court that Meucci had priority to the invention of the telephone. However, the Court's decision was ultimately set-aside.

Mr. Speaker, I believe that Antonio Meucci should be provided the credit and recognition he so richly deserves for his contribution to the development of modern day communications. The next time someone considers the origin of the telephone the name Antonio Meucci should come to mind.

On December 28, 1985, the Italian Historical Society of America will be hosting the 15th Annual Antonio Meucci Testimonial Luncheon. I join those attending this event in saluting this great Italian American.

Thank you, Mr. Speaker.

HUMAN RIGHTS IN IRAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TOWNS. Mr. Speaker, one of the most moving experiences I have had as a Member of this body was listening to the accounts of three Iranian citizens who escaped from various prisons in Iran. While the human rights reporting in Iran is very sketchy, it is important to give broad exposure to the testimony of actual victims who have managed to escape the country. I am enclosing for my colleagues' review a recent statement made in conjunction with their visit to the Washington, DC area. I commend it to my colleagues' attention.

Tuesday, December 10, marked the anniversary of the adoption and proclamation of the Universal Declaration of Human Rights by the United Nations General Assembly.

Several international human rights organizations have cited the Khomeini regime as having the worst record of gross violations of human rights, the degree of horror and brutality of which are unprecedented in Iranian history. Since June 1981, 50,000 dissidents have been executed, and 140,000 political prisoners are subjected to systematic and repeated torture.

Rarely does a better opportunity present itself to understand the crucial importance of respect for human rights than that of meeting and talking with actual victims of torture and imprisonment by the Khomeini regime, Mr. Hossein Dadkhah, Ms. Narges Shayesteh and Ms. Mojgan Homayounfar, recently testified before the U.N. Commission on Human Rights and the European Parliament. Their testimony was instrumental in the subsequent adoption on December 6 by the U.N. General Assembly, which rarely examines the human rights situation of a particular country, of a resolution condemning human rights abuses in Iran.

These three victims, in their own words, "represent the pain and suffering being inflicted upon 140,000 others." They are here to "tell the stories of those who have gone before the firing squads."

Mr. Hossein Dadkhah, born November 1, 1955, still suffers from the effects of the tortures he endured while in Tehran's Evin Prison. His feet were particularly affected and several toes had to be amputated as a result of irreperable injury. Mr. Dadkhah's wife and brother were both executed by the regime. His parents were arrested and severely beaten, the psychological trauma causing both to suffer nervous breakdowns. His eighteen-month-old child has been taken by the regime, and his wereabouts are unknown.

Ms. Narges Shayesteh, a former teacher, was born on May 15, 1959. She was imprisoned for two and a half years. The effects of torture are still evident on her nose, hands, knees, and chest, where during a five hour session Khomeini's Guards branded her with fifteen cigarettes.

Ms. Mojgan Homayounfar, born on October 24, 1961, is a former student of fine arts and a teacher. During her three year imprisonment one of her legs was amputated and the other crushed. Confined to a wheel chair, Ms. Homayounfar suffers a variety of effects as a result of her ordeal.

These three victims are concerned that international exposure of the Khomeini regime's atrocities plays a crucial role on reducing the number of executions and the extent of torture. In Ms. Shayesteh's words, "If because of a brief speech in a foreign parliament or an interview, one person is going to receive fewer lashes or one less person is executed, it is worth all the effort." She adds, "I have been in those prisons."

Ms. Homayounfar urges, "every humanitarian individual and organization to expose these atrocities, and thus contribute to the cause of humanity."

Mr. Dadkhah emphasizes that, "We are the exceptions; we have gotten out. But 50,000 others have been executed, and 140,000 more may also be executed unless we do something about it."

HONORING CLAUDE J. FARINHA

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to a close personal friend and outstanding civil servant, Mr. Claude Farinha. After 35 years of distinguished service in the Federal Government, Claude recently announced his plans to retire on February 28, 1986.

Claude Farinha's record in the Federal work force speaks for itself. Not only have his skills, dedication, and commitment made him one of our Nation's leading civil servants, they have also resulted in his selection for two prestigious awards. In 1977, Claude received the Air Force Association's Citation of Honor as its "Outstanding Civilian of the Year." Furthermore, in September 1980, President Carter recognized Claude's numerous achievements by conferring upon him the highest recognition a Federal employee can receive—the Distinguished Executive Rank.

Serving as Deputy Director of Materiel Management at the Sacramento Air Logistics Center since 1975, Claude has developed McClellan Air Force Base into the most progressive center in the logistics command system. During this 10-year tenure, he has also masterfully directed a work force of 2,300 and managed an immense annual logistics budget. While Claude's leadership skills will be sorely missed, there is no question that his efforts have built a solid framework for continued growth and success at McClellan.

Mr. Speaker, Claude Farinha has been a tremendous asset to the Federal Government, McClellan Air Force Base, and the Sacramento community. I would like to extend my personal thanks and appreciation to Claude, his wife, Shirley, and their three daughters—Jana Lee, Lori Lee, and Sheri Ann. I wish all of them the very best of luck.

BOMBING AND ARSON AT ABORTION CLINICS AND FAMILY PLANNING CENTERS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. EDWARDS of California. Mr. Speaker, for the past 3 years, abortion clinics and family planning centers across the country have been plagued by numerous bombings and arson incidents. These violent actions are deplorable, regardless of one's view on abortion and birth control. I recommend for my colleagues' attention two recent articles on this matter, one an editorial in the New York Times and the other a column by Judy Mann in the Washington Post.

[From the New York Times, Dec. 18, 1985]

ABORTION BOMBERS' CHRISTMAS MESSAGE

The Christmas season is many things to many people. To America's domestic terrorists it is, as it was last year, prime time to escalate the battle against a woman's legal right to a safe abortion.

Last week a small bomb went off at the Manhattan Women's Medical Center. Because a caller had warned the police bomb squad, the building was evacuated in time.

No anonymous caller, however, warned a Portland, Ore., women's health center that the large package in its mail a few weeks ago was a bomb big enough to kill. Fortunately a staff worker had been trained to spot suspicious packages and called the police. Portland's postal authorities then found three other mail bombs, addressed to two abortion clinics and a Planned Parenthood clinic that doesn't even perform abortions.

The Portland police believe the bombs are intended to rally opposition to Senator Bob Packwood, a supporter of abortion rights who will be seeking a fourth term next year. The Senator has won sufficient popularity that he can probably survive the attacks, but the staffs and patients at those clinics have no such defense. Except for chance, the anti-abortion bombers might now be claiming their first fatalities.

During the last two years, there have been 50 bombing and arson incidents at abortion and family-planning clinics, nearly twice as many as in the previous six years. Those responsible claim to be championing life. What they're really doing with their explosives, fires and threats is saying to women: "Not your choice, lady Ours."

[From the Washington (DC) Post, Dec. 18, 1985]

AN UPSURGE OF VIOLENCE

(By Judy Mann)

On the Monday after Thanksgiving, a package about the size of a shoebox arrived at the Women's Feminist Health Center in Portland, Ore. It carried a Portland postmark. The center has been the target of threats, vandalism and frequent demonstrations by antiabortionists, and workers have been trained to watch for suspicious packages and envelopes. They called the police, who defused a bomb that a police spokesman said was powerful enough to kill.

Police defused three similar bombs in packages at Portland's main post office. One package was address to Dr. Peter Bours of suburban Forest Grove, wo was the topic of a major magazine article recently on the harassment he was getting for performing abortions. He is a member of the board of Oregon's chapter of the National Abortion Rights Action League. Another package was addressed to the Lovejoy Surgicenter in Portland, where abortions are performed, and the third to a Planned Parenthood clinic, which does not perform abortions, but which dispenses contraceptives.

"To our knowledge, it's the first time there's been a letter bomb," said a NARAL spokeswoman.

She also said clinic bombings resumed in October, with little or no media coverage. She cited four incidents; On Oct. 30, the Delta Women's Clinic in Baton Rouge was burned to the ground by arsonists, and another clinic was burned. On Oct. 26, the Hallmark Clinic in Charlotte, N.C., was the target of arsonists, and on Oct. 19, the Coram Women's Center in Suffolk County, N.Y., was bombed.

"We consider it terrorism," said the NARAL spokeswoman. "We consider it legitimate news. This is very, very serious."

Indeed, it is. On Dec. 10, the Manhattan Women's Medical Center was bombed. A NARAL spokeswoman said the incident occurred in midafternoon while procedures were being performed. She said someone called the police emergency number and asked them to evacuate the clinic. Then police got a second call and were told the clinic was not being evacuated fast enough. Shortly thereafter, a bomb went off in a second-floor bathroom. Damage was not extensive, she said, and no one was injured, although a receptionist was still in the building.

"You're torn between hoping this is an isolated nut in Oregon and the memory of what was happening this time of year a yeasr ago," said Nanette Falkenberg, executive director of NARAL. "Is this a re-escalation of what was going on?" There were at least 24 bombing or arson attacks on abortion facilities in 1984, with the attacks increasing in frequency and severity during the Christmas season, prompting President Reagan to order an all-out federal effort in early January to find those responsible. He did not, however, order the FBI to take over the investigations, which have been the responsibility of the Bureau of Alcohol, Tobacco and Firearms. The FBI investigates bombings when terrorist groups are suspected.

"Two things are different about the Oregon and Manhattan [incidents]," Falkenberg said. "Both involved tactics we haven't seen before. They were both clearly targeted to hurt people in the clinics. Before, they [the bombs] went off at night," when the clinics were empty. "In Manhattan they called, but it came very close to having people in the clinics."

She said the Oregon NARAL affiliate had called for a moratorium on picketing at clinics through the New Year to "tone down the level of debate" during the season but that the suggestion had been declined.

"I think as you increase the tone and level of hysteria around the issue, as you push the edge of the mainstream of a movement, the people who are already on the fringe, it gives them permission to move further and further out," said Falkenberg.

Her explanation for the turn to violence against the clinics that has occurred in the past couple of years makes sense. Prochoice organizations have documented numerous incidents of harassment outside clinics and of people who work in clinics. Peaceful dissent has given way to threats and intimidation. In Fairfax County, for example, antiabortionists are trying to organize a boycott of Fairfax Hospital and have urged sympathizers not to donate to its blood bank in an attempt to stop abortions from being performed at the hospital. This is nothing less than an attack on the community's blood bank.

Extremism has bred fanaticism, and with the incidents in Oregon and Manhattan it has bred terrorism. Before somebody gets killed, we had best be willing to recognize that this is what we're dealing with now, and address the problem as the threat to the social order that it is.

A BALANCED BUDGET BILL THAT SAYS YES

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GUNDERSON. Mr. Speaker, for the past few months we have been engaged in a fierce struggle with the proponents of negativism, the advocates of "no." They say, "No, we can't balance the budget; no, we can't guarantee our children and grandchildren that they will not be saddled with trillions and trillions of dollars of debt; no, we can't assure our senior citizens that we will be responsible today so that tomorrow there will be funds for pensions and retirement programs; and, no, we can't find a way to responsibly take control of a budget process that has run wild."

Last week, Congress and the President met the pessimists head on by passing and signing a balanced budget bill that says "yes." Yes, we can make Government work. Yes, we can solve our problems. We can ensure an economically secure nation. We can make the hard choices and the difficult sacrifices necessary to ensure that our Nation will move forward to meet the challenges of the future, instead of sliding back into the irresponsible policies of the past.

It takes only a moment to see that those past policies would provide America with an unacceptable future. Those policies have already resulted in:

A Government spending $24 for every $19 it raises in taxes and other forms of revenue;

A national debt that would require $7,000 from every single man, woman and child living in the United States, if it were to be paid off today;

A Federal Government that removes from the private sector, because of borrowing needs, an amount every year equivalent to 5 percent of all produced and all services rendered in the United States; and

The $130 billion in interest payments on the debt for 1985 alone.

While there are parts of Gramm-Rudman that I am less than pleased with, the fact remains that the bill will contribute in a number of important ways to the battle against the Federal deficit:

Fiscal responsibility will be a part of the budget process from the very outset as the President will be required to submit annual budgets in which the projected deficits do not exceed specified levels. Starting with a budget proposal that is already within reasonable funding limits will make it all that much easier for Congress to come up with a finished product that stays within the deficit guidelines. These specified levels will be gradually decreased, until 1991, when the maximum allowable Federal budget deficit will be zero.

The bill includes provisions establishing a new, accelerated timetable for the budget process. In recent years, Congress has dragged its feet, oftentimes waiting until as late as October to finally pass a budget. Time after time, temporary extensions must be passed so that Government agencies won't have to close their doors. At this very moment, Congress is preparing to pass its fourth continuing resolution of the year, required because of its inability to complete the appropriation process in a timely manner. The result has been increased costs, inefficient expenditures, and an inability for agencies and departments to adequately plan for the fiscal year. Under Gramm-Rudman, Congress would complete action on the budget by April 15, with the House completing action on regular appropriations bills by June 30.

Up to now, there has been a lot more talk about deficit reduction than concrete action to bring down the deficit. With the passage of Gramm-Rudman, we will see more than just talk. The first major event under the budget regime will come February 1, when automatic cuts for fiscal year 1986 are announced. These automatic cuts will take effect March 1, unless Congress and the President come to terms and voluntarily enact cuts based on agreed upon spending priorities.

While it is important that the United States maintain a strong and effective military, it is also important that the Pentagon do its fair share for deficit reduction. If nondefense programs alone had to shoulder the burden of budget cuts, hundreds of worthwhile programs would have to be axed. Under Gramm-Rudman, any automatic cuts would be divided equally between defense and nondefense programs.

As long as Congress did nothing to discourage the notion that the Federal Government had a magic money tree with an infinite supply of greenbacks, there was little incentive to cut wasteful and inefficient spending practices. Why cut the fat when all you have to do is get Uncle Sam to dole out more money? The Gramm-Rudman bill makes it clear that Uncle Sam's pockets have been picked clean. Knowing that they will not be rewarded for waste with increased appropriations, agencies receiving Federal funds will hopefully have all the incentive they need to put an end to $600 toilet seats, inefficient procurement practices, and duplication of services.

In passing Gramm-Rudman, Congress is not forsaking those individuals most in need of Government help. A variety of programs for children, elderly and the Nation's poorest will be protected from automatic cuts. Social Security benefits, child nutrition programs, Medicaid and veterans' compensation are among the programs that are exempted from automatic cuts. Certain critical health programs are protected, through provisions that set maximum permissible reductions at no more than 1 percent in fiscal year 1986 and 2 percent in fiscal year 1987.

It is my hope that automatic cuts will not become necessary. Each year Congress will have at least two opportunities to do its job by making careful and rational choices about the programs that will receive cuts. Only if Congress fails to meet the deficit-reduction objectives, will automatic cuts come into play.

America today is at a turning point. For too long we've been stalled in history, repeating mistakes of yesterday because our leaders have been afraid to see a new tomorrow. That tomorrow is upon us. We must not let the pessimists convince us otherwise. The future will be ours if we dare to work for it. The people of this Nation are ready to move forward and effectively address the problem of the deficit. With the signing of Gramm-Rudman, Congress has made it known that it too is ready to do its part in moving our Nation ahead.

ILL-CONCEIVED AND ARBITRARY CUTS MUST BE FOUGHT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DOWNEY of New York. Mr. Speaker, the Gramm-Rudman budget slashing has begun; arbitrary and ill-conceived cuts in the vital Juvenile Justice and Delinquency Prevention Program have already been announced.

No one could ever accuse this Justice Department of failing to respond to congressional action. When it comes to cutting funds they are so quick off the mark that they've started slashing even before the Congress has mandated any cuts. They are freezing dollars appropriated by the elected representatives of the people of this country. The administration is usually a bit more subtle in promoting its true intentions; it is rare that we can see such a blatant example of their priorities.

Prevention. We all know that it's the best way to avoid the slippery slope of crime, drug abuse, and wasted lives that too many of our young people find themselves on. But those who talk a good anticrime game at the White House and Justice Department have, over the past 5 years, managed to gut a program whose goals they supposedly support.

Those who receive grants from the juvenile justice and delinquency office—the YMCA, Girl Scouts, and Children's Defense Fund, to name just a few—will find themselves without the funds to pursue needed crime prevention programs.

Is this administration writing off America's youth? We have been told again and again that it is morning in America. But let's face the facts. Our youth are our most precious resource. If this philosophy of government continues unabated, it's time for mourning in America.

PHARMACEUTICAL EXPERT AMENDMENTS OF 1985

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GALLO. Mr. Speaker, I am pleased to be joining my distinguished colleague,

Congressman MADIGAN, in cosponsoring the Pharmaceutical Export Amendments of 1985, legislation that establishes conditions for the export of drugs.

It is clear that our current policy prohibiting the export of new drugs and other important pharmaceuticals has had an adverse impact on the U.S. economy and more specifically, on the competitive position of American firms in the international market.

This restrictive policy has cost the United States jobs, capital investment, and has forced American pharmaceutical companies to conduct important research and develop new technology outside the United States.

The United States is the only country that is prohibited from exporting drugs that are lawfully marketed in the importing country but which are not yet approved in the United States. There seems to be little sense to this policy when the drugs in question are available to the importing country by other foreign manufacturers. As supporters of this legislation in the House and in the Senate have pointed out, this policy does not prohibit foreign consumers from gaining access to these drugs, it only locks the United States out of the competition for jobs and revenues.

Specifically, my district and the State of New Jersey has many pharmaceutical companies that are eager to serve the world market and to devote adequate resources to develop drugs that address the needs of other countries.

While questions have been raised about the ethical and health implications of exporting new drugs, this legislation has been carefully crafted to provide numerous safeguards to protect foreign consumers.

I commend Congressman MADIGAN for introducing this legislation, and Senator HATCH for moving swiftly on similar legislation in the Senate, and I urge my colleagues to support it.

MAYOR KENNETH A. GIBSON HONORED BY THE JEWISH NATIONAL FUND

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. RODINO. Mr. Speaker, it is with great pride that I bring to your attention a special event that will take place in West Orange, NJ, early next year. On January 12, 1986, the Jewish National Fund will be honoring a very close friend of mine—Mayor Kenneth A. Gibson of my hometown of Newark. This tribute is in recognition of Mayor Gibson's steadfast opposition to anti-Semitism, his strong commitment to advancing harmony and understanding among the different peoples and ethnic groups of our Nation, and his loyal support of the democratic state of Israel.

As the mayor of Newark since 1970—which gives him the longest tenure as mayor in the city's history—Kenneth Gibson has emerged as a national spokesman and advocate for urban America. In Newark, he has successfully initiated programs in housing, health, public works and welfare, and he has been singularly responsible for increasing the efficiency and capabilities of the city's departments and agencies. Just as important, Mayor Gibson has set a tone in our city—of fairness, tolerance, progress, and compassion. He is always ready to promote good and ever alert to condemn injustice.

The Jewish National Fund is an agency dedicated to what one might call the greening of Israel. It is responsible for land reclamation, soil improvement, afforestation, and laying the infrastructure for new communities in Israel. The proceeds from Mayor Gibson's tribute will go toward the purchase of trees to be planted in Israel's Independence Park—in honor of Mayor Gibson.

It is only fitting that the Jewish National Fund has chosen Kenneth Gibson as its honoree. For Mayor Gibson is an unyielding proponent of the same principles of democracy, freedom, and human rights which undergird the State of Israel and make it a close ally of the United States. I have known Ken Gibson for a good many years, and I admire the strength of his convictions and his abiding sense of justice. There are few men in public life more worthy of recognition than he, and the Jewish National Fund deserves great praise that I extend my congratulations to my good friend and mayor, Kenneth A. Gibson.

CONFERENCE AGREEMENT ON 1985 FARM BILL

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. ROWLAND of Georgia. Mr. Speaker, after many months of deliberation, Congress has finally passed the 1985 farm bill.

I commend the House and Senate conferees for their diligence in bringing this agreement before us today. Although the bill leaves a great deal to be desired in addressing the problems which face our farm economy, I do hope it will at least help keep some family farmers going.

Everyone will not be in agreement with all sections of the bill; however, it will give our farmers some idea in making plans for their farming operations. Farmers have been working in an atmosphere of uncertainty for too long, and now we can provide them with some guidance for future actions.

As maintained in the farm bill agreement, I, along with peanut producers in Georgia, am pleased to see this program continued without any major changes. This is one farm program that, is safe to say, has worked well.

Also, in the agreement is the "whole herd buyout" which I supported in the House due to the support of the Georgia dairy farmers. Until the rules and regulations of this concept are developed by the Secretary of Agriculture, we will not be able to predict its success. However, what I do know, Mr. Speaker, is that my dairy farmers were behind this plan because it seemed to be the best approach offered, and a way to help them through these hard-pressed times.

What I heard from my soybean farmers was disappointment when they learned that the Senate proposal to provide payments based on $1 a bushel or $35 an acre for the 1985 crop was not maintained in the conference agreement. Due to the adverse weather conditions caused by Hurricane Kate, our soybean crop, along with cotton and pecans, suffered a great loss, and additional funding would have assisted them in dealing with Mother Nature's wrath which they face this year.

On a positive note, as a supporter of the conservation reserve program, I am pleased we have agreed on this concept which will protect one of our valuable resources, our Nation's soil, by returning the land to less-intensive uses with the planting of grasses and trees.

These past few weeks, Congress has dealt with many crucial issues. Today is no exception. With this action, we will be offering our farmers, if not a solution, at least hope for the future.

SYRIAN SAM MISSILES: A THREAT TO ISRAEL AND MIDEAST PEACE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WOLPE. Mr. Speaker, reports from Israel confirming the placement by Syria of advanced Soviet-made surface-to-air [SAM] missiles is a dangerous development that threatens peace in the region. I wholeheartedly endorse Israel's expressed concern that the missiles be removed from Lebanon and the Syrian-Israeli border.

Syria's actions are an extreme provocation. By extending a hostile air warfare shield over the Galilee and southern Lebanon, the Syrian SAM's inhibit Israel's ability to patrol its northern frontier in order to deter terrorist attacks.

Israel poses no threat to Lebanon or Syria. Israel has withdrawn unilaterally from Lebanon. Israel has scrupulously observed the 1974 disengagement agreement with Syria on the Golan Heights. Israel has no interest but the protection of its civilian population. Syria and radical forces in Lebanon, however, give every encouragement to terrorist attacks on Israeli civilian and military targets.

Recently, Syrian President Assad has hinted that he may be prepared to enter the peace process, in conjunction with Jordan. But by deploying the most sophisticated missiles on Israel's borders, threatening Israel's security, Assad is engaging in dangerous intimidation that undercuts any con-

tention that Syria is interested in peace with Israel.

The United States should back Israel fully in this latest crisis—these missiles should be removed.

VERN SCHAFER CELEBRATES 30 YEARS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LEWIS of California. Mr. Speaker, Mr. Vern Schafer, founder and president of Colton Piano and Organ Supermarts, is celebrating his 30th anniversary.

It all started in 1950, when Vern was helping his uncle deliver pianos. Soon, Vern was buying old pianos and repairing them to sell to dealers.

Eventually, Vern opened his first store in a converted radiator shop in Colton, CA. As the business grew up, he recognized the need for a larger facility, so he purchased an old dance hall and bowling alley to expand his operation. As his business continued to grow, this enterprising young man took over a Ford agency dealership site, and ultimately bought the old city hall and jail in Colton. When the redevelopment started in the downtown area, Vern was forced to relocate his lucrative business. He seized the opportunity to invest in some land close to Interstate 10. At this location, close to the San Bernardino Freeway, Vern built the first piano supermart, a building which presently covers more than 31,000 square feet. This piano supermart concept was so successful in Colton that, with Vern's business talents, there are now 10 supermarts in California.

In spite of this extraordinary expansion, Vern has been insistent upon keeping his business a family business. His oldest son, Charles, was his right-hand man for many years before his death a few years ago. Currently, Vern is assisted in his operations by his four children: Vern III, James, Debbie, and Virginia.

Vern started manufacturing the Schafer & Sons piano and they have been given as prizes on many quiz shows. His pianos have been spotlighted on the Johnny Carson Tonight Show, featuring the NBC Orchestra, on the popular television series Dynasty, and countless other television productions. Eighty-five percent of his sales are Schafer & Sons products.

Vern has always been a fan of old Western towns and has, therefore, collected Western type memorabilia over the years. When he recalled that Wyatt Earp was the marshal of Colton, Vern built an authentic replica of an old Western town there and named it Movie Frontier Town. Many television films and commercials have been filmed at this location in Colton. The San Bernardino County Sheriff's rodeo and numerous other Western events take place in there as well.

Mr. Speaker, it is indeed an honor for me to represent this truly remarkable man. I ask you and my colleagues here in the House of Representatives to join with me, family, and friends in wishing a happy 30 years to Mr. Vern Schafer, a man who has brought music into the lives and homes of millions.

TAX REFORM BILL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CLINGER. Mr. Speaker, the analysis of the changes made to the intangible drilling cost [IDC] deduction in the Rostenkowski tax reform proposal should be clarified to recognize an important point.

The blanket statement that 85 percent of the IDC deduction is retained by the oil and gas industry is only partially true. In a large percentage of wells drilled in the United States today, a significant portion of the IDC's are spent for activities which occur after the casing point but before production from the well is assured. For example, in the Appalachian Basin, roughly 35 percent of the IDC expenses are attributed to such costs. This means that the actual percentage of IDC's retained for oil and gas wells in the East under the Rostenkowski proposal actually equals only 65 percent of the current deduction.

Specifically, wells throughout the Appalachian Basin must be worked through a process which requires perforation of the casing and stimulation of the potential producing zone to determine whether the well will actually produce commercial volumes of oil and gas.

The failure of the Ways and Means Committee to recognize this important distinction between oil and gas drilling practices in various regions of the country must be raised and should be addressed before this legislation is ultimately approved, and I intend to bring this problem to the attention of the other body when they begin consideration of the tax bill next year.

"ZERO TOLERANCE—THE NAVY'S MISGUIDED APPROACH"

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday December 19, 1985

Mr. FISH. Mr. Speaker, it is reported that Secretary of the Navy John Lehman has cracked down on drug abuse by Navy personnel, successfully reducing the incidence of drug abuse from 48 to 3 percent. Urinalysis is required of all Navy personnel. Punishment followed positive findings; discharge for repeaters. However, those who admitted drug use before a test have been offered amnesty and rehabilitation. This tough policy, therefore, has allowed an individual a chance for rehabilitation and continued useful service.

It has come to my attention that Secretary of the Navy Lehman has instituted an additional drug policy known as "Zero Tolerance," resulting in court martial and possible dishonorable discharge for a first offense by senior enlisted and officer personnel.

Mr. Speaker, chemical dependence is a disease, recognized as such by the American Medical Association, the American Psychiatric Association, and all State medical associations and licensing boards. Rehabilitation, not punishment, is the accepted, recognized response. The Navy's policy is contrary to good medical practice, self-defeating and unnecessarily costly.

The zero tolerance policy is particularly disturbing as applied to Navy health care professionals. Talented individuals in whom the taxpayers have a substantial investment can be separated from the service in disgrace. This policy is not only costly, but it is not a deterrent to others. The particular vulnerability of physicians to chemical dependence is unquestioned. Those Navy physicians reluctant to seek help because of the harsh consequences, continue to practice to the jeopardy of patients in their care.

The zero tolerance policy is directly contradictory to the expressed goal of the Assistant Secretary of Defense for Health Affairs, Dr. William Mayer. In a publication "HEALTH MATTERS," Vol. 1, No. 3, July 1985, entitled "Health Care Providers," Dr. Mayer cites Public Law 92-129 as requiring that DOD identify, treat and rehabilitate all military personnel who are considered chemically dependent. He supports the claim that physicians are a high risk to develop the disease and argues the folly of separating additional health care professionals who could be successfully rehabilitated, and in their place recruit from a population at equal risk. Despite the excellent rehabilitation programs provided by the Navy, current policy opts for court martial rather than rehabilitation.

The Army's program for impaired health care professionals is progressive, realistic, compassionate and provides a method of closely monitored re-entry. The Navy would be well-advised to pursue the Army's policy of early intervention, which keeps the chemically dependent within the system.

Mr. Speaker, Dr. Mayer's memorandum entitled "HEALTH MATTERS" follows in full.

HEALTH MATTERS

VOLUME 1, NUMBER 3, JULY 1985

Impaired Health Care Providers

This is another in a series of reports and commentaries on a wide range of issues in military medicine which concern and affect those of us who serve in DOD Health Affairs. Your own suggestions and input are welcomed in future issues.

The American Medical Association has stated ". . . it is the ethical responsibility of any physician who knows of an apparent problem in a colleague to take affirmative action to seek treatment or rehabilitation for his fellow physician." Fifty State medical associations either have developed or are developing an impaired health care provider program. Public Law 92-129 requires that DOD identify, treat and rehabilitate all

military personnel who are considered chemically dependent.

Physicians, as a result of their training and professional experience, have been shown to be particularly vulnerable to becoming addicted because of the propensity for self-diagnosis and self-medication. The daily accessibility of prescription drugs creates fertile ground for misuse. In addition, medical professionals are often no better educated about the disease of alcoholism and other addictive disorders than other professionals.

We must do more than simply eliminate people from the Services who become impaired emotionally or chemically. To separate physicians, nurses and other health care professionals who have become addicted but could be successfully rehabilitated, and then recruit from a population that will be at equal risk is shortsighted.

Prevention to reduce the incidence and occurrence of new cases, identification of impairment, and intervention and treatment of providers to eliminate the potentially destructive consequences of chemical dependency and emotional impairment are of the highest priority in our efforts to maintain quality of care. Guidance regarding impaired health care providers should be incorporated into service quality assurance programs.

Impairment can become progressive if ignored. Medical and professional societies across the country recognize that only with coercion and confrontation will treatment be effective. When legal action is not required, a nonpunitive approach with emphasis on confidentiality will help promote effective impaired health care provider programs.

It is important to publicize the legitimacy of prevention, identification and treatment. Impaired physicians, nurses and other health care professionals are sometimes reluctant to seek help on their own accord. Too often, we have failed to accept the ethical responsibility of an affirmative posture. Hesitancy to act fosters denial of the problem and could result in needless tragedy.

A DOD Directive providing further guidance will be developed by a Joint-Service group in the near future regarding incorporation of a health care provider program into MTF quality assurance programs. In the meantime, I am communicating through this medium to alert you to the importance of this issue and to enlist your help.

WILLIAM MAYER, M.D.,
Assistant Secretary of Defense (Health Affairs), Washington, DC.

Mr. Speaker, I urge Secretary Lehman, at the very minimum, in simple fairness, to put a hold on the continued implementation of the zero tolerance policy as it pertains to health providers, until the study alluded to by Mr. Mayer is finalized.

HOUSE OF REPRESENTATIVES—*Friday, December 20, 1985*

(Legislative day of Thrusday, December 19, 1985)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WRIGHT] at 1 o'clock and 30 minutes p.m. on Friday, December 20, 1985.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of St. Francis:

Lord, make me an instrument of thy peace,
Where there is hatred, let me sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light; and
Where there is sadness, joy.
O, Divine Master, grant that I may not so much seek to be consoled as to console;
To be understood as to understand;
To be loved as to love,
For it is in giving that we receive;
It is in pardoning that we are pardoned.
And it is in dying that we are born to eternal life.

Amen.

AUTHORIZING THE CHAIR TO DECLARE RECESSES ANY TIME DURING THIS LEGISLATIVE DAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order for the Chair to declare recesses any time during this legislative day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONVENING OF 2D SESSION OF THE 99TH CONGRESS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 255), relative to the convening of the 2d session of the 99th Congress, and I ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 255

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the Ninety-ninth Congress shall begin at 12 o'clock meridian on Tuesday, January 21, 1986.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the Senate bill, S. 1840, travel allowance to Government employees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EXTENDING FOR A TEMPORARY PERIOD CERTAIN TAX PROVISIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985," with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "and before December 20, 1985" and inserting in lieu thereof "and before March 15, 1986".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "March 14, 1986".

SEC. 4. EXTENSION OF MEDICARE PHYSICIAN PAYMENT PROVISIONS.

Section 5 of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out subsection (a), and by striking out "December 19, 1985' in subsection (c) and inserting in lieu thereof "March 14, 1986".

Amend the title so as to read: "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.".

House amendment to the Senate amendments:

In lieu of the matter proposed to be inserted by the amendment insert the following:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "December 20, 1985" and inserting in lieu thereof "March 15, 1986".

SEC. 2. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 19, 1985. As an exercise of authority under the commerce, taxation, and other powers under the Constitution, the amendment made by section 1 shall be treated for purposes of all Federal and State laws as enacted on December 19, 1985.

Mr. FRENZEL (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. ALEXANDER). Is there objection to the request of the gentleman from Minnesota?

Mr. PICKLE. Mr. Speaker, reserving the right to object, I want to ask the chairman of the Committee on Ways and Means or the gentleman on the minority side what this motion does so that we can understand what our options are.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Under my reservation, I yield to the gentleman from Illinois, the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, yesterday the House approved and sent to the Senate a bill, H.R. 4006, that extended through March 15, 1986, certain tax, Medicare and other provisions which expired either at midnight last night and others that expire at the end of this year. These provisions are addressed on a permanent basis in the tax reform bill or the reconciliation conference report also adopted by the House yesterday.

The Senate passed H.R. 4006 with an amendment that stripped out all of the House extensions but the four provisions that expired last night: First, the 16-cent tobacco tax; second, the Trade Adjustment Assistance Program; third, borrowing authority for the railroad unemployment fund; and fourth, Medicare reimbursement provisions for physicians. However, the Senate amendment did not include the extension of Medicare hospital reimbursement provisions that also expired last night, and which were included in the House passed bill. Unfortunately, the Senate amendment did not include the extension of many important tax provisions which are scheduled to expire at the end of this year.

Mr. Speaker, I am asking that the House return H.R. 4006 to the Senate with a further amendment which would include: First, the extension of the Medicare hospital reimbursement provision previously passed by the House; and second, make the extension of the cigarette excise tax effective as of midnight last night. This latter provision is necessary to prevent imposition of automatic cigarette excise taxes increases under various State laws. These provisions are identical to two of the provisions included in the version of H.R. 4006 originally passed by the House last night. In fact, this will be the fifth time we have extended these identical two provisions. The House amendment does not extend the railroad unemployment fund or trade assistance amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. PICKLE. Further reserving the right to object, Mr. Speaker, apparently this resolution extends only two parts of the previous legislation, the tax on cigarettes and the Medicare provision. I take it then there is no inclusion, no intent to do anything about the research and development credits, or solar credits, or other energy credits, or the targeted job credits, or other expiring provisions that we had asked for and so desperately need.

Mr. Speaker, can the gentleman tell me why they are not included in this particular package?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the chairman of the committee.

Mr. ROSTENKOWKSI. I thank the gentleman for yielding.

Mr. Speaker, we tried last night to provide relief for not just the two items that the gentleman mentioned, but many other amendments, and the other body just refused to accept those. It is my understanding that these two will be accepted and that the others, for some reason unknown to me, are not acceptable.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Further reserving the right to object, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I want to second what the chairman has suggested. We had, I think, 13 items in our extender bill including some very important items, and the most important to me was the extension of the R&D tax credit.

The other body rejected those, sent us back the four. There have been some extended telephone negotiations and some face-to-face negotiations today. We are led to believe that these two, that is, the amendment offered by the gentleman from Illinois, will likely be accepted by the other body. They are important, they are all that we can accomplish at this time before the House adjourns, and, like the gentleman from Texas, I mourn the fact that we cannot do the R&D tax credit, and I hope that we will be able to extend it retroactively when the House meets next year.

Mr. PICKLE. Further reserving the right to object, I do not think there is anything more important to the Nation than a continuation of these R&D credits. There seemed to be general consensus among both sides that they ought to be renewed. Some 240 Members on the House side endorsed legislation to extend the R&D credits, and yet in the offer going over today we have none of those except the two that have been mentioned. I wonder if the chairman of the committee or the gentleman from the minority could tell us if there is any prospect that the other body might add some of these credits instead of just the two listed?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield further?

Mr. PICKLE. Further reserving the right to object, I yield to the chairman.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, I cannot make a judgment about what the other body will do. I do not think they can make a judgment about what they are going to do. But I certainly understand the gentleman's position, and I would only suggest that when we return next year, we can, if it is agreeable, make retroactively the R&D credits and whatever other provisions are neglected to be accepted by the other body. That is only a commitment that I can make.

Mr. PICKLE. I appreciate that, and I am going to remember that and read the RECORD carefully, because I appreciate that cooperation.

Mr. ROSTENKOWSKI. If the gentleman will yield further, is the gentleman suggesting that the Chair does not cooperate with the gentleman from Texas?

Mr. PICKLE. The gentleman is concerned that this is not in the legislation. The gentleman said he is going to try to get this renewed early next year if we do not do it this afternoon, and to make the renewal retroactive. Now that is a comment given in the spirit of Christmas, and I appreciate that.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Further reserving the right to object. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, I assume our distinguished chairman is including the targeted jobs credit for consideration of this type of priority in the New Year. But the reason I asked the gentleman to yield was because I do not understand who is talking with the other body. It seems as though there are two different issues that they are considering in the other body. One, of course, is the extensions, and I have to accept the chairman's word that he has done the best he could, and we have no control over the decisions that they have made, and it has to stop somewhere. But right now somebody in this House is negotiating with the other body as relates to the reconciliation bill. Right now somebody in this House is talking about the value-added tax, they are talking about programs that are essential to the poor of this country, to the sick of this country, and decisions are being made now as to whether or not some agreement can be fashioned that would allow both Houses to conclude their work.

What I am hoping my chairman would be able to respond is: Are we included in those negotiations? Are the extensions included in those negotiations? Or are we operating just on two separate tracks, one for the extension of the tax provisions and the other with Senator PACKWOOD as relates to reconciliation?

Mr. PICKLE. I cannot respond to that. I can ask the gentleman, though, since I yielded to him from my time and he made reference to the fact that somebody is talking about the value-

added tax, that I would request the gentleman not to use that phrase on my time. It is an excise tax, just like about a dozen other excise taxes, and I acknowledge the little chicanery used yesterday to defeat this measure on that score. But I do not want it on my time.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

I know in our mind the results of the debate last night and early this morning are still fresh in our memory. I am sympathetic to what my friend from New York said relative to other negotiations that may be ongoing at the present time, particularly with respect to programs that will resolve in reconciliation with still yet the opportunity for the other body to recede and allow that measure to go to the White House. I understand how important those provisions are to the gentleman from New York. They are important to me.

But on the particular matter before the House at this time, I say to the gentleman from Texas I, too, was very much interested in the R&D credit. I was particularly interested in the energy credits, and I was particularly interested in railroad unemployment and in the educational assistance provisions that the chairman was kind enough to include in the extender of present law to March 15 that we had sent from this body to the other body last might.

I understand negotiations at this point leave us with only the two in an amendment to the amendment which we are now considering. My question, Mr. PICKLE, to the chairman, if I might have the ability to do that through the gentleman, is whether or not there is a likelihood that the other body may, once we conclude our business now, add other matters to this amendment.

Mr. PICKLE. I would be happy to yield to the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, once again I say to my colleagues I have no idea; in the discussions that I have had, it has never been indicated that they will. These two items that I am bringing up are brought up mainly because of a disruption that would be caused should we not extend the provisions of Medicare and of the cigarette tax.

Mr. DAUB. I thank the gentleman. I do intend to support this particular unanimous-consent request and say in conclusion to my friend from Texas I share his concern and would imagine that we are not at this point able to predict what the other body may do with this amendment, but perhaps there is still some room for encouragement before the conclusion of the House's business.

I thank the gentleman for his time.

□ 1355

Mr. PICKLE. Further reserving the right to object, I will yield to the gentleman from New York and then I will make a concluding statement.

Mr. RANGEL. Would the gentleman from Texas be kind enough to yield to our chairman to see whether I can get some response to my question; and that is, is the extension bill included in the negotiation as relates to the reconciliation package which is being considered by both bodies?

Mr. ROSTENKOWSKI. I have not negotiated in any other area but here, Mr. RANGEL. I do not know of any other negotiations that are taking place. I am not a part of them.

Mr. FRENZEL. Will the gentleman yield?

Mr. PICKLE. I will yield in just a minute. Can the gentleman from New York indicate to me what negotiations are going on?

Mr. RANGEL. Well, it is clear to me that we had a reconciliation bill going on right now that certain parts of the bill the Senate has disagreed with the House and that we are trying to work out something right now to see whether or not agreement can be reached.

Now, the gentlemen on the other side of this aisle are fully aware of the fact, because some of the Members from the other side have come over here to talk with them.

I do not know what is on the bargaining list, but it is abundantly clear that some of these extensions are not on it; and if the chairman of the committee that has jurisdiction over these programs that affect the lives of our sick and poor, are not incorporated in the discussion on the other side, then I do not know who the devil is doing the talking.

Mr. PICKLE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

As far as the minority is concerned, the reconciliation is a dead duck, and it is not our intention over here to do any more work on that or to accept other items from the Senate which would require careful review and analysis. We obviously are lacking in numbers here today.

There is a question of a veto on the reconciliation and it seems to me that at least from our standpoint over here, we are not looking to revive the reconciliation until next year.

So I think the gentleman could expect that there would be an objection, were a unanimous-consent request made and in the case of a motion, there would be a request for a rollcall vote.

Mr. PICKLE. Mr. Speaker, further reserving the right to object, I will conclude on this statement.

It seems to me a tragedy that the two bodies could not agree on a reconciliation bill. We have a possibility to make savings to start now and in the next 3 years; a savings of approximately $75 to $80 billion.

That opportunity is lost; at least, it is delayed for 30, 60, 90 days. I personally do not believe that the American people are going to understand that, and they are going to take us to task; and they ought to, because we have not met our responsibilities.

It is my further hope that as this measure advances, that the other body would consider adding to this particular request those expiring items or the principal items that we had sent to them, as the chairman had outlined originally.

That would specifically include the research and development credits and the solar energy and geothermal energy credits, and the targeted job credit. I would hope the other body would consider that, because if we do not, we leave here on Christmas Eve, so to speak, not having done our duty; and I think that the American people are going to ask us why.

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. MATSUI. I thank the gentleman from Minnesota for yielding.

Mr. Speaker, what I would like to find out, if anybody who has been negotiating with the Senate can tell me is, what rationale was given for not accepting the targeted jobs credit, the R&D credits and the solar energy credits.

Was there any rationale given, or was it just that they felt that they did not want to talk about it?

Mr. FRENZEL. It is beyond my ability to ascribe any rationale to actions of the other body. I think they are going to have to explain their own temporary dimentia. I cannot.

Mr. MATSUI. I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

Mr. FRENZEL. Mr. Speaker, I reserve the right to object, and I yield to my colleague from Louisiana.

Mr. ROEMER. I thank my colleague for yielding.

The gentleman made an interesting statement that, as far as the minority is concerned, reconciliation is dead.

Mr. FRENZEL. Well, if I might interrupt for a moment, perhaps I overstated that in spreading to the minority; but I do know that there are Mem-

bers here who are going to object if some new version is brought back.

So it seems to me that it is practically dead if not technically dead.

I yield to the gentleman.

Mr. ROEMER. I thank the gentleman for his statement. I wonder if, in addition, the gentleman inferred or maybe said explicitly, that one of the reasons for reservations on the part of the minority was the fact that there was a veto lurking in the part of reconciliation. Am I right in saying that?

Mr. FRENZEL. No; that was simply an explanation of the conditions. It was not a rationale for a decision to do something or not do something here.

Mr. ROEMER. If the gentleman will yield further, the gentleman speaks so well——

Mr. FRENZEL. No; just so often.

Mr. ROEMER. Well, that, too. For the minority, I wonder if the gentleman could assess the minority's feeling on the dollars involved in reconciliation, an involvement that we are not taking advantage of for another 30, 60, 90 days or longer.

For example, if there are $65 billion or $70 billion in savings in the bill, and we delay that kind of savings for a certain length of time, the interest costs on that loss of opportunity savings is enormous; and I know the minority has established an excellent reputation of being concerned about how we spend our money around here.

It seems that we are spending money now by dilly-dallying on the reconciliation, and it could amount to more than the proposed savings from the veto on the part of the President.

Mr. FRENZEL. I thank the gentleman for his contribution; and he has been a great opponent of deficits; and so I know the gentleman means what he is saying.

All we are trying to do in the bill that is pending before us is to save a half a billion dollars which will occur by reason of extending the cigarette taxes.

With respect to the reconciliation bill, I think we can probably talk about that later on 1 minute or whatever. My personal feeling has been I do not speak for the minority, first of all. My personal feeling is that the bill saves not $80, not $65, but $27 billion over 3 years. I think it has lots of flaws in it.

My personal objection to bringing it back is that we have move to between the two Houses I think three times in the last 24 hours. It is beginning to get complicated. We need the time to look it over; the whole House deserves a chance to make decisions about it; it would have to be done under unanimous consent. My judgment is that that is a bad way to do it.

Mr. ROEMER. Would the gentleman yield for a final question, and I will leave him alone, I promise.

Mr. FRENZEL. Well, I do not feel you are harassing me. I yield to the gentleman for as long as he wants.

Mr. ROEMER. I would not do that. Where I am from, $27 billion is a lot of money. We ought to save it.

Mr. FRENZEL. I thank the gentleman. I yield to the distinguished gentleman from Nebraska [Mr. DAUB].

□ 1400

Mr. DAUB. Mr. Speaker, I say in response to the gentleman from Louisiana [Mr. ROEMER], who is so articulate and who has been such a champion of the opportunity to save and reduce our deficit, that indeed the opportunity to do all that is not lost, for just as we passed reconciliation for fiscal year 1985 in April 1986, we still have the same opportunity to do so again. It does seem to me, however, that reconciliation was resolved by this body. We decided, but for the broad-based excise or value-added tax and the proponents of that idea here in this body, that those savings should go forward. But for that occurrence last night in this debate, I think we would have the savings the gentleman was seeking.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois for concurrence in the Senate amendment with an amendment?

There was no objection.

The SPEAKER pro tempore. Without objection, the Senate amendment to the title of the House bill is concurred in with an amendment reflecting the action just taken by the House, as follows: "An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain Medicare reimbursement provisions."

There was no objection.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and concurrent resolutions of the House of the following titles:

H.R. 1404. An act to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, VA;

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska;

H.R. 3931. To designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building";

H. Con. Res. 263. Concurrent resolution to rescind the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution, H.J. Res. 187; and

H. Con. Res. 264. Concurrent resolution to correct the enrollment of H.R. 2100.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1083) "An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes."

A RAGING EPIDEMIC THAT CAN BE STOPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, today 52 Americans will die from burns. Seventeen of them are children. Burns, in fact, are the second leading cause of accidental death among children under the age of 14. A majority of the others who will die today are the disabled and the elderly. Their danger of dying of burns are five times higher than the chance of our other citizens.

Another 2,740 Americans will be injured with 371 of them suffering serious enough injuries to require hospitalization. The property damages to American homes and businesses from fires today will amount to $57.7 million. And no one can estimate the psychological harm that the survivors endure as they set about rebuilding their shattered lives and property. Many of the most seriously injured will never fully recover even after rehabilitation. Burn victims have an alarming record of suicide even long after the fire.

This is a terrible record. It is the worst of any industrialized nation in the world.

Our country faces many serious problems. Fortunately, we can do something about this epidemic. We can save lives, eliminate suffering by educating our citizens. Recent studies conclude that 75 percent of all burns could be prevented if children and adults knew about proper safety precautions.

For this reason I have introduced House Joint Resolution 481, designating the week of February 9 through February 15, 1986, as "National Burn Awareness Week". I hope that my colleagues will join me in sponsoring in this important measure.

A SUGGESTED CHANGE IN THOMAS JEFFERSON'S RULE

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I know it is premature to be discussing the ques-

tion of rules changes of this body for the next session, but I do not want to let the opportunity pass without suggesting that the time has come for us to change that rule which provides that when this House is in session, we are the only people in America who cannot tell the truth about the U.S. Senate, and vice versa. The constraints in this debate have been obvious, and they are unnecessary.

A couple of hundred years ago there was a proposal that said the Houses ought not to comment on each other. It has become very clear that it has become difficult to transact business and impossible to transmit intelligent information while we have that constraint.

So I hope that in the session that begins in 1987 we will change that archaic rule and we will be able in the House and Senate to talk about each other and to stop this pretense that each is off on some other planet somewhere uninfluenced by and uninfluenceable by the other.

Mr. Speaker, it is clear the time has come, without any disrespect to the great memory of Thomas Jefferson, to change his rule.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House earlier today, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WRIGHT] at 6 o'clock and 30 minutes p.m.

REPORT OF COMMITTEE TO INFORM THE PRESIDENT

The SPEAKER pro tempore. The Chair will receive the report of the committee to call upon the President. The committee will please come forward and report to the House its findings.

Mr. FOLEY. Mr. Speaker, your committee appointed to join the committee of the Senate to inform the President that Congress is ready to adjourn and to ask him if he has any communications to make to the Congress has performed that duty. The President has directed us to say that he has no further communications to make to the Congress.

The SPEAKER pro tempore. Did the President seem disappointed that we were adjourning?

Mr. FOLEY. Mr. Speaker, I am sure that my colleague, the gentleman from California [Mr. LEWIS], will agree that the President seemed delighted that we were adjourning.

The SPEAKER pro tempore. I hope you wished him a merry Christmas for all of us.

Mr. FOLEY. Mr. Speaker, in addition to saying that he had no further communications to make to the Congress, the President asked us to express to all the Members of the House of Representatives his warmest wishes from himself and Mrs. Reagan for a Merry Christmas, happy holidays, and a happy new year.

Mr. LEWIS of California. And he particularly wished us to convey his warmest wishes to you, Mr. Speaker.

The SPEAKER pro tempore. I am thrilled and delighted. It warms the cockles of my heart, and it makes me feel better in the Christmas season.

FURTHER ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair could recognize any Member who is swollen up with speech to address the House for 1 minute.

While waiting for a message from the Senate, let me express on behalf of all the Members to all of the staff our grateful thanks for your dedicated and diligent work all year long. You labor in the dim dusk beyond the glamour and glitter of applause and recognition, but without you this institution could not function. So on behalf of all the Members, I want to express to all those who make the work go on from day to day and keep this place functioning our appreciation. It is so infrequently expressed. We wish all of you and all your families and loved ones a very happy holiday season and a successful year.

The gentleman from Mississippi [Mr. MONTGOMERY] has just returned from Fort Campbell, and the Chair wonders if he might have a report to give us about his journey there.

REPORT ON CEREMONIES FOR 248 AMERICAN SOLDIERS KILLED IN NEWFOUNDLAND AIR CRASH

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, you appointed me, as well as Congressman SKELTON of Missouri and Representative BLAZ of Guam to represent you, Mr. Speaker, and the House of Representatives at a ceremony today, the last ceremony for the 248 Americans who lost their lives in Newfoundland in the airplane crash.

This was a memorial service, and, Mr. Speaker, it was very, very impressive. We did get to meet the families and talk to some of the families. Of course, it was with great sadness, but I saw a lot of strength in the families there. It was very, very cold weather; it was snowing. The ceremonies took place outside in Kentucky and Tennessee, but all of the families were there.

There were 17,000 101st Airborne Division personnel lined up in front of us at the platform, and the families of those Americans who had lost their lives were there. The Secretary of the Army made a splendid address, as well as the Chief of Staff of the Army and the commander of the 101st Infantry Division.

Mr. Speaker, let me say that what I saw there today would touch all people of this country that a terrible tragedy like this happened, yet the families have in effect accepted their sadness that has come to them. I saw no bitterness toward anyone pertaining to what happened.

I might say that I saw some of our finest American soldiers and troops there. Not only can they do their jobs, but when something comes up like this, they know how to take care of their own. It was a great privilege for me to go there, and I want to thank you, Mr. Speaker, for giving me the opportunity.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution and concurrent resolution of the House of the following titles:

H.J. Res. 495. Joint Resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; and

H. Con. Res. 267. Concurrent Resolution providing for a sine die adjournment of the 1st session of the 99th Congress.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 4006) "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law whch would otherwise expire at the end of 1985."

The message also announced that the Senate insist upon its amendment to the amendment of the House to the bill (H.R. 3128) "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," and request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints the fol-

lowing Senators to be conferees on the part of the Senate:

Senate committee	Republican conferees	Democratic conferees
Budget—general conferees.	Domenici, Armstrong, Kassebaum, Boschwitz, Symms.	Chiles, Hollings, Johnston, Sasser, Metzenbaum.
Agriculture	Helms, Dole, Lugar, Cochran.	Zorinsky, Leahy, Melcher.
Armed Services	Goldwater	Nunn.
Banking	Garn, Heinz, Hecht	Proxmire, Reigle.
Commerce	Danforth, Packwood, Goldwater, Pressler, Gorton, Stevens.	Hollings, Long, Inouye, Ford, Riegle.
Environment and Public Works.	Stafford, Chafee, Simpson, Symms.	Bentsen, Burdick, Lautenberg.
Finance—general conferees.	Packwood, Roth, Danforth, Chafee.	Long, Bentsen, Matsunaga.
Finance—for PBGC and ERISA subconference only.	Packwood, Chafee, Heinz	Mitchell, Moynihan.
Finance—for CHAMPUS, Medicare, subconference only.	Durenberger	Baucus.
Finance—for private health insurance coverage, subconference only.	Heinz, Wallop, Durenberger.	Baucus, Pryor.
Governmental Affairs	Roth, Stevens, Mathias, Cohen.	Eagleton, Levin, Gore.
Labor and Human Resources—general conferees.	Hatch, Stafford, Quayle	Kennedy, Pell.
Labor and Human Resources—for PBGC and ERISA, subconference only.	Hatch, Nickles, Thurmond	Kennedy, Metzenbaum.
Small Business	Weicker, Gorton	Bumpers.
Veterans' Affairs	Murkowski, Simpson	Cranston.
Energy Committee—general conferees.	McClure, Domenici, Wallop	Johnston, Ford.
Energy Committee conferees on title VI, sec. 6701 only.	McClure, Hatfield, Domenici.	Johnston, Ford.
Commerce conferees on title VI, sec. 6701 only.	Danforth, Packwood, Goldwater.	Hollings, Long.

DESIGNATION OF MEMBERS TO RESOLVE OUTSTANDING CONFLICTS RELATING TO THE CALIFORNIA OUTER CONTINENTAL SHELF

The SPEKAER pro tempore. Pursuant to section 149 of Public Law 99-190, the Chair, without objection, designates the following Members of the House to resolve the outstanding conflicts with respect to the future leasing and protection of lands on the California Outer Continental Shelf for oil and gas exploration and development with the Secretary of the Interior:

Mr. YATES;
Mr. UDALL;
Mr. LOWRY of Washington;
Mr. PANETTA;
Mr. BOSCO;
Mrs. BOXER;
Mr. LEVINE of California;
Mr. REGULA;
Mr. LUJAN;
Mr. FIELDS;
Mr. DANNEMEYER;
Mr. LUNGREN; AND
Mr. LOWERY of California.

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. FASCELL.
Mr. KASTENMEIER.
Mr. LEHMAN of Florida.
Mr. HOYER.
Mr. BARNES in three instances.
Mr. MINETA.
Mr. SIKORSKI.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims.

H.R. 3974. An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes; and

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain Medicare reimbursement provisions.

SENATE ENROLLED BILL SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 1706. An act to authorize the Architect of the Capitol and Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.

ADJOURNMENT SINE DIE

Mr. FOLEY. Mr. Speaker, pursuant to the provisions of House Concurrent Resolution 267, I move that the House do now adjourn sine die.

The SPEAKER pro tempore. The question is on the motion to adjourn.

Those in favor say "aye," those opposed "no."

In the opinion of the Chair, the "ayes" have it.

Mr. DAUB. Mr. Speaker, would it be in order to request a division on that particular matter?

The SPEAKER pro tempore. Those in favor will rise and remain standing until counted.

The "ayes" will be seated. The "noes" will rise.

There being a considerable number of "ayes" and no "noes," the "ayes" have it.

So the motion was agreed to.

The SPEAKER pro tempore. In accordance with the provisions of House Concurrent Resolution 267, the Chair declares the 1st session of the 99th Congress adjourned sine die.

Thereupon (at 6 o'clock and 40 minutes p.m.), pursuant to House Concurrent Resolution 267, the House adjourned sine die.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2424. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to the Federal Republic of Germany (Transmittal No. 11-86), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 3498. A bill to stabilize international currency markets in support of fair global competition; with an amendment Rept. 99-456. Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 3667. A bill to eliminate unfair and predacious export financing practices; with an amendment. (Rept. 99-457 Pt. 1) Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 3667. Referred to the Committee on Foreign Affairs for a period ending not later than February 7, 1986 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(i), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 4007. A bill to amend section 3500 of title 18, United States Code, to provide more useful discovery rights for defendants in

criminal cases; to the Committee on the Judiciary.

By Mr. STANGELAND:

H.R. 4008. A bill to stimulate employment through the creation of rural enterprise zones; jointly, to the Committees on Ways and Means, the Judiciary, and Banking, Finance and Urban Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Colorado:

H.R. 4009. A bill for the relief of Isaako Uili; to the Committee on the Judiciary.

By Mr. LELAND:

H.R. 4010. A bill to provide that section 6248 of title 10, United States Code, shall not apply to an award of a medal of honor to Francisco R. Cortez or Richard G. Perez, and for other purposes; to the Committee on Armed Services.

By Mr. SEIBERLING:

H.R. 4011. A bill for the relief of Robert Julius Funesti; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. STUMP and Mr. MCCAIN.

H.R. 469: Mr. FRANKLIN and Mr. ARMEY.

H.R. 471: Mr. JONES of North Carolina.

H.R. 864: Mr. PETRI.

H.R. 983: Mr. LEVIN of Michigan, Mrs. BYRON, Mr. DOWDY of Mississippi, Mr. GINGRICH, Mr. ASPIN, and Mr. BARNARD.

H.R. 1069: Mr. LAGOMARSINO.

H.R. 1345: Mr. DENNY SMITH.

H.R. 1625: Mr. WOLPE.

H.R. 2620: Mr. FISH.

H.R. 3024: Mr. SLAUGHTER.

H.R. 3260: Ms. OAKAR.

H.R. 3465: Mr. HAYES, Mr. BARNES, Ms. MIKULSKI, Mr. GUARINI, and Mr. LUKEN.

H.R. 3479: Mr. GILMAN.

H.R. 3751: Mr. ANDERSON, Mr. BEVILL, Mr. BIAGGI, Mr. CROCKETT, Mr. DYMALLY, Mr. FUSTER, Mr. HAWKINS, Mr. HAYES, Mr. HEFTEL of Hawaii, Mr. HUGHES, Ms. KAPTUR, Mr. KOLTER, Mr. LEVIN of Michigan, Mr. MATSUI, Ms. MIKULSKI, Mr. MITCHELL, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. SEIBERLING, Mr. TOWNS, and Mr. WEISS.

H.J. Res. 7: Mr. NIELSON of Utah and Ms. SNOWE.

H.J. Res. 101: Mr. ST GERMAIN and Mr. EDWARDS of Oklahoma.

H.J. Res. 127: Mr. JONES of North Carolina.

H.J. Res. 336: Mr. HAMILTON.

H.J. Res. 345: Mr. MURTHA, Mr. BREAUX, Mr. ANDERSON, Mr. ROGERS, Mr. MAVROULES, Mr. REID, Mr. NELSON of Florida, Mr. WRIGHT, Mr. VALENTINE, and Mr. ROBINSON.

H.J. Res. 385: Mr. TAYLOR, Mr. O'BRIEN, Mr. AKAKA, Mr. GILMAN, Mr. SCHEUER, Mr. RODINO, Mr. SABO, Mr. MORRISON of Connecticut, Mr. FOWLER, Mr. HEFNER, Mr. PANETTA, Mr. SMITH of Florida, Mr. DIXON, Mr. LEHMAN of Florida, Mr. SEIBERLING, Mr. CHAPPELL, Mr. COUGHLIN, Mr. ALEXANDER, Mr. FASCELL, Mr. MAVROULES, Mrs. COLLINS, Mr. WOLPE, Mr. MCHUGH, Mr. LANTOS, Mr. NATCHER, Mr. NEAL, Mrs. HOLT, and Mr. PICKLE.

H.J. Res. 439: Mr. FRANK, Mr. GREEN, Mr. HOYER, Mr. SOLARZ, Mr. MCKERNAN, and Mr. CARNEY.

H.J. Res. 462: Mr. ROGERS.

H.J. Res. 468: Mr. ERDREICH.

H. Con. Res. 180: Mr. CONYERS, Mr. SEIBERLING, Mr. SHAW, Mr. LEWIS of Florida, and Mr. FRENZEL.

H. Con. Res. 243: Mr. OWENS, Mr. DE LUGO, and Mr. GARCIA.

H. Res. 346: Mr. SOLARZ and Mr. ANDREWS.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

The SPEAKER pro tempore announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes; and

S.J. Res. 255. Joint resolution relative to the convening of the 2d session of the 99th Congress.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

December 20, 1985:

H.R. 2100. An act to extend and revise agricultural price support and related programs, to provide for agricultural export resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes;

H.R. 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims;

H.R. 3974. An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes; and

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain Medicare reimbursement provisions.

December 24, 1985:

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; and

H.R. 3718. An act to waive the period of Congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House of Dec. 19, 1985, the following report was filed on Dec. 30, 1985.]

Mr. BROOKS: Committee on Government Operations. Report on investigation of civil rights enforcement by the Office for Civil Rights at the Department of Education (Rept. 99-458). Referred to the Committee of the Whole House on the State of the Union.

SENATE—*Friday, December 20, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious God, our Holy Father, we should not be here today. But here we are! Some Senators went home last evening thinking voting was over and adjournment imminent. We need You, Lord—Your guidance—Your grace—Your wisdom. Help the Senators find a way which will prevent inordinate delays and frustrated purposes. Help the Senate to understand itself. It is almost as if it is victim of its own power—as though it uses its own power against itself. Here are 100 leaders, each trusted and sent by the people of his State—each, one among millions. It seems inconceivable, Lord, that a body with such resources cannot find a way to remedy a process with which all are dissatisfied. Great God, for whom nothing is impossible, work Your will in our midst. The Senators desperately need rest and change. They need their families and their families need them. Intervene, gracious Lord, transform this next week—this next month—into a bright, happy, beautiful time of renewal and restoration for Senators and their families. In the name of Him who promised rest unto our souls. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

THE BUDGET RECONCILIATION CONFERENCE REPORT

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. We are down to one major item. That is, how we deal with the reconciliation conference report. The RECORD will reflect the House rejected the report on two occasions. We are now in the process of determining how many Senators are in the area. Surprisingly, there is a great number. Many spend Christimas here and then go home.

I can only tell my colleagues that we are meeting at this very moment discussing the present situation with the White House, OMB, and others concerning their objections to material that is now in the reconciliation conference report.

We would hope to dispose of the matter early, but I would not make any prediction. By early, I mean by 1 or 2 o'clock.

I would guess, based on conversations with the Republican leader in the House, Mr. MICHEL, and the Democratic leader of the House by telephone, that they might have difficulty in finding a quorum of House Members today. But, again, that is a matter that they will have to address if, in fact, the conference report is returned to the House with some amendment. We would appear to have a couple of options; one would be to table the Senate amendment and send it to the White House, and the other would be to insist on our amendments, as I understand. Another would be to amend it and send it back. There are probably several additional options of which I am not aware.

I can only tell my colleagues we appreciate their willingness to help resolve this matter. In my view, it is very important. It represents a year's work for many in this Chamber, particularly the Budget Committee; also, every other committee, committee chairman, and ranking member who have been working on Federal spending and the budget process since last January.

So it is not something about which we can say, "Well, we can just put it off. It does not make any difference." So far as I am concerned, there are real savings in this package.

There probably are a number of programs and other things tucked into the reconciliation that should not be there. But, overall, it does reflect and represent substantial savings. We hope we can resolve our differences so that we can leave here knowing we have made a contribution to reducing the deficit and reducing Federal spending.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BYRD. Mr. President, I sympathize with the distinguished majority leader, certainly. I also sympathize with all the rest of us. Not only the majority has a responsibility to do whatever is doable, but the rest of us have some responsibilities also.

For the benefit of the majority leader, I think he should know that, on our side we could produce, in a half-hour or maybe an hour, 21 Senators. We might be able to raise that to 30 or 31, but I am beginning to doubt it. I told the press here this morning that I thought we could produce somewhere between 30 and 35 Democrats. But two Senators that we thought we might be able to count on, have since peeled off. So I do not think we can gamble too far or too long and hope to get a quorum. I would guess that within a couple of hours we will not only have reached our top strength on this side but we may, by then, be in danger of losing Senators.

Several Senators have stayed overnight but some of them will be leaving today and others will not be leaving today. If that information will help the distinguished majority leader, fine.

I personally think that while we may have a quorum—or we probably can get a quorum within a half-hour—I would think we ought not delay beyond that or there will not be a quorum.

We have sent this package to the House twice, and twice they have rejected it. I personally feel that to send it back again will be just love's labor lost. It will be an act in futility. In the meanwhile, we here will continue to lose bodies.

We can recede from the Senate's amendment or we can table the Senate's amendment, if we have the votes. If the distinguished majority leader would want to go either of those ways, that would be an action which, if it succeeded, would send the package straight down to the President for his consideration. It would save $79.5 billion, I am told.

The distinguished ranking Member, the Senator from Louisiana, [Mr. JOHNSTON] can go into the details far better than I can. He has been in the conference and I am not a conferee. But here is an opportunity to reduce the deficit by $79.5 billion over the next 3 years. It is the surest thing within our immediate reach that we can do to reduce the deficit. I am afraid that if we miss that chance and wait until we come back on January 21, Gramm-Rudman will be staring us right in the face and we will have lost our golden opportunity to reduce the deficit by a very sizable figure.

We have experienced similar problems at the end of a session with the House before. It is not anything new from that standpoint.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

While I favored the resolution as it went to the House, and I voted for it twice, I do not think there is anything to be gained by continuing to engage in what, up to now, have been very conscientious and sincere efforts but futile ones. I think the handwriting is pretty much on the wall. It seems to me we ought to grasp the opportunity, if we really want to reduce the deficit—and do it now—and send this bill down to the White House, either by receding from the Senate amendment or tabling the Senate amendment, and get out of here.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The distinguished Democratic leader has 4 minutes.

Mr. BYRD. I thank the distinguished President pro tempore, the Chair.

I yield to the distinguished Senator from Louisiana [Mr. JOHNSTON], the ranking member of the Committee on Finance.

Mr. JOHNSTON. I thank my distinguished leader.

Mr. President, it is an interesting and peculiar phenomenon, the extent to which personal and physical limitations affect the course of this country—things like pride and anger and fatigue greatly affect the procedings, both here and in the other body. Late last night, as our pride was somewhat hurt in the Senate, feeling that the House had backed out on a deal, the anger at that having been done and the fatigue overlaying the whole thing made this whole exercise look almost fruitless and it was easy last night for some of us to say in the deeper reaches of our minds and beings, "To heck with it, let's say no, bury this piece of legislation, and go home and forget it, and blame them for it"—them being the House. And indeed, the House was pointing similar fingers at the Senate, talking about "We cannot let the other body do that to us."

It was really, frankly, Mr. President, somewhat of a sorry spectacle, when you consider the stakes that this Nation has in this piece of legislation.

We have here maybe not our last best chance to cut the budget, but certainly our first best chance to cut the budget since Gramm-Rudman: $83 billion in cuts over 3 years or, if you take out the so-called value-added tax, $79.5 billion in cuts in the budget. That represents a real and substantial opportunity to get that deficit down.

I think what we need to understand is that we are not going to have unlimited opportunities in terms of time to cut the deficit, to cut the budget. This is a capitalistic economy and every capitalistic economy ever known in the history of the world and that ever will exist in the history of the world has been a cyclical one with relative booms and relative busts. The average time of a recovery in this country, I am told, is some 44 months. There are others postwar that have stretched, if I recall correctly, for 8½ or 9 years. This recovery has already stretched for a much longer time than the average and we all hope it will last a lot longer. But the lesson of history is strong and it indicates that we do not have an unlimited time to cut this deficit because the only time you can cut the deficit is when you are in a recovery.

Once you get on the downswing, once you get in a recession and slow down, the advice from economists is unanimous: You can no longer raise taxes, you can no longer cut spending because to do so would sink you deeper and deeper into the morass of a recession. So here, in late December 1985, we have a chance to cut $79 billion to $83 billion depending on whether you include the VAT in a package that has been agreed to that has been carefully crafted, that has involved hundreds of hours of Senators' work and thousands of hours of staff work, and has been carefuly put together.

It is not perfect. It has some flaws, of course. No major piece of legislation in the history of this body has ever moved through here without flaws and imperfections. It is as close to a really good bill as we are capable, with our human frailties, of doing. Because of the lateness of the hour, because we are all wanting to get home for Christmas, because of our pride or because of our anger or because of a whole range of human emotions, I hope neither we nor the House will allow ourselves to miss the opportunity to cut $79.5 billion from this deficit.

When the history of 1985 is written, they will not talk about who was right or who was wrong and whether they live up to their deal between the Finance Committee and the Ways and Means Committee but they may write that this was the Congress that squandered its opportunities, that this was the administration that came in with a strong economy and a relatively small deficit and squandered it, spent money they did not have, lived on borrowed money, and with every opportunity that came along, they let politics interfere. That is what could be written on the history of 1985 and of this Congress.

I hope that will not be so. It needs not be so. There are ways to work this out. I am not exactly sure—I have my own views of how it can be done, how it should be done. But as far as I am concerned, Mr. President, there are a number of acceptable ways and I expect there are a number of acceptable ways in the House that they would accept.

The point is, Mr. President, we dare not lose this opportunity because if this reconciliation bill does down, we will have lost the opportunity for reconciliation. We will be coming back here on January 21 and we really will not get going, as Congresses never do get going, for at least a week. The first week we get going, on February 5, the President will drop his bomb. That is the first budget post-Gramm-Rudman, where you are going to see programs wiped out and where you are going to see, I believe, a degree of deep acrimony—at least, if not acrimony, then strong ideological confrontation between the White House and the Congress about spending priorities.

In the process of that, you will have lost the opportunity for reconciliation. No one who knows this process with whom I have talked thinks you can reconstruct reconciliation in January or February. You can have it in December. You can have it today, if we will. You cannot have it in January or February. All you can have in January or February is a deep ideological fight about Gramm-Rudman, and in the meantime for every day that you lose this opportunity you lose a $50 million cut in the deficit. I hope we will not lose that opportunity, Mr. President. I stand ready, as do colleagues on this side of the aisle, to support any reasonable action to get this bill. Time is awasting. I hope we will not lose our opportunity.

Mr. BENTSEN. Mr. President, I ask unanimous consent to proceed for an additional 5 minutes.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I share the concern of my friend from Louisiana concerning reconciliation. There is no question but what we have brought about some very major savings in the budget and closed the deficit substantially by what we have done. We are talking about a situation where if we do not pass a reconciliation bill, you are going to have a $52-million-a-day savings that will be lost until the time when we might reconvene and reconsider this bill. We have gone into some areas that are very contentious, changes on Medicare, on education, on black lung. The whole list of such things has been fought out in countless subconference meetings during the reconciliation process. At this point, reconciliation has worked, if we can wrap it up. The unfortunate part of it is that what you have seen happen on the House side is that they have stripped out Superfund and the means by which to pay for it. They have chosen to try to put that burden on a very limited number of industries and companies.

Actually, toxic waste happens to be a societal problem, and you have an incredible number of companies and industries which contribute to it. People say, "Well, let's put it on the oil indus-

try" or "Let's put it on the chemical industry." That is not where it stops.

Now, what you saw in the bill that was passed in the Senate and passed in the Finance Committee was one that kept a major part of the burden of paying for the cleaning up of toxic waste still on the chemical industry, but, then, it spread the rest of the burden across all manufacturing companies. What you saw come out of the conference is a bill that excluded companies that were manufacturing less than $10 million a year. We cut out the small manufacturers.

The excise tax is a very limited application and will have less than 30,000 companies affected by it. People will say it is a value-added tax. Well, if it is like a value-added tax, it is not like value-added taxes I have ever seen. I worked on this piece of legislation, as the principal sponsor in the Finance Committee. The model that I chose to start with is the Canadian manufacturers' excise tax, and that is what we worked on.

These toxic waste sites have to be cleaned up, and to see the House version of the Superfund come through with a good amount of it from general revenue is highly irresponsible. To talk about a situation where you have an enormous deficit like we have now and then raise the amount of money from $1.5 billion to $10 billion and say you are going to get a bunch of it from general revenue does not make sense to me.

I think we ought to clean up these toxic waste sites. We ought to address it promptly. We ought to move ahead on it. We ought to accelerate what the EPA has done in that regard but pay for it as we go, and that is what the Senate version did.

Unfortunately, you have the opposition of thousands and thousands of companies which were on the EPA list as contributors to toxic waste and said, "We do not want to pay for it." Take food companies like General Foods, like Beatrice, and you can see toxic wastes that are contributed. You can go to a so-called clean industry, high technology, like you see out in Silicon Valley, and you will find one of the worst toxic waste sites in the entire United States, the Stringfellow site. Much of the waste there was created by acid and solvents being used to make computer chips. I can give you example after example across this Nation.

So we said, "You ought to pay your share." And we talked about eight one-hundredths of 1 percent. That is not a heavy burden for any of these companies.

Then we did another thing. We said, "All right, if we are talking about cleaning up these sites and we are having our companies pay for it, then those companies that send in competing products to them ought to pay some of the burden also." So we said that the tax will go on those imports from other countries' manufactured products that would normally contribute to toxic waste in their manufacturing. And we said on those products that are manufactured by our companies which are shipped abroad, it would be taken off. When you see the kind of trade deficit we have in this country today, approaching $140 billion, $150 billion—$120 billion last year and $70 billion the year before that, you can see the trend line it is on. It is important that we do as we have been doing, adding additional environmental controls to try to see that we have clean air and clean water in this country. We do things that other countries are not doing in that regard. Then, we ought to try to even the playing field. This kind of an excise tax does just that.

Now, after we agree to the excise tax on this side and we agree to it in the conference, then the House digs in its heels and rejects it. I think that is unfortunate. I think they do a disservice when they take that point of view. So I feel very strongly that once you give in on a number of things, as we did as Senate conferees—some of us would want to move to a national standard on DRG's, on what is paid under Medicare and move as quickly as we can, but we slowed down on that to take care of the concerns of the House Members. That is just one measure of the concessions we made in arriving at a compromise to try to get something on which we could agree. In turn, they gave in to us in a good part of the Superfund. That was the trade. Now what they are saying in effect, when they say, "Let's take apart Superfund," they are saying, "Well, now, you gave us all those things. We want to keep those, but we want to refight the deal on Superfund."

We may end up having to do that at some point because we are losing Members on both sides, and the pressures are with them. The pressures are always with those who want to stall. That is what we are being subjected to. I have a serious question in my mind whether you still have a quorum on the House side. As this thing continues today, I am sure we will end up without a quorum in the Senate. So those kinds of pressures may force us to yield, and we may end up having to have an additional conference next year on Superfund and the means by which we raise the tax to pay it. But if we do that, we will certainly be keeping in mind what we did in this conference and the price we have had to pay to arrive at this result.

CLARIFICATION OF STATUS OF TEXTILE LEGISLATION

Mr. HOLLINGS. Mr. President, I rise momentarily, while the leadership is about to arrange the business for the day, to correct the record relative to an Associated Press story in the morning Washington Post, entitled "Telecommunications Bill Throttled in the Senate," whereby—and I quote—"HOLLINGS said his objection represented retaliation for DANFORTH's refusal to help him get the textile bill approved in the Missouri Senator's Trade Subcommittee."

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the Associated Press article to which I have referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. HOLLINGS. Mr. President, that is the exact opposite. That is what Senator DANFORTH said. What I had tried to do in my interview with the author of that particular AP story, Mike Robinson, is relate to him exactly what has been occurring in trade and tell him my objection was not to calling the telecommunications bill. On the contrary, I encouraged its call because it was my opportunity, when the bill is called, to thereupon add the textile amendment and get a vote.

My intent and my purpose is one of serious intent and serious purpose.

After the veto of the textile bill by the President of the United States, a coalition of industry and labor—the business leadership and the labor leaders—have convened once again, with the hope of submitting a slightly changed bill which would enhance the support for the bill on the House side, in the hope of producing a bill that would be veto proof. This is a matter of ongoing negotiations and draftsmanship. It's currently underway. Pending the drafting of that particular bill, to be presented as early as we possibly can in January, it is the intent of this Senator to get the vehicle through this so-called filibuster on the Senate side. That vehicle will be our current textile bill.

We faced a filibuster from the word go, since we introduced this bill in March of this year. The article is correct, that the textile trade bill has been bottled up in the subcommittee of the Finance Committee chaired by the Senator from Missouri.

I relate back now to July, because what we are being accused of and is now called retaliation was not labeled so in July. What really occurred is that, back in July, the distinguished Senator from Missouri said: "Your textile bill will not see the light of day." The distinguished Senator from Missouri is exactly right. It has not seen the light of day, in the sense that it is still in his subcommittee.

I thereupon said: "Well, Senator, playing this game on top of the table, my only recourse is to put my textile

bill as an amendment to another bill. Under a constitutional provision, revenue measures originate in the House. Necessarily, we have to have a House-passed bill or a House title. So you have a trade bill, S. 1404. I put the amendment on the desk, to be printed, to S. 1404."

I put the amendment on the Micronesia bill. And I so informed the majority leader, Senator DOLE, so that he would be aware of it, that we would offer our textile bill when that particular measure was called. And I so notified the distinguished chairman of the Commerce Committee and the chairman of the Subcommittee on Trade, the Senator from Missouri [Mr. DANFORTH].

I also added this particular point, as I have just stated: He is my chairman in Commerce, and I am the ranking minority member, and we have had the best of working relationships. The truth is that he is very angry. I do not have any doubt that he says it is retaliation, because he told me that over the telephone.

I said: "Jack, you just don't understand that the fight has just begun. I told you at the time, we first discussed this, that we were going to continue to try."

I have been on this particular issue for some 30 years now, and the distinguished Presiding Officer, my senior colleague, Senator THURMOND, has been working on this particular problem for years.

When Senator DANFORTH said that the telecommunications industry has hit a crisis, I said, "Welcome to the club." We hit a crisis back in the 1950's, under the Eisenhower administration. But, be that as it may, I said, "Our only recourse is to get that kind of measure."

To substantiate the statement I made then to Senator DANFORTH, who was taking it personally as a matter of anger and retaliation, he had the distinguished Senator from Texas [Mr. BENTSEN], who is the ranking minority member on Finance, call me. Senator BENTSEN was on the floor earlier this morning.

I said: "LLOYD, I'm going to call the textile amendment on our Democratic trade bill." We had a Democratic caucus on a trade measure earlier in the year, under the leadership of the Senator from Texas. A good portion of the bill, I think a substantial part, is the trade council measure I've offered for some time now.

I said that on that particular bill, if we call it, I would want to call my textile amendment. I would call my textile amendment on S. 1404. I would call my textile amendment on any other trade measure, because what we need is one more vote to get it over to the other body.

The purpose is not to delay. The delay is not with the Senator from South Carolina who is now speaking. The delay is a filibuster on the other side of the aisle.

The request of this Senator is to bring up the telecommunications bill, not throttle it in the Senate. Any thing else is absolutely false. Bring it up, call it now, give me the opportunity, give me 5 minutes to a side, give me a voice vote. I am trying to get the telecommunications bill called up for consideration, not stop it. I am not trying to retaliate. That would be stupid, that would be foolish, that would hurt our textile cause, if, on one particular turn, in the course of legislation in Congress, we became spiteful and sat back and said, "If we can't pass ours, nobody is going to pass theirs." That's not my approach and I renounce it. If trade is to be discussed on the Senate floor, then I intend to call up my textile bill. The attitude is on this Senator's part, please call your trade bill, so that we will have an opportunity. Because I do not get that opportunity, as a member of the minority, because the majority is holding my bill up in the Finance Committee and have held it up all year long, and they informed me, "It will not see the light of day."

So we are not trying to be spiteful or to retaliate. On the contrary, I pursued this particular course in July. I went to the Senator from Missouri, notified him of my intention, and I then put my bill on his bill that was on the desk, S. 1404. No sooner had I left the Chamber, than the distinguished Senator from Missouri took the floor and asked unanimous consent that in the consideration of S. 1404, only amendments that pertain to Japan would be in order. It was he who made the unanimous-consent request at that particular time, in midsummer, that no other amendments would be in order. Since I had told him about my textile amendment, which would affect all the trading partners, some 34 countries, his request was, ipso facto, that the textile bill would be out of order. He was the one who made the unanimous-consent request at that particular time, and the leadership on the Democratic side objected for me thank goodness because I had left the floor and was walking back to my office.

So much for that. It was not retaliation then. It was a maneuver to try to bring to the floor for consideration a measure we have, of serious intent and purpose, to present one more time so that in the beginning of next year, we can ultimately pass a stronger bill, in the sense of it being veto proof and perhaps approved. And, on the other hand, we seek to continue the educational process in this body, in the other body, in the administration in the National Government if you will, Mr. President with respect to international trade.

There is a terrible misunderstanding. The whole idea of free trade is out of the whole cloth. It is not free; it is not fair. It is competitive trade—competition.

It was competitive trade under David Ricardo in 1817 when he was talking about the comparative advantage. He was talking about the comparative advantage with producing countries.

A century later, when talked about under Smoot-Hawley, it was the competitive advantage there, and our friend Cordell Hull picked up the call in reciprocity competition, reciprocal free trade.

The goal is always to free the atmosphere and free up the competition as much as possible.

I am for free trade. You are for free trade. Everybody is for free trade. How do you obtain it?

Since World War II, fat, rich, and happy United States of America thought the way to do it was set the example. That if we did not put up any kind of barriers, if we did not retaliate to the barriers placed against us, to the trade practices, to the governmental provisions, to the protectionisms of the trading partners, but if we sat back and said we are not going to retaliate, what we are going to do is set the example, maybe that would bring about free trade. It's been a failure, clear and simple. And it's become progressively worse. Witness the record high trade imbalance. We cannot let it get go much longer or it will doom us all.

It is almost like arms control. If we do not build any arms—like monkeys on the treadmill—the Soviets will not build any arms.

We know from bitter experience in arms control it was only when we voted the ABM that we obtained the ABM Treaty. It was only when we said that we are going to build up the SDI and continue with it that they came back to the peace table.

Now in a corresponding way, in international trade we have tried all the cajoling, persuading, imploring, and visits to Japan and the high-level meetings between the heads of state. It does not work. We are going down the tubes internationally in this particular competition. Clearly we need a different response.

So it has been my suggestion to emulate the example set by Franklin Delano Roosevelt in the days of the Depression when in order to keep the banks open he closed the doors, in order to save agriculture he plowed under the crops.

Herein, in order to remove a barrier, we are going to have to raise a barrier and then remove them both. We are going to have to get down on the playing field and compete through our Government. Competitive trade, not free trade, not fair trade. Let us talk

realistically. This is a very dynamic international competition in which we now persist. We must engage ourselves in it.

Our trouble is the United States is not down on the playing field at the behest of the multinationals. We are up in the grandstands, shouting free trade, free trade, protectionism, protectionism, and trade war, when the trade war down on the field is in the fourth quarter and we are about to lose it all. We must join the competition.

Why do the multinationals take their plants and jobs offshore? Because it is to their economic benefit. They are not only producing economically without the requirement of a standard of living over in their offshore facilities. They receive protection from Taiwan, where they produce. Protection where they have joined up in coproduction with the Japanese. Protection in Singapore. Protection in Hong Kong. And, instead of retaliation on their part what we find, for example, looking at what happens is that the Japanese, for example, taking Japanese textiles as an example, is that the Japanese sell $1.5 billion in textiles to Hong Kong. But, they import zero dollars in texiles from Hong Kong. Where's the reciprocity in that arrangement? What's fare about that trade?

The United States of America imports 1.05 billion square yards of textile products from Hong Kong, and we export nearly zero to the "free trade country," said the Senator from Missouri, "of Hong Kong." Hong Kong is a trading dock out there. That is not a country. It is a shipment point, it is a warehouse and a dock and a boat facility to off load the production of the People's Republic of China. And we import millions of square yards from the PRC in addition to the billion plus from Hong Kong.

To talk spuriously about free competition and let the market forces operate, do not forget the governmental and the political requirements in the cost of production.

Speaking to those requirements, let's use the example before us. We are debating today about toxic waste on the reconciliation bill. I think now it is approximately $7½ billion, or whatever it is, that we are going to put on American industry. As we put the $7½ billion, it is an additional cost of production that will go on the American textile manufacturer, and any other manufacturer in the Nation. Republicans and Democrats all agree we should clean up the toxic waste. Just as we all agree that there should be a minimum wage. We should all agree to social security. We should all agree to unemploment compensation, to a safe place to work, safe machinery, clean air, clean water. This is the American standard of living. We're proud of it. Our people enjoy tremendous benefits because of it. Our Nation is widely respected because of it. I don't want to see our standard of living diminished.

Incidentally, we had no standard of living in 1930 under Smoot-Hawley. You cannot give a historical sense to our colleagues in Congress when they jump up and down and say we are going back to Smoot-Hawley if you pass my textile bill. We did not have clean air, clean water, minimum wage, Social Security. None. We did not mandate a standard of living in 1930 as we do today.

But over the 50-year period, beginning with Social Security in 1935, we have enunciated over those 50 years an American standard of living.

Under this American standard, that we all believe in so strongly, in the world of international competition, we must give protection to it. There must be a substantial base so there will not be any dumping, so we will not have any selling at less than cost, or pretatory pricing, or other "sharp practices," in governmental trade barriers to us. Otherwise we just continue to force America's industry to go overseas.

Mr. President, we take that particular standard of living and we talk about protection. That is the fundamental of government here. We have Social Security to protect us from the ravages of old age. We have unemployment compensation to protect us from the loss of a job. We have safe machinery and other laws to protect the worker in the workplace. We have clean air, clean water, to protect the air we breathe, the water we drink; the Army to protect us from without; the FBI to protect us from enemies from within.

The fundamental of government is to protect, with the oath of the Senator and the President as he took in the rotunda earlier this year down the hall in the Capitol, "I hereby pledge to preserve and protect and defend." He takes that solemn oath, we understand, in the rotunda but we walk 100 yards down the hall to the Senate Chamber and if you mention the word "protect," a bunch of Senators just go into a stitch, "Oh, heavens no, we cannot have protectionism, protectionism," because the multinationals through the editorialists have sold that shibboleth. No such thing as free trade exists. It is competitive trade. But as long as they can continue to persuade the uneducated that it is just a simple thing and all we need to do is set the example we will continue to slide—that all we need to do is to put in a bill like this telecommunications bill which says, "Go to Japan, just to Japan, and in 18 months if Japan does not do something about this, then we are going to start enforcing our laws." That says to the Japanese competitor, and I do not blame Japan, "I have 18 more months to continue to violate, to continue to protect, to continue to give advantage, to continue to extinguish American markets that have been established over this 30-year period." It's a green light to continue.

So that is the wrong message to send to MITI, the Ministry of International Trade and Industry in Japan. They know how to translate all of these so-called high-level meetings and implorations and so-called threats. They just take it out of the whole cloth and they watch the legislation, and as long as the Japanese lawyers can get into the White House, as reported in the press on last Saturday morning less than a week ago, and change around the decision of the Secretary of Commerce; as long as they continue to run through the halls of Congress and into the various hearing rooms, and protect Japanese production and do it so successfully, the Japanese will continue to prevail, take over the international market, destroy the American standard of living and our capacity as a world power. That's the threat we face.

We are not a third world country. On the contrary, Mr. President, we are a world power and there are certain capacities that we must maintain if we are going to continue as a world power. We must have the capacity to produce steel, glass, rubber, and textiles. Under the Kennedy administration we had a series of hearings at the Cabinet level, and the executive finding was that next to steel, textiles was the most important to our national security. We could not send the American soldier to war in a Japanese uniform.

So it is, that we have to maintain this production capacity and not go the way of England as the Ivy League economists tell us. That we should look forward to a service economy and quit producing wealth but handle it and be a big financial center for the rest of the world.

We are losing out, not in textiles alone. It is telecommunications, it is leather, it is steel, shoes, rubber, sporting goods, hand tools, machine tools, semiconductors.

It is the productive capacity of America and Americans out there, and I have traveled the 50 States, see it, understand it, appreciate it, and they are totally frustrated and nonplussed by the actions here of their Washington Government.

They could not understand how we, a competitive group, and the only way you get into this Senate and Congress and into the Presidency is that you are a competitor. You fundamentally start the day either tempting fate too much or his dessert is small who fails to put it to the test and win or lose it all. That is the creed of competition here. That is what made America great and

continues to hold it strong. Competitive free enterprise.

But, we have the wrong leadership on this particular score. They think it is a momentary political thing, perhaps, against the President. They think it is a momentary Democratic issue for the 1986 or 1988 campaigns. They think it is a little, old, small industry bill that comes from a Southern State.

We had the distinguished Senator from the State of Washington, stand up and say we are pitting the East against the West, starting a civil war. That is a total misunderstanding.

This is a national industry of labor and management, of East and West, North and South, and that is why it has overcome all of these particular parliamentary obstacles and obstacle courses they have put in our way—these procedural hurdles. That is why we have succeeded thus far.

So, Mr. President, in correcting this particular record, as the AP writer writes, in his story, he says, "But bickering in the aftermath"—this is not the aftermath, this is the "foremath." This is the beginning, not the aftermath. This is the beginning of the textile debate. It continues on. We are just starting the fight.

The article stated that Senator DANFORTH said that he would "be curious to know whether or not the administration asked the Senator to take this position."

The administration has asked this Senator to take his position outside of the U.S. Senate. The President of the United States has been on the telephone trying to get an opponent to replace this Senator from South Carolina. So that is the position that the White House has asked this Senator to take—not any position whatever on trade and competition and textiles and jobs. I have never conferred with them. I am not granted that opportunity with respect to these important matters.

"Hollings said his objection represented retaliation for Danforth's refusal to help him get the textile bill approved," says the article. The truth is that is what the Senator from Missouri said. He feels like it is personal and it is retaliation. I can assure him it is not. Call up a Democrat trade bill, call up S. 1404, call up the bipartisan bill. I put everybody on notice. This is the only recourse, when you are a Member of the minority, to take every opportunity to get a vote. When the U.S. Senate discusses trade then this Senator will being up textiles. It's too important and integral to trade not too.

It is not to hold up the bill of the Senator from Missouri. He is holding up his own bill. All he has to do is agree I get a vote. He can call up telecommunications. It is not my filibuster. It is not a filibuster on this side of the aisle. I am not holding it in his subcommittee. I am not holding it in the Finance Committee. My request is reasonable. Give me a vote. No time, just vote on both sides; take a voice vote. You can pass the telecommunications bill and I would welcome it. I am not throttling it. I would welcome the telecommunications bill to be called up, then it would afford an opportunity just to get me a vote on what has been voted upon already five times, up or down, after long debate in this U.S. Senate.

So my request is not to throttle or to retaliate, but to go along and help some trade bill get to the floor. It is the Senator from Missouri that is throttling his own measure by throttling me in that particular subcommittee. We have overwhelming support for my bill and we cannot even get it reported out.

Mr. President, I thank the distinguished Presiding Officer any my colleagues in the Senate on the floor this morning.

THE RECONCILIATION BILL

I commend the Senator from Louisiana on another point in his handling of our reconciliation bill. This is a serious matter that fits right into our Gramm-Rudman-Hollings initiative. If we are going to start—and that was the decision made by both bodies and the President of the United States, that we are going to return the fiscal affairs of this Government to the black—here we have, some say $66 billion, others say $79 billion, but there is no doubt that there are many billions of dollars to be saved in this reconciliation bill. And we should press forward with this bill and get those critical budget savings, and not bog it down to a peripheral matter with respect to a highly contested, highly inflammatory issue like toxic waste.

We should keep our eye on the target. And the target is to follow through and keep the word, say what we mean and mean what we say. The U.S. House of Representatives and the U.S. Senate both said we should save these moneys. So 98 percent of reconciliation really is ready to be agreed upon. This particular body has voted overwhelmingly, with only two dissenting votes.

So I appreciate the Senator from Louisiana the Senator from Texas, and those handling the reconciliation bill for sticking to their guns and seeing if we cannot compromise in the context of at least rescuing these savings. If not, dreadful and really traumatic action will be required at the very, very beginning here of 1986, in January and in February—draconian is the word they use in Washington—of cuts that have to be made and that sets us off on almost, again, another impossible political task.

We want to see Gramm-Rudman-Hollings work. We want to see the discipline get set. Let us not upset this possibility for success here at the last minute with respect to throwing over a $66 billion savings in reconciliation that both bodies have agreed upon. Let us try our dead level best to get together here, if nothing else but under the Christmas spirit.

I noticed in the news reports where some prisoners escaped from the prison yard on yesterday afternoon or yesterday morning in Greenville, SC, with the use of a helicopter. Maybe my wife can hijack a helicopter and get me out of this "prison" and get me home for Christmas. I do not know how you get out of this place. I am going to stick with you, I say to the Senator from Louisiana, but I do not know how long. This body does believe in Christmas, does it not?

I have a note from the distinguished Presiding Officer, and I ask unanimous consent that the various amendments that I have placed on the desk to these bills with my particular name also include my senior Senator's name, the Senator from South Carolina, and our President pro tempore, the present Presiding Officer.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(EXHIBIT No. 1)

[From the Washington Post, Dec. 20, 1985]

TELECOMMUNICATIONS BILL THROTTLED IN SENATE

(By Mike Robinson)

Last-minute efforts to bring up legislation to aid the telecommunications industry were swiftly throttled in the Senate yesterday in the aftermath of a fight over textile imports.

The move followed a call Wednesday by Majority Leader Robert J. Dole (R.-Kan.) for quick action on the telecommuncations bill because "the trade imbalance with Japan has been escalating at an alarming rate" and that nation's import barriers "remain in place."

But bickering in the aftermath of the textile debate defeated efforts by Sen. John Danforth (R.-Mo.), chairman of the Senate Finance Committee's international trade panel, to bring up the telecommunications bill for a vote.

Under Senate rules, action on the bill, sponsored by Danforth and Sen. Lloyd Bentsen (D-Tex.), was impossible without unanimous consent. Sen. Ernest Hollings (D-S.C.), who was a chief sponsor of the vetoed textile bill, objected to consideration of the measure, in effect killing chances of any further major trade action before the Senate's recess.

"Some of the senator's positions will be greeted with delight by the Japanese," said Danforth, who is planning to visit Japan. He said he would "be curious to know whether or not the administration asked the senator to take this position."

Hollings said he agreed that telecommunications equipment exporters need help from Congress in penetrating the Japanese market. "I'm a cosponsor of this bill," Hollings said. But he added that the telecommunications industry was one of many, including textile and apparel makers, that deserve trade relief.

Hollings said his objection represented retaliation for Danforth's refusal to help him get the textile bill approved in the Missouri senator's trade subcommittee.

President Reagan vetoed the textile bill Tuesday after the Senate bypassed Danforth's subcommittee and passed the measure.

The telecommunications bill, opposed by the White House, would require the administration to open talks aimed at breaking down alleged Japanese barriers to U.S. equipment imports and retaliate unless they produced results.

THE BUDGET RECONCILIATION CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, if I may answer my distinguished colleague, first of all I would like to thank him for his generous remarks, which I am sure were activated by the spirit of the Christmas season. I do appreciate that generosity.

Yes, we do believe in Christmas. But there is a grinch around here somewhere that is trying to steal the spirit of Christmas and kill this reconciliation bill. I hope, instead, that we can bury Mr. Grinch, in the spirit of not only the holiday season but in the spirit of trying to help this country out, which needs a nice present in the form of a cut in its gargantuan-sized deficit. The best Christmas present we could give this country, its economy and its people, is to pass the instant legislation.

Mr. President, I might say that there are a number of motions that can be made at this time, the first of which, of course, would be to move to the conference report, which is highly privileged and nondebatable. There is also a motion that can be made to table the Senate amendment, which also would be nondebatable. And through two quick slices we could be at the question at hand. I would like to say we are not doing that, and we are not doing that because there is a bipartisan effort to try to find a way to pass this bill.

So I want simply to remark to my colleagues who are listening on the squawk boxes that we are trying every way possible to find a way to pass reconciliation that will be both agreeable to the House, that will preserve the great savings—some $79 billion altogether, if you take out the value-added tax, or $83 billion if you leave it in—to keep those savings and to allow us to pass the legislation.

And I simply want to underline the fact that it is bipartisan, that it is an effort where on this side of the aisle we are not trying to use any legislative tricks, and certainly not even the arsenal of weapons that are available, and legitimate. And, indeed, our friends on the other side of the aisle, I think, are totally confident that we will not, which is the reason they have left the floor to go off to negotiate, and leave us to our own devices.

But I simply mention that because we want to find a way to make this bill become law, and to do it I hope before we lose too many more of our colleagues to the holiday travel schedules.

Mr. President, I see the distinguished Senator from Nebraska.

I yield the floor.

Mr. EXON. Mr. President, I think we are all too much short-tempered today, due to the fact that we have been working very long and very hard to come to some kind of an agreement, to still handle a series of measures. This Senator, as the Senate knows very well, was most unhappy, and not pleased with the farm bill that was passed. There was some consideration given at that time whether or not to have extended debate on the farm bill.

It seemed to me while that might have attracted some headlines around the country and it may have been good for publicity back home, it was not the rational, reasonable thing to do because at one time or another after we exhaust all the parliamentary procedures of the U.S. Senate and all of the parliamentary procedures of the House of Representatives in that regard, when the two parliamentary procedures of the two Houses get into the middle of a fray, we have the debacle that we have right now.

I think this whole procedure is very unfair. It is very unfair to the principals. It is very unfair, I think, to those of use who have stayed here while, according to some of the remarks on the floor this morning, maybe we would have difficulty in even getting a quorum in the U.S. Senate.

Last night the parade of our colleagues in the House of Representatives who were over here tuning in on what we were doing, and justifiably so because they were concerned, told me that after the gavel fell last night, even though the House of Representatives has not adjourned sine die, there is no way that they could get a quorum in that body. It seems to me this is, indeed, telltale lesson in how not to legislate.

It seems to me the suggestion that was made earlier this morning on the floor of the U.S. Senate by the minority leader, the distinguished Senator from West Virginia, is the only way out of the morass that we are in at the present time. I simply do not understand—and I would like to ask the question of the Senate and the Senate leadership. Why are we not taking the reasonable way out of this difficult situation as outlined by the minority leader this morning?

I simply say the same suggestion was made last evening, but we could not do that because of some strongly held views and some strongly held wills relating back, of course, primarily to some disagreement with regard to what the conference committee did or did not do, and who was in good faith and who was in bad faith with regard to agreements that were supposedly tentatively worked out in the conference between the House and the Senate.

There are an awful lot of personalities involved in this, Mr. President, I am not sure that personalities should be that strongly involved when we are taking meaningful legislation of this type.

During the debacle and countering debacles last night, this Senator had the first chance ever to watch the debate in the House of Representatives on television. While this Senator has generally been a supporter of television in the U.S. Senate, after watching the so-called debate in the House of Representatives last night where there were cheers, there were hisses, there were boos, and there was handclapping, I do not know about television in the U.S. Senate. If it is as bad as that, then I am very fearful there may be some youngsters around the United States that stayed up late enough last night to see that program. If they did, it probably had more of an ill-effect on them as far as representative government is concerned than if they stayed up late watching X-rated movies. [Laughter.]

It just seems to me, Mr. President, very seriously that the system here, checks and balances, if we will, between the House and the Senate have deteriorated primarily as a result of the clash of strong personalities, and that we are almost threatening to break down the system.

I wonder what the Founding Fathers would have thought of a system today where we may or may not have a quorum in the U.S. Senate, and we probably do not have a quorum in the House of Representatives if we were considering passage and how to get around the passage of a fundamental piece of legislation.

This piece of legislation would make, I guess, the largest cuts in Government, and we are all concerned about reducing the deficit and getting on with the business of attacking reduction in the national debt, but it seems to me that the founders would have been shocked. They would have been surprised. They would have been dismayed. They probably would have taken time out even if the Christmas Day was upon them to make corrections to stop the kind of nonsense that seems to be going on here between the supposedly most deliberative body in the world, the U.S. Senate, and our colleagues across the way.

Another thing strikes my mind in that regard. Basically, it has been my feeling that fundraising measures should basically originate in the House of Representatives. Here we are in the U.S. Senate tied up today on whether

or not we are going to have a value-added tax for the first time in our history as a part of our fundraising mechanism.

I have not made any final determination as to whether I am for or against a value-added tax per se. But I remind all that it is a significant step across a significant line that we have never done before. Here we are still moving to see if we cannot by hook or crook or parliamentary procedures, or one chicken being stronger than the other chicken in our game of chicken not before Easter, but before Christmas, try to do things that we should not be doing.

It seems to me whether you are for or against a value-added tax, that pales by comparison with the situation that confronts us. The reconciliation package that has been generally agreed on—and while it is not perfect, I support it, and I think Members in both bodies support reconciliation—has in it other important legislation.

I wonder how it looks to the people of America today when by failure to act by midnight last night we have in effect repealed the 8-cent tax on tobacco products now at a time when we need more revenue in this Government. Are we wise in not acting to preserve at least a tax on tobacco products as a means of legitimate revenue? That is not new revenue. That is revenue that we have had for a long, long time. But by our fumbling, by our bungling, and by our failure to at some time recognize the Congress has to work its will, we fumbled that away.

I do not know what all of the controversies are with regard to this legislation. But I would just say that there seems to be quite a test of wills. It is not of any interest to this Senator whether Mr. PACKWOOD or Mr. ROSTENKOWSKI becomes the next Speaker of the House of Representatives. I do not believe that should be a legitimate part of a discussion, if it is, as to whether or not we continue to pitter and patter, and mumbling and bumbling through here now.

It seems to me, with a questionable lack of a quorum in the U.S. Senate, that we could simply suggest that we could probably dispense of this whole matter in a hurry if someone insisted on seeing whether or not we have a quorum present.

Likewise, such action could be taken in the House of Representatives.

So before someone comes up with that particularly wise move that might be necessary, I would think it would be in the interest of all parties to move as expeditiously as possible on the suggestion made by the majority leader.

The suggestion made by the majority leader would only allow us to pass reconciliation as generally agreed to by both bodies. The only thing it would eliminate would be the value-added tax.

Once again, I think that is a tax that deserves a lot of consideration, a lot of committee action, first in the House of Representatives and then over here in the Senate.

It seems to me that we would best follow the dictates of the procedures and best follow the dictates of wisdom if we would take action quickly on the suggestion made by the majority leader and then move about our business, which is sine die adjournment.

Having said that, like all of my colleagues I would very much like to go home to Nebraska where all of the family will be gathered this evening, except the father and the grandfather. That is important.

But more important, Mr. President, is the obligation that we assumed when we took our oath of office to move ahead with the business of the Senate. It seems to me that until we move on the suggestion made by the minority leader, which is the only way out of the morass that we are presently in as far as is known at this moment, until maybe something else is hatched in the closed-door sessions going on right now, we are going to continue to be looked upon as a body that seems never to know where it is going and when it gets to a place where it thinks it is does not know what to do.

Mr. President, although some of the remarks I have made this morning are in jest, it does seem to me that we ought to try and destroy, if we possibly can, the videotape recordings of the House of Representatives last night. I think we should, as best we can, assure that the people would not see things of that nature. I believe the people of the United States, while in polls they do not seem to hold the Members of Congress in particularly high esteem, expect us, by and large, in retrospect, to do a more manageable job of passing laws than they saw last night in the House of Representatives and which they will be hearing about through actions or no actions today on the floor of the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and at 12:59 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 3:52 p.m., when called to order by the Presiding Officer [Mr. GORTON].

OMNIBUS BUDGET RECONCILIATION ACT

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3128.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) entitled "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.".

Mr. DOLE. Mr. President, first, let me apologize to my colleagues for this Friday afternoon session. I hope we can dispose of the remaining business in a fairly brief time because I know the weather is not good and I know many Members have to change their plans. This is, I think, a most important issue, one that I understand we shall have some debate on. We shall have the experts on both sides who have been the real principals in this effort over the past 11 months speak to some of these specific issues.

We have had a series of meeting today, and a series of conversations with White House officials and, OMB officials. I have just spoken with Don Regan, the President's Chief of Staff, in an effort to determine what the President's attitude might be toward this bill in its present form.

The President is presently on his way by car to Camp David because of weather. Shortly before he left the White House, less than 30 or 40 minutes ago, there was a staff discussion with the President about the reconciliation conference report. I am at liberty to indicate that the President advised the staff, in particular the Chief of Staff, Don Regan, that if, as he said before, certain objectionable provisions are removed from the conference report, he would accept it, with one caveat. Apparently, there are a number of little new entitlement programs buried in the conference report and they may not have all been discovered—a new vision care program, other Medicaid Programs for unwed parents, and perhaps a number of programs that they are not quite certain of. But basically, these are the same programs that the President has called to our attention a number of times: The trade adjustment tariff, the OCS Lands Act, section 8(g), AFDC, Medicaid and food stamp quality control revisions, elimi-

nation of Medicare cost-saving regulations, the value-added tax on Superfund, Medicaid Program expansion which will increase State and Federal costs; and, as I said, the ones that we cannot quite identify completely are the various expansions of Medicare and Medicaid that may have been added by Representative WAXMAN in the conference.

Mr. President, this has been a bipartisan effort and I hope it continues to be a bipartisan effort—most of us in the Senate have struggled with this process all year long. Too long—I think most of us would agree, particularly the distinguished chairman of the Budget Committee and the distinguished Senator from Florida [Mr. CHILES], who is necessarily absent, and also Senator JOHNSTON, who has been substituting for Senator CHILES since his illness.

We have three or four options. Probably none of them are very good. I assume the easiest one, which would get us out of here the quickest, would be simply either to recede to the House or to strike the Senate amendment and send it to the President. But, based on information that I have, that would probably mean a Presidential veto. It would mean that our efforts and the efforts of all the others on the House side, Democrats and Republicans, would have been for naught.

There may be other options. One would be to have unanimous consent, which I shall propose in a few moments, that the Senate recede from its amendments and concur in the House amendment with a further amendment consisting of the conference report on H.R. 3128 with the following sections stricken—then I shall repeat those later.

That would take unanimous consent and I am advised that we not obtain such consent. I believe the option that we should pursue, then, because I still hope we can achieve some savings, the third option. That would be to insist on the amendment—and request a conference with the House.

That is not for the purpose of going back and trying to sustain our position or the Senate position on financing the Superfund. As the distinguished Senator from Oregon, the Chairman of the Finance Committee (Mr. PACKWOOD) will explain, that issue has been decided. He is willing to give that up. But it is an effort to go back to conference with Members of the House to try to resolve these five issues—five out of hundreds—that will permit the President to sign this bill and permit us to achieve some savings.

To be very realistic, there is a rather broad difference between OMB figures and our figures on the savings in the reconciliation conference report. We are advised that OMB has advised the President that the total savings over a 3-year period is around $8 billion, and maybe another $8 billion in revenues.

Well, we have been advised by the CBO and the Budget Committee that the savings amount to about $55 billion now based upon the fact that the farm bill is passed and there are $7 billion savings in the farm bill that can no longer be credited here. There are a couple of other similar instances, as the budget chairman will discuss later. So our range goes from $55 billion to as high as $82 billion. But we have to keep in mind that some of those have already been achieved in other legislation, so they have to be subtracted.

We happen to believe that we may be more accurate than OMB, but they are the ones who advise the President. So the President is faced with the decision on whether or not to sign a bill which saves only $8 billion over 3 years and has about the same amount of increased revenues—whether he should sign that bill if it includes a lot of new programs and goes back and undoes a lot of the reforms we made in 1981.

He does not believe that is very good policy. There has been a black lung provision added that not only raises taxes but provides forgiveness that costs about $2 billion this was never passed by the Senate. It was part of the agreement the distinguished chairman of the Senate Finance Committee made in the conference, and those who made the agreement in effect undercut the agreement on the House floor last evening. But in an effort to resolve it, that is the process, the procedure that we will attempt to follow.

Now, I know that other things can be done, maybe others have other plans. I know the motion to table the Senate amendment has priority and that may be made.

At the present time, I would ask unanimous consent that the Senate recede from its amendment and concur in the House amendment with a further amendment consisting of the conference report on H.R. 3128, with the following sections stricken: First, section 12301 relating to AFDC and medicaid quality control studies and penalty moratorium; second, sections 13001 through 13011 relating to trade adjustment assistance; third, section 13203(b) relating to a 5-year moratorium on interest accruals with respect to the indebtedness of the black lung disability trust fund; fourth, subtitle B of title XIII relating to Superfund and its revenue sources; and fifth, sections 8001 through 8101 relating to Outer Continental Shelf Lands Act.

The PRESIDING OFFICER (Mr. GORTON). Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Louisiana reserves the right to object.

Mr. JOHNSTON. For the last almost 24 hours, we have been engaged in this negotiation about how we were going to get this deficit down. On this side of the aisle, I do not think there is anyone who can say we have not been cooperative. We have not been particularly brought into the process, I must say, but to the extent we have, we have offered the hand of cooperation, repeating that over and over again privately, here on the floor, and in the majority leader's office, when permitted to come at our request—at every instance of the time offering the hand of cooperation. It was not Senators on this side of the aisle who made the decision as to the strategy last night in sending back to the House the bill with the same amendment which they had turned down previously. This strategy was available to us last night when we could still amend. Rather than using that strategy of amending and putting these amendments back on the bill and sending it back to the House, we used up on motion of the majority leader and the chairman of the Senate Finance Committee our chance to amend by insisting again upon the same amendment.

Full cooperation, we tried that. It did not work. It lost by an even larger margin.

Now, this morning, we came in again offering full cooperation, saying, "We need a bill; the American people need a bill. We will do what we can to get it."

This strategy was suggested to us earlier. I personally said, "I will do what I can to help get it"—not because I like these amendments. Indeed, it was a different package when previously discussed. This is the first time I have even heard about all the elements of this package.

That is the kind of bipartisanship you get. You get something sprung at you out on the floor of the Senate without even discussing it with you. Nevertheless, as the package last existed, we were asked, "Will you try to sell it?" I said, "I will do the best I can." The leader, BOB BYRD, said he would do the best he could, and indeed we convened a caucus for that purpose. In the meantime, we called the leadership of the House and they say they have lost a quorum, it takes unanimous consent, and a number have already announced publicly and others privately. Congressman FRENZEL has already made a speech saying he would object to any change.

So, Mr. President, make no mistake about it, this strategy, however good it might have been at any one time, is no strategy now. It does not get you a bill. It is some kind of tactic, and I do not know what the tactic is or what its purpose is other than to elicit an objection from us, which will soon be coming because we are not going to be

a party to bearing this bill, not after all the time and effort we have put in on this side of the aisle, not to mention the gargantuan efforts that Senator DOMENICI and others have put in in fashioning what is not a perfect bill but it is a good bill.

It is $79 billion worth of savings without the so-called Superfund tax. And if all it is $8 billion, I want to tell you we better shut down the CBO, do away with that agency of Government because it is not worth what we are paying them if they are that far off.

In any event, Mr. President, with that reservation and for those reasons, I object.

The PRESIDING OFFICER. Objection is heard. The majority leader.

Mr. DOLE. Mr. President, I regret that there is objection. I must say it was no surprise. We have had some prior discussion of this matter. We met in the minority leader's office, so there has been bipartisan discussion. My own view is that we are going to be gone for 30 days. It is not our problem if the House may not have a quorum. We have a quorum. We have about 40 of our Members here and I think there are 30-some Democrats here, so that is not our problem. We are here prepared to go to conference this afternoon on five very minor issues that can be resolved in 30 minutes. Now, if the House is gone, they say, "Oh, we can't do it, we left town," I do not believe that is our problem. We have enough problems of our own, but that is not one of them.

Do we want a bill? I hope so. I think so, because there has been a strong bipartisan effort following the May 10 vote, which was 50 to 49, with only one member of the other party voting for real deficit reduction. We can argue that at a later time. But it seems to me that now we need to try to complete the process, keep it alive, see if we can salvage something, if not today, when we come back or maybe even prior to that time the conferees could meet and see if they could resolve it.

I assume the conferees could meet informally while the rest of us are working at other places in January.

But in any event, I move that we insist on the Senate amendment.

Mr. JOHNSTON. Mr. President, point of order. Is that a 1-hour time agreement?

The PRESIDING OFFICER. It is a 30-minute motion equally divided.

Mr. JOHNSTON. That is to insist on the Senate amendment and return it to conference?

Mr. DOLE. It is the first part. Then I would request the conference, appointment of conferees following this.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD addressed the Chair.

Mr. DOLE. Mr. President, let me yield such time as he may consume to the Senator.

First, let me designate the distinguished Senator from New Mexico to allocate the time.

Mr. DOMENICI. How much time does the Senator desire? Fifteen minutes?

Mr. PACKWOOD. Five or 6 minutes.

Mr. DOMENICI. I yield 5 or 6 minutes.

Mr. PACKWOOD. Mr. President, let me explain partially the situation we find ourselves in today and why we got here and why the Senate feels a bit unfairly treated.

I feel very bad that we are going to give up not only just the Superfund funding, we are giving up on the Superfund Program. It is out, gone. It is going to be funded. It is not going to be funded under the tax that expired for the last 5 years. It is not going to be funded under the taxes for the next 5 years until it is resolved. That the funding of Superfund is now out, the Senate is not going to insist on its position on this issue when we go back to conference.

But as we were bargaining in conference with the House, as in all conferences, there is a give and take.

The House had very close votes in committee and on the floor on its method of funding the Superfund. In committee, the chairman of the Ways and Means Committee lost the vote as to the way he wanted to fund Superfund. On the floor of the House, as I recall, by only a 14-vote margin, he won it.

There was a slight anomaly, I thought, in the entire reconciliation process when there was no Superfund provision at all in the House bill, but under the rules, the Ways and Means Committee was credited with the revenues toward meeting their total. No bill, no revenues, a credit toward meeting their total.

So, if anyone wonders how you can come up from $3 to $13 billion, understand how funny money moves very easily in this body.

We went into negotiations and had the Superfund provision in our reconciliation bill.

In what I would imagine to have been a very dicey situation among the House conferees on Superfund, by a 9-to-4 vote, the House conferees offered to the Senate in essence what had been very close to the Ways and Means Committee position, absent only the fact that there was no funding out of general funds and no waste end tax.

The House said, "We will go along with the Senate," and the Senate really was going along with the House Ways and Means Committee position.

Involved in all these situations were the issues of black lung; Medicaid; AFDC; poor persons in families with unemployed parents and whether they were going to be eligible for welfare; whether or not State and local employees were going to be covered under Medicare; and trade.

There were other issues which the President does not like, such as intercontinental shelf, but I had nothing to do with that.

There was give and take, and the Senate gave on positions it would not otherwise have given on, such as black lung, State and local government coverage under Medicare, in which the Senate position raised $4.7 billion and the House provision $500 million. But in the give and take, we gave. We concluded the conference.

As with all conferences, you win some and you lose some. We came back to the Senate and we acted on the conference report, 78 to 1.

The House then went back and, in an irritation and fit of pique because they were mad, having lost their Superfund tax method among their own conferees, the majority asked for a rule in the House to strip out the method of Superfund financing that had been agreed to in the conference—stripping only that out—sending to the Senate a bill that now had things in it that the Senate would not have agreed to had the bargain of the conferees not been broken.

We gave up things to get things; and the House said, "No, we're going to throw out the things we gave up because we didn't like it anyway, and you can take it or leave it, with all the provisions you never would have given."

It is going to make it difficult for the Finance Committee and the Ways and Means Committee and other committees to reach honorable conclusions if, at the end, one can say, "We are not going to honor the contract.

So I am prepared to give up on the Superfund. That is for another day. We will fight that another day. But we need to go back to conference now basically on spending issues that were added in the conference, which would not have been added but for the Superfund financing agreement, and see if we can undo those so that the bill is acceptable to the President. I hope we can. I hope the conference concludes an agreement and that the agreement will be honorably kept by both sides.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield myself 7 minutes.

Mr. President, in recent days and weeks, we have had a lot of conversation in this body about the quality of life, about the deterioration in the Senate and its customs and its great traditions. We all feel, in a very real sense, that that which has made this the greatest deliberative body in the world has somehow been lost or de-

graded or destroyed or that, in the process of modern times somehow we are losing it.

I can tell you that last night, as I watched the House of Representatives, I was not proud of that institution. All the pettiness of politics, it seems to me rose to the surface last night in the House of Representatives—personal interest, deep partisanship, a challenge to the Senate, like the comment over and over again, "We are not going to let them do that to us," and that kind of thing.

The national interest, it seems, got lost last night in the House of Representatives—somehow buried in what seemed to be a political contest or personal contest, will against will, political future against political future. The tiredness of the moment or the emotion of the moment seemed to have gotten lost last night, and we all know what happened in the votes.

It seems, Mr. President, that, in a little more dignified way, we may be ready to do that and again demonstrate that in the U.S. Senate today. I hope not. My words today would go to appeal to the national interest, to appeal to Senators on the basis of not whether it is good for the President or whether it is good for this party or that, but whether it is good for the country.

In my judgment, the motion that the majority leader has made would kill this bill. Make no mistake about it. You can argue that. You might sell it to such part of the American people as reads newspapers. Maybe it would not be interpreted like that. But we know that is so.

Why is that so? Because it comes back in February or late January or early February, and then what happens? February 5, the President's budget comes up. Prior to that time there will be all kinds of leaks about all these programs that will have to be eliminated or decimated because of the requirements of Gramm-Rudman. We all know that. We know the acrimonious atmosphere, the deep ideological differences.

We are going to be at a watershed, a crossroad, when we come back in January or February, and we are going to decide, for the first time, whether all this rhetoric about cutting budgets is real, whether people can really measure up to that. It is not going to be easy.

All these easy things we have done in these past few years, like cutting taxes, raising defense, spreading the goody bag out for everyone and not really cutting anything, all that is in the past. Now it is going to be tough, and it is in that kind of atmosphere that this conference committee would have to deal.

What is the House going to do? The House would be asked in that conference to cut further, to do away with such goodies, if that is the word, that are contained in this bill in order that you can have a lower starting point for Gramm-Rudman. Are they going to want to do that? The House thinks that domestic programs have been cut too much already. And so what happens if they turn this conference down? You move it from about 95 to 1, domestic over defense cuts, to 50-50 domestic-defense so you can move a lot of these uncomfortable cuts over to defense just by defeating this conference report.

In the atmosphere of January and February, do you not think that is going to be done? Do you not think someone along the way is going to figure this out? Of course, they are.

We are going to be well into the budget process by January and February, and it is going to be impossible to cut this thing.

If your real motive is to save the President embarrassment of having to veto, go along with it. It is a nice cute way. I mean, it is a nice neat sort of way. Say let us go back and cut some more and go to conference.

But we know that is not so. We know it is going to kill the bill if we do that.

We are going to have a chance when this debate is over in one fell swoop to send this bill to the President. By moving to table, and we will at the end of this debate, you can, without going to the House; it will go straight to the President. You would pass any other intervening action. And that bill would save $79.5 billion, according to CBO, and it would not contain the Superfund tax which is the President's No. 1 objecton. It may not be his whole objection. But it is his No. 1 objection.

Many of us have talked privately and publicly to the effect that the President would not dare veto this bill, not $79½ billion right on the eve of the inauguration of Gramm-Rudman. I do not believe he would unless he gets very bad advice.

Mr. President, we are going to have a chance to do that, $79½ billion. Oh, you can call it $8 billion. If you call it only $8 billion, do you realize what that says about the reputation of CBO? Has CBO been denigrated in their reputations around this place?

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. JOHNSTON. So far we say their $79 billion in savings are only $8 billion. I mean, do we really believe that? Of course we do not.

We have been acting on the recommendations of CBO bipartisan and with a solid track record around here the whole while. They say $79½ billion. It is $50 million a day savings. For every day we wait, just since last night we lose $50 million. In another 30 days we will have lost $1½ billion.

You say that is not much. Well, it is a lot more than we have saved lately.

Mr. President, we have a chance to have some real savings, not phony savings, real savings, savings now, not savings off somewhere in the future. That has been our problem around here. It is always talk savings now but not save now, not cut now. This is a cut now today, December 20. We can cut today. Or at least we can give the President the chance to sign these cuts.

If we miss the opportunity, Mr. President, we have hurt this country, in my judgment.

You may be able to escape the political blame for it by saying "I didn't mean to kill this bill, I only wanted to make a better bill. I wanted to make it a better bill, send it back to conference." Inside the beltway, at least inside this body, we know that means kill the bill.

Mr. President, I hope we will not do that. It is not a perfect bill. There never was a complicated perfect bill that I know anything about that has passed this body.

If you want to wait for a perfect bill, you will not get it between now and next Christmas. They do not come like that. They are political compromises. But this one meets the targets. It has been a great bipartisan product.

The distinguished Senator from New Mexico has led us well on this matter. I hope we will not let it go down the drain here on the eve of Christmas.

I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, let me make a couple of points. First of all, the distinguished Senator from Louisiana makes one point that I think we ought to all agree on. It is in the national interest that a substantial portion of this bill become law.

I am convinced. I was beginning to wonder about it 10 or 12 days ago, but I am convinced totally today that unless we do what the distinguished majority leader recommends here, the national interest will not be served because I am convinced we will not get a bill. We must send this bill to conference, even if that conference may not begin until late January or early February.

I am now absolutely convinced that regardless of what we say and regardless of what we contend, the President will veto this bill if we adopt the amendment, if we follow the path he suggests, and that is when the motion to table is made, if we vote for it, we are all finished. I am convinced we well may have no bill.

I am not one who shies away from a legitimate confrontation with the President. But I do not think we gain an awful lot by running around for 3 or 4 months and say he should not have vetoed it.

Let me tell you, ladies and gentlemen of the Senate, we are somewhat to blame for the position we are in.

Do you remember late in the debate when the distinguished minority leader raised the concern about extraneous material? He was concerned that he said we ought to amend the Budget Act because, as a matter of fact, the reconciliation bill has no limits as to what people can do with it in their respective committees so long as they add some and subtract some and perform the accounting and estimating pursuant to the CBO baseline rules.

And we and the House, aside from the problem that the distinguished chairman of the Finance Committee raises that we have $4 billion in program add-ons as a compromise for the now removed Superfund program, but with the spending increases still in the bill, aside from that, there are literally scores of programs that do not belong in this bill.

As I say, some will say, "Well, where have you been?" Let me tell you the way the rules are there is nothing we could do about it.

The distinguished chairman of the Budget Committee and his entire entourage of Members turned this bill over to the committees and they worked their will. I might say, considering the nature of the problem, there is an awful lot of good reform in this bill that is going to go down the drain if we do not send it back to conference and at least let them try to salvage a substantial portion in January.

There is reform in the veterans' program that is totally acceptable to the House that will never be done in an election year. There is reform that was done by the Government Operation Committee with reference to the Federal employees that will never occur, and I could go through a list of 15 or 20 like that that are gone. As a matter of fact, let me talk a moment about the argument about how much do you save. Frankly, the $8 billion that the OMB director is talking about in savings and $8 billion in taxes for a total of $16 billion in reduction are patently absurd, but they do make a point, that since we have now passed three or four other bills that take credit for portions of these savings and change the law, it is probably somewhere between $50 billion and $60 billion, including the taxes, that we will save if we pass this bill.

But I am convinced that when we added scores of new programs, in particular those that the distinguished majority leader suggests we take out of this bill by unanimous consent, which was objected to, we put this in the position where the President not only will veto it but I think he will have at least an equal opportunity and perhaps more convincing the American people that we should not have put all those things in this bill and that to some extent by doing it the way we have, and the House is guilty also—I am not saying just the Senate—that we have made somewhat of a mockery out of a process that is supposed to be saving money and curtailing programs of this Government.

If I were not convinced of that, I would be here arguing the other way.

I ask unanimous consent to have printed in the RECORD for anyone who is interested a list of the disputes as to how much we are actually saving and how much they contend in the White House through OMB that we are saving, and I will repeat that I think the savings is about $50 billion over the next 3 years giving credit to some things that have already passed in appropriations or in the farm bill that should have been in this when we started this process.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Possible disputes on scoring resolved

Savings (gross)	$83.038
Offsets and minor registration already passed	−9.016
Subtotal	74.022
Agricultural credit (in farm bill)	−6.8
Subtotal	67.2
OCS (8g): (not a policy change)	−1.4
Subtotal	65.8
Highways (in app. bill)	−2.5
Subtotal	63.3
Medicare hospital reimbursement (can be done by regulation)	−4.0
Subtotal	59.3
IRS and Customs collections (dispute on scoring)	−3.3
Subtotal	56.0
Out-year civilian pay (can be done later, in theory)	−5.0
Total savings (if all allowances made for scorekeeping)	51.0
Net revenues	10.2

Mr. DOMENICI. Having said that, I do not want to mislead anyone. It will be very difficult in January and February to get this job done. We will be engulfed in a new budget. Gramm-Rudman will be staring us in the face in terms of a $144 billion deficit target for fiscal year 1987. The President will have already sent us a budget, but I am convinced that even if there is a slight chance we should do it, we should. Because I do not think there is any chance that we will get it by passing this bill as it now stands.

So I believe that, while there are many good reforms in it, we clearly should not have passed trade adjustment in confrontation with a 6-week-old letter of the President saying, "Do not put it in." I do not think we should have passed the 5-year moratorium on interest and accruals on the black lung indebtedness that will cost $2 billion. I do not think we should have changed the quality control under Medicaid and AFDC. Those were savings. We changed them.

I do not think we should have put the Superfund, as we planned to do it in this bill, in the manner that it originally came to us. But we did not take the President very seriously until about now. I think that is kind of too bad. I think we have to do what the majority leader suggested and give it at least a chance to survive.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. DOMENICI. I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I think the chairman of the Finance Committee got a raw deal, but that is not the issue. I think there is a lot of junk in this bill and I pointed that out last night just before we all voted on it, and that is not the issue, because we knew there were a lot of things in there that were not so good.

There are two issues. One is that by sending this back to a conference committee, do we avoid a Presidential veto? And the answer to that is, no. If we send it to the conference, the bill is going to be dead. It is a new form of Presidential veto. It is a veto without sending a bill to the White House. Some of the President's people come up and say, "Look, we are going to veto this," so we shunt it off to conference.

The real issue, as far as I am concerned, and the reason I am going to vote for the motion to be propounded by the Senator from Louisiana, is very simple. This is the same bill we voted for last night 78 to 1, except for one thing. We are taking out a tax provision. It is, in every other respect, the same bill we voted for last night.

So the only reason to vote against it is that we are that much in love with the tax provision, and I am not. So I am going to support the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Nebraska.

Mr. EXON. Mr. President, obviously we are so restricted on time that we cannot debate this. I cannot begin to say what I wanted to say in 1 minute, but then that will make everyone happy.

I associate myself with the remarks of my distinguishd colleague and member of the Budget Committee, the Senator from Colorado. If you vote the way the leadership has asked you to vote, you kill the bill. I cannot understand how the same people that recommended that we vote for this 78 to 1, the same people who asked us to

send this back over there twice—and I was here both times and agreed to send it back by voice vote, although I had some serious concerns about the value-added tax—the same people now are telling us this would be a disaster unless we make three or four changes that the President of the United States has to have before he signs the bill. It is all nonsence. Let us not go along with the majority leader.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. STEVENS. Will the Senator from Louisiana yield to me for a question to him?

Mr. JOHNSTON. Yes, I yield.

Mr. STEVENS. Mr. President, the Senator from Louisiana has worked long and hard to solve some of the problems for the States that have substantial oil and gas production. But I would ask him this question: If we do not find a way to get this bill down to the President, it is my understanding that, when he submits his budget in January, all of the savings that would come by virtue of the entitlement changes that are in this bill must go into his budget, because he is compelled to spend that money. When he does that, he has to make corresponding changes to the budget in order to comply with the target of Gramm-Rudman-Hollings, as I understand it. That means that the Coast Guard is going to lose money, all of the parks in the Bureau of Land Management, all of the civilian agencies that the Senator from Louisiana and I have worked very hard on, and the Department of Defense, also, that he and I worked very hard on, are going to be cut, cut down because of the real savings in this bill.

Now, is there not some way that we can find a way to get together here before we vote on the majority leader's motion and find some way to see if we can get this bill in a fashion that we can agree on in a bipartisan way to accomplish the objective the minority leader wanted to accomplish weeks ago and take advantage of the reduction in that budget that is going to come in January? Has the Senator really thought about the impact on the programs we have worked so hard on if this bill is not signed?

The President says he is not going to sign it. The Senator from Louisiana says, "Send it down to him so he will veto it." I happen to believe that man at 1600 Pennsylvania Avenue. He never told me he was going to do something and then did not do it. I tell you, I think he will veto it. I think the Senator from Louisiana would like to see a solution and I would like to see a solution. Is there not some way we can work out that solution tonight?

Mr. JOHNSTON. Mr. President, I believe the answer to that question is by voting for the motion to table the Senate amendment and sending this bill down to the President, I believe that cooler heads and he will sign the bill.

Mr. President, I yield the remainder of my time to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. BYRD. Mr. President, in 2 minutes, let me just say that twice we on this side have supported the effort to send the Senate amendment to the House of Representatives for conference action. Twice the House has rejected the Senate amendment, and the House is going to reject it if we send it back again. It is a way to kill this bill. It is a way to let Mr. Reagan avoid having to face up to the question as to whether he will sign a bill making budget deficit reduction now.

A motion now to table the Senate amendment will send this measure to the White House immediately. We are fast losing a quorum. We may still have a quorum here now. But this is the 20th day of December. Does anyone around here really believe that there will be more Senators here tomorrow; that there will be more Senators here on Monday; that there will be more Senators on Tuesday? Does anyone here really believe the House of Representatives will take this up again? They have twice spoken. They have twice rejected this amendment. Does anyone really believe the House will establish a quorum and take this amendment up again? No.

If we send this back to conference, that is the end of this measure, because the House is not going to accept this Senate amendment. In the meantime, we will have lost a quorum.

I say, let the President veto this measure if he wishes to do so. He has that power under the Constitution. But we have a responsibility, too. This is our chance to pass a budget deficit reduction that will amount to $79 billion, according to the CBO; there is some question, but what baselines are the OMB using? That is what I would like to know. They can come up with different positions and different figures anytime it suits their convenience.

But I say the responsibility is on this Senate now to act and to act decisively. I hope the distinguished Senator from Louisiana will move, when the time has expired on both sides, to table the Senate amendment. We have tried it. We have stood by it. We do not want to see this bill killed.

The question is: Do we want deficit reduction, and do we want it now? This is our chance.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired. The Senator from New Mexico has 1 minute remaining.

Mr. DOMENICI. Mr. President, I am going to use my 1 minute and tell the Senate I do not think anybody around here has worked harder to make this process work than the Senator from New Mexico. I did not put all these provisions in this bill, and everybody knows that. Our procedure is that the committees do their work. If there is any blame, it is that we, 3 or 4 weeks ago, on this side and on that side, decided we could use this reconciliation to do anything we wanted. We decided we would add new programs so long as the addition of programs did not eat up the savings that we found somewhere. Maybe we have learned a lesson; maybe we have not.

Frankly, the issue is no longer the Superfund tax. It is the five or six or seven programs that we probably either should not have put in or went a little bit overboard on. But, at least, I believe the President will veto it and we will not get a chance to realize any of those.

I want to say to the Senator from Louisiana that I appreciate his work. He did a masterful job all the way through. I wish we could be here today getting it finished. I think we might in January and February.

So I hope the Senator's motion does not prevail.

The PRESIDING OFFICER. All time on the motion has expired.

Mr. JOHNSTON. Mr. President, I move to table the Senate amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Chair secure order, maintain order, and that the clerk announce the vote of each Senator as it is called.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senate to the reconciliation bill. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from Alabama [Mr. DENTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. HATFIELD], the Senator from Florida [Mrs. HAWKINS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. TRIBLE], and the Senator from Connecticut [Mr. NICKLES] are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

I further announce that, if present and voting, the Senator from Florida [Mrs. HAWKINS] would vote "nay."

Mr. BYRD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Missouri [Mr. EAGLETON], the Senator from Colorado [Mr. HART], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Montana [Mr. MELCHER], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], and the Senator from Nebraska [Mr. ZORINSKY] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] and the Senator from North Dakota [Mr. BURDICK] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 29, nays 35, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—29

Armstrong	Glenn	Long
Baucus	Gore	Matsunaga
Bentsen	Harkin	McConnell
Bingaman	Heflin	Mitchell
Bradley	Hollings	Nickles
Bumpers	Inouye	Proxmire
Byrd	Johnston	Rockefeller
DeConcini	Kerry	Sasser
Exon	Leahy	Stennis
Ford	Levin	

NAYS—35

Abdnor	Hatch	Roth
Andrews	Hecht	Rudman
Boschwitz	Heinz	Simpson
Chafee	Helms	Specter
Cochran	Kassebaum	Stafford
D'Amato	Kasten	Stevens
Danforth	Laxalt	Symms
Dole	Lugar	Thurmond
Domenici	Mattingly	Wallop
Goldwater	Packwood	Warner
Gorton	Pressler	Wilson
Gramm	Quayle	

NOT VOTING—36

Biden	Evans	Metzenbaum
Boren	Garn	Moynihan
Burdick	Grassley	Murkowski
Chiles	Hart	Nunn
Cohen	Hatfield	Pell
Cranston	Hawkins	Pryor
Denton	Humphrey	Riegle
Dixon	Kennedy	Sarbanes
Dodd	Lautenberg	Simon
Durenberger	Mathias	Trible
Eagleton	McClure	Weicker
East	Melcher	Zorinsky

So the motion to lay on the table was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the motion to insist.

Mr. BYRD. Mr. President, how much time remains on the vote?

The PRESIDING OFFICER. All time has expired on the vote.

The question is on agreeing to the motion.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. the Senate will be in order.

The question is on agreeing to the motion to insist.

Mr. JOHNSTON. Mr. President, I move to recede from the Senate amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I ask that there be a time agreement of 10 minutes, 5 minutes on a side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, what this motion would do would be to have the Senate concur in the action of the House of Representatives, which is to say we would adopt the action the Senate approved here by 79 to 1, with one exception, and that is to excise or take from our bill the so-called Supefund tax, the excise tax that was objectionable in the House of Representatives. That is all this motion would do. If passed, this motion would send to the President a bill directly so that he by his signature could save $79½ billion. Every day delayed is $50 million in the meantime.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we are going to check to see if the distinguished chairman of the Finance Committee desires some time but let me just say to the Senate, if I understand this correctly, this is just another way of voting on the same issue we disposed of on the motion to table. If the motion of the distinguished Senator from Louisiana prevails, and if the House approves it, this bill goes to the President just as it would have gone to the President had the motion to table prevailed. I think we made the arguments that that would be an act of futility and in the national interest we ought to salvage whatever opportunity we have to get a major reconciliation bill and that it is far better served if we send this bill back to conference.

They will have time in January and February to decide whether we can get a conference report that would salvage substantial portions of the amount of money saved and taxes imposed in this measure.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Texas.

Mr. BENTSEN. Mr. President, what we are talking about is that if we do not do it this way and we come back and try to change this reconciliation measure in any way, we are told that there is no quorum in the House of Representatives. They are operating under unanimous consent. So what we have done in this situation, I think, is a rather cynical move to get it over there and let it die. When you do that, you give up 74 billion dollars' worth of savings. It is the same vote we had the other day by 78-to-1, and we are sending it there to die, supposedly, to put the responsibility on the House of Representatives.

Frankly, that is what brought about Gramm-Rudman. I saw a lot of people who voted for it and said they were against it but had to vote for it to exercise discipline. This shows that we are not exercising our responsibility in the U.S. Senate, and it brings discredit to this institution.

I can tell you what the press is going to write: "Once again, the Congress of the United States ended up quarreling with itself and would not face up to

making the cuts that have to be made in a responsible way to save money for the taxpayers of this country."

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. LONG. If this motion carries, we will be receding on the amendment of the Senate. That is the Superfund tax.

Mr. BENTSEN. That is right. I say to my friend that I do not think anyone worked harder than I did on the Superfund. I feel very strongly about it. But I feel that we will fight that one another day. I think that with all the work we have done in the subcommittees, and arriving finally at a compromise and an agreement, we should carry it out.

Mr. LONG. I supported the Senator in that matter every step of the way, as did most of us on this side of the aisle, but it is obvious to me that we cannot preavail on that. There is no way on Earth we can prevail on that matter. The House voted on it twice and defeated it by a larger vote the second time. Apparently, the House is not going to have a quorum, anyway. That means it is the end of it.

Mr. BENTSEN. We should understand that, as we cast this vote, we are sending it over there to die, because they do not have a quorum.

Mr. EXON. Mr. President, the inconsistency of the Senate Republican leadership on this issue is amazing.

Last night, the Republican leadership in the House successfully led the effort to knock out the VAT, thus making it possible for the President to consider signing the bill to cut up to $80 billion.

Now, today, the confused Republican Senate leadership lead the Senate fight to scuttle the Republican leadership in the House. These are the same people who claim they want budget reductions and balanced budgets. They invented and gave birth to the Gramm-Rudman fraud.

The Republican Senate leadership, when it came to put their votes where their rhetoric was, ignored these budget cuts and put it all off again.

Budget reduction leadership is not talk and posturing. It can only be accomplished by the courage to do and not delay.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, let us not be mistaken about this being sent to die. It is being sent to conference, and there are four or five issues. This is not something that is going to take weeks and weeks, and it is not going to take the legion-sized number of conferees we had to do it. Will the House recede on AFDC, quality control? Will they recede on unemployed parents? Will they recede on some of the new spending programs that were added? I do not know. But this is not being sent back to die, so far as this conferee is concerned. I hope it is going back to strike an honest bargain.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield the remainder of our time to the majority leader.

Mr. DOLE. Mr. President, I want to indicate that I hope we will all vote "no" on this and see what we can salvage in another conference.

I think the President made it rather clear that he would like to accommodate us if we would knock out some of these spending programs.

I think that those talking about Gramm-Rudman should be looking at spending programs, the additional money for black lung. It was a House provision. A lot of new programs were added on the House side in reconciliation.

So I hope the motion will not prevail.

I want to determine whether or not we can assume that this will be the last rollcall vote. Members on both sides have been asking me, and I do not know. We are prepared to suggest that we can do all the rest by voice vote. I am not certain.

Mr. JOHNSTON. Mr. President, we are prepared to state that on this side.

Mr. DOLE. If we prevail on this vote, I will request a conference and the appointment of conferees, and I do not think we need rollcall votes on that. I do not want anybody to leave and wonder why they were not properly advised.

Mr. FORD. Does this mean we will voice vote the black lung provision that you want to take out of the House bill?

Mr. DOLE. No, we are going to conference.

Mr. FORD. We are going to conference on that. We do not vote on black lung.

Mr. DOLE. We are not going to vote on the cigarette tax extension, either.

Mr. FORD. I understand that, but it comes next, I hope.

Mr. DOLE. Maybe.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute.

Mr. JOHNSTON. Mr. President, I yield to the distinguished minority leader.

Mr. BYRD. Mr. President, let there be no doubt about it: If this loses, we will go to the motion to insist, and that will send the reconciliation package back over there, and that will be the cemetery. That is where reconciliation will die.

The distinguished majority leader said it is "not our problem" as to whether the House has a quorum. It is a problem for those of us who want to see budget deficit reduction now.

Some Senators say the President will veto this bill if it goes to him. We can say that is "not our problem"; let the President make the decision. Is that what we are trying to avoid?

If we want budget reduction now, this is the easiest and quickest way of getting it. If we vote it down, remember, Gramm-Rudman will be here, and it will be all the tougher because we did not take the right action to send this bill immediately to the President of the United States.

I will not press for rollcall vote, but I will have the record show that I voted against the motion to insist.

Mr. DOLE. That would be true on the request for a conference and the appointment of conferees.

Mr. BYRD. On the motion to insist. I will vote "no" on the motion to insist.

Mr. DOLE. I assure my colleagues that following that, I will request a conference.

Mr. BYRD. I will support the motion to name conferees. The die will have been cast. The Senate will have to reappoint them.

Mr. DOLE. After this vote, there will be a voice vote on a motion to insist, and a voice on requesting a conference, and a voice vote on appointing conferees.

Mr. BUMPERS. Mr. President, I do not presume to take over the job of the majority leader, but would he entertain the suggestion to have unanimous consent, so that some of us can leave, so that we will know that this is the last rollcall vote?

Mr. DOLE. Yes. I make that unanimous consent request, that following the disposition of—well, I do not know whether we can do that. I do not know who is going to prevail.

Mr. BYRD. That is a constitutional matter. I do not think we can enter into any consent agreement that the vote must be by voice. I will not insist on rollcall votes. I want the record to show that I will vote against the motion to insist on the Senate amendment and go back to conference.

Mr. DOLE. Let us all keep our hands down, and nobody will get the yeas and nays.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. LONG. I will support the idea of a voice vote, but can we have it understood that we will simply have the same conferees we had before? That way, there will be no need for a vote.

Mr. DOLE. There is a slight difference, because I think Senator CHILES, at the request of that side, has been substituted. He will be here in January. That is the only change.

Mr. LONG. That is fine.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion of the Senator from Louisiana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from Alabama [Mr. DENTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. HATFIELD], the Senator from Florida [Mrs. HAWKINS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. TRIBLE], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

Mr. BYRD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Missouri [Mr. EAGLETON], the Senator from Colorado [Mr. HART], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Montana [Mr. MELCHER], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], and the Senator from Nebraska [Mr. ZORINSKY] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] and the Senator from Rhode Island [Mr. PELL] would each vote "yea."

The PRESIDING OFFICER (Mr. WALLOP). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 35, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—30

Armstrong	Bumpers	Glenn
Baucus	Byrd	Gore
Bentsen	DeConcini	Harkin
Bingaman	Exon	Heflin
Bradley	Ford	Hollings
Inouye	Long	Proxmire
Johnston	Matsunaga	Rockefeller
Kerry	McConnell	Sarbanes
Leahy	Mitchell	Sasser
Levin	Nickles	Stennis

NAYS—35

Abdnor	Hatch	Roth
Andrews	Hecht	Rudman
Boschwitz	Heinz	Simpson
Chafee	Helms	Specter
Cochran	Kassebaum	Stafford
D'Amato	Kasten	Stevens
Danforth	Laxalt	Symms
Dole	Lugar	Thurmond
Domenici	Mattingly	Wallop
Goldwater	Packwood	Warner
Gorton	Pressler	Wilson
Gramm	Quayle	

NOT VOTING—35

Biden	Evans	Metzenbaum
Boren	Garn	Moynihan
Burdick	Grassley	Murkowski
Chiles	Hart	Nunn
Cohen	Hatfield	Pell
Cranston	Hawkins	Pryor
Denton	Humphrey	Riegle
Dixon	Kennedy	Simon
Dodd	Lautenberg	Trible
Durenberger	Mathias	Weicker
Eagleton	McClure	Zorinsky
East	Melcher	

So the motion was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The quesion now is on the motion to insist.

Mr. BYRD. Mr. President, we have a general understanding that no one who was present at the time will make a request for the yeas and nays.

I ask that the RECORD show that I will vote no on the motion to insist and there are other Senators who want that same privilege. I ask unanimous consent that they may show that in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The following Senators asked that they be recorded as voting "No" on the motion to insist: Senators ROCKEFELLER, EXON, JOHNSTON, and DECONCINI.

The PRESIDING OFFICER. The question is on agreeing to the motion to insist.

The motion was agreed to.

Mr. DOLE. Mr. President, I request a conference with the House and that the Chair be instructed to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Clerk will state the names of the conferees.

Mr. DOLE. Mr. President, are the conferees the same as has previously been appointed, with one exception?

The PRESIDING OFFICER. With one exception, they are——

Mr. DOLE. I ask that they be approved without further reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. WALLOP) appointed:

From the Committee on the Budget—General conferees: Messrs. Domenici, Armstrong, Mrs. Kassebaum, Messrs. Boschwitz, Symms, Chiles, Hollings, Johnston, and Sasser.

From the Committee on Agriculture, Nutrition and Forestry: Messrs. Helms, Dole, Lugar, Cochran, Zorinsky, Leahy, and Melcher.

From the Committee on Armed Services: Messrs. Goldwater and Nunn.

From the Committee on Banking, Housing and Urban Affairs: Messrs. Garn, Heinz, Proxmire, and Riegle.

From the Committee on Commerce, Science and Transportation: Messrs. Danforth, Packwood, Goldwater, Pressler, Gorton, Stevens, Hollings, Long, Inouye, Ford, and Riegle.

From the Committee on Commerce, Science, and Transportation for the consideration of sec. 6701 of title VI only: Messrs. Danforth, Packwood, Goldwater, Hollings, and Long.

From the Committee on Energy and Natural Resources: Messrs. McClure, Domenici, Wallop, Johnston, and Ford.

From the Committee on Energy and Natural Resources for the consideration of sec. 6701 of title VI only: Messrs. McClure, Hatfield, Domenici, Johnston, and Ford.

From the Committee on Environment and Public Works: Messrs. Stafford, Chafee, Simpson, Symms, Bentsen, Burdick, and Lautenberg.

From the Committee on Finance—General Conferees: Messrs. Packwood, Roth, Danforth, Chafee, Long, Bentsen, and Matsunaga.

From the Committee on Finance—For PBGC and ERISA Subconference only: Messrs. Packwood, Chafee, Heinz, Mitchell, and Moynihan.

From the Committee on Finance—For CHAMPU's Medical Subconference only: Messrs. Durenberger and Baucus.

From the Committee on Finance—For private health insurance coverage subconference only: Messrs. Heinz, Wallop, Durenberger, Baucus, and Pryor.

From the Committee on Governmental Affairs: Messrs. Roth, Stevens, Mathias, Cohen, Eagleton, Levin, and Gore.

From the Committee on Labor and Human Resources—General conferees: Messrs. Hatch, Stafford, Quayle, Kennedy, and Pell.

From the Committee on Labor and Human Resources—For PBGC and ERISA subconference only: Messrs. Hatch, Nickles, Thurmond, Kennedy, and Metzenbaum.

From the Committee on Small Business: Messrs. Weicker, Gorton, and Bumpers.

From the Committee on Veterans' Affairs: Messrs. Murkowski, Simpson, and Cranston.

Conferees on the Part of the Senate.

Mr. DOLE. Mr. President, I want to thank again my colleagues for their patience and understanding. I really believe that we have reached the right result. I know it is difficult for those who have been conferees to look forward to going back to conference. But I am advised by the distinguished chairman of the Finance Committee, and the chairman of the Budget Committee that they believe there may be some opportunity to still achieve some savings.

The President is on record now of indicating that he will sign the measure if we take care of these six programs, with one caveat. There may be some more entitlement programs which are added that have not yet been discovered by the President's advisers.

So it seems to me that we have an opportunity, and I hope we can reach a quick agreement when we come back. Or, if the House is prepared to go to conference now, I assume we can round up a few people that might even do that. But that would be highly unlikely.

In praise of Senators ROCKEFELLER and BYRD for their efforts to achieve compromise on financing of Black Lung Trust Fund.

Mr. MATSUNAGA. Mr. President, as a member of the Senate Finance Committee, I have worked long and hard with my colleagues on the reconciliation legislation that we are attempting to pass in final form today. One issue that has been especially difficult is the large deficit of the Black Lung Disability Trust Fund. For many months, Senate and House members have disagreed over what approach should be taken to solve this problem.

My distinguished colleague, the junior Senator from West Virginia, Mr. ROCKEFELLER, entered into the deliberations as soon as the problem was identified. For many months, he has played a pivotal role in bringing concerned Members of Congress, coal industry officials, and the United Mine Workers of America together to form a consensus on an equitable and responsible solution to the Black Lung Trust Fund deficit.

As a conferee on reconciliation legislation, I was constantly briefed by Senator ROCKEFELLER in the recent months on this important matter. Although the coal industry and coal miners are not part of my fine State of Hawaii, I have sympathized with my colleagues who represent States whose economies are directly linked to the coal industry. In particular, I felt that our Nation should not retreat from its obligation to provide relief to the victims of the crippling disease of black lung.

With Senator ROCKEFELLER's advice and assistance, I decided to back a compromise that is now in the final reconciliation bill. It was nuclear whether the Senate and House leadership would agree to the compromise until the final hours of our deliberations. But fortunately, the arguments on behalf of the compromise plan convinced the conferees to adopt it.

I supported this compromise because I was convinced it will restore the solvency of the Black Lung Trust Fund. Thanks to the leadership of concerned Senators including Senator ROCKEFELLER, we have taken responsible action in time to avoid significant harm to the Black Lung Program.

There are others to congratulate for the efforts that were made on behalf of this provision of the reconciliation legislation. In particular, our distinguished minority leader, the senior Senator from West Virginia, Mr. BYRD, who helped a great deal to reach this positive outcome.

The people of West Virginia are indeed well represented in the U.S. Senate.

Mr. SASSER. Mr. President, as we now await final resolution of the conference report on the budget reconciliation bill, I would like to take just a few minutes to talk about one provision in the bill that I feel is both a major disappointment and ill-advised; namely, the banking provisions dealing with the Urban Development Action Grant Program.

I support the reconciliation bill. Overall, it represents much needed deficit reduction to the tune of some $83 billion over the next 3 years; $20 billion this year alone.

Differences between the House and Senate banking conferees regarding major housing authorization provisions has led to a situation where UDAG formula changes, which have tediously been negotiated over an extended period of time, are basically being held hostage. This is most unfortunate to the many communities around this Nation which have been bypassed over the past several years by a formula which unduly works to the advantage of cities in certain regions of the country to the detriment of other regions such as cities in the sunbelt, including my State of Tennessee.

A tremendous amount of time and effort has gone into assuring formula changes which will guarantee both the continuation and efectiveness of this important public/private partnership initiative. Those of us who wanted to restore UDAG's original mission, to restore its definition as a truly action-oriented program, undertook these negotiations some 2 years ago. We have finally produced a compromise which is a compromise in the truest sense of the word, it is bipartisan, spans all regions of the country, and crosses philosophical and ideological lines.

UDAG's original mission has not changed. It is to provide a chance for distressed ubran communities to stem the tide of decay, and to do it with a unique public-private partnership approach. It is "to assist cities and counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery." This commitment would come from a community's own citizens, its own businesses, its own State and local governments.

In times of fiscal and budgetary austerity, this is exactly the kind of initiative that we should be striving for. I regret that the changes that I and others including Senators RIEGLE, HEINZ, GRASSLEY, and D'AMATO have worked so hard to achieve are not included in this bill.

I do not know whether this reconciliation bill will be passed before we adjourn sine die today. But I would just like to state for the record that whatever happens here today, I will be back on this floor at the earliest possible time next year pressing for changes which will preserve the essential mission of the UDAG Program while at the same time trying to make changes in the distribution formula which are fairer and more equitable.

Mr. GORTON. Mr. President, one of the provisions of the reconciliation bill is intended to control Federal motor vehicle costs, so as to produce budget savings. I am concerned about the impact of this proposal on the Bonneville Power Administration (BPA). The BPA is principally financed by electric rate charges, and so reductions in its costs would be passed on through lower rates, rather than showing up as Federal budget savings. Given the exemption of the Tennessee Valley Authority and the Postal Service from this provision, as well as report language indicating that the purpose of the provision is to produce budget savings, I would anticipate that the Administrator of General Services would apply the act's requirements to vehicles the elimination of which would produce budget savings.

In addition, many of the vehicles of the BPA are special purpose vehicles used for electric system operation and maintenance, and are not supplied by GSA nor readily available for lease in the private sector. Such vehicles are clearly intended to be exempt from the act.

I ask unanimous consent that a letter from myself to Senator ROTH, the chairman of the Government Affairs Committee, and his reply to me, agreeing with this point, appear at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 6, 1985.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senator, Washington, DC.

DEAR BILL: I'm writing to let you know my concern that Amendment 857 to the Senate budget reconciliation bill—dealing with federal motor vehicle expenditure control—would have a substantial adverse effect on the Bonneville Power Administration [BPA], an effect that I don't believe the sponsor of the amendment intended. For these reasons I'm asking your support for a clarification of the definition of "motor vehicles" contained in the amendment.

As you know, the BPA is one of six federal power marketing agencies. It constructs, operates and maintains the electrical transmission system in the Pacific Northwest. Approximately 90% of its fleet is off-road and special purpose vehicles, used in the field.

These vehicles are required by the BPA in order to provide a reliable regional transmission network.

It is BPA policy to turn first to the General Services Administration [GSA] for their vehicle needs, and to purchase only those vehicles which GSA does not have available. There is no private sector alternative source for such specialized equipment. In addition, BPA is already in the process of conducting an A-76 study of its motor vehicle maintenance activities, to analyze whether these could be contracted to the private sector.

Given the unique characteristics of the BPA fleet, applying the requirements of Amendment 857 would result in a substantial paperwork burden to the agency with no real benefits through lower vehicle costs. I therefore ask your help in modifying the language to exclude such specialized field vehicles required by the six federal power marketing agencies from this amendment.

Attached is proposed bill and report which would seem to solve the problem.

Thank you for your attention.

Sincerely,

SLADE GORTON.

U.S. SENATE,
Washington, DC, December 17, 1985.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SLADE: I am responding to your December 6, 1985 letter regarding the Federal motor vehicle expenditure control provision included in the Senate budget reconciliation bill. You said this provision could have a substantial adverse impact on the paperwork burden to the agency with no real benefits through lower vehicle costs. We have reached agreement with the House, and I wanted to let you know the result now because of the uncertainty about when the conference report will be approved by the Congress.

The motor vehicle expenditure control provision in the final bill contains modifications that should allay your concerns. First, we simplified the data collection, study and reporting requirements which should reduce the paperwork burden, not only on BPA but also all Federal agencies subject to the provision. Second, we provided in the definition of "motor vehicle" that the Administrator of General Services could exempt from the provision's requirements "any other special purpose vehicle." This language was included to permit exclusion of field vehicles such as those required by Bonneville Power and the other five power marketing agencies. Therefore, I would expect the Administrator to act favorably on any request from these agencies for an exemption of their special purpose vehicles.

Sincerely,

WILLIAM ROTH, JR.
Chairman.

Mr. BENTSEN. Mr. President, there is no one in this Chamber more disturbed than I am by the failure of the other body to abide by the conference agreement, which was negotiated in good faith over many weeks.

But we must be realistic and deal with the options that confront us, and from what I can see those options are very limited. To be more precise, I believe they have been narrowed down to two.

We can either send a budget reconciliation bill to the White House or not.

Let me tell you what it means if the U.S. Senate fails to send a bill to the White House.

It means that the U.S. Senate will be responsible for adding $52 million to the Federal deficit every day that legislation is not signed into law.

We're talking here, after all, about legislation that will reduce the Federal deficit by more than $18 billion during the current fiscal year and by $74 billion over the next 3 years.

(So far as my own State of Texas is concerned, the budget reconciliation bill also ends a long controversy over revenues from offshore oil and gas. My State's economy is struggling and our State finances are strained. This legislation would provide $456 million to our State treasury immediately—money we need immediately—and a total of $772.4 million over the next 10 years. I fought hard in the Senate to insure Texas a fair share of these funds. We won that debate and we should carry out that decision.

It was only 1 week ago that the Senate approved legislation intended to eliminate the Federal deficit by 1991. Yesterday we voted for this legislation by a vote of 78 to 1. We are today facing our first hard choices on budget reduction since Gramm-Rudman was signed into law and a failure to act now—however persuasive the arguments might seem—would get this effort off on the wrong foot.

Mr. President, in my view we have no choice but to bring about this saving to the taxpayers and approve the budget reconciliation legislation sent to the Senate by the House of Representatives.

Thank you.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to extend beyond the hour of 6:30 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONRAIL

Mr. DOLE. Mr. President, when we return in January, unless there is something unforeseen which happens, and I do not anticipate anything, it will be the intention of the majority leader to turn to Conrail as the first order of legislative business.

That is a matter of extreme interest to many of my colleagues, and to the Secretary of Transportation.

I think the distinguished chairman of the Commerce Committee wanted to make some comments.

Mr. DANFORTH. Mr. President, let me express my appreciation to the majority leader for that announcement.

The offer of Norfolk Southern Corp. to buy Conrail expires at the end of the year. I met recently with the CEO of Norfolk Southern, Robert B. Claytor, to discuss the status of the sale of Conrail legislation (S. 638). I told Mr. Claytor that while the Senate will not have time to consider the matter fully this session, it is my intention to bring S. 638 to the floor as the pending business when we reconvene in January. On the basis of this assurance, Mr. Claytor has indicated that he considers this to be substantial progress and has committed that Norfolk Southern is willing to extend its agreement with the Department of Transportation long enough to allow the necessary consideration and a vote on S. 638.

SINE DIE ADJOURNMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 267, the adjournment resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 267), providing for a sine die adjournment of the first session of the 99th Congress.

There being no objection, the Senate proceeded to the immediate consideration of the concurrent resolution.

Mr. BYRD. Mr. President, may I ask the distinguished majority leader a question?

Does this resolution have in it the common provisions that have been put into such adjournment resolutions recently allowing the House and Senate to call themselves back?

Mr. DOLE. It does contain that language.

Mr. BYRD. I thank the distinguished majority leader.

Mr. DOLE. Mr. President, can we have that portion of it read? I think it is important.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

SEC. 2. The Speaker of the House, after consultation with the Minority Leader of the House, and the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, acting jointly, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 267) was agreed to.

Mr. DOLE. Mr. president, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, JANUARY 21, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes the 99th Congress, the 2d session, on Tuesday, January 21, 1986, that the reading of the Journal be dispensed with, that no resolution come over under the rule, and that the call of the calendar be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the Senator from Wisconsin, Mr. PROXMIRE, be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that following the special order, there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each, and, provided further, that the morning hour be deemed to have expired.

THE PRESIDING OFFICER. Without objection, it is so ordered.

FILING OF COMMITTEE REPORTS

Mr. DOLE. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until January 21, 1986, that committees be authorized to file reports between the hours of 10 a.m. and 3 p.m. on Wednesday, January 8, 1986.

THE PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 495, relating to housing programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 495), to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the joint resolution.

The PRESIDING OFFICER. The question is on the joint resolution.

The joint resolution was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY EXTENSION OF CERTAIN TAX PROVISION

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4006.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4006) entitled "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985", with the following amendments:

In lieu of the matter inserted by the amendment of the Senate to the text of said bill, insert:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "December 20, 1985" and inserting in lieu thereof "March 15, 1986".

SEC. 2. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 19, 1985. As an exercise of authority under the commerce, taxation, and other powers under the Constitution, the amendment made by section 1 shall be treated for purposes of all Federal and State laws as enacted on December 19, 1985.

In lieu of the matter inserted by the amendment of the Senate to the title of the aforesaid bill, insert: "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain medicare reimbursement provisions.".

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, will the majority leader yield?

Mr. DOLE. I am happy to yield to the distinguished Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I had intended to offer to this bill an amendment to extend the tax credits for renewable energy such as solar and geothermal projects. But, after consulting with the chairman of the Finance Committee, with the majority leader, and with the minority leader, I decided against offering the amendment because it would have put the tobacco and Medicare tax extensions in jeopardy. This is true because the House does not have a quorum, and it would have taken just one single voice to defeat the bill.

I was told that we could take up the matter of the renewable energy credits early next year which would be made retroactive to January 1 anyway.

I wish to express my deep appreciation to the chairman.

Mr. PACKWOOD. Mr. President, could I address the point raised by the Senator from Hawaii? As he knows, I have been a long supporter of this program. There are a good many other programs that are expiring. It would be my hope that any of those that are kept would be kept retroactive when they expire at the end of this year.

Mr. MATSUNAGA. I thank the chairman. I yield the floor.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I would like to inquire of the distinguished minority leader if he is in a position to confirm the following military nominations for posthumous promotions reported from the committee today: In the Army, to be captain, Lt. John K. Kosh, Lt. Paul D. Long, Lt. Joey McCarty, and Lt. Barry C. Powell.

To be chief warrant officer 4, CWO-3 Robert A. Bowen.

Mr. BYRD. Mr. President, I believe that these were officers who were on the plane which crashed. Not only do we not have any objection on this side, but we also support the request that the nominations be confirmed for posthumous promotion.

Mr. DOLE. Mr. President, I want to join the distinguished minority leader in urging the confirmation of the promotions.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider and confirm the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the nomina-

tions be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

The following named officers for posthoumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

ARMY

To be captain

Lt. John K. Kosh, [redacted]
Lt. Paul D. Long, [redacted]
Lt. Joey McCarty, [redacted]
Lt. Barry C. Powell, [redacted]

To be CWO-4, CWO-3 Robert A. Bowen, [redacted]

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAR-END WRAP-UP

Mr. DOLE. Mr. President, I know that most everyone is tired and anxious to leave. But before we adjourn, I would like to say a word of thanks to some of the many, many people who help lighten my workload, and make being majority leader, if not a cakewalk, a more pleasant experience.

First, ALAN SIMPSON, the assistant majority leader, whose ready sense of humor and canny insights have helped us out of many legislative thickets. And whose willingness to step in for me, when necessary has been of immeasurable help.

All of the Republican leadership, STROM THURMOND, President pro tempore, JOHN CHAFEE, the chairman of the Republican Conference, BILL ARMSTRONG, the chairman of the Republican Policy Committee, and JOHN HEINZ, the chairman of the Senatorial Committee, all have been of enormous assistance through this session.

And while we have had our differences, I want to offer my gratitude to the Democratic leader, the distinguished Senator from West Virginia BOB BYRD. Throughout the session he has been both approachable and forthright. Because of this and his willingnesss to act as a mediator we were able to come to resolution on many difficult issues.

Thanks also to the Secretary of the Senate, Jo-Anne Coe and her staff, including those in the office of the official reporters and those in the Parliamentarian's office who work under the fine direction of Bob Dove; the Sergeant at Arms, Ernest Garcia and everyone in his office; the secretary to the majority, Howard Greene and his staff, John Tuck, Elizabeth Baldwin, and the entire legislative scheduling and Cloakroom staff. And or course, the pages.

Rev. Richard Halverson, the Senate Chaplain, provides solace and inspiration to us day after day, and for this I offer my appreciation.

Finally, a special word of thanks to my staff, both those in my personal office and the majority leader's staff. Without their efforts, many of the achievements the Senate can point to would not have come about, or fallen short.

ACCOMPLISHMENT OF 1985

Mr. President, I think the Senate, and Congress for the matter, has many reasons to leave Washington feeling proud. This was a year when Congress took the initiative, set the agenda, and grappled with difficult, controversial, but imperative issues.

When we convened last January each of us had our personal legislative agendas. But, I believe all of us shared one overriding goal—a goal imposed upon us, I might add, by the American public. That was to finally come to terms with the perilous Federal deficit.

For some months, it may have looked like the Senate was on the road to nowhere. But, after many twists and turns, we finally adopted a budget resolution calling for historic deficit reductions. And in response to continued frustration over the deficit, passed the Gramm-Rudman-Hollings balanced budget plan. The capstone to the year's deficit-cutting efforts came just today, when we agreed to the budget reconciliation package—putting into effect as much as $83 billion in deficit reductions—approximately $69 billion in outlays over 3 years, and $14 billion in additional revenues. I am very disappointed that we were unable to reach final agreement with the House because of the debate on the financing of Superfund.

The whole tone and tenor of this session was set by the deficit. Almost every action we took, whether it was authorizing defense programs, or providing credit for American farmers, was touched by the deficit.

Gone are the days when Congress had the luxury of creating new Federal programs. Today we must live with the realities of retrenchment. We, like it or not, are charged with deciding what the Federal Government's role really is. Those decisions are not easy ones. And we have only just begun to confront them.

Next year's challenges will be monumental. But we should not give short shrift to what Congress, through its determination, achieved this year. No longer can the American people doubt that we are serious about putting our fiscal house in order; 1981 marked a turning point in our Nation's economic history. Congress did not change course in 1985, but it shifted into high gear. And we will stay in high gear until we have guaranteed, through responsible fiscal policies, that economic growth and prosperity are here to stay.

While economic concerns were the focus of this session, questions of national and world-wide security were also central. And I believe our record, on the defense budget, aid to the Nicaraguan Contras, South Africa, the Jordan arms sale, the compact of free associations, and many others, is one that sustains our country's commitment to perserving world peace.

Congress also passed historic reforms in agriculture policy. The farm bill, which we cleared yesterday, sets a new direction by reducing support for basic commodities, increasing funds for export promotion and farm credit programs, and extends the Food Stamp Program. And the farm credit bill, should provide farmers with the credit aid they need by shoring "P," the multibillion dollar Farm Credit System.

The Senate also dealt with issues long overdue for action—the foreign aid authorization bill, gun control, nominations to the Legal Services Corporation. And while Congress did not complete work on several major issues, the Senate-passed Superfund, immigration, and clean water legislation.

Mr. President, the list of measures and issues, considered or adopted by the Senate is long and impressive. And rather than go on, at this point I would ask unanimous consent to insert in the RECORD a summary, prepared by each of the committees, of this session's accomplishments.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY DURING THE 1st Session of the 99th CONGRESS

The Committee on Agriculture, Nutrition, and Forestry guided by its distinguished chairman, Senator JESSE HELMS, has developed in the first session of the 99th Congress agricultural programs that will signficantly affect the Nation and the world. Congress has an important role to play as partner with the farm community in strengthening the farm economy and in assuring farmers and ranchers the greatest possible opportunities for operating profitable farm and ranching businesses.

During the first session of the 99th Congress, the committee conducted nine confirmation hearings on Presidential appointments, and reported favorably on every nomination.

The committee received and reviewed 25 reports on various Department of Agriculture functions; 99 bills, resolutions, and amendments were referred to the committee and its six subcommittees; and six reports on legislation were filed. The committee conducted 27 hearings, six field hearings, and four subcommittee hearings relating to farm legislation and executive branch appointments. The committee conducted 49 legislative drafting sessions over 38 different days, and 12 sessions in conference over 8 days.

The committee's work during the first session of the 99th Congress was centered around the Food Security Act of 1985, otherwise known as the farm bill. Other legislation included a bill to defer the wheat referendum, and the reporting of several measures which were subsequently incorporated into the farm bill.

The farm bill reauthorized price and income support and production control programs for the 1986–90 crops of wheat, feed grains, unplant cotton, rice, soybeans, sugar and peanuts, as well as for production of dairy products, honey and wool and mohair. It also included major legislation and reauthorization for:

Public Law 480, the Food for Peace Program;

Other key farm export programs, including authorization of an intermediate farm credit program;

Authorization of a 40-million acre conservation reserve to retire highly erodible acres from producing a compromise on the status of clear title regarding mortgaged commodities;

The Food Stamp and Nutrition Programs;

Major modifications in annual welfare legislation; and

The first restructuring in legislation governing application of the cargo preference laws to agricultural exports.

In addition, the committee reported legislation fulfilling its obligations under the reconciliation procedures of the Budget Act, reducing spending in agricultural functions by $7.9 billion over 3 years. This legislation included modifications in export programs, agricultural credit programs, and the Food Stamp Program. These provisions were subsequently included in the farm bill.

Also, legislation reforming the Farm Credit System was passed by the Senate under committee direction. This legislation provided for the restructuring of the Farm Credit System revamped and increased the regulatory authority of the Farm Credit Administration and authorized Federal assistance to the system should that prove necessary.

Further, under the committee direction the Senate-passed legislation to extend certain expiring child nutrition programs, with a conference on similar legislation passed by the House of Representatives to be held early in the second session of the 99th Congress.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON APPROPRIATIONS DURING THE 1ST SESSION OF THE 99TH CONGRESS

The 1st session of the 99th Congress has been an extremely busy one for the Committee on Appropriations. During the year, 18 separate appropriations measures were considered and passed by the Senate.

Although none of the 13 regular appropriations bills were enacted prior to the start of the fiscal year, 6 of these measures have subsequently become law. These included: the energy and water development; Commerce, Justice, State, judiciary; legislative, Housing and Urban Development; Transportation; Labor, Health and Human Services; and finally, the military construction appropriations bills. Extreme budgetary constraints confronting the Congress, and the attendant difficult choices and priorities, have resulted in prolonged delays in the consideration of budget and appropriation legislation.

It was not until September that the guidance on overall budgetary allocations was provided to the committee. This allocation represented an unprecedented degree of expenditure stringency. The committee met this challenge and has succeeded in reporting to the Senate all 13 regular appropriations bills, and 10 of these bills were subsequently passed by the Senate. In addition to the six appropriations bills noted above, the Senate also passed the following appropriations bills: Agriculture, rural development, and related agencies; Housing and Urban Development; Treasury; Postal Services; and finally the District of Columbia appropriations bill.

Unfortunately, the very heavy Senate schedule this fall precluded final action on all these separate measures. During debate on the final continuing resolution, however, the Senate was able to express its will on the remaining appropriations legislation and again the actions recommended by the committee have yielded appropriations for fiscal year 1986 within the total budget allocation for budget authority within its jurisdiction.

SUMMARY OF ACTIVITIES—1985 OF THE SENATE COMMITTEE ON ARMED SERVICES DURING THE 1st Session of the 99TH CONGRESS

The Senate Committee on Armed Services consists of 19 members: Senator Barry Goldwater (R-AZ), Strom Thurmond (R-SC), John W. Warner (R-VA), Gordon J. Humphrey (R-NH), William S. Cohen (R-ME), Dan Quayle, (R-IN), John P. East (R-NC), Pete Wilson (R-CA), Jeremiah Denton (R-AL), Phil Gramm (R-TX), Sam Nunn (D-GA), John C. Stennis (D-MS), Gary Hart (D-CO), J. James Exon (D-NE), Carl Levin (D-MI), Edward M. Kennedy (D-MA), Jeff Bingaman (D-NM), Alan J. Dixon (D-IL), and John Glenn (D-OH). There are currently six subcommittees: Military Construction, Strategic and Theater Nuclear Forces, Preparedness, Sea Power and Force Projection, Manpower and Personnel, and Defense Acquisition Policy.

There were 66 Senate bills, resolutions and joint resolutions and 6 House bills referred to the Committee in 1985. Five of these bills were enacted into public law.

The Committee devoted a great deal of time to an analysis of the FY 1986 Department of Defense Authorization Bill. A total of 59 hearings and 14 markups were held by the Committee and its subcommittees on this bill. Conference was completed on July 26, 1985, after two weeks of intense deliberation. The bill was signed into law by the President on November 8, 1985. The bill includes authorizations for procurement, research and development, operation and maintenance, stock funds, special foreign currency programs, and various other legislative provisions for the Department of Defense. When combined with the effects of other defense funding legislation, the conference bill authorized appropriations of approximately $302.5 billion in budget authority for the FY 1986 National Defense function, a reduction of $19.7 billion from the President's request. This amount is consistent with the funding level approved by the Congress in the First Concurrent Budget Resolution, and represents inflation-only growth over final funding approved for FY 1985.

During the meetings of the Committee to discuss tactical warfare issues the focus was to continue the essential modernization of our conventional forces and to strive to achieve the most efficient and economic production rates of tactical systems.

The Subcommittee on Strategic and Theater Nuclear Forces conducted 12 hearings during February and March in connection with the FY 1986 Defense Authorization bill. These hearings focused on U.S. strategic offensive force programs; the Strategic Defense Initiative; strategic command, control and communications; theater nuclear forces; and the binary chemical modernization program. The members received several classified briefings on Soviet capabilities.

This Subcommittee also conducted two hearings on the serious issue of Soviet treaty violations. These hearings addressed the actual violations and their implications for U.S. national security. The Subcommittee began to focus on the issue of how the U.S. should respond to Soviet treaty violations, and will continue to study this issue next year.

The meetings of the Subcommittee on Preparedness concentrated on the readiness of the United States military capability. The readiness review was conducted in conjunction with the oversight of the operation and maintenance and ammunition portions of the DOD budget request. In making recommendations on the level of DOD authorizations for these two areas of the budget, military capability was also examined. Specific areas of the concern upon which this subcommittee focused during 1985 were: the increasing overhead costs involved in supporting the expanded defense buildup; the shortfalls in ammunition stockpiles and production base; procedures for estimating current and future O&M funding requirements, trends in military capability; force readiness and force sustainability; and review of potential cases of waste and abuse in the accounts under the responsibility of the Preparedness Subcommittee.

There were 8 hearings of the Subcommittee on Sea Power and Force Projection in 1985. The full Committee was also briefed in January on the Navy's "Forward Maritime Strategy." During February and March, the Sea Power and Force Projection Subcommittee held additional hearings beginning with a classified assessment of the current global maritime threat to U.S. interests. Subsequent hearings addressed such issues as the Navy's global commitments, the U.S. fleets' readiness and sustainability, and the Air Force airlift program. The subcommittee also held a hearing in October to consider Senate Bill S. 535, the "National Shipbuilding Industrial Base Act of 1985."

In the 15 meetings of the Subcommittee on Manpower and Personnel, the Committee embarked upon a course to make more efficient use of compensation funds. The committee recommended that military retirement be restructured so that more compensation would be available for use during active duty careers. Specific legislation to effectuate these changes will be considered by the Committee early in 1986. At the

same time, the Committee took action to improve a number of special and incentive pays and to improve the quality of life for military personnel. The Committee also conducted a number of hearings on the military health care system, and continues to work with the Department of Defense in the formulation of programs which will improve that system's ability to provide top quality health care to military personnel and their families.

The Defense Acquisition Policy Subcommittee held ten hearings in 1985 on defense acquisition issues. The first two hearings, on January 30 and February 20, were devoted to receiving testimony on the strengths and weaknesses of the defense acquisition system from defense industry executives and procurement experts. Four additional hearings in March addressed the issues of increasing the professionalism of the acquisition workforce, the audit practices of the Department of Defense, the employment of former DOD acquisition personnel and the cost estimating procedures used by the Department of Defense. Finally, the Subcommittee held four oversight hearings during October and November on the implementation of the 1984 defense acquisition legislation.

The Subcommittee on Military Construction analyzed the Fiscal Year 1986 Military Construction Authorization Bill, which, as enacted, authorized $9.2 billion to replace outmoded and dilapidated operations, maintenance and training facilities as well as much needed family housing. Construction in support of new weapons as well as new missions accounted for $3.5 billion of the total. This year the Congress also passed legislation making it easier to close down unneeded and inefficient military bases and legislation promoting innovative alternative financing methods.

In May 1985, Senator Goldwater and Senator Nunn formed a Task Force on Defense Organization to focus the work of the Armed Services Committee on the organization and decision-making procedures of the Department of Defense and the Congress. The Task Force is co-chaired by Senator Goldwater and Senator Nunn and consists of Senators Cohen, Quayle, Wilson, Gramm, Bingaman, Levin and Kennedy. Almost two years earlier, Senator John Tower and the late Senator Scoop Jackson, directed the Committee staff to prepare a comprehensive study of this complex issue. Under the guidance of the Task Force, the staff completed and released its study, entitled Defense Organization; The Need for Change, on October 16, 1985.

In November, the Armed Services Committee initiated a lengthy series of hearings on the organization of the Defense Department and the Congress. The Committee held a total of 10 hearings in which it took testimony from 27 witnesses, and expects to consider legislation on this issue early in the second session of the 99th Congress.

Over the course of the past year the Committee reviewed the qualifications of and made recommendations to the Senate on thirteen Presidential nominees. Among these nominees were Admiral William J. Crowe, Jr. to be Chairman of the Joint Chiefs of Staff and John E. Krings to be the Director of Operational Test and Evaluation, a new position created by Public Law 98-94. The Committee also acted on 52,310 military nominations in the Army, Navy, Marine Corps and Air Force. All of these nominations were confirmed by the Senate.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

During the first session of the 99th Congress the Senate Committee on Banking, Housing, and Urban Affairs, under the Chairmanship of Senator Jake Garn (R-Utah) continued its efforts to address significant issues raised in the rapidly changing financial services marketplace.

At the end of the 98th Congress the Senate Banking Committee brought together S. 2851, The Financial Services Competitive Equity Act, which passed the Senate 89 to 5, and sent the passed version on to the House but ended with the adjournment of the 98th Congress.

The size of the passing margin reflects the pressing need for legislation to continue addressing the competitive issues, consumer protection, and the regulatory issues raised by the constant changes in our financial services industry.

Chairman Garn says the Senate Banking Committee does not have to start all over again. Most of the issues defined in S. 2851 have not changed since the 89 to 5 vote last September. Modifications, if any, will be considered.

Members of both Houses consider the deposit insurance reform issue as the priority in the 2nd session and will command detailed attention at the full Committee level.

During the 1st session of the 99th Congress the full Committee and its Subcommittee held a total of 52 days of oversight and legislative hearings, having 289 witnesses testifying and contributing ideas to proposed legislation.

The Senate Banking Committee continued its oversight hearings on monetary policy for the first session of the 99th Congress in the calendar year of 1985. Two hearings were held, the first on February 20, 1985 and the second on July 16, 1985. Discussions were centered on Domestic and International economic developments, monetary aggregates, interest rates and velocity. The Committee continued its practice of inviting officials from the regulatory agencies and private economists to assist the members in their deliberations. Reports of the two hearings conducted by the Committee are:

Senate Report 99-22, April 2, 1985.

Senate Report 99-149, October 4, 1985.

The 52 days of hearings not only included the deposit insurance reform issue but also 9 days of oversight hearings on the Comprehensive Reform in the Financial Services Industry, etc.

In view of the fact that no banking legislation passed into law during the 1st session of the 99th Congress, the Senate and House Banking Committees emphasize that the legislative pace during the 2nd session will pick up around April 1987, with a bill hopefully being signed into law by the President in July 1986.

ACTIVITIES OF THE SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

During the first half of the 99th Congress the Subcommittee focused its attention on all areas of housing and urban affairs. Every aspect of the issues charged to the Housing Subcommittee was examined in light of the President's budget proposal and the crippling deficits currently facing the United States.

The full Committee held three hearings: March 22, March 25 and April 15, on housing and urban affairs. Numerous representatives of transportation, community development, rural housing, as well as the Secretary of HUD and the head of the Office of Management and Budget testified before the Committee.

Under the Budget Reconciliation Act (S. 1730), four issues within the Subcommittee's area of responsibility were addressed:

(1) Section 108 Community Development Loan Guarantee Program: This saves the Federal Government $250 million annually, the same result as eradicating the program (the Administration's original proposal). It prohibits the Federal Financing Bank from purchasing notes or other obligations guaranteed under Section 108 of the Community Development Block Grant Program after June 30, 1986, and requires the Secretary of HUD by July 1, 1986, to take the actions necessary to provide for the financing by the private sector of loans guaranteed under Section 108. It also authorizes $1.279 billion in fiscal year 1986 for public housing operating subsidies.

(2) Rural Housing Authorization: This section provides that the aggregate principal amount of loans that may be guaranteed or insured in fiscal year 1986 may not exceed $2,146,600,000 to be allocated as follows: Sec. 502 homeownership loans $1,209.6 million; Sec. 515 rental loans $900 million; Sec. 514 farmworker housing loans $19 million; Sec. 524 site loans $1 million; and, Sec. 504 repair loans $17 million.

Management of Insured and Guaranteed Loans: (a) Prohibits rural housing loans made directly by private lenders and insured by the Farmers Home Administration from being sold to the Federal Financing Bank; (b) Provides that each insured or guaranteed loan contain an agreement by FmHA to pay the difference between the interest rate paid by the borrower and the full private market rate of interests. (c) Provides for protection of the borrowers' rights by requiring that the loan be assigned to the Secretary in the event of a substantial default but before foreclosure. Congress intends that the FmHA follow the practices of private mortgage bankers and lenders with regard to defining substantial defaults and that the full forebearance provisions under existing law be extended to the borrower; (d) Provdes that the rights available to the borrower prior to the enactment of this provision will continue; (e) further provides for a loss reserve account of not less than 5 percent of the loans sold to the public and makes other conforming changes in existing law.

(3) Operating Subsidies: The level of funding for public housing operating subsidies for fiscal year 1986 was set at $1.279 billion (the same amount as provided in the HUD Appropriations Act 99-160).

(4) Public and Indian Housing Loan Debt Forgiveness: Provides that loans made for public and Indian housing, as well as modernization assistance, will be forgiven at the end of each fiscal year. It also gives direction for the use of the budget authority in the HUD Independent Appropriations Act of 1986, P.L. 99-160, which provides funds for new public housing development and modernization on the basis of long-term financing through sales of tax-exempt securities issued by public housing authorities. The conferees action in meeting the reconciliation directive concerning public housing debt forgiveness leaves open the possibility that if tax-exempt financing is not possible in the future the financing mechanism provided for in this section will be used. if this approach is used the conferees intend that any budget authority not needed to fund the 7,000 additional public and Indian hous-

ing units or provide the level of modernization activity assumed by the Appropriations Committee will be rescinded.

These matters were settled when the Budget Reconciliation Act was voted on and passed, December 19, 1985.

Many of the Federal Housing Act mortgage programs, Home Mortgage Disclosure Act, crime and flood insurance programs, and entitlement communities were scheduled to, and did expire on September 30, 1985. The Senate voted on a temporary extension of these programs on October 20 to extend through November throught November 14 and 15. When that extension ran out, the Senate once again extended the same programs through December 15 and 16.

A third proposal to extend these programs through March 17, 1986 was voted and passed on December 19, along with the other requirements under the Budget Reconciliation.

The Subcommittee did not consider any Presidential nominations. Any nominations considered were taken up by the full Committee on Banking, Housing and Urban Affairs.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

REAUTHORIZATION AND AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1979

Authorities under the Export Administration Act of 1979 expired on March 30, 1984. The Committee gave priority to enactment of reauthorization legislation early in this session. On July 12, 1985, the President signed Public Law 99-64, renewing authorities under the EAA through September 30, 1989 and making numerous amendments to the Act. These amendments would significantly tighten up the enforcement of national security export controls, improve the organization among Government agencies for administering and enforcing export controls, remove outdated controls, streamline the processing of export license applications, and provide greater predictability to export administration, thereby promoting the reliability of U.S. exporters.

The legislation adopted reflected work begun in the 98th Congress but which was still in conference at the time of sine die adjournment in 1984. These amendments represent the most extensive revision of our export control laws since the adoption of the Export Control Act of 1948.

ANTI-APARTHEID ACT OF 1985

One of the first items of business before the subcommittee was consideration of legislative options to address the growing problem of apartheid in South Africa. One hearing was held in the full committee, on April 16, and two hearings were held in the Subcommittee on International Finance and Monetary Policy, on May 24 and June 13. Legislation reported by the Committee on Foreign Relations and adopted by the Senate, and the imposition of sanctions against the Government of South Africa by President Reagan, made further action by the Committee during the Session unnecessary.

LENDING TO SOVIET BLOC COUNTRIES

The dramatic resumption of private bank lending to the Soviet Union and its allies—totaling approximately $1.7 billion loaned or syndicated by U.S. banks in 1985—and the lack of non-emergency authority for the President to regulate such lending prompted Senators Garn, Proxmire, D'Amato, Mattingly, and Hecht to sponsor S. 812, the Financial Export Control Act. This bill, introduced on March 28, would amend the Export Administration Act of 1979 to give the President discretionary authority to control the making of loans and other transfers of capital to the countries to which exports are prohibited for national security purposes under the Act.

Two hearings were held on the legislation in the Full Committee, on September 26 and December 4, with further action to be taken in the Second Session.

MIXED CREDIT WARCHEST

Significant progress has been achieved in recent years to limit official export credits as elements in international export competition. One area where progress has not been seen is in efforts to eliminate the practice of promoting export sales by offering credits with very concessional terms, made possible by mixing foreign aid grant money with the official export credit. As competition has been regulated in other areas of official export credits recourse to mixed credits has increased. The United States, which traditionally has offered very few mixed credits, has failed to obtain progress in negotiations on mixed credits within the Organization for Economic Cooperation and Development (OECD). France, Italy, and Belgium in particular have opposed efforts to raise the minimum allowable grant element in mixed credits, which would make them truly foreign aid and too expensive to be used as a tool for commercial purposes.

In September President Reagan adopted an approach to this problem that had been proposed in legislation by Members of the Committee as early as the 97th Congress. The President submitted legislation to the Congress that would authorize the creation of a $300 million warchest to allow the United States to combat mixed credit offers by initiating a temporary mixed credit program of our own.

The legislation was introduced on October 10 by Committee Members Heinz, Garn, and Dixon, as well as by Senators Danforth and Chafee. A hearing was held on October 30, in the Subcommittee on International Finance and Monetary Policy. Further action is expected early in the Second Session.

EXPORT-IMPORT BANK PROGRAMS

On February 5, the Subcommittee on International Finance and Monetary Policy held an oversight hearing on the programs of the Export-Import Bank. The President's FY 1986 budget submission had called for the elimination of the Bank's direct loan programs, replacing them with an interest subsidy program. Witnesses in the hearing focused on this proposal in particular. No action was taken on the proposal during the Session, the Congress choosing instead to continue with the Bank's direct loan program, thought at a level less than one-third of the authorization for fiscal year 1985.

EXCHANGE RATE MISALIGNMENT

The Subcommittee on International Finance and Monetary Policy conducted a hearing on October 23 on the exchange value of the dollar, the causes of its high value, the consequences for U.S. trade, and proposals for addressing the identified problems. The United States is experiencing record trade deficits, caused in large part by a high value of the dollar that acts as a tax on U.S. exports and as a subsidy for imports. This erosion in our international competitive position jeopardizes the industries with a major dependency on export sales, among which are industries important to our national security and defense production.

Legislation was introduced (S. 1860, and S. 1866) on November 20, which would support the steps undertaken by the Administration to enhance coordination of macroeconomic policies by the major industrial countries and also encourage coordinated intervention by these countries in the foreign exchange markets. That legislation will be taken up in the Second Session.

JAPANESE TARGETING OF U.S. SEMICONDUCTOR INDUSTRY

The United States semiconductor manufacturing industry is in the midst of a major recession. The Subcommittee on International Finance and Monetary Policy held a hearing to review allegations that this business decline was due in large part to unfair Japanese trade practices, both in terms of closed access to the Japanese domestic market for U.S. producers and in terms of unfair marketing practices by Japanese companies in the U.S. market. Substantial evidence was presented to substantiate these claims, and a strong record was established.

In a related step, the Commerce Department announced on December 6 that it was self-initiating an anti-dumping investigation on 256K Dynamic Random Access Memory Components (DRAMs) from Japan, which situation had been discussed in detail in the Subcommittee hearing.

SUBCOMMITTEE ON SECURITIES

IMPACT OF CORPORATE TAKEOVERS

One of the first items of business before the subcommittee was consideration of legislation to halt corporate raiders resort to coercive and unfair tactics in takeover attempts.

The subcommittee held 4 days of oversight hearings with Chairman D'Amato presiding and with a distinguished group of witnesses that appeared for these hearings, helped to indicate the magnitude of these problems and suggested ways that can better protect hostile takeovers.

REGULATION OF GOVERNMENT SECURITIES

On May 9, 1985 Senator D'Amato called to order a hearing to consider legislation on the recent problems associated with auditing practices and accounting standards of the Government securities market. The current problems include customer education, possible changes in accounting practices, as well as a regulatory scheme to require registration and changes in standards for capital adequacy in dealer practices.

REAUTHORIZATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION, 1986-88

On April 17, 1985, Senator D'Amato chaired a hearing to consider the SEC request for reauthorization for fiscal years 1986-88.

The second purpose of the hearing was to use it as a forum to explore some of the recent problems associated with the Government securities market such as the series of failures in the unregulated Government securities market.

S. 919 was introduced by Senator D'Amato to help prevent bankruptcies and save the depositors' confidence in the securities market. Legislation is still pending.

THE SHAREHOLDER COMMUNICATION ACT OF 1985—S. 918

S. 918 passed the Senate on December 18, 1985, this legislation that invests the Securities and Exchange Commission with the authority to promulgate rules regarding the dissemination of proxy materials to shareholders whose shares are held in certain

trust accounts by bonus and other financial institutions. Prior to the enactment of this legislation, the SEC did not have the authority to promulgate regulations in this area that applied to banks. The House passed identical legislation (H.R. 1603) this

AMENDMENT TO THE PUBLIC UTILITY HOLDING COMPANY ACT—S. 727

S. 727 exempts three natural gas companies from the provisions of PUHCA by allowing them to engage in cogeneration activities. This legislation was needed to realize the legislative intent of the Public Utilities Regulatory Policy Act. The Senate passed S. 727 in November and identical legislation was passed by the House in December.

Bills introduced and referred to the Committee totaled 235 with 12 being reported out of the committee and 7 becoming public law as of December 19, 1985.

PUBLIC LAWS ENACTED IN THE FIRST SESSION OF THE 99TH CONGRESS

Public Law 99-4: H.R. 1251.—Mass Transportation projects for fiscal years 1984 and 1985 enacted March 13, 1985.

Public Law 99-61: H.R. 47.—Coin commemoration of the centennial of the Statue of Liberty enacted July 9, 1985.

Public Law 99-64: S. 883.—To extend the Export Administration Act of 1979 enacted July 12, 1985.

Public Law 99-86: H.J. Res. 251.—Enacted August 9, 1985. Gold medal honoring George Gershwin.

Public Law 99-120: H.J. Res. 393.—Enacted October 8, 1985. To provide for temporary extension of certain programs relating to housing and community development.

Public Law 99-156: H.J. Res. 449.—Enacted November 15, 1985. To provide for the temporary extension of certain programs relating to housing community development.

Public Law 99-185: S. 1639.—To provide for the minting of four gold bullion coins enacted December 17, 1985.

SUMMARY OF THE ACTIVITIES OF THE COMMITTEE ON THE BUDGET

The Budget Committee faced perhaps the most difficult challenges of any committee in the Senate. If we have the will to follow through on our 1985 achievements, 1985 may prove to the year that launched the final assault on our number one domestic problem: the Federal budget deficit.

As early as January, Senator Domenici began working with the leadership in establishing the budget deficit as the top priority for the 99th Congress. We introduced S. 1, which set firm deficit goals for the Congress, getting the budget deficit down to 2% of GNP by 1988. That legislative proposal laid the groundwork for the extended negotiations over the 1986 budget—including the submission of the President's budget, the development of a Senate budget, and very detailed discussions with our committee chairman about how we could achieve our budget targets.

In May of this year, by a one-vote margin the Senate agreed to a very tough—but realistic—budget that would have met our deficit goals with real spending cuts. That budget would have terminated many programs and put real restraint on entitlements, as well as restraining defense and other discretionary spending.

There is no point at this late date in lamenting the Senate budget of last spring. Many members remain disappointed that we could not reach agreement with the House and the White House on the kind of deficit-reduction plan we needed. But the Senate showed courage and determination in tackling the budget issue.

The disappointment of our first try at the budget was not the last word for 1985. In consultation with the leadership, the Senate conferees on the budget decided to go for whatever savings we could get out of the budget process. In so doing, the Senate produced the largest reconciliation bill in history. The savings in that bill were reduced by the conference agreement we passed today, but that does not diminish the magnitude of the Senate's achievement.

FOLLOWING THROUGH

We also followed through on the budget—at times with considerable difficulty, because the role of the Budget Committee necessarily generates friction with other Members—by working to ensure that the appropriations bill came in line with the budget targets we set for ourselves. The large majority of the appropriations measures we have passed have been kept within the budget targets because of the work of the Budget Committee and with the cooperation of our colleagues.

Finally, the Budget Committee played an important role in setting the stage for a major deficit reduction effort over the next 5 years. The Budget Committee gave critical advice and counsel in developing and refining the Gramm-Rudman-Hollings deficit control measure, and in working with the Finance Committee to secure agreement with our House colleagues on this important reform of the way we do our budget business.

Whatever happens from this point, it is gratifying to note that, despite the ups and downs we have seen on the budget this year, we have ended up very close to our original budget goals. The mandatory deficit targets of Gramm-Rudman-Hollings will bring us essentially to the deficit targets we set at the beginning of the year. Following through to meet those targets is the challenge of 1986.

SUMMARY OF THE ACTIVITY OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR THE 1ST SESSION OF THE 99TH CONGRESS

During the 1st Session of the 99th Congress a total of 139 Senate Bills and Resolutions, 4 amendments and 14 House passed measures were referred to the Committee on Commerce for consideration.

The Committee has reported 34 different measures. Ten have become public law. One bill is in conference. Ten measures have passed the Senate and await House action. Twelve bills reported out of Committee remain on the Senate Calendar awaiting Senate Consideration. Several bills reported or passed will be part of the report on Budget Reconciliation.

The Committee held 26 days of hearings on legislation referred to the Committee and 70 days of hearings were in connection with the Committee's oversight responsibilities and on Presidential nominations before the Committee.

A total of 30 nominations, excluding routine National Oceanic and Atmospheric Administration and Coast Guard nominations, were referred to the Committee in the 1st Session of the 99th Congress. Twenty-seven of these nominations were reported out of the Committee and twenty-six were confirmed by the Senate; one nomination remains pending on the Senate Calendar.

The Committee held 13 days of markup sessions to consider and report out matters within its jurisdiction.

A complete listing of the Commerce Committee's activities follows:

PUBLIC LAWS ENACTED DURING THE 1ST SESSION OF THE 99TH CONGRESS

Public law, bill, date, and title.

99-5, H.R. 1093, March 15, 1985, Pacific Salmon Treaty Act of 1985.

99-36, S. 597, May 15, 1985, Technical and Conforming Changes in the Shipping Laws.

99-45, S. 661, March 24, 1985, George Milligan Control Tower.

99-59, S. 413, July 3, 1985, War Risk Insurance Act.

99-62, H.R. 2800, July 11, 1985, Land Remote-Sensing Commercialization Act Reauthorization.

99-73, H.R. 1617, July 29, 1985, National Bureau of Standards Authorization Act for Fiscal Year 1986.

99-97, S. 818, September 26, 1985, Federal Fire Prevention and Control Act Authorization.

99-105, S. 817, September 30, 1985, National Earthquake Hazards Reduction Act Authorization.

99-159, H.R. 1210, November 22, 1985, National Science Foundation Authorization Act for Fiscal Years 1986 and 1987.

99-170, H.R. 1714, December 10, 1985, National Aeronautics and Space Administration Authorization Act, 1986.

99-171, H.R. 3235, December 10, 1985, Mississippi Technology Transfer Center Act.

BILLS IN CONFERENCE

S. 1078 (Federal Trade Commission Act Amendments of 1985)—A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes.

PASSED SENATE AND AWAITING HOUSE ACTION

The following Commerce Committee bills have passed the Senate and are pending in the House of Representatives:

S. 63 (In-Flight Medical Emergencies Act)—A bill to encourage the rendering of in-flight emergency care aboard aircraft by requiring the placement of emergency first aid medical supplies and equipment aboard aircraft and by relieving appropriate persons of liability for the provision and use of such equipment and supplies.

S. 475 (Motor Vehicle Information and Cost Savings Act Amendments)—A bill to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes.

S. 679 (Maritime Appropriation Authorization Act for FY 1986)—A bill to authorize the appropriation of funds for certain maritime programs for fiscal year 1986.

S. 813 (Pipeline Safety Programs Authorization)—A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1986 and 1987, and for other purposes.

S. 990 (National Oceanic and Atmospheric Administration Program Support Authorization Act)—A bill to consolidate and authorize program support and certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce.

S. 1073 (Japanese Technical Literature Act of 1985)—A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 for the purpose of improving the avail-

ability of Japanese science and engineering literature in the United States, and for other purposes.

S. 1077 (Consumer product Safety Commission Authorization Act of 1985)—A bill to amend the Consumer Product Safety Act to provide authorization of appropriations for 1985.

S. 1103 (National Oceanic and Atmospheric Administration Atmospheric and Satellite Program Authorization of 1985)—A bill to authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes.

S. 1574 (Comprehensive Smokeless Tobacco and Health Education Act of 1985)—A bill to provide for public education concerning the health consequences of using smokeless tobacco products.

H.R. 2796 (Foreign Air Travel Security Act of 1985)—A bill to improve security standards for international air transportation.

PENDING ON SENATE CALENDAR

The following Commerce Committee measures were reported out of Committee and are pending on the Senate Calendar at the end of the 1st Session of the 99th Congress:

S. 259 (Professional Sports Community Protection Act of 1985)—A bill to protect the public interest in stable relationships among communities, professional sports teams and leagues and in the successful operation of such terms in communities throughout the Nation, and for other purposes.

S. 374 (U.S. Travel and Tourism Administration Authorization)—A bill to provide authorization of appropriations for the U.S. Travel and Tourism Administration.

S. 638 (Conrail Sale Amendments Act of 1985)—A bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and other purposes.

S. 863 (National Highway Traffic Safety Administration Authorization Act of 1985)—A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1986 and 1987, and for other purposes.

S. 958 (Magnuson Fishery Conservation and Management Act Reauthorization)—A bill to provide authorization of appropriations for activities under the Magnuson Fishery Conservation and Management Act.

S. 959 (Coastal Zone Management Act Reauthorization)—A bill to amend the Coastal Zone Management Act of 1972 to provide authorization of appropriations, and for other purposes.

S. 999 (Federal Communications Commission Authorization Act of 1985)—A bill to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes.

S. 1017 (Metropolitan Washington Airports Transfer Act of 1985)—A bill to provide for the transfer of the Metropolitan Washington Airports to an independent airport authority.

S. 1079 (National Telecommunications and Information Administration Authorization)—A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

S. 1084 (Corporation for Public Broadcasting Authorization Act of 1985)—A bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 1097 (Methanol and Ethanol Vehicle Incentives Act of 1985)—A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol.

S. 1218 (International Air Transportation Protection Act of 1985)—A bill to amend the Federal Aviation Act of 1958 to provide for the revocation of certain certificates for air transportation, and for other purposes.

COMMITTEE HEARINGS

Full committee (also includes National Ocean Policy Study [NOPS])

S. 259, S. 287—Professional Sports Community Protection Act of 1985 (S. Hrg. 99-36).

S. 516—Pacific Salmon Treaty Act of 1985 (S. Hrg. 99-25).

S. 959—Coastal Zone Management Act Reauthorization and S. 990—National Oceanic and Atmospheric Administration Program Support Authorization Act (S. Hrg. 99-173).

S. Res. 178, S. 1097—Auto Fuel Economy and Methanol Fueled Vehicles.

S. 1097, S. Res. 178—Methanol Fueled Vehicles and Automobile Fuel Economy Standards.

S. 1312—Federal Communications Commission Network Acquisition Approval Act of 1985 (S. Hrg. 99-292).

S. 747, S. 1245, Amendment No. 529 to S. 1245, S. 1386—Magnuson Fisheries Conservation and Management Act.

S. 1310—Clean Campaign Act of 1985.

Oversight hearing on the use of pelagic driftnets by Japanese, Korean and Taiwanese fisherman in the North Pacific Ocean and their adverse impacts on fish, seabirds and marine mammals.

Oversight hearings on the problem of escalating costs for insurance for commercial fishing vessels.

Aviation

S. 586—International Air Route Certificates (S. Hrg. 99-200).

S. 1218—International Air Transportation Protection Act of 1985 (S. Hrg. 99-192).

S. 1321, S. 1326, S. 1343, H.R. 2796—Anti-Hijacking and Airport Security.

S. 1017, S. 1110—Transfer of National and Dulles Airports.

Oversight hearing on airline computer reservation systems (CRS).

Oversight hearing on international airport security and terrorism.

Oversight hearing on aviation safety, and the Federal Aviation Administration's (FAA) efforts to improve it.

Oversight hearing on safety issues in the regional airline industry.

Oversight hearing on aviation labor issues.

Business, Trade, and Tourism

S. 193, S. 374—U.S. Travel and Tourism Administration Authorization (S. Hrg. 99-95).

Oversight hearing on the promotion of domestic tourism.

Oversight hearing to examine the availability and affordability of insurance in various property and casualty lines.

Communications

Oversight hearing on the issue of explicit rock music and proposals that sound recordings be rated or labeled to inform consumers of potentially objectionable content.

The Communications and Science Subcommittees held a joint oversight hearing on the results of the first of two World Administrative Radio Conferences on use of the geostationary satellite orbit for radio communications.

Consumer

On March 21, 1985, the Subcommittee on Consumer held a hearing on S. 100, the Product Liability Act. A motion to report this measure was defeated at a Commerce Committee executive session on May 16, 1985, by a vote of 8-8. On June 18 and June 25, 1985, the Subcommittee on Consumer held hearings on amendments to S. 100 that had been introduced by Senator Dodd and Senator Gorton. Subsequently, at the direction of the Chairman of the Commerce Committee, Senator Danforth, the Subcommittee staff prepared a working draft of product liability reform legislation. This staff draft was released for public comment on July 15, 1985. After review of the comments received from the public, a second staff working draft was released for comment on November 27, 1985.

Merchant Marine

S. 679—Maritime Administration Authorization and FMC Authorization and S. 102—Construction of Differential Subsidy Authorization. (S. Hrg. 99-80).

S. 664—Competitiveness of U.S. Agricultural Exports (S. Hrg. 99-269).

S. 1461—Documentation of Certain U.S.-flag Vessels Act.

S. 1832. S. 1833—Establishment of Merchant Ship Revolving Fund Act.

Science, Technology and Space

S. 240. S. 1433. H.R. 2095—Extension of Daylight Saving Time.

The oversight hearings on the effect of new technologies on economic competitiveness.

Oversight hearing on the earthquake in Mexico and its implications for our domestic Earthquake Hazards Reduction Program.

Oversight hearing on the state of the satellite insurance industry.

Oversight hearing on the commercialization of the Landsat earth remote sensing system.

Surface Transportation

Three oversight hearings on trucking deregulation.

Oversight hearing on Motor Carrier Safety Act of 1984.

Two oversight hearings on the Staggers Rail Act.

SUMMARY OF THE ACTIVITIES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES DURING THE FIRST SESSION OF THE 99TH CONGRESS

(James A. McClure, Chairman)

During the 1st Session of the 99th Congress a total of 177 bills and resolutions were referred for consideration to the Senate Committee on Energy and Natural Resources (129 Senate bills, 3 Senate Resolutions, 19 Senate Joint Resolutions, 29 House bills, and 6 House Joint Resolutions). Three over bills and resolutions under the Committee's jurisdiction were considered and passed by the Senate without Committee referral. The Committee reported a total of 21 measures to the Senate. An additional measure has been ordered reported by Committee, but no written report has been filed to date.

The Committee held 64 days of public hearings (including 9 field hearings) during the 1st Session of the 99th Congress. These hearings encompassed 33 days of oversight

hearings, 19 days of legislative hearings, and 12 days of hearings on nominations. The Committee also held 24 business meetings and one conference.

Twenty-two measures within the Committee's jurisdiction passed the Senate, and of these, the Congress enacted five public laws. In addition, there are six measures awaiting the President's signature. Some five other measures reported by the Committee were pending on the Senate Calendar.

Measures enacted into law

Public Law 99-24 (S. 781) Amends the Biomass Energy and Alcohol Fuels Act of 1980 to extend through September 30, 1985, all conditional commitments for loan guarantees which were in existence on September 30, 1984

Public law 99-58 (H.R. 1699) Energy Policy and Conservation Amendments Act of 1985

Public Law 99-68 (H.R. 1373) Designates the Wilderness in the Point Reyes National Seashore in California as the Phillip Burton Wilderness

Public Law 99-96 (S. 444) Alaska Native Claims Settlement Act Amendment

Public Law 99-110 (H.J. Res. 299) Recognizing the accomplishments over the past 50 years resulting from the passage of the Historic Sites Act of 1935

Nominations

During the 1st Session of the 99th Congress, 26 nominations were submitted by President Reagan and referred to the Committee. Of these, 21 were reported favorably by the full Committee, and 22 were confirmed by the Senate.

Presidential messages

Fifteen Presidential messages were transmited to the Committee during the 1st Session of the 99th Congress dealing with a variety of subjects within the Committee's jurisdiction.

Executive communications

The Committee received a total of 195 Executive communications transmitting legislative recommendations and relating to the Committee's oversight responsibilities.

Reports and publications

During the 1st Session of the 99th Congress the full Committee filed 21 Senate Reports on measures reported by the Committee.

The Committee also published 23 hearing records. Five of these dealt with Presidential appointees, and the remaining 18 publications provided background material pertinent to the Committee's legislative activities and oversight responsibilities.

In addition, the Committee published one committee print dealing with the Committee's rules, membership and jurisdiction.

OVERSIGHT ACTIVITIES

During the 1st Session of the 99th Congress, the Committee on Energy and Natural Resources conducted 33 days of oversight hearings on a variety of issues pertinent to the jurisdiction of the Committee.

Budget oversight

The full Committee conducted three days of hearings on the President's proposed budgets for the Departments of the Interior and Energy, the Synthetic Fuels Corporation, the U.S. Forest Service, and the Federal Energy Regulatory Commission for fiscal year 1986. In addition, the Subcommittee on Energy Research and Development conducted five days of hearings on the Department of Energy Research and Development Programs. Following this review of the proposed budgets, the Committee filed its report to the Senate Budget Committee. The report set forth the anticipated legislative program of the Committee for the First Session of the 99th Congress and reflected the Committee's concern regarding the Budget Committee's assignment of committee jurisdiction, specifically over activities, including construction, on the national forest system lands created from the public domain.

On September 26, 1985, the Committee, in accordance with S. Con Res. 32, the First Budget Resolution for Fiscal Year 1986, reported the legislative recommendations necessary to comply with its reconciliation instructions. The savings exceeded the Committee's targets in its reconciliation instruction for fiscal year 1986 by $575 million in budget authority and $516 million in outlays. In addition, the savings exceeded the targets for the aggregate 3-year period of fiscal years 1986 to 1989 by $550 million in budget authority and $476 million in outlays.

The recommendations of the Committee were consistent with the assumptions in the Budget Resolution in two areas. First, the Committee suggested achieved savings in DOE's Strategic Petroleum Reserve program by reducing the minimum average annual fill-rate from 159,000 to 35,000 barrels per day. Second, the recommendations of the Committee included legislation to settle the legal dispute between the Federal Government and several States regarding the disposition of escrowed revenues from the 8(g) zone of the Outer Continental Shelf. In the midst of considering this legislative proposal, the Committee scheduled a hearing to receive testimony regarding this 8(g) issue. Secretary of the Interior Donald P. Hodel and Governor Mark White of Texas appeared. As assumed in its reconciliation instruction, the recommendation of the Committee distributed 27 percent of such bonuses and rents to the affected States as well as interest accrued thereon. The Committee recommendation also included the disposition of other OCS revenues in dispute, specifically, royalties, both retrospectively and prospectively.

In addition, the recommendations of the Committee achieved savings in budget authority and outlays in two areas not assumed in its reconciliation instruction. First, the Committee suggested an authorization for the Department of Energy's uranium enrichment program, requiring the program to operate at no addition cost to the Treasury. Second, the Committee achieved savings in the DOE energy conservation programs by authorizing Federal agencies to enter into certain contracts for energy efficiency improvements in Federal buildings. Under such contracts the contractors will be paid from money saved as a result of the energy efficiency improvements installed in Federal buildings. The Committee recommendations also imposed a limitation on certain Energy Regulatory Commission rulemaking; however, the provision was removed by amendment on the Senate floor. A provision tending the loan guarantee authority for Biomass Energy projects set forth in section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 was added as an amendment on the Senate floor.

The Committee did not report a legislative proposal regarding FERC fees and annual charges as assumed in its reconciliation instruction. We were able to achieve the instructed savings without need for such legislation.

In conference on the reconciliation measure, the Senate receded to a House provision terminating the United States Synthetic Fuels Corporation. The conference agreement provides for (1) termination of the authority of the SFC to award financial assistance as of the date of enactment; (2) termination of the Board of Directors of the SFC within 60 days after enactment of this Act; and (3) transfer within 120 days of enactment of this Act, the duties and responsibilities of the SFC to the Secretary of the Treasury in accordance with subtitle J of title I of the Energy Security Act.

Archeological and paleontological sites

The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a field hearing (1 day) in Albuquerque, New Mexico on the Preservation of Archeological and Paleontological Sites and Objects.

Coal imports

The Committee held a hearing on the impact of coal imports on the domestic coal industry. The hearing was precipitated by the signing of contracts with Columbia for 500,000 tons of coal per year for power generation. The threat was perceived to be twofold—displacement of domestic coal production by imports, and the direct loss of employment attributable to imports. The Committee examined the public policy implications of additional coal imports, including trade policy, energy policy, employment policy and transportation policy.

DOE's Nuclear Mission Plan

The Subcommittee on Energy Research and Development held a hearing (1 day) on DOE's Mission Plan for the Civilian Radioactive Waste Management Program. The "Mission Plan" is a comprehensive report which shall provide sufficient information to permit decisions to be made in carrying out the repository program for acceptance of nuclear waste by January 1998. As a result of this hearing, a number of questions garnered from the testimony have been submitted to the DOE. It is expected that the answers will provide the department and Congress with the necessary information to insure that the plan addresses all the concerns of those parties most affected. The GAO has also been requested to identify early on weaknesses in the program and to address communications between the states and the federal government.

IMPACT OF IMPORTED PETROLEUM PRODUCTS ON THE DOMESTIC PETROLEUM INDUSTRY

The Subcommittee addressed concerns by major oil companies and independents alike that imports of petroleum products—gasoline in particular—are adversely affecting the domestic refining industry and U.S. energy security. These concerns are based on the fact that more than 100 U.S. refineries with a capacity of 2.5 million barrels per day have shut down since 1981, and many others are now idle or running at partial capacity.

The hearing addressed (a) trends in U.S. refining capacity; (b) what types of refineries are closing—old and inefficient, or new, efficient refineries; (c) do these closings provide us with any indication as to what we may expect in the future; (d) at what point will a decline of U.S. refinery capacity have material impact on our energy security; (e) trends in foreign refining capacity, and how much of this is for exports; (f) impact of foreign experts capacity on U.S. refiners; (g) are foreign countries subsidizing petroleum product exports; and (h) what, if anything,

should be done to assure the United States an adequate amount of refining capacity, and what would be the costs and benefits of such action.

NATIONAL PARK SERVICE

The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing (1 day) which focused on issues affecting the National Park Service.

First, the Conservation Foundation, a nonprofit environmental research organization, issued a major report on National Parks. Second, a new Director of the National Park Service was appointed in June of 1985 and upon his taking office issued a "12-point plan" for the future of the system. Third, after a legislative impasse with the House over "Park Protection" legislation, the Department of the Interior made a series of recommendations on June 21, 1985, to address the issue of managing lands adjacent to limits of the National Park Service. And fourth, the President's Commission on Outdoor America was expected to be appointed. This commission has the opportunity to use the proceedings of the Subcommittee hearings as a tool in compiling their report where it applies to the National Park Service.

OCS leasing and revenue sharing

The Committee conducted two days of oversight hearings related to Outer Continental Shelf oil and gas leasing. One day was dedicated to leasing moratoria and one to the division of revenues from the Section 8(g) the zone. On leasing, for the past four years, the Department of the Interior has been forbidden from leasing OCS tracts off the California coast by a Congressionally mandated moratoria. The hearing was to discover whether such an agreement was in the national interest. On revenue sharing, under Section 8(g) of the OCSLAA of 1978 states were to receive a "fair and equitable" share of revenues derived from OCS leasing in a zone extending from the boundary of state submerged lands extending three miles into federal submerged lands. The hearing solicited testimony on the Committee-proposed distribution formula.

Office of Surface Mining permit fees

One day of hearings was dedicated to examining the effects of proposed permit fees by the Office of Surface Mining on the domestic coal industry. The Committee reviewed the coal industry's contention that these additional costs would only exacerbate the problems of the already depressed coal market and whether such a charge has public policy implications beyond the collection of fees.

Recreation fees

The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing (1 day) on Recreation fees as authorized in the Land and Water Conservation Fund Act of 1965, as amended. The purpose of the hearing was to provide an opportunity to examine the matter of increasing the money received by the Federal Government and its park, forest, reservoir and public land areas used for recreation purposes. Because budget recommendations submitted to the Congress this year placed heavy reliance upon the increase of existing fees and the imposition of new fees upon recreation users as a means of generating additional income, the hearing would serve to prepare Congress to deal with an Administrative legislative proposal to implement these budget recommendations, should it be forthcoming.

Stockpile "modernization"

The Full Committee held a hearing (1 day) on the President's July 8 National Defense Stockpile "Moderization" Proposal and its Potential Impact on the Domestic Mining Industry. Chairman McClure addressed two concerns regarding the proposal: (1) The stockpile goals in the President's Tier I which purportedly consists of those materials that would be required during a protracted military conflict, and (2) The reationale behind creating a "Supplemental Reserve" on Tier II.

Water supply in mid-Atlantic region

The Committee held three days of hearings on water supply issues in the mid-Atlantic states; one in Washington and two field hearings in New Jersey. The three major foci: were water availability, water quality and institutional and management issues in each of the States. The hearings were precipitated by the serious drought conditions in the Delaware basin and efforts to mitigate its effects.

SUMMARY OF THE ACTIVITIES OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS DURING THE FIRST SESSION OF THE 99TH CONGRESS

During the first session of the 99th Congress, the Committee on Environment and Public Works reported a total of twenty-four bills to the Senate, including major legislative initiatives in both the areas of environment and public works. The Committee also reported eleven nominations and conducted 20 days of oversight hearings, including four days of budget hearings on those programs which fall within the jurisdiction of the Committee.

The Committee focused particular attention on several environmental programs. On March 18 the Committee reported the "Superfund Improvement Act of 1985," which was passed by the Senate on October 1. Major legislation amending the Clean Water Act (S. 1128) and the Safe Drinking Water Act (S. 1241) were also reported and were passed by the Senate.

Legislation providing authorizations for programs under the Disaster Relief Act, the John F. Kennedy Center Act, and for the Public Buildings Service of the General Services Administration were reported and were passed by the Senate.

In the area of nuclear regulation, the Committee reported, and the Senate passed, authorizations for the Nuclear Regulatory Commission and Legislation for the disposal of low-level nuclear waste.

The Committee also reported an omnibus water resources development bill (S. 1567) and legislation providing funding for the nation's system of interstate highways.

During the year, the Subcommittee on Regional and Community Development held oversight hearings to review the programs and policies of the Tennessee Valley Authority. The Toxic Substances and Environmental Oversight Subcommittee conducted five days of oversight hearings on ground-water problems in the United States. The Committee also conducted field hearings on acid rain, exposure to radon gas, endangered species, and highways.

At the end of the first session the Senate had passed a total of 14 of the bills reported by the Committee. It is expected that in the second session the Committee will continue to direct its attention toward completion of much of the work commenced in the first session.

SUMMARY OF ACTIVITIES OF THE FINANCE COMMITTEE DURING THE FIRST SESSION OF THE 99TH CONGRESS

From January through December, 1985 was, indeed, a year of great activity and landmark legislation for the Senate Committee on Finance.

The Committee on Finance played a major role in House Joint Resolution 372, or the Gramm-Rudman-Hollings amendment, as we have come to describe that truly historic piece of legislation.

Just last year, the Committee was called on four occasions to report out legislation increasing the public debt.

This year, though, when the time came for the lid to be lifted once more, the Committee on Finance found itself squarely in the middle of the Gramm-Rudman-Hollings amendment, or the Balanced Budget and Emergency Deficit Control Act of 1985, as it is more properly called.

And, it ws no small role in the legislative process attendant to that bill that Senator Packwood, the Chairman of the Committee, and Senator Long, the Ranking Minority Member of the Committee, as well as its other Members, played in forging the law of the land signed just last week by the President.

Furthermore, as this final week of the first session of the 99th Congress came and went, it was again the Committee on Finance which was solidly in the midst of the business of this body, laboring long and hard to complete its conference on the Deficit Reduction Amendments of 1985.

In support of efforts to reduce the deficit as required by the reconciliation instructions of the Congressional Budget Resolution, the Committee's contribution included 19 savings and 18 revenue raising provisions. Those actions touched nearly every program under the jurisdiction of the Committee on Finance.

Additionally, the Committee provided for needed program reforms by adopting more than 70 other provisions under the reconciliation act.

Consequently, the Committee was able to meet its deficit reduction target of $37.9 billion over three years, covering Fiscal Years 1986 through 1988.

The Committee's effort provided more than 50 percent of the deficit reductions sought by the reconciliation instructions.

Beyond its work in the deficit reduction and budget areas, the Committee shepherded six significant pieces of legislation through the process into public law.

Those bills included: H.R. 2475, a bill to amend the Internal Revenue Code of 1954 to simplify the imputed interest rules of Section 1274 and 483 of the Internal Revenue Code; Senate Concurrent Resolution 15, relating to United States-Japan trade; Senate Joint Resolution 77, the Compact of Free Association, extending certain benefits to the Marshall Islands and Micronesia; H.R. 1866, a bill to phase out the Federal Supplement Compensation Program; H.R. 1869, a bill to repeal the contemporaneous recordkeeping requirements added by the Tax Reform Act of 1984; and H.R. 2268, the U.S.-Israel Free Trade Area Implementation Act of 1985.

In this legislative 12-months, the Committee continued its work on health care financing issues which directly affect over 30 million of our fellow Americans.

While the majority of the Committee's time was devoted to budget-related concerns, the Committee also exercised its over-

sight prerogative on programs within its purview.

The Subcommittee on Health conducted eight hearings, addressing a wide range of health policy questions. These included: Medicare payments for Graduate Medical Education, Medicare payments for hospitals serving a disproportionate share of poor and elderly patient, the status of Peer Review Organizations, health promotion and disease prevention, patient abuse and anti-fraud legislation, expansion of Medicare beneficiary appeal rights, capital payment reform, and options for Medicare physician payment reform.

Beyond the activities of the Subcommittee on Health, the full Committee on Finance conducted two hearings to examine health policy concerns. The first of those dealt with third-party liability for Medicaid recipients and the second examined Medicare's skilled nursing facility (SNF) benefit.

One the tax front, the Committee on Finance conducted 33 hearings in preparation for its markup of the long-awaited tax reform bill from the other body. The distinguished Senator from Oregon, Mr. Packwood, personally chaired all of these hearings. Between May 9 and October 10, over 350 witnesses from virtually every state in the Union and every segment of society came to air their views on the proposed changes in our tax code.

In addition to the previously-mentioned tax bills which have become law after clearing the Committee on Finance, the panel also wrote the revenue component of S. 51, a bill to extend the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or Superfund.

While 1985 certainly was not a slow year in the tax area for the Committee on Finance, it is a fair understatement to suggest 1986 will be the year of tax for the 20 Members on that panel.

In the area of income maintenance and Social Security, the Committee on Finance conducted two hearings, one reviewing foster care and adoption assistance, and the other reviewing the disinvestment of securities held by the Social Security Trust Funds.

Confronted with the specter of our runaway trade deficit, the Committee on Finance and its Subcommittee on International Trade conducted several rounds of key hearings and reported out two important trade bills, S. 1404 and S. 942. S. 942 promotes the expansion of international trade in telecommunications equipment and services while S. 1404 requires the President to respond to the unfair trade practices of Japan.

The Committee's trade hearings included those on the report of the President's Commission on Industrial Competitiveness, the role of floating exchange rates in the international trading system and on U.S. trade policy toward fair and unfair trade.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON FOREIGN RELATIONS DURING THE SESSION OF THE 99TH CONGRESS

The Committee began its first session of the 99th Congress with a series of hearings devoted to "Outlines of American Foreign Policy" which provided a comprehensive review and analysis of foreign policy goals, limitations and opportunities for the United States.

The Committee reported out a comprehensive International Security and Development Cooperation Act in May 1985; this legislation was enacted on August 8, 1985 and is the first such authorization bill for foreign assistance in four years.

On regional issues, the Committee and sub-committees held extensive hearings on Central America, particularly on a supplemental authorization to combat terrorism within the region. It held numerous hearings and received several briefings by the administration on Middle East arms sales and the role of arms transfers in promoting stability in this volatile region. Several hearings were also held on the Philippines on the difficult political, economic and security problems it faces. Several hearings preceded passage of legislation defining U.S. economic relations with South Africa.

In the arms control area, the Committee conducted hearings on U.S. nuclear strategy, the Geneva Summit and on the nuclear agreement with the People's Republic of China.

The Committee and subcommittee also held hearings on a range of subjects pertaining to U.S. trade, regional turmoil, financing of foreign military sales, international narcotics, embassy security, international terrorism, African famine relief and many other international issues.

The following is a summary of the Committee's workload during the last session:

BILLS AND JOINT RESOLUTIONS: REPORTED

S. 457: Sub-Saharan assistance.

S. 684: International Bank for Reconstruction & Development, International Finance Corporation and African Development Fund.

S. 947: Overseas Private Investment Corporation.

S. 960: Amending Foreign Assistance Act.

S. 998: Sanctions against South Africa.

S. 995: Opposition to apartheid in South Africa.

S. 1003: State Department, USIA, BIB, National Endowment for Democracy authorization.

S. 1132: Supplemental appropriations for FY '85 and authorizing appropriations for '86 & '87 for ACDA.

S. 1166: Claims against Iran.

S. 1308: Economic assistance for Jordan.

S. 1831: Congressional vetoes of arms export proposals.

S. 1915: Counterterrorism assistance.

S.J. Res. 98: Condemning U.N. Resolution 3379.

S.J. Res. 161: Release of Soviet Jewery.

S.J. Res. 177: International Space Year in 1992.

S.J. Res. 277: Commending Switzerland.

S.J. Res. 238: Nuclear Cooperation Agreement with China.

S.J. Res. 240: Soviet invasion and occupation of Afghanistan.

CONCURRENT RESOLUTIONS AND SIMPLE RESOLUTIONS: REPORTED

S. Con. Res. 46: Americans missing in Southeast Asia.

S. Con. Res. 76: Rights of Polish People.

S. Con. Res. 82: Support for Chile's National Accord.

S. Con. Res. 87: Restoration of democracy in Philippines.

S. Con. Res. 93: Commending Ireland & U.K. regarding peaceful resolution.

S. Res. 68: Congratulating people of Cyprus.

S. Res. 73: Waiving section 402(a) of Congressional Budget Act.

S. Res. 80: Authorizing expenditures by Committee on Foreign Relations.

S. Res. 158: Authorizing printing.

S. Res. 161: Waiving section of Congressional Budget Act.

S. Res. 185: Emigration from Cuba.

S. Res. 227: Worldwide disease immunization.

S. Res. 237: American concerns with Soviet presence in Afghanistan.

S. Res. 244: Authorizing printing.

S. Res. 268: Waiving section of Congressional Budget Act.

S. Res. 271: Regarding assistance to Liberia.

(As of December 18, 1985)

Treaties: Reported and approved (6):

Protocols for further extension of International Wheat Agreement.

Tax Convention with Italy.

Tax Convention with Cyprus.

Treaty with Canada concerning Pacific salmon.

International Telecommunication Convention and Final Protocol.

Treaties: Reported—not approved (4):

Genocide Convention.

Tax Convention with Denmark.

Protocol to amend 1980 Tax Convention with Denmark.

Tax Agreement with People's Republic of China.

NOMINATIONS

Referred	117
Reported/confirmed	102
Withdrawn by President	1
Representatives to conferences:	
Referred	14
Confirmed	14
Foreign Service promotions:	
Preferred	[1] 1342
Confirmed	[2] 1341

[1] Includes 1 nomination for Career Ambassador.

[2] Foreign Service nomination of Edwin G. Corr, received by the Senate on October 28, 1985 as part of list of Bremer et al, expected when overall list was confirmed on December 18, 1985. Therefore, Corr nomination is still pending before the Senate.

SUMMARY OF ACTIVITIES OF THE GOVERNMENTAL AFFAIRS COMMITTEE DURING THE FIRST SESSION OF THE 99TH CONGRESS

In the first session of the 99th Congress, the Senate Governmental Affairs Committee pursued numerous legislative and oversight activities in a broad range of areas. The Committee focused its attention on new aspects of familiar topics such as government management and defense, and initiated new activities on such subjects as the recommendations of the Grace Commission. The first session of the 99th Congress also saw the Governmental Affairs Committee at the forefront of a successful effort to craft a new supplemental retirement plan for federal workers hired after January 1, 1984.

LEGISLATIVE ACTIVITIES

Federal retirement reform

The "Federal Retirement Reform Act of 1985" began as S. 1527, introduced on July 30 by Chairman Roth and Senator Stevens. The bill establishes a comprehensive retirement plan, in conjunction with social security, to cover all federal workers hired after January 1, 1984. In a strong bipartisan effort, S. 1527 was unanimously reported by the Governmental Affairs Committee on October 2, 1985. Upon consideration by the full Senate, H.R. 2627 was reported in lieu of S. 1527 and subsequently passed by a vote of 96–1 on November 7, 1985. At the close of the first session of the 99th Congress, H.R. 2672 is currently in conference committee awaiting further action.

Benefits to former Presidents

S. 1047 was introduced by Senators Roth and Chiles on May 1, 1985. This legislation,

in three parts, provided for reductions in office and staff allowances and Secret Service protection afforded to former Chief Executives. It also established limits and guidelines pertaining to the size and maintenance of all future Presidential libraries. On October 2, the Presidential libraries section was reported, with H.R. 1349 inserted in lieu of the Senate bill. The remaining two sections of S. 1047 were ordered reported by the Committee on November 19, 1985.

Program fraud civil remedies

S. 1134, the "Program Fraud Civil Remedies Act," is the latest version of legislation which was first initiated by the Governmental Affairs Committee in 1981. The bill provides executive branch agencies with the means to independently pursue settlement in cases of false claims and statements entered against the government. S. 1134 allows agencies to utilize administrative law judges for the purpose of regaining revenues lost through false claims, and provides stiff monetary penalties for those found guilty of perpetrating such claims and statements. S. 1134 was introduced by Senators Roth and Cohen on May 15. The Committee favorably reported the bill on December 10, 1985.

Federal employees health benefits refunds

H.R. 3384, a bill to include federal retirees in the group of individuals eligible for refunds under the Federal Employees Health Benefits Program (FEHBP), was referred to the Governmental Affairs Committee on October 1, 1985. The Committee reported this measure on December 6, and the Senate passed it on December 19.

Federal flexitime schedules

H.R. 1534 was referred to the Governmental Affairs Committee on May 22, 1985. This measure converts the temporary authority to allow federal employees to work on flexible or compressed work schedules to permanent authority. On July 11, the Committee reported H.R. 1534, and the bill passed the Senate on December 11, 1985.

OTHER REFORM MEASURES

Budget reconciliation

In its budget reconciliation activities during the first session of the 99th Congress, the Governmental Affairs Committee was mandated to derive $12.6 billion in savings over the next three fiscal years. When the Committee reported its recommendations on October 2, the total savings in the Committee package totaled $13.2 billion over three years. The major areas from which these savings were achieved included a federal employee pay freeze for fiscal year 1986 and reforms in the postal subsidies program. The Committee also reported recommendations for improvements in civilian contracting practices through multi-year contract agreements. After the conference agreement, the total savings from the Committee's budget reconciliation activities was $12.5 billion over the next three fiscal years.

NOMINATIONS

The Committee received a total of 25 nominations during the first session of the 99th Congress, of which 22 were confirmed by the Senate. They are as follows:

Julius Becton, Director of the Federal Emergency Management Agency.

Jerry Lee Calhoun, member of the Federal Labor Relations Authority.

Terence C. Golden, Administrator of the General Services Administration.

John N. Griesemer, Governor of the U.S. Postal Service.

Constance J. Horner, Director of the Office of Personnel Management.

James P. McNeill, Associate Director of the Federal Emergency Management Agency.

Barbara Jean Mahone, Chairman of the Special Panel on Appeals.

James C. Miller III, Director of the Office of Management and Budget.

John M. Steadman, Associate Judge, District of Columbia Court of Appeals.

Associate Judges of the Superior Court of the District of Columbia; Harold L. Cushenberry, Jr., Herbert B. Dixon, Richard A. Levie, Curtis E. Von Kann, Michael L. Rankin.

Commissioners of the Postal Rate Commission: Henrietta F. Guiton, Patti Birge Tyson.

Inspectors General: Paul A. Adams, Department of Housing and Urban Development; William R. Barton, General Services Administration; Bill D. Colvin, National Aeronautics and Space Administration; James L. Richards, Department of Energy.

Members of the Board of Governors of the U.S. Postal Service: J.H. Tyler McConnell, Robert Setrakian.

OVERSIGHT ACTIVITIES

The Committee undertook a variety of oversight activities during the first session of the 99th Congress. These included hearings on the recommendations of the Grace Commission, federal retirement reform, infant mortality, non-smokers' rights, and continuing investigations into the deglamorization of drugs and the effect on our nation's youth, money laundering, and U.S. involvement in the United Nations.

CONCLUSION

The Governmental Affairs Committee experienced a slight shift in the emphasis of its activities during the first session of the 99th Congress, with the focus on executive branch nominations and more first-time investigations. During the second session of this Congress, the Committee will continue its efforts in these areas, but it also plans to step up its activities in other oversight areas such as defense, waste and fraud, and management improvement.

SUMMARY OF ACTIVITIES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS DURING THE 1ST SESSION OF THE 99TH CONGRESS

In the first session of the 99th Congress 19 bills were referred to the Select Committee on Indian Affairs; 7 Executive Communications were received; and one Presidential nominee was referred. Bills before the Committee included legislation to extend the Indian Health Care Improvement Act of 1976; two bills to amend existing legislation relating to educational programs operated by the Bureau of Indian Affairs; a bill to regulate gaming activities within Indian reservations; a bill to decommercialize and regulate the fishing of steelhead trout; a bill to extablish a program for the detection and prevention of alcohol and drug abuse among Indian youth; a bill to resolve clouds on title to certain lands on the White Earth Indian Reservation in the State of Minnesota; a bill to provide for settlement of water claims of tribes on the Truckee, Carson and Walker Rivers in the State of Nevada; and legislation to provide for the use and distribution of judgment funds awarded various Indian tribes in the States of Minnesota, Wisconsin, and Michigan.

Of the 19 bills referred to the Select Committee on Indian Affairs, 11 were reported out of Committee and 9 favorably acted upon by the Senate. Two bills, one amending the Indian Education Act of 1965 and the other providing for the use and distribution of judgment funds awarded the Mdewakanton and Wahpekute Eastern or Mississippi Sioux, have been signed into law. The nomination of Ross O. Swimmer to be Assistant Secretary of Indian Affairs was reported by the Committee and he was confirmed by the Senate by unanimous consent.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON THE JUDICIARY DURING THE 1ST SESSION OF THE 99TH CONGRESS

During the 1st Session of the 99th Congress, reflecting the wide variety of subjects within its jurisdiction, the Committee on the Judiciary considered, deliberated, and acted upon an impressive array of matters.

Fifty-seven hearings were conducted by the full Committee and Subcommittees on legislation. In addition, 47 oversight hearings were held. The Committee met in Executive Session on 28 occasions, reporting to the Senate 149 of the Senate and House bills and resolutions which had been referred to it.

Again in the 99th Congress, the Committee reported, and the Senate passed by a vote of 69 to 30, the Immigration Reform and Control Act, S. 1200. Still central to the bill are employer sanctions against those who knowingly hire illegal aliens and a legalization program for certain illegal aliens who can demonstrate they have resided in the United States continuously prior to January 1, 1980. S. 1200 contains no change in the existing legal immigration system, nor does it deal with immigration asylum procedures. In addition, S. 1200 contains a temporary seasonal worker provision based on the compromise reached by the conference committee in the 99th Congress. The Committee also favorably reported S. 1262, the Refugee Assistance Extension Act of 1985.

In recognition of the problems facing the Nation with regard to the budget deficit, as in the last two Congresses, the Committee reported "balanced budget" constitutional amendment legislation. The two measures reported in this Congress are S.J. Res. 13 and S.J. Res. 225, both of which are pending on the Senate calendar.

Another social issue dealt with by the Committee was school prayer. On October 29th, the Committee reported S.J. Res. 2, proposing an amendment to the Constitution of the United States relating to voluntary silent prayer or reflection, to the full Senate. That measure is also pending on the Senate calendar.

Pursuant to the Low-Level Radioactive Waste Policy Act of 1980, seven regional compacts (Southeast, S. 44; Northwest, S. 356; Rocky Mountain, S. 442; Central Interstate, S. 655; Central Midwest, S. 802; Midwest, S. 899; and Northeast, S. 1798) were introduced in the 99th Congress. The full Committee held a hearing on three of these measures in March. All seven were reported to the Senate. Since the cut-off date contained in the 1980 Policy is near, these measures were part of a substitute amendment offered to H.R. 1083 and sent back to the House for approval.

In the area of criminal law, the Committee reported S. 104, to regulate the manufacture and importation of armor-piercing bullets; S. 1437, the "designer drug" bill; S. 850, the "intoxicated common carrier" bill; and H.R. 3511, the Bank Bribery Amendments Act of 1985. Both S. 1437 and S. 850 have passed the Senate by unanimous consent. In addition, the Committee has or-

dered reported S. 1236, which would make technical amendments to provisions of the Comprehensive Crime Control Act of 1984. That measure will be reported to the Senate during the 2nd Session of this Congress.

Due to the increase in the number of hijackings and terrorism conducted against Americans abroad, the Committee participated in three days of hearings held jointly with the Committee on Foreign Relations on international terrorism. In addition to the hearings, the Committee reported S. 274, the Nuclear Power Plant Security and Anti-terrorism Act of 1985, and has ordered reported S. 1429, the Terrorist Prosecution Act of 1985.

In the area of juvenile issues, the Committee reported S. 1174, to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children, and S. 1818, to prevent sexual molestation of children in Indian country. Both of these measures have passed the Senate.

The patent, copyright, and trademark areas were addressed by the Committee with the reporting of S. 1002, to amend the Lanham Act to improve provisions relating to concurrent registrations, and S. 1230, to amend the patent laws implementing the Patent Cooperation Treaty.

Holding hearings concerning several antitrust issues, including the sale of Conrail, the vertical restraint guidelines of the Justice Department, and treble damage liability, the Committee has approved for reporting S. 412, the Malt Beverage Interbrand Competition Act.

In the area of administrative practice and procedure, the Committee reported H.R. 1890, to provide for an equitable waiver in the compromise and collection of Federal claims, and has approved for reporting S. 1562, the False Claims Reform Act of 1985.

Even though the Committee did not have a sufficient time of referral in which to act, the Committee held two days of hearings on S. 51, the Superfund legislation, and offered a package of amendments on the Senate floor dealing with the right to contribution, pre-enforcement review, and judicial review. These amendments were adopted and became a part of the final measure adopted by the Senate.

In addition to the foregoing, the Committee reported S. 40, the Constitutional Convention Implementation Act of 1985, S. 86, the Sex Discrimination in the United States Code Reform Act, and S. 1916, preserving the authority of the Supreme Court Police. S. 86 has passed the Senate. The text of S. 1916 was inserted in the House companion measure, H.R. 3914, which now has been approved by both Houses of Congress and will soon become public law. The Committee also reported four Federal charter bills, two measures amending interstate compacts and two private relief bills.

During the 1st Session of the 99th Congress, the Committee received, and the Senate confirmed 128 executive nominations for the following positions: 22 for U.S. Circuit Judgeships; 62 for U.S. District Court Judgeships; 1 for U.S. Claims Court Judgeship; 1 for International Trade Court Judgeship; 13 for U.S. Attorney; 7 for U.S. Marshal; 1 for Attorney General; 1 for Deputy Attorney General; 1 for Associate Attorney General; 1 for Solicitor General; 5 for Assistant Attorney General; 1 for Administrator, DEA; 7 for membership on the Sentencing Commission (including Chairman); 1 for membership on the Foreign Claims Settlement Commission; 2 for membership on the Copyright Royalty Tribunal; 1 for Chairman of the Administrative Conference of the United States; and 1 for Commissioner of Patents and Trademarks.

SUMMARY OF ACTIVITIES OF THE LABOR AND HUMAN RESOURCES COMMITTEE DURING THE FIRST SESSION OF THE 99TH CONGRESS

During the first session of the Ninety-Ninth Congress, the Senate Labor and Human Resources Committee has held more than forty hearings on a broad spectrum of issues. The subjects ranged from labor union violence, youth unemployment, barriers to special needs adoptions, the role of the United States as a member of the International Labor Organization, nutrition and fitness and their effects on health promotion and disease prevention, to the impact of space technology on human resources. Fourteen measures referred to the committee for action have subsequently been signed into public law. (see attached list) A total of 133 nominations were referred and of these 105 received Senate confirmation. Thirty-one bills under the committee's jurisdiction were approved by the Senate.

Some of the major pieces of legislation to become public law include the Orphan Drug Act Reauthorization, S. 1174/P.L. 99-91; Nurse Training Reauthorization, S. 1284/P.L. 99-92; Health Professions Education Reauthorization S. 1283/P.L. 99-129; Health Research Extension Act, H.R. 2409/P.L. 99-158; Walsh-Healy amendment to the DoD authorization, P.L. 99-145; Fair Labor Standards Public Employee Overtime Compensation Act, S. 1570/P.L. 99-150; and the National Science Foundation Authorization, S. 801/P.L. 99-159. (see news releases for description of measures)

Significant items reported by the Committee which were approved by the Senate but not yet acted upon by the House (excluding those mentioned above) Primary Care Block Grant/Community Health Centers and Migrant Health Centers, S. 1282; National Health Service Corps Amendments, S. 1285; Adoption Assistance Amendments of 1985, S. 1628 (incorporated in the Deficit Reduction Act) and the Comprehensive Smokeless Tobacco and Health Education Act, S. 1574.

Major nominations to be acted upon by the Committee include: William Brock to be Secretary of Labor; Dr. Everett Koop to be U.S. Surgeon General; William Bennett to be Secretary of Education;

1985 PUBLIC LAWS (AS OF DECEMBER 13, 1985)

1. S.J. Res. 4/H.J.Res. 85/P.L. 99-6. Skin Cancer Prevention Week (OGH)., Page 3, item 1.

2. S. 484/P.L. 99-46. Saccharin Extension Act (OGH). Page 3, item 2.

3. S. 1174/P.L. 99-91. Orphan Drug Act Reauthorization (OGH/EMK). Page 3, item 3.

4. S. 1284/P.L. 99-92. Nurse Training Reauthorization (OGH/EMK). Page 3, item 4.

5. S. 1283/P.L. 99-29. Health Professions Education Reauthorization (OGH/EMK). Page 3, item 5.

6. H.R. 2409/S. 1309/P.L. 99-158. NIH Reauthorization. Page 3, item 6.

7. S.J. Res. 51/P.L. 99-153. National Adoption Week. Page 3, item 8.

8. S.J. Res. 36/P.L. 99-2. "National DECA Week" (Cochran-OGH). Page 13, item 1.

9. S.J. Res. 186/P.L. 99-100. "Nationally Historically Black Colleges Week" (Thurmond/ OGH). Page 13, item 2.

10. S.J. Res. 158/P.L. 99-128. "National Community Colleges Month" (Murkowski/ OGH). Page 13, item 3.

11. S.J. Res. 218/H.J. Res. 386/P.L. 99-135. Resolution for National Day of Fasting. Page 19, item 1.

12. S. 1570/P.L. 99-150. Bill to overturn Garcia. Page 19, item 4.

13. P.L. 99-145. Walsh Healy. Page 19, item 4.

14. S. 801/P.L. 99-159. NSF Authorization for FY 86. Page 24, item 1.

1985 NOMINATIONS

15. Dr. Everett C. Koop, Surgeon, Public Health Service confirmed 11/1/85. Page 14, item 1.

16. John Erthein, National Council on Handicapped, confirmed 10/25/85. Page 14, item 2.

17. Francis Hodsoll, Chairman, National Council for the Arts, confirmed 10/28/85. Page 17, item 5.

18. Barbara Taylor, Member, National Commission on Libraries and Information Sciences, confirmed 11/30. Page 18, item 7.

19. Lee Edwards, Member, National Commission on Libraries and Information Sciences, confirmed 11/30. Page 18, item 7.

20. Frank Gannon, Member, National Commission on Libraries and Information Sciences, confirmed 11/30. Page 18, item 7.

21. Jim Stephens, Member, NLRB, confirmed 10/16. Page 23, item 1.

22. Roger Semerad, Asst. Secretary DoL, confirmed 10/16. Page 23, item 2.

23. Joyce Doyle, Member, MSHA, confirmed 10/25. Page 23, item 3.

24. Dennis Whitfield, Under Secy. of Labor, confirmed 10/25. Page 23, item 4.

25. Dennis Kass, Asst. Secy, for Pensions, DoL, confirmed 11/14. Page 23, item 7.

26. William Merrell, Asst. Director, N.S.F., confirmed 10/16. Page 25, item 1.

27. Charles Hosler, N.S.F. Board Member, confirmed 10/16. Page 25, item 1.

28. Craig Black, N.S.F. Board Member, confirmed 10/16. Page 25, item 1.

AWAITING PRESIDENT'S SIGNATURE

29. S.J. Res. 139, National Home Care Week. Page 4, item 9.

30. S.Con. Res. 71, Commemorate 10th Anniversary of P.L. 94-142. Page 3, item 11.

31. S. 1264, National Foundation of Arts & Humanities of 1985. Page 13, item 4.

Those that have passed the Senate from LHR Committee:

S.J. Res. 4, Skin Cancer Prevention Week.

S. 484, Saccharin Extension Act.

S. 1174, Orphan Drug Act Reauthorization.

S. 1284, Nurse Training Reauthorization.

S. 1283, Health Professions Education Reauthorization.

S. 1309, National Institutes of Health Reauthorization.

S. 425, Arthritis Institute (included in S. 1309)

S.J. Res. 51, National Adoption Week.

S.J. Res. 139, National Home Care Week.

S. 1282, Primary Care Block Grant/Community Health Centers.

S. 1285, National Health Service Corps.

S. 415, Handicapped Children's Protection Act.

S. 974, Weicker Mental Health Initiative.

S.J. Res. 147, National Infection Control Week.

S.J. Res. 189, Fetal Alcohol Syndrome Awareness Week.

S.J. Res. 202, American Liver Foundation National Liver Awareness Month.

Am. to farm b, Cholesterol/Calcium Studies by USDA.

S.J. Res. 36, National DECA Week.
S.J. Res. 186, National Historically Black Colleges Week.
S.J. Res. 158, National Community Colleges Month.
S. 1264, National Foundation on the Arts and Humanities Amendments of 1985.
S.J. Res. 52, National School Library Month.
S.J. Res. 48, Year of the Teacher.
S.J. Res. 219, National Humanities Week.
S. 1570, To Overturn the Garcia Decision.
Am. to DOD au, Walsh-Healy.
S.J. Res. 386, National Fast Day.
S. 801, NSF Authorization for FY 86.
S. Con. Res. 71, Commemorate 10th Anniversary of PL 94-142.
S. 1628, Adoption Medicaid Legislation.
S. 1574, Comprehensive Smokeless Tobacco & Health Education Act.
Significant nominations:
Dr. Everett C. Koop, Public Health Service.
John Erthein, National Council on Handicapped.
Francis Hodsoll, National Council for the Arts.
Ford B. Ford, Chairman, Mine Safety and Health Review Administration.
William Brock, Secretary of Labor.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON RULES AND ADMINISTRATION DURING THE 1ST SESSION OF THE 99TH CONGRESS

During the 1st session of the 99th Congress, the Committee on Rules and Administration, under Chairman Charles McC. Mathias, Jr., considered and sent to the Senate a number of bills and implemented various measures and policies that affected the daily management of the Senatorial, committee, and support offices. The following summaries highlight the Committee's actions during 1985.

FEDERAL ELECTION CAMPAIGN ACT OVERSIGHT

Seven bills proposing changes in the campaign finance provisions of the Federal Election Campaign Act have been introduced and referred to the Senate Committee on Rules and Administration in the first session of this Congress. Three of these bills, S. 59 by Senator Goldwater, S. 1072 by Senator Gorton and S. 1891 by Senator Heinz, are legislative proposals for the most part identical to bills on which the Committee received testimony during hearings in the 98th Congress.

S. 59 proposes to place expenditure limits on all candidates, political parties and PACS and also proposes a repeal of the presidential public funding program. S. 1072 would allow candidates to declare that independent spending had become a part of their campaign and thus bring such spending under the contribution limits. This legislation also would triple the amount of expenditures political party committees could make on behalf of their Senate and House candidates. When Senate and House candidates spend more than certain amounts of personal funds, the contribution limits would be tripled for individuals and PAC'S contributing to their opponents. S. 1891 proposes to strengthen the role of political parties in the financing of campaigns by increasing the contributions and expenditures they may make on behalf of federal candidates. This legislation would also change current audit and enforcement procedures at the Federal Election Commission. Under its provisions, committees receiving and expending funds to draft individuals as candidates would be brought under the limits of the FECA.

S. 297, introduced by Senator Boren in January, is identical to a bill he introduced in the previous Congress.

The other bills are S. 1563, Senator Helms' bill on union dues and a later version of Senator Boren's bill S. 1806.

A hearing was held on S. 1787, Senator Mathias' bill proposing to finance general elections to the Senate, on November 5, 1985.

The Committee reported out an original bill, S. 1117, authorizing appropriations in the amount of $12,605,000 for the Federal Election Commission in FY 1986.

PUBLIC PRINTER NOMINATION

On January 3, 1985, Mr. Ralph E. Kennickell, Jr., of Virginia, was nominated by President Reagan to be Public Printer, and his nomination was received by the Rules Committee.

Following an extensive background check by the Committee staff, on June 12, 1985, a public hearing was held on the nomination. At a June 20, 1985, business meeting to consider the nomination, the Committee determined that further investigation into Mr. Kennickell's background was warranted. Subsequently, the Department of Justice was asked to investigate certain questions regarding the nominee's background. The Justice Department had the FBI conduct the investigation, and on November 14, 1985, the Department of Justice submitted the FBI's findings to the Rules Committee.

At a business meeting of the Rules Committee on December 10, 1985, a rollcall vote was taken on a motion to favorably report the nomination of Mr. Kennickell to be Public Printer. The nomination was ordered reported by a vote of 8 to 4.

As of this writing (December 19, 1985), Mr. Kennickell's nomination is pending on the Executive Calendar.

SMITHSONIAN INSTITUTION OVERSIGHT

In exercising its oversight over the Smithsonian Institution, the Rules Committee considered and favorably reported the following measures: S. 583, a bill to authorize renovations to the Cooper-Hewitt Museum in New York City; S. 582, a bill to reauthorize museum suppport activities under the National Museum Act; H.R. 1483, a bill to authorize construction and repair of facilities for the Smithsonian Tropical Research Institute in Panama and the Whipple Observatory in Arizona.

Hearings were held on S. 1311, a bill to authorize the construction of a museum for very large aircraft and spacecraft at Dulles Airport, but no further action was taken.

The committee held hearings on an original measure to authorize new construction at the Freer Gallery of Art.

The Committee also considered and favorably reported the following joint resolution: S.J. Res. 214, reappointing Carlisle Humelsine to be a member of the Smithsonian Board of Regents, and S.J. Res. 215, reappointing William G. Bowen to be a member of the Smithsonian Board of Regents.

LIBRARY OF CONGRESS OVERSIGHT

The Chairman and other members of the Rules and Administration Committee conducted an oversight meeting (as Senate members of the Joint Committee on the Library) on the Library of Congress—specifically the plans and progress of the Library with the renovation and restoration of the Jefferson and Adams buildings, construction of the book deacidification facility at Fort Detrick, Maryland, and the Library's printed card, microform, and computerized catalogs—the U.S. Botanic Garden Park, renamed the Frederick Auguste Bartholdi Park, in honor of the sculptor of the park's fountain—and the final plans for the dedication of the Dr. Martin Luther King, Jr., memorial sculpture in the United States Capitol.

BROADCAST OF SENATE FLOOR PROCEEDINGS

The Committee on Rules and Administration reported favorably Senate Resolution 28 with amendments and recommended that the resolution as amended be agreed to.

S. Res. 28, as reported by the Committee on Rules and Administration, provides for a test period implementation of live, gavel-to-gavel radio broadcast coverage of all proceedings in the Senate Chamber, and a closed circuit test of television coverage of all proceedings, except, in both cases, when a closed-door session is ordered. The Architect of the Capitol, the Sergeant at Arms and Doorkeeper of the Senate, the Librarian of Congress, the Archivist of the United States, and the Committee on Rules and Administration are given certain specified duties by this resolution. Regulations for this coverage are also provided, and a sum not to exceed $3,500,000 for the Architect of the Capitol to carry out the purposes of this resolution is authorized to be expended from the contingent fund of the Senate.

LINE ITEM VETO

Senate Bill 43, which provides that each item of any general or special appropriation bill and any bill or joint resolution making supplemental deficiency, or continuing appropriations that is agreed to by both Houses of Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the President, was referred to the Rules and Administration Committee on January 3, 1985. This measure, which was introduced on January 3, 1985, by Senator Mattingly, was co-sponsored by 46 Senators, six of whom, Senators McClure, Helms, Warner, Dole, Stevens, and Garn, are members of the Rules and Administration Committee.

The Committee held two days of hearings on this measure (May 14 and May 20, 1985) receiving testimony in favor of the measure from Senator Mattingly and Senator Evans and testimony in opposition to the bill from Senator Hatfield and a panel of experts (Dr. Louis Fisher, Specialist in American National Government in the Congressional Research Service; Dr. Allen Schick, Professor of Public Policy at the University of Maryland as a visiting fellow of the American Enterprise Institute; and Dr. Norman Ornstein, AEI Resident Scholar.) Senators Mathias, Ford, and Inouye raised questions, and spoke in opposition to S. 43, when questioning the various witnesses.

Statements in favor of the bill were received from Senator Thurmond, Senator Dole, Howard Jarvis (American Tax Reduction Movement), John C. Datt on behalf of the American Farm Bureau Federation, 13 groups and associations led by the U.S. Chamber of Commerce, and Professor Judith Best of the State University of New York at Cortland. Statements for the Record in opposition to S. 43 were received from Common Cause, the AFL/CIO Executive Council, and the National Council, and the National Council of Conservation Districts. Also received for the record was a statement from Johnny H. Killian, CRS Specialist in American Public Law, who concluded that the courts would decide the contitutionality of S. 43, if enacted and implemented by the Congress, on the basis of

how much power shifted from Congress to the President.

The Rules Committee held a mark-up session on Thursday, June 20, 1985, and voted to report S. 43 unfavorably, without amendments, and with a written report.

The motion to proceed to consideration of S. 43 was debated in the Senate from July 17 to July 24, 1985. After three unsuccessful cloture votes, the motion to proceed was withdrawn on July 24.

SENATE COMMITTEE OVERSIGHT

S. Res. 85 the Omnibus Committee Funding Resolution of 1985

The Rules Committee reported annual authorization for the expenditures of the Standing, Select, and Special Committees of the Senate for the period of March 1, 1985, through February 28, 1985, of $44,878,358.

PRINTING FOR THE SENATE

The Rules Committee reported favorably the following printing resolutions for Senate committees:

S. Res. 30, to authorize the printing of the report entitled "Developments in Aging: 1984" for the Special Committee on Aging; S. Res. 244, authorizing the printing of background information on the Committee on Foreign Relations for that committee; S. Res. 181, authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program, Sixth Annual Report to Congress" for the Committee on Environment and Public Works; S. Res. 231, authorizing the printing of a revised edition of the "Standing Rules of the Senate" for the Committee on Rules and Administration; S. Con. Res. 80, to authorize the printing of 2,000 additional copies of the print entitled "Defense Organization: The Need for Change" for the Committee on Armed Services; and S. Con. Res. 85, to authorize the compilation and printing of the Bicentennial Edition of the Biographical Directory of the United States Congress for the Committee on Rules and Administration.

THE CAPITOL

The Ninth Edition of *The Capitol*, a pictorial history of the Capitol and of the Congress, is now in production. Delivery to Members is scheduled for early 1986.

U.S. CAPITOL HISTORICAL SOCIETY CALENDARS

The Rules Committee conducted a survey of all Members of the Senate regarding their preference on the "We The People" Historical Society calendar. With 89 Senators responding to the questionnaire, the results indicated that the overwhelming majority of Senators desired delivery of the 1,000 calendars that have traditionally been provided them. A number of Senators expressed their opinion that the calendars are an excellent constituent relations tool. Committee staff is currently in the process of distributing the calendars to Senator's offices.

ADMINISTRATION OF THE SENATE

Office automation systems for Senators' offices

As of December 19, 1985, office automation equipment has been installed in the Washington offices of 94 Senators. The staff of these offices believes this program has been a great help in providing them with tools for increasing their productivity. There are now requests for an expansion of this program in Washington and for an extension of these services to home state offices.

The committee received and considered office automation plans for twenty committees and offices of the Senate. 15 of these plans have been approved and are installed or in the process of being installed. The remaining five are still being reviewed.

Procurement of new telephone system for the Senate

A Request for Proposals (RFP) for a new telephone service was issued by the Committee on Rules and Administration on October 1, 1984. Responses were received from 6 vendors on January 31, 1985.

The Senate was joined in its investigation of new phone services by the House Administration Committee at the request of Chairman Annunzio. (May, 1985) House and Senate staff and consultants and representatives of the Architect and the Office of Technology Assessment formed a joint evaluation team. The joint team attended all formal contacts with bidders, such as oral presentations, demonstrations and site visits.

Upon completion of site visits both House and Senate reviewed the original RFP. An amended RFP containing revised specifications, reflecting increased capacity to accommodate the House and other purposes was issued on June 4, 1985. Responses to the amended RFP were received on July 24, 1985. Of the 6 original bidders, two declined to submit bids on the amended request and withdrew.

The four remaining bidders were asked to appear before the joint evaluation team to describe their products and installation plans on August 22-26, 1985.

Demonstrations were arranged and conducted in the Washington offices of three customers to permit AAs, office managers, and receptionists to review desk sets in a working environment. (August 28-29) Their comments were considered in the evaluation.

All bidders were asked to review their proposals in the light of discussions and submit best and final cost proposals by September 5, 1985. All complied.

All contracts with bidders were coordinated by the contracting officer and meetings with bidders were held with representatives of both houses in attendance. The two teams performed their evaluations separately, concentrating on aspects of the bids that affected their respective house and items that were related to coordination of services between the two houses.

The Sergeant at Arms presented his recommendation for telephone service for the Senate on Nov. 12, 1985. Additional information meetings were held for the committee members.

The Committee considered the recommendations on Dec. 4 and Dec. 10. After prolonged discussion, the Committee voted to reject all the pending bids, to rebid it within 90 days, and to specify that on evaluations the technical points would receive 80 percent of the weight and the cost 20 percent, as opposed to the 75/25 ratio in the previous bid.

MASS MAIL REGULATIONS

The committee amended the regulations governing mass-mail with the following provisions: (1) increased the minimum paper allotment from 1.2 million to 1.8 million sheets per year per senator, (2) excluded town meeting notices from the paper allotment if the Senator is at the town meeting, (3) excluded "dear friend" letters in response to organized mail campaigns from the paper allotment, (4) provided for the publication on a quarterly basis of Senators' individual mass/mail costs, (5) defined a paper allotment year, and (6) provided for the printing of pictures of missing children on Senate mass-mail and on letters prepared with the Senate Correspondence Management system.

The committee also reported an original measure, Senate Concurrent Resolution 91, to provide for the quarterly reporting of the mass-mail costs of members, committees and offices of the House of Representatives and the Senate.

Contingent fund expenditures

The Rules Committee auditors processed 40,000 vouchers this year for contingent fund expenditures, representing a 5% increase over the previous year.

Administration of Senate Office Buildings

Under the direction of the Rules Committee, with the assistance of the Office of the Architect of the Capitol, the following administrative actions concerning the Senate Office Buildings occurred in 1985:

New modular office furniture was assigned to 10 Senators in the Hart Building;

Plans to locate the Senate Employees' Child Care Center from the Immigration Building to a new location were finalized;

Capitol offices were reassigned to 42 Senators; a total of 78 Senators have now been provided with office space in the Capitol.

New space in the Capitol for the media is presently nearing completion;

Studies associated with acquiring the Old Post Office Building at Massachusetts Avenue and North Capitol have been completed.

SUMMARY OF ACTIVITIES OF THE SENATE SMALL BUSINESS COMMITTEE DURING THE 1ST SESSION OF THE 99TH CONGRESS

I. SBA AUTHORIZATION LEGISLATION

The Committee reported out and the Senate passed, by vote of 94-3, a three-year authorization bill to fund the Small Business Administration's (SBA's) basic core of credit, management assistance and disaster loan programs for fiscal years 1986-1988, while achieving substantial agency savings of $2.5 billion. The bill, S. 408, was then incorporated into the Omnibus Reconciliation Act, which passed the Senate on December 19, 1985.

The final budget plan for the SBA attains significant outlay savings through a budget freeze in fiscal year 1986, termination of SBA's Direct Loan Program (except for economic opportunity loans, loans to MESBICs veterans and, the handicapped), elimination of the Non-physical Disaster Loan Program, and the following policy changes: removing farmers from SBA's Disaster Loan Program and requiring them to obtain assistance from the Farmers Home Administration for disasters declared after September 30, 1985, and permitting the Small Business Investment Company (SBIC) Program to be financed through private capital markets instead of through the Federal Finance Bank.

The following programs were maintained through FY 1988:

Credit programs

The *7(a) Loan Guarantee Program* will continue to allow banks to provide long-term financing, otherwise unavailable, to small firms. These loans can be up to $500,000 with terms usually 7-10 years in length. Two important reforms were made in this program. First, the fee to the borrower was increased from 1% to 2%; and second, SBA's maximum loan guarantee was decreased to 85% for FY 1986 program levels: $2.5 billion.

Small Business Investment Company (SBIC) and Minority Enterprise and Minority Enterprise Small Business Investment Company (MESBIC) Programs will continue to fill the critical void in the availability of small business equity financing by providing small firms with venture capital through SBA-licensed private lending companies. FY 1986 program levels: $20 million for SBICs and $41 million for MESBICs.

The 503 Certified Development Company Loan Program will continue making "bricks and mortar" financing available to healthy small businesses for planned expansion and job creation through a partnership among federal, state and local governments, and the private sector. FY 1986 program level: $400 million.

Through its *Surety Bond Guarantee Program*, SBA will continue to assist qualified small businesses by extending a guarantee to a surety of up to 90% against loss, thereby making bonding more easily obtainable for them. This is important as small business contractors and subcontractors must often furnish surety bonds in order to obtain public and private sector construction contracts. FY 1986 program level: $1 billion.

All the FY 1986 levels for the loan guarantee programs described above will be adjusted for inflation in the outyears.

Disaster assistance

Through its *Physical Disaster Loan Program*, SBA will continue to provide critical and timely assistance to businesses and homeowners who are victims of physical disasters. SBA will continue making loans at favorable terms to property owners to cover uninsured losses resulting from natural disasters. Farmers, however, will be removed from this program as of October 1, 1985.

Management assistance

SBA's management assistance programs, including *Small Business Development Center (SBDC), Small Business Institute (SBI), Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE)*, will continue to utilize private sector resources to meet the wide-ranging needs of small businesses. These programs, through a delivery system composed of retired volunteers, universities and the private sector, will continue to provide affordable training and counseling to small business entrepreneurs, which will be funded through the salaries and expenses portion of SBA's budget.

II. TAX HEARINGS

The Committee conducted 13 field hearings in seven states as part of a comprehensive series of forums to examine the impact of tax reform on small business. The hearings focused on the Administration's November, 1984 tax simplification proposal and the most updated version of their package, as well as the Bradley-Gephardt and Kemp-Kasten tax reform proposals. Of particular interest to the Committee and to the witnesses who testified were those provisions which affect small business' ability to attract and retain capital. Examples of such provisions include those dealing with the Investment Tax Credit (ITC), depreciation, and the taxation of capital gains. A Committee report detailing the proceedings will be issued in January.

III. NATIONAL ADVISORY COUNCIL ANNUAL MEETING

The Committee's National Advisory Council, at its annual meeting on October 23, unanimously approved eight resolutions, including measures calling for the President and Congress to take immediate action on the budget crisis, endorsing cuts in all areas, including entitlement programs, social security, defense spending and tax increases, if necessary; to oppose comprehensive tax reform, with the exception of a minimum corporate tax; and to maintain the Small Business Administration as an independent agency. In its fifth annual meeting, the Council, which is composed of 25 small business persons from around the nation, also declared its support for vigorous enforcement of U.S. antitrust laws; stronger implementation of the Prompt Payment Act; called for hearings and a federal standard on the issue of liability insurance, in light of the current crisis in availability and affordability for small firms; and asked the President, the U.S. Trade Representative, the International Trade Commission and the Commerce Department to reduce imports from any country whose unfair trade practices contribute to our trade deficit with that country.

IV. PROMPT PAYMENT ACT OVERSIGHT

The Committee conducted the first of two hearings to oversee the implementaton of the Prompt Payment Act of 1982 to ensure that small contractors doing business with the federal government receive timely payment. The initial hearing took place in Norfolk, Virginia, with the second planned for early next year in Washington, DC. The hearings were called in response to reports from small business contractors that some federal agencies are failing to fully carry out the objectives and Congressional intent of the Prompt Payment Act.

V. OVERSIGHT OF SBA'S VETERANS PROGRAM

The Committee conducted an oversight hearing into the veterans assistance programs and Office of Veterans Affairs at the Small Business Administration on November 13. The hearing was held in order to determine whether SBA has been fulfilling its mandate to give "special consideration" to veterans in all agency programs, as directed by Public Law 93-237. The Committee is formulating recommendations to the agency for improving their veterans outreach efforts based on the hearing record and responses to follow-up questions.

Summary of Activities of the Committee on Veterans' Affairs Activities During the First Session of the 99th Congress

I. INTRODUCTION

During the First Session of the 99th Congress the Senate Committee on Veterans' Affairs was active in addressing many important issues and concerns which face the Nation's veterans. During the past year the Committee has continued its efforts to be responsive to the needs of veterans through improving health-care and benefits programs provided by the Veterans' Administration as well as veterans' programs administered by the Department of Labor.

The Committee held 18 days of hearings on legislative and oversight matters and the legislative recommendations of veterans' service organizations. Among those hearings were 4 days of hearings concerning VA health care and medical facility construction programs and related matters; 1 day of hearings on the VA fiscal year 1986 budget; 2 days of hearings concerning veterans' exposure to ionizing radiation; 3 days of hearings concerning veterans' compensation and employment matters; 2 days of hearings on the VA home loan guaranty program; and 1 day of hearings on the nomination of Donald Shasteen to be the Assistant Secretary of Labor for Veterans' Employment.

The Committee met in open session 5 times and reported 5 bills to the Senate, the provision of one of which, with modifications, was ultimately enacted into 1 public law.

(1) The Veterans' Administration Health-Care Amendments of 1985, Public Law 99-166, December 3, 1985.

Those not yet enacted are:

(1) H.R. 752, the proposed "New GI Bill Amendments of 1985" reported by the Committee on June 27, 1985 (S. Rept. 99-17).

(2) S. 367, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act" reported by the Committee on July 8, 1985 (S. Rept. 99-100) and passed by the Senate on July 30, 1985.

(3) S. 1730, the proposed "Consolidated Omnibus Budget Reconciliation Act of 1985" Title XI reported by the Senate Committee on Veterans' Affairs on September 26, 1985 (S. Rept. 99-146).

(4) S. 1887, the proposed "Veterans' Compensation and Benefits Improvement Act of 1985" reported by the Committee on November 26 (S. Rept. 99-200) and passed by the Senate on December 2, 1985.

On March 7, 1985, the Majority of the Committee transmitted to the Budget Committee, pursuant to section 301(c) of Public Law 93-334, its recommendations for the fiscal year 1986 budget for veterans' benefits and services. The Minority of the Committee transmitted, separately, its recommendations on March 6, 1985.

LEGISLATIVE ACTIVITIES

Veterans' health care

During the First Session of the 99th Congress, 4 days of hearings were held and a major legislative initiative was enacted which concerned veterans' health-care programs.

On June 12, 1985, the Committee ordered reported favorably S. 876 which was ultimately enacted on December 3, 1985, as Public Law 99-166, the Veterans' Administration Health-Care Amendments of 1985. Public Law 99-166, an omnibus bill including 27 separate provisions, among other things:

(1) Requires the Administrator to conduct a 3 year pilot program under which the VA would increase the range of services provided to Vietnam-era veterans at 10 existing VA readjustment counseling centers, otherwise known as "Vet Centers".

(2) Extends through Fiscal Year 1989, the period of time which those veterans exposed to ionizing radiation from a nuclear detonation or toxic substances in Vietnam would be eligible to receive priority VA health-care services for disabilities not determined to be unrelated to such exposure.

(3) Requires the Administrator to establish a comprehensive quality-assurance program to monitor the quality of VA health care.

(4) Requires the VA to submit to the Committee on Veterans' Affairs of the Senate and House of Representatives a five-year strategic plan detailing the mission and goals of VA medical facilities and a construction plan based on those goals.

(5) Approves the VA's requested individual medical facility construction projects although not the dollar levels requested by the VA, in the fiscal year 1986 budget submission. For fiscal year 1986 the President requested $417.2 million for major construction projects and $194.4 million for minor construction projects.

In addition to the aforementioned legislative activities, the Committee held hearings to review other important health-care issues including oversight of existing health-care programs including the VA's construction planning programs and the consideration of legislation concerning veterans exposure to Agent Orange and ionizing radiation.

Education and related matters

H.R. 752, as reported by the Senate Veterans' Affairs Committee would accelerate the effective date of the educational assistance programs for active duty and Selected Reserves personnel established by P.L. 98-525. In addition H.R. 752 would:

(1) Extend the deadline for enrollment in the "Veterans' Educational Assistance (VEAP)" by six months from July 1, 1985, until December 30, 1985.

(2) Allow the Secretary of Defense to offer benefits under the "New GI Bill" to individuals who return to active duty after a break in service.

The Senate Armed Services Committee reported unfavorably the aforementioned legislation and no further action has been taken.

Judicial review

On July 8, 1985, the Committee reported S. 367, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act" which would provide for judicial review of final agency decisions on veterans' claims for VA benefits and which would modify the $10 statutory limitation on the fee payable to an attorney representing a claimant before the VA. On July 30, 1985, the Senate passed the text of S. 367, as reported. No further action was taken on this legislation during the First Session of the 99th Congress.

Reconciliation

The Committee met on June 20, 1985, to consider Administration's legislative proposals which included a means test, and reimbursement from health insurers for the cost of health care furnished by the VA.

Pursuant to section 2(1) of S. Con. Res. 32, the First Concurrent Resolution on the Budget for Fiscal Year 1986, the Committee, on September 26, 1985, ordered reported favorably legislation and report language recommending certain budget savings. Pursuant to its reconciliation instructions, the Committee recommended changes in the law sufficient to reduce budget authority and outlays for veterans' programs by $1.15 billion during FY 1986-FY 1988.

Among other things, this legislation would:

(1) Clarify eligibility categories and priorities for health care provided for or furnished by the VA, would establish expanded eligibility for such health care for certain service-connected disabilities, and establish an income eligibility criterion for non-service-connected veterans.

(2) Authorize prospectively the United States to recover reasonable costs of care and services furnished through VA or non-VA facilities at VA expense for veterans with no service-connected disability, who are covered under health-plan contracts.

The above mentioned provisions were included in S. 1730, the proposed "Consolidated Omnibus Budget Reconciliation Act of 1985" as passed on November 14, 1985, as an amendment in the nature of a substitute to H.R. 3128. The Conference agreement on H.R. 3128, is expected to be considered by the House and the Senate on December 19, 1985. The statement of managers outlines the Conference agreement.

Compensation and related issues

During the First Session of the 99th Congress, the Senate Veterans' Affairs Committee reported, and the full Senate approved, on December 2, 1985; S. 1887, the proposed "Veterans' Compensation and Benefits Improvement Act of 1985" a bill with 49 sections in 5 titles. It would provide that veterans in receipt of compensation for service-connected disabilities dependents and survivors in receipt of dependency and indemnity compensation would receive an across-the-board cost-of-living increase of 3.1 percent effective December 1, 1985. In addition to increasing the rates of compensation, other important provisions of S. 1887 would:

(1) make improvements in the Home Loan Guaranty Program, including the establishment of stricter credit underwriting standards.

(2) make changes in the various educational assistance programs available to veterans.

(3) extend and expand the Emergency Veterans' Job Training Act and provide an authorization for additional funding for that program.

(4) provide the option of marking gravesites in national cemeteries with upright markers.

The Senate and House were unable to reach a compromise on an omnibus compensation bill prior to the end of the 1st session of the 99th Congress. In order to ensure that a cost-of-living adjustment (COLA) would be provided to veterans in receipt of compensation for service-connected disabilities, dependents, and the survivors of veterans whose deaths were due to service, a 3.1% COLA rate increase was included in both a Senate amendment to H.R. 1538, the Veterans' Compensation Rate Increase and Job Training Improvement Act of 1985, and in the conference report of H.R. 3218, the Omnibus Budget Reconciliation Act of 1985 which was passed by the Senate and House on December 19, 1985. H.R. 1538, as amended, and passed by the Senate on December 19, 1985, also renamed and extended for one year the Emergency Veterans' Job Training Act.

Expected action by the committee during the 2d session of the 99th Congress

During the next session of Congress, the Committee will continue its oversight of the major programs administered by the VA.

Special emphasis is expected to be placed on several program areas including:

(1) alternatives to institutionalization for aging and chronically mentally ill veterans.

(2) a continued review of the VA's loan guaranty program.

(3) a review of the VA's financial management and resource allocation system and the use of, among other things, diagnostic-related-groups (DRG's).

(4) an examination of the VA's automatic data processing (ADP) system.

AMENDMENT TO INCREASE LIMIT ON DISTILLED SPIRIT PLANTS EXEMPT FROM BOND REQUIREMENTS

Mr. DOLE. Mr. President, during a recent town meeting in Garden City, KS, I was approached by two men who own a small alcohol fuel producing plant in Leoti, KS. These men were concerned that as of January 1, 1986, they would be forced to close their plant and lay off approximately 12 employees because of a Federal law requiring them to furnish a $110,000 bond. Officials with the Bureau of Alcohol, Tobacco and Firearms inform me that this bonding requirement is to guarantee that an alcohol fuel producing plant will pay any Federal tax liability accruing on the distilled spirits produced by the plant. It seems rather strange to me, Mr. President, that such a bonding requirement should result in the closing of an alcohol fuel producing facility, as there is no Federal tax liability on alcohol fuel.

According to the two men operating this plant, it has been impossible for them to obtain the federally mandated bond. Their bank is a small agricultural-oriented facility and due to the sad shape of the agricultural economy these bonding companies have no interest in underwriting such a bond.

I do understand, Mr. President, that at one stage in the alcohol distillation process there is some concern that the alcohol produced by an alcohol fuel plant could be diverted and used for beverage purposes. Should this happen there would be Federal excise taxes due on the product. However, Mr. President, I have been assured by officials with the Bureau of Alcohol, Tobacco and Firearms, that Public Law 96-223 sets out specific criminal penalties for any such illegal activities—thereby providing the Government with a form of recourse against those diverting the product illegally.

Today, I would have offered an amendment to increase the limit on distilled spirit plants exempt from bonding requirements when producing alcohol fuels if there had been a realistic chance for enactment. This amendment would have raised the bonding threshold for those plants in operation for at least 2 years, from the 10,000-proof gallon level to a 2,500,000-proof gallon level, for 1 year. It will allow those small alcohol fuel production plants experiencing bonding problems to remain open next year, and would have given Congress enough time to fully discuss the merits of the bonding requirement.

Unfortunately, it was not possible to get the House to consider this measure today. I hope to be able to move this legislation very quickly in the next session.

I ask unanimous consent that the text of the amendment I intended to offer be printed immediately following my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . In the case of any distilled spirits plant which, for each calendar quarter during 1984 and 1985, was required to obtain, and obtained, a bond under section 5181 of the Internal Revenue Code of 1954, section 5181(c) of such Code shall, for each

calendar quarter during 1986, be applied by substituting "2,500,000 proof gallons" for "10,000 proof gallons".

APPOINTMENTS BY THE CHAIR

The PRESIDING OFFICER (Mr. WALLOP). The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-118, appoints the Senator from Hawaii [Mr. INOUYE] to the Japan-United States Friendship Commission.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-83, appoints Rabbi Chaskel Besser to the Commission for the Preservation of America's Heritage Abroad.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-93, as amended by Public Law 99-151, appoints the following Senators to the United States Senate Caucus on International Narcotics Control: the Senator from Delaware (Mr. BIDEN), Co-Chairman; the Senator from Arizona [Mr. DECONCINI]; and the Senator from Illinois [Mr. DIXON].

The Chair, on behalf of the Vice President, pursuant to Executive Order 12131, signed by the President on May 4, 1979, as extended, appoints the Senator from Texas [Mr. BENTSEN] to the President's Export Council.

APPLAUDING ADOPTION FACTBOOK DEVELOPED BY UTAH CITIZEN

Mr. HATCH. Mr. President, I am pleased to bring to the attention of my colleagues an important resource related to the adoption of children. Recently, the national news media have been talking about adoption statistics—data that has not been collected by the Federal Government since 1975. As it turned out, it took the efforts of a national voluntary organization, the National Committee for Adoption, to gather this important data and make it available to policymakers, to those who offer services to women with crisis pregnancies, and to the tens of thousands of families who would like to adopt but can't. This data was published as part of the "Adoption Factbook."

The person who is primarily responsible for the data gathering is Ione J. Simpson. She found the right resources and worked with States to obtain this information without a costly and cumbersome Federal program. Ione is a career social worker and long-time employee of the LDS Social Service system who did the data-gathering design, while on sabbatical, as a staff member of the National Committee for Adoption. Ione is a resident of Salt Lake City, and my staff and I had the opportunity to meet and work with her while she was in Washington for a year's work as Director of Public Policy and Professional Practice for the National Committee.

Those of us in Utah take pride in our willingness to look at all the facts and make decisions based on those facts. In the case of adoption, thanks to Utah resident Ione Simpson, we now have the facts we need to make better decisions affecting all children who need homes—healthy infants, special needs children, and children from other lands who look to America as their only chance for permanence.

IN SUPPORT OF THE INCREASE IN BENEFITS OF SERVICEMEN'S GROUP LIFE INSURANCE

Mr. COCHRAN. Mr. President, I support enthusiastically the proposal to increase the servicemen's group life insurance benefits from $35,000 to $50,000. I think this increase should be retroactive to include those brave Americans who were killed in the Beirut bombing in 1983.

The recent tragedy in Gander, Newfoundland, which took the lives of 250 members of the 101st Airborne Division, including 2 young soldiers from my State of Mississippi, is being felt by families throughout the Nation. This increase in insurance benefits would not replace the departed loved ones, but could help provide for those families now facing an uncertain future.

Each and every day, American soldiers, sailors, airmen, and marines risk their lives for their country. Major tragedies such as the Gander crash and the Beirut bombing focus our attention, but there are lives lost by service men and women almost daily which do not receive the Nation's attention. The loss of the surviving families, however, is just as real.

On August 19, 1981, two Navy F-14's from the U.S.S. *Nimitz* were attacked and subsequently shot down two Libyan fighters. The F-14 squadron commander and lead pilot was Comdr. Hank Kleeman. A 1965 Naval Academy graduate, he had served his country wherever he was needed, and when called upon this August night, he did not hesitate. His actions made all Americans, including his wife and four children, proud. He was subsequently promoted to captain and assigned as commanding officer of Air Test and Evaluation Squadron Four in California. On the morning of December 3, 15 days ago, Capt. Hank Kleeman was killed in an aircraft accident.

The increased insurance will not provide financial security for the survivors of Hank Kleeman, but it will help to provide a promise of education for his four children. It will do the same for the families of those who were killed at Gander, at Beirut, and throughout the world. This legislation would have a major positive impact on the families who deserve our support the most.

THE OIL BUST

Mr. BOREN. Mr. President, as I have previously mentioned on the floor, I have written Finance Committee Chairman Senator ROBERT PACKWOOD requesting hearings early next year on my proposal to put in place an oil import fee.

Mr. President, as I said then, we should be prudent and put in place a safety net for the goals we have achieved in energy conservation, for America's domestic energy, and the country's financial system which funds that industry.

We should act now to prevent the disastrous effect sudden sharp drops in the price of oil would have on our economy. Prices may not fall dramatically, and the tiers of an oil import fee may not ever be necessary. But we should protect against the possibility of that happening, and not wait until a potential problem becomes a full-blown crisis.

Mr. President, I urge my colleagues to read the column written by Charles Krauthammer and printed today in the Washington Post, and I ask that the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE OIL BUST

If the strain of all the good will, cheer and generosity of the season has left you thoroughly exhausted, I offer relief: a few minutes of sweet, unmitigated vindictiveness. OPEC is dead. Time for rejoicing.

Astute observers detected the first sign of the end of the oil era not in the financial pages, but in the sudden disappearance from TV screens of the Santa Gertrudis cattle. You remember: the Exxon ads that, years ago, showed the happy herd milling about in peaceful coexistence with a Texas refinery, living proof of Big Oil's neighborliness.

When oil was king, ads could disdain anything so crude as product promotion. No more tigers in the tank. Ads were for image. Seen the ads lately? The Santa Gertrudis are gone. And the tiger, promising better performance and symbolizing good old grasping competition, is back. So is the oil market.

For almost 10 years OPEC *was* the market. No longer. Earlier this month OPEC collapsed as a cartel. The beauty is that OPEC destroyed itself. The massive oil shocks of 1973 and 1979-80 stimulated so much energy conservation and non-OPEC production that OPEC now sells only a third of the free world's oil, down from almost two-thirds in its heyday. Thanks to its greedy formula of curtailing production to raise prices, OPEC gratuitously forfeited much of its market share—*the* measure of economic power—to others, such as Mexico, Britain and Norway.

Ah, greed. A recent analysis by the London-based Economist shows that had

OPEC raised prices merely non-extortionately, say, in accord with GNP increases in the West, it would over the past six years have accumulated exactly the same total income ($1.3 trillion). But it would now have (1) a steadier and higher price, (2) a one-third greater, and probably controlling, share of the world market and (3) reason to smile. Instead of being at the edge of a rising income curve, it is now at the edge of a cliff. Who says there is no justice in the world?

OPEC, of course, has another word for greed. At the December OPEC meeting, Tamunoeni David-West, Nigeria's oil minister, said, "Nigeria has made enough sacrifices to promote the ideals of OPEC." The beneficiaries of past OPEC idealism—the battered economies of the West and the ruined economies of the oil-poor Third World—welcome OPEC's retreat from highmindedness.

The news, however, is not unequivocally good. Oil prices, now at $28 per barrel, are perched for a free fall. Since Persian Gulf crude costs about $2 per barrel to produce, there is no telling how great the fall could be.

That is very good news for the world's economies, but it carries a threat.

Chevron Chairman, George Keller, once called it the Velvet Trap scenario: a sharp drop in oil prices leads to an increase in consumption, a slowdown in energy substitution out of oil, and a decrease in marginal production from expensive non-OPEC, wells, such as those in the Arctic and the North Sea. Gas is guzzled, wells shut down, the market tightens, and, in the 1990s, the trap closes: a crisis, a panic, another oil shock.

What to do? The solution is an oil import fee. Let it go into effect only if the price falls below the current $28. If the world price is $18, the tax is $10. If it is $23, the tax is $5. If it is $28, the tax is zero. That way no one pays a penny more for gas or heating oil than he does today. Adjusted, say, every three months to reflect the average world price, such a tax would soak up windfall only.

The effects are clear. It would keep consumption from rising. (In 1984, with prices falling, U.S. oil consumption rose 3.2 percent.) And, by maintaining at $28 the price offered domestic producers, it would keep a lot of marginal wells from shutting down. (Already the expectation of lower oil and gas prices has caused the number of U.S. rotary drill rigs in operation to fall to the lowest level since 1976.)

Why would anyone oppose such a boon? The president because he has a tax allergy and supply-siders because they don't want to take away the stimulative effect of an oil price drop.

Tax allergies are incurable, but perhaps one can reason with supply-siders. An oil import fee does not abolish the stimulate effect of an oil price drop. It merely reallocates it. The money—at $10 per barrel, $15 billion per year—is not lost. It simply gets collected by government instead of being passed on directly to oil users as a reward for energy waste.

The point of an oil import fee is to raise the (relative price of oil. The windfall does not disappear, nor the stimulative effect. In theory, the oil tax money could be refunded in the form of lower income tax rates. The Gramm-Rudman era, even the most starry-eyed supply-sider will concede, is not a very good time for that. Well, then, an oil fee could narrow the deficit and obviate the need for corresponding—anti-stimulative—spending cuts.

If there ever was a best-of-both-worlds idea, this is it. The last time it was broached in Congress was by Senate Budget conferees in July. One colleague put it to Sen. David Boren: "The oil import fee makes so much sense that Congress probably won't pass it." It didn't. It should.

MYTH OF THE DAY: TERRORISM, IT CAN HAPPEN HERE

Mr. PROXMIRE. Mr. President, the myth of the day is something very basic to all of us. To you, to me, to all Americans, namely the threat of international terrorism and the feeling that it can't happen here.

Terrorism, I'm sorry to say, is going to be a fact of life for us and will loom like a dark, deadly shadow over the international political landscape for the rest of the century. And that is not a happy thought.

Am I being some sort of Cassandra, bringing warnings that no one heeds? I sincerely hope not. Let's take a look at the facts.

From 1975 to early 1985, terrorists struck more than 5,000 times worldwide. And the tragic legacy: 4,000 dead and 8,000 wounded. Last year alone, the U.S. Government counted nearly 600 international terrorist acts.

Now, if those numbers are not grim enough consider this: a recent study by the Rand Corp. says terrorist acts are rising at an annual rate of 12 to 15 percent. And in that same report there is something that could be even more ominous: that terrorism is becoming commonplace, even routine or ordinary. What an outrageous thought that something as heinous as the hijacking of the cruise ship *Achille Lauro* and killing of an elderly, paralyzed American could become routine. No decent person, anywhere on this planet, can accept such acts as routine.

And we have other things to worry about: state sponsored terrorism. I guess it is not enough that individual madmen murder the innocent, now we have the specter of outlaw states aiding and abetting these blood-thirsty killers.

Share another nightmare with me: nuclear terrorism. Preposterous, you say? I think not. Nuclear proliferation has brought atomic materials and the knowledge of how to build a bomb to more countries. Now imagine for a moment an outlaw nation giving a terrorist band an atomic bomb. That would be a catastrophe! If you added all the world's terrorist acts from Munich 1972, to the *Achille Lauro*, it could never equal the horror of a city-destroying atom bomb in the hands of terrorists.

The fact is we have grown complacent about terrorism. That could be tragic.

We see the pictures from Lebanon and assume what happens there can't happen here. I wish that were true. Alas, it is not.

How many remember last year's terrorist bombing right here in the U.S. Capitol? We have been very fortunate so far. The U.S. Capitol bombing killed no one. But what about next time? There is absolutely no indication that terrorism will vanish overnight.

So, what is to be done? Do we cower in fear, ignoring the problem, hoping it will go away? Hardly! There are several concrete, relatively simple steps we can take.

We should continue to beef up physical security. That means checking more bags, inspecting more briefcases. Inconvenient? Sure it is. But it is far simpler and far cheaper to make these checks rather than wishing we had after some strategy.

We need better security for our Americans abroad. The United States is always going to be a prime target with our extensive official and commercial ties overseas. We don't need another Lebanon with an Embassy destroyed or Marines blown up.

Better intelligence efforts to root out these enemies of decent people is another step. And based on that close cooperation with other countries to identify terrorists before they strike. We must label those rogue nations who help terrorists.

Most of all we must realize it can happen to us. Terrorism can strike here. That doesn't mean living in fear. Absolutely not! It does mean being aware that we could have serious problems if we don't work vigorously to stamp out this scourge of international terror.

"STAR WARS" WILL INCREASE THE LIKELIHOOD OF NUCLEAR WAR

Mr. PROXMIRE. Mr. President, there are a series of reasons why the SDI or "star wars" program can develop into one of the most tragic mistakes in this country's history. First, it now seems clear that there is an overwhelming consensus on the part of the most knowledgeable supporters of this program that it can never protect American cities. The President has said that SDI can eventually do this. He apparently believes it. But the President is virtually alone in this conviction. In December in a series of three lengthy reports Charles Mohr wrote a detailed analysis of the SDI or star wars in the New York Times. Mohr talked with virtually all the top experts on star wars both in the administration and outside of the administration. He concluded that whereas 18 months ago some star wars supporters still thought that a "near perfect" defense was possible, this is no longer the case. Mohr reports:

Instead of stressing the goal of a defense that is nearly perfect by the standard of how many Soviet nuclear warheads it could shoot down, Administration figures now

stress that if "Star Wars" could only deny the Russians the ability to destroy the key military targets, which the Administration perceives to be the Russians' only goal, it would be good enough.

The study by the Office of Technology Assessment found a series of reasons why the SDI would be more likely, not less likely, I repeat more likely to bring on a superpower nuclear war. First, if both superpowers had similar but limited defenses, whichever superpower struck first would have a major advantage because it could knock out much—though not all of its opponent's nuclear arsenal.

Why is this? Consider: What does the SDI need to succeed? Any chance of a successful star wars defense depends on a sharp reduction of the adversary's nuclear arsenal. How can this be achieved most surely? Answer: A preemptive attack could provide precisely that. This is why the Office of Technology Assessment has concluded that if both sides deploy and SDI system, as the President has proposed, the prospect of a preemptive Soviet strike would sharply increase. As OTA observes:

Even a limited Soviet defense would have to deal only with a "ragged response" from a diluted United States retaliatory arsenal.

Of course a dangerous possibility is a situation in which the defenses of each nation are vulnerable to a preemptive strike by the other side. What happens under those circumstances? What happens is that whichever adversary strikes first has a huge advantage. Result: mutual deployment of SDI will make a super power nuclear war far, far more likely.

Mr. President, one of the most revealing disclosures in the OTA report as described by Charles Mohr in the New York Times is the result of a war games scenario that simulates star wars defenses. One Soviet affairs specialist described it this way:

We found we were playing against defense contractor personnel and others who know nothing about Soviet doctrine. It took our whole team, the Red team, less than 20 minutes to agree that our first counter to "Star Wars" would be to increase offensive missile numbers. Their team, the Blue team, said, "No, that is not how the Soviets think." Every step we took surprised them.

In a later speech I intend to discuss the cost of "star wars" as it will affect not only the research, the production and the deployment of immensely expensive hardware, but the additional cost of supplementing an SDI system with a new immensely costly air defense and a vast new, hugely expensive civil defense system. What a tragedy! We may be on the verge of pouring the economic, scientific, and manpower resources of this great Nation into far-and-away the most costly system the world has ever seen. What happens when we have it? We will find it will not work except on one terrible condition. It will work only if we initiate the first strike. We will know that our adversary, the Soviet Union, will face the same dilemma. They too will have some kind of an SDI which they also know means their best chance of survival will be to strike before the United States does. What does that kind of situation do to the prospect of nuclear war? Will we be better off? Consider what the President's preeminent spokesman on foreign policy, our Secretary of State George Shultz, said just last December 10. He said:

In the 1980's and beyond, most likely we will never see a world in a total state of peace or a state of total war. The west is relatively very well prepared to deter an all-out war, or a Soviet attack on western Europe or Japan; that's why these are the least likely contingencies.

The Secretary of State was telling us that the prospect of super power nuclear war right now is remote, and it will remain remote for years to come. But all that changes with Star Wars. The real tragedy is that our multitrillion-dollar folly will sharply increase the likelihood of nuclear war. What a way to throw away a few trillion dollars.

GENOCIDE CONVENTION: ANOTHER MISSED OPPORTUNITY

Mr. PROXMIRE. Mr President, as the gates of 1985 begin to close, we see once again that Congress has failed to act upon the Genocide Convention. This should have been the year for passage. The administration had given its full support. Ominous developments abroad in the form of brutal human rights abuses indicated that ratification was vital and absolutely necessary. The year 1985 even marked the 40th anniversary of the end of the Second World War and the Holocaust. If ever there seemed an opportune time, it was this year.

The legislative agenda for next year appears busier than ever. Looking ahead, we can expect to face such heavyweight issues as Conrail, tax reform, campaign reform spending, and provisions implementing Gramm-Rudman.

Is there any room for the Genocide Convention, which has been sidestepped and brushed aside for more than three decades?

We must make room for this treaty. We must demand a firmer commitment for ratification of the Genocide Convention. For what we need now more than at any time before is stronger leadership in the cause of human rights and against genocide around the world.

Mr. President, it is essential that we move ahead early next year if the Genocide Convention is to have a realistic chance for consideration next year. We need a commitment here and now from the leadership of the Senate to set a date certain for consideration of the treaty. We need a commitment now from the White House to put the full weight of the President's authority behind this effort.

We have waited an entire generation for the Senate to act on this treaty. We must not wait any longer.

DEATH OF FRANK ARTHUR CAMPBELL

Mr. FORD. Mr. President, it is with great sadness that I relay to the Senate news of the untimely death of Mr. Frank Arthur Campbell. Since 1978, Frank served within the Educational Services and Support Division of the Senate Computer Center. As an instructor and consultant for the Senate's legislative computer applications, Frank was well known and highly esteemed by staff members from many corners of Capitol Hill.

Frank distinguished himself as an honors graduate of Paul Quinn College in his native Waco, TX. He later became an elementary school teacher, first in Waco and later within the Waterloo, IA, school system. His teaching expertise and personable manner were well applied in his years at the Senate; many a staff member learned how to use the Senate's LEGIS system under Frank's careful and caring guidance.

Painful as they were, Frank's last days were considerably brightened by the closeness of the many family members and friends who traveled to be with him in illness. On behalf of the Senate, I wish to extend special condolences to Frank's mother, Mrs. Dora L. Campbell, and to his sister Alma Faye and brother Larry who traveled from Waco to comfort Frank.

I am sure I speak for the entire Senate in saying that Frank's warmth and compassion will be sorely missed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, an-

nounced that the Speaker pro tempore [Mr. WRIGHT] has signed the following enrolled bill:

S. 1706. An Act to authorize the Architect of the Capitol and Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 2:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985, with an amendment, in which it requests the concurrence of the Senate, and that the House agrees to the amendment of the Senate to the title of the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 255. Joint resolution relating to the convening of the second session of the Ninety-ninth Congress.

ENROLLED BILL SIGNED

The Vice President announced that on today, December 20, 1985, he signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, December 20, 1985, she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1706. An act to authorize the Architect of the Capitol and Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes;

S. 1918. An act to change the date for transmittal of a report;

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week";

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine"; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

The following named officers for posthumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

ARMY

To be captain

Lt. John K. Kosh, [redacted].
Lt. Paul D. Long, [redacted].
Lt. Joey McCarty, [redacted].
Lt. Barry C. Powell, [redacted].

To be chief warrant officer W-4

CWO3 Robert A. Bowen, [redacted]

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABDNOR:

S. 1998. A bill to amend the Internal Revenue Code of 1954 to provide for the repayment of the tax imposed on fuel in diesel-powered automobiles or light trucks; to the Committee on Finance.

By Mr. DANFORTH:

S. 1999. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BYRD (for Mr. ROCKEFELLER (for himself and Mr. BYRD)):

S. 2000. A bill to clarify the exemptive authority of the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABDNOR

S. 1998. A bill to amend the Internal Revenue Code of 1954 to provide for the repayment of the increased tax imposed on fuel used in diesel-powered automobiles or light trucks; to the Committee on Finance.

REPAYMENT OF INCREASED TAX ON DIESEL FUEL

● Mr. ABDNOR. Mr. President, when the 1984 Deficit Reduction Act was passed, the diesel fuel tax was raised 6 cents per gallon to repair the damage created by large trucks on our highways. Unfortunately, this tax was also levied against owners of automobiles and small trucks. This places an unneeded financial burden on these owners.

My legislation would correct this injustice by providing a rebate to consumers who own diesel-powered autos and light trucks of the tax they pay. Damage to our highways cannot be attributed to these people at all, and corrective action must be taken.

These people bought these diesel-powered vehicles when the energy crunch was real. They now wind up paying for their innocent attempt to conserve fuel. I urge my colleagues to support this measure, so the injustice can be corrected. My colleague on the House side, Mr. SCHULZE already has legislation introduced. If we want fairness in our legislation, then this bill will receive the due consideration it deserves.●

By Mr. DANFORTH:

S. 1999. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PRODUCT LIABILITY VOLUNTARY CLAIMS AND UNIFORM STANDARDS ACT

● Mr. DANFORTH. Mr. President, I rise today to discuss the issue of product liability reform. As chairman of the Senate Committee on Commerce, Science, and Transportation, I believe that there is no more important subject before the committee than the cost and scarcity of liability insurance, and the underlying need for product liability reform.

Traditionally, product liability has been a matter left to State law, but today the morass of product liability law is a problem of national concern that requires congressional action. The product liability system is costly, slow, inefficient, confusing, and unpredictable. It hurts business, consumers, and our competitive position in world markets.

The present patchwork of inconsistent, often contradictory State laws makes it difficult for manufacturers to know what standards they will be held to in manufacturing a product. It delays justice to those victims truly deserving compensation, and it encourages lawyers to solicit half-hearted plaintiffs in the hope of recovering windfall contingent fees.

The confusion in product liability laws leads not only to excessive litigation but to unpredictable insurance costs. The result is that an increasing number of American firms cannot purchase insurance coverage that is adequate to protect against potential liability. At the same time, many consumers who are injured by defective products and deserve compensation are unable to recover damages or must wait years for recovery. They find themselves caught in a legal lottery in which identical cases can produce dif-

ferent results in different jurisdictions. When they recover, they sometimes find that they receive less in damages than the total legal costs and expenses involved in the case.

Manufacturers seek certainty about the scope and extent of their liability. Consumers seek swifter, more certain recovery, and both groups seek to avoid the high transaction costs of litigation. It is time for a new approach to the problems of our product liability system that unites manufacturers and consumers, in recognition of the fact that their interests, while different, are not necessarily conflicting.

After Senator KASTEN's product liability reform bill, S. 100, became deadlocked in the Commerce Committee, the Committee held hearings on alternatives to S. 100 proposed by Senator DODD and Senator GORTON. I then directed the Commerce Committee staff to begin the formulation of such a new approach to product liability reform that combines uniform product liability standards, along the lines of the KASTEN bill, with an alternative claim or compensation system, similar to those proposed by Senator DODD and Senator GORTON.

I did so, because I believe that such an approach is essential to product liability reform and the only way to develop viable legislation that would have a broad base of support from manufacturers, consumers, and labor. The basic idea is to establish uniform Federal standards for product liability litigation and, at the same time, to get as many people as possible out of the courts and into a simple, expedited claim system that provides swift and more certain recovery without the costs of protracted litigation.

Mr. President, this approach now is embodied in a staff working draft of product liability legislation that originally was released for public comment last July. This draft, which since has been revised, gives a person injured by a defective product a choice between a new, expedited claim system and traditional litigation. If the injured person chose to litigate, he could seek recovery for damages, including pain and suffering and punitive damages, in a traditional lawsuit that would be governed by uniform Federal standards that preempt State law and that would be based primarily on negligence or fault—not strictly liability. As an alternative, without going to court, a person seeking recovery for harm caused by a product could file a claim directly with the manufacturer to recover only net economic loss—actual out-of-pocket expenses incurred as a result of the harm, which are not reimbursed by other sources.

No recovery would be permitted within the claim system for pain and suffering or punitive damages, but the burden of proof for recovery would be much lower than that of the traditional litigation system. This would not be an absolute "no-fault" claim system, but the standard for recovery would be much easier to meet and there would be greater certainty of recovery.

Under this proposal, once a claim is submitted, a manufacturer must respond within 90 days. If the manufacturer only disputes the amount to be paid for net economic loss, this issue goes to binding arbitration. If the manufacturer denies liability or fails to respond to the claim, the claimant has a choice. The claimant may initiate a traditional lawsuit under new uniform Federal standards. As an alternative, the claimant may seek expedited limited judicial review within the claim system. Such review would be under the claim system liability standard without a jury and with recovery limited to net economic loss. Once judicial review has been sought within the claim system, it cannot be pursued in traditional litigation for the same harm. Likewise, once traditional litigation has been initiated, a person cannot use the claim system to seek recovery for the same harm.

Mr. President, this staff working draft also gives special treatment to toxic harm caused by long-term exposure to products. The particular concern here is to address the problems many individuals have with respect to identification of the manufacturer and with respect to proof of causation in long-term latency disease cases, particularly those involving occupational diseases. We are seeking a simplified mechanism to resolve the disputes as to causation that now make it very difficult and costly to assess liability in such cases.

The response to this proposal has been encouraging. A very constructive approach was taken by all those who commented on the first draft, and after these comments were reviewed, a second staff working draft was released on November 27. This draft clarifies the provisions of the original and addresses concerns raised in many of the comments on the first draft submitted to the committee by manufacturing, labor, and consumer groups, as well as by others.

Of course, it is important to remember that this is only a staff working draft and it still would be premature to endorse specific provisions of the draft, but I think that we are making real progress in addressing the problems of product liability in a fair and comprehensive manner, and I ask unanimous consent that the second staff working draft be printed in the RECORD for review by my colleagues and all those interested in product liability reform.

The current crisis with respect to the availability of liability insurance only underscores the urgent need for product liability reform. It is my hope that the Commerce Committee can begin hearings on this new draft early in the next session and that we can move ahead as expeditiously as possible to fashion product liability reform legislation that efffectively and fairly addresses the problems of manufacturers, product sellers, workers, and consumers. It is my hope, as well, that those who study this draft proposal will share their views and concerns with the committee as soon as possible.●

ADDITIONAL COSPONSORS

S. 837

At the request of Mr. HEINZ, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 837, a bill to amend the Social Security Act to protect beneficiaries under the health care programs of that act from unfit health care practitioners, and otherwise to improve the antifraud provisions of that act.

S. 1378

At the request of Mr. DURENBERGER, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1378, a bill entitled the "Long Term Care Insurance Promotion and Protection Act of 1985."

S. 1710

At the request of Mr. BYRD, his name was added as a cosponsor of S. 1710, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 1721

At the request of Mr. RIEGLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1721, a bill to amend the Social Security Act to provide for improved procedures with respect to disability determinations and continuing disability reviews and to modify the program for providing rehabilitation services to individuals determined under such act to be under a disability, and for other purposes.

S. 1855

At the request of Mr. QUAYLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1855, a bill to revise the provisions of the Public Health Service Act relating to health planning.

S. 1860

At the request of Mr. MOYNIHAN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote U.S. and for other purposes.

S. 1880

At the request of Mr. GORTON, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cospon-

sor of S. 1880, a bill to amend the Internal Revenue Code of 1954 to clarify the treatment of travel expenses in the case of construction workers.

S. 1889

At the request of Mr. DENTON, the names of the Senator from Nevada [Mr. LAXALT], the Senator from North Carolina [Mr. EAST], the Senator from North Carolina [Mr. HELMS], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

S. 1912

At the request of Mr. DANFORTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1912, a bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954.

S. 1940

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1940, a bill to protect the security of the United States by creating the offense of international terrorism, and for other purposes.

S. 1941

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1941, a bill to protect the security of the United States by providing for sanctions against any country that provides support for perpetrators of acts of international terrorism.

S. 1942

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1942, a bill to amend title 10, United States Code, to improve the security of U.S. military installations.

S. 1966

At the request of Mrs. KASSEBAUM, the names of the Senator from South Dakota [Mr. PRESSLER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 1966, a bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes.

SENATE JOINT RESOLUTION 237

At the request of Mr. GRAMM, the names of the Senator from Illinois [Mr. DIXON], and the Senator from North Carolina [Mr. HELMS] and the Senator from South Carolina [Mr. HOLLINGS] were added as a cosponsors of Senate Joint Resolution 237, a joint resolution to designate the month of January 1986 as "United States Savings Bonds Month."

SENATE JOINT RESOLUTION 249

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS], was added as a cosponsor of Senate Joint Resolution 249, a joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution expressing the sense of the Congress that the President should declare a State of national emergency with respect to terrorist acts committed against nationals of the United States.

AMENDMENT NO. 1423

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1423, intended to be proposed to S. 1404, an original bill to require the President to respond to unfair trade practices of Japan.

AMENDMENT NO. 1424

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1424 intended to be proposed to S. 1860, a bill to amend the Trade Act of 1974 to elimate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote U.S. exports, and for other purposes.

AMENDMENT NO. 1425

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1425 intended to be proposed to S. 1837, a bill to establish a National Trade Data Bank, to provide authority to revise certain trade and financial agreements, and for other purposes.

AMENDMENT NO. 1426

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1426 intended to be proposed to H.R. 3722, a bill to extend until December 14, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program.

AMENDMENT NO. 1427

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1427 intended to be proposed to S. 942, a bill to promote expansion of international trade in telecommunications equipment and services, and for other purposes.

ADDITIONAL STATEMENTS

CARGO PREFERENCE

● Mr. BOSCHWITZ. Mr. President, I want to take this opportunity to clarify one point concerning the cargo preference provisions in the farm bill. As one who was quite involved in the last minute negotiations with the House Members, I feel it is important to share my understanding of the intent of the final legislation.

The one issue I wish to specifically address is that of the definition of availability. The initial Senate amendment stated that the Secretary of Transportation shall "give due consideration to the availability of U.S.-flag vessels to transport the commodities."

The House amendment that was then adopted eliminated this language as a technical amendment because it was not necessary to redefine availability—as it is already defined in the Merchant Marine Act, and we are amending that act with the compromise.

In fact Mr. President, the description of the amendment circulated by the Merchant Marine Committee's Chairman WALTER JONES, stated both the purpose and the reason for the change, and I quote from his text: "Strike redundant paragraph; covered in Merchant Marine Act."

Given this, I want to make the point clear that nothing in this bill should be construed as changing the definition of availability, and further, this legislation is not intended to interfere with any pending litigation dealing with the legal issues surrounding the availability exception of the act.●

THE CONGRESS-BUNDESTAG YOUTH EXCHANGE PROGRAM

● Mr. LUGAR. Mr. President, I would like to share with you several letters which were received from high school students from Germany who spent a year in the United States as participants in the Congress-Bundestag Youth Exchange Program. Each student lived with a host family and attended an American high school. These letters are evidence that youth exchange programs such as the Congress-Bundestag Youth Exchange Program encourage a better understanding between young people throughout the world.

First of all I want to express again my thanks for making my stay here in the United States possible. It has been a fantastic experience and I'm especially grateful because I would not have been able to come as an exchange student if it wouldn't have been with the Congress-Bundestag Youth Exchange Program.

Since I'm very interested in politics, this year has been a fortunate one with the election last fall, the arms talks, discussions about Central America, the 40th anniversa-

ry of WW11 or President Reagan's visit to the cemetery in Bitburg. It was great to get to know so many vital political issues of the American point of view (that is often similar as it was regarding farm problems for example) because I got to see a whole new span of aspects in most of them (American involvement in Central America). This is so extraordinarily great because U.S. politics are so world-important! If I came to America with a neutral position towards this country I go back as Pro-American, in most respects anyway, and say that our relation in the Western Alliance is an enormous valuable one!

But I did not only get to love America, I got to love my own country also. After the first few weeks I saw my own background so clearly, I got to understand my own culture and it became so obvious how I became what I am. It became evident how much each country's culture develops and how each country is the immediate product of its history.

During this period of understanding I started for the first time in my life to be proud to be German—because we are in a way unique and special . . . At the same time I accepted the American way for here but still felt more comfortable with our way and was glad Germany is the way it is . . .

Pretty soon my attitude changed into loving this country, its uniqueness, its originality. I love it because it is so young and consists of so many different peoples-which are all Americans. You could not judge or determine somebody's nationality by race or skin color . . . there's such a variety of Americans. (Unfortunately I understand that there's a lot of racism especially in the South though . . . I myself did not meet many black people in the Midwest.)

There's so much space around here-you go miles and miles without seeing anybody else . . . (In Nebraska anyway . . .) And I was so much "into America" that I forgot my own language to a large degree . . . By now this extreme mood has gone over into loving both countries, this and mine. There are negative things here and there and I feel "in place" in both nations.

I don't think my personality has changed very much during my stay, but this is difficult to judge for myself! If it has, it will show as soon as I am home . . . I am more self-aware though and know more about myself as where or what I want to be and I'm more comfortable in asking favors of other people. Going back I'll leave a home and many friends and since I'm pretty attached to everything I'm going to miss it a lot. But I'm looking forward to going home, too.

I feel like I served my country in a unique way mainly through sharing attitudes, experiences, etc. And I feel that every exchange student does. But I believe that I also added a lot to the knowledge of American people. Exchange programs like this are certainly very special and an excellent way for Americans to get acquainted with other cultures and countries. I'm happy to be part of its cause. There's a time when the world must come together as one!

Sincerely,

MELANIE GRIMM.

Melanie Grimm from Worth, West Germany, 17 years old, hosted by Mr. and Mrs. Tim Mattson, Holdridge, Nebraska.

There were times in this year when I couldn't understand why the people acted different than I expected them to act. But this was because the difference in culture is not only "Levi's", "Coke, and McDonald's", culture is also the way people live together. I made the experience that the people here are very friendly and I think that friendliness is the highest culture any country can have. I am of the opinion that you can't judge a country because of the things you have heard or seen of it. To study a country, you have to live there for a while. Only if you live there for a while can you understand the people living there, because you are a part of them.

Norbet Czech from Regensburg, West Germany, hosted by Mr. and Mrs. John Kohout, Bellevue, Nebraska.

My being an exchange student will have a great impact on my further life. I am now decided that my future work will have to do with foreign countries. I want to work as much as possible for the understanding of the world. Even though this might not have great effect directly, but I believe if everybody tries this both countries can associate closer and understand each other better.

Frederic Pflanz from Ludwigshafen, West Germany, 17 years old, hosted by Mr. and Mrs. David Dyer, Kankakee, Illinois.

First of all, this year will be unforgettable for me. This year was a full success. I experienced a new way of life, very different from the way at home. I have made new friends. I have a second family which loves me as much as my family at home in Germany. . . .

It is very good that the Congress of the United States and the German Bundestag support such student exchange. I like to thank YFU and the Congress-Bundestag Program for a wonderful, filled with experiences year.

Cordula Buengener from Stukenbrock, West Germany, 17 years old, Richard and Kathy Fitzgerald, Wyoming, MI.●

THE CHANGING VIEWS ABOUT FOREIGN RELATIONS IN KANSAS CITY

● Mr. SIMON. Mr. President, whether we want to acknowledge it or not, people in our country are gradually acquiring more and more of an international sensitivity just as people in other countries are.

I visited recently with Eugene Trani, vice chancellor for academic affairs at the University of Missouri-Kansas City, and he handed me a document about Kansas City and foreign relations.

While Kansas City is some distance from my State of Illinois, my guess is that what he has written about Kansas City could be written about cities in every State in the Nation.

The more open our citizens are to this type of international development, the more likely they are to advance economically.

I believe my colleagues will be interested in Dr. Trani's comments. I ask that they be printed in the RECORD.

The comments follows:

THE CHANGING VIEWS ABOUT FOREIGN RELATIONS IN KANSAS CITY

(By Eugene P. Trani)

Because the Royals won the World Series, the American people have just discovered Kansas City. But in this discovery the Americans have finished behind the Russians and the Chinese. The Soviet people learned about Kansas City in an hour-long documentary, "In the Middle of America," shown on Soviet television in 1983, and the Chinese from a documentary, "Edgar Snow's Hometown," shown earlier this year on Chinese T.V. Therein lies a tale worth analyzing. Kansas City is in some ways better known outside the United States than in New York City, San Francisco, or Los Angeles. And certainly Kansas City is more heavily involved in foreign relations and demanding a greater voice in the making of the foreign policy than ever before.

Years ago this section of the country prided itself on its isolationist tendencies. It was the center of the isolationism that was so influential in the 1920s and 1930s. Active opposition to the spread of Communism was generally supported in Kansas City and surrounding communities, as were the activities of Senator Joseph McCarthy and his colleagues. Even though President Harry Truman, a major architect of modern American foreign policy, came from the Kansas City surburb of Independence, people here in 1940s, 1950s, and 1960s had little interest in foreign policy and little involvement in foreign relations themselves. What involvement they had was based primarily on moral, idelogical, cultural, or ethnic considerations.

All that has changed in the 1970s and 1980s. Today, Kansas City and the two states—Missouri and Kansas—which make up the metropolitan area now have multiple foreign interests and a great stake in foreign policy.

Much of today's interest and involvement is, of course, economic. Kansas City is the home of the Board of Trade, the world's leading hard red winter wheat trading center. At least 50 percent of U.S. wheat exports are in hard red winter wheat, and the U.S. accounts for 30 percent of the world wheat export trade. The Board of Trade has attracted a complex of agricultural enterprises to Kansas City; all multinational grain companies have offices here. In addition, Kansas City is the home of the Milling and Banking News, the weekly "bible" of the grain industry, which in 1972, first reported the large grain purchases of the Soviet Union. American grain sales—or embargoes—to the Soviet Union or The People's Republic of China are thus a major concern in Kansas City. Agricultural exports from this section of the country have in fact increased dramatically. According to the latest available State Export Reports of the International Trade Administration of the U.S. Department of Commerce, Missouri's agricultural exports grew from $174,000,000 in FY 1968 to $1,404,000,000 in FY 1982, while Kansas' agricultural exports rose from $296,000,000 in FY 1968 to $1,628,000,000 in FY 1982. In both states, $1 out of every $3 in agriculture came from farm exports. There also has been signifcant growth of exports of manufactured goods for both Missouri and Kansas ($634,000,000 in 1969 to $3,013,000,000 in 1981 for Missouri and $241,000,000 in 1969 to $1,517,000,000 in 1981 for Kansas, according to the same source).

This economic interest in exports has led to the creation of a Foreign Trade Zone in Kansas City, and international division of the Kansas City Chamber of Commerce, and the establishment of a number of diplomatic consuls in Kansas City. Kansas City's

Foreign Trade Zone, one of the ten largest and the first inland Foreign Trade Zone in the United States, now totals more than three million square feet and is operated totally by private enterprise, with no government funding. The increased importance of exports has also led to annual trade missions by the Governors of Kansas and Missouri, with Kansas's John Carlin just returning from Europe and Missouri's John Ashcroft just coming back from the Orient. It also has led to much greater interest in foreign policy on the part of Senators Thomas Eagleton, John Danforth, Robert Dole and Nancy Kassebaum and Missouri's and Kansas's members in the House of Representatives. Senator Dole, for example, was a major force in the decision of the United States to drop its grain embargo against the Soviet Union, instituted by President Carter because of Afghanistan and strongly objected to in Kansas City because of damage to Midwestern agriculture. Senator Danforth has become a leading spokesman on the issue of domestic protection. Finally there has been a significant increase in direct foreign investment in both Kansas and Missouri.

But it is not just in the economic area that this increased involvement in foreign affairs is obvious. Kansas City has a very active International Relations Council, with more than 1,000 members, Sister City relationships with a number of cities around the world, including Seville in Spain, Kurashiki in Japan, Tainan City in Taiwan, Freetown in Sierra Leone, and Morelia in Mexico, and a number of cultural and educational relationships. Kansas City's Missouri Repertory Theatre has recently presented the English-language premiers of major Soviet and Chinese plays. And Kansas City, like the states of Missouri and Kansas more generally, has a significant number of foreign scholars studying at its institutions of higher education.

Nowhere is the changing attitude towards foreign relations more obvious than in Kansas City's attitude toward The People's Republic of China. In 1949, Kansas City was a hotbed of criticism for "America's loss of China to the Communists," criticism that extended to favorite son Harry Truman. But Kansas City was also the hometown of the journalist Edgar Snow, author of "Red Star Over China" and a revered figure in modern China. Snow's origin, as well as the activities of some significant Kansas Citians, has led to a special relationship with The People's Republic of China. Thousands of Kansas Citians have visited China and Kansas City is a pilgrimage for many Chinese visiting the United States, leading to close personal relationships.

Kansas City and Xian are in the final stages of formalizing a sister city relationship, and grammer schools, high schools, the University of Missouri-Kansas City (UMKC), hospitals, art galleries, theatres, and many other Kansas City institutions have formal relationships with similar institutions in China. UMKC has formal exchange relationships with such leading Chinese Universities as Peking University, Wuhan University, the Beijing Foreign Studies University, the Central Conservatory of Music, and the University of Science and Technology of China. UMKC has a significant number of Chinese students and professors studying and doing research in Kansas City, including the son of a former foreign minister, the daughter of Deng Xiaoping's personal physician, and the son of China's leading actor. Even Kansas City's Chinese community, which has strong ties to Taiwan, supports Kansas City's relationship with "Communist China."

What do all these Kansas City-based contacts with China and other sections of the world mean? To be sure, they are not unique. All across America, individuals, companies, marketing associations, colleges and universities, cities, and states are involved in similar activities. These involvements have certainly lessened the "control" of the State Department over American foreign policy. Collectively, all these non-Washington relationships are beginning to affect the formulation and implementation of American foreign policy. As economic considerations become an even more critical factor in foreign relations, the private, institutional, and corporate involvements with the world can only grow in significance. The old Logan Act, which prohibits private individuals from negotiating with foreign governments, needs to be updated. Kansas City, and many cities in this section of the country, are beginning to develop foreign policies. Watch out Foggy Bottom!●

INTERNATIONAL EDUCATION EXCHANGES

● Mr. SIMON. Mr. President, my predecessor, Charles Percy, had an article in a special international education supplement to the Christian Science Monitor.

It is an excellent commentary pointing out the importance of international education exchanges.

I urge my colleagues, and the former colleagues of Charles Percy, to read it.

I ask that the article be inserted in full in the RECORD.

The article follows:

STUDY ABROAD: WE STILL HAVE A LOT TO LEARN

(By Charles H. Percy)

As a student at the University of Chicago in the 1940s, I experienced first-hand the excitement that the university's International House and its foreign residents brought to our campus and community.

From heading the early international efforts of Bell & Howell Co. to heading the US Senate Foreign Relations Committee, my interest and commitment to the value of international cultural and education exchange has remained steadfast.

There is no question of the tremendous impact international educational exchange can have in the field of foreign policy. I have seen time and again how a positive study-abroad experience, no matter how brief or modest, can have a life-long impact on an individual's attitudes toward the host country. If those individuals one day become world leaders, the impact is even more striking. In Japan, for example, more than 30 of the 100 current Japanese ambassadors around the world are graduates of programs sponsored by the Institute of International Education (IIE). Japanese Prime Minister Yasuhiro Nakasone knows personally the value of exchange programs through his daughter Meika's experience as an exchange student at Elston High School in Indiana some 20 years ago.

These private- and public-sector experiences have afforded me the opportunity to devote a great deal of time to two international educational organizations—IIE, which through its 14 offices worldwide offers services to foreign students studying in the United States and to US students abroad, and the Hariri Foundation, which sponsors thousands of undergraduate, graduate, and postgraduate Lebanese students in the United States, Canada, and Europe who need financial assistance and who will contribute a whole new generation of leadership to rebuild Lebanon.

Through my association with these two groups, I have seen international students achieve greater awareness of our culture and their own. I have seen students reach for a better understanding of societies in the world, and I have seen students gain a new perspective on their own personal values.

Yet, while more than 340,000 international students are taking advantage of educational programs in the United States, fewer than 1 percent of American students are advancing their own international awareness through study-abroad programs or cross-cultural education.

This apparent lack of interest and awareness is manifest throughout American society:

The United Nations surveyed 30,000, 10- and 14-year-olds in nine different countries, and the results placed the Americans next to last in their comprehension of foreign cultures.

A recent poll also found that 49 percent of Americans apparently believe that foreign trade is either irrelevant or harmful to the United States.

A California professor of world geography was shocked to find the results of a map quiz given to freshman students. One-third of the class did not know where France is, 74 percent could not find El Salvador, 47 percent could not find Japan (many students confused it with New Zealand), 45 percent could not find Iran, and 54 percent could not find Atlanta.

This lack of cross-cultural awareness, however, comes at a time when our social, cultural, and economic environment is becoming increasingly international and interdependent.

Four out of five new jobs in the United States are generated as a direct result of foreign trade. In agriculture, one out of three acres of US farmland is cultivated for export, and approximately one-third of all US corporate profits come from international activities.

Government officials and academics warn that US security and international standing are increasingly threatened by our own inability to train individuals in diplomacy, area studies, and languages.

Clearly, all levels of American education, business, and government need individuals who can successfully function in an international setting.

New and creative ways of raising the American public awareness of the goals and benefits of foreign-exchange programs must be found.

In the field of education, American youth must be exposed to international education and language at an earlier age. New York City has launched a pilot project to teach French, Spanish, and Italian to kindergarten, first-, and second-grade students.

Many major US cities now require all high-school graduates to complete at least one year of foreign-language study. The New York State Board of Regents recently passed a proposal that is aimed at making 50 percent of all high-school students in the state proficient in a foreign language.

In higher education, many colleges and universities are reinstituting language requirements for graduation.

Across the US, educators are trying to broaden the base of cultures and areas students choose for study abroad. Traditionally, international education has been oriented toward Europe. Emphasis now is also being directed to study-abroad programs in third-world countries.

Private organizations like the IIE can help to increase community participation in international educational exchange and provide information and funding for public understanding of the rewards.

Organizations that have country-specific goals, such as the Hariri Foundation, can help bear the responsibility for financing and directing the career development of their own students.

US multinational companies can increase their contribution by developing scholarship programs for students in countries in which they are doing business.

All of us can help create a resurgence of volunteer efforts, including international student houses and home-stay programs.

Advanced technology is also working to improve the environment of international education. Groups such as the National Committee for International Education through Satellites (NCIES) are helping to internationalize education by using live, interactive satellite broadcasts to teach applied skills and theoretical knowledge across national and cultural boundaries.

The NCIES learning system provides for live interaction by placing students in contact with other cultures via two-way television. Native speakers are shown in an overseas marketplace, school, farm, factory, religious celebration, or home. In language education, for example, Spanish classes in Maryland can be linked with Spanish-speaking communities in Miami, or German classes in Pennsylvania can be linked with Bremen, West Germany. The NCIES system can work both ways—by teaching American English to foreign students or by teaching foreign languages to American students.

This innovative technology may prove as valuable to international education as computer technology has been for American industry.

Through efforts like these and other initiatives, we can significantly increase public awareness and understanding of the importance of cross-cultural training. We can also more fully appreciate our own place in a global society.

In recent years our nation's defense budget has increased faster than any other area. But what better "defense" can this nation, or any other, build than through investment in future good will and understanding between our people and future generations of other nations?●

INNA MEIMAN

● Mr. SIMON. Mr. President, I call attention to the case of Inna Meiman, a personal friend of mine in the Soviet Union. Inna's health is poor and deteriorating quickly. She needs medical attention that only the West can provide.

To increase public awareness of Inna's plight, a young Minnesota woman is conducting a hunger strike. Lisa Paul spent 2 years in Moscow and struck up a friendship with Inna. Lisa has been so preoccupied by Inna's situation that she decided to make a public protest.

I commend Lisa for this courageous act of friendship and wish her well.

I ask to print the following article from the Minneapolis Star and Tribune in the RECORD.

The article follows:

[From the Minneapolis Star and Tribune, Dec. 14, 1985]

"U" STUDENT STARTS HUNGER STRIKE FOR A SICK SOVIET FRIEND

(By Neal Gendler)

Inna Meiman of Moscow is dying of cancer, unable to get treatment in the West, and Lisa Paul of Minneapolis is starting a hunger strike today in protest.

Paul, 23, is a University of Minnesota senior from Appleton, Wis., majoring in Russian-area studies. She met Meiman, who is about 55, while in Moscow for two years working as a nanny for an American business executive. Meiman was Paul's Russian-language tutor and, soon, her friend and entree into the world of "refusniks," people who have been refused visas to emigrate.

Paul said that Meiman became ill in 1983. She has had four operations on a growth on the back of her neck, but the tumor continues to grow.

"She has been invited by several hospitals in the West," Paul said this week. "Sweden, Israel, France and the U.S. all have offered her treatment, so the action I'm taking is to protest this refusal. It's not to starve myself until they let her go." Paul will take fruit juice and vitamins, and she plans to end her fast Jan. 4, in time for winter quarter; by then, she hopes that Americans will be more aware of Meiman's situation.

Meiman already is known to Soviet authorities. Paul said that in 1979, when more Jews were being allowed to leave, Meiman and her son applied. They were refused. In 1981, Paul said, her friend married Naum Meiman, a mathematician who belonged to the persecuted and disbanded Helsinki Watch Committee that monitored Soviet compliance with the Helsinki accords.

He, too, had applied to leave and been refused. The Meiman's own problems might be characterized in their remarks in the Dec. 16 Newsweek about Yelena Bonner, also a member of the watch committee and wife of exiled physician Andrei Sakharov.

"The very fact that a big man like Sakharov had to starve himself to get his wife treatment is indicative of how things are in the Soviet Union," Naum Meiman is quoted as saying.

"Her release is not a concession," Inna Meiman is quoted as saying. "We have not seen a single concession yet."

Inna Meiman needs a concession.

"What this is really all about is about Inna, all labels aside," Paul said. "It's about this woman who is very involved in the society, and not come across these people.

"I don't think you should live there and not meet these people because then you can't come back and talk about Moscow and all its people." One of the people she met was a woman who'd spent years in prison and exile for protesting the 1968 Soviet invasion of Czechoslovakia.

"She stood up, with everything to lose—and she did lose it all," Paul said. "That's what those refusniks are about. Inna said that in some respects those people are the bravest people in the world. You're standing up because you're totally committed to something but you know you'll lose everything . . . it makes what I'm doing relatively easy in comparison.

"People here have told me they admire me, and that's nice to hear, but having those people as a comparison, it's not that hard to make a commitment."

Paul has been training for about three weeks, reducing intake of certain foods. She's also talked with a physician who once fasted for 40 days. Paul said that her family supports her plans.

"My mother met Inna when she visited me in Moscow, so she really understands," Paul said. Paul plans to go home for Christmas and hopes to get into the news there, too.

"I encourage other people getting sick. . . . Inna has thanked the Soviet doctors and said they've done all they can, but medical technology in the West offers advanced treatment and hope that this can be cured. Now, the woman has hardly any neck muscles left.

"She has applied to leave for treatment." Paul said. "They said you can't do that unless you have a note from the Ministry of Health. The Ministry of Health said they don't give out such notes."

Paul said that the Soviet authorities "probably consider her to be so sick that they think she'll die, hopefully sooner rather than later, so they won'd have to deal with this . . . also, like Yelena Bonner coming to the United States, it might say that the Soviet medical system is inadequate, so why embarrass yourself when you can just let someone go without?"

Paul has been preoccupied with Meiman's plight since leaving Moscow six months ago. She has written to U.S. politicians, but "I felt I needed to do something on this level" both for Meiman and "to draw attention to me so I can talk about the injustice that's going on."

Paul said that her protest "is centered on Inna—my cause—but it's also the whole issue behind this." That issue wasn't something with which Paul grew up as a Catholic in Appleton.

Paul said the issue became hers because she lived in Moscow. She didn't seek "refuseniks," she said, but "I don't think you can live in the Soviet Union two years, trying to get involved by writing Inna directly—a letter of support, encouragement and/or New Year's greetings," Paul said. "How great it would be for Inna to know the concern others feel for her." Whether Meiman receives all the letters, they would make Soviet authorities learn of the interest in her in the West.

"That's where the potential is in this hunger strike," Paul said. "If public interest picks up, more people write, potentially something could happen." She encouraged people to write, using the Russian address style that puts the country on the top line and the name on the bottom: USSR; RSFSR; Moscow, 113127; Naberezhnaya Gorkogo, 4/22, Apt. 57; Inna Meiman. Postage is 44 cents.

Concerned that Meiman might not have received her letter about the hunger strike and that she understand and respect what she is doing. Paul telephoned Meiman last week.

"My concern was that she might be really concerned about this burden she's placed on my life. But she said that she understands why I'm doing it and that she's very touched by my thoughts and what I'm doing.

"She was very quick to tell me to be careful, don't endanger my health. I really feel

good about that because from me to her it's a gift of love."●

THE SOCIAL SECURITY SYSTEM

● Mr. SIMON. Mr. President, our Social Security system has received a great deal of attention recently. While the 1983 amendments assured the viability of the system, there are those who would dismantle this crucial program. One of their often-used reasons is that the young and the employed are saddled with the burden of supporting those who do not work. This argument smacks of both greed and ignorance.

A long-time authority, Elizabeth Wickenden, of the study group on Social Security has recently published an excellent overview of the Social Security system.

I ask that the following factsheet be published in the RECORD.

IS IT TRUE WHAT THEY SAY ABOUT SOCIAL SECURITY? OPEN LETTER TO YOUNG WORKERS

INTRODUCTION

The passage of the Social Security Act in 1935 not only established a landmark institution but also launched a national debate about its financial soundness that continues to this day. Particularly at this time, where concern about the growing national deficit is high, social security becomes a favorite—however irrelevant—target. It is natural for young people, whose future seems to stretch indefinitely before them in a fog of uncertainty, to be among the first to raise these questions and sound these alarms. This paper is, therefore addressed primarily to young workers though it concerns everyone who receives or hopes to receive social security when the family income from wages or other work stops.

Part of this alarm seems to spring from the very success of the program which has undergone successive changes since 1935 through amendments that undertook to broaden protection against economic insecurity. Today, fifty years later, it is hard to remember or imagine the time when impoverished old people had only the poor house or the reluctant generosity of their children to carry them through hard times. Widows, orphans and the disabled were also reduced to the humiliation of charity, begging, or the poor house for their survival. Today nearly 37 million individuals receive monthly checks from the federal Old Age, Survivors and Disability program while over 30 million older and disabled persons have part of their medical and hospital bills paid through the federal program, Medicare.

Entitlement to all of these benefits derives from special trust funds financed by contributions from workers and/or their employers. 122 million workers today contribute to the OASI, Disability and Medicare trust funds. All of these millions of persons are bound together by a compact of mutual confidence that rests on statutory provisions governing payments by those now working and benefits to those now retired. This represents an unprecedented social partnership. Still there are questions, especially from younger workers.

WHY THIS PAPER?

Like others concerned with social security I am sometimes confronted by angry young friends. They say something like this: "Why do I have to pay these high social security taxes when everyone knows the system is going bankrupt and won't be there when I get old?" or "Young people like me are being ripped off to pay for benefits to old people who don't need them." or "Why can't I provide for my old age with IRAs or other investments? I can get a better return on my money than they can." or "Why should I be forced to worry about my old age when I need the money now that I'm young?"

The point of view reflected in these questions (even though that of a vocal minority) [1] seriously challenges a system which depends for its vitality and survival on intergenerational continuity, financing and confidence. No one takes it lightly. This "Open Letter" seeks to reply to this challenge.

WHAT IS THE SOCIAL SECURITY SYSTEM?

The social security system is a lifetime social insurance program that protects virtually all working people and their families against loss of earnings due to death of a family breadwinner (life insurance), long-term disability, old age retirement or widowhood.[2] It also pays for part of the health costs for the elderly and long-term disabled.[3] These programs are financed by a charge against earnings (payroll tax), half paid by the employee and half by the employer (except for the self-employed who pay a comparable amount in their own behalf.) Unemployment insurance protecting against loss of earnings due to involuntary unemployment is also a form of compulsory social insurance but since it does not involve an employee's contribution it does not raise the same kind of questions. In all cases the worker receives part of his compensation in cash and part in entitlement to future benefits.

Taxes

Unless they have the misfortune to lose a parent in childhood most people initially encounter the social security system with their first job. For many it is a shock, for which they were little prepared, to find that their first paycheck has been reduced by a somewhat mysterious tax called FICA [4]—for social security. At the present time this amounts to 7.05% for the employed on earnings up to a present maximum of $39,600. 5.7% of this goes into trust funds for Old Age, Survivors and Disability Benefits and 1.35% for hospital insurance for people over sixty-five and the long-term totally disabled. This is matched by an equal amount from employers. The self-employed must pay a total of 9.9%—8.55% for cash benefits and 1.35% for Medicare.

The money in these trust funds may only be used for paying social security benefits as specified in the Act and the administrative costs of the program. Any surplus must be invested in obligations of the Federal government. Recent rates on special social security issues have paid between 11 and 13.75% interest. At the present time the Social Security system is showing an excess of income over outgo and this trend is expected to continue. Some people predict the accumulative effect of this difference may reach as high as 12 trillion dollars before it begins to decline owing to an increase in beneficiaries as a result of the baby boom generation. Even by January 1, 1985 this reserve fund had reached 47 billion dollars.

Benefits

Most workers and their dependents are entitled to benefits based on their average earnings—after they have worked a minimum of 10 years or 40 quarters—when these earnings are interrupted by death, long-term disability or old age retirement. Full benefits are first payable at 65 but people may choose or be forced to retire at 62 with an actuarially reduced benefit. Persons who choose to retire later than 65 receive a somewhat higher benefit. For retirement up to age 70 benefits are payable only to those with limited earnings. This requirement is known as the "retirement test", the limit on what may be earned without reduction of benefit. Above these exempt amounts benefits are reduced one dollar for each dollar of earnings. Dependent spouses who have not earned higher benefit entitlements by their own work, receive 50% of primary benefit and widows over 65 receive 100%.

Women's benefits

A very considerable debate goes on surrounding women's benefits. Owing to the treatment of women both as dependents and earners they may be entitled to benefits on both fronts but receive only the higher of the two. Many favor some modified plan of "earning sharing', combining the earnings of husbands and wives, dividing them equally for purposes of social security credit. This may benefit the two-earner family but reduce benefits for the non-working wife and some couples. To make such a plan fair to present contributors would require complicated modifications and long transitional requirements which would considerably increase its cost to the program. It should also be noted that women benefit under the social security system by their greater longevity.

Benefit formula

The workers' (primary) monthly benefit is figured in terms of his average indexed monthly earnings (AIME) on the following basis: 90% of the first $280 of earnings, 32% of the next $1,411 and 15% of any remainder. In addition it is important to note that an individual's average earnings are adjusted to reflect an increase in over-all national earnings (and thus productivity). This is achieved through an automatic upward adjustment in these components (also known as "bend points") of the benefit formula and—for higher earners—an automatic upward adjustment in the wage base. This benefit level, once established, is adjusted to reflect cost-of-living increases (popularly known as the COLA).

IS SOCIAL SECURITY INSURANCE?

A favorite charge of those opposed to social security is that it is not "insurance" at all but really a "welfare" program. Since these are both rather elastic terms it is necessary to break them down into specific components.

Pooled risk

Social security is insurance in the sense that it pools funds in order to provide protection against shared risks. Some of these risks involve situations one hopes will never occur: i.e. early death, long-term disability

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[1] A recent survey, conducted by Yankelovich, Skelly and White showed a majority approval rate by young persons under 34 years of age but some doubts about the future of the program. A substantial majority said they would remain in the system even with an option to get out.

[2] Social security has been made increasingly gender-free so whenever a sex-related term is used it should be interpreted as applying to both sexes.

[3] For definitional purposes Medicare has been included here even though it is not discussed in the paper since its problems are different from those of cash benefits.

[4] Federal Insurance Contributions Act.

and hospitalization. The contributors who never get their money back from these funds are the lucky ones just as never recovering money invested in fire insurance is considered highly desirable.

Old age retirement

Old age is different since it is generally regarded as a goal to be desired. People want to live beyond sixty-two and most look forward to retirement. They are willing to pay the price for a reasonable level of wage replacement. In this sense it is like an annuity, also a form of insurance. The risk here lies in the question of longevity: Those who die early pay the prices for those who live longer.

Entitlement

It is also typically insurance in that only those who have made payments into the joint fund or are dependent on someone who has done so are entitled to draw benefits from it. The "entitlement" is based on prior contributions which are in turn tied to work. The beneficiary is drawing down on the "protection" he earned while he was working. This is one of the primary differences from "welfare" as we commonly use the term, where "entitlement" is based on current "need", a much less easily defined concept. Entitlement to welfare payments is qualified by how the public is willing to define "need" which in turn depends on how much it is willing to pay. Hardly an "entitlement" at all one might say.[5] Social security benefits, on the other hand, are based on and related to loss of earnings, a far more acceptable basis for higher payments.

Full funding

Opponents say that it is not true insurance because the rights of neither the individual nor the collective of individuals are fully "funded". In private insurance the insuring company must have enough money laid by to be able to pay off all the benefit rights of all insured individuals at any one time. As an independent voluntary entity its continuity, and hence its continuing income from new policies, cannot be assured in any other way. Government, on the other hand, is assumed to be continuous. Thus, in social security, current contributions from those currently working pay the current beneficiaries, while it is assumed that they, in their turn, will be sustained by future working generations.

Until about 2030 these current contributions will be enough to cover current costs; after that time the accumulated surplus and interest will supplement. It is the good faith of the government, plus the continuing calculations of future obligations and income by qualified actuaries, that sustains the system. A program as huge as social security would require much more than the present trust fund to be "fully funded" and could totally disrupt the capital market. Wall Street would be the first to complain while contributions would have to be substantially raised to sustain such a large capital fund.

A conservative system

Actually, compared to other systems, the American social security system is extremely conservative. It is a self-contained system and virtually no general revenue funds have been used to pay benefits. In many other systems the financing of social security is shared on a three-way basis: worker, employer and government funds from other sources. We also base our financing on seventy-five year actuarial predictions of future needs and income, longer than any other country except Canada. These are subject to constant review by the Board of Trustees, regular advisory councils mandated by statute, special commissions (as in 1983) and the Congress.[6] At the present time the system is running a surplus, as planned in anticipation of a growing aged population.

Social Security and the deficit

To anyone who knows the care and caution with which social security financing is monitored and fine-tuned (as evidenced in the adjustments made by Congress in 1983 to meet a temporary financing problem) the widespread fear that "social security is going bankrupt" seems totally unreasonable. It seems rather to reflect carefully nurtured propaganda by those who don't like the idea of government-sponsored support for those outside the labor force, however financed.

This is also true of the present effort to make social security the scapegoat for a budget deficit largely caused by skyrocketing defense-related expenditures and ill-advised tax cuts. Social security, as a self-financed and actuarially determined program cannot, under present provisions of law, contribute to the real deficit. Present law requires that all social security taxes be deposited in the trust funds and all social security payments be made from the trust funds. Only the unrealistic inclusion of the funds in the Federal Unified Budget makes it appear otherwise and even President Reagan has recommended that they be removed. Should funds ever run short, despite all the care taken to assure their solvency, it is unthinkable that Congress would permit a program on which so many people depend for present or future benefits to go bankrupt. To raid its trust funds for purposes unrelated to social security needs (including those deemed necessary to its own future solvency) betrays the basic provisions of the Social Security Act.

BUT WILL I GET MY MONEY BACK? [7]

Social Security as protection

In part this question reflects a lack of understanding that insurance involves protection against risks that, though universal, are not equally incurred. Obviously the man with a dependent wife and four children who dies at thirty-five will get more in benefits than the single man who dies, without prior interruption of his working career, at sixty-seven. Protection as a positive good is not always well understood in a social security context even by those who pay high premiums for private life insurance and other forms of insurance on which they hope never to realize. Moreover, younger workers bear a greater risk of leaving young children in case of premature death or disability and hence have a special stake in these aspects of the program.

Social aspect

But probably more important is the fact that social security as social insurance includes a social component that weights the benefit formula in favor of low earners, those with dependents and early entrants into the system.

Of special interest to young earners are its life insurance and disability provisions which offer them immediate protection. Even more important to most is the assurance that their parents are adequately provided for rather than, as was so common in earlier days, having to turn to their children for help. I am not one who thinks the present generation of young workers is more materialistic, self-centered and selfish than its predecessors but I do think it is confronted by a barrage of propaganda that makes no distinction between earned benefits based on an objective statutory formula and welfare assistance based on an individual determination of need.

It is also important to bear in mind the significant role of the employers' contributions to the financing of the system. Some difference of opinion exists about the nature of this contribution. Economists tend to see it as an aspect of the labor cost of the system but workers tend to think only of the amount deducted from their own paychecks. In the aggregate this makes little difference in the financing of the system but it does make for a difference of perception to the worker. While it is natural for young people to be carefree about the future, the society in which they live is not risk-free. Along with the rewards of entering the work force, they need to share its responsibilities or, as Justice Holmes wrote, "Taxes are what we pay for a civilized society."

WHY CAN'T I OPT OUT?

The Heritage Foundation, the CATO Institute and other sources of conservative thinking, including even Ronald Reagan himself before his presidential aspirations changed his utterances if not his mind, have advocated that individuals be permitted to withdraw from the system. Sometimes this is accompanied by a requirement that they purchase equivalent protection through IRAs (Individual Retirement Accounts) or other private means.

A multigenerational system

This may sound like a reasonable idea to some innocents but for those who know the dynamics of the American system it is a clear death sentence. It would be more straightforward and honest simply to recommend repeal of the program. For it is the contributions of those who are working that simultaneously build their own entitlements and provide the funds for current benefits. For the individual it is a transfer from his working years to his non-working years. Collectively it is a transfer from production to those no longer producing. To the extent that the majority of these latter are retirees or their widow it is an intergenerational transfer. It assumes continuity, reciprocity and a sense of responsibility for the common weal.

Without the contributions of younger workers there would not be enough money to pay benefits to those whose contributions had "earned" them and the self-financing character of the system would be destroyed. Since it is hard to believe that this vast number of people would be totally abandoned by society, general revenue funds would have to be provided in this case. At this point a true intergenerational conflict would ensue and a means test to winnow out all but the most needy would become almost inevitable.

[5] See fact sheet No. 13, Social Security: Why Not a Means Test?

[6] See also: *Social Security: A Declaration of Confidence and Support by Private Pension Professionals* (enclosed).

[7] Attached herewith is a paper "Do Young People Get Their Money's Worth From Social Security?" by Robert J. Meyers, former chief actuary for the Social Security Administration and a highly respected expert in this field.

Potential loss to young workers

The young worker would have purchased his freedom from FICA taxes at a heavy price, including the many protections afforded by the social security system. IRAs, for the most part, involve a substantial risk and are not available—as is social security—for loss of income prior to old age. They involve no dependents' benefits, no productivity adjustment and no COLA. Many young workers would not be able to make such purchases voluntarily and would of course lose the employers' contribution.

The public interest

From the point of view of the public interest there are two perspectives. On the one hand foregoing social security taxes on a substantial share of earned income as the source of support for the system is a luxury we can ill afford, especially in this deficit period. IRA income is taxable only after retirement and the interim loss is a heavy sacrifice of badly needed revenue. If IRSs were treated as the primary provision for retirement their level and extent (and hence the revenue loss) would necessarily be greatly expanded. This can be described either as a tax shelter or a tax expenditure (social benefit tied to the tax system) or both but in any case the public is the loser. Given any option on their use, the middle or upper income group would be the gainer; lower income workers would not be able to afford this luxury.

WHAT KIND OF SOCIETY DO WE WANT?

This brings us to the second point of interest, i.e. What kind of society do we want anyway? We are not, as we often boast, the most generous country in the world. Twelve other industrial countries [8] spend more on public social programs in terms of percentages of their gross national product than we do. The self-contained nature of social security financing has served all generations well in protecting benefit levels. Young people do not have the advantage of their elders like me in remembering what life was like before the Social Security Act was passed fifty years ago and subsequently extended in coverage and protections. The passing of a predominantly agricultural society deprived older family members of the protections farm ownership provided. Increasingly the widowed, disabled, and elderly were forced into choosing between the ignominy of poor house or poor law relief and putting on their children a burden they could usually ill afford, often depriving grandchildren of educational opportunity.

Our social security system, starting from small beginnings in 1935, has followed the intentions of its original designers [9] by developing into a program that protects most workers against the major reasons for loss of earnings at a level which—while far from lavish—is increasingly adequate. It is a brilliantly integrated system, balancing income with outgo over the years, equity with social purpose, and preserving the dignity of objective entitlement based on earned rights. It seems inconceivable that it should be destroyed either directly or by equally damaging amendment. It seems equally inconceivable that it should not continue to develop as needs and resources make that possible.●

[8] These are figures from the Organization for Economic Cooperation and Development which includes nineteen of the most industrialized countries outside the Soviet bloc.

[9] See Factsheet No. 11 Original Intentions, by Dr. Eveline Burns. See also the 50th Anniversary Edition of the Report of the Committee on Economic Security published by the National Council on Social Welfare.

TRIBUTE TO DR. FRANCES KEPPEL

● Mr. SIMON. Mr. President, I rise today to pay tribute to Dr. Francis Keppel, distinguished professor of education at Harvard University, former commissioner of education and chairman of the National Student Aid Coalition. Most of my friends and colleagues are unaware of the important role played by Frank Keppel and the National Student Aid Coalition in formulating student aid policies over the last 5 years. On December 12, the coalition held its final meeting and Frank Keppel provided a report to the coalition on its activities from 1981–85.

It seems appropriate that the coalition would conclude its formal activities on the same day that the Senate Subcommittee on Education, Arts and Humanities took the first step—by marking up—toward reauthorizing the Higher Education Act in the 99th Congress. Much of what we have done is attributal to the fine work undertaken by the coalition. As the former chairman of the House Subcommittee on Postsecondary Education and a member of the Senate subcommittee, I have seen first hand the work of the coalition, the contribution of its executive director Linda Berkshire, and the outstanding leadership of Frank Keppel.

The report to the coalition follows:

REPORT OF THE CHAIRMAN OF THE NATIONAL STUDENT AID COALITION, 1981–85

It is salutary, if often embarrassing, to go back to first purposes in presenting a final report on a project. The story of the National Student Aid Coalition is no exception. So let us start by quoting from the 1980 request to the Carnegie Corporation and Ford Foundation for financial support—documents which are not likely to understate the hopes of those seeking the funds.

". . . The provision and delivery of financial assistance to students seeking education after high school in the United States traditionally has been a "joint venture" involving the federal and state governments, secondary and postsecondary institutions, private organizations, and students and their families. That fact is recognized in the multiple sources from which student aid funding comes and in the multiple agencies involved in moving the aid through the system to the students. In the areas of policy determination and procedural implementation, however, there has not been a consistently effective reflection of the roles and concerns of all of the parties to the process . . ."

". . . it is intended to provide a mechanism for coordinating the efforts of thirty-one organizations with an interest in student aid. It is not intended to preempt the activities or voice of those organizations but rather to provide them with a place to debate issues, reach consensus, and pursue that consensus with the appropriate policy-making bodies . . ."

". . . One of the important outcomes that can be expected from the support requested of private foundations by this proposal is the development of mechanisms by which that support can be obtained for subsequent years from sources other than foundations . . ."

Put in less elegant language, this means that the Coalition, made up of a cluster of educational organizations, was to watch over the "mechanism" of delivering student aid, to try to maintain a partnership in doing so, and stay out of "policy" matters more suited to those with greater competence and authority. Ironically, however, the Coalition project was started at a time of the changing of the tide, and it became almost impossible to separate mechanism from policy. The Coalition had to wrestle with the following paradoxes:

Established to monitor the system of delivering student financial aid for the poor, the Coalition found itself entangled in the effects of the 1978 federal loan program to help the middle class meet rising college costs—a program which absorbed federal appropriations like a sponge. The Coalition, therefore, had to give major attention to adjust measures of parental financial responsibility to the demands of political winds and a changing economy, a duty perhaps more suited to the political sector.

Established to help maintain a partnership between federal, state, institutional, and private sources of student aid, the Coalition had to spend time trying to remind the Washington establishments that there was life beyond the Potomac. Even though the Administration's policy apparently was to transfer many federal decisions to the states and the private sector, the Administration's actions seemed insensitive to the reasoning of the Federalist Papers.

Established at least in part from a concern that the poor must find access to higher education, the Coalition soon discovered that many institutions were becoming more concerned with maintaining enrollments by attracting as many students as they could, young or old, poor or well to do. Student financial aid became interpreted by some as aid to institutions of higher education.

Established at a time that inflation had outrun college charges, increases in college charges soon outran inflation, thereby raising doubts about the wisdom of a federal policy that tied appropriations to prices set by the colleges themselves. In New England, for example, between 1978 and 1985, inflation was reported to rise 69 percent while costs at public institutions rose 113 percent and private, 120 percent.

Established in the context of an Act of 1965 designed to provide equality in access to higher education to the poor and minorities, the Coalition found that progress toward that goal had either levelled or even begun to reverse. This development did not seem to be of the comparable concern in 1985 that it was in 1965.

Established to advise both the Executive and the Legislative branches, the Coalition soon discovered that the massive distrust that developed between them on student financial aid resulted in delayed decisions and inefficient delivery systems to students and institutions. Since it was scarcely the Coalition's position to deal with the root problem, it found itself having to treat the symptoms.

Established to consider student financial aid at both the undergraduate and the graduate and professional levels, the Coalition found that it was not properly constituted for dealing with post-baccalaureate issues,

and had to try to persuade others to take on the task.

Established as a forum which included associations representing different types of institutions of postsecondary education, the Coalition found it easy to reach consensus in recommending ways to improve the service if the pie was made larger. However, it found that its membership preferred to separate into competing groups when there was less pie. And when it came to calculating the size of the pieces of the pie and the quality of service, the Coalition, which was not established to deal with such issues, became, on occasion, immobile and downcast.

Despite the original intent in establishing the Coalition, which planned for participation by leaders of organizations from outside Washington, in practice, those attending the meetings as representatives of the membership organizations turned out to be Washington staff members.

In an effort to carry out its task under these circumstances, the Coalition reorganized the Committee on Need Assessment and Delivery which annually proposed changes in the (euphemistically titled) Uniform Methodology and saw those proposals accepted by appropriate authorities. It sought to strengthen understanding of the complex partnership of federal, state, private, and institutional sources that provide student financial aid by putting them on a chart. The result described a period of 18 months, printed in four colors, with three kinds of boxes as symbols of points of decisions, and in its original form, required a chart of almost 18 feed in width. It had its desired effect—to show that delay in decisions anywhere along the line results in some students somewhere being unable to get to college. The Coalition also was able to document the case that those in greatest need of information about student aid received the least and at the least appropriate time.

However, efforts to obtain financial support for the Coalitions's continuation from its membership failed.

The Coalition's competent, energetic and well-informed staff did yeoman work in finding out what was going on, telling about it to those who needed to know, and pulling together data from a myriad of sources. The result was that the Coalition became a trusted source of information that was used by both the Legislative and Executive branches, both political sides of the aisle, and even by competing educational interests. The Chairman came to feel that the work of the staff alone justified the generous grants of Carnegie and Ford, even though it might be tactless to document the numberless instances in which they helped to accomplish the sensible or stop the foolish.

The hearings of the Congress in 1984 and 1985 on reauthorization of the Higher Education Act of 1965, however, provided the Coalition an opportunity to pull its effort together to seek ways to carry on some of its functions and make some suggestions that could improve the delivery system of student financial aid. At the time of writing, the following seem to have some chance of emerging in the legislation now making its way in Congress:

1. Congressionally appointed and funded Advisory Committees to review methods of establishing student and parental responsibility and ability to pay the costs of undergraduate and graduate education; to comment on regulations designed to carry out programs; and to undertake other studies and analyses on the instruction of Congress. If established, these Committees could carry on part of the Coalition's work.

2. A new need analysis system for federal Title IV programs.

3. A program designed to provide information and advice to students in high school, particularly in the early years, about available student aid and how to benefit from it—a program aimed primarily at the poor, minorities and what has come to be called non-traditional students. Evidence obtained by the Coalition suggested strongly that lack of such programs was a serious block to achieving equality of access to higher education for those groups.

4. A Master Calendar mandated by Congress governing decisions on issues related to the delivery of student aid. The Calendar is designed to avoid delays in providing information and in developing and distributing student aid forms needed by students, parents, and institutions.

5. A considerable number of technical amendments to Title IV intended to provide oil or grease to the machinery of delivering student aid where experience had shown the need of reducing friction.

This final report must therefore include a mix of some tasks accomplished, some untouched, some failed, some barely started (such as improving the access of poor and minorities in the last four years), and some still in the stage of hope.

But on one topic there can be no doubt—the loyal and intelligent work of thousands of financial aid administrators has been a major factor in delivering assistance to millions of young men and women, and for this, the Nation should be grateful. It should be even more grateful for the continued willingness of parents and students of all economic classes to provide funds from their own resources to finance postsecondary education—a willingness that is not matched anywhere overseas. The Coalition may not have played much of a part in maintaining this magnificent tradition, but it can at least report that it tried.●

SENATOR ROCKEFELLER'S QUIET DILIGENCE

● Mr. LEVIN. Mr. President, on November 19, Senator JAY ROCKEFELLER spoke to the Senate about lessons that could be learned from the settlement of the Wheeling-Pittsburgh steel strike. Senator ROCKEFELLER's speech was a reasoned and eloquent call for labor-management cooperation as the indispensable cornerstone for revitalizing steel and other critical industries to meet the challenges of international competition.

Those of us who heard the speech valued it because we knew that it grew out of JAY ROCKEFELLER's personal experience in West Virginia as Governor and Senator and his familiarity with the Wheeling-Pittsburgh situation. What too few of us knew, however, was how deeply and consistently involved Senator ROCKEFELLER has been in the effort to save Wheeling-Pittsburgh Steel.

An editorial in the Charleston Gazette, dated November 27, entitled "Quiet Diligence," provides a detailed picture of Senator ROCKEFELLER's extraordinary mediating efforts. The editorial observes that he "labored behind the scenes for 9 months, sweating out compromises, coping with problems, rarely grabbing the news spotlight in the manner of most politicians."

I commend my colleague for his unique role in the Wheeling-Pittsburgh situation, and I ask that the editorial from the Charleston Gazette entitled "Quiet Diligence" be printed in the RECORD.

The editorial follows:

QUIET DILIGENCE

Most of West Virginia's economic news lately has been bad. Volkswagen will phase out 871 workers in South Charleston. FMC closed a 400-worker unit in the same city. Union Carbide is offering psychological help to hundreds of laid-off employees. Mason Glass at Jane Lew closed when its 60 workers wouldn't surrender half their pay.

But there's an encouraging note: Wheeling-Pittsburgh Steel has been pulled back from the brink of doom and 8,200 employees—751 of them West Virginians—are at work under a cooperative contract that gives them a voice in management.

The Wheeling-Pitt reprieve happened partly because Sen. J.D. Rockefeller IV, D-WV, labored behind the scenes for nine months, sweating out compromises, coping with problems, rarely grabbing the news spotlight in the manner of most politicians.

Last February, communication had ceased between former Wheeling-Pitt chief Dennis Carney—a brilliant but difficult executive—and United Steel Workers leader Paul Rusen. Teamwork between union and management was needed to induce banks to refinance the desperate firm. Rockefeller called both men to his office and they resumed talks.

Later, when the truce faltered, Rockefeller flew to Pittsburgh, brought the antagonists together, and brokered a wage package and debt restructuring plan. He accompanied Wheeling-Pitt leaders to New York banks. He urged General Motors chiefs to renew steel orders from Wheeling-Pitt.

When the suffering firm went to bankruptcy court and workers struck, Rockefeller's staff logged thousands of hours in the salvage effort. Aide Phil McGance manned what became known as Rockefeller's "full-time Wheeling-Pitt desk." A key concern during the dark days of the strike was to prevent cancellation of the Follansbee mill being created jointly with Nisshin Steel and to avoid loss of its $8.7 million federal grant.

A turnaround came after major stockholder Allen Paulson deposed Carney and brought in a new chief executive gifted at wringing compromise from chaos. The contract that evolved was based on partnership, with workers accepting a pay cut in return for decisionmaking power. A Rockefeller proposal—an escalator to increase wages if the company prospers—was incorporated in the contract.

In a Senate speech last week, Rockefeller didn't tout his own role but lauded the "visionary" contract for its "virtually unprecedented commitment to partnership between workers and management in sharing the future of this company."

A multimillion-dollar payroll has resumed pumping life into West Virginia's Northern Panhandle. It didn't happen through boosterish Commerce Departments or dramatic news announcements. (Gov. Arch Moore

reaped more publicity in one day of flying to Follansbee to hand out unemployment checks than Rockefeller did in nine months of quiet effort.)

Wheeling-Pitt isn't out of the woods. The corporation is $500 million in debt and its pension plan must be bailed out by federal insurance. But the cooperative labor contract signed Friday is a hopeful step—one reflecting plenty of backstage work by Sen. Rockefeller.●

BEYOND ECONOMICS

● Mr. MOYNIHAN. Mr. President, I rise today to bring to my colleagues' attention an article written by the distinguished senior Senator from Colorado, my friend Mr. HART. The essay, entitled "Beyond Economics," appeared in the autumn issue of the Journal of Family and Culture.

The Senator has distinguished himself once again by looking beyond the limits of conventional wisdom for insights into the social forces we in Government are charged to deal with. He refuses to limit his thinking to that acceptable to any rigid doctrine, left or right. A small testament to such can perhaps be inferred from the fact that the Journal of Family and Culture has seen fit to publish Mr. HART's views.

As for his observations, let me say simply that Mr. HART has once again lucidly delineated a reasoned response to a matter troubling to all of us: The shortcomings of economics. His is a prescription for a "new, broader, more fundamental framework that includes economics, but that places it in a larger context built of our values, our culture, and our nonmaterial needs."

I encourage my colleagues to spend a few minutes considering Mr. HART's views. It is, most assuredly, important reading.

Mr. President, I ask that a copy of Mr. HART's article be included in the RECORD.

The article follows:

BEYOND ECONOMICS

(By Gary Hart)

Among the things prudent politicians usually avoid is putting forth ideas that are tentative, perhaps incomplete, and almost certainly controversial. But the times we are living in demand new thinking. We cannot develop the national policies we need for the remainder of this century and the beginning of the next by endlessly debating the respective merits of Herbert Hoover and F.D.R. We need new approaches, and these seldom spring full-grown from the head of Jupiter. They require politicians, among others, to put forward some hypotheses, some tentative conclusions, some ideas that may or may not ultimately be right but that move us along the road toward some new perspectives on our world and where it is going.

This article attempts to do that in reference to a subject that concerns every citizen: economics. The ideas offered here are in a formative stage, and they are tentative. Some may be obscure, and there may be some false leads among them. But they constitute an attempt to move beyond the usual economic debate over tax structures, interest rates, the money supply, and the deficit. These are all important subjects. But taken alone or together, they seem in many ways to miss the core economic issue: the quality of our lives.

How can we see more deeply into the "dismal science" of economics? A good starting point might be the realization that in a larger cultural and social sense, all economic policies have been failing for at least a century and possibly longer. Time and time again, nations have succeeded economically—both in terms of growth and distribution of wealth—only to find social dissatisfaction growing, not diminishing. The economic success of the Victorian period in Europe bred enormous dissatisfaction in virtually every social class, leading to serious internal instability. In America, the economic success of the 1950's was followed by the widespread social turmoil of the 1960's. And the dissatisfaction was led by many of those who had benefited most from the economic gains.

Something fundamental has gone wrong; success does not succeed. "More" is not enough. The science of producing and getting more is not sufficient as a guiding principle. Economic growth is important, but it is important because it provides the means with which to do things. It is not a sufficient goal in itself.

We need an economic reform movement—a movement with the goal of going to the heart of the nature of society and of human behavior. How do we go about defining the new questions we need to ask—questions which may lead to reform in the way of economics is used in governing? History remains the only real "data base" of human behavior, and economic reform must begin with history.

Prior to the industrial revolution, western societies were characterized by a high degree of stability over time. People were born, lived, and died in the same village or town, among the same neighbors, often following a family craft or profession. This stability, a stability over generations, created many dependable, general relationships. For one's entire life, the same people were friends, co-workers, co-religionists, and so on. Traditional society was well described by Edmund Burke's analogy to a great, old tree. The relations among people were as mutually supporting as those among the many roots of that tree.

But industrialism shattered traditional society. With its demand for physical and social mobility, its disruption of agrarian societies, its segregation of home life from life at work, its mixing of people from different origins, and its lack of concern for anything other than quantitative output, it substituted *functional* relationships for general relationships. We now see some people at home, others at work; we move frequently; the extended family becomes obsolete; children live in a different world from that of their parents. Many of us live in several different worlds through the course of our lives. While industrialism brought wealth, it also brought an impoverishment of the individual and collective spirit.

But industrialism did create a new discipline: economics. Consideration of production, consumption, and distribution of goods and services as matters of state policy did not begin with the Industrial Revolution, of course. But economics in its modern sense was born along with industrialism in the 18th century. It defined man as an economic creature—a creature driven almost exclusively by material wants, who makes rational decisions, in the words of the 19th century economist Stanley Jevons "to satisfy (his) wants to the utmost with the least effort."

Unfortunately for economics, this "economic man" does not exist. We are not defined by our possessions. Our vision reaches beyond the material plane. The quantitative instruments of economics cannot circumscribe the human spirit. The desire for goodness, the search for truth, and the love of beauty all soar above the narrow bounds of materialism.

Without economic prosperity, of course, we cannot meet the needs of our own people and others throughout the world. But material prosperity does not provide purpose. It is not, of itself, a worthwhile vision. Tennyson wrote: "Thou hast made us, we know not why. We think we were not made to die." And he might have added, in this industrial age: "We think we were not made merely to possess, or to be governed only by the static measure of a discipline confined to the principles of production and consumption."

As the industrial age evolves, the discipline it produced, economics, is increasingly looked to for new theories to keep the giant engine running. But at the same time, we sense economics to be deficient as the foundation of government. To use to the language of economists, traditional economics is necessary but not sufficient.

What would be sufficient? Perhaps we need, in the words of Theodore Roszak, "a nobler economics that is not afraid to discuss spirit and conscience, moral purpose and the meaning of life, an economics that aims to educate and elevate people, not merely to measure their low-grade behavior."

In a sense, an economics of such richness and depth would be so different from economics as we know it today that perhaps a new term is needed. Certainly, we need a broader term than economics to describe the overall foundation for government and public policy. A good term might be "statecraft." Such statecraft should attempt to make national policies sensitive to deeper motivations than the desire for a paycheck. It should be an attempt to confront the question, what does it profit a society to conquer inflation, reduce interest rates and create new jobs, if we don't enjoy what we have or what we are doing or sense some greater national or cultural purpose?

A definition of statecraft should start by identifying human aspirations that go beyond material needs. Four such aspirations might provide a starting point:

A sense of purpose and vision. We all need a perspective on our existence in time and place, and a sense of direction as individuals and as a nation;

Opportunity for creativity. There is a growing demand throughout society for participation in the workplace and redefinition of our jobs to include shaping and guiding our institutions;

Opportunity for individual growth, for continuing and recurring education and exposure to new information and new experiences;

Autonomy or individuality—the need to be able to shape our own lives, as individuals and as communities, within the context of our constitutional liberities.

To give us a chance to achieve these aspirations—and to give some content to the notion of statecraft—we must take a number of other themes into consideration:

First, decentralization. Room for human growth can be provided best within small

units. As one sociologist, wiser than most, said, "You cannot study men; you can only get to know them." Local control in politics, in social and cultural issues, and in the business world must be a central theme.

Second, community. To have richness instead of isolation in our personal lives, we must allow communities to grow. Economic policies—public or private—which shatter community are destructive to the human spirit, however "efficient" they may be.

Third, a manageable pace of change. Change is unavoidable. But future historians may wonder if the 20th century drove itself to collective madness with its desperate velocity of change. We must control the pace of change, rather than letting it control us. Continuity must be given a chance to grow between generations. Technology must adapt to human realities, not vice versa.

Fourth, we must question modernity's most sacred cow: the notion that "you can't turn back the clock." Of course, in many areas we would not want to return to past practices. We have made genuine progress in everything from civil rights to sanitation. But in some areas, including such divergent fields as public transportation and the arts, a reasonable argument can be made that what we had once was better than what we have now. Even in these areas, attempts to turn back the clock will not precisely reproduce the past. But a look backward can give us a reference point. Historically, many great movements forward have been attempts to return to the past. The Renaissance is a good example.

Fifth, we must give more thought to aesthetics. Anyone who lives with the architectural monstrosities in our cities or the "Vegas Strips" that foul our towns and suburbs knows aesthetics is important. John Ruskin's attempt to blend economics and aesthetics may not have been the blind alley most classical economists think it to be.

Sixth, we must give greater consideration to the human side of the industrial process. We cannot expect our society to be successful if most people's jobs reward them only with a paycheck. The medieval guilds may have known something we have forgotten: the reward of a job well done, a job that gives reign to creativity, that requires and shows forth real skill, may be as important as the company's bottom line. In fact, it may even increase the bottom line. Giving workers a greater voice in their workplace may yield more gains in productivity than replacing them with robots.

Finally, we must think differently about education. This is perhaps the most important consideration of all. Ortega y Gasset, in his classic The Revolt of the Masses, warned that 20th century man was becoming a technologically competent barbarian. We can punch the buttons on our machines, but we cannot see ourselves or our world in any context, because we have not been educated. Education is not training, though training is also valuable. Education is essentially the classical education, intended to give us understanding of our culture and our values, of why our values are valuable, of the edifice our ancestors have built upon which we stand. It is rooted primarily in the study of history and literature. It teaches us mathematics and science, not to make us technicians, but to teach us to think logically. It must be revived—first, among our educators. Without it, we cannot hope for a society that does more than lurch blindly from crisis to crisis, unable to see where it has been, and thus know where it can go.

As we evolve the qualities that constitute statecraft, what should we seek to do with them? Our principal task is to relate them to the technology, wealth and growth that must remain important parts of our social order. The task is not to overthrow technology or growth, but to use them within the framework of statecraft—to drive them and control them, rather than being driven and controlled by them. One might say, our task is to civilize them.

Can we really use these seven themes in devising policy in the real world? Why shouldn't we? Would it not make more sense to design an urban transportation system that took into account our needs for community and aesthetics rather than just what works technically? Would not our job training programs work better if they were based on a broader view of what people want from their jobs? We have already seen, in numerous cases, that decentralized decisionmaking, both in government and business, leads to greater satisfaction and better results.

A great nation must have a great framework by which it is to govern itself. Traditional economics, with its one dimensional "economic man", is simply insufficient. We must think through a new, broader, more fundamental framework that includes economics, but that places it in a larger context built of our values, our culture, and our non-material needs. That is much more than this brief article can possible do. But it is, perhaps, a beginning, and a call to face the task.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 18, 1985.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-21 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter(s) of Offer to Turkey for defense articles and services estimated to cost $206 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF, Director.

Attachments: Separate Cover: Classified Annex.

TRANSMITTAL NO. 86-21

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Turkey.

(ii) Total estimated value: Major defense equipment as defined in Section 47(6) of the Arms Export Control Act: $0 million; other: $206 million; total: $206 million.

(iii) Description of articles or services offered: Seven hundred sixty conversion kits each consisting of tank thermal sights, add on stabilization, solid state ballistic computers necessary to convert M48A5 tanks, and associated defense services.

(iv) Military Department: Army (USV and USX).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: case not included in Section 28 report.

(viii) Date report delivered to Congress: December 18, 1985.

POLICY JUSTIFICATION

TURKEY—TANK CONVERSION KITS

The Government of Turkey has requested the purchase of 760 conversion kits each consisting of tank thermal sights, add on stabilization, solid state ballistic computers necessary to convert M48A5 tanks, and associated defense services. The estimated cost is $206 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

These conversion kits will be used by the Government of Turkey in their Tank Modernization Program. These components, when installed on the M48A5 tanks, will greatly increase the fire power capabilities of the Turkish Land Forces Command. The tank thermal sight provides enhanced night fighting capability by using Long Range Infra/Red detectors that enable the tank gunner to detect enemy tanks through darkness, fog or battlefield smoke. The add-on stabilization system allows the tank to fire its main armament while on the move. The procurement of 760 conversion kits would upgrade approximately one-third of the Turkish M48 tank inventory. These kits will be provided in accordance with, and subject to the limitations on use and transfer provided for under the Arms Export Contrl Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question. Turkey will have no diffi-

culty absorbing these tank conversion kits into its armed forces.

There are three prime contractors: Texas Instruments, Dallas, Texas; Control Data Corporation, Alexandria, Virginia; and Cadillac Gage, Warren, Michigan.

Implementation of this sale will require the assignment of two additional U.S. Government personnel for one month and two contractor representatives for one year to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMB'S PROPOSAL TO CUT OFF METRO

● Mr. MATHIAS. Mr. President. The Office of Management and Budget has made a preliminary recommendation to eliminate funding in the 1987 budget for the Washington area rapid rail system. The consequences of such an action for one of the Nation's most exemplary and efficient transit systems would be disastrous.

The three jurisdictions that compromise the Washington metropolitan area—Maryland, Virginia, and the District of Columbia—have worked tirelessly over the years with the Federal Government to develop a construction schedule to complete the Metro system in a rational, well-planned way, with the strictest funding requirements. Now, one of the parties to the agreement—the Office of Management and Budget—wants to pull the rug out from under them, by halting all Federal funding and thereby throwing the entire construction schedule out of kilter. It is particularly unfortunate that one of the lines placed in jeopardy is a key element in serving low income residents who rely heavily on public transportation. Such last minute changes in construction schedules and contract negotiations inevitably increase costs.

Our standing in the world and our position as a great power are measured in many ways that go beyond the stocks of arms in our arsenals or the volume of transactions in our economy. The quality of life that we provide for our people is also a measure of our maturity as a nation. Every great power in the world today provides a modern system of public transportation for its capital. The subways in Moscow, London, and Paris serve to illustrate this point. The possibility that the United States should shirk this responsibility is not to be considered seriously by thoughtful people. As highways become more congested it will not be considered seriously by practical people.

I agree that we have to look for new ways to reduce the deficit, but we should not single out programs such as the Washington rapid rail system to shoulder an unfair share of the burden. It is an ideal model for other transit systems around the country. Its ridership is high and increasing, its operating costs are being held in check and its service reliability is among the best in the Nation. No one expects Metro to escape the budget scalpel when the transportation programs are put on the chopping block, but a guillotine is far too drastic a tool.

The Washington Post, in an editorial of December 13, set forth some cogent, well reasoned arguments in favor of providing a more rational adjustment. I commend it to my colleagues and ask that it be printed in the RECORD.

The editorial follows:

OMB'S PROPOSAL TO CUT OFF METRO

Greater Washington's subway system—the grand and often imperiled mass transportation project for the capital that has enjoyed the support of every president since Dwight Eisenhower—is now in its deepest trouble ever. The Reagan Administration's Office of Management and Budget has recommended cutting out all federal spending for completion of the system as envisioned, negotiated and brought along through years of cooperative efforts by federal, state and local governments. It's called "zeroing out" and would take effect in the next fiscal year. The result: routes patiently awaited might never be built. The biggest losers would be the residents of low-income neighborhoods who depend most on mass transit—and who have had to wait the longest.

There's no question that under Gramm-Rudman-Hollings plenty of harsh adjustments are in the offing and that Metro faces its share. But OMB's proposal would undercut delicately negotiated agreements reached by this very administration and all the other participating governments. They already had worked out schedules for keeping subway construction as orderly and economical as possible, within strict financial limitations. That is the only fair way to treat those parts of the region that over the years have committed and pooled their state and local money for other routes while theirs had to wait.

It isn't as if this administration had been mindlessly tossing dollars at some high-speed plaything for the locals. Secretary of Transportation Elizabeth Dole and Ralph L. Stanley, the administration's mass transit chief, have won agreements with metro that are considered models of sensible austerity. And if they believe in what they have accomplished so effectively for a balanced mass transportation system in the capital, they should appeal in the strongest terms for a more rational adjustment. It would be a recognition within the administration of what they have achieved on its behalf already.●

ECONOMIC BENEFITS OF THE STRATEGIC DEFENSE INITIATIVE: SPEECH BY GIANNI AGNELLI, CHAIRMAN OF FIAT

● Mr. WALLOP. Mr. President, I offer for my colleagues' review and study a speech delivered by Gianni Agnelli. Delivered on November 21, 1985, in Brussels, it reviews the potential economic benefits to Europe of participation in the strategic defense initiative. I, myself, as most of us in this body, have concentrated primarily on strategic military and political reasons for SDI. This address adds an important new dimension to discussions of the benefits of research into strategic defense technologies. While his arguments are meant to apply to Europe, they are very relevant to the U.S. economy.

A Chase Econometrics study in 1976 made the following estimates on the economic impact of the U.S. space programs: For every billion dollars invested in space research and exploration, the American gross national product increased by $23 billion; more than 800,000 new jobs were created; and the money multiplier effect was between three and eight. Extrapolating on the technology development resulting from NASA space programs, Mr. Agnelli forecasts major technological benefits to the economy from SDI.

Primary economic benefits derive directly from the transfer of SDI technology into the industrial base. Mr. Agnelli gives likely examples from across the spectrum of the SDI research program. One from the directed energy area is adaptive optics in the mirror systems used to focus lasers and compensate for atmospheric distortion. This technology can be used in industry to control lasers as cutting tools, to permit the use of lasers for long-distance communications, and to develop microscopic imaging systems for the design and inspection of microelectronic circuitry and other miniaturized components. Secondary benefits result from activities needed to implement the results of basic SDI research and could be even greater than the primary ones. They derive from the necessary space infrastructure which would support large-scale industrial development in space. Finally the tertiary benefits accrue. There are alloys, composites, and crystals which can only be manufactured in microgravity. There are pharmaceuticals which can be produced in purities and quantities required only in space. As an indicator of the magnitude of potential benefits, Mr. Agnelli refers to studies estimating revenues for satellite communications alone in the range of $50 to $100 billion annually, with growth rates of 20 to 40 percent.

I hope my colleagues will look carefully at the reasoning and examples that Mr. Agnelli uses. They will be

very relevant during the review of the 1987 SDI funding requests.

The material follows:

Ladies and Gentlemen, etc.: Thank you for the honor of addressing this distinguished gathering on the topic of the American Strategic Defense Initiative. As an Italian and a European, I am deeply concerned about the effect of the Strategic Defense Initiative on the security of my country, and the entire Western European Community. However, there are others here, better suited by training and inclinations to penetrate the byzantine intricacies of global strategy.

Therefore, I would like to address you as an industrialist, a European industrialist, on what I perceive as the opportunities the Strategic Defense Initiative offers for European Economic development.

As you are undoubtedly aware, European industry is suffering from the phenomenon of "high technology lag". Although we excel in the design and manufacture of products based in traditional industrial techniques and mature technologies, we have not kept abreast of the cutting edge technologies. Neither have we been as adept as we might be in exploiting advanced technology developed outside of Europe. In a global market which demands goods of increasingly advanced technology, we run the risk of stagnation and the loss of sizable portion of international trade to those nations which offer state-of-the-art products.

Although beset by structural dislocations inherent in the transition from a traditional, industrial economy to a modern, post-industrial economy, the United States has, in the last five years, created more than eight million new jobs, while Europe has lost several million. The United States has demonstrated its superiority over Europe in the development and application of high technology; it is high technology which is responsible for the majority of the new employment in America. Why should this be the case, when our universities and technical institutions are capable of producing scientists and engineers equal to any in America?

There are two basic causes. First, the American economy remains remarkably unstructured when compared to those of Europe, leading to the establishment of thousands of entrepreneurial companies in what has been termed the "high innovation sector". These small-to-medium sized companies seek out new markets and create their own demand by applying new ideas and advanced technology to the solution of old and emerging problems. The high innovation economy is characterized by rapidly shifting trends; to survive, these companies place a premium on flexibility and creativity. The lack of a large entrepreneurial class in Europe mitigates against the rapid development and exploitation of new ideas. Our whole business, labor and governmental structure is too conservative, too obsessed with security, to compete effectively against companies willing to take major risks on unproven concepts (which, if they succeed, often have spectacular payoffs).

The second major contributor to American success in high technology is the use of major government-sponsored applied research and development programs which act as focusing agents for the creative energies of high technology firms. Daily business activity is sufficient to provide incremental improvements in technology, or new discoveries in narrowly specialized fields. However, a quantum breakthrough to a new level of technology requires a broader, more coherent, effort. Just as ordinary light can be made coherent and focused as a laser to cut through steel, so too can technological development be made coherent and focused to cut through technological barriers which might otherwise seem insurmountable.

In our century, war has often been this kind of focusing agent. The quest for new, efficient instruments of destruction, the threat to individual and national survival, provide the impetus for technological research which, paradoxically, provides the wherewithal for better living peace.

I believe the United States has found a peaceful substitute for warfare as a focus for technological development. Such a program must present broad and challenging technical goals, requiring solutions to new and unforeseen problems in diverse, but related, areas. The program must have goals cast in a Promethean mold, to capture the imagination of scientists and laymen alike, and thereby mobilize the physical and moral resources of the nation in the same manner that the threat to survival mobilizes the nation in war.

I believe that space exploration has provided this role for America. The space program has been the lasting medium for the engineering and entrepreneurial inclinations of the American people, resulting in achievement of extraordinary scope and importance. Consider: in 1958 the United States managed, with great difficulty, to place a two kilogram satellite in low earth orbit; a decade later, men are walking on the moon and returning safely to Earth. Today they are demonstrating the ability of man to live and work in space, and sending unmanned probes to the most remote corners of the solar system.

However, if the only results of the space program were solutions to the immediate technical problems of space flight and the expansion of our abstract knowledge of the cosmos, there would be little economic benefit beyond the aerospace firms involved. But within the solutions to the major problems reside countless minor problems, the solutions to which may have much broader applications than anticipated. These tangential applications, or "spinoffs", have been unanticipated economic windfall, and fully justify the expenses of programs like Apollo or the Space Shuttle by virtue of the new industries and employment they have created.

The full range of technological spinoffs from the space program is too vast to recount here. Those who are interested should investigate the "Spinoff Reports", published by NASA annually. It is sufficient, though, to say that few, if any basic areas of advanced technology which do not owe some or all of their development to the demands of the Space Program.

A few specific examples should prove this point, beginning with fields of microelectronics and computers. If we live in the age of the computer revolution, we may thank the space program. The demands for highly reliable electronic components packaged in the minimum mass and volume were essential for both manned and unmanned space probes, leading directly to the integrated circuit. Missile guidance control, the development of complex navigational algorithms and ballistic computations requiring the execution of many thousands of mathematical operations per second, led to the development of powerful, high speed digital computers. To place these computers aboard weight and volume constrained spacecraft, the computers were made smaller which in turn demanded integrated circuits of much greater density and speed. Today computers found in households and offices are far more capable than any which were available even to military organizations in the early 1960s. The cost of computers has decreased, even as capabilities have increased several orders of magnitude, thanks to improved manufacturing techniques developed out of the American space program.

As secondary spinoff of computers and the space program: computer assisted design and computer assisted manufacturing. Aerospace and automotive manufacturers have eliminated thousands of manhours of precision model making, wind tunnel and prototype testing by using complex computer simulations in the design process. Design changes which previously took months to implement are today tested and verified in hours by feeding the desired parameters into a computer. This technique was first developed in the space program to validate design concepts without the expense of building hundreds of test vehicles.

We also use computers on the assembly line for hundreds of repetitious precision tasks previously done by hand. We at Fiat use many robots in the manufacture and assembly of our automotive products. The technology for these machines was spun off of the remote planetary probe and image processing programs of the space program. Highly realistic cockpit simulators are being used to train and refresh aircrew, and develop responses to inflight emergencies. These simulators, first developed to train astronauts, save the airlines millions of dollars in fuel and maintenance each year, while improving pilot proficiency and safety. Computers and other technologies developed from the space program have revolutionized biomedical science. CAT and ultrasound scans used image processing techniques from space probes. Advanced biomedical sensors were developed out of the space program's need for remote physiological monitoring of astronauts from space.

The need to minimize structural weight and maximize spacecraft payloads led to the invention of a wide range of composite materials with many times the strength of steel at a fraction of the weight. These composites are now being used in aerospace and automotive manufacturing to reduce structural weight and improve the efficiency of aircraft and vehicles. These composites demonstrate many new and existing characteristcs which permit the exploitation of theoretical designs previously deemed impractical due to the lack of available materials. The forwardswept wing now in testing on the X-29 was first conceived in Europe in 1945; but until stiff, high strength carbon-boron epoxy was available, this revolutionary aircraft technology could not be developed. The X-29, along with many of the latest military and commercial aircraft, employ digital fly-by-wire flight control systems first used on manned spacecraft, which reduce pilot workloads, and permits highly efficient flight for reduced cost, and difficult maneuvers throughout the flight regime.

Indeed, space technology has entered our mundane lives so pervasively that it is impossible to pass a single day without encountering some article developed out of the space program.

The effect all this has had on industrial economies is enormous. The entire Apollo program cost the American taxpayer some twenty-three billion dollars over twelve

years. The return on that investment has been staggering. NASA conservatively estimated that the direct return on every dollar invested in the space program is on the order of eight-to-one. On top of this, one must consider secondary and tertiary applications. Example: earth observation satellites. Billions of dollars are saved annually by the advance warning given when hurricanes, blizzards or floods threaten, thanks to weather satellites. Earth resource satellites enable us to spot oil, water and valuabel minerals in remote locations without the time and expense of sending survey teams to the area. The same satellites help locate and combat agricultural diseases by infrared analysis of foliage. The source and effects of pollution can be mapped in the same manner.

In fact, it would not be far from wrong to state that the impact of the space program has been practically incalculable in monetary terms. However, a Chase Econometrics study of 1976 made the following estimates: For every one billion dollars invested in space research and exploration, the American gross national product increased by twenty-three billion dollars; more than eight hundred thousand new jobs were created; the money multiplier effect was between three and eight. It is probably no coincidence that the period of 1972 to 1980, during which America had no ongoing large-scale space program, was a period of economic malaise for the United States. Nor is it entirely coincidence that the American economy has revived in conjunction with a revitalized space program.

What has this to do with the Strategic Defense Initiative? I believe that SDI is potentially the same sort of focusing program as Apollo or the Space Shuttle. Although it has a military purpose, this purpose is purely defensive; indeed, its ostensible goal is the prevention of mass destruction. The technical problems in developing a ballistic missile defense are vast, and push the limits of our present capabilities. The concept is broad and daring enough to capture the imagination and mobilized the kind of support needed to propel a technological breakthrough. Most important, for the first time, the United States is actively seeking multinational European support and participation in this effort.

Whether one supports the strategic goals of SDI is immaterial to the fact that the program presents European industry with the opportunity to participate in what could become the greatest research and development program of the decade. Through exposure to the technology, attitudes and environment of the program, we may be able to translate the experience into the revitalized high technology economy which we desparately need. As presently structured, it is intended only to investigate the technological possibilities of strategic defense. The question of implementation cannot be answered reasonably until such a technical investigation is completed. In any event, implementation is a military-political question outside the realm of industrial policy.

The nature of economic benefits to be derived from SDI research can be characterized as primary, secondary, and teriary.

Primary economic benefits are those derived directly by the transfer of SDI technology into our industrial base; spinoffs of this nature will show the greatest return on investment in the near term. The Strategic Defense Initiative is organized to investigate three major areas of technology: kill mechanisms, such as lasers, kinetic energy weapons, etc.; SATKA, or the Surveillance, Acquisition, Tracking and Kill Assessment sensors and Battle Management, the data processing and communications system required for coordination, fire control and resource management. The technical challenges in each of these research areas are formidable; it may turn out that some are insurmountable in foreseeable future. Nonetheless, coordinated, coherent research will advance the state of technology in all fields involved in the research effort, even if a strategic defensive system is never deployed. The Strategic Defense Initiative Organization recently recognized the economic importance of technological spinoffs by opening an office to identify civilian applications of SDI research and disseminate them to the public. Let me identify just a few of the industrial applications of primary SDI research.

In the field of lasers and directed energy weapons, SDI has already succeeded in improving the efficiency of high energy beam generation. This making the industrial use of lasers as cutting and welding tools more economical. The free electron laser under development for SDI has numerous potential applications in industrial and medical processes because of its capability to alter the frequency of the beam it emits. Lasers are under consideration for tracking and targeting sensors. Laser radar, due to its very short wavelength, has much higher resolution than radio frequency radars to transmit data along lines of sight at much greater densities than are possible with microwave systems. Adaptive optics used to control beam focus and compensate for atmospheric distortion, can be used in industry to control lasers as cutting tools, to permit the use of lasers for long distance communications, and to develop microscopic imaging systems for the design and inspection of microelectronic circuitry and other miniaturized components.

Particle beam technology, especially the neutral particle beam, is exploring areas of particle acceleration and beam control essential to the development of controlled fusion technology, and the technology of ion propulsion.

In kinetic energy weapons, the electromagnetic "rail gun" is considered one of the most promising areas of investigation, capable of accelerating small to moderate sized masses to velocities of over three thousand meters per second in the space of dozen meters, using controlled magnetic pulses. This technology can be used to improve the capabilities of magnetic levitation mass transit systems now under development in Germany and Japan.

The entire realm of SATKA is replete with technological spinoffs. The basic problem of SATKA is developing sensors capable of detecting small objects, of being able to discriminate between legitimate targets and decoys designed to dilute the effectiveness of the defenses. The sensors must also be able to detect minute changes in the state of the target to determine if the defenses have neutralized it. Accomplishing these objectives will require sensors many times more sensitive than those presently in use. New infrared and optical sensors will be used in earth observation satellites to survey and locate resources more effectively even than those in use today. It may be possible, through improved image processing technology, to identify marine resources, such as fish, or plankton, or even submerged mineral resources on the continental shelves. These same image processing techniques will also be used in industrial processes, for monitoring and quality assurance. It has been suggested that particle beams of relatively low power can be used as mass detectors, to determine the density of objects.

Battle Management, however, may be the area in which we see the most important and immediate spinoffs of SDI. Integration of the thousands of separate elements in a ballistic missile defense requires extraordinary data processing rates. For a boost phase intercept, potentially the most cost effective form of defense, processing rates on the order of one hundred million bits per second are needed, several orders of magnitude beyond the capability of all but the most powerful computers available today. Computers for battle management, however, must be cheaper and more compact than the present generation of supercomputers. The requirement for ultra-high speed date processing will give birth to a new generation of computers which will make today's models obsolete. These new computers will probably use parallel, rather than sequential processing, which will require entirely new methods of programming. These computers will be able to process much larger volumes of data and run increasingly complex simulations, which will reduce design and manufacturing costs for industry.

The immense amount of data being processed, and the very short times available for decision making, requires the battle management system to be much more automated than any previous military system. Man is a monitor, an override, a fail-safe component. The dynamic interplay of offense and defense during an engagement implies that the two-dimensional stochastic models used in earlier automated systems will be wholly inadequate. Instead, artificial intelligence and expert systems will be improved greatly to permit rapid, correct responses to unique and rapidly evolving tactical situations. The civilian applications for artificial intelligence of this calibre are awesome. To give but a few examples:

Assembly lines can be more fully automated, and much more flexible. Industry would then be able to shift from the production of a few models with limited variations, to smaller runs of a more diverse product line specifically tailored to consumer needs, without incurring prohibitive expense, by using artificial intelligence to coordinate the subcomponents and processes required for each item in response to programmed inputs.

In aviation, artificial intelligence and expert systems can function as "pilot's associates", monitoring system performance and reducing pilot workloads. In resource exploration or hazardous material processing, remote land rover vehicles or unmanned submersibles will be able to go places too dangerous for humans, without relying on remote control inputs. Such vehicles will be able to maneuver in their environment, equipped with manipulator devices enabling them to carry out their programmed tasks the face of unexpected conditions.

Consider the effect which the computer has had in industry to date, and then imagine the impact of a tenfold or hundredfold improvement in computer performance. Think of the power of a Cray-II packaged to fit atop a desk, and the concomitment reduction of data processing costs when such capability becomes widespread.

Battle management also requires secure, high-speed telecommunications capability, to pass targeting and tracking data, system status, and command signals across global distances. This will require a new generation

of communications satellite of much greater power than now exist. Not only will individual satellites be able to carry a greater number of signals, but, as power increases, the complexity of ground receiver stations will decrease. Within a decade, it may be possible to transceive signals via satellite using ground stations of only a few watts power and dishes less than a meter in diameter.

Electronic, cybernetics, signal and data processing, optical sensors, laser and particle beam technology, telecommunications and material processing, are but a few of the areas which will be advanced by the inherent requirements of a ballistic missile defense system. Even if such a system is never deployed, the benefits of coordinated, coherent research in these areas will spin off into numerous civilian applications.

But from these primary benefits we can also discern a wide range of secondary benefits, resulting from activities needed to implement the results of basic SDI research, may have even greater impact, over the long term, than the primary spinoffs. For example, almost every system architecture described to date requires a large, space-based segment. To emplace this segment will require an integrated space logistics system, including efficient, low cost, space transportation; orbital transfer vehicles; heavy lift vehicles; permanently manned construction and repair stations; and the ground facilities to control them. In addition, space-based weapons will require high density power sources several orders of magnitude beyond any yet deployed. Implementation of space-based defense, therefore, requires the development of a space infrastructure, which is also essential for the large scale industrial development of space. While it is possible that this infrastructure will be developed independent of SDI, there can be little doubt that the connection to strategic defense will accelerate and ensure its development by providing a national (or international) security rationale. With a space infrastructure in place, we will begin to reap the teriary benefits of SDI through the industrialization of space. The markets for space are huge, untapped treasures waiting to be mined. There are alloys, composites and crystals which can only be manufactured in microgravity. There are pharmaceuticals which can be produced in purities and quantities required only in space. There is free and abundant energy for industrial processes, free and available vacuum and radiation. There are literally thousands of applications which we have not even imagined. The economic potential of this market is practically unlimited. Studies have shown that revenues for satellite communications alone will be in the range of fifty to one hundred billion anually, with growth rates of twenty to forty percent. It is estimated that by the year 2000, space industrialization will create between two and three billion new jobs in the United States alone, even at the unambitious pace now being pursued. The Aerospace Industries Association estimates that every million dollars spent on space activities creates one hundred direct new jobs, which does not include the service industries which will evolve to support rapidly expanding space industries.

In the short term, however, I believe that the primary benefits of SDI basic research justify European participation in the program. Failure to participate will concede a monopoly to American firms on any technologies emerging from SDI, which can only harm our competitive position. Fortunately, the United States is actively soliciting our participation in the venture, obviously for political reasons. But their motivation should not deter us from taking advantage of a situation which will benefit the economics of all who participate.

Unfortunately, there are several impediments to successful European participations, some of which are the fault of the Americans, but others which can be laid at our own door.

European industry has been sceptical of the Strategic Defense Initiative as a means of acquiring new technology. Some do not see the benefits as being as important and far-reaching as I have described. All that can be said is that every day brings forth evidence that, if anything, the description I have given you is not visionary enough.

More European industrialists are sceptical of the willingness or ability of America to have a meaningful European segment to SDI. I believe this is due in part to a misappreciation of the size and nature of the present program. Numbers are being tossed about, such as twenty, fifty, or one hundred billion dollars, as the ultimate budget of SDI. In fact, at this point, the SDI is working on a very slender budget. General Abrahamson's request this year was for 3.7 billion dollars; he received 2.9. Budgets for the next few years will run between six and ten billion dollars. If the contracts being offered are not for very large amounts, blame the total program budget, not American unwillingness to offer money to Europeans.

You will also note that of the money authorized for the program, the majority of the funding has gone to a relative handful of large American firms. A European might well ask what is left for him? How can he compete against a large, incumbent contractor? This is again a misperception of the program. The large contractors awarded to date have gone to companies involved in the development of large-scale demonstration hardware, the laser test beds, particle beams, or interceptors. These programs predate SDI by as much as a decade, having originated with the individual American services, and were brought under the SDI umbrella in 1983. As the programs nearest to fruition, it is natural that funding be allocated to them as a top priority. But as the overall funding level of the program expands, and new areas of investigation begin to mature, there will be many opportunities for European involvement. There will be areas in support and ancillary functions which do not receive the attention of major American companies, which provide us with opportunities to acquire new technology without direct competition with America's aerospace giants. As SDI matures, additional problems, not previously forseen, will require solutions. In that arena we will start on the same footing as the Americans; if we have competitive ideas, we will win a share of the budget.

But in this regard, I will remind you that the direct funding we receive from SDI will never be a large enough amount (barring actual deployment of a ballistic missile defense) to justify a major commitment of resources on our part. It is the acquisition of the technology and our ability to spin off marketable applications that is our major benefit.

Aside from the level of scepticism in European business, there are several other significant impediments to overcome. At the highest level, there is the irreducible fact that SDI is a military program with a political and strategic dimension. The factor of national interest makes the normal customer-contractor relationship inadequate for this program. Since each nation in the Alliance has a different perception of its security needs and the effects of SDI upon them, there will be widely divergent positions on the issue; a consistent policy is unlikely.

The strategic dimension also introduces the problems of security and technology transfer. We are all aware of the efforts of the Soviet Union in the realm of technical and scientific espionage, and of the efforts of the United States to halt what it perceives as a hemorrage of technological secrets to the Eastern Bloc. We are also aware that American actions in this direction have in the past caused friction within the Alliance. Since the areas investigated by SDI will have critical military applications, it is obvious that the United States will attempt to control their dissemination. However, if technology transfer controls are too strict, the effect may be discouragement of the European participation the United States ostensibly wishes to foster. Many European firms probably will defer any decision on participation until definitive technology transfer guidelines have been negotiated between the respective governments.

At a lower level of policy-making, Europeans face a number of bureaucratic hurdles to meaningful participation. At the root of our problems is our lack of experience in programs of this nature. We do not know the ground rules, nor do we have the personal contacts of American high technology firms. Therefore, we are disadvantaged simply trying to get in the door. Compounding our difficulties is the well known predilictions of the U.S. Department of Defense against the procurement of non-American material. There is a two way street, but the traffic is much heavier from west to east than vice versa. The American Congress must share the blame for this, through the enactment of "Buy American" legislation, which effectively bars our participation in research and development programs. Significant European participation in SDI may also have an adverse effect on American public opinion, if it is perceived as depriving American companies of work.

In addition, European industry will be entering the SDI market several years behind American companies. We will need special assistance to assimilate the progress which has been made to date, and to identify market areas in which we can make significant contributions. How, then, can European participation in SDI be implemented successfully? There are four basic approaches which may be taken.

First, efforts may be made in a decentralized manner through the private sector. Individual firms may bid on SDI research projects without any coordination with other companies or their own governments. Companies would enter the program with small contracts and grow from within. This approach offers speed and flexibility, but an individual firm lacks major bargaining leverage when facing opposition from American companies and the previously noted bureaucratic impediments. In addition, companies may be reluctant to commit their resources in the absence of a public commitment to SDI, especially when one considers the skepticism with which the entire program is viewed.

A second approach would involve coordinated action by several firms, without any formal governmental backing. A consortium would bid competitively for contracts, using their combined resources to gain bargaining

power. However, coordination within a consortium is relatively poor, leading to longer response times and higher costs. The track record of large corsortium programs is not good—witness the Concorde, Jaguar, Alpha Jet and other aerospace programs. In addition, as a purely private venture, the consortium would still lack the governmental support needed to coordinate between national authorities and to mitigate some of the risks involved.

The third approach involves formal bilateral agreements between the United States and individual European governments. Under the terms of such an agreement, areas of cooperation would be established, and the European government involved would distribute contracts among its industrial firms. An arrangement of this nature is not practical at this moment due to the limitations of the American procurement system. The American system is based on competition for all but a few categories of procurement, and it is not at all clear if existing laws and regulations would permit relegation of a sizeable portion of the SDI budget to European governments for distribution to their industries. In addition, there is need for close, direct contact between the contractor and the sponsoring agency, which will inevitably lead to the creation of a dual level bureaucracy, with intergovernmental coordination layered above the technical interface, causing unnecessary duplication of administration, delays, and increased costs.

The fourth option is a multilateral intergovernmental arrangement based either within the NATO Alliance or the EEC. The agreement would apportion the work to be done by each nation; the national governments would then distribute contracts to individual firms. This is the least plausible alternative. Aside from its unnecessary complexity, it is probably impossible to arrive at such an agreement due to the differing political and strategic positions among the allies.

Each of the four options individually has some major disadvantage. It appears, though, that a combination of the first and third options offers the best available compromise. Initially, European companies should attempt to penetrate the SDI market on their own, using relatively small projects to build confidence and a base of experience. At some later point, direct bilateral agreements must be worked out by the respective governments to coordinate higher policy issues and provide bargaining leverage for industry. This approach offers flexibility to take advantage of the fluid state of SDI research, and would, at a later stage, provide some of the bargaining leverage and security which a European firm would need prior to committing major resource to SDI.

It will be difficult to implement such an arrangement. The problems are twofold, involving both European and American governments. From the perspective of a European government, the initial contract amounts are very small, rarely more than a few million dollars. It will be difficult to convince a government to commit its political capital for what appears to be a program of minor economic consequence. In response, it must be noted again that the dollar amounts awarded for SDI contracts will increase over time, but more importantly, that the direct cash outlays for SDI are not the major rationale or benefit of European participation. Rather, by exposure to new technologies and directed research, European industry will be able to spin off applications which will be many times greater than the profit from direct SDI payments.

There are several problems from the American side, related to the unique manner in which the United States manages military procurement. If we are going to commit ourselves to SDI, we must have assurance that contracts will actually be awarded for the projects on which we bid. Unlike agreements between European governments, cooperative agreements with the United States carry no guarantees, no multiyear or fixed dollar procurements. In addition, American procurement regulations requiring competitive bidding on all but a few contracts places us at a disadvantage. The divided responsibility for foreign policy in the American system also hinders our cooperation. We have no assurance that agreements negotiated with the Executive branch will be ratified by the Legislature, or that Congress will not abrogate or repeal an existing agreement. We have participated in many programs in which the contractual rug have been pulled out from under us.

If the United States truly wishes our participation in SDI, then direct diplomatic negotiations are required to map our new procedures for administering international programs. This is an unprecedented undertaking, and existing laws and regulations do not meet their unique conditions. We need guarantees that we will be able to penetrate the SDI market on a large scale, either by blocking out funds reserved for European ventures, or by delegating particular areas of investigation to European firms. We require guarantees that contract awards will actually be made, and that the United States has a long-term commitment to SDI which justifies a major investment of resources on our part. American procurement laws must be amended for greater flexibility, or some form of waiver used to exempt European participants from elements of a system to which they are not adapted.

In return, we Europeans must become more entrepreneurial. We must have the vision, creativity and flexibility to exploit the new areas of technology which will be opened, if we are to reap real benefits from our participation. The space research and development activities being initiated in the United States today will revolutionize the technology products of the near future. It is vital that European industry not be left behind as the rest of the world moves into a new industrial revolution.

Europeans in government and industry must be less sceptical of American motivations and capabilities. For more than forty years the United States has been a steadfast ally and firm friend to Europe. During that same period we have seen American genius bring about industrial and technological changes which a half century ago seemed mere fantasy. The United States has once more set forth on a major technological undertaking. They ask for our cooperation and participation. I believe it is in our best interest to accept this truly generous offer. It is in our best interest to see that any cooperative program succeeds. It is the responsibility of all parties, European and American, to work in good faith to remove the roadblocks preventing quick and meaningful participation in the Strategic Defense Initiative.●

PRODUCT LIABILITY REFORM

● Mr. DANFORTH. Mr. President, on December 20, I made a statement for the record concerning a new staff working draft of product liability reform legislation. Unfortunately, this draft was mistakenly printed as a new bill, S. 1999.

I want to take this opportunity to emphasize that this text is still in the drafting stages and will be subject to further changes and much discussion among members of the Commerce Committee. While it is premature to endorse specific provisions of this draft, I am confident that hearings early in 1986 will lead to prompt committee consideration of legislation to address the serious need for product liability reform.

Also, on December 20, I asked that this staff working draft be printed in the RECORD to facilitate discussion of these latest proposals. Since this was not done, I renew my request that the new staff working draft of product liability reform legislation be printed in the RECORD immediately following these remarks.

The material follows:

[Staff Working Draft—No. 2]

S. —

A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

SEC. 101. This Act may be cited as the "Product Liability Voluntary Claims and Uniform Standards Act".

DEFINITIONS

SEC. 102. As used in this Act, the term—

(1) "capital good" means any product, other than a motor vehicle, or a vessel, aircraft, or railroad used primarily to transport passengers for hire, or any component of any such product, if it is also of a character subject to allowance for depreciation under the Internal Revenue Code of 1954 and was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold, leased, or donated to a governmental or private entity for the production of goods, for training, for demonstration, or other similar purposes;

(2) "claimant" means any person who submits an expedited product liability claim or brings a civil action subject to title II or III of this Act, and any person on whose behalf such a claim is submitted or such an action is brought; if such a claim is submitted or such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(3) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a

place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

(6) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution and judgment that society expects of its members for the protection of their own interests and the interests of others;

(7) "exposure" means proximity permitting absorption, ingestion or inhalation of a substance through any body surface;

(8) "harm" means (A) personal physical illness, injury, or death of the claimant; (B) mental anguish or emotional harm of the claimant caused by or causing the claimant's personal physical illness or injury; and (C), for purposes only of title III of this Act, physical damage to property other than the product itself; the term does not include commercial loss;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(10) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(11) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(12) "product" means any object, substance, mixture, or raw material in a gaseous, liquid or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient, (B) which is produced for introduction into trade or commerce, (C) which has intrinsic economic value, and (D) which is intended for sale or lease to persons for commercial or personal use; for the purposes of this Act, the term does not include (i) industrial waste, atmospheric pollutants, and water contaminants, (ii) human tissue, blood and blood products, or organs, or (iii) tobacco or alcoholic beverages sold for human consumption; and for the purposes of title II of this Act, any product purchased by the United States Government which is manufactured to United States Government design specifications for use in an aerospace or defense application.

(13) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

(14) "relevant point in time" means, for the purposes of title III of this Act, the earlier of the time of manufacture of a product or certification of an aircraft or its parts or accessories by the Federal Aviation Administration;

(15) "Secretary" means the Secretary of Commerce;

(16) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof;

(17) "toxic agent" means an object, substance, mixture, raw material, or physical agent producing or capable of producing toxic harm in humans; the term does not include genetic or other physiological predisposition to toxic harm or environmental background factors to which general population is exposed;

(18) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material or physical agent of particular chemical composition.

PREEMPTION

SEC. 103. (a) This Act governs any civil action brought against a manufacturer or product seller, or any theory, for personal injury or property damage caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law.

(b) No civil action may be brought in any Federal or State court against a manufacturer or product seller for personal injury or property damage caused by a product other then an action for recovery for harm brought pursuant to this Act.

(c) This Act supersedes any State law regarding recovery for any injury or damage caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(d) Nothing in this act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the federal Employees Compensation Act;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of the foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an acton for civil damages or civil penalties, clean up costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(e) As used in this section, "environment" has the meaning given to such term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(f) This Act shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

RECORD RETENTION

SEC. 104. (a) A manufacturer of a product for which recovery may be sought under title II or subject to title III of this Act shall retain for a period of twenty-five years one copy of all studies or reports within the manufacturer's possession, custody, or control, which assess the risks or hazards posed by the design or formulation of the product. A manufacturer of such a product also shall retain for a period of twenty-five years a record of each reported incident of death, injury, or illness resulting or alleged to have resulted from the use of the product.

(b) Any claimant and any person who is a party to a civil action governed by this Act or who has notice that he or she may be made a party to such an action shall retain all material, documents and other data (including, in the case of the claimant, the product alleged to have caused the claimant's harm) within that person's possession, custody or control that are relevant or may lead to the discovery of evidence relevant to the claim or action.

(c) In any action governed by this Act, if the court determines that a party has willfully disposed of, destroyed, concealed, altered or removed any material, document or data in violation of subsection (a) or (b) of this section, there shall be a rebuttable presumption that the facts to which the material, document or data relate are established in a manner adverse to the position of the party who has committed the violation. The court shall assess a civil penalty against such party in an appropriate amount not less than $1,000 and order such party to pay the other party's costs, including reasonable attorney's fees, incurred in proving the violation.

(d) In any action governed by this Act, if the court determines that a party has nonwillfully violated subsection (a) or (b) of this section, and that no other means are available to establish the facts to which the unavailable material, document or data relate, the court may, in the interest of justice, establish a rebuttable presumption that the facts to which the material, docu-

ment or data relate are, for the purposes of such action, established in a manner adverse to the party who has committed the violation.

ATTORNEY DISCLOSURE

SEC. 105. (a) As used in this section, the term—

(1) "attorney" means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law; and

(2) "client" means any person who consults or seeks to retain an attorney in connection with a claim or civil action brought under or subject to this Act.

(b) An attorney who is contacted by a client inquiring about rights of recovery for harm caused by a product or seeking to engage the attorney's services in connection with a claim or civil action brought under or subject to this Act shall provide the client with—

(1) an explanation of the options specified in titles II and III of this Act for recovery for harm caused by a product, including—

(A) the elements of proof and potential recovery under such options;

(B) the time periods specified in this Act for payment if the client submits an expedited claim under title II of this Act;

(C) the length of time that is likely to be required for the client's recovery in a civil action under title II or title III of this Act; and

(D) an estimate of the likelihood of the client's recovery pursuant to such options; and

(2) an estimate of the attorney's time, fees, and expenses, and all other potential costs, expenses, and penalties payable or to be paid by the client seeking recovery under title II or pursuant to title III of this Act.

(c) If an attorney fails to disclose to a client the information required by this section, the client may bring a civil action for damages in the court in which an action under title III of this Act was or could have been brought. An attorney who fails to make the disclosure required by this section shall be liable for any loss caused the client by such failure and for exemplary damages in the amount of the client's net economic loss, as defined in section 202 of this Act. The provisions of this section shall be in addition to and not in lieu of any other available remedies or penalties.

SERVICE OF PROCESS

SEC. 106. The summons and complaint in any action brought under or subject to this Act shall be served as provided by the applicable law or rules of the court where such action is brought, except that the delivery of the summons and complaint upon the defendant or the defendant's agent as required by applicable State or Federal rules may be made by certified mail, return receipt requested, whether within or beyond the territorial limits of the State in which the action is brought.

ADMISSIBILITY OF CERTAIN EVIDENCE

SEC. 107. Evidence that a manufacturer or product seller has admitted liability, expressly or impliedly, or has made payment to a claimant for harm caused by a product under title II of this Act shall not be admissible in any other action brought under or subject to this Act or otherwise by another claimant.

EXPERT OPINION

SEC. 108. For the purposes of this Act, expert scientific or medical opinion is not sufficient evidence to establish any fact unless such opinion has support in peer-reviewed scientific or medical studies.

SUBSEQUENT REMEDIAL MEASURES

SEC. 109. In an action governed by this Act, evidence of any measure taken by a manufacturer or product seller after the occurrence of a claimant's harm which, if taken previously, would have made the harm less likely to occur is not admissible to prove liability. Such evidence may be admitted when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

PRODUCT LIABILITY REGISTRY

SEC. 110. (a) Any manufacturer who is not incorporated or registered to do business under the law of a State shall appoint an agent for service of process in the United States upon whom service of process may be made pursuant to section 106 of this title and claims presented pursuant to section 201 of title II of this Act. Any such manufacturer shall transmit notice of the appointment of such an agent and of the agent's address to the Secretary, in accordance with regulations promulgated by the Secretary.

(b) The Secretary shall maintain a registry of agents appointed pursuant to subsection (a) of this section, and shall furnish the name and address of any agent to any person requesting such name and address for the purpose of making service of process or submitting a claim under this Act.

(c) Not later than twelve months after date of enactment of this Act, the Secretary shall promulgate regulations establishing financial-responsibility requirements for manufacturers who are required by subsection (a) of this section to appoint an agent for service of process. Financial responsibility may be established in accordance with such regulations by insurance, guaranty, surety bond, or letter of credit, or any combination thereof.

(d) Any manufacturer who fails to comply with a provision of this section or a regulation issued under this section shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each day of such non-compliance. Such civil penalty shall be assessed by the Secretary by the issuance of an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The amount of such penalty when finally determined may be deducted from any sums owed by the United States to the person charged. Any person who requested a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit within the 30-day period beginning on the date the order making such assessment was issued. If any person fails to pay such an assessment the order to pay such penalty becomes a final order or, where a petition for judicial review has been filed, after the court has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount assessed, plus interest at currently prevailing rates, in an action brought in an appropriate district court of the Unites States. In such an action, the validity, amount and appropriateness of the penalty shall not be subject to review.

PRODUCT LIABILITY REVIEW PANEL

SEC. 111. (a) In order to carry out the purposes of this section, there shall be established a Product Liability Review Panel (hereinafter referred to as the "Review Panel"). The Review Panel shall be composed of three members selected by the Judicial Conference of the United States on the basis of their expertise regarding civil actions and recovery for personal injury or property damage caused by products, and four members selected by the National Academy of Sciences on the basis of their expertise regarding economic, medical, and scientific aspects of the subject matter of the study. A chairman and a reporter shall be elected from among the seven members of the Review Panel.

(b) The Review Panel shall conduct a study to assess the expedited procedures and remedies provided by title II of this Act. As part of such study, the Review Panel shall evaluate—

(1) the adequacy of such procedures and remedies in providing fair compensation in a prompt and cost-effective manner for harm caused by products, including toxic harm caused by exposure to products, and harm, whether toxic or non-toxic, caused by drugs and medical devices used in human health care, as well as by other products;

(2) the scope of the evidentiary burdens placed on claimants under title II of this Act in proving the causes of harm, including toxic harm, particularly in light of scientific uncertainty regarding causation of certain human health effects;

(3) the availability and cost of product liability insurance for claims under title II of this Act;

(4) the costs imposed on claimants, manufacturers, and the judicial system by the procedures and remedies provided by title II of this Act; and

(5) the success of the procedures and remedies set forth in titles II and III of this Act in providing both incentives for product safety and adequate compensation for persons harmed by defective products.

(c) The Review Panel shall conduct such hearings, conferences or public forums as are necessary to assure adequate public participation in its proceedings.

(d) Within thirty-six months after the date of enactment of this Act, the Review Panel shall submit to the Congress a report containing the results of the study required by this section, with appropriate recommendations. Such recommendations shall address specifically the need to amend or supplement the provisions of this Act.

(e) A member of the Review Panel who is not an officer or employee of the Federal Government shall be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Review Panel.

(f) There are authorized to be appropriated for the purpose of this section such sums as may be necessary. Such sums shall remain available until expended.

EFFECTIVE DATE

SEC. 112. (a) This Act shall be effective on the date of its enactment and shall apply to all expedited claims submitted pursuant to title II of this Act on or after that date and all civil actions subject to title III of this Act commenced on or after that date, including any claim or action in which the harm or the conduct which caused the harm occurred before the effective date.

(b) If any provision of this Act would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, submit an expedited claim to such a manufacturer or bring any civil action governed by this Act within one year after the effective date of this Act.

TITLE II

EXPEDITED PRODUCT LIABILITY CLAIMS PROCEDURE

SEC. 201. (a) A person who has suffered harm caused by a product, other than an employee of the product's manufacturer who suffers such harm in the course of his employment, may submit an expedited claim under this title to the nanufacturer, except that no claim for harm occurring outside of the United States may be brought under this title by a person who is not a citizen of the United States.

(b) A person who submits such a claim under this title for harm caused by a product may not seek recovery for damages arising from the same harm in a civil action governed by title III of this Act, if the manufacturer—

(1) makes payment of net economic loss to the claimant, pursuant to section 206(b) or 209(a) of this title;

(2) declines to make full payment solely because of a dispute over the amount of net economic loss, pursuant to section 206(d) or 209(b) of this title; or

(3) declines liability for the claimant's harm or fails to respond as required by section 206(a) of this title, and the claimant seeks recovery for the harm pursuant to section 208 of this title.

(c) No person may submit an expedited claim to a manufacturer under this title if there is pending against the manufacturer a civil action brought by such person under any theory, under any law, to recover damages for the same harm.

(d) In the absence of a prior written agreement to the contrary, a manufacturer who makes payment under this title for damages caused by a product or who is found not liable for such harm under section 208 of this title may not be made a defendant in any action brought by any other party for contribution, reimbursement, or indemnity for damages arising from the same harm.

(e) Payment of an expedited claim for harm under this title or a finding of nonliability under this title shall not bar an action governed by title III of this Act for associated harm which is physical damage to property other than the product itself.

MANUFACTURER'S LIABILITY FOR NET ECONOMIC LOSS

SEC. 202. (a)(1) As used in this title, the term "net economic loss" means—

(A) reasonable expenses incurred for reasonably needed and used medical and rehabilitation care and services;

(B) lost income from work which the claimant would have performed if the claimant had not suffered harm, reduced by any income earned from substitute work actually performed by the claimant or by income the claimant would have earned in available appropriate work which the claimant was capable of performing but unreasonably failed to undertake;

(C) reasonable expenses incurred in obtaining ordinary and necessary services in lieu of those the claimant would have performed, not for income, but for the benefit of the claimant or the claimant's immediate family, if the claimant had not suffered the harm;

(D) lost earnings of a deceased person who suffered fatal harm caused by a product which, if the person had not died, would have been contributed to claimants who are entitled to received benefits by reason of such person's death under the law of the place where the deceased person was domiciled; and

(E) reasonable expenses incurred by the claimant in preparation and submission of a voluntary expedited claim prior to the date on which notice is given by the manufacturer pursuant to section 206(b), 206(d), or 209 of this title, including a reasonable attorney's fee,

less the total amount of compensation for economic loss paid or payable to the claimant by reason of the same harm from any other source, including any such compensation paid or payable under any government program (including workers' compensation) or employee benefit plan, or pursuant to any private insurance policy or program or any prepaid medical benefit plan.

(2) The lost income taken into account under paragraph (1)(B) of this subsection shall be reduced by the amount of all Federal, State, and local income taxes and any Social Security or other payroll taxes which would be applicable to such income, but which would not be applicable to compensation paid under this title.

(b) A manufacturer's liability under this title for harm caused by a product is limited to the claimant's net economic loss resulting from such harm.

(c) Where harm occurs in circumstances that might entitle a claimant to benefits (including workers' compensation benefits) which would reduce the amount of the claimant's net economic loss in accordance with subsection (a)(1) of this section and it cannot reasonably, within the time provided for payment of net economic loss under section 206(a) of this title or any reasonable extension of such time, be determined whether or in what amount such benefits will be payable, the manufacturer shall place in an interest-bearing escrow account that portion of the economic loss which the manufacturer reasonably anticipates the claimant will receive from such other sources, until the claimant's right to such benefits and the amount of such benefits finally has been determined under applicable law.

(d) The total amount of compensation for economic loss paid or payable to a claimant from any other source shall, for purposes of subsection (a) of this section, be reduced by the amount of legal fees and other costs incurred by the claimant in collecting such compensation.

(e) Attorney's fees may be on a contingent basis but, for the purposes of subsection (a) of this section, shall be calculated on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

(f) Except as otherwise provided by any provision of Federal law, no program of compensation, whether public or private, the benefits of which would be deducted from claimant's economic loss in order to calculate net economic loss under this section, may make payment of benefits secondary to payment of net economic loss by a manufacturer under this title.

SUBMISSION OF AN EXPEDITED CLAIM

SEC. 203. (a) Within ten days of receipt of notice of injury alleged to have been caused by a product, a manufacturer shall provide persons seeking to recover for harm caused by a product with a clear and comprehensive written explanation of their rights under this Act, including their right or representation by counsel, and with any forms required for filing an expedited claim. Within one hundred twenty days of the effective date of this Act, the Secretary shall make available a model explanation of such rights and model forms. A manufacturer who provides a claimant with copies of such explanation and forms shall be deemed to have satisfied the requirements of this subsection.

(b) A person seeking to recover under this title from a manufacturer for harm caused by a product shall submit an expedited claim by certified mail, return receipt requested, to the manufacturer.

(c) In order to be deemed a complete claim for purposes of section 206 of this title, a claim submitted to the manufacturer pursuant to subsection (b) of this section must be accompanied by—

(1) except as provided in subsection (d) of this section, reasonable proof that the manufacturer made the individual product unit that caused the harm;

(2) full information regarding the date, place, and time of the harm's occurrence, the cause, nature and extent of the harm, and the nature and the amount of economic loss caused by the harm;

(3) copies of all bills for which payment is sought, including medical bills;

(4) copies of all medical reports or records within the possession of the claimant relating to the harm for which recovery is sought;

(5) a statement of lost income for which recovery is sought;

(6) the name and address of any other source of compensation paid or payable to the claimant for such economic loss, and the amount of any such compensation; and

(7) an affirmation or declaration, under penalties of perjury, that, to the best of the claimant's knowledge, the information provided with the claim is accurate.

(d) Any person seeking to recover under this title for toxic harm of a kind which manifests itself only many years after exposure may, where it is not possible for such person, despite every reasonable effort, to identify the manufacturer of the individual product unit that caused the harm, submit a product liability claim in accordance with the provisions of this section to any manufacturer of a product that is identical and chemically indistinguishable from the product which caused the harm if that manufacturer's product was available at the time when, and in the market in which, the product that caused the harm was purchased. In addition to the information required by subsection (c) of this section, the claimant shall provide the manufacturer with an adequate explanation of its inability to identify the manufacturer of the individual product unit which caused the toxic harm.

(e) An expedited claim under this section must be submitted within two years of the time the claimant discovered or in the exercise of reasonable care should have discovered the harm and its cause, except that a claim of a person under legal disability may be submitted within two years after the disability ceases.

DUTY TO DISCLOSE INFORMATION

SEC. 204. (a) A claimant shall, as a condition to recovery under this title—

(1) cooperate fully and expeditiously with the manufacturer in its reasonable investigation of the circumstances of the harm and of the net economic loss claimed as a result of such harm; and

(2) promptly update during the course of the manufacturer's investigation all medical information and information relevant to the calculation of net economic loss previously furnished pursuant to section 203(c) of this title.

(b) In addition to the information to be furnished pursuant to section 203(c) of this title, the claimant shall, upon request, deliver to the manufacturer a copy of every written report made before or after the date of request, which is available to the claimant and is not otherwise available to the person making the request, concerning any relevant medical treatment or examination of the claimant. In addition, the claimant shall, upon request, deliver to the manufacturer the names and addresses of all physicians, hospitals and other persons examining, diagnosing, treating, or providing services to the claimant in connection with the harm or any other relevant past injury. The claimant shall authorize the person making such request to inspect all relevant records made by such persons.

(c) Any person (other than the claimant) providing information pursuant to this section shall be entitled to reimbursement from the requesting party for costs reasonably incurred in providing such information.

LIABILITY FOR HARM

SEC. 205. (a) Where an expedited claim has been submitted to a manufacturer in accordance with section 203 of this title, the manufacturer is liable to the claimant, to the extent provided in section 202 of this title, if—

(1) the product, when it left the control of the manufacturer, was unreasonably dangerous; and

(2) the unreasonably dangerous aspect of the product was a proximate cause of the claimant's harm while the product was being used in a manner and for a purpose intended by the manufacturer or which could be reasonably anticipated by the manufacturer,

unless the claimant acted in some material respect in a manner which was a gross failure to exercise reasonable care.

(b) A product is unreasonably dangerous for purposes of this section unless the manufacturer of the product establishes by a preponderance of the evidence that—

(1) the product's utility so outweighs the risk of the harm caused the claimant that a person knowing of such risk would, nonetheless, in the exercise of reasonable care, be justified in placing a product so constructed, designed, or formulated in the stream of commerce; and

(2)(A) the risk of the harm caused the claimant would either have been apparent to a reasonably observant person or would have been a matter of common knowledge to persons in the claimant's situation; or

(B) if the risk of the harm caused the claimant would not have been apparent to a resonably observant person or would not have been a matter of common knowledge to persons in the claimant's situation, that (i) if the risk in question was avoidable, the manufacturer provided a warning or instruction adequate to enable a person exercising reasonable care to avoid the risk, or (ii) if the risk in question was unavoidable, the manufacturer provided information adequate to permit a person exercising reasonable care to make an informed decision whether to assume the risk.

(c)(1) A product which is a drug or a device which may only be or is, in fact, only administered, applied, used or dispensed by a practitioner licensed by law to administrates, apply, use or dispense such drugs or devices is not unreasonably dangerous for purposes of this section, if the manufacturer has taken reasonable steps to provide such practitioner with warnings and instructions with respect to the harm in question which are in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(2) For the purposes of this subsection, the term—

(A) "device" has the meaning given to such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)); and

(B) "drug" has the meaning given to such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(3) A determination by the Food and Drug Administration that a warning or instruction complies with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is conclusive evidence of such compliance.

(d)(1) If a claimant has suffered toxic harm of a kind which manifests itself only many years after exposure, a product shall be presumed conclusively for purposes of subsection (a) of this section to have been a proximate cause of the claimant's toxic harm, if—

(A) the claimant was exposed to the product at a relevant time; and

(B) in the best available scientific opinion, the claimant's exposure to a product of such chemical composition, in the circumstances, would significantly increase the risk of incurring the toxic harm suffered by the claimant, unless another toxic agent is more likely than the product at issue to have independently produced claimant's toxic harm.

(2) An increase in the risk of incurring a particular toxic harm as a result of a particular exposure would be significant for the purposes of this subsection if the incidence of such harm in an exposed population were to exceed the incidence in nonexposed populations by 30 percent or more.

(e) A determination of the National Toxic Health Effects Panel established by section 213 of this title that, in the best available scientific opinion, exposure to a product of a certain chemical composition would or would not in particular circumstances significantly increase the risk of incurring a particular toxic harm shall be conclusive evidence of that fact for purposes of subsection (d) of this section, in the absence of fraud or similar misconduct on the part of such Panel or one or more of its members. In the absence of such a relevant determination of such Panel, the claimant must establish by a preponderance of the evidence that, in the best available scientific opinion, exposure to a product of a certain chemical composition, in the circumstances of the claimant's case, significantly increased the claimant's risk of incurring the toxic harm suffered by the claimant.

PAYMENT OR REJECTION OF AN EXPEDITED CLAIM

SEC. 206. (a) Within ninety days of receipt of a complete expedited claim submitted under section 203 of this title (unless a longer period is agreed to by the claimant), a manufacturer shall determine whether it is liable for the harm complained of by the claimant and give notice to the claimant as provided in this section.

(b) If a manufacturer decides not to contest liability for such harm, it shall so notify the claimant and either (1) make payment to the claimant for such net economic loss payable pursuant to section 202 of this title as has arisen to date from that harm, or (2) enter into an agreement with the claimant for other mutually acceptable disposition of the claim and any supplemental claims that might be filed under section 209 of this title.

(c) If the manufacturer determines that it is not liable for such harm, it shall give the claimant written notice of rejection of the claim and the reasons for such rejection, together with a written explanation of the claimant's rights under section 208 of this title. Within one hundred twenty days of the effective date of this Act, the Secretary shall make available a model explanation of such rights. A manufacturer who provides a claimant with copies of such explanation shall be deemed to have satisfied the requirements of this subsection.

(d) If a manufacturer decides not to contest liability for such harm but declines to make full payment of the claim because of a dispute over the amount of net economic loss, the manufacturer shall notify the claimant of such determination. The manufacturer shall pay the undisputed portion of the claim, if any, and provide the claimant with a written explanation of the claimant's rights under section 207 of this title. Within one hundred twenty days of the effective date of this Act, the Secretary shall make available a model explanation of such rights. A manufacturer who provides a claimant with copies of such explanation shall be deemed to have satisfied the requirements of this subsection.

RIGHTS UPON DENIAL OF FULL PAYMENT

SEC. 207. (a) If a manufacturer has advised a claimant that it declines to make full payment of an expedited claim submitted under this title solely because of a dispute over the amount of net economic loss, the claimant may, within ninety days of such notice, initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from a roster of arbitrators maintained by the Services for such purpose. The manufacturer shall submit to such arbitration and shall be bound by any final determination of such proceedings.

(b)(1) The Service shall adopt procedures and rules applicable to the selection of arbitrators and to the conduct of arbitration proceedings under this section. In order that such proceedings may be expeditious, informal, and reasonably inexpensive in cost, the Service's rules shall provide, among other provisions, that unless agreed otherwise by the parties—

(A) no prehearing discovery shall be permitted;

(B) any hearing shall be held in the community in which the claimant resides;

(C) the matter may, upon the request of the claimant, be submitted to the arbitrator for decision without written posthearing briefs;

(D) the arbitrator shall hear the case within 60 days after the date of the arbitrator's appointment and render a decision within 30 days after submission of the case for decision; and

(E) in a case in which a claimant is represented by counsel, the arbitrator may award the claimant only either the amount sought by the claimant at the start of the hearing or the amount last offered by the manufacturer at the start of the hearing.

(2) The findings and determinations of the arbitrator shall be in writing and shall be final and conclusive. Such findings and determinations shall be enforceable in any court of competent jurisdiction. No official or court of the United States shall have power or jurisdiction to review any such findings and determinations except where there is alleged fraud, misrepresentation, or similar misconduct by one of the parties to the arbitration or the arbitrator and where there is a verified complaint with supporting affidavits attesting to specific instances of fraud, misrepresentation, or other misconduct.

(c) If the arbitrator finds that the claimant was the substantially prevailing party, the arbitrator shall increase the amount of net economic loss payable to the claimant by reasonable attorney's fees and expenses incurred in connection with the arbitration proceeding.

(d) The manufacturer shall pay the fee and expenses of the arbitrator, except that if the arbitrator finds that the manufacturer was the substantially prevailing party, the manufacturer shall be entitled to recover from the claimant all such sums paid to the arbitrator.

(e) Arbitration under this section shall be a claimant's exclusive remedy where the manufacturer declines to make full payment of an expedited product liability claim because of a dispute over the amount of claimant's net economic loss.

RIGHTS UPON DENIAL OF LIABILITY

SEC. 208. (a) If a manufacturer gives notice to a claimant pursuant to section 206(c) of this title that it is not liable for the claimant's harm, or if a manufacturer fails to respond to a claim as required by section 206(a) of this title, the claimant may bring a civil action for an order enforcing the claimant's rights under this title. If notice of rejection has been provided to a claimant in accordance with section 206(c) of this title, the issues at trial shall be limited to those issues raised by the claimant and set forth in such notice. All issues shall be tried by the court without jury. Such an action must be brought within one year of the date of submission of the claim under section 203 of this title or within ninety days of the manufacturer's rejection of the claim, whichever is later.

(b) A claimant may bring an action under subsection (a) of this section—

(1) in an appropriate court of the State in which the harm occurred or in which the claimant resides, and such action shall be governed by the provisions of this Act; or

(2) in accordance with section 1332 of title 28, United States Code, in the district court of the United States for the district in which the claimant resides or in which the harm occurred, but the district courts of the United States shall not, by virtue of section 1331 or 1337 of title 28, United States Code, have jurisdiction over any civil action brought under this title.

(c) An action brought under subsection (a) of this section shall be expedited in every way and, if brought in a State court, may be removed by the plaintiff to the district court of the United States for the district and division embracing the place where such action is pending if such action is not called for trial within 180 days after the date of commencement of such action. Upon such removal, the parties shall be limited to 30 days for discovery, unless the parties agree otherwise.

(d) If, in an action brought under subsection (a) of this section, the claimant establishes by a preponderance of the evidence either that the manufacturer failed to respond to the claim in the manner and within the time required by section 206 of this title, or that the manufacturer is liable to the claimant under section 205 of this title, the court shall—

(1) enter an order enforcing the claimant's rights under this Act and directing arbitration pursuant to section 207 of this title of any dispute over the amount of net economic loss payable to the claimant; and

(2) award reasonable attorney's fees and expenses incurred in connection with the action and interest on the amount of the claimant's net economic loss (subject to the arbitrator's determination) equal to two percent per month for each month after the notice period specified in section 206(a) of this title that net economic loss remains unpaid.

(e)(1) If, in action brought under subsection (a) of this section, the court finds that there was not good cause for the manufacturer's—

(A) denial of liability to a claimant pursuant to section 206(c) of this title; or

(B) failure to respond to the claim in the manner and within the time required by section 206 of this title,

the court shall, without regard to whether it enters an enforcement order, award exemplary damages in an amount not to exceed twice the amount of the net economic loss sought by the claimant or $10,000, whichever is greater.

(2) If, in an action brought under subsection (a) of this section, the court finds that there was not good cause for the claimant to file such action, the court shall require the claimant to file such action, the court shall require the claimant or claimant's attorney to pay all of the manufacturer's costs of investigating and defending the claim.

(3) For the purposes of this subsection, the term "good cause" means that cause which, to a person of ordinary intelligence and care, and irrespective of any ordinary intelligence and care, and irrespective of any subsequent judicial determination with respect to the manufacturer's liability to a claimant, would be a reason sufficient to justify the manufacturer's denial of liability to a claimant or failure to respond to a claim, or the claimant's filing of a claim under this title.

(f) A person who willfully violates an enforcement order entered under this section or an order of an arbitrator entered under section 207 of this title shall upon conviction be subject to a fine of not more than $2000 for each day of such violation, or imprisonment not to exceed two years, or both.

(g) Any settlement of a claim to which the parties agree after an action has been brought under this section must be approved by the court, which may adjust the amount of settlement by the amount of any penalties which the court finds appropriate in accordance with subsections (d)(2), (e) and (f) of this section.

SUPPLEMENTAL EXPEDITED CLAIMS

SEC. 209. (a) If, after a manufacturer has acknowledged liability or has been determined to be liable on an expedited claim submitted under section 203 of this title, the claimant incurs additional net economic loss arising from the same harm, the claimant may, unless barred by the terms of a settlement agreement entered into pursuant to section 206(b) of this title, submit to that manufacturer supplemental expedited claims for net economic loss. Within seventy-five days after receipt of a supplemental expedited claim, the manufacturer shall determine whether, under the applicable standards of this title, it is obliged to make payment of the additional net economic loss described in the claim. If the manufacturer decides not to contest liability for such payment, it shall proceed in accordance with the provisions of section 206(b) of this title. If the manufacturer determines that it is not liable for such payment, it shall proceed in accordance with the provisions of section 206(c) of this title, and the claimant shall have such rights and remedies as are provided by section 208 of this title.

(b) If a manufacturer does not contest liability but declines to make full payment of a supplemental expedited claim submitted under this section, the manufacturer shall advise the claimant of the fact in writing. The claimant may, within ninety days of such notice, initiate arbitration under the procedures specified in section 207 of this title.

TIME LIMITATION ON LIABILITY

SEC. 210. Any civil action under section 208 of this title shall be barred, if a product which is a capital good is alleged to have caused harm which is not toxic harm, unless the expedited claim was submitted within twenty-five years of the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

REIMBURSEMENT OF MANUFACTURER

SEC. 211. (a)(1) Subject to the provisions of this subsection, any manufacturer who has paid an expedited claim or supplemental claim for harm caused by a product under this title may, within two years of such payment, seek and obtain contribution, reimbursement, or indemnity on the basis of comparative responsibility from any other person (other than the claimant's employer or fellow employees) from whom the claimant might have had recovery for the harm, whether under this Act or otherwise. Recovery of damages under this section shall be in proportion to the percentage of such person's responsibility for the harm.

(2) If an action is brought under this section against another manufacturer (other than the claimant's employer) who would have been liable to the claimant under section 205 of this title, such action shall be governed by the standards of liability set forth in section 205 of this title.

(3) If an action is brought under this section against any other person (other than the claimant's employer or fellow employee) and such action is a product liability action, as defined in section 301 of this Act, such action shall be governed by the standards of liability set forth in sections 302 and 303 of this Act; however, in order to prevail against a product seller who is not a manufacturer, the manufacturer must establish by a preponderance of the evidence that the failure of such product seller to exercise reasonable care was a proximate cause of the harm complained of by the claimant and that such product seller's percentage of responsibility for the harm was greater than the manufacturer's percentage of responsibility for the harm.

(4) If an action is brought under this section against another person (other than the claimant's employer or fellow employee) whose failure to exercise reasonable care was a proximate cause of the harm complained of by the claimant and the action is not a product liability action, as defined in section 301 of this Act, such action shall be governed by applicable standards of liability under State or Federal law.

(b) With respect to an expedited claim for toxic harm paid pursuant to section 203(d) of this title, a manufacturer may recover on an equitable basis from any other manufacturer of a product that is identical to and indistinguishable in chemical composition from the product of the manufacturer who paid such claim, if the product of such other manufacturer was available at the time when, and in the market in which, the product that caused the claimant's toxic harm was purchased.

(c) A manufacturer may seek such contribution, reimbursement, or indemnity—

(1) where a claim was paid pursuant to section 203 of this title, either in the appropriate court of a State in which jurisdiction over the parties may be had or, if the requirements of section 1332 of title 28, United States Code, are satisfied, in an appropriate district court of the United States; or

(2) where payment was made as a result of a final judgment in a civil action under this title, in the court which had jurisdiction over such civil action.

(d) Neither the claimant's employer nor any insurer shall have any right of subrogation, contribution, or indemnity against the manufacturer or product seller or any lien on the claimant's recovery from the manufacturer or product seller, nor shall the manufacturer or product seller have any right of contribution or indemnity against the claimant's employer or fellow employee, except as provided in section 202 of this title.

COLLECTIVE PROCESSING OF CLAIMS

SEC. 212. Nothing in this title or in the antitrust laws of the United States or of any State shall preclude manufacturers or product sellers from establishing and maintaining collective means of and facilities for processing claims which are submitted under this title.

NATIONAL TOXIC HEALTH EFFECTS PANEL

SEC. 213. (a) The National Toxic Health Effects Panel (hereinafter referred to as the "Health Effects Panel") shall be composed of nine members who shall be career employees of the Public Health Service within the Department of Health and Human Services. Such members shall be appointed by the Secretary of Health and Human Services. The Secretary shall designate one of the members of the Panel to serve as Chairman. Each member shall be a person who, as a result of medical or other scientific training and experience, is exceptionally well qualified to analyze and assess the risks to human health associated with exposure to toxic substances. The members of the Health Effects Panel shall include at least one epidemiologist, one toxicologist, one industrial hygienist, and one physician.

(b)(1) Except as provided in paragraph (2) of this subsection, three of the members first appointed under this section shall be appointed for a term of two years, three for a term of four years and three for a term of six years, the term of each to be designated by the Secretary. Each of their successors shall be appointed for a term of six years from the date of expiration of the term for which his predecessor was appointed.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. A member may continue to serve after the expiration of this term until his successor has taken office. A vacancy on the Health Effects Panel shall not impair the right of the remaining members to discharge their responsibilities under this section.

(c)(1) The Health Effects Panel shall—

(A) compile and evaluate relevant information and issue guidance, after opportunity for public comment, for use by claimants, manufacturers and the courts in processing claims for toxic harms under this title; and

(B) determine generically, on its motion or in response to a petition submitted to it under subsection (d) of this section, whether in the best available scientific opinion, taking into account epidemiological studies, histological data, experimental evidence, and other relevant scientific data, exposure to a product of particular chemical composition, in particular circumstances, would or would not significantly increase the risk of incurring a toxic harm.

Such determination shall be made by a division of three members of the Health Effects Panel, except that the Health Effects Panel may, by a vote of four of its members, order reconsideration of any determination by the entire Health Effects Panel.

(2) An increase in the risk of incurring a particular toxic harm as a result of a particular exposure would be significant for the purposes of this subsection if the incidence of such harm in an exposed population were to exceed the incidence in nonexposed populations by 30 percent or more.

(d)(1) Any claimant, prior to making a claim under this title, and any manufacturer, immediately upon the filing of a claim under this title, may petition the Health Effects Panel for a determination or for reconsideration of a previous determination. When a petition has been submitted by a potential claimant within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, the period for filing a claim under section 203 of this title shall be extended by the period of the Health Effects Panel's proceeding. When a petition has been submitted by a manufacturer, the ninety-day period for payment or rejection of the claim specified in section 206(a) of this title shall commence with completion of the Health Effects Panel's proceeding, but not later than six months from the date of submission of a claimant's claim under section 203 of this title, unless otherwise agreed by the claimant.

(2) Any petition shall be accompanied by a disclosure, in such form as the Health Effects Panel specifies, of all relevant information known to the petitioner concerning the toxicity of the product in question.

(3) In any judicial proceeding or arbitration under this title, findings of the Health Effects Panel shall be conclusive and shall not be subject to collateral challenge, except for fraud or similar misconduct on the part of the Health Effects Panel or one or more of its members.

(e) The Secretary shall provide the Health Effects Panel with such administrative support services as may be necessary for carrying out its functions under this Act.

(f) Notwithstanding any other provision of law, agencies and departments of the Federal Government shall provide the Health Effects Panel with such information and data as the Health Effects Panel, through the Secretary, may request. The Health Effects Panel may also, through the Secretary, require the production by States, industry and other private sources of such information as it may require to carry out its responsibilities. In the case of contumacy, or failure or refusal of any person to obey such an order, any district court of the United States or the United States Court of any territory or possession within the jurisdiction of which such person is found, resides or does business, shall, upon application of the Secretary, have jurisdiction to issue to such person an order to produce such information. Any failure to obey such order of the court shall be punishable by such court as contempt thereof.

(g) There are authorized to be appropriated for the purposes of this section such sums as may be necessary. Such sums shall remain available until expended.

TITLE III

CIVIL ACTIONS

SEC. 301. A person seeking to recover for harm caused by a product may bring a civil action against the product's manufacturer or product seller pursuant to applicable State or Federal law, except to the extent such law is superseded by this title. By bringing such a civil action, a person waives all rights to recovery for the same harm under the expedited claim procedure of title II of this Act.

UNIFORM STANDARDS OF MANUFACTURER LIABILITY

SEC. 302. (a) In a civil action subject to the provisions of this title, a manufacturer is liable to a claimant only if the claimant establishes by a preponderance of the evidence that—

(1) an individual product unit manufactured by the manufacturer was a proximate cause of the harm complained of by the claimant; and

(2)(A) the manufacturer was negligent in constructing the product (as provided in subsection (b) of this section), in designing or formulating the product (as provided in subsection (c) of this section), or in providing warnings or instructions about a danger connected with the product or about the proper use of the product (as provided in subsections (d) and (e) of this section), or

(B) that the product did not conform to an express warranty made by the manufacturer with respect to the product (as provided in subsection (g) of this section).

(b) A manufacturer has been negligent in constructing a product if, when the product left the control of the manufacturer—

(1) it deviated in a material way from the design specifications or formula of the manufacturer or from otherwise identical units manufactured to the same specifications or formula; and

(2) the manufacturer does not establish by clear and convincing evidence that it exercised reasonable care in the product's construction.

(c) A manufacturer has been negligent in designing or formulating a product if, at the relevant point in time—

(1) the manufacturer knew or, in the exercise of reasonable care, should have known about the danger which caused the claimant's harm; and

(2) a manufacturer exercising reasonable care would not have used the design or formulation that the manufacturer used.

(d) A manufacturer has been negligent in providing warnings or instructions, if, at the time the product left the control of the manufacturer, the manufacturer—

(1) knew or, in the exercise of reasonable care, should have known about a danger connected with the product that caused the claimant's harm; and

(2) failed to provide the warnings or instructions that a person exercising reasonable care would have provided with respect to the danger which caused the harm alleged by the claimant, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of the harm, unless those warnings or instructions, if provided, would not have materially affected the conduct of the product user.

(e) A manufacturer has been negligent in providing post-manufacture warnings or instruction if, after the product left the control of the manufacturer, the manufacturer—

(1) knew or, in the exercise of reasonable care, should have known about the danger which caused the claimant's harm; and

(2) failed to take reasonable steps to provide post-manufacture warnings or instructions which would have been provided by a person exercising reasonable care, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of the harm.

(f) Where warnings or instructions are required under subsection (d) or (e) of this section, such warnings and instructions shall be given to the product user, unless—

(1) a person exercising reasonable care would have given such warnings or instructions to a third person, including an employer, who could be expected to take action to avoid the product user's harm or to assure that the risk of harm is explained to the product user; or

(2) the product is one which may be legally used only by or under the supervision of a using or supervising expert, in which case the manufacturer has exercised reasonable care if warnings or instructions are provided to such expert.

(g) A manufacturer is liable under this title because a product does not conform to an express warranty made by the manufacturer if—

(1) the warranty relates to the harm-causing aspect of the product;

(2) the product failed to conform to such warranty; and

(3) the failure of the product to conform to such warranty caused the claimant's harm.

(h) When the injury-causing aspect of the product was, at the time of the manufacture of the product, in compliance in all material respects with standards, conditions, or specifications established, adopted, or approved by the Congress or by an agency of the Federal Government responsible for the design, formulation, labeling or performance of the product, its manufacturer shall not be considered to have been negligent for purposes of this section unless the claimant establishes by a preponderance of the evidence that a person exercising reasonable care could and would have taken additional precautions. A determination by an agency of the Federal Government that a product is in compliance with its standards, conditions, or specifications is conclusive evidence of such compliance.

(i) It shall be a complete defense to any civil action subject to the provisions of this title that—

(1) the product at issue was acquired from the manufacturer or product seller by an agency of the Federal Government for an aerospace or defense application;

(2) the Federal Government established or approved reasonably precise contract specifications material to the claim; and

(3) the product conformed to such specifications in all respects material to the claim,

unless the claimant proves by a preponderence of the evidence that the Federal Government was not informed by the manufacturer or product seller of dangers material to the claim which were known to the manufacturer or product seller but not to the Federal Government. A determination by an agency of the Federal Government that a product conforms to its contract specifications is conclusive evidence of such conformance.

UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY

SEC. 303. (a) Notwithstanding the provisions of section 301 of this title, in any civil action for injury or damage caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant, (B) the product seller failed to exercise reasonable care with respect to the product, and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product, (B) the product failed to conform to the warranty, and (C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1) of this section, the trier of fact may consider the effect of the conduct of the seller with respect to the construction, inspection, or condition of the product, and any failure of the seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to the provisions of this title based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to the provisions of this title except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the excerise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer or a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

UNIFORM STANDARDS FOR OFFSET OF WORKERS' COMPENSATION BENEFITS

SEC. 304. (a) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers's compensation law, the judgment entered against each defendant and third-party defendant found liable shall be reduced by the sum of the amount paid as workers' compensation benefits for that harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for the harm. The determination of workers' compensation benefits by the trier of fact in a product liability action shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is entitled to receive compensation under any State or Federal workers' compensation law, the action shall, on application of the claimant made at claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

(c) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought under this Act.

(d) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any co-employee or the exclusive representative of the person who was injured.

(e) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any co-employee or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an in-

tentional tort by the employer or co-employee, where the claimant's harm was caused by such an intentional tort.

(f) Without regard to when the harm giving rise to the claim occurred, the provisions of this section shall not apply to any person subject to or covered by the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 901 et seq.).

UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES

SEC. 305. (a) Punitive damages may, if otherwise permitted by applicable law, be awarded to any claimant who establishes by clear and convicing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions or warnings is not of itself such conduct. Except as provided in subsection (e) of this section, punitive damages may not be awarded in the absence of a compensatory award.

(b) The trier of fact shall first determine whether compensatory damages are to be awarded. After such determination has been made, the trier of fact shall, in a separate proceeding, determine whether punitive damages are to be awarded. In determining whether punitive damages are to be awarded, the trier of fact shall consider—

(1) the manufacturer's or product seller's awareness of the likelihood that the serious harm at issue would arise from manufacture or sale of the product;

(2) notwithstanding the provisions of section 302(b)(2) of this title, the conduct of the manufacturer or product seller upon learning that the product caused harm; and

(3) the duration of the conduct and any concealment of it by the manufacturer or product seller.

(c) Punitive damages may not be awarded where the unsafe aspect of the product which caused the claimant's harm complies in material respects with standards, conditions, or specifications established, adopted, or approved by the Congress or by an agency of the Federal Government responsible for the safety of the design, formulation, labeling or performance of a product.

(d) If the trier of fact determines under subsection (a) of this section that punitive damages should be awarded to a claimant, the court shall determine the amount of those damages. In making that determination, the court shall consider—

(1) all relevant evidence relating to the factors set forth in subsection (b) of this section;

(2) the profitability of the conduct to the manufacturer or product seller; and

(3) the total effect of other punishment imposed upon the manufacturer or product seller as a result of the misconduct, including punitive damage award to persons similarly situated to the claimant and the severity of other penalties to which the manufacturer or product seller has been or may be subjected.

(e) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages pursuant to the provisions of this title regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

UNIFORM STANDARDS OF LIMITATION AND REPOSE

SEC. 306. (a) Any civil action subject to the provisions of this title shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be commenced within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b) Any civil action subject to the provisions of this title shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years of the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

(c) Nothing in this section shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for that harm.

APPLICATION OF OTHER LAW

SEC. 307. Except as otherwise provided in this Act, nothing in this title shall be construed to affect any statutory or common law rule governing recovery by a claimant, or any statutory or common law rule governing the effect of the comparative responsibility of the claimant upon the recovery.

TITLE IV

RISK RETENTION

SEC. 401. Section 2(a)(3) of the Product Liability Risk Retention Act of 1981 (15 U.S.C. 3901(a)(3)) is amended by inserting "including liability for payments under title II of the Product Liability Voluntary Claims and Uniform Standards Act," immediately after "a product,".●

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. DOLE. Mr. President, I wanted to report that we have made contact with the President. He has indicated he has no further work for us this year. He said he was looking forward to a very productive session next year. He did mention tax reform specifically. We were both silent—not that we indicated disapproval but to indicate that we were sort of happy this year was over. He was very pleasant. He wished us a happy holiday season, as we did him, and we are now prepared to wrap it up for this year.

EXPRESSIONS OF THANKS

Mr. DOLE. Mr. President, as I leave, I certainly want to thank many people, as I did in my statement, but particularly the distinguished minority leader for his friendship and his many, many courtesies and for his tolerance at times while I catch on to some of the things he has known for years. I appreciate the staff, all the senatorial staff, those who watch us, watch over us. We appreciate the Chaplain's daily scolding and look forward to a good year next year.

Mr. BYRD. Mr. President, as the 1st session of the 99th Congress enters its final moments, I would be remiss if I did not acknowledge that the distinguished senior Senator from Kansas now has served a full year—his first year—as majority leader of the Senate.

Mr. President, I know something about the problems that face the majority leader of this body. I know about the long hours that he must put in. I know first hand the difficulties of contending first with differences of perspective and opinion on one's own side of the aisle before one can then contend with the differences of perspective and opinion between the two parties. I know the distinguished majority leader will know what I mean when I say that the job, while it surely has its rewarding moments, is not all sweetness and light.

After having observed the very capable Senator in action in his new assignment since the beginning of the year, however, I can say that he has worked very hard at his responsibilities; he has applied himself and his considerable skills with diligence in an effort to assure that the Senate satisfactorily discharges its responsibilities.

After what has been at times an arduous session—and, in fact, after what has been a tedious period during the recent days as we tried to complete the work of this first session in order to depart for the holidays. I am confident that the majority leader is ready as I am ready to be with his family and loved ones. I hope his holidays will be restful and reinvigorating—pleasant in every way—and that they will equip him for the challenges that await all of us who serve in this body when we return in January for the second session.

I hope the majority leader and his esteemed wife will accept the personal best wishes that Erma and I offer to them for this holiday season and for a very happy New Year.

Mr. President, I have nothing to add to what the distinguished majority leader has said with respect to our calling upon the President in compliance with the resolution that has been passed by the Senate. I do want to take this opportunity to thank the distinguished majority leader for his kind comments and to say that he has worked hard. It has been a pleasure working with him.

I look forward to being back in January to be with him again as we do our work in the Senate.

I want to say the same thing about the distinguished Senator from Wyoming, who is the assistant Republican leader. Our relationship has been ex-

cellent. It has been a pleasure to work with him. He is always very courteous and understanding. Nothing better can be said of anyone, may I say in the first person, if I can violate the rules of the Senate for a moment, than thank you, ALAN. It has been good to work with you. I have enjoyed it, and I look forward to working with you in 1986.

Mr. SIMPSON. Mr. President, I do indeed appreciate those remarks of the Democratic leader. It has been a very interesting relationship with this gentleman since I met him in 1963 when my father was in the U.S. Senate.

He has been especially patient with me, especially this year as I assumed my new tasks. It is a great honor, and a great privilege, indeed, that my colleagues would elect me to do this. And from the early beginning of January and February when I was somewhat defensive and short in my tasks—and I remember that distinctly—you were most extraordinary patient in that situation and I appreciate it very much. I think they refer to all of this type of thing as a "growth experience." I believe that is the phrase. Indeed, it is, and you have made it a pleasant one and I appreciate it. I have sought your counsel and you have given it without question, and I deeply appreciate that. In every situation, you have never misled me or mistrusted me, and that makes for a very much nicer job situation for me. I also appreciate that.

Mr. BYRD. Mr. President, I thank the very able and cordial and dedicated assistant Republican leader.

Mr. SIMPSON. Mr. President, just quickly, let me say that working with Senator DOLE has been a very special privilege. He is a man who gets things done. It is a pleasure to watch him. He is not easily intimidated, nor cowed by the task he has. He handles his job with precision and great wit and skill. You cannot "spook him up." I believe that is a trait that is much needed in this place as we conduct our business.

PROGRAM FOR JANUARY 21, 1986

Mr. SIMPSON. Mr. President, the Second Session of the 99th Congress will convene at 12 noon on January 21, 1986.

Under the standing order, the two leaders will have 10 minutes each.

There will be a special order in favor of Senator PROXMIRE for not to exceed 15 minutes. That will start the new year properly. It is a ritual that is as appropriate as the opening and closing sine die, with Senator PROXMIRE, who pays attention to his duties.

There will be routine morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, it is the intention of the majority leader to proceed to the consideration of S. 638, the Conrail bill.

I say to the occupant of the Chair [Mr. WALLOP] that I shall see him in our native State of Wyoming in a few short days.

Mr. BYRD. Mr. President, I expressed my appreciation and gratitude to all on yesterday.

I have no further action to recommend. I thank the Senator.

Mr. SIMPSON. I thank the Senator from West Virginia.

I thank the remarkable staff of the Senate. I appreciate their patience in a rather tiring situation, and I appreciate their work.

ADJOURNMENT SINE DIE

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I move, in accordance with the provisions of House Concurrent Resolution 267, that the Senate stand in adjournment sine die for the 99th Congress, 1st session.

The motion was agreed to, and at 6:28 p.m., the Senate adjourned sine die.

NOMINATIONS

Executive nominations received by the Senate December 20, 1985:

IN THE ARMY

The following-named officers for posthumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

To be captain

Lt. John K. Kosh, [redacted]
Lt. Paul D. Long, [redacted]
Lt. Joey McCarty, [redacted]
Lt. Barry C. Powell, [redacted]

To be chief warrant officer 4

CWO3 Robert A. Bowen, [redacted]

DEPARTMENT OF EDUCATION

Frances M. Norris, of Virginia, to be Assistant Secretary for Legislation and Public Affairs, Department of Education, vice Anne Graham.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 20, 1985:

IN THE ARMY

The following-named officers for posthumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

To be captain

Lt. John K. Kosh, [redacted]
Lt. Paul D. Long, [redacted]
Lt. Joey McCarty, [redacted]
Lt. Barry C. Powell, [redacted]

To be chief warrant officer 4

CWO3 Robert A. Bowen, [redacted]

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 20, 1985, subsequent to the sine die adjournment of the Congress, received a message from the House of Representatives announcing that the Speaker pro tempore [Mr. WRIGHT] had signed the following enrolled bills:

H.R. 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims;

H.R. 3974. An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes; and

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain medicare reimbursement provisions.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills were signed on December 20, 1985, during the sine die adjournment of the Congress by the President pro tempore [Mr. THURMOND].

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 24, 1985, during the sine die adjournment of the Congress, received a message from the House of Representatives, announcing that the Speaker pro tempore [Mr. WRIGHT] had signed the following enrolled bills and joint resolutions:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes;

H.R. 1404. An act to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, Virginia;

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans Administration; to make improvements in veterans' job training programs; and for other purposes;

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska;

H.R. 3718. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds;

H.R. 3931. An act to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts as the

"Captain John Foster Williams Coast Guard Building";

S.J. Res. 255. Joint resolution relating to the convening of the second session of the Ninety-ninth Congress; and

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills and joint resolutions were signed on December 24, 1985, during the sine die adjournment of the Congress by the President pro tempore [Mr. THURMOND].

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on December 24, 1985, she had presented to the President of the United States the following enrolled bill and joint resolution:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts, and for other purposes; and

S.J. Res. 255. Joint resolution relative to the convening of the second session of the Ninety-ninth Congress.

NEW PUBLIC LAWS

(For last listing of Public Laws, see Daily Digest, p. D1559)

H.J. Res. 485, waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the First Session of the 99th Congress. Signed December 18, 1985. (P.L. 99-188)

H.R. 3981, to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program. Signed December 18, 1985. (P.L. 99-189)

H.J. Res. 465, making further continuing appropriations for fiscal year 1986. Signed December 19, 1985. (P.L. 99-190)

H.R. 1789, relating to the authorization of funds for certain components of the National Wildlife Refuge System. Signed December 19, 1985. (P.L. 99-191)

H.R. 3735, to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway". Signed December 19, 1985. (P.L. 99-192)

H.J. Res. 424, to designate the year of 1986 as the "Year of the Flag". Signed December 19, 1985. (P.L. 99-193)

S. 1264, National Foundation on the Arts and the Humanities Amendments of 1985. Signed December 20, 1985. (P.L. 99-194)

H.R. 664, to amend the Panama Canal Act of 1979 with respect to payment of interest on the investment of the United States. Signed December 23, 1985. (P.L. 99-195)

H.R. 1534, to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority. Signed December 23, 1985. (P.L. 99-196)

H.R. 1627, to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, and to release other forest lands for multiple use management. Signed December 23, 1985. (P.L. 99-197)

H.R. 2100, Agriculture, Food, Trade, and Conservation Act of 1985. Signed December 23, 1985. (P.L. 99-198)

H.R. 2976, to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States mineral interests in the parcel to New York State. Signed December 23, 1985. (P.L. 99-199)

H.R. 3085, clearing title to certain lands along the California-Nevada boundary. Signed December 23, 1985. (P.L. 99-200)

H.R. 4006, to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the railroad retirement insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985. Signed December 23, 1985. (P.L. 99-201)

H.J. Res. 436, to designate 1986 as "Save for the U.S.A. Year". Signed December 23, 1985. (P.L. 99-202)

H.J. Res. 450, authorizing and requesting the President to issue a proclamation designating April 20-26, 1986, as "National Organ and Tissue Donor Awareness Week". Signed December 23, 1985. (P.L. 99-203)

S. 947, Overseas Private Investment Corporation Amendments Act of 1985. Signed December 23, 1985. (P.L. 99-204)

S. 1884, Farm Credit Restructuring and Regulatory Reform Act of 1985. Signed December 23, 1985. (P.L. 99-205)

S.J. Res. 32, authorizing and requesting the President to designate September 21, 1986, as "Ethnic American Day". Signed December 23, 1985. (P.L. 99-206)

S.J. Res. 70, to proclaim March 20, 1986, as "National Agriculture Day". Signed December 23, 1985. (P.L. 99-207)

S.J. Res. 213, to designate January 19-25, 1986, as "National Jaycee Week". Signed December 23, 1985. (P.L. 99-208)

H.R. 729, to amend the Panama Canal Act of 1979, in order that claims for vessels damaged outside the locks may be resolved in the same manner as those vessels damaged inside the locks. Signed December 23, 1985. (P.L. 99-209)

H.R. 2694, designating the United States Post Office Building located at 300 Packerland Drive, Green Bay, Wisconsin, as the "John W. Byrnes Post Office and Federal Building". Signed December 23, 1985. (P.L. 99-210)

EXTENSIONS OF REMARKS

TRIBUTE TO DR. O. URCILLE IFILL, SR.

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GRAY of Pennsylvania. Mr. Speaker, I should like today to bring the attention of my colleagues in the House of Representatives to a most distinguished Philadelphian, Dr. O. Urcille Ifill, Sr. Dr. Ifill has been the pastor of the African Methodist Episcopal Union Church for the past 7 years. He will be honored by his congregation at a testimonial appreciation banquet on January 3.

Dr. Ifill's commitment, not only to his church, but to the Philadelphia community, has been totally untiring and unselfish. While sitting on numerous boards and committees of the African Methodist Episcopal Church, Dr. Ifill served as president of the Black Clergy of Philadelphia and Vicinity, a position he filled with inspiration and unswerving dedication. Despite the considerable demands of this crucial leadership position, he has also served as a member of the Funding Policy Committee of United Way, a member of the National Council of Christians and Jews, a member of the Pennsylvania Public Interest Coalition, a member of the Metropolitan Council of Christian Churches of Philadelphia, co-chairman of the Ecumenical Council of Philadelphia Tribune Charities, Inc., and a member of the Pan Methodist Fellowship.

Mr. Speaker, I have known Dr. Ifill for many years. His ministry and community activities have served as a model for my own calling. Since coming to the African Methodist Episcopal Church in 1978, Dr. Ifill never has been too busy to halt his hectic schedule and help the individuals and groups who look to him for guidance. I, as well as every Philadelphian, am indebted to Dr. Ifill for his contribution to the improvement of not only our spiritual lives but also to the betterment of our neighborhoods and our city.

A TRIBUTE TO MR. JOSEPH HOFHEIMER

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DioGUARDI. Mr. Speaker, it is my privilege to rise today to pay tribute to Mr. Joseph Hofheimer, a great humanitarian and civic leader. On January 15, 1986, an event will be held at the White Plains Hotel to honor Mr. Hofheimer for the volunteer services that he has provided to the residents and State of New York.

Mr. Hofheimer is currently president of the Richard Bower Co., headquartered in New York City. Despite the demands of this job, he makes time to participate in a variety of community activities. His participation touches all bases of voluntarism: he actively and unselfishly dedicates his time to the Jewish community, while promoting better education and health care for his neighbors.

As a life trustee of various Jewish philanthropies and a past president of the Jewish Community Center in White Plains, Mr. Hofheimer has proven to be an influential and effective leader in the Jewish community.

Mr. Hofheimer has gone to great lengths to enhance our education system. Presently, he sits on the board of directors at Barnard College. Prior to his involvement with this respected college, he served on the Scarsdale Board of Education, which included 1 year as president of the board.

Currently, Mr. Hofheimer is a member of the board of directors of the Blythedale Children's Hospital and chairman of the board of the White Plains Hospital. I commend Mr. Hofheimer for his desire to provide quality health care for all Westchester residents.

It is not surprising that Mr. Hofheimer's dedication to public good carries over to his private life, where he and his devoted wife Natalie have raised four lovely children.

I applaud Mr. Hofheimer's dedication to bettering the lives of all of us. His efforts are the embodiment of the American spirit of voluntarism that has made our Nation what it is today. New York is very fortunate to claim Mr. Hofheimer as a resident. I wish him the best of luck in all of his endeavors. Mr. Speaker, I ask that you and my colleagues join me in saluting Mr. Hofheimer, a concerned humanitarian and great American.

Thank you Mr. Speaker.

FRANK FEDERAL CAUSE OF ACTION

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KINDNESS. Mr. Speaker, I realize that I have already made some brief remarks to the House regarding my concerns with the Federal cause of action for personal injury and property damage recently put forth by our colleague from Massachusetts, Mr. FRANK. In those remarks, I tried to highlight my concerns in the interest of time. I would now, however, like to revisit the issue for the benefit of the Members and make a more extensive comment on this ill-conceived amendment and on the general problems of putting Federal causes of action in all our Nation's laws.

To begin with, I must say that my most serious general objection to the Frank proposal was the lack of evidence of its necessity. Indeed, the Superfund 301(e) Study Group, the recent Keystone Conference and other groups have consistently acknowledged the fact that there is little evidence to prove that injured parties are frustrated in recovering for their losses under the existing tort law regime.

SECTION 501 DEFINITIONS

First. Release—the term would not have excluded federally permitted releases of exposure due to use of pesticides—a major issue for farm States. Additionally, claims by those who allegedly lost profits or diminution in the value of property from such things as acid rain might have been available under this language. Since States apparently would have been able to sue to recover for such losses, the provision might have been argued to vastly expand natural resource damage claims under Superfund and consequently triggered a wave of litigation between heavy industry and certain States, despite the limitation of liability contained in existing section 107(f).

SECTION 502 LIABILITY

(A) LIABILITY

This provision had several onerous aspects, perhaps the worse of which was the exclusivity of the defenses set forth in subsection (d). The provision probably would have precluded such obviously appropriate defenses as contributory or comparative negligence by the plaintiff and voluntary contributing activities of the plaintiff, such as smoking, drinking, or exposure during unrelated nonworkplace activities. Although some "apportionment" among defendants was provided, no equitable reduction in damages was contemplated. Thus, a jury called upon to determine whether the plaintiff had met the burden of proving that the release "caused" damage may have been compelled to grant a favorable verdict, or none at all. This runs in contrast to the tort law of some States which recognizes the availability of a comparative negligence—of the plaintiff—defense in tort actions involving strict liability.

A second problem was the ambiguity of the word "causes." By using the present tense rather than the more logical and customary past tense, the author arguably meant to allow recovery upon a showing of damages—an injury or disease—of a type which are caused by exposure to the substance or substances to which the plaintiff has been exposed—thus relieving the plaintiff of the traditional burden of proving that his or her damages actually were

caused by the release. Such a standard would have constituted a drastic departure from traditional tort norms and might have prevented the defendant from introducing highly relevant information regarding other potential causes—except to the extent that they "solely" caused the harm and the defendant was prepared to prove his due care "in light of all relevant facts and circumstances."

(B) PERSONS LIABLE

Subsections (b)(1) and (b)(2) would have created liability for persons who had no connection with the release which caused injury, other than mere inclusion in the chain of title to the facility. For example, one who would have brought a facility which had been the source of a past release but which has not been the source of a release during his ownership nonetheless would have been liable, by operation of law, for a vast range of injuries arising out of prior events. The third-party defense apparently would have been unavailable, since a direct or indirect contractual relationship would have existed. This is a major departure from current personal injury law. Thus, property from which a known release has occurred probably would have been rendered unmarketable for a very long time—encouraging abandonment to governmental entities of otherwise marketable property which had been retroactively rendered unmarketable. A similar result would have been obtained under (b)(2) for a subsequent, responsible site owner or operator—even one who took appropriate remedial measures and indeed had removed all hazardous substances during his stewardship. Thus, no previously used facility would have been an attractive investment to a responsible, reputable hazardous waste disposal site operator. In a similar vein, subsections (b)(3) and (b)(4) may have created liability for those who could conclusively prove that the substances with which they were connected, though of "a type" which "causes the type of damages incurred," could not have been released from the facility and, thus, could not have cause the plaintiff's damages. For example, assume industrial solvents have been buried in four large disposal areas at a facility to which the defendant sent wastes. If data and records proved conclusively that the damaging release was from a disposal area which was closed prior to the defendant's transportation or generation of wastes or that the release took place entirely before transport, the defendant would nonetheless be without any apparent defense to strict, joint, and several liability. Finally, the last sentence of subsection (b) appeared ambiguous and potentially unfair. This is because the phrases "type of hazardous substance" and "type of damages incurred" are subjects of obvious, sometimes contentions scientific uncertainty. Plaintiffs simply should not recover unless "the hazardous substance" released caused "the damages incurred"—especially if toxicological profiles on specific substances will be generated under new CERCLA provisions.

(C) STRICT; JOINT AND SEVERAL

The express strict, joint, and several liability provisions presented go beyond the provisions of sections 107 and 101(32) of CERCLA, which have not been rigidly construed to always require such liability. (See, e.g., *U.S.* v. *A&F Materials Co.*, 578 F. Supp. 1249 (S.D. Ill. 1984) (apportionment criteria should be applied); *Bulk Distribution Centers, Inc.* v. *Monsanto Co.*, 589 F. Supp. 1437, n. 15 (S.D. Fla. 1984) (strict liability may apply); and *United States* v. *Stringfellow*, 20 ERC 1912 (C.D. Cal. 1984) apportionment criteria should be applied under section 107, and joint and several liability is inappropriate under section 106). Overt codification of this now discretionary policy would have greatly hamstrung the ability of small business to insure against such liabilities and would have created strong incentives for improper disposal.

(D) DEFENSES

All of the defenses except subsections (3) and (4) are identical to the defenses set forth in comparable language under section 107(b) of CERCLA, which have been very narrowly construed. The new defense for de minimis PRP's, set forth in subsection (d)(3) is an interesting and novel addition to Federal cause of action proposals, but adds nothing to the traditional common law defense already available under State law. Furthermore, it was not made applicable to persons liable under subsection (b)(2), despite the obvious fairness of such an application. For example, if a person were to buy a facility from which a release has already occurred, disposes of a de minimis volume of waste of the same "type" as that which "causes" the damages and then sells the facility, he would still be jointly and severally liable under the proposed language. This result is certainly a drastic departure from present law and is arguably a denial of due process. Finally, there was no obvious reason to require that a defendant prove that both the volume of his waste was de minimis and that the toxicity of his waste was de minimis. It is difficult to see how a waste of de minimis toxicity would be of a "type" which "causes" injuries sufficient to give rise to a cause of action. Conversely, if the volume of his waste was de minimis "in comparison to other hazardous substances involved," why should the defendant remain a party to the litigation and be subject to joint and several liability? This aspect of the defense of de minimis contribution to injury was also a substantial departure from existing law. Furthermore, defendants might have been required to address the measure of toxicity of substances of the type involved, rather than that actually involved.

The "new" defense for unknowing, diligent subsequent purchasers of facilities at which wastes have been disposed—section 502(d)(4)—is better than no defense at all, but is, in many, perhaps most, jurisdiction, more limited than its common law counterpart. Some jurisdictions do not recognize the liability of a subsequent purchaser of land for injuries arising out of nuisances created by his predecessor, unless the subsequent purchaser takes action to abate the nuisance or clearly commits himself to abatement. Mere "omission" of abatement does not always give rise to liability. The proposed defense would seem to have cleared the way for such liability.

(E) CONTRIBUTION

Although an express right of contribution is a fair concommitant to Federal legislation creating joint and several liability, the proposed provision would have required that contribution claims be raised in a "separate action"—thus stripping Federal courts of the authority to hear directly related claims against third parties in the same action. This is a power now clearly enjoyed under the Federal Rules of Civil Procedure and Exercised in existing CERCLA suits and by most State jurisdictions having modern rules of procedure. Through it, courts prevent wasted judicial resources and the filing of sequential actions and actions only against "deep pockets," whether or not equitable. Furthermore, it is difficult to understand how the court would have been able to implement fairly and meaningfully the "apportionment among parties held jointly and severally liable" called for in subsection (f), if named defendants were forbidden from joining other potentially responsible parties in the case in chief through contribution claims. The general language of subsection (g) probably was not sufficient to assure that timely joinder of other responsible parties by existing defendants occurred. Further, it is inconceivable, in any event, that a court should hear evidence relating to all of the apportionment factors listed in subsection (f), but be barred from simultaneously adjudicating contribution claims among the same parties.

Oddly, the provision apparently would not have prohibited claims against third parties for indemnity, restitution, or declaratory relief. Thus, only contribution claims would have been handicapped.

(F) APPORTIONMENT

The apportionment proposal had some attractive features, but several substantial deficiencies.

The apportionment called for was entirely discretionary. Furthermore, consideration of the factors provided was entirely discretionary. Although most courts might be expected to use these factors, they could have declined to do so.

Regarding the factors themselves, conspicuously absent was "the care exercised by the parties"—a factor mentioned by courts and others as an appropriate criterion in Superfund suits.

Subsection (f)(5) allowed consideration of the damages "which should justly be attributed" to those "who are not, and could not be, brought before the court"—an illogical clause, since those who could not be brought before the court will never be before the court. Certainly, the United States and the State and local governments would have been included, since section 514 seemed to give them a blanket exemption from liability. In addition, defendants who could not be reached under the long-arm

statute of the State in which the action was brought would also be included, since there was no nationwide service of process granted for the new Federal cause of action. Of course, those who enjoyed the protection of a stay under the Bankruptcy Act would have also been included. All of this having been said, why is the allocation of responsibility to parties who "could not be brought before the court" a relevant factor, when the court's discretion apparently is limited to apportioning "damages among parties held jointly and severally liable" in the action in chief; and why would the Congress wish to take special, arguable unnecessary pains to note, in proposed subparagraph (g) that:

Joinder of claims and persons in actions under this section shall be in accordance with the Federal Rules of Civil Procedure?

No apparent claim for apportionment has been created, and contribution claims apparently must be filed as separate actions. The intentions of the author with regard to contribution, apportionment and joinder were a hopeless muddle—one which was not likely to be unraveled in last minute activity on the floor. Such things deserve and demand the proper scrutiny of the Judicary Committee.

SECTION 503. REALLOCATION OF UNCOLLECTED APPORTIONED SHARES

The most serious problem with the provision was that it was unclear what effort must be made or circumstances must exist for a judgment to be "uncollectible." A "good faith" or "diligent" effort should be made to execute on the judgment as a prerequisite to the motion. What if the defendant were in bankruptcy? Would the plaintiff be required to bring an action against an insolvent party's insurance carrier? Would some effort be required to locate a party who has relocated? Because the interests of solvent defendants will be dependent on the plaintiff's effort, some standard of conduct should have been imposed on the moving party, supported by thoughtful legislative history as to the type of effort which might be sufficient to justify reallocation.

SECTION 504. EVIDENCE

Substantial uncertainly and dispute prevails in the scientific community concerning the actual relevance of many of the categories of studies which would have been declared relevant by the proposed amendment to many types of illness or injury which might have been the subject of litigation. It is bad law and bad science to unequivocally declare their admissibility if they merely "tend to establish" causation or contribution to "damages compensable * * * of the type or class allegedly suffered by an individual." Such evidence may be of no probative value to the specific injury involved. Some forms of cancer may be linked to or suspected to be associated with exposure to a specific substance. This does not mean that a court should be compelled to admit broad categories of studies involving that substance in a case alleging a form of cancer which has never been associated with the substance, just because the court may feel constrained to view cancer as a "class" of damages. Even more questionable would have been the admissibility of every study showing any form of damage to "micro-organisms" or abnormal "tissue cultures" in support of a plaintiff's claim that his "fear of injury, illness, or death" to himself, his spouse, child, or friend, was not "unreasonable."

SECTION 505. COMPENSABLE DAMAGES

Unlike some previous proposals for a Federal cause of action, this proposal contained no limitations on categorical or aggregate liability. The most dangerous provisions were those dealing with pain and suffering awards, which could have been made not only for actual injuries, but also for "fear of injury, illness or death" to one's self or to another—no matter how attenuated the relationship. This claim could have been sustained so long as the fear was not "unreasonable." Arguably, the defendant would have been required to assert the "unreasonableness" of the fear as an affirmative defense, which would have had to have been sustained by a preponderance of the evidence. Fear of injury claims are highly novel and generally not recognized as valid—for obvious reasons. Given this provision, it can be almost certain that this new cause of action would have probably given rise to numerous claims. At a minimum, it would have provided ready access to Federal courts to anyone who had been exposed to a hazardous substance, regardless of actual injury. To their "Federal fear claim," they might have easily added pendent State claims for injunctive or other relief. The defendant would not have only had to fear fear itself, but also costs of litigation.

Finally, compensable damages described in section 505(1) appeared as though they were intended to be "medical costs" as defined in section 501(1). This use of different descriptive terms was bound to create ambiguity.

SECTION 508. LIMITATIONS

The formulation chosen was one of the most favorable to potential plaintiffs. Probably the most onerous aspect of the proposal was that it created new rights of recovery for "damages * * * incurred" up to 10 years prior to the enactment of the amendment. Presumably, parties who had litigated or even settled claims for other damages during the period in question could have relitigated their claim under the proposed language—recovering damages not previously compensable under State law, or sustaining liability having failed in the past to show any failure to exercise due care. The creation of such retroactive civil liability is highly disfavored—especially where it is not remedial in purpose.

Curiously, the word "expense" was used in subparagraph (a)(1). Apparently, the word "damages" was intended. Otherwise, the statute would not apply to damages other than those for injury, illness, or death.

Subparagraph (d) would have had virtually no practical effect, since to bar an action, the previous State law claim would have had to have been essentially identical to the unprecedented proposed claim.

SECTION 511. ADDITIONAL RECOVERY

Subparagraph (a) appeared to prevent settlements reached in any litigation under this title from including a release as to any future health damages not foreseen at the time of settlement. Thus, this provision might have greatly discouraged settlement in any cases other than those involving death.

Subsection (b) would have honored the finality of judgments reached in prior litigation only as to the specific damages which were the subject of that litigation. Additional damages allowed under the proposal, no matter what their amount or novelty, could have been sought despite prior litigation.

SECTION 512. CLASS ACTIONS

There is no apparent need for superseding application of rule 23 with a provision which apparently prevented consideration of numerosity, the representative nature of the named plaintiff or his ability to represent the class.

SECTION 513. PUNITIVE DAMAGES

The retroactive imposition of liability of punitive damages was extraordinary and arguably unconstitutional. Deterrence could have been served entirely by prospective imposition of such liability. Since its purpose was entirely punitive, and since individuals who may have been subject to its imposition could not change the conditions giving rise to their liability, it arguably constituted a bill of attainder, an ex post facto law, and may have constituted a prima facie violation of due process as well.

Curiously, the provision would have allowed awards in cases involving "pollutant(s)"—which were not the subject of other provisions of the proposed title and, depending on other provisions of the bill, may not have been defined for purposes of this title.

SECTION 514. LIABILITY OF THE UNITED STATES

Of all the provisions of the proposal, this was probably the most extraordinary and unfair. Since the title would have established strict, joint and several liability, private citizens would have been made to compensate individuals for damages to which a governmental entity or entities clearly and obviously contributed. Furthermore, the proposal apparently would have precluded subsequent actions by liable parties to obtain contribution from such entities for their part in the matter. Since a substantial percentage of all sites which have received hazardous wastes were owned and/or operated by local governments, and since the United States—often the EPA itself—has sent hazardous wastes to sites and has leased land to corporations which, with the knowledge of the United States, disposed of hazardous wastes on the property, the liabilities which private citizens would have been made to bear under this proposal would have been very great indeed. This approach is fundamentally inconsistent with every other liability created under CERCLA with regard to the United States and some State liabilities as well. Thus, ironically, at many sites, the United States

might have been compelled to shoulder a significant share of any response costs which might have been ordered, but would have passed on to other generators all personal injury obligations created under this new title. In addition, liability for toxic waste exposure which the United States might have had under the Federal Tort Claims Act—not predicated on strict liability—probably would have been ignored by plaintiffs whenever a "deep pocket" might have been sued for a full recovery under the proposed strict liability claim. The passage of such fundamentally self-serving and unfair legislation by the United States is not only patently unfair, but arguably unconstitutional.

Finally, the provision purported to bar any recovery against the United States and State and local governmental entities "through indemnification." This language may have been intended to prevent recovery in situations in which a governmental entity has expressly or, under State law, impliedly subjected itself to rightful claims for indemnification arising out of contractual relationships with private citizens. Unsettling such well-settled, and even vested, contractual rights of private parties might have been unconstitutional or constituted a taking for which just compensation might have been due. Furthermore, the provision would have tended to chill entry into any contract with a governmental entity in which the generation, transportation, or disposal of hazardous substances was involved, and may have completely prevented such entities from selling real property which had been the site of hazardous waste disposal, regardless of promises to assume liability for injuries or to indemnify the buyer from any claims which might have arisen.

Finally, some proposals now pending would have authorized the Administrator of the EPA to indemnify waste cleanup contractors for any claims which arise out of their strict liability, or even their negligence. The proposed section apparently would have barred such agreements from having any effect with respect to damages compensable under the proposed title. Furthermore, local and State governments have been precluded from offering any indemnity to contractors which would have protected them from the full force of new claims created under the proposal.

In conclusion, the proposal contained sufficient serious technical defects and questionable substantive ramifications which more than justified its overwhelming defeat.

ANNE FRANK DAY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LEHMAN of Florida. Mr. Speaker, on December 15, 1985, the international exhibition, "Anne Frank in the World: 1929–1945," officially opened at the main branch of the Dade County Public Library.

On this occasion, Metropolitan Dade County Mayor Stephen P. Clark and the board of county commissioners officially declared this day "Anne Frank Day" in honor of this event.

Under the able leadership of the Miami Anne Frank Exhibition Committee coordinator Merle Saferstein and committee member Adele Sandberg, this event brought together a diverse representation of people throughout the Dade County community to share in understanding an important series of events in world history and to learn of the impact and legacy of Anne Frank.

I offer my congratulations to all that were involved in this significant and demanding undertaking that benefited our entire south Florida community.

DEAN OF PRESS CORPS RETIRES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FRANK. Mr. Speaker, I take this opportunity to pay tribute to Edward Justin Sullivan, the retiring dean of the Fall River, Massachusetts press corps. "Jud" Sullivan was honored at a recent party held at the Venus de Milo in Swansea, MA. In the 3 years I have represented the greater Fall River area, I have developed a great deal of respect for the newspapers which serve this part of the State. Edward Sullivan joined the Providence Journal, one of the area's leading organs, in 1951 when he was named manager of the Fall River Bureau. Over the next 35 years he upheld the highest standards for responsible journalism and consistently produced well-written, informative news and feature articles about a wide variety of subjects of interest to the Journal's readers. His only break during in service there occurred in the late 1960's when he was appointed the first executive director of Citizens for Citizens, a local community action organization which continues to provide important human services to the people of Fall River. "Jud" Sullivan's unique blend of journalistic integrity and community service will certainly be missed by everyone who lives in Fall River or who reads the Providence Journal.

Another excellent newspaper in the area, the Fall River Herald News printed an article discussing the important contribution that "Jud" Sullivan has made and also that of Lester Boyd—an excellent Journal writer in their Attleboro office who was also honored at the retirement party. The Fall River Herald is to be commended for recording the contribution of another newspaper's reporters. I ask that the Fall River Herald article be reprinted in the RECORD.

DEAN OF PRESS CORPS RETIRES

(By James N. Dunbar)

Journalist Edward J. "Jud" Sullivan was honored by some 200 persons Saturday at a retirement party held at the Venus de Milo, Swansea.

Sullivan had a long and distinguished career with the Providence Journal-Bulletin and has been a mainstay of the fall River office for many years.

Also honored at the retirement party was veteran Journal writer Lester Boyd of the Attleboro office.

Edward Justin Sullivan was the dean of the local press corps. He would gladly share his expertise when asked. He did it with accuracy, clarity and kindness.

His deftness in phrasing questions gave clear notice to political candidates that he was politically astute. If pertinent answers didn't come, he dug in skillfully until he was satisfied with the response.

While always a competitor, he would share his notes if another reporter arrived late for a meeting.

After he and Boyd were given tributes and gifts by their colleagues and public officials, Sullivan remarked that he knew he hadn't adjusted to retirement yet because his first thought when he looked around and saw all the "newsmakers" present was, "And here I am without my pad."

Sullivan extended "a very sincere thank you" to all those who came to honor him, as well as to his "very loving and tolerant wife." Observing that "in Fall River we have had great relationships," Sullivan said what he treasures most about his career is the mutual respect between himself and the public.

Mayor Carlton M. Viveiros, terming Sullivan and Boyd "two fine gentlemen who are well respected and trusted," said he treasures his relationship with "Jud" Sullivan because Sullivan's agenda was always to get the story and to give the public the facts, honestly and without malice.

"I don't know where this community would be without guys like you making sure we stay on our toes." said Viveiros.

James V. Wyman, the Journal's deputy executive editor, told the gathering that both Sullivan and Boyd established strong personal profiles and lived up to principles that caused people to trust them.

He added that both Sullivan and Boyd have set standards that will be followed for years to come.

Also paying tribute to the retiring journalists were Bernie Sullivan, Massachusetts news editor for the Journal, and Dave Crombie, a reporter for the newspaper. Bernie Sullivan thanked "Jud" Sullivan and Boyd "for the honor of learning from them and working with them."

The master of ceremonies, reporter and columnist Bob Kerr, said he expects that there will be many occasions when he and his colleagues in the Fall River office will say, "If only 'Jud' were here." He praised Sullivan and Boyd as the kind of professionals who were generous in teaching young reporters and in letting them develop and find themselves.

Both retirees were given citations and proclamations from their respective cities and the state Legislature and portraits of themselves by Frank Lanning, retired Journal artist.

Jud Sullivan could bang out an interesting story from the most meager information. In a 32-year career with the Journal he covered events of every kind in a crisp, clear style, writing stories ranging from fast-breaking news to such "brights" as how many Sullivans or Medeiroses were in the phone book.

His career spanned the old school of typewriters, glue pots and pasted copy marked "30," to the era of video display terminals. He always maintained a fresh approach and continued tracking stories.

He wrote honestly and in good taste about people and a city he knows well. As a kid he lived on Forest Street, and he graduated from B.M.C. Durfee High School in 1939. Jud Sullivan pitched for St. Mary's in the CYO League. He graduated from the Boston University School of Journalism in 1943. That June he was inducted into the Marine Corps.

The service gave the young Marine a good chance to hone his skills. Sullivan served as a combat photographer for the 2nd Marine Division in the South Pacific for most of World War II while attached to public relations and division intelligence.

Returning from the military in 1946, Sullivan was news director at WALE until joining the Journal in 1948. In 1951 he was named manager of the Fall River bureau.

In 1965, then Mayor Roland Desmarais named Sullivan to lead the new Community Action Program. A year later it became Citizens for Citizens. He organized it and served as its first executive director until 1970, when he returned to the Journal and became local bureau manager.

Married to the former Mary Lou Maurer, he is the father of eight children.

He wrote his last story at the bureau newsroom on Nov. 30.

About retirement? "I'll just sit around and relax for a month or so, enjoy getting away from having to meet deadlines and then decide what I'll do after that," Sullivan commented.

DOUBLE LOSS—DOUBLE GAIN

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHUETTE. Mr. Speaker, like her husband, Mrs. Nancy Addleman has served the people of her community well, and I commend her for her active involvement.

Nancy Addleman's activity in the General Federation of Women's Clubs of Michigan culminated with her election as president of the Big Rapids Intermediate Women's Club. During her presidency, the club was elected club-of-the-year in the State of Michigan. Her activity in this organization also gave her the opportunity to become the assistant director of the Hugh O'Brian Leadership Seminar held at Central Michigan University in 1985.

Nancy Addleman was also active in the Girl Scouts of America. She and her family were long, active members of the United Church in Big Rapids, MI.

In addition to holding her elected position in the GFWC, Nancy Addleman's leadership capabilities were also recognized by the people of Mecosta County, for she was elected to the Big Rapids School Board and rose to the presidency of that board.

Although the people of her community will miss her, it is with great pleasure that I recommend Mrs. Nancy Addleman to the people of Missouri.

CONGRESSMAN GEORGE MILLER LAUDS FOOTBALL CHAMPIONS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MILLER of California. Mr. Speaker, I am very proud of two outstanding high school football teams from my district in Contra Costa County, CA, which this year won their respective championships in the north coast section. I know that all Members of the House of Representatives will want to join me in saluting the achievements of these young athletes and their coaches.

De La Salle High School ended a perfect 10–0 season with a victory in the North Coast Section 2A Championship, and even the opposing coach from Marin Catholic admitted that the Spartans were "the best team" he'd ever seen. That same sentiment was shared by De La Salle's own head coach, Bob Ladouceur.

Pittsburg High capped a year of impressive victories and a 10–3 record in winning the North Coast Section 3A Championship. I also want to call attention to the accomplishments of this very fine team, and their coach, Larry Rodriguez.

It is a great honor for me to have two championship football teams within my own congressional district, and I am delighted to take this opportunity to congratulate the members of those teams, and their coaching staffs, on their outstanding seasons.

ARCHBISHOP MOELLER HIGH SCHOOL CHAMPIONS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. McEWEN. Mr. Speaker, it is with great pride that I take this opportunity to express my congratulations to Archbishop Moeller High School regarding their seventh Division One State Football Championship.

Their recent 35-to-11 victory over Canton-McKinley High School was impressive to say the least. This win illustrates the hard work and perseverance of these players to be the best football team in Ohio.

During the football season this championship team had the strong support of their fellow students, parents and friends to achieve this coveted state crown. In my view, this kind of dedication is the hallmark of school spirit.

Mr. Speaker, the Moeller High School football team has players from four different congressional districts. We all share their joy in this noteworthy accomplishment and wish them future successes. I have provided the names of this formidable organization for the consideration of my colleagues:

MOELLER HIGH SCHOOL STATE CHAMPIONSHIP FOOTBALL TEAM 1985 VARSITY PLAYERS

Ashbrock, Frank, Jr, LB. Back, Don, Sr, LB. Baele, John, Jr, LB. Bates, Doug, Sr, LB Bauman, Eric, Sr, G. Bayer, Tony, Jr, LB. Braig, Kevin, Sr, DB. Bratten, Tom, Sr, TE. Brisben, Brent, Sr, WB. Carney, Chip, Sr, LB. Clark, Brian, Jr, LB. Cline, Hal, Jr, DT. Codner, Drew, Jr, TE.

Dawson, Tony, Sr, DT. Dunn, Don, Jr, T. Eckert, Charlie, Sr, G. Ennis, Ed, Sr, T. Fisher, Rob, So, DT. Francisco, Shawn, Sr, FB. Friends, Nathan, Jr, DT. Fulmer, Kyle, Sr, DT. Gallagher, John, Jr, DT. Gahr, Steve, Jr, FB. Gillen, Vince, Jr, SE. Griffey, Ken, Jr, SE. Grossheim, Rob, Sr, T.

Henry, Greg, Sr, DB. Henson, Dan, Jr, T. Hilvert, Ray, Sr, WB. Hounchell, Eric, Jr, DB. Hunter, Mike, Sr, DB. Jackson, Tony, Sr, TB. Jacobs, Brad, Sr, G. Jennings, Tim, Jr, DB. Kadnar, Matt, Jr, LB. King, Terry, Jr, DB. Knecht, Jim, Jr, LB. Knepler, Carl, Jr, WB. Konard, Ken, Sr, SE. Kovalik, Dan, Sr, LB. Krimmer, Jeff, Jr, LB.

Latzy, Matt, Jr, DT. Lemmel, Mark, Jr, G. Lewis, Chris, Jr, T. Lewis, Ken, Jr, TB. Logan, Jim, Jr, DT. Lohr, Chris, Jr, T. Lyon, Todd, Sr, DB. Madden, Jeff, Jr, WB. Marklay, Tim, Sr, LB. Marshall, Scott, Sr, FB. McKenna, Mike, Sr, TE. Murphy, Bryan, Sr, TB. Murray, Vada, Sr, DB.

Neierrt, Todd, Sr, DT. Nicholson, Tom, Sr, QB. Papes, Jason, Sr, SE. Parchman, Chris, Jr, DT. Pisciotta, Hal, Sr, K. Powell, Bob, Jr, DT. Powell, Mike, Jr, LB. Purvis, Tim, Jr, T. Rawls, Chris, Jr, DB. Ringle, Tom, Sr, TE. Russell, Jim, Sr, LB. Ryals, Trevor, Sr, C. Rytel, Larry, Sr, LB.

Sagrati, Joe, Jr, DB. Schaffner, Scott, Jr, QB. Schaffner, Todd, Jr, C. Shaw, Alan, Sr, T. Stephens, Matt, Sr, C. Stricker, Eric, Jr, LB. Sturgis, Mike, Sr, DT. Teuschl, Tom, Jr, K. Weible, Eric, Sr, LB. Weis, Steve, Sr, DT. Whigham, Cliff, Jr, TB. Willging, Dave, Jr, LB. Williams, Brian, Sr, DB. Williams, Darrell, Sr, LB. Williams, Keno, Jr, FB.

Captains: Chip Carney, Roy Hilvert, Vada Murray, Trevor Ryals.

Coaches: Steve Klonne, Head Coach.

Jeff Liebert, Athletic Director and Offensive Backfield Coach.

Pat Orloff, Offensive Line Coach.

Marc Bjelac, Defensive Backfield Coach.

Bob Tull, Offensive Line Coach.

Jim Lippincott, Defensive Coordinator, Assistant Athletic Director.

Gary Leibold, Defensive Line Coach.

Jim Nienaber, Head Reserve Coach.

Tom Stellman, Reserve Offensive Line Coach.

Tim Schira, Reserve Linebacker Coach.

Mike Shibinski, Reserve Defensive Back Coach.

Dan Bjelac, Head Freshman Coach.

Bob Kolkmeyer, Freshman Linebackers Coach.

Carl Kremer, Freshman Offensive Back Coach.

Team physicians: Dr. Frank Cianciolo, Dr. John Gillen, Dr. Paul Kollman, Dr. Edward Kremcheck, Dr. David Schlueter.

Team chaplains: Rev. John Putka, S.M., Rev. Joseph Tedesco, S.M., Bro. Robert Flaherty, S.M.

Managers: John Belle, Mike Bramble, Dave Beutel, Joe Beyer, Mark Dornoff, Mick Eck, Mike Habegger, Mike Rauckhorst.

Trainers: Steve Damico, Mike Frank.

Statisticians: John Dombacher, Rory Ingram.

Equipment managers: Joe Asbrock, Harry Becker, Cliff Kemp.

Administrative assistants: Don Goff, Bill Straub.

Special projects coordinators: Zip Montag, Ralph Petering.

Athletic secretaries: Carol Campbell, Mary Rice.

Rally coordinator: Bob Hotze.

Cheerleaders: Jody Liebert.

Band director: Rick Hagee.

TAX REFORM

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Ms. MIKULSKI. Mr. Speaker, on Tuesday night, by voice vote, the House passed the 1985 tax-reform bill. I have always believed voters have the right to know where their Members stand on issues. I don't think Members of Congress should ever hide behind a voice vote.

I supported the bipartisan majority to keep the tax-reform steam engine on track and allow it to pick up more passengers. I believe the principle of tax reform is important. I believe that tax fairness is essential. And I believe our efforts to achieve these goals must continue.

The tax bill passed by the House has good news and bad news in it. The good news is that it compresses the number of tax brackets, increases personal exemptions, keeps deductions for State and local taxes, does not tax fringe benefits, closes loopholes, and has a minimum corporate tax to ensure that corporations that profit off democracy help pay the cost of democracy.

But there is bad news in the tax bill, too. In fact, there are several parts of the bill that cause me great alarm, and which I tried during the last few days to correct through parliamentary initiatives. I hope these concerns will be corrected in the Senate.

Chief among my concerns is the fact that I do not like the new way in which municipal, State, and Federal employee pensions are taxed. I don't think it's fair to penalize police officers, teachers, FBI agents, Social Security workers, and others who already make major contributions to our society through the work they do.

That's why I voted with the entire Maryland delegation for the parliamentary opportunity to remove this provision. We lost that vote, but I will continue to do whatever I can to ensure that when the final bill reaches the House again that this provision will not be included in it.

Another concern deals with economic growth. I think Congress should do everything it can to encourage businesses to invest in America. Research and development stimulates American ideas for American jobs, and we need investment tax credits to encourage businesses to buy American equipment and machinery.

Finally, I believe it's absolutely essential for us to reduce the Federal deficit. I want to see revenues from the new minimum corporate tax specifically targeted for deficit reduction. These new revenues should not just be put back into the Federal checkbook.

In the coming months, the U.S. Senate will be taking a look at this tax-reform bill. I will be watching very closely to see what changes they make. I will be doing everything I can to see this bill is improved by correcting the concerns I have just outlined.

Mr. Speaker, on Tuesday night the House voted to keep the issue of tax reform on track. The steam engine has left the station but there is a long way to go before the train reaches its final destination at the President's desk.

I am one Member of Congress who wants to make sure there are changes in the route so that more passengers can climb aboard as this train moves toward economic growth and prosperity.

MICHIGAN'S LOSS, MISSOURI'S GAIN

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHUETTE. Mr. Speaker, I rise today to commend the character and dedication of Dr. Duane Addleman. Over the years, Dr. Addleman has served the students and staff of Ferris State College, Big Rapids, MI, in various capacities. His most recent position was acting dean of the school of allied health, a position he has held since 1982.

Upon leaving Ferris State College to accept a position at Southwest Missouri State University, Dr. Addleman's many friends honored him by acknowledging his career accomplishments and community service. Prior to becoming acting dean of the school of allied health, Dr. Addleman served as associate dean, assistant dean for administration, and assistant to the dean. He also served as the acting head of the department of dental health, and administrative intern for Allied Health Education.

Not only was Dr. Addleman chosen for advancement at Ferris, he was also elected by his peers to be president of the American Society of Allied Health Professions. He held many positions in this important organization. Serving as chairman of the Council of Educational Institutions, as a member of the National Accrediting Agency for the Clinical Laboratory Association, and chairing several other committees, Dr. Addleman was chosen to be a Fellow of this prestigious society.

As Dr. Addleman's career is highly impressive, his community involvement is equally so. Dr. Addleman served as president of the Mecosta County Area United Way; was a member of the Mecosta-Osceola Youth Attention Board; served on the board of directors of the Retired Senior Volunteer Program; was a member of the 99th District Club; taught Sunday school at the United Church in Big Rapids, MI; and was extremely active in the Boy Scouts of America.

It is for these reasons, and because I know the character of Duane Addleman, that I wold like to recommend Dr. Duane Addleman to the citizens of Missouri. The loss of the people of Ferris State and the surrounding communities is the gain of the people of Missouri.

BILL NELSON'S IMPENDING RIDE ON THE SPACE SHUTTLE

SPEECH OF

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BENNETT. Mr. Speaker, it seems that it was just a few years ago that man first set foot on the Moon. Since then, our exploits in space have grown.

Expanding our horizons—exploring the final frontier—is still very much ingrained in America's fabric. To explore is in our blood—to reach out to the unknown is what this country is about. Inquisitiveness dwells in our hearts.

Now a friend of mine—a colleague has a chance to be a part of this exploration. Congressman BILL NELSON is set for a journey that will surely be with him for as long as he lives. I congratulate Mr. NELSON for his opportunity—an opportunity that comes to very few. To be part of the action, the action of space exploration.

Sally Ride, the first woman in space—Senator GARN, the first politician in space—now BILL NELSON. Who wouldn't want the chance to travel in space? BILL NELSON, a truly fine person, deserves this honor.

I'll conclude by saying that my best wishes are with Congressman NELSON as he partakes in this marvelous moment. The State of Florida and Congress should be proud for this moment, as we were proud when Senator GARN took his place on the shuttle. Perhaps the day will come when everyone will have the chance to go into outer space. Until that time, those of us left behind can only congratulate those chosen, knowing full and well our hearts and our best wishes will be aboard, if not our bodies. In the case of BILL NELSON, he is a man of great spiritual strength and natural leadership. He is the kind of person who deserves this opportunity.

CONGRATULATIONS TO LAFAYETTE HIGH SCHOOL

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOPKINS. Mr. Speaker, I would like to take this opportunity to congratulate Lafayette High School from Lexington, KY, for its recent tie for first-place in the Knowledge Master Open, a national academic competition covering a variety of subjects from science to music. In addition,

Tates Creek High School and Henry Clay High School, also of Lexington, were 58th and 60th, respectively, in the 600 school nationwide competition.

This accomplishment by Lafayette students Chris Mullins, Neil Scheurich, Alex Reese, Pukar Patel, Brian Reed, Greg Peterson, Larry Taylor, and Eric Brooks signifies the discipline and sacrifice that has been the hallmark of our Nation since its inception. Their dedication to their studies is similar to our forefathers' desire to obtain an education.

One of the most important investments we continue to make for our national security, our economic stability, and our continued strength as a world leader is in education. When young people make an effort at excelling in academics, we cannot help but be optimistic about the foundation we are laying for America's future by this investment.

I salute these students and their teachers, and feel proud that they are in my district. And, I commend to my colleagues our continued support for excellence in education and in our Nation's future.

FREEZING FUNDS OF JUVENILE PROGRAMS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LEVINE of California. Mr. Speaker, I am outraged by the action of the OMB in freezing funding for juvenile justice programs. This is technically an impoundment of funds; it defunds vital programs which reduce juvenile crime, and it is an alarming precedent for future possible funding freezes. Further, the timing of this action, coming as Congress is preparing to recess, clearly indicates the intention of the OMB to foil the budget process.

I am alarmed because this action is an impoundment of funds under the Budget and Impoundment Control Act, which states that Congress must be notified of any proposed rescission or delay of funding. In the absence of such notification, the appropriated funds must be spent. Congress has appropriated funds for the Office of Juvenile Justice and Delinquency Prevention, and has received no notification of rescission or delay. Consequently, this funding freeze constitutes impoundment of funds, and a violation of Congress' prerogative in the appropriation of funds.

Additionally, I am outraged because this action de-funds programs which work to divert the troubled and high-risk youth who often become career criminals. The South Bay Juvenile Diversion project, in my district, works with approximately 500 first-time youth offenders a year. Eighty percent of the youth who work with this project have no further trouble with the legal system. The funds we spend on juvenile justice programs we receive back again as these youth become productive adult citizens. The funds we cut from juvenile justice programs, we lose in future spending on police, courts, and jails. Mr. Speaker, this spending cut is no savings.

Finally, I am alarmed by the ramifications of this action. Does the OMB plan to de-fund other programs in this way? If this action goes unchecked I am concerned that the funds for other vital programs will be impounded equally capriciously. The Nation's elected Representatives have the responsibility for appropriating funds in the best manner to serve the needs of the country and its citizens. This responsibility cannot be adequately exercised when Congress' decisions can be so easily circumvented.

I strenuously object to this action, and I call for the immediate release of these funds.

TRAGEDY OVER TETERBORO

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HUGHES. Mr. Speaker, as many will recall, the illegal strike by the Professional Air Traffic Controllers Organization [PATCO] in 1981, drew a tough response from the Reagan administration, which fired some 11,500 striking employees.

At that time, I did not criticize the administration's firm stance because I felt that, as a nation, we should not condone illegal strikes by public employees whose service is vital to protecting the public safety.

The functions for the fired PATCO members were taken over by supervisory personnel as new controllers were recruited and trained. Unfortunately, despite the effort to fill the void left by the fired controllers, it is apparent that the air traffic control system has simply not kept up, even after the passage of 4 years. By and large, today's air traffic controllers are overworked and in many instances underexperienced, as the volume of air traffic continues to grow and grow.

Although the Department of Transportation has recently decided to hire 1,000 new controllers in 1986 and 1987, this action, by itself, will not be enough.

For every 100 new controllers hired, experience has shown that less than half will reach full performance level status. Even in the best of cases, it will take years for a new controller to reach the desired level of proficiency.

On the other hand, it would take only months to retrain selected controllers who were released in 1981—controllers who have proven records and many years of experience.

The administration has made its point that illegal strikes will not be tolerated. I don't think that there's anyone in the world who doubts that at this point.

I feel it would be appropriate, at this time, for the administration to review on a case-by-case basis the status of former air traffic controllers to determine whether they have the qualifications to be rehired and are truly willing to abide by the rules and obey the law.

Having been denied their careers for a full 4 years is punishment enough. There are persons convicted of serious crimes who have been placed on probation for a shorter period of time than that.

I don't think it would be possible to make the fired controllers suffer any more than they have already, but it is clear that the quality of our air traffic control system continues to suffer from not having enough seasoned controllers.

I was recently contacted by a constituent, Mrs. Marie Miller of Brigantine, NJ, whose son was killed in a tragic mid-air collision over the Teterboro, NJ, airport. He was a pilot of a Nabisco corporate jet at the time.

Certainly, it is impossible to say whether this tragedy could have been avoided if there were more highly experienced air traffic controllers on the job today—the indications are that it would have made no difference in this case.

I have discussed this incident personally with Federal Aviation Administrator Donald Engen, who is firmly committed to maintaining the highest standards of air safety. Administrator Engen strongly believes that the system is adequate and that in any event, this unfortunate accident resulted from other causes.

Nevertheless, Mrs. Miller's points are well taken concerning the increased congestion and flights by inexperienced pilots, combined with greater overall air traffic and substantially fewer controllers. I want to share Mrs. Miller's letter with my colleagues at this time:

BRIGANTINE, NJ,
December 5, 1985.

Hon. WILLIAM HUGHES,
Northfield, NJ.

DEAR CONGRESSMAN HUGHES: In 1980, you made us very happy by offering an appointment to our son, Douglas, to the U.S. Naval Academy. He was also offered an R.O.T.C. scholarship from Harvard at the same time. As it happened, he chose the Harvard scholarship and has been happy with his decision. However, we will always be grateful to you for seeing his potential and for making us such proud parents.

I am writing to you, not about Douglas, but about our other son, Greg, who was just as capable and had accomplished so much in his short life span of 36 years. He was killed in a fiery collision of a corporate (Nabisco) jet and a small Piper Cherokee on Nov. 10, at the Teterboro, NJ, airport. We buried him on Dec. 3, after the investigators had released his remains.

It is a terrible thing to lose a loved one, and even more terrible to lose one's child, but to lose a wonderful, talented, bright son with so much to offer, and in the prime of his life, through a needless accident makes the sorrow so much more difficult to bear.

We have learned, since Nov. 10 that the place where he was killed is an unsafe place. Many people in high places apparently are aware of the dangers, but so far, nothing is being done. We are appalled to find out that:

1. Air travel grows more dangerous daily.
2. There were 50 percent more misses in 1984 than in 1981.

3. The system has 5,147 fewer air traffic controllers than it had at the time of the strike.

4. Controllers are overworked and inexperienced.

5. In 1984, 1,897 operational errors were made, in which aircraft were permitted to come closer than safety rules allow.

6. Air traffic has increased 8 percent since 1981.

7. It now takes only 2 years for a controller to become fully qualified, instead of 5 years.

8. The union, which was responsible for the strike no longer exists and there is no reason not to rehire the experienced controllers.

9. At Teterboro Airport, on week-ends, it is a "zoo", with many pilots with few hours and little experience, taking off and landing in the same areas with the large planes.

Greg was the Chief Pilot for Nabisco Brands and one of their best. When the Chairman of the Board flew, it was our son whom he wanted in the Captain's seat. Greg had flown 9,000 hours and had a perfect safety record. He was always aware, cautious, and determined to keep his passengers, his co-pilot, the plane and himself safe. We know in our hearts that he died because of someone's mistake, but not his.

Senator Paul Simon, on the "Today" show spoke of this accident in North Jersey and said that if measures are not taken to right the wrongs that now exist, we can expect to see more air disasters than ever before.

I urge you to use your influence in the Congress to see that changes are brought about so that more lives are not needlessly wasted.

Respectfully yours,

(Mrs.) MARIE MILLER.

LEGISLATION TO BAN THE SALE OF COOK INLET OIL

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MANTON. Mr. Speaker, I recently introduced legislation, H.R. 3817, along with my colleague from Maryland, Mrs. BENTLEY, to place the export of crude oil from Alaska's Cook Inlet on the same terms and conditions as Alaskan North Slope oil.

Earlier this year, Congress reauthorized the Export Administration Act. That measure, which was approved by an overwhelming margin, reaffirms a 10-year congressional commitment that oil produced from the Alaskan North Slope must be devoted to domestic use. The ban on the export of Alaskan crude oil benefits American consumers, provides much-needed maritime jobs, strengthens our national security and promotes energy independence.

Despite this strong statement against the export of Alaskan crude oil, this administration apparently intends to ignore the wishes of Congress. On October 28, the White House announced that in the coming months the President plans to authorize the export of Cook Inlet oil to Japan.

This administrative action is possible because technically the Export Administration Act only prohibits the export of Alaskan oil that is produced at Prudhoe Bay along the Alaskan North Slope and flows through the Trans-Alaskan Pipeline (TAPS). Cook Inlet oil is not transported through TAPS, but rather is carried from the production field Cook Inlet by U.S. tankers to refineries in California and along the Gulf Coast.

Although the 6,000 barrels per day of oil produced at Cook Inlet is a small amount when compared to the amount being extracted from the North Slope, the administration's decision is nonetheless a bad one for the following reasons.

First, proponents of the sale of Cook Inlet oil contend it will help to reduce our trade deficit. Nothing could be further from the truth. In order to replace the special quality of crude oil produced from Cook Inlet, United States refineries would have to buy more expensive crude oil from Indonesia, Norway, or other less stable foreign sources. The United States imports too much oil as it is. Given our serious trade deficit, it makes absolutely no sense to export this precious natural resource which would have to be replaced by more expensive imports.

Second, the export of Cook Inlet oil to Japan sends the wrong message at the wrong time. It's time to get tough on our trading partners that refuse to play by the rules and continue to deny U.S. exporters equal access to their markets. Last year, the United States trade deficit was a record $123 billion costing more than a million American's their jobs. This year the trade deficit is expected to exceed $150 billion. We must work toward a level playing field in international trade. Japan continues to flood our market with cheap imports while denying access to an array of United States products. We should not reward Japan's closed market policies by selling them our national resources which they refuse to carry on United States-flag ships. We must make it clear to Japan and to our other trading partners that we are dead serious about putting an end to unfair trade practices.

Third, the transport of Alaskan oil is the life blood of the American merchant marine industry. The administration's actions show that the planned export of Cook Inlet oil is merely the first step in an effort to totally eliminate the current restrictions on the export of all Alaskan oil. Our maritime industry, already struggling to survive against unfair foreign competition cannot afford to have the door opened for the export of Alaskan oil. Nor can the U.S. afford to be without a strong merchant marine industry to provide for our shipping needs in time of peace and our defense needs in the event of a national emergency.

Any movement toward the export of Alaskan oil will lead us back into a dependence on far less stable foreign energy sources. During the past decade, we have seen our Nation's economy wrecked by Middle East oil embargoes. This was one of the main reasons why the Congress voted to ban the export of Alaskan oil. We should be no less committed to promoting energy independence today.

Mr. Speaker, the legislation I have introduced would simply extend the ban on the export of Alaskan North Slope oil to also cover oil produced from Cook Inlet. We must close the door on the export of any Alaskan oil before it has a change to open any further. I urge my colleagues to cosponsor this important legislation.

CLARIFICATION OF A PROVISION OF THE BEEF PROMOTION AND RESEARCH ACT

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COELHO. Mr. Speaker, I wish to clarify a statement regarding the Beef Promotion and Research Act of 1985. This is a provision within the 1985 farm bill which will establish an orderly procedure for financing and carrying out a coordinated program of promotion and research designed to strengthen the beef industry's position in the marketplace. This promotion and research order is strongly supported by the National Cattlemen's Association.

I strongly support the establishment of this program; however, recently, my colleague from Iowa, the Honorable BERKLEY BEDELL, brought to my attention his concerns regarding the rate of assessment on imported beef and beef products. As chairman of the House Agriculture Subcommittee on Livestock, Dairy, and Poultry, I would like to clarify the intent of this program in regard to this particular provision. When this particular provision was brought to the subcommittee's attention, it was the intent that domestically produced cattle would be assessed a rate of $1.00 per head of cattle each time the animal was marketed. In the case of imported beef and edible beef products, the rate of assessment is to be the equivalent of $1.00 per head, as determined by the Secretary. This assessment on imported beef and edible beef products is to be made only on the single transaction that occurs when the imported beef enters into the commerce of the United States. In making this determination, the Secretary of Agriculture is expected to establish fair and equitable rates that do not discriminate against foreign producers or violate international trade agreements.

AUTO EXPORT QUOTAS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TRAFFICANT. Mr. Speaker, March 31, 1986, is rapidly approaching. In a little over 3 months the Japanese Government must once again make a decision on whether to limit the export of Japanese automobilies to the United States. Currently, mixed signals are being received from the Japanese Government.

Shortly, Japanese manufactures and the Government are expected to begin closed-door discussions on this very important issue. Many believe the Japanese are likely to either partly or completely remove the quota limitation of 2.3 million cars as established in 1985.

The Japanese claim that the quotas have served their purpose and should be removed. They believe the U.S. Automobile industry has recovered completely and is now able to complete effectively against all international exports. I believe that is simply not true. Many of my colleagues in both the House and Senate share this opinion and believe the United States must take appropriate action to stimulate fair and free trade in the international market.

I believe the topic of fair trade policy should be given primary consideration during the second session of the 99th Congress. The Japanese and other foreign traders must be informed that the United States will no longer tolerate any type of restrictive trade policy.

In my view the Japanese have several alternatives. One would be to retain the quotas at the present level as a positive signal to the Congress and the American people. Secondly, the Japanses could allow the quotas to expire and instead seek some other kind of trade remedy. I believe this proposal is highly unlikely. Finally, the Japanese could not only maintain the current quotas, but further reduce the present car levels.

Though a finial decision on this issue is unlikely for sometime, I can only hope that the Japanese Government will realize the true economic shape of our U.S. automobile industry and maintain the current import quota limitations.

[From the Washington Post]

JAPAN GRAPPLES AGAIN WITH ISSUE OF AUTO EXPORT QUOTAS

(By John Burgess)

TOKYO. December 18.—Japan has reluctantly begun to grapple again with an issue that has few rivals in terms of its potential to poison trade relations with the United States: whether to extend quotas on exports of automobiles.

The current program, which holds sales to the United States to 2.3 million cars a year, expires March 31. But manufacturers and the government are preparing for closed-door consultations that could continue until then.

They hope to avoid a replay of last spring, when Japan's announcement that it would raise the quota by 24 percent provoked angry cries from Congress and helped push trade relations to their lowest point in years.

Many officials here concede that the timing and tone of that announcement was a public relations fiasco. But they insist that the decision was fundamentally just a step toward free trade.

"We should learn from history and experience," said Makoto Kuroda, head of trade policy at the Ministry of International Trade and Industry. He said no consultations were under way yet and refused to comment further, noting the sensitivity of the issue. "Better to keep quiet," he said.

To date, however, events are unfolding much like they did a year ago. The Japanese appear to be underestimating the emotional wallop the issue carries in Congress, and critics in the United States seem to be assuming that a double-cross is being prepared.

Last week, Japanese newspapers carried brief articles on inside pages quoting an unnamed senior official at the trade ministry as saying that quotas would not be extended, although he said Japan would reconsider in the event of unspecified "big changes" in the general situation.

The story attracted only minor attention in Tokyo. In many ways it simply reiterated Japan's official position that the quotas are an aberration and must end as soon as possible. The reported reference to "big changes" left adequate leeway for continuing the restraints.

In Congress, however, it drew strong condemnation and seems to have been read as a formal decision for a new "export wave" across the Pacific that would worsen a trade deficit that this year is expected to reach a record $50 billion.

A ministry spokesman denied that any decision had been made. Spokesmen pleaded ignorance about who made the statement. But industry and government sources said privately it was the top man, International Trade Minister Keijiro Murata, talking on background with the reporters who regularly cover him.

Some foreign analysts here called it a trial balloon. But one Japanese official, saying Murata's statement was in response to a reporter's question, called it a case of politician firing off emotional words without thinking them through.

The quotas began five years ago to give the U.S. automobile industry time to recover from the dark years of the 1970s. Originally a three-year program, the quotas were extended twice for a year each.

The Japanese contend that the quotas' purpose is now accomplished. "The U.S. automobile manufacturers have completely regained their strength, and the unemployed rate is going down," Soichiro Toyoda, president of the Toyota Motor Corp., said at a press conference yesterday.

Toyoda and others complain that the restraints are in force at a time when the United States is strong-arming Japan to dismantle barriers to imports in its own market. Quotas are a fundamental blemish on the principle of free trade, they say.

Last year, Japanese officials depicted it as a concession when they raised the quota from 1.85 million units to 2.3 million. They could have eliminated it altogether, they said.

As of Oct. 31, seven months into the current program, Japanese companies had shipped 1,471,000 cars to the United States and are expected to reach the full 2.3 million. The United States remains their most profitable market, helping them weather intense competition at home that has wiped out most earnings there.

Japanese companies already have opened a campaign for more access. Following the trade ministry official's words last week, many issued calls for an end to quotas. "Trade imbalance should be solved by looking forward, by stimulating domestic demand in Japan and opening its market," said a spokesman for the Nissan Motor Co., the country's second-largest producer.

At the same time, however, auto executives continue to talk of a need for "orderly marketing," a catch-all phrase meaning the avoidance of torrential exports by less formal means, perhaps self-restraint by individual companies.

Japan has several choices. One would be to retain a quota, as a gesture to Congress, but to raise the numbers again. Or, the quota might be allowed to expire, with Japan switching to behind-the-scenes "administrative guidance." Totally free trade in autos is not commonly considered possible.

At least one analyst, however, predicts that Japan will not only keep the quotas but cut the numbers somewhat. Toshio Obi, an economist who is Japan's representative of Columbia University's East Asia Institute, says Prime Minister Yasuhiro Nakasone cannot risk a blowup two months before he hosts President Reagan and other leaders of the industrialized West at an economic summit meeting here in May.

A TRIBUTE TO THE NATIONAL COUNCIL OF JEWISH WOMEN, PRESIDENT BARBARA MANDEL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FEIGHAN. Mr. Speaker, nothing captures the spirit of this time of year—a time of hope and celebration, of family and goodwill—as the work of people who have committed themselves year round to the goals of fairness, compassion, and peace. Such is the purpose of the National Council of Jewish Women, which recently celebrated its 93d year with a conference in Washington. I would like to take this opportunity to give well-deserved recognition to the NCJW, which has been headed for the past 2 years by a friend and fellow Clevelander, Barbara Mandel.

The NCJW, now 100,000 members strong, has for almost a century promoted a multifaceted program of education, advocacy, and community service. Focusing on the rights of women and children, the NCJW has fought on behalf of abused and neglected children, the elderly, and the disadvantaged. The group has also maintained a reasoned and compassionate voice for the future of Israel, the United States-Israel relationship, and the plight of Jews in the Soviet Union.

Embodying the best of the National Council of Jewish Women, Barbara Mandel's contribution began over 30 years ago when she joined as a member of the Cleveland chapter. In 1971, Barbara was elected as president in Cleveland, later moving on to be national recording secretary and national vice president.

She now volunteers her time on the board of the American Joint Distribution Committee, chairs the National Women's Division of the United Jewish Appeal, and sits on the board for the Council of Jewish Federations. Her voluntary efforts have earned her the Mayor's Citation for Exemplary Community Leadership, and seen her inducted into the 1985 Ohio Women's Hall of Fame. The hall, established in 1978 by the Women's Division of the Ohio Bureau of Employment Services, honors women who have excelled in their efforts to improve the status of women.

As president of the NCJW, Barbara's efforts turned to an effort to further promote the rights of children. Under her guidance, the council established their center for the child which now conducts research on social programs and provides needed information on policies affecting children in our country.

For this, and for all the tireless efforts of the NCJW's corps of volunteers, I hope all my colleagues will join me in commending the National Council of Jewish Women and wishing Barbara the best of luck in her second term as national president.

COURTHOUSE BECAME THE WHITE HOUSE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1985

Mr. DUNCAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

COURTHOUSE BECAME THE WHITE HOUSE

(By Chuck Redfern)

For about one hour and fifteen minutes, on Tuesday, September 24, 1985, the McMinn County Courthouse, in Athens, Tennessee, became the White House, of the United States of America. Believe it or not.

You can tell your grandchildren that there was a special day that occurred in Athens when the President of our Land came to town and they moved the Whitehouse to the Courthouse. This is a fact, as the communications systems were in place and if the President needed to make a decision of international magnitude, he would have done it in Athens. If the "hot line" had sounded, it would have sounded in the Courthouse in Athens. If those Russians had decided to "wipe us from the face of the Earth" he would have had to do some fast thinking and talking from the Courthouse. Every office in the Courthouse had about three extra phones for the Secret Service with special numbers and special significance.

This exciting event occurred because Congressman John Duncan convinced President Reagan that if he wanted to visit the rural areas of the United States and see the down-to-earth folks who make up much of our country, then he should come to Athens, Tennessee. There is little doubt that the President was pleased with what he saw and what he heard. By the same token, if there is one McMinn Countian who isn't proud that their county and the Friendly City of Athens was selected as the small community to visit in the State of Tennessee, then I'm sorry for them as it was indeed a momentous occasion for our community.

It was obvious that all citizens, of all political parties, Republican, Democrat, Independent or Mugwhamps joined together to proudly welcome the President and show the United States that we are one of the finest small communities in the country. The publicity and exposure we obtained is beyond the financial capabilities we could muster to buy in the news media. Pictures of our lovely Courthouse, decorated by Jerry Harrill and his crew, to the President holding the Ralide saddle from Plastic Industries, made the pages of newspapers throughout the country, including USA TODAY (a nationally distributed paper). Even the television newtworks showed the same scenes.

The handling of the trip of our President was so well coordinated that it answered the question from some envious cities in our state who asked, "Why Athens?", to which Representative Clyde Webb answered, "Why not Athens?" In one week's time, citizens joined together to put on a showplace for our President that according to Whitehouse and Secret Service personnel was one of the smoothest and most efficiently run visits the President has ever made. Every battle of event needs a General and the unsung hero of this show must go to City Manager Marvin Bolinger, whom the Whitehouse staff labeled as the "Benevolent despot general," meaning he handled the show in a kindly, absolute ruler, commanding manner. He had been elected as event chairman and he accepted the responsibility with dedication.

As Marvin Bolinger asked, "It would take a book to list all the real unsung heroes of this special day as there are hundreds of unpublicized volunteers who contributed of their time and talents to provide the President with an impressive trip to our fair City." From the Rescue Squads, the local and neighboring law officials, the firemen, the Boy Scouts, the Utility Board workers, the City and County employees, the merchants, industrial concerns, Tennessee Wesleyan, the vocational students, the bands and chorus groups, the man on the street (and ladies) plus goodness knows who else, all jumped in and worked night and day to present a great image of rural America and especially Athens, TN. of McMinn County. There were hundreds more who would and could have helped, and wanted to help, but time did not permit to contact everyone. Many were asked to help while standing as onlookers of the work. We appreciate them all.

The fact that some twenty-two to thirty thousand folks were in our City and millions more saw it on television and through the newspapers, makes it the most spectacular event that has ever occurred here. No one can say we didn't do ourselves proud on this day. There may never be another day to match this as far as most of us will see. The crowd was orderly, the program went smoothly, the sun came out at the right time. The President was impressed, the media was impressed and if your "kin" folks and friends living around the country weren't impressed, I'll be surprised.

There are numerous stories to tell that occurred during the hectic days of preparation. It was not until eight a.m. Tuesday morning that the decision was made whether to have it at the Courthouse or the McMinn High gym. Crews had been up all Monday night to decorate the gym in case the rains persisted in falling on Tuesday: Apparently the Reagan charm worked as the weatherman said it was O.K. to keep on "GO" with the courthouse, Tuesday morning at 8 a.m.

No event turns out to be perfect and there will be someone's nose out of joint, but doggone it, you just have to admit there was a special day in Athens, when the Courthouse became the Whitehouse and a President of the United States came here to speak to us. Proud? Yessir, everyone is!

U.S. COMPANIES DESERVE TO COMPETE IN THE INTERNATIONAL PHARMACEUTICAL MARKET

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MADIGAN. Mr. Speaker, I am very pleased today to introduce the Pharmaceutical Export Amendments of 1986. I am joined in introducing this bill by several of my colleagues from the Committee on Energy and Commerce, including Congressmen SCHEUER, BROYHILL, SHARP, and LENT. I am hopeful that the strong, bipartisan support for this legislation will assure its quick passage by the House.

Mr. Speaker, it is currently illegal for American firms to export pharmaceutical products which have not been approved by the Food and Drug Administration [FDA]. This is true, despite the fact that the FDA often moves at a snail's pace, and it can take several years for a drug to be approved. Furthermore, oftentimes a drug has been approved by another country and is desperately needed there, but still cannot be supplied because of this senseless restriction.

This restrictive policy has clearly had an adverse impact on the U.S. economy and more specifically, on the competitive position of American firms in the international market. It has cost us jobs and capital investment by forcing American pharmaceutical companies to conduct important research and to develop and manufacture new drugs outside of the United States.

Ours is the only country that is prohibited from exporting drugs that are lawfully marketed in the importing country but which are not yet approved in the exporting country. This policy makes little sense when the drugs in question may well be available to the importing country from other foreign manufacturers. Our current policy does not prohibit foreign consumers from gaining access to these drugs, it simply locks the United States out of the competition for jobs and revenues.

The bill I have introduced today is very narrow, and contains numerous safeguards to guarantee that the health of citizens in foreign countries is not jeopardized by the lifting of the export ban. The Senate Committee on Labor and Human Resources has already overwhelmingly approved a bill, which was introduced by Senators HATCH and KENNEDY, that is almost identical to this legislation.

I urge my colleagues to look closely at this bill and to give it their full support. A summary of the Pharmaceutical Export Amendments of 1986 follows:

SUMMARY OF THE PHARMACEUTICAL EXPORT AMENDMENTS OF 1986

The legislation permits the export from the United States of drugs which are made in this country but not yet approved by the Food and Drug Administration (FDA) to developed nations which have approved the drugs. Under very limited circumstances,

such drugs which are intended for the treatment of tropical diseases and similar conditions may be shipped to developing nations.

COUNTRIES TO WHICH DRUGS APPROVED ABROAD MAY BE EXPORTED

(1) Developed countries with sophisticated drug approval systems comparable to that of the FDA.

(2) Other developed countries with authority: (i) to assure that information provided to physicians, pharmacists, and patients is consistent with the drug's labeling; (ii) to detect safety problems with a drug; and (iii) to remove unsafe drugs from the market.

(3) Countries not listed in #1 or #2 if the Secretary determines on the basis of human testing and other scientific evidence that shipment of the drug is justified to treat a disease or condition in the importing country which does not exist to a significant extent in the United States.

The Secretary is required to establish two lists of the countries described in #1 and #2 above. The legislation suggests the following countries for inclusion on list #1: Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Japan, Netherlands, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom.

CONDITIONS FOR EXPORT

Such a drug may be shipped if:

(1) The drug accords to the specifications of the foreign purchaser;

(2) Sale of the drug is not in conflict with the laws of the importing country;

(3) The drug contains a label on the outside of the shipping package indicating that it is intended for export;

(4) The outside of the shipping package is labeled: "This drug may be sold or offered for sale only in the following countries:" and lists the countries in which sale is authorized;

(5) The drug has not been sold or offered for sale in the U.S.;

(6) Approval of the drug has not been denied, suspended or withdrawn in the U.S. for reasons of safety and effectiveness;

(7) In the case of a drug to be shipped to a country on list#2, the drug has been approved by a country on list #1; the labeling of the drug is consistent with the labeling approved by a country on list #1; the lable has been translated into the language of the importing country; and approval of the drug has not been denied or withdrawn for reasons of safety by any country on list #1;

(8) In the case of a drug to be shipped to a country described in #2 or #3, the drug is the subject of an NDA, IND, or a master file containing the safety information required for an IND;

(9) The notification of first shipment of the drug is given to the Secretary.

NOTIFICATION OF INTENT TO EXPORT

Prior to the first shipment of an unapproved drug, the shipper must give to the Secretary a notice which:

(1) Identifies the drug to be shipped;

(2) Identifies the establishment in which the drug has been or will be made;

(3) Identifies the country or countries to which the drug will be shipped;

(4) In the case of a drug to be shipped to a country on list No. 2, includes a copy of the drug's labeling; and

(5) Includes assurances that the shipper will report to the FDA any serious adverse drug reactions.

ADDITIONAL SAFEGUARDS

(1) The U.S. shipper must obtain from each of its importers an agreement not to ship the drug into countries other than those authorized under this law. This agreement must be renewed annually.

(2) If a U.S. shipper or its subsidiary ships a drug to a country in violation of any provision of this Act, then the Secretary may prohibit the shipping of the drug and the Secretary has authority to seize the drug, to seek an injunction to halt any proscribed activity, and to impose criminal penalties.

(3) If an importer ships to a drug a country in violation of any provision of this Act, then the Secretary may prohibit the shipping of the drug to such importer.

(4) If the drug poses an imminent hazard in any country authorized to receive it under this Act, the Secretary may immediately prohibit the shipping of a drug to such country.

(5) If an importer ships a drug to an unauthorized country and the drug poses an imminent hazard in the unauthorized country, the Secretary may immediately prohibit the shipping of a drug to such importer.

(6) If a U.S. shipper ships in violation of an imminent hazard order or continues shipping to an importer knowing that the importer is reshipping to an unauthorized country, then the Secretary may prohibit the shipping of the drug and the Secretary has authority to seize the drug, to seek an injunction to halt any proscribed activity, and to impose criminal penalties.

(7) The GAO is required to monitor compliance with the Act and to report to Congress within 2 years of enactment and every 2 years thereafter.

TRIBUTE TO TWO MEMBERS OF THE 101ST AIRBORNE DIVISION

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CRAIG. Mr. Speaker, it is with profound sadness that I rise to honor the memory of two members of the 101st Airborne Division who lost their lives in the tragic crash at Gander, Newfoundland, on December 12, 1985. I would like to express my deep gratitude for the service these fine young men gave to our country as part of the multinational forces in Egypt—a difficult and important mission in the cause of world peace.

Sp4c. Steven J. Bradshaw of Boise graduated from Boise High School in 1983, where he was a member of the ROTC praised by his commanders. He was headed for his reassignment to Fort Leonard Wood in Missouri, the training base for the Army Corps of Engineers.

Pvt1c. Paul M. Crawford graduated from Nampa High School in 1984. He had recently been married, intended to make his career in the military, and hoped to go to Germany in his next tour of duty.

Although it does little to lessen the sorrow at this loss, I want their families to know that the First District of Idaho, and all Americans, will remember with pride the sacrifice these two young men made in the service of our country.

FALLEN SOLDIERS WHO MIGHT NOT HAVE DIED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. RANGEL. Mr. Speaker, it is sad when a solider dies. It is sad when he has represented his country well, defended our Nation, kept the peace. It is especially sad when he might not have died.

These soliders did what soliders do best: They kept the peace. The Army's 101st Airborne Division, one of the elite units of our Armed Forces, served ably in the Middle East, as they have many times before, and in many places.

While we honor all the soldiers who died, I would like to make particular mention of those soliders from New York State: Pvt. Paul J. Bostwick, Pvt. William Brilya, Pvt. Trevor Campbell, Pfc. Bobby Coleman, Sgt. Paul Hemmingway, Pvt. Kenneth Nelson, S. Sgt. Ronald Sears, and Sgt. Theodore Travis. I would also like to express my sorrow to the family of Sgt. Francisco Ocasio, of Juana Diaz, Puerto Rico.

While we do not yet know the cause of the crash in Gander, Newfoundland, our sense of loss leads to many questions. It highlights for me the need to intensify our efforts in improving airline safety, both for soldiers and civilians traveling on commercial airliners. We know that deaths in aircraft accidents are at an all-time high in the last several years. Perhaps this is due to chance, but perhaps not. Many aircraft accidents are not due to wind shear or other currently unforeseeable weather abnormalities. Many are due to mechanical or human error. Both can be improved through maintenance, inspection, and training.

I was pleased that the Federal Administration is now ordering a broad inspection of jet engine repair facilities. I commend that action, which was planned before the Gander crash, and I would urge an even more aggressive approach to aircraft maintenance and personnel training, both in the air and on the ground.

Again, I would like to express my sorrow at this terrible tragedy, and I would like to extend my sympathy to all of those families who lost a loved one in the service of the United States.

CONFERENCE REPORT HAS WIPED OUT MOST MILITARY PROCUREMENT REFORMS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHEUER. Mr. Speaker, today I voted against the conference report on the fiscal year 1986 continuing appropriations bill.

It would wipe out nearly all of the military procurement reforms in our original version of the legislation the House passed in June of this year, including: The revolving door employment reform; the application of competition and multiple cost sourcing for major weapons systems; and the use of the should cost estimating system.

The only procurement reform left in the bill is the so-called allowable cost amendment.

A combination of these four reforms would have put the Government in a far stronger, more effective position in business negotiations with defense contractors.

Assistant Air Force Secretary A. Ernest Fitzgerald has stated in testimony before the Joint Economic Committee, on which I serve, that we could cut our $100 billion procurement budget by $25 to $50 billion annually if we got our procurement process under discipline and control. We've blown it for this year.

This conference report also represents an increase of $4.8 to $11.1 billion, depending on whose figures you use, over the original House-approved level of fiscal year 1986 defense spending. This dramatic increase in defense spending comes at the expense of what is left of our frayed and tattered social services safety net.

While we cut the minimal funds still available to help the elderly, the poor, and the infirm, we continue to cater to the whims of the defense industry and those in the Pentagon who continue to insist upon gold-plated Cadillac-type weapons when simple Chevys would do.

By passing this bill while operating under the specter of Gramm-Rudman, Congress has chosen voluntarily to fall on its own sword.

Mr. Speaker, I am not denigrating my colleagues who served as conferees on this bill because I know how hard they fought to hold the line on defense spending. They did the best they could faced with tight deadlines and an unyielding Senate.

TENTH ANNIVERSARY OF THE ITALIAN-AMERICAN FOUNDATION DECEMBER 18, 1985

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. OBERSTAR. Mr. Speaker, the 10th anniversary of the Italian-American Foundation offered a unique opportunity to review the contributions Americans of Italian descent made to our great Nation and to give special recognition to some of our colleagues of Italian descent whose roles have been particularly significant. It was my great privilege to attend the October 19, 1985, foundation gala, during which I was deeply moved by the thoughtful comments offered by Congressman FRANK ANNUNZIO, founding father of the foundation, and Senator PETE DOMENICI, who served as master of ceremonies for the gala.

Congressman ANNUNZIO spoke from the heart and with only a sketchy, written outline about the contributions Americans of Italian descent have made to our country througout its history. It is virtually impossible to reconstruct the tenor of Representative ANNUNZIO'S comments because they were delivered with such warmth and depth of feeling, but at my request he has recreated that speech in condensed form and I include the remarks at this point in the RECORD:

ITALIAN-AMERICAN FOUNDATION 10TH ANNIVERSARY, REMARKS OF HON. FRANK ANNUNZIO.

The Italian story is literally the story of America, for from the very beginning of this Nation, Italian Americans have made monumental contributions to the greatness of America. Yes, the story of Italian immigrants is the story of America—and of their courage, enterprise, and loyalty, all given freely in the building of America's life and freedom, from the discovery of this continent in 1492 by Christopher Columbus, as well as from 1776 to the present time. The vast contributions made by Italians and those of Italian descent to the physical, intellectual, cultural, and spiritual development of this Nation are legendary.

Christopher Columbus discovered America. John Cabot explored the mainland. Giovanni D'Verrazzano discovered New York Bay. Filippo Mazzei, a close friend of Thomas Jefferson, inspired many of the ideas expressed in our Declaration of Independence. William Paca, the delegate from Maryland, signed the Declaration of Independence, and served as governor of Maryland.

Italians fought in the Continental Army during the Revolutionary War. They served with honor in the Civil War and again in the U.S. Armed Forces during each of the World Wars as well as in the Korean and Vietnam conflicts.

Charles J. Bonaparte was Secretary of the Navy and Attorney General of the United States. He created by executive order in 1909 the Federal Bureau of Investigation. Fiorello LaGuardia was elected Mayor of New York in 1933 after having served as a Congressman for 14 years. Enrico Caruso and Arturo Toscanini were legends in their own time.

Lee Iacocca, Chairman of the Chrysler Corporation, and Edward J. DeBartolo, Sr., Youngstown, Ohio businessman and sports magnate, Joseph Cardinal Bernardin, Archbishop of Chicago, A. Bartlett Giamatti of Yale University, Frank Sinatra, Joe DiMaggio, Rocky Marciano, whose heavyweight unbeaten record remains intact, Enrico Fermi, Benjamin Civiletti, former U.S. Attorney General in the Carter Administration, and the list of luminaries goes on and on.

One thing is certain—Italian Americans who now comprise 10% of the American population, have attained affluence, education, aspiration, and acceptance. They have contributed so much, but the challenge is still there for us today—as Italian Americans—to apply to our own America—with the same vigor and unity of purpose—those energies and that inspiration which have so often and for so long made Italy a center of civilization. By so doing, we will help to guarantee a new Renaissance of freedom and dignity that will continue to fulfill the American promise of hope to men of every nation throughout the world.

Let us now go forward with renewed vigor and enthusiasm to build on the firm foundation of a solid decade of accomplishment by the National Italian American Foundation. Let us pledge to each other tonight that we shall support the Foundation in its goal to create an endownment fund that will ensure that this organization shall continue in perpetuity.

We want to insure that this organization shall remain the watchdog over those who try to defame us, to cripple us and our children through guilt by association, innuendoes, and smear tactics. We have no room in America for these peddlars of lies and defamation. We are proud as human beings to enunciate the great heritage of America so that our children and grandchildren who follow us can be equally proud of a country that will ensure peace and tranquility for all eternity.

This is our goal—this is your goal—and together we shall accomplish this goal, not only for Italo-Americans but for all Americans, for we must continue to live in a society that will respect the dignity of all men.

The name PETER RODINO transcends ethnic lines because he represents the ideal of the immigration experience of America and because he represents integrity personified, integrity that reminded America throughout the Watergate era that the Constitution of this country stands above man, even when that person is the highest elected official in the land. The Italian-American Foundation has honored Chairman RODINO by establishing a legislative internship in his name, a program which will be administered by the Marianna Stango Rodino Foundation. Recipients will be awarded a 3-month internship of a congressional committee; eligible applicants will be Italian-American students from the State of New Jersey.

Senator DOMENICI perhaps best summed up Chairman RODINO's contribution to our constitutional system with these introductory remarks, which I ask unanimous consent to include at this point in the RECORD:

Peter Rodino is the only major figure in the Watergate hearings who didn't make a fortune writing a book. Congressman Peter Rodino was one of the founders of the National Italian American Foundation. And just today, he received the first of our association's public service awards which carries with it the first of our foundation internships which will be known in his name. It will be known as the Fiorello LaGuardia Internship and there will be many to follow but we are very proud that he is the first.

Because, indeed, in terms of our organization—what we stand for in our pride and our tremendous commitment to our country and our heritage—he is unequaled. One of the strengths of this great American system which somehow seems almost to be on the one hand accidential, on the other may be providential is that this political system has produced people of extraordinary talent who have happened to find their way to be at the right place at critical times. Such leaders have come from the most diverse of places and diverse of backgrounds such as Abraham Lincoln from a little town of Springfield, Illinois and Franklin Roosevelt from the aristocratic Protrun family of the Hudson Valley. In that tradition is Peter Rodino from Newark, New Jersey * * *.

Mr. Speaker, I consider it a great privilege to serve in the Congress with Chairman RODINO, Congressman ANNUNZIO, Senator DOMENICI, and 30 Members of Congress of Italian descent with whom I share the Italian heritage. I am also particularly pleased that the chairman and cofounder of the Italian-American Foundation, industrialist Jeno F. Paulucci, is a native of my northeastern Minnesota Congressional District. Jeno Paulucci has risen from the humblest of economic beginnings to make an enormous contribution to the economy of our northeastern Minnesota region and to the Nation as a whole. Still, he makes time to contribute his energies and creativity to the interests of the Italian-American Foundation and is one of the most persuasive and effective spokesmen for our ethnic heritage in this country.

I offer my congratulations to Jeno Paulucci, Congressman ANNUNZIO, and all the dedicated staff of the Italian-American Foundation in making this 10 anniversary celebration such a memorable event.

HOUSE FOREIGN AFFAIRS COMMITTEE—1985 A RECORD OF ACCOMPLISHMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FASCELL. Mr. Speaker, as the first session of the 99th Congress draws to a close, I would like to take this opportunity to inform the Members of the House of the activities during 1985 of the Committee on Foreign Affairs and its subcommittees.

Thanks to the hard work and bipartisan cooperation of the committee members we have compiled an outstanding record of accomplishment. We have met the goals we set for ourselves at the start of this Congress. Moreover, we responsibly dealt with the many unexpected and unpredictable events that developed during the year involving our nation's foreign affairs.

I am particularly proud of the fact that we enacted into law the first regular foreign aid authorization bill since 1981, including House passage of the conference report by a margin of more than 100 votes. This 2-year bipartisan measure authorized international development and security assistance programs necessary for American interests abroad. Other important initiatives in the bill included provisions for stronger antiterrorism assistance and airport security, strengthening of the international narcotics control effort, increased aid to anti-Communist freedom fighters' efforts, and enhancement of the Peace Corps.

Another major accomplishment was passage of the measure authorizing funds for the Department of State and U.S. Embassies abroad, U.S. Information Agency, and the Board for International Broadcasting. Other provisions in this bill included a U.S. scholarship program for undergraduate students from developing countries; authorizations for the Arms Control and Disarmament Agency; further strengthening of efforts to combat illicit drugs; strengthening of counterespionage efforts; measures to increase protection for foreign missions; and new arms control initiatives.

Early in the year we took the lead on emergency relief legislation for Africa famine victims which resulted in the saving of countless lives. We won House passage of an anti-apartheid bill which prompted Presidential restrictions on South Africa. We strengthened U.S. security through enactment of an improved Export Administration Act bill, and we helped promote U.S. international economic interests through the reauthorization of the Overseas Private Investment Corporation [OPIC]. We aided U.S. agriculture in our participation in the export and foreign affairs provisions of the farm bill, including extension of the Public Law 480 Food for Peace Program. We have passed resolutions extending the offer of assistance to Mexico and Colombia following the natural disasters in those countries.

Particularly significant and productive in 1985 was the committee's extensive activities in three key areas: arms control, antiterrorism, and antinarcotics. By way of sharing with my colleagues the wide range of accomplishments on those three subjects, I elaborate below the details of the committee's work.

ARMS CONTROL ACTIVITIES

Among the issues dealt with by the committee on the question of arms control were: The President's Strategic Defense Initiative [SDI] and antisatellite [ASAT] weapons policy; the United States-Soviet arms control negotiations, a committee-sponsored CRS study on nuclear arms control and seminars on the fundamentals of nuclear arms control; proposals to ban nuclear testing; preservation of SALT II and the ABM Treaty; and binary chemical nerve gas weapons. Much of the detailed work and initial effort in these areas was undertaken by the Arms Control Subcommittee.

ARMS CONTROL IN SPACE

As part of its series of hearings on arms control in space beginning in the 98th Congress and continuing into the 99th Congress, the committee examined the arms control, technical feasibility, and budgetary implications of the President's SDI and ASAT policy. Testimony was heard from former Secretaries of Defense Robert McNamara and Clark Clifford as well as the authors of a report describing the adverse arms control implications of United States and Soviet space defense efforts. From these hearings emerged the view that the ABM Treaty is fundamental to preventing an arms race in defensive systems and to averting the acceleration of the arms race in offensive systems. Moreover, the likely Soviet response to the SDI, as cited in a Pentagon SDI Report to Congress last spring, will be to build up their offensive forces to penetrate and overwhelm our upgraded defenses. These hearings have been published under the title "Implications of the President's Strategic Defense Initiative and Antisatellite Weapons Policy."

In October, the committee examined the administration's new interpretation of the ABM Treaty which would permit the development and testing of air-based, sea-based, space-based, and mobile land-based ABM systems and components based on new physical principles. Testimony was received from Gerard Smith, the negotiator of the ABM Treaty, and John Rhinelander, the legal counsel to the ABM Treaty negotiations. Both maintain that the 13-year longstanding interpretation of the ABM Treaty is the accurate interpretation of the Treaty and that from the negotiating record it is clear that the ABM Treaty prohibits the development and testing of space-based, etc. ABM systems and components based on new physical principles. At this same hearing, Ambassador Paul Nitze, Special Advisor to the President and the Secretary of State for Arms Control Matters, assured the committee that the policy of the President and the administration was to continue to adhere to the longstanding interpretation of the ABM Treaty.

In December, the Subcommittee on Arms Control, International Security, and Science, along with the Subcommittee on Europe and the Middle East and on International Economic Policy and Trade, explored in greater detail the influence of the SDI on our allies, in particular, the issue of technology transfer between the United States, our NATO allies, and Japan, as it relates to SDI.

Within the last few days, I have been particularly gratified by an action of the conference committee on the continuing resolution regarding ASAT. The decision to suspend United States-ASAT testing provided the Soviets do not resume their ASAT testing is a wise one. This is a practical arms control achievement that complements the Foreign Affairs Committee's efforts to avert an arms race in space.

Relatedly, I was also encouraged by the conference committee's decision to preclude funding for binary nerve gas weapons during fiscal year 1986. In this connection, I would emphasize that binary production after fiscal year 1986 will not be automatic, especially in the sense that going forward would be conditioned upon NATO approval and further review by Congress. My own views regarding the binary are unchanged: We should not fund a system that does not work, is not proven safe for our troops, which needlessly adds billions of dollars to the deficit, harms the NATO alliance, and undermines joint pledges at the summit to eliminate chemical weapons.

COMPREHENSIVE UNITED STATES-SOVIET ARMS CONTROL NEGOTIATIONS

As part of its effort to keep Members apprised and up to date on the status of the Geneva arms control negotiations, the committee received regular briefings by Ambassador Kampelman, the chief U.S. arms control negotiator, as well as the other negotiators, and from Ambassador Nitze, the President's arms control adviser.

In preparation for the November 19–20 summit between President Reagan and

Soviet General Secretary Gorbachev, I prepared a statement analyzing United States and Soviet arms control proposals tabled in Geneva with a chart comparing those proposals, and a summary of regional, human rights, and bilateral issues. The analysis and chart appeared in the November 13, 1985, CONGRESSIONAL RECORD on pages E5142–44.

After the summit, the committee was briefed by Secretary of State Shultz on what transpired at the summit.

NUCLEAR TEST BAN PROPOSALS

The committee conducted several hearings on proposals to bring an end to nuclear testing. After extensive discussion, the committee in May marked up and approved for floor action House Joint Resolution 3, legislation to prevent nuclear explosive testing. House Joint Resolution 3 urges the President to seek Senate ratification of two treaties that limit nuclear testing, and to bring negotiations on a comprehensive test ban treaty. With over 200 cosponsors, this resolution has widespread support in the Congress. These hearings are published under the title "Proposals To Ban Nuclear Testing."

NUCLEAR ARMS CONTROL WORKSHOPS

In 1985, the subcommittee sponsored a series of nine workshops on a wide variety of arms control topics. The workshops were held in conjunction with a year-long study by the Congressional Research Service on the fundamentals of arms control. The workshops were open to all Members of Congress. Some of the most notable personalities in the arms control field were invited to be guest experts and give presentations at the workshops. The workshops were organized to encourage more Members of Congress to become more actively involved in arms control matters.

1986 ARMS CONTROL AGENDA

In the second session of the 99th Congress, the Foreign Affairs Committee and the Subcommittee on Arms Control, International Security and Science will continue to examine this wide range of arms control and foreign policy issues. In the area of space arms control, we will further monitor and evaluate the arms control implications of the administration's SDI and ASAT policy. In particular, we will continue to urge the President to proceed with the SDI Program in full compliance with the ABM Treaty. The committee will also seek continued United States-Soviet compliance with SALT II.

In the area of United States-Soviet arms control negotiations the committee will continue to keep Members fully informed on the status of the Geneva arms control negotiations which are scheduled to resume on January 16. We will also keep Members informed of matters regarding the upcoming June summit between President Reagan and Soviet General Secretary Gorbachev. In this area, the committee will also assess legislation calling for tradeoffs between offensive reductions and defensive controls.

Concerning nuclear test ban proposals, the committee is prepared to take House Joint Resolution 3 to the floor of the House.

The committee plans to continue the arms control workshops in 1986 with the same informal, relaxed, and informative format followed in 1985. The workshops will focus on key problems in arms control with the general objective of improving the congressional role in the arms control policymaking process.

FOREIGN ASSISTANCE LEGISLATION ON ANTITERRORISM

The tragic events of the past year have reinforced the need to take effective action against the threat of international terrorism. The committee has responded by strengthening U.S. policy in a number of ways. As a result of our efforts, the foreign assistance legislation authorized an antiterrorism assistance program and prohibited assistance to countries supporting terrorism.

In the area of airport security, the bill provided for the suspension of air service to and from countries with inadequate airport security standards and puts in place a trigger mechanism which would result in mandatory suspension of foreign aid to countries with high terrorist threat airport facilities.

The legislation also urged the President to establish an International Antiterrorism Committee with a mandate to enhance international cooperation on terrorism and to serve as a crisis management mechanism during terrorist incidents.

MARITIME SECURITY

In addition, we are in the process of examining the status of international maritime security. The committee intends to see that the executive branch has the statutory authority to enforce adequate security standards and to ensure prosecution of those who commit acts of terrorism at ports and on the seas. We have also called attention to the need to review and revise extradition treaties and other bilateral and multilateral agreements so that prosecution of terrorists can go forward with due process.

DIPLOMATIC SECURITY

I would also bring to my colleagues' attention the committee's efforts to protect our diplomatic posts abroad from the threat of terrorism. The committee has carefully reviewed the recommendations of the Advisory Panel on Overseas Security, chaired by Adm. Bobby Inman. As appropriate, we expect to consider legislation necessary to implement these recommendations and intend to carry out thorough oversight of the administration's progress in this regard.

U.N. ACTION ON TERRORISM

On the multilateral front, I am pleased to report that on December 9 the United Nations adopted a landmark resolution which condemns all acts of terrorism as criminal. The Congress has been urging the United Nations to adopt such a resolution. The passage of this measure, which unequivocally condemns all acts of terrorism, is a first for the United Nations.

The resolution also provides for improving international aviation and maritime prosecution of terrorists an bringing domestic laws in conformance with existing international conventions.

ANTITERRORISM AGENDA FOR 1986

The frightening prospect of nuclear terrorism requires our immediate attention. We intend to conduct extensive hearings on the threat of nuclear terrorism and call on the International Atomic Energy Agency (IAEA) to pursue the improvement of safeguards of nuclear material and facilities in order to prevent terrorism against such facilities and to avoid the theft of nuclear materials by terrorists.

As mentioned above, we plan to work for full implementation of the Inman Panel recommendation in order to secure our diplomatic facilities to the maximum extent possible.

We intend to enact legislation establishing minimum international maritime security standards. As I have already stated, we are also looking at a tightening of extradition treaties and other measures involving international cooperation in the apprehension and prosecution of terrorists.

We will continue to press in every forum for the establishment of an International Coordinating Committee on Terrorism.

I will also continue to urge that the topic of international terrorism be included on the agenda of the upcoming June summit meeting.

In conclusion, the committee will continue to give high priority to the safety of our citizens from terrorist threats, as well as those Americans in the Foreign Service and the military who are serving our country's interests in high-threat areas. They surely deserve all the protection we are able to provide.

LEGISLATION ON INTERNATIONAL NACROTICS CONTROL ACTIVITIES

During 1985 the committee initiated major new legislation aimed at steming the production of illicit drugs overseas, and improving the management of U.S.-funded narcotics control programs. The foreign assistance legislation included the International Narcotics Control Act of 1985, which increased funding for overseas narcotics control, strengthened the requirement on suspending assistance to countries which have not taken adequate steps to control drug production and trafficking, and conditioned aid to certain countries on a demonstration of improved efforts in the anti-narcotics area.

The State Department authorization legislation also included provisions to improve the narcotics personnel system in the Department of State, directed appropriate Federal agencies to increase their cooperation and information-sharing on narcotics traffickers, and required the Secretary of State to increase his efforts to negotiate updated extradition treaties with major narcotics-producing countries.

In addition, the committee's Task Force on International Narcotics Control held exhaustive hearings and briefings on a wide range of drug-related issues, and met with

numerous leaders from drug-producing and drug transhipment countries.

U.N. ACTION ON NARCOTICS

The committee sponsored a meeting at the United Nations to meet with major drug-producing and drug transshipment countries to discuss ways in which multilateral efforts could contribute to more effective actions against illicit narcotics. The U.N. General Assembly subsequently approved the Secretary-General's call for a U.N. sponsored conference on international narcotics issues, as well as a proposal for a new international treaty on illicit narcotics.

INTERNATIONAL NARCOTICS CONTROL AGENDA FOR 1986

The committee will continue its oversight activities in 1986 on U.S.-funded narcotics control programs overseas in order to ensure that they are as effective as possible. We also intend to explore the increasing connections between narcotics trafficking and terrorism, and to continue our review of foreign government involvement in drug trafficking. And in an effort to ensure that all U.S. Government agencies are involved in the antinarcotics fight overseas, we will explore ways in which the U.S. Armed Forces can contribute to these activities through interdiction and intelligence-gathering.

We are also preparing a comprehensive handbook of narcotics-related legislation for the use of Members during the next session. I believe this is the first time that an effort has been made to gather in one place the major laws and international treaties governing illicit narcotics. I am sure that it will be useful not only to Members, but to U.S. Government agencies and law enforcement personnel as well.

In short, we will continue to search for ways in which we can fight the influx of illicit drugs from overseas, and to improve the coordination and cooperation of our Federal agencies in this effort.

THE PHARMACEUTICAL EXPORT AMENDMENTS OF 1986

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROYHILL. Mr. Speaker, I am pleased to join our colleagues, ED MADIGAN, JIM SCHEUER, PHIL SHARP, NORM LENT, and others in introducing the Pharmaceutical Export Amendments of 1986. It is vital that Congress consider this legislation as soon as possible.

The Federal Food, Drug, and Cosmetic Act prohibits the export of drugs which have not yet been approved in the United States, even to countries which have approved the drugs. Unfortunately, significant drug therapies are frequently approved abroad first. In 1980, the General Accounting Office reported that 13 of 14 important drugs it reviewed were approved by at least one foreign country before they were available in the United States.

When a drug is approved in a foreign country first, a U.S. drugmaker has only three choices under the present law: First, not selling the drug in the foreign country even though it has been approved there, until the drug is approved in the United States; second, manufacturing the drug in a foreign country with a loss of jobs in this country; or third, if the U.S. company cannot afford to build a plant overseas to manufacture the drug, which is the case for biotechnology companies and small pharmaceutical companies, licensing the technology to a foreign competitor with a loss not only of U.S. jobs but also of our technological advantage.

The Pharmaceutical Export Amendments of 1985 would permit the export from the United States of human and animal drugs and biologicals which are made in this country, but are not yet approved by the Food and Drug Administration, only to developed nations which have approved the drug. Mr. Speaker, it is time that we stop throwing U.S. jobs, and investment dollars away because of this unfair, senseless, restrictive policy. The Senate Committee on Labor and Human Resources has already approved a near-identical measure.

I urge my colleagues to support this legislation.

CZECH DISSIDENT REFUSES TO GIVE UP

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KEMP. Mr. Speaker, despite the repression suffered by citizens of Czechoslovakia, it is encouraging to note that flame of freedom still burns in the hearts of many Czechs.

I would like to bring to the attention of my colleagues an article which appeared in yesterday's Wall Street Journal about Anna Marvanova, spokeswoman for Czechoslovakia's human rights movement, Charter 77.

It is interesting to note that Charter 77 sent a message to the Budapest Cultural Forum and detailed the extreme repression practiced in Czechoslovakia in all cultural areas, particularly that of publishing. I applaud Anna and her colleagues for having the courage to continue the fight in the face of such tremendous obstacles.

CZECH DISSIDENT REFUSES TO GIVE UP

(By Ken Seigneurie)

PRAGUE.—Anna Marvanova, 57 years old, is an active member of Charter 77, Czechoslovakia's independent human-rights movement. Although in poor health, Mrs. Marvanova has been the group's spokesman twice and has taken part in the publication of some of its best documents. She was interviewed in her small flat.

How do you make your living?

I'm a retired journalist. I worked for 20 years at Prague radio and was chief of foreign broadcasts to underdeveloped countries until 1968. After 1968 I worked in a restaurant washing vegetables and then as a cleaning lady.

What did you do in 1968 to put yourself in disfavor with the authorities?

We refused to make broadcasts declaring that our government had invited the Warsaw Pact forces into the country.

Is your case unusual?

The Czechoslovak Communist Party purged 500,000 people in the aftermath of 1968.

Most of these people, as I understand it, have led quiet lives since then. You, on the other hand, have been at the forefront of the human-rights movement and have suffered greatly for it. You've been in police custody in countless occasions; you've seen your children's careers and personal lives disrupted, not to say ruined. Why didn't you just keep your beliefs to yourself after 1968—buy yourself a little house in the country and garden on the weekends—instead of drafting Charter 77 documents?

My father taught me to read and to think. He was a member of the party—I was, too, until 1968—but he respected the truth beyond all else. He taught me to think critically, to ask the embarrassing question.

For example, how can I accept the notion that there are two kinds of nuclear missiles and that only Pershings are bad while SS-20s are good? It should not be possible to let such a lie be passed off. Somebody has got to say something about it.

Charter 77, the oldest human-rights movement in Eastern Europe, is sometimes said to be falling into a "ghetto existence," that is, tolerated by the authorities as long as its activities and documents remain isolated. The chartists, in turn, the thinking goes, "oblige" the authorities by not seeking to become a popular movement. Is there any truth to this speculation?

First, you speak of the Charter as if it's supposed to be in opposition to the government. It's not. Political power has never been an aim of the charter movement. Its signatories want only respect for human rights.

As for the Charter's "ghetto existence," we don't want that—closed societies are ghetto enough if you ask me. The work of the charter goes on. It's the authorities' reaction that changes. In 1982, my first year as spokesman, I was summoned to the police station at least once a week from 8 a.m. until 1 p.m. for the first six months of the year. In 1983 I was again spokesman but the police left me alone. How do you explain that?

If the Charter rejects banishment to the ghetto, are there any plans to reach a wider audience?

That's something the police would like very much to know as well.

What keeps people from joining?

Fear. They are afraid for their jobs, their standard of living and for their children's opportunities in life.

Is there anything that can be done to attract people to the movement in spite of the consequences?

There are now about 1,300 signatories to Charter 77. If we wanted sheer numbers, we could probably get more, but that's relatively unimportant.

A young man came to me not long ago asking to sign the Charter. He was a student. I told him, "Finish your studies first." He'd have certainly been expelled from the university for signing and then he'd have been given a job cleaning sinks and toilets. . . . In fact, even if he decides later not to sign, he can still contribute greatly to the human-rights movement by being an active sympathizer.

What can be done in the West to help the human-rights movement in Eastern Europe?

Without a doubt, official contacts with Charter 77 and other human-rights representatives is the most important help we can get. Recently, we have had visits by foreign ministers of both Britain and France. both of these diplomats made an effort to see Charter signatories. . . . These meetings do not go unnoticed by the authorities. Public opinion is important to our government and the mere fact that a foreign diplomat wants to meet with us implies that we are a legitimate movement.

What do you think is the greatest threat to independent thought in Czechoslovakia today?

The indoctrination of children. today, the average 20-year-old has only a vague idea of what happened in 1968. Even [older people] are terribly uninformed about the recent history of their own country.

The schools teach children a "history" that never existed. As a result, the nation is losing its memory.

THE LEADERSHIP OF JOHN W. McCORMACK

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. JACOBS. Mr. Speaker, our former colleague, James Quigley has given a fine biography of our dearly departed former Speaker of the House, John McCormack. It is right that it be recorded for history.

(By James M. Quigley, President of the Association of Former Members of Congress)

I am pleased and proud to be here. It is an honor to be inivited to be part of this evening set aside to remember John McCormack.

I suspect that many, perhaps most, of you knew John McCormack longer and better than was my privilege. My association with him was in the Congress of the United States. All the time I served in the House, John McCormack was my leader. That is the way I think of him and remember him. Yet that view provides only a snapshot of his long and distinguished career.

John McCormack had served in the U.S. House of Representatives 26 years before I got there and he served for another 10 years after my constituents qualified me for membership in the Association of Former Members of Congress. When I was a freshman Congressman, John McCormack had already served as House Majority Leader for over a decade. And his career as Speaker did not begin until two years after I left the House.

All of this may suggest that, if this were a court of law, objections might well be heard that your speaker this evening is not qualified to testify as an expert witness on the life and career of John W. McCormack. Having come this far, I can only hope that the ruling from the bench might be, "let's hear what the witness has to say and we'll let it in for what it is worth.

I can begin by testifying to the truth that, for all practical purposes, John McCormack's entire career was in politics. As a young man before and after World War I he practiced law, but I suspect that even then his mind and heart were in politics. When he was elected to Congress at the age of 36 he was already an experienced legislator; having served two years as a state representative and four years in the Massachusetts State Senate.

John McCormack ran unsuccessfully for Congress in 1926. That statement is technically correct but not accurate. That campaign was only unsuccessful in the sense that he did not win. But John McCormack conducted himself with such impressive civility during the campaign and after his defeat that it all but assured his election to the House 18 months later when the incumbent Congressman died.

As I hope to be able to demonstrate, the fact that John McCormack went to the Congress in 1928 was a highly determinative factor in his career. Had he been first elected to the House in 1930, his career, might have taken a different path. I am certain this would have been true had he not become a Congressman until 1932 or '34. We might still be here paying tribute to him but remembering him, perhaps, as the Mayor of Boston or Governor of Massachusetts rather than as Speaker McCormack.

I can testify further that John McCormack's political career was in the House. As he himself put it, "My life was in the U.S. House of Representatives. I was a legislator, and mightly proud of the fact. That was the life I loved."

And thanks to the appreciation and good judgment of his constituents, not to mention a strong Democratic party organization, John McCormack was able to live that life and pursue that love from 1928 until he retired in 1970.

The 42 years he served in Congress represents approximately ⅛ of our history as a nation. And what a slice of history it was. John McCormack came to the House a year and a half after Lindy flew to Paris. Thirty years later, in the wake of sputnik, McCormack was the chief sponsor of legislation which created NASA and established a House Committee on Science and Astronautics. It was my privilege to serve with him on that committee as we set about laying the foundations for what ultimately became this nation's very successful ventures into space.

From Lindy to walking on the moon suggest the size of the frame that encompassed this man's remarkable career. When John McCormack first came to Washington, Herbert Hoover was about to replace Calvin Coolidge in the White House and both houses of the Congress were firmly in the hands of the Republicans. All indications were that this was a situation that could only endure.

Question: What if it had? What would John McCormack's career have been? Would he have remained in the House indefinitely? Or would he, chafing under seemingly perpetual minority status, ultimately decide to run for mayor or governor or the U.S. Senate or, might we be remembering him tonight as Judge McCormack? In my lifetime I have watched scores of Congressional careers turn, for better or for worse, in such directions.

We know that this did not happen to John McCormack. This was not his fate because shortly after he arrived in the House of Representatives a revolution happened and the young Congressman from Massachusetts was quickly caught up in it. His life and the nation's would never be the same.

John McCormack was in Congress for less than 13 months when the stockmarket crashed and the fuse was lit on a political bombshell. The first shock wave was felt in the midterm election of 1930 when the Democrats took control of the House. It was not fully understood at the time but this was the beginning of one of the nation's historic political realignments. With F.D.R. in 1932 the Democratic tide became a tidal wave. The Democrats kept increasing their House seats in each subsequent election. By 1936 the ranks of the Republicans in the House had been reduced to a corporals guard of just 89 members.

Having only eighty-nine Republicans meant one thing: an awful lot of Democrats on the other side of the aisle. Many of these new members never expected to find themselves in Congress. Very few had any legislative experience. Those that did were mostly from the South.

Looking back, it is obvious why John McCormack would at this point in time become one of the small cadre of leaders who would form the power structure in the House for the next generation. McCormack's unique qualifications were abundant. He was an experienced, intelligent, legislator from the North. He came from and had an understanding of big city organization politics. And, on top of all this, he was a good Catholic and a true progressive in a group that was basically Southern, Protestant, and conservative.

In ways that will never be known, John McCormack through all of his years in the House, served as a bridge between the poles that divided the Democrats. It was often a thankless job, one frequently not understood and one which all too often invited criticism of him from all sides. He rode out many a storm. But he loved it. He was a legislator. He knew that compromise is the essense of the legislative process.

In ways large and small, John McCormack helped shape much of the legislation that changed this nation and the world. The legislation that created much of the New Deal, the Fair Deal, the New Frontier, and the Great Society worked their way through the Congress when John McCormack was either the House Majority Leader or its Speaker.

For 30 of his 42 years in Congress, John McCormack was a leader in the House. From 1940 on, except for the 4 years—during the Republican controlled 80th and 83rd Congresses—he served as House Majority Leader. In 1962, he was elected Speaker of the House. McCormack's span of leadership covered the years of World War II; the Marshall Plan; setting up the United Nations. He served through the Cold War with its varying temperatures; Korea and McCarthysim to detente. His hand was on the Congressional tiller as the nation moved through the turbulent waters churned by the Warren court, the Civil Rights movement, and as the nation moved into and began to move out of Vietnam. I submit that any nation that could work its was through that agenda has an element of greatness. And the one national leader who was there helping America work its way through it all was John McCormack. He also had an element of greatness.

It was a greatness that was not always readily apparent. John McCormack's role as a national leader is both underestimated and unappreciated. It is likely to remain that way. The explanation for this contradiction is bound up in a combination of two things: personalities and geography.

John McCormack served in Congress under F.D.R., Truman, Ike, Jack Kennedy, Lyndon Johnson, and Richard Nixon. Whatever the merits or demerits of their respec-

tive administrations, all of them were Presidents who knew how to use the "Bully Pulpit" that is the White House and each, in his own way, managed to pretty much dominant events in Washington.

It was also John McCormack's fate to have been Majority Leader in the House during the years when Sam Rayburn was Speaker. Rayburn served longer as Speaker than anyone in history and in the process managed to put his imprint on the job. Speaker Rayburn may not have dominated events in Washington, but he clearly was a dominate force in the House of Representatives for a full generation.

Last, but not least, on the matter of personality was the fact that John McCormack served all but the last two years of his Speakership during the presidencies of John Kennedy and Lyndon Johnson. Both strong personalities. Kennedy was a master of the media and Lyndon was a past master of the legislative process. As a consequence, credit for the much legislative accomplishments of the early and mid-sixties tended to be given to—or grabbed by—the White House. In all candor, this process was enabled by the fact that up on Capitol Hill the leadership was in the hands of two quiet Irishmen, Mike Mansfield on the Senate side and John McCormack in the House. By training and temperament both were deferential gentlemen not given to hogging the spotlight.

And then there was the matter of geography. The reality is that John F. Kennedy and John W. McCormack both happened to come from Massachusetts. In this auditorium and to this audience, I do not have to dwell on the tremendous impact that J.F.K's life and death had, not just on this city and this state, but the entire nation and much of the world. A thousand years from now students and playwrights may still be combing through the ruins of Camelot seeking meaning and purpose and reason for that brief moment in history. They are not likely to be doing the same with the long, productive career of John McCormack. And to all of that I can only recall President Kennedy's sage observation; "Life is not fair."

And mentioning fairness, causes me to remember the criticism that was directed at John McCormack as House Speaker. At the bottom much of that criticism seemed to be that he wasn't Sam Rayburn. And he wasn't! And that he didn't run the House the way Rayburn did. He did not! Nor has anybody. Nor is anybody likely to ever again. Check with Carl Albert and Tip O'Neill to verify this new reality.

Once again a revolution has occurred. The House of Representatives is a dramatically differenct institution than the one in which I served a generation ago. It was then an institution sorely in need of change. It is now an institution that many believe has changed much too much for its own and the nation's good.

Not unlike Pope John the 23rd, John McCormack sensed the need for change in an institution he loved. In 1958, the youner liberal Democratic House members brought into being something we called "The Democratic Study Group". Ostensively the role of the new organization was to inform its members about issues and to study ways by which the House could be made to operate more efficiently. Its founders had other goals in mind and I, for one, am sure that John McCormack sensed what they were. From the beginning, the Democratic Study Group had McCormack's left-handed blessing and during his speakership it more and more became involved in the process of change that has been the hallmark of the House for the last 25 years. Just how involved is demonstrated by the fact that in 1977 Tip O'Neill, one of the charter members of the Study Group, was elected Speaker of the House.

It is fair to say that as Speaker, John McCormack underestimated the momentum for change that was finally unleashed after 20 years of being under Sam Rayburn's tight reign. He was not alone in this regard. When John McCormack became Speaker in 1962, he was seventy-one. A wild decade of sit-ins, demonstrations, riots, and assassinations was about to burst upon us. Men half McCormack's age failed to sense the velocity of the winds of change that were about to sweep through our country and all of its institutions, including the government.

There was one other possible flaw in John McCormack as Speaker of the House. John could be kind, fair, and considerate and that's exactly what he was 99% of the time. But, boy, could John be partisan! Many a time during his 18 years as his party's leader he would go into the well of the House and deliver one of his stem winders, a powerful speech which would not only stem the tide of opposition but roll it back. this was a wonderful ability for a Majority Leader but it may have handicapped him as Speaker.

A final note. One of life's most difficult decisions is knowing when to get off stage. In show business there is always the urge to sing one more song, tell one more joke. In sports it is the temptation to play one more season, fight one more fight. In politics there is always the lure to run for one more term. With the benefit of 20/20 hindsight it might have been better if John McCormack had resisted that lure. In any case, his was a long and distinguished career, his was a lifetime devoted to public service.

Maybe the hardest decision of all is knowing when to end a speech. So let me conclude by confessing that as I look back on my own unplanned and less than distinguished career, the most satisfying years were the ones spent in public service. I am proud to have been part of the Kennedy Administration. I can say the same about my Johnson years. But most of all I am proud of having had the privilege of serving in the U.S. House of Representatives. It was there that I knew John McCormack. I benefited from his friendship and leadership. So did our country.

IMPROVING CHILD SUPPORT ENFORCEMENT

HON. JOHN H. CHAFEE

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Thursday, December 19, 1985

● Mr. CHAFEE. Mr. President, I am pleased to cosponsor and lend my fullest support to S. 1889, a bill to prevent the discharge of certain child support debts.

This bill represents another long stride toward ensuring that child support obligations are met. By closing a loophole in bankruptcy law which allows some absent parents to escape their financial responsibilities, it caps recent congressional actions to tighten child support enforcement.

Last year, as part of its amendments to Federal bankruptcy law, Congress broadened the category of child support obligations that may not be dismissed in the event of bankruptcy. This change has afforded much-needed protection to many children of absent parents.

Simply through oversight, however, the bankruptcy amendments did not extend this protection to cases in which a child support debt is established through administrative—as opposed to judicial—proceedings.

This bill aims to correct that oversight, thus closing a loophole which seriously undermines child support enforcement.

Sixteen States now use administrative proceedings to establish child support debts. Other States are being encouraged to follow suit, in order to reduce costs and lighten overloaded court schedules.

If we do not adopt this measure, more and more children will be left unprotected as a growing number of States adopt administration process, an efficient and cost-effective means of securing child support. In addition, by allowing this loophole to persist, we will inadvertently deter States from taking this step.

S. 1889 would protect children in all States—even in those that have not yet adopted administrative process. Many such children are covered under the administratively ordered child support arrangements of neighboring States. This bill would ensure that these children as well are provided for in the event of bankruptcy.

Mr. President, Congress last year took a giant step toward better child support in adopting a series of amendments to the Federal child support enforcement program. This bill would cap those efforts by giving administratively ordered child support obligations the same protection that court-ordered obligations now enjoy. For that reason, I urge my colleagues to give this proposal their overwhelming approval.●

TRANSPORTING MILITARY PERSONNEL SAFELY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. VISCLOSKY. Mr. Speaker, I wish to bring attention to an excellent point made by my colleague from Indiana, ANDREW JACOBS, JR., regarding the need to improve safety in transporting our military personnel. I am submitting an article from the Indianapolis Star in order that my colleagues in the House may consider this fine idea.

[From the Indianapolis Star, Dec. 19, 1985]

JACOBS URGES MILITARY NOT TO USE CHARTERS

WASHINGTON.—Rep. Andrew Jacobs Jr., D-Ind., proposed Wednesday to Secretary of Defense Caspar Weinberger that loss of life in chartered airline crashes could be avoided if the Air Force were to fly United States military personnel.

Jacobs recalled being a 19-year-old Marine going to Korea in 1951 aboard a privately owned World War II victory ship.

"The contractor made the unjust portion of his profits by virtually feeding the Marines nothing at all for two weeks," Jacobs said.

"That outrage was one of the principal reasons I ran for Congress the first time . . . I thought that if I could go to Congress I might be able to find that contractor. I never did find that contractor, but I believe I heard from his shirt-tail cousin in the crash of the contractor's airplane in Canada and the unnecessary death of our young soldiers," the congressman said.

Jacobs observed that, considering the size of the federal deficit and outlay for defense, the country should have enough military transport places with pilots in need of regular flying time.

"It is quite clear that our own military personnel have major incentives to do proper maintenance on our own military aircraft. It is equally apparent that these fly-by-night contract airlines do not," he said.

"Surely, it is time to adopt a safer policy for our young men in uniform."

ARTHUR SCHLESINGER ANALYZES FUTURE OF THE PHILIPPINES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MILLER of California. Mr. Speaker, the continuing deterioration of the Marcos regime in the Philippines offers a textbook example of how U.S. foreign policy strategy repeatedly places this Nation at variance with popular anger toward governments which are vicious toward their own people, while amiable toward Washington.

Past administrations have followed the same sadly mistaken course now pursued by President Reagan toward the Marcos government. This myopia knows no ideological or party limits. In each case, it has pushed America toward an unholy alliance with an unloved dictator whose preeminant attribute is his undiminishable affection for American weaponry and dollars.

The embarrassingly bogus trial of those accused of murdering opposition leader Benigno Aquino demonstrated "justice, Marcos-style." In a few months, in all likelihood, we are going to be treated to "elections, Marcos-style." As the commission which just returned from Manila has reported, there is a slim possibility that the forthcoming elections will afford Filipinos an opportunity to demonstrate their attitude toward the Marcos government. More likely, the election will supply the veneer of democracy that Marcos desperately is seeking to dilute growing condemnations of his rule.

Of course, the elections are flawed by their very nature. If they were truly free and open, they would obviously violate a cardinal axiom of the political absolutism by which Mr. Marcos rules: Never yield power. Respect for that axiom is why Mr. Marcos has declined to vacate the presidential office, as required by the constitution, prior to the election. It is highly unlikely that Mr. Marcos will permit any outcome which threatens to disrupt his authority.

We in the Congress must keep in mind that the election in February will not seriously address the complex problems which are endangering the future of the Philippines as a democratic nation and an important ally of this country. If the growing insurgency of the New Peoples Army represents a threat to those goals, so, too, does the continued stewardship of Marcos. Yet after years of propping him up, there is little the United States can do at this point to change either his policies or the leadership of Philippine politics.

The distinguished historian Arthur Schlesinger, Jr., of the City University of New York, has recently reviewed with his typical astuteness the dilemma which now confronts the United States with respect to the future of the Philippines. I would like to share Professor Schlesinger's insights with my colleagues on this subject, which certainly will be one of the key issues in our own foreign policy in the new year.

[From the Wall Street Journal, Dec. 18, 1985]

SEND MARCOS PACKING

(By Arthur Schlesinger, Jr.)

There is a certain grim irony in the vacillations of the Reagan administration as it confronts the decomposing Marcos regime in the Philippines. Only five years ago during the presidential campaign, Mr. Reagan and his neoconservative intellectuals condemned President Carter for abandoning our great "friends" the shah of Iran and Anastasio Somoza and in consequence "losing" Iran and Nicaragua. The implication was that a stronger president would have pursued tougher policies and that these policies could easily have preserved those wonderful friends of the U.S.

A conservative administration in Washington, the argument ran, would never have undermined pro-American regimes by insistence on human rights, social reforms, a peaceful transition to democratic government and other such sentimental nonsense. It would have given these friends of America unconditional support and would have done whatever was necessary to rescue them. If only there had been a Republican president, the shah and Somoza would still be in power, and their countries would still be in the Western camp.

BY NO MEANS CLEAR

This line of argument raised questions, then and now. Assuming for the moment that it might have been in the national interest of the U.S. to preserve thieving despots in Iran and Nicaragua, it is by no means clear that it lay within U.S. power to do so. Rhetorical assistance will not do it. Mr. Carter tried that, congratulating the shah in 1977 on "the admiration and love which your people give to you" and praising Somoza as late as 1979 for his progress on human rights. Military assistance will not do it. The U.S. sold $19.5 billion in arms to Iran from 1972 to 1979, and Somoza's National Guard never languished from lack of weapons.

We always overrate the capacity of the U.S. to shape the destiny of other countries. The balance of internal forces generally decides the future of nations. If President Carter had never opened his mouth on the subject of human rights, the shah and Somoza would have fallen all the same. It seems most doubtful that any U.S. policy short of military occupation could, have saved them. And one wonders whether it serves long-term American interests for the U.S. to intervene militarily in other countries in order to protect hated regimes against the wrath of their own people.

These questions remain speculative in relation to Iran and Nicaragua. But the Reaganite assumption that there was an easy alternative to the Carter policy now comes to the test in the Philippines. For Ferdinand Marcos is in the same position today that the shah and Somoza were in during the late 1970s. This surely is the time for those brave solutions that, according to neoconservative myth, Mr. Carter so softheadedly rejected a few years back. Instead, one finds the Reagan administration pursuing the same policy toward the Philippines that the Carter administration pursued toward Iran and Nicaragua.

Ronald Regan, like Jimmy Carter, began with an effort to reform a disintegrating regime by fulsome rhetorical blandishment. This is the famous policy of "constructive engagement" with repressive governments. Vice President George Bush declared that he loved President Marcos for his "adherence to democratic principles." President Reagan said in last year's presidential campaign that the choice was between Mr. Marcos and "a large communist movement to take over the Philippines." Mr. Marcos naturally interpreted such tender words not as a signal to change his ways but as a license to intensify his course of domestic plunder and repression.

But the more his men have harassed and murdered political opponents, the more money they have stolen from their country, the stronger the opposition has become. As disintegration continues, the Reagan administration, like the Carter administration before it, is changing its course. Now we are urging on Mr. Marcos the need for human rights, social reform and a peaceful transition to democratic government. Mr. Reagan today is duplicating in the Philippines the policy for which he so righteously denounced Mr. Carter in the cases of Iran and Nicaragua.

He is doing so because he has no more real choice in 1985 than Mr. Carter had in 1979. He is learning now what Mr. Carter learned then: that there is no virtue in tying the U.S. to a despotic regime doomed to collapse. The course of unconditional commitment to unpopular despots is not likely, in the absence of military intervention, to save the despots—and it is quite certain to alienate the inevitable successor regime and in the meantime to strengthen Marxist revolutionaries.

Can reform pressure salvage the situation? The best hope in the Philippines would be the orderly transfer of power to the moderate opposition. So the U.S. is calling on Mr. Marcos, as President Carter called on the shah and Somoza, to do things that, if he carries them out, will destroy the

bases of his power. It would be foolish to count on Mr. Marcos to collaborate in bringing about his own downfall. His interest lies not in strengthening the moderate opposition but in destroying it. His hope lies in polarizing the nation so that he can present himself as the only alternative to communist takeover.

Mr. Reagan, like Mr. Carter before him, is impaled on a dilemma. The longer he waits in the vain expectation that Mr. Marcos will voluntarily undertake reforms and relinquish power, the more radicalized the situation will become and the less likely it is that the moderate opposition will inherit. Mr. Carter waited too long in Iran and Nicaragua. The democratic alternative, such as it may have been, melted away, and we were left with Ayatollah Khomeini and the Sandinistas.

But what can we effectively do to help the democratic alternative in the Philippines? Secretary of State George Shultz in London the other day delivered a paean in praise of covert action. By this he meant aid for guerrilla bands in Nicaragua, Angola, Cambodia and Afghanistan. Actually the history of covert action shows that it has had its enduring triumphs when employed for political rather than for military ends—not to kill communists but to support democrats, as in Western Europe in the late 1940s.

There is not much the U.S. can do to control the destiny of the Philippines. The moderate opposition, though it has finally agreed on a ticket in the presidential election, has not shown much unity of purpose so far. But it does enjoy widespread popular support. The U.S. should distance itself even more unequivocally from the Marcos disaster and do what it discreetly can to help democratic Filipinos make a strong showing in the elections that the regime at this very moment is planning to rig against them.

EXPLOITED FAVOR AND AID

I trust we will not be diverted from a realistic course by talk about how much the U.S. "owes" to Mr. Marcos. Talk about sentimentality! Mr. Marcos has never sacrificed his own interests to help the U.S., anymore than the shah and Somoza did before him. Like the shah and Somoza, Mr. Marcos has systematically exploited the favor and aid of the U.S. to amass personal power and wealth. Rep. Stephen Solarz's House Foreign Affairs Subcommittee on Asian and Pacific Affairs is documenting this point in its current hearings. As The Economist crisply puts it, "The only aid (or 'rent for a base') that should be given to people like Mr. Marcos is a one-way ticket to an anti-assassin-guarded holiday resort."

It has taken the Reagan administration a long time to learn the lesson the Carter adminstration learned so painfully about the unprofitability of trying to prop up doomed despots. As the Reagan people begin to learn the lesson in the Philippines, one hopes that they will apply it in other parts of the world.

There is every indication that Gen. Augusto Pinochet in Chile stands today about where Mr. Marcos stood in, say, 1983. Constructive engagement will not reform Gen. Pinochet any more than it did Mr. Marcos. Effusive words will only encourage him in a course of repression. Let us move to divorce the U.S. from the brutal dictator in Chile before the situation is hopelessly radicalized and while there is still time for a democratic alternative to emerge.

THE AMERICAN PEOPLE WILL ALWAYS SUPPORT FREEDOM FOR THOSE WHO ARE OPPRESSED

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KILDEE. Mr. Speaker, I would like to express my personal outrage over the Government of South Africa's apparent refusal to allow a message of freedom from more than 1,000 citizens of my district into their country.

Several weeks ago, I joined with many of my colleagues in obtaining the signatures of concerned Americans on a letter expressing our outrage over the system of apartheid in South Africa and our dedication to seeking an end to that abhorrent practice. This freedom letter was to be personally delivered to the South African Anglican Bishop Desmond Tutu and the people of South Africa by the Free South Africa Movement. But the South African Government has been unwilling to act on visa requests by anyone who is planning to deliver the freedom letter. Over 50 United States citizens have volunteered to deliver the petitions to South Africa. However, none of them have been able to obtain the required visas to enter the country. Bishop Tutu has now decided to come to the United States to accept the freedom letter petitions in Washington, DC, in front of the South African Embassy on January 8, 1986.

Regardless of how hard the Government of South Africa tries, it will never be able to isolate its immoral policies from the scrutiny of world opinion. The policy of apartheid in South Africa has resulted in unbelievably cruel, repressive, and inhumane acts by the South African Government against the overwhelming majority of the South African people. Such state-perpetrated activity is in direct conflict with the ideals of self determination and personal freedom which we Americans hold dear. The American people will always support freedom for those who are oppressed, including those in South Africa.

GE BRINGS GOOD THINGS, FOR GE, TO LIFE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROWN of California. Mr. Speaker, three events this past week, not at first glance obviously related, reveal the unfair and destructive fiscal policies of the Reagan administration:

General Electric's purchase of RCA;

Congressional passage of the Deficit Control Act of 1985 (the so-called Gramm-Rudman-Hollings bill); and

The House passage of the Tax Reform Act of 1985.

The GE purchase of RCA illustrates in microcosm the unfair fiscal policies of the Reagan administration. Citizens for Tax Justice has found that in the 1981, 1982, and 1983 tax years GE paid no taxes, and in fact received some Federal tax refunds. In 1984 it paid some taxes, but for the 4-year period the Government owed GE $98 in tax refunds. Had GE been taxed at the pre-1981 tax rates it would have paid about $4.5 billion in taxes instead of receiving refunds. By taking advantage of accelerated depreciation rates, purchase of tax losses by other businesses and other tax credits, it was able to accumulate nearly enough cash for the purchase of RCA.

Such tax preferences are unfair both to ordinary taxpayers and to other corporations. Salaried taxpayers, who usually cannot participate in such attractive benefits, have in effect made a direct transfer payment to GE for its RCA purchase—it's unfortunate that they cannot be part owners. Furthermore, other companies such as Whirlpool, a corporation with similar product lines similar to GE, paid 42 percent of its profits in taxes during the same period.

It is not clear that the GE purchase will increase jobs, capital spending for new equipment, or productivity. In fact Citizens for Tax Justice has shown that GE, again contrasted with Whirlpool, invested very little in capital equipment during the 1981–84 period. A merger, of course, will cost jobs over the near term where there is considerable duplication between GE and RCA. The long term remains unclear.

GE's purchase has been made possible because of the Reagan administration's tax cuts of 1981 which permitted the generous depreciation allowances and purchase of "tax losses" from other companies.

These tax benefits combined with greatly increased defense spending (from which GE, a major defense contractor, has benefited) has created record annual Federal budget deficits, more than three times larger than the largest deficits in the Carter administration, and his doubled the total Federal deficit from $1 trillion to $2 trillion in the 5 years of the Reagan administration. To the extent that present taxpayers have not paid for the GE/RCA merger, future taxpayers will have to by paying on the budget deficit.

In turn, record deficits, used to date with destructive effect on domestic programs, have forced on the administration and Congress the need for deficit reduction measures passed this week in the form of the Deficit Control Act. This bill, agreed by all, including most of its supporters, to be bad legislation, is certain to create more chaos in fiscal planning and to provide further excuses to cut many domestic programs. Congress and the administration have spent most of the past year wrangling over budget matters, and the Deficit Control Act seems certain to intensify such debates in the future to the exclusion of consideration of other legislation for the welfare of the country.

Funds for cities, education, scientific research, the Nation's infrastructure, health care, environmental and workplace health protections will be under tremendous budget cutting pressure. We should note where these funds will have gone should the domestic budget cutting occur: for military spending and for tax loopholes such as those of which GE took advantage.

Finally, the above facts indicate the desperate need for legitimate tax reform to correct entrenched unfairness, as well as more recent inequities created by the administration. The House Ways and Means Committee found that 3,000 millionaires paid no taxes in 1984 and half of the largest and most profitable corportions in the country paid no taxes in at least 1 of the last 4 years. The present tax bill which just passed the House is a considerable improvement on the status quo. But whether its virtues will survive Senate consideration remains to be seen. Let us hope the worst loopholes stay closed and some measure of equity, so flagrantly outraged by the tax preferences from which GE profited, is brought into the Tax Code.

Although events of the last week are of greater moment than "Death Valley Days," GE does bring good things, for GE, to life.

MRS. MAYBELL VINCENT, 94-YEAR-OLD TRENTONIAN SEWS, CANS, QUILTS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. JONES of Tennessee. Mr. Speaker, I rise today to share with my colleagues what I think is an inspiring story. It recently appeared in the Trenton Tennessee Herald Gazette. It is about Mrs. Maybell Vincent. She is 94 years old and she is blind.

Despite her handicaps, she makes aprons, pillowcases, and has quilted eight quilts since the spring of this year. She cans her food, cleans, cooks, and washes herself. I think all of those things are remarkable for a woman of her age and even more remarkable when we consider that she is also blind.

Mrs. Vincent is an excellent example of someone who has determined that she is going to care for herself. She even tells representatives of the Gibson County Department on Aging that there are others that need help more than she does. I want to take this oppportunity to insert in the RECORD the story about Mrs. Vincent and hope that my colleagues will share with me great pride in what this American has accomplished and continues to accomplish.

BLIND SINCE AGE SEVEN—94-YEAR-OLD TRENTONIAN SEWS, CANS, QUILTS

It's an amazing phenomenon that Mrs. Maybell Vincent makes her own clothes on a sewing machine. She makes aprons, pillow cases and has pieced 25 quilt tops and quilted eight quilts since spring of this year. She cans her food, prepares food for the freezer, she cleans, cooks and washes for herself and prefers to hang her clothes on the line rather than using her dryer.

Why is this so unusual? Mrs. Vincent is 94 years old and has been blind since she was seven.

Lana Robinson, social service outreach coordinator for Gibson County Dept. on Aging, said she has visited and assisted Mrs. Vincent on several occasions, offering the department's services. "Mrs. Vincent feels that there are other senior citizens who need the homemaker and nutrition service more than she does," the coordinator said. "Her general health is excellent, and she takes no prescribed medication," she added.

Mrs. Vincent grew up near Birmingham and moved to Trenton in 1961. She has a stepdaughter and a stepson who live in Michigan.

She has traveled extensively and appeared on the Grand Ole Opry several times with the Carter Family. She is a member of the Church of God of Prophecy on Factory St. in Trenton where she attends services regularly.

Mrs. Vincent said she has to keep moving to keep her muscles active, because if she gives up, she woud not last long.

She is truly a remarkable woman.

BITTER HARVEST II: A STATUS REPORT ON THE NEED FOR EMERGENCY ASSISTANCE IN AMERICA

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHEUER. Mr. Speaker, as the business of this session draws to a close and Members of Congress prepare to return to their respective homes for the holidays, we would do well to remember those in our society who are hungry and have an urgent need for nutritional assistance.

Earlier this week, the Food Research and Action Center released a report entitled "Bitter Harvest II: A Status Report on the Need for Emergency Food Assistance in America." This report clearly demonstrates that the number of Americans in need of nutritional assistance has increased under the policies of this Administration. One can only wonder how these individuals will fare under the bitter fruit of Gramm-Rudman in the next few years.

I commend to the attention of my colleagues the Executive Summary of this important report which is printed below along with two articles which appeared in the New York Times and the Baltimore Sun on December 17, 1985.

EXECUTIVE SUMMARY

Bitter Harvest II: A Status Report on the Need for Emergency Food Assistance in America provides an up-to-date look at the demand for emergency food assistance in the United States in 1985.[1] In Bitter Harvest II we have confirmed our earlier research (Bitter Harvest I) that the faces of hunger are varied and the numbers are growing. Emergency food providers tell us that people who come to their agencies most frequently are: families with children, people who have long since "given up looking for work" in communities of high unemployment, recently unemployed people who are experiencing hunger for the first time in their lives.

We received responses from 370 food banks, soup kitchens and emergency food providers in 47 states and the District of Columbia. The respondents are geographically distributed nationwide.[2] Since we were analyzing the status of "emergency food providers;" e.g., food pantries giving out bags or boxes of food on a periodic basis, our findings are based upon the 290 respondents who are in fact emergency food providers. All providers did not answer or complete every question. We have noted the actual number of respondents for each finding. Our primary findings are as follows:

(1) There was an average increase of 17 percent between 1984 and 1985 in the average monthly number of households served by these emergency food providers. 76.3 percent of providers reported that the average monthly number of households served increased from 1984 to 1985, 5.7 percent reported no change in caseload and 18 percent reported a decrease. The average increase in the number of households served per month by each survey participant between 1984 and 1985 was 37.1 (262 respondents). In Bitter Harvest I, in 1984 we found a 21.9 percent increase between 1983 and 1984 from a different group of emergency food providers.

(2) 89.8 percent of the respondents indicated that a significant number of people came for emergency food assistance because Food Stamps and other financial resources that they receive do not provide enough food to last the whole month (285 respondents). We did not ask this question in 1984, hence no comparison is available.

(3) 69 percent of the respondents stated that 50 percent or more of their caseload is made up of families with children (290 respondents). This compares with 61 percent in 1984.

(4) Almost two thirds (63.9 percent) of the emergency food providers responded that private charity cannot meet the current need for food assistance in their communities (277 respondents). This compares with 71 percent in 1984.

(5) 86.0 percent of all respondents received household referrals from Social Service agencies (285 respondents). The reason given for the referral 80.9 percent of the time was that the household was not eligible for expedited (immediate) issuance of Food Stamps. (256 respondents). This compares with 84 percent in 1984.

[From the Baltimore Sun, Dec. 17, 1985]

HUNGER RISING DESPITE DROP IN POVERTY RATE, GROUP SAYS

(By Mark Matthews)

WASHINGTON.—Increasing numbers of Americans are seeking help from emergency food programs despite a drop in the nation's overall poverty rate and stabilized unemployment, a Washington-based advocacy group reports.

The Food Research and Action Center released a survey yesterday showing a 17 percent increase between 1984 and 1985 in the

[1] All data is for 1984 and first 9 months of 1985.

[2] Respondents are listed by U.S. Department of Agriculture, Food and Nutrition Service Region (I—New England and New York, (II—Mid-Atlantic, (III—Southeast, (IV—Midwest, V—Southwest, VI—Mountain Plains and VII—West).

number of people served by emergency food providers.

It attributed to the increase to what it called inadequate food-stamp allotments, rigid eligibility standards for emergency government food aid, a still-high poverty rate among some sections of the population and exhaustion of unemployment benefits among the jobless.

Nearly 70 percent of the food providers said that more than half their caseloads involved families with children, the center said.

"Hunger in America was increasing in 1985," said Michael R. Lemov, executive director of the center, a non-profit research and advocacy group that lobbies for increased government food aid. Even though the number of emergency food outlets appears to be increasing, many report turning people away.

The report, Bitter Harvest II, drew from results of a survey distributed to 1,000 food banks, soup kitchens and emergency-food providers, 370 of whom responded. This group included providers in 47 states and the District of Columbia. Five Maryland groups responded.

The report was based on responses from 290 agencies that are called emergency food providers, meaning those who give out bags or boxes of food on a periodic basis.

The biggest increase between 1984 and 1985 was found in the New York-New England area. The lowest was found in the Southwest.

The survey followed an earlier report. Bitter Harvest I, that showed an increase of 21.9 percent between 1983 and 1984 in the number of people getting emergency food aid. The center said that it did not attach much significance to the slower rate of increase this year over last year.

Mr. Lemov said the latest report showed a continuation of "an alarming trend in malnutrition and hunger in the United States, even in a seemingly good economic year. We fear what will happen if the economy slows or turns downward."

The nation's robust economic growth and surging employment has stabilized the jobless rate at about 7 percent. The improved economy is also reflected in the poverty rate, which made its first major drop last year since 1976.

But with those improvements has also come an increase in two groups with high poverty rates—female-headed households and individuals living alone.

The center blamed the number of families with children seeking emergency food assistance on cuts in the federal food-stamp program. It cited Congressional Budget Office figures showing $7 billion in cuts between fiscal years 1982 and 1985.

"The effect of these cuts has been devastating to low-income families, particularly children, who make up over 50 percent of the food-stamp caseload," the report said.

The new multiyear farm program agreed to over the weekend by House and Senate negotiators calls for a small increase in the program of about $350 million over four years, according to a congressional source familiar with the agreement. Mr. Lemov described this as "an exceedingly modest restoration" of benefits.

No statewide figures have been kept in Maryland on the number of people seeking help from emergency-food programs—nor even of the exact number of such programs that exist—according to Ann Miller, director of the Maryland Food Bank.

Ms. Miller said, however, that volunteers from many of the more than 600 programs served by the Food Bank tell of higher demand this year.

Among them is Dominic Jollie, president of the Carroll County Food Sunday program, which distributes emergency groceries from centers in Westminster, Sykesville and Taneytown. Mr. Jollie said the centers provided food to roughly 115 families a week in 1984; this year, they are serving an average of 150 families a week.

In contrast, the food pantry run by Worcester County Hunger Action on the Eastern Shore has seen a drop in the number of clients this year. Catherine Walston, coordinator of the program, said she isn't sure what to make of the numbers.

[From the New York Times, Dec. 17, 1985]

17% RISE IN DEMAND FOR FOOD FROM PRIVATE GROUPS FOUND

WASHINGTON, December 16.—A report showing a 17 percent increase in the demand for food provided by private assistance programs was made public today by the Food Research Action Center, a Washington public interest organization.

The report surveyed 290 of 16,000 emergency food providers across the country, including churches and community groups that distribute food to the poor, according to the group's executive director, Michael R. Lemov. The survey did not include soup kitchens and other programs that serve prepared meals to the hungry.

But John W. Bode, Assistant Secretary of Agriculture for Food and Consumer Services, criticized the report as flawed by "deficient methodology and statistical unreliability." He said:

"The survey was not conducted in a scientific manner. Of the 1,000 surveys sent out, 63 percent did not reply."

BIGGEST RISE SEEN IN NORTHEAST

According to the survey, the Northeast showed the highest increase in demand for emergency food, 54.8 percent over 1984 levels, primarily due to increased demand for emergency food in New York City.

"Major segments of the population in New York are being bypassed by the economic recovery," Mr. Lemov said.

The survey reported that the total number of households receiving food from private assistance programs increased to 83,576 households served by 282 providers in 1985 from 71,510 served by 263 food providers in 1984. Over 70 percent of the agencies surveyed reported a limit on the number of people they could serve, and 42.8 percent reported turning people away for lack of food.

Sixty-nine percent of the respondents reported that more than half of the households they served include children, and 89.8 percent indicated that a significant number of people asked for emergency food assistance because their food stamps did not suffice.

FIGURES ON FOOD STAMP USE

Mr. Bode of the Agriculture Department said one out of nine Americans each month received food stamps, totaling approximately $1 billion a month, in addition to free school lunches available to low income children.

"The increased amount of food provided through emergency food outlets indicates an increase in charitable food activities that augment Government assistance," he said.

Congressional conferees working on the farm bill agreed Saturday to increase the amount of money given to the food stamp progam by $350 millon above current levels, over four years, restoring a portion of the $7 billion cut from the program in 1981 and 1982.

The bill now goes to the House and Senate.

MOURNING OUR SOLDIERS AND DEMANDING BETTER AIR SAFETY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DYSON. Mr. Speaker, today I rise in memory of the 248 American soldiers who were killed last Thursday, December 12, in a tragic airplane crash in Newfoundland. These soldiers were returning home to their loved ones after spending 6 months as peacekeepers in the volatile Middle East. These men who had served their country when asked, are now dead, perhaps unnecessarily.

Mr. Speaker, these men were flying home in a plane that may not have been safe to fly. The Federal Aviation Agency has stated that the airline involved, Arrow Air, was fined $34,000 earlier this year after failing to meet certain safety standards. I have watched the television news in recent days and listened to a tape recording that one serviceman sent home. I listened in shock and disbelief as this soldier told his family that he hoped he made it home from the Middle East. He was not afraid of dying in his role as a peacekeeper, he feared flying on the airplane because it was in such frightful condition. Today that soldier is dead.

The horror of this crash has left many questions which must now be answered. We do not know if this crash could have been prevented by proper maintenance or if it was due to a mechanical malfunction which was unavoidable. What we do know is that this was not a military aircraft. It was a chartered jet, chartered not by our military command but by the Multinational Force and Observers, an independent, international group which coordinates soldiers in the Sinai Peninsula.

Why was this airline chosen? Why are we risking our soldiers' lives as peacekeepers and then sending them home on the cheapest airline available, regardless of its safety record? Why doesn't our military command take responsibility for the movement of our troops?

Our Defense Department wastes billions of dollars on weapon systems that do not work. We cannot allow the Defense Department to pay for the worthless Sergeant York and other defense disasters by cutting corners in airline safety at the cost of American lives. We must adhere to stringent safety requirements if we are to avoid such air catastrophes in the future. We must review the current regulations and make all necessary changes to insure that the safety of our soldiers who defend world peace is not being compromised for any reason.

Mr. Speaker, this tragedy raises many questions of airline safety in the public sector as well. How many of these dangerous airplanes are currently in use? Are our air travelers risking their lives when they board planes across the country? In this era of airline deregulation, I have serious reservations about the condition of many of the planes we use on a daily basis. I believe that now is the time to reevaluate the aviation rules governing the airlines, both large and small. We must ensure that these rules are enough to insure air safety and we must also ensure that these rules are being followed.

There is nothing we can do for the soldiers of the 101st Airborne who perished last Thursday. Their time on this Earth ended approximately 1 minute and 40 seconds after their plane took to the air. This loss of life is mourned by the families of those involved and by our Nation as a whole. We cannot lessen the pain felt by those who loved these soldiers. We can only remember them as we seek to provide safe air travel in the future. We must not let these deaths go silently past us.

DIARY OF A CANCER PATIENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KEMP. Mr. Speaker, I would like to share with you and our colleagues the diary of a courageous fighter and a good friend, Nathan Perlmutter, director of the Anti-Defamation League of B'nai Brith. Nate started keeping this diary when he discovered that he had cancer last June, and excerpts were published in the New York Times magazine on November 24, 1985. It is these excerpts which follow.

Nate's diary reflects the thoughts and observations of a person who is looking back on his life from a new perspective. He is funny and witty and incisive. He chronicles his reaction, and the reactions of those around him, to the increasingly bad news about his health in the manner of a true scholar, and lets us share his experience.

Best of all, the treatment Nate received was successful, and the growth was arrested. Nate continues to work full tilt at B'nai Brith, and his story should give heart to those who are diagnosed as having cancer, and insight to their loved ones.

Thanks, Nate, for your great example to all of us of courage and dedication to the cause of civil and human rights.

[From the New York Times, Nov. 24, 1985]

DIARY OF A CANCER PATIENT

(Last June, Nathan Perlmutter, national director of the Anti-Defamation League of B'nai B'rith, was told by his family physician, Dr. Elias R. Stoller, that he had lung cancer, a disease that is almost always fatal. For nearly two months he kept a diary, but stopped after X-rays showed the cancer's growth had been arrested. "Maybe the upbeat news relaxed the drama in my head and eased my need for an attentive, unquestioning confidant—my diary," Mr. Perlmutter says. "Maybe though, it was something else. Maybe stunned by the positive biopsy, the sheer act of talking with myself assisted my self-control. And now, 'accustomed' to my cancer, like people who adapt to living by live volcanoes, the drama has ebbed and my fascination with my stranger self too." In his entries, Mr. Perlmutter, author of three books and many articles on social issues, reflects on his medical experiences, his friendships, and his relationship with his wife of 42 years, Ruth, and their children, Nina and Dean.)

(By Nathan Perlmutter)

FRIDAY, JUNE 14, 1985

Yesterday Ellie Stoller told us it was malignant, cancer in the lung, but possibly elsewhere too. So Monday a CAT scan to look around.

Interestingly—at least to me—I'm so cool about it. Is that "strength" or just dumb?

I do have, or briefly had, a problem telling people. I'm so visible in the agency. And for weeks, the cough, the exams, and so they ask and I've been saying, truthfully, I'm taking tests. So now the tests have given an answer. At first I lied, but right away saw I couldn't. It was transparent. So you tell them: malignancy. And that's sticky too. The pity look is heavy.

I've got to start thinking about preparations. Does Ruthie own the bonds, stocks, etc., with me jointly? Do I own them alone? Tax implications? After the CAT and bone scans, maybe it'll wait, maybe it'll need acting on right away. We'll see.

SATURDAY, JUNE 22

So many callers. Touching. Funny how they sort themselves out, and not in predictable ways. Some are truly helpful in their conversation. Some can't handle it themselves. However, they still want to reach out, and the result isn't a good touching. And some you love are in the latter category, and some who are casual friends are in the former.

To go to Beth Israel or to Sloan-Kettering? To race at Garden State or Belmont? But it's not that simple. At Beth Israel, I have Ellie Stoller, and he's all for me on a personal level, all for Ruthie, who in so many ways needs him more than I do. But the Sloan-Kettering plant is better. Go to the man or to the plant. We'll see Monday. Meanwhile, time is pressing—I've got to start the treatment.

I'm not sure I really expected the direct—too definitive—answer I got to my question. I asked Dr. [John C.] Brown how long, on the average, do people at my age with this form of cancer live? And the guy answers me! A year and a half to two years is the average. Some do not live that long, some longer, it depends. It's like some soap opera, only you don't have a dial to turn the station.

From this news, I cabbed to the office to preside over Bob Kohler and Ben Zafrin's retirement party. It went well enough: me funny, talky, again just like the movies and the show-must-go-on script. I don't mean to be sarcastic. If you don't have a show to go on with, what would you do? Cry?

We went to dinner with Kenny and Ann and Harold and Denise after the party. It was nice, but, God, I was tired. Then to bed and no show to perform at, no friends to socialize with, and Ruthie in her own sadness in the den, I was left to myself and a deep sadness. I'm not "afraid." I do feel I've lived a "full life." God knows that in Ruthie and in my job I've had the best; more than most would have if they had it good till 90. But I went to bed sad, woke up several times feeling sad and was sad this morning.

It's good that we're getting so many calls. All day, dozens, repeat calls and new ones. I take few. It's good that Ruthie takes them, because it binds the caller closer to her and shows her the caring for her. She needs and will need it. Among all the good things of my work, the number of people who know me and care about me—whether for myself or for what I represent—is, in human terms, a real treasure. And Ruthie's so straight, and it's plain. Now it's coming back to her in affection and caring.

The last two days I've been sad. Probably predictable as a normal stage. Likely, in time, lightheartedness and depression, bravado and fear will set in. Funny how your uniqueness fades when you realize your reactions are all on graphs that can be predicted. I sure, however, don't feel like a "fighter." I seem resigned to it—with the feeling that I sure as hell don't want to hang on, medicated to senselessness, just to stay "alive." So it's not a feeling of "Why me?" or "I'm too young to die." But I am sad. I'd have to be a dummy to be glad.

TUESDAY, JUNE 25

Now [IN another doctor's opinion] it could be no more than six months. I smiled at my towel this morning. One with a small hole in it, and I've been waiting to make rags of it. Now it's going to outlast me. I will, however, return the N.Y.R.A. [New York Racing Association] form for check-cashing privileges at the track. These may be the longest odds I've played.

The calls are so good. Me who never was comfortable with expressions of warmth too plainly said, and now I am so moved. It's nice. Real nice.

WEDNESDAY, JUNE 26

Likely will have a bed tomorrow. Sloan-Kettering requires pajamas. I haven't worn pajamas in 50 years. Ah, modesty. I read the release. I can take traditional treatment or, being an advanced case of a malignant tumor, I can take experimental treatment. Sign here, guinea pig.

That's not fair. A big reason for choosing Sloan-Kettering is that it's experimental. Still, why are the warnings of side effects more resonant than the prospect of recovery? Because I really don't feel I'm going to recover?

"Advanced." How'd I get "advanced" so quickly? Two weeks ago, they concluded it was a tumor. For months, the doctors were 95 percent sure it was a pneumonia, and suddenly, so mind-bogglingly quick, I'm an advanced cancer statistic. It's so hard to grasp. Still, no anger, no "why me?" no fear (except of the side effects of chemotherapy), but sadness and wonder at how quickly such a storm forms, how quickly life darkens.

You're supposed to see your life go by at times like this. What did I do with mine? Funny, as my mind is smiling, what I feel I've accomplished. I married the prettiest girl. I made it to Marine infantry officer, wrote a few books and became director of the A.D.L.—my hill. What's amusing about it is that these are elemental, rawly physical achievements I think of, rather than accomplishments of the mind. I married Ruthie, and that's hardly an intellectual achievement. A million kids have become marines. That's hardly being a von Clausewitz, and besides I didn't even see action. The books? One was on horse racing!

It's not the "contributions" I'm pleased with as much as just having done them. I

take pleasure in simply having made it to the top, simply having written the books and articles, simply having passed the Parris Island and Quantico tests, simply being Ruthie's husband. Well, I never claimed to be an intellectual or a do-gooder.

THURSDAY, JUNE 27

And so the call, early this morning. Check-in time 12:15 P.M. I was going to go to the office with my overnight bag, stayed home instead. I feel that I'm on a ship, waiting to wade ashore and engage in battle. Battle? Yes. The chemotherapy scares me, and somehow the cancer (the Japanese?) is holed up in bunkers. . . . My point is that I'm waiting, like on a ship, feeling somehow suspended but hollow-bellied and nervously anticipating.

Yesterday's call from Abner was a good bracer. His telling me of Phoebe's having taken chemotherapy for four years strengthened me. She was loaded with dignity and displayed courage you had to be drawn to. His reminding me of her gave me a role model—for dignity and for bravery. Good friend.

SATURDAY, JUNE 29

And so I am landed—in Sloan-Kettering. Is it 24 hours now? I'm not sure. Eventful. The biopsy of lymph node is positive. Then I couldn't urinate. So I have a contraption connected to my penis and bladder. If I can't go when it's disconnected, then more surgery—prostate. That would put chemotherapy on a back burner.

I never did put much hope in the lymph node being clean. It would've been nice, but more than half believed it to be cancerous, too. I keep thinking you can't lose them all—and keep losing.

Such pleasurable luck in a roommate. Kossover is straight, intelligent, a Williamsburg boy and easily the best medicine I've had here.

I was feeling much better before I checked in than I do now or since I checked in—and it's all been preliminaries, without "chemo" having even begun.

MONDAY, JULY 1

Why am I keeping this diary? Is it the conceit or, more accurately, the ego of even a doomed man to be planning on being published? It likely is more this ego than any new insight for society. It amuses me. Like a sick woman who wants to look pretty for visitors, old cancerous me is writing not for posterity but for possible posthumous publication.

And these selections. Got to be careful. No cliches—self-pitying or macho. Also have to avoid making it an accounting of anatomical tsoris (Let me tell you about my prostate. Oh, do I have a prostate!). So you try to pick items you think will be of interest to those interested in you. And you hope you'll come through candidly, insightfully, real. Hoo, ha.

MONDAY, JULY 8

Been a long time, diary. Nothing personal. Just didn't feel like it. Seems less important than it did when we started meeting this way. But it's time now, I'm waiting to start, at long last, the chemotherapy. Signed away today all rights to complain later. I'm an advanced case (you only just told me!), and no guarantees—it's experimental. Fair enough, but please be gentle.

So what's happened since last we met? I forget. Had I told you I had a second operation? Prostate. It seems successful.

One day was memorable. When they took the catheter out following the lymph-node operation, I could urinate. I was elated, manic almost. Look, Ma, I can go by myself. And then that night, the bottom, the dark, deep bottom—couldn't urinate. Back again with the catheter.

But that's all over with, and now the main attraction: Cancer attacks Nate Perlmutter. Perlmutter fights back. We'll watch with interest, as they say.

What has been extraordinary has been Dean and Nina. We've not had our kids together forever it seems, and they're such good people—and wise. No surprise with Nina. She always was the steady girl scout. But Dean. Fantastic change. And what a warm comfort to know that Ruthie will have them.

MONDAY, JULY 15

Well, progress of sorts. I'm an outpatient now. Even in the cancer ward, as in the bakery, I had to take a number and waited to be called to get treatment.

In the obituary pages, which—surprise, surprise—I've been reading closer, 62 is a young age. Here in my bakery line, I seem to be older than the average.

So when I'm called, I have to remember what to tell Dr. [David P.] Kelsen:

(1) Gained back 8 of the 10 pounds I lost.
(2) Excellent appetite.
(3) Wall-climbing itch in my rectum.
(4) Light beard.

Coming back to work has been so interesting. Touching, more accurately.

WEDNESDAY, JULY 17

It wasn't a good day emotionally. It started with philosophical smiling and ended with my first cry. (Well, I've choked up several times, not in sadness but in affectionate response to expressions of love.) And what was the big deal?

Monday, the doctor told me I would be bald in two weeks. O.K., no tragedy. By yesterday, it began to sink in that although I'm prepared to play Yul Brynner, people coming into my office, seeing me bald, are going to well up with emotion. Who needs those kinds of heavy feelings? So we decided—to save friends embarrassment and my having to comfort them—I would get a toupee.

Today, Ruthie and I went to a wig impresario, a character right down to being Hungarian. I was fitted for a wig, and what started so casually. . . .

It was the ludicrousness of me in the mirror that I found so humiliating, even debasing. I looked like some Beatle or a Three Stooges character. I tried to be casual in saying I'm 62 and I didn't have such a thick mop of hair when I was 22. The woman kept assuring me to wait till they shaped it. Just waiting, and the mirror more than testifying to her bull—my image laughing at me—was heavy going. She finally saw that I was upset and, to her credit, backed off. Backed off? Sold me a $1,500 wig in place of the $325 she was trying to palm off on me.

So why talk about it in the diary? I've felt sadness and spoken of it. I've felt love, oh such love and gratitude, for Ruthie and the kids and for so many friends, more than I realized I had, and I've noted that, too. But humiliation is new to me. I looked and felt like a crazy, a clown. I've grown accustomed to my bald spot; I've grown accustomed to my thinning hair; I've grown accustomed, I suppose, to me—with my hair, my bowed legs, my paunch. They're all authentically, if imperfectly, me.

But the mop of hair—thick like an 18-year-old's or an overly virile gorilla's—was a mockery of me. It was there to avoid causing others embarrassment, and I would end up humiliating myself. If it hadn't been for Ruthie's sensing it all and acting accordingly, I might well have cried there, rather than later at home. But now that has been experienced and over with. I walked a mile today, and that has to be a good sign.

FRIDAY, JULY 19

I have the impression that these entries have all been about mundane things. A wig, operations, urinating. Curious. Here you are with one doctor saying you have six months, another a year and a half, and you really occupy yourself doing business as usual. I don't recall that I've pondered "the meaning of life," vowed saintly behavior in the time left me, etc. Inasmuch as I'm "honestly" revealing my thoughts (Isn't there something in law about a dying man's testimony being considered true?), is it that the mundane—the bladder and urination—occupies us more than questions of The Meaning of Life, Truth, The Hereafter? Maybe it's just a reflection of me. Maybe I'm dying. We'll see.

In any event, I'll ask Dr. Kelsen Monday about the odds on my going into remission.

SUNDAY, JULY 21

Yesterday drove to East Hampton and partied with the Bialkins. Today lunched with Kenny and Ann and the Wiesels and drove back to New York. I sure as hell don't feel like a dying man.

Nina's letter arrived with tape re how to have the right frame of mind—I'll not play it. No particular principle involved, just not interested. My frame of mind seems to surprise people. I'm naturally not a moper. It's just inherently me, like the color of my eyes.

Interesting the way some skirt the word cancer and others offer the experiences of friends who had cancer (I suppose to subtly let me know their friends are alive). I find it quite easy to talk about it, but at times, when the conversations follow one another too closely, I get bored.

Something I haven't been confronting: Dr. Kelsen had said that in six to eight weeks we'd know if the chemotherapy had arrested the cancer's growth. That's like setting a date for sentencing. Two weeks ago when he said it, six to eight weeks was a long way off. Now it's a month off. What if the cancer has grown? Will I be as strong emotionally as I feel I have been? Or is my "strength" just me thinking, really, this isn't happening to me—I'm just witnessing it as an observer. If it is still growing, do we change the chemo? The doctor? The hospital? I drove both ways to East Hampton this weekend, I'm scribbling these notes now. I'm on top of my office work. . . . I really don't believe I'm dying.

THURSDAY, JULY 25

I have to push myself to enter these diary notes. Loss of interest? Boredom? The germinating thought that it is another conceit of another dying man?

Am I dying? I mean, soon? Saw in yesterday's Washington Post that only 12 of 100 lung-cancer patients live longer than five years after being diagnosed. Doesn't leave me much time to go over the scrapbooks I've been saving for retirement—all those accounts of wins (and losses), press clips and pictures of Ruthie's Native.

[For a few years, Mr. and Mrs. Perlmutter raced thoroughbreds; Ruthie's Native won the 1977 Florida Derby.]

I'm tired today, and it's early morning as I write. Must be the chemotherapy's effect on

my red corpuscles, which carry oxygen. If they're out of whack because of the chemo, it would account for this enervation. Also, dear diary, my rectum still itches.

FRIDAY, JULY 26

I'm not sure but that I'm not beginning to "play on" this cancer thing. David [a colleague] asked me at lunch what chemicals I was getting. I explained, vindesine and carboplatin, and threw in that I wasn't being charged. Why? I signed up as a guinea pig. But why? Traditional chemotherapy wouldn't, the doctors feel, be as good a bet.

Boom, boom, boom. All the heavy implications of the dying man making a desperate stab at magical potions. I really don't think I did it to get pity—more likely to seem heroic. That's interesting. I mean the odds do say I'm not a good bet for making advance paid reservations. And I show off about being on experimental drugs. We don't much change, do we, even in these circumstances? Mamma used to say the older we get, the more we get like what we are. I wouldn't have thought that it was true down to the wire. What on earth is the big deal in impressing people with your medication and its desperation prescription? The pleasure of attention, the habit of subtly showing off—see how brave I am no matter the overwhelming odds, no matter the life-and-death stakes? Cue the soft and schmaltzy music.

SATURDAY, JULY 27

I looked long at Ruthie today, and she looked sad. I felt so bad for what I'm doing to her. She's having it tougher than me in some real ways.

I look at my shoes. The top of one of the browns is beginning to crack. Do I postpone buying new ones? I mean why spend $70 for shoes that may outlive me? Cheapo.

Now to watch the Mets-Astro game. That's interesting to me. I keep reading The Times, keep caring about the Mets and Yanks, keep caring about the office and the people there. Death, or the contemplation of it, is much heavier for the young.

Just a second, 62 ain't all that old. Mature enough though to not go into a tailspin and to still care about the Mets and the news of the day.

SUNDAY, JULY 28

Sunday, and I took walks. It's good to get out of the house. The sense of being an invalid feeds on itself when you sit and sleep, sit an sleep. Being outside, like being with people, takes you out of yourself—and when yourself is in this shape, that's good.

I note something interesting in my response to people I pass in the street. At the beginning of knowing I had cancer, when I passed young people, I felt smilingly kind toward them—youth, innocence, that kind of thing—and I quietly wished them well. I still do, but now I'm conscious of people older than I. I indulge in what it has to be called—self-pity. "They're that old, and I'll likely not make it" stuff. I'm not really resentful, just mildly self-pitying.

I'm also conscious that I've been reading the obits closer than ever before. Looking for the deceased's age and if he, she, died of cancer? Lung cancer? Sloan-Kettering? Long illness? Short illness?

MONDAY, JULY 29

Well, we're in a stretch of sorts. Monday, a week from this afternoon's therapy, I get the full treatment. The X-ray will tell us whether the tumor is growing still, stopped growing or in remission. Countdown week.

Got the calendar of treatments through August today, structured around our Maine vacation. It'll make a difference in Maine what the pictures show on Monday.

I feel good. Walked home from the hospital, 17 blocks. But on the other hand, the cough is worse. I'll not be devastated if the picture is bad news. I hate the thought, but I can't fall apart. I have to be strong for Ruthie, for the kids who have been such beautiful discoveries for us. Hell, got to be strong for me, too. If it's bad, we'll have to try a new protocol.

THURSDAY, AUG. 1

I suppose it was comical. At least, I sure hope that in retrospect it will seem that way. But I was furious. Ruthie even wondered how sick could I really be if I had the strength to be so angry.

Dr. Kelsen finally referred me for an examination with a rectum and colon specialist. Before seeing this guy, you may not eat dinner the preceding night and you have to take a strong laxative and you have to take an enema. I go to sleep starving. Next morning, no breakfast and another enema. I'm ravenously hungry, and added to the chemotherapy's effect on my red corpuscles, I'm faint.

Finally the appointed hour, 1:15 P.M. By 1:30, the doctor makes his grand entrance, tells me to undress from the waist down and that he'll be right back. Forty-five minutes later he still hasn't returned. For 45 minutes, I'm standing around like a half-dressed baboon, shirt, bow tie on and everything else taking the breeze. Twenty-five hours of no eating, and this strutting pomposity disappears. His nurse doesn't know what happened to him; his secretary doesn't either; he doesn't answer pages.

We left. More accurately, I stormed out.

He might have been called on an emergency, but if he wasn't callous to dependent patients, if he wasn't indifferent to the dehumanizing effects of nakedness waiting for word — more cancer?—more surgery? — if he wasn't indifferent to my aching hunger, he would have told someone, "Look, I've run into an emergency call."

This morning, I wrote him a letter — I laid on him what was on my heart, copy to Sloan-Kettering's president. Ninety-nine percent of the time, after a night's sleep, you don't write "Dear Sir: you cur" letters. This was the 1 percent. In some measure, it was self-pity; in larger measure, virtuous indignation.

Now I have to get another doctor, more not eating, more enemas and let's hope, not more cancer.

Countdown: three more days to Monday and the new X-rays for comparing with the old.

SUNDAY, AUG 4

I'll say this for cancer. It gives you time to arrange your life, gives Ruthie and the kids time in which to adjust to the possibilities, not like getting hit by a car or a heart attack. How lucky can you get!

Tomorrow, D-Day, verdict. Sentencing? Reprieve? What?

MONDAY, AUG 5

Good news. Not great news, but still good news. The cancer did not grow. Didn't recede but didn't grow. First good news on the cancer we've had.

Why do I say "not great news?" Of course, it's great news?" It could have easily been terrible news. And so two cheers for Dr. Kelsen, two cheers for carboplatin and for vindesine. And three cheers for Ruthie, the kids, all the caring people who've cheered me and prayed for me. And now, let's go to work on the next month's chemotherapy—and, yes, don't be embarrassed, to thinking positively.

POSTSCRIPT

X-rays taken of Mr. Perimutter this month continue to show no additional tumor growth.

THE SEEP RIDGE PROJECT

HON. JAKE GARN

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, December 19, 1985

● Mr. GARN. Mr. President, before members of this Congress leave to go home for Christmas, I want to outline for my colleagues the way in which the overzealous and misguided efforts of some Members of the Congress have raised new questions about the credibility of the U.S. Government and its ability to keep its word.

Five years ago, when the Congress reacted to the energy crises by creating the U.S. Synthetic Fuels Corporation [SFC], SFC was supposed to be the answer to our energy problems through a process of open solicitations of private sector synthetic fuel technologies on a commercial scale. Since that time however, several things have happened to dash the hopes of a credible synthetic fuels industry in the United States. First, until this year, the SFC failed miserably to take the initiative and move forward with a clear plan of intentions for the development of synthetic fuels. Second, the declining price of oil made the economic viability of the several projects which it considered, very unattractive. Those projects died. But, some projects, like the Geokinetics/Peter Kiewit Seep Ridge oil shale project weathered all of this and still moved forward with a very credible project proposal. The Seep Ridge project sponsors invested over $4 million over a period of 3 years in an effort to meet the stringent SFC requirements. On September 19, 1985, the department of the Treasury responded to SFC's announced intention to move forward with Seep Ridge and certified that sufficient unencumbered appropriations were available for SFC to go forward and approve the project.

I should point out, that throughout the discussion of SFC, opponents have claimed that killing the Corporation will somehow help reduce this year's budget. This simply isn't so. The fact is that in the case of Seep Ridge, we are talking about $184 million in a combination of loan and price guarantees. Any expense to the Government would come after the project was constructed to pay the difference between the market price at that time and the guaranteed price, assuming the market price continued to be lower. The loan guarantees would only be paid if the project defaulted. So, I

hope it is clear that no money has been saved in this budget year and probably none saved for several years until the price guaranteed are utilized.

Unfortunately, on September 17, 1985, the Tenth Circuit Court of Appeals in Denver, CO, overturned a lower court judge and held that the late 19th century boundaries of the Ute Indian Reservation were in fact, still valid. The effect of this decision was to triple the size of the modern Indian Reservation boundary, and call into question, the title to State, Federal, and private lands within the reservation. Included within that boundary are the State leases for oil shale held by the Seep Ridge Project.

The Department of the Interior after 2 months of investigation concluded that the leases in question were still valid State leases and that the SFC need not be concerned that its investment would be in question. That problem resolved, the SFC in November of this year announced its intention to consider the Seep Ridge project for approval on December 17, 1985, during a regularly scheduled board meeting.

With that, the people of the Uinta basin in Utah finally thought they would receive their long-awaited oil shale project. They thought the new roads and schools they had built in anticipation of this development would be worth the investment their community planners had made.

Mr. President, Utah did more than any other State to encourage development of this kind because we believed the Federal Government would keep its word and support projects that met the requirements. Certainly, the sponsors of the Seep Ridge project thought the U.S. Government would keep its word or they would not have risked over $4 million of their own money.

Sadly, they were wrong.

On December 12, 1985, OMB Director James Miller sent to the Congress a letter specifying that the administration would no longer support any activity by the Synthetic Fuels Corporation. This action sparked an almost lynch-mob atmosphere in the Congress which resulted in legislative actions which had the effect of undermining commitments the Government had previously made and to pull the rug out from under the SFC.

Portraying the regularly scheduled meeting of the Synfuels board as an 11th-hour attempt to raid the Treasury by approving projects in the final days of the board's existence, House members secured the passage of an amendment to the continuing appropriations resolution adopted on Monday of this week. That amendment prohibited the board from acting on any projects during the life of that resolution.

Naturally, the board cancelled its scheduled meeting, in the face of that mandate, which was also accepted by Senate conferees.

At that point, several of my western State colleagues and I began an effort to reverse what was, in fact, the real 11th-hour move: The OMB letter and the related action on the continuing appropriations legislation. We stressed to the administration and to our colleagues that these actions were a violation of good-faith efforts to close down the Synfuels Corporation in an orderly manner, as had been previously agreed to by the administration. In addition, we pointed out the inequity of denying due process to the projects under consideration by the Board, which were not dreamed up overnight to raid the Treasury, as has been suggested, but had been carefully considered and brought to the threshold of approval, as I have described in the case of the Seep Ridge project.

The administration recognized the value of its prior commitments, and eventually stated that fact in a follow-up letter to the Appropriations Committee chairman of both bodies. Unfortunately, due to questionable and, I believe, deliberate, delays in the Office of Management and Budget, that statement came as too little, too late. The damage had been done by Members in the House and Senate who refused to listen to the merits of Seep Ridge in their frenzy to attack the Synfuels Corporation. Certain House Members literally resorted to threats and intimidation of Synfuels Board members, when they thought a loophole had been found in the restrictive language adopted by the Congress, with regard to the expiration date of that language.

Mr. President, several of these Members even recognized that they were doing an injustice to the Seep Ridge project. They called me personally to apologize, but to say that they felt they had no alternative but to attack the whole process, without regard to the merits of an individual situation. And without regard to what their action would mean about the credibility of the Federal Government.

This situation is deplorable; it is unconscionable, and should not be allowed to have the effect of destroying the hopes and plans of people who answered the call of their Government, at a time of crisis with respect to the availability of oil products, and invested their time, talents and millions of dollars, only to see the train leaving the station as they stepped onto the platform.

I will not let this matter rest here. There is nothing that can be done, now, to allow the Seep Ridge project to be approved by the Synfuels Board, short of asking the President to delay signing the new continuing resolution until after the present one expires and the Board can meet. But that would be roundly denounced as some sort of skullduggery and would raise again the spectre of the Government operating for a day without appropriations.

But I believe strongly that the honor and integrity of the U.S. Government is tarnished by this series of events. I will do everything I can to right the wrong that has been committed. And I will ask those who committed it, who have admitted to me their personal regret for the outcome for Seep Ridge, to join me in finding a way, through some other program, to demonstrate that the Federal Government can be counted on to keep its word.●

GILMAN LEGISLATION TO REINSTATE BURIAL BENEFITS FOR VETERANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GILMAN. Mr. Speaker, I would like to call my colleagues' attention to H.R. 3926, the Veterans' Burial Benefits Act of 1985, legislation which I have recently introduced, extending and improving the funeral benefits currently provided to our deserving veterans.

Prior to 1981, section 902 of title 38 of the United States Code provided for a burial allowance of up to $300 in all cases where a veteran died: First, of service-connected disability; second, who was a veteran of any war; third, who was discharged for a disability incurred or aggravated in the line of duty; or fourth, who was in receipt of—or but for the receipt of retirement pay would have been entitled to—disability compensation. The Omnibus Reconciliation Act of 1981 (P.L. 97-35), however, severely limited eligibility for the $300 burial benefit to veterans who at the time of death "were in receipt of compensation—or but for receipt of retirement pay would have been entitled to compensation—or in receipt of pension, or who die in a VA hospital or facility."

My legislation: First, restores the pre-1981 eligibility for veterans for the purposes of receiving funeral benefits; second, increases the amount of those benefits from $300 to $400; and, third, increases the plot allowance from $150 to $250. It is my sincere hope that this legislation will help our veterans and their families defray a portion of today's escalating funeral costs, easing the added financial burden that so many of these families find themselves facing. It seems only right that we reinstate these benefits and meet the obligation that we made to these veterans at the time of their commission into the service of their country, to provide them with reasonable compensation for their funeral costs. Veterans have been dealt a severe injustice; an injustice that is within the power of this body to rectify.

Since 1981 countless veterans have been denied a proper burial. Current law does

not extend funeral benefits to our most impoverished veterans, only those veterans who at the time of their death were receiving disability compensation or retirement pay are eligible for the benefits. There is no safety net for the poor and working poor who die without insurance.

When testifying on behalf of the American Legion before the House and Senate Committees on Veterans' Affairs, Robert E. Lyngh best expressed the indignance of the veterans community when he stated:

The reduction [of the burial benefit] placed an economic value on a benefit that was freely given by Congress to insure that all veterans would be buried with dignity and respect, regardless of their income or social standing at time of death. The present restrictions violate the Legion's long-held principle of equal benefits for equal service.

It is important to bear in mind that the average cost for a funeral, not including a casket, headstone, or grave, is $1,980. While State and local governments sometimes provide funds for indigent funerals, this by no means covers all of our veterans and is not a viable option for the families of many of our veterans.

The death of a loved one is always a difficult, trying time. Whether that individual suffered from a long, lingering illness or was taken suddenly, it is very difficult for families to prepare emotionally and financially for such a loss. By reinstating the eligibility for funeral benefits, and increasing that allowance from $300 to $400 to reflect current costs, we would be meeting our obligation and be alleviating, in part, some of the burden being felt by the families of veterans. The increase in the burial allowance from $150 to $250 is necessary and long-overdue.

Following is the text of H.R. 3926, "the Veterans' Burial Benefits Act of 1985" which I commend to my colleagues' attention and which I hope that they will share with the veterans groups in their congressional district. I invite the support of my colleagues of this important legislation.

H.R. 3926

A bill to amend title 38, United States Code, to extend eligibility for burial allowance to certain additional veterans and to increase the burial plot allowance for veterans from $150 to $250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Burial Benefits Act of 1985".

SEC. 2. ELIGIBILITY FOR BURIAL ALLOWANCE.

Subsection (a) of section 902 of title 38, United States Code, is amended to read as follows:

"(a) Where a veteran dies—

"(1) of a service-connected disability; or

"(2) who was—

"(A) a veteran of any war;

"(B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or

"(C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;

the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $400 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.".

SEC. 3. INCREASE IN THE BURIAL PLOT ALLOWANCE.

Paragraphs (1) and (2) of section 903(b) of title 38, United States Code, are amended by striking out "$150" each place it appears and inserting in lieu thereof "$250".

BILL NELSON'S SPACE SHUTTLE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BONKER. Mr. Speaker, on January 4, 1986, our colleague, Representative BILL NELSON of Florida, will be orbiting our planet on the space shuttle *Columbia.* He is uniquely qualified to be the first House Member astronaut because of his position as chairman of the Subcommittee on Space Science and Applications. Appropriately enough, BILL NELSON also represents Florida's 11th Congressional District, location of the Kennedy Space Center, so he has spent much of his life in the shadow of the launching pad.

The space shuttle is destined for a 5-day mission during which BILL NELSON will participate in a total of 12 experiments, some unique in the history of the American Space Program.

First, BILL will attempt to grow protein crystals in space for the Cancer Research Program at the University of Alabama at Birmingham. Protein crystallography is an important technique in determining protein structure and function, knowledge which may enable scientists to understand the causes of molecular malfunctioning which can lead to cancer and other diseases. Growing crystals in a gravity-free environment should produce larger crystals with fewer imperfections, characteristics that are helpful to researchers using x-ray diffraction equipment. BILL will be expanding on techniques developed during earlier missions as he attempts to grow 40 protein crystals that can survive reentry and landing.

In another experiment, which has never been performed by the American Space Program, BILL will be given a medical stress test in space. He will be wired to sensors on his chest for an EKG reading which will be sent to Houston via a data link on the TDRSS satellite. BILL will increase his heart rate to 70 percent of its maximum rate by running on a treadmill aboard the shuttle. Medical researchers have already observed that space flight causes occasional abnormal heartbeats during both rest and the exertion of space walking. They hope to determine reasons for this phenomenon by monitoring Mr. NELSON'S heart. BILL was instrumental in developing this experiment after a recent trip to the Space Medicine Institute in Moscow where he learned that the Soviet cosmonauts presently in orbit take a stress test every 10 days to monitor their heart condition.

In another first experiment, BILL will monitor his blood pressure during space flight. To do this, he will listen to his jugular vein blood flows with a listening Doppler device and will interrupt blood flow by blowing into a pressure gauge. Using this technique, researchers have been able to measure the central venous pressure.

Our colleague will also participate in a number of experiments to monitor the human physiological response to zero gravity. In one experiment, Mr. NELSON will measure the circumference of his legs to determine the microgravity effect which causes bodily fluids to move out of the legs and into the upper torso. Mr. NELSON will also be monitored to determine how quickly he adjusts to and recovers from a lack of bodily signals which are dependent on gravity and give us our sense of vertical and horizontal planes.

Finally, BILL will monitor an experiment designed to find an explanation for the rapid deterioration of human blood. Deterioration of blood is thought to be caused by numerous factors including cell damage from the Earth's gravitational pull which brings heavier elements of the blood to the bottom of blood storage bags. By putting blood in space, researchers can eliminate the effects of gravity, enabling them to determine other important factors in the deterioration of blood. A total of 42 tests will be done on the blood samples immediately after the *Columbia* lands.

I know my colleagues in the House join me in wishing BILL NELSON and his fellow astronauts a successful and safe flight on the space shuttle *Columbia.*

CONGRESSMAN GILMAN INTRODUCES LEGISLATION TO IMPROVE HOME HEALTH CARE FOR OUR ELDERLY VETERANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GILMAN. Mr. Speaker, as our population ages, we, as a Congress, and as a nation, will have to find ways to improve the delivery of health care. One health care option that has become increasingly attractive over the past few years has been home health care. In that regard, I have recently joined my colleagues in the Senate, Senators HEINZ and SPECTER, in introducing legislation, H.R. 3927, the Elderly Veterans Care Act, to insure that our veterans will be able to receive health care in their homes.

H.R. 3927 will allow our older, chronically ill veterans to take a credit against their

taxes for the expenses they and their families incur in providing home-based health care. My legislation covers respite care, nursing care, adult day care, home health aides, and medical or health related equipment and supplies. Similar to the dependent care tax credit as mandated under the Economic Recovery Act of 1981, credit amounts under H.R. 3927 are determined by a sliding scale based on annual income. In accordance with this formula, the families most in need receive the greatest relief and home health care becomes more equally accessible.

Under H.R. 3927, families with $10,000 or less in income receive a credit for 30 percent of their home-health care expenses, up to a maximum of $1,050. The maximum amount of the credit is gradually reduced for families with income in excess of $10,000. Families with adjusted gross income of over $50,000 are not eligible for a credit under my bill. Low-income families who do not pay enough taxes to reap the full benefit of the credit, would have any unused credit refunded directly to them.

Mr. Speaker, numerous studies have shown us that home health care is not only cost-effective, but patients receiving care in their homes are happier and in that regard, healthier. As we see our veterans' hospitals and other health facilities strain under this Nation's increasing health care needs, it is important that we continue to explore and utilize viable options for providing these services. By providing our veterans a tax credit for home health care, these deserving individuals who so bravely served our country will be able to choose the type of health care service which best suits their particular needs.

Accordingly, I urge my colleagues to join in sponsoring this important health care initiative. Following is a copy of the Elderly Veterans Care Act which I commend to my colleagues' attention:

H.R. 3927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elderly Veterans Care Act of 1985".

SEC. 2. CREDIT FOR CARE OF ELDERLY VETERANS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to refundable credits allowable against tax) is amended by inserting after section 34 the following new section:

"SEC. 34A. EXPENSES FOR CARE OF ELDERLY VETERAN.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of qualified elderly care expenses paid by such individual for the care of a qualifying veteran during the taxable year.

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 30 percent reduced (but not below 20 percent) by 1 percentage point for each $2,000 (or fraction thereof) by which the adjusted gross income of the taxpayer (and the spouse of the taxpayer in the case of a married individual filing a separate return) for the taxable year exceeds $10,000.

"(b) LIMITATIONS.—For purposes of this section—

"(1) LIMIT ON INCOME OF TAXPAYER.—No credit shall be allowable under subsection (a) for a taxpayer with an adjusted gross income of $50,000 or more for the taxable year ($25,000 or more in the case of a married individual filing a separate return).

"(2) DOLLAR LIMITATIONS ON AMOUNT OF CREDIT.—

"(A) MAXIMUM QUALIFIED ELDERLY CARE EXPENSES TAKEN INTO ACCOUNT.—The amount of qualified elderly care expenses taken into account under subsection (a) by any taxpayer for any taxable year shall not exceed $7,000 and not more than $3,500 of qualified elderly care expenses may be taken into account with respect to any qualifying veteran.

"(B) SPECIAL RULES FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$3,500' for '$7,000' and '$1,750' for '$3,500'.

"(C) 2 OR MORE INDIVIDUALS MAKING EXPENDITURES WITH RESPECT TO SAME QUALIFYING VETERAN.—If 2 or more individuals have qualified elderly care expenses with respect to any qualifying veteran during any calendar year, then—

"(i) the amount of the qualified elderly care expenses taken into account with respect to such qualifying veteran shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year, and

"(ii) the amount of such expenditures taken into account by each of such individuals for the taxable year in which such calendar year ends shall be equal to the amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(c) DEFINITIONS AND SEPCIAL RULES.—For purposes of this section—

"(1) QUALIFYING VETERAN.—The term 'qualifying veteran' means any individual (other than the spouse of the taxpayer) who—

"(A) is a veteran within the meaning of section 101(2) of title 38, United States Code,

"(B) is related to the taxpayer by blood or marriage,

"(C) is at least 65 years of age, and

"(D) has a family income of $15,000 or less for the taxable year.

"(2) FAMILY INCOME.—The term 'family income'—

"(A) in the case of an individual who is not married, the adjusted gross income of such individual; and

"(B) in the case of a married individual, the adjusted gross income of such individual and his spouse.

"(3) QUALIFIED ELDERLY CARE EXPENSES.—The term 'qualified elderly care expenses' means payments by the taxpayer for home health agency services (but only if provided by an organization certified by the Health Care Financing Administration), homemaker services, adult day care, respite care, or health-care equipment and supplies which—

"(A) are provided to such qualifying veteran,

"(B) are provided by an organization or individual not related to the taxpayer or to the qualifying veteran, and

"(C) are not compensated for by insurance or otherwise.

"(4) APPLICATION WITH OTHER CREDITS.—Notwithstanding any provision of this part, the amount of the credit allowable under subsection (a) shall be allowed as a credit against the tax imposed by this chapter before any other credit allowed by this part.

"(d) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under subsection (a).".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 34 the following new item:

"Sec 34A. Expenses for care of elderly veteran.".

(2) Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended—

(A) by striking out "or section 32 (relating to earned income)" and inserting in lieu thereof ", section 32 (relating to earned income), or section 34A (relating to expenses for care of elderly veteran)", and

(B) by striking out the heading and inserting in lieu thereof the following:

"(4) OVERSTATEMENT OF CERTAIN CREDITS.—".

(3) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) TIME TAX IS CONSIDERED PAID FOR ELDERLY VETERAN CARE CREDIT.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed by law for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments) equal to so much of the credit allowed by section 34A (relating to expenses for care of elderly veteran) as is treated under section 6401(b) as an overpayment of tax.".

(4) Subsection (d) of section 6611 of such Code is amended by striking out the heading and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND EXPENSES FOR CARE OF ELDERLY VETERAN.—".

SEC. 3. EFFECTIVE DATE: REPORTS.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1984.

(b) REPORTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall prepare a report for taxable years ending in 1985 (and each of the 4 calendar years thereafter) which states—

(A) the number of individuals who were allowed a credit under section 34A of the Internal Revenue Code of 1954 for taxable years ending during such calendar year,

(B) the utilization of such credit by income group for such calendar year,

(C) the utilization of such credit by category of qualified elderly care expenses (as defined in paragraph (3) of subsection (c) of section 34A of such Code) during such calendar year, and

(D) the total effect on the revenues of the United States of allowing such credit during such calendar year.

(2) TIME FOR FILING.—Any report required under paragraph (1) shall be submitted to the Congress no later than September 15 of the calendar year following the calendar year for which it is required.

H.R. 2466

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LOWRY of Washington. Mr. Speaker, I rise in support of H.R. 2466. H.R. 2466 makes a variety of changes in laws administered by or affecting the Coast Guard which includes the following:

First, extends for 5 years the current exemption for the *Delta Queen* riverboat;

Second, waives personnel ceilings at the Coast Guard Yard in Maryland and the Aircraft Repair and Supply Center in North Carolina. This waiver will increase the Coast Guard's flexibility in determining the most efficient use of its personnel and repair facilities;

Third, permits the Coast Guard to make improvements to a State-owned pier in New Bedford, MA, for the purpose of preparing to receive newly constructed medium endurance cutters that will be based there;

Fourth, creates an Offshore Vessel Safety Advisory Committee to study the adequacy of existing safety and health regulations;

Fifth, permits the Coast Guard to enter into a contract with a municipal electrical utility in Alaska;

Sixth, prohibits the Coast Guard from contracting out certain aids to navigation work on the New Jersey Intracoastal Waterway;

Seventh, issues certificates of documentation to several vessels; and

Eighth, modifies a condition for the conversion for two obsolete vessels.

I am very pleased that the provision that modifies a condition for conversion of two obsolete vessels is included. This provision is identical to H.R. 3978 which I introduced. One of these vessels, the *Arctic Storm*, is owned by ProFish International, Inc. of Seattle. The owners of this vessel plan to convert this vessel into the first U.S.-flag surimi factory trawler.

The Japanese are already heavily involved in surimi development in the North Pacific. Time is running out for getting the U.S. fishing industry into surimi production in the North Pacific. A U.S. operator needs to take the first step to prove once and for all that U.S. operators can successfully produce surimi on the high seas.

Because of the perceived financial risk of surimi production, favorable financing for conversion work done in a U.S. yard is not available at this time. However, if the conversion work is done in a foreign yard, with foreign financing and lower conversion costs, the project becomes possible. Enactment of this legislation will allow the U.S. fishing industry to enter the surimi business, and capture a share of a rapidly growing market for surimi-based products.

Some may argue that because the conversion work is not being done in a U.S. yard, jobs are lost. I believe just the opposite. If the conversion work cannot be done in a foreign yard, the work won't be done, so no jobs will be lost. However, if the vessel is converted, a million dollars worth of annual maintenance will have to be done in U.S. yards. But more importantly, this venture would provide a prototype to demonstrate that the United States can compete in the processing of surimi which would make available financing for other participants in the future. Because this vessel will prove that the United States can operate a vessel engaged in the production of surimi, from 15 to 20 surimi vessels could be built or converted in U.S. shipyards. In addition, each surimi vessel will provide 150 jobs in the fishing industry.

There is no cost to the taxpayer of this provision. U.S. taxpayers will only benefit. This provision will create jobs and allow the United States to compete more effectively with the Japanese surimi industry and will enable the U.S. fishing industry to more fully utilize the vast quantities of pollock fisheries resources which are available in the North Pacific and from which high-quality surimi can be produced. I am concerned that if this provision was not included, the Japanese would gain complete control of the surimi market and that at some time in the future we would be asked to pass protectionist measures to enable the U.S. industry to compete with the Japanese. It makes sense to let U.S. fishermen and shipyards get in on the ground floor so we can compete with the Japanese now and in the future.

THE IMPASSE ON GRAZING ON THE PUBLIC LANDS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SEIBERLING. Mr. Speaker, last year I, along with my distinguished colleague and friend MO UDAL, and Senators MALCOLM WALLOP of Wyoming and JAMES MCCLURE of Idaho, decided to try to work together to address some of the key issues affecting the management or our Federal rangelands in the West.

As the chairmen of the committees and subcommittees responsible for these issues in the House and Senate, we realized that two important legislative authorities affecting the management of the public rangelands were going to expire at the end of 1985. We agreed that this represented an important opportunity to work together to build a consensus for rangeland legislation amongst the many parties interested in and affected by these issues, by appealing to everyone's shared interest in improving the productivity of the Federal rangelands.

To that end, we asked the Congressional Research Service to convene a conference of all the parties interested in the public rangelands—ranchers, wildlife groups, wild horse protection interests, environmental protection advocates, the U.S. Forest Service and Bureau of Land Management, and many others. And through that process we came up with an outline of a package that would go a long way toward addressing the major concerns of all of those groups, to the benefit of all.

That package would provide for:

Increasing public participation in the management of Federal rangelands, by requiring the Bureau of Land Management to proceed with an open planning process—as provided for under the Federal Land Policy and Management Act—in a timely manner, and by restructuring the advisory boards and councils on Federal rangelands to insure representation of all interests;

A positive program to improve the range condition of riparian areas on public lands, including use of a portion of the grazing fee to fund that program; and

An agreement to continue the existing grazing fee formula, and to increase the amount of that fee to be returned to the agencies for on-the-ground range improvements.

When we got down to trying to transfer this outline to legislation, we found that it was not an easy task. Every time we tried to put our aims into legislative language, we found it under assault from all sides. Neither the environmental community nor the ranching community was able to put aside their fear that our intent was not to build consensus, but to take advantage of one group for the benefit of another.

Representatives of the environmental community were critical of the conditional agreement to keep the present fee formula. There is a large body of evidence showing that the present formula sells grazing on Federal lands for far less than its market value. The conservationists believe that this provides economic disincentives to good land management. But we believed that, in exchange for improvements in environmental policy, compromise on the fee issue was reasonable.

My response to my friends in the environmental movement who told us that no bill was preferable to one that did not raise the grazing fee was that I believe that it is far more important to protect the basic resources of the public lands, and to improve their overall productivity, than it is to raise the fee—because no fee, no matter how high, could adequately compensate the Nation for lost productivity of public lands.

On the other hand, what I thought were reasonable and moderate proposals to improve our environmental policy on rangeland management, met with similar resistance from representatives of the ranchers who graze their livestock on public lands.

These proposals were to set high goals for a riparian improvement program, and to require that the Secretaries of Agriculture and Interior manage grazing on public lands in strict compliance with the principles of multiple-use and sustained yield.

Riparian areas are not only critical for western wildlife and fisheries—they are also the areas of the public rangelands that

are most capable of increasing their productivity under good management. Not all of that improvement would go to livestock and the rancher. It will be shared, by all the users, and uses, of the public lands. But the rancher—as the person who lives adjacent to these lands, and whose livelihood depends on them, will unquestionably be the biggest beneficiary from improvements in the productivity and ecological health of the public lands.

Many public lands ranchers are in economic trouble. I firmly believe that the only hope for the long-term survival of public lands ranching lies in improving the productivity of the public lands. And the only way to achieve such a program, in this era of budget deficits and program cutbacks, is to build a coalition of all those who have a stake in improving the condition of the public rangelands.

I believe that acceptance by the ranching community of the strict application of the principles of multiple-use and sustained yield to public lands grazing, as well as to all other users and uses of the public lands, would be a key to the construction of such a coalition.

In the end, after more than a year of effort, a consensus was not achieved. I continue to believe that the proposals which evolved from this long process are something both ranchers and conservationists can live with. The ranchers would get the extension of a grazing fee formula that is highly favorable to them, and the continuation of the grazing advisory boards, through which ranchers exert considerable influence over Federal range management. The conservationists would get a new commitment of the Federal range managing agencies to act to improve the ecological condition of the public rangelands, particularly riparian lands. Both groups would share in the increased productivity of public lands.

I would like to encourage both these groups to look at those proposals in the new year, and consider whether they aren't reasonable, and in their respective interests. If they do find them so, or if they found some other package on which they could agree, I would be happy to help get range legislation moving forward again.

UNEMPLOYED VIETNAM ERA VETERANS NEED THE EMERGENCY VETERANS' JOB TRAINING ACT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DASCHLE. Mr. Speaker, on May 20, 1985, the House passed H.R. 1408, the Veterans' Employment Amendments of 1985, by unanimous voice vote. This bill would extend and improve the Emergency Veterans' Job Training Act (Public Law 98-77) and provide $75 million in appropriations for fiscal year 1986. Although the other body did not act on H.R. 1408, I am pleased that similar legislation has finally received the support of both Houses and title II of H.R. 1538 will give new life to this important program for unemployed veterans.

The goal of EVJTA is to address the problem of severe and continuing unemployment among certain groups of veterans by providing payments to defray the cost of training to employers who hire and train long-term unemployed veterans. Since the program's inception, nearly 300,000 Vietnam era and Korean conflict veterans have been certified to participate; over 37,000 have gone to work under the program; and over 53,000 employers have been approved for participation.

On June 7, 1985, the Veterans' Administration submitted an extensive report regarding EVJTA, in accordance with Senate Report 98-275, which called for an evaluation of the program. The evaluation, which was conducted under contract by Centaur Associates, Inc., had high praise for virtually every aspect of EVJTA. Clearly, this program has been effective and is accomplishing its goal of reestablishing long-term unemployed veterans in our Nation's workforce.

Mr. Speaker, I am disappointed that the other body would not accept certain provisions approved by the House in H.R. 1408. This House-passed bill would have provided an authorization of $75 million for EVJTA and would have reduced the unemployment criteria for participation in the program from 15 to 5 weeks' unemployment. Additionally, H.R. 1408 would have made significant improvements to the Veterans Readjustment Appointment [VRA] program.

We on the Veterans' Affairs Committee are proud of the Emergency Veterans' Job Training Act, which originated in our committee in 1983. The House has consistently demonstrated its commitment to assist unemployed veterans and passed legislation reported by our committee to extend and improve this job training program. The Subcommittee on Education, Training and Employment has held seven hearings, in Washington and in the field, to monitor the implementation and effectiveness of EVJTA. It is a good, cost-effective program that deserves to be extended and adequately funded. The measure before us today, despite the shortcomings I have already mentioned, will continue this valuable program and assist thousands of unemployed veterans in their efforts to find meaningful employment.

WATCH ON SURINAM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, Libya is an African country of modest size and only 3 million people, but its reigning dictator has used oil money surpluses and Soviet bloc support to build international networks of global proportions. Sponsorship of international terrorists and the provision of military training to citizens and armies of the third world are Colonel Qadhafi's two specialties.

The Colonel may now be reaching across the Atlantic into the small coastal country of Surinam, according to reports of recent months. The reigning dictator in former Dutch Guiana is a pro-Castro military officer like Qadhafi; his name is Lt. Col. Desi Bouterse. In spite of continuing and generous Dutch assistance ($100 million a year until 1990, according to Jack Anderson) Bouterse is apparently incapable of carrying on without other aid, and has recently been promised $100 million by Qadhafi.

According to Michael van Notten, a consultant to a Surinamese opposition party based in Holland, money is only part of a Libyan package for the governor of Surinam. He states that there are 243 Libyans in the country, some of whom are training troops and others who may be training non-Surinamese guerrillas. The U.S. State Department is aware of 14 Surinamese training in Libya at present, though for unknown purposes.

While these charges are extremely important, none of them is very surprising. We all recall the varied internationalist mix of Eastern Europeans, Cubans, Soviets, North Koreans, et cetera present in Grenada when that Caribbean country was ruled by Marxist-Leninists. Colonel Qadhafi has been involved with radical movements and guerrilla and terrorist organizations in Central America, and once praised the revolutionaries there "who are going to follow the Vietnamese and Nicaraguan precedents and destroy the bases of U.S. fascism." The President of Costa Rica has complained of both Libyan and PLO interference in his democratic country. Qadhafi's relations with the Sandinistas are particularly warm, and have been the subject of a State Department study of last August; they include weapons transfers to Nicaragua.

The recent reports about Surinam thus deserve to be taken with gravity. Allow me to introduce into today's RECORD two articles detailing some of them in order that my colleagues will notice this quiet geopolitical change. The first is by the columnist Jack Anderson, as carried by the Washington Post. The second was an exclusive report by Vicki Rivera of the Washington Times.

[From the Washington (DC) Post, Dec. 2, 1985]

SURINAM BECOMING ANOTHER CUBA

(By Jack Anderson and Dale Van Atta)

Surinam is developing into another Cuba-style dictatorship in the Western Hemisphere. Marxist strongman Desi Bouterse, desperate for cash to keep his repressive regime afloat, has turned to two tainted sources of money: Libya's dictator and Colombia's drug dealers. But he's learning that there's no free lunch in foreign aid.

When the Netherlands granted its South American colony independence in 1975, the Dutch promised $100 million a year in aid until 1990. The stipend continued even after Bouterse's military coup in 1980 and his growing leftward tilt.

Bouterse cultivated and modeled himself after Maurice Bishop, then the Marxist

prime minister of Grenada. At Bishop's suggestion, Bouterse succumbed to Fidel Castro's overtures and welcomed a Cuban ambassador to Paramaribo in September 1982.

Cuban aid soon followed, as did the quid pro quo. Dozens of Cubans arrived in Surinam to assist Bouterse in setting up a Marxist dictatorship—which would be under Castro's control. The Cubans trained Bouterse's bodyguards, and even acted in that capacity themselves. Surinamese officials were sent to Cuba for indoctrination.

Both the Dutch and U.S. governments (the United States was also sending Surinam some modest aid) grew increasingly uneasy at the blossoming Bouterse-Castro relationship. In December 1982, when Bouterse rounded up and executed 15 opposition leaders, Dutch and American aid was cut off.

Castro, himself dependent on Moscow gold to bolster the shaky Cuban economy and his foreign adventures, proved slow in providing the money he had promised Bouterse. So, according to our CIA sources, the Surinamese dictator accepted the offer of a loan from Colombia marijuana and cocaine traffickers.

Meanwhile, Brazil, which borders Surinam on the south, woke up to the danger of this Castro foothold and sent a military force across the border in April 1983. Literally under the gun, Bouterse agreed to decrease the Cuban presence in his country in return for a $300 million aid deal with Brazil.

Bouterse dragged his feet on the bargain, until Bishop was deposed and murdered by Cuban-backed Grenadan Marxists. Blaming Castro for the death of his friend and mentor, and fearing for his own neck after the U.S.-led invasion of Grenada, Bouterse sent his Cuban advisers packing. Though he had previously claimed that there were only 15 Cubans in Surinam, about 100 were kicked out (leaving only eight, according to our sources).

This left Bouterse with nothing but his own poverty-stricken populace and the Brazilians to support his dictatorship. He needed more money, and gratefully accepted a promise of $100 million from Libyan dictator Muammar Qaddafi.

What does Qaddafi expect for his money? Our sources say he hopes to expand his influence in South America. He also wants Surinamese passports for Libyan assassination squads, and hopes to supply them to his Palestinian terrorist sidekicks as well.

[From the Washington (DC) Times, Oct. 24, 1985]

LIBYA REPORTED DRILLING TERRORISTS IN SURINAM

(By Vicki Rivera)

In return for the promise of $100 million in badly needed aid, Surinamese strongman Desi Bouterse is permitting Libya to train terrorists in his country to use against other Caribbean nations, according to a Dutch political analyst.

With the cutoff of Dutch aid after the 1982 execution of 15 prominent opposition leaders and the falloff in revenues from bauxite, the main export commodity of Surinam, Bouterse's regime is desperate for cash, said Michael van Notten, a consultant to the Council for the Liberation of Surinam, based in the Netherlands.

Mr. van Notten was to accompany a delegation of Surinamese resistance leaders in exile on a visit to Washington, but the members of the delegation were apparently intimidated after seeing some of Mr. Bouterse's men in New York and decided to return to the Netherlands.

Mr. Bouterse, a former sergeant who took power in a 1980 coup, addressed the U.N. General Assembly in New York on Tuesday.

The agreement between Libya and Surinam was reached in February, Mr. van Notten said, and a Libyan's People's Bureau was set up in July. A total of 243 Libyans are now reported to be in Surinam, 30 of whom came from neighboring Guyana, where they were believed to have conducted training in subversive activities, and 50 from Chad.

However, the State Department said it had no information to verify what it characterized as "rumors" of Libyan activities in Surinam.

"The Surinamese government is well aware of our concern about the development of relations with Libya," a State Department official said. "We made a point of saying that we don't want to see Libya using Surinam as a base of operations. They appear to be taking our concerns into consideration."

"The Libyans had learned to speak the local language, so they obviously planned a long stay," Mr. van Notten said.

About 40 Libyans are training Surinamese troops at the main airport, and another 200 set up a military camp in the western part of the country where they are reported to be training non-Surinamese, he said.

"Most likely they are training rebels from [neighboring] French Guiana who are opposed to French rule. We also assume they're in contact with the independence movement in Guadalupe."

A number of terrorist bombings have occurred in Guadalupe in the past year.

The Libyans have established contacts with sympathizers in Aruba and Curacao and are believed to be building up a network that would use Aruba (an island off the Venezuelan coast) as a springboard from which to launch operations in Venezuela and Colombia, Mr. van Notten said.

A TRIBUTE TO MARK EDWARD WINTER

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SHELBY. Mr. Speaker, I would like to take this opportuntiy to congratulate Mark Winter on his recent appointment as vice president and director—national operations for Steward Title Guaranty Co., a title insurance underwriter headquartered in Houston, TX. For the last 9 years Mark was the chief lobbyist of the American Land Title Association and through his efforts the title insurance industry's views and positions were skillfully presented.

In addition to Mark's lobbying responsibilities, he also edited the title insurance industry's newsletter, "Capital Comment." My colleagues and I found the newsletter to be an insightful source for insurance and housing legislative matters.

But, first and foremost, Mark is a government relations specialist—a person that can be counted on to provide a forthright assessment on legislative proposals. I understand that one of the responsibilities Mark will undertake in his new position will be to represent Stewart Title on Federal and State initiatives.

I wish Mark every success in his new position and look forward to his Capitol Hill visits.

THE NATIONAL BUREAU OF STANDARDS COMES IN FIRST IN THE NATION IN SIGNIFICANT NEW TECHNICAL PRODUCTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WALGREN. Mr. Speaker, one of the most important honors awarded in the international scientific community is to be included in the list of E–R 100 awards, a list of the 100 most imporant technological developments of the preceding year selected by Research and Development magazine.

This year, Research and Development magazine chose eight developments by the National Bureau of Standards for E–R 100 awards. These eight awards for work done by the National Bureau of Standards represents more than any other organization in the world, including the largest Fortune 500 companies heavily involved in research like IBM and other major international research companies.

NBS's achievement is all the more remarkable in light of the unfortunate budget cuts this agency has faced in recent years. When the 1986 NBS authorization bill came before the Rules Committee one member of that panel asked the rhetorical question: "If we cannot cut the National Bureau of Standards, what can we cut?" These awards should prove that NBS is a world-class laboratory which we cannot afford to undermine. Instead, we should hope that sometime there will be enough understanding of the critical role of the National Laboratories in keeping American competitive that we will ask ourselves the question: "How can we afford not to support Laboratories like the National Bureau of Standards."

The following press release announcing these awards further explains the breadth of this unique laboratory's accomplishments.

FEDERAL LAB WINS HIGHEST NUMBER OF RESEARCH AWARDS IN COMPETITION SPONSORED BY NATIONAL MAGAZINE

Inventions in computer science, microelectronics, and automated manufacturing were among the eight entries of the Commerce Department's National Bureau of Standard (NBS) given I–R 100 awards today in Chicago. Those eight awards represent the highest number given to any single participant in this year's competition.

I–R 100 awards are given annually by Research & Development magazine to honor the "100 most significant" new technical products of the preceding year. They are selected by a panel of technical experts from around the country.

Description of the award-winning projects follow.

TEST SYSTEM LINKING COMPUTERS

In July 1984, 14 computer manufacturers and communications companies demonstrated for the first time how computers from different manufacturers could communicate using international networking standards. A test system developed by an NBS-led team helped make that demonstration possible. The system, the first of its kind, is a set of complex software programs that allows vendors and users to self-test their computer systems to make sure they conform to international computer networking standards.

The winners of this I-R 100 award are Richard J. Linn, Jr., Wayne McCoy, J. Stephen Nightingale, Daniel Rorrer, and Jeffrey Gura, all from the NBS Institute for Computer Sciences and Technology, and Thomas P. Blumer and John C. Burruss from Bolt, Beranek and Newman, Inc.

AUTOMATED DEVICE FOR MEASURING COMMERCIALLY IMPORTANT "THIN FILMS"

George A. Candela and Deane Chandler-Horowitz of the NBC Center for Electronics and Electrical Engineering were honored for developing a fully automated, high-accuracy device, known as an "ellipsometer," for measuring the optical properties of thin films on various materials. The device—built mainly from commercially available components—can determine the thickness and refraction index of thin films more accurately and with greater ease than previously possible. This is important to industries such as semiconductor manufacturers which need accurate ellipsometers to produce quality products. The NBS instrument makes reliable measurements of commercially important films in integrated circuits that are not accessible to existing equipment.

IMPROVED ELECTRON GUN

A team of NBS researchers earned an I-R 100 award for the development of a new type of electron gun—a device to produce a beam of electrons—that is expected to have wide application in surface science, electron spectroscopy, and electron lithography, all areas of growing industrial importance. The new gun circumvents a power limit inherent in conventional devices, and has been tested to perform five times better than the closest competitive project.

The "high-current monochromatic electron gun" was developed by Daniel T. Pierce, Robert J. Celotta, Charles S. Feigerle, and Alfred Seiler of the NBS Center for Radiation Research.

ELECTRICAL MEASURING DEVICE TO AID IN CHEMICAL MEASUREMENTS

Ronald W. Shideler, an electronics engineer in the NBS Center for Analytical Chemistry, received his award to inventing a device designed to measure extremely low levels of current through the computer-controlled data collection systems of mass spectrometers. These chemical measurement instruments are used widely for medical, environmental, and industrial analyses. The NBS-developed electrometer is more sensitive than others and will help in performing highly precise and accurate mass spectrometric chemical analysis at low levels (parts per million or lower).

HIGH-PRECISION ELECTICAL CAPACITANCE DEVICE

Robert D. Cutkosky and Lai H. Lee of the NBS Center for Basic Standards earned an I-R 100 award for design of an automated, high-precision "capacitance bridge." Capacitance bridges are used in laboratories around the world for calibrating standards of electrical capacitance. Their device is the first such fully automatic instrument capable of the precision and accuracy required by standards laboratories. It operates at a basic accuracy 1,000 times better than that of its closest competitor, something that is critical for those performing work in a wide range of electronics.

FASTER CALIBRATIONS WITH ELECTRICAL STANDARD

Physicist Raymond S. Turgel of the NBS Center for Electronics and Electrical Engineering received an I-R 100 award for his development of a standard for phase meters that improves the speed of calibrations ten times or more. This device is designed to ensure reliable measurements of phase in applications such as testing aircraft navigational instruments, tracking satellites, and checking the operation of electrical power lines. The technology developed for the invention forms the basis for further developments in precision waveform generation.

ERROR-COMPENSATION SYSTEM FOR COMPUTERIZED MACHINE TOOLS

As part of their study of measurement and control systems for automation, NBS researchers in the Center for Manufacturing Engineering developed a microcomputer-based error-compensation system for automated machine tools that has earned an I-R 100 award.

Most computer numerical controlled (CNC) machine tools have software that automatically corrects for some positioning errors, but they are limited in several respects. The NBS system overcomes critical limitations in that process. The system has been tested on two different commercial machine tools demonstrating accuracy enhancements of eight to 10 times. It also makes it possible to eliminate the machine-tool warm-up period—up to 10 hours of unproductive operation—that was previously required for precision machining.

The CNC machine tool error-compensation system was developed by Kang B. Lee, Thomas Charlton Jr., James R. Shaver, Ralph C. Veale, and Bruce R. Borchardt of NBS, Alkan Donmez and C. Richard Liu of Purdue University, and William Zinn of Hardinge Brothers.

ABSOLUTE RADIOMETRIC STANDARD

Physicist Edward F. Zalewski of the NBS Center for Radiation Research, together with Richard Duda of United Detector Technology, Inc., earned an I-R 100 award for the development of a visible light detector and measuring device with a 100 percent quantum efficiency. Such a device converts all of the photons of light striking it into an electric current which can then be amplified and measured. The photodector greatly simplifies the task of making extremely accurate measurements of radiant light. It is expected to have wide application in the lighting industry and in related fields such as photographic equipment, lasers, photocopying and lithography.

P. ANTHONY RIDDER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MINETA. Mr. Speaker, my colleague, DON EDWARDS, and I would like to ask you and our distinguished colleagues to join us in saluting P. Anthony Ridder, president and publisher of the San Jose Mercury News. Tony will be honored at a dinner on January 16, 1986, marking his departure from our newspaper in Santa Clara and Alameda Counties, the San Jose Mercury News, to new duties in Miami.

In 9 years as publisher of the San Jose Mercury News, Tony has distinguished himself as an expert administrator, concerned with balanced journalism, the integrity of the press, and an unrelenting commitment to the betterment of life in Santa Clara County. Under his leadership, daily readership increased from 200,000 to 260,000. His direction was instrumental in guiding the Mercury News into becoming a widely respected newspaper, known regionally and nationally for its balanced news reporting. The Mercury News will miss him.

The impact of Tony's departure can be assessed only in light of his numerous contributions to our community. Perhaps more than anyone else, Santa Clara County has turned to Tony Ridder for advice, guidance, and support for numerous civic and community projects. It was his determination that ignited support for the Technology Center for Silicon Valley, which in time will be a showplace for the Nation's high technology industry. His influence was instrumental in advancing a wealth of worthy projects, ranging from the bolstering of the San Jose Museum of Art to the construction of the Guadalupe light rail corridor.

He is a member of many boards and organizations—among them the Santa Clara County Manufacturing Group, the California Chamber of Commerce, and Santa Clara University. He is an ardent supporter of education, and was closely involved with a program of corporate sponsorship in area schools. In short, Tony has set an excellent example of corporate responsibility within the community.

His generous devotion of time and resources to our area is a reflection of his own personality. DON and I have known Tony for many years, and we've always been impressed with his sincerity, his spirit, and his high regard for the people around him. We've also come to know Tony as a friend—a friend willing at any time to devote himself to the betterment of our community and our Nation.

Mr. Speaker, on the occasion of the banquet honoring P. Anthony Ridder, he can be confident that our country is most grateful for his contributions and accomplishments. Therefore, DON and I ask you, Mr. Speaker, and our colleagues to join us in expressing our thanks and congratulations to Tony Ridder and to wish him continuing success.

AN ARMED FORCES MEMORIAL

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. ORTIZ. Mr. Speaker, I rise today to commend and pay tribute to a group of patriotic citizens from Brownsville, TX. This group of citizens, from all walks of life,

have seen fit to publicly recognize the past, present, and future sacrifices of our men and women in the armed services of this great Nation of ours in the form of an Armed Forces Memorial. The memorial is to be erected in the "Armed Forces Memorial Xericape Park" at the Fort Brown Historical Site, just as you cross the Rio Grande at the Memorial Bridge, in Brownsville, TX. It is being funded not by the Government, but by donations from its local citizens.

I can think of no more appropriate time than this, based upon the events of a week ago today when 248 U.S. Army soldiers of the 101st Airborne Division and other Fort Campbell units were killed in the crash of a chartered DC-8 aircraft, soon after takeoff from the Gander Newfoundland Airport. As you know, these soldiers were enroute to Fort Campbell and home, after completing 6 months of duty with the Multinational Force and Observers in the Sinai Peninsula, Egypt, to spend Christmas with their families and loved ones. Such is the nature of this memorial to not only recognize the supreme sacrifice of our men and women in time of war, but to recognize the sacrifices of the living and the dead in time of peace as well. My heart and wishes of God's blessings go out to the families of these brave soldiers, of comrades fallen in wars and conflicts of the past, as well as the many living service personnel whose scars and suffering are not as visible.

Expressed in a letter I recently received from Jose "Sparky" Esparza, historian for the group of volunteers embarked upon funding and having erected this Armed Forces Memorial, are these words: "Such a structure . . . would not only be fitting for members who participated in our Armed Forces, but appropriate to those who sacrificed their valiant blood for the cause of liberty. Their devotion to the democratic ideals of America carved their courage on those parts of the world that requested our help. Soldiers may inwardly complain, but never in the political arena of decisive discussions. They will obey the call, live for our flag, and if need be, die for our flag . . . Our system of government, despite varying opinions, is the most feasible structure in the preservation of justice, well-being and dignity. To all who trained, fought or died, there gently echoes the silent words of a great general, General Douglas MacArthur, 'Always for them . . . Duty, Honor, Country.' In such spirit we must not let patriotism become a shadow in the twilight of oblivion; nor, forget those who are active, were active, or are no longer there to answer rollcall. Soldiers are special . . . they are the guardians of our country, our freedom, and our lives. Could we do less than honor them with a memorial?"

The site for the memorial was approved on October 15, 1985, by the Brownsville City Council. The memorial itself will be pentagon shaped, approximately 5 feet high and 16 feet across with a base approximately 22 feet in diameter. The base, top, and each of the 5, 4 by 8 foot sides of the memorial, will be faced in blue-grey granite. A seal representing one of the five branches of the Armed Services will be affixed to each side of the memorial and the flag of that branch of service will be flown on a staff located on that service's side of the memorial. The flag of the United States of America will be flown on a staff erected from the top center of the memorial.

I appreciate the efforts of all the people of Brownsville and some of the following memorial committee members who have been instrumental in promoting this memorial, the unveiling of which is expected to occur on July 4, 1986: Jose "Sparky" Esparza; chairman Oliver Butler (COL USA Ret); secretary/treasurer, Jerry V. Ingle (SGT MAJ USMC Ret); Navy representative, Donnie R. Boykin (CPO USN Ret); Army representative, David L. Ervin (MAJ USA Ret); Air Force representative, John Cutney (LTC USAF Ret); and Coast Guard representative, Fred D. Mann (CPO USCG Ret).

Again, I commend the citizens of Brownsville who through their unselfish efforts have joined together to erect an Armed Forces Memorial honoring those who have served their country in the past, the present, and who will serve in the future. God bless each of you and each of the men and women who have, do, and will serve our country and the liberty for which we stand. God bless America.

KILDEE HONORS BISHOP ROGER LEE JONES OF FLINT, MI

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KILDEE. Mr. Speaker, today I would like to take a moment to recognize Bishop Roger Lee Jones of Flint, MI, who has attained the highest position possible in the Church of God in Christ. On November 11, 1985, approximately 30,000 persons witnessed as he was consecrated bishop of the Third Ecclesiastical Jurisdiction of Southwestern Michigan during the Church's 78th Holy Convocation in Memphis, TN, by Presiding Bishop James O. Patterson, Sr. His diocese headquarters is located in Lansing, MI, and includes churches in Flint, Saginaw, Ann Arbor, Niles, Benton Harbor, Muskegon, Lansing, Jackson, and South Haven.

Bishop Jones, the son of Donnie and Lena Jones, began his ministry at the age of 18 at the St. Paul Church of God in Christ in Rocky Mount, NC. Prior to being called to the ministry, he was a devoted lay church worker. During his teens he served the church in many capacities from junior deacon, who kept the church clean and the coal stove heated for a 500-member church, to junior Sunday school superintendent.

He was ordained an elder in 1958 by the late Bishop Wyoming Wells in Southern Pines, NC. He conducted his first revival at Bishop Well's church in Greensboro, NC, prior to being ordained.

At the age of 22, the future Bishop Roger L. Jones, already a nationally known evangelist, began his leadership role in the national church. He was appointed youth leader for the International Youth Congress in 1959. In 1961, he was appointed national platform chairman of the International Youth Congress, a position he held until 1965.

In November of 1963, the future Bishop Jones came to Flint, MI, where he became the founder-pastor of the Greater Holy Temple Church of God in Christ.

Bishop Jones not only became a very successful local leader, but also a very prominent figure in the State and national church. In 1977, he was elected chairman of the board of trustees of the national church, a position to which he was again elected in 1980 and 1984. On the State level he served as cochairman of the finance committee, chairman of the expediting committee, and vice chairman of the State elders council. In 1980, the late Bishop John S. Bailey appointed him chairman of the elders council, and in 1982 to the board of administrative assistants.

In the Flint community Bishop Jones has served as past vice president of the Concerned Pastors for Social Action and as a member for the City Advisory Council for Project Followthrough. He is a member of the Greater Flint Council of Churches and has served as youth minister for the Flint Chapter of Teen Challenge.

Bishop Jones completed high school and Saints College in Lexington MS. He has also studied at Mott Community College, Baker Junior College, Detroit College of Business and the University of Michigan—Flint. He and his wife, Margaret are the parents of three sons.

During his 29 years as a minister, Bishop Jones, through God's guidance and with His abundant blessings, has grown from a young man delivering his trial sermon into an eloquent and articulate messenger for the Lord. We in the Flint area are better because of his guidance and proud to be associated with him.

REEXAMINATION OF CONSENT DECREE

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TAUKE. Mr. Speaker, last Thursday, December 12, 1985, Commissioner Mimi Dawson of the Federal Communications Commission delivered the following speech to the Practising Law Institute. The speech sets forth strong arguments as to why the consent decree in the AT&T divestiture case needs to be reexamined. I call it to my colleagues' attention as they consider during the next session the various bills which would change the consent decree.

The speech follows:

REMARKS OF COMMISSIONER MIMI DAWSON, FEDERAL COMMUNICATIONS COMMISSION

Thank you. I'm delighted to be here today to share my views with you on the evolving telecommunications marketplace. As you know, the industry, the Government and users have been greatly involved during the last several years in transitioning to a competitive arena. This process has generally focused on AT&T and the OCCs, and its history includes the Execunet decisions, ENFIA, the MTS/WATS docket, the divestiture, a number of court proceedings and equal access arrangements.

This morning the speakers addressed the issues of equal access and interexchange competition. Other sessions will address accesss tariffs, Computer Three, new lines of business for the BOCs and non-Federal issues. I would like to devote my remarks today to an issue which is extremely important to all the players in the marketplace: the future competitive role of the local exchange carriers and particularly the Bell Operating Companies.

What I would like to present to you is a slightly *different view* of *why* the restraints of the MFJ and certain FCC regulations need to be re-examined—if we are to bring additional service choices to American consumers and enhance our ability to rely on marketplace forces rather than governmental restrictions.

My "brief"—if you will—is that the nature and scope of competition in the provision of telecommunications services has gone through a substantial metamorphosis. Competition is not horizontal. It is not characterized by discrete and severable areas of competition—despite the inclination of many to view it that way.

The MFJ and the FCC have attempted to segregate services into distinct categories: manufacturing, exchange service, interexchange service, information service, enhanced services. And with the probable exception of exchange service, regulators assumed that competition would develop in each of those discrete categories.

But that doesn't fully explain the dynamics of telecommunications after the AT&T divestiture. It's true enough that competition has developed in these separate areas. But it's also true that competition is now being characterized more than ever by the integration of transmission, CPE and intelligence.

Perhaps the integration—or more accurately, the re-integration—of these services is inevitable—simply because many large users are not willing to separately shop for the exchange, interexchange, CPE and intelligence segments of their networks. Large users are demanding "one-stop shopping" and end-to-end offerings: Virtual private line networks, for instance, which integrate exchange and interexchange transmission functions with software and CPE.

In more traditional antitrust terms, it seems that the relevant product market or submarket for larger users has changed from the horizontal to the vertical. That is, the product market has changed from the provision of discrete services to the provision of integrated end-to-end packages.

What the market may be telling us today is that the ability and need to integrate all services into a users' network has changed the shape of competition from horizontal to vertical. Competition today is increasingly among providers of integrated offerings which include CPE, intelligence and transmission facilities.

There are several interesting aspects to this. One is the formation of strategic alliances—MCI & IBM, for example—between providers of "different" services in order to be able to offer an integrated product.

In addition, the most intense competition may occur over location of the intelligence in the network—whether the intelligence is placed in CPE, the exchange carrier's central office or the interexchange carrier's switch. It may well be that he who controls the intelligence has a significant marketing advantage and has perhaps captured the customer—or at least has a hand deep into the customer's pocket.

But, as is too often the case, the government's ability to regulate is two or three steps behind technology's ability to innovate.

As I alluded to a moment ago, the FCC now takes a horizontal approach to analyzing competition and classifying carriers as dominant or non-dominant. Thus, interexchange service is one playing field, and the cast of characters includes AT&T, MCI, Sprint, US Telecom and others. CPE providers, although generally unregulated, are on a second horizontal, and local exchange carriers are on a third horizontal.

If users have indeed changed the product market, then the Commission must be willing to modify its policies if it desires to rely on competition and market forces rather than regulation to drive down costs and maximize service options for users. New entry in the provision of these integrated service offerings must be encouraged, and existing yardsticks for identifying and regulating carriers with different levels of market power must be revised. It may now be appropriate to measure market power on an integrated services basis rather than on a component by component basis.

To promote competition in this evolving market, it is important to identify the existing participants as well as the possible entrants. Some interexchange carriers are obviously one group already offering—*or at least able and permitted to offer*—integrated, end-to-end services which combine intelligence with transmission. In an integrated service offering provided by the interexchange carrier, the local exchange carrier may be bypassed or merely used as a pipeline.

CPE providers form another group—limited somewhat in their participation since they generally do not own transmission facilities.

A third group is the local exchange carriers—and particularly the BOCs. But, unfortunately, the BOCs are restricted in their provision of transmission facilities, CPE and intelligence by the MFJ and the FCC's Computer two decision.

The solution—or at least one of the solutions needed—is to increase competition by giving the BOCs some flexibility to compete in this integrated end-to-end market. In some cases direct entry may be appropriate. In other cases forming strategic alliances with other service providers may be appropriate.

I have no doubt that the BOCs will be able to use their capital, expertise and operational efficiencies to provide a variety of services including some which may enable smaller interexchange carriers to better compete with larger interexchance carriers. And, ultimately that's good for consumers. The BOCs would also be able to keep large users on the local network, and lessen pressures on local rates.

That will benefit consumers, too. BOC entry into the integrated services product market, coupled with reasonable interconnection and access requirements, will reduce the cost of service for users. It will decrease the probability of the BOCs becoming the price victim of the upstream dominant carrier, and will lessen the BOCs dependence on their major competitors for carrier common line revenues. And all of these things ultimately will rebound to the benefit of the telecommunications consumer.

But what about the risks? BOC entry need *not* foreclose the operational choices *of other carriers* or users, need *not* increase market concentration, need *not* result in a supply squeeze and need *not* raise barriers to entry for other carriers. Of course, the FCC as well as the Department of Justice and the decree court will be able to and should monitor the BOC's entry to assure no anticompetitive results.

In looking to the BOCs to provide integrated service offerings, I do not necessarily conclude that the other interexchange carriers cannot provide these services. I merely conclude that additional entry would increase user options and would be *accompanied* by manageable downside risk to the public. The decree court would, of course, have to modify the MFJ and the FCC would have to revise its Computer two policies.

Having redefined, or at least refined, the product market and having removed artificial barriers to fuller entry for the BOCs, a new analysis may be appropriate to determine market power. This analysis would necessarily *also* address the issue of whether the relevant geographic market has changed. it is not impossible that the geographic market may now be regional rather than national. The market power analysis would identify dominant and non-dominant firms and regulatory requirements would be crafted for each classification. Additional policies could be fashioned for a transitional period if the market structure so warranted.

Assuming that AT&T and the BOCs,—are found to be dominant for the provision of integrated end-to-end services, the question then presented is at what point should those carriers be declared non-dominant.

I think that several things would set the stage for this eventual determination: curing the problems relating to the implementation of equal access; the easing of restrictions on the BOCs to lay the groundwork for their entry into the market. The exact timing would depend on the rate of development of competition and the loss of market power by AT&T or the BOCs.

Freeing the BOCs from operating restrictions should not be confused with giving the BOCs carte blanche to operate all segments of their business as they please. Accounting and reporting requirements should be fashioned to segregate the competitive large business services from the monopoly small business and residential services. The FCC must assure that all cost allocations are correct. And, state regulation would not be supplanted.

A further *quid pro quo* for permitting the local exchange companies to provide a full range of offerings is the achievement of equal access, not only in terms of physical feature group D facilities but also in terms of making sure that equal access works. After all, the OCCs are also viable competitors in this new environment. The BOCs must fully respond and remedy all legitimate complaints raised by the interexchange carriers. Some of these technical and operational issues are before the Commission in the TDX petition. The Carrier Liaison Committee also has an important

role to play in making sure that equal access works—not to mention the possible creation of the Commission's own equal access task force.

If our purpose is to maximize benefits to users through the introduction of competition, the full development of technology and the operation of market forces, then all carriers must be given the freedom and flexibility to compete in supplying the integrated product demanded by consumers. We must recognize that the competition is again becoming vertical rather than horizontal and assure that our policies and actions toward all carriers reflect this reality. Thank you.

IMPOUNDMENT OF JUVENILE JUSTICE FUNDING

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KILDEE. Mr. Speaker, as you are aware, the fiscal year 1986 Commerce, Justice, State, and Judiciary appropriations bill was signed into law 1 week ago, on December 12. This measure provides $70,282,000 for the Office of Juvenile Justice and Delinquency Prevention [OJJDP]. During the same time period that the appropriations bill was being approved, the Office of Managment and Budget developed a proposal to rescind the entire fiscal year 1986 appropriations.

The proposed rescission has not yet been sent to the Congress as required under the Impoundment Control Act of 1974. Yet, OJJDP has been prohibited from making any further program expenditures pending congressional consideration of the rescission proposal. This constitutes an illegal impoundement of funds.

I am strongly opposed to the Justice Department's actions. Congress, through both authorization and appropriations bills, has repeatedly demonstarated its support for the Federal leadership role which the Juvenile Justice and Delinquency Prevention Act provides in juvenile justice matters. Despite this strong bipartisan congressional support, this administration has consistently requested zero funding for juvenile justice programs, and opposed reauthorization of the Juvenile Justice and Delinquency Prevention Act. In every instance, the Congress refused to go along with their request to end assistance for troubled youth. Nevertheless, in the face of a recently signed appropriations act, the administration has refused to release the funds. Apparently they are trying to shelter this money until such time as a Gramm-Rudman sequestration order goes into effect. In the meantime, there are State agenices and private organizations which have successfully applied for assistance, need that assistance desperately, but have been told they cannot receive any money.

Mr. Speaker, I am strongly opposed to the rescission of OJJDP funds. I am also extremely concerned over the administration's disregard of the orderly process established by the Congress to consider the rescission of appropriations funds. Since the administration has not complied with the Impoundment Control Act, I strongly urge that the Department immediately release these funds for obligation.

DEADLINE EXTENSION FOR MINERAL LEASING

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. RAHALL. Mr. Speaker, the conference report on the continuing appropriation for fiscal year 1985 contains an amendment offered by the other body which delays the effective date of August 4, 1986, to December 31, 1986, after which holders of undeveloped Federal coal leases issued prior to 1976 will be prohibited from being issued new Federal onshore mineral leases under the Mineral Lands Leasing Act of 1920.

I did not object to this intrusion on the jurisdiction of the authorizing committee. In the Committee on Interior and Insular Affairs, we have been working on legislation in this area and will continue to pursue this matter during the next session of Congress. However, I must reiterate at this time my strong opposition to any further attempt to amend section 2(a)2(A) of the Mineral Lands Leasing Act of 1920 through the appropriation process. It is my expectation the authorizing committee in the other body will begin consideration of legislation regarding this matter and follow the normal course of deliberation. It is my strong desire to see this issue resolved next year, and to that end, I will continue with the effort commenced by the Subcommittee on Mining and Natural Resources.

AND JUSTICE TO ALL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SOLARZ. Mr. Speaker, last Friday five Maryland rabbis went to prison for conducting a peaceful vigil in front of the Soviet Embassy. They are serving a 15-day prison sentence at the Federal Correctional Institute at Petersburg, VA. In addition, several others were fined and put on probation. The rabbis were protesting the harsh treatment of six Soviet Jewish prisoners of conscience.

Not only is this an excessive punishment, offensive to our moral conscience and sensibilities, but it is unfair and unjust, more in line with Soviet legal policy than with American. For nearby, outside the South African Embassy, similar protests are conducted against that Government, and there arrests also take place. But, unlike the protests at the Soviet Embassy, in these cases, all charges are dropped. This is selective justice, and it does a great disservice to both the American system of justice and to those Americans who fight to preserve justice for people in other societies.

Clearly we need to reexamine our laws surrounding peaceful demonstrations outside other nation's embassies. Alan Dershowitz, a professor of law at Harvard University recently wrote about this subject. I would like to insert his cogent article here and commend it to the attention of my colleagues.

The article follows:

Something is rotten in the city of Washington. Recently, two groups of demonstrators were arrested for violating the exact same law. But the cases against one group have been dismissed, while the cases against the other have been brought to trial.

The law in question prohibits anyone from demonstrating within 500 feet of any foreign embassy. The first group of protesters deliberately violated that law by demonstrating near the South African Embassy against that country's horrendous system of apartheid. The second group violated the same law by demonstrating near the Soviet Embassy against that nation's abominable treatment of Jews, especially Jewish "refuseniks," who have been denied permission to join their families in other countries.

Members of both groups were arrested, but all charges were dropped against those demonstrating near the South African Embassy. Those demonstrating against the Soviet Union were brought to trial, convicted and sentenced to 15-day suspended jail sentences, six-month probations, and fined $50.

Few are complaining about the severity of the sentences, but there is widespread outrage at the different treatment accorded the two groups.

Members of the anti-Soviet group have been found to be criminals, while members of the anti-South Africa group have been treated as law-abiding. Indeed, 35 members of the House Judiciary Committee have argued in a letter to Attorney General Edwin Meese that it was unfair to prosecute the anti-Soviet protesters, since it was decided not to prosecute the anti-South Africa demonstrators.

Certainly, the Justice Department can't hold the position that one group is more justified in its protests than the other. Both South Africa's treatment of its blacks and the Soviet Union's treatment of its Jews are inexcusable violations of human rights. It's futile to try to decide which is the worse evil, since each has its uniquely devilish aspect: the pervasiveness of apartheid's legalization of primitive racism condemns it in the eyes of the entire world; the Soviet Union's state-supported anti-Semitism, combined with its refusal to allow any but a handful of Jews to leave, has earned it a distinctive place on the dishonor roll of human-rights violators.

Nor is there any claim that one set of demonstrators was noisier or more disruptive than the other. Both groups were engaging in peaceful acts of civil disobedience to bring their views directly to the doorsteps of those diplomats who represent their countries' evils in our nation's capital.

The justification apparently offered by prosecutors in defense of their selective prosecution is that South Africa has decided not to press charges, while the Soviet Union insists that those who protest within 500 feet of its embassy must be prosecuted.

There could be no worse reason for the prosecutors to have acted as they have. It

cannot be our country's policy to allow foreign governments to dictate who we shall prosecute under our laws and within our legal system. For us to accede to the policy preferences of racist and anti-Semitic regimes is to abdicate our responsibility for making decisions about our laws.

What if the South African Embassy pressed charges only against black demonstrators, and not against white ones? Surely, we would pay no attention to their preferences. Why, then, should we pay attention to a public relations decision made in Pretoria and designed to produce a propaganda victory for the apartheid regime by showing how "sensitive" South Africa is to the rights of U.S. protesters? Let President Willem Botha show the same solicitude for protesters in South Africa.

Nor should we pay any attention to Soviet insistence that those Americans who protested near its embassy—mostly rabbis—be selected for prosecution. Either everyone or no one who protests within 500 feet of any embassy must be prosecuted. That is what "equal protection of the law" means.

But Judge Colleen Kollar-Kotelly of the District of Columbia Superior Court rejected all legal arguments made by the rabbis this month and convicted them. She turned down their claims of selective prosecution, as well as their argument that the defense of "necessity" permitted them to engage in non-violent peaceful protest within earshot of the diplomats, since all legal recourse had been denied. The judge also rejected the prosecutors' recommendation that no fine be imposed, and sentenced the defendants to pay $50 each, in addition to the suspended jail terms and the probation.

Several of the rabbis, acting in the spirit of the Rev. Martin Luther King Jr., refused to pay the fine or promise to stay away from the Soviet Embassy. These rabbis were then sent to jail for 15 days and were denied bail, pending appeal.

It is sad—indeed, a rotten—day for American law when our prosecutors adopt the very inequality against which all the Washington protesters were demonstrating. The anti-South Arica demonstrators can't be any happier that their fate was determined by Pretoria's racists than are the anti-Soviet protesters that their fate was determined by Moscow anti-Semites.

UNITED STATES HAS NO RATIONAL TRADE POLICY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TALLON. Mr. Speaker, the President's decision last week to veto the textile and apparel trade bill was the culmination of misguided, ill-conceived trade policy that America has pursued for 5 years. This trade policy is causing the erosion of America's manufacturing base and our status as a world power.

As Roger Milliken, chief executive officer for Milliken and Co. observed, "We are talking today about the transfer of economic strength to other nations and the resulting decline in American power."

Our decline in economic strength is largely the result of a war of words on American trade policy taking place in Washington. On one side are the free traders; on the other side are the protectionists. They are both creating a great deal of noise, but unfortunately, both are defending a myth.

They argue textbook theories and ancient history without regard to the real economic world marketplace.

As a result, the United States has no rational trade policy that might reduce our $150 billion trade deficit and enable us to compete in new and constantly changing world trade.

First, to dispell the myth, pure free trade does not exist now and never has. Neither does its ideological opposite, pure protectionism.

To look at the real world:

At least one-half of world trade is affected by some sort of protectionism—tariffs, quotas, subsidies, or other measures that distort trade by preventing its free flow.

Fully 40 percent of the world trade is not between countries but between branches of multinational companies.

Almost every nation except the United States has a trade policy, and makes it part of its overall foreign policy.

In view of these practical realities, the administration's blind faith in free trade is ridiculous. Yet, on the other side, protectionists take a meat ax approach by proposing a blanket 25-percent tariff, as though all imports are equal and all countries deserve the same treatment.

The free trade theory stems from an idea of comparative advantage formulated almost 200 years ago. Under this theory, each nation has certain products it can make cheaper than other nations.

Thus, a nation should sell what it makes best and buy abroad what other nations make. In the perfect scheme, each nation uses its comparative advantage to its own profit.

But with today's technology and communications systems, modern factories can be built around the world, taking advantage of the lowest wages, while being directed by headquarters in New York.

Therefore, "comparative advantage" is no longer a natural occurrence, but can be created by any country or multinational corporation willing to go to the trouble. This is the biggest cloud on the U.S. trade horizon.

Some of our problems will disappear as the dollar weakens, but the threat of low-wage competition will continue. There is nothing inherently unfair about this. No simple, single measure aimed at "fair trade" will work here.

This is why we need a full fledged trade policy, based on world realities. Our Government policies on taxes, industry, and investment must be shaped to promote trade and expand industry and jobs.

Does this imply some protectionism? Yes, but aren't our industries, jobs, communities, our standard of living worth protecting? In economic defense, like in military defense, the question is not if, but how.

We have an arsenal of offensive and defensive weapons—duties, quotas, subsidies, tax incentives, bilateral agreements. The key is a set of rational, practical trade policies using what works best in specific situations.

A trade policy for our Nation is long overdue. It is time to jettision the myths and start dealing with the real world. If "protectionism" offends the ear, we can call it "managed trade" or "organized free trade" or some other fancy name. At this stage, what we call it is less important than whether we do it.

"ACCURACY IN ACADEMIA" ASSAILED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BIAGGI. Mr. Speaker, recently a group claiming to be a watchdog of the "liberal bias" of campus professors, has come to the attention of a number of us concerned about educational issues.

Specifically, this group, calling itself "Accuracy in Academia," contends that it has signed up 150 college students from schools across the country to monitor professors who are giving one-sided lectures. This group is also publishing a newsletter which will name those it considers "violators".

I am pleased to note that a number of distinguished leaders in the educational field—from conservatives to liberals—have joined to denounce this ill-advised propoganda machine. Last month, in a Washington speech, the chancellor of the City University of New York, Joseph Murphy, this group nothing more than a "corps of thought police." Joining in this denunciation was Secretary of Education William Bennett, who called this group "a bad idea" in a speech before 300 college deans in Baltimore.

The most recent information on this group has surfaced in the form of an article in the New Republic, which details the inner working of this group. For the benefit of my colleagues who might be confronted by the issues raised by this group, I wish to insert this article into the RECORD.

[From the New Republic, Dec. 30, 1985]

I WAS A SPY FOR ACCURACY IN ACADEMIA—CAMPUS DOUBLE AGENT

(By James Ledbetter)

Professors to be monitored for leftism. That *Washington Post* headline caught my eye on August 4, 1985. I read that a new group called Accuracy in Academia (AIA) planned to weed out "10,000 known Marxists" on American college campuses. Malcolm Lawrence, president of AIA, vowed to publicize "political bias based on incorrect information" in the classroom. I found it hard to believe that there were that many Marxist professors in American universities, and wondered how AIA would decide which courses to monitor. So the next day I called Lawrence at home, told him that I was a senior at Yale, and asked if they planned to be active on my campus.

"You're a student?" he replied. "Would you be interested in being our Yale contact?" Lawrence didn't ask whether I knew of any instances of Marxism. He didn't ask

if I approved of the group. He didn't even ask about my political leanings. Not thinking it would amount to anything, I agreed, and gave him my phone number and school address. Lawrence assured me someone from the group would get in touch. For the next four months, I would be a spy for Accuracy in Academia.

AIA is a spin-off of Accuracy in Media (AIM), an organization created in 1969 to combat the purported liberal bias of the American media. AIM devotes its $1.7 million annual budget to monitoring the press and television for slanted coverage. AIM president Reed Irvine has gained respectability through appearances on ABC's "Nightline" and other television programs. Though best known for its two-hour rebuttal to the PBS series "Vietnam: A Television History" (which was labeled "good propaganda for the communists"), AIM is active on many fronts. For example, noting that polls reveal American women to be more liberal than men, AIM suggests that "one possible explanation . . . is the popularity among women of the Phil Donahue show."

In August AIM announced that it was "going to the source" of the media tilt—leftist academia—and created a new arm to "end the brainwashing." The group has thus far cited a dozen or so "biased" professors. The first student report concerned Dr. Mark Reader, a professor of political science at Arizona State University, who teaches a survey course of political ideologies. AIA's first newsletter, leaked to the press weeks before it was published, charges Reader with teaching only his own "obsessions: . . . anti-nuclear propaganda and fringe economics." An anonymous student also quoted Reader as saying that "the Soviet Union is no threat compared to the United State's imperial aggressions." Reader denied that he had said this, though he claims if he did, he had every right to do so. (AIA claims that "young, impressionable students" are reluctant to criticize a professor who might flunk them, so it promises to keep the identity of its students. . . .

Csorba told me that the "paranoid" professors resisting AIA's calls for "balance" weren't going to force the group out of business. "In a year or two we'll just be a standing presence and people will accept what we're doing as legitimate. We're not going to go away." He's probably right. The group's annual budget is $162,000, covering ten newsletters per year and the small staff. AIA's figurehead president is now John LeBoutillier, the author of an "expose" of alleged decadence at Harvard who once served a term in Congress. Scully was brought on as national director mainly to write about Reader. Thus he and Csorba alone lead the battle against the army of 10,000 Marxist academicians.

Csorba said that each issue of the newsletter would be sent to 40,000 people. Subtracting staff fees from the budget, there is no way AIA can affort mailing that many newsletters every month. It plans to charge nonstudents $25 a year for the newsletter, but it's doubtful it will get many subscribers. Other backers will have to be found, and no doubt will. There is plenty of conservative foundation money to be had.

Somewhat less secure is AIA's guise of fairness. If AIA is careless enough to allow a mole into its inner sanctum, imagine how it might misrepresent a professor it's already out to persecute for views expressed outside the classroom. As Marx, always the great social commentator, once said: "I wouldn't want to be a part of any club that would have me as a member."

THE SECRETARY OF STATE CALLS FOR INTERNATIONAL COOPERATION AGAINST TERRORISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROOMFIELD. Mr. Speaker, I commend Secretary of State George Shultz for forcefully speaking out on the issue of terrorism during his trip to Yugoslavia. I encourage him and other Government officials to take a firm stand against the scourge of international terrorism. Hard-hitting comments such as his do help and are appreciated. Well done, George.

As my colleagues know, our Secretary of State is visting a number of Eastern European countries. During his visit to Yugoslavia, he clearly spoke his mind about the threat of international terrorism. He was responding to comments made by the Yugoslavian Foreign Minister. In an emotional presentation, Mr. Shultz told the news conference that the hijacking of the Italian liner, *Achille Lauro*, was not justified. He also said that terrorist acts were wrong and that the international community must face up to the problem of terrorism.

As we all know, Abu Abbas, the Palestinian who masterminded the hijacking of the *Achille Lauro* and the tragic murder of Leon Klinghoffer, was allowed by Italian authorities to go to Yugoslavia. Later, Yugoslavian officials allowed that terrorist to quietly leave the country for Iraq. Unfortunately, the Yugoslavian Government rejected a United States request for the arrest and extradition of Abu Abbas.

All of us must face the fact that terrorism cannot be justified as an expression of the frustrations of those who believe they have been wronged. Negotiations are the best way to resolve standing problems. Terrorism in all of its forms is criminal activity which cannot be justified by any country or any group of people. Terrorists are international bandits and pirates. They must not be given shelter in any country. We must do all that we can to have terrorists extradited and brought to justice. Abu Abbas and others like him must receive the punishment which they deserve. International cooperation among the nations of the world that have been affected by the scourge of terrorism is necessary. The Congress recently passed legislation calling for the establishment of an International Coordinating Committee on Antiterrorism. This organization would provide an international forum for combined action against terrorism. The group could serve as a coordinating body for antiterrorism efforts by concerned governments. Intelligence sharing and coordinated political action against terrorism could be discussed by the group.

Terrorism is an international problem and an international solution will be required to face up to this growing menace. I encourage our Secretary of State to call for the creation of this International Coordinating Committee. The time for concerted efforts against international criminals masquerading as heroes is now.

With these thoughts in mind, I commend the following Washington Post article on the Secretary's comments on terrorism to my colleagues in the Congress.

SHULTZ AMPLIFIES TERRORISM COMMENT

(By John M. Goshko)

Secretary of State George P. Shultz said yesterday that he was "speaking for the American people" when he angrily told a news conference in Belgrade on Tuesday that the hijacking of the cruise ship Achille Lauro was a terrorist act and had no political justification.

Shultz created a stir in Belgrade when he pounded a table and publicly disputed Yugoslav Foreign Minister Raif Dizdarevic's statements that incidents like the Achille Lauro piracy must be viewed in the context of the Palestinian people's struggle against colonialism.

Shultz, who had been sharing the podium with Dizdarevic, immediately interrupted to say that the hijacking, in which Palestinian terrorsts killed an elderly American and terrorized others, "is not justified by any cause that I know of."

Yesterday, while flying home after a 10-day European visit, Shultz said, "I just want people to see that in the United States we feel very strongly about this subject. I felt that by making an interjection at that point I was very much really speaking for the American people."

"I think that in the past year, we in the United States have seen the menace of terrorism more clearly. So support for doing something about it is stronger," added Shultz, who has been the most outspoken member of the administration in advocating a tough stance against terrorism.

He also insisted that there is no contradiction between his call Tuesday in Belgrade for giving terrorists "no place to hide" and the administration's reluctance to take measures against Iraq for harboring Mohammed Abbas, a Palestinian leader who allegedly masterminded the Achille Lauro piracy in October.

Shultz acknowledged to reporters Tuesday that Abbas, a member of the Palestine Liberation Organization executive committee, has been in Iraq and that the Iraqi government has refused U.S. requests for his arrest.

When he was asked yesterday whether Abbas is still in Iraq, the secretary replied, "I don't have any information otherwise." A State Department spokesman said yesterday that the United States would request Abbas' extradition if it is determined with certainty that he is in Iraq.

Although acknowledging that Iraq's apparent harboring of Abbas is "a problem," the secretary said, "I don't think we should feel that every time we identify a problem, we have to fire off a gun or break relations with someone. There are gradations."

Shultz again linked the PLO to terrorist acts in the Middle East.

He denied that his criticism of the PLO is at cross purposes with the efforts of Jordan's King Hussein to win PLO backing for a Jordanian-Palestinian delegation to enter peace talks with Israel. Shultz said the United States continues to back Hussein's search for those Palestinians who could play a role in the peace process.

However, the secretary added, "We have seen individuals who have associations with the PLO, including members of the executive committee, be associated with hostage-taking, acts of terror and murder. So you have to put that in the picture."

FOURTH MARTIAL LAW ANNIVERSARY IN POLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOYER. Mr. Speaker, December 13 marked the fourth anniversary of the declaration of martial law in Poland. For 4 years, the Polish people have lived under a state of seige by their own government. The initial violent aftermath of the imposition of martial law, the dark days when water cannon and riot batons were trained on peaceful demonstrators, has given way to pervasive and insidious efforts by the regime to institutionalize repression and eradicate all independent associations and activities.

Members and supporters of the outlawed union Solidarity, including activist priests, frequently fall victim to mysterious deaths, beatings, and kidnappings and threats by unknown assailants. Despite periodic, highly conditional amnesties, there are at least 265 prisoners of conscience in Poland today. The Jaruzelski government has passed a new law on higher education, aimed at suppressing free intellectual exchange and the development of independent culture. Last week, seventy university rectors and deans were fired for political reasons. All of this was done in the name of normalization and restoring order. Ironically, General Jaruzelski has taken to travelling abroad to the West to seek the legitimacy that the Polish people steadfastly refuse him at home. Jaruzelski is literally banking on the premise that memories in the West have faded about the devastating events of only 4 years ago. But for the Polish people, martial law is no mere memory. They cannot forget. Daily life serves as a painful reminder.

Yet, Mr. Speaker, 4 long years after the crackdown, Solidarity is still very much in operation above—and underground. It remains the inspiration for extensive unofficial publishing and other independent cultural and educational activity. As co-chairman of the U.S. Helsinki Commission, I would take the occasion of the grim December 13 anniversary to share with my colleagues the concluding paragraph from a report prepared for the Budapest Cultural Forum of Helsinki signatory states by the Committee of Culture of Underground Solidarity. It consists of a quote by Leszek Szaruga, that appeared in the independent literary publication Obecnosc from Wroclaw:

We live in a divided Europe brimming with steel and explosive devices, capable of wiping out the most minute trace of life from this continent. We can oppose this arsenal only with the delicate structure of culture which is always a structure of understanding. It is easily destroyed, and not only by force. One can easily destroy it by destroying lively and searching thought, which frequently goes astray, but which constitutes the only realistic chance for survivial.

Lively and searching thought is the target of regime repression in Poland and in other countries around the world today. Solidarity's tragic experience and its urgent message holds deep meaning for us all. We would do well to listen and to heed it. Thank you, Mr. Speaker.

MARTIN ANDERSON ON THE NEED FOR AN ABM SYSTEM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, Martin Anderson's essay from the Washington Post points once again the very real need for some form of defenses against ballistic missiles, even if such a defense is only partial or preferential in scope. We currently have no defenses whatsoever against any type of ballistic missile attack, a fact which many Americans find both astounding and profoundly disturbing. The SDI opponents have made a centerpiece of their attack the insistence that any system be 100 percent effective, virtually leakproof against an all-out Soviet first strike. In the same breath, they contend that such a system is impossible to construct and operate. Little attention is paid to the most likely nuclear threats, which are posed by accidental Soviet or Chinese launches and intentional launches by some future Third World nuclear weapons state. We dismantled the one ABM system we were permitted under the ABM Treaty, an action not met in kind by the Soviets. Certainly the Soviets know better than we that even an imperfect, limited system can have important utility against less than robust nuclear threats; this is a compelling case for initiating ABM deployments as soon as possible.

[From the Washington Post, Nov. 26, 1985]

WE NEED AN INSURANCE MISSILE DEFENSE SYSTEM

(By Martin Anderson)

The results of the Geneva summit prove that President Reagan's often lonely approach to dealing with the deadly issue of nuclear weapons is the right one. The final statement endorsing "the principle of 50 percent reductions in the nuclear arms of the U.S. and the U.S.S.R. appropriately applied" was an extraordinary achievement.

Even the combined foreign policy wizardry of Nixon and Kissinger could produce only a controlled, but farily high rate of growth in the nuclear arsenals of the two superpowers. And the most radical proposal the international left has seriously proposed in the last decade was a mere freeze on existing nuclear stockpiles. Yet here were the two great nuclear powers endorsing the idea of a one-half reduction.

The weeks and months ahead will tell whether our negotiators have the skill and patience to fashion an arms control agreement that is in our national interest. In the meantime there is something we can and should do that would reduce the degree to which the United States is at risk from nuclear attack and would also give added momentum to the arms control talks. We need to build an insurance missile defense. It is something the Soviet Union has already done.

Under the terms of the ABM Treaty signed in 1972, both the United States and the Soviet Union have the right to build a limited missile defense system with up to 100 interceptor missile launchers. Almost immediately after the signing of the treaty, the Soviet Union began to deploy interceptor missiles around Moscow. Today they have the only operational missile defense system in the world.

Almost 100 interceptor missiles, mostly brand-new SH-08s, tipped with nuclear warheads, stand poised to blast off at a moment's notice. Because they intercept their targets high above the earth's surface, they can effectively protect a very large part of the Soviet Union from a limited missile attack. They cannot protect the Soviet Union from the combined assault of hundreds or thousands of nuclear missiles, but they can and do guarantee Soviet rulers that they need never fear the chilling assault of a nuclear missile launched accidentally, or being held hostage to a threat from a Third World power that has managed to build a few nuclear ICBMs.

In the early 1970s we began to build a defensive missile site to defend our regular missiles stationed in Grand Forks, N.D. In 1975 we stopped and tore down what had been built. Today we have nothing. If a nuclear missile or two, for whatever reason, were launched toward the United States today, we would be helpless.

Take the worst case. A Soviet missile targeted on Washington is fired accidentally. The Soviets frantically notify the White House on the hot line. The North American Defense Command in Colorado tracks the incoming missile with its sophisticated computers and informs the Pentagon that it will strike the city in 14 minutes. What should our response be? Do we answer with a nuclear attack of our own, even though the Soviets are apologizing profusely for their mistake? Do we passively wait while our country is "decapitated?" What would you do if you were president?

The real answer is that we should not even have to contemplate such questions and all their ramifications. The Soviets don't. If we mistakenly fired a nuclear missile at Moscow, they could tell us not to worry and blast it harmlessly out of the sky with one of their interceptor missiles. The tragedy of our situation today is that we cannot do the same.

Last year the U.S. Army successfully tested an interceptor missile that proved we could destroy an incoming ICBM more than 100 miles up in space and that we could do it by simple collision—without using a nuclear warhead. And that is something the Soviet cannot do. Today the technology is on U.S. shelves that would enable us to build an effective limited missile defense system, one totally permitted under the ABM Treaty, that could ensure the United States against the possibility of the most terrible accident in history.

The fact that we have not built any missile defense must be incomprehensible to the Soviets. Building and deploying a limited missile defense now would place us on a par with the Soviet Union in terms of oper-

ational missile defenses. Beyond that it would give the American people a chance to live in a nuclear world where at least you could protect yourself from an accidental attack.

And if both the United States and the Soviet Union possessed an insurance missile defense system, all of us just might find that we had created a measure of stability that we have not had since the Soviet Union developed nuclear weapons.

CONGRATULATING L.W. (BILL) LANE

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HEFTEL of Hawaii. Mr. Speaker, it gives me great pleasure to congratulate L.W. (Bill) Lane on his appointment as the new U.S. Ambassador to Australia.

Bill Lane, publisher and chairman of the board of Sunset Magazine, has long been a friend of Hawaii. He has promoted tourism in Hawaii and the Pacific through such positions as U.S. Commissioner General to the International Ocean Exposition in Okinawa and U.S. Government representative to the Pacific Area Travel Association. Bill Lane's familiarity and expertise with the Pacific Basin make him an excellent choice for the next ambassador to Australia. An editorial column about Bill Lane appeared in The Honolulu Advertiser on December 17, 1985, and I would like to share it with my colleagues.

The article follows:

U.S. AMBASSADOR LANE

L.W. (Bill) Lane, board chairman and publisher of Sunset Magazine and a longtime friend of Hawaii and the Pacific, soon goes to Canberra as the new U.S. ambassador to Australia.

He is an excellent choice, especially at a time when New Zealand's sag in relations with us makes the joint security alliance of America and Australia all the more important. Bill Lane has the talents and the knowledge of the region to further that bilateral commitment.

With a growing Soviet presence in the Pacific, Australian leaders are hopeful that the recent Geneva summit will lead to arms control, including nuclear non-proliferation and limits on chemical weaponry.

In commenting on the summit in speeches to Parliament late last month, both Prime Minister Bob Hawke and Foreign Affairs Minister Bill Hayden reaffirmed Australia's commitment to its alliance with the U.S.

The New Zealand issue has helped to focus more American attention on our relationship with Australia, with the realization that what we had largely taken for granted is really vital to our strategic interest in the region.

Of mutual benefit is a warm friendship of more than two centuries based on a common dedication to freedom and democracy. The founders of the Australian federation got the idea of federalism from this country and studied the American Constitution in drawing up their own.

Names of some Americans unfamiliar to most of us are important figures in Australian history—George Chaffey, who pioneered irrigation Down Under; J.C. Williamson, who played a major role in the development of the theater; and Walter B. Griffin, who designed the national capital.

Aussies have fought alongside Yanks in every war in this country in which we've been engaged—World War I, World War II, Korea and Vietnam, Australia is the only country to have done that.

Thousands of Americans own land in Australia. Many have business connections there, Bilateral trade is substantial, with Australia running a deficit with us but, interestingly, a surplus with Japan.

We have important military facilities in Australia, ranging from naval communications stations to a joint defense space research base.

Anzus, if New Zealand withdraws its rebuff of U.S. nuclear vessel visits, or a new bilateral treaty between Canberra and Washington will contribute to be the heart of Australia's defense structure.

That is as true of the Labor Party now in power as of the Liberal Party (which is conservative). When the late Arthur Calwell led Labor, he said, "We want the American presence, strong and powerful, in Asia and the Pacific. We want it because Australia needs it until all nations are prepared to disarm." Obviously, we need it there, too.

As the new U.S. ambassador, Bill Lane has links with Australia that go back to World War II when he was a gunnery and communications officer on troop transports in the Pacific.

Presidents Carter and Reagan named him the U.S. government representative to the Pacific Area Travel Association. He had ambassadorial rank when, on appointment by President Ford, he served as U.S. Commissioner General to the International Ocean Exposition in Okinawa 10 years ago. He has been active in the Pacific Basin Economic Council.

He and his magazine have staunchly promoted Pacific tourism. He is a supporter of the Travel Industry Management School at the University of Hawaii and of the HVB. He and his wife Jean, who is on the board of the Pacific Tropical Botanical Garden on Kauai, will be worthy representatives of the U.S. in Canberra.

NEW HUNGER STRIKE BEGINS IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan ad hoc Congressional Committee for Irish Affairs, I am deeply concerned over reports that a new wave of hunger strikes may be beginning in Northern Ireland.

This concern is based on the decision yeaterday by a prisoner, Robert Tohill, age 26 to begin a hunger strike. Mr. Tohill was one of 27 men convicted in a highly controversial "supergrass" trial conducted in Northern Ireland. The supergrass process has come under fire from a number of international organizations and legal experts. It is a procedure by which the uncorroborated testimony of paid informants is made admissible and is often the main vehicle leading to conviction. Such was the case in Mr. Tohill's trial. His decision to embark on a hunger strike is in protest over this procedure which shows contempt for due process and makes a mockery of justice.

It is imperative that the British Government moved expeditiously to allow an appeal to be filed in this case. Such an appeal should also allow for a ruling on the use of supergrass and its degree of being inimical to the ideals of a democracy. Almost 4 years ago hunger strikes took the lives of 10 young men in Northern Ireland. British indifference and inaction contributed to this. Let us not allow history to repeat itself again in Northern Ireland.

TRAGEDY IN ETHIOPIA

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. ROTH. Mr. Speaker, I would like to read to my colleagues two headlines that have appeared in the Washington Times and the Washington Post in the last few days: "Ethiopian Officials Accused of Undermining Relief Work"; "Ethiopian Reported Missing: Relief Official Said to Seek U.S. Asylum."

We are silently standing by and witnessing a tragedy of historic proportions. Over a million Ethiopians are being forced at gunpoint to leave their homes and families and are being transported south under cruel and inhumane conditions. So far, over 100,000 Ethiopians have died in this death march. About half of the victims rounded up and placed in these concentration camps have died. However, and I quote from a December 17 Washington Post article:

Western relief officials fear that any public criticism of the relocation scheme could result in their expulsion from Ethiopia and cancellation of relief programs, many of which recently have spent millions of dollars in the country.

It is no coincidence that the head of Ethiopia's famine relief organization, Dawit Wolde Giorgis is seeking political asylum in the West, as once again the pace of this horrifying resettlement program has intensified. Undoubtedly even Mr. Wolde could no longer stomach the atrocities of his government.

I urge my colleagues to take a moment and review these three articles which are reproduced below. We cannot sit idly by and witness this holocaust. We must rally world opinion around this tragedy. And we must consider tough sanctions against this evil government.

[From the Washington Times, Dec. 19, 1985]

ETHIOPIAN OFFICIALS ACCUSED OF UNDERMINING RELIEF WORK

(By Curtis Cate)

PARIS.—Ethiopian officials more concerned with fighting rebels than combating famine constantly undermined the efforts of a French charity that was expelled from

the country, a nurse who worked for the charity says.

And Claire Couquiaud, a 24-year-old nurse working for the French medical-aid group Medicins Sans Frontieres (Doctors Without Borders), says she saw government officials force peasants into a resettlement scheme under conditions so harsh that many died each day.

Miss Couquiaud, a blonde Parisienne who says she went into nursing because she was inspired by her sister who is a doctor, volunteered in September to spend six months working in Ethiopia for MSF. Soon after her arrival, Miss Couquiaud found herself caught in a dispute between the Ethiopian government and the charity group, which organizes medical relief efforts around the world.

The dispute broke into the open with charges by the head of MSF, Dr. Rony Brauman, that the Ethiopian government had blocked the group from opening a children's nutrition center because it might interfere with the government's controversial resettlement program.

In a press conference yesterday, Dr. Brauman charged that forced migration has killed more than 100,000 people in Ethiopia and is leading to another 300,000 people being threatened with death. He said refugee centers in Ethiopia resemble concentration camps and said the camps for famine victims in northern regions are "the No. 1 cause of death in the country."

Angered by MSF's repeated allegations, the Ethiopian government has charged the charity is more interested in politics than relief. More than a score of MSF doctors, nurses and other staff were expelled from the country this month.

In an interview with The Washington Times, Miss Couquiaud rejected Ethiopian allegations that MSF was "politically motivated." She described how her assignment became "disheartening"—and even "nightmarish"—as she and her colleagues saw how Ethiopian officials dealth with peasants.

She and her team—which included one doctor, two nurses, and a "logistician" whose job it was to clean out dirty wells and water holes and to build latrines—operated at Kelala in northern Wollo region, about 250 miles north of the capital. There, she says, their efforts were thwarted by the refusal of the Ethiopian authorities to let them open a clinic where critically undernourished infants could be allowed to stay overnight for emergency feeding.

"All we were allowed to do in our feeding center was to give the most critically famished a ration of 'hypercaloric' food—an enriched powder composed of dried milk, sugar, and oil which we had to mix with water into a kind of porridge—to supplement the normal daily pancake diet, after which the poor devils were sent back to the villages they had come from," she said.

"As a result, of the 10,000 persons who came to see us every month—some of them having had to walk seven full hours from their village homes—3,000 are estimated to have died," she said.

Miss Couquiaud, who arrived at the village on Oct. 12, said about a month after her arrival tents began to spring up around Kelala's main building—a small, dirt-floored hall known as the "theater." Soon the tents were filled with a haggard group of some 500 "voluntary migrants" for the resettlement program.

But far from being volunteers, she said, the "migrants" had been singled out by village mayors, often as a way of settling personal scores, and rounded up by armed Ethiopian troops.

"These poor people, many of them husbands arbitrarily separated from their wives and families, were kept pinned up in the theater and surrounding tents for almost two weeks in utterly appalling conditions," she said. "There were no lavatory facilities, there was excrement everywhere, and the stench was indescribable.

"Every morning we saw a score or two of litters carrying out the corpses of people who had died during the night."

On the night of Nov. 27, Benoit Tullen, the Geneva-born doctor who headed the MSF team, visited the theater. Appalled by the spectacle of excrement and lice-infested straw, he persuaded the local administration to let him remove the most stricken cases for emergency treatment.

"By this time, people were no longer trekking in from the countryside with their starving children to receive our emergency rations, being scared stiff of being rounded up by militiamen for shipment south to some resettlement area, " she said.

Miss Couquiaud said that other "voluntary migrants" were encountered by another MSF team near the northern Wollo village of Sekota. The team came upon a group that had been locked into a church, where many of them were dying. While trying to obtain their release, a French nurse was assaulted by an Ethiopian militiaman who knocked her to the ground with his rifle butt, Miss Couquiaud said.

"Right up to the last moment, we had trouble with the militiamen," she said. On Dec. 13, when she and her colleagues were informed they were being expelled from Ethiopia, the militiamen would not let them distribute any of their food stocks to the 50 local helpers in the relief effort.

She said a militiaman broke a leg of one helper.

[From the Washington Post, Dec. 16, 1985]

ETHIOPIAN REPORTED MISSING—RELIEF OFFICIAL SAID TO SEEK U.S. ASYLUM

(By Blaine Harden)

NAIROBI, KENYA, December 15.—Dawit Wolde Giorgis, head of the Ethiopian government's famine relief program, is reported to have been missing for more than three weeks since completing a fund-raising tour in Western Europe and the United States.

Western relief officials in Ethiopia, who are in contact with senior members of the government there, said Dawit is widely believed to be seeking political asylum in the United States.

A spokesman for the the U.S. Embassy in Addis Ababa said it had no information on Dawit's where-abouts and is not aware if he has asked for asylum. [At the State Department, a spokeswoman said she had no report of Dawit being in the United States.]

As commissioner of Ethiopia's Relief and Rehabilitation Commission, Dawit has become one of the most visible and widely quoted officials in Marxist Ethiopia during the past year. He has been an outspoken critic of western governments, charging they responded too slowly last year to Ethiopia's famine.

His defection would be likely to embarrass the Ethiopian government, which is a close ally of the Soviet Union and a frequent critic of the United States.

Dawit left Ethiopia Oct. 25 for a trip intended to raise aid donations for the famine, which is expected to continue through 1986. He reportedly visited Britain, Belgium, West Germany and the United States. He met officials in Washington and at the United Nations in New York. He was last heard from in Belgium and was expected to return to Ethiopia Nov. 23, relief officials in Ethiopia said.

Dawit's brother defected from Ethiopia to the United States in September, according to diplomatic sources. The sources said he went to New York where his wife had been given a job, through Dawit, with the Relief and Rehabilitation Commission.

Dawit's absence from Addis Ababa has delayed planning among the 35 countries and 47 nongovernmental organizations working there for next year's relief effort, aid officials say. The Ethiopian government has not made an official statement on Dawit.

A graduate of Columbia University Law School and a major in the Ethiopian Army, Dawit has been important to the government headed by his friend, Lt. Col. Mengistu Haile Mariam. During the early 1980s, Dawit served as governor of Eritrea, where rebels have been fighting the government since 1962.

Dawit headed the "Red Star" campaign against the rebels, which was unsuccessful and in which there were more than 30,000 government casualties. He subsequently was named to the number two position in the Ministry of Foreign Affairs.

Two years ago, Mengistu named Dawit as head of the government's agency responsbile for coordinating famine relief. As commissioner of the Relief and Rehabilitation Commission, he was widely respected by western relief officials, who said he worked hard and was decisive.

In recent months, however, these relief officials said Dawit's influence in the government had waned. They said regional leaders of the ruling Workers' Party frequently overrode decisions made by the relief commission.

Dawit, who is divorced, is believed by relief officials to own a home in California.

A MARTIAL ARTS LEGEND

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MCEWEN. Mr. Speaker, for the past two decades Al Conaway of Hillsboro, OH, has been a master teacher or Sensei of martial arts. His record of accomplishment which follows speaks for itself, but as someone who has known and followed Mr. Conaway's career I can personally attest to this legend of Ohio martial arts.

Following are a few of Al Conaway's martial arts achievements: Over 100 trophies and personal awards; personally trained 60 black belt 1; recognized by 2 U.S. Presidents, the Ohio House and Senate and the Governor of Ohio; trained Ohio State karate grand champion (1983); and named one of the most outstanding Senseis of mid-America (1976–85).

Mr. Speaker, to enter an endeavor, a field of study, a business and do the best you can is the mark of a successful career. On his retirement from the martial arts field, Al Conaway can feel comfortable in the fact that he did his best.

THE SMOKING LADA: NICARAGUAN SUBVERSION IN ACTION

HON. WM. S. BROOMFIELD
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROOMFIELD. Mr. Speaker, Concrete evidence is finally available showing Nicaraguan support for the rebels in El Salvador. A Russian-built vehicle crashed in Honduras earlier this month. The war materiel and other equipment cleverly hidden in that vehicle provide proof that Managua is assisting rebel groups in El Salvador. The claims that the administration has been making over the years are true. Commandante Ortega and the Sandinistas are involved in actively supporting and supplying the Communist insurgency in El Salvador. The Nicaraguan Government is intentionally promoting subversion and terrorism in the region.

According to one of the men injured in the wreck, the vehicle came from Managua and was going to El Salvador. The driver of the vehicle admitted that he had been trained in Cuba and had made a similar delivery run earlier this year.

The wrecked car contained six hidden compartments stuffed with $27,000 in U.S. dollars and 450 pounds of clandestine military equipment. Included in this equipment were 7,000 rounds of ammunition, 21 grenades, 12 radios, and 86 blasting caps. Also found were cypher pads for putting secret messages in one-time-only codes that are impossible to break. Medical supplies, written instructions to FAL—Armed Liberation Forces—rebel field commanders and letters to rebel soldiers from relatives in several countries, to include Cuba and the Soviet Union, were found. The letter from the Soviet Union was apparently written to a rebel soldier. It was written in Russian which indicates that the soldier was probably trained in the Soviet Union long enough to learn the language. I also understand that there is a videotape showing Honduran officials opening up the secret compartments in the car and removing the hidden equipment.

In spite of Nicaraguan claims that it has not provided arms or ammunition to the guerrillas in El Salvador, the truth has finally come out. Even Miguel D'Escoto, the Nicaraguan Foreign Minister, had denied to the World Court that his government was assisting the Salvadoran rebels.

For 5 years, the administration has been telling the American public that the Sandinistas have been arming and supplying the Salvadoran rebels. While sensitive intelligence sources and methods have always clearly shown the close support which Managua gives to the groups which make up the FMLN, unclassified concrete evidence was admittedly scanty.

I commend Honduran authorities for their professionalism in detecting the arms cache in the "Smoking Lada" and the administration for quickly calling this convincing evidence to the attention of Congress.

With these thought in mind, I suggest that all Members read the following press briefing concerning this incident by Elliott Abrams, Assistant Secretary of State for Inter-American Affairs. This entire affair is food for thought.

SUMMARY—EVIDENCE OF NICARAGUAN SUBVERSION IN CENTRAL AMERICA

An auto accident in Honduras on December 7 led to the discovery by Honduran authorities of ammunition, grenades, communications and encrypotion material, and other items being sent from Managua to guerrillas fighting in El Salvador. The evidence, which came to light only by chance, provides further proof of the continuing role of Nicaragua in support of regional armed subversion and terrorism and factually demonstrates that Sandinista Foreign Minister Miguel D'Escoto and his government lied to the World Court when they said they are not engaged in provision of supplies to the guerrillas in El Salvador.

INTRODUCTION

Honduran authorities have already issued a statement concerning the incident we address today. On December 7, in Honduras, a serious accident occurred involving a Soviet-built Lada automobile. As Honduran investigators at the scene of the accident discovered, the vehicle had six concealed compartments containing grenades, ammunition, communications and encryption materials, instructions, money, medical supplies, and personal letters to guerrillas fighting in El Salvador from relatives in the Soviet Union, Cuba, and other countries. The documents, including instructions addressed specifically to nine guerrilla commanders, revealed that the shipment came from the Managua headquarters of the Armed Liberation Forces or FAL, the military wing of the Communist Party of El Salvador and one of the five main guerrilla groups that make up the FMLN. The other four groups are the National Armed Resistance Forces (FARN), the Popular Liberation Forces (FPL), the Central American Revolutionary Workers Party (PRTC), and the Popular Revolutionary Army (ERP).

The shipment we are discussing today was sent by the FAL Communications Section in Managua and was destined to nine field communications chiefs in El Salvador. The text of the FAL letter of instructions is being made available.

BACKGROUND: ARMS TRANSFERS

Since the Sandinistas took power in Managua, arms and other supplies, including dollars, have been shipped from communist bloc countries and elsewhere through Nicaragua to the guerrilla groups of the Farabundo Marti National Liberation Front (FMLN) in El Salvador. Nicaragua and Cuba are the central participants in this support network. The Sandinistas provide warehouses for storing arms, ammunition and other supplies awaiting onward transportation to El Salvador. Nicaragua territory is used for training camps for guerrillas from El Salvador and other Latin American countries. The FMLN central command's radio and logistics system is in Managua.

It was no accident that the negotiations with the Salvadoran guerrillas for the release of President Duarte's daughter and twenty-two mayors and municipal officials has to be conducted via the FMLN's central radio in Managua.

The pattern of arms shipments through Nicaragua to El Salvador has gone through several stages since 1979. From small-scale deliveries early in 1980, the shipments became massive in period November 1980 to January 1981, when large arms shipments from the communist bloc, particularly Vietnam, were sent to Nicaragua for transshipment to El Salvador. It was at this time and for this reason that President Carter suspended U.S. economic aid to Nicaragua and commenced military aid to El Salvador. At that time three rather open methods were used for shipping arms: aircraft—for both airdrops and landings in El Salvador; large semi-trailers—for the overland route from Nicaragua through Honduras; and small vehicles for transport into El Salvador. (Photographs of one of these trailer trucks are printed in the State Department publication, "The Sandinista Military Build-up.")

After the arms shipments of late 1980 and early 1981 were exposed, the Nicaraguans and Salvadoran guerrillas turned to other means. The emphasis switched to transportation over the Gulf of Fonseca, and automobiles and small vans on the overland route. As with the earlier trailer trucks, license plates and vehicles registered in other countries, such as Costa Rica, Guatemala and Honduras were frequently used to allay suspicions of border guards.

As Salvadoran surveillance on the Gulf of Fonseca improved and arms were seized after landings, the Sandinistas and the FMLN have again changed the sea routes, using larger boats on blue water outside the Gulf of Fonseca, then transferring shipments under cover of darkness to small boats which are unloaded at safe locations on the Salvadoran coast. The arms smugglers are informed by guerrilla radio of the locations of Salvadoran army patrols as the boats approach the coast.

Today, the transport of arms by vehicle has become quite sophisticated. In Managua, there is a shop for modifying vehicles to add small secret compartments like those found in the Lada. Frequently, vehicles begin their trip in Costa Rica, pick up their cargo in Nicaragua, pass through Honduras into El Salvador or go to Guatemala before going to El Salvador, and finally, after unloading, on to Mexico. Then after a week or two the vehicle returns to Costa Rica. For example, according to its driver, the Lada vehicle captured on December 7 would have gone into El Salvador after passing through Honduras. Another variant on the routes used is to off-load the arms and supplies in Honduras for storage and subsequent shipment to El Salvador via small vehicles, pack animals, and in backpacks.

THE ACCIDENT

On December 6, a Lada automobile bearing Costa Rican plates crossed the border of Costa Rica into Nicaragua. On December 7, the same vehicle entered Honduras from Nicaragua on the Panamerican Highway between Nicaragua and El Salvador. Shortly thereafter, it suffered a blowout and crashed in the small town of La Leona, Honduras. Both the driver, Elias Solis Gonzalez, and his passenger, Martha Espinoza Espinoza, were injured, and the woman is hospitalized in serious conditon in Honduras.

Local police, noting the Costa Rican plates, notified the Costa Rican consular representative. During the police inspection of the vehicle several wires were discovered protruding from the air conditioning duct. The wires turned out to be parts of blasting caps. Later, in the course of a more detailed examination in Tegucigalpa, the authorities found several concealed compartments in the Lada, which contained ammunition, gre-

nades, communications and encryption material, money—$27,400 in U.S. currency—medical supplies, personal letters to individual guerrillas fighting in El Salvador from relatives in the USSR, Cuba and other countries, and instructions to the front communications officials from the head of the FAL Communications Section.

The driver of the Lada was a Costa Rican and a member of Costa Rica's communist Popular Vanguard Party. He was acting as a courier for the Salvadoran Armed Forces of Liberation, the FAL. The driver, now under detention, has admitted to having been trained in Cuba in "political subjects" from September 1981 to June 1982, and to having made an earlier courier run in the same vehicle in July 1985. His route on the previous run went from Costa Rica to Nicaragua, to Honduras to El Salvador.

These photographs show the concealed compartments and the following materials contained in them:

Ammunition: 7,000 rounds, sufficient to equip a platoon sized unit (30-50 men) for a major assault or several smaller operations;

86 electric blasting caps, which can be used to make 86 home-made bombs or improvised explosive devices. There have been over 400 bombings in El Salvador in 1985 alone, with an increasing shift to urban actions;

20 fragmentation grenades used to kill or incapacitate personnel, or as mines and boobytraps. Also a terhmite grenade used to destroy machinery or as an incendiary device;

17 grenade fuses;

Communication gear: Two base station radios used for communication over long distances with units in the field and ten walkie-talkies for use between platoon leaders. Computer-generated Encryption pads: used to encrupt and decode communications;

US$27,400 in hundred dollar bills. Worth over a quarter million Salvadoran colones on the black market, enough to support 250-500 combatants for a month;

Medical materials, typically associated with combat field hospitals; and

Over 20 assorted documents, mostly personal letters from Argentina, Spain, Nicaragua, Cuba, and the Soviet Union.

The use of autos and other vehicles for the transport of explosives and communications equipment, as well as ammunition and other small-scale items, has been known for some time. The sophisticated construction of the concealed compartments, as seen in the photos, has eluded normal detection measures. Short of the actual dismantling of every vehicle crossing a border, it is hard to identify which vehicles are smuggling materials for the guerrillas. It is, in fact, completely fortuitous that this physical evidence of something we have known through intelligence for a long time has come to light.

In a similar incident last month, Guatemalan authorities picked up an individual, arriving by air from El Salvador, who had in his possession $30,000 in U.S. $100 bills. He was turned over to Salvadoran authorities, who have determined that he is an intelligence officer for the Communist Party of El Salvador (PCES) and was trained in the USSR and Cuba. He had been a resident of Managua for five years at the time of his arrest, and since September 1984 had been traveling to Guatemala City approximately every three months to deliver between $20,000 to $30,000 to the PCES. He is continuing to cooperate with Salvadoran authorities, and we cannot share with you all the information he has provided thus far. However, what is clear is that he was a highly trusted member of the guerrilla movement, and no mere courier for the Salvadoran Communist Party.

The Sandinista regime will undoubtedly deny its involvement in this incident, as it has always denied any involvement in logistical support for subversion, from arms transfers to provision of command and control facilities for various terrorist groups.

In his April 21, 1985, affidavit to the International Court of Justice in the Hague, Foreign Minister Miguel D'Escoto claimed that his government "is not engaged, and has not been engaged, in the provision of arms or other supplies to either of the factions engaged in the civil war in El Salvador." He insisted that the policy and practice of the Sandinista regime is to prevent the use of Nicaraguan territory as a conduit for arms or other military supplies to guerrillas, and assured that the policy would continue in force. Nevertheless, the evidence that puts the lie to those denials and assertions continues to mount. The vehicle that I have shown you is only the latest evidence which demonstrates that D'Escoto and the Sandinista regime simply lied to the World Court. The Sandinista regime is the vital link in the transfer of weapons, supplies, and money to the Salvadoran guerrillas.

STANLEY BURNS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOYER. Mr. Speaker, I would like to bring to my colleagues' attention the attached article from the Baltimore Sun magazine on Stanley Burns of Chase Manhattan Bank. As you are probably aware, Maryland has had a significant problem in the past months with the failure of a few savings and loans. The Governor and the Maryland General Assembly have been working diligently to remedy the problem and have looked to the banking and savings and loan industry for assistance. During a special session of the Maryland General Assembly the Chase Manhattan Bank was given banking privileges in Maryland in return for their assuming control over and the liabilities of three of the State's troubled savings and loans.

The attached article is an excellent story about Chase's new president in Maryland, Mr. Stanley Burns. We in Maryland welcome both Mr. Burns and Chase to our State and look forward to a productive and longlasting relationship with them.

CHASE'S MAN IN MARYLAND

(By Susan Antilla)

NEW YORK.—It was the start of the July 4th weekend, and Stanley T. Burns and an entourage from Chase Manhattan Corp. had one thing on their minds: to get back to their families in New York and carry through on promises of weekends in the mountains or at the shore. Late negotiations with S&L officials in Bethesda caused them to miss the last shuttle out of Washington on Wednesday night. The trip to National Airport the next day meant even further frustration as the ride through the capital placed them in the middle of a 6 a.m. traffic jam—the Beach Boys were setting up for a July 4th concert. They finally got to National Airport only to discover there would be no flights for another 2½ hours.

"There were other times when we missed the last shuttle or train out, and those things get to be wearing," Mr. Burns says. "You get into a long negotiating process and it burns up a lot of mental energy."

Mr. Burns, 41, was chief of the Chase team that finally tied up deals with the Maryland State Legislature, Friendship Savings and Loan of Bethesda, Chesapeake Savings and Loan of Annapolis, and Merritt Commercial Savings and Loan of Baltimore. The three banks have been merged into the new Chase Bank of Maryland, now headquartered at 300 N. Charles St.

His long hours and personal frustrations apparently paid off: Chase honchos named the Tennessee native president of the new Chase Bank of Maryland on Oct. 31, rewarding the 19-year Chase veteran for his moves to quicken the bank's entry into the lucrative Maryland market.

"He endeared himself with all of those with whom he was working," said senior vice president Joseph Harkins, Mr. Burns' boss, who had a big say in the decision to tap him for the job. "Stan was always the guy to run it. He's got managerial capacity and a warm, comfortable style that fits in with the community. He knows the innards of the banks he acquired. And he is familiar with the network in Chase Manhattan."

A big plus boosting Mr. Burns was his quintessential Chase style. For this interview, his pinstriped suit, white button-down collared shirt and tasseled loafers left little doubt that he favors a classic banker's uniform. His office in New York is a textbook example of what ex-Chasers refer to as "the Chase Look"—a spartan, no-frills image that dictates everything down to the paintings on the wall.

The image is also that of the totally organized person: blank yellow legal pad, message slips neatly stacked and sharpened pencils, all pointing up from a nondescript pencil holder. A polished apple offers a lone splash of color in Mr. Burns' otherwise stark surroundings. Even Mr. Burns jokes that one friend at Chase has said he'd prefer having emergency surgery on Mr. Burns' immaculate desk to any other flat surface.

Current and former Chase insiders say the corporate culture dictates other behavioral principles. "You'll find that Chase will tell you nothing about anything—you'll never know where anyone stands," said one defector. Indeed, Mr. Burns, who launched the Chase ethics program, would not discuss his views on ethics in American business generally. And despite his involvement with programs that marry the liberal arts graduate and the corporation, he did not wish to talk about any business world shortcomings in the hiring of liberal arts grads, either. One former Chase manager describes Mr. Burns as the ultimate Chase politician—an exec who's made it his business never to step on toes or make an enemy.

Right now, it is in Mr. Burns' interest to make sure that things go smoothly—perhaps to rock the boat even a little could distract from a high corporate priority. The Maryland venture is extremely important in a larger Chase plan to expand regionally, and many management eyes will be focused on Mr. Burns as he develops his plan to make this region profitable.

Said Mr. Harkins, "This is a very significant step [for Mr. Burns] simply because it is on the cutting edges of the way in which the bank is moving to expand itself nationally." Chase recently announced an agreement to acquire Continental Bancor of Arizona, which owns Arizona's sixth largest bank. New York-based Chase Manhattan Corp. owns the Chase Manhattan Bank, which is the third largest bank in the United States, with more than 300 branches in New York state. The bank has assets of $88 billion and is represented in more than 100 countries.

Stanley Burns first became involved in a potential acquisition of the Maryland S&Ls because, as vice president and eastern regional manager of Chase's commercial sector, Maryland was within his jurisdiction. (The appointment to president of Chase of Maryland is considered a significant step because it puts him in charge of all banking activity in a major market.) His group already had decided that the Maryland market would be a priority for bank expansion, so when the S&L crisis erupted last May, they saw it as "an alternative entry route," Mr. Burns says. Chase representatives testified at the special legislative session from the very start, and both the bank and the government set ground rules.

"We were told we would have to acquire either Old Court or Merritt," Mr. Burns remembers, explaining that Merritt became Chase's choice because Old Court "was a lot bigger and more complicated." The ground rules set by Chase for the state were that the bank wanted more than one S&L, "in order to put together a reasonable package" with a mix of assets, geographic diversity and a strong deposit base.

In the months between May and the end of October, when Chase's deal was finally sealed, a big point of disagreement was whether Chase should get $25 million from the Maryland Deposit Insurance Fund Corporation.

On Oct. 17, which happened also to be Mr. Burns' birthday, the deal's potential took a negative turn, as a frustrated Chase group picked up and returned to New York. "We finally got to the point in Annapolis of saying our deal is on the table and it's our best deal," Mr. Burns remembers. "There was a certain view that Chase was unwilling to compromise. . . . But there had been quite a lot of compromise from the beginning."

Some colleagues of Stan Burns say it was a particularly tough time for him. "When you're a business person and you see logical business reasons for doing things, but you're operating in a political environment, it can be frustrating," said Chase senior vice president Fredric Figge II, who started his Chase career with Mr. Burns 19 years ago.

While the slow-moving political process continued to threaten Stan Burns' business plans, the chorus of those accusing him of an uncompromising stance grew louder. Mr. Burns, however, says many compromises had been made along the way. "It was very hard for me personally to hear people say that Chase wouldn't compromise when I had spent two months negotiating and we really had done a lot in that regard," he says. "For one thing, we did not want the Merritt Tower and ended up agreeing to take it."

Chase did not want to take over an unfinished, unleased building, Mr. Burns explained. But Chase went along with the state's request anyway, agreeing to take Merritt if no bidder could be found for a minimum of $30 million. Ultimately, the building was sold for $31.5 million to a New York construction company.

Although Mr. Burns will tell you, "I believed we would be back" after heading back to New York and leaving a Chase deal on the legislative table, Mr. Harkins confesses "it was very hard to tell if it would go through." State Senate President Melvin A. Steinberg, D-Baltimore County, challenged the idea of Chase getting $25 million from the Maryland Deposit Insurance Fund, part of the deal agreed to by state officials.

The negotiations became such a regular part of weekend conversation that Mr. Burns' young son became familiar with the players. "One weekend Bryant, who's 4, came in and handed me his toy phone," mimicking the familiar weekend scene of seeing his father in constant business discussions. "He said, 'Dad, it's Mickey [Steinberg],'" Mr. Burns remembers. "Bryant started carrying his own phone around the house," he says—in classic child-imitating-parent style.

All the Burnses—Sarah, 8; Anna, 2; Bryant, and Mr. Burns' wife, Christa—are looking forward to the move to Maryland, he says. Though Mr. Burns is already spending most of his time in Maryland, the rest of the family will head south in January, after Mrs. Burns leaves her job as minister of the Plymouth Congregational Church in Brooklyn Heights, where they now live. (The two met at the Madison Avenue Presbyterian Church, where Mr. Burns was an elder 10 years ago. Christa was a graduate student at Union Theological Seminary. He says the family has "a very strong commitment to the church," but lest their zeal be misunderstood, a friend adds, "They're normal, level-headed people. They are not handing out pamphlets on the corner.")

To Mr. Burns, the new project is a natural, because it draws on his natural business instincts to build—something that has gained him professional recognition from Day 1 at Chase. Consider these roles: Mr. Burns revamped an out-of-date Chase training program to turn the focus from old-fashioned commercial lending to a more up-to-date financial services orientation; he walked into Chase's real estate investment trust mess in the 1970s and helped clean that up, and he built a financial analysis division in the late 1970s to examine problem loans in the bank's portfolio and decide how to handle them.

In fact, Mr. Burns likes to describe himself as a builder, and says that Chase—which hired him right out of Duke University (B.A., political science) in 1966, gives him the chance to do what he does best. "One of the things I like about Chase is that you can go into different kinds of places and do different kinds of things. It's different than going to one place and becoming a master of one thing and doing that same thing better than anyone else year after year after year."

In this project, he plans to zero in on medium-sized Maryland companies for corporate lending, he will expand real estate construction lending on the commercial side, and shoot for "a variety" of products to woo the retail customer, from auto loans to mortgages to deposit-based offerings.

While the Maryland move means the tradeoff of leaving New York (riding the Beltway each day as opposed to walking across the Brooklyn Bridge) and relocating a wife who is advancing in her ministerial career, Mr. Burns says it's the perfect opportunity right now. "I like moving around a little bit and doing new and different kinds of things. I enjoy building new things no matter what the new thing is. And Chase Maryland is clearly gonna be a new thing."

EXTEND GRAZING FEES

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DASCHLE. Mr. Speaker, I rise to call the attention of this body to the need for an extension by the President of the grazing fee formula for livestock on Forest Service and Bureau of Land Management lands, as set forth in Public Law 95-514, Section 6(a).

The grazing fee formula, which expires on December 31, was devised in 1978, after extensive negotiations involving agriculture, environmental groups, Congress, and the executive branch. It is designed so that as livestock industry income increases, so does the fee received by Government. In difficult times when the income of the industry is down, the fee is adjusted downward so the industry can survive.

Bipartisan negotiations have been going on in the Congress for many months, involving interest groups as well as public officials, in an attempt to devise a legislative solution for future grazing fee policy. These negotiations, which affect grazing fees and rights on more than 307 million acres of Federal land, have not been successful. It is my concern that the lack of a fruitful outcome to these negotiations not have a negative impact on an important part of our economy already facing hard times.

I know that other Members feel as I do, and have joined in the effort to persuade the President to direct that the fee system be extended. I hope that other Members will add their voices to this end as well. Livestock producers who are dependent on access to publicly owned grazing lands have not escaped the problems facing other segments of agriculture. The livestock industry is undergoing its worst economic condition since the Great Depression. Extension of the current grazing fee formula would provide it with the opportunity to plan for the future and find ways to survive the current crisis.

FAIR LABOR STANDARDS AMENDMENTS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HAWKINS. Mr. Speaker, the House recently adopted the Fair Labor Standards Amendments of 1985 following the resolution of certain differences in the committee of conference which are discussed in the conference report (report No. 99-357). As

you know, the President has signed this legislation into law.

As chairman of the Education and Labor Committee and the chairman of the conference, I played a lead role in the drafting of the language of the bill. Throughout that process, I was particularly concerned about the antidiscrimination provision in section 8. Specifically, I and other members of the committee wanted to ensure that the new language contained in the Fair Labor Standards Amendments of 1985 did not result in a narrowing of the current court interpretations of section 15(a)(3) of the Fair Labor Standards Act. That provision has been consistently construed to protect victims of discrimination or retaliation who had, prior to such treatment, taken formal steps to challenge alleged violations of that act as well as individuals who had not taken such steps.

A number of discussions were held concerning the rights and protections afforded employees under section 8 of the bill and under section 15(a)(3) of the Fair Labor Standards Act. It was, and is our intent that these statutory provisions be applied in a liberal fashion to safeguard employees from discrimination, consistent with the remedial purposes of the statute.

In this regard, I wish to include in the record a letter I received from the office of the general counsel, International Association of Fire Fighters, which examines the liberal construction given to section 15(a)(3) by the courts. I believe the analysis in this letter, and the courts' decisions mentioned in the letter, properly reflect the broad coverage and intent of section 15(a)(3). The letter follows:

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
Washington, DC, November 8, 1985.

Hon. AUGUSTUS F. HAWKINS,
Rayburn House Office Building,
Washington, DC.

DEAR CHAIRMAN HAWKINS. I am writing to confirm discussions held with members of your staff during the last several weeks concerning H.R. 3530 and S. 1570 in which the general viewpoint was expressed that a liberal construction should be given to the employee protections against discrimination afforded under Section 15(a)(3) of the Fair Labor Standards Act (FLSA). This viewpoint is supported by the remedial purposes of the FLSA and a growing body of court decisions.

Although the precise statutory language in Section 15(a)(3) addresses discrimination against an employee who has filed a complaint with the U.S. Department of Labor of instituted proceedings or given testimony in proceedings under the law, the courts have broadly interpreted Section 15(a)(3) and extended its protections to the victims of employer discrimination who have not taken such formal steps. In essence, a number of courts have determined that the important safeguards available under Section 15(a)(3) should be applied to an employee's unofficial assertion of rights, such as complaints to his or her employer.

Court rulings in cases brought by the Labor Department and individual workers illustrate the liberal reading given to Section 15(a)(3) in a wide variety of circumstances. For example, in *Marshall* v. *Georgia Southwestern College,* 489 F.Supp. 1322 (M.D. Ga. 1980), a plaintiff complained to her employer of a possible violation of the Equal Pay Act (a part of the FLSA). The employer fired her husband who was also an employee. The Court agreed with the Secretary of Labor's position that the discharge contravened Section 15(a)(3), expanding that provision to encompass not only a complaint to one's employer, but also retaliation aimed at the worker's spouse. In *Hodgson* v. *Yinger,* 20 WH Cases 78 (S.D. Fla. 1971), the court held that the FLSA protected employees who merely declined to return their back pay checks which were given to them as a consequence of their employer's earlier violation of the Act. In *Berry* v. *Andrews,* 535 F. Supp. 1317 (M.D. Ala. 1982), the plaintiff worker had "contacted" the Labor Department about nonpayment of wages but there was no indication that he had filed a complaint with the agency. Nevertheless, the court ruled that the employee could maintain an action for wrongful discharge under Section 15(a)(3). Similarly, in *Bonham* v. *Cooper Celler Corp.,* 475 F.Supp. 98 (E.D. Tenn. 1979), the district court concluded that Section 15 (a)(3) is violated if a factor in an employee's termination is the individual's assertion of rights, either officially or in complaints at work.

The circuit courts of appeal have also construed Section 15(a)(3) in a broad manner. in *Love* v. *RE/MAX of America, Inc.* 738 F.2d 383 (10th Cir. 1984), an employee sent a written note to the employer's president alleging that men were being paid more than women and appended a copy of the Equal Pay Act. The court found that her subsequent firing violated Section 15(a)(3) because that provision covered an employee's unofficial assertion of statutory rights including complaints to an employer that later turn out to be mistaken. In *Marshall* v. *Parking Co. of America-Denver, Inc.,* 670 F.2d 141 (10th Cir. 1982), the court held that Section 15(a)(3) safeguards workers who refused to release their employer from back pay claims and were terminated. The Eighth Circuit Court of Appeals determined in *Brennan* v. *Maxey's Yamaha, Inc.,* 513 F.2 179 (8th Cir. 1975) that Section 15(a)(3) governed a situation where an employee was fired following her refusal to endorse her back pay to the employer. In *Bush* v. *State Indus, Inc.,* 599 F.2d 780 (6th Cir. 1979), the Sixth Circuit indicated approval of Section 15(a)(3) protection where an employee was discharged after he complained to his employer about not being given overtime compensation.

The foregoing decisions are consistent with the well-established principle that the FLSA, in general, is a remedial statute which should be construed broadly in favor of the employees it was designed to protect. As the Supreme Court has stressed, the rights guaranteed by the FLSA should not be applied in a narrow, grudging manner. *Tennessee Coal, Iron & R.R. Co.* v. *Muscoda Local No. 123,* 321 U.S. 590, 597 (1944). Accord: *Goldbert* v. *Bama Mfg. Corp.,* 302 F.2d 152 (5th Cir. 1962); *Wirtz* v. *Home News Publishing Co.,* 341 F.2d 20 (5th Cir. 1965).

In the context of section 15(a)(3), it would clearly be inappropriate if an employer was insulated from liability if it quickly retaliated against a worker prior to the individual's actual pursuit of enforcement measures with the Labor Department. Carrying that notion to its logical extremes, an employee who first informed his or her employer about possible FLSA violations would not be protected from discrimination as long as the employer acted before the filing of a formal complaint. The provision, however, would protect an employee who chose not to try to resolve the matter first with the employer and instead submitted a complaint directly to the Labor Department. Such a result defies common sense and is plainly inimical to the purposes of Section 15(a)(3).

As stated in the discussion with your staff, the language adopted in Section 8 of H.R. 3530 providing protections against discrimination to employers who "asserted coverage" under the FLSA should be given at least the same liberal construction that the courts have generally given to Section 15(a)(3). Accordingly, the second sentence added in Section 8 of the bill as reported out of the Conference Committee (concerning the scope of protection after August 1, 1986 for employees who have taken actions described in Section 15(a)(3)) will not reduce the range of employee protections in light of the broad reading the courts have given to Section 15(a)(3).

We trust this confirming letter will be helpful to you and the other representatives who fashioned the anti-discrimination provisions of H.R. 3530.

Sincerely yours,

THOMAS A. WOODLEY,
Office of the General Counsel, International Association of Fire Fighters, AFL-CIO.

THE TEXTILE BILL

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TALLON. Mr. Speaker, during recent weeks, the attention of the American public has been focused on critical legislation involving tax reform and a balanced budget which will have an effect on the lives of all Americans. And, Mr. Speaker, in the midst of all the rhetoric and debate, the tragic and costly decision to veto the textile bill went almost unnoticed.

With one stroke of a pen, the jobs of thousands of American textile workers and the well-being of their families and communities were sacrificed. The bill that the President vetoed was a bill of practicality—a bill which would merely protect and enforce already existing trade agreements. To justify this sacrifice, the administration summoned up the tired and outdated myth of free trade.

The theory of free trade has been made a mockery by the unfair trade practices of other nations and the reluctance of our own Government to enforce our existing trade laws. Where do unemployment, foreign quotas, controlled foreign markets, and unenforced customs regulations fit into this theory of free trade? The administration needs to understand that the stakes involved in this struggle to pass the textile and apparel trade bill are much larger than theory. I would like to refer you to remarks made by Roger Milliken, chairman of Milliken & Co., on Friday of last week.

We are talking about the transfer of economic strength to other nations and the resulting decline in American power. Our

cause is the cause of two million workers in textiles and apparel and two million more who gain their livelihood from serving them. The majority of elected representatives from all over the United States have supported the textile/apparel bill. We may be ahead of our time with this bill, but I think not. If the bill is vetoed, and I pray it will not be, we, the coalition, are determined not to stop fighting. We will go back and try to get an override, first in the House and then in the Senate. This will be very difficult. If we cannot, we will be there all next year. I want you to know this is a total commitment. We will prevail.

Mr. Speaker, this veto suggests an uncaring attitude toward this tragic situation. More than 300,000 American workers have lost their jobs over the last 5 years due to the surge in imports of textiles and apparel. The veto also completely ignores the workers in our Nation's remaining textile and apparel factories—many of which are barely holding on against the tide of imports flooding our markets.

I believe the President got some very bad advice this time. His advisers claim that the bill is protectionist. I don't know about you, but it doesn't bother me at all to try to protect our communities and standards of living. I don't see it as protectionism; it really is bordering on desperation now.

In South Carolina alone, over the past 5 years, 56 textile manufacturing plants have closed and 33 apparel plants have been forced to shut down. Moreover, 45,000 people have lost jobs in the industry over the last 10 years. It is clear to anyone that we have got to do something or we are not going to have a textile and apparel industry.

I want to go back to the question of protectionism, which seems to be the administration's biggest problem with this bill. Last year, imports captured nearly 50 percent of the U.S. apparel market. With all the agreements in place, combined imports of textiles and apparel increased by 32 percent. In 1983, imports increased by 25 percent. Meanwhile, the big five exporters still control over half of the U.S. textile and apparel fabric market at the expense of developing countries that were to benefit from the agreements. Obviously the agreements are not working. They cover only about 65 percent of imports and set quotas only on some products from certain countries.

The agreements are full of loopholes allowing fraud, mislabeling, transshipment of garments from one country to another and other violations of the letter and spirit of international trade agreements. This legislation just closes some of those loopholes and enforces existing agreements.

Sadly, I watched the national news reports with stories from countries like Singapore, Hong Kong, and Taiwan, and they were all praising the President's decision. There sure isn't anything for the American textile and apparel worker to be happy about. This is an absolute tragedy, not only for their industry, but for the entire Nation as well.

It's up to the President now. He has promised that he will look into the charges that our trading partners are not living up to the original agreements. He said he would tighten administrative and enforcement procedures if the charges are found to be true. The ball is entirely in his court now, but I can promise you that I am going to be watching closely to see if the administration lives up to its promises. If they don't, I for one, will be working hard to get my colleagues to join me in a bipartisan effort to override this veto.

A SALUTE TO TOM WINEBRENNER

SPEECH OF

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. MILLER of Ohio. Mr. Speaker, it was with mixed emotions that I treated the recently announced retirement of my good friend Tom Winebrenner.

I can recall, as if it were only yesterday, my first visit to the Cloak Room as a newly elected Member. Like most new Members without past legislative experience, the system at first appears a little overwhelming. There are a lot of questions to ask and a lot of rules and procedures to learn. I found early on that a good person to guide me through the maze was Tom. Always accessible, always available to lend a helping hand, Tom quickly proved to be a reliable and responsible source of information and assistance, and he has remained so ever since.

But, as they say, all good things must come to an end, and so it is with Tom's outstanding and dedicated service to the House of Representatives and to the minority party with which he was associated. Tom has richly earned the retirement upon which he is about to embark. I wish him nothing but the best as he leaves this body.

May his retirement be as rewarding as his many years of service here in the House have been.

THE WALL STREET JOURNAL'S REJOINDER IN THE YELLOW RAIN DEBATE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, an important extension of the debate over Soviet and Vietnamese use of chemical warfare was published recently by the editors of the Wall Street Journal, and the essay deserves the attention of all the Members of the House. I ask that it be read into today's RECORD.

[From the Wall Street Journal, Nov. 4, 1985]

WHO SPEAKS FOR SCIENCE?

Several science magazines have been beating up on us for having the presumption to notice that a prominent scientist wears no clothes. They demand to know what credentials we have for making such a statement.

The scientist in question is Harvard biochemist Matthew Meselson, intellectual godfather of the 1972 biological-weapons treaty and also of the "bee feces" thesis. This holds that "yellow rain" in Southeast Asia is nothing but bee droppings and therefore the Soviets haven't violated Prof. Meselson's treaty.

Mr. Meselson and his co-authors recently reasserted this thesis in Scientific American. But in "The 'Bee Feces' Theory Undone" (Sept.6), our William Kucewicz observed the real significance of this article: that the Meselson group had failed in its efforts to find yellow-rain toxins in bee droppings, that it failed to report these negative findings in its article, and that the notion that the toxins were natural products had collapsed.

This "materially misrepresented" the article, wrote Scientific American editor Jonathan Piel in a complaining letter. Mr. Piel denies that "Prof. Meselson once took the position that trichothecenes are a naturally occurring contaminant of bee feces. Prof. Meselson cited this as one of several possibilities in 1983."

"The Journal has succeeded in missing the main points of the scientific arguments involved," Chemical & Engineering News editor Michael Heylin wrote in an editorial. "As indicated in the Scientific American article, there is no clear proof of widespread mycotoxin poisoning in Southeast Asia from any source."

"The Wall Street Journal, widely acclaimed as one of the best newspapers in the world, seems to have a quirky streak that it should exorcise," advised an editorial in Nature magazine. In Journal editorials, it observed, "President Reagan often comes through as a kind of 'pinko.'" It concluded, "What the bee theory does however do is to discredit the investigations on which allegations of the Soviet use of biological weapons have been based."

The wisdom of science, as recorded by these magazines, then is this: (1) The theory that bee feces contained trichothecene mycotoxins never existed, (2) there were no trichothecenes, and (3) no one died.

Now, part of the problem here is epistemological. The methods of science are very good at dealing with the replicable events of nature, but we do not usually apply the scientific methods of evidence to practical human affairs. Unlike planets or atoms, humans can change their behavior. The yellow-rain attacks have apparently stopped, for example, an accomplishment for which the Reagan administration and The Wall Street Journal can claim some credit. In dealing with the deviancies of human behavior, mankind has not usually applied science but has over the centuries evolved different systems of proof and evidence.

The American Bar Association convened its House of Delegates in July, and among the business was a report and recommended resolution from its Standing Committee on Law and National Security. For two years the committee has had a working group studying the treaties on chemical and biological warfare. The resolution, unanimously approved, expressed concern over "the substantial evidence" of chemical attacks in Afghanistan and Iran, and "of the illegal use of lethal and incapacitating chemical weapons and toxins by Vietnam and Laos in Southeast Asia."

Lawyers, unlike scientists, are accustomed to dealing with human testimony. The

Standing Committee's report details the accounts of H'Mong tribesmen being attacked by airplanes and helicopters showering them with sprays of various hues, but mostly yellow ones. It describes how the symptoms reported by these stone-age peoples correspond to those of obscure trichothecene poisoning. It descibes the detection of trichothecenes in environmental samples from attack sites. It notes that "blood and urine samples of H'Mong refugees who had reported exposure to yellow rain and experienced the symptoms were found to contain traces of these toxins."

By the standards of evidence we usually apply to human affairs, this is an overwhelming case. The ABA report notes that "Dr. Meselson's theory is that yellow rain is nothing more than pollen excreted by bees in their cleansing flights and trichothecenes are probably a natural phenomenon infecting good in Southeast Asia." But it adds that this does not explain away the testimony: "there never have been a single, report of bee feces causing deleterious effects to humans or animals in Southeast Asia, or any other region of the World."

In all, the Standing Committee concluded, "A review of the available evidence indicates that a variety of chemical and toxin agents have been used against the H'Mong people in Laos, the Khmer groups fighting the Vietnamese in Kampuchea since 1979, and the Mujaheddin in Afghanistan." This conclusion—which to our knowledge is shared by a bipartisan consensus of informed congressmen, throughout the political spectrum of the defense community and privately by foreign governments—is what any practical man would conclude after looking at the body of evidence.

Some questions do seem worth debating. For whom do these science magazines speak? What is science, anyway? Can it really be so dense?

The burden of the Meselson Scientific American article is this: The H'Mong testimony is not consistent. The number of samples testing positive for trichothecenes is small, only six environmental samples. Positive tests have not been achieved in Army laboratories, only by two university investigators. Indeed, one positive sample tested a year later by the Army came up negative. The samples include pollen. Cleansing flights of bees result in pollen deposited in yellow spots. Therefore, "We conclude that yellow rain is the feces of honeybees, not an agent of warfare."

Let us first of all record a few facts: The Army lab has found trichothecenes on a Soviet gas mask taken in Afghanistan; it has not been examined for pollen. Chemical & Engineering News itself reported a finding that a related mycotoxin decays in samples held for long periods. In addition to the six environmental samples there are blood, urine and other biological samples from at least 20 people, briefly mentioned but never discussed in the Meselson article. But cavils aside, what in the Scientific American article can be proved one way or another by science?

The one thing readily accessible to the methods of science is whether trichothecenes were found by the university laboratories. This is of course no small point, especially now that everyone agrees that the trichothecenes found in Southeast Asia are not a natural product. Indeed, the real question becomes, How did trichothecenes get into the blood of the same people who say they were attacked by yellow rain? To deal with this, the Scientific American article has to suggest that the university scientist may have detected trichothecenes where none existed. How does a scientific discipline determine such an issue?

First, science would examine the credentials of the scientists for relevant expertise. The Meselson group had to send its samples out for analysis because none of its members claimed the laboratory competence. Chester Mirocha of the University of Minnesota, who ran the positive tests for the government, has long been recognized as a leading authority on trichothecenes. Joseph Rosen of Rutgers, who also got positive tests, was first involved in the issue when ABC News chose an independent scientists solely on the basis of laboratory skill. Their labs routinely test dummy control samples and have never reported a false positive.

Second, science would submit the results of the experts' tests to review by their peers—that is, by other scientists with a similar kind of expertise. If the tests passed peer review, they would be published in the scientific journal dedicated to the particular specialty involved. If all this happened, we could say that the findings had been authenticated by the best standards of science.

Mr. Mirocha's basic results have been published, along with the Army's Sharon Watson's, in the Journal of the Association of Official Analytical Chemists and in Fundamental and Applied Toxicology. Mr. Rosen's results have been published in Biomedical Mass Spectrometry. Also, an autopsy report on a yellow-rain victim by Charles Stahl and Christopher Green, formerly of the Army and the CIA, respectively, has been published in the Journal of Forensic Science.

The editors of some magazines that profess to speak for "science," it seems, are too busy to read the peer-review journals. Perhaps they are spending too much time scouring our columns for accusations that Ronald Reagan is a "pinko." Alongside we publish the abstracts or relevant excerpts from the appropriate journals, in the hope that the science editors may find them here. Other readers may want to take a peek as well, if only to judge how much credence to lend to the claim that our critics are above political viewpoints or clan interests and speak from a purely objective expertise mere laymen dare not challenge.

TRIBUTE TO IRISH AMERICAN ORGANIZATIONS FOR THEIR EFFORTS IN DERAILING THE UNITED STATES-UNITED KINGDOM EXTRADITION TREATY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BIAGGI. Mr. Speaker, in anticipation of the sine die adjournement of the 1st session of the 99th Congress, I wish to take note of something which the Congress did not give final approval to and fortunately so. I refer to the proposed Supplementary Extradition Treaty between the United States and the United Kingdom of Great Britain and Northern Ireland.

As chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs, I have worked very closely with a coalition of our Nation's leading Irish American organizations to keep this tready from being ratified by the full Senate. This effort has resulted in the tready, despite being signed by our two governments in late June, remains pending before the Senate Foreign Relations Committee.

I wish to especially salute three Irish American organizations for their effective and hard work in raising concerns about this treaty to the members of the Senate Committee and to all the Congress. The first of these groups is the Irish National Caucus. This organization headed by Father Sean McManus methodically and with great depth analyzed this treaty and presented its many flaws in such a way as to create deep concerns about its ratification. Similarly, the Ancient Order of Hibernians, the Nation's oldest and largest Irish American organization, has been outspoken in their opposition and resistance to this treaty. I would especially salute their fine national president, Joseph P. Roche, for his leadership in this effort. Last but certainly not least is the Irish American Unity Conference under the leadership of James Delaney. They were the central organizing and driving force behind the coordinated undertaken by Irish American groups in opposition to this treaty.

It was this unprecedented degree of unity among Irish American groups which I feel played a key role in the successful nonconsideration of this treaty.

The Supplementary Extradition Treaty is legally, morally and politically flawed. It is an unprecedented effort on the part of the British Government to try and overturn recent United States court decisions which have recognized the right of a political offense exception as part of an Extradition Treaty between our two nations. The Supplementary Treaty has no disguise. It is an out and out effort to have the political offense category eliminated despite it being common to 90 other extradition agreements we are party to.

It is expected that the Senate will resume consideration of this treaty in the second session and may move to an early vote. However we will continue to work to have the treaty shelved or at the very least modified to reflect significant changes.

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting for certain rollcall votes on December 17 and December 19, 1985. Had I been present, I would have voted "aye" on rollcall No. 468, McHugh amendment to H.R. 3838, tax reform; "nay" on rollcall No. 470, Duncan amendment to H.R. 3838; "nay" on rollcall No. 471, motion to recommit H.R. 3838; and "aye" on rollcall No. 475, motion to approve the Journal.

RESTAURANT OWNERS SHOULD HELP IN KEEPING DRUNK DRIVERS OFF ROADS

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SIKORSKI. Mr. Speaker, Minnesota Mothers Against Drunk Driving [MADD] recently held a candelight vigil of remembrance and hope for those who have died at the hands of drunk drivers on Minnesota's roads and highways. More than 600 family members and friends attended the vigil to speak words of remembance and sorrow for their loved ones. Through diligent and heartfelt grassroots efforts, MADD has made the public more aware of the devastatign effects of drunk driving. Their efforts have served as a catalyst for tougher State and Federal laws and tighter local enforcement of those laws to keep drunk drivers off the roads.

MADD's efforts have encouraged other groups such as DADD (dads), SADD (students), TADD (teachers), and most recently BADD (bartenders) to spearhead efforts to eliminate drunk driving. I would like to share with my colleagues an article from the Minnesota Star and Tribune by the president of TGI Friday's, Inc., Daniel Scoggin, which addresses the increased responsibilities restaurant owners and bartenders alike are taking upon themselves to reduce irresponsible consumption of alcohol. I commend the initiatives of TGI Friday's and hope that their efforts will serve as a precedence for increased involvement of restaurants and bars in reducing alcohol consumption and keeping drunk drivers off our roads.

The article follows:

RESTAURANT OWNERS SHOULD WORK TO PROMOTE RESPONSIBLE DRINKING

The urgency for tougher drinking laws is as simple as it is shocking: More than 25,000 Americans are killed each year in drunk-driving accidents. Congress has responded to that urgency by requiring all states to legislate a minimum drinking age of 21 by October 1987 or risk losing federal highway funds. Eight states have done so, and four have gone further, banning "happy hours" and other promotions that encourage irresponsible drinking.

Leading the push for new drinking laws on the national and state level are grassroots organizations such as Mothers Against Drunk Driving (MADD) and its acronymical relatives: DADD (dads), SADD (students), TADD (teachers). These organizations' names reveal their emphasis on teens and young adults, the age group whose members are most often killed—and kill others—in drunk driving accidents.

Not coincidentally, 18- to 30-year-olds also are the core-customer group for many restaurants and bars. They are the ones targeted by the drink discounters and "come on, get happy" advertisers. But as these young adults adopt more healthful life styles and express outrage over their friends' deaths on the roadside, restaurateurs may see their brisk sales drying up.

The pressure for the restaurant industry to reform its promotion of alcoholic beverages has been immense. Recently, owners have taken all of the painless steps to reduce alcohol-related traffic deaths: more training on how to prevent customers from getting drunk, designated-driver programs, free food and taxi rides when customers become intoxicated. The problem is that restauranteurs cite these meager, voluntary steps as the reason why tougher drinking laws are unnecessary.

I have a modest proposal for American restaurant and bar owner; Ban all promotions that encourage the rapid or irresponsible consumption of alcohol, then lobby your state legislatures to make such promotions illegal.

"Why would I want to cut my beverage sales?" restauranteurs may ask. The best and most obvious reason is that the customers are good for business only as long as they are alive. Another reason is that responsible demand for alcohol remains fairly constant. Through drinking promotions such as two-for-ones and all-you-can-drink specials, some restaurants derive more than half of their sales from beverages. Restaurants that do not rely on discount drinks typically maintain a steady food-to-beverage ratio.

A third reason for backing responsible-drinking laws is that social trends create business opportunities. For example, when consumers moderate their drinking habits. They create a demand for nonalcoholic beverages and low-alcoholic beers and wines.

A few months ago, another acronym joined the ranks of this cause: BADD, Bartenders Against Drunk Driving. BADD's common-sense position is to care for restaurant customers because, without customers, bartenders don't have jobs.

BADD also could be interpreted as Business Against Drunk Driving. Perhaps restaurant owners will pick up on what their bartenders have begun—accepting part of the responsibility to end drunk driving. After all, it is inside restaurants that customers decide how much they will drink.

Tougher drinking laws will not prevent all alcohol-related traffic accidents, but raising the drinking age to 21 and banning happy hours are easy, reasonable steps toward significantly reducing those accidents. It's a sober, healthy position.

—Daniel R. Scoggin, Dallas, Texas, President and chief executive office of TGI Friday's Inc.

SURPRISE MASS LAYOFF OF THE MONTH

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FORD of Michigan. Mr. Speaker, last month's narrow defeat of H.R. 1616, known by many as the plant closings bill, will not end my efforts or those of the bill's many supporters to enact legislation to protect American workers against sudden mass layoffs and plant closings. Sooner or later, a majority in Congress will respond to the desire of their constituents for the modest protections embodied in H.R. 1616, the most basic of which is 90 days' advance notice of the permanent loss of 50 or more jobs. Polls show that more than two-thirds of the American people support legislation that would require a full year's notice of a plant closing. The special interests and high-paid business lobbyists whose campaign of hysteria and distortion defeated H.R. 1616 will not be able forever to stifle the very conservative legislation we proposed and brought to the floor this year.

Officials of the Chamber of Commerce claim that the defeat of H.R. 1616 was a defeat for "union bosses." It is true that many union leaders were disappointed that H.R. 1616 did not pass, but their concern was for their members, not themselves. Union leaders don't need advance notice of plant closings any more than Members of Congress do. They lose their jobs by being voted out of office or by retiring, not through layoffs. The people who need advance notice are average working Americans whose jobs are threatened by imports, by plant relocations, by recessions, by subcontracting, and by technological change. They need advance notice because they depend on their jobs to feed their families, pay their rent and pay their medical bills. They need to know and deserve to know when their jobs and incomes are about to be eliminated.

In an effort to help my colleagues understand the need for advance notice legislation such as H.R. 1616, I am placing in the CONGRESSIONAL RECORD the first example in a series that might be called the "surprise mass layoff of the month."

Eastmet Corp., a Baltimore employer, is terminating 450 employees with less than a week's notice, 3 days before Christmas, leaving them in "utter confusion" and "bitter, to say the least."

I would ask my colleagues to take special note of the fact that the president of Eastmet knew "in recent weeks" that the layoffs would occur but refused to tell the employees, who finally learned of the mass layoffs through news reports.

Mr. Speaker, this kind of callous treatment is not rare. Businesses of all kinds shut down facilities and lay off hundreds of thousands of employees each year without any notice at all. To help bring this fact home to our colleagues, Mr. CLAY and I intend to present "surprise plant closings and layoffs of the month" each month until the House shows enough concern for American workers to pass legislation like H.R. 1616.

I request that the following two articles from the Washington Post be printed in the RECORD.

The articles follow:

[From the Washington Post, Dec. 19, 1985]

CHRISTMASTIME LAYOFFS OF 450 STUN WORKERS AT BALTIMORE AREA STEEL PLANT

(By Susan Schmidt and Michael Abramowitz)

Workers at the Eastern Stainless Steel plant just outside of Baltimore got an unseasonal jolt yesterday when Eastmet Corp. announced that 450 of its employees at the plant should be laid off Sunday, three days before Christmas.

"I feel sorry for the people with families and kids who believe in Christmas," said Jim Kyle, a 54-year-old plant electrician who said he does not yet know whether he will be among those laid off. Kyle and sever-

al co-workers who gathered at Ruggieros bar near the plant after their shift ended yesterday said they did not expect to learn who would be laid off until today, when next week's schedules are posted.

The work force is in "confusion, utter confusion, because nobody knows what's going on," said Kyle.

Eastmet, which has been forced to the brink of insolvency in recent years by the high costs of production and soft demand for American steel, said the layoffs were an effort to scale back operations and cut costs. The cuts will leave 500 people employed at the plant.

William F. Dausch, Eastmet's president, said in a statement that the company "deeply regrets this action but believes it is required in order to provide the company the opportunity to return to profitability."

The cuts were especially bitter for workers at the plant because, in an effort to bolster the ailing firm, they accepted a $4.50 an hour reduction in wages last year.

David Wilson, district director in Baltimore for the Steel Workers of America, the union representing many of the Eastmet workers, said grimly, "Even if we worked for nothing, it wouldn't matter."

"There's just a feeling of total frustration," he added. "The problem, as I see it, is that people in Washington don't understand what is happening in the country or just don't give a damn."

That frustration showed through at Ruggieros yesterday. Edward Morris, 50, a switchman who has been with the company for 33 years, said he was upset that the employes learned of the planned layoffs through news reports.

"I think the company should have notified the unions to let the men know ahead of time," he said.

Jim Chmielewski, a 51-year old millwright, said many of the younger workers who are likely to be laid off "are bitter to say the least. They've made commitments that they're not going to be able to meet by the company doing what it's doing."

Chmielewski, who lives in Dundalk with his wife and 17 year-old son, also said he does not expect to be cut from the work force. But he and other Eastmet workers said they are concerned about the company's prospects for long-term survival.

Eastmet President Dausch said that the company had hoped that an agreement with its lenders would have allowed "the survival of the entire operations of the company." But he added that the "inability of the company to maintain certain price increases and other factors made it clear in recent weeks that the plan . . . would not be achieved."

A company spokesman said Eastmet losses were running at $14.5 million through the first nine months of the year, compared with losses of $5.1 million for the same period in 1984.

And the workers feared that the layoffs were another sign of a growing exodus of manufacturers from Baltimore and especially from its industrial area of Sparrows Point.

"All these industries are leaving this town—Western Electric, Esskay, Black and Decker, the Point's down to nothing," said Chmielewski. He said he faults the Reagan administration for failing to restrict foreign imports. "This country is turning into scrooges," he said.

A JOYLESS SEASON AT STEEL PLANT: MARYLAND LAYOFFS JAR HOLIDAY

(By Susan Schmidt)

BALTIMORE, Dec. 19.—It's going to be a blue Christmas for steelworker Donald Bobbitt and his family.

Bobbitt, 37, had back surgery after he was injured on the job a year ago, and recently returned to work after 10 months of recuperation. But earlier this week, he and his co-workers at the Eastern Stainless Steel plant here learned that 450 of them won't have jobs to come back to after the holidays.

Bobbitt, who is married and has a 12-year-old son, said he has been working at Eastern Stainless for eight years and earns about $13.50 an hour, one of the highest wages in the plant. He and other workers said they have been told that employes hired since 1972 will be laid off.

To all appearances, it was business as usual this afternoon, as employes trickled out of the giant Eastern plant, a faded structure with stacks belching steam into the frigid air. But many of the workers, including Bobbitt, said the layoffs spell the end to their days as steelworkers.

"I have no way of figuring out how I'm going to pay my bills," said Bobbitt, as he left the plant at the end of his shift. "Its sad, and I know I'm not the only one in this position."

He said he hopes his family can get by on his wife's salary and his unemployment insurance while he takes courses in air conditioner and refrigeration repair.

Richard Bosnick, 31, said he has no illusions about the difficulty of finding another job as a steelworker. Bosnick, who has also worked for the credit union during his 12 years at Eastern, said he will look for work with a bank or finance agency.

But, with his wife in college and a 9-year-old son to support, Bosnick said he expect hard times ahead. "We're just not going to be able to make it," he said, adding that there won't be any money for college tuition next semester.

"My standard of living may never be back to where it has been," he said.

Some employes, including 30-year-old Ray Wrarthen, said they expect that, eventually, the company may recall some of the younger workers with little seniority who are being laid off.

Wrarthen said he believes many of the older workers who remain will be forced into retirement because they will be assigned to tough, physically demanding jobs to replace those laid off.

"They're going to take all those old timers and put them on jobs like the shears," said Wrarthen, referring to the dangerous and difficult job of cutting steel plates with pneumatic shears. The plant will continue to make steel plates but is discontinuing the making of steel and strip steel, used in the manufacturer of automobiles and appliances.

Eastern Stainless Steel, a division of Eastmet Corp., has been beset by the high cost of production and the diminishing demand for American steel. The company said the layoffs were an effort to cut costs and "provide the company with its best chance for long-term survival."

Many workers said they think Eastern Stainless Steel will soon go under, and they fear remaining 500 workers, many of whom are 50 or older, will find themselves in even worse straits than those being laid off now. Bobbitt said he has those fears for his father, who has worked at the Eastern plant for 29 years.

"I can find something else somewhere," he said, "I'm young. But my father—if the company doesn't stay around—he's too old to get retrained."

THE ELDERLY DESERVE FAIR PLAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 20, 1985

Mr. WEISS. Mr. Speaker, 1985 marks the 50th anniversary of Social Security and the 20th anniversaries of Medicare and Medicaid and the Older Americans Act. But it was also a year that has seen the continuation of the Reagan administration's persistent and malicious attempts to undermine these very basic programs.

In blatant disregard of his election year promises, President Reagan joined with Senate Republicans in proposing a 1-year freeze in the Social Security cost-of-living adjustment [COLA]. This proposal would have thrust hundreds of thousands of senior citizens into poverty. Yet the Reagan administration avidly supported a full increase for the cost of inflation for the Defense Department. These are the actions of an administration with a very distorted sense of priorities and I joined with House Members in firmly rejecting this administration's proposals for Social Security.

The Reagan administration's policy of attempting to reduce the deficit by cutting Social Security and Medicare benefits is morally misguided and cruel. Throughout the last year I have directed my best efforts not only to rescind such policies but to put forward solutions that are both equitable and workable and that look toward creating a balanced and better society for all of us.

CARING FOR VICTIMS OF DISEASE

In the area of diseases more likely to affect the elderly, I support the establishment of regional centers for the treatment of Alzheimer's disease and the passage of the Cancer Patients Employment Rights Act prohibiting discrimination on the basis of a cancer history. I have also joined with other House Members in overriding a Presidential veto to create a National Institute for Arthritis and Musculoskeletal and Skin Diseases as part of National Institutes of Health.

IMPROVING SOCIAL SECURITY

The Social Security trust funds should be removed from the unified budget in order to safeguard the Social Security system from reckless and shortsighted budget cuts and the Treasury Department should restore the money it borrowed from the Social Security trust funds.

I have introduced a bill guaranteeing a Social Security cost-of-living increase if inflation falls as low as 1 percent. Currently, COLA's are only paid in a given year if inflation is 3 percent or above. This year's COLA increase was 3.1 percent which

amounts to over $150 a year, but if inflation had fallen below 3 percent, there would have been no increase paid this year.

My bill would also prevent manipulation of the issue of Social Security COLA increases for purely political reasons. During President Reagan's reelection campaign, he raised the concern that the trigger in 1985 might fall below 3 percent, preventing an increase in Social Security benefits. He proposed a guaranteed increase but only for 1 year. His suggestion came in July, a full 3 months before any reliable data was available. It was not difficult to discern that the announcement was motivated by the upcoming Presidential election and not by a new found interest in preserving the Social Security system. After all, this is the man who proposed devastating cuts of more than $88 billion in Social Security soon after he took office in 1981.

HEALTH CARE REFORMS NEEDED FOR ELDERLY

In 1984, elderly individuals spent a higher proportion of their income on health care than they were paying before Medicare and Medicaid were enacted, and by 1989, the elderly will spend more than 18 percent of their income for health care. Today, more than 28 million older persons and 3 million disabled persons are covered under Medicare, the largest personal health care financing program in the United States. While Medicare provides millions of older and disabled Americans with the most basic of health care services, many services of vital importance are still not covered. Medicare should be expanded to cover the costs of annual checkups, routine vision, dental and hearing care, and prescription drugs in addition to long-term care programs such as adult day care and nonemergency medical transportation services for patients who use a wheelchair. Under a Medicare bill this year, I voted in favor of improved procedures for appealing denial of Medicare claims, payments for second opinions in the case of some elective surgical procedures, and incentives to doctors who accept Medicare payments. This bill imposes stiff new penalties on hospitals and doctors who fail to provide emergency care for poor patients.

The new Medicare financing system known as diagnosis-related groups or DRG's is also of concern to older Americans. Under this system, the Government pays hospitals a predetermined rate for each specific DRG rather than a share of the actual cost of treating the individual Medicare patient. Problems associated with this system include early hospital discharges, poor quality care, and denial of admission to the hospital. I am monitoring hearings on the problems associated with DRG's and am investigating legislative solutions.

In addition, I voted against the Gramm-Rudman budget balancing bill which I believe will hurt many Americans through the destruction of health, education, and other vital Federal programs. The new law exempts from cuts Social Security and low-income programs such as Medicaid, supplemental security income, food stamps, and veterans' compensation and pensions. Spending for a category of programs that include Medicare, veterans' health and community health could only be cut by 1 percent in 1986 and 2 percent in following years. But, essential programs like subsidized elderly and handicapped housing, the Older Americans Act, mass transit, pollution control, and law enforcement are likely to come under the budget ax.

Finally, many constituents are understandably concerned with the upcoming increase in Medicare's hospital deductible from $400 to $492, an increase of 23 percent. I have cosponsored legislation to limit increases in the hospital deductible and nursing home coinsurance.

I believe resisting the current administration's efforts to undermine the Social Security and Medicare systems and ensuring a respectable future for the elderly are among the most pressing issues confronting this Congress. These have been two of my highest priorities throughout my tenure in Congress and will continue to be so.

MY THANKS TO TOMMY WINEBRENNER

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. McKINNEY. Mr. Speaker, with the end of this session the House of Representatives sees the retirement of one of its most respected and well-loved individuals—Tommy Winebrenner. He has become an institution in his own right and the intuition of how this body operates which Tommy developed during his 32 years working in and around the Chamber will be sorely missed.

I dare not estimate how many times I have come to Tom during our 15 years of acquaintance. He has often been an island of tranquillity, a quiet voice of reason during tumultuous sessions.

In recent days so many Members have tried to put into words our feelings of what Tommy Winebrenner has been to each of us. However, there has been a redundancy because there are not enough words to give him the credit that Tommy so richly deserves. It seems woefully inadequate to say simply "thank you," but for your help, your advice, and your friendship, Tommy, I am deeply grateful.

I hope we will continue to see you often around the Hill. I wish you great success in your next career. Finally, I wish you a long and healthy life with your wife and children. No one deserves the best of everything good more than you.

ADMINISTRATION'S NEW ABM INTERPRETATION: DEFECTIVE AND COUNTERPRODUCTIVE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 20, 1985

Mr. FASCELL. Mr. Speaker, the viability of the Anti-Ballistic Missile [ABM] Treaty of 1972 was recently challenged by an unprecedented new legal interpretation of its provisions issued by the administration this past October. I want to take this opportunity to provide my colleagues with information that I believe will help clarify the issues and events surrounding the administration's unsubstantiated new legal interpretation of the ABM Treaty.

As you know, the traditional, longstanding interpretation of the ABM Treaty—which bans the development, testing, and deployment of all air-based, sea-based, space-based, and mobile land-based antiballistic systems based on new physical principles—was first challenged publicly by National Security Adviser Robert McFarlane on a "Meet the Press" television interview—October 10, 1985. During the course of the interview, McFarlane volunteered the view that development and testing of anti-ballistic missile systems based on new physical concepts were approved and authorized by the ABM Treaty rather than banned. At an October 8 press briefing, McFarlane asserted that the new, broader interpetation was a fixed position of the administration.

McFarlane's statement was provocative: In effect, a highly placed Government official had reversed 180 degrees the 13-year-old reading of the treaty, which had been interpreted by every administration since 1972, including President Reagan's, as prohibiting the development, testing, and deployment of air-based, sea-based, space-based, and mobile land-based systems based on new physical principles. This new interpretation, if agreed to by both signatories, would allow the two countries to develop and test any space-based, air-based, sea-based, and mobile land-based ABM system right up the point of final deployment. This revision was immediately criticized by many of us in Congress, our key NATO allies, and the actual negotiators of the ABM Treaty.

A week later, in an apparent retreat from the policy espoused by McFarlane, Secretary of State Shultz announced in a speech before the North Atlantic Assembly, San Francisco, CA, October 14, 1985, that, while the administration stood by its new legal interpretation of the ABM Treaty, the SDI program would continue to be conducted in accordance with a restrictive interpretation of the treaty's obligation. Secretary Shultz' statement made it clear that the Reagan administration had formally declined to adopt as policy its new legal interpretation of the treaty. The Secretary of State announced that the President had affirmed as administration policy that the treaty would

once again be interpreted as prohibiting the development, testing, and deployment of SDI programs based on new and exotic physical principles. While the administration has indicated that, as a matter of policy, it would continue to abide by the longstanding interpretation, its assertion that a broader interpretation is legally justified leaves the door open for subsequent reversals—a prospect of grave concern to many of us in Congress as well as our NATO allies.

The administration's apparent attempt to stand the ABM Treaty on its head left many of us in Congress shocked and amazed. Accordingly, as chairman of the Committee on Foreign Affairs and its Subcommittee on Arms Control, International Security, and Science, I felt it imperative that a hearing be held to address the serious political and arms control implications of the administration's legal interpretation.

At the October 22 hearing conducted by my subcommittee, we received testimony from Ambassador Paul Nitze, special adviser to the President and Secretary of State on Arms Control Matters; Mr. Abraham Sofaer, legal advisor to the Secretary of State; the Honorable Gerard Smith, former chief of the U.S. delegation to the ABM Negotiations; the Honorable Ralph Earle, former director of the Arms Control and Disarmament Agency; and John Rhinelander, former legal advisor to the ABM negotiating team.

Mr. Speaker, the hearing raised a number of important issues that may be of interest to my colleagues:

First. During the hearing, it became evident that the administration had based its justification for the new, legal interpretation not only on a partial review of the negotiating record but also on an incomplete negotiating record. For example, the State Department's legal advisor, Abraham Sofaer, noted that no single agency had systematically collected and preserved the entire record in a readily useful form. Moreover, he told the subcommittee that, because we are still in the process of collecting material, I cannot tell you with certainty every step of the process. Mr. Sofaer's admission begs the question: Shouldn't a major realignment in administration policy, with far-reaching foreign policy and arms control implications, be based on a thorough, systematic, and painstaking reading of the negotiating record?

Later in the hearing, John Rhinelander, former legal advisor to the ABM negotiating team, informed the subcommittee that the Arms Control and Disarmament Agency [ACDA] could not locate his extensive files on the ABM Treaty negotiations.

Second. Ambassador Nitze and Mr. Sofaer alleged that the ABM Treaty is ambiguous on the issue of whether development, testing, and deployment of futuristic ballistic missile defense systems are allowed. In spite of this assertion of ambiguity, none of the former members of the ABM negotiating team or high-level officials of any administration, from the Nixon through Reagan administrations, have contended that this part of the ABM Treaty is ambiguous. Even Ambassador Nitze appears to have only recently accepted the administration's new legal interpretation when he stated at the hearing:

It is hard to be clear about one's recollection, but I have gone over part of the negotiating record, and from that, I agree with Judge Sofaer [State Department Legal Advisor].

Third. Numerous statements exist in the public record that express the view that development, testing, and deployment of space-based, sea-based, air-based, and mobile land-based systems based on new physical principles are forbidden by the ABM Treaty. For example, former Secretary of Defense Melvin Laird unequivocally expressed this point of view during Senate ratification hearings. This view was also clearly understood even by the treaty's critics like Senator Jackson, who ultimately voted for the treaty, and Senator Buckley, who voted against it largely because he recognized that article V "should have the effect, for example, of prohibiting the development and testing of a laser type system based in space * * *." This point of view was corroborated by every single public witness at the hearing as the correct reading of the treaty.

Fourth. Key former administration officials responsible for negotiating the ABM Treaty have made statements in opposition to the administration's new legal interpretation, ranging from Ambassador Gerard Smith, head of the U.S. delegation to the ABM Treaty negotiations, to John Rhinelander, former legal advisor to the U.S. ABM negotiating team, to Ralph Earle, former director of ACDA, to Spurgeon Keeny, former deputy director of ACDA, to Albert Carnesale, former member of the ABM negotiating team, and to Lt. Gen. Royal B. Allison, a former senior military official on the ABM delegation.

In addition, six former Secretaries of Defense—Harold Brown, Clark Clifford, Melvin R. Laird, Robert S. McNamara, Elliot L. Richardson, and James R. Schlesinger—recently signed a joint statement in support of the ABM Treaty that calls upon the United States and Soviet Governments to avoid actions that would undermine the treaty.

Fifth. The subcommittee learned during the hearing that every administration since the ratification of the ABM Treaty in 1972 has advocated the longstanding interpretation of the ABM Treaty. This fact is corroborated by every arms control impact statement [ACIS] since their inception as reflected in a CRS chart which follows my remarks. The chart illustrates that every ACIS prepared and submitted by the Reagan administration affirms acceptance of the longstanding interpretation of the ABM Treaty.

Sixth. Administration witnesses did not provide the subcommittee with any evidence that the Soviet Union had ever interpreted the treaty in a manner that permitted the development, testing, and deployment of space-based, air-based, sea-based, and mobile land-based ABM systems based on new physical principles or that the United States had ever encouraged such an interpretation of the treaty. Moreover, a recent statement made by Marshall Akhromeyev, the Soviet Union's Chief of General Staff of the Armed Forces and First Deputy Minister of Defense, further indicates that the Soviet Union adheres to the longstanding interpretation. On October 19, Akhromeyev said:

Such [re]interpretations of the ABM Treaty are, to put it mildly, deliberate deceit. They contravene reality. Article V of the treaty absolutely, unambiguously bans the development, testing, and deployment of ABM systems or components of space or mobile ground (systems) . . . that are based on existing or future technology.

Since the United States and the Soviets have operated under the longstanding interpretation of the ABM Treaty, which prohibits the development, testing, and deployment of space-based, air-based, sea-based, and mobile land-based ballistic missile defense systems based on new physical principles, a U.S. unilateral declaration to the contrary, 13 years later, is legally unsound and diplomatically untenable.

Seventh. It became clear from the subcommittee hearing that the administration's proposed new legal interpretation of the ABM Treaty raises several adverse consequences for arms control. Ironically, it could unwittingly result in undermining the administration's stated objective of reaching a negotiated transition to a defense dominated world.

Under the administration's new legal interpretation, the Soviets could develop and test a nationwide exotic ABM system while still claiming adherence to the ABM Treaty, an option not presently available to them under the longstanding interpretation. This would leave the United States with no other alternative than to increase its offensive nuclear forces, which is in complete contradiction to the administration's stated objectives of the SDI program. This is similar to what happened two decades when the United States, in response to Soviet ABM activities, deployed MIRV'd systems. We now find ourselves, two decades later, trying to rid ourselves of these destabilizing offensive weapons.

Eighth. Under the ABM Treaty, a joint United States-Soviet Standing Consultative Commission [SCC] was established "to promote the objectives and implementation of the provisions of the ABM Treaty" and "to consider questions concerning compliance with the obligations assumed and relative situations which may be considered ambiguous." Although issues considered by the SCC are properly classified, the testimony of administration witnesses at the October 22 hearing suggested that the administration has not vigorously pursued this avenue in an attempt to resolve questions surrounding the development, testing, and deployment of space-based, air-based, sea-based, and mobile land-based ballistic missile defense systems based on new physical principles. When asked whether the issue would be discussed in the SCC, Ambassador Nitze responded that the suggestion would be taken under advisement.

In conclusion, Mr. Speaker, many of us in Congress fully support the administration's reaffirmation of the longstanding interpretation of the ABM Treaty as expressed by Secretary Shultz on October 14 and Ambassador Nitze during our October 22 hearing. Our concern remains, however, over the acceptance of this reaffirmation as a permanent policy of the Reagan administration. This concern was most graphically reflected in the now-infamous November 13 letter by Secretary of Defense Weinberger to the President in which the Secretary characterized the administration's ABM policy as "wrong." As every administration since 1972 has concluded, the longstanding interpretation of the ABM Treaty is the right policy because it best serves U.S. national security and arms control interests. It is my hope that in the post-Geneva summit atmosphere of good will that the United States and Soviet Union will reaffirm their joint commitment to the longstanding interpretation of the ABM Treaty. I call upon the administration to pursue that effort and pledge my cooperation and support.

SUMMARY OF ARMS CONTROL IMPACT STATEMENTS CONCERNING PERMISSIBILITY OF RESEARCH, DEVELOPMENT, TESTING, AND DEPLOYMENT OF BALLISTIC MISSILE DEFENSE SYSTEMS [1]

Fiscal year	Research	Development	Testing	Deployment	Other comments
1979		Yes fixed land based (LB) [99, 231] No as to all others [231] Art. V	Yes fixed land based [99] [231] No as to all others [231] Art. V	No Art. III & Agreed Statement (AS) E. No as to everything other than fixed land basedc. Art. V [231].	BMD program provides hedge against Soviet abrogation; if U.S. made technical advances with appearance of breakout capability, U.S. could prompt destabilizing competition in defensive systems. [98–99]
1980	Yes [100]	Yes fixed LB [76] [100] No as to all others Art. V. [100]	Yes fixed LB [76] [100] No as to all others Art. V. [100]	No Art. III & AS–E [76] [100] No as to fixed LB [100]	Should either side make substantial technical advances that give the appearance of an impending breakout capability, a destablizing situation could result. [76]
1981	Yes [452]	Yes fixed LB [452] No as to all others Art. V. [452]	Yes fixed LB [452] No as to all others Art. v. [452]	No Art. III & AS–E [228] [452] No as to fixed LB [452]	The BMD potential of future DE weapons could eventually create a conflict with the obligations assumed by the U.S. under the provisions of the ABM Treaty. [451]
1982	Yes [393]	Yes fixed LB [195] [393] No as to all others (i.e. sea based etc.) [393].	Yes fixed LB [195] [393] No as to all others [353]	No Art III & AS–E [195–96] [353] No as to fixed LB [394]	Like other arms control treaties signed by the U.S., the ABM treaty makes provisions for withdrawal [93]. Absent the U.S. BMD R&D program, the prospects for Soviet advantage in BMD technology, or perceptions of Soviet advantages, could be increased. This would undermine strategic stability & could lead to an interactive offense-defense competition. [197]
1983	Yes [321]	Yes fixed LB [141] No as to all others [321]	Yes fixed LB [141] No as to all others [321]	No Art. III & AS–E [141] [321] No as to fixed LB [321–42]	U.S. BMD program hedges against Soviet breakout from ABM Treaty, & provides future deployment options. [139]
1984	Yes [265]	Yes fixed LB [133] No as to all others [266] No as to spaced-based when enters field-test stage [266–67].	Yes fixed LB [133] No as to all others [266] No as to spaced-based [266]	No Art. III & AS–E [133–34] [266] No as to fixed LB [266] No as to spaced based [266]	At the most recent 5-year review of the ABM Treaty in Dec. 1982, neither side proposed amendments to the Treaty at this time. [134]
1985	Yes [251]	Yes fixed LB [212] No as to spaced-based when enters field-test stage [252].	Yes fixed LB [212] No as to spaced-based [252]	No Art. III & AS–E [218] No as to space base [252]	U.S. BMD R&D program reduces possibility of U.S.S.R. gaining a meaningful advantage in BMD technology to match their unilateral and growing advantage in deployed capability. [214]
1986	Yes [38]	Yes fixed LB [36] No as to all others when entering field testing stage [36, 37] Art. V.	Yes fixed LB [36] No as to all others [36] Art. V	No as to sea based, space based etc Art. V. No as to fixed LB Art. III, AS–E [36]	The conditions under which the U.S. would consider withdrawal from the ABM Tresty have never been fully elaborated. However, it is clear that in signing the ABM Treaty, the U.S. envisioned a relationship between offensive weapons & ballastic missile defense. Any SDI related deployment, in view of Treaty obligations, would have to be a matter for negotiation. [37–38]

[1] Bracketed numbers refer to appropriate ACIS pages.

TRIBUTE TO TOMMY LEE WINEBRENNER

HON. BILL EMERSON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. EMERSON. Mr. Speaker, I join my many colleagues in paying tribute to a very valued and distinguished employee of this House, Tom Winebrenner, who, after 33 years of service, is taking leave of this institution.

With the exception of the Speaker, Mr. WHITTEN, the dean of the House, and several other Members of great tenure, Tom was here for the arrival of each of us and has seen the departure of many hundreds of our predecessors.

It is not unlikely that Tom has heard more words spoken in this Chamber than any other living person, with the possible exception of Luke Hicks and Lee Thomas, because the nature of his job required his constant attendance here. Members come and go to office and committee, but Tom was the constant "floor person," and he always knew what was "going on." "Part of the job," I'm sure he regarded it, but what a valuable service he has performed in his intimate knowledge of the workings here, his ability to sense the House, his knowledge of its history, the interaction of personalities, his ability to predict, to predict even the unpredictability of this sometimes temperamental body.

Tom's Hoosier upbringing is a matter of pride to him and well known to most who come in contact with him. It surprises many, therefore, when I tell folks that he and I first knew each other in high school. They say, "Oh, I thought you were from Missouri, not Indiana," or "If Tom is from Missouri, why does he tout being a Hoosier?" The fact is we both landed right here in this Chamber as teenage boys, pages in the 83d Congress. That was 1953. Ike was just beginning his Presidency. Our Speaker was a freshman that year, having taken the seat of John F. Kennedy who, as a result of the 1952 election, had just moved over to the other body. Speaker Joe Martin was commencing his second nonconsecutive term as Speaker, and Tom's benefactor, Charles Halleck, was the majority leader. The legendary Sam Rayburn was minority leader and the future Speaker, John McCormack, was the minority whip. Lyndon Johnson was a Senator, Richard Nixon the Vice President, Gerald Ford a four-term Representative, and the names of Jimmy Carter and Ronald Reagan were not yet exactly household words.

I cite this to establish more in terms of personalities than in years the frame in history during which Tom has served here in the people's House. What change he has observed from this special vantage. And what a wonderful, exciting role he has played, a part of it all, as a part of the unique fabric of the House.

Tom, you carry a wonderful lode of history with you, which I know you cherish. Your service will be missed. Please accept my heartiest congratulations on the accomplishment of such an outstanding first career, and all good wishes for all of your future endeavors.